



THE CITY RECORD

Official Journal of The City of New York

THE CITY RECORD
U.S.P.S. 0114-660

Printed on paper containing
40% post-consumer material

VOLUME CXXXVIII NUMBER 244

WEDNESDAY, DECEMBER 21, 2011

PRICE \$4.00

TABLE OF CONTENTS

PUBLIC HEARINGS & MEETINGS

City Planning Commission2747
Transportation2749

PROPERTY DISPOSITION

Police2750

PROCUREMENT

Administration for Children's Services .2750
Chief Medical Examiner2750

Citywide Administrative Services2750
Municipal Supply Services2750
Vendor Lists2750
Design and Construction2750
Education2750
Contracts and Purchasing2750
Environmental Protection2751
Financial Information Services Agency .2751
Procurement2751
Health and Hospitals Corporation2751

Health and Mental Hygiene2751
Agency Chief Contracting Officer ...2751
Parks and Recreation2751
Contract Administration2751
Revenue and Concessions2751
School Construction Authority2751
Contract Administration2751
AGENCY PUBLIC HEARINGS
Education2751

AGENCY RULES

Health and Mental Hygiene2752
Parks and Recreation2767

SPECIAL MATERIALS

Comptroller2769
Changes in Personnel2769

LATE NOTICE

Economic Development Corporation ..2769

READER'S GUIDE2770

THE CITY RECORD

MICHAEL R. BLOOMBERG, Mayor

EDNA WELLS HANDY, Commissioner, Department of Citywide Administrative Services.
ELI BLACHMAN, Editor of The City Record.

Published Monday through Friday, except legal holidays by the Department of Citywide Administrative Services of the City of New York under Authority of Section 1066 of the New York City Charter.

Subscription—\$500 a year; daily, \$4.00 a copy (\$5.00 by mail) Periodicals Postage Paid at New York, N.Y.
POSTMASTER: Send address changes to THE CITY RECORD, 1 Centre Street, Room 2208, New York, N.Y. 10007 - 1602

Editorial Office
1 Centre Street, Room 2208
New York N.Y. 10007-1602
Telephone (212) 669-8252

Subscription Changes/Information
1 Centre Street, Room 2208
New York N.Y. 10007-1602
Telephone (212) 669-8252

The City of New York Home Page
provides Internet access via the **world wide web** to **THE DAILY CITY RECORD**
<http://www.nyc.gov/cityrecord>

PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

CITY PLANNING COMMISSION

NOTICE

NOTICE IS HEREBY GIVEN THAT RESOLUTIONS I. PUBLIC HEARINGS OF THE FOLLOWING MATTERS TO BE SCHEDULED FOR WEDNESDAY, JANUARY 4, 2012 STARTING AT 10:00 A.M. AT SPECTOR HALL, 22 READE STREET NEW YORK, NEW YORK.

CITYWIDE No. 1 E-DESIGNATION TEXT

Citywide N120090ZRY
IN THE MATTER OF an application submitted by the New York City Department of City Planning pursuant to Section 200 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to modify the provisions of Section 11-15 Environmental Requirements and related Sections.

Matter in underline is new, to be added;
Matter in ~~strikeout~~ is to be deleted;
Matter with # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution

11-15 Environmental Requirements

The designation (E), or an environmental restrictive declaration, where listed in Appendix C (CEQR Environmental Requirements), of this Resolution, indicates that environmental requirements pertaining to potential hazardous materials contamination, or noise or air quality impacts have been established which are incorporated into in connection with the provisions of a #zoning map# or text amendment or an action pursuant to this Resolution for one or more tax lots. The said Such environmental requirements are set forth in the City Environmental Quality Review (CEQR) Declaration determination related to such #zoning map# or text amendment or action, a specific #zoning map# amendment. In the case of a merger or subdivision of tax lots or #zoning lots# with an (E) designation, involving improved or unimproved properties, the (E) designation will apply to all portions of the property.

The CEQR Declarations determinations are on file with the designated lead agency and the Mayor's Office of Environmental Coordination (MOEC). A listing of such CEQR Declarations determinations and their related environmental requirements, entitled City Environmental Quality Review Declarations, is found within Appendix C of this Resolution. appended to the #zoning maps#. (E) designations and

environmental restrictive declarations may only be removed from Appendix C or modified in accordance with the provisions of paragraph (c) of this Section.

In the case of a merger or subdivision of lots subject to an (E) designation or environmental restrictive declaration involving improved or unimproved properties, the environmental requirements, as applicable, shall apply to all portions of the merged lot or to each subdivided lot.

Upon application to the Mayor's Office of Environmental Remediation (OER) by the owner of the affected lot(s), OER may, with the consent of the lead agency, modify the environmental requirements set forth in a CEQR Determination based upon new information, additional facts or updated standards, as applicable, provided that such modifications are equally protective.

Tax lots with environmental requirements shall be subject to the following:

- (a) Building permit conditions
- Prior to issuing a building permit, or temporary or permanent certificate of occupancy, for any #development#, or for an #enlargement#, #extension# or a change of #use#, any of which involves a #residential# or a #community facility use#, or for an #enlargement# of a #building# for any #use# that involves a disturbance of the soil any of the types of construction listed in paragraphs (a)(1), (a)(2) or (a)(3) of this Section, on a tax lot that has an (E) designation or an environmental restrictive declaration related to ~~for potential hazardous materials, noise, or air quality contamination~~, the Department of Buildings (DOB) shall be furnished with a report from the Department of Environmental Protection notice issued by ~~(DEP OER)~~ of the city of New York stating that the environmental requirements related to the (E) designation have been met for that lot OER does not object to the issuance of such building permit, or temporary or permanent certificate of occupancy, in accordance with the applicable rules of the City of New York ("OER Notice").

An (E) designation for potential hazardous material contamination may be satisfied and administratively removed from a #zoning map# through the following procedure:

- (a) Satisfaction of requirements
- The owner of any tax lot with an (E) designation for potential hazardous material contamination may file, with the Department of City Planning, a report from DEP, or its successor agency, specifying that the environmental requirements relating to such designation have been satisfied regarding that lot. Upon receipt of such report, the Department of City Planning shall indicate such satisfaction as to that lot on the listing of (E) designations appended to the #zoning maps# of the Zoning Resolution.
- (1) For hazardous materials:
- (i) any #development#;

- (ii) an #enlargement#, #extension# or change of #use#, any of which involves a #residential# or a #community facility use#; or
- (iii) an #enlargement# or alteration of a #building# for any #use# that involves a disturbance of the soil;
- (2) For air quality:
- (i) any #development#;
- (ii) an #enlargement#, #extension# or change of #use#; or
- (iii) an alteration that involves ventilation or exhaust systems, including but not limited to stack relocation or vent replacement; or
- (3) For noise:
- (i) any #development#;
- (ii) an #enlargement#, #extension# or change of #use#; or
- (iii) an alteration that involves window or exterior wall relocation or replacement.
- (b) Ongoing monitoring Removal of (E) designation
- The Department of City Planning shall administratively remove the (E) designation for potential hazardous material contamination from a #zoning map# when all environmental requirements for potential hazardous material contamination have been met on all tax lots specified in the CEQR declaration.
- In the event that it is indicated through a duly issued OER Notice that a tax lot that has an (E) designation or an environmental restrictive declaration requires ongoing monitoring, a declaration of covenants and restrictions governing the ongoing site management requirements shall be recorded against the subject tax lot in the Office of the City Register or, where applicable, in the County Clerk's Office in the County where the lot is located.
- As a condition to its issuance of a temporary or final Certificate of Occupancy or granting of permit sign-off, if no Certificate of Occupancy is required, DOB shall be provided with proof that the ongoing monitoring declaration has been duly recorded. The recording information for the ongoing monitoring declaration shall be referenced on the first Certificate of Occupancy to be issued after such declaration is recorded, as well as all subsequent Certificates of Occupancy, for as long as the ongoing monitoring declaration remains in effect.
- The Director of the Department of City Planning shall transmit notice of such satisfaction or removal of an (E) designation to the Department of Buildings, the OEC and the DEP.
- (c) Completion of environmental requirements Sunset provision
- The DEP shall adopt rules pursuant to Chapter 45 of the Charter of the City of New York which shall establish:
- (1) standards for determining potential hazardous material contamination which, upon adoption, shall be utilized in determining whether or not an (E) designation shall be imposed on any tax lot; and
- (2) testing and remediation standards and protocols for potential hazardous material

contamination which, upon adoption, shall be utilized in determining whether or not the environmental requirements relating to such (E) designation(s) have been satisfied so as to warrant the removal of such designation.

The requirements for the adoption of rules set forth in paragraph (c) of this Section, inclusive, shall not be construed to prohibit either the imposition or the removal of an (E) designation, in accordance with law, prior to the adoption of such rules.

In the event that such rules are not adopted by DEP by July 1, 2001, the provisions of this Section as they relate to potential hazardous material contamination, except for underground gasoline storage tanks, shall lapse.

- (1) Removal of tax lots subject to an (E) designation or an environmental restrictive declaration from Appendix C

The Department of City Planning (DCP) shall administratively modify Appendix C after receiving a duly issued OER Notice, stating that the environmental requirements related to an (E) designation or contained in an environmental restrictive declaration related to potential hazardous materials, noise or air quality have been completed for or otherwise no longer apply to a tax lot or lots, such that:

- (i) no further testing, remediation or ongoing monitoring is required for hazardous materials contamination;
(ii) the noise generating source has been permanently eliminated; or
(iii) the emissions source related to air quality has been permanently eliminated.

- (2) Removal of (E) designation from Appendix C

DCP shall administratively remove an (E) designation from Appendix C when, in accordance with the provisions of paragraph (c)(1) of this Section, the environmental requirements for all tax lots subject to the (E) designation have been completed.

- (3) Cancellation of environmental restrictive declaration and modification of Appendix C

DCP shall administratively remove an environmental restrictive declaration from Appendix C when, in accordance with the provisions of paragraph (c)(1) of this Section, the environmental requirements contained in such environmental restrictive declaration have been completed for all tax lots and a Notice of Cancellation of the environmental restrictive declaration has been duly recorded against the subject tax lots in the Office of the City Register or, where applicable, in the County Clerk's Office in the County where the lots are located.

- (4) Notification

DCP shall notify DOB, MOEC and OER in the event that modifications to Appendix C are made.

- (d) Notice provision

The City Planning Commission shall adopt rules pursuant to Chapter 45 of the Charter of the City of New York which shall require the lead agency, as defined in 6 N.Y.C.R.R., Part 617, and Executive Order 91 of 1977, as amended, to provide notification of a proposed (E) designation to the owner(s) of the property to be so designated not less than 60 days prior to such designation.

The provisions of this Section 11-15 shall apply to all (E) designations and environmental restrictive declarations, notwithstanding the date such environmental requirements were established.

11-151 Special requirements for properties in the Borough of Queens

- (a) Block 9898, Lots 1 and 117, in the Borough of Queens, shall be subject to the provisions of Section 11-15 (Environmental Requirements) governing (E) designations. The City Environmental Quality Review (CEQR) Declarations for these sites shall be listed in APPENDIX C (City Environmental Quality Review (CEQR) Environmental Designations Requirements) of the Zoning Resolution.

- (b) The following special requirements shall apply to a #development#, #enlargement# or change of #use# for properties in the Borough of Queens located within the areas described in paragraphs (1) through (5) of this paragraph, (b):

However, in the event that the Chairperson of the City Planning Commission, based on consultation with the Department of Environmental Protection of the City of New York, provides a certificate of no effect to the Department of Buildings with regard to industrial air emissions for an area described in this Section paragraph (b), the regulations of the zoning districts designated on the #zoning map# shall apply to any #development#, #enlargement# or change of #use# within such area, to the extent permitted under the terms of the certificate of no effect.

* * *

86-04 Applicability of Article I

Within the #Special Forest Hills District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

* * *

87-04 Applicability of Article I, Chapter 1

Within the #Special Harlem River Waterfront District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

87-05 04 Applicability of Article VI, Chapter 2

* * *

87-06 05 Modification of Use and Bulk Regulations for Parcels Containing Newly Mapped Streets

* * *

93-051 Applicability of Chapter 1 of Article I

- (a) Within the #Hudson Yards Redevelopment Area#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York stating:

- (1) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(2) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

- (b) Section 11-332 (Extension of period to complete construction) shall apply, except that notwithstanding the provisions of paragraph (a) of such Section, in the event that other construction for which a building permit has been lawfully issued and for which construction has been commenced but not completed on January 19, 2005, such other construction may be continued provided that the construction is completed and a temporary or permanent certificate of occupancy is obtained not later than January 19, 2006.

* * *

98-051 Applicability of Chapter 1 of Article I

- (a) Within the #Special West Chelsea District#, Section 11-15 (Environmental Requirements) shall apply;

except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a #zoning lot# that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York, stating:

- (1) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that #zoning lot#; or
(2) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

- (b) Section 11-332 (Extension of period to complete construction) shall apply, except that notwithstanding the provisions of paragraph (a) of such Section, in the event that other construction for which a building permit has been lawfully issued and for which construction has been commenced but not completed on June 23, 2005, such other construction may be continued provided that the construction is completed and a temporary or permanent certificate of occupancy is obtained not later than June 23, 2006.

* * *

104-05 Applicability of Article I, Chapter 1

Within the #Special Manhattanville Mixed Use District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a demolition permit, where compliance at time of demolition is required by the (E) designation, or a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York, stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

* * *

115-03 Applicability of Article I, Chapter 1

Within the #Special Downtown Jamaica District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York, stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

* * *

117-05 Applicability of Article I, Chapter 1

Within the #Special Long Island City Mixed Use District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for potential hazardous material contamination, or noise or air quality impacts, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for potential hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(b) in the case of an (E) designation for noise or air quality impacts, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

* * *

110-06 Special requirements for certain properties within Special Hillside Preservation District

The following sites: Block 24, Lot 1; Block 23, Lots 17, 42; Block 23, Lots 1, 4, 13; Block 115, Lots 61, 62, 63; and Block 47, Lots 7, 10, 107 shall be subject to the procedures of

Section 11-15 (Environmental Requirements) governing (E) designations. The CEQR Declarations for these sites shall be listed in APPENDIX C (City Environmental Quality Review (CEQR) Requirements Declarations) of the Zoning Resolution. Section 11-15, paragraph (b), shall not apply to such CEQR Declarations.

* * *

124-041 Applicability of Article I, Chapter 1

Within the #Special Willets Point District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a tax lot or #zoning lot# that has an (E) designation(s) for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# shall result in compliance with the environmental requirements related to the (E) designation.

124-042 041 Applicability of Article III, Chapter 6

* * *

124-043 042 Applicability of Article VII, Chapter 3

* * *

124-044 043 Applicability of Article VII, Chapter 4

* * *

126-03 Applicability of Article I, Chapter 1

Within the #Special College Point District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York, stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

* * *

128-051 Applicability of Article I, Chapter 1

Within the #Special St. George District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York, stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

128-052 051 Applicability of Article I, Chapter 2

* * *

128-053 052 Applicability of Article I, Chapter 5

* * *

128-054 053 Applicability of Article III, Chapter 6

The provisions of Section 36-76 (Waiver or Reduction of Spaces for Subsidized Housing) shall not apply in the #Special St. George District#.

* * *

131-041 Applicability of Article I, Chapter 1

Within the #Special Coney Island District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a demolition permit, where compliance at time of demolition is required by the (E) designation, or a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E)

designation for potential hazardous material contamination, noise or air quality impacts, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
(b) in the case of an (E) designation for noise or air quality impacts, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

131-042 041 Applicability of Article I, Chapter 5

* * *

131-043 042 Applicability of Article VI, Chapter 2

* * *

131-044 043 Applicability of Article VII, Chapter 4

* * *

131-045 044 Physical culture or health establishments

* * *

131-046 045 Modification of use and bulk regulations for zoning lots fronting upon Riegelmann Boardwalk, KeySpan Park and Highland View Park

* * *

NYC ZONING RESOLUTION APPENDIX C:

Table with columns: E-No., CEQR No., Effective Date, ULRP No., Satisfaction Date, Zoning Map No., Description, Tax Block, Tax Lot(s), Lot Remediation Date. Rows include E-1, E-2, E-3, E-4, E-5.

* * *

Resolution for adoption scheduling January 4, 2012 for a public hearing.

YVETTE V. GRUEL, Calendar Officer City Planning Commission 22 Reade Street, Room 2E New York, New York 10007 Telephone (212) 720-3370

d19-j4

TRANSPORTATION

PUBLIC HEARINGS

COMMUTER VAN SERVICE AUTHORITY APPLICATION Queens (Flushing)/Brooklyn (Coney Island)

NOTICE IS HEREBY GIVEN that the Department of Transportation has received an application for a commuter van service authority. The applicant proposes to operate a van service in the Boroughs of Brooklyn and Queens. From the Borough of Queens bound on the north by 32nd Avenue from College Point Boulevard to 157th Street, bound on the east by 157th Street from 32nd Avenue to Long Island Expressway, bound on the south by Long Island Expressway from 157th Street to College Point Boulevard, bound on the west by College Point Boulevard from 32nd Avenue to Long Island Expressway to the Borough of Brooklyn bound on the north by Neptune Avenue from West 17th Street to West 8th Street, bound on the east by West 8th Street from Neptune Avenue to Surf Avenue, bound on the south by Surf Avenue from West 8th Street to West 17th Street, bound on the west by West 17th Street from Neptune Avenue to Surf Avenue. The applicant is Cited Express, Inc. They can be reached at 132-59 Maple Avenue, 1st Floor, Flushing, NY 11355. The applicant is proposing to use 10 van(s) daily to provide 7 day service 12 hours a day.

There will be a public hearing held on Thursday, January 19, 2012 at Queens Borough Hall, Room 213 Part 2, 120-55 Queens Blvd., Kew Gardens, NY 11424 from 2:00 P.M. - 4:00 P.M. and on Thursday, January 26, 2012 at Brooklyn Borough Hall in the Community Room on the 2nd Floor, 209 Joralemon Street, Brooklyn, NY 11201 from 1:30 P.M. - 4:30 P.M. for an opportunity to voice your position on this application. In addition, written comments in support or in opposition to this application may be sent to Ms. Dorothy Szorc at the New York City Department of Transportation, Division of Planning and Sustainability, 55 Water Street - 9th Floor, New York, NY 10041 no later than January 26, 2012. Any written comments received after this date may not be considered. Those opposing the application must clearly specify why the proposed additional van service will not meet present and/or future public convenience and necessity.

d21-29

COMMUTER VAN SERVICE AUTHORITY APPLICATION Brooklyn (Sunset Park to Coney Island)

NOTICE IS HEREBY GIVEN that the Department of Transportation has received an application for a commuter van service authority. The applicant proposes to operate a van service in the Borough of Brooklyn. From the Borough of Brooklyn in the area of Sunset Park bound on the north by 39th Street from 4th Avenue to Fort Hamilton Parkway, bound on the east by Fort Hamilton Parkway from 39th Street to 65th Street, bound on the south by 65th Street from Fort Hamilton Parkway to 4th Avenue, bound on the west by 4th Avenue from 39th Street to 65th street and then to the area of Coney Island bound on the north by Neptune Avenue from West 27th Street to West 5th Street, bound on the east by West 5th Street from Neptune Avenue to Surf Avenue, bound on the south by Surf Avenue from West 5th Street to West 17th Street, bound on the west by West 17th Street from Neptune Avenue to Surf Avenue. The applicant is Eastern Van Service, Inc. They can be reached at 6123 Fort Hamilton Parkway, Brooklyn, NY 11219. The applicant is proposing to use 8 van(s) to provide 7 day service 14 hours a day.

There will be a public hearing held on Thursday, January 26, 2012 at Brooklyn Borough Hall in the Community Room on the 2nd Floor, 209 Joralemon Street, Brooklyn, NY 11201 from 1:30 P.M. - 4:30 P.M. so that you may have an opportunity to voice your position on this application. In addition, written comments in support or in opposition to this application may be sent to Ms. Dorothy Szorc at the New York City Department of Transportation, Division of Planning and Sustainability, 55 Water Street - 9th Floor, New York, NY 10041 no later than January 26, 2012. Any written comments received after this date may not be considered. Those opposing the application must clearly specify why the proposed additional van service will not meet present and/or future public convenience and necessity.

d21-29

COMMUTER VAN SERVICE AUTHORITY APPLICATION Brooklyn (Bensonhurst)/Queens (Flushing)

NOTICE IS HEREBY GIVEN that the Department of Transportation has received an application for a commuter van service authority. The applicant proposes to operate a van service in the Boroughs of Brooklyn and Queens. From the Borough of Brooklyn bound on the north by 65th Street from Bay Parkway to 16th Avenue, bound on the east by Bay Parkway from 65th Street to 86th Street, bound on the south by 86th Street from Bay Parkway to 16th Avenue, bound on the west by 16th Avenue from 86th Street to 65th Street to the Borough of Queens bound on the north by Northern Boulevard from College Point Boulevard to Union Street, bound on the west by College Point Boulevard from Northern Boulevard to Sanford Avenue, bound on the south by Sanford Avenue from College Point Boulevard to Union Street, bound on the east by Union Street from Northern Boulevard to Sanford Avenue. The applicant is King Express, Inc. They can be reached at 8521 18th Avenue, 2nd Floor, Brooklyn, NY 11214. The applicant is proposing to use 10 van(s) daily to provide 7 day service 16 hours a day.

There will be a public hearing held Thursday, January 19, 2012 at Queens Borough Hall, 120-55 Queens Blvd., Room 213- Part 2, Kew Gardens, NY 11424 from 2:00 P.M. - 4:00 P.M. and on Thursday, January 26, 2012 from 2:00 P.M. - 4:00 P.M. at Brooklyn Borough Hall, Community Room, 209 Joralemon Street, Brooklyn, NY 11201 from 1:30 P.M. - 4:30 P.M. for an opportunity to voice your position on this application. In addition, written comments in support or in opposition to this application may be sent to Ms. Dorothy Szorc at the New York City Department of Transportation, Division of Planning and Sustainability, 55 Water Street - 9th Floor, New York, NY 10041 no later than January 26, 2012. Any written comments received after this date may not be considered. Those opposing the application must clearly specify why the proposed additional van service will not meet present and/or future public convenience and necessity.

d21-29

COMMUTER VAN SERVICE AUTHORITY APPLICATION Brooklyn(Sheepshead Bay)/Manhattan

NOTICE IS HEREBY GIVEN that the Department of Transportation has received an application for a commuter van service authority. The applicant proposes to operate a van service in the Boroughs of Brooklyn and Manhattan. From the Borough of Brooklyn bound on the north by Quentin Road from Coney Island Avenue to Nostrand Avenue, bound on the East by Nostrand Avenue, bound on the East by Nostrand Avenue from Quentin Road to Z Avenue, bound on the south by Z Avenue from Nostrand Avenue to Coney Island Avenue, bound on the west by Coney Island Avenue from Z Avenue to Quentin Road to the Borough of Manhattan bound on the north by Broome Street from Broadway to Bowery Street, bound on the east by Bowery Street from Broome Street to Worth Street, bound on the south by Worth Street from Bowery Street to Broadway, bound on the west by Broadway from Broome Street to Worth Street. The applicant is NYC Express Inc. They can be

reached at 2083 East 16th Street, 2nd Floor, Brooklyn, NY 11229. The applicant is proposing to use 10 van(s) daily to provide this service 16 hours a day.

There will be a public hearing held Wednesday, January 18, 2012 at Manhattan Borough President's Office, One Center Street, 19th Floor South, New York, NY 10007 from 2:00 P.M. - 4:00 P.M. and on Thursday, January 26, 2012 at Brooklyn Borough Hall in the Community Room on the 2nd Floor, 209 Joralemon Street, Brooklyn, NY 11201 from 1:30 P.M. - 4:30 P.M. for an opportunity to voice your position on this application. In addition, written comments in support or in opposition to this application may be sent to Ms. Dorothy Szorc at the New York City Department of Transportation, Division of Planning and Sustainability, 55 Water Street - 9th Floor, New York, NY 10041 no later than January 26, 2012. Any written comments received after this date may not be considered. Those opposing the application must clearly specify why the proposed additional van service will not meet present and/or future public convenience and necessity.

☛ d21-29

PROPERTY DISPOSITION

POLICE

OWNERS ARE WANTED BY THE PROPERTY CLERK DIVISION OF THE NEW YORK CITY POLICE DEPARTMENT.

The following listed property is in the custody, of the Property Clerk Division without claimants.

Recovered, lost, abandoned property, property obtained from prisoners, emotionally disturbed, intoxicated and deceased persons; and property obtained from persons incapable of caring for themselves. Motor vehicles, boats, bicycles, business machines, cameras, calculating machines, electrical and optical property, furniture, furs, handbags, hardware, jewelry, photographic equipment, radios, robes, sound systems, surgical and musical instruments, tools, wearing apparel, communications equipment, computers, and other miscellaneous articles.

INQUIRIES

Inquiries relating to such property should be made in the Borough concerned, at the following office of the Property Clerk.

FOR MOTOR VEHICLES

(All Boroughs):

- * College Auto Pound, 129-01 31 Avenue, College Point, NY 11354, (718) 445-0100
- * Gowanus Auto Pound, 29th Street and 2nd Avenue, Brooklyn, NY 11212, (718) 832-3852
- * Erie Basin Auto Pound, 700 Columbia Street, Brooklyn, NY 11231, (718) 246-2029

FOR ALL OTHER PROPERTY

- * Manhattan - 1 Police Plaza, New York, NY 10038, (212) 374-4925.
- * Brooklyn - 84th Precinct, 301 Gold Street, Brooklyn, NY 11201, (718) 875-6675.
- * Bronx Property Clerk - 215 East 161 Street, Bronx, NY 10451, (718) 590-2806.
- * Queens Property Clerk - 47-07 Pearson Place, Long Island City, NY 11101, (718) 433-2678.
- * Staten Island Property Clerk - 1 Edgewater Plaza, Staten Island, NY 10301, (718) 876-8484.

j1-d31

PROCUREMENT

"The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination. The contracting opportunities for construction/construction services and construction-related services that appear in the individual agency listings below reflect that commitment to excellence."

ADMINISTRATION FOR CHILDREN'S SERVICES

■ SOLICITATIONS

Human / Client Services

NON-SECURE DETENTION GROUP HOMES –

Negotiated Acquisition – Judgment required in evaluating proposals - PIN# 06811N0004 – DUE 05-31-13 AT 2:00 P.M. – The Administration for Children's Services, Division of Youth and Family Justice is soliciting applications from organizations interested in operating non-secure detention group homes in New York City. This is an open-ended solicitation; applications will be accepted on a rolling basis until 2:00 P.M. on 5/31/13.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.
*Administration for Children's Services, 150 William Street, 9th Floor, New York, NY 10038.
Patricia Chabla (212) 341-3505; Fax: (212) 341-3625;
patricia.chabla@dfa.state.ny.us*

j1-n14

CHIEF MEDICAL EXAMINER

■ INTENT TO AWARD

Goods & Services

APPLIED BIOSYSTEMS MODEL #AB 3500XL GENETIC ANALYZER HID – Sole Source – Available only from a single source - PIN# 81612R0410 – DUE 12-30-11 AT 2:00 P.M. – Comes with License, warranty and AB Assurance.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.
*Office of Chief Medical Examiner, 421 East 26th Street, New York, NY 10016. Arlene Kelly (212) 323-1704;
Fax: (646) 500-5543; arkelly@ocme.nyc.gov*

d12-23

CITYWIDE ADMINISTRATIVE SERVICES

MUNICIPAL SUPPLY SERVICES

■ SOLICITATIONS

Goods

GRP: AGUSTA HELICOPTER RE-AD – Competitive Sealed Bids – PIN# 8571200312 – DUE 01-18-12 AT 10:30 A.M.

● NON GENUINE FORKLIFT PARTS FOR TOYOTA FORKLIFTS

– Competitive Sealed Bids – PIN# 8571200257 – DUE 01-18-12 AT 10:30 A.M.

● AUTOMOTIVE, TERMINALS, TOOLS AND ACCESSORIES

– Competitive Sealed Bids – PIN# 8571200226 – DUE 01-18-12 AT 10:30 A.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.
*Department of Citywide Administrative Services, 1 Centre Street, 18th Floor, New York, NY 10007.
Anna Wong (212) 669-8610; Fax: (212) 669-7603;
dcasdmssbids@dcas.nyc.gov*

☛ d21

■ AWARDS

Goods

PETZL PERSONAL SAFETY SYSTEM DESCENDER

SOLE SOURCE – Sole Source – PIN# 857801085 – AMT: \$219,000.00 – TO: Petzl America, Inc., Freeport Center Building M7, P.O. Box 160447, Clearfield, UT 84016.

● AMMUNITION, SPEER 9MM LUGER 124GR, BRAND SPECIFIC

– Competitive Sealed Bids – PIN# 8571100147 – AMT: \$9,218,250.00 – TO: Ammunition Accessories, Inc., 2299 Snake River Avenue, Lewiston, ID 83501.

☛ d21

Goods & Services

NYS CONTR: BROTHER PERIPHERALS –

Intergovernmental Purchase – PIN# 8571200264 – AMT: \$349,965.00 – TO: Island Tech Services LLC, 70 Horseblock Road, Unit 8, Yaphank, NY 11980. NYS Contract #PT64210.

Suppliers wishing to be considered for a contract with the Office of General Services of New York State are advised to contact the Procurement Services Group, Corning Tower, Room 3711, Empire State Plaza, Albany, NY 12242 or by phone: 518-474-6717.

☛ d21

■ VENDOR LISTS

Goods

EQUIPMENT FOR DEPARTMENT OF SANITATION – In accordance with PPB Rules, Section 2.05(c)(3), an acceptable brands list will be established for the following equipment for the Department of Sanitation:

- A. Collection Truck Bodies
- B. Collection Truck Cab Chassis
- C. Major Component Parts (Engine, Transmission, etc.)

Applications for consideration of equipment products for inclusion on the acceptable brands list are available from: Mr. Edward Andersen, Procurement Analyst, Department of Citywide Administrative Services, Office of Citywide Procurement, 1 Centre Street, 18th Floor, New York, NY 10007. (212) 669-8509.

j5-d31

DESIGN & CONSTRUCTION

■ SOLICITATIONS

Construction / Construction Services

AN ACADEMIC CONSORTIUM CONTRACT TO SUPPORT THE CITY'S TOWN AND GOWN PROGRAM

– Innovative Procurement – Judgment required in evaluating proposals - PIN# 8501210002 – DUE 01-17-12 AT 4:00 P.M. – This notice amends and supplements a notice published in The City Record from July 13, 2011 to July 19, 2011.

New York City Department of Design and Construction ("DDC") is establishing an academic Consortium Contract

DDC would manage this consortium contract as a multiple award task order/open ended requirements contract to be available to all City agencies to support the goals of the City's Town and Gown program, a Built Environment systematic action research program ("Town and Gown"). In its first two years of operation, the members of Town have consisted of practitioners at New York City built environment agencies. As Town and Gown evolves and expands, the membership of Town is expected to include practitioners at other public owners. Thus, to the extent the procurement laws applicable to other participating public owners permit, the Consortium Contract would be available to them to support their research projects from the Town and Gown Research Agenda.

The Consortium Contract would be available to all academic institutions (a) either participating in Town and Gown or expressing an interest to participate in Town and Gown and (b) expressing an interest to participate in response to this notice or the open solicitation. Responding and participating in Town and Gown would result in a first level award to be an academic partner under the Consortium Contract, which gives the academic institution the ability to respond to future task orders under the Consortium Contract. Academic institutions would be awarded contracts in connection with a competitive process pursuant to individual task orders.

There will be a meeting on January 25, 2012, to continue exploring contract structure and governance issues, which is open to all academic institutions with Built Environment disciplines. DDC will continue to develop the contract form, with the expectation of registering the Consortium Contract before academic year 2012-2013 commences. Those academic institutions interested in participating should contact Terri Matthews, Director, Town and Gown, by telephone at (718) 391-2884 or by email at matthewte@ddc.nyc.gov. A more detailed notice as well as an Interest in Participation form are available for download at <http://www.nyc.gov/html/ddc/html/design/tg.shtml>.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.
Department of Design and Construction, 30-30 Thomson Avenue, 4th Floor, Long Island City, NY 11101. Terri Matthews (718) 391-2884; Fax: (718) 391-1885; matthewte@ddc.nyc.gov

☛ d21-28

■ AWARDS

Construction / Construction Services

RECONSTRUCTION OF COLLAPSED OR OTHERWISE DEFECTIVE SANITARY, STORM AND COMBINED VITRIFIED CLAY PIPE SEWERS IN VARIOUS LOCATIONS, BROOKLYN

– Competitive Sealed Bids – PIN# 85012B0003 – AMT: \$4,609,126.73 – TO: Perfetto Enterprises Company Inc., 2319 Richmond Terrace, Staten Island, NY 10302. Project ID: SEK201BS2. DDC PIN: 8502011SE0029C.

● **RECONSTRUCTION OF COLLAPSED OR OTHERWISE DEFECTIVE SANITARY, STORM AND COMBINED VITRIFIED CLAY PIPE SEWERS IN VARIOUS LOCATIONS, BROOKLYN** – Competitive Sealed Bids – PIN# 85012B0001 – AMT: \$4,392,817.52 – TO: Perfetto Enterprises Company Inc., 2319 Richmond Terrace, Staten Island, NY 10302. Project ID: SEK201BN2. DDC PIN: 8502011SE0028C.

☛ d21

EDUCATION

CONTRACTS AND PURCHASING

■ SOLICITATIONS

Goods

UNIT PRICES FOR SMALL APPLIANCES – Competitive Sealed Bids – PIN# Z2033040 – DUE 01-04-12 AT 4:00 P.M. – Coffee makers, microwaves, toaster ovens, food processors, irons, etc. If you cannot download this BID, please send an e-mail to VendorHotline@schools.nyc.gov with the BID number and title in the subject line of your e-mail. For all questions related to this BID, please send an e-mail to CGallagher@schools.nyc.gov with the BID number and title in the subject line of your e-mail.

Bid Opening: January 5th, 2012 at 11:00 A.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.
Department of Education, 65 Court Street, Room 1201, Brooklyn, NY 11201. Vendor Hotline (718) 935-2300; VendorHotline@schools.nyc.gov

☛ d21

Goods & Services

BOOK DETECTION SYSTEM – Competitive Sealed Bids – PIN# Z2053040 – DUE 01-05-12 AT 4:00 P.M. – Systems must be compatible with all electromagnetic systems used in libraries. Vendor is to be able to view the site, recommend appropriate equipment for that site and remove existing equipment if necessary and replace with the new equipment. Vendors are to set up, install and train in person, personnel in the use of the equipment. If you cannot download this BID, please send an e-mail to VendorHotline@schools.nyc.gov with the BID number and title in the subject line of your e-mail. For all questions related to this BID, please send an e-mail to mmccrann@schools.nyc.gov with the BID number and title in the subject line of your e-mail.

Bid Opening: January 6th, 2012 at 11:00 A.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.
Department of Education, 65 Court Street, Room 1201, Brooklyn, NY 11201. Vendor Hotline (718) 935-2300; VendorHotline@schools.nyc.gov

☛ d21

ENVIRONMENTAL PROTECTION

■ INTENT TO AWARD

Goods

STORM EVENT MONITORING EQUIPMENT – Sole Source – Available only from a single source - PIN# 2018308 – DUE 12-30-11 AT 11:00 A.M. – NYC Environmental Protection intends to enter into a sole source agreement with FTS Forest Technology Systems, for storm event monitoring equipment. Any firm which believes it can also provide the required services is invited to do so indicate by letter or e-mail, which must be received no later than December 30, 2011 to the attention of Ira M. Elmore, Deputy Agency Chief Contracting Officer.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications blueprints; other information; and for opening and reading of bids at date and time specified above.

Department of Environmental Protection,
59-17 Junction Blvd., 17th Floor, Flushing, NY 11373.
Ira Elmore (718) 595-3259; Fax: (718) 595-3295;
ielmore@dep.nyc.gov

d19-23

FINANCIAL INFORMATION SERVICES AGENCY

PROCUREMENT

■ INTENT TO AWARD

Services (Other Than Human Services)

PITNEY BOWES NATIONAL FINALIST MAINTENANCE – Sole Source – Available only from a single source - PIN# 127FY1200063 – DUE 12-30-11 AT 10:00 A.M. – As per Section 3-05(b) of the Procurement Policy Board Rules, FISA intends to enter into sole source negotiations with Pitney Bowes Software, Inc., to provide software maintenance for National Finalist software. National Finalist is a proprietary mainframe software product used for providing correct address information.

● **LEVI, RAY, SHOUP MAINTENANCE** – Renewal – PIN# 127FY1200053 – DUE 12-30-11 AT 10:00 A.M. Pursuant to Section 4-04(c) of the Procurement Policy Board Rules (PPB), the Financial Information Services Agency (FISA) intends to renew its current contract with Levi, Ray, and Shoup Inc. for monthly DRS, VPS/TCPIP, VTAM Printer Support (VPS) software maintenance and support. The monthly support of software these software licenses will work in conjunction with FISA's mainframe computers which processes critical data processing and financial applications. The term of this contract shall be from 1/1/13 - 12/30/15. This contract was originally awarded pursuant to Section 3-05 of the PPB rules for Sole Source procurement.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Financial Information Services Agency, 450 West 33rd Street, 4th Floor, New York, NY 10001.
Kwame James (212) 857-1653; Fax: (212) 857-1004;
kjames@fisa.nyc.gov

d19-23

HEALTH AND HOSPITALS CORPORATION

The New York City Health and Hospitals Corporation is regularly soliciting bids for supplies and equipment at its Central Purchasing Offices, 346 Broadway, New York City, Room 516, for its Hospitals and Diagnostic and Treatment Centers. All interested parties are welcome to review the bids that are posted in Room 516 weekdays between 9:00 a.m. and 4:30 p.m. For information regarding bids and the bidding process, please call (212) 442-4018.

j1-d31

■ SOLICITATIONS

Goods & Services

SEWER WASTE MANAGEMENT ACID NEUTRALIZATION SYSTEM CLEANING AND MAINTENANCE – Competitive Sealed Bids – PIN# 11212025 – DUE 01-06-12 AT 3:00 P.M. – A mandatory site visit scheduled for 12-27-2011 and 12-28-2011 at 10:00 A.M. in Harlem Hospital Center, 506 Lenox Avenue, NY, NY 10037, in the Kountz Building in Room 106. No bids will be mailed out after 12-30-2011.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Lincoln Hospital Center, 234 East 149th Street, Bronx, NY 10451. Eleanor Munnerlyn (718) 579-5999; Fax: (718) 579-4746; Eleanor.Munnerlyn@nychhc.org

d21

HEALTH AND MENTAL HYGIENE

AGENCY CHIEF CONTRACTING OFFICER

■ SOLICITATIONS

Human/Client Services

NEW YORK/NY III SUPPORTED HOUSING CONGREGATE – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 81608PO076300ROX00-R – DUE 09-18-12 AT 4:00 P.M. – The Department is issuing a RFP to establish 3,000 units of citywide supportive housing in newly constructed or rehabilitated single-site buildings for various homeless populations pursuant to the New York III Supported Housing agreement. The subject RFP will be open-ended and proposals will be accepted on an on-going basis. The RFP is available on-line at

http://www.nyc.gov/html/doh/html/acco/acco-rfp-nynyccongregate-20070117-form.shtml. A pre-proposal conference was held on March 6, 2007 at 2:00 P.M. at 125 Worth Street, 2nd Floor Auditorium, New York, N.Y. Any questions regarding this RFP must be sent in writing in advance to Contracting Officer at the above address or e-mailed to the above address. All proposals must be hand delivered at the Agency Chief Contracting Officer, Gotham Center, CN#30A, 42-09 28th Street, 17th Floor, Queens, NY 11101-4132, no later than September 18, 2012.

As a minimum qualification requirement for (1) the serious and persistent mentally ill populations, the proposer must be incorporated as a not-for-profit organization, and (2) for the young adult populations, the proposer must document site control and identify the source of the capital funding and being used to construct or renovate the building.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Health and Mental Hygiene, ACCO, Gotham Center, CN#30A, 42-09 28th Street, 17th Floor, Queens, NY 11101-4132.
Huguette Beauport (347) 396-6633; hbeaupor@health.nyc.gov

a6-s17

■ INTENT TO AWARD

Services (Other Than Human Services)

PITNEY BOWES DI950 FASTPAC INSERTING SYSTEM – Sole Source – Available only from a single source - PIN# 12VR042001ROX00 – DUE 12-22-11 AT 4:00 P.M. – The Department intends to enter into a sole source negotiation with Pitney Bowes, Inc. to purchase the Pitney Bowes DI950 FastPac Inserting System for the Bureau of Vital Statistics. Any firm which believes that it can provide this equipment is invited to indicate an expression of interest by letter which must be received no later than December 23, 2011 by 4:00 P.M. Expressions of interest should be sent to DOHMH, Office of the Agency Chief Contracting Officer, 42-09 28th Street, 17th Floor, CN-30A, Queens, NY 11101-4132, Attn: Huguette Beauport.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Health and Mental Hygiene, 42-09 28th Street, 17th Fl., CN30A, New York, NY 11101.
Huguette Beauport (347) 396-6633; Fax: (347) 396-6759;
hbeaupor@health.nyc.gov

d15-21

PARKS AND RECREATION

CONTRACT ADMINISTRATION

■ SOLICITATIONS

Construction/Construction Services

PLANTING OF NEW AND REPLACEMENT STREET TREES, FLOWERING TREES IN GREEN STREETS IN COMMUNITY BOARD 2, BROOKLYN – Competitive Sealed Bids – PIN# 8462012B000C03 – DUE 01-26-12 AT 10:30 A.M. – Known as Contract #BG-210MA. E-PIN: 84612B0015.

This procurement is subject to participation goals for MBEs and/or WBEs as required by Local Law 129 of 2005. Bid documents are available for a fee of \$25.00 in the Blueprint Room, Room #64, Olmsted Center, from 8:00 A.M. to 3:00 P.M. The fee is payable by company check or money order to the City of NY, Parks and Recreation. A separate check/money order is required for each project. The Company name, address and telephone number as well as the project contract number must appear on the check/money order. Bidders should ensure that the correct company name, address, telephone and fax numbers are submitted by your company/messenger service when picking up bid documents.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Parks and Recreation, Olmsted Center, Room 64, Flushing Meadows Corona Park, Flushing, NY 11368.
Juan Alban (718) 760-6771, Juan.Alban@parks.nyc.gov

d21

REVENUE AND CONCESSIONS

■ SOLICITATIONS

Services (Other Than Human Services)

RENOVATION, OPERATION, AND MAINTENANCE OF THE CAROUSELS AT FOREST PARK FLUSHING MEADOWS CORONA PARK, QUEENS – Request for Proposals – PIN# Q15-Q99-SB-C-CL – DUE 01-27-12 AT 3:00 P.M. – Parks is issuing a Request for Proposals for the renovation, operation, and maintenance of the carousel and snack bar and the optional development, operation and maintenance of a family amusement venue at Forest Park, Queens; the renovation, operation, and maintenance of the carousel, the optional operation of up to three (3) mobile food units and up to two (2) souvenir carts, and the optional development, operation and maintenance of children's amusement rides at Flushing Meadow Corona Park, Queens.

Parks will hold a recommended on-site proposer meeting and site tour for the Forest Park location on Thursday, January 12, 2012 at 11:30 A.M. We will be meeting at the proposed concession site, which is located at the Woodhaven Boulevard entrance to the park. You may park in the parking lot next to the band shell. We will be meeting in front of the entrance to the carousel. The recommended on-site proposer meeting and site tour for the Flushing Meadows Corona Park location will be held on Thursday, January 12, 2012 at 1:00 P.M. We will be meeting at the proposed concessions which is located near the entrance to Flushing Meadow-Corona Park at 111 Street and 55 Avenue. We will be meeting at the entrance to the Carousel, which is also adjacent to the entrance to the

Flushing Meadows Zoo. If you are considering responding to this RFP, please make every effort to attend both of these recommended meetings and site tours.

TELECOMMUNICATION DEVICE FOR THE DEAF (TDD)
212-504-4115

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Parks and Recreation, The Arsenal-Central Park, 830 Fifth Avenue, Room 407, New York, NY 10021.
Evan George (212) 360-3495; evan.george@parks.nyc.gov

d13-27

SCHOOL CONSTRUCTION AUTHORITY

CONTRACT ADMINISTRATION

■ SOLICITATIONS

Construction/Construction Services

CAFETERIA AND FIRE ALARM UPGRADE – Competitive Sealed Bids – PIN# SCA12-13457D-1 – DUE 01-12-12 AT 11:00 A.M. – PS 3 (Manhattan). Project Range: \$1,870,000.00 to \$1,970,000.00. Non-refundable bid documents charge: \$100.00, certified check or money order only. Make checks payable to the New York City School Construction Authority. Bidders must be pre-qualified by the SCA.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

School Construction Authority, 30-30 Thomson Avenue, Long Island City, NY 11101. Rookmin Singh (718) 752-5483; rsingh@nycsca.org

d21

AGENCY PUBLIC HEARINGS ON CONTRACT AWARDS

NOTE: Individuals requesting Sign Language Interpreters should contact the Mayor's Office of Contract Services, Public Hearings Unit, 253 Broadway, 9th Floor, New York, N.Y. 10007, (212) 788-7490, no later than SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING. TDD users should call Verizon relay services.

EDUCATION

■ PUBLIC HEARINGS

Revised Committee on Contracts Agenda

The Department of Education's (DOE) Chancellor's Committee on Contracts (COC) has been asked for approval to enter into contract negotiations with the following organization(s) for the services described below. Other organizations interested in providing these services to the DOE are invited to indicate their ability to do so in writing to Jay G. Miller at 65 Court Street, Room 1201, Brooklyn, NY, 11201. Responses for item #1 should be received no later than 10:00 A.M., Tuesday, November 22, 2011. Any COC approval will be contingent upon no expressions of interest in performing services by other parties.

Items for Consideration:

1. United Federation of Teachers Educational Foundation, Inc. (UFT)

Service(s): The Bureau of Nonpublic Schools' Reimbursable Services seeks to enter into an agreement with the United Federation of Teachers Foundation, Inc. (UFT) to offer nonpublic school educators access to the wide variety of graduate and undergraduate courses UFT offers to New York City public school teachers. No Child Left Behind (NCLB) Federal Title IIA requires that teachers receive professional development, which supports the development and implementation of sustained and intensive high-quality coursework in core academic areas, to fulfill license and certification requirements.

Term: 9/1/12 – 8/31/17
Estimated Contract Cost Not-to-Exceed: \$900,000

Special Note:

Pursuant to section 3-08(e)(A) of the Department of Education's Procurement Policy and Procedures, the Committee may deem it necessary to review and recommend the award of an item prior to the publication of the notice of intent to procure. The Committee approved this item at its November 22, 2011 meeting, contingent upon no expressions of interest in performing services by other parties. Other organizations interested in providing these services to the DOE are invited to indicate their ability to do so in writing to Jay G. Miller at 65 Court Street, Room 1201, Brooklyn, NY, 11201. Responses for item #2 should be received no later than 10:00 AM, Wednesday, December 28, 2011.

2. Center for Social & Emotional Education, d/b/a National School Climate Center

Service(s): The Office of School and Youth Development (OSYD) seeks approval of a 12-month extension of Contract #9075115 awarded competitively to the Center for Social & Emotional Education, d/b/a National School Climate Center, to continue providing professional development and evaluation services for New York City public and non-public schools. National School Climate Center has agreed to provide these services at the same price, terms and conditions.

Term: 9/1/11 – 8/31/2012
Total Contract Cost Not-to-Exceed: \$168,000

d21

AGENCY RULES

HEALTH AND MENTAL HYGIENE

NOTICE

NOTICE OF INTENTION

Subject: Proposed amendment of Article 175 of the New York City Health Code.

Proposed Rule

The Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 175 of the Health Code to make certain technical corrections in order to ensure compatibility with applicable federal regulations. Accordingly, the Department does not believe that a public hearing is needed on this proposal as it would not serve a public purpose.

Instructions

You may submit written comments about the proposed amendment by mail to:

New York City Department of Health and Mental Hygiene
Board of Health
Attention: Rena Bryant, Secretary to the Board
42-09 28th Street, WS 14-55
Queens, NY 11101

or, electronically through NYC RULES at www.nyc.gov/nycrules or, by email to resolutioncomments@health.nyc.gov or, online (without attachments) at <http://www.nyc.gov/html/doh/html/notice/notice.shtml> on or before 5:00 P.M., on January 31, 2012.

Comments

Within a reasonable time after receipt, electronic copies of written comments will be available online at the Department's website and paper copies will be available between the hours of 9:00 A.M. and 5:00 P.M. at:

New York City Department of Health and Mental Hygiene
Board of Health
Office of the Secretary to the Board
Attention: Rena Bryant
2 Gotham Center, 14th Floor, Room 14-05, CN 30
Long Island City, NY 11101-4132

Statutory Authority

These amendments to the New York City Health Code ("Health Code") are proposed pursuant to Sections 556, 558 and 1043 of the New York City Charter ("Charter") and applicable state and federal law. Section 556 of the Charter grants the New York City Department of Health and Mental Hygiene ("Department") jurisdiction to regulate matters affecting health in New York City. Specifically, Section 556 (c)(11) of the Charter authorizes the Department to regulate all aspects of ionizing radiation within the five boroughs of New York City. Sections 558 (b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants rule-making powers to the Department. The New York State Sanitary Code, in 10 NYCRR §16.1(b)(3), states that localities that have a population of more than 2,000,000 may establish their own radiation licensure requirements in place of State regulations, provided that the local requirements are consistent with Sanitary Code requirements. Section 274 of the federal Atomic Energy Act of 1954 (codified at 42 USC §2021) authorizes "Agreement States" to regulate byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass. New York State is an "Agreement State" within the meaning of the Atomic Energy Act, and the New York City Department of Health and Mental Hygiene program is a component of and a party to the relevant Agreement.

Statement of Basis and Purpose

New York State is an Agreement State, meaning that this State and the United States Nuclear Regulatory Commission (NRC) have entered into an agreement under the Atomic Energy Act through which the NRC has delegated authority to New York State to regulate radioactive material at non-reactor sites within its jurisdiction. The New York State Agreement is comprised of three regulatory programs – 1. the New York State Department of Health, 2. the New York State Department of Environmental Conservation, and 3. the New York City Department of Health and Mental Hygiene. Under this "Agreement State structure", the New York City Department of Health and Mental Hygiene, through the Office of Radiological Health (ORH), regulates radioactive material for medical, research and academic purposes within the five boroughs of New York City.

ORH regulations for radioactive material are contained in Article 175 of the Health Code. ORH licenses and inspects radioactive materials facilities for compliance with Article 175 for the protection of the health and safety of patients, radiation program employees and the general public. There are about 375 licensed sites in New York City possessing radioactive material for medical, academic and research purposes. ORH inspects these facilities at frequencies of once every 1, 2 or 3 years depending on the type of use.

Each Agreement State program is required to maintain compatibility with the NRC regulatory program. The NRC ensures an adequate level of compatibility through its Integrated Materials Performance Evaluation Program and its review of proposed Agreement State regulatory changes based on compatibility with NRC regulations contained in Title 10 of the Code of Federal Regulations (CFR). NRC Compatibility Categories "A" and "B" require that the wording of proposed State program regulatory changes should be "essentially identical," to NRC regulations, and Category "C" requires that State changes should reflect the "essential objectives" of relevant NRC regulations.

In response to the Article 175 amendments adopted by the Board of Health on March 23, 2011, the NRC had 3 comments requesting minor, technical changes to certain provisions of Article 175 in order to maintain compatibility with applicable federal regulations. Also, § 175.03(l)(8) was inadvertently removed from the Health Code in the March 23, 2011 amendments; the Department seeks to re-instate this provision.

Therefore, the Department is requesting that the following technical corrections be made to §§ 175.02, 175.103 and 175.03 of Article 175:

1. In order to meet the NRC Compatibility Category "A" designation assigned to the definition of "public dose" in 10 CFR § 20.1003, language will be added to §175.02(a) to expand the covered sources of exposure.
2. In order to meet the NRC Compatibility Category "B" designation assigned to 10 CFR §§ 35.190 and 35.390, the term "NRC" must be added to §§ 175.103(j)(4)(iii)(A)(b); 175.103(j)(4)(iii)(B); 175.103(j)(6)(ii)(B) and §175.103(j)(8)(i) concerning training requirements for authorized users.
3. In order to meet the NRC Compatibility Category "B" designation assigned to 10 CFR §35.394, §175.103(j)(8)(i) requires a revision of an internal cross-reference.
4. Health Code § 175.03(l)(8), concerning radiological event reporting requirements, was inadvertently removed from Article 175 during the editing process prior to the last adoption of Board of Health amendments to Article 175 in March 23, 2011 and will be re-instated so that the Department can maintain the NRC Compatibility Category "C" requirements of 10 CFR § 30.50.

Statements Pursuant to Charter §§ 1042 and 1043

The proposed amendment of §175.103 was not included in the Department's Regulatory Agenda because it resulted from a recent analysis by the Department. The proposed amendment is exempt from an analysis pursuant to section 1043(d) of the New York City Charter because it meets the exemption in 1043(d)(4) as a rule that implements particular mandates or standards set forth in newly enacted federal laws and regulations with only minor, if any, exercise of agency discretion in interpreting such mandates or standards.

The proposal is as follows:

Matter in brackets [] is deleted.
Matter underlined is new.

RESOLVED, that paragraph (183) of subdivision (a) of Section 175.02 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on March 23, 2011, be and the same hereby is amended to revise the definition of "public dose," to be printed together with explanatory notes to read as follows:

§175.02 Definitions

(183) "Public dose" means the dose received by a member of the public from exposure to sources of radiation or to radioactive material released by a licensee or to any other source of radiation under the control of the licensee. Public dose does not include occupational dose, dose received from background radiation, exposure to individuals administered radioactive material and released under §175.103(c)(9), dose received as a patient from medical practices, or dose from voluntary participation in medical research programs.

Notes: The Department proposes that the Board of Health amend subdivision (a) of §175.02 of Article 175 of the Health Code to revise the definition of "public dose" to ensure compatibility with applicable federal regulations.

RESOLVED, that subdivision (j) of Section 175.103 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on March 23, 2011, be and the same hereby is amended to add a reference to the "NRC" and to revise an internal cross-reference, to be printed together with explanatory notes to read as follows:

§175.103 Medical use of radioactive materials.

(j) Training and experience requirements.

(4) *Training for uptake, dilution, or excretion studies.* Except as provided in §175.103(j)(14) of this Code, the licensee shall require an authorized user of unsealed byproduct material for the uses authorized under §175.103(d)(1) of this Code to be a physician who -

(iii)(A) Has completed 60 hours of training and experience, including a minimum of 8 hours of classroom and laboratory

training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies. The training and experience shall include-

(b) Work experience, under the supervision of an authorized user who meets the requirements in §§ 175.103(j)(14), 175.103(j)(4), 175.103(j)(5), 175.103(j)(6) of this Code, or equivalent NRC or Agreement State requirements, involving—

(B) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in §§ 175.103(j)(14), 175.103(j)(4), 175.103(j)(5), or 175.103(j)(6) of this Code, or equivalent NRC or Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraph (a)(1) or (c)(1) of this section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under § 175.103(d)(1) of this Code.

(6) *Training for use of unsealed byproduct material for which a written directive is required.* Except as provided in § 175.103(j)(14) of this Code, the licensee shall require an authorized user of unsealed byproduct material for the uses authorized under § 175.103(e)(1) of this Code to be a physician who—

(ii)(A) Has completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material requiring a written directive. The training and experience shall include—

(B) Has obtained written attestation that the individual has satisfactorily completed the requirements in clause (A) of subparagraph (i) and number (VII) of item (b) of clause (A) of subparagraph (ii) or clause (A) of subparagraph (ii) of this paragraph, and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under § 175.103(e)(1) of this Code. The written attestation shall be signed by a preceptor authorized user who meets the requirements in §§ 175.103(j)(14), 175.103(j)(6) of this Code, or equivalent NRC or Agreement State requirements. The preceptor authorized user, who meets the requirements in § 175.103(j)(6)(ii) of this Code shall have experience in administering dosages in the same dosage category or categories (i.e., §175.103(j)(6)(ii)(a)(VII) of this Code) as the individual requesting authorized user status.

(8) *Training for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries).* Except as provided in 175.103(j)(14) of this Code, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 Gigabecquerels (33 millicuries), to be a physician who—

(i) Is certified by a medical specialty board whose certification process includes all of the requirements in clauses (A) and (B) of subparagraph (iii) of this paragraph , and whose certification has been recognized by the [Commission] NRC or an Agreement State, and who meets the requirements in [paragraph (c)(3) of this section] clause (C) in subparagraph (iii) of this paragraph. (The names of board certifications which have been recognized by the Commission or an Agreement State will be posted on the NRC website.); or

Notes: The Department proposes that the Board of Health amend subdivision (j) of §175.103 of Article 175 of the Health Code to add a reference to the "NRC" in §§ 175.103(j)(4)(iii)(A)(b); 175.103(j)(4)(iii)(B); 175.103(j)(6)(ii)(B) and 175.103(j)(8)(i) concerning training requirements for authorized users, and to revise an internal cross-reference, in order to ensure compatibility with applicable federal regulations.

RESOLVED, that subdivision (l) of Section 175.03 of Article 175 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on March 23, 2011, be and the same hereby is amended by adding a paragraph (8) to re-instate previously-existing requirements for radiological event reporting and to re-number existing paragraphs (8) and (9) to become paragraphs (9) and (10) respectively, to be printed together with explanatory notes to read as follows:

§175.03 Standards for protection against radiation.

(l) Reports.

(8) *Event reporting. (i) Immediate report.* Each licensee or registrant shall notify the Department as soon as possible, but not later than four (4) hours, after the discovery of an event that prevents immediate preventive actions necessary to avoid exposures to radiation or radioactive material that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(ii) *Twenty-four hour report.* Each licensee or registrant shall notify the Department within twenty-four (24) hours after the discovery of any of the following events involving regulated sources of radiation:

(A) An unplanned contamination event that:

(a) requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting

entry into the area:

(b) involves a quantity of material greater than five (5) times the lowest annual limit on intake specified in Appendix B of this section for the material; and

(c) has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(B) An event in which equipment is disabled or fails to function as designed when:

(a) the equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, or to mitigate the consequences of an accident;

(b) the equipment is required to be available and operable when it is disabled or fails to function; and

(c) no redundant equipment is available and operable to perform the required safety function.

(C) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(D) An unplanned fire or explosion damaging any regulated radiation source or any device, container or equipment containing licensed material when:

(a) the quantity of material involved is greater than five (5) times the lowest annual limit on intake specified in Appendix B of this section for the material; and

(b) the damage affects the integrity of the licensed material or its container.

(iii) Preparation and submission of reports. Reports made by licensees in response to the requirements of subparagraphs (i) and (ii) of this paragraph must be made as follows:

(A) Licensees shall make reports required by subparagraphs (i) and (ii) of this paragraph by telephone to the Department.

To the extent that the information is available at the time of notification, the information provided in these reports must include:

(a) the caller's name and call back telephone number;

(b) a description of the event, including date and time;

(c) the exact location of the event;

(d) the isotopes, quantities, and chemical and physical form of the licensed material involved; and

(e) any personnel radiation exposure data available.

(B) Written report. Each licensee or registrant who makes a report required by subparagraphs (i) or (ii) of this paragraph shall submit a written follow-up report to the Department within thirty (30) days of the initial report. The reports must include the following:

(a) a description of the event, including the probable cause and the manufacturer and model number, if applicable, of any equipment that failed or malfunctioned;

(b) the isotopes, quantities and chemical and physical form of the licensed material involved;

(c) corrective actions taken or planned and the results of any evaluations or assessments; and

(d) the extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

[(8)] (9) Report and notification of a medical event.

[(9)] (10) Report and notification of a dose to an embryo/fetus or a nursing child.

Notes: The Department proposes that the Board of Health amend subdivision (l) of §175.03 of Article 175 of the Health Code to re-instate radiological event reporting requirements that had been recently inadvertently removed in order to ensure compatibility with applicable federal regulations, and to re-number subsequent subparagraphs of subdivision (l).

☛ d21

NOTICE OF ADOPTION OF AMENDMENTS TO ARTICLE 205 OF THE NEW YORK CITY HEALTH CODE

In compliance with Section 1043(b) of the New York City Charter and pursuant to the authority granted to the Board of Health by Section 558 of said Charter, notice of intention to amend Article 205 (Death and Disposal of Human Remains) of the New York City Health Code (the "Health Code") was published in the City Record on September 21, 2011. A comment period was held through October 25, 2011. No written comments were received. No changes have been made to the resolution since it was published for public comment. At a meeting on December 13, 2011 the Board of Health adopted the following resolution.

Statement of Basis and Purpose

Statutory Authority

These amendments to the New York City Health Code (the "Health Code") are in accordance with §§556, 558 and 1043 of the New York City Charter (the "Charter"). Section 556 of the Charter provides the Department of Health and Mental Hygiene (the "Department") with authority to regulate all matters affecting the health in the City of New York. Section 558(b) and (c) of the Charter empower the Board of Health (the "Board") to amend the Health Code and to include in the Health Code all matters over which the Department has authority. Section 1043 of the Charter gives the Department rulemaking powers.

Basis and purpose of the rule change

The Department of Health and Mental Hygiene is requesting that the Board of Health amend Article 205 (Deaths and Disposals of Human Remains), correcting an inadvertent error made in section 205.19(a)(1) and (2) when Article 205 was presented to the Board of Health for adoption at its September 2009 meeting.

Section 205.19 addresses the removal of human remains from place of death or termination of pregnancy. In its **Notice of Intention** the relevant excerpt of Section 205.19(a)(1) read as follows: "Prior authorization of the Department shall not be required to remove human remains to a county in the State contiguous to the City....When a death or termination of pregnancy occurs under circumstances which do not require notification to the Office of Chief Medical Examiner, the remains may be removed from the place of death, termination of pregnancy or autopsy to another place within the City or to a county within the State contiguous to the City..." (emphasis added). Similarly, Section 205.19(a)(2) read as follows: "Notwithstanding the requirements of paragraph (1) of this subdivision, in the case of a death from natural causes occurring elsewhere than in a hospital or hospice, such remains may be removed only to a funeral establishment within the City or within a county of the State contiguous to the City..."(emphasis added).In the **Notice of Adoption** presented to the Board of Health the word "the" was inadvertently replaced with "a", in both paragraphs and therefore changed the intent of the Department.

Accordingly, the Department requests the Board to amend Article 205, section 205.19, subdivisions (a)(1) and (2).

The resolution is as follows:

Matter in brackets [] is to be deleted.

Matter underlined is new.

RESOLVED, that paragraphs (a)(1) and (2) of §205.19 of Article 205 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on September 22, 2009, be and the same hereby, are amended, to be printed together with explanatory notes, to read as follows:

ARTICLE 205 DEATHS AND DISPOSALS OF HUMAN REMAINS

§205.19 Removal of human remains from place of death or termination of pregnancy.

(a) (1) Except as specified in this section, no person shall remove human remains from the place of death or termination of pregnancy unless a certificate of death or termination of pregnancy and a confidential medical report, if any, have been filed electronically with the Department by the person required to report a death or termination of pregnancy pursuant to subdivision (a) of §205.03 or subdivision (a) of §203.03, or unless such documents have been delivered to a funeral director, undertaker or to the person in charge of the City mortuary pursuant to §205.03 or §203.03, or unless a burial, cremation, interim or transportation permit has been issued pursuant to §205.21. Prior authorization of the Department shall not be required to remove human remains to a county in [a] the State contiguous to the City. However, an appropriate permit shall be obtained prior to burial or cremation of human remains, temporary holding of remains pursuant to subdivision (b) of §205.13, or transportation to any other area, as required pursuant to this Article. When a death or termination of pregnancy occurs under circumstances which do not require notification to the Office of Chief Medical Examiner, the remains may be removed from the place of death, termination of pregnancy or autopsy to another place within the City or to a county within [a]the State contiguous to the City by a licensed funeral director or undertaker if such person has in his or her possession a certificate of death or termination of pregnancy including any confidential medical report, or if such certificate and confidential medical report, if any, have been filed electronically with the Department by the person required to report the death or termination of pregnancy pursuant to subdivision (a) of §205.03 or subdivision (a) of §203.03. If, however, the death or termination of pregnancy is required to be reported to the Department by the Office of Chief Medical Examiner pursuant to §205.03(a)(3) or §203.03(a)(4), the remains may be removed from the place of death, termination of pregnancy or autopsy by the funeral director or undertaker if either he or she has received a completed death or termination of pregnancy certificate from the medical examiner who had taken charge of the remains, or if a death or termination of pregnancy certificate has been electronically filed by the Office of Chief Medical Examiner.

(a)(2) Notwithstanding the requirements of paragraph (1) of this subdivision, in the case of a death from natural causes occurring elsewhere than in a hospital or hospice, such remains may be removed only to a funeral establishment within the City or within a county of [a] the State contiguous to the City if the funeral director, undertaker or person in charge of the mortuary has obtained authorization from the Office of Chief Medical Examiner to remove the remains, or has obtained authorization to remove the remains and assurance from the physician attending the death, or from his or her duly authorized medical associate pursuant to paragraph (2) of subdivision (a) of §205.03, that the death is from natural causes and that said physician or medical associate assumes responsibility for certifying to the cause of death.

Notes: Paragraphs (a)(1) and (2) of §205.19 were amended to correct an inadvertent error made at the time the provisions were presented for adoption in September 2009. The proposed amendment would replace the word "a" with the word "the," as the provisions read when it was proposed in June 2009.

☛ d21

NOTICE OF ADOPTION OF AMENDMENTS TO ARTICLE 5 OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, a notice of intention

to amend Article 5 (General Permit Provisions) of the New York City Health Code (the "Health Code") was published in the City Record on September 21, 2011, and a public hearing was held on October 26, 2011. No comments or testimony were received at this hearing, but corrections and one amendment have been made after further receipt of a comment at a hearing on amendments to Article 81. At its meeting on December 13, 2011, the Board of Health adopted the following resolution.

STATEMENT OF BASIS AND PURPOSE

Statutory Authority

These amendments to the New York City Health Code (the "Health Code") are issued in accordance with §§556, 558 and 1043 of the New York City Charter (the "Charter"). Section 556 of the Charter provides the Department of Health and Mental Hygiene (the "Department") with authority to regulate all matters affecting public health in the City of New York. Section 558(b) and (c) of the Charter empower the Board of Health (the "Board") to amend the Health Code and to include in the Health Code all matters over which the Department has authority. Section 1043 of the Charter gives the Department rulemaking powers.

Basis and purpose of the rule change

As part of a comprehensive review of the Health Code to assess its efficacy in protecting the public health, the Board of Health has amended Article 5 (General Permit Provisions). The amendments are intended to modernize permitting requirements and delete provisions that have become obsolete, such as listings of permits that the Commissioner, Board or the Department of Health and Mental Hygiene (the "Department" or "DOHMH") no longer issue. Remaining permit fees are unchanged.

The following substantive changes have been made:

§5.01 Scope. This article is applicable to all permits issued by the Department, Commissioner or Board of Health, regardless of whether issuance of such permits is authorized by the Health Code, the Charter, the N.Y.C. Administrative Code ("Administrative Code"), Department rule, or State law or rule. Its provisions are also generally applicable to both initial permit issuance and renewals.

§5.03 Definitions. This section adds a new definition for "arm's length transaction."

§5.05 Applications. Applicants for permits will continue to provide all the information currently required by the Department to enable the Department to determine the entities or individuals responsible for the permitted activity. This section has been amended to prohibit granting a "new" permit to operate a business to entities or individuals who cannot prove that they purchased the business in accordance with an arm's length transaction. The Department's concern is that entities or individuals who have not operated a permitted business activity in compliance with the Health Code reincorporate or form some other allegedly "new" operating entity as a means to avoid correcting violations and paying fines or penalties previously assessed against them in their operation of a similar business at the same or another location. "Arm's length transaction" is newly defined in §5.03 (Definitions), based on definitions in the Administrative Code and the rules of other City agencies. In commenting at a hearing on proposed amendments to Article 81 of the Health Code on October 27, 2011, a representative of the New York State Restaurant Association suggested that the Department should require that "permittees, food establishment owners and their agents" provide e-mail addresses so they may receive notifications of proposed regulatory changes, permit renewals, public hearings and other important information. The Department agrees that not only food establishment permittees, but all permittees would benefit from such notifications and should be required to provide such information, and has amended this section accordingly.

§5.07 Expiration dates; fees and §5.09 Registration and certification fees. These sections have been extensively revised to delete references to permits, registrations and certificates of qualification (formerly applicable to laboratory personnel who are currently regulated by the State Department of Health) that are no longer issued by the Department. Descriptions of certain permits and licenses have also been updated, and a typographical error has been corrected in the fee for renewal of a permit for a bathing establishment with a pool. The \$245 fee for permits for both seasonal and annually operating pools was included in Health Code amendments adopted June 26, 1990, but incorrectly printed in the published Health Code. No changes have been made in the actual fees charged for permits except where permit fees have been amended by other law, such as permit fees for summer camps. This permit fee increase, from \$100 to \$200 for summer camps, is the same as the fee specified in New York Public Health Law §1393. Provisions related to fees for mobile vending have been simplified without changing the amount of any such fees. All mobile vending license and permit fees in the Health Code are the same as fees authorized by Administrative Code §17-308. A license fee authorized by Health Code §175.102 for a research and development installation using radioactive materials has been in effect since 1994, but was inadvertently omitted from the permit fee listings printed in this section. This licensing fee is now included in the listings.

§5.11 Permit not transferable; exception. No substantive change in the current provision has been made. However, a new provision requires existing permittees to notify the Department in writing within 10 business days of any change in officers, directors, shareholders, partners or members of a permitted entity so that the Department can maintain more accurate records regarding individuals responsible for actions of the permittee. The final resolution addresses an issue raised at the Board's September 13, 2011 meeting, and limits the applicability of the requirement to provide notice of such

changes to relatively small business entities, such as individual owners, closely held corporations, limited liability companies and partnerships.

§5.13 Conditions of permit and Health Code to be observed. This section was amended to incorporate a reference to other applicable law under which a permit or license may be issued.

§5.17 Suspension and revocation by Board or Commissioner. This section was repealed and recodified, updating its procedures for revocation and suspension of permits and licenses. This section also provides the opportunity for respondents to comment following receipt of a report from the administrative law judge conducting a hearing as to whether a license or permit should be further suspended or revoked.

§5.19 Denial, suspension and revocation; when effective; service of notice. This section was amended to incorporate a reference to orders that are issued as notice of such actions.

§5.21 Appeal to Board; stay of action. Provisions relating to permit revocation and suspension have been amended to reflect current practice. The most important change is that continued operation of a permitted business or activity closed by the Department would not be allowed during the pendency of an appeal to the Board when the Commissioner has ordered revocation or suspension of the permit. In instances where a food service establishment or child care program has been closed for imminent or public health hazards that have not been corrected, resulting in the suspension of the permit, there is no public health rationale for authorizing continued operation of the establishment or service while an appeal to the Board is pending.

The resolution is as follows.

Matter that is underlined is new.

Matter in [brackets] is deleted.

RESOLVED, that the table of section headings and the Introductory Notes to Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes as follows:

**ARTICLE 5
GENERAL PERMIT PROVISIONS**

- §5.01 Scope.**
- §5.03 Definitions.**
- §5.05 Applications.**
- §5.07 Expiration dates; fees.**
- §5.09 Registration fees.**
- §5.10 [Reserved]**
- §5.11 Permits not transferable; exception.**
- §5.13 Conditions of permit and Health Code to be observed.**
- §5.15 Permit to be kept on premises; mutilation prohibited.**
- §5.17 [Suspension] Permit suspension and revocation [by Board or Commissioner].**
- §5.19 Denial, suspension and revocation; when effective; service of notice.**
- §5.21 Appeal to Board; stay of action.**

Introductory Notes:

Article 5 was extensively amended by the Board of Health by resolution adopted December 13, 2011 that modernized its provisions, deleting references to obsolete permits, licenses and registrations, and clarifying that its provisions apply to permits issued for all activities regulated by the Department, consistent with the law authorizing issuance of such permits.

RESOLVED, that §5.01 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be repealed and recodified, to be printed together with explanatory notes as follows:

§5.01 Scope. Article 5 contains the requirements for permits issued by the Commissioner or the Board of Health for activities regulated by Titles II, III and IV of the Health Code, the State Sanitary Code, the State Public Health Law and the Administrative Code of the City of New York. The requirements for permits relating to vital records may be found in Title V of the Code.

Notes: Section 5.01 was repealed and recodified by resolution adopted on December 13, 2011, deleting obsolete provisions.

RESOLVED, that §5.03 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be amended, to be printed together with explanatory notes as follows:

§5.03 Definitions. When used in this Code:

(a) Arm's length transaction means a sale of a business for consideration that reflects the fair market value of such business or its assets, between two informed and willing parties, that is not made, wholly or in part, for the purpose of enabling the seller to avoid liability for violations issued by the Department. A sale shall be presumed not to be an arm's length transaction if it is

(1) A sale to an individual, or to a corporation or other business that is owned by the spouse, domestic partner, parent, grandparent, child or stepchild of any of any of the sellers, or is the direct descendent of a grandparent, the spouse or domestic partner of any of the sellers;

(2) A sale to an individual or entity that has a business or financial interest in the seller; or

(3) A sale to an entity in which any of the sellers has a business or financial relationship.

(b) Permit means a written license and authorization to carry on specified activities as regulated by this Code or other applicable law enforced by the Department, and includes a [certificate of approval] registration required by this Code or other applicable law.

[(b)] (c) Permittee means a natural person or other entity who holds a valid permit issued by the Board or Commissioner pursuant to this Code or other applicable law enforced by the Department.

Notes: §5.03 was amended by resolution adopted December 13, 2011 to add a definition of "arm's length transaction," to re-letter subdivisions (a) and (b), and to recognize other law, in addition to the Health Code, that authorizes the Department or Commissioner to issue permits.

RESOLVED, that §5.05 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes as follows:

§5.05 Applications.

(a) Forms provided by Department. Application for a permit or for the renewal of a permit shall be made and submitted on forms furnished by the Department [(1) by the individual who is to be the permittee, or (2) if a partnership or group other than a corporation is to be the permittee, by one individual who is a member of the group, or (3) if a corporation is to be the permittee, by an officer of the corporation]. Applications may be submitted on paper or electronically.

(b) Applicant to be legally competent. The applicant shall be [21] 18 years of age or over. [The Commissioner, in his discretion, may waive this requirement for an applicant who is 18 years of age or over and under 21 years of age and who, in the opinion of the Commissioner, is sufficiently competent and responsible as to assure that the public health will not be jeopardized if a permit is granted to him or for the business, trade or occupation for which he is applying.]

(c) Applications to be complete. The application shall contain all information [called for] required by the [forms] Department. [It] If the applicant for the permit is a sole proprietorship, the application shall be signed by the [applicant] individual who will be the permittee. If the applicant is a partnership, the application shall be signed by a partner. If the applicant is a limited partnership, the application shall be signed by the managing or general partner. If the applicant is a corporation, the application shall be signed by an officer or director of the corporation or by any member, if management is vested in members. If the applicant is a limited liability company, the application shall be signed by any manager of the limited liability company. [and such] Such signature shall constitute an agreement that the permittee assumes responsibility for the conduct of the business, occupation or other activity concerned in accordance with the requirements of the Code or other applicable law.

(d) Application contents. The application shall be accompanied by such other information, evidence or documentation as the Department may require or as may be provided for in this Code[,] or other applicable law enforced by the Department, including but not limited to [In addition to the information specifically required to be submitted pursuant to this Code in applying for a permit or for the renewal thereof, or, if no specific information is required for certain permits pursuant to this Code, the Department may require] the following: [information]

(1) The name, age, [sex] gender, residence and business address, and telephone numbers of the permittee, each member of partnership, limited liability company or group, and each officer of the corporation, as applicable. [If the permittee is a partnership or other group, of each member of such partnership or group, and if the permittee is a corporation, of each officer of the corporation.]

(2) The ability of the permittee, or of its individual members or officers, to read and write English; and,],

(3) To the extent that such information is relevant to the conduct of the business, trade, occupation or other activity under permit, information concerning the permittee, its individual members or officers, relating to education, training or experience, moral character, physical health, addiction to alcohol or habit-forming drugs, history of prior criminal conviction, including violations and offenses, history of mental illness, and record of insolvency or bankruptcy.

(4) Proof of current Workers' Compensation and Disability Benefits insurance coverage for all employees, or of a certificate of exemption filed with the New York State Workers' Compensation Board.

(5) E-mail address and other information to enable the Department to contact the permitted entity in an emergency.

(e) Compliance with applicable law. The Commissioner shall not issue a new or renewal permit unless, on the basis of the application and other papers submitted, and on the basis of Department or City investigation, if any, he or she is satisfied that the provisions of this Code or other applicable law enforced by the Department will be met.

(f) Outstanding fines or penalties. The Commissioner shall not issue or renew a permit unless[, on the basis of the application and other papers submitted, he is satisfied that] there are no unpaid outstanding fines, penalties or forfeitures imposed by the Administrative Tribunal established by [Article 7] §558 of the Charter, by the OATH Health Tribunal or the Environmental Control Board for violations of this

Code or other applicable law enforced by the Department, which are due and payable by the applicant or the permittee.

(g) Outstanding uncorrected violations. The Commissioner shall not issue a new permit to any entity based on a sale or change of ownership of a permitted business or activity where Department or other records show outstanding uncorrected violations or unpaid fines and penalties, unless the applicant submits proof satisfactory to the Department that the transfer of the business was the result of an arm's length transaction. Such proof shall consist of documents showing that:

(1) The applicant has assumed complete management, control and operation of the permitted business or activity from the prior permittee;

(2) The applicant has paid market value consideration for the material assets of the permitted business; and

(3) Neither the applicant nor any member or officer of a partnership or corporation is related by blood or marriage to the owners or managers of the entity holding the permit prior to the transfer of the permitted business.

The Commissioner's denial of an application pursuant to this subdivision shall be a final agency determination not subject to appeal to the Board of Health.

(h) Acceptance of application and fee no bar to denial of permit. The acceptance of an application and fee for a new permit shall not prevent the Commissioner from taking any action that he or she deems necessary, including, but not limited to, denial of a permit if Department or other investigation or pre-permit inspections disclose conditions or circumstances indicating that a new permit should not be issued. If a new permit is denied, the application fee shall not be refunded.

Notes: §5.05 was amended by resolution adopted by the Board of Health on December 13, 2011, updating its provisions to reflect current practice and concerns.

RESOLVED, that §5.07 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes as follows:

§5.07 Expiration dates; fees.

(a) [Application] Applications for permits [and certificates of qualifications] and for renewal thereof shall be accompanied by payment of fees prescribed by the following table. [The Department may delay collection of the fee prescribed until the issuance of the permit or certificate of qualification.] Permits [and certificates of qualification] shall expire and be renewed in accordance with the expiration date, if any, prescribed by such table:

Description of Activity Under Permit [Certificate of Qualification]	Health Code or other Law Section Reference	Fee	Date Expiration
ANIMALS:			
Permit to operate a pet shop, boarding kennel, training establishment for small animals or grooming parlor, where animals are kept overnight.	161.09(a)	\$70.00	December 31
ANIMALS:			
Permit to operate solely a grooming parlor where animals are not kept overnight.	161.09(a)	\$30.00	December 31
ANIMALS:			
Permit to [construct or] operate a shelter for homeless animals	161.09(b)	None	[Good until revoked] December 31
[ANIMALS:]			
[Permit to sell or keep for sale live rabbits or live poultry, including chickens, geese, ducks or other fowl]	[161.09(c)]	[None]	[Good until revoked]
[ANIMALS:]			
[Permit to yard horses or keep or yard cattle, swine, sheep or goats]	[161.09(d)]	[None]	[Good until revoked]
ANIMALS:			
Permit to operate a stable for horses	161.09[(e)] (d)	\$35.00	December 31
ANIMALS:			
To [engage in the business of importing or selling any animal of a species which is wild or to] operate a snake farm engaged in the preparation of antivenin	161.09[(f)] (e)	\$70.00	December 31
BARBER SHOP:			
Permit to conduct a barber shop	163.03	\$15.00	October 31
BATHING BEACH:			
Permit to operate a bathing beach or construct or maintain a bathing beach facility	[167.03(a)] 167.05(a)	\$595.00 for original \$375.00 for renewal seasonal	November 1
BATHING ESTABLISHMENT:			
Permit to construct or maintain a bathing establishment	165.05[(a)]		April 30 (November 1 if seasonal)
—without pool		\$1,120.00 for original \$260.00 for renewal	
—with pool		\$1,980.00 for original	
		\$245.00 for renewal annual [240.00] \$245.00 for renewal seasonal	
[BUTCHER'S REFUSE:]			
[Permit to use a vehicle to remove, dispose of, convey or transport bones, offal, fats, raw hides, hoofs, entrails or other refuse parts of slaughtered animals, or bodies of dead animals, used or to be used in the manufacture or processing of inedible products.]	[155.01]	[\$15.00]	[September 30]
[CHILDREN'S INSTITUTION:]			
[Permit to conduct a children's institution]	[51.03]	[None]	[Two years from date of issuance]
CHILDREN'S [OVERNIGHT] SUMMER CAMPS:			
Permit to operate [a] any children's [overnight] summer camp:	48.05	[\$100] \$200	[March 31, 1975 and thereafter annually March 31] April 1 through September 15 annually
[CHILDREN'S TRAVELING SUMMER DAY CAMPS:]			
[Permit to operate a children's traveling summer day camp]	[48.05]	[\$100]	[March 31 and thereafter annually March 31] [March 31 and thereafter annually March 31]
[COMPRESSED AIR:]			
[Permit to offer for sale, sell, give away or distribute in tanks for underwater breathing use]	[27.03]	[\$30]	[April 30]

[DAY] CHILD CARE SERVICE: Application [and temporary permit] to conduct a [day] child care service	[47.09(a)] 47.03	\$100.00	[Six months from date of issuance or until permit application is rejected, whichever is the shortest period of time]
[Subsequent permit] Permit to conduct a [day] child care service.	[47.09(a)] 47.02	\$100.00 per year plus \$1.00 per child	Up to two years from date of issuance
[DRY WAREHOUSE:] [Permit to maintain or operate a dry warehouse]	[121.01]	[\$250]	[March 31]
FOOD SERVICE ESTABLISHMENT: Permit to maintain or operate a food service establishment. [(May or may not also include a permit to manufacture frozen desserts at retail)]	81.05(c) [(113.03 c for frozen dessert permit)]	\$280.00 [(additional \$25.00 for frozen dessert permit)]	One year from [date of permit issuance] last day of the month in which the initial application was submitted or, in the case of a renewal, one year from date of last permit expiration
NON-RETAIL FOOD PROCESSING ESTABLISHMENT: Permit to maintain or operate a non-retail food processing establishment.	81.05(c) [(101.13 and 101.71 (Permits for dealer in shellfish and fish, respectively))]	\$200.00	One year from [date of permit issuance] end of the month in which the initial application was submitted or, in the case of a renewal, one year from date of last permit expiration
TEMPORARY FOOD SERVICE ESTABLISHMENTS: Permit to maintain or operate a [retail] temporary food [processing] service establishment	88.03(a)	[\$30.00] \$20.00	Maximum of fourteen (14) consecutive days
[Permit to maintain or operate a retail temporary nonprocessing food establishment]	[88.03(a)]	[\$20]	[Maximum of fourteen (14) days]
[Registration certificate to maintain or operate a retail temporary food establishment]	[88.03(a)]	[No fee]	[One (1) day]
PRESCRIPTION FORMULA [MILK] PREPARATION: Permit to prepare prescription formula [for sale or distribution in the City or to offer for sale, sell, give away or distribute formula milk]	115.05	\$50.00	March 31
FROZEN DESSERTS: Permit to manufacture and sell frozen desserts at retail	[113.03 (c) (81.05 (c) if issued with food service establishment permit) NY PHL §225 (5)(g)]	\$25.00 per annum	At time of expiration of associated food service establishment or mobile food vending permit.
[HORSEMEAT:] [Permit to bring into the City, keep, transport, offer for sale or sell horsemeat, whether alone or combined with other ingredients]	[97.05]	[None]	[Good until revoked]
[INFANT FORMULA:] [Permit to prepare infant formula for sale, giving away or distribution in the City]	[116.05]	[\$350]	[March 31]
[MILK:] [Class A permit]	[111.05]		
[— to operate a receiving station or transfer station]		[\$125]	[December 31]
[— to operate a milk processing plant in New York City]		[\$500]	[December 31]
[— to operate a milk processing plant outside New York City]		[\$150]	[December 31]
[MILK:] [Class B permit to offer for sale, give away or distribute a milk product]	[111.07]	[\$75]	[December 31]
[MILK:] [Identifying plate for vehicle used in transportation or delivery of milk or a milk product]	[111.11]	[\$15]	[December 31 or when corresponding class A or B permit expires]
MOBILE FOOD [UNIT] VENDOR LICENSE: Food vendor license to vend, peddle, sell, offer for sale, distribute or give away food from a vehicle, pushcart, [stand] or other mobile food vending unit	[89.03(b)] 89.07	[For licenses expiring on January 31, 1994: \$50 for two years. For each additional month beyond two years, add prorated amount of two year fee.] Seasonal: April 1 through October 31. Full-term: two years from end of the month in which the initial application was submitted or, in the case of a renewal, two years from date of last permit expiration.	[For licenses expiring on January 31, 1994: \$50 for two years. For each additional month beyond two years, add prorated amount of two year fee.] Seasonal: April 1 through October 31. Full-term: two years from end of the month in which the initial application was submitted or, in the case of a renewal, two years from date of last permit expiration.
[MOBILE FOOD UNIT:] [Temporary food vendor license to vend, peddle, sell, offer for sale, distribute or give away food from a vehicle, pushcart, stand or other mobile food unit.]	[89.03(d)]	[\$10]	[4 months or less from date of issue]
MOBILE FOOD VENDING UNIT: [Class A permit] Permit to maintain or operate a mobile food processing unit on or in which foods are processed or prepared, or on or in which potentially hazardous foods are handled	[89.03(a)] 89.05	[For permits expiring on January 31, 1994: \$200 for two years. For each additional month beyond two years, add prorated amount of two year fee.] Seasonal: \$35 per season Full-term: \$200 for two years	[For permits expiring on January 31, 1994: Last day of month from twenty-four months to thirty-three months from January 31, 1994, as determined in accordance with §§89.03(d) and 5.07(l).] Seasonal: April 1 through October 31 Full-term: two years from end of the month in which the initial application was submitted or, in the case of a renewal, two years from date of last permit expiration.

[MOBILE FOOD UNIT:] [Temporary Class A permit to maintain or operate a mobile food processing unit on or in which foods are processed or prepared, or on or in which potentially hazardous foods are handled]	[89.03(d)]	[\$35]	[4 months or less from date of issue]
MOBILE FOOD UNIT: [Class B permit] Permit to maintain or operate a mobile food non-processing unit [on or in which foods other than potentially hazardous foods are handled and on or in which foods are not prepared or processed]	[89.03(a)] 89.05(a)	[For permits expiring on January 31, 1994: \$50 for two years. For each additional month beyond two years, add prorated amount of two year fee. For permits expiring after January 31, 1994: \$50 for two years. Seasonal: \$15 per season Full-term: \$75 for first two years. For all permits after first permit, \$50 for two years.]	[For permits expiring on January 31, 1994: Last day of month from twenty-four months to thirty-three months from January 31, 1994, as determined in accordance with §§89.03(d) and 5.07(l).] Seasonal: April 1 through October 31 Full-term: two years from end of month in which the initial application was submitted or, in the case of a renewal, two years from date of last permit expiration.
[MOBILE FOOD UNIT:] [Temporary Class B permit to maintain or operate a mobile food non-processing unit on or in which foods other than potentially hazardous foods are handled and on or in which foods are not prepared or processed]	[89.03(d)]	[\$15.00]	[4 months or less from date of issue]
MOBILE FOOD UNIT COMMISSARY: [Class A permit] Permit to maintain or operate a mobile food unit commissary which prepares and processes food for mobile food units [and which may also serve as a mobile food unit depot]	[89.03(c)] 89.05(c)	[\$300.00] \$200.00	[January 31, biennially] One year from end of the month in which the initial application was submitted or, in the case of a renewal, one year from date of last permit expiration
[MOBILE FOOD UNIT DEPOT:] [Class B permit to maintain or operate a mobile food unit depot, or food establishment which stores or sells food for distribution to mobile food units]	[89.03(c)]	[\$200.00]	[January 31, biennially]
PATHOGENS: Permit to possess or cultivate pathogens	15.03(a)	\$225.00	April 30
[POULTRY SLAUGHTERING:] [Permit to conduct poultry slaughtering pursuant to Section 325 of the Sanitary Code of the City of New York in effect on effective date of Code]	[93.03]	[\$150.00]	[December 31]
[PRIVATE SEWAGE DISPOSAL SYSTEM:] [Permit for evaluation of site and sub-soil]	[143.05(d)]	[\$725.00]	[Good for two years after date of issuance]
[PRIVATE SEWAGE DISPOSAL, COMMUNITY SYSTEM:] [Fee for evaluation of application for permit to construct and maintain a private drain]	[143.11]	[\$730.00]	[Good for two years from date of issuance]
COMMUNITY PRIVATE SEWAGE DISPOSAL: [Fee for evaluation of application for permit] Permit to construct and maintain [and for annual evaluation of maintenance:] private sewage disposal system involving [5 or more dwellings:] [— for a treatment plant of over 100,000 gallons/day capacity:] [—initial permit] \$1,310.00 December 31 [—annual renewal] \$1,870.00 December 31 [— for a treatment plant of 100,000 gallons/day or lower capacity:] [—initial permit] \$[1,155.00] [December 31] [—annual renewal] \$[1,300.00] [December 31] [— for a pumping station of over 100,000 gallons/day capacity:] [—initial permit] \$[975.00] [December 31] [—annual renewal] \$[710.00] [December 31] [— for a pumping station of 100,000 gallons/day or lower capacity:] [—initial permit] \$[975.00] [December 31] [—annual renewal] \$[710.00] [December 31]	143.11		
RADIATION INSTALLATION: Certified registration fee for radiation installations that possess and use radiation therapy machines capable of operation at 500 kV (photons) and/or 500 keV (electrons) and above	175.102	\$600.00	30 days after billing date Good for 5 years after date of issuance
License fee for new radiation installations that transfer, receive, possess or use radioactive materials	175.102	\$1,365.00	30 days after billing date Good for 5 years after date of issuance
—Specific—Teletherapy		\$1,350.00	30 days after billing date Good for 5 years after date of issuance
—Specific—Medical		\$570.00	30 days after billing date Good for 5 years after date of issuance
—Specific—Other		\$3,135.00	30 days after billing date. Good for 5 years after date of issuance
—Broad—Medical			for 5 years after date of issuance
—Broad—Research and Development		\$2,135.00	30 days after billing date. Good for 5 years after date of issuance
License renewal fee for radiation installations that transfer, receive, possess or use radioactive materials	175.102		
Specific—Teletherapy		\$1,165.00	30 days after billing date. Good for 5 years after date of issuance
—Specific—Medical		\$1,150.00	30 days after billing date. Good for 5 years after date of issuance
—Specific—Other		\$440.00	30 days after billing date. Good for 5 years after date of issuance
—Broad—Medical		\$1,520.00	30 days after billing date. Good for 5 years after date of issuance

—Broad—Research and Development		\$1,520.00	30 days after billing date
— For each amendment to any of the above radiation installation licenses or renewals		\$235.00	30 days after billing date
[RADIATION SOURCES:] [Permit to sell, assemble, transfer or repair new or used radiation equipment, or sell, transfer or distribute radioactive materials]	[175.06(e)]	[\$100.00]	[As specified in each permit]
[SUMMER DAY CAMPS:] [Permit to operate a summer day camp]	[48.05]	[\$100]	[March 31, 1975 and thereafter annually March 31]
[WATER POLLUTION CONTROL:] [Permit to construct or operate a disposal facility which results in the discharge of waste into the waters of the City or to make any change in an existing disposal facility which will affect the type, volume or the treatment of the waste involved:] [— for a treatment plant of over 100,000 gallons/day capacity:] [—initial permit] \$[1,310.00] [December 31] [—annual renewal] \$[1,870.00] [December 31] [— for a treatment plant of 100,000 gallons/day or lower capacity:] [—initial permit] \$[1155] [December 31] [—annual renewal] \$[1300] [December 31] [— for a pumping station of over 100,000 gallons/day capacity:] [—initial permit] \$[975] [December 31] [—annual renewal] \$[710] [December 31] [— for a pumping station of over 100,000 gallons/day or lower capacity:] [—initial permit] \$[870] [December 31] [—annual renewal] \$[710] [December 31]	[145.03]		
WATER SUPPLY: Permit to engage or hold self out as engaging in the business of cleaning, [or scaling water coils or the business of cleaning, scaling or] painting or coating [the inside of water tanks] of a water tank that is [which are] part of a drinking water supply system of a building [(see also subsection (e) of this section)]	[145.05(a)] 141.09 (b)	\$220.00 for original \$35.00 for renewal	December 31
WATER SUPPLY: Permit to engage or hold self out as engaging in the business of chemical treatment of the drinking water supply within a building [(see also subsection (e) of this section)]	[141.07(a)] 141.11(b)	\$495.00 for original \$70.00 for renewal	March 31 March 31
WATER SUPPLY: Permit to use water from a well located in the City: — for purposes other than drinking — for drinking	[141.09(a)] 141.17(a) 141.17 (b)(2) 141.17(b)(1)	\$300.00 for original \$15.00 for renewal \$1,090.00 for original \$340.00 for renewal	December 31 May 31
[WATER:] [Importation, manufacture or bottling in containers for sale or distribution in the City as artificial, natural, spring, mineral or other water for human consumption]	[141.04]	[\$695.00 for original \$530.00 for renewal]	[December 31] [December 31]
[WATER:] [Importation, transportation, sale or giving away of for other than drinking purposes]		[\$200.00 for original \$155.00 for renewal]	
YEAR-ROUND AFTER SCHOOL AND YOUTH CENTERS: Permit to operate a year-round after school or youth center	48A.05	\$100.00	December 31 biennially

(b) When a permit or certificate of qualification has a stated expiration date and application therefor is made when more than one-half of the fee period has expired, one-half of the prescribed fee shall be paid. This requirement does not apply, however, (1) if the prescribed fee is less than ten dollars, or (2) if application is being made for renewal of a permit or certificate of qualification which has expired, or (3) if, in the opinion of the Department, the business, trade or occupation concerned is seasonal.

((c) (1) When a person, pursuant to this code, is required to obtain two or more permits relating to manufacture or sale of food on the same premises, he shall apply for all of such permits and he shall pay the fee for each separate permit.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if such permittee maintains a food sanitation control program and system of self-inspection which the Commissioner is satisfied provides sufficient safeguards to protect life and health and which substantially reduces the time to be spent by the Department in inspecting his premises, the permit fees applicable to the following total number of units and permits required on the same premises shall be reduced as follows:

[Total Number of Units and Permits On Same Premises]	[Percent Reduction]
[10-14]	15%
[15-19]	20%
[20-24]	25%
[25-29]	30%
[30-39]	40%
[40 and over]	50%

((d) When the Commissioner has authorized inspection of a food or related establishment located outside the City, the operator of the establishment or other party in interest shall pay an inspection fee of 150 dollars for each day, consisting of seven hours or part thereof during which an employee of the Department spends traveling to and from and inspecting the establishment. In addition the operator of the establishment or other party in interest shall pay all necessary expenses including but not limited to expenses for travel, lodging and meals.)

((e) When a person is required to obtain two permits from the Commissioner, one pursuant to section 141.05(a) and the other pursuant to section 141.07(a), he shall apply for both permits, but he shall pay only the fee prescribed in subsection (a) of this section for the permit to engage or hold self out as engaging in the business of chemical treatment of the drinking water supply within a building issued pursuant to section 141.07(a) and the expiration date for such permit shall apply also to the permit issued pursuant to section 141.05(a).)

((f) When a person is required to obtain two permits, one pursuant to section 101.13 and the other pursuant to section 101.71, he shall file a single application for both permits and pay one fee. If the fees are of different amounts, he shall pay the larger one.)

Commissioner may, in his or her discretion, waive the requirement for a permit fee.

[(h) Notwithstanding the provisions of this section and related sections of this Code, the Commissioner may suspend, for such period of time as he deems appropriate, the requirements for permits and permit fees for such types of food establishments specified by him and which are licensed and inspected pursuant to the Agriculture and Markets Law.] [(i) (d) The fee for a food service establishment permit specified in §5.07(a) shall be all inclusive and no separate fee shall be charged for pre-permitting inspections or annual or renewal cycle inspections. Such fee shall not be refundable.

[(j) (1) Pursuant to §89.03(d) of this Code, full-term mobile food vendor licenses and Class A and Class B mobile food unit permits, as identified in subsection (a), that expire on January 31, 1994 shall be renewed for a license or permit term of not less than two years nor more than two years and nine months. Licenses and permits shall be issued so as to expire at the end of each month up to two years and nine months from January 31, 1994 in order to achieve staggered expiration dates. For licenses and permits expiring after January 31, 1994 and all newly issued licenses and permits, the expiration date shall be the last day of the month two years from the date that the license is issued or the permit application is approved by the Department.

(2) The duration of mobile food vendor licenses expiring on January 31, 1994 and renewed pursuant to subdivision (1) of this subsection, shall be determined by the final digit of the individual licensee's social security number. A license of an individual whose social security number has a final digit of "0" shall be renewed for a two year term and the fee shall be that specified in subsection (a). A license held by an individual whose social security number has a final digit of "1" through "9" shall be renewed for an additional one through nine months, respectively.

(3) The duration of mobile food unit permit(s) expiring on January 31, 1994 and renewed pursuant to subdivision (1) of this subsection by an individual shall be determined by the final digit of the individual permittee's social security number. The permit(s) of an individual whose social security number has a final digit of "0" shall be renewed for a two year term and the fee shall be that specified in subsection (a). Permits held by an individual whose social security number has a final digit of "1" through "9" shall be renewed for an additional one through nine months, respectively.

(4) The duration of mobile food unit permit(s) expiring on January 31, 1994 and renewed pursuant to subdivision (1) of this subsection by a partnership or group other than a corporation shall be determined by the final digit of the social security number of the individual who last submitted a permit application or permit renewal application on behalf of the partnership or group. Permit(s) held by a partnership or group where the individual last submitted a permit application or permit renewal application on behalf of the partnership or group has a social security number ending in "0" shall be renewed for a two year term and the fee shall be that specified in subsection (a). Where this individual has a social security number with a final digit of "1" through "9", the permit(s) shall be renewed for an additional one through nine months.

(5) The duration of mobile food unit permits expiring on January 31, 1994 and renewed pursuant to subdivision (1) of this subsection by a corporation shall be determined by the final digit of the corporation's New York State Tax Authority number. A permit issued to a corporation having a New York State Tax Authority number ending in "0" shall be renewed for a two year term and the fee shall be that specified in subsection (a). Those permits issued to corporations having New York State Tax Authority numbers ending in "1" through "9" shall be renewed for an additional one through nine months.

(6) Fees for each additional month beyond two years that a mobile food vendor license or mobile food unit permit is in effect shall be determined by adding a prorated amount of the two year fee for each month beyond two years.]

Notes: §5.07 was amended by resolution of the Board of Health adopted December 13, 2011, resulting in the deletion of previously listed permits that are no longer issued by the Department. No permit fees were changed.

RESOLVED, that §5.09 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes as follows:

§5.09 Registration and certification fees.

(a) [The registration of a shipper of shellfish pursuant to §101.03 shall expire on the date of expiration of the registrant's state or provincial shellfish certificate or permit.]

[(b) If a registrant is a non-profit organization, the Commissioner, in his or her discretion, may waive the requirement for a registration fee prescribed pursuant to this section.

[(c) (b) Registration shall be made on forms furnished by the Department. A person required to register with the Department pursuant to any provision of this Code in addition to specific information called for by such provision shall give information, relating to the occupation, trade, business or activity concerned as the Department may require. If no registration fee or expiration date is set forth in this section, no registration fee is required but the registrant shall notify the Department whenever information furnished at the time of registration is no longer accurate.

[(d) A person registering a weight reducing group pursuant to §23.03 shall pay an annual registration fee of twenty dollars, for each location. Such registration shall expire on December 31 of each year.]

[(e) (c) The Commissioner shall not register or re-register any occupation, trade, business or activity unless, on the basis of the application and other papers submitted, he/she is satisfied that there are no fines, penalties or forfeitures imposed [by the Administrative Tribunal established by Article 7] pursuant to §558 of the New York City Charter, by the OATH Health Tribunal or the Environmental Control Board for violations of this Code or other applicable law enforced by the Department which are due and payable by the registrant.

[(f) A person registering an outlet from a disposal facility pursuant to §145.06 shall pay an annual registration fee of eight hundred forty dollars. Such registration shall expire on December 31 of each year.]

[g](d) A person registering a trained guard [or attack] dog pursuant to [subsection (1)] subdivision (g) of §161.09 of this Code shall pay a registration fee of ten dollars. Such registration shall remain effective for the life of the animal unless sooner revoked.

[(h) A person registering as the operator of a wholesale frozen desserts manufacturing plant, or of a wholesale frozen desserts distributing plant, or of a combined wholesale frozen desserts manufacturing and distributing plant within the City pursuant to §113.03(a) shall pay an annual fee of twenty-five dollars for each location. A person registering as a shipper of frozen desserts into the City pursuant to §113.03(b) shall pay an annual registration fee of twenty-five dollars.]

[(i) (e) A person [registering for] requesting a [Certificate of Water Potability] report certifying the potability of the water supply pursuant to [§81.47 of this Code] 9 CFR §416.2 (g), or any successor rule, at a wholesale food processing establishment regulated by the U.S. Department of Agriculture shall pay an annual [registration] fee of two hundred seventy dollars for each [location of] site where a wholesale food processing establishment is conducted by such person. [Such registration shall expire on May 31 of each year.]

[(j) (f) A person establishing, maintaining or operating a radiation installation required to be registered pursuant to §175.51(b) of this Code shall pay a registration fee of one hundred dollars for each installation by at least thirty (30) days prior to the expiration date specified on the registration certificate.

Notes: §5.09 was amended by resolution adopted December 13, 2011, repealing general requirements for registrations, in subdivisions (a), (b) and (c), that are now in §5.05 of this Article regarding permits generally, and repealing obsolete provisions relating to registrations of activities the Department no longer regulates.

RESOLVED, that §5.11 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes as follows:

§5.11 Permits not transferable; exception.

Any purported or attempted transfer of a permit to a person not named therein as permittee or any change in the place of business stated in a permit shall void such permit. When a permit is issued to two or more individuals, to a partnership or to a group other than a partnership, and one or more of the individuals concerned ceases to be active in the conduct of the business or activity or otherwise ceases to be a permittee, the Commissioner may approve in writing, the continuation of the business or activity by the remaining permittees during the unexpired period of such permit. The permittee shall notify the Department in writing within ten (10) business days of any change in the owner(s), officers, directors, shareholders, partners or members of a permitted entity that is owned by a sole proprietor, or that is a closely held corporation or small limited liability company, or a partnership, consisting of fewer than five (5) shareholders, members or partners, who directly operate and manage the business, and serve as directors or officers of the corporation, with no outside investors. Notice of such changes shall not be required if the permittee is a publicly held corporation or limited liability company whose shareholders or members do not manage or control the entity or participate in its business activities.

Notes: Section 5.11 was amended by resolution adopted on December 13, 2011 adding a requirement for a permittee to notify the Department in writing when there is a change in the persons responsible for operation, management and control of a permitted entity, but limiting its applicability to sole proprietorships and other small business entities.

RESOLVED, that subdivision (a) of §5.13 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes as follows:

§5.13 Conditions of permit and Health Code to be observed.

(a) A person holding a permit, including the officers and directors of a corporation holding a permit shall comply with the conditions contained in his/her permit as well as with all applicable provisions of this Code or other law enforced by the Department.

(b) A person holding a permit, including the officers and directors of a corporation holding a permit, shall be jointly and severally liable for violations of the conditions of the permit or of this Code committed by employees or agents of the person or corporation when such acts are committed in the regular course of the permitted business of such person or corporation, or on the premises subject to the permit, or in the course of using the permit.

Notes: Subdivision (a) of §5.13 was amended by resolution

adopted December 13, 2011 to add a reference to compliance with conditions imposed on permittees by other law enforced by the Department.

RESOLVED, that §5.17 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be repealed and recodified, to be printed together with explanatory notes as follows:

§5.17 Permit suspension and revocation.

(a) Basics for action. A permit may be ordered suspended or revoked for:

(1) Willful or continued violation of this Code or for such other reason as the Commissioner or Board determines is sufficient grounds for suspension or revocation.

(2) The giving or offering to an employee or agent of the Department or other government agency, engaged in carrying out an inspection, survey or examination or in the performance of any other duty for the Department or such agency, a gift, gratuity, benefit, favor or bribe, including but not limited to money, food, or drink.

(3) Submission or display by a permittee of a forged document or other document that contains false or misleading statements, or making a false or misleading statement to the Department.

(b) Hearings. When permanent revocation of a permit is sought or a permitted entity is ordered to close and its permit is ordered suspended, if the Department determines that such permit should be permanently revoked, or such suspension continued, the Department shall schedule a hearing at the City Office of Administrative Trials and Hearings (OATH) within 15 days of closure. The purpose of the hearing is to allow the permittee to show cause why its continued operation is not a public health or imminent health hazard and why it should be allowed to reopen.

(c) Post hearing procedures. Following receipt of a copy of the report and recommendation of an OATH administrative law judge to the Commissioner, a respondent may respond to the findings and recommendations in the administrative law judge's report by submitting written comments to the Commissioner within 10 calendar days of receipt of the report, if received by e-mail or fax, or 15 days if received by mail. The Commissioner may then take such action as may be necessary, adopting all or part of the findings and recommendations, and may issue an order revoking, further suspending or reinstating the permit. If the OATH judge's recommendation is to allow the permittee to reopen, and the Commissioner adopts the recommendation, the Commissioner may impose whatever conditions he or she deems necessary for the continued safe operation of the permitted business.

(d) Permits to be surrendered. All permits revoked pursuant to this section or in accordance with other applicable law shall be surrendered to the Department upon receipt of the order. Permits or licenses that are not surrendered in accordance with this section may be seized by any employee or agent of the Department or officer of the New York City Police Department.

Notes: Section 5.17 was repealed and recodified by resolution adopted by the Board of Health on December 13, 2011. Its procedures for revocation and suspension of permits and licenses have been updated and provide an opportunity for respondents to comment following receipt of a report from the administrative law judge conducting a show cause hearing as to whether a license or permit should be further suspended or revoked.

RESOLVED, that §5.19 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes as follows:

§5.19 Denial of issuance or renewal, suspension and revocation; when effective; service of order or notice.

(a) Effective date. Except as otherwise ordered by the Board, the action of the Commissioner denying issuance or renewal of a permit, or suspending or revoking a permit, shall become final five days after service of an order or other notice thereof, exclusive of the day of service, on the applicant or permittee concerned.

(b) Service. Service of an order or notice shall be made as follows:

(1) Enclosing the order or notice in a postpaid envelope directed to the applicant or permittee at the address listed in the application or permit and depositing such envelope at a United States Post Office or in a mail box or mail chute maintained by the United States Post Office; or,

(2) Leaving the order or notice with the applicant or permittee or, if the permittee is not an individual, with a member of the partnership or other group concerned or with an officer of the corporation; or,

(3) Posting the order or notice at the entrance door of the premises listed in the application or permit.

Notes: Section 5.19 was amended by resolution adopted by the Board of Health on December 13, 2011 to include reference to an order or other form of notice of revocation, suspension or other action by the Department pertaining to a permit or license.

RESOLVED, that §5.21 of Article 5 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes as follows:

§5.21 Appeal to Board; stay of action.

(a) *Service of notice of appeal.* When the Commissioner [suspends or revokes] orders that a permit be revoked or suspended for reasons other than the discontinuance, sale or transfer of the business, occupation, trade or other matter for which the permit was issued, or refuses to issue or renew a permit, or when a provision of this Code specifically authorizes an appeal to the Board [pursuant to this section, or when a request for the approval of an inspection service is denied], the applicant or permittee [or aggrieved party affected thereby] may appeal such action to the Board by serving a notice of appeal upon the Secretary of the Department within [five] ten business days following the service of an order or other notice of the action of the Commissioner.

(b) *Contents of notice of appeal.* The notice of appeal shall be addressed to the Board and shall contain:

- (1) The full name of the applicant[,] or permittee [or party affected];
- (2) The type of permit issued or for which application was made [or the nature of the action complained of];
- (3) The place of business listed in the application or permit [or to which the appeal relates];
- (4) The date of the application [or permit or the date of the original request to the Commissioner];
- (5) The date of the action and the nature of the action taken by the Commissioner;
- (6) A statement that the applicant or permittee [or other party affected] appeals to the Board to review the action of the Commissioner; and,
- (7) The signature of the applicant[,] or permittee [or party affected] or, if the permittee [or party affected] is not an individual, the signature and title of a partner or other individual of the partnership or group permittee [or party affected], or of an officer of a corporate permittee [or party affected].

(c) *Perfecting an appeal.* Within [three] ten business days following service of the notice of appeal, the applicant[,] or permittee [or party affected] shall submit a memorandum addressed to the Board [containing his objections] specifying the objections to the action of the Commissioner. The Department shall prepare and submit a memorandum in reply to the Secretary with a copy to the permittee, no later than ten days after receipt of the permittee's memorandum. No additional replies or sur-replies shall be accepted. The Secretary shall submit all memoranda, exhibits, and a ballot to the attention of the individual members of the Board within ten business days after the issuance of the Department's memorandum. Individual Board members shall mark their ballots, voting to grant or deny the appeal, or to abstain from voting, and return the ballots to the Secretary as soon as practicable after marking the ballots. The Secretary shall notify the permittee of the Board's action, and such notification shall constitute a final agency determination.

(d) *Closure for public health or imminent health hazards.*

(1) *Temporary closures.* There shall be no appeal to the Board if the Commissioner or designee orders the temporary closure of any permitted activity, business or facility and temporary suspension of its permit because of uncorrected public health or imminent health hazards.

(2) *No reopening after hearing.* A permittee ordered closed for public health or imminent health hazards shall remain closed during OATH hearing proceedings and during the pendency of any appeal to the Board.

(e) *Closure for other than public health or imminent health hazards.* In all other appeals, [Unless] unless the Board orders that the action of the Commissioner remain in full force and effect during the pendency of an appeal, such action shall be stayed by the effective service of a notice of appeal until final determination by the Board.

Notes: §5.21 was amended by resolution of the Board of Health adopted December 13, 2011. As amended, the provision no longer allows entities ordered closed for imminent or public health hazards to operate while appeals to the Board are pending.

◀ d21

**NOTICE OF ADOPTION
OF AMENDMENTS TO ARTICLE 81 AND REPEAL OF
ARTICLES 91, 93, 95, 97, 101, 103, 113 AND 121 OF
THE NEW YORK CITY HEALTH CODE**

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, a notice of intention to amend Article 81 and repeal Articles 91, 93, 95, 97, 101, 103, 113 and 121 of the New York City Health Code (the "Health Code") was published in the City Record on September 21, 2011 and a public hearing was held on October 27, 2011. Three people testified and 12 written comments were received, including two from persons who testified at the hearing. In response to the comments, several changes were made in the resolution. At its meeting on December 13, 2011, the Board of Health adopted the following resolution.

Statement of Basis and Purpose

Statutory Authority

These amendments to the New York City Health Code (the

"Health Code") are issued according to §§556, 558 and 1043 of the New York City Charter (the "Charter").

- Section 556 of the Charter provides the Department of Health and Mental Hygiene (the "Department") with authority to regulate all matters affecting health in the city of New York.
- Section 558(b) and (c) of the Charter empowers the Board of Health (the "Board") to amend the Health Code and to include in the Health Code all matters over which the Department has authority.
- Section 1043 of the Charter gives the Department rulemaking powers.

Basis and purpose of the rule change

As part of an extensive revision of the Health Code, the Board of Health is amending Article 81 (Food Preparation and Food Establishments), deleting duplicative provisions, clarifying and modernizing other provisions, and providing additional definitions of terms relevant to food safety that are used in this and other articles of the Code, and repealing, as no longer necessary, the following Articles:

- 91 (Meat and Meat Products; Slaughtering of Animals);
- 93 (Poultry; Slaughtering, Eviscerating and Processing);
- 95 (Sausage Manufacturing and Smoking, Preparing or Preserving of Meat);
- 97 (Horsemeat and Slaughtering of Horses);
- 101 (Shellfish and Fish);
- 103 (Establishments Engaged in Preparing, Preserving or Smoking Fish);
- 113 (Frozen Desserts), and,
- 121 (Other Food Establishments: Dry Warehouses; Edible Egg Breaking; Bakeries, Mineral, Spring and Other Waters; Carbonated and Other Beverages).

The repealed articles regulate processes and industries, including wholesale food processing establishments, that are no longer regulated by the Department, but that are now extensively and comprehensively regulated by the U.S. Department of Agriculture and the State Department of Agriculture and Markets. These obsolete provisions were in the City's earlier Sanitary Code and were then imported into the Health Code in 1959. However, certain provisions of the repealed articles that relate to the safe holding and processing of food in food service establishments and non-retail food processing establishments have been incorporated into Article 81.

The Board has also amended Article 81 by repealing obsolete provisions, updating other provisions, and generally reorganizing the Article to make compliance easier.

With respect to Article 81, the following changes have been made:

§81.01 – Scope. This section has been amended to clarify to which entities the Article applies. References to wholesale markets and shellfish and fish markets have been deleted as DOHMH no longer regulates these activities.

§81.03 – Definitions. New definitions for terms used in the Article include:

- "adequate or sufficient means"
- "caterer"
- "cured foods"
- "cut leafy greens"
- "frozen dessert"
- "non-retail food processing establishment"
- "operating or in operation"
- "ready-to-eat food"
- "shared kitchen"
- "ware washing"

The term "wholesale food service establishment" has been deleted.

The definitions of the following terms have been amended to be consistent with their usage in the article:

- "equipment" to clarify that this term includes any component of tools, fixtures, and articles within an establishment
- "imminent health hazards" to clarify that this term also is used interchangeably with "public health hazards"
- "non-retail food processing establishment" to incorporate caterers and shared kitchen operations
- "stand" to clarify that the term is to be used only in temporary food service establishments.

In response to comments received, in the definition of a "non-retail food processing establishment," the undefined word "communal" was deleted as confusing and unnecessary from the term "shared or communal kitchen," which provides an example of a non-retail food processing establishment.

In response to a comment that the amended definition of "food grade material" references materials other than those meeting National Sanitation Foundation (NSF) or American National Standard Institute (ANSI) standards in their manufacture if such materials are "otherwise acceptable to the Department" without specifying how the Department will determine their acceptability, the provision has been clarified to state that such materials will be acceptable to the Department if the materials are "in compliance with §81.17 (d)" of Article 81. §81.17 (d) requires that food grade materials do not contain or impart any unhealthful toxic or reactive chemicals or other substances when the materials come into contact with food. The burden will be on the food service establishment to show that equipment that does not meet NSF or ANSI materials standards are safe for use.

§81.04 – Approved sources of food. This section is new. It

incorporates provisions from §81.07 and Articles 101 and 113 and clarifies that food and meat products may not be served or sold by a food service establishment unless such products are inspected and approved by the U.S. Department of Agriculture or the FDA. This section includes a requirement from repealed Article 101 which requires that all food service establishments maintain shellfish tags for 90 days after use of the shellfish, consistent with provisions of the State Sanitary Code, and that frozen desserts be identified, manufactured and sold in food service establishments in accordance with Article 4-A of the State Agriculture and Markets Law.

§81.05 – Technical review and pre-permitting inspections for food service establishments and non-retail food processing establishments. Subdivision (c) has been amended so that new establishments may open for business without having to request a pre-permit inspection. Under the State Sanitary Code, establishments in New York State are allowed to open 22 days after they submit a permit application. The language now mirrors the statewide requirements from the State Sanitary Code. A new subdivision (f) has been added, requiring caterers and other users of "shared kitchens" to obtain individual permits for their operations. Subdivisions (g) and (h) govern operation of shared kitchens. Current subdivision (f) was relettered as subdivision (i). In response to a comment, this provision was further amended to clarify that the person holding the permit to operate a shared kitchen is responsible for maintaining the kitchen and its facilities in compliance with the Health Code.

§81.06 – Prevention of imminent health hazards. The title and the term "imminent health hazards" used in subdivision (a) have been amended to include the term "public health hazards" since both terms are used interchangeably in this Code, the Commissioner's rules, and in the State Sanitary Code. Subdivision (c) was amended to add fermentation and drying as processes that require preparation and approval by the Department of a Hazard Analysis and Critical Control Point (HACCP) plan for processes used to preserve fish, meats, and sausages in food service establishments. In response to a comment that there is no provision exempting refrigerated sausage fermentation from the requirement that cured foods processed in a food service establishment require a HACCP plan, subdivision (c) of this section has been further amended, clarifying that no HACCP plan is needed when potentially hazardous foods are cured or processed in accordance with the mandated temperature and time controls in §81.09.

§81.07 – Food; sanitary preparation, protection against contamination. Titles have been added to each subdivision to make this section more readable and the section has been amended to include a number of provisions from other sections that relate to prevention of food contamination.

- A new paragraph (1) in subdivision (a) requires a dedicated culinary sink for washing food prior to other preparation. In response to a comment that this requirement could impose a hardship on existing food service establishments, the provision has been amended to indicate alternative acceptable methods of washing such foods.
- A new subdivision (h) has been added to this section from former §81.37 (f) for storing dispensing utensils between uses.
- Former subdivision (i), relating to approved sources of foods, was deleted from this section and has been included in a new §81.04 on approved sources.
- Former subdivision (k), relating to worker hygiene, has been deleted from this section and included in §81.13 on worker hygiene practices.
- A new subdivision (l) prohibiting re-service of previously served food (now in §81.11) has been added.
- A new subdivision (o) regarding use of drinking straws (currently in §81.45) has been added.
- To prevent leaching of harmful substances into foods heated in a microwave oven, a new subdivision (p) requires that plastic containers used in microwaving be approved by the FDA.
- A new subdivision (q) incorporates provisions of former §81.13 about prohibiting non-essential persons from entering work areas.
- A new subdivision (r) (from former §81.11) requiring food unfit for consumption to be denatured has been amended and added to this section.
- An amendment to subdivision (r) clarifies the process of denaturing food to render it unpalatable, e.g., by altering its appearance, in circumstances when such foods are not safe for consumption. An amendment to subdivision (l) clarifies that foods previously served may not be served to other patrons unless such foods were originally prepackaged by their manufacturer and the packages remain intact.
- Provisions maintained from various repealed articles have been added to this section, i.e., prohibitions on using unpasteurized milk, from Article 111 (repealed in September, 2010), and slaughtering animals for food, from Articles 91, 93, and 97. These prohibitions only apply in food service establishments and non-retail food processing establishments regulated by Article 81.

§81.08 – Foods containing artificial trans fat. Subdivision (d), which contains effective dates of various provisions in the section that are no longer applicable, have been deleted..

§81.09 – Food; temperature requirements. This section has been amended to add titles for each subdivision. Subdivision (c) was amended to delete paragraphs (1) and (2) because the Department no longer regulates wholesale fish markets. Subdivision (d)'s requirements for advising consumers regarding foods that are not heated to Code standards have been clarified. New paragraphs (1) and (2) have been added to subdivision (e) to specify, in accordance with the 2009 FDA Food Code, methods an operator may use to properly cool food to control the growth of pathogens. An addition to

subdivision (h), former subdivision (i), was made to require the use, not just possession, of thermometers to evaluate food temperatures. Further amendments have been made in response to public comments. In §81.09 (a)(5), a temperature requirement has been added for stuffings containing comminuted meats. In response to another comment, the heating temperature requirements for mechanically tenderized or injected meats was added. In §81.09 (a)(9), the temperature requirements for reheating potentially hazardous foods in a microwave oven have been amended and are now the same as those in the 2009 FDA Food Code. In response to the comment on §81.09 (b) that the 2009 FDA Food Code recommends 45 degrees F and below as a safe holding temperature for intact shell eggs, but the Health Code requirement remains at 41 degrees F, this provision has been further amended to be consistent with both the 2009 FDA Food Code and State Sanitary Code §14-1.41.

With respect to §81.09 (d), the comment asked how a consumer should be notified of foods that are not cooked to required temperatures and what information should be provided to consumers. In response, additional language has been added to the note at the end of this section to clarify that consumers should be informed that there is an increased risk of food borne illness from consuming such foods. Further revisions will be considered for future rulemaking. In §89.09 (e)(1)(C), the example given of one type of rapid cooling equipment, "quick chill," was deleted, to enable establishments to use any type of rapid cooling equipment that suits their needs.

§81.10 – Time as a public health control. This section has been amended to allow use of time as a public health control for takeout/delivery foods, and in holding fish and aquatic animal products and raw foods. The amendments are more consistent with the 2009 FDA Food Code recommendations, and results of studies conducted by the FDA and others. See, e.g., Conference for Food Protection Council III, Committee Report, "Time as a public health control," January 27, 2004; FDA consumer handling practices study, 2009 FDA Food Code, Public Health Reasons, §3-501.19. §81.10 (a)(1). In response to the comment that the FDA allows tomatoes at room temperature, i.e., not removed from cold holding, to be sliced and held for four hours, but the Health Code omits a similar allowance, a new paragraph (4) was added to §81.10 (a). An FDA advisory based on laboratory studies found that time as the sole public health control can be used to sufficiently limit the growth of pathogens in cut tomatoes, even if the tomatoes have been stored at room temperature prior to being sliced or cut. The starting temperature (41 degrees F vs. 72 degrees F) of cut tomatoes to be held using time as a public health control has been shown to have little effect on the ability of the tomatoes to support the growth of inoculated pathogens during the maximum 4-hour time period permitted for the non-refrigerated storage immediately prior to service or disposal. See, <http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/ucm215053.htm>

§81.11 – Food; disposition if unfit for human consumption; re-service of food prohibited. This section has been repealed and its provisions have been included in §81.07.

§81.12 – Reduced oxygen packaging; cook chill and *sous vide* processing. To reflect 2009 FDA Food Code guidelines on cooling packaged foods, paragraph (4) of subdivision (d) was repealed and recodified.

§81.13 – Food workers; health; clothing. The title of this section has been amended to read "Food workers: health; hygienic practices." Provisions for hand washing were moved from §81.07 to this section, consolidating all provisions related to food worker hygiene in this section.

§81.15 – Food protection course. Subheads have been added to this section to clarify provisions and to facilitate compliance. Additionally, paragraph (2) of subdivision (a) has been deleted as duplicative. In response to a comment on §81.15 (a) objecting to the addition of the term "management" to the requirement that a person who is charged with supervision of operations of an establishment have a food protection certificate, a note has been added at the end of the section to clarify that cashiers, or staff with purely administrative, personnel, accounting or non-food operation responsibilities do not require such a certificate. In response to a comment objecting to the existing provision in subdivision (d) that someone in an establishment re-take the course when the Department identifies continuing violations of the Code, because the provision does not explain what is considered a "continuing violation," subdivision (d) was amended to replace the term "continuing violations" with "imminent health hazards."

§81.17 – General requirements; design, construction, materials and maintenance. This section (Food service establishments and non-retail food processing establishments; premises; location; general requirements) was repealed and recodified. As recodified, it updates requirements for the physical space and attributes of a facility, differentiating requirements for food contact and non-food contact surfaces, incorporating recommendations from the 2009 FDA Food Code.

§81.18 – Cold and hot storage and holding facilities. This section is new, and is derived from former §81.35 (Food service establishments and non-retail food processing establishments; refrigeration and hot storage facilities). Its provisions have been updated in accordance with the 2009 FDA Food Code, clarifying expectations and good practices.

§81.19 – Lighting and ventilation. This section (Food service establishments and non-retail food processing establishments; premises; lighting and ventilation) was repealed and recodified, with updated lighting requirements reflecting the 2009 FDA Food Code guidance and existing ventilation requirements.

§81.20 – Plumbing and water supply. This section is new and

incorporates and clarifies plumbing provisions in former §81.21 (Food service establishments and non-retail food processing establishments; premises, plumbing, water supply, floors, walls and ceilings, vehicles).

§81.21 – Hand wash sinks. This section (Food service establishments and non-retail food processing establishments; premises, plumbing, water supply, floors, walls and ceilings, vehicles) has been repealed and recodified. The new section incorporates and updates provisions of former §81.29 (Food service establishments and non-retail food processing establishments; premises, employee toilets, wash basins, lockers and patron toilets to be provided), reflecting the importance of adequate and conveniently located hand wash sinks in preventing the transmission of food borne illness. The provision was further amended to add that such sinks must be equipped with hot and cold running water.

§81.22 – Employee and patron toilets. This is a new section, incorporating and clarifying existing provisions in current §81.29 for patron toilets, and requiring that establishments currently without patron toilets install them if and when they renovate their physical facilities. In response to a comment asking if the proposal prohibited use of the same toilets by both patrons and employees, a new subdivision (a) was added to allow use of toilets by both patrons and workers, except where toilet facilities used by patrons would require that patrons go through kitchens or other areas where food might be contaminated.

§81.23 – Pest management and control. This section (Food service establishments and non-retail food processing establishments; premises, conditions conducive to rodent or insect and pest life prohibited; rodent proofing) has been substantially amended to reflect modern concepts and pest management practices. In response to a comment that the terms "pests" and "conditions conducive to pests" are not defined, the provision has been further amended to refer to the definitions in Article 151 of the Health Code. Further amendments have been made in response to a comment that §81.23 (b) (2) and (3) were burdensome, that an establishment should only be required to contract with a pest management service if the "conditions warranting such an expenditure is found by an inspector" and that an establishment be allowed a reasonable amount of time to produce a copy of a contract on receipt of the inspector's request. The Department disagrees that a contract with an exterminator is unnecessary. Nevertheless, the Department is aware that contracts for various services may not necessarily be kept on the premises of a food service establishment, including establishments that are operated by a single administrative entity or are part of a chain. Accordingly, this provision has been amended to indicate that it will accept records showing the name, address, Department of Environmental Conservation license number of the exterminator, the services provided, and the effective dates of such contracts. The provision requires that the actual contract be produced on request. The Department agrees with the comment that the one-quarter inch gap originally proposed in §81.23 (b)(3) is too large to restrict access to pests other than mice and rats, and this provision has been amended to allow for no more than a one-eighth inch gap and to further require that all doors leading to the outside be equipped with anti-pest tension brushes.

§81.24 – Garbage and waste disposal. This section is new, but is derived without substantive changes from current §81.37 (Food service establishments and non-retail food processing establishments; premises, equipment and utensils; cleaning methods). The provision reflects best practices when an establishment may need access to open garbage containers during periods of active food preparation. On reconsideration, a proposed amendment requiring rodent proof garbage containers has been deleted, since Chapter 17 (Tripartite General Orders) of the Department's Rules already provides for specific bags to be used for garbage disposal. In response to a comment that containers left out overnight for collection could not be cleaned immediately after emptying, since the establishment would likely be closed at night, the amendment was changed to require only that containers be cleaned after emptying and prior to reuse.

§81.25 – Live animals. The title of this section (Food service establishments and non-retail food processing establishments; animals prohibited) has been amended and the provision has been updated to reflect current regulations implementing the Americans with Disabilities Act.

§81.27 – Cleaning premises, equipment and utensils. This section is new. Former §81.27 (Food service establishments and non-retail food processing establishments; foodworker use of tobacco and consumption of food on premises; spitting prohibited) is repealed, and its provisions incorporated in a new §81.13, described above. The new §81.27 includes updated and clarified provisions from current §81.37.

§81.29 – Dishwashing and ware washing. This section is new and replaces former §81.29 (Food service establishments and non-retail food processing establishments; premises; employee toilets, wash basins, lockers and patron toilets to be provided) which has been repealed. The new section incorporates, updates and clarifies provisions for adequate dishwashing and ware washing from current §81.37 (c), (d), (e) and (j).

§81.31 – Outdoor cooking, food and beverage preparation facilities. This section is new, and replaces former §81.31 (Food service establishments and non-retail food processing establishments; equipment and utensils to be made of non-toxic materials), which was repealed. The new section establishes food safety requirements for food service establishments that want to add outdoor cooking to their operation. Cooking on sidewalks would continue to be prohibited, except as currently authorized by temporary food service establishment at events, pursuant to Article 88 of this Code or by mobile food vending units pursuant to Article 89 and other applicable law.

As noted above, §§81.33, 81.35, 81.37, and 81.45 have been

repealed and their provisions updated and included in various new sections described above.

§81.47 – Water potability certificates. This provision was repealed since it is not applicable to any of the food service establishments regulated by the Health Code. Meat and other food packagers are required by the U. S. Department of Agriculture under the Federal Meat Inspection Act and the Poultry Products Inspection Act (21 U.S.C. 451-470; 601-695; 7 U.S.C. 450; 1901-1906) to have their water certified for potability. A fee for this certification remains in Article 5 of the Code and will continue to be charged when DOHMH provides such certifications.

§81.49 – Modification by the Commissioner. Although no substantive change has been made, the section has been renumbered as §81.55, so that it appears as the last provision of the Article, making it clear that it covers all matters regulated by the Article.

§81.51 – Grading of inspection results and posting of grades by certain food service establishments. The Statement of Basis and Purpose for the proposed repeal of Article 7 (Administrative Tribunal), published in the City Record on September 21, 2011, stated that this comprehensive amendment of Article 81 would include an amendment to reflect the change in name from the "Administrative Tribunal," to the "Health Tribunal at OATH." That was omitted from the notice of intention, but is included in the final resolution.

The resolution is as follows.

Deleted matter is in [brackets].

New matter is underlined.

RESOLVED, that §81.01 of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

§81.01 Scope.

The provisions of this Article shall apply equally to all food service establishments and non-retail food processing establishments, [except as otherwise limited herein,] and shall be construed in a manner that protects the health and safety of the public. All other applicable provisions of this Code, the State Sanitary Code, and the rules of the Commissioner shall be complied with in addition to the requirements set forth in this Article. Owners and operators of food service establishments and non-retail food processing establishments shall operate such establishments in a sanitary manner so as to prevent imminent or public health hazards and to otherwise protect the public health. This Article applies to all food service establishments [formerly classified as eating places,] and non-retail processing establishments where food, as defined in Article 71 of this Code, is prepared and offered for service, including but not limited to:

- mobile food vending units,
- mobile food vending commissaries,
- other food commissaries and shared or communal kitchens that are not inspected or regulated according to the State Agriculture and Markets Law, vending machines,
- temporary food service establishments,
- caterers,
- cafeterias,
- charitable organizations' kitchens,
- social clubs,
- delicatessens,
- restaurants, and,
- bars. [retail food processing establishments, retail non-processing food establishments, wholesale food establishments, shellfish and fish markets and commissaries. Any references anywhere in this Code to the aforementioned establishments are hereby deemed to mean the establishments defined and regulated hereunder.]

The terms "establishment" or "food establishment" when used in this Article shall refer to a food service establishment or non-retail processing establishment regulated by this Code.

Notes: §81.01 was amended by resolution adopted on December 13, 2011, to clarify the kinds of entities regulated by the Department and the law applicable to the operation of such entities. These entities are those delineated in memoranda of understanding between the State Departments of Health and Agriculture and Markets which identify the applicability of law and regulations and the respective jurisdictions of local public health agencies in supervising food processing and sales in New York State.

RESOLVED, that §81.03 of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

§81.03 **Definitions.** When used in this Title and Code: (a) Adequate or sufficient means able to accomplish the purposes for which something is intended, and to such a degree that no unreasonable risk to health or safety is presented. An item installed, maintained, designed and assembled, or an activity conducted or act performed in accordance with generally accepted standards, principles or practices applicable to a particular trade, business, occupation or profession, consistent with generally accepted public health standards, is adequate or sufficient within the meaning of this Article. (b) Aquatic animal means fresh or saltwater finfish, crustaceans and other forms of aquatic life (including but not limited to alligator, frog, aquatic turtle, jellyfish, sea cucumber, and sea urchin and the roe of such animals) other than birds or mammals, and all mollusks, if such animal life

is intended for human consumption.

[(b)] (c) A_w means water activity, which is the measure of the free moisture in a food, and is indicated by the symbol A_w . Its numeric value is the quotient of the water vapor pressure of the food substance divided by the vapor pressure of pure water at the same temperature.

[(d)] Caterer means a food service establishment holding a permit issued by the Commissioner that prepares food and may provide transportation for, and service of food at, a location other than the establishment. A caterer also is any person who prepares food at a permitted food service or non-retail processing establishment for service at another location.

[(e)] (e) Comminuted means reduced in size by methods including chopping, flaking, grinding, mincing; or a mixture of aquatic animals or meat products that have been reduced in size and restructured and reformulated.

[(d)] (f) Contaminated means adulterated or spoiled food, or food and equipment which is exposed to filth, toxic substances, rodent or insect contact or infestation, or potentially hazardous foods held at temperatures between 41 degrees Fahrenheit (5 degrees Celsius) and 140 degrees Fahrenheit (57 degrees Celsius) for a period of time exceeding that reasonably required for preparation, including potentially hazardous foods which are not heated or cooked to the temperatures specified in §81.09, or food in or subject to any condition which could permit the introduction of pathogenic microorganisms or foreign matter, including manual contact during service or preparation if such foods will not be subsequently cooked or heated to the temperatures specified in §81.09.

[(e)] (g) A controlled-location vending machine means a food vending machine which dispenses only food that is not potentially hazardous, can be serviced in a sanitary manner by an untrained person at the location and is located where it is protected from environmental contamination, abuse and vandalism.

[(f)] (h) Cook chill processing means a type of reduced oxygen packaging process in which cooked food is hot filled into impermeable bags that have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens (pathogens that grow slowly at refrigerated temperatures and that include, but are not limited to, *Listeria monocytogenes*, *Clostridium botulinum* and *Yersinia enterocolitica* or *yersiniosis*).

[(g)] (i) Critical control point means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

[(h)] (j) Critical limit means the maximum or minimum value to which a physical, biological or chemical parameter must be controlled at a critical control point to minimize the risk that the identified food safety hazard may occur.

(k) Cured food means food preserved by drying, salting, smoking or pickling, or a combination of such methods.

(l) Cut leafy greens means leafy greens whose leaves have been cut, shredded, sliced, chopped, or torn. The term "leafy greens" includes, but is not limited to:

- iceberg lettuce,
- romaine lettuce,
- leaf lettuce,
- butter lettuce,
- baby leaf lettuce (i.e., immature lettuce or leafy greens),
- arugula or rocket lettuce,
- escarole,
- endive,
- spring mix,
- spinach,
- cabbage,
- kale, and,
- chard or any other cut, shredded, sliced, chopped or torn edible green leafy vegetable.

[(i)] (m) Easily cleanable means readily accessible and of such material and finish that residues may be completely removed by normal cleaning methods.

[(j)] (n) Easily movable equipment means equipment that is mounted on wheels or casters with flexible, extensible, or quick disconnecting utility connections, if any, so that the equipment may be easily moved for cleaning.

[(k)] (o) Equipment means any tool, item, fixture or article used in the operation of a food service establishment, and any component of such tool, item, fixture and article including but not limited to, all stoves, ranges, microwave ovens, hoods, [meatblocks,] meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, [steamtables] steam tables and similar items, other than utensils, used in the operation of a food service establishment or non-retail food processing establishment.

[(l)] (p) Food-contact surfaces mean the surfaces of equipment, utensils, tableware and kitchenware, such as ladles, colanders, serving spoons, spatulas, pots and pans, which normally come into contact with food or from which liquids and residues may drain back into food or onto other food-contact surfaces.

[(m)] Food-grade means intended to be used with food products, utensils or equipment without reacting with such food products, and without imparting odor, color or taste to such food products, or approved by (q) Food grade material means material used in the construction and design of food contact surfaces, equipment and utensils that is certified as meeting the standards of the National Sanitation Foundation (NSF) or [its equivalent] any other organization utilizing a process approved by the American National Standard Institute (ANSI) or that is otherwise acceptable to the Department, in compliance with §81.17 of this Article.

[(n)] Foodworker means foodhandler (r) Food worker or food handler means any person who works in a food service establishment or non-retail food processing establishment, including but not limited to any person described in §11.01[(f)] (l) of this Code.

[(o)] (s) Food service establishment means a place where food is provided for individual portion service directly to the consumer whether such food is provided free of charge or sold, and whether consumption occurs on or off the premises or is provided from a pushcart, stand or vehicle.

[(p)] (t) A food vending machine means a self-service device

[which] that when activated, dispenses unit servings of food or beverage without requiring replenishing between each vending operation.

[(q)] (u) A food vending machine commissary means a place where food, containers or supplies are processed or packaged and prepared for use in food vending machines.

[(r)] (v) A food vending machine operation means the place where food vending machines are located and includes the food vending machines, machine servicing equipment, utensils, personnel, single-service articles, tables, chairs, that part of the premises used in connection with the food vending machine operation and all other appurtenances required and used to operate and maintain the food vending machines.

[(w)] Frozen dessert means:

- ice cream,
- frozen custard,
- French ice cream,
- French custard ice cream,
- artificially sweetened ice cream,
- ice milk,
- artificially sweetened ice milk,
- fruit sherbet,
- non-fruit sherbet,
- water ices,
- non-fruit water ices,
- confection frozen without stirring,
- dairy confection frozen without stirring,
- manufactured dessert mix,
- frozen confection,
- melloreum frozen dessert,
- parevine,
- frozen yogurt,
- freezer made shakes,
- freezer made milk shakes,
- dietary frozen dessert,
- whipped cream confection, and,
- bisque tortoni,

as all such products are commonly known, together with any mix used in making such frozen desserts, and any products that are similar in appearance, odor or taste to such products, or are prepared or frozen as frozen desserts are customarily prepared and frozen, whether made with dairy products or non-dairy products, and chips or flakes of ice made from water with or without additives, served to the customer with or without flavoring, in accordance with standards of identity for such foods established in Article 4-a of the State Agriculture and Markets Law, or successor statute.

[(s)] (x) Hazard Analysis and Critical Control Point (HACCP) plan means a written document that delineates the formal procedures for following the hazard analysis and critical control point principles developed by the National Advisory Committee on Microbiological Criteria For Foods.

[(t)] (y) Imminent health hazard or public health hazard means any violation, condition, or combination of violations or conditions making it probable that food served to the public by the establishment or its continued operation will be injurious or dangerous to the health of any person consuming such foods.

[(u)] (z) Indirect drain means a waste line which does not connect directly with the drainage system, but conveys and discharges liquid wastes through an air break into an approved plumbing fixture or receptacle that is directly connected to the drainage system.

[(v)] (aa) Non-retail food processing establishment means a [place] facility where food is processed, prepared, stored or packed for consumption off the premises and not given or sold directly to the consumer. This shall include but not be limited to mobile food vending commissaries, food vending machine commissaries [and places where fish or shellfish is kept, sold or offered for sale which are not otherwise regulated or permitted by the Department of Agriculture and Markets, or other appropriate regulatory agency], and shared kitchens where space and equipment are rented, leased or otherwise contracted for use by other persons, such as caterers.

[(bb)] Operating or in operation means that one or more food workers in a food service establishment is receiving, preparing, storing or serving food or that the establishment is open to the public.

[(w)] (cc) Packaged means bottled, canned, cartoned, securely bagged, or securely wrapped, and does not include a wrapper, carry out box, or other non durable container used to containerize food for the purpose of facilitating food protection during service and receipt of the food by the consumer.

[(x)] (dd) pH means the symbol for the negative logarithm of the hydrogen ion concentration [which] that is a measure of the degree of acidity or alkalinity of a solution.

[(y)] (ee) Potentially hazardous food (PHF) or time and temperature controlled for safety (TCS) food means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, crustacea and other aquatic animals, foods of plant origin that have been heat treated; garlic in oil mixtures that support the growth of *Clostridium botulinum* or toxin formation; cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxins formation; raw bean or seed sprouts; or other foods in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms, or growth of *C. botulinum*. The term does not include food with a water activity (a_w) value of 0.85 or less, or a hydrogen ion concentration (pH) level of 4.6 or below. A food may be deemed not potentially hazardous because of the combined effect of a_w and pH other than as previously specified [above] if supported by a food product assessment acceptable to the Department.

[(z)] (ff) Processed fish means fish that has been cured, salted, marinated, dried, pickled, fermented or smoked for human consumption.

[(gg)] Ready-to-eat food means food that is in a form that is edible without additional preparation or heat treatment to achieve food safety in accordance with the provisions of this Article.

[(aa)] (hh) Reduced oxygen packaging means the reduction of the amount of oxygen in a food packaged by removing

oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level) and where the food being packaged requires control of *Clostridium botulinum* or *Listeria monocytogenes* in the final packaged form. Reduced oxygen packaging includes, but is not limited to, vacuum packaging, cook chill packaging, and *sous vide* processing.

[(bb)] (ii) Sanitization means effective bactericidal treatment by heat or chemical means [which] that destroys pathogens on surfaces treated. Acceptable sanitization methods are:

(1) immersion for at least one-half minute in clean hot water at a temperature of not less than 170 degrees Fahrenheit (76.7 degrees Celsius);

(2) immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine at a temperature of at least 75 degrees Fahrenheit (23.9 degrees Celsius);

(3) immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having pH not higher than 5.0 and at a temperature of at least 75 degrees Fahrenheit (23.9 degrees Celsius);

(4) immersion in a clean solution containing any other food grade chemical sanitizing agent that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as hypochlorite which has been held at a temperature of at least 75 degrees Fahrenheit (23.9 degrees Celsius) for one minute;

(5) treatment with culinary-quality steam in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(6) swabbing fixed equipment with a solution of at least twice the strength required for that sanitizing solution when used for immersion.

[(cc)] (jj) Single service articles means cups, containers, lids, or closures, plates, knives, spoons, stoppers, paddles, straws, place mats, napkins, doilies, wrapping materials, toothpicks and all similar articles which are intended by the manufacturer for single eating and drinking usage and generally recognized by the public as items to be discarded after one usage.

[(dd)] (kk) Shared kitchen means a commercial kitchen that is rented or leased by more than one food service establishment operator.

[(ll)] *Sous vide* processing is a type of reduced oxygen packaging in which raw or partially cooked food is placed in a hermetically sealed, impermeable bag, cooked in the bag, and either served or rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychrotrophic pathogens.

[(ee)] (mm) Stand means a movable, portable or collapsible structure, framework, device, container, or other contrivance, other than a vehicle or pushcart, used for displaying, keeping or storing any food at a temporary food service establishment.

[(ff)] (nn) Temporary food service establishment means a food service establishment as defined in Article 88 of this Code. Additional to the provisions of this Article, a temporary food service establishment shall be operated at all times in compliance with the provisions of Article 88 and all applicable provisions of this Code.

[(gg)] (oo) Utensil means any tableware, such as knives, forks, spoons, glasses, cups, dishes and the like, and kitchenware, implements or containers used for storage, preparation, transfer, conveyance or service of food.

[(hh)] Wholesale food establishment means any establishment which sells food or which manufactures food for other than retail sale directly to the consumer.]

[(pp)] Ware washing means the cleaning and sanitizing of utensils and food contact surfaces of equipment.

Notes: Section 81.03 was amended by resolution of the Board of Health adopted on December 13, 2011, adding and amending definitions of terms used in Article 81: adding definitions of adequate or sufficient means, caterer, cured foods, cut leafy greens, frozen dessert, operating or in operation, ready-to-eat food, shared kitchen, and ware washing; amending definitions of contaminated, cook chill processing, equipment, food grade material, food worker or food handler, imminent health hazards, non-retail food processing establishment, and stand; and deleting the term wholesale food service establishment, a type of establishment that is no longer regulated by the Department.

RESOLVED, that Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is amended, adding a new §81.04 (Approved sources of food), to be printed together with explanatory notes, to read as follows:

§81.04 Approved sources of food. Food shall be obtained from sources approved by the appropriate regulatory authority having jurisdiction over such food source and shall comply with all federal, state and city laws, rules, and regulations related to food, the use of food, and food labeling. (a) Frozen desserts. Frozen desserts shall be identified, manufactured, and sold in accordance with Article 4-A of the State Agriculture and Markets Law or any successor statute. (b) Meat. No meat shall be served or sold in a food service or non-retail food processing establishment unless the meat is inspected and approved by the United States Department of Agriculture or any other authorized government agency. (c) Shellfish tags. Fresh and frozen shellfish, shelled or shucked shellfish (oysters, clams or mussels) shall be identified with the name and address of the original shell stock processor, shucker-packer or repacker, and the foreign intrastate and interstate identification number issued pursuant to applicable law. Identification tags shall be retained on the premises for 90 days from the date the shellfish was used, in accordance with State Sanitary Code § 14-1.33 (b) or any successor provision.

Notes: Section 81.04 was added by resolution adopted by the Board of Health on December 13, 2011. It incorporates provisions formerly in §81.07, and adds provisions for service of frozen desserts, meats and poultry, and shellfish in food service establishments. These provisions are derived from

former Articles 91, 97, 101, and 113.

RESOLVED, that §81.05 of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, revising subdivision (c) and adding new subdivisions (f), (g) and (h) and renumbering subdivision (f) as subdivision (i), to be printed together with explanatory notes to read as follows:

§81.05 Technical review and pre-permitting inspections for food service establishments and non-retail food processing establishments.

(c) Except as specified in this [subsection] section, no person shall operate a food service establishment or non-retail food processing establishment without a permit therefor issued by the [Department] Commissioner. [An application for a permit shall be submitted to the Department. A request for a pre-permitting inspection shall be submitted to the Department subsequent to the filing of such application, but not less than 21 days before starting operation of such establishment. In the event the Department does not make an inspection of the establishment during the 21-day period after a request for a pre-permitting inspection is submitted, operations may commence without a permit on the 22nd day, and may be continued without such operations being in violation of this section until such time as the Department makes an inspection and issues a permit or issues an order to cease operation for cause pursuant to §81.39 or other applicable provision of this Code.] If the Department does not make an inspection of the establishment during this 21 day period, operations may commence without a permit on the twenty-second day after submission of an application for a permit, and the establishment may continue operating without being in violation of this section until such time as the Department inspects the establishment and either approves issuance of a permit or issues an order to cease operation for cause pursuant to §81.39 of this Article or other applicable provision of this Code.

(f) Every person using or contracting for use of shared kitchen space and equipment shall obtain a permit to operate a food service establishment unless such person is licensed or regulated by the Commissioner of Agriculture and Markets pursuant to Article 20-C, or any successor provision, of the Agriculture and Markets Law. However, a person holding a non-retail processing establishment permit to operate a shared kitchen shall be responsible for maintaining the condition of the establishment, its equipment, surroundings, water supply, waste handling, furnishings and other appurtenances in accordance with this Code.

(g) No person operating a shared kitchen shall rent space or equipment in the shared kitchen to an individual who intends to use the facility to prepare food for sale or service to the public and does not have a currently valid food service establishment permit issued by the Commissioner, unless such user is currently licensed or regulated by the Commissioner of Agriculture and Markets.

(h) Upon the request of the Department, the operator of a shared kitchen shall provide a copy of any agreement between the operator and the user. Such agreement shall indicate the purpose of using the shared kitchen, the type of food to be prepared, and the place where the food will be sold.

(i) A permit shall not be issued if the applicant or a principal of an entity applying for such has been denied a permit on the basis of violations of this Code which could have resulted in the suspension or revocation of a permit. A permit may be renewed, provided that the permittee meets all requirements for renewal, the permit has not been revoked or suspended, and the permittee has not been determined to have committed a violation [which] that could be a basis for permit revocation or suspension under this Article.

Notes: Section 81.05 was amended by Board of Health resolution adopted on December 13, 2011, amending subdivision (c) so that new establishments may open for business without having to request a pre-permit inspection. Under the State Sanitary Code, establishments in New York State are allowed to open 22 days after they submit a permit application, and the Health Code now mirrors the statewide requirements. Section 81.05 was also amended to add a new subdivision (f) that requires caterers and other users of "shared kitchens" to obtain individual permits for their operations and a new subdivision (g) prohibiting an operator of a shared kitchen from renting space or equipment in a shared kitchen to persons who do not hold individual permits unless such person are licensed and regulated under the Agriculture and Markets Law. A new subdivision (h) requires the operator of a shared kitchen to make available to the Department information about the foods prepared at the kitchen and the places where such foods will be sold. Subdivision (f) was relettered subdivision (i). A shared kitchen does not cover situations where more than one food service establishment seeks to use the kitchen, food preparation or food storage facilities located in the premises of another permitted food service establishment. If operators/permit holders of food service establishments authorize other persons to prepare or sell foods at their establishment, the permit holder remains responsible for compliance with all Health Code requirements and for correcting violations cited. If two establishments were located closely enough to each other to benefit from sharing ware washing operations, however, the establishment(s) in question could request a modification or waiver pursuant to §81.55 (Modification by the Commissioner) to allow the limited sharing of such facilities.

RESOLVED that §81.06 (Prevention of imminent health hazards) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same is hereby amended, to be printed together with explanatory notes to read as follows:

§81.06 Prevention of imminent or public health hazards.

(a) *Additional requirements.* Whenever necessary to prevent the occurrence or recurrence of imminent or public

health hazards the Department may, in specific instances, impose additional requirements on an establishment. The Department shall describe in writing the terms and conditions of operation that have been imposed, the reasons therefore, shall provide such document to the permit holder, and shall maintain such document with the records of the Department.

(b) *Hazard Analysis and Critical Control Point ("HACCP") plans.*

(1) To prevent the occurrence of an imminent or public health hazard, a HACCP plan shall be prepared by a food service establishment or non-retail processing establishment whenever such establishment prepares, processes, cooks, holds and stores foods in a manner other than as specified in this Code or other applicable law.

(c) *Prior approval required for certain foods and processing.*

Prior approval by the Department of a food service establishment's HACCP plan shall be obtained prior to processing any potentially hazardous food [items] by means of reduced oxygen packaging methods, drying, fermentation, curing [and] or smoking food products on the premises of the food service establishment except that no HACCP plan is required for processes that are conducted in accordance with the time and temperature requirements of §81.09 of this Article.

Notes: Section 81.06 was amended by resolution adopted on December 13, 2011, modifying the title and amending subdivision (a) and paragraph (1) of subdivision (b) to include the term "public health hazards" since both terms are used in this Code, in Department rules, and in the State Sanitary Code. Subdivision (c) was amended to add fermentation and drying as processes that require approval by the Department of a Hazard Analysis and Critical Control Point plan for potentially hazardous foods. This would apply to processes used to preserve fish, meats, and sausages, except where such processes are in compliance §81.09.

RESOLVED, that §81.07 (Food; sanitary preparation, protection against contamination) of Article 81 of the New York City Health Code found in Title 24 of the Rules of the City of New York, be, and the same hereby is amended, to be printed together with explanatory notes to read as follows:

§81.07 Food; sanitary preparation, protection against contamination.

(a) *Food protection.* Food shall be free of and protected against contamination and shall be manufactured, prepared, processed or packed using clean and sanitary utensils and equipment.

(1) *Culinary sink.* A dedicated single compartment culinary sink shall be provided and used only for washing fruits, vegetables, meats, and aquatic animal foods prior to other preparation. However, where no culinary sink is provided, foods may be washed in (i) a food grade container or colander or (ii) one compartment of a multi-compartment sink. No sink used for washing foods shall be used as a slop, utility or hand washing sink. All sinks used for washing food shall be indirectly washed, cleaned and sanitized prior to washing food, and between washing raw meats and other foods.

(2) *Food contact surfaces.* Surfaces with which food comes in contact shall be impervious.

(3) *Prevention of cross-contamination.* Food [which] that will not be washed or cooked shall be protected from cross-contamination from food which is required to be washed or cooked.

(4) *Storage on ice or in water.* Packaged food shall not be stored in direct contact with ice or water if packaging allows the entry of water. Unpackaged food may be stored in direct contact with drained ice, except that whole, raw fruits or vegetables, cut, raw vegetables such as celery or carrot sticks or cut potatoes, and tofu, may be immersed in clean and sanitary undrained ice or water.

(5) *Washing raw fruits and vegetables.* Raw fruits and vegetables shall be thoroughly washed with potable water before cutting or serving.

(6) *Storage of raw chicken and fish.* Raw chicken and raw fish that are received in ice in shipping containers may remain in such condition, provided the required cold holding temperature is maintained, while being stored or awaiting preparation, display, service or sale.

(b) *Packaging.* Food packages, including hermetically sealed containers, shall be in good condition so that food is not exposed to spoilage, filth or other contamination and remains suitable for human consumption. Food packages that are swollen, leaking, rusted or otherwise damaged shall be discarded or returned to their distributor. If such packages are to be returned to their distributor, they shall be segregated from intact packages and clearly labeled "Do Not Use" while stored at the establishment.

(c) *Eggs.* Only clean, whole eggs with shells intact and free from cracks or splits; or pasteurized, liquid, frozen or dry eggs[,]; or pasteurized dry egg products shall be used. All containers in which eggs are received in a food service establishment or non-retail food processing establishment must identify the source of the eggs.

(d) *Food storage.* Food removed from original containers or packages shall be protected from contamination by storing in clean, sanitized and covered containers and by maintaining proper temperature. Containers of food shall be stored at least [6] six inches (14.24 centimeters) above the floor, in a refrigerator or dry storage area, or at a greater height if necessary to permit cleaning of the storage area. Potentially hazardous raw foods that are not properly packaged or in sealed containers and that may leak or drip shall not be placed in storage above other foods.

(e) *Food display.*

(1) *Containers.* Food shall be displayed only in equipment such as cleanable containers, cabinets, display cases or similar protective equipment that protects such food from contamination.

(2) *Protective shields.* Self-service equipment shall have protective shields or guards to prevent unnecessary contamination or contact by patrons.

(3) *Quantities to be limited.* The quantity of food displayed shall be minimized to that necessary to meet immediate needs.

(f) *Condiment storage.* Condiments, seasoning, sugar and dressings shall be provided in individual packages, protected dispensers or containers, or in the original container or pour-type dispensers.

(g) *Ice dispensing.* Ice for consumption shall be dispensed with scoops, tongs or other utensils, or automatic self-service ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice.

(h) [Food-dispensing] *Dispensing utensils.* Food dispensing utensils shall be provided for dispensing food by [foodworkers] food workers and for self-service. Between uses, food dispensing utensils shall be stored in the food with the handle extended out of the food; shall be kept clean and dry; or shall be kept in a dipper well with running water at an adequate velocity and volume to remove food residue during intervals between intermittent use.

(i) Food shall be obtained from sources approved by the appropriate regulatory authority having jurisdiction over such food source and shall comply with all federal, state and city laws, rules and regulations related to food, the use of food, and food labeling.]

(j) (i) *Supplies and equipment placement.* Supplies and equipment shall not be kept or stored under or near any source of contamination, including but not limited to, exposed or unprotected sewer lines. Equipment, unless easily movable, shall be sealed to the floor or raised on concrete or smooth masonry platforms or elevated on legs to provide at least six inches of clearance between the floor and the equipment.

(k) All foodworkers shall maintain hygienic practices and personal cleanliness. Foodworkers shall wash hands and exposed areas of arms thoroughly with soap and warm water before starting work, and as often as necessary to remove soil and any substance that might lead to contamination.

Thereafter, hands shall be washed thoroughly after using the toilet, smoking, sneezing, coughing, eating, drinking or otherwise soiling hands before returning to work.

Foodworkers shall keep fingernails clean and trimmed.] (l) (j) *Bare hand contact prohibited.* Food shall be prepared and served without bare hand contact unless the food will be heated to at least the minimum temperature required under §81.09. Convenient and suitable utensils, sanitary gloves, waxed paper or an equivalent barrier shall be provided and used to prepare or serve food to eliminate bare hand contact and prevent contamination.

(k) *Unpasteurized milk prohibited.* Except in accordance with federal and state law, raw unpasteurized milk, or any product made from such milk, shall not be served in any food service establishment.

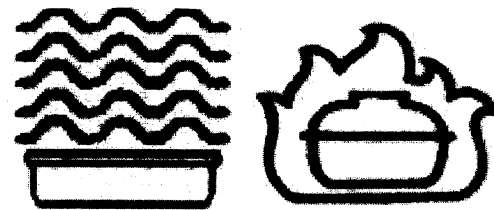
(l) *Re-service of previously served food prohibited.* Except for individually wrapped foods, where the wrapper seal has not been broken or opened, food that has been served to the public shall not be re-served.

(m) *Animal slaughter prohibited.* Except for fresh or saltwater finfish, crustaceans, or mollusks, no live animal shall be slaughtered at any food service or non-retail processing establishment.

(n) *Sausages.* Sausages may be made at a food service establishment in accordance with §81.06 of this Article. Sausages made at a food service establishment shall not be sold at wholesale other than at an establishment regulated and inspected by the United States Department of Agriculture.

(o) *Drinking straws.* Drinking straws shall not be offered to the consumer unless they are completely enclosed in a wrapper or dispensed from a sanitary device. Drinking straws shall be discarded immediately after use.

(p) *Microwavable plastic containers.* Only containers that display one of the following "microwave safe" icons, or the words "microwave-safe," or words to the effect that they are approved for use in microwave ovens shall be used to heat food in a microwave oven.



(q) *Non-essential persons restricted.* Persons who are not essential to the food establishment operations shall not be allowed in the food preparation, food storage or ware washing areas, except that brief visits and tours may be authorized by the operator if steps are taken to ensure that exposed food, clean equipment, utensils, linens, tableware, and unwrapped single-service and single-use articles are protected against contamination.

(r) *Unfit food to be denatured.* Food that has become unfit for human consumption shall be promptly denatured, its label defaced and the product marked condemned, and shall be kept separate and apart from foodstuffs that are held or offered for sale. As used in this subdivision, the term "denature" means to treat the food with a substance

satisfactory to the Department that alters the appearance or odor of the food such that the denatured food is clearly identified as being inedible.

Notes: Section §81.07 was amended by resolution adopted on December 13, 2011, adding titles in each subdivision to make the section more readable and facilitate compliance. Subdivisions (i), relating to approved sources of foods, and (k), relating to worker hygiene, were deleted and moved to a new §81.04 on approved sources of foods and to §81.13, worker hygiene practices, respectively. Also added was a requirement that only plastic containers marked as microwave-safe be used in microwaving and prohibitions on using unpasteurized milk, from Article 111 (repealed in September, 2010), and slaughtering animals for food, from repealed Articles 91, 93, and 97. Former subdivision (a) of §81.11 was moved to this section as subdivision (r) and amended to clarify the process of denaturing food to render it unpalatable, by altering its appearance, in circumstances when such foods are not safe for consumption, and former subdivision (b) of §81.11 has been added to this section as subdivision (l) and amended to clarify that foods previously served may not be re-served to other patrons unless such foods have been prepackaged and the packages remain intact.

RESOLVED, that subdivision (d) (Effective date) of §81.08 of Article 81 of the New York City Health Code found in Title 24 of the Rules of the City of New York, be, and the same hereby is repealed, to be printed together with explanatory notes to read as follows:

Notes: Subdivision (d), which provided that this section would be effective on July 1, 2007 to transfat containing oils, shortenings and margarines used for frying or in spreads, and July 1, 2008 to oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing artificial trans fat, was repealed as outdated by resolution of the Board adopted on December 13, 2011.

RESOLVED that §81.09 of Title 81, found in Title 24 of the Rules of the City of New York, be, and the same hereby is amended, to be printed together with explanatory notes to read as follows:

§81.09 [Food; temperature requirements.] Potentially hazardous foods; temperature control for safety.

(a) [Potentially] *Temperature controls for safety.* Except as specified in §81.10 of this Article, potentially hazardous food shall be refrigerated [at] to a temperature of 41 degrees Fahrenheit (5 degrees Celsius) or below or kept heated to 140 degrees Fahrenheit (60 degrees Celsius) or above, except during necessary preparation. All parts of potentially hazardous foods requiring cooking are to be heated to 145 degrees Fahrenheit (62.7 degrees Celsius) or above for 15 seconds, except [that:] as follows:

- (1) *Poultry.* Poultry [poultry], poultry stuffing, stuffed meats and stuffing containing meat shall be heated so all parts are at least 165 degrees Fahrenheit (73.9 degrees Celsius) for 15 seconds[;].
- (2) *Pork.* Pork [pork] and food containing pork shall be heated so all parts of the food are at least 155 degrees Fahrenheit (68.3 degrees Celsius) for 15 seconds[;].
- (3) *Rare beef.* Rare [rare] roast beef and/or rare beef steaks shall be heated to the following minimum temperatures unless otherwise ordered by the consumer:

Temperature °C (°F)	Time	Temperature °C (°F)	Time	Temperature °C (°F)	Time
54 (130)	121 minutes	58 (136)	32 minutes	61 (142)	8 minutes
56 (132)	77 minutes	59 (138)	19 minutes	62 (144)	5 minutes
57 (134)	47 minutes	60 (140)	12 minutes	63 (145)	3 minutes

(4) *Ground meat.* Ground [ground] meat and food containing ground meat shall be heated so that all parts of the food are at least 158 degrees Fahrenheit (69.4 degrees Celsius) with no interruption of the cooking process, unless otherwise ordered by the consumer[;].

(5) *Stuffings, and comminuted and mechanically tenderized and injected meats.* Poultry [poultry], poultry stuffing, stuffed meats and stuffing containing [meat;] ground or comminuted poultry, beef, pork, ratites, fish, and other comminuted or stuffed meat products, and meats whose exterior surface has been mechanically tenderized or injected by breaking, puncturing, or scoring shall be heated to a temperature of at least 165 degrees Fahrenheit (73.9 degrees Celsius) with no interruption of the cooking process[;], unless otherwise ordered by the consumer.

(6) *Shell eggs.* Shell [shell] eggs or foods containing shell eggs shall be heated to 145 degrees Fahrenheit (62.8 degrees Celsius) or greater for 15 seconds unless the consumer requests preparation of [a shell egg or food containing] shell eggs in a style such as raw, poached or fried which must be prepared at a temperature less than 145 degrees Fahrenheit in order to comply with the request[;].

(7) *Reheating previously cooked food.* Potentially [potentially] hazardous food that is cooked, cooled and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 degrees Fahrenheit (73.9 degrees Celsius) for 15 seconds. The minimum temperature of 165 degrees Fahrenheit (73.9 degrees Celsius) shall be reached within 2 hours of commencing reheating. Reheated food shall be held at or above 140 degrees Fahrenheit (60 degrees Celsius) until served[;].

(8) *Immediate service.* Cooked [cooked] and refrigerated food that is prepared for immediate service in response to an individual consumer order may be served at any temperature[;].

(9) *Microwave reheating.* Food [food] reheated in a microwave oven shall be covered during heating; food shall be rotated or stirred during heating, or otherwise manipulated according to label instructions, and shall be reheated to a

temperature of at least [190] 165 degrees Fahrenheit ([88] 73.9 degrees Celsius) and allowed to stand covered for 2 minutes after reheating[;].

(10) *Heating commercially processed foods.* Commercially [commercially] processed pre-cooked potentially hazardous food in hermetically sealed containers and precooked potentially hazardous food in intact packages from non-retail food processing establishments shall be heated to 140 degrees Fahrenheit (60 degrees Celsius) within 2 hours of removal from container or package and held at such temperature until served.

(b) *Eggs.* Intact shell eggs shall be stored at an ambient temperature of [41] 45 degrees Fahrenheit ([5] 7.2 degrees Celsius) or below.

(c) *Processed fish.* All processed fish products shall be prepared[, distributed and sold] and stored at a temperature that does not exceed 38 degrees Fahrenheit (3.3 degrees Celsius) without interruption until served to the ultimate consumer, except that:

- (1) processed fish which contains a water phase salt level of at least 17 percent shall not require refrigerated storage and;
- (2) processed fish which contains a water phase level of at least 10 percent, salt water activity of less than 0.85 Aw, or a pH of 4.6 or lower [may be distributed or sold] shall be held at refrigerated temperatures that do not exceed 41 degrees Fahrenheit (5 degrees Celsius).

(d) *Consumer advisory.* When meat, eggs, fish or molluscan shellfish [is] are served alone or as an ingredient in other foods, and are either raw or after heat treatment are at a temperature [or a time] less than that prescribed in this Code, the consumer shall be notified unless the consumer has previously indicated that he or she desires food to be prepared in such manner.

(e) [Potentially] *Cooling.* When removed from heat treatment, potentially hazardous food requiring refrigeration shall be cooled so that every part of the product is reduced from 140 degrees Fahrenheit (60 degrees Celsius) to 70 degrees Fahrenheit (21.1 degrees Celsius) within 2 hours and to 41 degrees Fahrenheit (5 degrees Celsius) or below within 4 additional hours.

(1) Foods shall be cooled using one or more of the following methods, based on the type and amounts of food being cooled:

- (A) Placing the food in shallow pans to disperse heat quickly;
- (B) Dividing the food into smaller or thinner portions;
- (C) Using rapid cooling equipment;
- (D) Stirring the food in a container placed in an ice water bath;
- (E) Using containers that facilitate heat transfer; or
- (F) Adding ice as an ingredient.

(2) When placed in cooling or cold holding equipment, food containers shall be:

- (A) Arranged in the equipment to provide maximum heat transfer through the container walls, not stacked or nested; and
- (B) Loosely covered, or uncovered if protected from overhead contamination during the cooling period to facilitate heat transfer from the surface of the food.

(f) *Ambient temperature cooling.* Potentially hazardous foods shall be cooled to 41 degrees Fahrenheit (5 degrees Celsius) or below within 4 hours of preparation when prepared from ingredients at ambient temperature[, such as reconstituted foods and canned tuna].

(g) *Thawing frozen foods.* Potentially hazardous food shall be thawed:

- (1) in refrigerated facilities at a temperature not to exceed 41 degrees Fahrenheit (5 degrees Celsius); or
- (2) completely submerged under potable running water at a temperature of 70 degrees Fahrenheit (21.1 degrees Celsius) or below, with sufficient water velocity to agitate and float off loose particles into the overflow; or
- (3) in a microwave oven when the food will be immediately transferred to other conventional cooking [facilities] equipment as part of a continuous cooking process, or when the entire uninterrupted cooking process takes place in the microwave oven; or
- (4) as part of the conventional cooking process, without interruption.

(5) Whole frozen poultry shall be completely thawed prior to conventional cooking. A single portion may be thawed during the cooking process.

[(h)] (6) Ready-to-eat potentially hazardous food shall be thawed for a period of time that does not allow thawed portions to rise above 41 degrees Fahrenheit (5 degrees Celsius).

[(i)] (h) *Thermometers.* Thermometers for measuring the temperature of food shall be provided, [and] readily accessible, and routinely used to ensure compliance with the temperature requirements specified in this Section. Metal stem-type, numerically scaled, indicating thermometers accurate to plus or minus [2] two degrees Fahrenheit (1.1 degrees Celsius) [which] that are made from materials that will not subject the food to contamination or toxic materials, shall be provided to ensure that proper internal cooking, holding and refrigeration temperatures of all potentially hazardous foods are maintained.

[(j)] Reserved.

[(k)] Reserved.

Notes: Section 81.09 was amended by Board of Health resolution adopted December 13, 2011, adding titles for each subdivision to make it easier to read and to comply with its requirements. Subdivision (d) was amended to add raw or undercooked eggs as a subject for consumer advisory. The 2009 FDA Food Code §3-603.11 recommends that if an animal food such as beef, eggs, fish, lamb, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the permittee shall inform consumers of the significantly increased risk of food borne illness in consuming such foods using written brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written

means. Subdivision (e) was amended, adding new paragraphs (1) and (2) to assist food service establishment operators by specifying methods to be used to properly cool foods to control the growth of pathogens, in accordance with the 2009 FDA Food Code. It should be noted that reducing the amount of food being cooled at one time can decrease the time needed to cool hot foods, and minimizes pathogen growth. Larger food items, such as roast turkey, and deep pot stews, rice, or refried beans take longer to cool because of their density and the volume of food from which heat must be removed. Tightly covering containers of hot foods slows cooling. Commercial refrigeration equipment is designed to hold cold foods at temperature, not cool large amounts of food. Subdivision (h), former subdivision (i), was amended to require *use*, not just possession, of thermometers to evaluate food temperatures.

RESOLVED that §81.10 of Title 81, found in Title 24 of the Rules of the City of New York, be, and the same hereby is amended, to be printed together with explanatory notes to read as follows:

§81.10 [Time as a Public Health Control.] Time as a public health control.

(a) *Use of time controls.* Food service establishments may use time as the sole public health control, rather than using time in conjunction with temperature, for holding potentially hazardous [ready-to-eat] foods [to be served and consumed on site], only in accordance with the provisions of this section. Such foods shall not be returned to temperature control at any time with the intent to extend their use.

(1) *Initial temperatures.* [Ready-to eat] Potentially hazardous foods shall be at an initial temperature at or below 41 degrees Fahrenheit (5 degrees Celsius) when removed from cold holding temperature control, or at or above 140 degrees Fahrenheit (60 degrees Celsius) when removed from hot holding temperature control. (2) *After cold holding.* Ready-to-eat foods and other potentially hazardous foods removed from cold holding temperatures may be kept for a maximum of [four or] six hours without further temperature control provided that at four hours the food has not reached or exceeded an internal temperature of 70 degrees Fahrenheit (21 degrees Celsius). [If such foods will be kept for up to six hours without further temperature control, the temperature of the food shall be measured and recorded every two hours, and shall not exceed a temperature of 70 degrees Fahrenheit (21 degrees Celsius).] If such food [at or above temperatures of] has reached or exceeded an internal temperature of 70 degrees Fahrenheit (21 degrees Celsius) it shall be discarded immediately.

(3) *After hot holding.* [Ready-to-eat] Potentially hazardous foods removed from required hot holding temperatures may be held at ambient temperatures for no more than four hours after removal from temperature control.

(4) *Tomatoes.* Time as a public health control may be used when slicing whole tomatoes previously held at ambient temperature, and the sliced tomatoes may be held for no more than four hours, and then discarded if not used or consumed.

(5) *Holding limits.* Food shall not be held out of temperature control any longer than provided in paragraphs (2), (3) and (4) of this subdivision and must, by when the respective allowable period of time has passed, either be discarded or served.

(b) *Labeling.* All foods removed from temperature control in accordance with this section shall be labeled or marked as follows:

(1) *Four hour labeling.* Food to be held for up to four hours shall be labeled or marked with the initial temperature at time of removal, and [a] the time, four hours after removal from temperature control, when such food shall be discarded if not served.

(2) *Six hour labeling.* Food to be held for up to six hours shall be labeled or marked with the initial temperature at time of removal, the time removed from cold temperature control, [the] times and temperatures, measured [at two hour intervals] four hours after removal from temperature control, and the time, six hours after removal from temperature control, when such food shall be discarded if not served.

(3) *Labels to be kept.* Labels or marked containers shall be kept until foods have been served or discarded.

(c) *Limits on use of time as a public health control.* Time shall not be used as the sole means of public health control, and §81.09 shall remain applicable as follows:

(1) Holding raw eggs prior to using such eggs in food prepared for (i) persons who may be at higher risk for food-borne illnesses, such as immunocompromised persons including residents or clients of senior centers, charitable feeding programs, adult day care programs, custodial care and health care facilities, and assisted living programs; (ii) infants and children in day care and pre-school programs; and (iii) pupils in primary and secondary schools.

(2) Preparation and holding of ready-to-eat potentially hazardous foods sold by or in (i) mobile food vending units; (ii) food vending machines; (iii) temporary food service establishments operating in accordance with Article 88 of this Code; or (iv) self-service salad bars or buffets; or (v) when intended for takeout or delivery.

(3) Preparation and holding of potentially hazardous foods consisting of: (i) aquatic animals, fish or molluscan shellfish and (ii) opened or packaged] smoked or vacuum-packed food products.

(d) *Violations.*

(1) *§81.09 violations.* An establishment shall be in violation of §81.09 of this Code if the Department finds that, while using time as a public health control, the establishment (i) has not discarded food after the times specified in this section; or (ii) has not labeled or marked food as specified in this section.

(2) *§81.07 violations.* Food shall be deemed contaminated and an establishment shall be in violation of §81.07 (a) of this Code if cold potentially hazardous [ready-to-eat] foods labeled for six hour holding are measured at or above temperatures of 70 degrees Fahrenheit (21 degrees Celsius)

after removal from cold temperature control.

§81.10 Table 1. Summary of procedures for using time as a public health control.

Summary of Procedures for Using Time as a Public Health Control				
Removal From:	Maximum Time out of Holding Temperature	When to Measure Temperature	What to Note on Required Labels	When to Discard
Cold holding at or below 41°F (5°C)	6 hours	When removed from cold holding, and, at 4 hours after removal	<ul style="list-style-type: none"> The time and temperature when removed from cold holding, and, The time and temperature 4 hours after removal, and The time to discard, serve, or cook 	If temperature is over 70°F (21°C) at 4 hours after removal
Hot holding at or above 140°F (60°C)	4 hours	When removed from hot holding	<ul style="list-style-type: none"> The time and temperature when removed from hot holding, and, The time 4 hours after removed from hot holding. This is the time when the food must be cooked, served, or discarded 	If not served within 4 hours

Notes: This section was amended by Board of Health resolution adopted December 13, 2011 to remove restrictions on use of time as a public health control for takeout/delivery foods, and in holding fish and aquatic animal products, and raw foods, more consistent with 2009 FDA Food Code §3-501.19.

RESOLVED that §81.11 (Food; disposition if unfit for human consumption; re-service of food prohibited) of Title 81, found in Title 24 of the Rules of the City of New York, be, and the same hereby is repealed, amended, to be printed together with explanatory notes to read as follows:

Notes: §81.11 (Food; disposition if unfit for human consumption; re-service of food prohibited) was repealed by resolution of the Board of Health adopted on December 13, 2011, and its provisions incorporated into §81.07.

RESOLVED that §81.12 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is amended, to be printed together with explanatory notes to read as follows:

§81.12 Reduced oxygen packaging; cook chill and sous vide processing.

(d) *Specific requirements.* Foods shall be:

(1) Placed in an ROP package or ROP bag before cooking, or placed in a package or bag immediately after cooking and before reaching an internal temperature below 140 degrees Fahrenheit (60 degrees Celsius).

(4) Properly cooled to an internal temperature of 38 degrees Fahrenheit (3.3 degrees Celsius) or below in the ROP package within two hours of cooking; further cooled to an internal temperature of 34 degrees Fahrenheit (1.1 degrees Celsius) or less within six hours of reaching 38 degrees Fahrenheit (3.3 degrees Celsius); held at an internal temperature of 34 degrees Fahrenheit (1.1 degrees Celsius) and consumed or discarded within 30 days after the date of preparation. However, if cooled to an internal food temperature of 38 degrees Fahrenheit (3.3 degrees Celsius), the food may be held at an internal temperature of 38 degrees Fahrenheit (3.3 degrees Celsius) or less for no more than 72 hours before consumption, and if not consumed, shall be discarded.)

(4) Cooled so that every part of the ROP package is reduced from 140 degrees Fahrenheit (60 degrees Celsius) to 70 degrees Fahrenheit (21.1 degrees Celsius) within two (2) hours and to 41 degrees Fahrenheit (5 degrees Celsius) or below within four (4) additional hours and subsequently:

(i) Cooled to 34 degrees Fahrenheit (1 degree Celsius) within 48 hours of reaching 41 degrees Fahrenheit (5 degrees Celsius) and held at that temperature until consumed or discarded within 30 days after the date of packaging;

(ii) Cooled to 34 degrees Fahrenheit (1 degree Celsius) within 48 hours of reaching 41 degrees Fahrenheit (5 degrees Celsius), removed from refrigeration equipment that maintains a 34 degree Fahrenheit (1 degree Celsius) food temperature and then held at 41 degrees Fahrenheit (5 degrees Celsius) or less for no more than 72 hours, at which time the food shall be consumed or discarded;

(iii) Cooled to 38 degrees Fahrenheit (3 degrees Celsius) or less within 24 hours of reaching 41 degrees Fahrenheit (5 degrees Celsius) and held there for no more than 72 hours from packaging, at which time the food shall be consumed or discarded; or

(iv) Held frozen with no shelf life restriction while frozen until consumed or used.

Notes: Paragraph (4) of subdivision (d) of §81.12 was amended by resolution adopted December 13, 2011, substituting the 2009 FDA Food Code guidelines for cooling ROP packaged foods.

RESOLVED, that §81.13 of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes as follows:

§81.13 [Foodworkers; health clothing] Food workers; health; hygienic practices. All food workers shall use

hygienic practices and maintain personal cleanliness.

(a) *Work restriction.* No person shall work or shall be knowingly or negligently permitted to work in a food service establishment while afflicted with a boil or infected wound and unless he or she is free from acute, infectious diarrhea, amebiasis, cholera, cryptosporidiosis, diphtheria, E. coli 0157:H7, giardiasis, hepatitis A, poliomyelitis, salmonellosis, shigellosis, streptococcal sore throat (including scarlet fever), superficial staphylococcal infection, tuberculosis, typhoid, or yersiniosis and is not a carrier of organisms causing the above conditions or other disease listed in §11.03 in a communicable form and unless the period of isolation or exclusion prescribed by Article 11 of this Code has ended.

(b) *Hair restraints.* Food workers shall wear caps, hats, hair nets or other hair coverings to effectively keep hair from having contact with exposed food or food contact surfaces, and clean equipment or utensils that have contact with food. This requirement shall not apply to counter staff who serve only beverages and/or pre-packaged foods, bartenders, baristas, hosts or wait staff.

(c) *Clothing.* All [foodworkers] food workers shall wear clean, washable outer garments [, and whenever working in an area where food is prepared shall wear caps, hats or hair nets to minimize contact between hair and hands, food, and food-contact surfaces] when starting work and shall replace such garments with clean clothing as often as necessary thereafter to prevent contamination of food or food contact surfaces from soiled or contaminated clothing.

(c) Persons who are not essential to the food establishment operations shall not be allowed in the food preparation, food storage or ware washing areas, except that brief visits and tours may be authorized by the operator if steps are taken to ensure that exposed food, clean equipment, utensils, linens and unwrapped single-service and single-use articles are protected against contamination.]

(d) *Hand washing.* Food workers shall wash hands and exposed areas of arms thoroughly with soap and warm water before starting and as often as necessary to remove soil and any substance that might lead to contamination. Thereafter, hands shall be washed thoroughly after using the toilet, smoking, sneezing, coughing, eating, drinking or when otherwise soiling hands before returning to work. When gloves are used as a barrier to protect ready-to-eat food from bare hand contact, hands shall be washed before gloves are put on. Gloves shall be changed after handling raw foods, performing tasks that do not involve food preparation or processing, handling garbage, or any other work where the gloves may have become soiled or contaminated.

(e) *Fingernails.* Food workers shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough, and unless wearing intact gloves in good repair, shall not wear fingernail polish or artificial fingernails when working with exposed food.

(f) *Jewelry.* Except for medical alert bracelets or a ring that is smooth and without crevices, such as a wedding band, food workers may not wear jewelry on their arms or hands.

(g) *Smoking.* Food workers shall not smoke any substance or use tobacco in any form in an establishment.

(h) *Eating and drinking.* Food workers shall not eat or drink in food preparation or other areas where food, equipment, and utensils may be exposed to contamination, except that a food worker may drink from beverages in closed containers.

(i) *No spitting allowed.* Spitting anywhere in the establishment is prohibited.

Notes: Section 81.13 was substantially amended by resolution adopted on December 13, 2011, adding a number of provisions related to food worker hygiene that are recommended in the 2009 FDA Food Code. Also added was a new subdivision (d), formerly in §81.07, specifying when food workers need to wash their hands.

RESOLVED, that §81.15 of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes as follows:

§81.15 Food protection course.

(a) [(1)] *Food protection certificate required.* No person who is charged with the management or supervision of the operations of a food service establishment or non-retail food processing establishment shall engage or be employed in such capacity unless he or she obtains a certificate issued by the Department subsequent to successful completion of a course in food protection, and passage of an examination administered by the Department. No person required to have a license issued pursuant to §89.03(b) of this Code shall be issued such license unless he or she obtains such a certificate. A person holding such certificate shall be on the premises [or, in the case of a mobile food vendor, at a vending site,] and shall supervise all food preparation activities during all hours of operation. [This paragraph shall not apply to food service establishments operated by religious, fraternal or charitable organizations which are open to the public for the purpose of providing food to the needy, free of charge. Such establishments shall be subject to paragraph (2) of this subsection.]

(2) In a food service establishment operated by religious, fraternal or charitable organizations that are exempt from the requirements of paragraph (a)(1) of this section, the person responsible for the supervision of the food preparation or processing operations shall not engage or be employed in such capacity unless he or she has obtained a certificate pursuant to (a)(1) above, or he or she has first completed a course in food protection and obtained a certificate issued by the Department. Such course shall be provided by the Department or conducted by others approved by the Department. Such certificate may be used by the individual only while working at food service establishments subject to this paragraph. A person holding the certificate shall be on the premises during all hours of operation. This paragraph shall not apply to persons already holding a food protection certificate who is or has been charged with supervision of the operations of a regular food service establishment or a non-

retail food processing establishment.]

(b) *Certificate available for inspection.* Such certificate shall be available for inspection at all times by the Department.

(c) *Courses to be provided or approved by the Department.* The Department may conduct such food protection courses, or any part thereof, or approve courses conducted by others. Persons electing to enroll in such courses conducted by the Department may be charged a reasonable fee to defray all or part of the costs incurred by the Department for course registration, materials, training, testing and certificate issuance. Persons [covered under §81.15(a)(2)] who supervise food service operations for a religious, fraternal or charitable organization that is open to the public for the purpose of providing food to the needy, free of charge will not be charged a fee for a food protection course conducted by the Department [and are not required to take the Department's supplemental food protection course required pursuant to 24 R.C.N.Y., Chapter 21, §21-02].

(d) *Additional food protection certificate holders; retaking courses.* [The] In addition to the manager or supervisor of food operations, the Department may require the permittee, any persons supervising one or more specific food operations or the current holder of a food protection certificate in any food service establishment to complete a course when the Department finds [continuing violations of the Code, or when] imminent health hazards, or a food borne illness outbreak implicates food prepared or processed under the supervision of such person, or when the Department determines that such a course is necessary to acquaint a supervisor with current developments in food protection principles, or when otherwise deemed necessary by the Department for the protection of the public.

(e) *Photographs required.* Two (2) full-face photographs shall be taken by the Department [or by others approved by the Department] when an applicant registers for such course or applies for such certificate. One photograph shall be affixed to the certificate of completion and the other maintained in the records of the Department. [Persons covered under §81.15(a)(2) shall not be subject to this subsection.]

Notes: §81.15 was amended by resolution adopted on December 13, 2011, adding titles to various subdivisions to promote compliance and easier reading, and repealing duplicate provisions and clarifying other requirements. Subdivision (a) was amended to require persons who manage or supervise food operations to hold a food protection certificate, without, however, imposing this requirement on cashiers, or staff with purely administrative, personnel, accounting or non-food operation responsibilities.

RESOLVED, that §81.17 (Food service establishments and non-retail food processing establishments: premises; location; general requirements) of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed and recodified, to be printed together with explanatory notes as follows:

§81.17 General requirements: design, construction, materials and maintenance.

(a) *Use of residential premises prohibited.*

(1) No food service or non-retail food processing establishment permit shall be issued for, and no food service or non-retail processing establishment shall be located in, a private home or apartment.

(2) Food shall not be processed, prepared, packed or stored in a private home or apartment except in accordance with §251-2.4 of the Agriculture and Markets Law and 1 NYCRR §276.4, or successor provisions, and no part of any food service establishment shall be located in any rooms used for dwelling or sleeping purposes.

(b) *Size of establishments and work areas.*

(1) *Size.* Adequate space shall be provided for conduct of operations and to enable thorough, regular cleaning, maintenance, and inspection of all areas of an establishment, including but not limited to those used for food preparation, ware washing, storage, dining, and garbage and waste holding and disposal.

(2) *Work spaces.* All work and storage areas shall have unobstructed aisles and working spaces of sufficient width to permit employees to perform their duties readily and without contaminating food or food-contact surfaces.

(3) *Dressing areas.* Dressing and locker areas shall not be located in food preparation, storage or ware washing areas.

(c) *Equipment, installation and maintenance.* Materials used to construct or repair equipment shall be of sufficient strength and thickness to withstand ordinary establishment usage and to permit cleaning and sanitizing. Equipment shall be installed flush with and sealed to the floor, or raised a minimum of six inches above the floor, or easily moveable to allow accessibility for cleaning on all sides, above and underneath the equipment. All equipment shall be maintained in working order.

(d) *Food contact surfaces.* Food contact surfaces of utensils and equipment shall be constructed of food grade materials, shall not be painted, and shall not contain lead, cadmium or any other substance that is toxic or may react with food, cleaning or sanitizing materials to form harmful compounds, or render food unwholesome or detrimental to health, and shall not impart any odor, color or taste to food.

(1) *Surfaces to be easily cleanable and sanitized.* An establishment shall not use equipment, utensils or containers that are chipped, cracked, rusted, corroded, worn or in a condition where food and debris cannot be removed and such items cannot be easily cleaned and sanitized.

(2) *Food grade lubricants.* Establishments shall use food grade lubricants approved by the United States Food and Drug Administration to lubricate equipment. Such lubricants shall not leak or contact food or food contact surfaces. An establishment shall select and use equipment that requires only the use of simple tools for disassembly to encourage and facilitate cleaning and sanitizing of equipment. Such tools

shall include, but not be limited to, mallets, screwdrivers, and open-end wrenches that are kept readily available near the equipment.

(3) Cleaned in place equipment. Equipment designed for in-place cleaning by the circulation or flowing by mechanical means through a piping system shall be constructed so that cleaning and sanitizing solutions circulate through an effective fixed system that allows such solutions to contact all interior food-contact surfaces, and so that the system is self-draining or can be completely evacuated.

(4) Cleaning and polishing food contact surfaces. No substance containing any cyanide preparation shall be used for cleaning or polishing copper, nickel, silver, silver plated ware or any utensils or appliances used in preparation or service of food. Cleaning and polishing formulations shall be used in accordance with the manufacturer's instructions so that such substances do not contaminate food.

(5) Approved sanitizers. Only chemical sanitizers and antimicrobial agents approved by the U.S. Environmental Protection Agency shall be used to clean food and food contact surfaces.

(6) Single service articles. Single service articles shall be manufactured from clean, non-toxic materials and fulfill the requirements of the Food, Drug and Cosmetic Act, as amended. Such articles shall not be reused and shall be discarded immediately after use.

(e) Non-food contact surfaces.

(1) Floors. Floors, floor coverings, and materials used to repair floors of food storage, food preparation, utensil washing areas, walk-in refrigerating units, dressing rooms, locker rooms, lavatories and rest rooms shall be constructed of a hard, smooth, durable, non-absorbent and easily cleanable material and shall be kept clean, without holes or gaps or other unintended openings at floor and wall junctions or around plumbing pipes and fixtures. Carpeting is prohibited on floors in food preparation areas. Mats and duckboards shall be designed to be removable and easily cleanable.

(2) Walls and ceilings. Walls, ceilings, doors, panels, windows, and other interior components of rooms, and equipment such as walk-in refrigerators, and the materials used to repair such components shall be smooth and non-absorbent, constructed of hard, impermeable, light colored materials, and shall be easily cleanable, kept clean and without holes or gaps or other unintended openings at floor, wall and ceiling junctions or around plumbing pipes and fixtures. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(3) Equipment and fixtures. Equipment and fixtures, including but not limited to, light fixtures, vent covers, fans, ducts, decorative materials, and other materials affixed to walls and ceilings shall be easily cleanable, and kept clean and in working order.

(4) Transportation. Vehicles and other conveyances used for the transportation of food by an establishment shall be kept clean, sanitary, and free of pests, and shall have sufficient equipment in operating condition to maintain temperatures required by this Code for holding potentially hazardous foods.

Notes: §81.17 was repealed and recodified by resolution adopted December 13, 2011. It now includes several provisions formerly in §§81.31 and 81.33 and modernizes provisions related to the physical facilities of establishments, in accordance with recommendations from the 2009 FDA Food Code.

RESOLVED, that Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, adding a new §81.18, to be printed together with explanatory notes, to read as follows:

§81.18 Cold and hot storage and holding facilities. A food service establishment shall have adequate refrigeration and hot holding and storage facilities for the proper storage, transportation, display, and service of potentially hazardous foods. Specific refrigeration and hot holding and storage needs shall be based upon the menu, number of meals, frequency of delivery, and preparation in advance of service.

(a) Refrigeration. Refrigerators shall be capable of maintaining and shall maintain potentially hazardous foods at or below 41 degrees Fahrenheit (5 degrees Celsius) at all times. Food preparation procedures should be conducted so that refrigerators are opened on only a limited basis.

(1) Shelving. Shelving for walk-in and reach-in refrigeration units shall be made of food grade material that is smooth and easily cleanable.

(2) Air circulation and cooling ability. Air circulation within refrigeration units shall not be obstructed and shall allow for an even and consistent flow of cold air throughout the units. Fans circulating air within refrigeration units shall be kept clean, dust free, and in working condition. Gaskets shall be kept clean and intact and shall be replaced as needed so that refrigeration units may maintain food at required temperatures.

(3) Thermometers. Refrigeration units shall have numerically scaled or digital indicating thermometers, calibrated to be accurate to (+) or (-) 3 degrees Fahrenheit. The thermometer shall be placed to measure air temperature in the warmest part of the unit.

(4) Placement. Refrigeration units, unless specified by the manufacturer and designed for such use, shall not be located directly adjacent to cooking equipment or other high heat producing equipment which may tax the cooling system's operation.

(5) Walk-in refrigerator floors. Walk-in refrigerator floors that are water-flushed for cleaning or that receive discharge of liquid waste or excessive melt water, shall be non-absorbent and sloped to drain.

(6) Outdoor walk-in refrigerators. Refrigerators located outdoors shall be kept clean, locked, secure, and in operating

condition, and shall not permit entry or harborage of pests.

(b) Hot holding. Hot holding and storage equipment shall be capable of maintaining and shall maintain potentially hazardous foods at or above 140 degrees Fahrenheit (60 degrees Celsius) at all times.

(1) Thermometers. Hot holding units shall have numerically scaled or digital indicating thermometers, calibrated to be accurate to (+) or (-) 3 degrees. The thermometer shall be placed to measure air temperature in the coolest part of the unit.

Notes: This section is new, and was added by resolution adopted December 13, 2011. It includes some provisions of former §81.35 (Food service establishments and non-retail food processing establishments; refrigerators) which was repealed. Its recodified provisions, applicable to both refrigeration and hot holding and storage equipment, have been updated, consistent with the 2009 FDA Food Code.

RESOLVED, that §81.19 of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed and recodified, to be printed together with explanatory notes as follows:

§81.19. Lighting and ventilation.

(a) Lighting. Sufficient artificial light shall be provided so that operations and cleaning are conducted safely, and food workers are able to recognize the condition of food, equipment, utensils, and supplies. Artificial lighting shall be provided as follows:

(1) At least 540 lux (50 foot candles) at surfaces where food workers are preparing and processing food and working with utensils or equipment such as knives, slicers, grinders, or saws;

(2) At least 215 lux (20 foot candles) at surfaces where food is provided for consumer self-service such as buffets and salad bars; inside equipment such as reach-in and under-counter refrigerators; and at a distance of 30 inches (75 centimeters) above the floor in areas used for hand washing, ware washing, and equipment and utensil storage, and in toilet rooms; and

(3) At least 108 lux (10 foot candles) at a distance of 30 inches (75 centimeters) above the floor, in walk-in refrigeration units and dry food storage areas and in other areas and rooms during periods of cleaning.

(b) Lighting to be shielded. All artificial lighting fixtures including infrared or other heat lamps located over, by or within food storage, preparation, service or display facilities, and facilities where utensils and equipment are cleaned and stored, which may shatter due to extreme heat, temperature changes or accidental contact and may contaminate food upon shattering, shall be fitted with light bulbs that are coated with a shatterproof sealant or otherwise rendered shatterproof or shall be shielded and encased, with end caps or other devices, to prevent broken glass from falling into food or onto food-contact surfaces.

(c) Ventilation. Establishments shall be adequately ventilated to prevent and control excessive heat, steam, condensation, vapors, odors, smoke, and fumes.

(1) Mechanical ventilation shall be installed in rooms where odors, vapors or fumes originate.

(2) Ventilation hoods and devices shall be constructed and installed to prevent grease or condensation from collecting on walls or ceilings and from dripping into food or onto food-contact surfaces.

(3) Intake and exhaust ducts shall be constructed and maintained to prevent dust, smoke and fumes, dirt or other contaminants from entering the establishment.

(4) Ventilation to the outside air shall comply with applicable law and regulation and shall not create a nuisance or unlawful emission.

(5) Concentrations of carbon monoxide gases shall not exceed nine (9) parts per million.

Notes: §81.19 (Food service establishments and non-retail food processing establishments; premises: lighting and ventilation) was repealed and recodified by resolution adopted on December 13, 2011. The recodified lighting standards are substantively updated, incorporating recommendations from the 2009 FDA Food Code. The acceptable level of carbon monoxide of 9 ppm is based on the U.S. Environmental Protection Administration's National Ambient Air Quality Standards for an eight hour average concentration. See, 40 CFR §50.8.

RESOLVED, that Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is amended, to add a new §81.20 (Plumbing and water supply), to be printed together with explanatory notes, as follows:

§81.20 Plumbing and water supply.

(a) Potable water supply. An establishment shall be equipped with plumbing and plumbing fixtures, in accordance with applicable law, that safely supply potable water, as defined in Part 5 of the State Sanitary Code (10 NYCRR Chapter 1), to all parts of the establishment. Plumbing and fixtures shall be properly connected, vented, and drained to prevent contamination of the potable water supply. Potable water supply fixtures or other equipment connected to the potable water supply shall be designed and constructed or equipped with a device that prevents back-flow or siphonage into, or cross connection with the water supply.

(b) Disposal of sewage and liquid waste. Sewage and liquid wastes other than grease and oil waste shall be conveyed to the sewer or sewage disposal system so as to prevent contamination of the premises and its contents. Grease and oil wastes shall be disposed of in accordance with applicable laws.

(1) Indirect waste connection required. There shall be no direct connection between the sewage system and any drains

from plumbing fixtures and equipment used for hot and cold storage, or mechanical processing of food. Waste lines from equipment required to have indirect drains shall be installed to prevent back-flow from sewers and other drains and waste lines.

(2) Direct drainage. Waste water pipes shall be discharged into a properly trapped, sewer-connected, clean, slop sink, or other acceptable method of drainage.

(c) Condensation. Plumbing pipes shall be installed and maintained in a manner that prevents waste water, including condensation, from contact with food or equipment.

(d) Carbonated beverages. All plumbing lines conducting carbon dioxide gas or carbonated beverages shall be manufactured from stainless steel, food-grade plastic or other material that will not produce toxic substances when exposed to carbon dioxide or carbonated water.

Notes: A new §81.20 was added by resolution adopted by the Board of Health on December 13, 2011. The new section incorporates and updates provisions applicable to water supply and plumbing from former §81.21 (Food service establishments and non-retail food processing establishments; premises, plumbing, water supply, floors, walls and ceilings, vehicles).

RESOLVED, that §81.21 (Food service establishments and non-retail food processing establishments; premises, plumbing, water supply, floors, walls and ceilings, vehicles) of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed and recodified, to be printed together with explanatory notes as follows:

§ 81.21 Hand wash sinks.

(a) Location. Hand washing sinks equipped with hot and cold running water shall be installed in food preparation, food service, and ware washing areas, and in or adjacent to employee and patron toilet rooms, and may be located between such areas.

(1) Sufficient sinks shall be provided so that a hand washing sink is no more than 25 feet from any food preparation, service or ware washing area.

(2) Any area in which a hand wash sink is located shall be unobstructed by doors or equipment, and access shall be kept clear to enable its use as required by this Code. Hand washing sinks shall not be used for purposes other than hand washing.

(3) An automatic hand washing sink shall be used in accordance with the manufacturer's instructions. A self-closing, slow-closing or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet. A steam mixing valve shall not be used.

(b) Soap, towels, trash receptacle. Soap or detergent; single use disposable towels or mechanical drying devices; and a foot operated covered trash receptacle shall be provided. A supply of towels or a towel dispenser shall be located immediately adjacent to the hand wash sink, and available without requiring the user to open drawers, cabinets or other enclosures that could lead to recontamination of hands.

(c) Wash hands signs. Signs directing employees to wash hands after use of toilet shall be conspicuously posted near or above all hand washing sinks. Signs shall be posted in English and all languages as necessary so as to be understood by all food workers in an establishment.

Notes: Former §81.21 (Food service establishments and non-retail food processing establishments; premises, plumbing, water supply, floors, walls and ceilings, vehicles) was repealed and recodified by resolution of the Board of Health adopted December 13, 2011. As recodified, this section updates provisions from former Article 81 sections and adds new requirements for installing hand wash sinks to encourage and enable food workers to wash hands as necessary to prevent transmission of food borne illnesses.

RESOLVED, that Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is amended, to add a new §81.22, to be printed together with explanatory notes, as follows:

§81.22 Employee and patron toilets.

(a) Toilets required. Toilet facilities shall be provided for employees and shall be equipped with a minimum number of water closets, urinals, and other plumbing fixtures as required by Chapter 4 of the New York City Plumbing Code, Administrative Code §28-PC 403, or any successor law.

(b) Patron toilets required. Food service establishments with a seating capacity of 20 or more, except those located in premises where a permitted food service establishment operated on or before December 5, 1977, shall provide toilet facilities for patrons. Establishments with a seating capacity of 20 or more in premises where a permitted food service establishment operated on or before December 5, 1977 shall, when undergoing renovations of sufficient scale to require a construction permit from the Department of Buildings, install and thereafter provide one or more patron toilets equipped as required by subdivision (a) of this section.

(c) Toilet rooms. All toilets shall be properly flushed and trapped, adequately lighted and ventilated, maintained in sanitary, operating condition, and furnished with supplies of toilet tissue and easily cleanable covered receptacles for waste paper and other refuse.

(d) Shared toilet facilities. Except where patrons would have to pass through a kitchen or food storage or preparation facility, the same toilet facilities may be used by both patrons and employees.

Notes: §81.22 was adopted by resolution of the Board of Health on December 13, 2011. It incorporates and updates provisions related to required employee and patron toilets from former §81.29 (Food service establishments and non-

retail food processing establishments; premises; employee toilets, wash basins, lockers and patron toilets to be provided). RESOLVED, that §81.23 of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes as follows:

§81.23 [Food service establishments and non-retail food processing establishments; premises; conditions conducive to rodent or insect and pest life prohibited; rodent proofing.] Integrated pest management.

(a) *Establishments to be pest free.* Food service and non-retail food processing establishments shall be kept free of rodents, insects and other pests, as defined in Article 151 of this Code, and of [any condition] conditions conducive to [rodent or insect and other pest life] pests, as defined in Article 151 of this Code, which shall include but not be limited to the following:

- (1) Accumulated refuse and other material on or in which pests may shelter, hide or nest;
- (2) Presence of cracks, gaps or holes in establishments' exteriors or interiors that permit free movement of pests;
- (3) Presence of food or water refuse and wastes accessible to and capable of sustaining or attracting a pest population including, but not limited to, standing water or other liquid wastes, grease and food residue and improperly closed food containers.

(b) *Prevention.* Premises, equipment and fixtures shall be of a construction, design and material so as to [be rodent proof] prevent and control entry and harborage of pests.

(1) *Daily inspections.* Permittees shall inspect the premises and incoming food and supplies daily to determine presence of pests and to prevent entry of and infestation by pests.

(2) *Exterminator required.* Permittees shall contract with a pest management professional licensed by New York State Department of Environmental Conservation to provide preventive measures and extermination services necessary to maintain their establishments free of pests. Records showing the name, address, Department of Environmental Conservation license number of the exterminator, the services provided, and the effective dates of such contracts shall be kept on the premises of the establishment. At the request of the Department, the permittee shall make available a fully executed copy of a contract with a pest management professional to provide at least monthly preventive inspections and services, and where pests are observed, to provide services for their elimination.

(3) *Doors.* All doors opening into the establishment from the outside shall be equipped with barriers such as anti-pest tension brushes or a space no larger than one-eighth of an inch (3.1750 millimeters) to prevent entry of rodents.

(4) *Pest monitors.* As part of an integrated pest management program, an establishment may use sticky monitoring traps or stations that are examined to determine if the establishment has a roach, other insect or rodent infestation. Such monitoring traps or stations shall be marked with the date the station was placed, and a date, no later than one month thereafter, or an earlier date, to be established by the pest management professional, when the traps or stations shall be removed and discarded. Such traps and stations shall be removed as soon as they contain one or more roaches, other insects or rodents.

(b) All openings into the outer air that are kept open shall be effectively screened and doors shall be self-closing, unless other effective means such as effective fly fans or effective air curtains are provided to prevent the access by insects and other pests.]

(c) [Operators of food service establishments and non-retail food processing establishments] *Pest infestations.* Permittees shall take [extermination and] all preventive, control, and extermination measures necessary to maintain the establishment free of [rodents, insects and other] pests. When the Department determines that an establishment has a persistent pest infestation and conditions conducive to pests, the Department may order the permittee to institute and maintain a pest management plan in accordance with §151.02 (c) of this Code.

(d) *Pesticide applications.* Pesticides shall be properly labeled, authorized for use, and used only by licensed pest professionals in accordance with the New York State Environmental Conservation Law and Title 6 of the New York Codes, Rules and Regulations (N.Y.C.R.R.) Part 325, or any successor regulation, and applied so that:

- (1) There is no hazard to employees or other persons.
- (2) There is no pesticide spraying in food preparation and service areas while food is being processed, prepared or served, or where unprotected food, clean utensils or containers are displayed or stored.
- (3) Food, equipment, utensils, linens, and single-service or single use articles are protected from contamination or toxic residues from pesticide drip, drain, fog, splash or spray on by removal, impermeable coverings or other measures, and by cleaning and sanitizing after pesticide application. [Poisonous] (e) *Toxic materials.* Where labels permit, poisonous and toxic materials shall be stored in areas designated solely for such purpose, or in a storage area outside the food, equipment and utensil storage area. Bactericides and cleaning compounds shall not be stored with insecticides, rodenticides or other poisonous materials. Insecticides and rodenticides shall be kept in their original containers.

[Insecticide spraying is prohibited in food preparation and service areas while food is being processed, prepared or served, or where unprotected food, clean utensils or containers are displayed or stored.]

Notes: Section 81.23 was extensively revised and updated by resolution adopted by the Board of Health on December 13, 2011. The need for the revision is clearly shown by Department data indicating that in calendar year 2010, 51% of food service establishments were cited for pest violations,

and that among the approximately 2,300 establishments closed for imminent or public health hazards, 62% were closed for pest violations.

RESOLVED, that Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is amended, to add a new §81.24, to be printed together with explanatory notes as follows:

§81.24 Garbage and waste disposal. Garbage and wastes shall be stored, handled, and disposed of in a manner that protects food and food-contact surfaces from contamination, and does not create a condition conducive to pests or a nuisance.

(a) *Garbage storage and removal.*

(1) Garbage and wastes shall be removed from the establishment daily for collection or stored in a pest-proof room in the establishment in easily cleanable, watertight, rodent-resistant, and insect-resistant containers with tight fitting lids.

(2) Solid and putrescible wastes placed on sidewalks for collection shall be disposed of in accordance with applicable law, including but not limited to Title 16 of the Administrative Code and the rules of the Department of Sanitation and the Business Integrity Commission, or successor agencies.

(b) *Containers to be cleaned after emptying.* Garbage receptacles and covers shall be cleaned after emptying and prior to reuse.

Notes: §81.24 was added by resolution of the Board of Health adopted on December 13, 2011. It includes provisions from former sections of Article 81 related to garbage and waste accumulations and disposal.

RESOLVED, that §81.25 of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is amended, to be printed together with explanatory notes as follows:

§81.25 [Food service establishments and non-retail food processing establishments; animals prohibited.] Live animals.

No live animal shall be kept, housed or permitted to enter into or remain in any food service establishment [or non-retail food processing establishment]. This section shall not apply to edible fish, crustacea, [shellfish] mollusks, or fish in aquariums[,]; [seeing-eye dogs accompanying sightless persons, hearing or] service dogs or other animals accompanying and [assisting] trained to assist disabled persons[,]; or [patrol] working dogs accompanying police officers.

Notes: §81.25 was amended by resolution adopted December 13, 2011 to be consistent with similar provisions in Article 161 of the Code, reflecting current regulations implementing the Americans with Disabilities Act.

RESOLVED, that §81.27 (Food service establishments and non-retail food processing establishments; foodworker use of tobacco and consumption of food on premises; spitting prohibited) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed, and a new §81.27 (Cleaning of premises, equipment and utensils) be added, to be printed together with explanatory notes to read as follows:

§81.27 Cleaning of premises, equipment and utensils.

(a) *Non-food contact surface components.* Floors, walls, ceilings, and other non-food contact surfaces shall be kept free of accumulations of dust, dirt, food residue, grease, and other debris and shall be cleaned as necessary to prevent such accumulations.

(b) *Food contact surfaces.* Equipment food contact surfaces and utensils shall be clean to sight and touch and shall be kept free of dust, dirt, food residues, grease deposits, and other contaminants. Equipment food contact surfaces and utensils shall be cleaned:

- (1) Before each use with a different type of raw animal food such as beef, fish, lamb, pork or poultry;
- (2) Each time there is a change from working with raw to working with ready-to-eat foods; and
- (3) At any time when contamination may have occurred.

(c) *Equipment with food contact surfaces.* Ice bins, coffee grinders, frozen dessert machines, culinary sinks and similar types of equipment with food contact surfaces shall be cleaned and sanitized at the frequency specified by the manufacturer or at a frequency necessary to prevent the accumulation of encrusted food, mold, grease or other contaminants. Unless specifically constructed to enable cleaning in place, equipment shall be disassembled prior to cleaning.

(d) *Cloths.* Cloths used for the cleaning and sanitizing of food contact and non-food contact surfaces shall be stored clean and dry, or in a sanitizing solution, between uses.

(1) Moist cloths used for wiping food spills from kitchenware and food contact surfaces shall be used only for this purpose and shall be stored in a sanitizing solution between uses.

(2) Moist cloths used for wiping non-food contact surfaces shall be used only for this purpose and shall be stored in a sanitizing solution between uses.

Notes: Former §81.27 (Food service establishments and non-retail food processing establishments; food worker use of tobacco and consumption of food on premises; spitting prohibited) was repealed by resolution adopted by the Board of Health on December 13, 2011, its provisions updated and incorporated into §81.13, and provisions from former §81.37, related to cleaning of premises, equipment, and utensils were updated and included in a new §81.27.

RESOLVED that §81.29 (Food service establishments and non-retail food processing establishments; premises;

employee toilets, wash basins, lockers and patron toilets to be provided) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed, and a new §81.29 (Dishwashing and ware washing) be added, to be printed together with explanatory notes as follows:

§81.29 Dishwashing and ware washing.

(a) *Sanitizing.* Tableware, utensils, and equipment may be cleaned and sanitized manually, or by machine, using either heat or chemical means, as follows.

(1) *Manual: heat.* Sanitization using hot water in manual operation shall be done in a three-compartment sink.

(i) The first compartment shall be used for washing with hot water and detergent.

(ii) The second compartment shall be used for a clean hot water rinse.

(iii) The third compartment shall heat and maintain water at or above 170 degrees Fahrenheit (76.6 degrees Celsius). Items being sanitized shall be wholly immersed in the third compartment for at least 30 seconds to destroy surface pathogens. A numerically scaled, indicating or digital thermometer calibrated to be accurate to plus or minus 2 degrees Fahrenheit (1.1 degrees Celsius) shall be used to check water temperature. Immersion baskets that permit complete submersion of tableware, kitchenware and equipment in the third hot water compartment shall be provided and used.

(2) *Manual: chemicals.* Chemicals used for sanitizing in manual operation shall be used in accordance with the manufacturer's instructions, and shall not be used in concentrations that will leave toxic residues on surfaces treated. A test kit or other device shall be used to accurately measure the parts per million concentration of the solution used, and the pH of the solution when the pH level would affect the performance of the chemical sanitizer.

(3) *Mechanical: heat.* High temperature machines used for the cleaning and sanitizing of utensils, equipment, and food contact surfaces shall be installed, maintained, and operated in accordance with the manufacturer's instructions, shall be equipped with thermometers, and shall maintain water at or above 170 degrees Fahrenheit (76.6 degrees Celsius) for at least 30 seconds during the final rinse cycle to destroy surface pathogens.

(4) *Mechanical: chemical.* Chemicals used in low temperature machines shall be used in accordance with the machine manufacturer's instructions and shall not be used in concentrations which will leave toxic residues on surfaces treated. A test kit or other device shall be used to accurately measure the parts per million concentration of the solution used, and the pH of the solution when the pH level would affect the performance of the chemical sanitizer.

(b) *Drain boards; air drying.* Drain boards of adequate size shall be provided and used for the proper handling of soiled items prior to washing and of clean items following sanitization. Drain boards shall be self-draining and located and constructed so that they do not interfere with the proper use of ware washing facilities. All tableware, utensils, and food contact equipment shall be air dried after sanitizing.

Notes: Former §81.29 (Food service establishments and non-retail food processing establishments; premises; employee toilets, wash basins, lockers and patron toilets to be provided) was repealed by resolution of the Board of Health adopted December 13, 2011, and its provisions were updated and incorporated into §81.22.

RESOLVED, that §81.31 (Food service establishments and non-retail food processing establishment; equipment and utensils to be made of nontoxic materials) of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed, and a new §81.31 (Outdoor cooking, food and beverage preparation facilities) be added, to be printed together with explanatory notes as follows:

§81.31 Outdoor cooking, food and beverage preparation facilities.

(a) *Street and sidewalk cooking prohibited; exceptions.* There shall be no cooking on a street or sidewalk, except when an establishment is participating in an event as defined in Article 88 of this Code, or a mobile food vending unit is being operated in accordance with Article 89 and other applicable law, or permission has been obtained from appropriate City agencies.

(b) *Conducted by a food service establishment.* When permission has been obtained from the Department of Buildings, Fire Department, and other agencies when required, a permitted food service establishment may cook outdoors at the establishment within the premises under the establishment's ownership, management, operation, and control, in accordance with this section, and other provisions of this Article.

(c) *Prevention of nuisances.* No nuisance shall be created, including from smoke, garbage, noise or pests.

(d) *Structural components.*

(1) Floors. A hard surface floor whose construction and materials comply with §81.17 of this Code shall be provided.

(2) Food protection. During food and beverage preparation, hot and cold holding, and food storage, food shall be protected at all times by covering with barriers, including, but not limited to, awnings, tents, screens, vermin-resistant containers, or other methods required by §81.07 of this Code. No foods, or clean utensils and equipment, shall be stored outdoors when the outdoor cooking facility is not in operation. A hand wash sink shall be provided if any food is prepared at the outdoor cooking facility.

(3) Overhead protection. Cooking equipment and utensils shall be covered by lids or larger overhead protections such as a tent, canopy, umbrella or other device.

(4) Lighting and ventilation. Lighting and ventilation shall be provided in accordance with §81.19 of this Code.

Notes: §81.31 (Food service establishments and non-retail food processing establishment; equipment and utensils to be made of nontoxic materials) was repealed by resolution

adopted December 13, 2011, when many of its provisions were updated and incorporated into §81.17, and a new §81.31 was added establishing provisions for outdoor cooking.

RESOLVED, that §81.33 (Food service establishments and non-retail food processing establishments; equipment and utensils; design, construction and placement) of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed to be printed together with explanatory notes as follows:

Notes: §81.33 (Food service establishments and non-retail food processing establishments; equipment and utensils; design, construction and placement equipment) was repealed by resolution adopted December 13, 2011, when many of its provisions were updated and incorporated into §81.17.

RESOLVED, that §81.35 (Food service establishments and non-retail food processing establishments; refrigerators) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed, to be printed together with explanatory notes as follows:

Notes: §81.35 (Food service establishments and non-retail food processing establishments; refrigerators) was repealed by resolution of the Board of Health adopted December 13, 2011, when many of its provisions were updated and incorporated into a new §81.18 (Cold and hot storage and holding facilities) was adopted.

RESOLVED, that §81.37 (Food service establishments and non-retail food processing establishments; cleaning of premises, equipment and utensils; cleaning methods) of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed, to be printed together with explanatory notes as follows:

Notes: §81.37 was repealed by resolution of the Board of Health adopted December 13, 2011, when many of its provisions were updated and incorporated into §81.29.

RESOLVED, that §81.45 (Drinking straws and single service utensils) of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed, to be printed together with explanatory notes as follows:

Notes: §81.45 (Drinking straws and single service utensils) was repealed by resolution of the Board of Health adopted December 13, 2011, when its provisions were updated and incorporated into §81.07.

RESOLVED, that §81.47 (Water potability certificates) of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is repealed, to be printed together with explanatory notes as follows:

Notes: §81.47 (Water potability certificates) was repealed by resolution of the Board of Health adopted December 13, 2011. A fee for issuance of such certificates required by the U.S. Department of Agriculture under the Federal Meat Inspection Act and the Poultry Products Inspection Act (21 U.S.C. 451-470; 601-695; 7 U.S.C. 450; 1901-1906) remains in Article 5 of the Code.

RESOLVED, that subdivisions (d) and (e) of §81.51 (Grading of inspection results and posting of grades by certain food service establishments) of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby are, amended to be printed together with explanatory notes as follows:

§ 81.51 Grading of inspection results and posting of grades by certain food service establishments.

* * *

(d) *Adjudications.* After any notice of violation (“NOV”) issued at an inspection at which a letter grade card was provided to a food service establishment is heard and determined by the [Administrative Tribunal established by Article 7 of this Code] Health Tribunal at the Office of Administrative Trials and Hearings (“OATH”), the Department shall re-grade the inspection results taking into account only the violations alleged in the NOV that were either admitted by the establishment or sustained by a hearing examiner. If re-grading changes the inspection grade, the Department shall issue the food service establishment a new letter grade card that the establishment shall immediately post instead of or in place of the letter grade card provided by the Department at the conclusion of the inspection resulting in the issuance of the NOV.

(e) *When posting may be deferred.*

(1) Any food service establishment receiving a grade lower than an “A” at a second inspection conducted pursuant to subdivision (c) of this section may defer posting the letter grade card provided by the Department at the conclusion of that inspection until the hearing date scheduled by the Department. If an establishment chooses to defer posting this letter grade card, the establishment shall remove any letter grade card that is currently posted, and instead post a sign provided by the Department advising the public that the establishment’s inspection result is under review and that the results of the inspection can be obtained from the Department.

(2) If an establishment does not appear at the [Administrative] Health Tribunal at OATH on the date scheduled for hearing the NOV referred to in subdivision (d), the establishment shall immediately post the letter grade card issued by the Department at the second inspection conducted pursuant to subdivision (c). If the establishment appears at the [Administrative] Health Tribunal at OATH on the scheduled date, but the hearing is unable to proceed for any reason, or if the establishment makes a timely request for an adjournment and such adjournment is granted, the establishment may

continue to defer posting the letter grade card until the adjourned hearing date. In no event shall an establishment defer posting its letter grade card after the adjourned hearing date if the establishment is not able to proceed on such date.

Notes: Subdivisions (d) and (e) of §81.51 were amended by resolution adopted December 13, 2011 to reflect the repeal of Article 7 of the Health Code, by resolution adopted December 13, 2011. The Administrative Tribunal established pursuant to New York City Charter §558 was transferred to the Office of Administrative Trials and Hearings (OATH), to be known as the Health Tribunal at OATH, by Executive Order No. 148, effective July 3, 2011. The Board of Health adopted a resolution on June 14, 2011 to facilitate the transfer that authorized the Health Tribunal at OATH to decide questions of fact and law in any proceeding alleging a violation of the Health Code.

RESOLVED, that §81.49 (Modification by the Commissioner) of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended and renumbered as §81.55, to be printed together with explanatory notes as follows:

[§81.49] §81.55 Modification by Commissioner.

When the strict application of any provision of this Article presents practical difficulties or unusual hardships, the Commissioner, in a specific instance, may modify the application of such provision consistent with the general purpose of this Article and upon such conditions as in his or her opinion are necessary to provide for clean and sanitary food prepared, manufactured, processed or served in clean and sanitary establishments. The denial of a request for modification by the Commissioner shall be deemed a final agency determination.

Notes: Former §81.49 was renumbered as §81.55 by resolution of the Board of Health adopted December 13, 2011 and the term “prepared” was added.

RESOLVED, that the Table of Section Headings of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby is, amended, to be printed with explanatory notes, to read as follows:

ARTICLE 81 FOOD PREPARATION AND FOOD ESTABLISHMENTS

§81.01 Scope.

§81.03 Definitions.

§81.04 Approved sources of food.

§81.05 Technical review and pre-permitting inspections for food service establishments and non-retail food processing establishments.

§81.06 Prevention of imminent or public health hazards

§81.07 Food: sanitary preparation, protection against contamination.

§81.08 Foods containing artificial trans fat.

§81.09 [Food; temperature requirements.] Potentially hazardous foods; temperature control for safety.

§81.10 [Time as a Public Health Control.] Time as a public health control.

[§81.11 Food; disposition if unfit for human consumption; re-service of food prohibited.]

§81.12 Reduced oxygen packaging; cook chill and *sous vide* processing.

§81.13 [Foodworkers; health; clothing.] Food workers; health; hygienic practices

§81.15 Food protection course.

§81.17 [Food service establishments and non-retail food processing establishments; premises; location; general requirements.]

General requirements: design, construction, materials and maintenance.

§81.18 Cold and hot storage and holding facilities.

§81.19 [Food service establishments and non-retail food processing establishments; premises; lighting and ventilation.] Lighting and ventilation.

§81.20 Plumbing and water supply.

§81.21 [Food service establishments and non-retail food processing establishments; premises, plumbing, water supply, floors, walls and ceilings, vehicles.]

Hand wash sinks.

§81.22 Employee and patron toilets.

§81.23 [Food service establishments and non-retail food processing establishments; premises; conditions conducive to rodent or insect and pest life prohibited; rodent proofing.]

Integrated pest management.

§81.24 Garbage and waste disposal.

§81.25 [Food service establishments and non-retail food processing establishments; animals prohibited.] Live animals.

§81.27 [Food service establishments and non-retail food processing establishments; foodworker use of tobacco and consumption of food on premises; spitting prohibited.] Cleaning of premises, equipment and utensils.

§81.29 [Food service establishments and non-retail food processing establishments; premises; employee toilets, wash basins, lockers and patron toilets to be provided.] Dishwashing and ware washing.

§81.31 [Food service establishments and non-retail food processing establishments; equipment and utensils to be made of non-toxic materials.] Outdoor cooking, food and beverage preparation facilities.

[§81.33 Food service establishments and non-retail food processing establishments; equipment and utensils; design, construction and placement.]

[§81.35 Food service establishments and non-retail food processing establishments; refrigerators and hot storage facilities.]

[§81.37 Food service establishments and non-retail food processing establishments; cleaning of premises, equipment and utensils; cleaning methods.]

§81.39 [Food service establishments and non-retail food processing establishments; sealing off] Sealing unclean

equipment, utensils and vehicles; denial, suspension and revocation of permits; enforcement[.]; padlocking.
§81.41 Dispensing devices used to dispense food; construction, cleanliness, refrigeration, safety.
§81.43 Reporting complaints of patrons’ illness, emergency occurrences.
[§81.45 Drinking straws and single service utensils.]
[§81.47 Water potability certificates.]
[§81.49 Modification by Commissioner.]
§81.50 Posting of calorie information.
§81.51 Grading of inspection results and posting of grades by certain food service establishments.
§81.55 Modification by Commissioner.

Notes: The table of section headings of Article 81 was amended by Board of Health resolution adopted on December 13, 2011 to reflect the comprehensive amendment and reorganization of Article 81.

RESOLVED, that Articles 91 (Meat and Meat Products; Slaughtering of Animals); 93 (Poultry; Slaughtering, Eviscerating and Processing); 95 (Sausage Manufacturing and Smoking, Preparing or Preserving of Meat); 97 (Horsemeat and Slaughtering of Horses); 101 (Shellfish and Fish); 103 (Establishments Engaged in Preparing, Preserving or Smoking Fish); 113 (Frozen Desserts) and 121 (Other Food Establishments: Dry Warehouses; Edible Egg Breaking; Bakeries, Mineral, Spring and Other Waters; Carbonated and Other Beverages) of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby are, repealed.

RESOLVED, that the Table of Section Headings in Part A (Food and Drugs) of Title IV (Environmental Sanitation) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and same hereby is amended, to be printed together with explanatory notes, to read as follows:

Article 71	Food, [and] Drugs <u>and Cosmetics</u>
73	[Reserved]
75	[Reserved]
77	[Reserved]
81	Food Preparation and Food Establishments
83	[Reserved]
85	[Reserved]
87	[Reserved]
88	Temporary Food <u>Service</u> Establishments
89	Mobile Food Vending
[91	Meat and Meat Products; Slaughtering of Animals]
[93	Poultry; Slaughtering, Eviscerating and Processing]
[95	Sausage Manufacturing and Smoking, Preparing or Preserving Meat]
[97	Horsemeat; Slaughtering of Horses]
[101	Shellfish and Fish]
[103	Establishments Engaged in Preparing, Preserving or Smoking Fish]
[111	Milk and Milk Products]
[113	Frozen Desserts]
115	Prescription Formula Preparation Facilities
116	[Reserved]
[117	Dairy Food Products]
[121	Other Food Establishments: Dry Warehouses; Edible Egg Breaking; Bakeries, Mineral, Spring and Other Waters; Carbonated and Other Beverages]

☛ d21

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on the proposed amendment of Article 141 of the New York City Health Code, related to building drinking water storage tanks

Date / Time: January 25, 2012, 10:00 A.M. - 12:00 P.M.

Location: New York City Department of Health and Mental Hygiene
42-09 28th Street
14th Floor, Room 14-44
Queens, NY 11101

Contact: Rena Bryant, (347) 396-6071
New York City Department of Health and Mental Hygiene
Board of Health
Office of the Secretary to the Board
Attention: Rena Bryant
42-09 28th Street, WS 14-55
Queens, NY 11101

Proposed Rule

The Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 141 of the Health Code to clarify requirements for the maintenance of drinking water tanks and the performance of annual inspections by building owners.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to Rena Bryant at the contact address above or electronically through NYC RULES at www.nyc.gov/nycrules by January 25, 2012.
- If you are interested in pre-registering to speak at the public hearing, please notify Rena Bryant by January 24, 2012. Please include a phone where, if necessary, you may be reached during normal business hours. You can also register at the door; however, preference will be given to those who pre-register. At the public hearing, you can speak for up to five minutes.
- To request a sign language interpreter or other

form of reasonable accommodation for a disability at the hearing, please contact Rena Bryant at the phone number shown above by January 11, 2012. Copies of written comments and a summary of oral comments received at the hearing will be available for public inspection within a reasonable time after the hearing between the hours of 9:00 A.M. and 5:00 P.M. at the contact address above.

October 25, 2011, 10:00 A.M. - 12:00 P.M.

Statutory Authority

This amendment to the New York City Health Code ("Health Code") is promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter ("Charter").

- Section 556 of the Charter provides the Department of Health and Mental Hygiene ("Department") with jurisdiction to regulate all matters affecting health in the City of New York.
 - Section 556(a)(1) states that the Department shall enforce all provisions of law relative to the necessary health supervision of the purity and wholesomeness of the water supply and the sources thereof;
 - Section 556(a)(3) says the Department shall exercise its functions, powers and duties in the area extending over the city, and over the waters adjacent thereto, and,
 - Section 556(c)(7) says that the Department shall supervise and regulate the public health aspects of the water supply and sewage disposal and water pollution.
- Section 558(b) and (c) of the Charter empower the Board of Health ("Board") to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends.
- Section 1043 of the Charter grants the Department rulemaking powers.

Statement of Basis and Purpose

The purpose of the proposed rule is to clarify requirements for the maintenance of drinking water tanks and the performance of annual inspections by building owners.

Article 141 of the Health Code concerns the maintenance of the purity and sanitary condition of the City's potable water supply. Thousands of New York City buildings keep their water supply in water storage tanks. Section 141.07 ("Building Drinking Water Storage Tanks") requires that an owner, agent or whoever is in control of a building with one or more water tanks used to store potable drinking water must inspect the tanks each year and maintain inspection records for the Department's review upon request.

This amendment seeks to ensure that inspections of water tanks are conducted in a manner sufficient to adequately determine the condition and integrity of the water tank – namely, is the water tank actually functional and appropriate for use. At the same time, the amendment seeks to allow greater flexibility in exercising professional judgment regarding how the inspection should be conducted, in order to cover a broad range of tank configurations and varying site conditions.

The proposal is as follows:

Matter in [brackets] is deleted.
Matter underlined is new.

RESOLVED, that subdivision (b) of Section 141.07 of Article 141 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, as last amended by resolution on June 30, 2009, is amended to clarify water tank inspection requirements for building owners, to be printed together with explanatory notes to read as follows:

ARTICLE 141 WATER SUPPLY SAFETY STANDARDS

§141.07 Building Drinking Water Storage Tanks

(b) **Inspection Requirements.** The owner, agent or other person in control of a building shall have the water tank inspected at least once annually. The inspection shall include the examination of the general condition and integrity of the tank, including but not limited to the condition of overflow pipes, access ladders, air vents, roof access hatches and screens. The [interior and exterior of the] water tank [and its sealed edges and seams] shall be inspected for evidence of pitting, scaling, blistering or chalking, rusting, corrosion and leakage. Inspection of sanitary conditions, including the presence of sediment, biological growth, floatable debris and insects in the tank and rodent or bird activity on and around the tank, shall be performed. The inspection shall include sampling of the water in the water tank to verify the bacteriological quality of the water supply in compliance with Subpart 5-1 of the State Sanitary Code. Sample results shall be reported by a State certified laboratory equipped to analyze drinking water, in accordance with the latest edition of the Standard Methods for the Examination of Water and Wastewater, published jointly by the APHA, the AWWA and the WEF.

Notes: The Department proposes that the Board of Health amend subdivision (b) of §141.07 of Article 141 of the Health

Code to clarify maintenance and inspection requirements for drinking water tanks by building owners.

NEW YORK CITY LAW DEPARTMENT 100 CHURCH STREET NEW YORK, NY 10007 212-788-1087 CERTIFICATION PURSUANT TO CHARTER §1043(d)

RULE TITLE: Amendment of Rules Governing Drinking Water Tanks

REFERENCE NUMBER: 2011 RG 105

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: December 5, 2011
Acting Corporation Counsel

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS 253 BROADWAY, 10th FLOOR NEW YORK, NY 10007 212-788-1526

CERTIFICATION / ANALYSIS PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Rules Governing Drinking Water Tanks (Health Code Article 141)

REFERENCE NUMBER: DOHMH-10

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Ruby B. Choi Date: 12/5/2011
Mayor's Office of Operations

NOTICE OF INTENTION

Subject: Opportunity to Comment on proposed amendments of New York City Health Code Rules Governing Waste Disposal.
New York City Department of Health and Mental Hygiene Board of Health

Contact: Office of the Secretary to the Board
Attention: Rena Bryant
2 Gotham Center, 14th Floor, Room 14-15, Box 31
Long Island City, NY 11101-4132

Proposed Rule

Pursuant to the authority vested in the Board of Health ("Board") by Section 558(b) and (c) of the New York City Charter ("Charter"), and in accordance with §§556, 558 and 1043 of the Charter, the New York City Department of Health and Mental Hygiene ("Department") is proposing that the Board amend §143.11 of Article 143 of the Health Code to eliminate repealed and superfluous legal references. Accordingly, the Department does not believe that a public hearing is needed on this proposal as it would not serve a public purpose. The proposed amendment was not included in the Department's Regulatory Agenda because it resulted from a recent analysis by the Department.

Instructions

- You may submit written comments about the proposed amendment to Rena Bryant by mail, electronically through the NYC Rules website at www.nyc.gov/nycrules, by email to resolutioncomments@health.nyc.gov, or online (without attachments) at <http://www.nyc.gov/html/doh/html/notice/notice.shtml> on or before 5:00 P.M., on January 31, 2012.
- Within a reasonable time after receipt, electronic

copies of written comments will be available online at the Department's website, and paper copies will be available between the hours of 9:00 A.M. and 5:00 P.M. at: New York City Department of Health and Mental Hygiene, Board of Health, Office of the Secretary to the Board, Attention: Rena Bryant, 2 Gotham Center, 14th Floor, Room 14-05, CN 30, Long Island City, NY 11101-4132

Statement of Basis and Purpose of Proposed Rule

These amendments to Article 143 of the New York City Health Code ("Health Code") are promulgated pursuant to §§556, 558 and 1043 of the New York City Charter ("Charter"). Section 556 of the Charter provides the Department of Health and Mental Hygiene ("Department") with jurisdiction to regulate all matters affecting health in the City of New York. Section 558(b) and (c) of the Charter empowers the Board of Health ("Board") to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants the Department rulemaking powers.

Background to Article 143

Article 143 broadly addressed disposal of wastes within the City, in particular, the disposal of human, household, and commercial liquid wastes which are not directly discharged into City waters. As part of a comprehensive review of the Health Code to assess its efficacy in protecting the public health, in 2009, the Board amended and repealed various sections of Article 143, covering the disposal of sewage, repealing provisions for construction of private sewage disposal systems, and the issuance of permits for site and sub-soil evaluation related to such construction, in order to better reflect practice and the current regulatory environment. Definitions in §143.01 were maintained and §143.01(c) was amended to make clear that the Department does not regulate portable toilets (such as those found on street locations or at construction sites), and a new subdivision (e) was added to §143.01 defining "community private sewage disposal systems" as this term was not previously defined in the Health Code; the Department currently regulates such sewage disposal systems under §143.11.

Proposed Changes to Article 143

The Department proposes that the Board amend §143.11, subdivisions (b) and (d), in order to remove repealed and/or superfluous legal references. The amendments are described below:

- Subdivision (b)
 - The current references to Health Code §145.03 and Article 12 of the State Public Health Law will be removed as such legal provisions no longer exist.
 - On September 22, 2009, the Board of Health repealed Article 145 of the Health Code. On April 1, 2011, the State Legislature repealed Article 12 of the Public Health Law.
- Subdivision (d)
 - The current reference to Article 145 relating to a professional engineer is superfluous.
 - The current reference to Article 147 relating to a licensed architect in the State Education Law is redundant.

* * *

Matter that is underlined is new.
Matter in [brackets] is deleted.

The proposal is as follows:

RESOLVED, that subdivisions (b) and (d) of §143.11 of Article 143 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, and last amended on July 1, 1991 be, and the same hereby is, amended to remove repealed and/or redundant legal references, to be printed together with explanatory notes as follows:

ARTICLE 143 DISPOSAL OF SEWAGE

§143.11 Community private sewage disposal systems.

(b) No community private sewage disposal system shall be constructed and maintained without a permit issued by the Commissioner. The permit may contain such conditions as the Commissioner may impose for the protection of public health. [No permit is required and this article shall not apply if a permit must be obtained for a disposal facility pursuant to §145.03 of this Code or pursuant to Article 12 of the Public Health Law.]

(d) The Department may prescribe the number of copies of and the format in which the information required by sub[section]d[ivision] (b) of this section shall be submitted. Plans, specifications and other information shall contain the signature, seal and address of a professional engineer or licensed architect [licensed and registered pursuant to Article 145 or Article 147, respectively, of the Education Law].

Notes: The Department proposes that §143.11 of Article 143 be amended to remove certain repealed and/or superfluous legal references in subdivisions (b) and (d).

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Waste Disposal (Health Code Art. 143)

REFERENCE NUMBER: 2011 RG 106

RULEMAKING AGENCY: New York City Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: November 28, 2011
Acting Corporation Counsel

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Governing Waste Disposal (Health Code Art. 143)

REFERENCE NUMBER: DOHMH-11

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ RACHEL SQUIRE Date: December 5, 2011
Mayor's Office of Operations

• d21

PARKS AND RECREATION

■ NOTICE

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on Proposed Rule regarding changes to Ballfields Rules.

Date / Time: Thursday, January 26, 2012 at 11:00 A.M.

Location: Chelsea Recreation Center
430 West 25th Street
New York, NY 10001

Contact: General Counsel
Alessandro G. Olivieri
Department of Parks & Recreation
The Arsenal, Central Park
830 Fifth Avenue
New York, NY 10065

Proposed Rule Amendment

Pursuant to the authority invested in the Commissioner of the Department of Parks & Recreation ("Parks") by Sections 389 and 533(a)(9) of the New York City Charter and in accordance with the requirement of Section 1043 of the New York City Charter, Parks proposes to revise § 2-12 and to delete § 2-13 of Chapter 2 to Title 56 of the Official Compilation of Rules of the City of New York.

These amendments were not included in the Parks regulatory agenda because Parks was not aware of the necessity for the amendments at the time the regulatory agenda was prepared.

Instructions

Prior to the close of the hearing, you may submit written comments about the proposed amendment by mail to the Department of Parks and Recreation at:

General Counsel
Alessandro G. Olivieri
Department of Parks & Recreation
The Arsenal, Central Park
830 Fifth Avenue
New York, NY 10065

or electronically through NYC RULES at www.nyc.gov/nycrules by January 26, 2012.

To request a sign language interpreter or other form of reasonable accommodation at the hearing, please notify Shanay M. Smith at (212) 360-1383 or email shanay.smith@parks.nyc.gov, on or before January 12, 2012.

To notify the Department of Parks and Recreation of your intention to testify at the hearing and have your name included on an advance list of those expected to testify and who will be called in order of sign up, please contact:

Assistant Counsel
Shanay M. Smith
Department of Parks & Recreation
The Arsenal, Central Park
830 Fifth Avenue
New York, NY 10065
(212) 360-1383
shanay.smith@parks.nyc.gov

Summarized copies of the written and oral comments received at the hearing will be available as soon as practicable after the hearing between the hours of 9:00 A.M. and 5:00 P.M. at:

Department of Parks & Recreation
The Arsenal, Central Park
830 Fifth Avenue
New York, NY 10065
Room 313
(212) 360-1313

Statement of Basis and Purpose

The proposed rules:

- Clarify and codify practices utilized by Parks when accepting, processing, and issuing ballfield permit applications in order to fairly allocate ballfields and courts amongst a wide range of applicants.
- Better explain how permit requests are processed;
- Continue the long-standing practice of Parks to promote and accommodate youth athletic opportunities, while still providing adults with reasonable access to ballfields and courts; and
- Reflect Parks' efforts to fairly accommodate as many requests as possible for ballfield or court permits.

New material is indicated by underlining. Deletions are indicated by brackets.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department.

Section 2 Title 56 of the Official Compilation of the Rules of the City of New York is amended to read as follows:

§2-12 Ballfield Permits [Basketball, Baseball, Softball, Cricket, Roller Hockey and Volleyball

(a) Permit applications. (1) Those who wish to reserve a court, rink or ballfield ("sports facility") under the jurisdiction or management of the Department for the sports of basketball, baseball, softball, cricket, roller hockey, and volleyball must obtain a written permit from the Department. If an individual is applying for a permit on behalf of a group or athletic league, he or she must so designate on the permit. Only one individual may apply for a permit per group or athletic league.

(2) The completed application must be received by the Department no later than March 1 of each year. Later applications will be filled on a space available basis.

(3) The completed application must include a list of all sports facilities requested.

(4) The Department reserves the right to require a cleanup bond and/or personal liability insurance for the event/game, naming the City of New York as co-insured. The factors to be considered in requiring a bond and/or insurance are: (i) estimated number of spectators to attend sessions, (ii) involvement of vendors (where permitted by the Department), (iii) past history of league/event.

(5) Admission tickets, refreshments or any other articles may not be sold or offered for sale within or adjacent to any park area without the prior written authorization of the Department.

(b) Permits. (1) The permittee must confine sports activities to the locations and times specified on the permit.

(2) The permittee shall remain subject to the Rules of the Department, the specific terms of the permit, and to all rules, regulations and laws of all City, State and Federal departments insofar as applicable.

(3) The permittee must clean and restore the premises after each session.

(4) Pamphlets, handbills, or advertising material of any kind may not be posted, placed or distributed at the courts or ballfields, unless written permission is granted by the Department.

(5) The permittee must have in his/her possession at the time and site of the reserved session the permit for the use of the sports facility and any other Permits or documents required by the Department or any other City agency for proposed activities at the session.

(6) The permittee is liable for all damage or injury to property or persons that may occur or be caused by the use of the permit, and by accepting the permit the permittee agrees to save the City of New York and the Department harmless from any claim whatsoever which may result from such use.

(7) Any transfer of permits requires the approval of the athletic permit coordinator of the borough in which the sports facilities are located. Such transfer, if approved, must take place in the office of the athletic permit coordinator of the relevant borough with both transferor and transferee present. The permit is not otherwise transferable.

(8) The permit is revocable at any time at the discretion of the Commissioner, or his or her representative. The reasons for revocation include, but are not limited to, (i) providing incorrect information on an application form, (ii) failure to adhere to the rules of the Department or the conditions of the permit, and (iii) the use of a permit issued to a youth organization by adults. If a reserved session is cancelled by the Department for administrative reasons, the session may be rescheduled where feasible. The permittee has the right to appeal the revocation of a permit to the Chairperson of the Department's Ballfield Task Force within 10 days immediately following the mailing of notice of revocation by the Department. Such appeal must be in writing. The decisions of the Chairperson of the Ballfield Task Force shall be final.

(9) The maximum number of reserved sessions that any adult single-permit holder or league may control is limited to sixteen sessions per week, per park. The maximum length of any permit is six months. Exceptions may be made by the Commissioner or his or her representative. Youth leagues shall not be subject to the 16 session per week, per park limit.

(10) The Department may review the practices of all leagues and tournaments to determine whether the permittee should receive the requested number of reserved sessions. If the Department determines that sports facility space is in high demand and that the permittee does not reasonably need all of the session time requested, the Department may approve the permit in part, granting to the permittee some fraction of the field or court time applied for.

(11) The Department may inspect the site to determine if the permittee is utilizing all of the reserved time requested. In the event that the Department determines that the permittee is not using all of the time requested, the Department may reduce the number of permitted sessions.

(12) Due to space limitations, the Department will not allow the reservation of sports facility space for practice sessions.]

(a) The following terms (as they are used in this section) will have the meanings listed below:

"Adult League." Adult Leagues are Adult Recreation sports leagues, including, but not limited to community based organization leagues, independent leagues, college leagues and corporate leagues.

"Adult Recreation." Adult Recreation refers to a category of applicants for and holders of permits for the use of ballfields or courts for athletic activity that are not within the category of Youth Recreation.

"New Applicant." New Applicant(s) are:

- (1) those applicant(s) that received permits for the previous year or season, and wish to apply for a different number of hours, or a different number of ballfields or courts at the same location for which a permit was held in the previous year or season;
- (2) applicant(s) who have never sought permits for the use of a particular ballfield or court before; or
- (3) Returning Applicant(s) who include new or additional requests in their permit application(s) are treated as New Applicant(s) for such new or additional permit requests.

"Returning Applicant." Returning Applicant(s) are those applicant(s) requesting the same number of hours, and number of ballfields or courts at a location as they received under permit(s) for the previous year or season.

"Seasonal Applicant." Seasonal Applicant(s) are all applicants who are not within the category of Short Term Permit Applicants.

"Short Term Permit Applicant." Short Term Applicant(s) are applicants that request permits to use ballfield(s) or court(s) for no more than four (4) days of athletic activity within a seven (7) day period. The request must not be connected with any other request for a ballfield or court permit during the same season.

"Youth League." Youth Leagues are Youth Recreation sports leagues, including, but not limited to high school leagues, little leagues, community based organization leagues, and unaffiliated leagues.

"Youth Recreation." Youth Recreation refers to a category of applicants for and holders of permits for athletic activity with participants who are all 17 years old or younger. Youth Recreation shall also include school recreation programs (grade school through high school athletic programs)

regardless of the age of the participants.

(b) (1) Permit Application Process. Any person who wishes to reserve a ballfield or court under the jurisdiction or management of the Department for basketball, handball, baseball, softball, cricket, roller hockey, volleyball, football, lacrosse, rugby, ultimate frisbee, soccer, or any other ballfield or court sport must obtain a written permit from the Department. Any person applying for a permit on behalf of a group or athletic league must indicate that they are doing so on the permit application. Only one individual per group or athletic league may apply for a permit. Tennis permit regulations are separately addressed in section 2-01.

(2) The permit applicant must submit all applications to the Department's borough permit office in the borough where the requested ballfield or court is located. Applications may be submitted via postal mail, through the Department's website, or in-person or via facsimile (fax). Permit applications received by the borough permit office will be date and time stamped to acknowledge receipt. Applicants must apply separately to each borough permit office where they are seeking a ballfield or court.

(3) In order to process applications in advance of the start date for each season, the Department has established seasonal application periods. Applications (for each of the respective periods) will not be accepted prior to the start date for a given application period. For the purpose of this section the seasonal application periods for the following seasons are:

Season	Spring and Summer Season	Fall Season	Winter Season
Application Period	November 15 through January 15	April 15 through June 15	September 15 through November 1

(4) For purposes of this section, the seasonal recreational periods are as follows:

Season	Spring and Summer Season	Fall Season	Winter Season
Seasonal Recreational Period	March 17 through August 31	September 1st through November 31	December 1 through March 16

(5) The Department reserves the right to determine appropriate recreational usage for each ballfield or court. Permits shall be issued for the use of individual ballfields or courts designed for a specific sport, (e.g., baseball or soccer) at any time during the year. Ballfields that are designed to host a variety of sports will be allocated as follows: during the spring/summer season priority will be given to applications for bat and ball sports such as baseball and softball and including but not limited to cricket, and during the fall/winter seasons priority will be given to sports played on rectangular ballfields, such as football and soccer. The Department may consider an out-of-season permit application for ballfields that are designed to host a variety of sports (e.g., baseball in the fall, soccer in the spring) provided there are not qualified applicants for the priority seasonal uses set forth above. Permit holders granted permits for out-of-season use will not be treated as a Returning Applicant should they apply the year following the issuance of an out-of-season permit. No grass ballfields will be available during the winter season.

(6) Applications received (during the relevant application period) will be categorized by the following factors:

- (i) Youth or Adult Recreation
- (ii) Returning or New Applicants
- (iii) Short Term or Seasonal Applicants

(7) For Applications received during the relevant application period, the Department will first consider Youth Recreation permit requests before any Adult Recreation permit requests. Youth Recreation applicants that are also Returning Applicant(s) and have fully complied with a) the terms and conditions of the previous season's permits and b) all other Department rules and regulations, will be given preference to use the same dates and times allotted to them in the previous season. The Department will also consider the following factors when allocating Youth Recreation permits:

- (i) whether the applicant is part of a Youth League.
- (ii) whether the Youth League is part of an official school league.
- (iii) whether the Short Term Permit Applicant(s) can be accommodated before allocating permits for Seasonal Applicants.
- (iv) whether the Department can accommodate newly established Youth Leagues in order to equitably allocate ballfield and court usage as between newly established and Returning Applicant Youth Leagues.
- (v) Due to space limitations, the Department may reject permit requests from applicants that seek the reservation of ballfields or courts for practice sessions. Permits issued for practice sessions will not be treated as part of a Returning Applicant's previous season's permits for purposes of determining whether an applicant is a New Applicant or a Returning Applicant.

(8) For applications received during the relevant application period, after the Department has accommodated the Youth Recreation applications, the Department will process Adult Recreation permit requests. Adult Recreation applicants that are also Returning Applicants and have 1) fully complied with the terms and conditions of the previous season's permits and 2) all other Department rules and regulations, will be given preference to use the same dates and times allotted in the previous season. The Department will also consider the following factors:

- (i) whether the applicant is part of an Adult League.
- (ii) whether Short Term Permit Application(s) can be accommodated before allocating permits for Seasonal Applicants.
- (iii) whether the Department can accommodate newly established Adult Leagues in order to equitably allocate ballfield usage as between newly established and Returning Applicant Adult Leagues.
- (iv) Due to space limitations, the Department may reject permit applications that seek the reservation of ballfields or courts for practice sessions. Permits issued for practice sessions will not be treated as part of a Returning Applicant's previous season's permits for purposes of determining whether an applicant is a New Applicant or a Returning Applicant.

(9) Applications received after the relevant application period will be processed on a first come, first served basis, after all Applications received during the relevant application period are processed.

(c) Permit requirements and limitations.

(1) The Department reserves the right to leave ballfield or court time unpermitted at various locations for other authorized uses, to accommodate Departmental use, for maintenance purposes, or to allow other unpermitted activity.

(2) The Department reserves the right to move permit holders to another location if necessary as determined by the Department, or assign a permit applicant to a location other than the location(s) the applicant requested.

(3) The Department reserves the right to cancel permitted ballfield or court activity due to inclement weather and/or conditions that can result in long-term damage to the ballfield or court.

(4) This section does not apply to use of a ballfield or court that is subject to a license agreement to maintain and operate specified ballfields or courts during the times the licensee is authorized to use the ballfield or court.

(5) The Department reserves the right to require a clean-up bond and/or liability insurance for the use of a ballfield or court, in which case the City shall be named as an additional insured. The factors considered by the Department to determine whether a bond or insurance are required for such event or game are: (i) estimated number of spectators expected to attend, (ii) involvement of vendors (where permitted by the Department), (iii) past history of the league or event, or (iv) such other factors as the Department may reasonably consider.

(6) All permit holders must have their permit(s), and any other documents required by the Department or any other City agency, in their possession at the time and site of the proposed activity.

(7) Any transfer of permit(s) requires the approval of the athletic permit coordinator of the borough in which the ballfields or courts are located. Once approved, the transfer must take place in the office of the Department staff responsible for issuing ballfield permits in the relevant borough with both transferor and transferee present. A permit may not be transferred in any other way.

(8) All permits are revocable at any time and at the discretion of the Commissioner, or at the discretion of the Commissioner's designated representative. Reasons for revocation include, but are not limited to: (i) providing incorrect or false information on an application form, (ii) failure to adhere to Department rules or the conditions of the permit, and (iii) the use, by adults, of a permit issued for a Youth League. The permit holder has the right to appeal the revocation of a permit to the Department's General Counsel, within ten (10) days immediately following the mailing of notice of revocation by the Department. Said appeal must be in writing. The decision of the Department's General Counsel shall be final.

(9) The maximum number of reserved hours that any person or entity (other than a Youth League) holding a permit may have is 32 per week, per park. If the Department determines that ballfields or courts are in high demand, the Department may approve a permit application in part and reject it in part, granting the permit holder some fraction of

the requested ballfield or court time and/or granting permits for alternate locations.

(10) The Department may inspect any ballfield or court to determine if the permit holder is utilizing all of its permitted time. In the event that the Department determines the permit holder is not using all of the permitted time, the Department may reduce the amount of permitted time.

(11) If the use of ballfields or courts constitutes a special event as outlined in § 2-08 of the Department's rules, a special event permit shall be required in addition to the relevant ballfield permits. If the use of ballfields or courts involves vending as outlined in Section 1-05(b) of the Department's rules, vending permits shall be required in addition to the relevant ballfield permits.

§2-13 Football, Lacrosse, Rugby, Ultimate Frisbee and Soccer

(a) Permit applications. (1) Those who wish to reserve a court, rink or ballfield ("sports facility") under the jurisdiction or management of the Department for the sports of football, rugby, ultimate Frisbee and soccer must obtain a written permit from the Department. If an individual is applying for a permit on behalf of a group or athletic league, he or she must so designate on the permit. Only one individual may apply for a permit per group or athletic league.

(2) The completed application must be received by the Department no later than March 1 of each year for spring and summer reservations, and no later than July 1 for fall reservations. Later applications will be filled on a space available basis.

(3) The completed application must include a list of all sports facilities requested.

(4) The Department reserves the right to require a cleanup bond and/or personal liability insurance for the event/game, naming the City of New York as co-insured. The factors to be considered in requiring a bond and/or insurance are: (i) estimated number of spectators to attend sessions, (ii) involvement of vendors (where permitted by the Department), (iii) past history of league/event.

(5) Admission tickets, refreshments or any other articles may not be sold or offered for sale within or adjacent to any park area without the prior written authorization of the Department.

(b) Permits. (1) The permittee must confine sports activities to the locations and times specified on the permit.

(2) The permittee shall remain subject to the Rules of the Department, the specific terms of the permit, and to all rules, regulations and laws of all City, State and Federal departments insofar as applicable.

(3) The permittee must clean and restore the premises after each session.

(4) Pamphlets, handbills, or advertising material of any kind may not be posted, placed or distributed at the courts or ballfields, unless written permission is granted by the Department.

(5) The permittee must have in his/her possession at the time and site of the reserved session the permit for the use of the sports facility and any other Permits or documents required by the Department or any other City agency for proposed activities at the session.

(6) The permittee is liable for all damage or injury to property or persons that may occur or be caused by the use of the permit, and by accepting the permit the permittee agrees to save the City of New York and the Department harmless from any claim whatsoever which may result from such use.

(7) Any transfer of permits requires the approval of the athletic permit coordinator of the borough in which the sports facilities are located. Such transfer, if approved, must take place in the office of the athletic permit coordinator of the relevant borough with both transferor and transferee present. The permit is not otherwise transferable.

(8) The permit is revocable at any time at the discretion of the Commissioner, or his or her representative. The reasons for revocation include, but are not limited to, (i) providing incorrect information on an application form, (ii) failure to adhere to the rules of the Department or the conditions of the permit, and (iii) the use of a permit issued to a youth organization by adults. If a reserved session is cancelled by the Department for administrative reasons, the session may be rescheduled where feasible. The permittee has the right to appeal the revocation of a permit to the Chairperson of the Department's Ballfield Task Force within 10 days immediately following the mailing of notice of revocation by the Department. Such appeal must be in writing. The decisions of the Chairperson of the Ballfield Task Force shall be final.

(9) The maximum number of reserved sessions that any adult single-permit holder or league may control is limited to sixteen sessions per week, per park. The maximum length of any permit is six months. Exceptions may be made by the Commissioner or his or her representative. Youth leagues shall not be subject to the 16 session per week, per park limit.

(10) The Department may review the practices of all leagues and tournaments to determine whether the permittee should receive the requested number of reserved sessions. If the Department determines that sports facility space is in high demand and that the permittee does not reasonably need all of the session time requested, the Department may approve the permit in part, granting to the permittee some fraction of the field or court time applied for.

(11) The Department may inspect the site to determine if the

permittee is utilizing all of the reserved time requested. In the event that the Department determines that the permittee is not using all of the time requested, the Department may reduce the number of permitted sessions.

(12) Due to space limitations, the Department will not allow the reservation of sports facility space for practice sessions.]

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Ballfields

REFERENCE NUMBER: DPR-1

RULEMAKING AGENCY: Department of Parks and Recreation

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
(iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or

modification of the penalties associated with a violation.

/s/ Ruby B. Choi
Mayor's Office of Operations

12/12/11
Date

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087

CERTIFICATION PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Use of Ballfields in Public Parks

REFERENCE NUMBER: 2011 RG 023

RULEMAKING AGENCY: Department of Parks and Recreation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
(ii) is not in conflict with other applicable rules;
(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: December 15, 2011
Acting Corporation Counsel

SPECIAL MATERIALS

COMPTROLLER

NOTICE

NOTICE OF ADVANCE PAYMENT OF AWARDS
PURSUANT TO THE STATUTES IN SUCH cases made and provided, notice is hereby given that the Comptroller of the City of New York, will be ready to pay, at 1 Centre Street, Rm. 629, New York, NY 10007, December 30, 2011, to the person or persons legally entitled an amount as certified to the Comptroller by the Corporation Counsel on damage parcels, as follows:

Table with 3 columns: Damage Parcel No., Block, Lot. Row 1: 5, 3137, 11

Acquired in the proceeding, entitled: WEST BUSHWICK URA PHASE 2 subject to any liens and encumbrances of record on such property. The amount advanced shall cease to bear interest on the specified date above.

JOHN C. LIU
Comptroller

d15-30

CHANGES IN PERSONNEL

Table for OFFICE OF PROBATION FOR PERIOD ENDING 12/09/11. Columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE. Rows: BRIGGS, GREENE, MATTADEEN-DIXON

Table for DEPARTMENT OF BUSINESS SERV. FOR PERIOD ENDING 12/09/11. Columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE. Row: MARGOLIN

Table for HOUSING PRESERVATION & DVLPMNT FOR PERIOD ENDING 12/09/11. Columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE. Rows: DARGA, ELIAS, HENSON, KOO, LEAR, PATEL, REEVES, SALTOS, VELEZ

Table for DEPARTMENT OF BUILDINGS FOR PERIOD ENDING 12/09/11. Columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE. Rows: AGOSTINO, D'ANNA, DITS, GRAHAM, MASCIALINO, SIRAKIS, TITUS, WARNER, WILCOX

Table for DEPT OF HEALTH/MENTAL HYGIENE FOR PERIOD ENDING 12/09/11. Columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE. Rows: ABDUL-ZAHIR, AKINSANYA, ASLAM, BAINBRIDGE, BISWAS, BRANDWEIN, BRATTON, BREUERS, CAMERON, CHIU, CRUICKSHANK, EDWARDS, ESPANOL, FACIANE, FRECKLETON, HARRISON, HELLER, JONES, KANAPATHIPILLAI, KHALIFA, LABARBERA, LANDAU, MARTIN, MICHALIK, MITSOPOULOS, MOISES, PIERCE, REED, REHM, RICKETTS, RODRIGUEZ, SEELAM, SHARMA, THORSEN, VITHAYATHIL, WALKER, WOLSKE

Table for ADMIN TRIALS AND HEARINGS FOR PERIOD ENDING 12/09/11. Columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE. Rows: DARNELL, HARKAVY, KNAUER, RASMUSSEN, TOWERS, TUMMINELLI

Table for DEPT OF ENVIRONMENT PROTECTION FOR PERIOD ENDING 12/09/11. Columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE. Rows: ACIERNO, ALI, BRUNI, BURGESS, BUTLIEN, DICKINSON, DIMICELLI, GALPOTTHAWELA, GEORGEIS, GOMEZ-MARTINEZ, GUY, KAJA

d21

LATE NOTICE

ECONOMIC DEVELOPMENT CORPORATION

CONTRACTS

SOLICITATIONS

Goods & Services

INDUSTRIAL BUSINESS IMPROVEMENT DISTRICTS DEVELOPMENT - Request for Proposals - PIN# 4801-0 - DUE 02-22-12 AT 4:00 P.M. - New York City Economic Development Corporation (NYCEDC) is seeking consultant services in support of the development and planning of new industrial Business Improvement Districts (Industrial BID) or the expansion of existing Industrial BIDs in M-zoned districts in New York City.

NYCEDC plans to select a consultant on the basis of factors stated in the RFP which include, but are not limited to: the quality of the proposal, experience of key staff identified in the proposal working with and in the industrial community in the City, experience and quality of any subcontractors proposed and demonstrated successful experience in performing services similar to those encompassed in the RFP.

Companies who have been certified with the New York City Department of Small Business Services as Minority and Women Owned Business Enterprises ("M/WBE") are strongly encouraged to apply. To learn more about M/WBE certification and NYCEDC's M/WBE program, please visit http://www.nycedc.com/opportunitymwdbe.

An optional pre-proposal meeting will be held on Thursday, January 12, 2012 at 10:00 A.M. at NYCEDC. Those who wish to attend should RSVP by email to IndustrialBIDrfp@nycedc.com on or before January 10, 2012.

Respondents may submit questions and/or request clarifications from NYCEDC no later than 4:00 P.M. on Tuesday, January 17, 2012. Questions regarding the subject matter of this RFP should be directed to IndustrialBIDrfp@nycedc.com. For all questions that do not pertain to the subject matter of this RFP, please contact NYCEDC's Contracts Hotline at (212) 312-3969. Answers to all questions will be posted on Monday, January 23, 2012, to www.nycedc.com/RFP.

The RFP is available for in-person pick-up between 9:30 A.M. and 4:30 P.M., Monday through Friday, from NYCEDC. Please submit five (5) sets of your proposal to: NYCEDC, Attention: Maryann Catalano, Senior Vice President, Contracts.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above. Economic Development Corp., 110 William Street, 6th Floor, New York, NY 10038. Maryann Catalano (212) 312-3969; Fax: (212) 312-3918; IndustrialBIDrfp@nycedc.com

d21

READER'S GUIDE

The City Record (CR) is published each business day and includes notices of proposed New York City procurement actions, contract awards, and other procurement-related information. Solicitation notices for most procurements valued at or above \$100,000 for information technology and for construction and construction related services, above \$50,000 for other services, and above \$25,000 for other goods are published for at least one day. Other types of procurements, such as sole source, require notice in The City Record for five consecutive days. Unless otherwise specified, the agencies and offices listed are open for business Monday through Friday from 9:00 A.M. to 5:00 P.M., except on legal holidays.

NOTICE TO ALL NEW YORK CITY CONTRACTORS

The New York State Constitution ensures that all laborers, workers or mechanics employed by a contractor or subcontractor doing public work are to be paid the same wage rate that prevails in the trade where the public work is being done. Additionally, New York State Labor Law §§ 220 and 230 provide that a contractor or subcontractor doing public work in construction or building service must pay its employees no less than the prevailing wage. Section 6-109 (the Living Wage Law) of the New York City Administrative Code also provides for a "living wage", as well as prevailing wage, to be paid to workers employed by City contractors in certain occupations. The Comptroller of the City of New York is mandated to enforce prevailing wage. Contact the NYC Comptroller's Office at www.comptroller.nyc.gov, and click on Prevailing Wage Schedules to view rates.

CONSTRUCTION/CONSTRUCTION SERVICES OR CONSTRUCTION-RELATED SERVICES

The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination.

VENDOR ENROLLMENT APPLICATION

New York City procures approximately \$17 billion worth of goods, services, construction and construction-related services every year. The NYC Procurement Policy Board Rules require that agencies primarily solicit from established mailing lists called bidder/proposer lists. Registration for these lists is free of charge. To register for these lists, prospective suppliers should fill out and submit the NYC-FMS Vendor Enrollment application, which can be found online at www.nyc.gov/selltonyc. To request a paper copy of the application, or if you are uncertain whether you have already submitted an application, call the Vendor Enrollment Center at (212) 857-1680.

SELLING TO GOVERNMENT TRAINING WORKSHOP

New and experienced vendors are encouraged to register for a free training course on how to do business with New York City. "Selling to Government" workshops are conducted by the Department of Small Business Services at 110 William Street, New York, NY 10038. Sessions are convened on the second Tuesday of each month from 10:00 A.M. to 12:00 P.M. For more information, and to register, call (212) 618-8845 or visit www.nyc.gov/html/sbs/nycbiz and click on Summary of Services, followed by Selling to Government.

PRE-QUALIFIED LISTS

New York City procurement policy permits agencies to develop and solicit from pre-qualified lists of vendors, under prescribed circumstances. When an agency decides to develop a pre-qualified list, criteria for pre-qualification must be clearly explained in the solicitation and notice of the opportunity to pre-qualify for that solicitation must be published in at least five issues of the CR. Information and qualification questionnaires for inclusion on such lists may be obtained directly from the Agency Chief Contracting Officer at each agency (see Vendor Information Manual). A completed qualification questionnaire may be submitted to an Agency Chief Contracting Officer at any time, unless otherwise indicated, and action (approval or denial) shall be taken by the agency within 90 days from the date of submission. Any denial or revocation of pre-qualified status can be appealed to the Office of Administrative Trials and Hearings (OATH). Section 3-10 of the Procurement Policy Board Rules describes the criteria for the general use of pre-qualified lists. For information regarding specific pre-qualified lists, please visit www.nyc.gov/selltonyc.

NON-MAYORAL ENTITIES

The following agencies are not subject to Procurement Policy Board Rules and do not follow all of the above procedures: City University, Department of Education, Metropolitan Transportation Authority, Health & Hospitals Corporation, and the Housing Authority. Suppliers interested in applying for inclusion on bidders lists for Non-Mayoral entities should contact these entities directly at the addresses given in the Vendor Information Manual.

PUBLIC ACCESS CENTER

The Public Access Center is available to suppliers and the public as a central source for supplier-related information through on-line computer access. The Center is located at 253 Broadway, 9th floor, in lower Manhattan, and is open Monday through Friday from 9:30 A.M. to 5:00 P.M., except on legal holidays. For more information, contact the Mayor's Office of Contract Services at (212) 341-0933 or visit www.nyc.gov/mocs.

ATTENTION: NEW YORK CITY MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

Join the growing number of Minority and Women-Owned Business Enterprises (M/WBEs) that are competing for New York City's business. In order to become certified for the program, your company must substantiate that it: (1) is at least fifty-one percent (51%) owned, operated and controlled by a minority or woman and (2) is either located in New York City or has a significant tie to New York City's business community. To obtain a copy of the certification application and to learn more about this program, contact the Department of Small Business Services at (212) 513-6311 or visit www.nyc.gov/sbs and click on M/WBE Certification and Access.

PROMPT PAYMENT

It is the policy of the City of New York to pay its bills promptly. The Procurement Policy Board Rules generally require that the City pay its bills within 30 days after the receipt of a proper invoice. The City pays interest on all late invoices. However, there are certain types of payments that are not eligible for interest; these are listed in Section 4-06 of the Procurement Policy Board Rules. The Comptroller and OMB determine the interest rate on late payments twice a year: in January and in July.

PROCUREMENT POLICY BOARD RULES

The Rules may also be accessed on the City's website at www.nyc.gov/selltonyc

COMMON ABBREVIATIONS USED IN THE CR

The CR contains many abbreviations. Listed below are simple explanations of some of the most common ones appearing in the CR:

ACCO	Agency Chief Contracting Officer
AMT	Amount of Contract
CSB	Competitive Sealed Bid including multi-step
CSP	Competitive Sealed Proposal including multi-step
CR	The City Record newspaper
DP	Demonstration Project
DUE	Bid/Proposal due date; bid opening date
EM	Emergency Procurement
FCRC	Franchise and Concession Review Committee
IFB	Invitation to Bid
IG	Intergovernmental Purchasing
LBE	Locally Based Business Enterprise
M/WBE	Minority/Women's Business Enterprise
NA	Negotiated Acquisition
OLB	Award to Other Than Lowest Responsive Bidder/Proposer
PIN	Procurement Identification Number
PPB	Procurement Policy Board
PQL	Pre-qualified Vendors List
RFEI	Request for Expressions of Interest
RFI	Request for Information
RFP	Request for Proposals
RFQ	Request for Qualifications
SS	Sole Source Procurement
ST/FED	Subject to State and/or Federal requirements

KEY TO METHODS OF SOURCE SELECTION

The Procurement Policy Board (PPB) of the City of New York has by rule defined the appropriate methods of source selection for City procurement and reasons justifying their use. The CR procurement notices of many agencies include an abbreviated reference to the source selection method utilized. The following is a list of those methods and the abbreviations used:

CSB	Competitive Sealed Bidding including multi-step <i>Special Case Solicitations/Summary of Circumstances:</i>
CSP	Competitive Sealed Proposal including multi-step
CP/1	Specifications not sufficiently definite
CP/2	Judgement required in best interest of City
CP/3	Testing required to evaluate
CB/PQ/4	
CP/PQ/4	CSB or CSP from Pre-qualified Vendor List /Advance qualification screening needed
DP	Demonstration Project
SS	Sole Source Procurement/only one source
RS	Procurement from a Required Source/ST/FED
NA	Negotiated Acquisition <i>For ongoing construction project only:</i>
NA/8	Compelling programmatic needs
NA/9	New contractor needed for changed/additional work
NA/10	Change in scope, essential to solicit one or limited number of contractors

NA/11	Immediate successor contractor required due to termination/default <i>For Legal services only:</i>
NA/12	Specialized legal devices needed; CSP not advantageous
WA	Solicitation Based on Waiver/Summary of Circumstances (<i>Client Services/CSB or CSP only</i>)
WA1	Prevent loss of sudden outside funding
WA2	Existing contractor unavailable/immediate need
WA3	Unsuccessful efforts to contract/need continues
IG	Intergovernmental Purchasing (award only)
IG/F	Federal
IG/S	State
IG/O	Other
EM	Emergency Procurement (award only): An unforeseen danger to:
EM/A	Life
EM/B	Safety
EM/C	Property
EM/D	A necessary service
AC	Accelerated Procurement/markets with significant short-term price fluctuations
SCE	Service Contract Extension/insufficient time; necessary service; fair price <i>Award to Other Than Lowest Responsible & Responsive Bidder or Proposer/Reason (award only)</i>
OLB/a	anti-apartheid preference
OLB/b	local vendor preference
OLB/c	recycled preference
OLB/d	other: (specify)

HOW TO READ CR PROCUREMENT NOTICES

Procurement notices in the CR are arranged by alphabetically listed Agencies, and within Agency, by Division if any. The notices for each Agency (or Division) are further divided into three subsections: Solicitations, Awards; and Lists & Miscellaneous notices. Each of these subsections separately lists notices pertaining to Goods, Services, or Construction.

Notices of Public Hearings on Contract Awards appear at the end of the Procurement Section.

At the end of each Agency (or Division) listing is a paragraph giving the specific address to contact to secure, examine and/or to submit bid or proposal documents, forms, plans, specifications, and other information, as well as where bids will be publicly opened and read. This address should be used for the purpose specified unless a different one is given in the individual notice. In that event, the directions in the individual notice should be followed.

The following is a SAMPLE notice and an explanation of the notice format used by the CR.

SAMPLE NOTICE:

POLICE

DEPARTMENT OF YOUTH SERVICES

■ SOLICITATIONS

Services (Other Than Human Services)

BUS SERVICES FOR CITY YOUTH PROGRAM – Competitive Sealed Bids – PIN# 056020000293 – DUE 04-21-03 AT 11:00 A.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

NYPD, Contract Administration Unit, 51 Chambers Street, Room 310, New York, NY 10007. Manuel Cruz (646) 610-5225.

☛ m27-30

ITEM	EXPLANATION
POLICE DEPARTMENT	Name of contracting agency
DEPARTMENT OF YOUTH SERVICES	Name of contracting division
■ SOLICITATIONS	Type of Procurement action
<i>Services (Other Than Human Services)</i>	Category of procurement
BUS SERVICES FOR CITY YOUTH PROGRAM	Short Title
CSB	Method of source selection
PIN # 056020000293	Procurement identification number
DUE 04-21-03 AT 11:00 am	Bid submission due 4-21-03 by 11:00 am; bid opening date/time is the same.
<i>Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents; etc.</i>	Paragraph at the end of Agency Division listing providing Agency contact information
	NYPD, Contract Administration Unit 51 Chambers Street, Room 310 New York, NY 10007. Manuel Cruz (646) 610-5225.
☛	Indicates New Ad
m27-30	Date that notice appears in The City Record