

THE COUNCIL

Minutes of the Proceedings for the
STATED MEETING
of
Wednesday August 9, 2017, 2:00 p.m.

The Public Advocate (Ms. James)
Acting President Pro Tempore and Presiding Officer

Council Members

Melissa Mark-Viverito, *Speaker*

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

Absent: Council Members Cabrera, Espinal, King, Mealy, Palma and Van Bramer.
Maternity Leave: Council Member Cumbo.
Bereavement Leave: Council Member Matteo.

There is presently a vacant seat in the Council (28th Council District, Queens).

The Public Advocate (Ms. James) assumed the chair as the Acting President Pro Tempore and Presiding Officer for these proceedings.

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Public Advocate (Ms. James).

There were 42 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, New York, N.Y.

INVOCATION

The Invocation was delivered by Bishop Joseph Northover, Pastor, House of God Miracle Center, 509 E. 78th Street, Brooklyn N.Y. 11236.

Oh, God and dear Father, you are the God of man and there is none other.
 The covenant with us is cemented in your love, your care
 and your protective measures are most pronounced throughout your holy book.
 Words are not enough in expressing our gratitude and offering praise and thankful—
 just thankful to you for life, for health and for hope.
 You amaze us as you wrap our arms of love around us,
 and by our faith and prayers you have equipped us
 with everything for success and for your glory.
 You are the counselor of all ages, and have laid the foundation for rich inventions.
 You have impacted our lives in many ways and different levels.
 We are known for our specialized areas, our expertise and to be versatile.
 For this we are thankful.
 We have done on behalf of ourselves and those we call to serve.
 Thus, we have been identified with something great than the agenda of one.
 As we collectively and will actively connect people to purpose.
 It is identified and confirmed that much has been accomplished
 relative to the purpose for which we exist.
 We have been so logistic focused and innovative.
 However, we have acknowledged our limitations and our grave inadequacies.
 In that we are finite, but thou, oh, God are infinite,
 but our abilities to succeed are hinged on the word of truth,
 your word that we can do all things to you, oh, God
 who strengthens us and that without faith it is impossible to please you,
 and that with you, God, all things are possible.
 We have become aware of the vision needed,
 the wisdom and the understanding to applied as we progress,
 as we invent, as we make possible in the quest of strengthening relationships,
 correcting errors, maintaining integrity, embracing ambitions
 and building bridges in the midst of threats, challenges and sometimes tragedies.
 But today, we are to be reminded with you
 all that God of all things of all people and over every jurisdiction
 that you are the ancient of days and the ancients of ancients,
 but your ways are passed finding out and power is absolute.
 But there is no power above you, beside your or beyond you.
 Your kingdom remains from everlasting to everlasting.
 You have given us the wisdom, the knowledge, the understanding.
 You have allowed perceptions—perceptions and intrusion

so we may serve well the cause with clarity, precision and deep commitment.
May your wisdom and blessing be multiplied upon this Council now and forever.
Amen.

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

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

Former NYPD Police Officer Phillip Matteo, father of the Minority Leader (Council Member Matteo), passed away on August 8, 2017 at the age of 72. The Speaker (Council Member Mark-Viverito) offered her condolences to Council Member Matteo and his family and to those who served with Officer Matteo as well.

Andrew Sandler, District Manager of Bronx Community Board 7 and former Director of Community Affairs for Council Member Andy Cohen and former Council Member Oliver Koppell, passed away on August 5, 2017. He died at the age of 31 following a battle with cancer. Mr. Sandler left behind a legacy of dedicated civil service.

Julia Harrison, former Council Member and former Assembly Member from the Borough of Queens, died on August 3, 2017 at the age of 97. She served her Flushing neighborhood in the Council for 16 years from 1986 to 2001. Council Member Harrison also held the distinction of being the first woman elected to the District 19 seat in the Council and the District 26 seat in the State Assembly.

COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES

Preconsidered M-535

Mr. Michael Rivadeneyra, a resident of the Bronx, candidate for designation by the Council and subsequent appointment by the Mayor to the New York City Civilian Complaint Review Board.

(For related report, please see the Report of the Committee on Rules, Privileges and Elections for M-535 printed in the Report of the Standing Committees section of these Minutes)

Referred to the Committee on Rules, Privileges and Elections.

LAND USE CALL-UPS

M-536

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

Pursuant to Rule 11.20(c) of the Council Rules and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the actions of the City Planning Commission on Uniform Land Use Review Procedure application nos. C 170093 MMM and C 170278 PPM shall be subject to Council review. These items are related to application nos. C 170275 ZMM and N 170276 ZRM, which are subject to Council review pursuant to Sections 197-c and 201 of the New York City Charter.

Coupled on Call-Up Vote.

M-537

By Council Member Chin:

Pursuant to Rule 11.20(c) of the Council Rules and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure application no. C 160349 ZSM shall be subject to Council review.

Coupled on Call-Up Vote.

The Public Advocate (Ms. James) put the question whether the Council would agree with and adopt such motions which were decided in the **affirmative** by the following vote:

Affirmative – Barron, Borelli, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – **42**.

At this point, the Public Advocate (Ms. James) declared the aforementioned items **adopted** and referred these items to the Committee on Land Use and to the appropriate Land Use subcommittee.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Consumer Affairs

Report for Int. No. 1648-A

Report of the Committee on Consumer Affairs in favor of approving and adopting, as amended, a Local Law to amend the New York city charter, in relation to establishing an office of nightlife and a nightlife advisory board.

The Committee on Consumer Affairs, to which the annexed amended proposed local law was referred on March 12, 2014 (Minutes, page 1936), respectfully

REPORTS:

I. INTRODUCTION

On Monday, June 19, 2017, the Committee on Consumer Affairs, chaired by Council Member Rafael Espinal, held an oversight hearing titled “Enforcement of New York City’s Cabaret Law,” and its first hearing on Introductory Bill Number 1648 (“Intro. 1648”). Those invited to testify included the Administration, representatives of the nightlife industry, advocates, community boards and other interested parties.

On Friday, August 4, 2017, the Committee on Consumer Affairs will hold a vote on Proposed Introductory Bill 1648-A (Proposed Int. No. 1648-A), A Local Law to amend the New York city charter, in relation to establishing an office of nightlife and a nightlife advisory board.

II. BACKGROUND

As the population of New York City continues to grow, people and businesses are moving into the outer boroughs, resulting in higher demand for bars, restaurants and entertainment spaces. Between 2000 and 2015, business in the city grew, but businesses in the Downtown and Midtown Central Business Districts fell from 39% to 31%. In the City’s gentrifying neighborhoods business grew by 45%.¹ Among such establishments is the growing popularity of “do-it-yourself venues” or “DIY venues,” often located in vacant warehouses, office spaces, waterfront parks, and even laundromats. For example, the Metro Community Laundromat in Williamsburg became one such location hosting the “Dirty Disco Laundrette Party.”² This growth has also coincided with an increase in the number of resident noise complaints, particularly in the Brooklyn neighborhoods of Williamsburg and Bushwick.³ It has also led to concerns over safety.

In December 2016, a deadly fire during a pop-up type party in a warehouse space in Oakland, California placed the spotlight on the dangers of illegal clubs that do not meet safety standards. A fire broke out resulting in 36 deaths from smoke inhalation. The building was in violation of fire and electrical codes.⁴ The tragedy caused cities across the nation to take notice of DIY venues operating illegally and the potential risks they pose.⁵

¹ Office of the New York City Comptroller, *The New Geography of Jobs: A Blueprint for Strengthening NYC Neighborhoods* (Executive Summary), April 25, 2017, <https://comptroller.nyc.gov/reports/the-new-geography-of-jobs-a-blueprint-for-strengthening-nyc-neighborhoods/>

² J. Rachel Reyes, “Pop-Up Disco at Metro Community Laundromat. Wait. What?” (June 13, 2011), *Free Williamsburg*, <http://freewilliamsburg.com/pop-up-disco-at-metro-community-laundromat>

³ Ben Wellington, Mapping New York’s noisiest neighborhoods,” (January 17, 2015), *The New Yorker*, <http://www.newyorker.com/tech/elements/mapping-new-york-noise-complaints>

⁴ Paige St. John, “The Ghost Ship fire was 'a matter of benign neglect.' It's not the only one,” (December 28, 2016), *LA Times*, <http://www.latimes.com/local/lanow/la-me-ghost-ship-owner-20161227-story.html>

⁵ Judy Woodruff, “After Oakland fire, a nationwide crackdown on warehouse spaces,” (December 9, 2016), *PBS*, <http://www.pbs.org/newshour/bb/oakland-fire-nationwide-crackdown-warehouse-spaces/>

Regulating the nightlife industry is certainly not a unique issue facing New York City. Cities across the United States and indeed the world have taken unique approaches to address concerns with the nightlife industry. One such approach, spearheaded by the city of Amsterdam is the introduction of a *nachtburgemeester* – or “night mayor,” who is responsible for nurturing the nightlife economy and improving relations between nightlife businesses, residents and government. The “night mayor” and representatives from its office patrol nightlife hot spots and remind patrons to keep noise levels down, use appropriate bathroom facilities, etcetera. They do not conduct enforcement. The model’s success has led to its adoption in cities like Paris, Toulouse, Zurich, London and Berlin.⁶

In the United States, San Francisco established the San Francisco Entertainment Commission to regulate, promote and enhance entertainment and nightlife in the city of San Francisco. The Commission is authorized to accept, review and gather information to conduct hearings for entertainment related permit applications.⁷ The San Francisco Commission also worked with that city’s Office of Economic and Workforce Development to create a resources portal to support its nightlife and entertainment businesses.⁸

At the June hearing various parties commented on the Int. No. 1648, indicating support for the Task Force and as well as a desire to participate in it. Among the suggestions were that the Task Force become a standing advisory board providing ongoing input with respect to an industry that is evolving in our large and diverse city.

III. PROPOSED INT. NO. 1648

This bill would establish a permanent Nightlife Advisory Board and an Office of Nightlife to address issues relating to the nightlife industry. The Advisory Board would consist of 12 members, four selected by the Mayor and eight selected by the Speaker of the Council.

The Office of Nightlife is headed by a Director, whose duties include:

- 1) Serving as a liaison to nightlife establishments in relation to city policies and procedures affecting the nightlife industry, including conducting outreach and providing information or assistance to nightlife establishments in navigating enforcement actions, licensing or other requirements;
- 2) Advising the mayor and city agencies on nightlife related issues;
- 3) Reviewing information obtained from 311 or other city agencies on complaints regarding and violations issued to nightlife establishments and developing recommendations to address recurring problems or trends, in consultation with industry representatives, advocates, city agencies, community boards and residents;
- 4) Serving as the intermediary between city agencies, residents and the nightlife industry to pursue long-term solutions;
- 5) Reviewing relevant information relating to nightlife industry workforce conditions and collaborate with the department of consumer affairs’ office of labor policy and standards to address common issues or trends;
- 6) Promoting an economically vibrant nightlife industry, taking into account the best interests of the city and its residents; and
- 7) Performing any other duties the Mayor may assign.

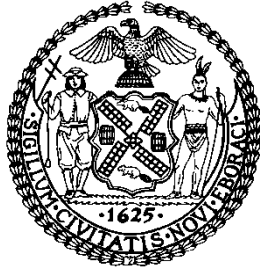
In its first year, the Office will host at least one meeting in each borough to collect testimony from the public. The Director must issue an annual report to the Mayor and the Council on an ongoing basis. The report would provide an overview of the Office’s activities and any recommendations addressing nightlife issues.

(The following is the text of the Fiscal Impact Statement for Int. No. 1648-A:)

⁶ Feargus O’Sullivan, “A ‘Night Mayor’ Is Transforming Amsterdam After Dark,” (January 29, 2016), *The Atlantic*, <https://www.citylab.com/solutions/2016/01/night-mayor-amsterdam-mirik-milan/433893/>

⁷ City and County of San Francisco, Entertainment Commission, <http://sfgov.org/entertainment/>

⁸ *Ibid.*



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

INTRO. NO: 1648-A
COMMITTEE: Consumer Affairs

TITLE: A local law to amend the administrative code of the city of New York, in relation to establishing an office of nightlife and a nightlife advisory board
SPONSOR(S): Council Members Espinal, Reynoso, Koslowitz, Johnson and Torres

SUMMARY OF LEGISLATION: This legislation would establish an Office of Nightlife and a Nightlife Advisory Board. The Office of Nightlife would be headed by a director with the responsibility for serving as a liaison to nightlife establishments by conducting outreach, providing information about city policies to such establishments and serving as a point of contact between nightlife establishments and other City agencies. The director would also have the power to advise and assist the Mayor and agency heads on relevant issues, review information from 311 on complaints and violations, develop recommendations to address recurring problems and propose long-term solutions, and promote an economically and culturally vibrant nightlife industry while accounting for the best interests of the City. The Office of Nightlife would also be required to produce an annual report on its activities and recommendations within 18 months of the effective date of the law. The Nightlife Advisory Board would exist to examine issues relating to nightlife establishments and consist of 12 members who would serve two year terms as follows: the Police Commissioner or designee, the Fire Commissioner or designee, the Buildings Commissioner or designee, the Cultural Affairs Commissioner or designee, and eight members of the public appointed by the Council. The Advisory Board would be required to develop a procedure by which members of the public may make submissions to the Board.

EFFECTIVE DATE: This local law would take effect 60 days after it becomes law. The mayor would be able to take any steps necessary for the implementation of this local law before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY19 | Full Fiscal Impact FY19 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$305,250 | \$407,000 | \$407,000 |
| Net | (\$305,250) | (\$407,000) | (\$407,000) |

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated this legislation would impact expenditures in the amount of \$407,000 annually. This represents the annual salary and benefits for a director and an assistant director of the Office of Nightlife. Further, this cost estimate assumes OTPS costs of \$37,000 annually to provide computers, office space, and other supplies. For the roughly nine months of Fiscal 2018 during which this legislation would be effective, Council Finance estimates that this legislation would impact expenditures in the amount of \$305,250.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Aliya Ali, Senior Legislative Financial Analyst, Finance Division

ESTIMATE REVIEWED BY: Crilhien Francisco, Unit Head, Finance Division
Nathan Toth, Deputy Director, Finance Division
Rebecca Chasan, Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced by the Council on June 15, 2017 as Intro. No. 1648 and referred to the Committee on Consumer Affairs. A hearing was held by the Committee on Consumer Affairs on June 19, 2017 and the bill was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1648-A, will be voted on by the Committee on Consumer Affairs at a hearing on August 4, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1648-A will be submitted to the full Council for a vote on August 24, 2017.

DATE PREPARED: August 2, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 1648-A:)

Int. No. 1648-A

By Council Members Espinal, Reynoso, Koslowitz, Johnson, Torres, Gentile, Kallos, Rosenthal and Treyger.

A Local Law to amend the New York city charter, in relation to establishing an office of nightlife and a nightlife advisory board

Be it enacted by the Council as follows:

Section 1. Chapter 1 of the New York city charter is amended by adding a new section 20-d to read as follows:

§ 20-d. *Office of nightlife.* a. *Definitions.* For the purposes of this section the following terms have the following meanings:

Director. The term “director” means the director of the office of nightlife.

Nightlife establishment. The term “nightlife establishment” means an establishment that is open to the public for entertainment or leisure, serves alcohol or where alcohol is consumed on the premises, and conducts a large volume of business at night. Such term includes, but is not limited to, bars, entertainment venues, clubs and restaurants.

Office. The term “office” means the office of nightlife.

b. The mayor shall establish an office of nightlife. Such office may be established within any office of the mayor or as a separate office or within any department that does not conduct enforcement against nightlife establishments. Such office shall be headed by a director who shall be appointed by the mayor or by the head of such office or department.

c. *Powers and duties.* The director shall have the power and duty to:

1. Serve as a liaison to nightlife establishments in relation to city policies and procedures affecting the nightlife industry and, in such capacity, shall:

(a) Conduct outreach to nightlife establishments and provide information and assistance to such establishments in relation to existing city policies and procedures for responding to complaints, violations and other enforcement actions, and assist in the resolution of conditions that lead to enforcement actions;

(b) Serve as a point of contact for nightlife establishments and ensure adequate access to the office that is responsive to the nature of the nightlife industry; and

(c) Work with other city agencies to refer such establishments to city services that exist to help them in seeking to obtain relevant licenses, permits or approvals from city agencies;

2. Advise and assist the mayor and the heads of city agencies that have powers and duties relating to nightlife establishments including, but not limited to, the department of consumer affairs, the police department, the fire department, the department of health and mental hygiene, the department of city planning, the department of buildings and the department of small business services, on issues relating to the nightlife industry;

3. Review information obtained from 311 or other city agencies on complaints regarding and violations issued to nightlife establishments and develop recommendations to address recurring problems or trends, in consultation with industry representatives, advocates, city agencies, community boards and residents;

4. Serve as the intermediary between city agencies, including law enforcement agencies, residents and the nightlife industry to pursue, through policy recommendations, long-term solutions to issues related to the nightlife industry;

5. Review and convey to the office of labor standards information relating to nightlife industry workforce conditions and upon request, assist such office in developing recommendations to address common issues or trends related to such conditions;

6. Promote an economically and culturally vibrant nightlife industry, while accounting for the best interests of the city and its residents; and

7. Perform other relevant duties as the mayor may assign.

d. Notwithstanding subdivision c of this section, paragraph 1 of such subdivision shall not apply to any cultural organization that is identified by the department of cultural affairs as eligible to receive grant funding from such department, except as otherwise determined by the director and such department.

e. Report. Within 18 months of the effective date of this section, and annually thereafter, the director shall prepare and submit a report to the mayor and the speaker of the council that shall include, but not be limited to, the activities of the office and any recommendations developed by the director pursuant to this section.

f. Nightlife advisory board. 1. There shall be a nightlife advisory board to advise the mayor and the council on issues relating to nightlife establishments. The advisory board shall identify and study common issues and trends relating to the nightlife industry and shall make recommendations, as appropriate, to the mayor and the council on ways to improve laws and policies that impact nightlife establishments. The nightlife advisory board shall examine the following: (i) the regulatory structure of the nightlife industry; (ii) common complaints regarding nightlife establishments; (iii) public safety concerns related to the nightlife industry; (iv) the enforcement of nightlife industry-related laws and rules; (v) zoning and other community development concerns related to the nightlife industry; (vi) integration of the nightlife industry into the city's various neighborhoods; (vii) nightlife workforce conditions, including but not limited to, wages and workforce safety; (viii) the availability and responsiveness of the office of nightlife to concerns of nightlife establishments; and (ix) any other issues the nightlife advisory board finds are relevant.

2. The nightlife advisory board shall consist of 12 members, of whom eight members shall be appointed by the speaker of the council and four by the mayor. Such board shall provide reasonable notice of its meetings to the director, who may attend such meetings and may coordinate the attendance of relevant agency heads or their designees.

3. All members shall serve for a term of two years and may be removed by the appointing official for cause. Upon appointment of all the members, the nightlife advisory board shall elect a chair from its membership by a majority vote of such advisory board. Any vacancy on the nightlife advisory board shall be filled in the same manner as an original appointment.

4. The nightlife advisory board shall keep a record of its deliberations and determine its own rules of procedure, which shall include a procedure or mechanism by which members of the public may make submissions to the board. The first meeting of the nightlife advisory board shall be convened within 120 days after the effective date of this section.

g. Nothing in this section shall be construed to limit the powers of any other agency pursuant to any other law or to limit, bind or affect the decision of any agency or officer pursuant to any process required pursuant to the charter or any other law.

§ 2. Within one year after the effective date of this local law, the director of the office of nightlife, established pursuant to section 20-d of the New York city charter, as added by section one of this local law, shall hold at least one public hearing in each borough and shall notify members of the nightlife advisory board of such hearing, at which public comments and testimony shall be received. A summary of such comments and testimony shall be included in such director's first report to the mayor and the speaker of the council pursuant to subdivision e of section 20-d of the New York city charter.

§ 3. This local law takes effect 60 days after it becomes law. The mayor may take any steps necessary for the implementation of this local law before such effective date.

RAFAEL L. ESPINAL, Jr., *Chairperson*; KAREN KOSLOWITZ, RORY I. LANCMAN; Committee on Consumer Affairs, August 4, 2017.

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

Report of the Committee on Finance

At this point, the Speaker (Council Member Mark-Viverito) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for Int. No. 1676

Report of the Committee on Finance in favor of approving and adopting, a Local Law to amend the administrative code of the city of New York, in relation to increasing the maximum qualifying income for the senior citizen homeowner's exemption and the disabled homeowner's exemption.

The Committee on Finance, to which the annexed preconsidered proposed local law was referred on August 9, 2017, respectfully

REPORTS:

I. Introduction

On August 9, 2017, the Committee on Finance, chaired by Council Member Julissa Ferreras-Copeland, will hold a second hearing on a Preconsidered Introduction (Int.), sponsored by Council Member Chaim Deutsch (in conjunction with the Mayor), *A Local Law to amend the administrative code of the city of New York, in relation to the increasing the maximum qualifying income for the senior citizen homeowner's exemption and the disabled homeowner's exemption*. The Committee held a first hearing on this legislation on August 8, 2017, at which time the Committee heard testimony from the New York City Department of Finance (DOF) and members of the public in support of the legislation. The legislation will be introduced to the full Council on August 9, 2017.

II. Background

The Senior Citizen Homeowner's Exemption (SCHE) and the Disabled Homeowner's Exemption (DHE) were enacted to provide low-income senior citizen and disabled homeowners with some relief from real property taxes by exempting a percentage of the assessed value of qualifying real property from taxation.

SCHE is available on real property that is owned by a person 65 years or older.

¹ DHE is available on real property that is owned by a person with a disability.² If the property is owned

by spouses or siblings, only one owner must be 65 years of age or older or have a disability in order to qualify for the exemption.³ In the case of SCHE, the property must be the primary legal residence of all the owners except when: (1) one of the owners is a non-resident because of divorce, legal separation or abandonment or (2) one of the owners is receiving health-related services as an in-patient of a residential health care facility.⁴ In the case of DHE, the property must be the primary legal residence of the person with a disability unless the person is a non-resident because he or she is receiving health-related care as an inpatient of a residential health care facility.⁵

For both SCHE and DHE, in order to be eligible for the exemption, the combined income of the property owners cannot exceed \$37,399.⁶ SCHE and DHE provide real property tax exemptions on a sliding scale ranging from five percent to 50 percent of the assessed value of the property based on owner income, with the five percent exemption available to owners with incomes between \$36,500 and \$37,399 and the 50 percent exemption available to owners with incomes of \$29,000 or less.⁷

Property owners who qualify for both SCHE and DHE can only receive one of these benefits.⁸ In such cases, DOF enrolls the property in SCHE.⁹

In Fiscal 2017, the City exempted a combined total of \$788.1 million in assessed property value, which provided \$142.8 million in real property tax relief to low-income senior citizen and disabled homeowners.

| | Number of Exemptions | Total Value of Benefits |
|-------|----------------------|-------------------------|
| SCHE | 52,787 | \$130.7 million |
| DHE | 4,940 | \$12.1 million |
| Total | 57,727 | \$142.8 million |

Source: DOF Fiscal 2017 Annual Report on Tax Expenditures

On July 25, 2017, the State enacted Chapter 131 of the Laws of 2017, which authorizes the Council to increase the maximum income eligibility level to \$58,399 beginning in Fiscal 2018. The graduated exemption (between five and 50 percent of assessed value based on income) remains in place, with owners earning between \$57,500 and \$58,399 receiving the five percent exemption and owners earning \$50,000 or less receiving the 50 percent exemption.

III. Analysis of Preconsidered Int. No. 1676

Section 1 of the Preconsidered Int. would amend Section 11-245.3(3)(a) of the Administrative Code (the Code) to increase the maximum eligible income for SCHE's 50 percent exemption to \$50,000 beginning on July 1, 2017.

Section 2 of the Preconsidered Int. would amend Section 11-245.3(7) of the Code to provide for the graduated SCHE exemption as follows:

Percentage Assessed Valuation

¹ See NYC Administrative Code §11-245.3(1)

² See NYC Administrative Code §11-245.4(1)(a). A person with a disability is defined as a person who has a physical or mental impairment which substantially limits the ability to engage in a major life activity and who (i) is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI), or (ii) is certified to receive railroad retirement disability benefits under the federal railroad retirement act, or (iii) has received a certificate from the state commission for the blind and visually handicapped stating that such person is legally blind, or (iv) is certified to receive a United States postal service disability pension. See NYC Administrative Code §11-245.4(1)(b)

³ See NYC Administrative Code §§11-245.3(1) and 11-245.4(1)(a)

⁴ See NYC Administrative Code §11-245.3(3)(d)

⁵ See NYC Administrative Code §11-245.4(3)(c)

⁶ See NYC Administrative Code §§11-245.3(3)(a) and 11-245.4(3)(a)

⁷ See NYC Administrative Code §§11-245.3(7) and 11-245.4(6)

⁸ See NYC Administrative Code §§11-245.3(11) and 11-245.4(7)

⁹ See <http://www1.nyc.gov/site/finance/benefits/landlords-dhe.page>

| <u>Annual Income as of July 1, 2017</u> | <u>Exempt From Taxation</u> |
|---|-----------------------------|
| More than \$50,000 but less than \$51,000 | 45 percent |
| \$51,000 or more but less than \$52,000 | 40 percent |
| \$52,000 or more but less than \$53,000 | 35 percent |
| \$53,000 or more but less than \$53,900 | 30 percent |
| \$53,900 or more but less than \$54,800 | 25 percent |
| \$54,800 or more but less than \$55,700 | 20 percent |
| \$55,700 or more but less than \$56,600 | 15 percent |
| \$56,600 or more but less than \$57,500 | 10 percent |
| \$57,500 or more but less than \$58,400 | 5 percent |

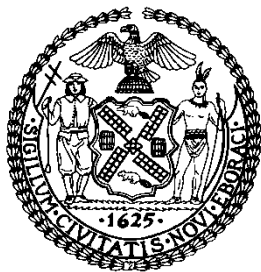
Section 3 of the Preconsidered Int. would amend Section 11-245.4(3)(a) of the Administrative Code (the Code) to increase the maximum eligible income for DHE’s 50 percent exemption to \$50,000 beginning on July 1, 2017.

Section 4 of the Preconsidered Int. would amend Section 11-245.4(6) of the Code to provide for the graduated DHE exemption as follows:

| <u>Annual Income as of July 1, 2017</u> | <u>Percentage Assessed Valuation Exempt From Taxation</u> |
|---|---|
| More than \$50,000 but less than \$51,000 | 45 percent |
| \$51,000 or more but less than \$52,000 | 40 percent |
| \$52,000 or more but less than \$53,000 | 35 percent |
| \$53,000 or more but less than \$53,900 | 30 percent |
| \$53,900 or more but less than \$54,800 | 25 percent |
| \$54,800 or more but less than \$55,700 | 20 percent |
| \$55,700 or more but less than \$56,600 | 15 percent |
| \$56,600 or more but less than \$57,500 | 10 percent |
| \$57,500 or more but less than \$58,400 | 5 percent |

Section 5 would establish that this local law takes effect immediately and that the provisions apply to applications for exemptions made for Fiscal 2018 and thereafter. This section further establishes that applications for exemptions made for Fiscal 2018 will be considered timely if made within 120 days of the effective date of the local law.

(The following is the text of the Fiscal Impact Statement for Int. No. 1676:)



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

PRECONSIDERED INTRO. NO: 1676

COMMITTEE: Finance

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to increasing the maximum qualifying income for the senior citizen homeowner’s exemption and the disabled homeowner’s exemption.

SPONSOR(S): Council Member Deutsch (in conjunction with the Mayor)

SUMMARY OF LEGISLATION: The Senior Citizen Homeowner's Exemption (SCHE) and the Disabled Homeowner's Exemption (DHE) both provide real property tax exemptions on a sliding scale based on owner income. SCHE is available to homeowners 65 years or older. DHE is available to homeowners who have a disability. The graduated exemption ranges between five and 50 percent of the assessed value of the property. The proposed legislation would raise the maximum eligible income for both programs. Under the proposed legislation, the maximum eligible income for the 50 percent exemption would be raised from \$29,000 to \$50,000. The maximum eligible income for the five percent exemption would be raised from \$37,399 to \$58,399.

EFFECTIVE DATE: This legislation would take effect immediately and would apply to applications made for an exemption in Fiscal 2018 and all fiscal years thereafter. Applications received for Fiscal 2018 would be considered timely if they were filed within 120 days of the effective date of this local law, and would apply retroactively to cover the full fiscal year.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is anticipated that this legislation would have a cost of \$65.5 million in Fiscal 2018 to cover the additional benefits provided to current recipients of SCHE and DHE and the new benefits provided to newly eligible enrollees. Council Finance estimates the cost in Fiscal 2019 will fall to \$46.5 million, as class rates adjust to the increased exemptions. Therefore, the longer-term cost is reflected as the newly exempted amount times the overall property tax rate of about 12.283%. However, it is estimated that there would be no impact on the City's revenues as set forth in the current Financial Plan because the costs related to this legislation have already been reflected in the Plan.

According to the Department of Finance, 52,787 residential property owners received SCHE benefits in Fiscal 2017, and 4,940 received benefits under DHE. The total amount of exempt assessed value under both programs was \$788.2 million resulting in tax savings of \$142.8 million. Department of Finance has estimated that passage of this legislation would impact 35,164 households. This includes 6,164 current SCHE recipients and 25,969 new SCHE recipients. It is estimated that this would result in a net increase in the cost of SCHE by \$59.8 million and DHE by \$5.6 million in Fiscal 2018.

IMPACT ON EXPENDITURES: It is estimated that this bill would not have an impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

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

ESTIMATE PREPARED BY: Davis Winslow, Economist

ESTIMATE REVIEWED BY: Emre Edev, Assistant Director, NYC Council Finance Division
Rebecca Chasan, Counsel, NYC Council Finance Division

LEGISLATIVE HISTORY: The Committee on Finance will hold a hearing on this Preconsidered Introduction on August 8, 2017. The legislation will be voted on by the Committee on Finance at a hearing on August 9, 2017. Upon a successful vote by the Committee, Preconsidered Introduction will be introduced to the full Council and be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 7, 2017.

Accordingly, this Committee recommends its adoption.

(For text of the preconsidered bill, please see the Introduction and Reading of Bills section printed in these Minutes)

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., MARK LEVINE, I. DANEEK MILLER, HELEN K. ROSENTHAL; Committee on Finance, August 9, 2017.

At this point, the Speaker (Council Member Mark-Viverito) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for Int. No. 1677

Report of the Committee on Finance in favor of approving and amending, a Local Law to amend the administrative code of the city of New York, in relation to a wireless communications surcharge.

The Committee on Finance, to which the annexed preconsidered proposed local law was referred on August 9, 2017, respectfully

REPORTS:

I. Introduction

On August 9, 2017, the Committee on Finance, chaired by Council Member Julissa Ferreras-Copeland, will hold a second hearing on a Preconsidered Introduction (Int.), sponsored by Council Member Ferreras-Copeland (by request of the Mayor), *A Local Law to amend the administrative code of the city of New York, in relation to a wireless communications surcharge*. The Committee held a first hearing on this legislation on August 8, 2017, at which time the Committee heard testimony from the New York City Department of Finance (DOF). The legislation will be introduced to the full Council on August 9, 2017.

II. Background

Since 2002, New York City has imposed a surcharge of 30 cents per month on wireless communication service in the City. The surcharge is imposed on every wireless communication device and is reflected and made payable on bills rendered for wireless communication service that is provided to a customer whose primary place of use is within the City.

¹ Wireless telecommunications service users pay the surcharge to service suppliers, who then remit it to the City.² Suppliers are permitted to retain an administrative fee of 2% of their collections.³ Revenue from the surcharge is used to pay for the costs associated with the design, construction, operation, maintenance, and administration of public safety communications networks serving the City.⁴ Both the DOF Commissioner and

¹ L.L. 15/2002 (July 10, 2002). The surcharge currently applies only to contracts for post-paid wireless communication service and not to pre-paid wireless communication service.

² N.Y.C. Admin. Code §11-2344(a)

³ Id. at §11-2344(b)

⁴ Id. at §11-2343(b)

Director of the Office of Management and Budget must separately account for, and keep adequate books and records of the amount and source of, all such collections, as well as the amount and purpose/object of any expenditures made from these funds.⁵

The City was initially authorized to adopt a wireless communications surcharge pursuant to Chapter 93 of the Laws of 2002, signed by then-Governor George Pataki.⁶ As part of legislation enacting various provisions related to taxes within the City, the law empowered the City to impose a 30-cent surcharge on wireless communications devices.⁷ The charge was reflected and made payable on bills rendered for wireless communications service that was provided to a customer whose place of primary use was within the City.⁸ Pursuant to this authorization, the Council enacted Local Law 15 of 2002 in July 2002, amending the Administrative Code to add this surcharge.⁹ The Fiscal Impact Statement prepared by the Council at the time noted that “realized revenue from this surcharge would help fund much needed new security measures stemming from the attack on the World Trade Center.”¹⁰

In April 2017, as part of the New York State Budget, the Legislature passed, and Governor Andrew Cuomo signed into law, a new provision that superseded the existing authorization.¹¹ This new provision required the City to enact a new local law related to wireless communications surcharges by September 1, 2017 (to begin collections on December 1, 2017).¹² The new authorization differs from existing law in several ways: (1) the surcharge will now be administered by the New York State Department of Taxation and Finance (rather than the City), (2) wireless service suppliers will be entitled to an administrative fee of 3% (over the current 2%) of its collections, and (3) the City must now include a 30-cent surcharge on each retail sale of prepaid wireless communications service.¹³ According to a 2015 survey conducted by the New York City Department of Consumer Affairs, approximately 30.1 percent of City residents use prepaid (monthly or pay as you go) service.¹⁴

The Office of Management and Budget assumed the continuation of the current surcharge in the Fiscal 2018 Adopted Financial Plan, representing a total of \$19 million in Fiscal 2018.¹⁵ Based on an analysis by the New York City Council Finance Division, if the City elects not to adopt the new legislation, there would be a shortfall of \$11.1 million in Fiscal 2018. If the City adopts the new legislation, revenues in Fiscal 2018 would increase by \$4.8 million above Plan. The new legislation would increase the annual revenue from the surcharge from the current \$19 million to \$27.2 million.

III. Analysis of Preconsidered Int. No. 1677

Section 1 of the Preconsidered Int. would amend Section 11-2343 of the Administrative Code (the Code) to add a new subdivision d. Section 11-2343(d) would establish that no surcharge shall be imposed pursuant to Chapter 23-B of Title 11 of the Code, governing the wireless communications surcharge, on or after December 1, 2017.

Section 2 of the Preconsidered Int. would add a new Chapter 23-C to Title 11 of the Code entitled “Wireless Communications Surcharge.” The section would additionally add to Chapter 23-C a new Section 11-2351, entitled “Surcharge on wireless communications service” and a new section 11-2352, entitled “Surcharge on the retail sale of each prepaid wireless communications service.”

Subdivision a of new section 11-2351 would impose within the city of New York, in accordance with the provisions of Tax Law 186-g, a surcharge on wireless communications service. The surcharge is defined the

⁵ Id. at §11-2346(a)

⁶ 2002 Sess. Law News of N.Y. Ch. 93, Part F (A. 11817, S. 7783) (McKinney's)

⁷ N.Y. County Law §308-a(1)

⁸ Id.

⁹ L.L. 15/2002

¹⁰ Council of the City of New York Finance Division, *Fiscal Impact Statement: Intro. No. 218* (June 5, 2002), available at <http://legistar.council.nyc.gov/View.ashx?M=F&ID=883107&GUID=BFA287C9-718A-4C22-95C1-D75B65DAEB5C>

¹¹ 2017 Sess. Law News of N.Y. Ch. 59, Part EEE (A. 3009C) (McKinney's)

¹² Id.

¹³ Id.

¹⁴ New York City Department of Consumer Affairs, *New York City Mobile Services Study 7* (November 2015), available at <https://www1.nyc.gov/assets/dca/MobileServicesStudy/Research-Brief.pdf>

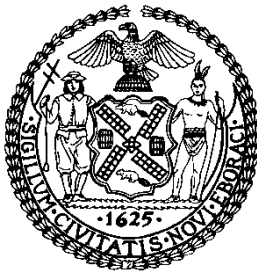
¹⁵ City of New York, Mayor's Office of Management and Budget, *Adopted 2018 Financial Plan Revenue 2017-2021* 52 (June 8, 2017), available at <http://www1.nyc.gov/assets/omb/downloads/pdf/adopt17-rfpd.pdf>

same as in Tax Law §186-g(2)(b).¹⁶ Subdivision b would establish that the surcharge be imposed at a rate of thirty cents per month on each wireless communications device in service during any part of the month. Subdivision c would require wireless communications service suppliers to add the surcharge to the billings of their customers beginning on December 1, 2017.

Subdivision a of new section 11-2532 would impose within the city of New York, in accordance with the provisions of Tax Law §186-g, a surcharge on prepaid wireless communications service. The surcharge is defined the same as in Tax Law 186-g(c).¹⁷ Subdivision b would establish that the surcharge be imposed at the rate of thirty cents per retail sale. Subdivision c would require prepaid wireless communications sellers to collect the surcharge from their customers beginning on December 1, 2017.

Section 3 would establish that this local law takes effect December 1, 2017.

(The following is the text of the Fiscal Impact Statement for Int. No. 1677:)



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

**PROPOSED INTRO. NO: 1677
COMMITTEE: Finance**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to a wireless communications surcharge

SPONSOR(S): By Council Member Ferreras-Copeland (by request of the Mayor)

SUMMARY OF LEGISLATION: Currently, New York City levies a 30-cent per month surcharge on postpaid wireless communications services. However, New York State passed budget legislation in 2017 repealing the authority of the City to levy this surcharge under Article 6 of the County Law, effective December 1, 2017. In its place, the legislation authorizes the City to enact a new, State-administered wireless communications service surcharge, pursuant to Tax Law § 186-g. Under the new authorization, the City would impose a new surcharge on prepaid wireless communications services in addition to postpaid service. Wireless communication service refers to all commercial mobile services, including but not limited to cellphones and broadband communication devices.

This local law would impose, pursuant to the authorization in Tax Law §186-g, a surcharge on wireless communications service. The surcharge would continue to be imposed at a rate of 30 cents per month on each

¹⁶ Tax Law 186-g(2)(b) establishes that “[s]uch surcharge on wireless communications service provided to a wireless communications customer with a place of primary use in a city or county authorized to impose the surcharge by this subdivision shall be imposed at the rate of thirty cents per month on each wireless communications device in service during any part of the month. The surcharge must be reflected and made payable on bills rendered to the wireless communications customer for wireless communications service.” N.Y. Tax Law § 186-g(2)(b)

¹⁷ Tax Law 186-g(2)(c) establishes that “[s]uch surcharge on the retail sale of each prepaid wireless communications service, whether or not any tangible personal property is sold therewith, shall be imposed at the rate of thirty cents per retail sale within a city or county authorized to impose the surcharge by this subdivision. A sale of a prepaid wireless communications service occurs in such city or county if the sale takes place at a seller’s business location in such city or county. If the sale does not take place at the seller’s place of business, it shall be conclusively determined to take place at the purchaser’s shipping address in such city or county or, if there is no item shipped, at the purchaser’s billing address in such city or county, or, if the seller does not have that address, at such address that reasonably reflects the customer’s location at the time of the sale of the prepaid wireless communications service.” N.Y. Tax Law § 186-g(2)(c)

wireless communications device in service during any part of the month. Wireless communications service suppliers would be directed to add the surcharge to the billings of customers beginning on December 1, 2017. The local law would additionally, pursuant to the State Tax Law, impose a new surcharge on prepaid wireless communications service at a rate of 30 cents per retail sale. Prepaid wireless communications sellers would be directed to collect this surcharge from customers beginning on December 1, 2017. Finally, the bill would establish that no surcharge may be imposed pursuant to the current Administrative Code provisions governing the wireless communications service surcharge on or after December 1, 2017.

EFFECTIVE DATE: December 1, 2017

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: 2019

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY19 | Full Fiscal Impact FY19 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$4,800,000 | \$8,200,000 | \$8,200,000 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$4,800,000 | \$8,200,000 | \$8,200,000 |

Impact on Revenues: The continuation of the current surcharge is assumed in the financial plan. The above fiscal impact represents the additional revenues compared to current law, which will no longer be effective as of December 1, 2017. If the City elects not to adopt the new legislation, the City would forego around \$15.9 million in Fiscal 2018, and \$27.2 million in subsequent years. In Fiscal 2018, revenues projected at Adoption, would be reduced by \$11.1 million.

IMPACT ON EXPENDITURES: N/A

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: OMB’s Adopted 2018 Financial Plan and NYC Department of Consumer Affairs.

ESTIMATE PREPARED BY: Paul Sturm, Supervising Economist

ESTIMATE REVIEWED BY: Raymond Majewski, Deputy Director/Chief Economist
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: Article 6 of the County Law to impose a wireless communications surcharge, has been repealed by enacted State budget legislation effective December 1, 2017 (Part EEE of Chapter 59 of the Laws of 2017). In its place, the State authorized a new State-administered wireless surcharge pursuant to Tax Law §186-g. Proposed Intro. No. will receive a hearing on August 8, 2017 by the Finance Committee, and will be voted on August 9, 2017 by the Finance Committee. Upon successful vote by the Committee, Proposed Intro. No. will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 3, 2017.

Accordingly, this Committee recommends its adoption.

(For text of the preconsidered bill, please see the Introduction and Reading of Bills section printed in these Minutes)

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., MARK LEVINE, I. DANEEK MILLER, HELEN K. ROSENTHAL; Committee on Finance, August 9, 2017.

Report of the Committee on Fire and Criminal Justice Services

Report for Int. No. 135-A

Report of the Committee on Fire and Criminal Justice Services in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to reporting response times for firefighting units and ambulances to emergencies.

The Committee on Fire and Criminal Justice Services, to which the annexed proposed amended local law was referred on March 12, 2014 (Minutes, page 629), respectfully

REPORTS:

I. INTRODUCTION

On Tuesday, August 8, 2017, the Committee on Fire and Criminal Justice Services, chaired by Council Member Elizabeth S. Crowley, will vote on Proposed Introductory Bill Number 135-A (“Prop. Int. 135-A”), regarding the Fire Department of the City of New York (“FDNY”), as will be summarized below. The Committee previously held a hearing on this bill on February 23, 2016. At that time, the Committee heard testimony from the Administration, the Independent Budget Office, labor unions, and members of the public.

II. BACKGROUND

The modern New York City Emergency Medical Services (“EMS”) traces its origins to the 1870s when ambulances were dispatched via telegraph from Bellevue Hospital. By 1970, the New York State Legislature had chartered the New York City Health and Hospitals Corporation (“HHC”) as a Public Benefit Corporation (“the Corporation”) to assume EMS-related responsibilities.¹ On February 2, 1996, Mayor Giuliani and City Council Speaker Vallone executed a Memorandum of Understanding, which set forth the terms and conditions pursuant to which the transfer of EMS functions to the Fire Department of the City of New York (“FDNY”) would occur.² On February 15, 1996 the City Council (“the Council”) passed Intro. No. 651-A., which was later signed into law by the mayor on February 26, 1996 and became known as Local Law 20 of 1996. Local law 20 of 1996 amended the New York City Charter and granted the FDNY the power to run EMS. On March 17, 1996 the FDNY assumed the emergency medical and general ambulance duties of HHC.³

Currently, EMS is responsible for delivering ambulance and pre-hospital emergency medical services Citywide. According to the Department, since FDNY became responsible for EMS, the only ambulances routinely dispatched via the City’s emergency 9-1-1 system (“9-1-1 system”) are municipal ambulances and voluntary hospital-based ambulances under contract with the City. Although community based volunteer ambulances respond to medical emergencies, they are not routinely dispatched via the 9-1-1 system. There are more than 30,000 9-1-1 calls per day in New York City.⁴ When people with emergencies dial 9-1-1, they are connected to a New York City Police Department (“NYPD”) call taker. Based on the nature of the emergency, the NYPD call taker transmits information to dispatchers in the

¹New York City Fire Department at http://www.nyc.gov/html/fdny/html/ems_week/ems_history1.html. Last visited 2/22/16.

²Independent Budget Office at <http://www.ibo.nyc.ny.us/iboreports/ems2013.html>. Last visited 2/22/16.

³Independent Budget Office at <http://www.ibo.nyc.ny.us/iboreports/ems2013.html>. Last visited 2/22/16.

⁴The National Workshop of 9-1-1 Overload at <http://www.theindustrycouncil.org/publications/overloaded9-1-1system.pdf>. Last visited 2/22/16/

NYPD, FDNY, and EMS. In a medical emergency, the police call taker conferences in an FDNY Emergency Medical Dispatcher (“EMD”) who is also an Emergency Medical Technician (“EMT”) and certified in Emergency Medical Dispatch procedures who then interacts with the caller. EMD call takers provide pre-arrival instructions to callers over the phone. In calendar year (“CY”) 2014, EMS was responsible for 1,022,494 hospital transports.⁵

The two main types of ambulances that operate in New York City are Advanced Life Support ambulances (“ALS”), which are staffed by two paramedics, and Basic Life Support ambulances (“BLS”), which are staffed by two emergency medical technicians (EMTs). Paramedics receive approximately 1,500 hours of training, whereas EMTs are required to complete 120 to 150 hours. The higher level of training received by paramedics allows them to perform advanced medical procedures, including patient intubation and the administration of drugs. Medical emergency calls received by the 9-1-1 system are categorized according to the nature of the call, with a basic distinction being whether there is a need for an ALS (life threatening incident) or BLS (non-life threatening incident) response. According to the FDNY, there were 483,391 ALS and 869,375 BLS incidents in 2014⁶, as compared to 452,842 ALS and 856,969 BLS incidents in 2013.⁷ ALS incidents include such calls as cardiac arrest, choking, difficulty breathing, unconsciousness, and other serious life threatening medical emergencies. BLS incidents include a wide variety of non-life threatening conditions. EMS further categorizes incidents beyond simply ALS/BLS by placing them in segments one through eight.⁸ Segments one, two, and three are considered life threatening and four through eight are considered non-life threatening. Segment one comprises the most serious life threatening emergency calls, such as cardiac arrest and choking.

In CY 2014, EMS responded to segment one through three calls, collectively, in an average of 6:50, as compared to 6:47 and 6:30 in 2013 and 2012, respectively.⁹ Additionally, EMS responded to segments one through eight, collectively, in an average of 9:23, as compared to 9:24 in 2013.¹⁰

III. BACKGROUND AND ANALYSIS OF INT. NO. 135-A

In December of 2013, the Council passed Local Law 119 of 2013, known as the Ariel Russo Emergency 9-1-1 Response Time Reporting Act, which went into effect in June of 2014¹¹. In addition to requiring the Department to report response times to fires, Local Law 119 requires the Department to track the duration of time between a report to a 9-1-1 operator and arrival of the first ambulance to life threatening and non-life threatening medical emergencies.

The reporting presently required pursuant to the Ariel Russo Emergency 9-1-1 Response Times Reporting Act includes data on response times to structural fires, non-structural fires, and non-fire emergencies. The reports also include response times to segment 1 medical emergencies by ambulance units, segments 1 through 3 medical emergencies by ambulance units and fire units, and to all medical emergencies by ambulance units and fire units. Finally, the report includes the percentage of response times of less than 10 minutes to Advanced Life Support medical emergencies by Advanced Life Support ambulances.

Prop. Int. 135-A would expand on the reporting requirements of the Ariel Russo Emergency 9-1-1 Response Times Reporting Act. The bill would replace the reporting requirements regarding segment 1 and other life threatening medical emergencies with a comprehensive report of average response times to all medical emergencies, disaggregated by segment. The bill would also require reporting on the percentage of response times to Advanced Life Support medical emergencies by Advanced Life support ambulances in the following categories: (i) less than 6 minutes, (ii) between 6 and 10 minutes, (iii) between 10 and 20 minutes, and (iv) more than 20 minutes. The bill would also require reporting on response times to fires in the following categories: (i) less than 5 minutes, (ii) between 5 and 10 minutes, (iii) between 10 and 20 minutes, and (iv)

⁵ FDNY Vital Statistics, Calendar Year 2014 at http://www.nyc.gov/html/fdny/pdf/vital_stats_2014_cy.pdf. Last visited 2/22/16.

⁶ FDNY Vital Statistics, Calendar Year 2014 at http://www.nyc.gov/html/fdny/pdf/vital_stats_2014_cy.pdf. Last visited 2/22/16.

⁷ FDNY Vital Statistics, Calendar Year 2013 at http://www.nyc.gov/html/fdny/pdf/vital_stats_2013_cy.pdf. Last visited 2/22/16.

⁸ According to information provided to the Council, there are in fact nine segments of EMS response, but only segments one through eight are for emergency responses, the ninth segment is reserved for dispatches to non-emergencies such as a unit needing service or to locate a unit at a special event.

⁹ FDNY Vital Statistics, Calendar Year 2014 at http://www.nyc.gov/html/fdny/pdf/vital_stats_2014_cy.pdf. Last visited 2/22/16.

¹⁰ FDNY Vital Statistics, Calendar Year 2013 at http://www.nyc.gov/html/fdny/pdf/vital_stats_2013_cy.pdf. Last visited 2/22/16.

¹¹ New York City Administrative Code § 15-129

more than 20 minutes. Finally, the bill would require disaggregation of this reporting by community district and division, and require the FDNY to publish its definitions of segments. The bill would take effect 30 days after it became law.

IV. AMENDMENTS TO INTRO 135

Prop. Int. 135-A has been amended since its introduction. The previous version of the bill would have expanded reporting by adding three additional reporting categories: average response times to medical emergencies by ambulance units broken down by segment, average response times to medical emergencies by fire units broken down by segment, and the combined average response time to medical emergencies by fire and ambulance units for segments 1 through 3. The current version of the bill includes further reporting on all segments for both fire and medical emergencies, includes disaggregation by community district and division, and includes reporting in certain other categories as enumerated *supra*. Finally, the effective date of the bill has been changed.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 135-A:)

Int. No. 135-A

By Council Members Crowley, Chin, Koo, Lancman, Palma, Rose, Mendez, Koslowitz, Rosenthal, Kallos, Eugene and Treyger.

A Local Law to amend the administrative code of the city of New York, in relation to reporting response times for firefighting units and ambulances to emergencies

Be it enacted by the Council as follows:

Section 1. Section 15-129 of the administrative code of the city of New York, as added by local law number 119 for the year 2013, is amended to read as follows:

§ 15-129 Reporting of department response times.

a. This section shall be known as and may be cited as the "The Ariel Russo Emergency 9-1-1 Response Time Reporting Act".

b. The department shall track the duration of time between a report to a 911 operator to which fire units or ambulances are required to respond and the time when the first fire unit, which shall include ladders and engines only, or the first ambulance unit, arrives on scene in the following categories:

(1) Average response time to structural fires;

(2) Average response time to non-structural fires;

(3) Average response time to non-fire emergencies;

[(4) Average response time to segment 1 medical emergencies, as defined by the department, including cardiac arrest and choking incidents by ambulance units;

(5) Average response time to life threatening medical emergencies by ambulance units;

(6) Average response time to life threatening and non-life threatening medical emergencies by ambulance units combined;

(7) Average response time to life threatening medical emergencies by fire units;

(8) Combined average response time to life threatening medical emergencies by ambulance and fire units;

and

(9) Percentage of response time of less than 10 minutes to Advanced Life Support medical emergencies by Advanced Life Support ambulances.]

(4) Average response time to medical emergencies by ambulance units, in total and disaggregated by segment;

(5) Average response time to medical emergencies by fire units, in total and disaggregated by segment;

(6) *Percentage of response time to Advanced Life Support medical emergencies by Advanced Life support ambulances, in total and disaggregated by segment, in the following categories: (i) less than 6 minutes, (ii) between 6 and 10 minutes, (iii) between 10 and 20 minutes, and (iv) more than 20 minutes; and*

(7) *Percentage of response time to structural and non-structural fires by fire units in the following categories: (i) less than 5 minutes, (ii) between 5 and 10 minutes, (iii) between 10 and 20 minutes, and (iv) more than 20 minutes.*

c. The department shall submit a monthly and yearly report to the council and to the mayor that it shall also post on its website, detailing the citywide response times for each category required herein, disaggregated by borough, *community district, and division. Each such report shall include the department's most current definitions of all relevant segments.*

d. *For purposes of this section, the following terms have the following meanings:*

Advanced life support unit. The term "advanced life support unit" means an advanced life support ambulance or first responder unit.

Division. The term "division" means any division as defined by the department.

Life threatening medical emergency. The term "life threatening medical emergency" means any emergency categorized by the department as a life threatening medical emergency.

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

ELIZABETH S. CROWLEY, *Chairperson*; MATHIEU EUGENE, RORY I. LANCMAN; Committee on Fire and Criminal Justice Services, August 8, 2017.

Laid Over by the Council.

Report of the Committee on Health

Report for Int. No. 484-A

Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to prohibiting smoking and the use of electronic cigarettes in the common areas of all multiple dwellings.

The Committee on Health, to which the annexed proposed amended local law was referred on September 23, 2014 (Minutes, page 3487), respectfully

REPORTS:

I. INTRODUCTION

Today, the Committee on Health, chaired by Council Member Corey Johnson, will hold a hearing on seven bills related to the sale or use of electronic cigarettes and tobacco products. These bills were originally heard at a hearing of this Committee on April 27, 2017, at which the Committee received testimony from the Department of Health and Mental Hygiene (DOHMH), the Department of Consumer Affairs (DCA), health advocates, small business owners, and other interested parties.

II. BACKGROUND

Tobacco Smoking

Tobacco use is the leading cause of preventable, premature death in the United States and New York City.¹ In the United States, smoking is responsible for about one in five deaths annually, or about 443,000 deaths per year.² According to the Centers for Disease Control and Prevention, tobacco use causes more deaths each year than the total number of deaths combined from the human immunodeficiency virus (HIV), illegal drug use, alcohol use, motor vehicle injuries, and firearm-related incidents.³ Smoking causes the overwhelming majority of lung cancer deaths—an estimated 90 percent of all lung cancer deaths in men and women—and causes many other types of cancer, including cancers of the bladder, cervix, esophagus, kidney, larynx, liver, pancreas, stomach, oropharynx (includes parts of the throat, tongue, soft palate, and the tonsils), and blood (acute myeloid leukemia).⁴ Smoking also increases the risk of other diseases, including coronary heart disease, stroke and lung disease.⁵

The City has succeeded in reducing the prevalence of adult smoking from 21.5 percent in 2002 to 14.3 percent in 2015.⁶ While this demonstrates the impact of the City’s interventions on adults, an estimated 934,000 adults in the City still smoke cigarettes, and tobacco kills thousands of New Yorkers each year.⁷

Smoking prevalence among NYC public high school students also declined substantially from 17.6 percent in 2001 to 5.8 percent in 2015.⁸ However, approximately 15,000 youth still smoke cigarettes.⁹

Based on numerous studies, high tobacco prices reduce tobacco consumption among both youth, who are especially price-sensitive, as well as adults.¹⁰ According to the Campaign for Tobacco Free Kids, the “general consensus is that every 10 percent increase in the real price of cigarettes reduces overall cigarette consumption by approximately three to five percent, reduces the number of young-adult smokers by 3.5 percent, and reduces the number of kids who smoke by six or seven percent.”¹¹

Other Tobacco Products

According to the United States Food and Drug Administration (FDA), “While there has been a significant decline in the use of traditional cigarettes among youth over the past decade, their use of other tobacco products continues to climb.”¹² The increase in the price of cigarettes has arguably caused youth and young adults to migrate to cheaper tobacco products. Little cigars, for example, appear virtually identical to cigarettes and have historically cost substantially less. Despite well-documented risks, smokers of all ages – especially youth and young adults in low-income urban areas – erroneously perceive cigars as less harmful than cigarettes, and increasingly opt for inexpensive cigars.¹³

¹ New York City Department of Health and Mental Hygiene, *Preventing Non-Communicable Diseases and Injuries: Innovative Solutions from New York City*, New York, New York City Department of Health and Mental Hygiene, 2011; Centers for Disease Control and Prevention, *Smoking & Tobacco Use*, http://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/ (last accessed Feb. 14, 2017).

² *Id.*, Centers for Disease Control and Prevention.

³ *Id.*

⁴ Centers for Disease Control and Prevention, *Health Effects of Cigarette Smoking*, http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/ (last accessed Feb. 14, 2017).

⁵ *Id.*

⁶ New York City Department of Health and Mental Hygiene, *Health Department Launches Anti-Smoking “Greatest Hits” Public Awareness Campaign*, <https://www1.nyc.gov/site/doh/about/press/pr2017/pr009-17.page>

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Campaign for Tobacco-Free Kids, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (and the Cigarette Companies Know It)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf>. (last accessed April 30, 2013).

¹¹ *Id.*

¹² U.S. Food and Drug Administration News Release, *FDA takes significant steps to protect Americans from dangers of tobacco through new regulation*, May 6, 2016, <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm499234.htm>

¹³ See Nyman AL, Taylor TM, Biener L., *Trends in cigar smoking and perceptions of health risks among Massachusetts adults*, Tobacco Control, June 2002; Fabian LA, Canlas LL, Potts J, Pickworth WB, *Ad lib smoking of Black & Mild cigarillos and cigarettes*, Nicotine & Tobacco Research, March 2012; Jolly DH, *Exploring the use of little cigars by students at a historically black university*, Preventing Chronic Disease, July 2008; Richter PA, Pederson LL, O’Hegarty MM, *Young adult smoker risk perceptions of traditional cigarettes and nontraditional tobacco products*, *American Journal of Health Behavior*, May-Jun. 2006; Malone RE, Yerger V, Pearson C., *Cigar risk perceptions in focus groups of urban African American youth*, Journal of Substance Abuse, 2001.

Smokeless tobacco includes chewing tobacco (dry tobacco leaves), snuff (finely ground tobacco that can be dry or moist), snus (moist snuff that is usually flavored), and dissolvable tobacco (flavored, dissolvable tobacco that often looks like candy). According to the American Cancer Society, “smokeless tobacco is a less lethal, but still unsafe, alternative to smoking.”¹⁴ Smokeless tobacco use substantially increases the risk of oral and pancreatic cancer, gum disease, and nicotine addiction.¹⁵ Adolescent smokeless tobacco users are also more likely than nonusers to become cigarette smokers.¹⁶

Electronic Cigarettes

Electronic cigarettes are electronic devices that deliver nicotine, flavor, and other chemicals through vaporization or aerosolization.¹⁷ The use of electronic cigarettes in the U.S., commonly referred to as “vaping,” has grown at a rapid pace, with the \$3.5 billion market growing by triple digits for five consecutive years from 2010 to 2015.¹⁸ Manufacturers and proponents of electronic cigarettes claim the devices offer users a safer alternative to smoking cigarettes, as electronic cigarettes can deliver nicotine without combusting tobacco and producing smoke.¹⁹ However, the Centers for Disease Control and Prevention has expressed serious concern about youth exposure to highly addictive nicotine contained in most electronic cigarettes, as well as the unknown and potentially harmful ingredients.²⁰ In 2015, 16 percent of youth in New York City had used a vaping product within the past 30 days.²¹ Citing the growing use of electronic cigarettes among young people, the FDA finalized a rule in 2016 extending regulatory authority to cover all tobacco products, including electronic cigarettes.²² Although this rule has been delayed, when in effect it will require makers of nicotine-emitting devices to begin submitting their ingredients for regulators to review, allowing the FDA to monitor, study and regulate the potentially harmful components in these devices.

Tobacco Products at Pharmacies

Pharmacies provide a critical service of dispensing medications, and pharmacists are dedicated to optimizing medication use and improving health. Many large retailers with pharmacies have health clinics and dispense vaccinations. The co-location of the sale of deadly and addictive tobacco products runs counter to the services provided by pharmacists to improve health.

CVS Caremark, the country’s largest drugstore chain in overall sales, announced on February 5, 2014 that it planned to stop selling cigarettes and other tobacco products by October 2014.²³ In a New York Times article announcing the change, Larry J. Merlo, chief executive of CVS, stated “We came to the decision that cigarettes and providing health care just don’t go together in the same setting.” One year after this change, CVS released a study that concluded that this change reduced overall cigarette sales in states with significant numbers of CVS stores by 1% when compared with states that do not have CVS stores.²⁴ Several jurisdictions across the country, including San Francisco and Boston, prohibit the sale of tobacco in pharmacies.²⁵

¹⁴ American Cancer Society, *Health Risks of Smokeless Tobacco*, <http://www.cancer.org/cancer/cancercauses/tobaccocancer/smokeless-tobacco>

¹⁵ Benjamin W. Chaffee et al., *Smokeless Tobacco in Sports and Use Among Adolescents*, Center for Tobacco Control Research and Education: The University of California (Apr. 10, 2015) <http://escholarship.org/uc/item/6rc6v9t2>

¹⁶ Office of the Surgeon General, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*, U.S. Dept. of Health and Human Services (2012)

¹⁷ U.S. Food and Drug Administration, Public Health Focus > Electronic Cigarettes (e-Cigarettes), <http://www.fda.gov/newsevents/publichealthfocus/ucm172906.htm> (last accessed Feb. 14, 2017).

¹⁸ Sy Mukherjee, *Feds Crack Down on E-Cigarettes Industry*, *Fortune*, May 5, 2016, <http://fortune.com/2016/05/05/fda-e-cigarettes-cigar-tobacco/> (last accessed Feb. 14, 2017).

¹⁹ Matt Richtel, *The E-Cigarette Industry, Waiting to Exhale*, N.Y. TIMES, Oct. 26, 2013, available at <http://www.nytimes.com/2013/10/27/business/the-e-cigarette-industry-waiting-to-exhale.html>.

²⁰ CDC Office on Smoking and Health, *E-cigarette Information*, November 2015

<https://www.cdc.gov/tobacco/stateandcommunity/pdfs/cdc-osh-information-on-e-cigarettes-november-2015.pdf>

²¹ NYC Dept. of Health and Mental Hygiene, Dept. of Education and National Centers for Disease Control and Prevention, *New York City Youth Risk Behavior Survey 2015*, <https://a816-healthpsi.nyc.gov/epiquery/YRBS/yrbsIndex.html>.

²² U.S. Food and Drug Administration News Release, *FDA takes significant steps to protect Americans from dangers of tobacco through new regulation*, May 6, 2016, <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm499234.htm>.

²³ Stephanie Strom, *CVS Vows to Quit Selling Tobacco Products*, NY Times, Feb. 5, 2014.

²⁴ CVS Health, *Impact of the CVS tobacco sales removal on smoking cessation: when CVS Health quit tobacco, many smokers quit, too*, 2015,

Smoke-free Housing

As the Surgeon General reported, there is no safe level of exposure to secondhand tobacco smoke.²⁶ Some buildings in NYC have voluntarily adopted smoking bans. According to DOHMH, benefits of smoke-free housing include reductions in property damage and turnover costs for owners, the potential for insurance savings by decreasing the likelihood of a fire, and cleaner, healthier air for residents in their homes and in common areas such as hallways, lobbies and stairwells.²⁷ A 2014 poll of New York City voters found that nearly 70 percent want to live in a place that is smoke-free.²⁸ Smoking is currently prohibited in common areas of multiple dwellings with 10 or more units under the Smoke Free Air Act, but not in common areas of many smaller apartment buildings.

On December 5, 2016, the U.S. Department of Housing and Urban Development (HUD) published a final rule for each Public Housing Agency administering low-income, conventional public housing to initiate a smoke-free policy.²⁹ This new policy includes the New York City Housing Authority and provides an 18-month implementation period which began on February 3, 2017. HUD states that the policy is expected to improve indoor air quality in public housing, reduce the risk of catastrophic fires and lower overall maintenance costs, as well as benefit the health of public housing residents, staff and visitors.³⁰

Recent Initiatives to Combat Smoking & Tobacco Use

New York City has taken significant steps in recent years to combat smoking and tobacco use. In 2013, the City:

- Raised the minimum legal sales age of cigarettes, electronic cigarettes and tobacco products from 18 to 21,³¹
- Reduced the availability of cheap tobacco products by setting a minimum price for packs of cigarettes and “little cigars” at \$10.50,³²
- Required inexpensive cigars to be sold in packages of no fewer than four, and requiring “little cigars” to be sold in packs of 20,³³
- Banned discounts on sales involving cigarettes and tobacco products,³⁴
- Reduced evasion of cigarette taxes and impacted the black market by creating comprehensive new penalties and increasing fines for a range of illegal activity—from purchasing cigarettes from unauthorized sources and transporting untaxed products, to selling counterfeit tax stamps or hiding the contraband,³⁵ and
- Added electronic cigarettes to the City’s Smoke-Free Air Act, prohibiting the use of electronic cigarette devices in many public places and places of employment.³⁶

<https://cvshhealth.com/sites/default/files/%20Impact%20of%20the%20CVS%20Tobacco%20Sales%20Removal%20on%20Smoking%20Cessation.pdf>

²⁵ Tobacco Control Legal Consortium, *Prohibiting the Sale of Tobacco Products in Pharmacies*, 2014,

http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-guide-prohibiting-tobacco-pharmacies-2014_0.pdf

²⁶ U.S. Surgeon General, *What You Need to Know about Smoking*, https://www.cdc.gov/tobacco/data_statistics/sgr/50th-anniversary/pdfs/what-you-need-to-know.pdf

²⁷ NYC Dept. of Health and Mental Hygiene, *Smoke-Free Housing*, <http://www1.nyc.gov/site/doh/health/health-topics/smoking-smoke-free-housing.page>

²⁸ *Id.*

²⁹ U.S. Department of Housing and Urban Development, *Smoke-free Public Housing and Multifamily Properties*, https://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes/smokefree

³⁰ *Id.*

³¹ N.Y.C. Ad. Code § 17-706, L.L. 2013/094.

³² N.Y.C. Ad. Code § 17-176, L.L. 2013/097.

³³ *Id.*

³⁴ *Id.*

³⁵ N.Y.C. Ad. Code § 17-703, L.L. 2013/097.

³⁶ N.Y.C. Ad. Code § 17-503 and § 17-504, L.L. 2013/152.

Last year, the City prohibited the use of smokeless tobacco products at sports stadiums and arenas that host ticketed events.³⁷

Jurisdictions across the country have taken steps in recent years to curb smoking rates and tobacco use. San Francisco banned tobacco sales in pharmacies in 2008³⁸ and capped tobacco sales permits in 2015.³⁹ Through attrition alone, the number of tobacco retailer licenses in San Francisco decreased by 8 percent in the first 10 months of the retailer reduction strategy.⁴⁰ Boston banned tobacco sales in pharmacies shortly after San Francisco. Last year, Philadelphia passed legislation restricting tobacco sales near schools and setting a tobacco retailer density cap.⁴¹

III. ANALYSIS OF, AND CHANGES TO, PROPOSED INT. NO. 484-A

Smoking is currently prohibited under the Smoke Free Air Act in common areas of multiple dwellings with 10 or more units. This bill would extend this prohibition to common areas of multiple dwellings with fewer than 10 units, meaning that all multiple dwellings would be covered by the law.

Proposed Int. No. 484-A would take effect 180 days after its enactment.

This bill received technical edits after it was originally heard.

IV. ANALYSIS OF, AND CHANGES TO, PROPOSED INT. NO. 1131-B

Proposed Int. No. 1131-B would prohibit pharmacies, or retail stores that contain pharmacies, from obtaining cigarette retail dealer licenses that go past December 31, 2018. After that date, no tobacco retail dealer licenses would be in effect for pharmacies or retail stores that contain pharmacies. If and when the definition of “cigarette retail dealer” is amended to include other tobacco products pursuant to Proposed Int. No. 1547-A, discussed below, these products would be prohibited under this bill from being sold in pharmacies, or retail stores that contain pharmacies, as well.

Proposed Int. No. 1131-B would take effect on the same day as Proposed Int. No. 1547-A, discussed below, except the provision prohibiting the licensure of pharmacies to sell tobacco products, which would take effect on January 1, 2019.

This bill was amended after it was heard by adding legislative findings, defining the term “retail store,” and modifying the enactment date to be the same as Proposed Int. No. 1547-A, which would, among other things, extend the current cigarette retail dealer license to encompass other tobacco products. The bill also received technical edits.

V. ANALYSIS OF, AND CHANGES TO, PROPOSED INT. NO. 1471-A

Proposed Int. No. 1471-A would raise the fee for a cigarette retail dealer license from \$110 for a two-year license to \$200 for a two-year license.

Proposed Int. No. 1471 would take effect on the same date as Proposed Int. No. 1547-A, discussed below.

This bill was amended after it was heard to change the proposed fee from \$340, in the previous version of the bill, to \$200, in this version of the bill.

VI. ANALYSIS OF, AND CHANGES TO, PROPOSED INT. NO. 1532-A

Proposed Int. No. 1532-A would institute a licensure requirement for the right to sell electronic cigarettes, similar to the existing licensure requirement to sell cigarettes. Currently some of these stores are required to register with DOHMH, but not be licensed to operate. Pharmacies, and retail stores that include pharmacies, would be prohibited under this law from selling electronic cigarettes.

³⁷ N.Y.C. Ad. Code § 17-503, L.L. 2016/42.

³⁸ San Francisco, CA, Health Code § 1009.92

³⁹ San Francisco, CA, Health Code § 19H.5

⁴⁰ Bright Research Group, *Reducing Tobacco Retail Density in San Francisco: A Case Study*, San Francisco Tobacco-Free Project, Jan. 2016, <http://sanfranciscotobaccofreeproject.org/case-studies/reducing-tobacco-retail-density-in-san-francisco/>.

⁴¹ City of Philadelphia Board of Health, Regulation Relating to Tobacco Retailing, Sept. 8, 2016, <http://www.phila.gov/health/pdfs/TobaccoRetailingRegulation.pdf>.

The licensure program would be administered by DCA, with a license fee of \$200 for a two-year license. Licenses would expire on November 30 of odd-numbered years, for odd-numbered licenses, and even-numbered years, for even-numbered licenses. Licenses would not be assignable and would be required to be displayed at the licensed business at all times. Repeat violations of the proposed delivery ban of Proposed Int. No. 1544-B, or the sale of electronic cigarettes to underage customers, would result in mandatory revocation of this license.

The number of electronic cigarette retailers would be capped at half the number that register during the initial 90 day registration period after the bill goes into effect. This cap would be by community district. Until the number of licenses was below the cap, no new licenses would be issued. However, licenses would be renewable by license holders regardless of the cap and, for businesses being sold to another owner, the new owner would be permitted to apply for a license despite the cap. The intent of this provision is to protect businesses that have a valid electronic cigarette dealer license and that comply with applicable laws from being negatively affected by the cap. Exceptions to the cap would also exist for licenses that become void due to a change in a business partnership or a stock sale of a business.

Only businesses in “good standing” would be permitted to take advantage of these exceptions to the cap, with “good standing” defined as not having two or more violations, from separate days, of the prohibitions on the delivery of electronic cigarettes or the underage sale of electronic cigarettes.

During and prior to the 90 day initial enrollment period, DCA would be required to publicize the new requirement to obtain an electronic cigarette retail dealer license.

Electronic cigarettes are redefined in Proposed Int. No. 1532-A to encompass any device that heats a substance to produce vapor for inhalation.

Possession of 20 or more electronic cigarettes by any person other than a manufacturer or deliver would be presumptive evidence that the person is an electronic cigarette dealer.

Proposed Int. No. 1532-A would take effect 180 days after its enactment.

| Tobacco Product | Price floor (excluding OTP and sales taxes) | Amount of OTP tax (excluding sales tax) |
|--------------------------|--|--|
| Cigar | \$8.00 per cigar sold individually; for a package, number of cigars multiplied by \$1.75 plus \$6.25 | \$0.80 per cigar; for a package, \$0.80 for first cigar, plus \$0.175 for each additional cigar |
| Little cigar | \$10.95 per pack of 20 little cigars | \$1.09 per pack |
| Smokeless tobacco | \$8.00 per 1.2 oz. package plus \$2.00 for each additional 0.3 oz. or any fraction thereof in excess of 1.2 oz. | \$0.80 per 1.2 oz. plus an additional \$0.20 for each 0.3 oz. or any fraction thereof in excess of 1.2 oz. |
| Snus | \$8.00 per 0.32 oz. package plus \$2.00 for each additional 0.08 oz. or any fraction thereof in excess of 0.32 oz. | \$0.80 per 0.32 oz. plus an additional \$0.20 for each 0.08 oz. or any fraction thereof in excess of 0.32 oz. |
| Shisha | \$17.00 per 3.5 oz. package plus \$3.40 for each additional 0.7 oz or any fraction thereof in excess of 3.5 oz. | \$1.70 per 3.5 oz. plus an additional \$0.34 for each 0.7 oz, or any fraction thereof in excess of 3.5 oz. |
| Loose tobacco | \$2.55 per 1.5 oz. package plus \$0.51 for each additional 0.3 oz. or any fraction thereof in excess of 1.5 oz. | \$0.25 per 1.5 oz. package plus an additional \$0.05 for each 0.3 oz. or any fraction thereof in excess of 1.5 oz. |

This bill was amended after it was heard to create the cap on the number of electronic cigarette dealers described above. Under the version of the bill that was heard, no new electronic cigarette dealers would have been permitted to operate after the passage of the bill.

VII. ANALYSIS OF, AND CHANGES TO, PROPOSED INT. NO. 1544-B

Proposed Int. No. 1544-B would establish price floors for tobacco products and non-tobacco shisha. It would also raise the existing price floor for cigarettes, little cigars and cigars. It would establish a new 10% tax on cigars, little cigars, smokeless tobacco, tobacco-containing shisha, and loose tobacco. Finally, the bill would prohibit the delivery of cigarettes and other tobacco products, as well as e-cigarettes.

The price floors established in this bill would not include applicable taxes, including those created in this bill. They would set minimum package sizes for these products. They would be set as follows:

The bill would also raise the minimum price for cigarettes to \$13 per pack including taxes.

The taxes established by this bill would apply to products that are intended for sale in New York City only, not for products brought into the City for personal use. The taxes would also not apply to the state or political subdivisions of the state, the federal government, the United Nations, non-profit organizations that do not lobby or otherwise attempt to influence public policy, or tobacco products in the City that are possessed by a dealer for sale outside the City. The tax would be paid by wholesalers to the Department of Finance, and would also be required to be added to and collected as part of the sales price of tobacco products (in addition to other required taxes and the minimum price established in this bill).

Willful attempts to evade the payment of taxes established in the bill would be a misdemeanor.

All revenues from the taxes established by Proposed Int. No. 1154-B would go towards public housing costs, as required by state law.

The bill would add non-cigarette tobacco products to the definition of “retail dealer” in the Tobacco Product Regulation Act. It would also create a presumption that a person possessing or transporting more than 400 little cigars, or more than 50 cigars or one pound of other tobacco products by any person other than a manufacturer, agent, or deliverer acting in the regular course of their business, is a retail dealer subject to the requirements of the Tobacco Product Regulation Act.

Finally, Proposed Int. No. 1544-B would prohibit the delivery by a retail dealer of tobacco products including cigarettes, and electronic cigarettes to any customer, with a penalty of \$1,000 for a first violation and \$2,000 as well as license revocation for subsequent violations on a different day.

Proposed Int. No. 1544-B would take effect on the first day of the calendar month next following the 270th day after it becomes law, except that the delivery prohibitions would take effect 150 days after they become law.

This bill was amended after it was heard to:

- change the incidence of the tax from retail dealers to wholesale dealers
- modify the minimum cigar price from \$8 for up to four cigars, and \$2 for each additional cigar, to \$8 for an individually sold cigar, and \$1.75 for each additional cigar
- reduce the minimum loose tobacco package size, and accompanying reductions in the minimum price to account for this reduction
- eliminate the proposed authority of DOHMH to lower the minimum price for tobacco products every three years by up to 20%; any changes to minimum prices beyond reductions to account for changes in the consumer price index or additional taxes that are enacted
- establish scaling for the tax based on the amount of product being sold (for example, smokeless tobacco had a minimum price of \$8 in the previous bill version regardless of how much was being sold, whereas the amended bill has a minimum price of \$8 for 1.2 ounce package (the minimum size permitted), plus an additional \$2 for each additional .3 ounces or any fraction thereof in excess of 1.2 ounces))
- make various technical changes to the bill

VIII. ANALYSIS OF, AND CHANGES TO, PROPOSED INT. NO. 1547-A

Proposed Int. No. 1547-A would expand the cigarette retail dealer license to all other tobacco products, with a requirement that any retail seller of such products possess such license. It would cap the number of

these tobacco retail dealer licenses by community district, allowing current license holders to continue to renew their licenses, but disallowing the issuance of new tobacco retail dealer licenses in a given community district until the number of license holders in that district has fallen to half the current number, which would be the new cap on the number of licenses in that district. Put differently, this bill would slowly reduce through attrition the number of tobacco retailers across the City until it reached half the level that exist on the effective date of this law.

Despite the cap, tobacco retail dealer licenses would be renewable by license holders regardless of the cap and, for businesses being sold to another owner, the new owner would be permitted to apply for a license despite the cap. The intent of this provision is to protect businesses that have a valid tobacco retail dealer license and that comply with applicable laws from being negatively affected by the cap. Exceptions to the cap would also exist for licenses that become void due to a change in a business partnership or a stock sale of a business.

Only businesses in “good standing” would be permitted to take advantage of this exception to the cap, with “good standing” being defined as not having two or more violations, from separate days, of a number of essential provisions of the Tobacco Product Regulation Act, including prohibitions on the underage sale of tobacco, selling untaxed tobacco, and selling tobacco products without a license.

DCA would administer this licensure program, as it does with the existing cigarette retail dealer license.

DCA and DOHMH would evaluate the cap created in this bill every two years, set in the bill at 50% of the number that exist on the effective date of this law. If, based on the number of retail dealers and the prevalence of tobacco product usage in the community district at the time of this evaluation, DOHMH would be required to notify the City Council of its recommendations on the optimal cap number.

Proposed Int. No. 1547-A would take effect 180 days after enactment.

This bill was amended after it was heard to allow the new owner or owners of businesses that are sold or transferred to apply for a tobacco retail dealer license, so long as the previous owner was in good standing. It also received various technical amendments.

IX. ANALYSIS OF, AND CHANGES TO, PROPOSED INT. NO. 1585-A

Proposed Int. No. 1585-A by Council Member Torres would require rental, co-op, and condo apartment buildings to create a smoking policy for the building, if they have not already, provide this policy annually to tenants, and incorporate this policy into rental, lease and purchase agreements, and any bylaws of the building if applicable. It would not dictate the contents of the policy.

A smoking policy created pursuant to this law would be required to encompass indoor and outdoor areas of the building, and apply to tenants as well as their invitees.

The policy would not be binding on tenants renting or leasing an apartment at the time the policy is adopted or changed, or to a tenant in a rent controlled or rent stabilized unit prior to the adoption of an initial smoking policy, or any family member who succeeds them.

Building owner would be required to provide a copy of the smoking policy to all tenants or post it in a prominent location in the building, once adopted. It would also be required to be provided annually in this manner. It would be required to be incorporated into new rental, lease, and purchase agreements, as well as into bylaws for condos and co-op buildings.

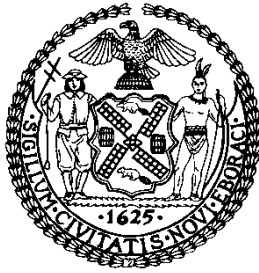
Building owners would be required by this bill to make their smoking policy, and notification of material changes, available to DOHMH upon request.

The penalty for failing to create or disclose a smoking policy or change thereto, as would be required by the bill, would be \$100. This would be the sole remedy for this violation, meaning that no private right of action is created by this law.

Proposed Int. No. 1585-A would take effect 365 days after its enactment.

This bill received technical changes after it was originally heard.

(The following is the text of the Fiscal Impact Statement for Int. No. 484-A:)



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

INTRO. NO: 484-A

COMMITTEE: Health

TITLE: A local law to amend the administrative code of the city of New York, in relation to prohibiting smoking and the use of electronic cigarettes in the common areas of all multiple dwellings.

SPONSOR(S): Council Members Vacca, Barron, Constantinides, Gentile, Johnson, Kallos, Koo, Richards, Rodriguez, Vallone and Cohen

SUMMARY OF LEGISLATION: Currently, smoking and the use of electronic cigarettes is prohibited in common areas of multiple dwellings containing ten or more units. The proposed legislation would additionally prohibit smoking and the use of electronic cigarettes in common areas in multiple dwellings with fewer than ten units.

EFFECTIVE DATE: This legislation would take effect 180 days after becoming law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY 19 | Full Fiscal Impact FY 18 |
|---------------------|-----------------------|--------------------------------------|---------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: It is anticipated that this legislation would not have an impact on revenues.

IMPACT ON EXPENDITURES: It is estimated that this bill would not have an impact on expenditures because the relevant agencies would use existing resources to enforce the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Health and Mental Hygiene

ESTIMATE PREPARED BY: Jeanette Merrill, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, NYC Council Finance Division
Cirilhen R. Francisco, Unit Head, NYC Council Finance Division
Eric Bernstein, Counsel, NYC Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 23, 2014 and was referred to the Committee on Health (Committee). The Committee held a hearing on April 27, 2017 and the bill was laid over. The bill was subsequently amended, and the Committee will vote on the amended legislation, Proposed Int. No. 484-A, at a hearing on August 8, 2017. Upon successful vote by the Committee, the full Council will vote on the legislation on August 9, 2017.

DATE PREPARED: August 2, 2017.

(For text of Int. Nos. 1131-B, 1471-A, 1532-A, 1544-B, 1547-A, and 1585-A and their Fiscal Impact Statements, please see, respectively, the Reports of the Committee on Health for Int. Nos. 484-A, 1131-B, 1471-A, 1532-A, 1544-B, 1547-A, and 1585-A, printed in these Minutes; for text of Int. No. 484-A, please see below)

Accordingly, this Committee recommends the adoption of Int. No. 484-A, 1131-B, 1471-A, 1532-A, 1544-B, 1547-A, and 1585-A.

(The following is the text of Int. No. 484-A:)

Int. No. 484-A

By Council Members Vacca, Barron, Constantinides, Gentile, Johnson, Kallos, Koo, Richards, Rodriguez, Vallone, Cohen and Maisel.

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting smoking and the use of electronic cigarettes in the common areas of all multiple dwellings

Be it enacted by the Council as follows:

Section 1. Subdivisions m and p of section 17-502 of the administrative code of the city of New York, subdivision m as amended by local law number 5 for the year 1995, subdivision p as amended by local law number 47 for the year 2002, are amended to read as follows:

m. "Place of employment" means any indoor area or portion thereof under the control of an employer which employees normally frequent during the course of employment and which is not generally accessible to the public, including, but not limited to, private offices, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias, employee gymnasiums, auditoriums, libraries, storage rooms, file rooms, mailrooms, employee medical facilities, rooms or areas containing photocopying or other office equipment used in common by employees, elevators, stairways and hallways. A private residence is not a "place of employment" within the meaning of this subdivision, except that areas in a private residence where a child day care center or health care facility is operated during the times when employees are working in such child day care center or health care facility areas and areas in a private residence which constitute common areas of a multiple dwelling [containing ten or more dwelling units,] are "places of employment" within the meaning of this subdivision.

p. "Public place" means any area to which individuals other than employees are invited or permitted, including, but not limited to, banks, educational facilities, health care facilities, child day care centers, children's institutions, shopping malls, property owned, occupied or operated by the city of New York or an agency thereof, public transportation facilities, reception areas, restaurants, catering halls, retail stores, theaters, sports arenas and recreational areas and waiting rooms. A private residence is not a "public place" within the meaning of this subdivision, except that areas in a private residence where a child day care center or health care facility is operated during the times of operation and areas in a private residence which constitute common areas of a multiple dwelling [containing ten or more dwelling units,] are "public places" within the meaning of this subdivision.

§ 2. Paragraph 13 of subdivision a of section 17-503 of the administrative code of the city of New York, as amended by local law number 152 for the year 2013, is amended to read as follows:

13. Places of meeting or public assembly during such time as a meeting open to the public is being conducted for educational, religious, recreational, or political purposes, but not including meetings conducted in private residences, unless such meetings are conducted in an area in a private residence where a child day

care center or health care facility is operated during the times of operation or in an area which constitutes a common area of a multiple dwelling [containing ten or more dwelling units].

§ 3. Subdivision b of section 17-505 of the administrative code of the city of New York, as amended by local law number 152 for the year 2013, is amended to read as follows:

b. Private residences, except any area of a private residence where a child day care center or health care facility is operated (i) during the times of operation or (ii) during the times when employees are working in such child day care center or health care facility areas; provided, however, that a common area of a multiple dwelling [containing ten or more dwelling units] shall be subject to smoking and electronic cigarette use restrictions.

§ 4. Subdivision c of section 17-507 of the administrative code of the city of New York, as amended by local law number 42 for the year 2016, is amended to read as follows:

c. With respect to a public place or place of employment, the operator or employer shall inform, or shall designate an agent who shall be responsible for informing, individuals smoking, or using electronic cigarettes, in restricted areas that they are in violation of this local law; provided, however, that the obligations under this subdivision with respect to an operator of a multiple dwelling [containing ten or more dwelling units] shall be limited to (i) those multiple dwellings where an agent is on duty and (ii) designating such agent to be responsible for informing individuals smoking, or using electronic cigarettes, in restricted common indoor areas where such agent is on duty, during the times such agent is on duty, that such individuals are in violation of this local law.

§ 5. Subdivision a of section 17-508 of the administrative code of the city of New York, as amended by local law number 42 for the year 2016, is amended to read as follows:

a. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of premises in which smoking, and using electronic cigarettes, are prohibited or restricted pursuant to this chapter, or the designated agent thereof, to (i) provide a room designated for smoking, or using electronic cigarettes, including, but not limited to, a separate smoking room, room for using electronic cigarettes or an enclosed room, which fails to comply with the provisions of this chapter; provided, however, that the obligations of an owner or building manager of a building (where such owner or building manager of a building in which a public place is located is not the operator or employer of such public place) with respect to such a room shall be limited to work authorized by any permits necessary to perform construction obtained by the owner or his or her agent; (ii) fail to post the signs required by section 17-506; (iii) fail to remove ashtrays as required by subdivision d of section 17-506; or (iv) fail to make a good faith effort to comply with subdivisions c, d and e of section 17-507. In actions brought for violations of this subdivision, the following shall be affirmative defenses: (i) that during the relevant time period actual control of the premises was not exercised by the respondent or a person under the control of the respondent, but rather by a lessee, sublessee or any other person; provided, however, that after receiving the notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that he or she has not exercised actual control during the relevant time period; (ii) that a person smoking, or using an electronic cigarette, in any area where smoking, and using electronic cigarettes, are prohibited pursuant to section 17-503 was informed by a person who owns, manages, operates or otherwise controls the use of such premises, or the designated agent thereof, that such person smoking, or using an electronic cigarette, is in violation of this local law and that such person who owns, manages, operates or otherwise controls the use of such premises has complied with all applicable provisions of this chapter during the relevant time period; provided, however, that after receiving notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that respondent informed the person smoking, or using an electronic cigarette, in any area where smoking, and using electronic cigarettes, are prohibited pursuant to section 17-503 that such person was in violation of this local law and that respondent has complied with all applicable provisions of this chapter during the relevant time period; or (iii) that a person smoking, or using an electronic cigarette, in any restricted common indoor area where smoking, and using electronic cigarettes, are prohibited pursuant to section 17-503 was not informed by the owner or building manager of the premises (where such owner or building manager of a building in which a public place or a place of employment is located is not the operator or employer of such public place or place of employment) or by the operator of a multiple dwelling [containing ten or more dwelling units] that such person smoking, or using an electronic cigarette, is in violation of this local law

because such owner, building manager or operator did not have a designated agent on duty when such person was smoking, or using an electronic cigarette, and that such owner or building manager has, where applicable, complied with the mailing of a notice required pursuant to subdivision e of section 17-507; provided, however, that after receiving notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that a person smoking, or using an electronic cigarette, in any restricted common indoor area where smoking, and using electronic cigarettes, are prohibited pursuant to section 17-503 was not informed by the respondent that such person smoking, or using an electronic cigarette, is in violation of this local law because the respondent did not have a designated agent on duty when such person was smoking, or using an electronic cigarette, and that the respondent has, where applicable, mailed the notice required pursuant to subdivision e of section 17-507.

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

COREY D. JOHNSON, *Chairperson*; ROSIE MENDEZ, JAMES VACCA, MATHIEU EUGENE, PETER A. KOO, INEZ D. BARRON, ROBERT E. CORNEGY, Jr.; Committee on Health, August 8, 2017. *Other Council Members Attending: Council Member Lander.*

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

Report for Int. No. 1131-B

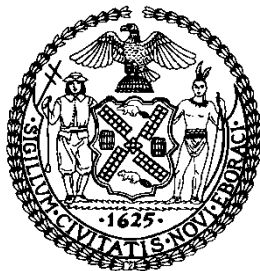
Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to the sale of tobacco products in pharmacies.

The Committee on Health, to which the annexed proposed amended local law was referred on March 22, 2016 (Minutes, page 788), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Health for Int. No. 484-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1131-B:



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

INTRO. NO: 1131-B

COMMITTEE: Health

TITLE: A local law to amend the administrative code of the city of New York, in relation to the sale of tobacco products in pharmacies

SPONSOR(S): Council Members Lander, Johnson, Vacca, Richards, Gentile, Chin, Rosenthal, Cohen and Kallos

SUMMARY OF LEGISLATION: The proposed legislation would render it unlawful for a pharmacy-or retail store that contains a pharmacy-to obtain a license to engage in business as a retail dealer, thereby prohibiting pharmacies from selling cigarettes and other tobacco products.

EFFECTIVE DATE: This legislation would take effect on the same day as a local law (Intro. No. 1547) related to expanding the retail dealer license to include retailers of tobacco products and to setting caps on retail dealer licenses, except that the provision making it unlawful for a pharmacy to obtain a license to engage in business as a retail dealer takes effect on January 1, 2019. Should a pharmacy receive a renewal license to engage in business as a retail dealer after the enactment date of this law, the license would be valid only until December 31, 2018.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY 19 | Full Fiscal Impact FY 20 |
|---------------------|-----------------------|--|-------------------------------------|
| Revenues | \$0 | (\$33,000) | (\$66,000) |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$0 | (\$33,000) | (\$66,000) |

IMPACT ON REVENUES: It is anticipated that this legislation would result in a loss of revenue totaling approximately \$33,000 in Fiscal 2019 and totaling approximately \$66,000 in Fiscal 2020. The estimate assumes all 600 of the New York City pharmacies that currently have a retail license to sell cigarettes would renew their licenses in Fiscal 2018 and would receive a prorated rate, as provided for by Section 4 of this legislation, in Fiscal 2019 based on the expiration date of December 31, 2018. In Fiscal 2020, the City would experience the full impact of the legislation, as the 600 pharmacies would no longer pay the \$110 license fee.

IMPACT ON EXPENDITURES: It is estimated that this bill would not have an impact on expenditures because the relevant City agencies would utilize existing resources to enforce the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Health and Mental Hygiene

ESTIMATE PREPARED BY: Jeanette Merrill, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, NYC Council Finance Division
Crielhien R. Francisco, Unit Head, NYC Council Finance Division
Eric Bernstein, Counsel, NYC Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on March 22, 2016 and was referred to the Committee on Health (Committee). The bill was subsequently amended after introduction. The Committee held a hearing on the amended version, Proposed Intro. No. 1131-A, on April 27, 2017 and the bill was laid over. The bill was subsequently amended a second time, and the Committee will vote on the amended legislation, Proposed Intro. No. 1131-B, at a hearing on August 8, 2017. Upon successful vote by the Committee, the full Council will vote on the legislation on August 9, 2017.

DATE PREPARED: August 2, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1131-B:)

Int. No. 1131-B

By Council Members Lander, Johnson, Vacca, Richards, Gentile, Chin, Rosenthal, Cohen, Kallos, Barron and Maisel.

A Local Law to amend the administrative code of the city of New York, in relation to the sale of tobacco products in pharmacies

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council finds that tobacco use is a leading risk factor for preventable premature death in the United States and the City of New York, having killed an estimated 12,000 people in the city in 2014 and causing a significant burden in health care costs and lost productivity. Given the costs associated with tobacco use, the City has a compelling interest in continuing its efforts to reduce tobacco use among adults and to prevent youth from starting to use tobacco products.

Overall, the City has a high level of tobacco retail density with more than 8,200 licensed cigarette retailers within approximately 300 square miles. The Council further finds, based on a number of studies, that easy access to tobacco retailers makes it harder for smokers to quit, particularly in low-income areas. In addition, the odds of experimenting with smoking in the past 12 months was 40% higher among NYC youth who were exposed to tobacco retailers two or more times per week compared to those exposed less often. Therefore, reducing the number of tobacco retailers over time is likely to reduce tobacco use and, in turn, morbidity.

There are more than 2,700 pharmacies in New York City, and approximately 600 of them have a retail dealer license to sell cigarettes. Pharmacies provide a critical service of dispensing medications, and pharmacists are trusted professionals dedicated to optimizing medication therapy and improving health. Consistent with this role, the American Pharmacists Association “urges pharmacies and facilities that include pharmacies to discontinue the sale of tobacco products” and electronic cigarettes. The public also supports prohibiting the sale of tobacco products in pharmacies. In one recent national survey, 66.1 percent of all adults favored prohibiting tobacco product sales in pharmacy stores. The co-location of the sale of deadly and addictive products runs counter to the services provided by pharmacists to improve health. Studies show that when pharmacies have stopped selling tobacco products, tobacco sales in the affected area have declined significantly.

§ 2. Section 20-201 of the administrative code of the city of New York, as amended by a local law for the year 2017 amending the administrative code of the city of New York relating to expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and repealing subdivision c of section 17-702, relating to the definition of cigarette license, as proposed in introduction number 1547 for the year 2017, is amended by adding new definitions of “pharmacy” and “retail store” in alphabetical order to read as follows:

Pharmacy. The term “pharmacy” means “pharmacy” as defined in subdivision 1 of section 6802 of the education law, and any retail store that contains a pharmacy.

Retail store. The term “retail store” means any place that, in the regular course of business, sells or rents goods directly to the public.

§ 3. Subdivision a of section 20-202 of the administrative code of the city of New York is amended by adding a new paragraph 3 to read as follows:

3. It shall be unlawful for a pharmacy to obtain a license to engage in business as a retail dealer.

§ 4. After the date of enactment of this local law, a pharmacy shall not be allowed to apply for a license to engage in business as a retail dealer, and a pharmacy that applies for a renewal of such a license may be issued such renewal, provided that such license shall be valid only until December 31, 2018. The fee described in

paragraph 1 of subdivision c of section 20-202 of the administrative code of the city of New York shall be pro-rated for any such renewal as needed.

§ 5. This local law takes effect on the same day as a local law for the year 2017 amending the administrative code of the city of New York relating to expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and repealing subdivision c of section 17-702, relating to the definition of cigarette license, as proposed in introduction number 1547 for the year 2017, takes effect; provided that, however, paragraph 3 of subdivision a of section 20-202 of the administrative code of the city of New York, as added by section three of this local law, takes effect on January 1, 2019.

COREY D. JOHNSON, *Chairperson*; ROSIE MENDEZ, JAMES VACCA, MATHIEU EUGENE, INEZ D. BARRON; Committee on Health, August 8 , 2017. *Other Council Members Attending: Council Member Lander.*

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

Report for Int. No. 1471-A

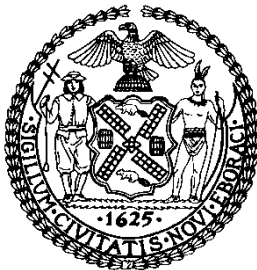
Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to increasing the retail cigarette dealer license fee.

The Committee on Health, to which the annexed proposed amended local law was referred on February 15, 2017 (Minutes, page 522), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Health for Int. No. 484-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1471-A:



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

INTRO. NO: 1471-A

COMMITTEE: Health

TITLE: A local law to amend the administrative code of the city of New York, relation to increasing the retail cigarette dealer license fee.

SPONSOR(S): Council Members Johnson, Salamanca, Gentile, Rodriguez, Mendez, Rosenthal, and Kallos

SUMMARY OF LEGISLATION: The proposed legislation would raise the biennial fee for a Cigarette Retail Dealer License from \$110 to \$200. This license is required to sell tobacco directly to consumers.

EFFECTIVE DATE: This legislation would take effect on the same day as a local law (Intro. No. 1547) related to expanding the retail dealer license to include retailers of tobacco products and to setting caps on retail dealer licenses, except that Department of Consumer Affairs may take such measures as are necessary for the implementation of the law prior to such date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY 19 | Full Fiscal Impact FY 18 |
|---------------------|-----------------------|--|-------------------------------------|
| Revenues | \$738,000 | \$0 | \$738,000 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$738,000 | \$0 | \$738,000 |

IMPACT ON REVENUES: It is anticipated that this legislation would result in approximately \$738,000 in Fiscal 2018, would have no impact in Fiscal 2019, and would result in approximately \$738,000 in Fiscal 2020. The estimate assumes all 8,200 licensed cigarette retailers within the city would apply for a license following a January 1, 2018 enactment date of this law, paying the \$90 increase. Due to the biennial licensing structure outlined in the bill, the city would not expect any fiscal impact in Fiscal 2019 but could expect \$738,000 in revenue in Fiscal 2020. The city could anticipate minor attrition each fiscal year, and corresponding reductions in revenue, until the city reaches the retail dealer cap.

IMPACT ON EXPENDITURES: It is estimated that this bill would not have an impact on expenditures because the relevant agencies would use existing resources to implement the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

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

ESTIMATE PREPARED BY: Jeanette Merrill, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, NYC Council Finance Division
Crielhien R. Francisco, Unit Head, NYC Council Finance Division
Eric Bernstein, Counsel, NYC Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on February 15, 2017 and was referred to the Committee on Health (Committee). The Committee held a hearing on April 27, 2017 and the bill was laid over. The bill was subsequently amended, and the Committee will vote on the amended legislation, Proposed Int. No. 484-A, at a hearing on August 8, 2017. Upon successful vote by the Committee, the full Council will vote on the legislation on August 9, 2017.

DATE PREPARED: August 8, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 1471-A:)

Int. No. 1471-A

By Council Members Johnson, Salamanca, Gentile, Rodriguez, Mendez, Rosenthal, Kallos, Barron and Maisel.

A Local Law to amend the administrative code of the city of New York, in relation to increasing the retail cigarette dealer license fee

Be it enacted by the Council as follows:

Section 1. Paragraph 1 of subdivision c of section 20-202 of the administrative code of the city of New York, as amended by a local law for the year 2017 amending the administrative code of the city of New York relating to expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and repealing subdivision c of section 17-702, relating to the definition of cigarette license, as proposed in introduction number 1547 for the year 2017, is amended to read as follows:

1. There shall be a biennial fee of [one hundred ten dollars] \$200 for a license to engage in the business of a retail dealer at each place of business where cigarettes or tobacco products are sold in the city.

§ 2. This local law takes effect on the same date as a local law for the year 2017 amending the administrative code of the city of New York relating to expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and repealing subdivision c of section 17-702, relating to the definition of cigarette license, as proposed in introduction number 1547 for the year 2017, takes effect, except that the department of consumer affairs may take such actions, including the promulgation of rules, as are necessary for its timely implementation prior to such date.

COREY D. JOHNSON, *Chairperson*; ROSIE MENDEZ, JAMES VACCA, MATHIEU EUGENE, PETER A. KOO, INEZ D. BARRON, ROBERT E. CORNEGY, Jr.; Committee on Health, August 8 , 2017. *Other Council Members Attending: Council Member Lander.*

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

Report for Int. No. 1532-A

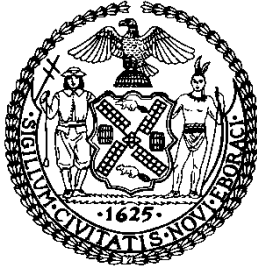
Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to the regulation of electronic cigarettes and the licensing of electronic cigarette retail dealers.

The Committee on Health, to which the annexed proposed amended local law was referred on April 5, 2017 (Minutes, page 978), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Health for Int. No. 484-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1532-A:



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

INTRO. NO: 1532-A

COMMITTEE: Health

TITLE: A local law to amend the administrative code of the city of New York, in relation to the regulation of electronic cigarettes and the licensing of electronic cigarette retail dealers.

SPONSOR(S): Council Members Cabrera, Gentile, Mendez, Rosenthal and Kallos

SUMMARY OF LEGISLATION: The proposed legislation would require an individual to obtain a license in order to engage in business as an electronic cigarette retail dealer and would impose a biennial fee of \$200 for each license. The bill would also render it unlawful for a pharmacy to obtain such a license. The proposed legislation would also prohibit these electronic cigarette retail dealers from selling electronic cigarettes to individuals under twenty-one years of age. In order to purchase electronic cigarettes, the bill would require an individual to demonstrate, through a driver's license or other photographic identification card issued by a government entity or educational institution, that he or she is at least twenty-one years of age, unless the individual reasonably appears to be at least thirty years of age.

In addition, the proposed legislation would enable the commissioner of the Department of Consumer Affairs (DCA) to establish a community district electronic cigarette retail dealer cap for each community district in New York City, in order to restrict the availability of new retail dealer licenses and to subsequently decrease the number of licenses available over time by half the current number through attrition. The community district caps would not affect existing licensees who would be able to continue to renew their licenses. The bill would mandate that DCA, in conjunction with the Department of Health and Mental Hygiene (DOHMH), evaluate these caps every two years and any time community district boundaries change.

EFFECTIVE DATE: This legislation would take effect 150 days after becoming law except that DCA and DOHMH may take such measures as are necessary for the implementation of the law prior to such date. In addition, the DCA Commissioner would commence accepting applications for licenses to engage in business as an electronic cigarette retail dealer on the effective date of this law and would continue to accept applications for 90 days following such commencement. The provisions of the local law making it unlawful to engage in business as an electronic cigarette retail dealer without a license, and authorizing the issuance of a license where the number of licenses in the community district is lower than the cap take effect 360 days after becoming law. Finally, the provision related to civil penalties takes effect on the same date that Intro. No. 1544 (amending the administrative code of the city of New York relating to the regulation of retail dealers of tobacco products and of electronic cigarettes, the establishment of price floors and minimum package sizes for tobacco products and shisha, and the establishment of a tax on tobacco products other than cigarettes) takes effect.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY 19 | Full Fiscal Impact FY 20 |
|---------------------|-----------------------|--|-------------------------------------|
| Revenues | \$1,312,000 | \$0 | \$1,312,000 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$1,312,000 | \$0 | \$1,312,000 |

IMPACT ON REVENUES: It is anticipated that this legislation would result in \$1,312,000 in revenue in Fiscal 2018, would have no impact in Fiscal 2019, and would result in \$1,312,000 in revenue in Fiscal 2020. There are approximately 8,200 licensed cigarette retailers within the city, and an estimated 80 percent of these retailers sell electronic cigarettes, resulting in approximately 6,560 electronic cigarette retailers in the city. The estimate assumes all 6,560 retailers would apply for a license to engage in business as an electronic cigarette retail dealer in the 90-day application period following the enactment of the law, each paying the \$200 license fee. Assuming a January 1, 2018 enactment date of said law, the legislation would generate approximately \$1,321,000 in revenue in Fiscal 2018. Due to the biennial licensing structure outlined in the bill, the city would not expect any fiscal impact in Fiscal 2019 but could expect \$1,312,000 in revenue in Fiscal 2020. The city could anticipate minor attrition each fiscal year, and corresponding reductions in revenue, until the city reaches the retail dealer cap.

IMPACT ON EXPENDITURES: It is estimated that this bill would not have an impact on expenditures because DCA and DOHMH would utilize existing resources to implement and enforce the legislation. The anticipated revenue would cover any costs, should they arise.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Health and Mental Hygiene

ESTIMATE PREPARED BY: Jeanette Merrill, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, NYC Council Finance Division
Crielhien R. Francisco, Unit Head, NYC Council Finance Division
Eric Bernstein, Counsel, NYC Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on April 5, 2017 and was referred to the Committee on Health (Committee). The Committee held a hearing on April 27, 2017 and the bill was laid over. The bill was subsequently amended, and the Committee will vote on the amended legislation, Proposed Intro. No. 1532-A, at a hearing on August 8, 2017. Upon successful vote by the Committee, the full Council will vote on the legislation on August 9, 2017.

DATE PREPARED: August 2, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1532-A:)

Int. No. 1532-A

By Council Members Cabrera, Gentile, Mendez, Rosenthal, Kallos, Barron and Maisel.

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of electronic cigarettes and the licensing of electronic cigarette retail dealers

Be it enacted by the Council as follows:

Section 1. Subdivision qq of section 17-502 of the administrative code of the city of New York, as added by local law number 152 for the year 2013, is amended to read as follows:

qq. “Electronic cigarette” means [an electronic] *a battery-operated* device that *heats a liquid, gel, herb, or other substance and* delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette. [Electronic cigarette shall not include any product approved by the food and drug administration for sale as a drug or medical device.]

§ 2. Subdivision bb of section 17-702 of the administrative code of the city of New York, as added by local law number 94 for the year 2013, is amended to read as follows:

bb. “Electronic cigarette” means a battery-operated device that [contains nicotine] *heats a liquid, gel, herb, or other substance and* delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette.

§ 3. Subdivision a of section 17-706 of the administrative code of the city of New York, as amended by chapter 542 of the laws of 2014, is amended to read as follows:

a. Any person operating a place of business wherein cigarettes, tobacco products, or liquid nicotine[, or electronic cigarettes] are sold or offered for sale is prohibited from selling such cigarettes, tobacco products, or liquid nicotine[, or electronic cigarettes] to individuals under twenty-one years of age. Sale of cigarettes, tobacco products, *or* liquid nicotine[, or electronic cigarettes] in such places shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least thirty years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of cigarettes, tobacco products, *or* liquid nicotine[, or electronic cigarettes] to an individual under twenty-one years of age.

§ 4. Section 17-706 of the administrative code of the city of New York is amended by adding a new subdivision a-1 to read as follows:

a-1. Any person operating a place of business wherein electronic cigarettes are sold or offered for sale is prohibited from selling such electronic cigarettes to individuals under twenty-one years of age. Sales of electronic cigarettes in such places shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least twenty-one years of age. Such identification need not be required of any individual who reasonably appears to be at least thirty years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of electronic cigarettes to an individual under twenty-one years of age.

§ 5. Paragraph 4 of subdivision a of section 17-710 of the administrative code of the city of New York, as amended by a local law for the year 2017 amending the administrative code of the city of New York relating to the regulation of retail dealers of tobacco products and of electronic cigarettes, the establishment of price floors and minimum package sizes for tobacco products and shisha, and the establishment of a tax on tobacco products other than cigarettes, as proposed in introduction number 1544 for the year 2017, is amended to read as follows:

(4) Any person found to be in violation of section 17-704, 17-704.1, 17-705 or subdivision a, a-1 or b of section 17-706 shall be liable for a civil penalty of not more than one thousand dollars for the first violation, and not more than one thousand dollars for each additional violation found on that day; and not more than two thousand dollars for the second violation and each subsequent violation at the same place of business within a three-year period. Any person found to be in violation of subdivision c of section 17-706 shall be liable for a civil penalty of not more than five hundred dollars in any single day.

§ 6. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 35 to read as follows:

*SUBCHAPTER 35
ELECTRONIC CIGARETTE RETAIL DEALERS*

§ 20-560 Definitions. As used in this subchapter, the following terms have the following meanings:

Electronic cigarette. The term “electronic cigarette” means a battery-operated device that heats a liquid, gel, herb, and/or other substance and delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette.

Electronic cigarette retail dealer. The term “electronic cigarette retail dealer” means any person engaged in the retail sale of electronic cigarettes. For the purposes of this subchapter, the possession or transportation at any one time of more than 20 electronic cigarettes by any person other than a manufacturer or a person delivering electronic cigarettes in the regular course of business for a manufacturer or electronic cigarette retail dealer, shall be presumptive evidence that such person is an electronic cigarette retail dealer.

Good standing. The term “good standing” means any electronic cigarette retail dealer that has not been found to have violated subdivision b of section 17-704.1 or subdivision a-1 of section 17-706 on more than one day during the previous three consecutive years.

Person. Notwithstanding sections 1-112 and 20-102 of the code, the term “person” means any individual, partnership, society, association, joint-stock company, corporation, limited liability company, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

Pharmacy. The term “pharmacy” means “pharmacy” as defined in subdivision 1 of section 6802 of the education law, and any retail store that contains a pharmacy.

Retail store. The term “retail store” means any place that, in the regular course of business, sells or rents goods directly to the public.

§ 20–561 License. a. License required of electronic cigarette retail dealers.

1. It shall be unlawful for any person to engage in business as an electronic cigarette retail dealer without first having obtained a license as hereinafter prescribed for each place of business wherein such person engages in the retail sale of electronic cigarettes in the city.

2. It shall be unlawful for a person to permit any premises under such person's control to be used by any other person in violation of paragraph 1 of subdivision a of this section.

3. It shall be unlawful for a pharmacy to obtain a license to engage in business as an electronic cigarette retail dealer.

b. License application.

1. In order to obtain a license to engage in business as an electronic cigarette retail dealer, a person shall file an application with the commissioner for a license for each place of business that such person desires to have for the retail sale of electronic cigarettes in the city. The application for each license or renewal thereof shall be made upon such form as prescribed by the commissioner and shall contain such information as the commissioner shall require.

2. The commissioner shall commence accepting applications for licenses to engage in business as an electronic cigarette retail dealer on the effective date of the local law that added this section, and shall continue accepting applications for 90 days following such commencement.

(a) During the 90 day application period, the commissioner shall only accept applications for licenses to engage in business as an electronic cigarette retail dealer from persons who have been engaged in the retail sale of electronic cigarettes as of the date of enactment of this subchapter.

(b) The commissioner may require proof of such engagement from applicants during the 90 day application period.

3. The commissioner shall not accept applications after the expiration of the 90 day application period unless the commissioner determines that acceptance of such applications would not result in the issuance of a license in excess of the community district electronic cigarette retail dealer cap established pursuant to paragraph 1 of subdivision e of this section.

c. Fee and license term.

1. There shall be a biennial fee of \$200 for a license to engage in the business of an electronic cigarette retail dealer at each place of business where electronic cigarettes are sold in the city.

2. All even-numbered licenses shall expire on November 30 of the even-numbered year, and all odd-numbered licenses shall expire on November 30 of the odd-numbered year, next succeeding the year in which the license is issued.

d. Issuance of license and renewal of such license.

1. A license or renewal thereof shall be issued to a person to conduct the business of an electronic cigarette retail dealer for each place of business where such person engages in the retail sale of electronic cigarettes in the city only where:

(a) an applicant for a license or renewal thereof meets all the requirements prescribed herein and any criteria in addition thereto established by the commissioner by rule as deemed necessary to effectuate the purposes of this subchapter;

(b) an applicant satisfies the commissioner that such person is fit and able to conduct the business of an electronic cigarette retail dealer;

(c) the commissioner has not received notification from the commissioner of health and mental hygiene that the applicant is not in full compliance with any provision of chapter 7 of title 17 of this code or any rules promulgated by the commissioner of health and mental hygiene to effectuate the purposes of such provisions; and

(d) the number of licenses in the community district in which the place of business of such applicant is located is lower than the community district electronic cigarette retail dealer cap.

2. An electronic cigarette retail dealer license shall not be assignable and shall be valid only for the persons in whose names it is issued and for the transaction of business in the place of business designated therein and shall at all times be conspicuously displayed at the place of business for which it is issued.

e. Community district electronic cigarette retail dealer cap.

1. After the expiration of the 90 day application period described in paragraph 2 of subdivision b of this section, the department may process applications for up to 120 days. After such 120 days, the commissioner shall establish a community district electronic cigarette retail dealer cap for each community district in the city. The initial community district electronic cigarette retail dealer cap shall be 50 percent of the total number of licenses issued to electronic cigarette retail dealers in the community district as determined by the department.

2. The department, in conjunction with the department of health and mental hygiene, shall evaluate community district electronic cigarette retail dealer caps every two years and any time community district boundaries change. Such evaluation shall include consideration of the number of electronic cigarette retail dealers and the prevalence of electronic cigarette use. If, based on the evaluation, the department of health and mental hygiene recommends further reductions to the community district electronic cigarette retail dealer cap, the department of health and mental hygiene shall advise the speaker of the city council of such recommendation.

3. Notwithstanding paragraph 3 of subdivision b, and subparagraph d of paragraph 1 of subdivision d, of this section, if:

(a) a license of an electronic cigarette retail dealer expires at the end of a license term, such retail dealer may apply for renewal of such license;

(b) a business whose owner has been issued an electronic cigarette retail dealer is sold, the succeeding owner may apply for a license for use at the same location, provided that the electronic cigarette retail dealer selling such business was in good standing at the time of such sale, and the application is received within thirty days of the applicable change of ownership;

(c) an electronic cigarette retail dealer license becomes void pursuant to section 20-110, the succeeding beneficial owners of 10 percent or more of the stock of the organization to which a license had been granted may apply for a license provided that such electronic cigarette retail dealer was in good standing at the time the license became void, and the application is received within thirty days of the change of ownership; and

(d) an electronic cigarette retail dealer license becomes void pursuant to section 20-111, the succeeding partnership may apply for a license, provided that such retail dealer was in good standing at the time the license became void and the application is received within thirty days of the change in ownership.

§ 20-562 Violations. a. In addition to the civil penalties authorized by section 17-710 for a violation of subdivision b of section 17-704.1 or of subdivision a-1 of section 17-706, an electronic cigarette retail dealer license shall be revoked for a second violation of subdivision b of section 17-704.1 or subdivision a-1 of section 17-706 involving the unlawful delivery or sale of electronic cigarettes occurring on different days at the same place of business within a three-year period. Any violation of subdivision b of section 17-704.1 or subdivision a-1 of section 17-706 involving the unlawful delivery or sale of electronic cigarettes by any license holder at a place of business shall be included in determining the number of violations by such license holder

and by any subsequent license holder at the same place of business unless the subsequent license holder provides the commissioner with adequate documentation demonstrating that the subsequent license holder acquired the premises or business through an arm's length transaction and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises. An electronic cigarette retail dealer license shall be revoked at the same hearing at which an electronic cigarette retail dealer is found liable for a second violation or subsequent violations at the same place of business within a three-year period.

b. For the purposes of this subdivision, the term "arm's length transaction" shall have the same definition as contained in subdivision d of section 20-202.

§ 7. The commissioner of consumer affairs shall publicize the application period for the electronic cigarette retail dealer license so as to maximize awareness of the 90 day application for such license.

§ 8. The department of consumer affairs shall have the authority to promulgate any rules necessary for the implementation of this local law.

§ 9. This local law takes effect 150 days after it becomes law, except that:

(i) the department of consumer affairs and the department of health and mental hygiene may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, prior to such date;

(ii) section seven of this local law takes effect immediately;

(iii) paragraph 1 of subdivision a, and subparagraph (d) of paragraph 1 of subdivision d, of section 20-561, as added by section six of this local law, takes effect 360 days after it becomes law; and

(iv) paragraph 4 of subdivision a of section 17-710 of the administrative code of the city of New York, as added by section five of this local law, takes effect on the same day that a local law for the year 2017 amending the administrative code of the city of New York relating to the regulation of retail dealers of tobacco products and of electronic cigarettes, the establishment of price floors and minimum package sizes for tobacco products and shisha, and the establishment of a tax on tobacco products other than cigarettes, as proposed in introduction number 1544 for the year 2017, takes effect.

COREY D. JOHNSON, *Chairperson*; ROSIE MENDEZ, JAMES VACCA, MATHIEU EUGENE, PETER A. KOO, INEZ D. BARRON, ROBERT E. CORNEGY, Jr.,; Committee on Health, August 8 , 2017. *Other Council Members Attending: Council Member Lander.*

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

Report for Int. No. 1544-B

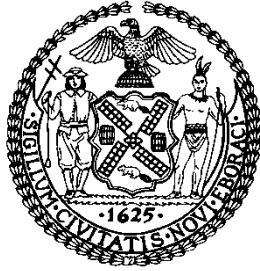
Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the regulation of retail dealers of tobacco products and of electronic cigarettes, the establishment of price floors and minimum package sizes for tobacco products and shisha, and the establishment of a tax on tobacco products other than cigarettes.

The Committee on Health, to which the annexed proposed amended local law was referred on April 5, 2017 (Minutes, page 997), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Health for Int. No. 484-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1544-B:



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

PROPOSED INTRO. NO: 1544-B

COMMITTEE: Health

TITLE: A local law to amend the administrative code of the city of New York, in relation to the regulation of retail dealers of tobacco products and of electronic cigarettes, the establishment of price floors and minimum package sizes for tobacco products and shisha, and the establishment of a tax on tobacco products other than cigarettes.

SPONSOR(S): Council Members Johnson, Mendez, Rosenthal, Lander and Cohen

SUMMARY OF LEGISLATION: The proposed legislation would increase the minimum price for a pack of cigarettes from \$10.50 to \$13 and would also establish a minimum price (or ‘price floor’) for specific categories of other tobacco products (OTP) – this includes cigars, little cigars, smokeless tobacco, loose tobacco, and shisha. This legislation would impose a tax, authorized by the Public Housing Law, on OTP of 10 percent of the minimum price for each OTP category.

The legislation would also require each wholesale dealer – who are liable for the collection and payment of the tax – to file with the Commissioner of Finance a return indicating the amount of tax due. Additionally, the legislation would impose new protocols regarding the seizure and forfeiture of untaxed tobacco products.

EFFECTIVE DATE: This law would take effect on the first day of the calendar month following the 270th day after it becomes law, except for the subdivision banning the retail delivery of cigarettes, tobacco products, or electronic cigarettes, which will take effect 150 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY 19 | Full Fiscal Impact FY 19 |
|---------------------|-----------------------|--------------------------------------|---------------------------------|
| Revenues | \$332,674 | \$3,992,089 | \$3,992,089 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$332,674 | \$3,992,089 | \$3,992,089 |

IMPACT ON REVENUES: It is anticipated that this legislation would result in a revenue increase of \$332,674 in Fiscal 2018 and \$3,992,089 in Fiscal 2019. Although the revenue generated from these new taxes are indeed much higher, there is also an associated loss in sales tax revenue from the increased or newly established minimum floor prices. This offsets much of the gains, as explained below.

The full fiscal impact of the new taxes (FY19) totals \$14,882,196. This includes \$45,765 in revenue for the proposed tax on little cigars, \$2,878,811 for the proposed tax on snuff, and \$11,957,620 for the proposed tax on cigars. These revenue estimates are based, where available, on volume sold and revenues collected by the New York State Department of Taxation and Finance. These revenues were then reduced to reflect sales in New York City. Certain assumptions were made regarding anticipated sales of each product given the reduction in consumption likely after an increase in that products price. Additionally, it is assumed that the rate of compliance among retailers will be low (50 percent). Given lack of data, no revenues were estimated for the sale of shisha, loose tobacco, and snus, but given national statistics on consumption of these products, it is reasonable to expect revenues resulting from this legislation to be slightly higher.

The loss in sales tax revenue given increased or newly established price floors would total \$10,890,107. This includes losses of \$2,255,400 (cigarettes), \$7,262,260 (cigars), \$27,987 (little cigars), and \$1,344,460 (snuff).

The Fiscal 2018 estimate assumes the legislation would take effect on June 1, 2018. Thus, revenues would only accumulate for the last month of that fiscal year.

IMPACT ON EXPENDITURES: It is estimated that this bill would not have an impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

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

ESTIMATE PREPARED BY: Jeanette Merrill, Legislative Financial Analyst
Kendall Stephenson, Economist

ESTIMATE REVIEWED BY: Paul Sturm, Supervising Economist, NYC Council Finance Division
Raymond Majewski, Chief Economist/Deputy Director,
NYC Council Finance Division
Crielhien Francisco, Unit Head, NYC Council Finance Division
Eric Bernstein, Counsel, NYC Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on April 5, 2017 and was referred to the Committee on Health (Committee). The legislation was subsequently amended after introduction. The Committee held a hearing on April 27, 2017 on the amended bill, Proposed Intro. No. 1544-A, and the bill was laid over. The bill was subsequently amended a second time, and the Committee will vote on the amended legislation, Proposed Int. No. 1544-B, at a hearing on August 8, 2017. Upon successful vote by the Committee, the full Council will vote on the legislation on August 9, 2017.

DATE PREPARED: August 7, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 1544-B:)

Int. No. 1544-B

By Council Members Johnson, Mendez, Rosenthal, Lander, Cohen, Barron and Maisel

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of retail dealers of tobacco products and of electronic cigarettes, the establishment of price floors and

minimum package sizes for tobacco products and shisha, and the establishment of a tax on tobacco products other than cigarettes

Be it enacted by the Council as follows:

Section 1. Legislative findings. The Council hereby finds that tobacco use is a leading cause of premature, preventable death in the City, killing an estimated 12,000 people in 2014. All tobacco products—including cigars, smokeless tobacco, tobacco containing shisha and others—are inherently dangerous, and contain nicotine, which is addictive. Health impacts associated with tobacco use include cancer, heart disease, lung disease, and other serious adverse health effects. While the prevalence of youth cigarette smoking in the City, 5.8% in 2015, has declined in recent years, a greater proportion of youth are using other tobacco products (OTP) like cigars, waterpipes (hookahs), and smokeless tobacco. Cigar and smokeless tobacco use increased as a proportion of youth tobacco use from 2007 to 2015. In 2015, youth cigarette smoking and cigar smoking were roughly equal at 5.8% and 5.7%, respectively. Hookah smoking and smokeless tobacco use among NYC youth have also increased in recent years. Between 2008 and 2014, the percentage of middle school students in NYC who had ever smoked hookah increased from 2.9% to 8.5%. In 2014, 16.1% of high school students in the City had smoked hookah. Smokeless tobacco use among NYC youth increased from 2.2% in 2007 to 3.1% in 2015.

According to the World Health Organization, tobacco taxes are the single most effective way to decrease consumption and encourage tobacco users to quit. Taxation reduces tobacco use by reducing youth initiation, encouraging tobacco users to quit, and reducing consumption among those who do not quit. Minimum prices that increase prices for tobacco products have a comparable impact on tobacco consumption as taxes. Given relatively high levels of taxation on cigarettes at the federal, state, and local levels, OTP is generally less expensive than cigarettes, increasing its attractiveness as a cheaper alternative.

The Council hereby declares that the enactment of this law is necessary to reduce the prevalence of OTP use, particularly among youth. The Public Housing Law authorizes the City to impose a tax on OTP of up to 10% of the purchase price, and revenue generated from the tax must support public housing. This law creates a price floor (or minimum price) for specific categories of OTP (including cigars, little cigars, smokeless tobacco, loose tobacco, and shisha) and sets the OTP tax at 10% of the price floor for each OTP category.¹ Price floors provide a mechanism for making the OTP tax consistent for each product category, thereby facilitating the administration of the tax. Price floors also elevate prices on low-priced tobacco products, further advancing this law's public health goals. This tax will improve public health and simultaneously provide a source of revenue for the New York City Housing Authority.

§ 2. Section 11-1301 of the administrative code of the city of New York, subdivision 1 as amended by section 22 of part D of chapter 134 of the laws of 2010, subdivision 7 as amended by local law number 97 for the year 2013, subdivision 13 as amended by section 72 of chapter 808 of the laws of 1992, is amended to read as follows:

§ 11-1301 Definitions. When used in this chapter the following words shall have the meanings herein indicated:

1. "Cigarette." Any roll for smoking made wholly or in part of tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco.

2. "Person." Any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

3. "Sale or purchase." Any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever or any agreement therefor.

¹ We propose setting the price floors at approximately 20% above the mean price for a given tobacco product category based on a DOHMH survey of prices found in the NYC market.

4. "Use." Any exercise of a right or power, actual or constructive, and shall include but is not limited to the receipt, storage, or any keeping or retention for any length of time, but shall not include possession for sale by a dealer.

5. "Dealer." Any wholesale dealer or retail dealer as hereinafter defined.

6. "Wholesale dealer." Any person who sells cigarettes *or tobacco products* to retail dealers or other persons for purposes of resale only, and any person who owns, operates or maintains one or more cigarette vending machines in, at or upon premises owned or occupied by any other person.

7. "Retail dealer." Any person, other than a wholesale dealer, engaged in selling cigarettes *or tobacco products*. For the purposes of this chapter, the possession or transportation at any one time of more than four hundred cigarettes *or little cigars, or more than fifty cigars, or more than one pound of loose tobacco, smokeless tobacco, snus or shisha, or any combination thereof*, by any person other than a manufacturer, an agent, a licensed wholesale dealer or a person delivering cigarettes *or tobacco products* in the regular course of business for a manufacturer, an agent or a licensed wholesale or retail dealer, shall be presumptive evidence that such person is a retail dealer.

8. "Package." The individual package, box or other container in or from which retail sales of cigarettes *or tobacco products* are normally made or intended to be made.

9. "Agent." Any person authorized to purchase and affix adhesive or meter stamps under this chapter who is designated as an agent by the commissioner of finance.

10. "Comptroller." The comptroller of the city.

11. "Commissioner of finance." The commissioner of finance of the city.

12. "City." The city of New York.

13. "Tax appeals tribunal." The tax appeals tribunal established by section [one hundred sixty-eight] 168 of the charter.

14. "Cigar." *Any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco, with or without a tip or mouthpiece. Cigar does not include a little cigar as defined in this section.*

15. "Little cigar." *Any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco and that weighs no more than four pounds per thousand or has a cellulose acetate or other integrated filter.*

16. "Loose tobacco." *Any product that consists of loose leaves or pieces of tobacco that is intended for use by consumers in a pipe, roll-your-own cigarette, or similar product or device.*

17. "Smokeless tobacco." *Any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.*

18. "Snus." *Any smokeless tobacco product marketed and sold as snus, and sold in ready-to-use pouches or loose as a moist powder.*

19. "Tobacco product." *Any product which contains tobacco that is intended for human consumption, including any component, part, or accessory of such product. Tobacco product shall include, but not be limited to, any cigar, little cigar, chewing tobacco, pipe tobacco, roll-your-own tobacco, snus, bidi, snuff, shisha, or dissolvable tobacco product. Tobacco product shall not include cigarettes or any product that has been approved by the United States food and drug administration for sale as a tobacco use cessation product or for other medical purposes and that is being marketed and sold solely for such purposes.*

20. "Shisha." *Any product that contains tobacco and is smoked or intended to be smoked in a hookah or water pipe.*

§ 3. Chapter 13 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-1302.1 to read as follows:

§ 11-1302.1. *Imposition of tax on tobacco products.*

a. *In accordance with section 110 of the public housing law, an excise tax on the sale of tobacco products is hereby imposed and shall be paid on all tobacco products possessed in the city for sale, except as hereinafter provided. It is intended that the ultimate incidence of and liability for the tax shall be upon the consumer. Any dealer or distributor who pays the tax to the commissioner of finance shall collect the tax from the purchaser or consumer. Such tax shall be at the rate of ten percent of the price floor for a package of the specified category of tobacco product, exclusive of sales tax, set forth in the following table, which shall be consistent with the price floors described in subdivision d of section 17-176.1:*

| <i>Tobacco Product</i> | <i>Price floor (excluding OTP and sales taxes)</i> | <i>Amount of OTP tax (excluding sales tax)</i> |
|--------------------------|---|---|
| <i>Cigar</i> | <i>\$8.00 per cigar sold individually; for a package, number of cigars multiplied by \$1.75 plus \$6.25</i> | <i>\$0.80 per cigar; for a package, \$0.80 for first cigar, plus \$0.175 for each additional cigar</i> |
| <i>Little cigar</i> | <i>\$10.95 per pack of 20 little cigars</i> | <i>\$1.09 per pack</i> |
| <i>Smokeless tobacco</i> | <i>\$8.00 per 1.2 oz. package plus \$2.00 for each additional 0.3 oz. or any fraction thereof in excess of 1.2 oz.</i> | <i>\$0.80 per 1.2 oz. plus an additional \$0.20 for each 0.3 oz. or any fraction thereof in excess of 1.2 oz.</i> |
| <i>Snus</i> | <i>\$8.00 per 0.32 oz. package plus \$2.00 for each additional 0.08 oz. or any fraction thereof in excess of 0.32 oz.</i> | <i>\$0.80 per 0.32 oz. plus an additional \$0.20 for each 0.08 oz. or any fraction thereof in excess of 0.32 oz.</i> |
| <i>Shisha</i> | <i>\$17.00 per 3.5 oz. package plus \$3.40 for each additional 0.7 oz. or any fraction thereof in excess of 3.5 oz.</i> | <i>\$1.70 per 3.5 oz. plus an additional \$0.34 for each 0.7 oz. or any fraction thereof in excess of 3.5 oz.</i> |
| <i>Loose tobacco</i> | <i>\$2.55 per 1.5 oz. package plus \$0.51 for each additional 0.3 oz. or any fraction thereof in excess of 1.5 oz.</i> | <i>\$0.25 per 1.5 oz. package plus an additional \$0.05 for each 0.3 oz. or any fraction thereof in excess of 1.5 oz.</i> |

b. The tax imposed hereunder shall not apply to:

1. The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the state where it is the purchaser, user or consumer;

2. The United States of America, in so far as it is immune from taxation;

3. The United Nations or other world-wide international organizations of which the United States of America is a member;

4. Any corporation, or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph; and

5. Tobacco products possessed in the city by any dealer for sale outside the city or for sale and shipment to any person in another state for use there, provided such dealer complies with the regulations relating thereto.

c. Nothing in subdivision b shall exempt sales by any shop or store operated by any college, university or other public or private institution for higher education from the taxes described in this section.

d. The tax imposed hereunder shall be in addition to any and all other taxes.

e. It shall be presumed that all sales mentioned in this section are subject to tax until the contrary is established, and the burden of proof that a sale is not taxable hereunder shall be upon the dealer or the purchaser.

f. 1. Except as hereinafter provided, the tax shall be advanced and paid by the wholesale dealer. The wholesale dealer shall be liable for the collection and payment of the tax to the commissioner of finance as required under subdivision g of this section. The commissioner may require the wholesale dealer to keep tobacco products for which the tax has not yet been paid separately from tobacco products for which the tax has been paid. For purposes of this chapter, retention by the wholesale dealer of any tobacco products beyond the time prescribed for payment under this section, without having made the requisite payment, or storing any such products in violation of any separation requirements prescribed by the commissioner, shall be presumptive evidence that such tobacco products are possessed in violation of the provisions of this chapter.

2. Every retail dealer shall be liable for the tax on all tobacco products in his or her possession at any time, upon which tax has not been paid, and the failure of any retail dealer to produce and exhibit to the commissioner of finance or such commissioner's duly authorized representatives upon demand, an invoice by a licensed wholesale dealer for any tobacco products in his or her possession, shall be presumptive evidence the tax thereon has not been paid, that such retail dealer is liable for the tax thereon, and the tobacco products *are possessed in violation of this chapter, unless evidence of such invoice or payment shall later be produced.*

g. 1. Each wholesale dealer shall file with the commissioner of finance a return, on a form required by such commissioner, indicating the amount of tax due pursuant to this section and any other information the commissioner may require, on a monthly basis, or on such other regular interval as such commissioner may prescribe. Each wholesale dealer shall file the return on the twentieth day of the month following the end of the month or other interval covered by the return, unless the commissioner of finance prescribes a greater number of days following the end of the month or a different reporting interval. Each wholesale dealer shall pay the amount of tax due upon filing the return unless the commissioner prescribes a different date or time for such payment.

2. The commissioner of finance may:

(A) Authorize another person, including a distributor as defined in subdivision 12 of section 470 of the tax law, who is not a wholesale dealer, to advance and pay the tax imposed under this section;

(B) Exempt wholesale dealers from the requirements of this subdivision, upon such conditions as may be imposed by such commissioner, if he or she is satisfied the tax on the tobacco products has been or is being advanced and paid by another wholesale dealer or a distributor authorized under this subdivision.

h. The amount of taxes advanced and paid by the wholesale dealer pursuant to this section shall be added to and collected as part of the sales price of the tobacco products.

§ 4. Subdivisions b, d, e and g of section 11-1303 of the administrative code of the city of New York, as amended by local law number 2 for the year 2000, paragraph 2 of subdivision b as added by local law number 2 for the year 2000, are amended to read as follows:

b. Application for license. 1. Wholesale [cigarette] *tobacco* license. In order to obtain a license to engage in business as a wholesale dealer, a person shall file application with the commissioner of finance for one license for each place of business that he or she desires to have for the sale of cigarettes *or tobacco products* in the city. Every application for a wholesale [cigarette] *tobacco* license shall be made upon a form prescribed and prepared by the commissioner of finance and shall set forth such information as the commissioner shall require. The commissioner of finance may, for cause, refuse to issue a wholesale [cigarette] *tobacco* license. Upon approval of the application, the commissioner of finance shall grant and issue to the applicant a wholesale [cigarette] *tobacco* license for each place of business within the city set forth in the application. [Cigarette] *Wholesale tobacco* licenses shall not be assignable and shall be valid only for the persons in whose names such licenses have been issued and for the transaction of business in the places designated therein and shall at all times be conspicuously displayed at the places for which issued.

2. [Retail cigarette] *Retail tobacco* license. In order to obtain a license to engage in business as a retail dealer, a person shall file an application with the commissioner of consumer affairs in accordance with the provisions of section 20-202 [of the code].

d. Suspension or revocation of licenses. (1) After a hearing, the commissioner of finance may suspend or revoke a wholesale [cigarette] *tobacco* license and the commissioner of consumer affairs, upon notice from the commissioner of finance, may suspend or revoke a retail [cigarette] *tobacco* license whenever the commissioner of finance finds that the holder thereof has failed to comply with any of the provisions of this chapter or any rules of the commissioner of finance prescribed, adopted and promulgated under this chapter.

(2) The commissioner of finance may also suspend or revoke a wholesale [cigarette] *tobacco* license *in accordance with the requirements of any other sections of this code* or any rules promulgated thereunder which authorizes the suspension or revocation of a wholesale [cigarette] *tobacco* license.

(3) The commissioner of consumer affairs may also suspend or revoke a retail [cigarette] *tobacco* license in accordance with the requirements of any other section of this code or any rules promulgated thereunder [which] *that* authorize suspension or revocation of a retail [cigarette] *tobacco* license.

(4) Upon suspending or revoking any wholesale [cigarette] *tobacco* license, the commissioner of finance shall direct the holder thereof to surrender to the commissioner of finance immediately all wholesale [cigarette] *tobacco* licenses or duplicates thereof issued to such holder and the holder shall surrender promptly all such

licenses to the commissioner of finance as directed. Before the commissioner of finance suspends or revokes a wholesale [cigarette] *tobacco* license or notifies the commissioner of consumer affairs of a finding of a violation of this chapter with respect to a retail [cigarette] *tobacco* license pursuant to paragraph (1) of this subdivision, [he or she] *the commissioner of finance* shall notify the holder and the holder shall be entitled to a hearing, if desired, if the holder, within ninety days from the date of such notification, or[,] if the commissioner of finance has established a conciliation procedure pursuant to section 11-124 [of the code] and the taxpayer has requested a conciliation conference in accordance therewith[,] within ninety days from the mailing of a conciliation decision or the date of the commissioner's confirmation of the discontinuance of the conciliation proceeding, both (A) serves a petition upon the commissioner of finance and (B) files a petition with the tax appeals tribunal for a hearing. After such hearing, the commissioner of finance, good cause appearing therefor, may suspend or revoke the wholesale [cigarette] *tobacco* license, and, in the case of a retail [cigarette] *tobacco* license, notify the commissioner of consumer affairs of a violation of this chapter or any rules promulgated thereunder. Upon such notification, the commissioner of consumer affairs may suspend or revoke a retail [cigarette] *tobacco* license as provided in subdivision b of section 20-206 [of the code]. The commissioner of finance may, by rule, provide for granting a similar hearing to an applicant who has been refused a wholesale [cigarette] *tobacco* license by the commissioner of finance.

e. Prohibited sales and purchases. No agent or dealer shall sell cigarettes *or tobacco products* to an unlicensed wholesale or retail dealer, or to a wholesale or retail dealer whose license has been suspended or revoked. No dealer shall purchase cigarettes *or tobacco products* from any person other than a manufacturer or a licensed wholesale dealer.

g. License fees; numbering and registering of licenses; term. 1. The annual fee for a wholesale [cigarette] dealer's license shall be six hundred dollars, and the annual fee for a retail [cigarette] dealer's license shall be as provided in subdivision c of section 20-202 [of this code].

2. Wholesale [cigarette] *tobacco* licenses shall be regularly numbered and duly registered.

3. Wholesale [cigarette] *tobacco* licenses shall expire on January thirty-first next succeeding the date of issuance unless sooner suspended or revoked.

§ 5. Section 11-1307 of the administrative code of the city of New York, subdivision d as amended by local law number 2 for the year 2000, is amended to read as follows:

§ 11-1307 Records to be kept; examination.

a. 1. At the time of delivering cigarettes to any person *in the city*, each agent or wholesale dealer [in the city] shall make a true duplicate invoice showing the date of delivery, the number of packages and the number of cigarettes contained therein in each shipment of cigarettes delivered, and the name of the purchaser to whom delivery is made, and shall retain the same for a period of three years subject to the use and inspection of the commissioner of finance. Each dealer [in the city] shall procure and retain invoices showing the number of packages and the number of cigarettes contained therein in each shipment of cigarettes received by such dealer, the date thereof, and the name of the shipper, and shall retain the same for a period of three years subject to the use and inspection of the commissioner of finance.

2. *At the time of delivering tobacco products to any person in the city, each wholesale dealer shall make a true duplicate invoice showing the date of delivery, the number of packages and the number of tobacco products contained therein as well as any tobacco products not in packages in each shipment of tobacco products delivered, and the name of the purchaser to whom delivery is made and shall retain the same for a period of three years subject to the use and inspection of the commissioner of finance. Each dealer shall procure and retain invoices showing the number of packages and the number of tobacco products contained therein as well as any tobacco products not in packages in each shipment of tobacco products received by such dealer, the date thereof, and the name of the shipper, and shall retain the same for a period of three years subject to the use and inspection of the commissioner of finance.*

3. *Each dealer shall retain any other records and in such form as may be required by the commissioner of finance indicating proof of the payment of the tax imposed under section 11-1302.1 of this chapter. Any failure to provide such records upon request by the commissioner of finance or such commissioner's duly authorized representatives shall be presumptive evidence that the dealer has violated the provisions of this chapter.*

b. The commissioner of finance by regulation may provide that whenever cigarettes *or tobacco products* are shipped into the city, the railroad company, express company, trucking company, or carrier transporting

any shipment thereof shall file with the commissioner of finance a copy of the freight bill within ten days after the delivery in the city of each shipment.

c. All dealers [within the city] shall maintain and keep for a period of three years such other records of cigarettes *or tobacco products* received[,] or sold [or delivered] within the city as may be required by the commissioner of finance. *All wholesale dealers shall maintain and keep for a period of three years such other records of cigarettes or tobacco products delivered within the city.*

d. Without limiting the powers granted the commissioner of consumer affairs pursuant to title [twenty of the code] 20 and any rules promulgated thereunder, the commissioner of finance or the commissioner's duly authorized representatives are hereby authorized to examine the books, papers, invoices and other records, *and* stock of cigarettes *or tobacco products* in and upon any premises where the same are placed, stored and sold, and equipment of any such agent or dealer pertaining to the sale and delivery of cigarettes *or tobacco products* taxable under this chapter. To verify the accuracy of the tax imposed and assessed by this chapter, each such person is hereby directed and required to give to the commissioner of finance or the commissioner's duly authorized representatives, the means, facilities and opportunity for such examinations as are herein provided for and required.

e. The commissioner of finance shall investigate any failure to pay the tax required by this chapter or any other failure to comply with this chapter or the rules or regulations promulgated thereunder, and shall take the necessary steps to enforce compliance therewith.

§ 6. Subdivision 7 of section 11-1308 of the administrative code of the city of New York is amended to read as follows:

7. To request information from the state tax commission [or of], the treasury department of the United States or [of] the taxing officials of any other state or city [which] *that* imposes a similar [cigarette] tax *to any tax imposed by this chapter*, and to afford information to such commission, department or other [state or city] *taxing official*, any other provision of this chapter to the contrary notwithstanding;

§ 7. Section 11-1310 of the administrative code of the city of New York, as amended by chapter 808 of the laws of 1992, is amended to read as follows:

§ 11-1310 Determination of tax. If any person fails to pay the tax, or to file a return required by this chapter, or if a return, when filed, is insufficient and the maker fails to file a corrected or sufficient return within ten days after the same may be required by notice from the commissioner of finance, [he or she] *the commissioner of finance* shall determine the amount of tax due from such information as may be obtainable or on the basis of external indices, such as number of cigarettes purchased or sold, *number of tobacco products purchased or sold*, stock on hand, volume of sales by similar dealers and/or other factors. Notice of such determination shall be given to the person liable for the payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed shall, within ninety days of the giving of such notice, or, if the commissioner of finance has established a conciliation procedure pursuant to section 11-124 of the code and the person liable for the tax has requested a conciliation conference in accordance therewith, within ninety days from the mailing of a conciliation decision or the date of the commissioner's confirmation of the discontinuance of the conciliation proceeding, both (1) serves a petition upon the commissioner of finance and (2) files a petition with the tax appeals tribunal for a hearing, or unless the commissioner of finance shall of his or her own motion redetermine such tax. Such hearing and any appeal to the tax appeals tribunal sitting en banc from the decision rendered in such hearing shall be conducted in the manner and subject to the requirements prescribed by the tax appeals tribunal pursuant to sections one hundred sixty-eight through one hundred seventy-two of this charter. After such hearing the tax appeals tribunal shall give notice of its decision to the person liable for the tax and to the commissioner of finance. A decision of the tax appeals tribunal sitting en banc shall be reviewable for error, illegality, unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if instituted by the person against whom the tax was assessed within four months after the giving of the notice of such tax appeals tribunal decision; *provided however, that if such decision regards the tax imposed under section 11-1302.1, such proceeding must be instituted by the person against whom the tax was assessed within thirty days after the giving of the notice of such tax appeals tribunal decision.* Such proceeding shall not be instituted by a person liable for the tax unless the amount of any tax sought to be reviewed with interest and penalties thereon, if any, shall have first been deposited with the commissioner of finance and an undertaking filed with the commissioner of finance in such amount and with such sureties as a justice of the supreme court shall approve,

to the effect that if such proceeding be dismissed or the tax confirmed, such person will pay all costs and charges which may accrue in the prosecution of the proceeding.

§ 8. Section 11-1311 of the administrative code of the city of New York, subdivision a as amended by chapter 586 of the laws of 2006, is amended to read as follows:

§ 11-1311 Refunds.

a. In the manner provided in this subdivision the commissioner of finance shall refund, without interest, any tax, interest or penalty erroneously, illegally or unconstitutionally collected or paid. In addition, whenever any cigarettes upon which stamps have been affixed have been sold and shipped to a dealer outside the city for sale there or to any person in another state for use there, or have become unfit for use and consumption or unsalable, or have been destroyed, the dealer shall be entitled to a refund of the amount of tax paid, less the applicable commission, with respect to such cigarettes. In any event no refund shall be granted unless application to the commissioner of finance therefor is made within two years after the stamps were affixed to such cigarettes or the tax was paid, except if a person has consented in writing to an extension of the period for assessment of additional tax pursuant to subdivision c of section 11-1315 [of this chapter], and such consent is given within the two-year period for making a refund application provided in this subdivision, the period for making a refund application shall not expire prior to six months after the expiration of the period within which an assessment could be made pursuant to such consent or any extension thereof. Whenever a refund is made or denied by the commissioner of finance, the commissioner shall state his or her reasons therefor and give notice thereof to the applicant in writing. A person shall not be entitled to a hearing in connection with such application for a refund if such person has already had a hearing or had been given the opportunity of a hearing as provided in section 11-1310 [of this chapter] or has failed to avail himself or herself of the remedies therein provided. No refund shall be made of a tax, interest or penalty paid pursuant to a determination of the commissioner of finance as provided in section 11-1310 [of this chapter], unless the tax appeals tribunal, after a hearing as in said section provided or the commissioner of finance, of his or her own motion, shall have reduced the tax or penalty, or it shall have been established in a proceeding, pursuant to article seventy-eight of the civil practice law and rules that such determination was erroneous, illegal, unconstitutional or otherwise improper, in which event a refund without interest shall be made as provided upon the determination of such proceeding. Any determination of the commissioner of finance denying a refund pursuant to this subdivision shall be final and irrevocable unless the applicant for such refund, within ninety days from the mailing of notice of such determination, or, if the commissioner of finance has established a conciliation procedure pursuant to section 11-124 [of this title] and the applicant has requested a conciliation conference in accordance therewith, within ninety days from the mailing of a conciliation decision or the date of the commissioner's confirmation of the discontinuance of the conciliation proceeding, both (1) serves a petition upon the commissioner of finance and (2) files a petition with the tax appeals tribunal for a hearing. Such petition for a refund made as provided in this subdivision shall be deemed an application for a revision of any tax, penalty or interest complained of. Such hearing and any appeal to the tax appeals tribunal sitting en banc from the decision rendered in such hearing shall be conducted in the manner and subject to the requirements prescribed by the tax appeals tribunal pursuant to sections one hundred sixty-eight through one hundred seventy-two of the charter. After such hearing, the tax appeals tribunal shall give notice of its decision to the applicant and to the commissioner of finance. The applicant shall be entitled to maintain a proceeding under article seventy-eight of the civil practice law and rules to review a decision of the tax appeals tribunal sitting en banc, provided, however, that such proceeding is instituted within four months after such decision, *provided however, that if such decision regards the tax imposed under section 11-1302.1, such proceeding must be instituted within thirty days after such decision*, and provided, further, in the case of an application by a person liable for the tax, that a final determination of tax due was not previously made, and that an undertaking shall first be filed by such person with the commissioner of finance in such amount and with such sureties as a justice of the supreme court shall approve, to the effect that if such proceeding be dismissed or the tax confirmed such person will pay all costs and charges which may accrue in the prosecution of such proceeding.

b. If the commissioner of finance is satisfied that any dealer is entitled to a refund the commissioner shall issue to such dealer stamps of sufficient value to cover the refund or to make such refund.

§ 9. Subdivision b of section 11-1314 of the administrative code of the city of New York is amended to read as follows:

b. In addition to all other remedies for the collection of any taxes, penalties or interest due under the provisions of this chapter, the commissioner of finance may *with respect to any tax imposed under section 11-1302 or any penalties or interest related thereto* issue a warrant, directed to the city sheriff commanding the sheriff to levy upon and sell the real and personal property of the person liable for the tax which may be found within the city, for the payment of the amount thereof, with any penalties and interest and the cost of executing the warrant, and to return such warrant to the commissioner of finance and to pay to the commissioner the money collected by virtue thereof within sixty days after the receipt of such warrant. The city sheriff shall within five days after the receipt of the warrant file with the county clerk a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the taxes, penalty and interest for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant shall become a lien upon the title to and interest in real and personal property of the person against whom the warrant is issued. The city sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of a court of record, and for services in executing the warrant the city sheriff shall be entitled to the same fees which he or she may collect in the same manner. In the discretion of the commissioner of finance a warrant of like terms, force and effect may be issued and directed to any officer or employee of the department of finance, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the commissioner of finance may from time to time issue new warrants and shall have the same remedies to enforce the amount due thereunder as if the city had recovered judgment therefor and execution thereon had been returned unsatisfied.

§ 10. Subdivision a of section 11-1317 of the administrative code of the city of New York is amended to read as follows:

a. (1) Any person failing to pay a tax payable under [this chapter] *section 11-1302* when due shall be subject to a penalty of fifty per centum of the amount of tax due, but the commissioner of finance, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid and disposed of in the same manner as other revenues under this chapter. Unpaid penalties may be enforced in the same manner as the tax imposed by [this chapter] *section 11-1302*.

(2) *Any person failing to pay a tax payable under section 11-1302.1 when due shall be subject to a penalty of three hundred per centum of the amount of tax due, but the commissioner of finance, if satisfied that the delay was excusable, may remit all or any part of such penalty. Such penalty shall be paid and disposed of in the same manner as other revenues from the tax imposed under section 11-1302.1. Unpaid penalties may be enforced in the same manner as the tax imposed by section 11-1302.1.*

§ 11. Section 11-1318 of the administrative code of the city of New York, as amended by local law number 10 for the year 2002, is amended to read as follows:

§ 11-1318 Disposition of revenues. (a) All revenues resulting from the imposition of the tax under [this chapter] *section 11-1302* shall be paid into the treasury of the city and shall be credited to and deposited in the general fund of the city, except that, after the payment of refunds with respect to such tax, effective on and after July second, two thousand two, forty-six and one-half percent and, effective on and after April first, two thousand three, forty-six percent of such revenues (including taxes, interest and penalties) collected or received shall be paid to the state comptroller.

(b) *All revenues resulting from the imposition of the tax under section 11-1302.1 during a fiscal year, including any interest and penalties, shall be paid into the treasury of the city in accordance with section 112 of the public housing law, and shall be payable from the city to the New York city housing authority in such fiscal year.*

§ 12. Section 11-1319 of the administrative code of the city of New York is amended to read as follows:

[This] *Section 11-1302 and the provisions of this chapter related thereto* shall be construed and enforced in conformity with chapter [two hundred thirty-five] 235 of the laws of [nineteen hundred fifty-two, pursuant to which it is enacted] 1952. *Section 11-1302.1 and the provisions of this chapter related thereto shall be construed and enforced in conformity with subdivision e of section 110 and sections 111, 112 and 113 of the public housing law.*

§ 13. Chapter 40 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-4012.1 to read as follows:

11-4012.1 Tobacco products tax

(a) Attempt to evade or defeat tax. Any person who willfully attempts in any manner to evade or defeat any tax imposed by section 11-1302.1 or the payment thereof shall, in addition to any other penalties provided by law, be guilty of a misdemeanor.

(b) Any willful act or omission with respect to the tax imposed by section 11-1302.1, with the exception of those described in subdivision (a) of this section, by any person which constitutes a violation of any provision of chapter thirteen of this title or chapter two of title twenty of the code shall constitute a misdemeanor.

§ 14. Chapter 40 of title 11 of the administrative code of the city of New York is amended by adding new sections 11-4025 and 11-4026 to read as follows:

§ 11-4025 Seizure and forfeiture of untaxed tobacco products.

(a) Whenever a police officer designated in section 1.20 of the criminal procedure law or a peace officer employed by the department of finance, including but not limited to the sheriff, undersheriff or deputy sheriffs of the city designated as peace officers in subdivision two of section 2.10 of the criminal procedure law, discovers any tobacco products subject to any tax provided by chapter 13 of this title, and upon which the tax has not been paid, he or she is hereby authorized and empowered forthwith to seize and take possession of such tobacco products, together with any vending machine or receptacle in which such tobacco products are held for sale. Such tobacco products, vending machine or receptacle seized by such police officer or such peace officer shall be turned over to the commissioner of finance.

(b) The seized tobacco products and any vending machine or receptacle seized therewith, but not the money contained in such vending machine or receptacle, shall thereupon be forfeited to the city, unless the person from whom the seizure is made, or the owner of such seized tobacco products, vending machine or receptacle, or any other person having an interest in such property, shall within ten days of such seizure, apply to the commissioner of finance for a hearing to determine the propriety of the seizure, or unless the commissioner of finance shall on his own motion release the seized tobacco products, vending machine or receptacle. After such hearing the commissioner of finance shall give notice of his or her decision to the petitioner. The decision of the commissioner shall be reviewable for error, illegality, unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules.

(c) The commissioner of finance may, within a reasonable time after the forfeiture to the city of such vending machine or receptacle under this section, upon publication of a notice to such effect for at least five successive days, in a newspaper published or circulated in the city, sell such forfeited vending machine or receptacle at public sale and pay the proceeds into the general fund of the city. Such seized vending machine or receptacle may be sold prior to forfeiture if the owner of the seized property consents to the sale. Tobacco products forfeited to the city under this section shall be destroyed or used for law enforcement purposes, except that tobacco products that violate, or are suspected of violating, federal trademark laws or import laws shall not be used for law enforcement purposes. If the commissioner determines the tobacco products forfeited under this section may not be used for law enforcement purposes, the commissioner of finance must, within a reasonable time after the forfeiture to the city of such cigarettes, upon publication of a notice to such effect for at least five successive days, prior to destruction, in a newspaper published or circulated in the city, destroy such forfeited tobacco products.

(d) In the alternative, the commissioner of finance, on reasonable notice by mail or otherwise, may permit the person from whom a seizure of tobacco products under this section was made, to redeem any vending machine or receptacle seized with such tobacco products, or may permit the owner of any such vending machine or receptacle to redeem the same, upon the payment of any civil penalty imposed pursuant to chapter 7 of title 17 or subchapter 1 of chapter 2 of title 20 of this code and the costs incurred in such proceeding.

§ 11-4026 Seizure and forfeiture of taxed tobacco products sold or possessed by unlicensed retail or wholesale dealers other than flavored tobacco products subject to seizure under section 11-4024.

(a) Whenever a police officer designated in section 1.20 of the criminal procedure law or a peace officer employed by the department of finance, including but not limited to the sheriff, undersheriff or deputy sheriffs of the city designated as peace officers in subdivision two of section 2.10 of the criminal procedure law, discovers any tobacco products, other than flavored tobacco products, subject to any tax provided by chapter 13 of this title, and upon which the tax has been paid, but such tobacco products are sold, offered for sale or possessed by a person in violation of section 11-1303, 17-703 or 20-202, he or she is hereby authorized and empowered forthwith to seize and take possession of such tobacco products, together with any vending

machine or receptacle in which such tobacco products are held for sale. Such tobacco products, vending machine or receptacle seized by such police officer or such peace officer shall be turned over to the commissioner of finance.

(b) The seized tobacco products and any vending machine or receptacle seized therewith, but not the money contained in such vending machine or receptacle, shall thereupon be forfeited to the city, unless the person from whom the seizure is made, or the owner of such seized tobacco products, vending machine or receptacle, or any other person having an interest in such property, shall within ten days of such seizure, apply to the commissioner of finance for a hearing to determine the propriety of the seizure, or unless the commissioner of finance shall on his own motion release the seized tobacco products, vending machine or receptacle. After such hearing the commissioner of finance shall give notice of his or her decision to the petitioner. The decision of the commissioner shall be reviewable for error, illegality, unconstitutionality or any other reason whatsoever by a proceeding under article 78 of the civil practice law and rules.

(c) The commissioner of finance may, within a reasonable time after the forfeiture to the city of such vending machine or receptacle under this section, upon publication of a notice to such effect for at least five successive days, in a newspaper published or circulated in the city, sell such forfeited vending machine or receptacle at public sale and pay the proceeds into the general fund of the city. Such seized vending machine or receptacle may be sold prior to forfeiture if the owner of the seized property consents to the sale. Tobacco products forfeited to the city under this section shall be destroyed or used for law enforcement purposes, except that tobacco products that violate, or are suspected of violating, federal trademark laws or import laws shall not be used for law enforcement purposes. If the commissioner determines the tobacco products forfeited under this section may not be used for law enforcement purposes, the commissioner of finance must, within a reasonable time after the forfeiture to the city of such tobacco products, upon publication of a notice to such effect for at least five successive days, prior to destruction, in a newspaper published or circulated in the city, destroy such forfeited tobacco products.

(d) In the alternative, the commissioner of finance, on reasonable notice by mail or otherwise, may permit the person from whom a seizure of tobacco products under this section was made, to redeem any vending machine or receptacle seized with such tobacco products, or may permit the owner of any such vending machine or receptacle to redeem the same, upon the payment of any civil penalty imposed pursuant to chapter seven of title 17 or subchapter one of chapter two of title 20 of this code and the costs incurred in such proceeding.

§ 15. Subdivisions a and d of section 17-176.1 of the administrative code of the city of New York, as added by local law number 97 for the year 2013, are amended to read as follows:

a. Definitions. For purposes of this section:

“Cigar” means any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco, with or without a tip or mouthpiece. Cigar does not include a little cigar as defined in this section.

“Cigarette” means any roll for smoking made wholly or in part of tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco.

[“Cigarette price floor” means the minimum price, including all applicable taxes, for which one package of twenty cigarettes or more may be sold by a retail dealer.]

“Listed price” means the price listed for cigarettes or tobacco products on their packages or on any related shelving, posting, advertising or display at the place where the cigarettes or tobacco products are sold or offered for sale, including all applicable taxes.

“Little cigar” means any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco and that weighs no more than four pounds per thousand or has a cellulose acetate or other integrated filter.

[“Little cigar price floor” means the minimum price, including all applicable taxes, for which one package of twenty little cigars or more may be sold by a retail dealer.]

“Loose tobacco” means any product that consists of loose leaves or pieces of tobacco that is intended for use by consumers in a pipe, roll-your-own cigarette, or similar product or device.

“Non-tobacco shisha” means any product that does not contain tobacco or nicotine and is smoked or intended to be smoked in a hookah or water pipe.

“Person” means any natural person, corporation, partnership, firm, organization or other legal entity.

“Price reduction instrument” means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.

“Retail dealer” means retail dealer as defined in section [11-1301] 20-201 of the code, and any employee or other agent of such retail dealer.

“Shisha” means any product that contains tobacco or nicotine and is smoked or intended to be smoked in a hookah or water pipe.

“Smokeless tobacco” means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

“Snus” means any smokeless tobacco product marketed and sold as snus, and sold in ready-to-use pouches or loose as a moist powder.

“Tobacco product” means any product which contains tobacco that is intended for human consumption, including any component, part, or accessory of such product. Tobacco product shall include, but not be limited to, any cigar, little cigar, chewing tobacco, pipe tobacco, roll-your-own tobacco, snus, bidi, snuff, [tobacco-containing] shisha, or dissolvable tobacco product. Tobacco product shall not include cigarettes or any product that has been approved by the United States food and drug administration for sale as a tobacco use cessation product or for other medical purposes and that is being marketed and sold solely for such purposes.

d. Price [floor] floors for cigarettes and [little cigars] tobacco products. No person shall sell or offer for sale to a consumer a package of cigarettes, tobacco products, or non-tobacco shisha, as such package is described in section 17-704, for a price less than the applicable price floor described in this subdivision. Any such price floor may be modified pursuant to paragraph 9 of this subdivision.

(1) [Prohibition on the sale of cigarettes below the cigarette price floor. No person shall sell or offer for sale a package of cigarettes to a consumer for a price less than the cigarette price floor.] The cigarette price floor shall be \$[10.50]13 per package of cigarettes [, provided that the cigarette price floor may be modified pursuant to paragraph three of this subdivision], including all applicable taxes.

(2) [Prohibition on the sale of little cigars below the little cigar price floor. No person shall sell or offer for sale a package of little cigars for a price less than the little cigar price floor.] The little cigar price floor shall be [equal to the cigarette price floor] \$10.95, excluding all applicable taxes.

(3) The cigar price floor shall be \$8 for any cigar sold individually, excluding all applicable taxes. Notwithstanding subdivision c of section 17-176.1, the price floor for any package of cigars that contains more than one cigar and that has been delivered to a retail dealer in a package described by subdivision a of section 17-704 shall be computed by multiplying the number of cigars in the package by \$1.75 and adding \$6.25 to the total, excluding all applicable taxes.

(4) The smokeless tobacco price floor shall be \$8 per 1.2 ounce package, excluding all applicable taxes. The price floor for packages larger than 1.2 ounces shall be computed by adding \$2 for each 0.3 ounces or any fraction thereof in excess of 1.2 ounces, excluding all applicable taxes.

(5) The snus price floor shall be \$8 per 0.32 ounce package, excluding all applicable taxes. The price floor for packages larger than 0.32 ounces shall be computed by adding \$2 for each 0.08 ounces or any fraction thereof in excess of 0.32 ounces, excluding all applicable taxes.

(6) The shisha price floor shall be \$17 per 3.5 ounce package, excluding all applicable taxes. The price floor for packages larger than 3.5 ounces shall be computed by adding \$3.40 for each 0.7 ounces or any fraction thereof in excess of 3.5 ounces, excluding all applicable taxes.

(7) The non-tobacco shisha price floor shall be \$17 per 3.5 ounce package, excluding all applicable taxes. The price floor for packages larger than 3.5 ounces shall be computed by adding \$3.40 for each 0.7 or any fraction thereof ounces in excess of 3.5 ounces, excluding all applicable taxes.

(8) The loose tobacco price floor shall be \$2.55 per 1.5 ounce package, excluding all applicable taxes. The price floor for packages larger than 1.5 ounces shall be computed by adding \$0.51 for each 0.3 ounces or any fraction thereof in excess of 1.5 ounces, excluding all applicable taxes.

(9) The department may modify by rule the [cigarette price floor and little cigar price floor] *price floors described in this subdivision* to account for changes in the New York--northern New Jersey--Long Island consumer price index, adjusted for inflation, or changes in taxes for [cigarettes or little cigars] *any of these products*.

§ 16. Subdivision k of section 17-702 of the administrative code of the city of New York, as added by local law number 83 for the year 1992 and renumbered by local law number 69 for the year 2009, is amended to read as follows:

k. "Retail dealer" means "retail dealer" as defined in section [11-1301 of the code] *20-201*, and any employee or other agent of such retail dealer.

§ 17. Section 17-704 of the administrative code of the city of New York, as amended by local law number 97 for the year 2013, is amended to read as follows:

§ 17-704 [Out-of-package sales prohibited] *Minimum package sizes*.

a. [All cigarettes and tobacco products sold or offered for sale by a retail dealer shall be sold or offered for sale] *No retail dealer shall sell or offer for sale any cigarettes or tobacco products unless such cigarettes or tobacco products are sold in the package, box, carton or other container provided by the manufacturer, importer or packager which bears [a] any such health warning as may be required by federal statute, rule or consent order.*

a-1. No retail dealer shall sell or offer for sale cigarettes unless the cigarettes are sold in a package of at least twenty cigarettes.

b. [No retail dealer shall sell or offer for sale a cigar unless the cigar is sold in a package of at least four cigars, provided that this subdivision shall not apply to the sale or distribution of an individual cigar whose listed price, as defined in section 17-176.1 of this code, is greater than three dollars.] *Reserved.*

c. No retail dealer shall sell or offer for sale a little cigar unless the little cigar is sold in a package of at least twenty little cigars.

d. No retail dealer shall sell or offer for sale snus unless it is sold in a package of at least 0.32 ounces, and any other smokeless tobacco unless it is sold in package of at least 1.2 ounces.

e. No retail dealer shall sell or offer for sale shisha or non-tobacco shisha unless any such shisha is sold in a package of at least 3.5 ounces.

f. No retail dealer shall sell or offer for sale loose tobacco unless the loose tobacco is sold in a package of at least 1.5 ounces.

§ 18. The administrative code of the city of New York is amended by adding a new section 17-704.1 to read as follows:

§ 17-704.1 *Prohibition on delivery. a. No retail dealer shall deliver cigarettes or tobacco products by foot, bicycle or any motor vehicle to any location outside its place of business.*

b. No electronic cigarette retail dealer, as defined in section 20-560, shall deliver electronic cigarettes by foot, bicycle or any motor vehicle to any location outside its place of business.

§ 19. Section 17-709 of the administrative code of the city of New York, as amended by local law number 97 for the year 2013, is amended to read as follows:

§ 17-709 *Enforcement*. The department of health and mental hygiene and the department of finance shall enforce the provisions of this subchapter. The department of consumer affairs shall enforce sections 17-703, 17-703.1, 17-704, *17-704.1*, 17-705 and 17-706 [of this subchapter]. In addition, designated enforcement employees of any authorizing agency shall have the power to enforce the provisions of this subchapter.

§ 20. Paragraph 4 of subdivision a of section 17-710 of the administrative code of the city of New York, as amended by local law number 97 for the year 2013, is amended to read as follows:

(4) Any person found to be in violation of section 17-704, *17-704.1*, 17-705 or subdivision a or b of section 17-706 shall be liable for a civil penalty of not more than one thousand dollars for the first violation, and not more than one thousand dollars for each additional violation found on that day; and not more than two thousand dollars for the second violation and each subsequent violation at the same place of business within a three-year period. Any person found to be in violation of subdivision c of section 17-706 shall be liable for a civil penalty of not more than five hundred dollars in any single day.

§ 21. Paragraph 5 of subdivision a of section 17-710 of the administrative code of the city of New York, as amended by local law number 97 for the year 2013, is amended to read as follows:

(5) In addition, for a second violation of any of [sections] *section 17-703, section 17-703.2, subdivision a of section 17-704, subdivision a of section 17-704.1, section 17-705* or subdivision a or b of section 17-706 occurring on a different day and any subsequent violations occurring on different days at the same place of business within a three-year period, any person who engages in business as a retail dealer shall be subject to the mandatory revocation of [his or her cigarette] *such dealer's retail tobacco dealer* license for such place of business. Any violation of *section 17-703, section 17-703.2, subdivision a of section 17-704, subdivision a of section 17-704.1, section 17-705* or subdivision a or b of section 17-706 by any license holder at a place of business shall be included in determining the number of violations by such license holder and by any subsequent license holder at the same place of business unless the subsequent license holder provides the commissioner of the department that has commenced the proceeding to recover a civil penalty pursuant to subdivision b of this section with adequate documentation demonstrating that the subsequent license holder acquired the premises or business through an arm's length transaction as defined in subdivision e of this section and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises. A [cigarette] *retail tobacco dealer* license shall be revoked at the same hearing at which a retail dealer is found liable for a second violation or subsequent violations at the same place of business within a three-year period.

§ 22. Subdivisions b and g of section 17-710 of the administrative code of the city of New York, subdivision b as amended, and subdivision g as added, by local law number 97 for the year 2013, is amended to read as follows:

b. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of *section 17-703, 17-703.1, 17-703.2, 17-704, 17-704.1, 17-705 or 17-706* [of this subchapter] shall be commenced by the service of a notice of violation which shall be returnable to the [health tribunal at the] office of administrative trials and hearings *acting pursuant to section 558 and subdivision 2 of section 1048 of the charter* where the department of health and mental hygiene issues such notice, the [adjudication division of the department of consumer affairs] *office of administrative trials and hearings acting pursuant to section 2203 and subdivision 2 of section 1048 of the charter* where [that] *the* department of *consumer affairs* or a designated employee of any authorizing agency issues such notice, or an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance where the department of finance issues such notice. Such notice shall contain a statement that any hearing for a second violation or subsequent violation of any of [such sections] *the provisions described in paragraph (5) of subdivision a of this section* at the same place of business within a three-year period shall also constitute a hearing for the revocation of a retail dealer's [cigarette] *tobacco* license where the retail dealer is found to be in violation of any such sections. The department of health and mental hygiene, the department of consumer affairs and the department of finance shall notify each other within thirty days of a final determination that a retail dealer has been found to be in violation of *section 17-703, [17-703.1,] 17-703.2, 17-704, 17-704.1, 17-705 or subdivision a or b of section 17-706* [of this subchapter]. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section 17-708 shall be returnable to the [health tribunal at the] office of administrative trials and hearings *acting pursuant to section 558 and subdivision 2 of section 1048 of the charter*. Such tribunal shall have the power to impose the civil penalties prescribed by subdivision a of this section. The [adjudication division of the department of consumer affairs, the health tribunal at the] office of administrative trials and hearings *acting pursuant to section 558 or section 2203 of the charter, in addition to subdivision 2 of section 1048 of the charter* and an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance shall have the power to impose the civil penalties prescribed by subdivision a of this section for a violation of *section 17-703, 17-703.1, 17-703.2, 17-704, 17-704.1, 17-705 or 17-706* [of this subchapter].

g. Any retail dealer who fails to pay (1) any civil penalty imposed under chapter thirteen of title eleven of the code for the violation of any provision thereunder, or (2) any civil penalty imposed under this chapter for any violation thereof or under section 17-176.1 or section 17-177 of this title for any violation of such sections, shall be subject to suspension of his or her retail dealer license for the place of business where the violation occurred until such retail dealer pays all such civil penalties. Such retail dealer license shall not be renewed until such retail dealer pays all such civil penalties. A proceeding to suspend a retail dealer license pursuant to this subdivision may be commenced by the department to which payment of the penalty is due, in the same manner as a proceeding pursuant to subdivision b of this section to recover a civil penalty. The [adjudication

division of the department of consumer affairs] *office of administrative trials and hearings acting pursuant to section 2203 and subdivision 2 of section 1048 of the charter, the [health tribunal at the] office of administrative trials and hearings acting pursuant to section 558 and subdivision 2 of section 1048 of the charter* and an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance shall have the power to suspend a retail dealer's license pursuant to this subdivision.

§ 23. This local law takes effect on the first day of the calendar month next following the 270th day after it becomes law, provided that subdivision b of section 17-704.1 of the administrative code of the city of New York, as added by section eighteen of this local law, takes effect 150 days after it becomes law, except that the department of finance, the department of health and mental hygiene and the department of consumer affairs may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, prior to such date.

COREY D. JOHNSON, *Chairperson*; ROSIE MENDEZ, JAMES VACCA, MATHIEU EUGENE, PETER A. KOO, INEZ D. BARRON, ROBERT E. CORNEGY, Jr.; Committee on Health, August 8 , 2017. *Other Council Members Attending: Council Member Lander.*

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

Report for Int. No. 1547-A

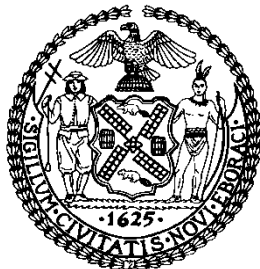
Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and to repeal subdivision c of section 17-702, relating to the definition of cigarette license.

The Committee on Health, to which the annexed proposed amended local law was referred on April 5, 2017 (Minutes, page 1003), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Health for Int. No. 484-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1547-A:



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

INTRO. NO: 1547-A

COMMITTEE: Health

TITLE: A local law to amend the administrative code of the city of New York, in relation to expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and to repeal subdivision c of section 17-702, relating to the definition of cigarette license.

SPONSOR(S): Council Members Lander, Johnson, Levine, Richards, Rosenthal, Cohen, and Kallos

SUMMARY OF LEGISLATION: The proposed legislation would expand the scope of the existing requirement to possess a retail dealer license for cigarettes to include all retailers that sell any type of tobacco products in New York City. The bill would also require the commissioner of the Department of Consumer Affairs (DCA) to establish a community district electronic cigarette retail dealer cap for each community district in New York City in order to restrict the availability of new retail dealer licenses and decrease the number of licenses available over time through attrition.

The bill defines the community district retail dealer cap as the maximum number of retail dealers permitted to obtain a license to sell cigarettes or tobacco products within a community district. The initial cap would be 50 percent of the total number of licenses issued to retail dealers in the district, excluding pharmacies, on the effective date of this law. The community district caps would not affect existing licensees, who would be able to continue to renew their licenses. The bill would mandate that DCA, in conjunction with the Department of Health and Mental Hygiene (DOHMH), evaluate these caps every two years and any time community district boundaries change.

EFFECTIVE DATE: This legislation would take effect 180 days after becoming law but would not apply to a pharmacy seeking a renewal of its license to engage in business as a retail dealer until December 31, 2018.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY 19 | Full Fiscal Impact FY 18 |
|---------------------|-----------------------|--------------------------------------|---------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: It is anticipated that this legislation would have a negligible impact on revenue because the vast majority of retailers that sell tobacco products also sell cigarettes and, therefore, already pay the biennial \$110 license fee. The city could anticipate minor attrition each fiscal year until the city reaches the retail dealer cap.

IMPACT ON EXPENDITURES: It is estimated that this bill would not have an impact on expenditures because DCA and DOHMH would utilize existing resources to implement the legislation. For example, the agencies already evaluate the number of retail dealers and the prevalence of cigarette smoking and use of other tobacco products throughout the city.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
Department of Health and Mental Hygiene

ESTIMATE PREPARED BY: Jeanette Merrill, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, NYC Council Finance Division
 Crilhien R. Francisco, Unit Head, NYC Council Finance Division
 Eric Bernstein, Counsel, NYC Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on April 5, 2017 and was referred to the Committee on Health (Committee). The Committee held a hearing on April 27, 2017 and the bill was laid over. The bill was subsequently amended, and the Committee will vote on the amended legislation, Proposed Int. No. 1532-A, at a hearing on August 8, 2017. Upon successful vote by the Committee, the full Council will vote on the legislation on August 9, 2017.

DATE PREPARED: August 2, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1547-A:)

Int. No. 1547-A

By Council Members Lander, Johnson, Levine, Richards, Rosenthal, Cohen, Kallos, Barron and Maisel.

A Local Law to amend the administrative code of the city of New York, in relation to expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and to repeal subdivision c of section 17-702, relating to the definition of cigarette license

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council finds that tobacco use is a leading risk factor for preventable premature death in the United States and the City of New York, and that the City has a compelling interest in continuing its efforts to reduce tobacco use among adults and to prevent youth from starting to use tobacco products

Overall, the City has a high level of tobacco retail density with approximately 8,200 licensed cigarette retailers within approximately 300 square miles. The Council further finds, based on a number of studies, that easy access to tobacco retailers makes it harder for smokers to quit. In addition, weekly youth exposure to tobacco retail settings doubles the odds of youth smoking. Therefore, reducing the number of tobacco retailers over time is likely to reduce tobacco use and, in turn, morbidity.

The Council hereby declares that the enactment of this law is necessary to reduce the number of retailers selling tobacco products in New York City. This law will expand the scope of the existing retail dealer license for cigarettes to cover all tobacco products and restrict the availability of new retail dealer licenses, decreasing their numbers over time through attrition.

§ 2. Paragraph 4 of subdivision a of section 17-177 of the administrative code of the city of New York, as added by local law number 67 for the year 1990, is amended to read as follows:

(4) "Retail dealer" means "retail dealer" as defined in section [11-1301 of the administrative code] 20-201.

§ 3. Subdivision d of section 17-177 of the administrative code, as added by local law number 67 for the year 1990, is amended to read as follows:

d. Identification of vending machines. A wholesale dealer or retail dealer shall post a durable sign on any vending machine which such dealer is licensed to own, operate or maintain. Such sign shall be visible to the general public and provide the applicable [cigarette] license number and expiration date and the license holder's name, place of business and phone number.

§ 4. Paragraph 1 of subdivision f of section 17-177 of the administrative code, as added by local law number 67 for the year 1990, is amended to read as follows:

(1) Any person found to be in violation of this section shall be liable for a civil penalty of not more than three hundred dollars for the first violation; not more than five hundred dollars for the second violation; and not more than one thousand dollars for the third and all subsequent violations. In addition, for a third and subsequent violations, any person who engages in business as a wholesale dealer or retail dealer shall be subject to the suspension of his or her [cigarette] license, for a period not to exceed one year, after notice and the opportunity for a hearing before the commissioner of finance or his or her designee. A wholesale dealer who owns, operates or maintains a vending machine placed in violation of subdivision b or paragraph (1) of subdivision c of this section shall be liable only if he or she has knowledge of the violation. The department shall promptly give written notice to the wholesale dealer identified on the sign required by subdivision d of this section of any such violation by an owner of the premises, or his or her employee or agent. For purposes of this section, such notice shall be prima facie evidence that the wholesale dealer has knowledge of future violations of subdivision b or paragraph (1) of subdivision c of this section.

§ 5. Subdivision c of section 17-702 of the administrative code of the city of New York is REPEALED.

§ 6. Subdivision b of section 17-716 of the administrative code of the city of New York, as amended by local law number 97 for the year 2013, is amended to read as follows:

b. Any person who violates section 17-715 of this subchapter shall be liable for a civil penalty of not more than one thousand dollars for the first violation, and not more than one thousand dollars for each additional violation found on that day; and not more than two thousand dollars for the second violation at the same place of business within a three-year period, and not more than two thousand dollars for each additional violation found on that day; and not more than five thousand dollars for the third and all subsequent violations at the same place of business within a three-year period. In addition, for a third violation occurring on a different day and all subsequent violations occurring on different days at the same place of business within a three-year period, any person who engages in business as a retail dealer, as such term is defined in section 20-201 [of the code], shall be subject to the mandatory suspension of his or her [cigarette] license, issued pursuant to section 20-202 [of the code], for such place of business, for a period not to exceed one year. [A cigarette] *Such* license shall be suspended at the same hearing at which a retail dealer is found liable for a third violation or subsequent violations at the same place of business within a three-year period.

§ 7. Section 17-717 of the administrative code of the city of New York, as amended by local law number 97 for the year 2013, is amended to read as follows:

§ 17-717 Enforcement. The department, the department of consumer affairs and the department of finance shall enforce the provisions of this subchapter. A proceeding to recover any civil penalty authorized pursuant to section 17-716 [of this subchapter] shall be commenced by the service of a notice of violation returnable to the [health tribunal at the] office of administrative trials and hearings *acting pursuant to section 558 and subdivision 2 of section 1048 of the charter* where the department issues such a notice or to the [adjudication division of the department of consumer affairs] *office of administrative trials and hearings acting pursuant to section 2203 and subdivision 2 of section 1048 of the charter* where [such] *the department of consumer affairs* issues such a notice or to an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance where the department of finance issues such notice. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged. Such notice shall contain a statement that any hearing for a third violation or subsequent violation of section 17-715 [of this subchapter] at the same place of business within a three-year period shall also constitute a hearing for the suspension of a retail dealer's [cigarette] license where the retail dealer is found to be in violation of such section. The [health tribunal at the] office of administrative trials and hearings *acting pursuant to section 558 and subdivision 2 of section 1048 of the charter*, the [adjudication division of the department of consumer affairs] *office of administrative trials and hearings acting pursuant to section 2203 and subdivision 2 of section 1048 of the charter* and an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance shall have the power to render decisions and to impose the remedies and penalties provided for in section 17-716 [of this subchapter], in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings. The department, the department of consumer affairs and the department of finance shall notify each other within [thirty] 30 days of finding that a retail dealer has been found liable for any section of this subchapter.

§ 8. The heading of subchapter 1 of chapter 2 of title 20 of the administrative code of the city of New York, as added by local law number 2 for the year 2000, is amended to read as follows:

[RETAIL CIGARETTE] *TOBACCO RETAIL DEALERS*

§ 9. Section 20-201 of the administrative code of the city of New York, as added by local law number 2 for the year 2000, subdivision b as amended by part D of chapter 134 of the laws of 2010, subdivision f as amended by local law number 97 for the year 2013, is amended to read as follows:

§ 20-201 Definitions. Whenever used in this subchapter:

[a. "Agent"] *Agent*. The term “agent” means any person authorized to purchase and affix adhesive or meter stamps under chapter [thirteen] 13 of title [eleven of this code] 11 who is designated as an agent by the commissioner of finance.

[b. "Cigarette" shall mean] *Cigarette*. The term “cigarette” means any roll for smoking made wholly or in part of tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco.

[c. "Commissioner of finance"] *Commissioner of finance*. The term “commissioner of finance” means the commissioner of finance of the [City of New York] city.

Community district. The term “community district” means a community district established pursuant to chapter 69 of the charter.

Community district retail dealer cap. The term “community district retail dealer cap” means the maximum number of retail dealers permitted to obtain a license to sell cigarettes or tobacco products within a community district.

[d. "Dealer" shall mean] *Dealer*. The term “dealer” means any wholesale dealer or retail dealer as hereinafter defined.

Good standing. The term “good standing” means any retail dealer that has not been found to have violated subdivision a of section 20-202, subdivision a or b of section 11-1303, section 17-703, section 17-703.2, subdivision a of section 17-704, subdivision a of section 17-704.1, section 17-705, subdivision a or b of section 17-706 or section 17-715 on more than one day during the previous three consecutive years.

[e. "Person" shall mean] *Person*. Notwithstanding sections 1-112 and 20-102 of the code, the term “person” means any individual, partnership, society, association, joint-stock company, corporation, limited liability company, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

[f. "Retail dealer" shall mean] *Retail dealer*. The term “retail dealer” means any person, other than a wholesale dealer, engaged in selling cigarettes or tobacco products. For the purposes of this chapter, the possession or transportation at any one time of more than [four hundred] 400 cigarettes or little cigars, or more than 50 cigars, or more than one pound of loose tobacco, smokeless tobacco, snus or shisha, or any combination thereof, by any person other than a manufacturer, an agent, a licensed wholesale dealer or a person delivering cigarettes or tobacco products in the regular course of business for a manufacturer, an agent or a licensed wholesale or retail dealer, shall be presumptive evidence that such person is a retail dealer.

[g. "Sale or purchase" shall mean] *Sale or purchase*. The term “sale or purchase” means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever or any agreement therefor.

Tobacco product. The term “tobacco product” means “tobacco product” as defined in section 17-702.

[h. "Wholesale dealer" shall mean] *Wholesale dealer*. The term “wholesale dealer” means any person who sells cigarettes to retail dealers or other persons for purposes of resale only, and any person who owns, operates or maintains one or more cigarette vending machines in, at or upon premises owned or occupied by any other person.

§ 10. Section 20-202 of the administrative code of the city of New York, as added by local law number 2 for the year 2000, subdivision d as amended by local law number 97 for the year 2013, is amended to read as follows:

§ 20-202 License. a. License required of retail dealers.

1. It shall be unlawful for any person to engage in business as a retail dealer without first having obtained a license as hereinafter prescribed for each place of business wherein such person sells cigarettes or tobacco products in the city.

2. It shall be unlawful for a person to permit any premises under such person's control to be used by any other person in violation of paragraph [one] 1 of subdivision a of this section.

b. License application. In order to obtain a license to engage in business as a retail dealer, a person shall file an application with the commissioner for a license for each place of business that he or she desires to have for the retail sale of cigarettes *or tobacco products* in the city. The application for each license or renewal thereof shall be made upon such form as prescribed by the commissioner and shall contain such information as the commissioner shall require.

c. Fee and license term. 1. There shall be a biennial fee of one hundred ten dollars for a license to engage in the business of a retail dealer at each place of business where cigarettes *or tobacco products* are sold in the city.

2. All even-numbered licenses shall expire on December 31 of the even-numbered year, and all odd-numbered licenses shall expire on December 31 of the odd-numbered year, next succeeding the year in which the license is issued.

d. Issuance of license.

1. A license shall be issued to a person to conduct the business of a retail dealer for each place of business where such person engages in selling cigarettes *or tobacco products* in the city only where:

(A) an applicant for a license or renewal thereof meets all the requirements prescribed herein and any criteria in addition thereto established by the commissioner by rule as he or she deems necessary to effectuate the purposes of this subchapter;

(B) an applicant satisfies the commissioner that such person is fit and able to conduct the business of a retail dealer; [and]

(C) the commissioner has not received notification from the commissioner of finance or the commissioner of the department of health and mental hygiene that such applicant is not in full compliance with any provisions of [chapter thirteen of title eleven of this code, or chapter forty] *chapter 13 or chapter 40* of title [eleven] *11* of this code relating to the sale of cigarettes *or tobacco products*, *section 17-176 or section 17-176.1* or chapter [seven] *7* of title [seventeen of this code] *17*, or any rules promulgated by the commissioner of finance or the commissioner of the department of health and mental hygiene to effectuate the purposes of such chapters; *and*

(D) *the number of licenses in the community district in which the place of business of such applicant is located is lower than the community district retail dealer cap.*

2. A retail dealer license shall not be assignable and shall be valid only for the persons in whose names it is issued and for the transaction of business in the place designated therein and shall at all times be conspicuously displayed at the place for which it is issued.

3. Where a license for any place of business licensed pursuant to this subchapter has been revoked, the commissioner shall refuse to issue a license required under this subchapter[, for a period of two years after such revocation,] for such place of business [or for any part of the building that had contained such place of business and was connected therewith], unless the applicant for such license demonstrates with documentary proof, to the satisfaction of the commissioner, that the applicant acquired the premises or business through an arm's length transaction *and that the applicant neither:*

(A) *shared in the ownership, or otherwise exercised control over the management, of the original licensee; nor*

(B) *employs any person who shared in the ownership, or otherwise exercised control over the management, of the original licensee.*

4. For purposes of revocation of retail dealer licenses pursuant to section 17-710 [of the code], any violation of section 17-703, *section 17-703.2, subdivision a of 17-704, subdivision a of section 17-704.1, section 17-705* or subdivision a or b of section 17-706, or, for purposes of suspension of retail dealer licenses pursuant to section 17-716 [of the code], any violation of section 17-715, by any license holder at a place of business shall be included in determining the number of violations by any subsequent license holder at the same place of business unless the subsequent license holder provides the commissioner with adequate documentation demonstrating that the subsequent license holder acquired the premises or business through an arm's length transaction and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises *and that the subsequent license holder neither:*

(A) *shared in the ownership, or otherwise exercised control over the management, of the original licensee;*
nor

(B) *employs any person who shared in the ownership, or otherwise exercised control over the management, of the original licensee.*

5. For purposes of paragraphs 3 and 4 of [section 20-202] *this subdivision*, "arm's length transaction" means a sale of a fee or all undivided interests in real property, or lease of any part thereof, or a sale of a business, in good faith and for valuable consideration, that reflects the fair market value of such real property or lease, or business, in the open market, between two informed and willing parties, where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale or lease was made for the purpose of permitting the original licensee to avoid the effect of violations on the premises. The following sales or leases shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises:

(1) a sale between relatives; or

(2) a sale between related companies or partners in a business; or

(3) a sale or lease affected by other facts or circumstances that would indicate that the sale or lease is entered into for the primary purpose of permitting the original licensee to avoid the effect of violations on the premises, or revocation of a license, such as a sale or lease entered into while there are violations pending against the original licensee that could result in revocation or suspension of the license.

e. Community district retail dealer cap.

1. *The commissioner shall establish a community district retail dealer cap for each community district in the city. The initial community district retail dealer cap shall be 50 percent of the total number of licenses issued to retail dealers in the community district, exclusive of the number of licenses issued to retail dealers that are pharmacies, on the effective date of the local law that added this subdivision, as determined by the department.*

2. *The department, in conjunction with the department of health and mental hygiene, shall evaluate community district retail dealer caps every two years and any time community district boundaries change. Such evaluation shall include consideration of the number of retail dealers and the prevalence of cigarette smoking and use of other tobacco products. If, based on the evaluation, the department of health and mental hygiene recommends further reductions to the community district retail dealer cap, the department of health and mental hygiene shall advise the speaker of the city council of such recommendations.*

3. *The commissioner may promulgate rules governing the application process related to the issuance of new licenses after the establishment of a community district retail dealer cap.*

4. *Exceptions for certain licenses. Notwithstanding subparagraph (D) of paragraph 1 of subdivision d, if:*

(A) *a license of a retail dealer expires at the end of the license term, such retail dealer may apply for renewal of such license;*

(B) *a business whose owner has been issued a retail dealer license is sold, the succeeding owner may apply for a license for use at the same location, provided that the retail dealer selling such business was in good standing at the time of such sale, and the application is received within thirty days of the applicable change of ownership;*

(C) *a retail dealer license becomes void pursuant to section 20-110, the succeeding beneficial owners of 10 percent or more of the stock of the organization to which a license had been granted may apply for a license, provided that such retail dealer was in good standing at the time the license became void, and the application is received within thirty days of the change of ownership; and*

(D) *a retail dealer license becomes void pursuant to section 20-111, the succeeding partnership may apply for a license, provided that such retail dealer was in good standing at the time the license became void and the application is received within thirty days of the change of ownership.*

§ 11. Subdivision c of section 20-207 of the administrative code of the city of New York, as added by local law number 97 for the year 2013, is amended to read as follows:

c. The commissioner, after *providing* notice and [hearing] *an opportunity to be heard*, shall be authorized to order the sealing of any premises where any person has been found:

1. to have engaged in unlicensed activities in violation of this subchapter on at least two occasions within a three-year period; or

2. to have violated any of [sections] *subdivision a of section 17-704, section 17-705*, subdivision a or b of section 17-706 or *section 17-715* on at least three occasions within a three-year period.

§ 12. This local law takes effect 180 days after it becomes law, except that subparagraph D of paragraph 1 of subdivision d of section 20-202 of the administrative code of the city of New York, as added by section ten of this local law, shall not apply to a pharmacy seeking a renewal of its license to engage in business as a retail dealer until December 31, 2018.

COREY D. JOHNSON, *Chairperson*; JAMES VACCA, MATHIEU EUGENE, PETER A. KOO, INEZ D. BARRON; Committee on Health, August 8 , 2017. *Other Council Members Attending: Council Member Lander.*

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

Report for Int. No. 1585-A

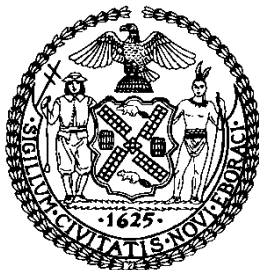
Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to disclosure of smoking policies for class A multiple dwellings.

The Committee on Health, to which the annexed proposed amended local law was referred on April 25, 2017 (Minutes, page 1161), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Health for Int. No. 484-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1585-A:



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

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

INTRO. NO: 1585-A

COMMITTEE: Health

TITLE: A local law to amend the administrative code of the city of New York, in relation to disclosure of smoking policies for class A multiple dwellings.

SPONSOR(S): Council Members Torres, Salamanca, Gentile and Kallos

SUMMARY OF LEGISLATION: The proposed legislation would require the owners of all class A multiple dwellings (rental apartment buildings, as well as co-op and condo buildings) to adopt a smoking policy—defined as a written declaration that clearly and conspicuously states where smoking is permitted or prohibited on the premises. The legislation would also require the owners to provide a copy of the policy to all tenants or post it in a prominent location within the building on an annual basis, as well as to provide written notification of-or display in a prominent location-any material change to the policy. Furthermore, owners would be required to incorporate the policy into leases and purchase agreements. A violation of the requirements of this legislation would result in a civil penalty of \$100 for each violation.

EFFECTIVE DATE: This legislation would take effect 365 days after becoming law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY 19 | Full Fiscal Impact FY 18 |
|---------------------|-----------------------|--------------------------------------|---------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: It is anticipated that this legislation would not have an impact on revenues because the City would expect full compliance with the law.

IMPACT ON EXPENDITURES: It is estimated that this bill would not have an impact on expenditures because the onus of the legislation falls to the building owners.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Health and Mental Hygiene

ESTIMATE PREPARED BY: Jeanette Merrill, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, NYC Council Finance Division
Cirilhen R. Francisco, Unit Head, NYC Council Finance Division
Eric Bernstein, Counsel, NYC Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on April 25, 2017 and was referred to the Committee on Health (Committee). The Committee held a hearing on April 27, 2017 and the bill was laid over. The bill was subsequently amended, and the Committee will vote on the amended legislation, Proposed Int. No. 1585-A, at a hearing on August 8, 2017. Upon successful vote by the Committee, the full Council will vote on the legislation on August 9, 2017.

DATE PREPARED: August 2, 2017

Accordingly, this Committee recommends its adoption, amended.

Int. No. 1585-A

By Council Members Torres, Salamanca, Gentile, Kallos, Barron and Maisel.

A Local Law to amend the administrative code of the city of New York, in relation to disclosure of smoking policies for class A multiple dwellings

Be it enacted by the Council as follows:

Section 1. Section 17-502 of the administrative code of the city of New York is amended by adding six new subdivisions tt, uu, vv, ww, xx, and yy to read as follows:

tt. *“Class A multiple dwelling” means a class A multiple dwelling as such term is defined in paragraph eight of subdivision a of section 27-2004.*

uu. *“Smoking policy” means a written declaration that states in a clear and conspicuous fashion where smoking is permitted or prohibited on the premises of a class A multiple dwelling.*

vv. *“Owner of a class A multiple dwelling” means the following:*

(i) *In the case of a building with one or more rental dwelling units, other than rental dwelling units in a condominium or a cooperative apartment corporation, the owner of record.*

(ii) *In the case of a condominium, including a rental dwelling unit in a condominium, the board of managers.*

(iii) *In the case of a cooperative apartment corporation, including a rental dwelling unit in a cooperative apartment corporation, the board of directors.*

ww. *“Condominium unit owner” means the person or persons owning a dwelling unit in a condominium building.*

xx. *“Tenant” means a tenant, tenant-shareholder of a cooperative apartment corporation, condominium unit owner, subtenant, lessee, sublessee or other person entitled to the possession or to the use or occupancy of a dwelling unit, when the term “tenant” is used in reference to a dwelling unit in a class A multiple dwelling.*

yy. *“Tenant-shareholder” means the person who owns stock of a cooperative apartment corporation.*

§ 2. Title 17 of the administrative code of the city of New York is amended by adding a new section 17-506.1 to read as follows:

§ 17-506.1 *Obligation of owners of class A multiple dwellings to adopt and disclose a smoking policy. a. Adoption of smoking policy. 1. The owner of a class A multiple dwelling shall adopt a smoking policy.*

2. The smoking policy shall address all indoor locations of the class A multiple dwelling, including common areas and dwelling units, and all outdoor areas of the premises, including common courtyards, rooftops, balconies, and patios, and any outdoor areas connected to dwelling units.

3. The smoking policy shall apply to tenants, including invitees of tenants, and any other person on the premises.

4. The smoking policy or any material changes thereto shall not be binding on a tenant renting or leasing a dwelling unit during the term of the lease, sublease, or other rental agreement in effect at the time of the adoption of such smoking policy or of any material changes thereto, unless otherwise provided in such lease, sublease, or other rental agreement.

5. The smoking policy or any material changes thereto shall not be binding on any tenant in occupancy of a rent controlled or rent stabilized dwelling unit prior to the adoption of the initial smoking policy required by this section or on any family member who succeeds to the rights of such tenant, as required by subdivision 4 of section 14 of the public housing law.

b. *Disclosure of smoking policy. 1. Upon adoption of a smoking policy, the owner of a class A multiple dwelling shall provide a copy of the building’s smoking policy to all tenants or post, in a prominent location within such dwelling, a copy of the building’s smoking policy.*

2. Except as provided in paragraph 3 of this subdivision, the owner of a class A multiple dwelling shall incorporate the building’s smoking policy into any agreement to rent or lease a dwelling unit in such building.

3. In a condominium or cooperative apartment corporation, the condominium unit owner or tenant-shareholder of a cooperative apartment corporation shall incorporate the building’s smoking policy into any agreement to rent or purchase the dwelling unit or shares in the cooperative apartment corporation.

4. In a condominium, the board of managers shall incorporate the building's smoking policy into the condominium bylaws or rules.

5. In a cooperative apartment corporation, the board of directors shall incorporate the building's smoking policy into the bylaws or rules of the cooperative apartment corporation.

6. A tenant who is renting or leasing a dwelling unit shall incorporate the building's smoking policy into any agreement to rent or lease the dwelling unit to a subtenant or sublessee.

7. Annual disclosure of the smoking policy. On an annual basis, the owner of a class A multiple dwelling shall provide a copy of the building's smoking policy to all tenants or post, in a prominent location within such dwelling, a copy of the building's smoking policy.

c. Notification of a material change to smoking policy. The owner of a class A multiple dwelling shall provide notification in writing to all tenants of any material change to the smoking policy or post, in a prominent location within such dwelling, any material change to the smoking policy.

d. Document retention. The owner of a class A multiple dwelling shall make available for inspection by the department copies of the following:

1. the disclosure required by paragraph 1 of subdivision b of this section, or the annual disclosure required by paragraph 7 of subdivision b of this section, for the current year; and

2. each notification of a material change made within the past year pursuant to subdivision c of this section.

§ 3. Section 17-508 of the administrative code of the city of New York is amended by adding new subdivisions d-1 and d-2 to read as follows:

d-1. It shall be unlawful for any owner of a class A multiple dwelling to fail to:

1. adopt a smoking policy as required by subdivision a of section 17-506.1;

2. disclose such policy as required by subdivision b of such section;

3. provide notification of a material change to such policy as required by subdivision c of such section; or

4. make available copies of such policy as required by subdivision d of such section.

d-2. It shall be unlawful for any tenant-shareholder, condominium unit owner, or tenant who rents or leases a dwelling unit to another person to fail to disclose a smoking policy as required by paragraph 3 or 6 of subdivision b of section 17-506.1.

§ 4. Subdivisions e, f, and i of section 17-508 of the administrative code of the city of New York, subdivisions e and f as amended by local law number 152 for the year 2013, and subdivision i as amended by local law number 11 for the year 2011, are amended to read as follows:

e. Every person who violates subdivisions a or b of this section shall, for a first violation thereof, be liable for a civil penalty of not less than two hundred dollars nor more than four hundred dollars; for a second violation, both of which were committed within a period of twelve months, be liable for a civil penalty of not less than five hundred dollars nor more than one thousand dollars; and for a third or subsequent violation, all of which were committed within a period of twelve months, be liable for a civil penalty of not less than one thousand dollars nor more than two thousand dollars. Every person who violates subdivision d of this section shall be liable for a civil penalty of one hundred dollars for each violation, except that every person who violates subdivision d of this section by smoking, or using an electronic cigarette, in a pedestrian plaza as prohibited by paragraph seven of subdivision c of section 17-503 or in a park or other property under the jurisdiction of the department of parks and recreation as prohibited by paragraph three of subdivision d of section 17-503 shall be liable for a civil penalty of fifty dollars for each violation. *Every owner of a class A multiple dwelling who violates subdivision d-1 of this section, and every tenant-shareholder, condominium unit owner and tenant who violates subdivision d-2 of this section, shall be liable for a civil penalty of one hundred dollars for each violation, provided that a violation of paragraph two, three or four of subdivision d-1 shall be considered a single violation regardless of whether such owner failed to disclose a smoking policy, to provide notification of adoption of such policy or a material change to such policy, or to make available copies of such policy to more than one person.*

f. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision e of this section shall be commenced by the service of a notice of violation which shall be returnable to the [administrative tribunal established by the board of health] *office of administrative trials and hearings, acting pursuant to section 558 and subdivision 2 of section 1048 of the charter*, except that a proceeding to recover a civil penalty authorized pursuant to subdivision e for violation of subdivision d by smoking, or using an

electronic cigarette, in a pedestrian plaza or in a park or other property under the jurisdiction of the department of parks and recreation, as prohibited by paragraph seven of subdivision c and by paragraph three of subdivision d of section 17-503 respectively, shall be commenced by the service of a notice of violation which shall be returnable to the environmental control board. The [board of health's administrative tribunal and the environmental control board] office of administrative trials and hearings, acting pursuant to section 558 and subdivision 2 of section 1048 of the charter, or acting pursuant to section 1049-a of the charter, shall have the power to impose the civil penalties prescribed by subdivision e of this section.

i. In any proceeding before the [administrative tribunal established by the board of health or the environmental control board,] *office of administrative trials and hearings, acting pursuant to subdivision g of this section*, if [the tribunal] *such office* finds that the department or other agency issuing the notice of violation has failed to prove the violation charged, it shall notify the department or other agency issuing the notice of violation, and the order requiring the respondent to correct the condition constituting the violation shall be deemed to be revoked.

§ 5. Section 17-513.2 of the administrative code of the city of New York, as amended by local law number 42 for the year 2016, is amended to read as follows:

§17-513.2 Construction. a. The provisions of this chapter shall not be interpreted or construed to permit smoking, using electronic cigarettes, or using smokeless tobacco where it is prohibited or otherwise restricted by other applicable laws, rules or regulations.

b. Class A multiple dwelling smoking policy requirement. The civil penalty provided in subdivision e of section 17-508 shall be the sole remedy for violation of subdivision d-1 or d-2 of such section.

§ 6. This local law takes effect 365 days after it becomes law.

COREY D. JOHNSON, *Chairperson*; ROSIE MENDEZ, JAMES VACCA, MATHIEU EUGENE, PETER A. KOO, INEZ D. BARRON, ROBERT E. CORNEGY, Jr.; Committee on Health, August 8 , 2017. *Other Council Members Attending: Council Member Lander.*

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

Report of the Committee on Housing and Buildings

Report for Int. No. 347-B

Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to remedies for the breach of the duty of an owner to refrain from harassment of tenants.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on May 14, 2014 (Minutes, page 1688), respectfully

REPORTS:

Introduction

On August 8, 2017, the Committee on Housing and Buildings, chaired by Council Member Jumaane D. Williams, will hold a hearing for the purposes of conducting a vote on Proposed Int. No. 347-B, Proposed Int. No. 918-A, Proposed Int. No. 924-A, Proposed Int. No. 926-A, Proposed Int. No. 930-A, Proposed Int. No. 931-B, Proposed Int. No. 936-A, Proposed Int. No. 938-A, Proposed Int. No. 939-A, Proposed Int. No. 940-A, Proposed Int. No. 944-A, Proposed Int. No. 960-A, Proposed Int. No. 1133-A, Proposed Int. No. 1523-A, Proposed Int. No. 1530-A, Proposed Int. No. 1548-A, Proposed Int. No. 1549-A and Proposed Int. 1556-A.

The Committee previously heard Int. No. 347-A, Int. No. 926, Int. No. 931, Int. No. 936, Int. No. 938, Int. No. 960, Int. No. 1523, Int. No. 1530, Int. No. 1548, Int. No. 1549 and Int. No. 1556 on April 19, 2017 and received testimony from representatives of the Department of Buildings (DOB), the Department of Housing Preservation and Development (HPD), housing advocates, legal service providers, members of the real estate industry and other interested members of the public. More information about these bills is available with the materials for that hearing, which can be accessed online at <https://goo.gl/hxY4hQ>

The Committee previously heard Int. No. 930 on October 31, 2016 and received testimony from representatives of DOB, HPD, housing advocates, legal service providers, members of the real estate industry, and other interested members of the public. More information about this bill is available with the materials for that hearing, which can be accessed online at goo.gl/YDnVS9.

The Committee previously heard Int. No. 918, Int. No. 924 and Int. No. 944 on April 18, 2016 and received testimony from DOB, housing advocates, legal service providers, members of the real estate industry, and other interested members of the public. More information about these bills is available with the materials for that hearing, which can be accessed online at goo.gl/Zi34KL.

The Committee previously heard Int. No. 939 and Int. No. 940 on December 10, 2015 and received testimony from representatives of DOB, the construction industry, and other interested members of the public. More information about these bills is available with the materials for that hearing, which can be accessed online at goo.gl/3uWZ8b.

Proposed Int. No. 347-B

This bill would allow tenants who prevail in harassment cases to collect compensatory damages or, at the election of the tenant \$1,000 in damages from the offending landlord, in addition to attorneys' fees and costs. This bill also allows a court to issue punitive damages for such violations. This legislation takes effect 90 days after it becomes law.

Proposed Int. No. 918-A

This bill would require the DOB to audit 25% of professionally certified applications for multiple dwellings that are at least 25% occupied and that are either rent-regulated, affordable housing projects or the subject of a rent overcharge application, on a monthly basis. This bill would also prohibit self-certification for buildings where there has been a finding of harassment.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 924-A

This bill would require DOB to include on vacate orders the date by which an owner must certify the correction of any and all violations giving rise to the vacate order. This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 926-A

Proposed Int. No. 926-A would create a task force consisting of members appointed by DOB, HPD, the Department of Health and Mental Hygiene, the Department of Environmental Protection, the City Council, and the Mayor. Among its primary functions, the task force would evaluate the current practices of the individual agencies represented in the task force with regards to construction and renovation by landlords in occupied residential buildings, publish a report of its findings, and provide recommendations to improve inter-agency coordination and sharing of information.

Proposed Int. No. 930-A

This bill would expand the definition of distressed to include buildings which are subject to Environmental Control Board (ECB) judgments as a result of building code violations in the amount of a lien to value ratio equal to or greater than 25%. This bill would also require the Department of Finance to report on tax lien activities as a result of ECB debt, including the number of buildings subject to tax liens for ECB judgment debts, the location of the buildings, the number of dwelling units in each building, and recommendations for whether a 25 percent lien to value ratio is an appropriate threshold for property to be considered distressed.

The reporting requirement takes effect immediately. The expanded definition of distressed takes effect May 1, 2019.

Proposed Int. No. 931-B

This bill would allow the city to impose tax liens on buildings which contain 20 or more dwelling units where the total value of all ECB judgments against the building is \$60,000 or more, and on buildings which contains between 6 and 19 dwelling units, where the value of the judgments is \$30,000 or more. The bill contains exceptions for HPD's preservation projects.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 936-A

Proposed Int. No. 936-A amends the information that must be included in tenant protection plans, which are generally required when construction work will take place in an occupied residential building, and prescribes measures that DOB and owners must take in order to ensure compliance with the tenant protection plan. The bill would also require that DOB perform inspections to ensure that sites are complying with their applicable tenant protection plans.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 938-A

Proposed Int. No. 938-A would require DOB to compile and maintain a watch list of contractors who have been found to have performed work without a required permit in the preceding two years. The bill would also require DOB to engage in increased oversight of any worksite where a contractor included on the watch list performs work. The bill also would provide a timeline under which a contractor could be removed from the watch list.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 939-A

Proposed Int. No. 939-A would increase the penalties for work without a permit on a one- or two-family dwelling from 4 times the amount of the fee for such permit to 6 times and for work without a permit on all other buildings from 14 times to 21 times.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 940-A

Proposed Int. No. 940-A would increase the penalties for violating a stop work order from \$5,000 to \$6,000 for the initial violation and from \$10,000 to \$12,000 for subsequent violations.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 944-A

Proposed Int. No. 944-A would impose additional penalties for performing construction work without a permit and increase oversight for buildings where such work has been performed. It would also require the posting of information concerning the occupancy status of a building subject to a permit.

This legislation takes effect one year after it becomes law.

Proposed Int. No. 960-A

Proposed Int. No. 960-A would require that a "Safe Construction Bill of Rights" be posted for occupants of a dwelling when the owner seeks to conduct any construction work that requires a permit from DOB.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 1133-A

Proposed Int. No. 1133-A would require DOB to withhold building permits for certain properties where \$25,000 or more in unpaid charges are owed to the city or where the owners of such properties owe, in aggregate, \$25,000 or more in unpaid charges to the city. The bill provides certain exceptions to this prohibition, such as where the permit would be required to correct a dangerous condition.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 1523-A

Proposed Int. No. 1523-A would establish an Office of the Tenant Advocate within DOB, whose duties would include but not be limited to: monitoring tenant protection plans to ensure compliance with the administrative code; establishing a system to receive comments, questions and complaints with respect to tenant protection plans; establishing a system to communicate with tenants who are affected by work in occupied multiple dwellings; monitoring sites where a tenant protection plan is required to ensure compliance with such plan; and publishing quarterly reports related to the responsibilities of the office.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 1530-A

Currently, to win a harassment case, a tenant must show that (1) their landlord committed a harassing act and (2) either the tenant vacated their apartment as a result of that act or the landlord intended to make the tenant vacate their apartment as a result of that act. Proposed Int. No. 1530-A would provide that, where a landlord commits a harassing act, there is a rebuttable presumption that the landlord intended that act to force a tenant out.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 1548-A

This bill would expand the definition of tenant harassment to include situations where an owner repeatedly contacts or visits the tenant at unusual hours or in a manner reasonably expected to harass the tenant, unless the tenant has given consent in writing to be contacted at such hours or in such manner.

This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 1549-A

This bill would allow tenants to pursue harassment actions if the owner of their building engages in repeated interruptions of essential services throughout the building or commences frivolous court proceedings throughout the building.

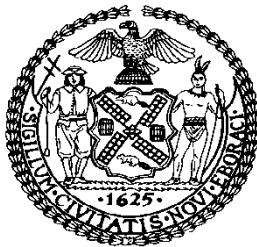
This legislation takes effect 120 days after it becomes law.

Proposed Int. No. 1556-A

This bill would increase the civil penalties for violations of the administrative code for tenant harassment.

This legislation takes effect 120 days after it becomes law.

(The following is the text of the Fiscal Impact Statement for Int. No. 347-B:)



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

PROPOSED INTRO. NO: 347-B

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to remedies for the breach of the duty of an owner to refrain from harassment of tenants

SPONSORS: Council Members Rosenthal, Williams, Chin, Johnson, Levine, Reynoso, Torres, Rodriguez, Dromm, Kallos, Lander, Rose, Menchaca, Richards, Perkins and Levin

SUMMARY OF LEGISLATION: Proposed Intro. No. 347-B would require the Housing Court to award compensatory damages and attorneys’ fees and costs to tenants in a tenant harassment actions. In addition, the court may also award punitive damages and other relief at its discretion.

EFFECTIVE DATE: This local law would take 90 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because non-City entities would bear the costs of tenant harassment actions in accordance with the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
 Nathan Toth, Deputy Director
 Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on May 14, 2014 as Intro. No. 347 and was referred to the Committee on Housing and Buildings (Committee). The legislation was amended after introduction. A hearing was held by the Committee on the amended version, Proposed Intro. No. 347-A, on April 19, 2017, and the bill was laid over. The legislation was subsequently amended a second time, and this version, Proposed Intro. No. 347-B, will be voted on by the Committee on August 8, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 347-B will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 2, 2017.

(For text of Int. No. 347-B, please see below; for text of the remaining bills and their Fiscal Impact Statements, please see respectively, the Reports of the Committee on Housing and Buildings for Int. Nos. 918-A, 924-A, 926-A, 930-A, 931-B, 936-A, 938-A, 939-A, 940-A, 944-A, 960-A, 1133-A, 1523-A, 1530-A, 1549-A, and 1556-A)

Accordingly, this Committee recommends the adoption of Int. Nos. 347-B, 918-A, 924-A, 926-A, 930-A, 931-B, 936-A, 938-A, 939-A, 940-A, 944-A, 960-A, 1133-A, 1523-A, 1530-A, 1549-A, and 1556-A.

(The following is the text of Int. No. 347-B:)

Int. No. 347-B

By Council Members Rosenthal, Williams, Chin, Johnson, Levine, Reynoso, Torres, Rodriguez, Dromm, Kallos, Lander, Rose, Menchaca, Richards, Perkins, Levin, Salamanca and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to remedies for the breach of the duty of an owner to refrain from harassment of tenants

Be it enacted by the Council as follows:

Section 1. Section 27-2115 of the administrative code of the city of New York is amended by adding a new subdivision o to read as follows:

(o) In any action brought by a lawful occupant or group of lawful occupants under subdivision h of this section for a violation of subdivision d of section 27-2005 of this chapter, the housing part shall, in addition to any other relief such court determines to be appropriate, award to each such occupant (i) compensatory damages or, at the election of such occupant, one thousand dollars and (ii) reasonable attorneys' fees and costs. Such court may also, at its sole discretion, award punitive damages.

§ 2. This local law takes effect 90 days after it becomes law.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 918-A

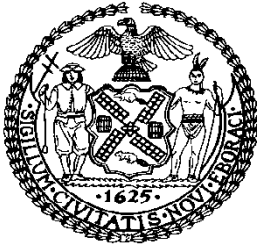
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to professionally certified applications for construction document approval and final inspections of permitted work.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3557), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 918-A:



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

PROPOSED INTRO. NO: 918-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to professionally certified applications for construction document approval and final inspections of permitted work

SPONSORS: Council Members Chin, Menchaca, Johnson, Kallos, Levin, Levine, Mendez, Reynoso, Rosenthal, Lander, Rodriguez, Van Bramer, Rose, Richards, Salamanca, Cumbo, Williams, Perkins, Espinal, Torres, Cornegy, Dromm, Maisel and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 918-A would require the Department of Buildings (DOB) to audit 25 percent of professionally certified applications for rent-regulated buildings, affordable housing projects or multiple dwellings which are the subject of a rent overcharge application and which are at least 25 percent occupied, on a monthly basis. This bill would also prohibit professional certified applications where buildings are listed on the Department of Housing Preservation and Development’s website as having been subject to a finding of harassment.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, prior to its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY19 | Full Fiscal Impact FY19 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$201,660 | \$403,320 | \$403,320 |
| Net | \$201,660 | \$403,320 | \$403,320 |

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: Although the legislation does not mandate that DOB hire new staff to meet the provisions of this bill, the agency has informed the Council that it would need to add an additional three staff

to perform the monthly audits required under the bill. The total annual cost of these additional staff members is estimated to be \$403,320, including fringe benefits. For Fiscal 2018, due to timing the prorated half-year cost is estimated to be \$201,660.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015, as Intro. No. 918 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 18, 2016, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. 918-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 4, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 918-A:)

Int. No. 918-A

By Council Members Chin, Menchaca, Johnson, Kallos, Levin, Levine, Mendez, Reynoso, Rosenthal, Lander, Rodriguez, Van Bramer, Rose, Richards, Salamanca, Cumbo, Williams, Perkins, Espinal, Torres, Cornegy, Dromm, Maisel, Ferreras-Copeland and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to professionally certified applications for construction document approval and final inspections of permitted work

Be it enacted by the Council as follows:

Section 1. Section 28-104.2.1 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

§28-104.2.1 Less than full examination of applications for construction and related document approval. The commissioner may, in the commissioner's discretion, establish a program whereby construction and related documents may be accepted with less than full examination by the department based on the professional certification of an applicant who is a registered design professional. *On a monthly basis, the commissioner shall audit no less than 25 percent of construction documents which are for multiple dwellings where 25 percent or more of the dwelling units are occupied and such multiple dwellings, in whole or in part, either (i) are subject to rent regulation, (ii) are being rehabilitated or maintained as affordable housing through a department of housing preservation and development program, (iii) are subject to a city regulatory agreement mandating the creation or preservation of a certain number of affordable units, (iv) contain affordable housing*

units created, sponsored or preserved through other city programs or initiatives, or (v) where the department knows or has reason to know, are the subject of a rent overcharge application which is in the process of being investigated by the New York State division of housing and community renewal.

Exception: *Construction or related documents may not be subject to less than full examination if the building is listed on the department of housing preservation and development's website pursuant to paragraph 6 of subdivision m of section 27-2115.*

§2. Section 28-116.2.4.2 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended by adding an exception to read as follows:

Exception: *Final inspection shall be performed by the department for permitted work in R-2 occupancies if the building is listed on the department of housing preservation and development's website pursuant to paragraph 6 of subdivision m of section 27-2115.*

§ 3. Section 28-105.5 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended by adding a new section 28-105.5.1 to read as follows:

§ 28-105.5.1 Application for permit where a building is occupied. *All applications for permits for work on a building having more than three dwelling shall state the total number of units, and the number of units occupied at the time the application is filed.*

§ 4. This local law takes effect 120 days after it becomes law, except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 924-A

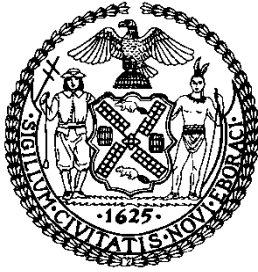
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to vacate orders.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3365), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 924-A:



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

PROPOSED INTRO. NO: 924-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to vacate orders

SPONSORS: Council Members Espinal, Chin, Johnson, Kallos, Levin, Levine, Menchaca, Reynoso, Rosenthal, Mendez, Constantinides, Rose, Lander, Lancman, Rodriguez, Van Bramer, Richards, Cumbo, Perkins, Torres, Vacca, Dromm, Maisel, Cornegy and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 924-A would require that written vacate orders issued by the Department of Buildings (DOB) include the date by which such conditions for which the vacate order was issued must be corrected.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by DOB to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015 as Intro. No. 924 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 18, 2016, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 924-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 3, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 924-A:)

Int. No. 924-A

By Council Members Espinal, Chin, Johnson, Kallos, Levin, Levine, Menchaca, Reynoso, Rosenthal, Mendez, Constantinides, Rose, Lander, Lancman, Rodriguez, Van Bramer, Richards, Cumbo, Perkins, Williams, Torres, Vacca, Dromm, Maisel, Cornegy, Ferreras-Copeland, Salamanca, Cohen and Gentile.

A Local Law to amend the administrative code of the city of New York, in relation to vacate orders

Be it enacted by the Council as follows:

Section 1. Section 28-207.4 of the administrative code of the city of New York is amended by adding a new paragraph to read as follows:

§ 28-207.4 Vacate order. In case any order to remedy a condition that is or may be imminently perilous, dangerous or detrimental to life, public safety or property, issued by the commissioner is not complied with, or the commissioner determines that an emergency exists requiring such action, the commissioner may order and immediately cause any building, structure, place or premises to be vacated. The vacate order may be given verbally or in writing to the owner, lessee or occupant of the property involved, or to the agent of any of them, or to the person or persons executing the work. A verbal order shall be followed promptly by a written order and shall include the reason for the issuance of the vacate order. *The written vacate order shall include the date by which the owner shall certify the correction of any and all violations giving rise to such vacate order.*

§ 2. This local law shall take effect 120 days after it becomes law, except that the commissioner of buildings may take all actions necessary for its implementation, including the promulgation of rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 926-A

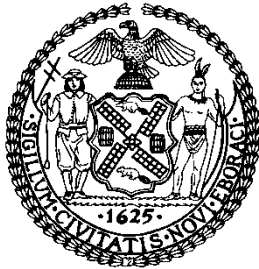
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law in relation to creating a task force on construction work in occupied multiple dwellings.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3573), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 926-A:



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

PROPOSED INTRO. NO: 926-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law in relation to creating a task force on construction work in occupied multiple dwellings

SPONSORS: Council Members Garodnick, Chin, Espinal, Johnson, Kallos, Levin, Levine, Menchaca, Reynoso, Rosenthal, Constantinides, Koo, Rose, Lander, Rodriguez, Richards, Mendez, Van Bramer, Williams, Perkins, Torres, Dromm, Cornegy and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 926-A would create an inter-agency task force consisting of 13 members appointed by the New York City Department of Buildings (DOB), the Department of Housing Preservation and Development (HPD), the Department of Health and Mental Hygiene (DOHMH), the Department of Environmental Protection (DEP), the City Council, and the Mayor. Among its primary functions, the task force would evaluate the current practices of the individual agencies represented in the task force with regards to construction and renovation by landlords in occupied residential buildings, submit a report of its findings to the Mayor and the Council including recommendations to improve inter-agency coordination and sharing of information, and update such report annually. The taskforce would dissolve upon submission of the third annual report.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by DOB, HPD, DOHMH, DEP, the City Council, and the Mayor to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not Applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015 as Intro. No. 926 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 926-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 3, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 926-A:)

Int. No. 926-A

By Council Members Garodnick, Chin, Espinal, Johnson, Kallos, Levin, Levine, Menchaca, Reynoso, Rosenthal, Constantinides, Koo, Rose, Lander, Rodriguez, Richards, Mendez, Van Bramer, Williams, Perkins, Torres, Dromm, Cornegy, Ferreras-Copeland, Salamanca and Cohen.

A Local Law in relation to creating a task force on construction work in occupied multiple dwellings

Be it enacted by the Council as follows:

Section 1. a. There shall be an interagency task force to explore issues related to construction work in occupied multiple dwellings.

- b. The task force shall consist of 13 members which shall include:
1. the commissioner of buildings, or their designee, who shall serve as co-director of the task force;
 2. the commissioner of housing preservation and development, or their designee, who shall serve as co-director of the task force;
 3. the commissioner of health and mental hygiene, or their designee;
 4. the commissioner of environmental protection, or their designee;
 5. five members appointed by the speaker of the council; and
 6. four members appointed by the mayor.
- c. In the event that a member's seat becomes vacant, such member's successor shall be appointed within sixty days of the vacancy. The new member shall be appointed in the same manner as the predecessor member whose vacancy is being filled.
- d. Members appointed by the speaker and members appointed by the mayor may be removed by the appointing person.
- e. The task force shall consult, on an ongoing basis, with tenants who reside in buildings undergoing construction or renovation to determine the common issues such tenants face as a result of such construction or renovation and to determine if these issues can be addressed by changing the current practices of the individual agencies represented in the task force.
- f. The task force shall meet not less than quarterly and such meetings shall be considered a meeting of a public body subject to article 7 of the public officers law.
- g. Within nine months of the enactment of the local law that added this section, the task force must complete an evaluation of the current practices of the individual agencies represented in the task force with regards to issues tenants face during construction or renovation of residential buildings. The task force shall issue a report to the mayor and the council including its findings and recommendations for improving interagency coordination and sharing of information within eighteen months of the enactment of the local law that added this section and shall update such report annually thereafter.
- h. This task force shall dissolve upon submission of the third annual report as required by subdivision g of this section.
- § 2. This local law takes effect 120 days after its enactment.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 930-A

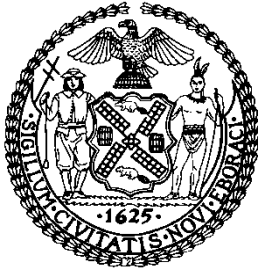
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to distressed buildings subject to foreclosure by action in rem.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3577), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 930-A:



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

PROPOSED INTRO. NO: 930-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to distressed buildings subject to foreclosure by action in rem

SPONSORS: Council Members Kallos, Chin, Johnson, Levin, Levine, Menchaca, Mendez, Reynoso, Rosenthal, Rose, Lander, Rodriguez, Richards, Gibson, Van Bramer, Crowley, Cohen, Cumbo, Williams, Perkins, Espinal, Torres, Vacca, Dromm, Maisel and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 930-A would expand the definition of “distressed property” to include buildings which are subject to Environmental Control Board (ECB) judgments as a result of building code violations in the amount of a lien to value ratio equal to or greater than 25 percent. The bill would also require the New York City Department of Finance (DOF) to report on tax lien activities as a result of ECB debt, including the number of buildings subject to tax liens for ECB judgment debts, the location of the buildings, the number of dwelling units in each building, and recommendations for whether a 25 percent lien to value ratio is an appropriate threshold for property to be considered distressed. Finally, it would require DOF to report on December 31, 2018 to the Mayor and Council on tax lien activities as a result of ECB judgment debt.

EFFECTIVE DATE: Section one of this local law would take effect May 1, 2019, except that the Commissioner of Buildings, the Commissioner of Housing Preservation and Development and the Commissioner of Finance may promulgate rules or take other actions for the implementation of this local law prior to such effective date. Section two of this local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY19 | Full Fiscal Impact FY20 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$0 | \$0 | See below |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | See below |

IMPACT ON REVENUES: It is estimated that there may be some impact on revenues resulting from the enactment of this legislation. Based on 2016 data from the Lien Sale Task Force, of the 18,843 liens sold from 2008 to 2011, only 322, or 1.7 percent, of the liens resulted in a property foreclosure. However, at the time of

this writing, it is not yet known how many buildings would be captured under the expanded definition of distressed properties, pursuant to this legislation. Therefore, it is unclear how much revenue, if any, the City would expect to collect through tax liens from buildings subject to ECB judgment debt. However, it is anticipated that buildings that meet the criteria would resolve outstanding debts and therefore would not be subject to foreclosure.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used to implement the provisions of Section two of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division
Report of the Lien Sale Task Force, September 2016

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015 as Intro. No. 930 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on October 31, 2016, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 930-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 7, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 930-A:)

Int. No. 930-A

By Council Members Kallos, Chin, Johnson, Levin, Levine, Menchaca, Mendez, Reynoso, Rosenthal, Rose, Lander, Rodriguez, Richards, Gibson, Van Bramer, Crowley, Cohen, Cumbo, Williams, Perkins, Espinal, Torres, Vacca, Dromm, Maisel, Ferreras-Copeland and Salamanca.

A Local Law to amend the administrative code of the city of New York, in relation to distressed buildings subject to foreclosure by action in rem

Be it enacted by the Council as follows:

Section 1. Subdivision 4 of section 11-401 of the administrative code of the city of New York, as amended by local law number 37 for the year 1996, is amended to read as follows:

4. "Distressed property." *Any parcel of class one or class two real property that is subject to a tax lien or liens that result from an environmental control board judgment against the owner of such parcel for a building code violation with a lien or liens to value ratio, as determined by the commissioner of finance, equal to or greater than 25 percent or [Any] any parcel of class one or class two real property that is subject to a tax lien or liens with a lien or liens to value ratio, as determined by the commissioner of finance, equal to or greater than fifteen percent and that meets one of the following two criteria:*

i. such parcel has an average of five or more hazardous or immediately hazardous violations of record of the housing maintenance code per dwelling unit; or ii. such parcel is subject to a lien or liens for any expenses incurred by the department of housing preservation and development for the repair or the elimination of any dangerous or unlawful conditions therein, pursuant to section 27-2144 of this code, in an amount equal to or greater than one thousand dollars.

§ 2. Chapter 2 of title 28 of the administrative code of the city of New York is amended to add a new section 28-204.6.11 to read as follows:

§ 28-204.6.1 Tax lien reporting. *On December 31, 2018, the department of finance shall submit a report to the mayor and the council on tax lien activities as a result of environmental control board judgment debt. Such report shall include: (i) the number of buildings subject to tax liens for environmental control board judgment debts, disaggregated by whether the tax lien was a result of an illegal conversion, more than \$60,000 in debt, or more than \$30,000 in debt; (ii) the location of such buildings disaggregated by council district; (iii) the number of dwelling units in each building which is subject to a tax lien; and (iv) recommendations for whether a 25 percent lien to value ratio is an appropriate threshold for a property to be considered distressed and if it is not, such report shall contain recommendations for what an appropriate threshold would be.*

§ 3. Section one of this local law takes effect May 1, 2019, except that the commissioner of buildings, the commissioner of housing preservation and development and the commissioner of finance may promulgate rules or take other actions for the implementation of this local law prior to such effective date. Section two of this local law takes effect immediately.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 931-B

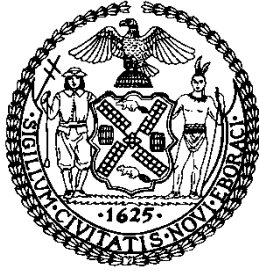
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to building violations adjudicated before the office of administrative trials and hearings.

The Committee on Housing and Buildings to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3578), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 931-B:



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

PROPOSED INTRO. NO: 931-B

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to building violations adjudicated before the office of administrative trials and hearings

SPONSORS: Council Members Kallos, Chin, Johnson, Levin, Levine, Menchaca, Mendez, Reynoso, Rosenthal, Rose, Lander, Lancman, Rodriguez, Richards, Van Bramer, Williams, Perkins, Espinal, Torres, Dromm, Maisel and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 931-B would allow the City to impose tax liens on buildings which contain 20 or more dwelling units where the total value of all such judgments against the building is \$60,000 or more, or a building which contains between 6 and 19 dwelling units, where the value of the judgments is \$30,000 or more. The bill contains exceptions for buildings participating in preservation programs administered by the New York City Department of Housing Preservation and Development (HPD).

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Buildings and the Commissioner of Finance may promulgate rules or take other actions for the implementation of this local law prior to such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY19 | Full Fiscal Impact FY19 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$1,750,000 | \$3,500,000 | \$3,500,000 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$1,750,000 | \$3,500,000 | \$3,500,000 |

IMPACT ON REVENUES: It is estimated that there would be some impact on revenues resulting from the enactment of this legislation. This cost estimate assumes that buildings with judgments outlined in the legislation would fully comply with the terms of the legislation and pay base fines before penalties and interest incur to outstanding debt. As such, according to information available in the Fiscal 2016 Annual Report on Environmental Control Board (ECB) adjudicated judgments, about \$67.6 million in ECB base fines were docketed in Fiscal 2016. As such, this estimate assumes \$67.6 million in base fines are docketed annually. In Fiscal 2016, about \$225.6 million in outstanding ECB base fines were issued by the New York City Department of Buildings (DOB), out of a gross total of \$479.8 million in base fines. Thus, this estimate assumes DOB-issued ECB fines account for about 47 percent of the annual share of base fines docketed. Applying this percentage to the \$67.6 million in outstanding ECB base fines in Fiscal 2016, this estimate assumes \$31.8 million in annual DOB-issued ECB fines are not currently collected. Based on analysis conducted by Council Finance, properties fitting the criteria outlined in the legislation would have accounted for about \$100.5 million of all outstanding ECB debt issued by DOB in Fiscal 2016, or about 11 percent of the total amount of outstanding ECB debt issued by DOB (which totaled \$902 million). Thus, this estimate assumes that 11 percent of the \$31.8 million in uncollected DOB-issued ECB fines would now be subject to further enforcement under the legislation, and therefore will result in approximately \$3.5 million in annual revenue beginning in Fiscal 2019. Due to limitations in data and documentation, it is unclear how much of the

\$100.5 million in outstanding ECB debt issued by DOB to properties captured in the bill would be transformed into tax liens, therefore this estimate does not include an estimate on the collection of that amount.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Finance (DOF) Fiscal 2016 Annual Report on Environmental Control Board (ECB) Adjudicated Judgments Referred to DOF

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst
Emre Edev, Assistant Director

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015 as Intro. No. 931 and was referred to the Committee on Housing and Buildings (Committee). The legislation was amended after introduction. A hearing was held by the Committee on the amended version, Proposed Intro. No. 931-A, on April 19, 2017, and the bill was laid over. The legislation was subsequently amended a second time, and this version, Proposed Intro. No. 931-B, will be voted on by the Committee on August 8, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 931-B will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 7, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 931-B:)

Int. No. 931-B

By Council Members Kallos, Chin, Johnson, Levin, Levine, Menchaca, Mendez, Reynoso, Rosenthal, Rose, Lander, Lancman, Rodriguez, Richards, Van Bramer, Williams, Perkins, Espinal, Torres, Dromm, Maisel, Ferreras-Copeland, Salamanca, Cohen and Vallone.

A Local Law to amend the administrative code of the city of New York, in relation to building violations adjudicated before the office of administrative trials and hearings

Be it enacted by the Council as follows:

Section 1. Section 28-204.6 of the administrative code of the city of New York, as amended by local law number 94 for the year 2017, is amended to read as follows:

§ 28-204.6 Tax Lien. Enforcement of environmental control board judgments against owners for certain building code violations. Notwithstanding any provision of law to the contrary, an environmental control board judgment against an owner for [(i)] a building code violation with respect to (i) a private dwelling, a wooden-framed single room occupancy multiple dwelling, or a dwelling with a legal occupancy of three or fewer dwelling units_[or]_(ii) a violation of section 28-210.1 involving the illegal conversion, maintenance or

occupancy of three or more dwelling units than are legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records, (iii) a building that contains twenty or more dwelling units, or that contains any space classified in an occupancy group other than occupancy group R, where the total value of all such judgments against such building is \$60,000 or more, or (iv) a building that contains only space classified in occupancy group R and no fewer than six and no more than nineteen dwelling units, where the total value of all such judgments against such building is \$30,000 or more, shall constitute a tax lien on the property named in the violation with respect to which such judgment was rendered, as hereinafter provided. Such liens shall be entered and enforced as provided in this section 28-204.6.

Exception. Notwithstanding any provision of law to the contrary, an environmental control board judgment shall not constitute a tax lien on the property named in the violation with respect to which such judgment was rendered where:

1. Such property was the subject of an in rem foreclosures judgment in favor of the city and was transferred by the city to a third party pursuant to section 11-412.1 of the administrative code within five years of such judgment.
2. Such property is the subject of a court order appointing an administrator pursuant to article 7-A of the real property actions and proceedings law in a case brought by the department of housing preservation and development.
3. Such property is the subject of a loan provided by or through the department of housing preservation and development or the New York city housing development corporation for the purpose of rehabilitation that had closed within five years before such judgment.

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of buildings and the commissioner of finance may promulgate rules or take other actions for the implementation of this local law prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 936-A

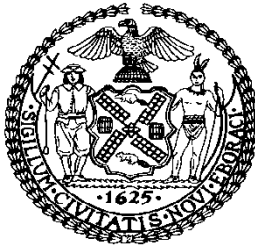
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to tenant protection plans, and to repeal section 1704.20.10 of the building code of the city of New York, in relation to special requirements for work in occupied multiple dwellings.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3587), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 936-A:



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

PROPOSED INTRO. NO: 936-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to tenant protection plans, and to repeal section 1704.20.10 of the building code of the city of New York, in relation to special requirements for work in occupied multiple dwellings

SPONSORS: Council Members Levine, Mendez, Chin, Johnson, Kallos, Levin, Menchaca, Reynoso, Rosenthal, King, Rose, Lander, Lancman, Rodriguez, Miller, Richards, Garodnick, Van Bramer, Cumbo, Williams, Perkins, Espinal, Torres, Dromm, Maisel, Cornegy and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 936-A would amend the information that must be included in tenant protection plans, which are required when construction work will take place in an occupied residential building, and prescribes measures that the Department of Buildings (DOB) and owners must take in order to ensure compliance with the tenant protection plan. The bill would also require that DOB conduct an inspection on five percent of such sites to ensure that sites are complying with their applicable tenant protection plans.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that this local law shall not apply to applications for construction document approval filed before such effective date or to work related thereto, and except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY19 | Full Fiscal Impact FY19 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$348,757 | \$697,513 | \$697,513 |
| Net | \$348,757 | \$697,513 | \$697,513 |

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: In 2016, DOB reports that the agency received 28,291 tenant protection plans and each inspector conducted about 850 inspections. Under the proposed legislation, DOB estimates that it would need to complete an additional 1,415 inspections annually. Although the legislation does not mandate that DOB hire new staff to meet the provisions of this bill, the agency has informed the Council that it would need an additional five staff to perform the increased number of inspections and enforcement actions required

under the bill. The total annual cost of these additional staff members is estimated to be \$697,513, including fringe benefits. For Fiscal 2018, the prorated cost would be \$348,757.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015, as Intro. No. 936 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. 936-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 4, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 936-A:)

Int. No. 936-A

By Council Members Levine, Mendez, Chin, Johnson, Kallos, Levin, Menchaca, Reynoso, Rosenthal, King, Rose, Lander, Lancman, Rodriguez, Miller, Richards, Garodnick, Van Bramer, Cumbo, Williams, Perkins, Espinal, Torres, Dromm, Maisel, Cornegy, Ferreras-Copeland, Salamanca and Cohen.

A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to tenant protection plans, and to repeal section 1704.20.10 of the building code of the city of New York, in relation to special requirements for work in occupied multiple dwellings

Be it enacted by the Council as follows:

Section 1. Section 28-104.8.4 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

§ 28-104.8.4 Tenant protection plan. Construction documents for alterations of buildings in which any dwelling unit will be occupied during construction shall include a tenant protection plan. Such plan shall contain a statement that the building contains dwelling units that will be occupied during construction and shall indicate in sufficient detail the specific units that are or may be occupied during construction, the means and methods to be employed to safeguard the safety and health of the occupants throughout the construction, including, where applicable, details such as temporary fire-rated assemblies, opening protectives, or dust containment procedures. *Such means and methods shall be described with particularity and in no case shall terms such as "code compliant," "approved," "legal," "protected in accordance with law" or similar terms*

be used as a substitute for such description. The elements of the tenant protection plan may vary depending on the nature and scope of the work but at a minimum shall make detailed and specific provisions for:

1. Egress. At all times in the course of construction provision shall be made for adequate egress as required by this code and the tenant protection plan shall identify the egress that will be provided. Required egress shall not be obstructed at any time except where approved by the commissioner.

2. Fire safety. All necessary laws and controls, including those with respect to occupied dwellings, as well as additional safety measures necessitated by the construction shall be strictly observed.

3. Health requirements. Specification of *means and methods* to be used for control of dust, disposal of construction debris, pest control and maintenance of sanitary facilities, and limitation of noise to acceptable levels shall be included.

3.1. There shall be included a statement of compliance with applicable provisions of law relating to lead and asbestos, *and such statement shall describe with particularity what means and methods are being undertaken to meet such compliance.*

4. Compliance with housing standards. The requirements of the New York city housing maintenance code, and, where applicable, the New York state multiple dwelling law shall be strictly observed.

5. Structural safety. No structural work shall be done that may endanger the occupants.

6. Noise restrictions. Where hours of the day or the days of the week in which construction work may be undertaken are limited pursuant to the New York city noise control code, such limitations shall be stated.

7. Maintaining essential services. *Where heat, hot water, cold water, gas, electricity, or other utility services are provided in such building or in any dwelling unit located therein, the tenant protection plan shall specify the means and methods to be used for maintaining such services during such work in accordance with the requirements of the New York city housing maintenance code. If a disruption of any such service is anticipated during the work, then such plan shall specify the anticipated duration of such disruption and the means and methods to be employed to minimize such disruption, including the provision of sufficient alternatives for such service during such disruption.*

§ 28-104.8.4.1 Public availability of tenant protection plan. *Upon issuance of a permit for work containing a tenant protection plan, the department shall make the tenant protection plan publicly available on its website.*

§ 28-104.8.4.2 Provision of copy of tenant protection plan to occupants upon request. *The owner of a building undergoing work for which a tenant protection plan is required by section 28-104.8.4 shall, upon request from an occupant of a dwelling unit within such building, provide such occupant with a paper copy of the tenant protection plan approved by the department.*

§ 28-104.8.4.3 Notice to occupants. *Upon issuance of a permit for work containing a tenant protection plan, the owner shall (i) distribute a notice regarding such plan to each occupied dwelling unit or (ii) post a notice regarding such plan in a conspicuous manner in the building lobby, as well as on each floor within ten feet of the elevator, or in a building where there is no elevator, within ten feet of or in the main stairwell on such floor. The notice shall be in a form created or approved by the department and shall include:*

1. *A statement that occupants of the building may obtain a paper copy of such plan from the owner and may access such plan on the department website;*

2. *The name and contact information for the site safety manager, site safety coordinator or superintendent of construction required by section 3301.3 of the New York city building code, as applicable, or, if there is no site safety manager, site safety coordinator or superintendent of construction, the name and contact information of the owner of the building or such owner's designee; and*

3. *A statement that occupants of the building may call 311 to make complaints about the work.*

§ 2. Section BC 110 of the building code of the city of New York is amended by adding a new section 110.3.7 to read as follows:

110.3.7 Tenant protection plan compliance inspections. *For buildings undergoing work for which a tenant protection plan is required by section 28-104.8.4 of the administrative code, inspections shall be made by the department to determine compliance with the tenant protection plan.*

§ 3. Section BC 1704.20.10 of the building code of the city of New York is REPEALED.

§ 4. Section BC 3303.10 of the building code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

3303.10 Operations in occupied buildings. When construction or demolition activity occurs in an occupied building, barricades, signs, drop cloths, and other protective means shall be installed and maintained as necessary to provide reasonable protection for the occupants against hazard and nuisance. Such protective means shall be indicated on an occupant protection plan, or where a tenant protection plan is required by Section 3303.10.1, on a tenant protection plan.

3303.10.1 Tenant protection plan. In buildings containing occupied dwelling units, including newly constructed buildings that are partially occupied where work is still ongoing within the building, all construction or demolition work shall be performed in accordance with a tenant protection plan as required by Chapter 1 of Title 28 of the Administrative Code.

3303.10.2 Inspections of tenant protection plan. *The owner shall notify the department in writing at least 72 hours prior to the commencement of any work requiring a tenant protection plan. The department shall conduct an inspection of five percent of such sites within seven days after the commencement of such work to verify compliance with the tenant protection plan. Thereafter, the department shall conduct an inspection upon the receipt of a complaint concerning such work.*

3303.10.3 Enforcement of tenant protection plan. *If work is not being performed in accordance with the tenant protection plan, the commissioner may issue a stop work order pursuant to section 28-207.2 of the administrative code.*

§ 5. This local law takes effect 120 days after it becomes law, except that this local law shall not apply to applications for construction document approval filed before such effective date or to work related thereto, and except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 938-A

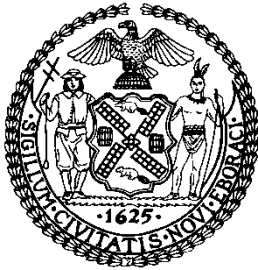
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to requiring increased oversight of construction contractors who have engaged in work without a required permit.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3591), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 938-A:



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

PROPOSED INTRO. NO: 938-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring increased oversight of construction contractors who have engaged in work without a required permit

SPONSORS: Council Members Reynoso, Chin, Johnson, Kallos, Levin, Levine, Menchaca, Mendez, Rosenthal, Gentile, Koo, Koslowitz, Lander, Rodriguez, Rose, Richards, Van Bramer, Williams, Perkins, Torres, Dromm, Maisel, Cornegy and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 938-A would require the Department of Buildings (DOB) to compile and maintain a watch list of contractors who have been found to have performed work without a required permit in the preceding two years. The bill would require DOB to engage in increased oversight of any worksite where a contractor included on the watch list performs work in an occupied building, which includes additional inspections, as well as other methods that DOB may establish by rule. The bill would also institute a two-year timeline under which a contractor could be removed from the watch list.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by DOB to implement the provisions of this local law. Additionally, while DOB may conduct one or more inspections at any worksite on the watch list, this estimate assumes that such worksites are already subject to additional oversight by DOB, and thus not assumed in this cost estimate.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015 as Intro. No. 938 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 938-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 3, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 938-A:)

Int. No. 938-A

By Council Members Reynoso, Chin, Johnson, Kallos, Levin, Levine, Menchaca, Mendez, Rosenthal, Gentile, Koo, Koslowitz, Lander, Rodriguez, Rose, Richards, Van Bramer, Williams, Perkins, Espinal, Torres, Vacca, Dromm, Maisel, Cornegy, Ferreras-Copeland, Salamanca, Cohen and Vallone.

A Local Law to amend the administrative code of the city of New York, in relation to requiring increased oversight of construction contractors who have engaged in work without a required permit

Be it enacted by the Council as follows:

Section 1. Article 213 of chapter 2 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-213.5 to read as follows:

§ 28-213.5 Watch list of contractors performing work without required permit. *The department shall compile and maintain a watch list of contractors who have been found to have performed work without a required permit in the preceding two years.*

§ 28-213.5.1 Increased oversight. *At any site where a contractor that is included on the watch list created pursuant to section 28-213.5 performs work in an occupied building, the department shall perform one or more inspections in order to ensure compliance with applicable laws, rules, regulations and permitting requirements. The department may promulgate rules providing for additional oversight of such contractors where appropriate for the protection of the public.*

§ 28-213.5.2 Exemption. *Any work performed by a contractor that is wholly or partially exempt from a civil penalty for work performed without a permit pursuant to a rule of the department shall not be considered in determining whether the contractor is to be included on the watch list created pursuant to section 28-213.5.*

§ 28-213.5.3 Removal from watch list. *The department shall remove from the watch list created pursuant to section 28-213.5 any contractor who has not been found to have performed work without a permit in the two years after the latter of the following dates: (i) the date on which such contractor was originally placed on such watch list or (ii) the date on which such contractor most recently performed work without a required permit.*

§ 2. This local law shall take effect 120 days after it becomes law, except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of any rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 939-A

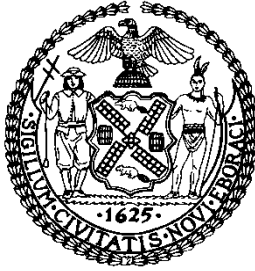
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to increasing the penalties for work without a permit

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3591), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 939-A:



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

PROPOSED INTRO. NO: 939-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to increasing the penalties for work without a permit

SPONSORS: Council Members Reynoso, Chin, Espinal, Johnson, Kallos, Levin, Levine, Menchaca, Mendez, Rosenthal, Gentile, King, Koslowitz, Rose, Lander, Rodriguez, Garodnick, Miller, Richards, Van Bramer, Williams, Perkins, Torres, Vacca, Dromm, Maisel, Cornegy and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 939-A would increase the penalties for work without a permit on a one- or two-family dwelling from four times the amount of the fee for such permit to six times, increase the minimum penalty for such a violation from \$500 to \$600 and impose a maximum penalty of \$10,000. In addition, the bill would increase the penalties for work without a permit on all other buildings from 14 times to 21 times, increase the minimum penalty for such a violation from \$5,000 to \$6,000, and impose a maximum penalty of \$15,000.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation because full compliance with the legislation is anticipated.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by DOB to implement the provisions of this local law and non-City entities would bear the costs of any penalties associated with performing work without a permit in accordance with the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015 as Intro. No. 939 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on December 10, 2015, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 939-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 3, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 939-A:)

Int. No. 939-A

By Council Members Reynoso, Chin, Espinal, Johnson, Kallos, Levin, Levine, Menchaca, Mendez, Rosenthal, Gentile, King, Koslowitz, Rose, Lander, Rodriguez, Garodnick, Miller, Richards, Van Bramer, Williams, Perkins, Torres, Vacca, Dromm, Maisel, Cornegy, Ferreras-Copeland, Salamanca, Cohen and Vallone.

A Local Law to amend the administrative code of the city of New York, in relation to increasing the penalties for work without a permit

Be it enacted by the Council as follows:

Section 1. Section 28-213.1.1 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

§ 28-213.1.1 Penalty for work without permit on one or two-family dwelling. Where work has been performed without a permit on a one-family or two-family dwelling the penalty shall equal [four] *six* times the amount of the fee payable for the permit. Where only part of the work has been performed without a permit, the penalty shall be reduced proportionately according to the amount of work still to be performed at the time a permit is issued. Notwithstanding the foregoing, no such penalty shall be less than [five hundred dollars] *\$600*, nor more than *\$10,000*.

§2. Section 28-213.1.2 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

§ 28-213.1.2 Penalty for work without permit on other than one or two-family dwelling. The penalty for work without a permit on buildings other than one or two-family dwellings shall be [fourteen] *21* times the amount of the fee payable for such permit. Where only part of the work has been performed without a permit, the penalty shall be reduced proportionately according to the amount of work still to be performed at the time a permit is issued. Notwithstanding the foregoing, no such penalty shall be less than [five thousand dollars] *\$6,000*, nor more than *\$15,000*.

§3. This local law takes effect 120 days after it becomes law, except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 940-A

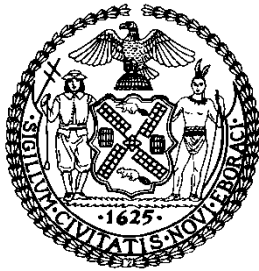
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to increasing the penalties for a violation of a stop work order.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3592), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 940-A:



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

PROPOSED INTRO. NO: 940-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to increasing the penalties for a violation of a stop work order

SPONSORS: Council Members Reynoso, Chin, Espinal, Johnson, Kallos, Levin, Levine, Menchaca, Mendez, Rosenthal, Gentile, Koslowitz, Rose, Lander, Lancman, Rodriguez, Garodnick, Richards, Van Bramer, Perkins, Williams, Torres, Vacca, Dromm, Maisel, Cornegy and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 940-A would increase the penalties for violating a stop work order from \$5,000 to \$6,000 for the initial violation and from \$10,000 to \$12,000 for subsequent violations.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation because full compliance with the legislation is anticipated.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by the Department of Buildings (DOB) to implement the provisions of this local law and non-City entities would bear the costs of violating stop work orders in accordance with the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not Applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015 as Intro. No. 940 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on December 10, 2015, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 940-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 3, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 940-A:)

Int. No. 940-A

By Council Members Reynoso, Chin, Espinal, Johnson, Kallos, Levin, Levine, Menchaca, Mendez, Rosenthal, Gentile, Koslowitz, Rose, Lander, Lancman, Rodriguez, Garodnick, Miller, Richards, Van Bramer, Perkins, Williams, Torres, Vacca, Dromm, Maisel, Cornegy, Ferreras-Copeland, Salamanca, Cohen and Vallone.

A Local Law to amend the administrative code of the city of New York, in relation to increasing the penalties for a violation of a stop work order

Be it enacted by the Council as follows:

Section 1. Section 28-207.2.6 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

§ 28-207.2.6 Penalties. In addition to the penalties provided for in this chapter, any person who fails to comply with a stop work order shall be liable for a civil penalty in the amount of [five thousand dollars] \$6,000 for the initial violation and [ten thousand dollars] \$12,000 for every subsequent violation, to be paid to the department prior to the rescission of the stop work order; provided, however, this shall not apply to any work performed to

remedy an unsafe or hazardous condition as authorized by order of the commissioner.

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 944-A

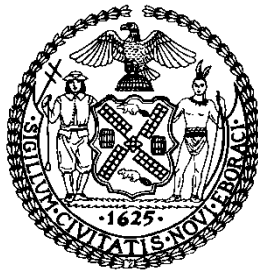
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to construction work permits.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 30, 2015 (Minutes, page 3598), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 944-A:



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

PROPOSED INTRO. NO: 944-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to construction work permits

SPONSORS: Council Members Rosenthal, Johnson, Chin, Kallos, Levin, Levine, Menchaca, Mendez, Reynoso, Lander, Van Bramer, Rose, Richards, Gentile, Rodriguez, Cumbo, Williams, Perkins, Espinal, Torres, Vacca, Dromm, Maisel, Cornegy and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 944-A would double the civil penalties for any violation issued to a building within one year of receiving a violation for work without a permit. The bill would allow the Department of Buildings (DOB) to impose an inspection fee for each complaint-based inspection

conducted at such locations within one year after receiving a violation. In addition, DOB would be required to post information online concerning the occupancy status of buildings subject to a permit. This information would also be posted in a prominent place within the work site. Lastly, for a new building or an alteration that would require a new certificate of occupancy, the proposed legislation would require DOB to e-mail on a weekly basis to Council Members and Community Boards, and post online, copies of notices of approval, disaggregated by community board.

EFFECTIVE DATE: This local law would take effect one year after it becomes law, except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

| | Effective FY19 | FY Succeeding Effective FY20 | Full Fiscal Impact FY20 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$0 | \$0 | \$0 |
| Net | \$0 | \$0 | \$0 |

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation. While DOB may impose a fee for complaint-based inspections conducted at locations subject to work without a permit penalties, these fees are not mandated under this legislation, and thus not assumed in this cost estimate.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by DOB to implement the provisions of this local law and non-City entities would bear the costs of any penalties associated with performing work without a permit in accordance with the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 30, 2015 as Intro. No. 944 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 18, 2016, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 944-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 3, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 944-A:)

Int. No. 944-A

By Council Members Rosenthal, Johnson, Chin, Kallos, Levin, Levine, Menchaca, Mendez, Reynoso, Lander, Van Bramer, Rose, Richards, Gentile, Rodriguez, Cumbo, Williams, Perkins, Espinal, Torres, Vacca, Dromm, Maisel, Cornegy, Ferreras-Copeland, Salamanca and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to construction work permits

Be it enacted by the Council as follows:

Section 1. Article 103 of chapter 1 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-103.27 to read as follows:

§ 28-103.27 Disclosure of building occupancy status for buildings subject to permit. *For each building for which a permit for work has been issued, the commissioner shall post on the department's website a statement of whether the construction documents relating to such permit indicate that one or more dwelling units within such building will be occupied during such work.*

§ 2. Section 28-104.2.1 of the administrative code of the city of New York, as amended by a local law of the city of New York for the year 2017 amending the administrative code of the city of New York, in relation to professionally certified applications for construction document approval and final inspections of permitted work, as proposed in introduction number 918-A, is amended to read as follows:

§ 28-104.2.1 Less than full examination of applications for construction and related document approval. The commissioner may, in the commissioner's discretion, establish a program whereby construction and related documents may be accepted with less than full examination by the department based on the professional certification of an applicant who is a registered design professional. On a monthly basis, the commissioner shall audit no less than 25 percent of construction documents which are for multiple dwellings where 25 percent or more of the dwelling units are occupied and such multiple dwellings, in whole or in part, either (i) are subject to rent regulation, (ii) are being rehabilitated or maintained as affordable housing through a department of housing preservation and development program, (iii) are subject to a city regulatory agreement mandating the creation or preservation of a certain number of affordable units, (iv) contain affordable housing units created, sponsored or preserved through other city programs or initiatives, or (v) where the department knows or has reason to know, are the subject of a rent overcharge application which is in the process of being investigated by the New York State division of housing and community renewal.

[Exception:] Exceptions:

1. Construction or related documents may not be subject to less than full examination if the building is listed on the department of housing preservation and development's website pursuant to paragraph 6 of subdivision m of section 27-2115.
2. Where a penalty is imposed pursuant to article 213 of chapter 2 of this title for work that has been performed without a permit on a building (i) construction and related documents for work at such building shall not be accepted with less than full examination by the department for one year after such imposition or (ii) if such work without a permit was performed on only part of such building and the owner of such part is not the owner of such building, construction and related documents for work on such part shall not be accepted with less than full examination by the department for one year after such imposition or until the date such part of such building changes owners, whichever is sooner.

§ 3. Section 28-104.2.7.1 of the administrative code of the city of New York, as added by local law number 10 for the year 2016, is amended to read as follows:

§ 28-104.2.7.1 Notification of approval. The department shall, on a weekly basis, send council members and community boards, by electronic mail, *and post on its website*, a copy of all notices of approval for applications [for a new building or an alteration that will require a new certificate of occupancy for a building,] sent to applicants during the prior week, disaggregated by community [board. In addition, the department shall post such information on its website on a weekly basis.] *board, for:*

1. *A new building or an alteration that will require a new certificate of occupancy for a building; and*
2. *Work at a building or part thereof for which construction and related documents shall not be accepted with less than full examination by the department pursuant to the exception to section 28-104.2.1.*

§ 4. Section 28-105.11 of the administrative code of the city of New York, as added by local law number 141 for 2013, is amended to read as follows:

§ 28-105.11 Posting of permit. The building permit or copy thereof shall be posted in a conspicuous place at the work site, visible to the public for the duration of the work or the use and operation of the equipment, or until the expiration of the permit. No such permit shall be posted or displayed at any location other than the location of the premises or equipment for which the permit was issued. Where the permit is exposed to the weather, it shall be laminated or encased in a plastic covering to protect it from the elements. *The permit shall identify whether any dwelling unit within such building will be occupied during the work. If dwelling units within such building will be occupied during the work, the permit shall indicate the total number of dwelling units that will be occupied.*

Exception: Where a project information panel is required by section 3301.9.1 of the New York city building code, the permit shall be posted in accordance with such section, and no other permits shall be posted in any location readily visible to the public, except as provided in section 3301.9.5 of the New York city building code.

§ 5. Article 213 of title 28 of the administrative code of the city of New York is amended by adding new sections 28-213.6 and 28-213.7 to read as follows:

§ 28-213.6 Enhanced penalties for other violations. *Where a penalty is imposed pursuant to this article for work that has been performed without a permit on a building (i) the civil penalty for each violation of this code issued for such building within one year after such imposition shall be two times the penalty that would otherwise apply for such violation or (ii) if such work without a permit was performed on only part of such building and the owner of such part is not the owner of such building, the civil penalty for each violation of this code issued for such part within one year after such imposition shall be two times the penalty that would otherwise apply for such violation.*

§ 28-213.7 Inspection fees. *Where a penalty is imposed pursuant to this article for work that has been performed without a permit on a building (i) the department may impose an inspection fee, in an amount to be established by rule, for each complaint-based inspection it conducts at such building within one year after imposition of such penalty where such inspection results in the issuance of a violation or (ii) if such work without a permit was performed on only part of such building and the owner of such part is not the owner of such building, the department may impose an inspection fee, in an amount to be established by rule, for each complaint-based inspection it conducts at only such part within one year after imposition of such penalty or until the date such part of such building changes owners, whichever is sooner, where such inspection results in the issuance of a violation.*

§ 6. This local law takes effect one year after it becomes law, except that the commissioner of buildings may take such actions as are necessary for its implementation, including the promulgation of rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 960-A

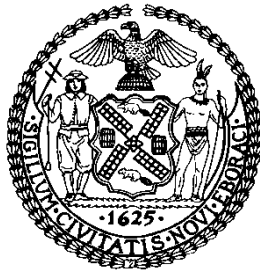
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the New York city administrative code, in relation to creating a safe construction bill of rights.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on October 15, 2015 (Minutes, page 3707), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 960-A:



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

PROPOSED INTRO. NO: 960-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the New York city administrative code, in relation to creating a safe construction bill of rights

SPONSORS: Council Members Mendez, Chin, Lander, Espinal, Johnson, Kallos, Levin, Levine, Menchaca, Reynoso, Rosenthal, Cumbo, Gentile, Koo, Palma, Rodriguez, Rose, Richards, Garodnick, Van Bramer, Williams, Perkins, Torres, Dromm, Maisel, Cornegy, Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 960-A would require building owners to distribute a “Safe Construction Bill of Rights” to tenants or to post the written notice in a prominent place within the building when the owner seeks to conduct any construction work that requires a permit from the Department of Buildings (DOB). The provisions of this legislation may be enforced by the Department of Housing Preservation and Development (HPD) or DOB. The written information would include a description of the type of construction work being conducted, the location and timeline of completion of such work, the hours of

construction, details on any service interruptions, and an agency contact for emergency and non-emergency matters in relation to the construction work. Such notification must be provided in English, Spanish, and other languages as HPD may provide by rule, and remain posted until the completion of construction work. Finally, the legislation would establish that owners who fail to comply with these provisions will be liable for an immediately hazardous violation and subject to penalties.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the HPD Commissioner may take such measures as are necessary for its implementation, including the promulgation of rules, before its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation. While HPD may issue violations to property owners regarding inadequate notification of construction work, the penalties associated with such violations are not mandated under this legislation, and thus not assumed in this cost estimate.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by HPD and DOB to implement the provisions of this local law and non-City entities would bear the costs of any penalties associated with performing construction work without notifying tenants in accordance with the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
 Nathan Toth, Deputy Director
 Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on October 15, 2015 as Intro. No. 960 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 960-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 3, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 960-A:)

Int. No. 960-A

By Council Members Mendez, Chin, Lander, Espinal, Johnson, Kallos, Levin, Levine, Menchaca, Reynoso, Rosenthal, Cumbo, Gentile, Koo, Palma, Rodriguez, Rose, Richards, Garodnick, Van Bramer, Williams, Perkins, Torres, Dromm, Maisel, Cornegy, Ferreras-Copeland, Salamanca, Cohen and Vallone

A Local Law to amend the New York city administrative code, in relation to creating a safe construction bill of rights

Be it enacted by the Council as follows:

Section 1. Article 1 of subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2009.2 to read as follows:

§ 27-2009.2 *Safe construction bill of rights. a. Definitions. As used in this section:*

Amenity. The term “amenity” means any equipment, feature or space within a multiple dwelling that may be used in common by the building occupants, including, but not limited to, entrances, elevators, stairways, freight elevators, laundry rooms, laundry equipment, exercise rooms, community rooms, outdoor areas, parking spaces, storage units, or wireless internet.

Essential service. The term “essential service” means heat, hot water, cold water, electricity, gas, maintenance and janitorial services, and elevator service and any other services that the commissioner determines by rule to be essential.

b. Notice. 1. Contemporaneously with an application for a permit for work not constituting minor alterations or ordinary repairs, contemporaneously with the owner’s notification of the department that an emergency work permit is being sought, or, for new buildings, immediately upon application for a temporary certificate of occupancy, the owner of a multiple dwelling shall (i) distribute a notice, titled the “Safe Construction Bill of Rights,” to each occupied dwelling unit or (ii) post such notice, in a conspicuous manner in the building lobby, adjacent to the posted notice required pursuant to chapter 11 of title 26 of the code, and on every floor within 10 feet of every elevator bank, or, in a building with no elevator, within 10 feet of or inside every main stairwell,

2. Such notice shall remain posted until the completion of the described permitted work.

c. Notice content. The notice required pursuant to this section shall contain the following information, and shall be updated within one week of any change to such information:

1. A description of the type of work being conducted and the locations in the multiple dwelling where the work will take place;

2. The hours of construction;

3. The projected timeline for the completion of the work;

4. A description of the amenities or essential services anticipated to be unavailable or interrupted during the work and how the owner will minimize such unavailability or interruption;

5. The contact information, including a telephone number, for an agent or employee of the owner who can be reached for non-emergency matters pertaining to the work being performed;

6. The contact information, including a telephone number, for an agent or employee of the owner who can be reached for emergency matters pertaining to the work being performed 24 hours a day, 7 days a week during the period of construction; and

7. The contact information for the relevant city and state agencies where occupants may submit complaints or ask questions about the work being performed.

d. Tenant protection plan. When notice is required pursuant to this section, the owner shall (i) distribute a notice meeting the requirements of section 28-104.8.4.3 of the code regarding the tenant protection plan to each occupied dwelling unit or (ii) post such notice in a conspicuous manner in the building lobby, as well as on each floor within 10 feet of the elevator, or in a building where there is no elevator, within 10 feet of the main stairwell on such floor.

e. Language requirement. The notice required pursuant to this section shall be published in English, Spanish and such other languages as the department may provide by rule.

f. Protection. All postings required by this section shall be laminated or encased in a plastic covering deemed appropriate by the commissioner.

g. Enforcement. The provisions of this section may be enforced by the department or the department of buildings.

h. Violations and penalties. Any owner who fails to comply this section shall be liable for an immediately hazardous violation and subject to penalties associated with such violation, as defined in section 27-2115 of the code.

§ 2. This local law shall take effect 120 days after its enactment provided that the department of housing preservation and development may take actions necessary, including rulemaking, to implement the requirements of this local law prior to its effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 1133-A

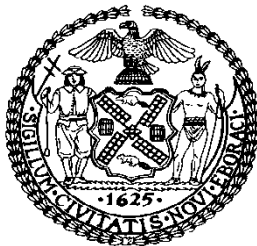
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to the denial of certain building permits where outstanding charges are owed to the city.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on March 22, 2016 (Minutes, page 791), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1133-A:



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

PROPOSED INTRO. NO: 1133-A

COMMITTEE: **Housing and Buildings**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the denial of certain building permits where outstanding charges are owed to the city

SPONSORS: Council Members Vacca, Rose, Chin, Grodenchik, Williams, Kallos, Rosenthal and Ulrich

SUMMARY OF LEGISLATION: Proposed Intro. No. 1133-A would require the Department of Buildings (DOB) to withhold building permits for new buildings, demolitions and major alterations for certain properties where \$25,000 or more in unpaid charges are owed to the city or where the owners of such properties owe, in aggregate, \$25,000 or more in unpaid charges to the city. The bill would provide certain exceptions to this prohibition, such as where the permit would be required to correct a dangerous condition or where the applicant has entered a repayment plan with the New York City Department of Finance (DOF).

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, prior to its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY19 | Full Fiscal Impact FY19 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | See below | See below | See below |
| Expenditures | \$0 | \$0 | \$0 |
| Net | See below | See below | See below |

IMPACT ON REVENUES: It is estimated that there would be some increase in revenues resulting from the enactment of this legislation. In 2016, DOB issued approximately 109,277 building permits, of which 5,600 permits were for new buildings and major alterations. In 2016, on average, each permit issued by DOB generated about \$1,469 in revenue for the City. According to testimony provided by DOF, there are currently 10,000 entities that have \$25,000 in outstanding past due fees. However, due to data limitations, it is not known how many of these entities would apply for a building permit after the enactment of this legislation. In addition, it is not known how many might enter into a repayment plan with the City, pay off all outstanding debt, or be denied a building permit in accordance with the legislation. To the extent that this legislation incentivizes the payment of unpaid charges, it is anticipated that this would result in an increase in revenue to the City. To the extent that this legislation would cause an entity to be denied a permit it would have received in the absence of this legislation, this would result in a loss of revenue to the City.

IMPACT ON EXPENDITURES: It is estimated that there would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

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

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
 Nathan Toth, Deputy Director
 Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on March 22, 2016, as Intro. No. 1133 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the

Committee on March 23, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1133-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 7, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1133-A:)

Int. No. 1133-A

By Council Members Vacca, Rose, Chin, Grodenchik, Williams, Kallos, Rosenthal, Salamanca, Cohen, Gentile, Vallone and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to the denial of certain building permits where outstanding charges are owed to the city

Be it enacted by the Council as follows:

Section 1. Article 105 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-105.1.2 to read as follows:

§ 28-105.1.2 Denial of permits for certain arrears. *The commissioner shall not issue a permit for a new building, demolition, place of assembly or major alteration that will change the use, egress or occupancy for a property if \$25,000 or more in covered arrears is owed to the city with respect to such property or if the owners of such property owe, in aggregate, \$25,000 or more in covered arrears to the city, provided that, where a dwelling unit within a property is owned as a condominium or held by a shareholder of a cooperative corporation under a proprietary lease, covered arrears owed to the city for such unit shall not be considered covered arrears owed to the city for such property. For the purposes of this section, the term “covered arrears” may include any of the following, but shall not include any such items that are currently in the appeals process:*

1. *Unpaid fines, civil penalties or judgments entered by a court of competent jurisdiction or the environmental control board pursuant to chapter 2 of this title or chapter 2 of title 28 of the code; and*
2. *Unpaid and past due fees or other charges lawfully assessed by the commissioner.*

Exceptions:

1. *The commissioner may issue a permit for a property if the applicant submits a certification from the department of finance that binding agreements are in force requiring payment of all covered arrears owed by the owners of such property, and such owners are in compliance with such agreement.*
2. *The commissioner may issue a permit for a property where the issuance of such permit is necessary to correct an outstanding violation of this code, the housing maintenance code or any other applicable provisions of law or rule or where the commissioner determines that issuance of such permit is necessary to perform work to protect public health and safety.*
3. *The commissioner may issue a permit for a portion of a property occupied by a tenant who is not an owner of such property or responsible for any covered arrears owed with respect to such property.*

4. *The commissioner may issue a permit, for a dwelling unit within a property that is owned by a condominium or held by a shareholder of a cooperative corporation under a proprietary lease, if the owners of record for such unit do not owe, in aggregate, \$25,000 or more in covered arrears to the city.*
5. *The commissioner may issue a permit where a property was the subject of an in rem foreclosure judgment in favor of the city and was transferred by the city to a third party pursuant to section 11-412.1 of the code.*
6. *The commissioner may issue a permit where a property is the subject of a court order appointing an administrator pursuant to article 7-a of the real property actions and proceedings law in a case brought by the department of housing preservation and development.*
7. *The commissioner may issue a permit where a property is the subject of a loan provided by or through the department of housing preservation and development or the New York city housing development corporation for the purpose of rehabilitation that has closed within the five years preceding the application for such permit.*
8. *The commissioner may issue a permit for a property where the department of housing preservation and development or the New York city housing development corporation notifies the commissioner that the permit is required for participation in a program that involves rehabilitation of such property.*

§ 2. Article 105 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-105.5.2 to read as follows:

§ 28-105.5.2 Owner statement. *All applications for permits shall include a certification by the owner of the property for which the permit is sought stating the following:*

1. *A statement as to whether \$25,000 or more in covered arrears, that are not currently in the appeals process, are owed to the city with respect to such property;*
2. *A statement as to whether the owners of the property owe, in aggregate, \$25,000 or more in covered arrears to the city;*
3. *For each owner of the property:*
 - 3.1. *The person's full name and business address;*
 - 3.2. *A list of properties in the city for which the person owes covered arrears to the city and, for each such property, the amount of such covered arrears owed; and*
 - 3.3. *A list of properties in the city for which the person is an owner;*
4. *If an exception to section 28-105.1.2 of the code applies to such owner, a description of such exception.*

§ 28-105.5.2.1 Audit. *The commissioner shall each year, in consultation with the department of finance and each other appropriate city agency, audit at least 25 percent of the statements submitted under section 28-105.5.2 of the code.*

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 1523-A

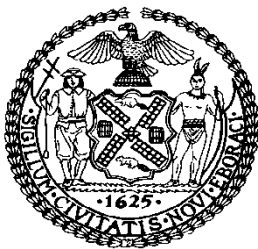
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the New York city charter, in relation to the creation of an office of the tenant advocate within the department of buildings

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on March 16, 2017 (Minutes, page 828), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1523-A:



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

PROPOSED INTRO. NO: 1523-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the New York city charter, in relation to the creation of an office of the tenant advocate within the department of buildings

SPONSORS: Council Members Rosenthal, Levin, Salamanca, Rodriguez, Menchaca, Koslowitz, Rose, Johnson, Kallos, Carbrera, Cohen, and Levine

SUMMARY OF LEGISLATION: Proposed Intro. No. 1523-A would establish an Office of the Tenant Advocate within the Department of Buildings (DOB), whose duties would include but not be limited to: monitoring tenant protection plans to ensure compliance with the administrative code; establishing a system to receive comments, questions and complaints with respect to tenant protection plans; establishing a system to communicate with tenants who are affected by work in occupied multiple dwellings; monitoring sites where a tenant protection plan is required to ensure compliance with such plan; and publishing quarterly reports related to the responsibilities of the office.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, prior to its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

| | Effective FY18 | FY Succeeding Effective FY19 | Full Fiscal Impact FY19 |
|---------------------|-----------------------|-------------------------------------|--------------------------------|
| Revenues | \$0 | \$0 | \$0 |
| Expenditures | \$93,338 | \$186,676 | \$186,676 |
| Net | \$93,338 | \$186,676 | \$186,676 |

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: Although the legislation does not mandate that DOB hire new staff to meet the provisions of this bill, it is anticipated that the legislation would impact expenditures in the amount of \$186,676 annually, which represents the combined salary and total benefits of a Department Advocate and a Program Research Analyst who would staff the office. The prorated amount for Fiscal 2018 would be \$93,338 including fringe benefits. The salaries were calculated using Fiscal 2018 Departmental Estimates provided by the Office of Management and Budget.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Office of Management and Budget

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on March 16, 2017, as Intro. No. 1523 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. 1523-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 4, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1523-A:)

Int. No. 1523-A

By Council Members Rosenthal, Levin, Salamanca, Rodriguez, Menchaca, Koslowitz, Rose, Johnson, Kallos, Cabrera, Cohen, Levine and Gentile.

A Local Law to amend the New York city charter, in relation to the creation of an office of the tenant advocate within the department of buildings

Be it enacted by the Council as follows:

Section 1. Chapter 26 of the New York city charter is amended by adding a new section 650 to read as follows:

§ 650. *a. Establishment of the office of the tenant advocate. There shall be in the department an office of the tenant advocate, whose duties shall include, but not be limited to:*

1. monitoring tenant protection plans to ensure that such plans comply with the requirements of section 28-104.8.4 of the administrative code;

2. establishing a system to receive comments, questions and complaints with respect to tenant protection plans, including, but not limited to, establishing and publicizing the availability of a telephone number to receive such comments, questions and complaints;

3. establishing a system to communicate with tenants who are affected by work in occupied multiple dwellings to ensure that such tenants have notice of such work, understand the applicable tenant protection plan and understand their rights as tenants during such work; and

4. monitoring sites with tenant protection plans to ensure that such sites are complying with such plans and, if the office finds that a site is not complying with such plan, making a recommendation to the commissioner to issue a stop work order for such site until such site is in compliance.

b. Reporting. The office of the tenant advocate shall submit to the mayor and the speaker of the city council, and publish on the department's website, quarterly reports related to the responsibilities of the office, including but not limited to:

1. the number of complaints received by the office and a description of such complaints;

2. the average time taken to respond to such complaints;

3. a description of efforts made to communicate with tenants; and

4. the number of recommendations made to the commissioner to issue a stop work order for a site that is not in complying with a tenant protection plan and the number of such recommendations followed by the commissioner.

c. Posting of office information. The department shall post on its website the phone number of the office of the tenant advocate and a statement indicating that any person may contact such office if such person has a comment, question or complaint regarding tenant protection plans.

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of rules, prior to its effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 1530-A

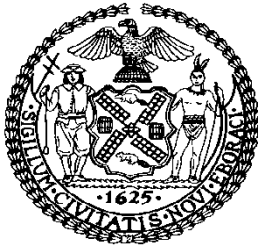
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to creating a rebuttable presumption regarding harassment.

The Committee on Housing and Building, to which the annexed proposed amended local law was referred on April 5, 2017 (Minutes, page 977), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1530-A:



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

PROPOSED INTRO. NO: 1530-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to creating a rebuttable presumption regarding harassment

SPONSORS: The Speaker (Council Member Mark-Viverito) and Council Members Rosenthal, Dromm, Levine, Menchaca and Levin

SUMMARY OF LEGISLATION: Under current harassment law, a tenant has to show that an owner committed one of the enumerated harassing acts or omissions and that such act or omission caused or was intended to cause such tenant to vacate the dwelling or waive any rights. Proposed Intro. No. 1530-A would create a rebuttable presumption of tenant harassment whenever a residential property owner commits at least one of the enumerated acts or omissions that qualifies as harassment, thus eliminating the proof of intent requirement.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Housing Preservation and Development (HPD) may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by HPD to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on April 5, 2017 as Intro. No. 1530 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1530-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 2, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 1530-A:)

Int. No. 1530-A

By The Speaker (Council Member Mark-Viverito) and Council Members Rosenthal, Dromm, Levine, Menchaca, Levin, Kallos, Salamanca and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to creating a rebuttable presumption regarding harassment

Be it enacted by the Council as follows:

Section 1. The opening paragraph of paragraph 48 of subdivision a of section 27-2004 of the administrative code of the city of New York, as added by local law number 7 for the year 2008, is amended to read as follows:

48. Except where otherwise provided, the term “harassment” shall mean any act or omission by or on behalf of an owner that (i) causes or is intended to cause any person lawfully entitled to occupancy of a dwelling unit to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy, and (ii) includes one or more of the [following:] *following acts or omissions, provided that there shall be a rebuttable presumption that such acts or omissions were intended to cause such person to vacate such dwelling unit or to surrender or waive any rights in relation to such occupancy;*

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 1548-A

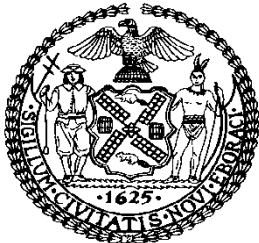
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to amending the definition of harassment to include repeatedly contacting or visiting a tenant under certain circumstances

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on April 5, 2017 (Minutes, page 1009), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1548-A:



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

PROPOSED INTRO. NO: 1548-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to amending the definition of harassment to include repeatedly contacting or visiting a tenant under certain circumstances

SPONSORS: Council Members Levine, Rosenthal, Richards, Menchaca and Levin

SUMMARY OF LEGISLATION: Proposed Intro. No. 1548-A would amend the definition of harassment to include repeatedly contacting or visiting a tenant on weekends, legal holidays and outside of the hours of 9:00am to 5:00pm, unless otherwise consented to in writing by the tenant.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Housing Preservation and Development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018**FISCAL IMPACT STATEMENT:**

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by HPD to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on April 5, 2017 as Intro. No. 1548 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1548-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 2, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 1548-A:)

Int. No. 1548-A

By Council Members Levine, Rosenthal, Richards, Menchaca, Levin, Kallos, Salamanca and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to amending the definition of harassment to include repeatedly contacting or visiting a tenant under certain circumstances

Be it enacted by the Council as follows:

Section 1. Clause (4) of subparagraph f-3 of paragraph 48 of subdivision a of section 27-2004 of the administrative code of the city of New York, as added by local law number 81 for the year 2015 is amended to read as follows:

(4) knowingly falsifying or misrepresenting any information provided to such person; [or]

§ 2. Paragraph 48 of subdivision a of section 27-2004 of the administrative code of the city of New York, is amended by adding a new subparagraph f-4 to read as follows:

f-4. repeatedly contacting or visiting any person lawfully entitled to occupancy of such unit (i) on Saturdays, Sundays or legal holidays, (ii) at times other than the hours between 9 a.m. and 5 p.m. or (iii) in such a manner as can reasonably be expected to abuse or harass such person, provided that if such person has notified such owner in writing that such person consents to being contacted or visited at specified hours or in a specified manner, such owner may also contact or visit such person during such specified hours and in such specified manner, and provided further that an owner may contact or visit such person for reasons specifically authorized or mandated by law or rule; or

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 1549-A

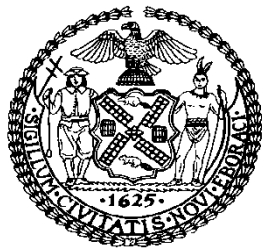
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, a Local Law to amend the administrative code of the city of New York, in relation to repeated acts of harassment

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on April 5, 2017 (Minutes, page 1010), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1549-A:



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

PROPOSED INTRO. NO: 1549-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to repeated acts of harassment

SPONSORS: Council Members Menchaca, Rosenthal, Levine, Richards and Levin

SUMMARY OF LEGISLATION: Proposed Intro. No. 1549-A would amend the definition of harassment to allow a tenant to pursue a harassment action if a landlord interrupts or discontinues an essential service to the tenant's unit or commences a baseless or frivolous court proceeding against the tenant where the landlord has engaged in repeated similar conduct against other tenants in the building.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Housing Preservation and Development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by HPD to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on April 5, 2017 as Intro. No. 1549 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the

Committee on April 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1549-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 2, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 1549-A:)

Int. No. 1549-A

By Council Members Menchaca, Rosenthal, Levine, Richards, Levin, Kallos, Salamanca and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to repeated acts of harassment

Be it enacted by the Council as follows:

Section 1. Subparagraph b of paragraph 48 of subdivision a of section 27-2004 of the administrative code of the city of New York, as added by local law number 7 for the year 2008, is amended, and a new subparagraph b-1 is added, to read as follows:

b. repeated interruptions or discontinuances of essential services, or an interruption or discontinuance of an essential service for an extended duration or of such significance as to substantially impair the habitability of such dwelling unit;

b-1. an interruption or discontinuance of an essential service that (i) affects such dwelling unit and (ii) occurs in a building where repeated interruptions or discontinuances of essential services have occurred;

§ 2. Subparagraph d of paragraph 48 of subdivision a of section 27-2004 of the administrative code of the city of New York, as added by local law number 7 for the year 2008, is amended to read as follows:

d. commencing repeated baseless or frivolous court proceedings against any person lawfully entitled to occupancy of such dwelling unit;

d-1. commencing a baseless or frivolous court proceeding against a person lawfully entitled to occupancy of such dwelling unit if repeated baseless or frivolous court proceedings have been commenced against other persons lawfully entitled to occupancy in the building containing such dwelling unit;

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report for Int. No. 1556-A

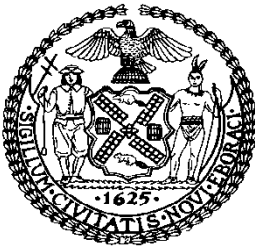
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to penalties for tenant harassment.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on April 5, 2017 (Minutes, page 1015), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 347-B printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1556-A:



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

PROPOSED INTRO. NO: 1556-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to penalties for tenant harassment
SPONSORS: Council Members Williams, Cumbo, Rosenthal, Dromm, Menchaca and Levin

SUMMARY OF LEGISLATION: Proposed Intro. No. 1556-A would increase the minimum civil penalties for tenant harassment to not less than \$2,000 per dwelling unit and not less than \$4,000 for repeat incidents of harassment.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of Housing Preservation and Development (HPD) may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation because full compliance with the legislation is anticipated.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by HPD to implement the provisions of this local law and non-City entities would bear the costs of any penalties in connection with tenant harassment actions pursuant to the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Nathan Toth, Deputy Director
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on April 5, 2017 as Intro. No. 1556 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on April 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1556-A, will be considered by the Committee on August 8, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on August 9, 2017.

DATE PREPARED: August 2, 2017.

Accordingly, this Committee recommends its adoption, amended.

(The following is the text of Int. No. 1556-A:)

Int. No. 1556-A

By Council Members Williams, Cumbo, Rosenthal, Dromm, Menchaca, Levin, Kallos, Salamanca and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to penalties for tenant harassment

Be it enacted by the Council as follows:

Section 1. Paragraph 2 of subdivision m of section 27-2115 of the administrative code of the city of New York, as amended by local law number 47 for the year 2014, is amended to read as follows:

(2) If a court of competent jurisdiction finds that conduct in violation of subdivision d of section 27-2005 of this chapter has occurred, it may determine that a class c violation existed at the time that such conduct occurred. Notwithstanding the foregoing, such court may also issue an order restraining the owner of the property from violating such subdivision and direct the owner to ensure that no further violation occurs, in accordance with section 27-2121 of this chapter. Such court shall impose a civil penalty in an amount not less than [one thousand dollars] *two thousand dollars* and not more than ten thousand dollars for each dwelling unit in which a tenant or any person lawfully entitled to occupancy of such unit has been the subject of such violation, and such other relief as the court deems appropriate, provided that where a petitioner establishes that there was a previous finding of a violation of subdivision d of section 27-2005 against such owner and such

finding was made (i) within the preceding five year period and (ii) on or after the effective date of the local law that added this clause, such court shall impose a civil penalty in an amount not less than [two thousand dollars] *four thousand dollars* and not more than ten thousand dollars. It shall be an affirmative defense to an allegation by a tenant of the kind described in subparagraphs b, c and g of paragraph forty-eight of subdivision a of section 27-2004 of this chapter that (i) such condition or service interruption was not intended to cause any lawful occupant to vacate a dwelling unit or waive or surrender any rights in relation to such occupancy, and (ii) the owner acted in good faith in a reasonable manner to promptly correct such condition or service interruption, including providing notice to all affected lawful occupants of such efforts, where appropriate.

§ 2. This local law takes effect 120 days after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; YDANIS A. RODRIGUEZ, MARK LEVINE, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ERIC A. ULRICH; Committee on Housing and Buildings, August 8, 2017. *Other Council Members Attending: Council Member Vacca.*

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

Report of the Committee on Land Use

Report for L.U. No. 691

Report of the Committee on Land Use in favor of approving Application No. C 170187 ZMM submitted by the New York City Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the zoning map, section no. 8d, changing an existing C5-2 District to a C5-3 District and establishing a Special Midtown District, Borough of Manhattan, Community Board 6, Council District 4.

The Committee on Land Use, to which the annexed Land Use item was referred on June 15, 2017 (Minutes, page 1944), respectfully

REPORTS:

(For text of updated report, please see the Report of the Committee on Land Use for LU No. 691 & Res. No. 1618 printed in the General Order Calendar section on these Minutes)

Accordingly, this Committee recommends its adoption, as modified.

DAVID G. GREENFIELD, *Chairperson*; DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, July 27, 2017.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 692

Report of the Committee on Land Use in favor of approving Application No. N 170186 (A) ZRM submitted by the New York City Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the New York City Zoning Resolution, relating to Article XIII, Chapter 1 (Special Midtown District) to establish the East Midtown Subdistrict, Borough of Manhattan, Community Board 5 and 6, Council District 4.

The Committee on Land Use, to which the annexed Land Use item was referred on June 15, 2017 (Minutes, page 1944), respectfully

REPORTS:

(For text of updated report, please see the Report of the Committee on Land Use for LU No. 692 & Res. No. 1619 printed in the General Order Calendar section on these Minutes)

Accordingly, this Committee recommends its adoption, as modified.

DAVID G. GREENFIELD, *Chairperson*; DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, July 27, 2017.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for LU No. 694

Report of the Committee on Land Use in favor of filing, pursuant to a letter of withdrawal, Application No. C 170217 PPX submitted by the Department of Citywide Administrative Services pursuant to Sections 197-c of the New York City Charter, for the disposition of one city-owned property located on Block 4804, p/o Lot 100, Borough of the Bronx, Community Board 12, Council District 12. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2222) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:***SUBJECT*****BRONX CB - 12****C 170217 PPX**

City Planning Commission decision approving an application submitted by the New York City Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the disposition of one city-owned property located on Block 4804, p/o Lot 100, pursuant to zoning.

PUBLIC HEARING**DATE:** July 17, 2017**Witnesses in Favor:** Six**Witnesses Against:** Twenty-two

By letter dated August 8, 2017 and submitted to the City Council August 9, 2017, the Applicant withdrew the application.

SUBCOMMITTEE RECOMMENDATION**DATE:** August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the motion to file pursuant to withdrawal of the application by the Applicant.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Ross, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Member Greenfield and Richards offered the following resolution:

Res. No. 1606

Resolution approving a motion to file pursuant to withdrawal of the application regarding the decision of the City Planning Commission on ULURP No. C 170217 PPX, for the disposition one city-owned property located at Block 4804, p/o Lot 100, pursuant to zoning, Community District 12, Borough of the Bronx (L.U. No. 694).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on June 21, 2017 its decision dated June 21, 2017 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the New York City Department of Citywide Administrative Services, for the disposition of one city-owned property located at Block 4804, p/o Lot 100, which in conjunction with the related actions would facilitate the development of a new pedestrian-oriented open-air urban shopping complex and a single residential building containing approximately 180 units of affordable senior housing within a large-scale general development located at 1769-1771 and 1825 East Gun Hill Road in the Baychester neighborhood of the Bronx, pursuant to zoning, Community District 12, Borough of the Bronx (ULURP No. C 170217 PPX) (the "Application");

WHEREAS, the Application is related to applications C 170218 ZMX (L.U. No. 695), a zoning map amendment changing from an M1-1 District to a C4-3 District; N 170219 ZRX (L.U. No. 696), a zoning text amendment to allow a physical culture or health establishment and to designate a Mandatory Inclusionary Housing (MIH) area; C 170221 ZSX (L.U. No. 697), a special permit to allow the location of buildings without regard for height, setback, and rear yard requirements within a large-scale general development; C 170222 ZSX (L.U. No. 698), a special permit to modify signage requirements within a large-scale general development; and C 170223 ZSX (L.U. No. 699), a special permit to allow an accessory group parking facility and to allow some off-street parking spaces to be located on the roof of a building within a large-scale general development;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 17, 2017;

WHEREAS, the Council has considered the land use and other policy issues relating to the Decision and Application;

WHEREAS, the Council has considered the relevant environmental issues, including the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on June 9, 2017 (CEQR No. 14DME010X). The FEIS includes (E) designations to avoid the potential for significant adverse impacts related to noise and hazardous materials (E-410);

WHEREAS, by submission dated August 8, 2017, and submitted to the City Council on August 9, 2017, the applicant withdrew the application.

RESOLVED:

The Council approves the motion to file pursuant to withdrawal in accordance with Rules 6.40a, 7.90 and 11.80 of the Rules of the Council.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Coupled to be Filed Pursuant to Letter of Withdrawal.

Report for LU No. 695

Report of the Committee on Land Use in favor of filing, pursuant to a letter of withdrawal, Application No. C 170218 ZMX submitted by Gun Hill Square, LLC pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the zoning map, section no. 4a, changing an existing M1-1 District to a C4-3 District on property located at East Gun Hill Road and Edson Avenue, Borough of the Bronx, Community Board 12, Council District 12.

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2222) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:***SUBJECT*****BRONX CB - 12****C 170218 ZMX**

City Planning Commission decision approving an application submitted by Gun Hill Square, LLC pursuant to Section 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 4a, changing from an M1-1 District to a C4-3 District property bounded by East Gun Hill Road, a line 320 feet southeasterly of Allerton Avenue and its southwesterly prolongation, a line 490 feet southwesterly of Edson Avenue, a line 465 feet southeasterly of Allerton Avenue and its northeasterly prolongation, and Edson Avenue.

PUBLIC HEARING**DATE:** July 17, 2017**Witnesses in Favor:** Six**Witnesses Against:** Twenty-two

By letter dated August 8, 2017 and submitted to the City Council August 9, 2017, the Applicant withdrew the application.

SUBCOMMITTEE RECOMMENDATION**DATE:** August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the motion to file pursuant to withdrawal of the application by the Applicant.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Ross, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1607

Resolution approving a motion to file pursuant to withdrawal of the application regarding the decision of the City Planning Commission on ULURP No. C 170218 ZMX, a Zoning Map amendment (L.U. No. 695).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on June 21, 2017 its decision dated June 21, 2017 (the "Decision"), on the application submitted by Gun Hill Square, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 4a, changing from an M1-1 District to a C4-3 District. This amendment in conjunction with the related actions would facilitate the development of a new pedestrian-oriented open-air urban shopping complex and a single residential building containing approximately 180 units of affordable senior housing within a large-scale general development located at 1769-1771 and 1825 East Gun Hill Road (Block 4804, p/o Lot 100) in the Baychester neighborhood of the Bronx, (ULURP No. C 170218 ZMX), Community District 12, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to applications C 170217 PPX (L.U. No. 694), a disposition of City-owned property; N 170219 ZRX (L.U. No. 696), a zoning text amendment to allow a physical culture or health establishment and to designate a Mandatory Inclusionary Housing (MIH) area; C 170221 ZSX (L.U. No. 697), a special permit to allow the location of buildings without regard for height, setback, and rear yard requirements within a large-scale general development; C 170222 ZSX (L.U. No. 698), a special permit to modify signage requirements within a large-scale general development; and C 170223 ZSX (L.U. No. 699), a special permit to allow an accessory group parking facility and to allow some off-street parking spaces to be located on the roof of a building within a large-scale general development;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 17, 2017;

WHEREAS, the Council has considered the land use and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on June 9, 2017 (CEQR No. 14DME010X). The FEIS includes (E) designations to avoid the potential for significant adverse impacts related to noise and hazardous materials (E-410);

WHEREAS, by submission dated August 8, 2017, and submitted to the City Council on August 9, 2017, the applicant withdrew the application.

RESOLVED:

The Council approves the motion to file pursuant to withdrawal in accordance with Rules 6.40a, 7.90 and 11.80 of the Rules of the Council.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Coupled to be Filed Pursuant to Letter of Withdrawal.

Report for LU No. 696

Report of the Committee on Land Use in favor of filing, pursuant to a letter of withdrawal, Application No. N 170219 ZRX submitted by Gun Hill Square, LLC pursuant to Section 201 of the New York City Charter, for an amendment of the New York City Zoning Resolution, relating to Article VII, Chapter 4 (Special Permits by the City Planning Commission) to modify use regulations to allow a physical culture or health establishment and modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of the Bronx, Community Board 12, Council District 12.

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2222) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 12

N 170219 ZRX

City Planning Commission decision approving an application submitted by Gun Hill Square, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article VII, Chapter 4 (Special Permits by the City Planning Commission) and related sections to modify the use regulations to allow a physical culture or health establishment and modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

PUBLIC HEARING

DATE: July 17, 2017

Witnesses in Favor: Six

Witnesses Against: Twenty-two

By letter dated August 8, 2017 and submitted to the City Council August 9, 2017, the Applicant withdrew the application.

SUBCOMMITTEE RECOMMENDATION

DATE: August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the motion to file pursuant to withdrawal of the application by the Applicant.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Ross, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1608

Resolution approving a motion to file pursuant to withdrawal of the application regarding the decision of the City Planning Commission on Application No. N 170219 ZRX, for an amendment of the Zoning Resolution of the City of New York, relating to Article VII, Chapter 4 (Special Permits by the City Planning Commission) and related sections to modify the use regulations to allow a physical culture or health establishment and modifying Appendix F for the purpose of establishing a

Mandatory Inclusionary Housing area within Community District 12, Borough of the Bronx (L.U. No. 696).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on June 21, 2017 its decision dated June 21, 2017 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by Gun Hill Square, LLC, for an amendment of the text of the Zoning Resolution of the City of New York, relating to Article VII, Chapter 4 (Special Permits by the City Planning Commission) and related sections to modify the use regulations to allow a physical culture or health establishment and modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, This amendment in conjunction with the related actions would facilitate the development of a new pedestrian-oriented open-air urban shopping complex and a single residential building containing approximately 180 units of affordable senior housing within a large-scale general development located at 1769-1771 and 1825 East Gun Hill Road (Block 4804, p/o Lot 100) in the Baychester neighborhood of the Bronx, (Application No. N 170219 ZRX), Community District 12, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to applications C 170217 PPX (L.U. No. 694), a disposition of City-owned property; C 170218 ZMX (L.U. No. 695), a zoning map amendment changing from an M1-1 District to a C4-3 District; C 170221 ZSX (L.U. No. 697), a special permit to allow the location of buildings without regard for height, setback, and rear yard requirements within a large-scale general development; C 170222 ZSX (L.U. No. 698), a special permit to modify signage requirements within a large-scale general development; and C 170223 ZSX (L.U. No. 699), a special permit to allow an accessory group parking facility and to allow some off-street parking spaces to be located on the roof of a building within a large-scale general development;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 17, 2017;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on June 9, 2017 (CEQR No. 14DME010X). The FEIS includes (E) designations to avoid the potential for significant adverse impacts related to noise and hazardous materials (E-410);

WHEREAS, by submission dated August 8, 2017, and submitted to the City Council on August 9, 2017, the applicant withdrew the application.

RESOLVED:

The Council approves the motion to file pursuant to withdrawal in accordance with Rules 6.40a, 7.90 and 11.80 of the Rules of the Council.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON,

ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER;
RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Coupled to be Filed Pursuant to Letter of Withdrawal.

Report for L.U. No. 697

Report of the Committee on Land Use in favor of filing, pursuant to a letter of withdrawal, Application No. C 170221 ZSX submitted by Gun Hill Square, LLC pursuant to Section 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the height and setback requirements and rear yard requirements in connection with a proposed mixed-use development located at 1769-1771 East Gun Hill Road (Block 4804, p/o Lot 100), Borough of the Bronx, Community Board 12, Council District 12. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2222) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 12

C 170221 ZSX

City Planning Commission decision approving an application submitted by Gun Hill Square, LLC pursuant to Section 197-c and 201 of the New York City Charter for the grant of special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the height and setback requirements of Section 23-64 (Basic Height and Setback Requirements) and the rear yard requirements of Sections 23-47 (Minimum Required Rear Yards) and 33-26 (Minimum Required Rear Yards), in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3 District, within a large-scale general development.

PUBLIC HEARING

DATE: July 17, 2017

Witnesses in Favor: Six

Witnesses Against: Twenty-two

By letter dated August 8, 2017 and submitted to the City Council August 9, 2017, the Applicant withdrew the application.

SUBCOMMITTEE RECOMMENDATION

DATE: August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the motion to file pursuant to withdrawal of the application by the Applicant.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Ross, Williams, Richards, Barron, Cohen, Kallos, Reynoso Torres Treyger, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1609

Resolution approving a motion to file pursuant to withdrawal of the application regarding the decision of the City Planning Commission on ULURP No. C 170221 ZSX (L.U. No. 697), for the grant of a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the height and setback requirements of Section 23-64 (Basic Height and Setback Requirements) and the rear yard requirements of Sections 23-47 (Minimum Required Rear Yards) and 33-26 (Minimum Required Rear Yards), in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3 District, within a large-scale general development, Community District 12, Borough of the Bronx.

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on June 21, 2017 its decision dated June 21, 2017 (the "Decision"), on the application submitted by Gun Hill Square, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the height and setback requirements of Section 23-64 (Basic Height and Setback Requirements) and the rear yard requirements of Sections 23-47 (Minimum Required Rear Yards) and 33-26 (Minimum Required Rear Yards), in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3 District, within a large-scale general development. This amendment in conjunction with the related actions would facilitate the development of a new pedestrian-oriented open-air urban shopping complex and a single residential building containing approximately 180 units of affordable senior housing in the Baychester neighborhood of the Bronx (ULURP No. C 170221 ZSX), Community District 12, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to applications C 170217 PPX (L.U. No. 694), a disposition of City-owned property; C 170218 ZMX (L.U. No. 695), a zoning map amendment changing from an M1-1 District to a C4-3 District; N 170219 ZRX (L.U. No. 696), a zoning text amendment to allow a physical culture or health establishment and to designate a Mandatory Inclusionary Housing (MIH) area; C 170222 ZSX (L.U. No. 698), a special permit to modify signage requirements within a large-scale general development; and C 170223 ZSX (L.U. No. 699), a special permit to allow an accessory group parking facility and to allow some off-street parking spaces to be located on the roof of a building within a large-scale general development;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 74-743(b) of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 17, 2017;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on June 9, 2017 (CEQR No. 14DME010X). The FEIS includes (E) designations to avoid the potential for significant adverse impacts related to noise and hazardous materials (E-410);

WHEREAS, by submission dated August 8, 2017, and submitted to the City Council on August 9, 2017, the applicant withdrew the application.

RESOLVED:

The Council approves the motion to file pursuant to withdrawal in accordance with Rules 6.40a, 7.90 and 11.80 of the Rules of the Council.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER, RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Coupled to be Filed Pursuant to a Letter of Withdrawal.

Report for LU No. 698

Report of the Committee on Land Use in favor of filing, pursuant to a letter of withdrawal, Application No. C 170222 ZSX submitted by Gun Hill Square, LLC pursuant to Section 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-744(c) of the Zoning Resolution to modify signage regulations in connection with a proposed mixed-use development located at 1769-1771 East Gun Hill Road (Block 4804, p/o Lot 100), Borough of the Bronx, Community Board 12, Council District 12. This application is subject to review and action by

the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2223) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 12

C 170222 ZSX

City Planning Commission decision approving an application submitted by Gun Hill Square, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-744(c) of the Zoning Resolution to modify the signage regulations of Sections 32-641 (Total Surface Area of Signs), 32-642 (Non-Illuminated Signs), 32-644 (Illuminated or flashing signs in C4, C5-4, C6 or C7 Districts), 32-655 (Height of signs in all other Commercial Districts), 32-656 (Height of signs above roof) and 32-657 (Roof signs), in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3 District, within a large-scale general development.

PUBLIC HEARING

DATE: July 17, 2017

Witnesses in Favor: Six

Witnesses Against: Twenty-two

By letter dated August 8, 2017 and submitted to the City Council August 9, 2017, the Applicant withdrew the application.

SUBCOMMITTEE RECOMMENDATION

DATE: August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the motion to file pursuant to withdrawal of the application by the Applicant.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Ross, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against: **Abstain:**
None None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1610

Resolution approving a motion to file pursuant to withdrawal of the application regarding the decision of the City Planning Commission on ULURP No. C 170222 ZSX (L.U. No. 698), for the grant of a special permit pursuant to Section 74-744(c) of the Zoning Resolution to modify the signage regulations of Sections 32-641 (Total Surface Area of Signs), 32-642 (Non-Illuminated Signs), 32-644 (Illuminated or flashing signs in C4, C5-4, C6 or C7 Districts), 32-655 (Height of signs in all other Commercial Districts), 32-656 (Height of signs above roof) and 32-657 (Roof signs), in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3 District, within a large-scale general development, Community District 12, Borough of the Bronx.

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on June 21, 2017 its decision dated June 21, 2017 (the "Decision"), on the application submitted by Gun Hill Square, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-744(c) of the Zoning Resolution to modify the signage regulations of Sections 32-641 (Total Surface Area of Signs), 32-642 (Non-Illuminated Signs), 32-644 (Illuminated or flashing signs in C4, C5-4, C6 or C7 Districts), 32-655 (Height of signs in all other Commercial Districts), 32-656 (Height of signs above roof) and 32-657 (Roof signs), in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3 District, within a large-scale general development. This amendment in conjunction with the related actions would facilitate the development of a new pedestrian-oriented open-air urban shopping complex and a single residential building containing approximately 180 units of affordable senior housing in the Baychester neighborhood of the Bronx (ULURP No. C 170222 ZSX), Community District 12, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to applications C 170217 PPX (L.U. No. 694), a disposition of City-owned property; C 170218 ZMX (L.U. No. 695), a zoning map amendment changing from an M1-1 District to a C4-3 District; N 170219 ZRX (L.U. No. 696), a zoning text amendment to allow a physical culture or health establishment and to designate a Mandatory Inclusionary Housing (MIH) area; C 170221 ZSX (L.U. No. 697), a special permit to allow the location of buildings without regard for height, setback, and rear yard requirements within a large-scale general development; and C 170223 ZSX (L.U. No. 699), a special permit to allow an accessory group parking facility and to allow some off-street parking spaces to be located on the roof of a building within a large-scale general development;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 74-744(c) of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 17, 2017;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on June 9, 2017 (CEQR No. 14DME010X). The FEIS includes (E) designations to avoid the potential for significant adverse impacts related to noise and hazardous materials (E-410);

WHEREAS, by submission dated August 8, 2017, and submitted to the City Council on August 9, 2017, the applicant withdrew the application.

RESOLVED:

The Council approves the motion to file pursuant to withdrawal in accordance with Rules 6.40a, 7.90 and 11.80 of the Rules of the Council.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Coupled to be Filed Pursuant to a Letter of Withdrawal.

Report for LU No. 699

Report of the Committee on Land Use in favor of filing, pursuant to a letter of withdrawal, Application No. C 170223 ZSX submitted by Gun Hill Square, LLC pursuant to Section 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-531 of the Zoning Resolution to modify parking regulations in connection with a proposed mixed-use development located at 1769-1771 East Gun Hill Road (Block 4804, p/o Lot 100), Borough of the Bronx, Community Board 12, Council District 12. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2223) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 12

C 170223 ZSX

City Planning Commission decision approving an application submitted by Gun Hill Square, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-531 of the Zoning Resolution to modify the requirements of:

1. Section 36-12 (Maximum Size of Accessory Group Parking Facilities) to allow an accessory group parking facility with a maximum capacity of 1169 spaces; and
2. Section 36-11 (General Provisions) to allow some of such off-street parking spaces to be located on the roof of a building;

in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3 District, within a large-scale general development.

PUBLIC HEARING

DATE: July 17, 2017

Witnesses in Favor: Six

Witnesses Against: Twenty-two

By letter dated August 8, 2017 and submitted to the City Council August 9, 2017, the Applicant withdrew the application.

SUBCOMMITTEE RECOMMENDATION

DATE: August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the motion to file pursuant to withdrawal of the application by the Applicant.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Ross, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1611

Resolution approving a motion to file pursuant to withdrawal of the application regarding the decision of the City Planning Commission on ULURP No. C 170223 ZSX (L.U. No. 699), for the grant of a special permit pursuant to Section 74-531 of the Zoning Resolution to modify the requirements of Section 36-12 (Maximum Size of Accessory Group Parking Facilities) to allow an accessory group parking facility with a maximum capacity of 1169 spaces; and Section 36-11 (General Provisions) to allow some of such off-street parking spaces to be located on the roof of a building; in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3 District, within a large-scale general development, Community District 12, Borough of the Bronx.

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on June 21, 2017 its decision dated June 21, 2017 (the "Decision"), on the application submitted by Gun Hill Square, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-531 of the Zoning Resolution to modify the requirements of:

1. Section 36-12 (Maximum Size of Accessory Group Parking Facilities) to allow an accessory group parking facility with a maximum capacity of 1169 spaces; and
2. Section 36-11 (General Provisions) to allow some of such off-street parking spaces to be located on the roof of a building;

in connection with a proposed mixed-use development on a property located at 1769-1771 East Gun Hill Road (Block 4804, part of Lot 100), in a C4-3 District, within a large-scale general development. This amendment in conjunction with the related actions would facilitate the development of a new pedestrian-oriented open-air urban shopping complex and a single residential building containing approximately 180 units of affordable senior housing in the Baychester neighborhood of the Bronx, (ULURP No. C 170223 ZSX), Community District 12, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to applications C 170217 PPX (L.U. No. 694), a disposition of City-owned property; C 170218 ZMX (L.U. No. 695), a zoning map amendment changing from an M1-1 District to a C4-3 District; N 170219 ZRX (L.U. No. 696), a zoning text amendment to allow a physical culture or health establishment and to designate a Mandatory Inclusionary Housing (MIH) area; C 170221 ZSX (L.U. No. 697), a special permit to allow the location of buildings without regard for height, setback, and rear yard requirements within a large-scale general development; and C 170222 ZSX (L.U. No. 698), a special permit to modify signage requirements within a large-scale general development;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 74-531 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 17, 2017;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on June 9, 2017 (CEQR No. 14DME010X). The FEIS includes (E) designations to avoid the potential for significant adverse impacts related to noise and hazardous materials (E-410);

WHEREAS, by submission dated August 8, 2017, and submitted to the City Council on August 9, 2017, the applicant withdrew the application.

RESOLVED:

The Council approves the motion to file pursuant to withdrawal in accordance with Rules 6.40a, 7.90 and 11.80 of the Rules of the Council.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Coupled to be Filed Pursuant to a Letter of Withdrawal.

Report for LU No. 700

Report of the Committee on Land Use in favor of approving Application No. C 170226 ZMM submitted by the NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the zoning map, section no. 6b, changing existing R7-2 and R10A Districts to R10 and C2-8 Districts on property located between 96th and 97th Streets and 1st and 2nd Avenues, Borough of the Manhattan, Community Board 11, Council District 8.

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2223), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 11

C 170226 ZMM

City Planning Commission decision approving an application submitted by the NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Section 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 6b.

INTENT

To approve the amendment to the Zoning Map, which in conjunction with the related actions would facilitate a new mixed-use development on an entire city block with residential, commercial and community facility uses. The project is located in the East Harlem neighborhood of Manhattan Community District 11.

PUBLIC HEARING

DATE: July 17, 2017

Witnesses in Favor: Six

Witnesses Against: Five

SUBCOMMITTEE RECOMMENDATION

DATE: August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None

Accordingly, this Committee recommends its adoption, as modified.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for LU No. 701

Report of the Committee on Land Use in favor of approving Application No. N 170227 ZRM submitted by the NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Section 201 of the New York City Charter, for an amendment of the New York City Zoning Resolution, relating to Article VII, Chapter 4 (Special Permits by the City Planning Commission) and modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of the Manhattan, Community Board 11, Council District 8.

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2223), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 11

N 170227 ZRM

City Planning Commission decision approving an application submitted by the NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Article VII, Chapter 4 (Special Permits by the City Planning Commission) and modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing Area.

INTENT

To approve the amendment to the Zoning Resolution, which in conjunction with the related actions would facilitate a new mixed-use development on an entire city block with residential, commercial and community facility uses. The project is located in the East Harlem neighborhood of Manhattan Community District 11.

PUBLIC HEARING

DATE: July 17, 2017

Witnesses in Favor: Six

Witnesses Against: Five

SUBCOMMITTEE RECOMMENDATION

DATE: August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards, Barron Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None

Accordingly, this Committee recommends its adoption, as modified.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for LU No. 702

Report of the Committee on Land Use in favor of approving Application No. C 170228 ZSM submitted by the NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Section 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-75 of the Zoning Resolution to modify height and setback, floor area, and lot coverage requirements in connection with a proposed mixed-use development on property bounded by East 97th Street, First Avenue, East 96th Street and Second Avenue (Block 1668, Lot 1) Borough of the Manhattan, Community Board 11, Council District 8. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2224), respectfully

REPORTS:

SUBJECT**MANHATTAN CB - 11****C 170228 ZSM**

City Planning Commission decision approving an application submitted by NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permit pursuant to Section 74-75 of the Zoning Resolution to modify the height and setback requirements of Sections 23-64 (Basic Height and Setback Requirements), 23-65 (Tower Regulations), 23-651 (Tower-on-a-base) and 24-50 (Height and Setback Regulations), and to modify the requirements of Section 24-11 (Maximum Floor Area and Percentage of Lot Coverage), in connection with a proposed mixed-use development, on property bounded by East 97th Street, First Avenue, East 96th Street and Second Avenue (Block 1668, Lot 1), in R10 and C2-8 Districts, within a Large-Scale General Development.

INTENT

To approve the Special Permit, which in conjunction with the related actions would facilitate a new mixed-use development on an entire city block with residential, commercial and community facility uses. The project is located in the East Harlem neighborhood of Manhattan Community District 11.

PUBLIC HEARING**DATE:** July 17, 2017**Witnesses in Favor:** Six**Witnesses Against:** Five***SUBCOMMITTEE RECOMMENDATION*****DATE:** August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission with modifications.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against: **Abstain:**
None None.

Accordingly, this Committee recommends its adoption, as modified.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

L.U. No. 703

Report of the Committee on Land Use in favor of approving Application No. C 170229 ZSM submitted by the NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Section 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive parking requirements in connection with a proposed mixed-use development on property bounded by East 97th Street, First Avenue, East 96th Street and Second Avenue (Block 1668, Lot 1) Borough of the Manhattan, Community Board 11, Council District 8. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on June 21, 2017 (Minutes, page 2224), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 11

C 170229 ZSM

City Planning Commission decision approving an application submitted by NYC Educational Construction Fund and AvalonBay Communities, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of special permit pursuant to Section 74-533 of the Zoning Resolution to waive all required accessory off-street parking spaces for dwelling units in a development within a Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed-use development, on property bounded by East 97th Street, First Avenue, East 96th Street and Second Avenue (Block 1668, Lot 1), in R10 and C2-8 Districts, within a Large-Scale General Development.

INTENT

To approve the Special Permit, which in conjunction with the related actions would facilitate a new mixed-use development on an entire city block with residential, commercial and community facility uses. The project is located in the East Harlem neighborhood of Manhattan Community District 11.

PUBLIC HEARING**DATE:** July 17, 2017**Witnesses in Favor:** Six**Witnesses Against:** Five***SUBCOMMITTEE RECOMMENDATION*****DATE:** August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission with modifications.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams Richards Barron, Cohen, Kallos Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None.

Accordingly, this Committee recommends its adoption, as modified.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for LU No. 712

Report of the Committee on Land Use in favor of disapproving Application No. 20175332 TCM pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Pret A Manger (USA) Limited, d/b/a Pret A Manger, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 125 Chambers Street, Borough of Manhattan, Community Board 1, Council District 1. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and Section 20-226 of the New York City Administrative Code.

The Committee on Land Use, to which the annexed Land Use item was referred on July 20, 2017 (Minutes, page 2454) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:***SUBJECT*****MANHATTAN CB - 1****20175332 TCM**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York concerning the petition of Pret A Manger (USA) Limited d/b/a Pret A Manger, for a new revocable consent to maintain, operate and use an unenclosed sidewalk café located at 125 Chambers Street.

INTENT

To allow an eating or drinking place located on a property which abuts the street to maintain, operate and use an unenclosed service area on the sidewalk of such street.

PUBLIC HEARING**DATE:** July 27, 2017**Witnesses in Favor:** Two**Witnesses Against:** One***SUBCOMMITTEE RECOMMENDATION*****DATE:** August 9, 2017

The Subcommittee recommends that the Land Use Committee disapprove the Petition.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Member Greenfield and Richards offered the following resolution:

Res No. 1612

Resolution disapproving the petition for a new revocable consent of an unenclosed sidewalk café located at 125 Chambers Street, Borough of Manhattan (Non-ULURP No. 20175332 TCM; L.U. No. 712).

By Council Members Greenfield and Richards.

WHEREAS, the Department of Consumer Affairs filed with the Council on July 3, 2017 its approval dated June 30, 2017 of the petition of Pret A Manger (USA) Limited, d/b/a Pret A Manger, for a new revocable consent to maintain, operate and use an unenclosed sidewalk café located at 125 Chambers Street, Community District 1, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on July 27, 2017; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Petition;

RESOLVED:

Pursuant to Section 20-226 of the Administrative Code, the Council disapproves the Petition.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

Coupled to be Disapproved.

Report for L.U. No. 713

Report of the Committee on Land Use in favor of approving Application No. 20175498 TCM pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Guacamole Corp., d/b/a Guacamole Taqueria, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 5025 Broadway, Borough of Manhattan, Community Board 12, Council District 10. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and Section 20-226 of the New York City Administrative Code.

The Committee on Land Use, to which the annexed Land Use item was referred on July 20, 2017 (Minutes, page 2454) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 12****20175498 TCM**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York concerning the petition of Guacamole Corp., d/b/a Guacamole Taqueria, for a new revocable consent to maintain, operate an unenclosed sidewalk café located at 5025 Broadway.

INTENT

To allow an eating or drinking place located on a property which abuts the street to maintain, operate and use an unenclosed service area on the sidewalk of such street.

PUBLIC HEARING**DATE:** July 27, 2017**Witnesses in Favor:** None**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** July 27, 2017

The Subcommittee recommends that the Land Use Committee approve the Petition.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Member Greenfield and Richards offered the following resolution:

Res. No. 1613

Resolution approving the petition for a new revocable consent for an unenclosed sidewalk café located at 5025 Broadway FRNT 3, Borough of Manhattan (Non-ULURP No. 20175498 TCM; L.U. No. 713).

By Council Members Greenfield and Richards.

WHEREAS, the Department of Consumer Affairs filed with the Council on July 3, 2017 its approval dated June 30, 2017 of the petition of Guacamole Corp., d/b/a Guacamole Taqueria, for a new revocable consent to maintain, operate and use an unenclosed sidewalk café located at 5025 Broadway FRNT 3, Community District 12, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on July 27, 2017; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Petition;

RESOLVED:

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

DAVID G. GREENFIELD, Chairperson; DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, July 27, 2017.

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

Report for LU No. 714

Report of the Committee on Land Use in favor of approving Application No. 20175444 TCM pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Sushi Vida Inc., d/b/a Mama Sushi, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 237 Dyckman St, Borough of Manhattan, Community Board 12, Council District 10. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and Section 20-226 of the New York City Administrative Code.

The Committee on Land Use, to which the annexed Land Use item was referred on July 20, 2017 (Minutes, page 2455) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 12****20175444 TCM**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York concerning the petition of Sushi Vida Inc., d/b/a Mama Sushi, for the renewal of a revocable consent to maintain, operate and use an unenclosed sidewalk café located at 237 Dyckman Street.

INTENT

To allow an eating or drinking place located on a property which abuts the street to continue to maintain and operate an unenclosed service area on the sidewalk of such street.

PUBLIC HEARING**DATE:** July 27, 2017**Witnesses in Favor:** None**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** July 27, 2017

The Subcommittee recommends that the Land Use Committee approve the Petition.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres Treyger, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1614

Resolution approving the petition for the renewal of a revocable consent of an unenclosed sidewalk café located at 237 Dyckman Street, Borough of Manhattan (Non-ULURP No. 20175444 TCM; L.U. No. 714).

By Council Members Greenfield and Richards.

WHEREAS, the Department of Consumer Affairs filed with the Council on July 3, 2017 its approval dated June 30, 2017 of the petition of Sushi Vida, Inc., d/b/a Mama Sushi, for the renewal of a revocable consent to continue to maintain, operate and use an unenclosed sidewalk café located at 237 Dyckman Street, Community District 12, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on July 27, 2017; and

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Petition;

RESOLVED:

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

DAVID G. GREENFIELD, *Chairperson*; DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, July 27, 2017.

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

Report for LU No. 715

Report of the Committee on Land Use in favor of approving Application No. N 170317 ZRM submitted by BOP NW, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Article IX, Chapter 3 (Special Hudson Yards District), Borough of Manhattan, Community District 4, Council District 3.

The Committee on Land Use, to which the annexed Land Use item was referred on July 20, 2017 (Minutes, page 2455) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 4****N 170317 ZRM**

City Planning Commission decision approving an application submitted by BOP NW, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Article IX, Chapter 3 (Special Hudson Yards District).

INTENT

To approve the zoning text amendment, which would allow clarification and modification of certain design and signage regulations applicable to the Public Access Areas that is required in connection with the Ninth Avenue Rail Yard in Subarea B2, Farley Corridor Subdistrict B, of the Special Hudson Yards District in Manhattan Community District 4.

PUBLIC HEARING**DATE:** July 27, 2017**Witnesses in Favor:** Three**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** August 9, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** August 9, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Garodnick, Mendez, Rodriguez, Koo, Lander, Levin, Ross, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger. Salamanca.

Against: **Abstain**
None None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1615

Resolution approving the decision of the City Planning Commission on Application No. N 170317 ZRM, for an amendment of the Zoning Resolution of the City of New York, modifying Article IX, Chapter 3 (Special Hudson Yards District), Community District 4, Borough of Manhattan (L.U. No. 715).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on July 14, 2017 its decision dated July 12, 2017 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by BOP NW, LLC, for an amendment of the text of the Zoning Resolution of the City of New York, modifying Article IX, Chapter 3 (Special Hudson Yards District), (Application No. N 170317 ZRM), Community District 4, Borough of Manhattan (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 27, 2017;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the environmental assessment statement (EAS) issued on March 31, 2017 (CEQR No. 17DCP127M), (the "Environmental Assessment Statement");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Environmental Assessment Statement.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 170317 ZRM, incorporated by reference herein, the Council approves the Decision.

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

ARTICLE IX

SPECIAL PURPOSE DISTRICTS

Chapter 3

Special Hudson Yards District

* * *

93-70

PUBLIC ACCESS REQUIREMENTS FOR SPECIAL SITES

* * *

93-72

Public Access Areas at 450 West 33rd Street

* * *

93-721

Design and maintenance requirements for public access areas at 450 West 33rd Street

Public access areas at 450 West 33rd Street provided pursuant to the requirements of Section 93- 72 shall comply with the applicable design reference standards set forth in paragraph (a), and the maintenance provisions of paragraph (b) of this Section.

(a) Design reference standards

The public access areas required by paragraphs (c) and (d) of Section 93-72 (Public Access Areas at 450 West 33rd Street) shall comply with the following applicable design standards:

- (1) at least two litter receptacles in such public access areas shall be provided;
- (2) ~~all open spaces within the public access areas at 450 West 33rd Street shall provide open space signage pursuant to the standards set forth in Section 37-751 (Public space signage systems).~~ the following public signage system: In addition, a minimum of two wayfinding #signs# shall be provided;

- (i) One entry plaque shall be provided in each of the following locations:
 - (aa) the Dyer Avenue access point to the West 31st Street Passageway;
 - (bb) the Tenth Avenue Podium access point to the West 31st Street Passageway; and
 - (cc) the #street# level entrance to the Tenth Avenue Podium.
 - (ii) Each entry plaque is subject to the signage standards as set forth in paragraphs (a)(1) through (a)(4) of Section 37-751 (Public space signage systems).
 - (iii) Each entry plaque shall be mounted on a wall, a permanent free-standing post, or on a post located within a planter, with its center five feet above the elevation of the nearest walkable pavement. The maximum height of such free-standing post shall be six feet, with a maximum width and depth of 16 inches. Each entry plaque shall be in a position that clearly identifies the entry into the portion of the public access areas at 450 West 33rd Street that such plaque is provided in connection with, and placed so that the entire entry plaque is obvious and directly visible, without any obstruction, along every line of sight from all paths of pedestrian access to that portion of the public access areas at 450 West 33rd Street.
 - (iv) A minimum of two information plaques, constructed from the same permanent materials as the entry plaque, or combined with one or more of the required entry plaques, shall be provided within the public access areas. Information plaques shall be mounted on a wall, a permanent free-standing post, or on a post located within a planter, with its center five feet above the elevation of the nearest walkable pavement. The maximum height of such free-standing post shall be six feet, with a maximum width and depth of 16 inches.
 - (v) The information plaque is subject to the signage standards as set forth in paragraphs (b)(1) through (b)(6) of Section 37-751, except that paragraph (b)(3) shall be modified to read: ‘in lettering three-eighths of an inch in height, the words “This public access area contains:” followed by the total linear feet of seating, the type and quantity of trees and the number of additional required amenities, such as moveable seating, that are provided in the portion of the public access area in which the entry plaque or information plaque is provided.
- (3) the minimum level of illumination shall be 1.5 horizontal foot candles (lumens per foot);
 - (4) no gates, fences or other barriers shall be permitted within such public access areas; and
 - (5) for the purposes of applying the #sign# regulations to #building# walls facing public access areas, such public access areas shall be considered #streets#.

(b) Maintenance

The owner(s) shall be responsible for the maintenance of all public access areas, including, but not limited to, litter control, management of pigeons and rodents, maintenance of required lighting levels, and the care and replacement of furnishings and vegetation.

* * *

93-73

Public Access Areas on the Ninth Avenue Rail Yard

For the purposes of this Section 93-73, inclusive, the Ninth Avenue Rail Yard shall be considered the area bounded by the western #street line# of Ninth Avenue, the northern #street line# of West 31st Street, a line located 498 feet west of the western #street line# of Ninth Avenue and the southern #street line# of West 33rd Street. Such area shall include the tax lots located at Block 729, Lots 50 and 60, existing on April 29, 2014. Any #development# in such area shall provide public access areas in accordance with the provisions of this Section 93-73, inclusive.

Public access areas on the Ninth Avenue Rail Yard shall be comprised of the types of public access areas listed in this Section. Public access areas shall also include the area of the sidewalk widenings along Ninth Avenue and West 33rd Street required pursuant to Section 93-61 (Pedestrian Circulation Space). The entry plaza and the art plaza, as set forth in paragraphs (a) and (c) of this Section, respectively, shall be subject to the hours of access provisions set forth in Section 37-727. All other public access areas listed in this Section shall be accessible to the public between the hours of 6:00 a.m. and 1:00 a.m.

(a) Entry Plaza

(1) Location and minimum dimensions

A publicly accessible space, open to the sky (hereinafter referred to as the “entry plaza”), shall be located within the area bounded by the western #street line# of Ninth Avenue, the southern #street line# of West 33rd Street, a line 168 feet south of and parallel to the southern #street line# of West 33rd Street and a line 60 feet west of and parallel to the western #street line# of Ninth Avenue, as shown on Map 1 (Subdistrict B: 450 West 33rd Street and Ninth Avenue Rail Yard Public Access Area Plan) in Appendix B of this Chapter. The entry plaza shall have a minimum area of 10,080 square feet, shall have a minimum frontage along Ninth Avenue of 168 feet and shall provide a direct connection to the central plaza required pursuant to paragraph (b) of this Section. No more than 50 percent of the entry plaza area shall be covered by the permitted obstructions described in paragraph (a) of Section 37-726.

(2) Required amenities

The entry plaza shall have the following amenities:

- (i) a minimum of eight trees (or other amounts equivalent to a minimum of 32 caliper inches);
- (ii) at least 336 linear feet of seating including a minimum of 48 moveable chairs and 12 moveable tables. At least 50 percent of the seating, including movable seats,

shall have backs and no more than 50 percent of the seating with backs shall be movable seating;

- (iii) two or more planting beds which, in the aggregate, occupy an area of at least 800 square feet. No more than 35 percent of the linear feet of the planting beds shall have bounding walls exceeding 18 inches in height above an adjacent walking surface;
- (iv) ground floor transparency, in accordance with the provisions of paragraph (c) of Section 93-14 (Ground Floor Level Requirements), shall apply to at least 70 percent of the length of all #building# walls facing the entry plaza; and
- (v) one clear pedestrian circulation path with a minimum width of 12 feet shall be provided adjacent to the #building# facing the entry plaza and shall extend for the full length of the #building# frontage.

(b) Central Plaza

(1) Location and minimum dimensions

A publicly accessible space (hereinafter referred to as the “central plaza”), shall be located within an area bounded by the western #street line# of Ninth Avenue, a line 168 feet south of and parallel to the southern #street line# of West 33rd Street, a line 478 feet west of and parallel to the western #street line# of Ninth Avenue, a line ~~187-167~~ feet north of and parallel to the northern #street line# of West 31st Street beyond 40 feet of the western street line of Ninth Avenue, and a line 478-40 feet west of and parallel to the western #street line# of Ninth Avenue, and a line 187 feet north of and parallel to the northern #street line# of West 31st Street within 40 feet of the western street line of Ninth Avenue, as shown on Map 1 in Appendix B of this Chapter. Except as provided in paragraph (b)(3) of this Section, the central plaza shall have a minimum area of 47,800 square feet, and shall have a minimum north-south dimension as measured from the #building# walls of the #buildings# facing onto the central plaza of 100 feet. The central plaza shall be open to the sky, except:

- (i) for the area occupied by the pavilion permitted by paragraph (b)(2)(vii) of this Section.; and
- (ii) within a line 115 feet west of and parallel to the western #street line# of Ninth Avenue, a #building# may cantilever over the central plaza and required circulation paths located therein, provided such cantilever extends no greater than 10 feet over such central plaza.

(2) Required amenities

The central plaza shall contain the following features and amenities:

- (i) Landscaped area

A landscaped area shall be provided and shall contain a minimum of 44 trees (or other amounts equivalent to a minimum of 176 caliper inches), and planting beds which, in the aggregate, occupy an area of at least 7,500 square feet.

Within the area bounded by the western #street line# of Ninth Avenue and a line drawn 45 feet west of the western #street line# of Ninth Avenue, a minimum of 1,000 square feet of such total requirement shall be occupied by planting beds.

(ii) Seating

A minimum of 725 linear feet of seating shall be provided, with 120 moveable chairs and 30 moveable tables. At least 50 percent of the required seating shall have backs.

Within the area bounded by the western #street line# of Ninth Avenue and a line drawn 45 feet west of the western #street line# of Ninth Avenue, a minimum of 50 linear feet of seating of such total requirement shall be provided of which 50 percent shall have backs.

(iii) Event space

The portion of the central plaza located beyond a line drawn 295 feet west and parallel to the western #street line# of Ninth Avenue may be used for events (hereinafter referred to as the “event space”). Such event space ~~shall have~~ may be used for events not exceeding a maximum area of 4,500 square feet, except as set forth below for summer public events and winter public events, and may contain a temporary stage or platform and temporary seating associated with events. When such ~~the~~ event space is not being used for an event (general public events, summer public events, winter public events and private events), it shall contain a minimum of 192 linear feet of seating, with 96 moveable chairs and 24 moveable tables, and, during the period April 1 to November 15, a minimum of two moveable food carts within the event space or on the periphery thereof. Such tables and chairs shall be in addition to the amount required for the landscaped area in paragraph (b)(2)(ii) of this Section. When the event space is being used for an event (general public events, summer public events, winter public events and private events), the additional tables, chairs and moveable food carts may be removed.

(aa) General Public Events

At all times of the year, the event space may be used to host general public events which are open and accessible to the general public and free of admission. During such public events, the event space may contain associated temporary structures and seating.

(bb) Summer Public Events

For not more than 75 days between April 1 and November 15, the event space may be used for summer public events which are open and accessible to the general public and free of admission charge where the temporary structures and seating associated with such summer public events may extend beyond 4,500 square feet, provided that the total area used for such summer public events does not exceed an additional 2,000 square feet and is located beyond a line drawn 295 feet west of and parallel to the western

#street line# of Ninth Avenue.

(cc) Winter Public Events

Between November 15 and April 1, an ice skating rink, together with associated temporary structures, may extend beyond 4,500 square feet, provided that the total area used for the ice skating rink together with associated temporary structures does not exceed an additional 2,000 square feet and is located beyond a line drawn 295 feet west of and parallel to the western #street line# of Ninth Avenue. The ice skating rink shall be open and accessible to the general public, but a fee for use of the ice skating rink may be charged, provided the combined total admission and equipment rental fees do not exceed the highest of such combined fees charged at any one rink operating in a #public park#.

(dd) Private Events

The City Planning Commission may allow the closing of the event space for up to 12 private events per year pursuant to a restrictive declaration acceptable to the City and recorded in the office of the City Register for New York County and indexed against the property.

For all events specified in this Section, temporary structures or seating associated with such an event (general public events, summer public events, winter public events and private events) permitted by this paragraph may be installed in the event space, provided the circulation paths required in paragraph (b)(2)(iv) of this Section remain unobstructed at all times.

(iv) Circulation paths

Circulation paths in the central plaza shall meet the following minimum requirements:

- (aa) pedestrian circulation paths ~~extending the full length of the central plaza~~ with an aggregate width of not less than 30 feet shall be provided;
- (bb) at least two of the required circulation paths with a minimum clear width of twelve feet shall be located within 20 feet of the facade of each #building# facing the central plaza;
- (cc) in addition to the circulation paths required by paragraph (b)(2)(iv)(aa) of this Section, at least two circulation paths shall be provided through the landscaped area required by paragraph (b)(2)(i) of this Section, which connect with the circulation paths required by paragraph (b)(2)(iv)(bb) of this Section;
- (dd) all circulation paths shall be unobstructed during events held in the event space permitted by paragraph (b)(2)(iii) of this Section; and
- (ee) ~~a clear path, with a total minimum aggregate width of at least 20 feet shall be maintained located at the boundary between where the entry plaza, required pursuant to paragraph (a) of this Section, and the central plaza, required by paragraph (b) of this Section, intersect and at~~

~~where the~~ boundary between the art plaza, required pursuant to paragraph (c) of this Section, and the central plaza, required by paragraph (a) of this Section ~~intersect~~, provided that up to eight feet of such required clear path may be located within the entry plaza and within the art plaza, respectively, and that all clear paths counted toward the aggregate minimum width required by this paragraph shall be a minimum of 7 feet, 6 inches in clear width, and be located no further than 12 feet apart from one another.

(v) Transparency

The transparency requirements of paragraph (c) of Section 93-14 (Ground Floor Level Requirements) shall apply to the ground floor level of at least 70 percent of the length of all #building# walls facing each side of the central plaza.

(vi) Retail continuity

At least 40 percent of the frontage of any #building# fronting on the central plaza shall comply with the retail continuity requirements of paragraph (a) of Section 93-14 (Ground Floor Level Requirements) and at least 50 percent of the aggregate frontage of all #buildings# fronting on the central plaza shall comply with the retail continuity requirements of paragraph (a) of Section 93-14 (Ground Floor Level Requirements). Such retail space shall have a minimum depth of 30 feet measured perpendicular to the wall adjoining the central plaza.

(vii) Pavilion

A #building# (hereinafter referred to as a "pavilion") containing #uses# listed in Use Groups 6A and 6C may be located within the central plaza, provided that such pavilion, and any seating associated with a use in the pavilion, shall be located at least ten feet west of the prolongation of the east face of the #building# fronting on the north side of the central plaza. The pavilion shall have a minimum #lot coverage# of 1,000 square feet and a maximum #lot coverage# of 3,000 square feet, with a maximum width of 40 feet parallel to Ninth Avenue. Such pavilion shall be no more than one

#story# in height, except such one #story# limitation may be exceeded by portions of the pavilion allocated to mechanical equipment as well as restrooms and a food preparation kitchen occupying, in the aggregate, no more than 200 square feet area. Such pavilion shall not exceed a height limit of 25 feet, except that the permitted obstructions set forth in Section 33-42, as well as restrooms and a food preparation kitchen located above the level of the first #story# may be permitted to exceed such height limit provided that the height of such restroom and food preparation kitchen do not exceed ten feet. Seating may be provided for the #uses# in the pavilion provided that the total area occupied by the pavilion and such associated seating does not exceed a maximum #lot coverage# of 3,600 square feet and that such seating shall not count towards meeting the seating requirements set forth in paragraphs (b)(2)(ii) and (iii) of this Section. Floor space within the pavilion shall not be considered #floor area#. At least 60 percent of the exterior walls of the pavilion shall be transparent except for structural supports, provided that 100 percent of the east facing wall of the pavilion shall be transparent except for structural supports.

(3) Alternative design option

Notwithstanding the provisions of paragraph (b)(1) of this Section, the minimum north-south width of the central plaza may be reduced to no less than 80 feet for at least 50 percent of the aggregate frontage of the #buildings# fronting on the central plaza, provided that such narrowed portion begins no further than 150 feet from the western #street line# of Ninth Avenue, and further provided that the minimum size of the central plaza is not less than 41,382 square feet. The minimum height of a #building# wall fronting upon such narrowed portion shall be 45 feet, and the maximum height of such #building# wall shall not exceed 85 feet. Above a height of 85 feet, the minimum setback distance shall be 10 feet and the minimum distance between #buildings# fronting on the central plaza shall be 100 feet.

(4) Closing of event space

~~The City Planning Commission may allow the closing of the event space for up to 12 events per year pursuant to a restrictive declaration acceptable to the City and recorded in the office of the City Register for New York County and indexed against the property.~~

* * *

93-731**Design and maintenance requirements for public access areas on the Ninth Avenue Rail Yard**

Public access areas on the Ninth Avenue Rail Yard provided pursuant to the requirements of Section 93-73, shall comply with the applicable design reference standards set forth in paragraph (a), and the maintenance provisions of paragraph (b) of this Section.

(a) Design reference standards

- (1) seating shall meet the minimum and maximum dimensional standards set forth in paragraphs (1) through (7) of Section 37-741 (Seating), inclusive;
- (2) where planting areas are provided, they shall meet the soil depth, continuous area, permeable surface and irrigation requirements of Section 37-742 (Planting and trees). Where trees are provided, they shall meet the planting standards, soil requirements and irrigation standards set forth in Section 37-742;
- (3) steps shall meet the minimum dimensional standards set forth in Section 37-725 (Steps);
- (4) kiosks or open air cafes shall meet the operational and service requirements listed in paragraphs (a) and (b) of Section 37-73 (Kiosks and Open Air Cafes) and shall not occupy in the aggregate more than 20 percent of the public access areas required by Section 93-73. Seating provided as part of an open air cafe shall not count towards meeting the seating requirements of a public access area listed in Section 93-73;
- (5) ~~all open spaces within the public access areas on the Ninth Avenue Rail Yard shall provide open space signage pursuant to the standards set forth in Section 37-751 (Public space signage system). In addition, a minimum of two wayfinding #signs# shall be provided; the following public signage system:~~
 - (i) One entry plaque in each of the following locations:

- (aa) the entry to the Entry Plaza from West 33rd Street;
 - (bb) the entry to the Central Plaza from Ninth Avenue;
 - (cc) the entry to the Art Plaza from West 31st Street;
 - (dd) the sidewalk level entry to the West 31st Street Connector; and
 - (ee) the entry to the Dyer Avenue Platform from West 33rd Street.
- (ii) Each entry plaque is subject to the signage standards as set forth in paragraph (a)(1) through (a)(4) of Section 37-751 (Public space signage systems).
- (iii) Each entry plaque shall be mounted on a wall, a permanent free-standing post, or on a post located within a planter, with its center five feet above the elevation of the nearest walkable pavement. The maximum height of such free-standing post shall be six feet, with a maximum width and depth of 16 inches. Each entry plaque shall be in a position that clearly identifies the entry into the portion of the public access areas on the Ninth Avenue Rail Yard that such plaque is provided in connection with, and placed so that the entire entry plaque is obvious and directly visible, without any obstruction, along every line of sight from all paths of pedestrian access to that portion of the public access areas on the Ninth Avenue Rail Yard.
- (iv) A minimum of one information plaque, constructed from the same permanent materials as the entry plaques, or combined with one or more of the required entry plaques, shall be provided within the Art Plaza, Entry Plaza, Central Plaza and Dyer Avenue. The information plaque shall be mounted on a wall, a permanent free-standing post, or on a post located within a planter, with its center five feet above the elevation of the nearest walkable pavement. The maximum height of such free-standing post shall be six feet, with a maximum width and depth of 16 inches.
- (v) Each information plaque is subject to the signage requirements as set forth in paragraph (b)(1) through (b)(6) of Section 37-751 except that paragraph (b)(3) shall be modified to read: ‘in lettering three-eighths of an inch in height, the words “This public access area contains:” followed by the total linear feet of seating, the type and quantity of trees and the number of additional required amenities, such as moveable seating, that are provided in the portion of the public access area in which the entry plaque or information plaque is provided.
- (6) where #buildings# front on to public access areas, canopies, awnings, marquees and sun control devices shall be permitted pursuant to the standards set forth in paragraph (c) of Section 37-726 (Permitted obstructions);
- (7) the aggregate number of litter receptacles in such public access areas shall be 21;

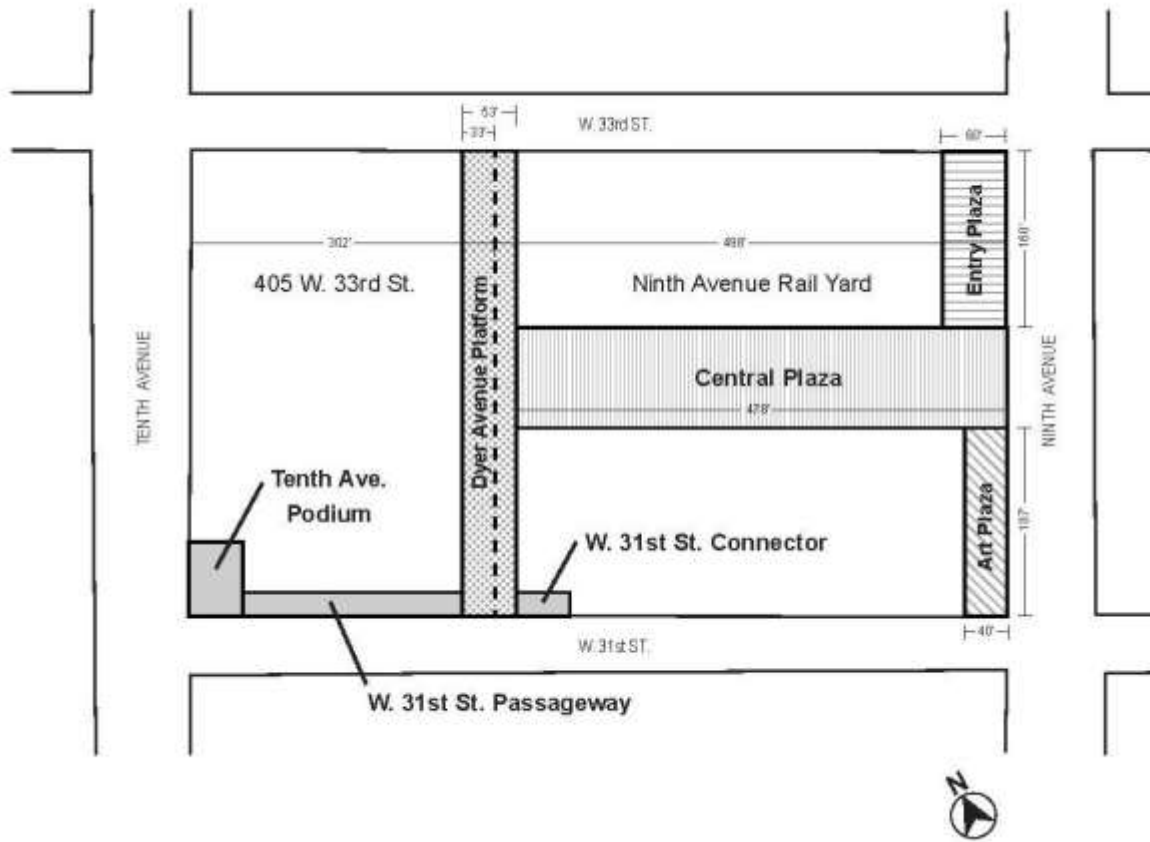
- (8) no gates, fences or other barriers shall be permitted within such public access areas except that protective bollards provided in connection with the development of the Ninth Avenue Rail Yard may be located within the required public access areas; and
- (9) for the purposes of applying the #sign# regulations to #building# walls facing public access areas, such public access areas shall be considered #streets#.
- (b) Maintenance

The owner or owners shall be responsible for the maintenance of all public access areas, including, but not limited to, litter control, management of pigeons and rodents, maintenance of required lighting levels, and the care and replacement of furnishings and vegetation.

Appendix B

Special Hudson Yards Subdistricts Maps

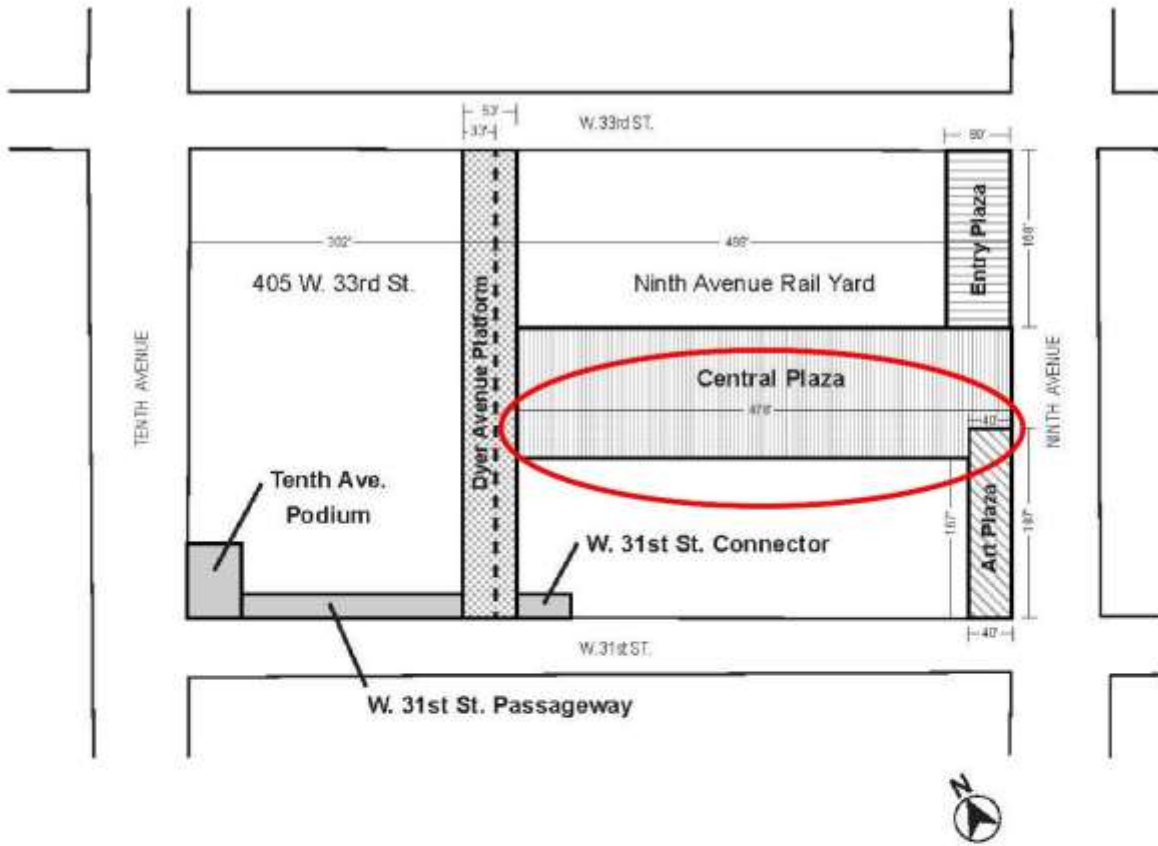
Map 1 – Subdistrict B: 450 West 33rd Street and Ninth Avenue Rail Yard Public Access area



- Open Space Boundaries
- ▨ Central Plaza
- ▨ Entry Plaza
- ▨ Art Plaza
- ▨ Dyer Avenue Platform
- Tenth Ave. Podium, W. 31st St. Connector, W. 31st St. Passageway

EXISTING MAP

Map 1 – Subdistrict B: 450 West 33rd Street and Ninth Avenue Rail Yard Public Access area)



- Open Space Boundaries
- ▨ Central Plaza
- ▨ Entry Plaza
- ▨ Art Plaza
- ▨ Dyer Avenue Platform
- Tenth Ave. Podium, W. 31st St. Connector, W. 31st St. Passageway

PROPOSED MAP

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, August 9, 2017.

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

Report of the Committee on Rules, Privileges and Elections

Report for M-524

Report of the Report of the Committee on Rules, Privileges and Elections approving the appointment by the Mayor of Nasr O. Sheta as a member of the New York City Board of Standards and Appeals.

The Committee on Rules, Privileges and Elections, to which the annexed Mayor's Message was referred on July 20, 2017 (Minutes, page 2235) and which same Mayor's Message was coupled with the resolution shown below, respectfully

REPORTS:

Topic I: *New York City Board of Standards and Appeals – (Mayoral candidate for appointment upon advice and consent of the Council)*

- **Nasr O. Sheta, Ph. D [M-524]**

New York City Charter (“*Charter*”) § 659 provides for the establishment of an independent Board of Standards and Appeals (“BSA”) located within the Office of Administrative Trials and Hearings (“OATH”). The BSA consists of five Commissioners, each appointed by the Mayor for a term of six years. Pursuant to *Charter* § 31, appointments to the BSA are made with the advice and consent of the Council. The *Charter* further provides that one of the BSA’s members shall be a planner with professional qualifications and at least ten years’ experience as a planner; one of the members shall be a registered architect and shall have at least ten years’ experience as an architect; and one of the members shall be a licensed and professional engineer and shall have at least ten years’ experience as an engineer. The particular qualifications of the two remaining members are not delineated in the *Charter*. The Mayor designates one of the members with the required experience of an architect, planner or engineer to serve as Chair, and designates one of the members to serve as Vice-Chair. In the absence of the Chair, or in the event that a vacancy exists in the office of the Chair, the Vice-Chair acts as Chair of the BSA. No more than two members may reside in one borough. The BSA is empowered to: (1) hear and decide appeals from and review, except as otherwise provided by law, any order, requirement, decision or determination of the Commissioner of Buildings or any Borough Superintendent of Buildings acting under written delegation of power from the Commissioner of Buildings filed in accordance with *Charter* § 645 (b); (2) hear and decide appeals from and review any order, requirement, decision or determination of the fire Commissioner, or any rule or regulation or amendment or repeal thereof made by the Fire Commissioner; or (3) hear and decide appeals from and review any order, requirement or determination of the Commissioner of Transportation, or the Commissioner of the Department of Business Service¹ made in relation to the structures or uses on water front property under his or her jurisdiction in connection with the

¹ Charter § 666 (6)(c) still reads “the Commissioner of Ports and Trade.” The Department of Small Business Services (“DSBS”) is recognized as the successor agency to the Department of Ports and Trade. BSA handles DSBS’ requests for interpretive appeals.

application or enforcement of the provisions of the *Zoning Resolution of the city of New York* (“*Zoning Resolution*”), the labor law and such other laws, rules, and regulations as may govern the construction, alteration, maintenance, use, occupancy, safety, sanitary conditions, mechanical equipment and inspection of structures in the City.

The BSA has the power to determine and vary the application of the *Zoning Resolution*, and to issue special permits as authorized by the *Zoning Resolution*. The BSA has the same powers as those exercised by the New York State Department of Labor with respect to buildings situated in the City. The BSA may also consider appeals to vary or modify any rule or regulation or the provisions of any law relating to the construction, use, structural changes, equipment, alteration or removal of buildings or structures, or vaults in sidewalks appurtenant thereto, where there are practical difficulties or unnecessary hardship in carrying out the strict letter of the law, so that the spirit of the law shall be observed, public safety secured and substantial justice done.

Each member of the BSA receives a salary, and may not engage in any other occupation, profession or employment. The Chair earns an annual salary of \$200,847. The Vice-Chair receives \$165,307 annually, while the other members earn an annual salary of \$158,156. Members attend the hearings and executive sessions of the BSA, and perform such other duties as may be required by the Chair. The Mayor fills vacancies for the un-expired term of the member whose place becomes vacant with a person having his or her qualifications.

Mr. Sheta is scheduled to appear before the Committee on Rules, Privileges, and Elections on Wednesday, August 2, 2017. If appointed, Mr. Sheta, a professional engineer, will be eligible to serve the remainder of a six-year term that will expire on January 1, 2023.

Topic II: New York City Civilian Complaint Review Board– (Council candidate for designation)

- **Michael Rivadeneyra [Preconsidered M 535]**

New York City Charter (“Charter”) § 440 created the New York City Civilian Complaint Review Board (“CCRB” or “the Board”) as an entity independent of the New York City Police Department (“NYPD”). Its purpose is to investigate complaints concerning misconduct by officers of NYPD towards members of the public. The Board’s membership must reflect the City’s diverse population, and all members must be residents of the City.

The CCRB consists of a board of thirteen members of the public as well as a civilian staff to assist the CCRB exercising its powers and fulfilling its duties. The members are appointed by the Mayor as follows: five members, one from each borough are designated by the City Council; five members, including the chair, are selected by the Mayor; and three members having law enforcement experience are designated by the Police Commissioner. Only those appointees to CCRB designated by the Police Commissioner may have law enforcement experience. Experience as an attorney in a prosecutorial agency is not deemed law enforcement experience for purposes of this definition. The CCRB hires the Executive Director, who in turn hires and supervises the agency’s all-civilian staff. There are two Deputy Executive Directors: one is responsible for administration and the other for investigations.

All appointees to CCRB serve three-year terms. Vacancies on the CCRB resulting from removal, death, resignation, or otherwise, are filled in the same manner as the original appointment; the successor completes the former member’s un-expired term. Board members are prohibited from holding any other public office or public employment. All CCRB members are eligible for compensation for their work on a per-diem basis. The current per-diem rate is \$315.00.

The CCRB is authorized to “receive, investigate, hear, make findings and recommend action” upon civilian complaints of misconduct by members of the NYPD towards the public. Complaints within the CCRB’s jurisdiction are those that allege excessive force, abuse of authority, discourtesy, or use of offensive language, including but not limited to slurs relating to race, ethnicity, religion, gender, sexual orientation or disability.

The CCRB has promulgated procedural rules pursuant to the City’s Administrative Procedural Act (“CAPA”). These rules regulate the way in which investigations are conducted², recommendations are made, and members of the public are informed of the status of their complaints. The rules also outline the establishment of panels consisting of at least three Board members (no panel may consist exclusively of Mayoral appointees, Council appointees or Police Commissioner appointees); these panels may supervise the investigation of complaints and hear, make findings and recommend action with respect to such complaints. The CCRB, by majority vote of all its members, may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of complaints.

The CCRB’s findings and recommendations with respect to a complaint, and the basis therefore, must be submitted to the Police Commissioner. In all such cases where a finding or recommendation has been submitted, the Police Commissioner is required to report to the CCRB on any action taken with respect to that complaint. The law prohibits the CCRB from making any finding or recommendation solely on the basis of an unsworn complaint or statement. In addition, the law prohibits the CCRB from using prior complaints against a member of the NYPD that have been unsubstantiated, unfounded or withdrawn as the basis for any finding or recommendation regarding a current complaint.

It should also be noted that the CCRB has established a voluntary mediation program in which a complainant may choose to resolve his or her complaint through informal conciliation. Both the alleged victim and the subject officer must voluntarily agree to mediation. Mediation is offered as an alternative to investigation to resolve certain types of complaints, none of which can involve physical injury or damage to property. If the mediation is not successful, the alleged victim has the right to request that the case be fully investigated.

Also, the CCRB is required to issue to the Mayor and to the City Council a semi-annual report describing its activities and summarizing its actions, and is also mandated to develop and administer an on-going program to educate the public about CCRB.

If designated by the Council and subsequently appointed by the Mayor, Michael Rivadeneyra, a resident of the Bronx, will serve for the remainder of a three-year term that expires on July 4, 2019.

Copies of the following for the candidate are annexed to this briefing paper: the candidate’s résumé and the related message.

PROJECT STAFF

Elizabeth Guzman, Counsel

Charles W. Davis III, Director of Investigations

Andre Johnson Brown, Legislative Investigator

(After interviewing the candidates and reviewing the submitted material, the Committee decided to approve the appointment of the nominees. For nominee Michael Rivadeneyra [Preconsidered M 535] please see, respectively, the Report of the Committee on Rules, Privileges and Elections for Preconsidered M-535 printed in these Minutes; for nominee Nasr O. Sheta, Ph. D [M-524], please see immediately below:)

² The CCRB employs civilian investigators to investigate all complaints against members of the NYPD.

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to §§ 31 and 659 of the New York City Charter, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Mayor of **Nasr O. Sheta** as a member of the **New York City Board of Standards and Appeals** to serve the remainder of a six-year term that expires on January 1, 2023.

This matter was referred to the Committee on July 20, 2017.

In connection herewith, Council Member Lander offered the following resolution:

Res. No. 1616

RESOLUTION APPROVING THE APPOINTMENT BY THE MAYOR OF NASR O. SHETA AS A MEMBER OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS.

By Council Member Lander.

RESOLVED, that pursuant to §§ 31 and 659 of the New York City Charter, the Council does hereby approve the appointment by the Mayor of Nasr O. Sheta as a member of the New York City Board of Standards and Appeals to serve the remainder of a six-year term that expires on January 1, 2023.

BRADFORD S. LANDER, *Chairperson*; DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, MARGARET S. CHIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, MARK LEVINE, HELEN K. ROSENTHAL, MELISSA MARK-VIVERITO; Committee on Rules, Privileges and Elections, August 9, 2017. *Other Council Members Attending: Council Member Perkins.*

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

At this point, the Speaker (Council Member Mark-Viverito) announced that the following items had been **preconsidered** by the Committee on Rules, Privileges and Elections and had been favorably reported for adoption.

Report for M-535

Report of the Committee on Rules, Privileges and Elections approving the redesignation by the Council of Michael Rivadeneyra as a member of the New York City Civilian Complaint Review Board.

The Committee on Rules, Privileges and Elections, to which the annexed Mayor's Message was referred on August 9, 2017 and which same Mayor's Message was coupled with the resolution shown below, respectfully

REPORTS:

(For text of the Briefing Paper, please see the Report of the Committee on Rules, Privileges and Elections for M-524, printed in these Minutes)

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to § 440(b)(1) of the New York City Charter, the Committee on Rules, Privileges and Elections, hereby approves the designation by the Council of **Michael Rivadeneyra** as a member of the **New York City Civilian Complaint Review Board** to serve the remainder of a three-year term that expires on July 4, 2019.

This matter will be referred to the Committee on August 9, 2017.

In connection herewith, Council Member Lander offered the following resolution:

Res No. 1617

Resolution approving the redesignation by the Council of Michael Rivadeneyra as a member of the New York City Civilian Complaint Review Board.

By Council Member Lander.

RESOLVED, that pursuant to § 440(b)(1) of the New York City Charter, the Council does hereby approve the designation by the Council of Michael Rivadeneyra as a member of the New York City Civilian Complaint Review Board to serve the remainder of a three-year term that expires on July 4, 2019.

BRADFORD S. LANDER, *Chairperson*; DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, MARGARET S. CHIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, MARK LEVINE, HELEN K. ROSENTHAL, MELISSA MARK-VIVERITO; Committee on Rules, Privileges and Elections, August 9, 2017. *Other Council Members Attending: Council Member Perkins.*

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

GENERAL ORDER CALENDAR

Report for L.U. No. 691 & Res. No. 1618

Report of the Committee on Land Use in favor of approving Application No. C 170187 ZMM submitted by the New York City Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the zoning map, section no. 8d, changing an existing C5-2 District to a C5-3 District and establishing a Special Midtown District, Borough of Manhattan, Community Board 6, Council District 4.

The Committee on Land Use, to which the annexed Land Use item was referred on June 15, 2017 (Minutes, page 1944) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:***SUBJECT*****MANHATTAN CB - 6****C 170187 ZMM**

City Planning Commission decision approving an application submitted by NYC Department of City Planning pursuant to Section 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 8d.

INTENT

To approve an amendment to the Zoning Map, which in conjunction with the related action would establish the East Midtown Subdistrict, affecting 78 blocks within the Special Midtown District. These actions are to enable the protection and strengthening of the East Midtown business district.

PUBLIC HEARING**DATE:** June 20, 2017**Witnesses in Favor:** Sixteen**Witnesses Against:** Eighteen***SUBCOMMITTEE RECOMMENDATION*****DATE:** July 27, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** July 27, 2107

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Garodnick, Mealy, Mendez, Rodriguez, Levin, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against:

None

Abstain:

None.

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1618

Resolution approving the decision of the City Planning Commission on ULURP No. C 170187 ZMM, a Zoning Map amendment (L.U. No. 691).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on June 12, 2017 its decision dated June 7, 2017 (the "Decision"), on the application submitted by the New York City Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 8d, which in conjunction with the related action would be intended to strengthen and protect the East Midtown business district, (ULURP No. C 170187 ZMM), Community District 6, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to application N 170186 (A) ZRM (L.U. No. 692), a zoning text amendment concerning Article XIII, Chapter 1 (Special Midtown District);

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 20, 2017;

WHEREAS, the Council has considered the land use and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on May 26, 2017 (CEQR No. 17DCP001M), and Technical Memorandum 002, dated June 2, 2017 (the Technical Memorandum), together, the "CEQR Determination";

RESOLVED:

Having considered the CEQR Determination, with respect to the Application, the Council finds that:

- (1) The FEIS and Technical Memorandum meet the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, thereto, the Amended Application alternative, as modified with the modifications adopted herein and as analyzed in Chapter 25, "Amended Application Analysis," of the FEIS and in the Technical Memorandum 002 is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by the placement of (E) designations for Hazardous Materials, Air Quality, and Noise, which form part of the action.

The Decision, together with the CEQR Determination, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Section 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 170187 ZMM, incorporated by reference herein, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section 8d:

1. Changing from a C5-2 District to a C5-3 District property bounded by East 43rd Street, Second Avenue, East 42nd Street, a line 200 feet easterly of Third Avenue; and
2. Establishing a Special Midtown District (MiD) bounded by East 43rd Street, Second Avenue, East 42nd Street, and a line 200 feet easterly of Third Avenue.

as shown in a diagram (for illustrative purposes only) dated January 3, 2017, and subject to the conditions of CEQR Declaration E-408, Community District 2, Borough of Manhattan.

DAVID G. GREENFIELD, *Chairperson*; DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, July 27, 2017.

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

Report for L.U. No. 692 & Res. No. 1619

Report of the Committee on Land Use in favor of approving Application No. N 170186 (A) ZRM submitted by the New York City Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the New York City Zoning Resolution, relating to Article XIII, Chapter 1 (Special Midtown District) to establish the East Midtown Subdistrict, Borough of Manhattan, Community Board 5 and 6, Council District 4.

The Committee on Land Use, to which the annexed Land Use item was referred on June 15, 2017 (Minutes, page 1944) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

MANHATTAN CBs - 5, 6, 8

N 170186(A) ZRM

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment to Article VIII, Chapter 1 (Special Midtown District) of the Zoning Resolution of the City of New York, concerning the establishment of the East Midtown Subdistrict.

INTENT

To approve an amendment of the Zoning Resolution, which in conjunction with the related action would establish the East Midtown Subdistrict, affecting 78 blocks within the Special Midtown District. These actions are to enable the protection and strengthening of the East Midtown business district.

PUBLIC HEARING

DATE: June 20, 2017

Witnesses in Favor: Sixteen

Witnesses Against: Eighteen

SUBCOMMITTEE RECOMMENDATION

DATE: July 27, 2017

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission with modifications.

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Torres.

Against: **Abstain:**
None None

COMMITTEE ACTION

DATE: July 27, 2107

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Garodnick, Mealy, Mendez, Rodriguez, Levin, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Salamanca.

Against: **Abstain:**
None None

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on July 27, 2017. The City Planning Commission filed a letter dated August 7, 2017, with the Council on August 8, 2017, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Member Greenfield and Richards offered the following resolution:

Res. No. 1619

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 170186(A) ZRM, for an amendment of the Zoning Resolution of the City of New York, for an amendment to Article VIII, Chapter 1 (Special Midtown District) of the Zoning Resolution of the City of New York, concerning the establishment of the East Midtown Subdistrict, in Community Districts 5, 6, and 8, Borough of Manhattan (L.U. No. 692).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on June 12, 2017 its decision dated June 7, 2017 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Department of City Planning, for an amendment of the text of the Zoning Resolution of the City of New York, to amend Article VIII, Chapter 1 (Special Midtown District) concerning the establishment of the East Midtown Subdistrict, (Application No. N 170186(A) ZRM), Community Districts 5, 6, and 8, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to application C 170187 ZMM (L.U. No. 691), a zoning map amendment to change an existing C5-2 District to a C5-3 District, and establish the Special Midtown District within the proposed C5-3 District, in the area bounded by East 43rd Street, Second Avenue, East 42nd Street, and a line 200 feet easterly of Third Avenue;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 20, 2017;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on May 26, 2017 (CEQR No. 17DCP001M), and Technical Memorandum 002, dated June 2, 2017 (the Technical Memorandum”), together the “CEQR Determination”;

RESOLVED:

Having considered the CEQR Determination, with respect to the Application, the Council finds that:

- (1) The FEIS and Technical Memorandum meet the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available, thereto, the Amended Application alternative, as modified with the modifications adopted herein, and as analyzed in Chapter 25, “Amended Application Analysis,” of the FEIS and in the Technical Memorandum 002 is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by the placement of (E) designations for Hazardous Materials, Air Quality, and Noise, which form part of the action.
- (4) The Decision, together with the CEQR Determination, constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 170186(A) ZRM, incorporated by reference herein, the Council approves the Decision with the following modifications:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter with # # is defined in Section 12-10 or 81-613;

Matter in double ~~strikeout~~ is old, deleted by the City Council;

Matter in double underline is new, added by the City Council;

* * * indicates where unchanged text appears in the Zoning Resolution

Article VIII – Special Purpose Districts

Chapter 1

Special Midtown District

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**Chapter 1
Special Midtown District**

**81-00
GENERAL PURPOSES**

The "Special Midtown District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) to strengthen the business core of Midtown Manhattan by improving the working and living environments;
- (b) to stabilize development in Midtown Manhattan and provide direction and incentives for further growth where appropriate;
- (c) to control the impact of buildings on the access of light and air to the streets and avenues of Midtown;
- (d) to link future Midtown growth and development to improved pedestrian circulation, improved pedestrian access to rapid transit facilities, and avoidance of conflicts with vehicular traffic;
- (e) to preserve the historic architectural character of development along certain streets and avenues and the pedestrian orientation of ground floor uses, and thus safeguard the quality that makes Midtown vital;

- (f) to continue the historic pattern of relatively low building bulk in midblock locations compared to avenue frontages;
- (g) to improve the quality of new development in Midtown by fostering the provision of specified public amenities in appropriate locations;
- (h) to preserve, protect and enhance the character of the Theater Subdistrict as the location of the world's foremost concentration of legitimate theaters and an area of diverse uses of a primarily entertainment and entertainment-related nature;
- (i) to strengthen and enhance the character of the Eighth Avenue Corridor and its relationship with the rest of the Theater Subdistrict and with the Special Clinton District;
- (j) to create and provide a transition between the Theater Subdistrict and the lower-scale Clinton community to the west;
- (k) to preserve, protect and enhance the scale and character of Times Square, the heart of New York City's entertainment district, and the Core of the Theater Subdistrict, which are characterized by a unique combination of building scale, large illuminated signs and entertainment and entertainment-related uses;
- (l) to preserve, protect and enhance the character of Fifth Avenue as the showcase of New York and national retail shopping;
- (m) to preserve the midblock area north of the Museum of Modern Art for its special contribution to the historic continuity, function and ambience of Midtown;
- (n) to protect and strengthen the economic vitality and competitiveness of the East Midtown Grand Central Subdistrict by facilitating the development of its exceptional and sustainable buildings within the Vanderbilt Corridor and enabling improvements to the pedestrian and mass transit circulation network;
- (o) to ensure that development within the Vanderbilt Corridor East Midtown Subdistrict occurs on sites that meet sound site planning criteria and therefore can accommodate additional density as appropriate;
- (p) to protect and strengthen the role of landmark buildings as important features of the East Midtown Subdistrict;
- ~~(q)~~ (p) to protect and enhance the role of Grand Central Terminal as a major transportation hub within the City, to expand and enhance the pedestrian and mass transit circulation network connecting Grand Central Terminal to surrounding development, to minimize pedestrian congestion and to protect the surrounding area's special character;
- ~~(r)~~ (q) to expand the retail, entertainment and commercial character of the area around Pennsylvania Station and to enhance its role as a major transportation hub in the city;
- ~~(s)~~ (r) to provide freedom of architectural design within limits established to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms without the need for special development permissions or "negotiated zoning"; and

- (t) ~~(s)~~ to promote the most desirable use of land and building development in accordance with the District Plan for Midtown and thus conserve the value of land and buildings and thereby protect the City's tax revenues.

81-01

Definitions

For purposes of this Chapter, matter in ~~#italics#~~ is defined in Sections 12-10, 81-261, ~~or 81-271~~ or Section 81-613 (Definitions).

* * *

81-02

General Provisions

81-022

Applicability of Special Transit Land Use District regulations

Except as otherwise provided in paragraphs (a), ~~and (b) or (c)~~ of this Section, wherever the #Special Transit Land Use District# includes an area which also lies within the #Special Midtown District#, ~~as described in paragraph (e) designated on the #zoning map# by the letters "MiD - TA"~~, the requirements of the #Special Transit Land Use District#, as set forth in Article IX, Chapter 5, shall apply.

- (a) However, the requirements of Article IX, Chapter 5, shall be waived where the City Planning Commission certifies, in the case of a specific #development# otherwise subject to those requirements, that:
- (1) the developer has agreed in a writing recorded against the property to implement a plan approved by the City Planning Commission and New York City Transit for off-street relocation of a subway stair entrance, in accordance with the requirements of Section 81-46 (Off-Street Relocation or Renovation of a Subway Stair); or
 - (2) the developer has agreed in a writing recorded against the property to implement a plan approved by the Commission and New York City Transit for the provision of a subway station improvement in accordance with the provisions of Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan).
- (b) Where the requirements of Article IX, Chapter 5, are not waived, modifications of the underlying district #bulk# regulations as set forth in this Chapter shall prevail over any inconsistent #bulk# regulations in Article IX, Chapter 5.
- (c) In the East Midtown Subdistrict, the provisions of paragraph (c) of Section 81-673 (Mass transit access) shall supersede the provisions of Section 95-031 (Selection of transit easement) and 95-052 (Special access facilities for persons with disabilities).
- ~~(e) Within the #Special Midtown District#, the #Special Transit Land Use District# includes the area bounded by a line 100 feet west of Third Avenue, a line midway between East 53rd Street and East 54th Street, a line 160 feet east of Third Avenue (the #Special Midtown District# boundary) and a line midway between East 52nd Street and East 53rd Street.~~

* * *

81-03

District Plan

The regulations of this Chapter are designed to implement the #Special Midtown District# Plan.

The District Plan includes the following four ~~three~~ maps:

- Map 1 Special Midtown District and Subdistricts
- Map 2 Retail and Street Wall Continuity
- Map 3 Subway Station and Rail Mass Transit Facility Improvement Areas
- Map 4 East Midtown Subdistrict and Subareas

The maps are located in Appendix A of this Chapter and are hereby incorporated and made a part of this Resolution. They are incorporated for the purpose of specifying locations where special regulations and requirements set forth in the text of this Chapter apply.

81-04
Subdistricts and Subareas

In order to carry out the purposes and provisions of this Chapter, five special Subdistricts are established within the #Special Midtown District#. In each of these Subdistricts certain special regulations apply which do not apply in the remainder of the #Special Midtown District#. The Subdistricts are outlined on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter.

The Subdistricts, together with the Sections of this Chapter specially applying to each, are as follows:

| Subdistricts | Sections Having Special Application |
|--|-------------------------------------|
| Penn Center Subdistrict | 81-50 |
| <u>East Midtown</u> Grand Central Subdistrict | 81-60 |
| Theater Subdistrict | 81-70 |
| Fifth Avenue Subdistrict | 81-80 |
| Preservation Subdistrict | 81-90 |

The Subdistricts are also subject to all other regulations of the #Special Midtown District# and, where applicable pursuant to Section 81-023, the #Special Clinton District# and the underlying districts, except as otherwise specifically provided in the Subdistrict regulations themselves.

Within the East Midtown Subdistrict, certain special regulations apply to Subareas, which do not apply within the remainder of the Subdistrict. Such Subareas are established, as follows:

- Grand Central Transit Improvement Zone Subarea
- Northern Subarea

Other Transit Improvement Zone Subarea

Park Avenue Subarea

Southern Subarea

Vanderbilt Corridor Subarea

The entirety of the Vanderbilt Corridor Subarea and the Grand Central Transit Improvement Zone Subarea as well as the portions of the Other Transit Improvement Zone Subarea south of East 47th Street, are hereinafter referred to as the Grand Central Core Area.

These Subareas, as well as the boundary of the Grand Central Core Area, are shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter.

* * *

81-067

Modification of provisions for minimum base height and street wall location in Historic Districts

Within the Special Midtown District, for any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, any applicable provisions relating to minimum base height and #street wall# location requirements as modified in Sections 81-43 (Street Wall Continuity Along Designated Streets), ~~81-621~~ 81-671 (Special street wall requirements) pertaining to the East Midtown ~~Grand Central~~ Subdistrict, 81-75 (Special Street Wall and Setback Requirements) pertaining to the Theater Subdistrict, 81-83 (Special Street Wall Requirements) pertaining to the Fifth Avenue Subdistrict, and 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT) pertaining to mandatory #street walls# may be modified pursuant to Sections 23-66 and 35-65 (Height and Setback Regulations for Quality Housing Buildings).

* * *

81-10

USE REGULATIONS

81-11

Modifications of Use Regulations in Subdistricts

The #use# regulations of the underlying districts are modified in:

- (a) the East Midtown Subdistrict in accordance with the provisions of Section 81-62 (Special Use Provisions), inclusive;
- (b) the Theater Subdistrict in accordance with the provisions of Sections 81-72 (Use Regulations Modified) and 81-73 (Special Sign and Frontage Regulations); and ~~are modified in~~
- (c) the Fifth Avenue Subdistrict in accordance with the provisions of Section 81-82 (Special Regulations on Permitted and Required Uses).

* * *

81-20

BULK REGULATIONS

| | | | | | | | |
|--|-----|-------------------------|---------------------|------|------|-----------------|------|
| | 8.0 | 11.0 ^{1,2,7,8} | 13.0 ^{1,3} | 14.0 | 16.0 | 12.0 | 15.0 |
| D. Maximum Special Permit #Floor Area# Allowances:(District-wide Incentives), Subway station improvements (Section 74-634) | | | | | | | |
| | --- | 2.0 ^{1,6,7} | 2.4 ¹ | --- | 3.0 | 2.4 | 3.0 |
| E. Maximum Total FAR with District-wide and As-of-Right Incentives | | | | | | | |
| | 8.0 | 12.0 | 14.4 | 14.0 | 18.0 | 14.4 | 18.0 |
| F. Maximum Special Permit #Floor Area# Allowances in Penn Center Subdistrict: Mass Transit Facility Improvement (Section 74-634) | | | | | | | |
| | --- | 2.0 | --- | --- | 3.0 | --- | --- |
| G. Maximum Total FAR with As-of-Right, District-wide and Penn Center Subdistrict Incentives: | | | | | | | |
| | --- | 12.0 | --- | --- | 18.0 | --- | --- |
| H. Maximum As-of-Right #Floor Area# Allowances in Theater Subdistrict: | | | | | | | |
| Development rights (FAR) of a "granting site" (Section 81-744) | | | | | | | |
| | --- | 10.0 | 12.0 | 14.0 | 15.0 | --- | --- |
| Maximum amount of transferable development rights (FAR) from "granting sites" that may be utilized on a "receiving site" (Section 81-744(a)) | | | | | | | |
| | --- | 2.0 | 2.4 | 2.8 | 3.0 | --- | --- |
| Inclusionary Housing (Sections 23-90 and 81-22) | | | | | | | |
| | --- | 2.0 ⁴ | --- | --- | --- | --- | --- |
| I. Maximum Total FAR with As-of-Right #Floor Area# Allowances in Theater Subdistrict | | | | | | | |
| | --- | 12.0 | 14.4 | 16.8 | 18.0 | --- | --- |
| J. Maximum #Floor Area# Allowances by Authorization in Eighth Avenue Corridor (Section 81-744(b)) | | | | | | | |
| | --- | 2.4 | --- | --- | --- | --- | --- |
| K. Maximum Total FAR with As-of-Right and Theater Subdistrict Authorizations | | | | | | | |
| | --- | 14.4 | 14.4 | 16.8 | 18.0 | --- | --- |
| L. Maximum Special Permit #Floor Area# Allowances in Theater Subdistrict: | | | | | | | |
| Rehabilitation of "listed theaters" (Section 81-745) | | | | | | | |
| | --- | 4.4 | 2.4 | 2.8 | 3.0 | --- | --- |

| | | | | | | | |
|--|-----|------|-------------------|----------|----------|-----------------|-----------------------|
| M. Maximum Total FAR with Theater Subdistrict, District-wide and As-of-Right Incentives | | | | | | | |
| | 8.0 | 14.4 | 14.4 | 16.8 | 18.0 | — | — |
| N. Maximum FAR of Lots Involving Landmarks: | | | | | | | |
| Maximum FAR of a lot containing non-bonusable landmark (Section 74-711 or as-of-right) | | | | | | | |
| | 8.0 | 10.0 | 12.0 | 14.0 | 15.0 | 12.0 | 15.0 |
| Development rights (FAR) of a landmark lot for transfer purposes (Section 74-79) | | | | | | | |
| | 8.0 | 10.0 | 13.0 ⁵ | 14.0 | 16.0 | 12.0 | 15.0 |
| Maximum amount of transferable development rights (FAR) from a landmark #zoning lot# that may be utilized on: an "adjacent lot" (Section 74-79) | | | | | | | |
| (a) — an "adjacent lot" (Section 74-79) | | | | | | | |
| | 1.6 | 2.0 | 2.4 | No Limit | No Limit | 2.4 | No Limit |
| (b) — a "receiving lot" (Section 81-634) | | | | | | | |
| | — | — | — | — | — | 1.0 | 1.0 |
| (c) — a "receiving lot" (Section 81-635) | | | | | | | |
| | — | — | — | — | — | 9.6 | 6.6 |
| (d) — a "receiving lot" located in the Vanderbilt Corridor (Section 81-635) | | | | | | | |
| | — | — | — | — | — | — | 15.0 |
| O. — Maximum #Floor Area# Allowances by Special Permit for Grand Central Public Realm Improvement Bonus (Section 81-64) | | | | | | | |
| | — | — | — | — | — | — | 15.0 |
| O. P. Maximum Total FAR of a Lot with Transferred Development Rights from Landmark #Zoning Lot#, Theater Subdistrict Incentives, District-wide Incentives and As-of-Right Incentives | | | | | | | |
| | 9.6 | 14.4 | 14.4 | No Limit | No Limit | 21.6 | No ⁶ Limit |

¹ Not available for #zoning lots# located wholly within Theater Subdistrict Core

² Not available within the Eighth Avenue Corridor

³ Not available within 100 feet of a #wide street# in C5-2.5 Districts

- 4 Applicable only within that portion of the Theater Subdistrict also located within the #Special Clinton District#
- 5 12.0 in portion of C6-5.5 District within the Theater Subdistrict Core
- 6 ~~Limited to 21.6 FAR on a "receiving lot" pursuant to Section 81-635 in the Grand Central Subdistrict, and limited to 30.0 FAR on a #zoning lot# located within the Vanderbilt Corridor, pursuant to Sections 81-635 or 81-64 in the Grand Central Subdistrict~~
- 6-7 Not available on west side of Eighth Avenue within the Eighth Avenue Corridor
- 7-8 12.0 for #zoning lots# with full #block# frontage on Seventh Avenue and frontage on West 34th Street, pursuant to Section 81-542 (Retention of floor area bonus for plazas or other public amenities spaces)

81-212

Special provisions for transfer of development rights from landmark sites

The provisions of Section 74-79 (Transfer of Development Rights from Landmark Sites) shall apply in the #Special Midtown District#, subject to the modification set forth in this Section and Sections 81-254, 81-266 and 81-277 pertaining to special permits for height and setback modifications, Section 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea), Section 81-653 (Special permit for transfer of development rights from landmarks to non-qualifying sites), Section 81-747 (Transfer of development rights from landmark theaters) and Section 81-85 (Transfer of Development Rights from Landmark Sites).

The provisions of Section 74-79 pertaining to the meaning of the term "adjacent lot" in the case of lots located in C5-3, C5-5, C6-6, C6-7 or C6-9 Districts are modified to apply in the #Special Midtown District# where the "adjacent lot" is in a C5-3, C6-6, C6-7, C6-5.5, C6-6.5 or C6-7T District.

The provisions of paragraph (c) of Section 74-792 as applied in the #Special Midtown District# shall be subject to the restrictions set forth in the table in Section 81-211 on the development rights (FAR) of a landmark "granting lot" for transfer purposes.

Wherever there is an inconsistency between any provision in Section 74-79 and the table in Section 81-211, the table in Section 81-211 shall apply.

[EXISTING PROVISION MOVED TO SECTION 81-63]

~~Within the Grand Central Subdistrict, any transfer of development rights from a landmark site may be made pursuant to either Section 74-79, or Section 81-63 (Transfer of Development Rights from Landmark Sites), but not both.~~

For #developments# or #enlargements# in C5-3, C6-6, C6-7 and C6-7T Districts, the City Planning Commission may also modify or waive the requirements of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) and requirements governing the minimum dimensions of a #court#, where:

- (a) the required minimum distance as set forth in Section 23-86 is provided between the #legally required windows# in the #development# or #enlargement# and a wall or #lot line# on an adjacent #zoning lot# occupied by the landmark; and
- (b) such required minimum distance is provided by a light and air easement on the #zoning lot# occupied by the landmark #building or other structure#, and such easement is acceptable to the Department of

City Planning and recorded in the County Clerk's office of the county in which such tracts of land are located.

For #developments# or #enlargements#, on #zoning lots# located in C5-3, C6-6, C6-7 and C6-7T Districts and with frontage on #streets# on which curb cuts are restricted, pursuant to Section 81-44, the Commission may also modify or waive the number of loading berths required pursuant to Section 36-62. In granting such special permit, the Commission shall find that:

- (1) a loading berth permitted by Commission authorization, pursuant to Section 81-44, would have an adverse impact on the landmark #building or other structure# that is the subject of the special permit;
- (2) because of existing #buildings# on the #zoning lot#, there is no other feasible location for the required loading berths; and
- (3) the modification or waiver will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement. For #developments# or #enlargements#, on #zoning lots# located in C5-3, C6-6, C6-7 and C6-7T Districts, the Commission may also modify the dimensions and minimum clear height required for pedestrian circulation space, pursuant to Sections 37-50 and 81-45. In granting such special permit, the Commission shall find that the modification will result in a distribution of #bulk# and arrangement of #uses# on the #zoning lot# that relate more harmoniously with the landmark #building or other structure# that is the subject of the special permit.

* * *

81-214

Special provisions within the Vanderbilt Corridor in the Grand Central Subdistrict

[EXISTING PROVISION MOVED TO SECTION 81-63]

~~For #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) of Appendix A of this Chapter, additional #floor area# may be permitted by the City Planning Commission pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus), or any combination thereof, up to the maximum permitted #floor area# set forth in the table in Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings), respectively. In no event shall the total #floor area ratio# of the #zoning lot# resulting from such proposed #development# or #enlargement# exceed 30.0.~~

* * *

81-23

Floor Area Bonus for Public Plazas

Within the #Special Midtown District#, for each square foot of #public plaza# provided on a #zoning lot#, the basic maximum #floor area# permitted on that #zoning lot# under the provisions of Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings) may be increased by six square feet, provided that in no case shall such bonus #floor area# exceed a #floor area ratio# of 1.0.

This Section shall be applicable in all underlying districts throughout the #Special Midtown District#, except that there shall be no #floor area# bonus for a #public plaza# that is:

- (a) on #zoning lots# in the C5P District within the Preservation Subdistrict;

- (b) within 50 feet of a #street line# of a designated #street# on which retail or #street wall# continuity is required, pursuant to Sections 81-42 (Retail Continuity Along Designated Streets) or 81-43 (Street Wall Continuity Along Designated Streets);
- (c) on a #zoning lot#, any portion of which is within the Theater Subdistrict Core, as defined in Section 81-71 (General Provisions); and
- (d) on #zoning lots#, any portion of which is in the Grand Central ~~Subdistrict~~ Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, or on #qualifying sites#, as defined in Section 81-613, in any other subarea of the East Midtown Subdistrict.

All #public plazas# provided within the #Special Midtown District# shall comply with the requirements for #public plazas# set forth in Section 37-70, inclusive.

A major portion of a #public plaza# may overlap with a sidewalk widening which may be provided to fulfill the minimum pedestrian circulation space requirements set forth in Section 81-45 (Pedestrian Circulation Space), provided that the overlapping portion of the #public plaza# also conforms to the design standards of Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE) for a sidewalk widening. Such sidewalk widening may be included in the major portion of a #public plaza# for purposes of calculating the proportional restrictions set forth in Section 37-715.

* * *

81-24

Floor Area, Lot Coverage and Building Spacing Regulations for Residential Uses

81-241

Maximum floor area ratios for a residential building or the residential portion of a mixed building

* * *

81-25

General Provisions Relating to Height and Setback of Buildings

* * *

81-253

Special provisions for ~~Grand Central~~ the East Midtown, Theater, Fifth Avenue, Penn Center and Preservation Subdistricts

The provisions of Sections 81-26 (Height and Setback Regulations – Daylight Compensation) and 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation) are supplemented and modified by special provisions applying in the Fifth Avenue Subdistrict, as set forth in Sections 81-81 (General Provisions) and 81-83 (Special Street Wall Requirements) or in the Theater Subdistrict as set forth in Sections 81-71 (General Provisions) and 81-75 (Special Street Wall and Setback Requirements) or in the ~~Grand Central~~ East Midtown Subdistrict as set forth in Sections 81-61 (General Provisions), ~~81-621 (Special street wall requirements) and 81-622 (Special height and setback requirements)~~ 81-66 (Special Height and Setback Regulations), inclusive, or Section 81-671 (Special street wall requirements).

The provisions of Sections 81-26 and 81-27 are not applicable in the Preservation Subdistrict, where height and setback is regulated by the provisions of Section 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT), or in the Penn Center Subdistrict as set forth in Section 81-532 (Special street wall requirements).

81-254**Special permit for height and setback modifications**

In the #Special Midtown District#, the City Planning Commission may modify the special height and setback regulations set forth in this Chapter only in accordance with the following provisions:

- Section 74-711 (Landmark preservation in all districts) as modified by the provisions of Sections 81-266 or 81-277 (Special permit for height and setback modifications)
- Section 74-79 (Transfer of Development Rights from Landmark Sites) where development rights are transferred from a landmark site to an adjacent lot in a C5-3, C6-6 or C6-7 District, as modified by Section 81-212, and the total #floor area# on the adjacent lot resulting from such transfer exceeds the basic maximum #floor area ratio# by more than 20 percent. In such cases, the granting of a special permit by the Commission for height and setback modifications shall be in accordance with the provisions of Sections 81-266 or 81-277
- Section 81-066 (Special permit modifications of Section 81-254, Section 81-40 and certain Sections of Article VII, Chapter 7)
- Section 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea)
- Section ~~81-64~~ 81-633 (Special ~~Permit permit~~ public realm improvements ~~Public Realm Improvement Bonus~~)
- Section 81-685 (Special permit to modify qualifying site provisions)
- ~~Section 81-635 (Transfer of development rights by special permit).~~

* * *

81-27**Alternative Alternate Height and Setback Regulations - Daylight Evaluation****81-271****Definitions**

* * *

Daylight Evaluation Chart (DEC)

A graphic tool which permits objective measurements of portions of sky blocked by a #building# when it is viewed from a #vantage point#. There are three #daylight evaluation charts# for use with #street# widths of 60 feet, 75 to 80 feet and 100 feet and over, respectively. All #buildings# are drawn on the appropriate #daylight evaluation chart# to evaluate their compliance with the regulations of Section 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation). The three #daylight evaluation charts# are ~~presented~~ located in Appendix ~~A~~ B of this Chapter. A fourth chart, also located in Appendix B, is available for use for #qualifying sites# in the East Midtown Subdistrict, as defined in Section 81-613, with frontage along Park Avenue.

* * *

81-40 MANDATORY DISTRICT PLAN ELEMENTS

81-41 General Provisions

The provisions of Section 81-40 (MANDATORY DISTRICT PLAN ELEMENTS) specify mandatory planning and urban design features. Requirements which apply generally or with minor specified exceptions throughout the #Special Midtown District# are fully set forth in the provisions of Section 81-40. For requirements which are not generally applicable but tied to specific locations within the District, the locations where these requirements apply are shown on Map 2 (Retail and Street Wall Continuity) or Map 3 (Subway Station and Rail Mass Transit Facility Improvement Areas) in Appendix A of this Chapter.

The provisions of Section 81-40 are all primarily oriented toward the accommodation and well-being of pedestrians. The requirements pertain to a number of elements which are interrelated and complement one another but are set forth in different sections because they can be treated separately. Sections 81-42 (Retail Continuity along Designated Streets), 81-43 (Street Wall Continuity ~~along~~ Along Designated Streets) and 81-44 (Curb Cut Restrictions) are a group of sections with closely related purposes concerned with amenity and the well-being and safety of pedestrians. Sections 81-45 to 81-48, inclusive, are all concerned primarily with pedestrian traffic circulation. Major #building# entrances are focal points of heavy pedestrian traffic, so that controls on the locations of these entrances, as set forth in Section 81-48, are closely related to the pedestrian circulation space requirements.

Special district plan requirements for the Penn Center Subdistrict are set forth in Section 81-50 (SPECIAL REGULATIONS FOR THE PENN CENTER SUBDISTRICT), for the ~~Grand-Central~~ East Midtown Subdistrict are set forth in Section 81-60 (SPECIAL REGULATIONS FOR THE ~~GRAND-CENTRAL~~ EAST MIDTOWN SUBDISTRICT), for the Theater Subdistrict are set forth in Section 81-70 (SPECIAL REGULATIONS FOR THEATER SUBDISTRICT), for the Fifth Avenue Subdistrict are set forth in Section 81-80 (SPECIAL REGULATIONS FOR FIFTH AVENUE SUBDISTRICT) and for the Preservation Subdistrict are set forth in Section 81-90 (SPECIAL REGULATIONS FOR PRESERVATION SUBDISTRICT).

* * *

81-412 ~~Directions~~ Directional signs

* * *

81-42 Retail Continuity ~~along~~ Along Designated Streets

For #buildings developed# or #enlarged# after May 13, 1982, where the ground floor level of such #development# or #enlarged# portion of the #building# fronts upon a designated retail #street# (see Appendix A, Map 2), #uses# within #stories# on the ground floor or with a floor level within five feet of #curb level# shall be limited to retail, personal service or amusement #uses# permitted by the underlying zoning district regulations but not including #uses# in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 and 12D or automobile showrooms or plumbing, heating or ventilating equipment showrooms. Museums and libraries shall be permitted. A #building's street# frontage shall be allocated exclusively to such #uses#, except for:

* * *

Special #use# regulations apply along designated retail #streets# located within the boundaries of the Penn Center Subdistrict, the East Midtown Subdistrict, the Theater Subdistrict or the Fifth Avenue Subdistrict and #uses# along such designated #streets# shall be subject to the respective Subdistrict retail requirements in Sections 81-531, 81-674, 81-72 and 81-82.

Special ground level and entertainment-related #use# regulations apply to #zoning lots# located within the Theater Subdistrict Core, as defined in Section 81-71 (General Provisions), and such #zoning lots# shall meet the ground level and entertainment-related #use# requirements of Section 81-72 (Use Regulations Modified).

* * *

81-60

SPECIAL REGULATIONS FOR THE EAST MIDTOWN GRAND CENTRAL SUBDISTRICT

81-61

General Provisions

~~In order to preserve and protect the character of the Grand Central Subdistrict, as well as to expand and enhance the Subdistrict's extensive pedestrian and mass transit circulation network, and to facilitate the development of exceptional and sustainable buildings within the Vanderbilt Corridor, special regulations are set forth in Section 81-60 (SPECIAL REGULATIONS FOR THE GRAND CENTRAL SUBDISTRICT), inclusive, governing urban design and streetscape relationships, the transfer of development rights from landmarks, and the improvement of the pedestrian and mass transit circulation network.~~

Special regulations are set forth in this Section to protect and strengthen the economic vitality and competitiveness of East Midtown by facilitating the development of exceptional modern and sustainable office towers; creating successful pedestrian-friendly public spaces; enabling improvements to the above- and below-grade pedestrian circulation network; protecting and strengthening the role of landmark buildings as important features of East Midtown; protecting and enhancing the role of Grand Central Terminal as a major transportation hub within East Midtown and the city; expanding and enhancing the pedestrian circulation network connecting Grand Central Terminal to surrounding development and minimizing pedestrian congestion; and protecting the surrounding area's iconic character. Such regulations establish special provisions governing maximum floor area, sustainability, urban design and streetscape enhancements, the transfer of development rights from landmarks, and the improvement of the surface and subsurface pedestrian circulation network in the East Midtown Subdistrict.

The regulations of Sections 81-60 (SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT), inclusive, are applicable only in the ~~Grand Central~~ East Midtown Subdistrict, the boundaries of which are shown on Map 1 (Special Midtown District and Subdistricts) and Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter. These regulations supplement or modify the provisions of this Chapter applying generally to the #Special Midtown District#, of which this Subdistrict is a part.

~~As set forth in Section 81-212 (Special provisions for transfer of development rights from landmark sites), transfer of development rights from landmark sites may be allowed pursuant to Section 81-63.~~

The provisions of Section 81-23 (Floor Area Bonus for Public Plazas) are inapplicable to any #zoning lot#, any portion of which is located within the Grand Central Subdistrict.

Where the #lot line# of a #zoning lot# coincides with the boundary of the public place located at the southerly prolongation of Vanderbilt Avenue between East 42nd Street and East 43rd Street, such #lot line# shall be considered to be a #street line# for the purposes of applying the #use#, #bulk# and urban design regulations of this Chapter.

81-611

Special use provisions

Applicability of regulations

[EXISTING PROVISIONS REPLACED BY TEXT IN SECTION 81-621]

- (a) ~~Except as provided in paragraph (b) of this Section, within the Vanderbilt Corridor, as shown in on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the #development# of a #building# containing a #transient hotel#, as listed in Use Group 5, or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed by special permit of the City Planning Commission, pursuant to Section 81-65.~~
- (b) ~~In the event a casualty damages or destroys a #building# within the Vanderbilt Corridor, that was used as a #transient hotel# as of May 27, 2015, to an extent greater than the limits set forth in Section 52-53 (Buildings or Other Structures in All Districts), such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit, provided the #floor area# of such reconstructed #building# does not exceed the underlying district #floor area ratio# regulations.~~

The provisions of Section 81-60, inclusive, shall apply in the East Midtown Subdistrict as follows:

- (a) Section 81-61, inclusive, sets forth general provisions, applicability and definitions for the East Midtown Subdistrict;
- (b) Section 81-62, inclusive, sets forth special use provisions;
- (c) Section 81-63, inclusive, sets forth special #floor area# provisions for the Vanderbilt Corridor Subarea;
- (d) Section 81-64, inclusive, sets forth special #floor area# provisions for #qualifying sites#;
- (e) Section 81-65, inclusive, sets forth special #floor area# provisions for all other #zoning lots#;
- (f) Section 81-66, inclusive, sets forth certain height and setback modifications to the provisions of Sections 81-26 and 81-27;
- (g) Section 81-67, inclusive, sets forth certain modifications to the mandatory district plan elements of Section 81-40, inclusive; and
- (h) Section 81-68, inclusive, sets forth additional provisions pertaining to #qualifying sites#.

81-612

Applicability along district boundaries

For #zoning lots# divided by district boundaries, the underlying provisions shall apply, except as follows:

- (a) For #qualifying sites# divided by district boundaries where both districts have the same maximum #floor area ratio# set forth in Rows E and H of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the provisions of Section 33-16 (Special Provisions for Zoning Lots Divided by District Boundaries) shall not apply to a #building developed# or, where permitted, #enlarged#, to exceed the basic maximum #floor area# in Row A of Section 81-64. In lieu thereof, the #floor area# ~~resulting from the provisions of Section 81-64, inclusive, may be located anywhere on the #zoning lot#~~ of such #building on a #qualifying site# may be located anywhere on the #zoning lot#, regardless of the district boundary.
- (b) In addition to the requirements set forth in Sections 81-25 (General Provisions Relating to Height and Setback of Buildings) and 81-40 (MANDATORY DISTRICT PLAN ELEMENTS), the provisions of Section 81-60, inclusive, shall apply to a #zoning lot# having 50 percent or more of its #lot area# within the East Midtown Subdistrict. For the purposes of Section 81-60, inclusive, all such #zoning lots# shall be deemed to be entirely within the Subdistrict. If any of the provisions of Sections 81-25, 81-40 and 81-60, inclusive, are in conflict, the regulations of Section 81-60, inclusive, shall govern. However, for #zoning lots# divided between the East Midtown Subdistrict and the Fifth Avenue Subdistrict, the provisions of Article VII, Chapter 7 shall apply.
- (c) For #zoning lots# divided by subarea boundaries, the provisions of Article VII, Chapter 7 shall apply.
- (d) For #zoning lots# with #landmark buildings or other structures# where more than 50 percent of the #lot area# is located within the #Special Midtown District#, and which #abut# the East Midtown Subdistrict boundary, such #zoning lot# may be considered as part of the Subdistrict for the purposes of transferring development rights pursuant to the applicable provisions of Sections 81-642 (Transfer of development rights from landmarks to qualifying sites) or 81-653 (Special permit for transfer of development rights from landmarks to non-qualifying sites). However, the maximum amount of #floor area# that may be transferred from a #granting lot#, or portion thereof, located outside the Special Midtown District shall be the maximum #floor area ratio# permitted under the applicable underlying zoning district.

81-613

Definitions

Adjacent lot

For the purposes of Section 81-60, inclusive, an "adjacent lot" is:

- (a) a #zoning lot# that is contiguous to the lot occupied by the designated #landmark building or other structure# or one that is across a #street# and opposite the lot occupied by such designated #landmark building or other structure#, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by such #landmark building or other structure#; and
- (b) in C5-3 or C6-6 Districts, a #zoning lot# that is contiguous to, or across a #street# and opposite another lot or series of lots that, except for the intervention of #streets# or #street# intersections, extend to the lot occupied by such designated #landmark building or other structure#. All such lots shall be in the same ownership (fee ownership or ownership as defined under #zoning lot# in Section 12-10 (DEFINITIONS)).

Granting lot

For the purposes of Section 81-60, inclusive, a "granting lot" shall mean a #zoning lot# that contains a #landmark building or other structure#. Such #granting lot# may transfer development rights pursuant to Sections 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor

Subarea), 81-642 (Transfer of development rights from landmarks to qualifying sites), or 81-653 (Special permit for transfer of development rights from landmarks to non-qualifying sites).

Landmark #building or other structure#

For the purposes of Section 81-60, inclusive, a “landmark #building or other structure” shall include any structure designated as a landmark by the Landmarks Preservation Commission pursuant to the New York City Charter and Administrative Code, but shall not include those portions of #zoning lots# used for cemetery purposes, statues, monuments or bridges. No transfer of development rights is permitted pursuant to this Section from those portions of #zoning lots# used for cemetery purposes, or any structures within historic districts, statues, monuments or bridges.

Non-qualifying site

For the purposes of Section 81-60, inclusive, a “non-qualifying site” shall refer to a #zoning lot# that does not meet the criteria for a #qualifying site# and is located in a subarea other than the Vanderbilt Corridor Subarea.

Public Realm Improvement Fund

For the purposes of Section 81-60, inclusive, the “Public Realm Improvement Fund” (the “Fund”) shall be a separate interest-bearing account established for the deposit of contributions made when #developments# or, where permitted, #enlargements# on #qualifying sites# in the East Midtown Subdistrict will exceed the basic maximum #floor area ratio# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites) through their utilization of the provisions of either Sections 81-642 (Transfer of development rights from landmarks to qualifying sites) or 81-643 (Special provisions for retaining non-complying floor area). The Fund shall be utilized, at the discretion of the #Public Realm Improvement Fund Governing Group#, to provide funding to implement improvements to the East Midtown Subdistrict, and its immediate vicinity, in the Borough of Manhattan. Upon receipt of any contribution, the #Public Realm Improvement Fund Governing Group# or the Department of City Planning shall notify the Comptroller and the Speaker and promptly deposit it into the Fund.

Public Realm Improvement Fund Development Rights Valuation

For the purposes of Section 81-60, inclusive, the “Public Realm Improvement Fund Development Rights Valuation” (“Development Rights Valuation”) shall be a value per square foot of transferable development rights in the East Midtown Subdistrict, which shall provide a basis for establishing a minimum contribution to the #Public Realm Improvement Fund#. As of [date of enactment] the Development Rights Valuation shall be set at \$307.45~~\$393.00~~ per square foot.

When proposing an adjustment to the Development Rights Valuation, the Department of City Planning shall undertake a transferrable development rights valuation study conducted by qualified professionals utilizing industry best practices. The City Planning Commission shall, by rule, review and adjust the Development Rights Valuation, pursuant to the City Administrative Procedures Act not more than once every three years and not less than once every five years.

An applicant, upon written request to the Commission, may request a transferable development rights valuation study to ~~determine~~ evaluate whether the Development Rights Valuation should be modified for a particular #qualifying site# based upon any recent changes in market conditions within the Subdistrict. The study must be paid for by the applicant and completed within a one-year timeframe. The Department of City Planning shall initiate the study, to be conducted by qualified professionals utilizing industry best practices.

Where the study demonstrates that the value of the development rights for the #qualifying site# is less than the Development Rights Valuation, the Commission shall, by certification, and in connection with a certification pursuant to Section 81-642, modify the required contribution to 20 percent of the adjusted valuation, and the Commission shall, by rule, review and adjust the Development Rights Valuation pursuant to the City Administrative Procedures Act.

Public Realm Improvement Fund Governing Group

For the purposes of Section 81-60, inclusive, the “Public Realm Improvement Fund Governing Group” (the “Governing Group”) shall be established to administer the #Public Realm Improvement Fund# (the “Fund”), and shall consist of 13~~14~~ members: seven~~six~~ members shall be representatives of City agencies, appointed by and serving at the pleasure of the Mayor; one member shall be a representative of a citywide civic organization, appointed by the Office of the Manhattan Borough President; one member shall be a representative of the Office of the Manhattan Borough President; one member shall be a representative of the New York City Council member representing the City Council district encompassing the largest portion of the East Midtown Subdistrict; one member shall be a representative of the Speaker of the City Council; one member shall be a representative of Manhattan Community Board 5; and one member shall be a representative of Manhattan Community Board 6. The Governing Group shall be a local development corporation, organized pursuant to the New York State Not-for-Profit Corporation Law, and affiliated with City government for purposes of the New York State Public Authorities Law, whose organizational purpose shall be limited solely to the purposes set forth in this Chapter. Each member shall have one vote, and all Governing Group decisions, as set forth below, shall be upon a majority vote at a public meeting at which a quorum is present. A quorum shall consist of a majority of the members.

The Governing Group’s purpose shall be to bolster and enhance East Midtown’s status as a premier central business district with a high-quality public realm, by allocating funds from the Fund to implement public realm improvement projects. The Governing Group shall establish and maintain a Public Realm Improvement Concept Plan (“Concept Plan”), for the purpose of creating a list of priority improvements, and shall have the authority to amend such Concept Plan, and associated list of improvements, as necessary. All priority improvements in the Concept Plan shall meet the criteria set forth in Section 81-683 (Criteria for improvements in the Public Realm Improvement Concept Plan).

Establishment of the Concept Plan, amendment of the Concept Plan, calendaring of items for a vote to fund, and designation of funding for a specific public realm improvement on the Concept Plan shall be decisions requiring a majority vote of the Governing Group at a meeting at which a quorum is present. If only members of the Governing Group appointed by the Mayor vote to calendar a particular public realm improvement for a vote to fund it, the Governing Group shall conduct a public hearing on the matter prior to such improvement being placed on the calendar for vote. In addition, if any member of the Governing Group puts forth a proposed public realm improvement, discussion of such improvement shall be added to the agenda of the next public meeting. Establishment of the initial Concept Plan shall be completed no later than November 1, 2017.

In the event that more than 20 million dollars remains in the Fund for more than three years, the Governing Group shall be required to hold a vote either to fund a public realm improvement project or to retain the funds.

The Governing Group shall adopt procedures for the conduct of its activities. Such procedures shall be consistent with the requirements of the New York State Open Meetings Law (Article 7, NYS Public Officers Law), which procedures shall also be consistent with the goals of the Subdistrict. Those procedures shall be publicly available by posting on the Department of City Planning’s website, and shall include rules ~~on~~ requiring reporting and transparency~~functions~~, including but not limited to the following: procedures on the adoption and amendment of the concept plan and opportunity for public comment thereon; requirements to provide a transcript or recording of all public meetings and hearings; and transparency and annual reporting requirements concerning deposits into and expenditures from the Fund. The Governing Group shall annually

update the Concept Plan by providing a list of all projects on the Concept Plan to date, those added or removed in the past year, the dollar amount of funds designated to each project on the Concept Plan, to the extent available, the estimated cost of each project on the Concept Plan, and the schedule for all projects for which a decision to designate funding has been made by the Governing Group. Such annual update shall be posted on the Department of City Planning's website no later than January 15 of each calendar year following the establishment of the initial Concept Plan. All meetings of the Governing Group shall be open to the public with advance public notice provided of all meetings and public hearings. ~~In order for the Board to act, a minimum of six members must approve the action.~~

Qualifying site

For the purposes of Section 81-60, inclusive, a "qualifying site" shall refer to a #zoning lot#:

- (a) that is not located in the Vanderbilt Corridor Subarea;
- (b) that has frontage along a #wide street#;
- (c) where, at the time of #development# or, where permitted, #enlargement#, either:
 - (1) at least 75 feet ~~a portion~~ of such #zoning lot's wide street# frontage is clear of #buildings or other structures#; or
 - (2) the entire #block# frontage along such #wide street# is occupied by one or more #landmark buildings or other structures#; or
 - (3) such #zoning lot's wide street# frontage is occupied by an existing easement volume that is being preserved, or reconfigured in accordance with Section 81-673 (Mass transit access);
- (d) where a #building# is #developed#, or, where permitted, #enlarged#, in accordance with the #floor area# provisions of Section 81-64 (Special Floor Area Provisions for Qualifying Sites), and such #development# or, where permitted, #enlargement# exceeds the basic maximum #floor area# set forth in Row A of the table in such Section and such #building# or publicly accessible space occupies the cleared area in paragraph (c)(1) of this definition, unless the provisions of paragraphs (c)(2) or (c)(3) apply;
- (e) where a maximum of 20 percent of the #floor area# permitted on such #zoning lot# is allocated to #residential uses#; and
- (f) where such #building# being #developed#, or, where permitted, #enlarged#, complies with the performance requirements of paragraph (a) and the publicly accessible space requirements of paragraph (b) of Section 81-681 (~~Building energy design requirements for qualifying sites~~) (Mandatory requirements for qualifying sites).

Receiving lot

For the purposes of Section 81-60, inclusive, a "receiving lot" shall mean a #zoning lot# to which development rights of a #granting lot# are transferred. Such #receiving lot# may receive a transfer of development rights pursuant to Sections 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea), 81-642 (Transfer of development rights from landmarks to qualifying sites), or 81-653 (Special permit for transfer of development rights from landmarks to non-qualifying sites).

Sale price

“For the purposes of Section 81-60, inclusive, “sale price” shall mean the total consideration exchanged for transferred #floor area# pursuant to certification to transfer development rights from #zoning lots# occupied by #landmark buildings or other structures# within the East Midtown Subdistrict to a #qualifying site#. The total consideration shall include all consideration as defined in Chapter 21 of the Administrative Code of the City of New York and Title 19 of the Rules of the City of New York, as they may be amended, or their successor provisions, whether or not subject to tax under that Chapter. The total consideration shall also include any other compensation in whatever form received in exchange for the #floor area# including contingent consideration. A valuation prepared pursuant to procedures established by rule of the City Planning Commission or the New York City Department of Finance shall be required for all consideration in a form other than cash. The application for certification shall include affidavits from the buyer and seller, attesting under penalty of perjury, that all of the terms of the transaction and all the consideration have been disclosed, and may be subject to audit.

81-62**Special Bulk and Urban Design Requirements Use Provisions**

[EXISTING PROVISIONS REPLACED BY TEXT IN SECTION 81-611]

~~In addition to the requirements set forth in Sections 81-25 (General Provisions Relating to Height and Setback of Buildings) and 81-40 (MANDATORY DISTRICT PLAN ELEMENTS), the provisions of this Section shall apply to a #zoning lot# having 50 percent or more of its #lot area# within the Grand Central Subdistrict. For the purposes of this Section, all such #zoning lots# shall be deemed to be entirely within the Subdistrict. If any of the provisions of Sections 81-25, 81-40 and 81-62 are in conflict, the regulations of this Section shall govern.~~

81-621**Special provisions for transient hotels****Special street wall requirements**

[EXISTING PROVISIONS REPLACED BY TEXT IN SECTION 81-671]

~~The requirements of Section 81-43 (Street Wall Continuity Along Designated Streets) shall be applicable within the Subdistrict, except as modified in this Section.~~

~~#Buildings# with frontage on Park, Lexington, Madison and Vanderbilt Avenues, or Depew Place, shall have a #street wall# within 10 feet of the #street line# of such #streets#.~~

~~On 42nd Street, the #street wall# shall be at the #street line#. The width of the required #street wall# shall be at least 80 percent of the length of the #front lot line#. The minimum height of such #street walls# without any setback shall be 120 feet above #curb level# or the height of the #building#, whichever is less, and the maximum height shall not exceed 150 feet above #curb level#. Where a #zoning lot# is bounded by the intersection of Park, Lexington, Madison and Vanderbilt Avenues, 42nd Street or Depew Place and any other #street#, these #street wall# height regulations shall apply along the full length of the #zoning lot# along the other #street# or to a distance of 125 feet from the intersection, whichever is less.~~

~~Beyond 125 feet from the intersection, the maximum height of the #street wall# above #curb level# shall not exceed 120 feet. For such #building#, the provisions of Section 81-262 (Maximum height of front wall at the street line) shall not be applicable.~~

~~However, the ten foot setback requirement of Section 81-263, paragraph (a), shall apply only to those portions of the #building# above this height.~~

Within the East Midtown Subdistrict, as shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the #development# of a #building# containing a #transient hotel#, as listed in Use Group 5, or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed by special permit of the City Planning Commission.

However, in the event a casualty damages or destroys a #building# within the East Midtown Subdistrict that was used as a #transient hotel# as of May 27, 2015 in the Vanderbilt Corridor Subarea or on [date of enactment] in other Subareas, such #building# may be reconstructed and used as a #transient hotel# without obtaining a special permit, provided the #floor area# of such reconstructed #building#, less the #floor area# of any other #buildings# on the #zoning lot# does not exceed the applicable basic maximum #floor area ratio# for the #zoning lot# set forth in Section 81-60, inclusive. #Transient hotels# existing on May 27, 2015 within the Vanderbilt Corridor Subarea or on [date of enactment] in other Subareas, shall be considered conforming #uses#.

To permit such a #transient hotel#, the Commission shall find that such #transient hotel# will:

- (a) be appropriate to the needs of businesses in the vicinity of the East Midtown area; and
- (b) provide on-site amenities and services that will support the area's role as an office district. Such business-oriented amenities and services shall be proportionate to the scale of the #transient hotel# being proposed, and shall include, but shall not be limited to, conference and meeting facilities, and telecommunication services.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

However, after (effective date of amendment), #development# of a #building# containing a #transient hotel# shall be permitted under the regulations which were in effect prior to (effective date of amendment) if a new building application for such #development# was filed at the Department of Buildings after June 9, 2016 and a partial permit for such application was issued by the Department of Buildings on or prior to July 20, 2017, and a temporary certificate of occupancy for the entire #building# has been granted prior to January 31, 2020. In the event that such temporary certificate of occupancy has not been granted prior to such date, and an application is filed prior to such date, pursuant to this Section, with the Board of Standards and Appeals, the Board may permit the new building permit to be renewed for a term of one year upon the following findings (1) that the applicant has been prevented from completing such construction by hardship or circumstances beyond the applicant's control; (2) that the applicant has not recovered all or substantially all of the financial expenditures incurred in construction, nor is the applicant able to recover substantially all of the financial expenditures incurred through development that conforms and complies with any applicable amendment to this Resolution; and (3) that there are no considerations of public safety, health and welfare that have become apparent since the issuance of the permit that indicate an overriding benefit to the public in enforcement of the special permit provisions of this Section. In the event that the Board permits the renewal, the temporary certificate of occupancy shall be obtained by no later than January 31, 2021.

81-622

Location of uses in mixed buildings

Special height and setback requirements

[EXISTING PROVISIONS REPLACED BY TEXT IN SECTION 81-661]

~~Within the Subdistrict, the provisions of Sections 81-26 (Height and Setback Regulations Daylight Compensation) or 81-27 (Alternate Height and Setback Regulations Daylight Evaluation) shall apply to all #buildings# on a #zoning lot#, except that:~~

- ~~(a) where such #buildings# are governed by Section 81-26, no #compensating recess# shall be required for the #encroachment# of that portion of the #building# below 150 feet above #curb level#; or~~
- ~~(b) where such #buildings# are governed by Section 81-27, the computation of daylight evaluation shall not include any daylight blockage, daylight credit, profile daylight blockage or available daylight for that portion of the #building# below 150 feet above #curb level#. However, the passing score required pursuant to paragraph (i) of Section 81-274 shall apply.~~

For #mixed buildings developed# on #qualifying sites#, the provisions of Section 32-422 (Location of floors occupied by commercial uses) are modified to permit the following #uses#, subject to the underlying zoning district regulations, on the same #story# as, or at any #story# above, #residential uses#, provided that no access exists between such #uses# at any level above the ground floor:

open or enclosed observation decks;

open or enclosed publicly-accessible spaces;

eating or drinking establishments, as listed in Use Groups 6A, 6C, 10A and 12A;

bowling alleys, as listed in Use Group 8A and 12A;

theaters, as listed in Use Group 8A;

commercial art galleries, as listed in Use Group 6C;

gymnasiums, used exclusively for basketball, handball, paddleball, racquetball, squash and tennis, as listed in Use Group 9A;

wedding chapels and banquet halls, as listed in Use Group 9A;

enclosed skating rinks, as listed in Use Group 12A;

swimming pools and gymnasium #uses# which are #accessory# to any other #use# located within the #building#; and

#physical culture or health establishments# permitted pursuant to Section 73-36.

For such #uses#, the provisions of Section 32-41 (Enclosure within Buildings) shall not apply.

81-623

Building lobby entrance requirements

[EXISTING PROVISIONS REPLACED BY TEXT IN PARAGRAPH (b) OF SECTION 81-674]

~~For #buildings developed# or #enlarged# on the ground floor after August 26, 1992, #building# lobby entrances shall be required on each #street# frontage of the #zoning lot# where such #street# frontage is greater than 75 feet in length, except that if a #zoning lot# has frontage on more than two #streets#, #building#~~

~~entrances shall be required only on two #street# frontages. Each required #building# entrance shall lead directly to the #building# lobby. #Buildings developed# from May 13, 1982, to August 25, 1992, shall be subject to the provisions of Section 81-47 (Major Building Entrances).~~

~~Required #building# entrances on opposite #street# frontages shall be connected directly to the #building# lobby by providing a through #block# connection in accordance with paragraph (h) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces), except that such through #block# connection shall be located at least 50 feet from the nearest north/south #wide street#.~~

~~Each required #building# entrance shall include a #building# entrance recess area, as defined in paragraph (b) of Section 37-53, except that for #developments# or #enlargements# with frontage on Madison or Lexington Avenues or 42nd Street, the width of a #building# entrance recess area shall not be greater than 40 feet parallel to the #street line# and there may be only one #building# entrance recess area on each such #street# frontage.~~

81-624

Curb cut restrictions and loading berth requirements

[EXISTING PROVISIONS REPLACED BY TEXT IN SECTION 81-675]

~~In addition to the provisions of Section 81-44 (Curb Cut Restrictions), for a #through lot#, the required loading berth shall be arranged so as to permit head-in and head-out truck movements to and from the #zoning lot#.~~

~~The maximum width of any curb cut (including splays) shall be 15 feet for one-way traffic and 25 feet for two-way traffic. Curb cuts shall not be permitted on 47th Street between Park and Madison Avenues or on 45th Street between Depew Place and Madison Avenue.~~

81-625

Pedestrian circulation space requirements

[EXISTING PROVISIONS REPLACED BY TEXT IN SECTION 81-676]

~~Any #development# or #enlargement# within the Grand Central Subdistrict shall be subject to the provisions of Sections 81-45 (Pedestrian Circulation Space), 81-46 (Off street Relocation or Renovation of a Subway Stair) and 81-48 (Off street Improvement of Access to Rail Mass Transit Facility), except that:~~

- ~~(a) — no arcade shall be allowed within the Subdistrict;~~
- ~~(b) — within the Subdistrict, a sidewalk widening may be provided only for a #building# occupying an Avenue frontage, provided that such sidewalk widening extends for the length of the full #block# front; and~~
- ~~(c) — for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, up to a maximum of 3,000 square feet of on-site improvements to the public realm provided in accordance with a special permit pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus) may be applied toward the pedestrian circulation space requirement.~~

81-626

Retail continuity requirements

[EXISTING PROVISIONS REPLACED BY TEXT IN PARAGRAPH (a) OF SECTION 81-674]

~~For #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, where a #building# fronts upon a designated retail #street#, as shown on Map 2 (Retail and & Street Wall Continuity), any portion of such #building's# ground floor level frontage along such designated retail #street# allocated to above or below grade public realm improvements provided in accordance with a special permit pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus) shall be excluded from the retail continuity requirements of Section 81-42 (Retail Continuity along Designated Streets).~~

81-63

**Transfer of Development Rights from Landmark Sites
Special Floor Area Provisions for the Vanderbilt Corridor Subarea**

[EXISTING PROVISIONS REPLACED BY TEXT IN DEFINITIONS IN SECTION 81-613]

For the purposes of the Grand Central Subdistrict:

~~A “landmark #building or other structure#” shall include any structure designated as a landmark pursuant to the New York City Charter, but shall not include those portions of #zoning lots# used for cemetery purposes, statues, monuments or bridges. No transfer of development rights is permitted pursuant to this Section from those portions of #zoning lots# used for cemetery purposes, or any structures within historic districts, statues, monuments or bridges.~~

~~A “granting lot” shall mean a #zoning lot# which contains a landmark #building or other structure#. Such “granting lot” may transfer development rights pursuant to Sections 81-634 or 81-635 provided that 50 percent or more of the “granting lot” is within the boundaries of the Grand Central Subdistrict.~~

~~A “receiving lot” shall mean a #zoning lot# to which development rights of a “granting lot” are transferred. Such “receiving lot” may receive a transfer of development rights pursuant to Sections 81-634 or 81-635 provided that 50 percent or more of the “receiving lot” is within the boundaries of the Grand Central Subdistrict and provided that the “receiving lot” occupies frontage on Madison or Lexington Avenues or 42nd Street, if such “receiving lot” is west of Madison Avenue or east of Lexington Avenue.~~

For #non-residential buildings# or #mixed buildings# in the Vanderbilt Corridor Subarea of the East Midtown Subdistrict, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the basic maximum #floor area ratios# of the underlying-districts shall apply as set forth in this Section. Such basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:

| | <u>Means for Achieving Permitted FAR Levels on a #Zoning Lot# in the Vanderbilt Corridor Subarea</u> | <u>Maximum #Floor Area Ratio# (FAR)</u> |
|----------|---|--|
| <u>A</u> | <u>Basic Maximum FAR</u> | <u>15</u> |
| <u>B</u> | <u>Maximum Special Permit #Floor Area# Allowances: (District-wide</u> | <u>3.0</u> |

| | | |
|----------|---|-----------------|
| | <u>Incentives), Subway station improvements (Section 74-634)</u> | |
| <u>C</u> | <u>Maximum FAR of Lots Involving Landmarks:</u> | |
| | <u>Maximum FAR of a lot containing non-bonusable landmark (Section 74-711 or as-of-right)</u> | <u>15.0</u> |
| | <u>Development rights (FAR) of a landmark lot for transfer purposes (Section 74-79)</u> | <u>15.0</u> |
| | <u>Maximum amount of transferable development rights (FAR) from a landmark #zoning lot# that may be utilized on:</u> | |
| | <u>(a) an #adjacent lot# (Section 74-79)</u> | <u>No Limit</u> |
| | <u>(b) a #receiving lot# (Section 81-632)</u> | <u>15.0</u> |
| <u>D</u> | <u>Maximum #Floor Area# Allowances by Special Permit for Grand Central public realm improvements (Section 81-633)</u> | <u>15.0</u> |
| <u>E</u> | <u>Maximum Total FAR of a Lot with Transferred Development Rights on #receiving lots# (Section 81-632) or District-wide Incentives (including Section 81-633)</u> | <u>30.0</u> |
| <u>F</u> | <u>Maximum Total FAR of a Lot with Transferred Development Rights on an #adjacent lot#(Section 74-79) or District-wide Incentives (other than Section 81-633)</u> | <u>No Limit</u> |

Any transfer of development rights from a landmark site may be made pursuant to either Section 74-79 or Section 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea), but not both.

81-631

Requirements for application

Special provisions for transfers of development rights in the Vanderbilt Corridor Subarea

All applications for transfers of development rights pursuant to the special permit by the City Planning Commission in Section 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea) shall also comply with the regulations of this Section.

(a) Requirements for applications

In addition to the land use review application requirements, an application filed with the City Planning Commission for ~~a certification pursuant to Section 81-634 (Transfer of development rights by certification) or special permit pursuant to Section 81-635 (Transfer of development rights by special permit)~~ Section 81-632 shall be made jointly by the owners of the “granting lot” and “receiving lot” #granting lot# and #receiving lot# and shall include:

~~(a)~~ (1) site plan and zoning calculations for the “granting lot” and “receiving lot” #granting lot# and #receiving lot#;

~~(b)~~ (2) a program for the continuing maintenance of the landmark;

- (e) (3) a report from the Landmarks Preservation Commission concerning the continuing maintenance program of the landmark and, for those “receiving” sites in the immediate vicinity of the landmark, a report concerning the harmonious relationship of the #development# or #enlargement# to the landmark;
- (d) (4) ~~for #developments# or #enlargements# pursuant to Section 81-635,~~ a plan of any required pedestrian network improvement; and
- (e) (5) any such other information as may be required by the Commission.

A separate application shall be filed for each transfer of development rights to an independent “receiving lot” #receiving lot# pursuant to Section ~~81-63~~ Transfer of Development Rights from Landmark Sites 81-632.

(b) Conditions and limitations

[INSERT THE FOLLOWING EXISTING TEXT FROM SECTION 81-632]

The transfer of development rights from a “granting lot” to a “receiving lot,” #granting lot# to a #receiving lot#, pursuant to ~~Section 81-63~~ Section 81-632, shall be subject to the following conditions and limitations:

- (a) (1) the maximum amount of #floor area# that may be transferred from a “granting lot” #granting lot# shall be the maximum #floor area# allowed by Section 33-12 for #commercial buildings# on such landmark #zoning lot#, as if it were undeveloped, less the total #floor area# of all existing #buildings# on the landmark #zoning lot#;
- (b) (2) for each “receiving lot,” #receiving lot#, the #floor area# allowed by the transfer of development rights under Section 81-632 shall be in addition to the maximum #floor area# allowed by the district regulations applicable to the “receiving lot,” #receiving lot#, as shown in ~~Section 81-211~~ the table in Section 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea); and
- (e) (3) each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the “granting lot” #granting lot# by the amount of #floor area# transferred. If the landmark designation is removed, the #landmark #building or other structure# is destroyed or #enlarged#, or the “landmark lot” #zoning lot# with the #landmark building or other structure# is redeveloped, the “granting lot” #granting lot# may only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by each transfer.

(c) Transfer instruments and notice of restrictions

[INSERT THE FOLLOWING EXISTING TEXT FROM SECTION 81-633]

The owners of the “granting lot” #granting lot# and the “receiving lot” #receiving lot# shall submit to the ~~City Planning~~ Commission a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further #development# or #enlargement# of the “granting lot” #granting lot# and the “receiving lot” #receiving lot# shall be filed by the owners of the respective lots in the Office of the Register of the City of New York (County of New York), a certified copy of which shall be submitted to the ~~City Planning~~ Commission.

Both the instrument of transfer and the notice of restrictions shall specify the total amount of #floor area# transferred and shall specify, by lot and block numbers, the lots from which and the lots to which such transfer is made.

81-632

~~Conditions and limitations~~

Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea

[INSERT THE FOLLOWING EXISTING TEXT FROM 81-635]

Within the ~~Grand Central Subdistrict Core~~ Vanderbilt Corridor Subarea, as shown on ~~Map 1 (Special Midtown District and Subdistricts)~~ Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the City Planning Commission may permit the transfer of development rights from a “granting lot” to a “receiving lot” ~~#granting lot# in the Grand Central Core Area, as shown on Map 4, to a #receiving lot#~~, and, in conjunction with such transfer, the Commission may permit modifications to #bulk# regulations, mandatory plan elements, and provisions regarding #zoning lots# divided by district boundaries, as set forth in paragraph (a) of this Section, provided that the Commission determines that the #development# or #enlargement# complies with the conditions of paragraph (b), the findings of paragraph (c) and the additional requirements of paragraph (d) of this Section.

(a) The Commission may permit:

- (1) a transfer of development rights from a “granting lot” to a “receiving lot” ~~#granting lot# to a #receiving lot#~~ provided that:
 - (i) ~~for #zoning lots# located within the Vanderbilt Corridor, as shown on Map 1 in Appendix A of this Chapter,~~ the resultant #floor area ratio# on the #receiving lot# “receiving lot” does not exceed 30.0; and
 - (ii) ~~for #zoning lots# outside the Vanderbilt Corridor, the resultant #floor area ratio# on the “receiving lot” does not exceed 21.6;~~
- (2) modifications of the provisions of Sections 77-02 (Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements) for any #zoning lot#, whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto, #floor area# or #dwelling units# permitted by the district regulations which allow a greater #floor area ratio# may be located within a district that allows a lesser #floor area ratio#;
- (3) in the case of an #enlargement# to an existing #building# utilizing the transfer of development rights from a designated landmark, modifications of the provisions of Sections 81-66 (Special Height and Setback Requirements), ~~81-621~~ 81-671 (Special street wall requirements), ~~81-622 (Special height and setback requirements)~~, 81-674 (Ground floor use provisions), ~~81-623 (Building lobby entrance requirements)~~, ~~81-624~~ 81-675 (Curb cut restrictions and loading berth requirements), ~~81-625~~ 81-676 (Pedestrian circulation space requirements), and Sections 81-25 (General Provisions Relating to Height and Setback of Buildings), 81-26 (Height and Setback Regulations – Daylight Compensation) and 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation) in order to accommodate existing structures and conditions;
- (4) for #zoning lots# of more than 40,000 square feet of #lot area# that occupy an entire #block#, modifications of #bulk# regulations, except #floor area ratio# regulations; and

- (5) ~~for #zoning lots# located within the Vanderbilt Corridor~~, modifications, whether singly or in any combination, to:
- (i) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets), inclusive, or ~~81-621~~ 81-671 (Special street wall requirements), inclusive;
 - (ii) the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, 81-27 (Alternative Height and Setback Regulations-Daylight Evaluation), inclusive, or 81-622 (Special height and setback requirements); or
 - (iii) the mandatory district plan elements of Sections 81-42 (Retail Continuity ~~along~~ Along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair), 81-47 (Major Building Entrances), 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), ~~81-623 (Building lobby entrance requirements)~~ 81-674 (Ground floor use provisions), ~~81-624~~ 81-675 (Curb cut restrictions and loading berth requirements), ~~81-625~~ 81-676 (Pedestrian circulation space requirements) or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37-51 shall be permitted.

(b) Conditions

As a condition for granting a special permit pursuant to this Section, the design of the #development# or #enlargement# shall include a major improvement of the above- or below-grade, pedestrian or mass transit circulation network in the Subdistrict Grand Central Core Area. However, ~~in the case of #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor~~, this condition may be waived by the Commission, where appropriate, or may be deemed to have been met by utilization of the provisions of Section ~~81-633~~ 81-64 (Special ~~Permit~~ permit for Grand Central ~~Public Realm Improvement Bonus~~ public realm improvements). The improvement shall increase the general accessibility and security of the network, reduce points of pedestrian congestion and improve the general network environment through connections into planned expansions of the network. The improvement may include, but is not limited to, widening, straightening or expansion of the existing pedestrian network, reconfiguration of circulation routes to provide more direct pedestrian connections between the #development# or #enlargement# and Grand Central Terminal, and provision for direct daylight access, retail in new and existing passages, and improvements to air quality, lighting, finishes and signage.

The special permit application to the Commission shall include information and justification sufficient to provide the Commission with a basis for evaluating the benefits to the general public from the proposed improvement. As part of the special permit application, the applicant shall submit schematic or concept plans of the proposed improvement to the Department of City Planning, as well as evidence of such submission to the Metropolitan Transportation Authority (MTA) and any other entities that retain control and responsibility for the area of the proposed improvement. Prior to ULURP certification of the special permit application, the MTA and any other entities that retain control and responsibility for the area of the proposed improvement shall each provide a letter to the Commission containing a conceptual approval of the improvement including a statement of any considerations regarding the construction and operation of the improvement.

(c) Findings

In order to grant a special permit for the transfer of development rights to a #receiving lot#, “receiving lot,” the Commission shall find that:

- (1) a program for the continuing maintenance of the landmark has been established;
- (2) for any proposed improvement required pursuant to this Section:
 - (i) the improvement to the above- or below-grade pedestrian or mass transit circulation network provided by the #development# or #enlargement# increases public accessibility to and from Grand Central Terminal;
 - (ii) the streetscape, the site design and the location of #building# entrances contribute to the overall improvement of pedestrian circulation within the surrounding area Subdistrict and minimize congestion on surrounding #streets#; and
 - (iii) a program is established to identify solutions to problems relating to vehicular and pedestrian circulation problems and the pedestrian environment within the surrounding area Subdistrict;
- (3) where appropriate, for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor, the design of the #development# or #enlargement# includes provisions for public amenities including, but not limited to, publicly accessible open spaces, and subsurface pedestrian passageways leading to subway or rail mass transit facilities;
- (4) for #developments# or #enlargements# with a proposed #floor area ratio# in excess of 21.6 on #zoning lots# located within the Vanderbilt Corridor, the #building# has met the ground floor level, building design, sustainable design measures and, for #zoning lots# not located on two #wide streets#, the site characteristic considerations set forth in the applicable conditions and findings of Section 81-633 (Special permit for Grand Central public realm improvements) Section 81-641 (Additional floor area for the provision of public realm improvements);
- (5) where the modification of #bulk# regulations is proposed:
 - (i) any proposed modification of regulations governing #zoning lots# divided by district boundaries or the permitted transfer of #floor area# will not unduly increase the #bulk# of any #development# or #enlargement# on the “receiving lot,” #receiving lot#, density of population or intensity of #use# on any #block# to the detriment of the occupants of #buildings# on the #block# or the surrounding area;
 - (ii) for #enlargements# to existing #buildings#, any proposed modifications of height and setback requirements and the requirements of Section 81-66 ~~81-62~~ are necessary because of the inherent constraints or conditions of the existing #building#, that the modifications are limited to the minimum needed, and that the Proposal for modifications of height and setback requirements demonstrates to the satisfaction of the Commission that an integrated design is not feasible for the proposed #enlargement# which accommodates the transfer of development rights due to the conditions imposed by the existing #building# or configuration of the site; and
 - (iii) for #developments# or #enlargements# on #zoning lots# of more than 40,000 square feet of #lot area# that occupy an entire #block#, any proposed modifications of #bulk# regulations are necessary because of inherent site constraints and that the modifications are limited to the minimum needed; or

- (6) ~~for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor,~~ any proposed modifications to #street walls#, height and setback regulations and mandatory plan elements meet the applicable application requirements and findings set forth in Section ~~81-634~~ 81-642 (Permitted modifications in conjunction with additional floor area).

(d) Additional requirements

Prior to the grant of a special permit, the applicant shall obtain approvals of plans from the MTA and any other entities that retain control and responsibility for the area of the proposed improvement, and, if appropriate, the applicant shall sign a legally enforceable instrument running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to construct and maintain the improvement and shall establish a construction schedule, a program for maintenance and a schedule of hours of public operation and shall provide a performance bond for completion of the improvement.

The written declaration of restrictions and any instrument creating an easement on privately owned property shall be recorded against such private property in the Office of the Register of the City of New York (County of New York) and a certified copy of the instrument shall be submitted to the City Planning Commission.

No temporary ~~certification~~ certificate of occupancy for any #floor area# of the #development# or #enlargement# on a #receiving lot# ~~“receiving lot”~~ shall be granted by the Department of Buildings until all required improvements have been substantially completed as determined by the Chairperson of the City Planning Commission and the area is usable by the public. Prior to the issuance of a permanent certificate of occupancy for the #development# or #enlargement#, all improvements shall be 100 percent complete in accordance with the approved plans and such completion shall have been certified by letter from the ~~Metropolitan Transportation Authority~~ MTA.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

[MOVE EXISTING TEXT TO SECTION 81-631 (b)]

81-633

Transfer instruments and notice of restrictions

Special permit for Grand Central public realm improvements

[INSERT THE FOLLOWING EXISTING TEXT FROM 81-641]

For #developments# and #enlargements# on #zoning lots# located within the Vanderbilt Corridor Subarea, as shown on ~~Map 1 (Special Midtown District and Subdistricts)~~ Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the City Planning Commission may allow, by special permit, #floor area# in excess of the basic maximum #floor area ratio# established in the table in ~~Section 81-211 (Maximum floor area ratio for non-residential or mixed buildings)~~ Section 81-63 (Special Floor Area Provisions for the Vanderbilt Corridor Subarea), up to the maximum #floor area# set forth in the table, in accordance with the provisions of this Section.

All applications for a special permit for additional #floor area# pursuant to this Section shall include on-site or off-site, above- or below-grade improvements to the pedestrian or mass transit circulation network, or a combination thereof, in the ~~Grand Central Subdistrict~~ Grand Central Core Area, as shown on Map 4. In addition, requirements pertaining to the ground floor level, building design and sustainable design measures are set forth in this Section in order to ensure that any #development# or #enlargement# receiving additional #floor area# constitutes an exceptional addition to the #Special Midtown District#.

~~In order for the City Planning Commission to~~ To approve a special permit application for additional #floor area#, the Commission shall determine that such #development# or #enlargement# complies with the conditions and application requirements of paragraph (a), the findings of paragraph (b) and the additional requirements of paragraph (c) of this Section.

(a) Conditions and application requirements

All applications for a special permit for additional #floor area# pursuant to this Section shall include the following:

(1) Above- or below-grade improvements to the pedestrian or mass transit circulation network.

In order to ensure that the proposed #development# or #enlargement# contributes to the improvement of pedestrian and mass transit circulation in the ~~Grand Central Subdistrict~~ Grand Central Core Area, especially in the vicinity of Grand Central Terminal, any #development# or #enlargement# proposed under the provisions of this Section shall include above- or below-grade public realm improvements.

(i) Where a #development# or #enlargement# proposes the inclusion of above-grade public realm improvements, such improvements may consist of on-site or off-site improvements to the pedestrian circulation network, or a combination thereof.

On-site, above-grade public realm improvements shall consist of open or enclosed publicly accessible spaces, of ample size, provided for public use and enjoyment. Such publicly accessible spaces shall include amenities characteristic of #public plazas# or public atriums, as applicable, and include amenities for the comfort and convenience of the public.

Off-site, above-grade public realm improvements shall consist of major improvements to the public right-of-way that support pedestrian circulation in the areas surrounding Grand Central Terminal. Where the area of such improvements is to be established as a pedestrian plaza, such improvements shall be characteristic of best practices in plaza design, as set forth by the Department of Transportation. Where the area of such improvements is along a #street# accommodating both vehicular and pedestrian access, such improvements shall be characteristic of current best practices in #street# design, as set forth by the Department of Transportation, and include improvements to the right-of-way such as pedestrian amenities, or streetscape, sidewalk, crosswalk and median enhancements.

(ii) Where a #development# or #enlargement# proposes the inclusion of below-grade public realm improvements, such improvements shall consist of on-site or off-site enhancements to the below-grade pedestrian and mass transit circulation network. Such improvements shall be characteristic of current best practice in mass-transit network design, and shall include improvements such as on-site or off-site widening, straightening, expanding or otherwise enhancing the existing below-grade pedestrian circulation network, additional vertical circulation, reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities, or providing daylight access, retail #uses#, or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways.

Applications shall include information and justification sufficient to provide the Commission with the basis for evaluating the benefits to the general public; determining the appropriate

amount of bonus #floor area# to grant; and determining whether the applicable findings set forth in paragraph (b) of this Section have been met. Such application materials shall also include initial plans for the maintenance of the proposed improvements.

Where the Metropolitan Transportation Authority or any other City or State agency has control and responsibility for the area of a proposed improvement, the applicant shall submit concept plans for the proposed improvement to such agency and the Commission. At the time of certification of the application, any such agency with control and responsibility for the area of the proposed improvement shall each provide a letter to the Commission containing a conceptual approval of the improvement, including a statement of any considerations regarding the construction and operation of the improvement.

(2) Ground floor level

In order to ensure that the proposed #development# or #enlargement# contributes to the improvement of the pedestrian circulation network in the surrounding area ~~Grand Central Subdistrict, especially in the vicinity of Grand Central Terminal~~, any #development# or #enlargement# proposed under the provisions of this Section shall provide enhancements to the ground floor level of the #building#, including, but not limited to, sidewalk widenings, streetscape amenities or enhancements to required pedestrian circulation spaces.

Where a #development# or #enlargement# includes #street# frontage along Madison Avenue or a #narrow street# between East 43rd Street and East 47th Street, sidewalk widenings shall be provided as follows:

- (i) where a #development# or #enlargement# is on a #zoning lot# which occupies the entire #block# frontage along Madison Avenue, a sidewalk widening shall be provided along Madison Avenue, to the extent necessary, so that a minimum sidewalk width of 20 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#;
- (ii) where a #development# or #enlargement# is on a #zoning lot# that does not occupy the entire #block# frontage along Madison Avenue, a sidewalk widening shall be provided along Madison Avenue where all existing #buildings# on the #block# frontage have provided such a widening. Such required widening shall match the amount of widened sidewalk provided on adjacent #zoning lots#, provided that no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#; or
- (iii) where a #development# or #enlargement# with frontage on a #narrow street# between East 43rd Street and East 47th Street is on a #zoning lot# with a #lot width# of 100 feet or more, as measured along the #narrow street line#, a sidewalk widening shall be provided along such #narrow street#, to the extent necessary, so that a minimum sidewalk width of 15 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening need exceed 10 feet, as measured perpendicular to the #street line#.

Applications shall contain a ground floor level site plan, and other supporting documents of sufficient scope and detail to enable the Commission to determine the type of proposed #uses# on the ground floor level, the location of proposed #building# entrances, the size and location of proposed circulation spaces, the manner in which such spaces will connect to the overall pedestrian circulation network and the above- or below-grade public realm

improvements required pursuant to this Section and any other details necessary for the Commission to determine whether the applicable findings set forth in paragraph (b) of this Section have been met.

(3) Building design

In order to ensure that the proposed #development# or #enlargement# contributes to its immediate surroundings, with particular emphasis on Grand Central Terminal, any #development# or #enlargement# proposed under the provisions of this Section shall demonstrate particular attention to the building design, including, but not limited to, the proposed #uses#, massing, articulation and relationship to #buildings# in close proximity and within the Midtown Manhattan skyline.

Applications shall contain materials of sufficient scope and detail to enable the Commission to determine the proposed #uses# within the #building#, as well as the proposed #building bulk# and architectural design of the #building#, and to evaluate the proposed #building# in the context of adjacent #buildings# and the Midtown Manhattan skyline. Such materials shall include a description of the proposed #uses# within the #building#; measured elevation drawings, axonometric views, and perspective views showing such proposed #building# within the Midtown Manhattan skyline; and any other materials necessary for the Commission to determine whether the applicable findings set forth in paragraph (b) of this Section have been met.

For those “~~receiving lots~~” #receiving lots# that are contiguous to a lot occupied by Grand Central Terminal or a lot that is across a #street# and opposite the lot occupied by Grand Central Terminal, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by Grand Central Terminal, applications shall contain a report from the Landmarks Preservation Commission concerning the harmonious relationship of the #development# or #enlargement# to Grand Central Terminal.

(4) Sustainable design measures

In order to foster the development of sustainable #buildings# in the ~~Grand Central Subdistrict~~ Vanderbilt Corridor Subarea, any #development# or #enlargement# proposed under the provisions of this Section shall include sustainable design measures, including, but not limited to, enhancements to the energy performance, enhanced water efficiency, utilization of sustainable or locally sourced materials and attention to indoor environmental air quality of the #building#.

Applications shall contain materials of sufficient scope and detail to enable the Commission to determine whether the applicable findings in paragraph (b) of this Section have been met. In addition, any application shall include materials demonstrating the sustainable design measures of the #building#, including its anticipated energy performance, and the degree to which such performance exceeds either the New York City Energy Conservation Code (NYCECC) or the Building Performance Rating method of the applicable version and edition of American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc., Standard 90.1 (ASHRAE 90.1), as referenced within the NYCECC.

(b) Findings

The Commission shall find that:

- (1) for a #development# or #enlargement# not located on two #wide streets#, the amount of additional #floor area# being granted is appropriate based on the extent to which any or all of the following physical factors are present in the #development# or #enlargement#:
 - (i) direct access to subway stations and other rail mass transit facilities;
 - (ii) the size of the #zoning lot#;
 - (iii) the amount of wide #street# frontage; and
 - (iv) adjacency to the open area above Grand Central Terminal;
- (2) for above-grade improvements to the pedestrian circulation network that are located:
 - (i) on-site, the proposed improvements will, to the extent practicable, consist of a prominent space of generous proportions and quality design that is inviting to the public; improve pedestrian circulation and provide suitable amenities for the occupants; front upon a #street# or a pedestrian circulation space in close proximity to and within view of and accessible from an adjoining sidewalk; provide or be surrounded by active #uses#; be surrounded by transparent materials; provide connections to pedestrian circulation spaces in the immediate vicinity; and be designed in a manner that combines the separate elements within such space into a cohesive and harmonious site plan, resulting in a high-quality public space; or
 - (ii) off-site, the proposed improvements to the public right-of-way, to the extent practicable, will consist of significant street and sidewalk designs that improve pedestrian circulation in the surrounding area; provide comfortable places for walking and resting, opportunities for planting and improvements to pedestrian safety; and create a better overall user experience of the above-grade pedestrian circulation network that supports the ~~Grand Central Subdistrict~~ surrounding area as a high-density business district. Where the area of such improvement is to be established into a pedestrian plaza that will undergo a public design and review process through the Department of Transportation subsequent to the approval of this special permit, the Commission may waive this finding;
- (3) for below-grade improvements to the pedestrian or mass transit circulation network, the proposed improvements will provide:
 - (i) significant and generous connections from the above-grade pedestrian circulation network and surrounding #streets# to the below-grade pedestrian circulation network;
 - (ii) major improvements to public accessibility in the below-grade pedestrian circulation network between and within subway stations and other rail mass transit facilities in and around Grand Central Terminal through the provision of new connections, or the addition to or reconfiguration of existing connections; or
 - (iii) significant enhancements to the environment of subway stations and other rail mass transit facilities including daylight access, noise abatement, air quality improvement, lighting, finishes, way-finding or rider orientation, where practicable;
- (4) the public benefit derived from the proposed above- or below-grade improvements to the pedestrian or mass transit circulation network merits the amount of additional #floor area#

being granted to the proposed #development# or #enlargement# pursuant to this special permit;

- (5) the design of the ground floor level of the #building#:
 - (i) contributes to a lively streetscape through a combination of retail #uses# that enliven the pedestrian experience, ample amounts of transparency and pedestrian connections that facilitate fluid movement between the #building# and adjoining public spaces; and demonstrates consideration for the location of pedestrian circulation space, #building# entrances, and the types of #uses# fronting upon the #street# or adjoining public spaces;
 - (ii) will substantially improve the accessibility of the overall pedestrian circulation network, reduce points of pedestrian congestion and, where applicable, establish more direct and generous pedestrian connections to Grand Central Terminal; and
 - (iii) will be well-integrated with on-site, above or below-grade improvements required by this Section, where applicable and practicable;
- (6) the design of the proposed #building#:
 - (i) ensures light and air to the surrounding #streets# and public spaces through the use of setbacks, recesses and other forms of articulation, and the tower top produces a distinctive addition to the Midtown Manhattan skyline which is well-integrated with the remainder of the #building#;
 - (ii) demonstrates an integrated and well-designed facade, taking into account factors such as #street wall# articulation and fenestration, that creates a prominent and distinctive #building# which complements the character of the surrounding area, especially Grand Central Terminal; and
 - (iii) involves a program that includes an intensity and mix of #uses# that are harmonious with the type of #uses# in the surrounding area;
- (7) the proposed #development# or #enlargement# comprehensively integrates sustainable measures into the #building# and site design that:
 - (i) meet or exceed best practices in sustainable design; and
 - (ii) will substantially reduce energy usage for the #building#, as compared to comparable #buildings#; and
- (8) in addition:
 - (i) the increase in #floor area# being proposed in the #development# or #enlargement# will not unduly increase the #bulk#, density of population or intensity of #uses# to the detriment of the surrounding area; and
 - (ii) all of the separate elements within the proposed #development# or #enlargement#, including above- or below-grade improvements, the ground floor level, #building# design, and sustainable design measures, are well-integrated and will advance the applicable goals of the #Special Midtown District# described in Section 81-00 (GENERAL PURPOSES).

(c) Additional requirements

Prior to the grant of a special permit pursuant to this Section, and to the extent required by the Metropolitan Transportation Authority (MTA) or any other City or State agencies with control and responsibility for the area in which a proposed improvement is to be located, the applicant shall execute an agreement, setting forth the obligations of the owner, its successors and assigns, to establish a process for design development and a preliminary construction schedule for the proposed improvement; construct the proposed improvement; where applicable, establish a program for maintenance; and, where applicable, establish a schedule of hours of public access for the proposed improvement. Where the MTA, or any other City or State agencies with control and responsibility for the area of a proposed improvement, deems necessary, such executed agreement shall set forth obligations of the applicant to provide a performance bond or other security for completion of the improvement in a form acceptable to the MTA or any other such agencies.

Where the proposed #development# or #enlargement# proposes an off-site improvement located in an area to be acquired by a City or State agency, the applicant may propose a phasing plan to sequence the construction of such off-site improvement. To determine if such phasing plan is reasonable, the Commission may consult with the City or State agency that intends to acquire the area of the proposed improvement.

Prior to obtaining a foundation permit or building permit from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the Chairperson of the City Planning Commission, setting forth the obligations of the owner to construct, and, where applicable, maintain and provide public access to public improvements provided pursuant to this Section, shall be recorded against such property in the Office of the Register of the City of New York (County of New York). Proof of recordation of the declaration of restrictions shall be submitted in a form acceptable to the Department of City Planning.

Except where a phasing plan is approved by the City Planning Commission, no temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# granted pursuant to the provisions of ~~Section 81-64 (Special Permit for Grand Central Public Realm Improvement Bonus)~~ Section 81-633 (Special permit for Grand Central public realm improvements) until the required improvements have been substantially completed, as determined by the Chairperson of the City Planning Commission, acting in consultation with the MTA, or any other City or State agencies with control and responsibility for the area where a proposed improvement is to be located, where applicable, and such improvements are usable by the public. Such portion of the #building# utilizing bonus #floor area# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# until all improvements have been completed in accordance with the approved plans, as determined by the Chairperson, acting in consultation with the MTA, or any other City or State agencies with control and responsibility for the area where a proposed improvement is to be located, where applicable.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

[MOVE EXISTING TEXT TO SECTION 81-631 (c)]

Transfer of development rights by certification
Permitted modifications in conjunction with additional floor area

[EXISTING TEXT DELETED]

~~Within the Grand Central Subdistrict, the City Planning Commission may allow by certification:~~

- (a) ~~a transfer of development rights from a "granting lot" to a "receiving lot" in an amount not to exceed a #floor area ratio# of 1.0 above the basic maximum #floor area ratio# allowed by the applicable district regulations on the "receiving lot," provided that a program for the continuing maintenance of the landmark approved by the Landmarks Preservation Commission has been established; and~~
- (b) ~~in conjunction with such transfer of development rights, modification of the provisions of Sections 77-02 (Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions), 77-22 (Floor Area Ratio) and 77-25 (Density Requirements), as follows:~~

~~For any "receiving lot," whether or not it existed on December 15, 1961, or any applicable subsequent amendment thereto, #floor area# or #dwelling units# permitted by the applicable district regulations which allow a greater #floor area ratio# may be located on a portion of such "receiving lot" within a district which allows a lesser #floor area ratio#, provided that the amount of such #floor area# or #dwelling units# to be located on the side of the district boundary permitting the lesser #floor area ratio# shall not exceed 20 percent of the basic maximum #floor area ratio# or number of #dwelling units# of the district in which such #bulk# is to be located.~~

[INSERT THE FOLLOWING EXISTING TEXT FROM 81-642]

In conjunction with the grant of a special permit pursuant to ~~Section 81-641 (Additional floor area for the provision of public realm improvements)~~ Section 81-633 (Special permit for Grand Central public realm improvements), the City Planning Commission may permit modifications to #street walls#, height and setback regulations and mandatory plan elements, as set forth in paragraph (a) of this Section, provided that the Commission determines that the application requirements set forth in paragraph (b) and the findings set forth in paragraph (c) of this Section are met.

- (a) The Commission may modify the following, whether singly or in any combination:
- (1) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets) or ~~81-624~~ 81-671 (Special street wall requirements), inclusive;
 - (2) the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, 81-27 (~~Alternative~~ Alternate Height and Setback Regulations – Daylight Evaluation), inclusive, or ~~81-622~~ 81-66 (~~Special height and setback requirements~~ Height and Setback Requirements); or
 - (3) the mandatory district plan elements of Sections 81-42 (Retail Continuity ~~along~~ Along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair), 81-47 (Major Building Entrances), 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), ~~81-623 (Building lobby entrance requirements)~~ 81-674 (Ground floor use provisions), ~~81-624~~ 81-675 (Curb cut restrictions and loading berth requirements), ~~81-625~~ 81-676 (Pedestrian circulation space requirements) or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37-51 shall be permitted.

(b) Application requirements

Applications for a special permit for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications. In addition, where modifications to #street wall# or height and setback regulations are proposed, any application shall contain the following materials, at a minimum:

- (1) drawings, including but not limited to, plan views and axonometric views, that illustrate how the proposed #building# will not comply with the #street wall# regulations of Section 81-43 (~~Street Wall Continuity Along Designated Streets~~), or as such provisions are modified pursuant to Section ~~81-621~~ 81-671 (Special street wall requirements), as applicable, and that illustrate how the proposed #building# will not comply with the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation) or 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), or as such provisions are modified pursuant to Section ~~81-622~~ 81-66 (Special height and setback requirements), as applicable;
- (2) where applicable, formulas showing the degree to which such proposed #building# will not comply with the length and height rules of Section 81-26, or as such provisions are modified pursuant to Section ~~81-622~~ 81-66; and
- (3) where applicable, #daylight evaluation charts# and the resulting daylight evaluation score showing the degree to which such proposed #building# will not comply with the provisions of Section 81-27 or as such provisions are modified pursuant to Section ~~81-622~~ 81-66.

(c) Findings

The Commission shall find that such proposed modifications:

- (1) to the mandatory district plan elements will result in a better site plan for the proposed #development# or #enlargement# that is harmonious with the mandatory district plan element strategy of the #Special Midtown District#, as set forth in Section 81-41 (General Provisions); and
- (2) to the #street wall# or height and setback regulations will result in an improved distribution of #bulk# on the #zoning lot# that is harmonious with the height and setback goals of the #Special Midtown District# set forth in Section 81-251 (Purpose of height and setback regulations).

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

81-635**~~Transfer of development rights by special permit~~**

[EXISTING TEXT MOVED TO SECTION 81-632]

81-64**Special Permit for Grand Central Public Realm Improvement Bonus
Special Floor Area Provisions for Qualifying Sites**

[EXISTING TEXT DELETED]

~~In order to facilitate the development of exceptional and sustainable #buildings# within the Vanderbilt Corridor as well as improvements to the pedestrian and mass transit circulation network in the vicinity of Grand Central Terminal, for #developments# and #enlargements# on #zoning lots# located within the Vanderbilt Corridor, as shown in on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the City Planning Commission may permit:~~

- ~~(a) additional #floor area# for the provision of on site or offsite, above or below grade improvements to the pedestrian or mass transit circulation network in the Grand Central Subdistrict, in accordance with the provisions of Section 81-641 (Additional floor area for the provision of public realm improvements); and~~
- ~~(b) in conjunction with additional #floor area# granted pursuant to Section 81-641, modifications to #street wall# regulations, height and setback regulations and mandatory district plan elements, provided such modifications are in accordance with the provisions of Section 81-642 (Permitted modifications in conjunction with additional floor area).~~

~~For #non-residential buildings# or #mixed buildings# on #qualifying sites# in the East Midtown Subdistrict, the basic maximum #floor area ratios# of the underlying-districts shall apply as set forth in this Section. Such basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:~~

MAXIMUM FLOOR AREA RATIOS AND ALLOWANCES FOR QUALIFYING SITES

| | <u>Means for Achieving Permitted FAR Levels on a #Zoning Lot# for #qualifying sites#</u> | <u>Grand Central Transit Improvement Zone Subarea</u> | | <u>Park Avenue Subarea</u> | | <u>Other Transit Improvement Zone Subarea</u> | | <u>Southern Subarea</u> | | <u>Northern Subarea¹</u> | |
|----------|---|---|-------------|----------------------------|-------------|---|----------------------------|--------------------------------|----------------------------|-------------------------------------|----------------------------|
| | | <u>C5-2.5</u> | <u>C5-3</u> | <u>C5-2.5</u> | <u>C5-3</u> | <u>C5-2.5</u> <u>C6-4.5</u> | <u>C5-3</u> <u>C6-6</u> | <u>C5-2.5</u> <u>C6-4.5</u> | <u>C5-3</u> <u>C6-6</u> | <u>C5-2.5</u> <u>C6-4.5</u> | <u>C5-3</u> <u>C6-6</u> |
| <u>A</u> | <u>Basic Maximum FAR</u> | | | | | | | | | | |
| | | <u>12</u> | <u>15</u> | <u>12</u> | <u>15</u> | <u>12</u> | <u>15</u> | <u>12</u> | <u>15</u> | <u>12</u> | <u>15</u> |
| <u>B</u> | <u>Minimum #Floor Area# Allowances through identified transit improvements (Section 81-641) if exceeding base maximum FAR</u> | | | | | | | | | | |
| | | <u>2.7</u> | <u>2.7</u> | = | = | <u>2.3</u> | <u>2.3</u> | = | = | = | = |
| <u>C</u> | <u>Maximum #Floor Area# Allowances through identified transit improvements (Section 81-641)</u> | | | | | | | | | | |
| | | <u>5.4</u> | <u>5.4</u> | = | = | <u>4.6</u> | <u>4.6</u> | = | = | = | = |
| <u>D</u> | <u>Maximum amount of transferable development rights (FAR) from landmark #zoning lots# that may be utilized on a #qualifying site# (Section 81-642)</u> | | | | | | | | | | |
| | | <u>12.3</u> | <u>9.3</u> | <u>13</u> | <u>10</u> | <u>8.7</u> | <u>5.7</u> | <u>9.6</u> | <u>6.6</u> | <u>6</u> | <u>3</u> |

| | | | | | | | | | | | |
|----------|--|-----------|-----------|-----------|-----------|-----------|-----------|-------------|-------------|-----------|-----------|
| <u>E</u> | <u>Maximum as-of-right #Floor Area Ratio# on #qualifying sites#</u> | | | | | | | | | | |
| | | <u>27</u> | <u>27</u> | <u>25</u> | <u>25</u> | <u>23</u> | <u>23</u> | <u>21.6</u> | <u>21.6</u> | <u>18</u> | <u>18</u> |
| <u>F</u> | <u>Maximum FAR for transit improvement special permit (Section 81-644)</u> | | | | | | | | | | |
| | | <u>3</u> | <u>3</u> | = | = | <u>3</u> | <u>3</u> | = | = | = | = |
| <u>G</u> | <u>Maximum FAR for public concourse special permit (Section 81-645)</u> | | | | | | | | | | |
| | | <u>3</u> | <u>3</u> | <u>3</u> | <u>3</u> | <u>3</u> | <u>3</u> | <u>3</u> | <u>3</u> | <u>3</u> | <u>3</u> |
| <u>H</u> | <u>Maximum Total FAR on a #qualifying site#</u> | | | | | | | | | | |
| | | <u>30</u> | <u>30</u> | <u>28</u> | <u>28</u> | <u>26</u> | <u>26</u> | <u>24.6</u> | <u>24.6</u> | <u>21</u> | <u>21</u> |

¹ For #zoning lots# located east of Third Avenue between the centerline of East 46th Street to the centerline of East 51st Street, the maximum #floor area ratio# shall be the basic maximum #floor area ratio# set forth in Row A.

81-641

Additional floor area for the provision of public realm improvements
Additional floor area for Transit Improvements on Qualifying Sites

[EXISTING TEXT MOVED TO 81-633]

All #developments# or, where permitted, #enlargements# on #qualifying sites# located within the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, that exceed the basic maximum #floor area ratio# set forth in Row A of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites) shall comply with the provisions of this Section.

The Chairperson of the City Planning Commission shall allow, by certification, #floor area# on a #qualifying site# to be increased above the applicable basic maximum #floor area ratio# provided that such resulting increase in #floor area ratio# is not less than the minimum specified in Row B of the table in Section 81-64, nor more than the maximum specified in Row C of such table, as applicable, and further provided that a ~~transit public realm~~ improvement, or a combination of ~~transit public realm~~ improvements, will be constructed in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, in accordance with the provisions of this Section.

(a) The following requirements shall be completed prior to application for certification by the Chairperson:

- (1) the applicant shall select a ~~public realm~~ transit improvement project that has been identified on the Priority Improvement List in Section 81-682 (Priority Improvement List for qualifying sites) and is commensurate with the minimum #floor area# required, and results in a #floor area ratio# increase not exceeding the maximum #floor area ratio# permitted to be achieved through the provisions of this Section. The process for such selection is also set forth in ~~shall~~ also comply with paragraph (a) of Section 81-682;

- (2) the applicant shall submit ~~concept~~ preliminary plans for the proposed transit improvement to the Chairperson and any applicable City or State agencies with jurisdiction over and control of the proposed transit improvement;
 - (3) the applicant shall obtain and provide to the Chairperson a conceptual approval of the proposed transit improvement from any applicable City or State agencies with jurisdiction over and control of the proposed improvement in letter form, wherein such agencies state that such improvements meet the ~~technical~~ requirements set forth in Section 81-682; and
 - (4) prior to the issuance of a building permit, as set forth in this Section, the applicant shall execute agreements and legally enforceable instruments running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to design and construct the improvement in accordance with the requirements of the applicable City or State agencies with jurisdiction over and control of the proposed improvement. Such agreements and instruments shall be filed and recorded in the Office of the Register of the City of New York (County of New York). Proof of recordation ~~A certified copy of such legal instruments~~ shall be sent to the Chairperson.
- (b) The following items shall be submitted to the Chairperson as part of an application for certification:
- (1) all of the materials required pursuant to paragraph (a) of this Section;
 - (2) ~~(1)~~ site plans and zoning calculations for the proposed #development# or, where permitted, #enlargement# on the #qualifying site# showing the additional #floor area# associated with the completion of such transit improvement; and
 - (3) ~~(2)~~ drawings, including but not limited to plans, sections, elevations, three-dimensional projections or other drawings deemed necessary or relevant by the Chairperson for the transit improvement, and any such other information as may be required by the Chairperson of the City Planning Commission.

~~The Chairperson shall allow, by certification, a reduction in, or waiver of, the minimum #floor area ratio# required pursuant to Row B of the table in Section 81-64, where there are an insufficient number of available projects on the Priority Improvement List in Section 81-682. The Chairperson shall also allow, by certification, the maximum #floor area ratio# for a #qualifying site# to be increased beyond the limit set forth in Row C of the table in Section 81-64, where the Metropolitan Transportation Authority requires improvements to the Fifth Avenue and East 53rd Street Station to be combined in order to adequately phase improvements and avoid practical difficulties in operating the station.~~

When an applicant has submitted materials to the Chairperson that satisfy the requirements of paragraphs (a) and (b) of this Section, the Chairperson shall certify to the Department of Buildings that ~~the #development#~~ or, where permitted, #enlargement# on a #qualifying site# is in compliance with the provisions of this Section. Such certification shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings allowing a #development# or, where permitted, an #enlargement# on a #qualifying site# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea. All application pursuant to this Section shall be referred to the affected Community Board, the local Council Member and the Borough President of Manhattan. No certification shall be granted prior to sixty days after such referral.

No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# identified as utilizing the additional #floor area# granted pursuant to the provisions of this Section until the Chairperson, acting in consultation with the applicable City or State agencies having jurisdiction over

and control of the proposed improvement, has certified that the improvements are substantially complete and usable by the public. Such portion of the #building# shall be designated by the applicant in drawings included in the instruments filed pursuant to paragraph (b) of this Section and shall be noted on the temporary certificate of occupancy.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing such additional #floor area# until the improvements have ~~finally~~ been finally completed in accordance with the approved plans and such final completion has been ~~approved~~ certified by the Chairperson, acting in consultation with the applicable City or State agencies having jurisdiction over and control of the proposed improvement.

In addition, the Chairperson shall allow, by certification, a reduction in, or waiver of, the minimum #floor area ratio# required pursuant to Row B of the table in Section 81-64, where there are an insufficient number of available projects on the Priority Improvement List in Section 81-682. The Chairperson shall also allow, by certification, the maximum #floor area ratio# for a #qualifying site# to be increased beyond the limit set forth in Row C of the table in Section 81-64, where the Metropolitan Transportation Authority requires improvements to the Fifth Avenue and East 53rd Street Station to be combined in order to adequately phase improvements and avoid practical difficulties in operating the station.

81-642

Permitted modifications in conjunction with additional floor area **Transfer of development rights from landmarks to qualifying sites**

[EXISTING TEXT MOVED TO SECTION 81-634]

The Chairperson of the City Planning Commission shall allow, by certification, a transfer of development rights from #zoning lots# occupied by #landmark buildings or other structures# within the East Midtown Subdistrict to a #qualifying site#, provided that the provisions of this Section are met.

(a) The transfer of development rights shall be subject to the following conditions:

- (1) For #qualifying sites# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas), the applicant shall ~~comply with the provisions of~~ obtain a certification pursuant to Section 81-641 (Additional floor area for transit improvements) prior to, or in conjunction with, meeting the requirements of this Section.
- (2) The maximum amount of #floor area# that may be transferred from a #granting lot# shall be the applicable basic maximum #floor area# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), less the total #floor area# of all existing #buildings# on the landmark #zoning lot#, and any previously transferred #floor area#. In no event shall a #granting lot# transfer any previously granted bonus #floor area# received for subway station improvements, #publicly accessible open areas# or the provision of district improvements pursuant to the provisions of this Chapter, or any preceding regulations.
- (3) For each #receiving lot#, the increased #floor area# allowed by the transfer of development rights pursuant to this Section shall not exceed the amount resulting in the maximum #floor area ratio# set forth in Row D of the table in Section 81-64.
- (4) Each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# by the amount of #floor area# transferred. If the landmark designation is removed from the #landmark building or other structure#, the

#landmark building or other structure# is destroyed or #enlarged#, or the #zoning lot# with the #landmark building or structure# is redeveloped, the #granting lot# may only be #developed# or #enlarged# up to the amount of permitted #floor area# as reduced by each transfer.

- (5) Prior to the issuance of a building permit, as set forth in paragraph (c) of this Section, the owners of the #granting lot# and the #receiving lot# shall submit to the Chairperson a copy of the transfer instrument legally sufficient in both form and content to effect such a transfer. Notice of the restrictions upon further #development# or #enlargement# of the #granting lot# and the #receiving lot# shall be filed by the owners of the respective lots in the Office of the Register of the City of New York (County of New York). Proof of recordation, ~~a certified copy of which~~ shall be submitted to the Chairperson.

Both the transfer instrument and the notices of restrictions shall specify the total amount of #floor area# transferred and shall specify, by lot and block numbers, the #granting lot# and the #receiving lot# that are a party to such transfer.

- (6) Prior to the issuance of a building permit, as set forth in paragraph (c) of this Section, ~~A non-refundable contribution shall have been~~ deposited by the applicant into the #Public Realm Improvement Fund#. Such contribution shall be equal to the greater of:
- (i) 20 percent of the #sales price# of the transferred #floor area#; or
 - (ii) an amount equal to 20 percent of the #Public Realm Improvement Fund Development Rights Valuation# multiplied by the amount of transferred #floor area#.

- (b) An application filed with the Chairperson for certification pursuant to this Section shall be made jointly by the owners of the #granting lot# and the #receiving lot#. The following items shall be submitted to the Chairperson as part of an application for certification:

- (1) for #qualifying sites# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, materials that are sufficient to demonstrate compliance with the provisions of Section 81-641 (Additional floor area for transit improvements on qualifying sites);
- (2) site plans and zoning calculations for the #granting lot# and #receiving lot# showing the additional #floor area# associated with the transfer, and any such other information as may be required by the Chairperson;
- (3) materials to demonstrate the establishment of a program for the continuing maintenance of the #landmark building or other structure#;
- (4) a report from the Landmarks Preservation Commission concerning the continuing maintenance program of the #landmark building or other structure#; and
- (5) for those #receiving lots# that are contiguous to a lot occupied by Grand Central Terminal or a lot that is across a #street# and opposite the lot occupied by Grand Central Terminal, or, in the case of a #corner lot#, one that fronts on the same #street# intersection as the lot occupied by Grand Central Terminal, a report from the Landmarks Preservation Commission concerning the harmonious relationship of the #development# or, where permitted, #enlargement# to Grand Central Terminal.

All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member and the Borough President of Manhattan. No certification shall be granted prior to sixty days after such referral.

~~When an applicant has submitted materials to the Chairperson that satisfy the requirements of paragraphs (a) and (b) of this Section, the~~ The Chairperson shall certify to the Department of Buildings that a #development# or, where permitted, an #enlargement# on a #qualifying site# is in compliance with the provisions of this Section only after the following have been received:-

- (1) the instrument of transfer and notice of restrictions required by paragraph (a) of this Section have been executed and recorded with proof of recordation provided to the Chairperson;
- (2) documents confirming the #sale price# have been provided to the Chairperson of the City Planning Commission, including but not limited to the real property transfer tax return form recorded with the New York City Department of Finance and the details of consideration schedule; and
- (3) payment of a non-refundable contribution to the #Public Realm Improvement Fund# in the amount required by paragraph (a) of this Section has been made.

~~The execution and recording of such instruments and the payment of such non-refundable contribution~~ Such certification shall be a precondition to the filing for or issuing of any building permit allowing more than the basic maximum #floor area ratio# for such #development# or, where permitted, #enlargement# on a #qualifying site#. Additional provisions are set forth in Section 81-686 for applicants undertaking a sidewalk improvement immediately adjacent to their #qualifying site#.

A separate application shall be filed for each transfer of development rights to an independent #receiving lot# pursuant to this Section.

81-643

Special provisions for retaining non-complying floor area in commercial buildings

For #non-complying commercial buildings# existing on December 15, 1961 with #non-complying floor area#, the provisions of Section 54-41 (Permitted Reconstruction) may be modified to allow such #non-complying building# to be demolished or altered, to the extent of 75 percent or more of its total #floor area#, and reconstructed on a #qualifying site# to retain the amount of pre-existing #non-complying floor area# in accordance with the applicable district #bulk# regulations of this Chapter, upon certification by the Chairperson of the City Planning Commission to the Department of Buildings first, that prior to demolition or alteration, the applicant meets the provisions of paragraph (a) of this Section, as applicable, and, subsequently, prior to reconstruction, the proposed #development# will comply with the applicable provisions of paragraph (b) of this Section. For purposes of this Chapter, the reconstruction of such #non-complying floor area# shall be considered a #development#. Any #enlargement# of a #non-complying commercial building# on a #qualifying site# shall be permitted only pursuant to paragraph (a) of Section 81-684 (Authorizations for qualifying sites), or Section 81-685 (Special permit to modify qualifying site provisions).

- (a) Certification to demolish or alter a #non-complying building#

The Chairperson shall certify the amount of #non-complying floor area# existing within a #non-complying building# that may be reconstructed pursuant to the provisions of paragraph (b) of this Section, based on calculations submitted to the Chairperson. Such calculations shall be based on either the #building's# construction documents previously ~~submitted for approval to~~ approved by the

Department of Buildings at the time of such #building's# construction, #enlargement#, or subsequent alterations, as applicable; or on an as-built drawing set completed by a ~~licensed~~ registered architect.

For the purpose of calculating the amount of #non-complying floor area# to be retained on #zoning lots# with multiple existing #buildings# at the time of application, the maximum amount of #non-complying floor area# that may be reconstructed shall be equivalent to the #floor area# of the #zoning lot# at the time of application, less the total #floor area# of all existing #buildings# to remain.

Certification pursuant to the provisions of paragraph (a) of this Section shall be a precondition to the issuance of any demolition or alteration permit by the Department of Buildings for a #zoning lot# reconstructing #non-complying floor area#.

(b) Certification to reconstruct #non-complying floor area#

The amount of #non-complying floor area# established pursuant to paragraph (a) of this Section may be reconstructed, provided that the Chairperson certifies that:

- (1) all requirements for #qualifying sites# set forth in the definition in Section 81-613, inclusive, have been met, except that no publicly accessible space shall be required notwithstanding the provisions of paragraph (f) of the definition of #qualifying site#; and
- (2) a non-refundable contribution has been deposited by the applicant into the #Public Realm Improvement Fund#. Such contribution shall be an amount equal to 20 percent of the #Public Realm Improvement Fund Development Rights Valuation# multiplied by the amount of such pre-existing #non-complying floor area#.

~~For the purposes of this Chapter, the reconstruction of such #non-complying floor area# shall be considered a #development#.~~

The payment of the non-refundable contribution to the #Public Realm Improvement Fund# pursuant to the provisions of paragraph (b) of this Section, shall be a precondition to the issuance of any foundation permit or new building or alteration permit by the Department of Buildings allowing a #development# on a #qualifying site#.

All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member and the Borough President of Manhattan. No certification shall be granted prior to sixty days after such referral.

Except for #zoning lots# located east of Third Avenue between the centerline of East 46th Street to the centerline of East 51st Street, any proposed #floor area# in the ~~reconstructed~~ #building##development# beyond the amount contained in the pre-existing #non-complying building# may be obtained by utilizing the applicable provisions of Section 81-64 (Special Floor Area Provisions for Qualifying Sites). For the purposes of applying the provisions of such Section, the reconstructed #floor area ratio# shall be considered the basic maximum #floor area ratio#. However, the maximum #floor area ratios# of Row E and Row H shall continue to apply.

81-644

Special permit for transit improvements

For #qualifying sites# located in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the City Planning Commission may permit an increase in the amount of #floor area ratio#

permitted on such #zoning lots#, up to the amount specified in Row F of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), as applicable, where subway station improvements are made in accordance with the provisions of Sections 81-292 (Subway station improvements) and Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan).

As a pre-condition to applying for such special permit, an applicant shall demonstrate that the maximum as-of-right #floor area ratio# for #qualifying sites# set forth in Row E of the table in Section 81-64 has been achieved prior to, or in conjunction with, the special permit application.

81-645

Special permit for a Public Concourse

For #qualifying sites#, the City Planning Commission may permit an increase in the amount of #floor area ratio# permitted on such #zoning lots#, up to the amount specified in Row G of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), as applicable, where an above-grade public concourse, in the form of an open or enclosed, publicly accessible space for public use and enjoyment, is provided on the #qualifying site#. Such publicly accessible spaces shall include amenities that are characteristic of #public plazas# or public atriums, as applicable, for the comfort and convenience of the public.

As a pre-condition to applying for such special permit, an applicant shall demonstrate that the maximum as-of-right #floor area ratio# for #qualifying sites# set forth in Row E of the table in Section 81-64 has been achieved prior to, or in conjunction with, the special permit application.

In order for the City Planning Commission to approve a special permit application for additional #floor area#, the Commission shall determine that such #development# or, where permitted, #enlargement#, complies with the conditions and application requirements of paragraph (a), the findings of paragraph (b) and the additional requirements of paragraph (c) of this Section.

- (a) Applications shall include information and justification sufficient to provide the Commission with the basis for:
- (1) evaluating the benefits to the general public;
 - (2) determining the appropriate amount of increased #floor area# to grant; and
 - (3) determining whether the applicable findings set forth in paragraph (b) of this Section have been met. Such application materials shall also include initial plans for the maintenance of the proposed improvements.
- (b) The Commission shall find that:
- (1) to the extent practicable, the open or enclosed public concourse will:
 - (i) consist of a prominent space of generous proportions and quality design that is inviting to the public;
 - (ii) improve pedestrian circulation and provide suitable amenities for the occupants;
 - (iii) front upon a #street# or a pedestrian circulation space in close proximity to and within view of, and accessible from, an adjoining sidewalk;

- (iv) provide or be surrounded by active #uses#;
 - (v) be surrounded by transparent materials;
 - (vi) provide connections to pedestrian circulation spaces in the immediate vicinity; and
 - (vii) be designed in a manner that combines the separate elements within such space into a cohesive and harmonious site plan, resulting in a high-quality public space; and
- (2) the public benefit derived from the proposed public concourse merits the amount of additional #floor area# being granted to the proposed #development# or, where permitted, #enlargement#, pursuant to this special permit;
- (c) Prior to obtaining a foundation permit or building permit for a #development or, where permitted, an #enlargement# on a #qualifying site#, from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the Chairperson of the City Planning Commission, setting forth the obligations of the owner to construct, ~~and, where applicable,~~ maintain and provide public access to public improvements provided pursuant to this Section, shall be recorded against such property in the Office of the Register of the City of New York (County of New York). Proof of recordation of the declaration of restrictions shall be submitted in a form acceptable to the Department of City Planning.
- No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing increased #floor area# granted pursuant to the provisions of this Section until the required improvements have been substantially completed, as determined by the Chairperson, and such improvements are usable by the public. Such portion of the #building# utilizing increased #floor area# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.
- No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing increased #floor area# until all improvements have been finally completed in accordance with the approved plans, as determined by the Chairperson.

81-65

Special Permit for Transient Hotels

Special Floor Area Provisions for All ~~Other~~ Non-qualifying Sites

[EXISTING TEXT REPLACED BY TEXT IN SECTION 81-621]

Within the Vanderbilt Corridor, as shown on Map 1 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, the City Planning Commission may permit the #development# of a #building# containing a #transient hotel#, as listed in Use Group 5, or may permit the #conversion# or change of #use# within an existing #building# to a #transient hotel#, provided the Commission finds that the proposed #transient hotel# will:

- (a) ~~be appropriate to the needs of businesses in the vicinity of Grand Central Terminal; and~~
- (b) ~~provide on-site amenities and services that will support the area's role as an office district. Such business-oriented amenities and services shall be proportionate to the scale of the #transient hotel# being proposed, and shall include, but shall not be limited to, conference and meeting facilities, and telecommunication services.~~

~~The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

For #non-residential buildings# or #mixed buildings# on #non-qualifying sites# in the East Midtown Subdistrict, the basic maximum #floor area ratios# of the underlying-districts shall apply as set forth in this Section. Such basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:

| <u>Row</u> | <u>Means for achieving permitted FAR on a #zoning lot# for all other sites</u> | <u>Grand Central Core Area</u> | | <u>Any other Areas</u> | |
|------------|---|--------------------------------|--------------------------------|----------------------------|--------------------------------|
| | | <u>C5-3</u> <u>C6-6</u> | <u>C5-2.5</u> <u>C6-4.5</u> | <u>C5-3</u> <u>C6-6</u> | <u>C5-2.5</u> <u>C6-4.5</u> |
| <u>A</u> | <u>Basic Maximum FAR</u> | <u>15</u> | <u>12</u> | <u>15</u> | <u>12</u> |
| <u>B</u> | <u>Additional FAR for provision of a #public plaza# (Section 81-651)</u> | <u>-</u> | <u>-</u> | <u>1</u> | <u>1</u> |
| <u>C</u> | <u>Total as-of-right FAR</u> | <u>15</u> | <u>12</u> | <u>16</u> | <u>13</u> |
| <u>D</u> | <u>Additional FAR for subway station improvements through special permit (Section 81-652)</u> | <u>3</u> | <u>2.4</u> | <u>3</u> | <u>2.4</u> |
| <u>E</u> | <u>Maximum FAR of a #landmark or other structure# for transfer purposes (Sections 74-79 and 81-653)</u> | <u>15</u> | <u>12</u> | <u>16</u> | <u>13</u> |
| <u>F</u> | <u>Maximum amount of transferable development rights from a landmark #zoning lot# that may be utilized on an #adjacent lot# (Sections 74-79 and 81-653)</u> | <u>No limit</u> | <u>2.4</u> | <u>No limit</u> | <u>2.4</u> |
| <u>G</u> | <u>Maximum FAR permitted on an #adjacent lot#</u> | <u>No limit</u> | <u>14.4</u> | <u>No limit</u> | <u>14.4</u> |

81-651

Floor area bonus for public plazas

For #non-qualifying sites# in subareas outside the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the basic maximum #floor area ratio# permitted on such #zoning lots# shall be increased, up to the amount specified in Row B of the table in Section 81-65 (Special Floor Area Provisions for All Other Sites), where a #public plaza# is provided in accordance with the provisions of Section 81-23 (Floor Area Bonus for Public Plazas).

81-652**Floor area bonus for subway station improvements**

For #non-qualifying sites#, the City Planning Commission may permit an increase in the amount of #floor area ratio# permitted on such #zoning lots#, up to the amount specified in Row D of the table in Section 81-65 (Special Floor Area Provisions for All Other Sites), as applicable, where subway station improvements are made in accordance with the provisions of Sections 81-292 (Subway station improvements) and Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan).

81-653**Special permit for transfer of development rights from landmarks to non-qualifying sites**

For #non-qualifying sites#, the City Planning Commission may permit the transfer of development rights from a #granting lot# to a #receiving lot#, pursuant to the provisions of Section 74-79 (Transfer of Development Rights from Landmark Sites), provided that:

- (a) the maximum amount of #floor area# that may be transferred from a #granting lot# shall be the applicable basic maximum #floor area# set forth in Section 81-65 (Special Floor Area Provisions for All Other Sites), less the total #floor area# of all existing #buildings# on the landmark #zoning lot#, and any previously transferred #floor area#. In no event shall a #granting lot# transfer any previously granted bonus #floor area# received for subway station improvements, #publicly accessible open areas# or the provision of district improvements pursuant to the provisions of this Chapter, or any preceding regulations;
- (b) for each #receiving lot#, the increased #floor area# allowed by the transfer of development rights pursuant to this Section shall not exceed the amount resulting in the maximum #floor area ratio# set forth in Row F of the table in Section 81-65; and
- (c) each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be #developed# or #enlarged# on the #granting lot# by the amount of #floor area# transferred.

81-66**Special Height and Setback Requirements**

For #buildings# which are #developed# or #enlarged# within the East Midtown Subdistrict, the applicable height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, and 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), inclusive, are modified by the provisions of this Section, inclusive.

81-661**Height and setback modifications for buildings in the Grand Central Core Area**

[RELOCATED TEXT FROM SECTION 81-622]

For #buildings# on #non-qualifying sites# within the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistricts and Subareas) in Appendix A of this Chapter, the provisions of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, or 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), inclusive, are modified as follows:

- (a) where such #buildings# are governed by Section 81-26, no #compensating recess# shall be required for the #encroachment# of that portion of the #building# below a height of 150 feet, as measured from #curb level#; or
- (b) where such #buildings# are governed by Section 81-27, the computation of daylight evaluation shall not include any daylight blockage, daylight credit, profile daylight blockage or available daylight for that portion of the #building# below 150 feet above #curb level#. However, the passing score required pursuant to paragraph (i) of Section 81-274 shall apply.

81-662

Daylight compensation modifications for qualifying sites

For #buildings# on #qualifying sites# in the East Midtown Subdistrict using the daylight compensation method of height and setback regulations, the provisions of Section 81-26 (Height and Setback Regulations – Daylight Compensation) are modified as follows:

- (a) for the purposes of determining permitted #encroachments# and #compensating recesses# pursuant to Section 81-264 (Encroachments and compensating recesses):
 - (1) no #compensating recess# shall be required for the #encroachment# of that portion of the #building# below a height of 150 feet, as measured from #curb level#;
 - (2) #compensating recesses# provided for #encroachments#, or portions thereof, above a height of 400 feet, as measured from #curb level#, need not comply with the provisions of paragraph (c)(1) of Section 81-264. In lieu thereof, for any portion of the #building# located above a height of 400 feet, the amount of #compensating recess# required for any particular level of the #building# shall be equal to the amount of #encroachment# provided at such level. The remaining provisions of paragraph (c) of Section 81-264 shall continue to apply to such #compensating recess#; and
 - (3) for #buildings# on #qualifying sites# with frontage along the easterly side of Vanderbilt Avenue, ~~a portion~~ the full width of Vanderbilt Avenue may be considered part of the #zoning lot# for the purposes of determining permitted #encroachments# and #compensating recesses#. Such modified #zoning lot# shall be constructed by shifting the westerly boundary of the #zoning lot# to the westerly #street line# of Vanderbilt Avenue, and by prolonging the #narrow street lines# to such new westerly boundary. The Vanderbilt Avenue portion of such modified #zoning lot# may be considered a #compensating recess# for encroachments along such #building's narrow street frontage zone#, provided that any portion of the #building# fronting along Vanderbilt Avenue above a height of 100 feet, as measured from #curb level#, is setback a minimum 15 feet from the Vanderbilt Avenue #street line#, and further provided that the #street frontage zone# calculation along Park Avenue shall not include Vanderbilt Avenue;
- (b) for the purposes of determining the permitted length of #encroachments# pursuant to Section 81-265 (Encroachment limitations by length and height rules) the minimum length of recess required by Formula 2 in paragraph (c) shall be modified to 20 percent of the length of the #front lot line#; and
- (c) for #buildings# on #qualifying sites# with frontage along Park Avenue, as an alternative to the setback requirements of Table A, B, or C in paragraph (b) of Section 81-263 (Standard setback requirements), the Park Avenue wall of such #building# shall be set back behind the applicable

#setback line# to the depth of the #setback line# required at that particular height, in accordance with the applicable requirements of Table D of this Section.

Table D
SETBACK REQUIREMENTS ON #STREETS# AT LEAST 140 FEET WIDE

Depth of #Setback Line# from #Street Line# at Stated Heights above #Curb Level#.

| <u>Height</u> | <u>Depth of #Setback Line#</u> | <u>Height</u> | <u>Depth of #Setback Line#</u> |
|---------------|--------------------------------|------------------|--------------------------------|
| <u>210</u> | <u>0.00</u> | <u>470</u> | <u>29.75</u> |
| <u>220</u> | <u>1.00</u> | <u>480</u> | <u>30.50</u> |
| <u>230</u> | <u>2.50</u> | <u>490</u> | <u>31.50</u> |
| <u>240</u> | <u>4.25</u> | <u>500</u> | <u>32.00</u> |
| <u>250</u> | <u>5.50</u> | <u>510</u> | <u>33.00</u> |
| <u>260</u> | <u>7.00</u> | <u>520</u> | <u>33.50</u> |
| <u>270</u> | <u>8.75</u> | <u>530</u> | <u>34.50</u> |
| <u>280</u> | <u>10.00</u> | <u>540</u> | <u>35.00</u> |
| <u>290</u> | <u>11.25</u> | <u>550</u> | <u>35.50</u> |
| <u>300</u> | <u>12.75</u> | <u>560</u> | <u>36.00</u> |
| <u>310</u> | <u>14.25</u> | <u>570</u> | <u>37.00</u> |
| <u>320</u> | <u>15.25</u> | <u>580</u> | <u>37.50</u> |
| <u>330</u> | <u>16.25</u> | <u>590</u> | <u>38.00</u> |
| <u>340</u> | <u>17.50</u> | <u>600</u> | <u>38.50</u> |
| <u>350</u> | <u>18.75</u> | <u>610</u> | <u>39.00</u> |
| <u>360</u> | <u>19.75</u> | <u>620</u> | <u>39.75</u> |
| <u>370</u> | <u>21.00</u> | <u>630</u> | <u>40.25</u> |
| <u>380</u> | <u>21.75</u> | <u>640</u> | <u>41.00</u> |
| <u>390</u> | <u>23.00</u> | <u>650</u> | <u>41.50</u> |
| <u>400</u> | <u>23.75</u> | <u>660</u> | <u>41.75</u> |
| <u>410</u> | <u>25.00</u> | <u>670</u> | <u>42.25</u> |
| <u>420</u> | <u>25.75</u> | <u>680</u> | <u>43.00</u> |
| <u>430</u> | <u>26.75</u> | <u>690</u> | <u>43.50</u> |
| <u>440</u> | <u>27.50</u> | <u>700</u> | <u>43.75</u> |
| <u>450</u> | <u>28.50</u> | <u>710</u> | <u>44.25</u> |
| <u>460</u> | <u>29.25</u> | <u>Above 710</u> | <u>*</u> |

*For every ten feet of height above 710 feet, the depth shall increase by one foot.

81-663

Daylight evaluation modifications for qualifying sites

For #buildings# on #qualifying sites# in the East Midtown Subdistrict using the daylight evaluation method of height and setback regulations, the provisions of Section 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation) are modified as follows:

- (a) for the purposes of calculating the daylight evaluation score pursuant to Section 81-274 (Rules for determining the daylight evaluation score):

- (1) the computation of daylight evaluation shall not include any daylight blockage for that portion of the #building# above the curved line representing 70 degrees in the applicable Daylight Evaluation Charts, and below a height of 150 feet, as measured from #curb level#. However, such computation shall include the daylight blockage created by extending the lines representing the outermost edges of the portion of the #building# above a height of 150 feet downwards to such 70 degree line
 - (2) the computation of unblocked daylight squares which are below the curved line representing an elevation of 70 degrees, pursuant to paragraph (c) of Section 81-274, may apply along designated #streets# where #street wall# continuity is required;
 - (3) the profile penalty for #profile encroachment#, set forth in paragraph (a) of Section 81-274, shall not apply; and
 - (4) the provisions of paragraph (i) of Section 81-274 shall be modified to require an overall passing score of 66 percent. ~~However for #qualifying sites# with existing #buildings# with #non-complying floor area# to be reconstructed pursuant to the provisions of Section 81-643 (Special provisions for retaining non-complying floor area), the overall score of the #zoning lot#, as existing on [date of enactment], may be utilized as the passing score for the proposed #development# on the #qualifying site#.~~ Notwithstanding such modifications, no single #street# frontage shall have a street score of less than 66 percent;
- (b) the reflectivity provisions of Section 81-276 may be utilized to raise both an individual score and the overall score by up to six percentage points;
- (c) for #buildings# on #qualifying sites# with frontage along the easterly of Vanderbilt Avenue, ~~a portion~~ the full width of Vanderbilt Avenue may be considered part of the #zoning lot# for the purposes of constructing the #daylight evaluation chart# pursuant to Section 81-272 (Features of the Daylight Evaluation Chart). Such modified #zoning lot# shall be constructed by shifting the westerly boundary of the #zoning lot# to the westerly #street line# of Vanderbilt Avenue, and by prolonging the #narrow street lines# to such new westerly boundary. Such modified #zoning lot# may be utilized to create a modified pedestrian view along Vanderbilt Avenue and intersecting #narrow streets# provided that:
- (1) any portion of the #building# fronting along Vanderbilt Avenue above a height of 100 feet, as measured from #curb level#, is setback a minimum of 15 feet from the Vanderbilt Avenue #street line#;
 - (2) #vantage points# along Vanderbilt Avenue are taken 30 feet west of the westerly #street line# instead of the #center line of the street#; and
 - (3) #vantage points# along #narrow streets# are taken from the corner of the modified #zoning lot#; and
- (d) for #buildings# with frontage along Park Avenue:
- (1) for the purposes of establishing #vantage points# along Park Avenue to construct a #daylight evaluation chart# pursuant to the provisions of Section 81-272, the definition of #centerline of the street#, as set forth in Section 81-271 (Definitions), shall be modified along Park Avenue to be a line 70 feet from, and parallel to, the Park Avenue #street line# of the #zoning lot#; and

- (2) for the purpose of plotting #buildings# on the #daylight evaluation chart# pursuant to Section 81-273 (Rules for plotting buildings on the daylight evaluation chart), Chart 4 (Daylight Evaluation Diagram – Park Avenue) in Appendix B of this Chapter, shall be utilized in lieu of the chart for #streets# 100 feet or more in width.

81-67

Special Mandatory District Plan Element Requirements

For #buildings# which are #developed# or #enlarged# within the East Midtown Subdistrict, the applicable provisions of Section 81-40 (MANDATORY DISTRICT PLAN ELEMENTS) shall be modified in accordance with the provisions of this Section, inclusive.

81-671

Special street wall requirements

[RELOCATED TEXT FROM SECTION 81-621]

The requirements of Section 81-43 (Street Wall Continuity Along Designated Streets) shall be applicable within the Subdistrict, except as modified in this Section.

#Buildings# with frontage on Park, Lexington, Madison and Vanderbilt Avenues, or Depew Place in the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, shall have a #street wall# within 10 feet of the #street line# of such #streets#.

On 42nd Street, the #street wall# shall be at the #street line#. The width of the required #street wall# shall be at least 80 percent of the length of the #front lot line#. The minimum height of such #street walls# without any setback shall be 120 feet above #curb level# or the height of the #building#, whichever is less, and the maximum height shall not exceed 150 feet above #curb level#. Where a #zoning lot# is bounded by the intersection of Park Avenue, Lexington Avenue, Madison Avenue, Vanderbilt Avenue, 42nd Street or Depew Place and any other #street#, these #street wall# height regulations shall apply along the full length of the #zoning lot# along the other #street# or to a distance of 125 feet from the intersection, whichever is less.

However, for #developments# or, where permitted, #enlargements# on #qualifying sites# within an area bounded by East 43rd Street, Second Avenue, East 42nd Street and a line 200 feet east of Third Avenue, such #street wall# location requirements shall not apply to the portion of the frontage where an open publicly accessible space is provided in accordance with paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites).

Beyond 125 feet of the intersection, the maximum height of the #street wall# above #curb level# shall not exceed 120 feet. For such #buildings#, the provisions of Section 81-262 (Maximum height of front wall at the street line) shall not be applicable.

However, the ten-foot setback requirement of paragraph (a) of Section 81-263 (Standard setback requirements) shall apply only to those portions of the #building# above 120 feet.

81-672

Sidewalk widenings

All sidewalk widenings provided pursuant to the provisions of this Section shall be improved as sidewalks to Department of Transportation standards, shall be at the same level as the adjoining public sidewalks, and shall

be accessible to the public at all times. The design provisions set forth in paragraph (f) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces) shall apply, except as modified in this Section. All sidewalk widenings provided in accordance with the provisions of this Section shall constitute pedestrian circulation space, as required pursuant to Section 81-45 (Pedestrian Circulation Space).

(a) Mandatory sidewalk widenings along Madison and Lexington Avenues

#Developments# or, where permitted, #enlargements# on #qualifying sites# with frontage along Madison and Lexington Avenues, shall provide mandatory sidewalk widenings as follows:

- (1) where such #zoning lot# occupies the entire #block# frontage, a sidewalk widening shall be provided to the extent necessary so that a minimum sidewalk width of 20 feet is achieved, including portions within and beyond the #zoning lot#. However, no sidewalk widening need exceed ten feet, as measured perpendicular to the #street line#;
- (2) where such #zoning lot# does not occupy the entire #block# frontage, a sidewalk widening shall be provided where all existing #buildings# on the #block# frontage have provided such a widening. Such required widening shall match the amount of widened sidewalk provided on adjacent #zoning lots#, provided that no sidewalk widening need exceed ten feet, as measured perpendicular to the #street line#.

(b) Permitted sidewalk widenings

Sidewalk widenings may be provided, in accordance with the applicable size and design standards established in Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive:

- (1) along #narrow streets# in the Grand Central Subarea, as shown on Map 4 (East Midtown Subdistricts and Subareas) in Appendix A of this Chapter, for #developments# or #enlargements# on #zoning lots# with a #lot width# of 100 feet or more, as measured along such #narrow street line#; and
- (2) where a #street wall#, or portions thereof, is permitted to be located beyond the #street line# pursuant to the applicable provisions of Section 81-671 (Special street wall requirements).

(c) Permitted obstructions

In the Grand Central Subarea, as shown on Map 4, awnings and canopies shall be permitted obstructions within a sidewalk widening provided that no structural posts or supports are located within any portion of the sidewalk or such widening.

81-673

Mass transit access

(a) On #qualifying sites#

Where a #zoning lot# contains an easement volume for pedestrian access to a subway station or rail mass transit facility and such #zoning lot# is proposed to be #developed# or, where permitted, #enlarged# in accordance with the provisions for #qualifying sites#, such existing easement volume shall be preserved, or reconfigured in accordance with standards and terms approved by the Metropolitan Transportation Authority (MTA), as part of such #development# or #enlargement#. Any reconfiguration shall be constructed by the owner of the #development# or #enlargement#.

For such #developments# or, where permitted, #enlargements#, the owner shall submit a site plan showing a proposed location and size of the transit easement volume that would provide access between the #street# and the below-grade subway station or rail mass transit facility and be compatible with the proposed #development# or #enlargement# on the #zoning lot# for joint approval and final certification by the MTA and the Chairperson. The MTA and the Chairperson shall comment on such site plan within 45 days of its receipt and may, within such 45-day period or following its expiration, permit the granting of an excavation permit while the location and size of the transit easement volume is being finalized. Upon joint approval of a site plan by the MTA and the Chairperson, copies of such certification shall be forwarded by the Chairperson to the Department of Buildings.

Legal instruments creating a transit easement volume shall be executed and recorded in a form acceptable to the City. The execution and recording of such instruments shall be a precondition to the issuance of any foundation permit, new building permit, or alteration permit by the Department of Buildings allowing such #development# or #enlargement#.

- (b) On #qualifying sites# in the Grand Central Transit Improvement Zone Subarea or the Other Transit Improvement Zone Subarea

For #developments# or, where permitted, #enlargements# involving ground floor level construction on #qualifying sites# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 4 (East Midtown Subdistricts and Subareas) in Appendix A of this Chapter, in addition to the provisions of paragraph (a) of this Section, as applicable, a transit easement volume may be required on such #zoning lot# for public access between the #street# and a below-grade subway station or rail mass transit facility.

Prior to filing any applications with the Department of Buildings for an excavation permit, foundation permit, new building permit or alteration permit for a #development# or #enlargement#, the owner of the #zoning lot# shall file an application with the Metropolitan Transportation Authority (MTA) and the Chairperson of the City Planning Commission requesting a certification as to whether or not a transit easement volume is required on the #zoning lot#.

Within 60 days of receipt of such application, the MTA and the Chairperson shall jointly certify whether or not a transit easement volume is required on the #zoning lot#. Failure to certify within the 60-day period will release the owner from any obligation to provide a transit easement volume on such #zoning lot#.

When the MTA and the Chairperson indicate that a transit easement volume is required, the owner shall submit a site plan showing a proposed location and size of the transit easement volume that would provide access between the #street# and the below-grade subway station or rail mass transit facility and be compatible with the proposed #development# or #enlargement# on the #zoning lot# for joint approval and final certification by the MTA and the Chairperson. The MTA and the Chairperson shall comment on such site plan within 45 days of its receipt and may, within such 45 day period or following its expiration, permit the granting of an excavation permit while the location and size of the transit easement volume is being finalized. Upon joint approval of a site plan by the MTA and the Chairperson, copies of such certification shall be forwarded by the Chairperson to the Department of Buildings.

Legal instruments creating a transit easement volume shall be executed and recorded in a form acceptable to the City. The execution and recording of such instruments shall be a precondition to the issuance of any foundation permit, new building permit, or alteration permit by the Department of Buildings allowing such #development# or #enlargement#.

If a transit easement volume is required on the #zoning lot#, pursuant to the provisions of this Section, an off-street subway or rail mass transit access improvement may be constructed and maintained by either the owner of the #development# or #enlargement#, or the MTA, as follows:

- (1) where such mass transit access improvement is constructed and maintained by the owner of the #development# or #enlargement#:
 - (i) such mass transit access shall be improved to the standards set forth in Section 81-48 and shall be approved by the MTA, and shall comply with the following:
 - (a) where the #building's# lobby abuts such mass transit access, in addition to mass transit access to the #street#, such mass transit access shall provide a direct connection to the #building's# lobby which is open during normal business hours; and
 - (b) such mass transit access shall provide directional #signs# in accordance with the provisions of Section 81-412 (Directional signs). Such #signs# shall be exempt from the maximum #surface area# of non-illuminated signs permitted by Section 32-642 (Non-illuminated signs); and
 - (ii) no temporary certificate of occupancy shall be granted by the Department of Buildings for the #building# until the Chairperson of the City Planning Commission, acting in consultation with the MTA, has certified that the improvements are substantially complete and usable by the public.
- (2) where such mass transit access improvement is constructed and maintained by the MTA:
 - (i) where construction of the transit easement volume by the MTA is not contemporaneous with the construction of the #development#:
 - (a) any underground walls constructed along the #front lot line# of a #zoning lot# shall contain a knockout panel, not less than 12 feet wide, below #curb level# down to the bottom of the easement. The actual location and size of such knockout panel shall be determined through consultation with the MTA; and
 - (b) temporary construction access shall be granted to the MTA on portions of the #zoning lot# outside of the transit easement volume, as necessary, to enable construction within and connection to the transit easement volume; and
 - (ii) in the event that the MTA has approved of obstructions associated with the #development# or #enlargement# within the transit easement volume, such as building columns or footings, such construction and maintenance shall exclude any such obstructions within the transit easement volume.
- (c) In other locations

For portions of the #Special Midtown District# within the #Special Transit Land Use District#, where, as part of a #development# or #enlargement# involving ground floor level construction, a transit easement volume is required by the MTA to accommodate, whether singly or in any combination, light wells, stairs, ramps, escalators, elevators, passageways, or ancillary facilities required to support

the functioning of subway station or rail mass transit facilities, including, but not limited to, emergency egress or ventilation structures, the MTA shall, in consultation with the owner of the #zoning lot# and the City Planning Commission, determine the appropriate type of transit easement and reasonable dimensions for such transit easement volume.

The floor space occupied by any transit easement volume required pursuant to this Section shall not count as #floor area#. Where access improvements are constructed by the owner of the #zoning lot#, each square foot of mass transit access may constitute three square feet of pedestrian circulation space required pursuant to Section 81-45 (Pedestrian Circulation Space), not to exceed 3,000 square feet.

81-674

Ground floor use provisions

- (a) Within the Vanderbilt Corridor Subarea

[RELOCATED TEXT FROM SECTION 81-626]

For #buildings developed# or #enlarged# on the ground floor on #zoning lots# located within the Vanderbilt Corridor Subarea, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, where a #building# fronts upon a designated retail #street#, as shown on Map 2 (Retail and Street Wall Continuity), any portion of such #building's# ground floor level frontage along such designated retail #street# allocated to above- or below-grade public realm improvements provided in accordance with a special permit pursuant to Section 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea) or Section 81-633 (Special permit for Grand Central public realm improvements) shall be excluded from the retail continuity requirements of Section 81-42 (Retail Continuity Along Designated Streets).

- (b) Within the Grand Central Core Area

[RELOCATED TEXT FROM SECTION 81-623]

For #buildings developed# or #enlarged# on the ground floor after August 26, 1992 in the Grand Central Core Area, as shown on Map 4, #building# lobby entrances shall be required on each #street# frontage of the #zoning lot# where such #street# frontage is greater than 75 feet in length, except that if a #zoning lot# has frontage on more than two #streets#, #building# entrances shall be required only on two #street# frontages. Each required #building# entrance shall lead directly to the #building# lobby. #Buildings developed# from May 13, 1982, to August 25, 1992, shall be subject to the provisions of Section 81-47 (Major Building Entrances).

Required #building# entrances on opposite #street# frontages shall be connected directly to the #building# lobby by providing a through #block# connection in accordance with paragraph (h) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces), except that such through #block# connection shall be located at least 50 feet from the nearest north/south #wide street#.

Each required #building# entrance shall include a #building# entrance recess area, as defined in paragraph (b) of Section 37-53, except that for #developments# or #enlargements# with frontage on Madison Avenue, Lexington Avenue or 42nd Street, the width of a #building# entrance recess area shall not be greater than 40 feet parallel to the #street line# and there may be only one #building# entrance recess area on each such #street# frontage.

- (c) Along #narrow streets# of #qualifying sites# in the Grand Central Core Area

For #buildings developed# or, where permitted, #enlarged# on the ground floor on #qualifying sites# in the Grand Central Core Area, as shown on Map 4, a minimum of 50 percent of a #building's# ground floor level #street wall# frontage along a #narrow street# shall be limited to retail, personal service or amusement #uses# permitted by the underlying zoning district regulations, but not including #uses# in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 and 12D or automobile showrooms or plumbing, heating or ventilating equipment showrooms. Such ground floor level retail, personal services or amusement #uses# shall comply with the transparency provisions of Section 81-42.

81-675

Curb cut restrictions and loading berth requirements

[RELOCATED AND MODIFIED TEXT FROM SECTION 81-624]

For #developments# or #enlargements# within the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, in addition to the provisions of Sections 81-30 (OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS), inclusive, and 81-44 (Curb Cut Restrictions), the following shall apply:

(a) Loading berth provisions

For #through lots#, the required loading berth shall be arranged so as to permit head-in and head-out truck movements to and from the #zoning lot#.

However, the Commissioner of Buildings may waive such head-in and head-out requirements, provided that:

- (1) the #zoning lot# has frontage along a #street# where curb cuts accessing a loading berth are permitted, but there is no access to such #zoning lot# from the #street# due to the presence of:
 - (i) a #building# existing on (date of adoption) containing #residences#;
 - (ii) a #non-residential building# existing on (date of adoption) that is three or more #stories# in height; or
 - (iii) a #building# designated as a landmark or considered a contributing #building# in an Historic District designated by the Landmarks Preservation Commission; or
- (2) there are subsurface conditions, ventilation requirements from below-grade infrastructure or other site planning constraints that would make accommodating such loading berths infeasible.

(b) Curb cut provisions

The maximum width of any curb cut (including splays) shall be 15 feet for one-way traffic and 25 feet for two-way traffic. Curb cuts shall not be permitted on 47th Street between Park and Madison Avenues or on 45th Street between Depew Place and Madison Avenue.

81-676

Pedestrian circulation space requirements

[EXISTING TEXT FROM SECTION 81-625]

Any #development# or #enlargement# within the Grand Central Core Area, as shown on Map 4 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, Grand Central Subdistrict shall be subject to the provisions of Sections 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair) and 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), except that:

- (a) no arcade shall be allowed ~~within the Subdistrict~~;
- (b) ~~within the Subdistrict~~, a sidewalk widening may be provided only for a #building# occupying an Avenue frontage, provided that such sidewalk widening extends for the length of the full #block# front; and
- (c) for #developments# or #enlargements# on #zoning lots# located within the Vanderbilt Corridor Subarea, as shown on Map ~~4~~ 4 (Special Midtown District and Subdistricts) in Appendix A of this Chapter, up to a maximum of 3,000 square feet of on-site improvements to the public realm provided in accordance with a special permit pursuant to Section 81-635 (Transfer of development rights by special permit) or Section 81-64 (Special ~~Permit~~ permit for Grand Central Public Realm Improvement Bonus) may be applied toward the pedestrian circulation space requirement.

81-68

Additional Provisions for Qualifying Sites

81-681

Building energy design Mandatory requirements for qualifying sites

- (a) Building energy design requirements for #buildings# on #qualifying sites#

To ensure advancement of goals for the reduction of greenhouse gas emissions, #buildings# on #qualifying sites# shall either:

- (1) utilize a district steam system for the #building's# heating and hot water systems; or
- (2) the core and shell of such #building# shall exceed the standards of the chosen commercial building energy-efficiency compliance path within the 2016 New York City Energy Conservation Code (NYCECC), by three percent.

Compliance with the provisions of this Section shall be demonstrated to the Department of Buildings at the time of issuance of a new building permit for a #development# or, where permitted, an #enlargement# on a #qualifying site#.

The City Planning Commission may, by rule, modify the standards of this Section, as necessary, to ensure that the environmental standards established herein, meet or exceed the current best practices in reducing greenhouse gas emissions.

- (b) Mandatory publicly accessible space requirements for qualifying sites

A #qualifying site# shall provide a publicly accessible space, open or enclosed, as defined herein, in accordance with the size provisions of paragraph (b)(1) of this Section and the design requirements of

paragraph (b)(2). Each publicly accessible space shall require a certification by the Chairperson of the City Planning Commission, pursuant to Section 37-78 (Compliance), as modified herein.

For the purposes of this Chapter, on a #qualifying site#, a “publicly accessible space” shall be defined as an open or enclosed area provided for public use and enjoyment on the #zoning lot#. An “open publicly accessible space” shall be defined as a publicly accessible space, that is open to the sky on a #qualifying site#, and an “enclosed publicly accessible space” shall be defined as a fully enclosed, climate-controlled publicly accessible space on a #qualifying site#. The design standards contained in paragraph (b)(2) of this Section for an enclosed publicly accessible space are intended to serve the same purposes outlined for #public plazas# in Section 37-70.

(1) Type and minimum size

- (i) A #qualifying site# with a #lot area# of at least 30,000 square feet but less than 45,000 square feet shall provide a publicly accessible space, open or enclosed, with an area of not less than 10 percent of the #lot area# of the #zoning lot#.
- (ii) A #qualifying site# with a #lot area# of 45,000 square feet but less than 65,000 square feet shall provide an open publicly accessible space with an area of not less than 10 percent of the #lot area# of the #zoning lot#, except that where the provisions of Sections 81-40 (Mandatory District Plan Elements), inclusive, and 81-67 (Special Mandatory District Plan Element Requirements), inclusive, are applicable to the #qualifying site# and preclude an open publicly accessible space from being provided on the #qualifying site#, an enclosed publicly accessible space shall be provided in the proposed #building#.

In addition to complying with paragraphs (a) through (d) of Section 37-78, each application for an enclosed publicly accessible space shall demonstrate which of the applicable provisions of Sections 81-40 and 81-67, inclusive, conflict with the design requirements set forth in 37-70, inclusive, and that they necessitate the provision of the enclosed publicly accessible space in lieu of an open publicly accessible space.

- (iii) A #qualifying site# with a #lot area# of 65,000 square feet or greater shall provide an open publicly accessible space with an area of not less than 10,000 square feet. Where such #qualifying site# has a #through lot# portion, such #qualifying site# shall provide an open publicly accessible space across the #through lot# portion.

(2) Design requirements for publicly accessible spaces

For open publicly accessible space, the provisions of Section 37-70, inclusive, shall apply, except that the provisions of Section 37-713 (Locational restrictions) shall not apply.

For enclosed publicly accessible spaces, the following shall apply:

- (i) An enclosed publicly accessible space shall have a minimum height of 30 feet or the height of the ground floor level, whichever is greater, and a minimum width and depth, at any point, of 30 feet. Such enclosed publicly accessible space shall be located on the ground floor level of the #building# and shall be directly accessible from an adjoining #street# or #publicly accessible open area# that the area fronts. A

minimum of one entrance to the enclosed publicly accessible space shall be provided from the adjoining #street# on which it fronts, however if it fronts on more than one #street#, such entrance shall be from the #street# with the longer frontage. The aggregate width of doorways accessing such enclosed publicly accessible space shall not be less than 10 feet in width.

(ii) All ground floor level #street walls# enclosing the enclosed publicly accessible space shall be treated with clear, untinted, transparent material. Such transparent materials shall occupy at least 70 percent of the surface area of such ground floor level #street wall# between a height of two feet and 30 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Such enclosed publicly accessible space shall be heated or air-conditioned, and the standards for heating, ventilating and air-conditioning shall be at least equal to those of the lobby for the principal #use# of the #building#.

(iii) Public access to the enclosed publicly accessible space shall be provided, at a minimum, from 7:00 a.m. to 10:00 p.m. However, if a café or kiosk, pursuant to Section 37-73 (Kiosks and Open Air Café), is provided within, such enclosed publicly accessible space shall remain open to the public during the hours of operation of the café or kiosk, if such hours are longer than otherwise required by this Section.

The hours of access shall be included on all required entry plaques and information plaques in accordance with the provisions of Section 37-751 (Public space signage systems) and for through #block# enclosed publicly accessible spaces, an information plaque shall be provided in accordance with paragraph (h)(viii) of Section 37-53 (Design standards for Pedestrian Circulation Spaces).

(iv) The provisions of Sections 37-718 (Paving), 37-722 (Level of plaza), 37-728 (Standards of accessibility for persons with disabilities), 37-744 (Litter receptacles), 37-745 (Bicycle parking), 37-746 (Drinking fountains), 37-748 (Additional amenities), 37-752 (Prohibition signs), 37-753 (Accessory signs) and 37-77 (Maintenance) shall apply to enclosed publicly accessible spaces.

(v) The provisions of Section 37-723 (Circulation paths) shall apply to enclosed publicly accessible spaces. In addition, for enclosed publicly accessible spaces provided in conjunction with subway entrances and/or designed to provide connection to above- and/or below-grade improvements, an unobstructed pedestrian circulation path shall be provided from at least one entrance of the enclosed publicly accessible space to such subway entrance and to such above- and/or below-grade improvements.

(vi) The provisions of paragraphs (a) and (b) of Section 37-726 (Permitted obstructions) shall apply to enclosed publicly accessible spaces and are modified as follows:

(aa) structural columns shall be considered permitted obstructions. The area occupied by such structural columns shall be excluded from the area calculations for the enclosed publicly accessible space. In addition, interior structural columns shall have an aggregate area of no more than two percent of the total enclosed publicly accessible space. Such columns shall not be considered permitted obstructions in any circulation path; and

(bb) a café or kiosk permitted by certification pursuant to Section 37-73 (Kiosks and Open Air Cafés) shall be considered a permitted obstruction within an

enclosed publicly accessible space and may not occupy more than 20 percent of the enclosed publicly accessible space area.

- (vii) The provisions of Section 37-741 for seating shall apply to enclosed publicly accessible spaces, except that such provisions are modified as follows:
 - (aa) the requirements of seating within 15 feet of a #street line# shall not apply;
 - (bb) all of the linear seating capacity may be in moveable seats. All such moveable seats must remain in the enclosed publicly accessible space during the hours of operation; and
 - (cc) the requirement that seats facing walls be located a minimum of six feet from such wall shall only apply to fixed seating.
- (viii) The requirements of Section 37-742 for planting and trees shall apply to enclosed publicly accessible spaces, except that the surface area of any vertical planting may be included in the calculation of the total area of planting beds that are provided, and trees shall not be required.
- (ix) All enclosed publicly accessible spaces shall be illuminated with a minimum level of illumination of not less than five horizontal foot candles (lumens per foot) throughout the space). The requirements of Section 37-743 for a lighting schedule, a diagram of light level distribution and electrical power shall apply.
- (x) At least 50 percent of the total frontage of all #building# walls fronting on an enclosed publicly accessible space, excluding such frontage occupied by #street walls#, #building# lobbies, or #building# walls abutting #lot lines#, shall be limited to retail, personal service or amusement #uses# permitted by the underlying zoning district regulations, but not including #uses# in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 and 12D or banks, automobile showrooms or plumbing, heating or ventilating equipment showrooms. For such #building# walls, the transparency provisions of paragraph (c) of Section 37-76 shall apply.
- (xi) The area of the enclosed publicly accessible space shall be exempt from calculations for #floor area# as defined in Section 12-10 (Definitions).

In addition, a maximum of 30 percent of the area of the publicly accessible space, whether open or enclosed, may be counted towards meeting the pedestrian circulation space requirement, up to a maximum of 3,000 square feet.

81-682

Priority Improvement List for qualifying sites

In accordance with the provisions of Section 81-641 (Additional floor area for transit improvements), any applicant for a #development# or #enlargement# on a #qualifying site# in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, shall select a transit improvement, or combination thereof, to be completed in accordance with the provisions of this Section.

(a) Selecting an Improvement

An applicant shall select a transit improvement from the Priority Improvement List in paragraph (b) of this Section based on the #floor area# such improvement generates relative to the minimum #floor area# required and maximum #floor area# permitted for completion of such improvement pursuant to Section 81-641, and based on the following geographical and technical considerations:

- (1) First, the applicant shall select a transit improvement in the same Subarea of the East Midtown Subdistrict as the proposed #development# or #enlargement# on a #qualifying site#;
- (2) If none of the transit improvements on the Priority Improvement List meet the criteria of paragraph (a)(1) of this Section, the applicant shall select a transit improvement on a transit route that passes through, and has stations or other facilities in the same Subarea of the East Midtown Subdistrict as the proposed #development# or #enlargement# on a #qualifying site#;
- (3) If none of the transit improvements on the Priority Improvement List meet the criteria of paragraphs (a)(1) or (a)(2) of this Section, the applicant shall select from any remaining improvement on the list.

In addition, applicants shall consult with the applicable City or State agencies with jurisdiction over and control of the proposed improvement to ensure that the selected improvement will meet the operational and long-term planning needs of the station or transit route, including any phasing requirements, and compliance with the Americans with Disabilities Act (ADA).

(b) The Priority Improvement List

The Priority Improvement List (the "Improvement List"), set forth in the tables below, details physical improvements to subway stations and other rail mass transit facilities in, or adjacent to, the East Midtown Subdistrict, that an applicant for a #development# or, where permitted, an #enlargement# on a #qualifying site# may complete to obtain additional #floor area#.

Three levels of improvements are available for completion, which, accordingly, generate three different amount of additional #floor area#:

- (1) Type 1 Improvements generate 40,000 square feet of #floor area#, and include new or expanded on-street station entrances, new or expanded ~~on~~ off-street station entrances, new or expanded accessible routes for persons with physical disabilities between two levels of a station, and four or fewer new or reconfigured station stairs.
- (2) Type 2 Improvements generate 80,000 square feet of #floor area#, and include new or expanded station escalators, new or expanded accessible routes for persons with physical disabilities between three or more station levels, new or expanded paid areas of a station, including widened platforms or mezzanine levels, and more than four new or reconfigured station stairs.
- (3) Type 3 Improvements generate 120,000 square feet of #floor area#, and include large-scale renovations that significantly improve the environment of stations, and new connections between two or more stations.

In consultation with the Metropolitan Transportation Authority (MTA), the City Planning Commission may, by rule, modify such Improvements List to reflect new improvements needed in the transit network.

TABLE 1
PRIORITY IMPROVEMENT LIST

| <u>TYPE 1 IMPROVEMENTS</u> | | |
|--|---|--|
| <u>Location</u> | <u>Type of Improvement</u> | <u>Transit Line</u> |
| <u>Lexington Avenue / 53rd – 51st Street station</u> | <u>Replace escalator and stair connecting downtown Lexington platform to station underpass with widened stair</u> | <u>Lexington Avenue Line / 53rd Street Line</u> |
| <u>Lexington Avenue / 53rd – 51st Street station</u> | <u>Provide new street entrance to uptown Lexington platform from 50th Street</u> | <u>Lexington Avenue Line / 53rd Street Line</u> |
| <u>42 St - Bryant Park / 5th Ave station</u> | <u>Provide ADA access elevator between Flushing platform and mezzanine level</u> | <u>Flushing Line / 6th Avenue Line</u> |
| <u>42 St - Bryant Park / 5th Ave station</u> | <u>Provide new street entrance from north side of West 42nd street</u> | <u>Flushing Line / 6th Avenue Line</u> |
| <u>42 St - Bryant Park / 5th Ave station</u> | <u>Provide ADA access elevator between Sixth Avenue northbound platform and mezzanine level</u> | <u>Flushing Line / 6th Avenue Line</u> |
| <u>42 St - Bryant Park / 5th Ave station</u> | <u>Provide ADA access elevator between Sixth Avenue southbound platform and mezzanine level</u> | <u>Flushing Line / 6th Avenue Line</u> |
| <u>Lexington Av - 59th Street station</u> | <u>Provide new street entrance from north side stair capacity at northeast and northwest corners of East 60th Street and Lexington Avenue</u> | <u>Lexington Avenue Line / Broadway-60th Street Line</u> |
| <u>Lexington Av - 59th Street station</u> | <u>Provide ADA access elevator between local southbound IRT platform and street level</u> | <u>Lexington Avenue Line / Broadway-60th Street Line</u> |
| <u>Lexington Av - 59th Street station</u> | <u>Provide ADA access elevator between 60th Street (BMT) line platform and mezzanine level</u> | <u>Lexington Avenue Line / Broadway-60th Street Line</u> |
| <u>Lexington Av - 59th Street station</u> | <u>Provide new platform stair and widen existing stairs between 60th Street (BMT) line platform and mezzanine level</u> | <u>Lexington Avenue Line / Broadway-60th Street Line</u> |
| <u>Fifth Avenue / and 53rd Street station</u> | <u>Provide new street entrance on East 53rd Street west side of Madison Avenue</u> | <u>53rd Street Line</u> |
| <u>Grand Central / 42nd Street station</u> | <u>Widen platform stairs at east end of Flushing platform</u> | <u>Flushing Line</u> |
| <u>Grand Central / 42nd Street station</u> | <u>Widen two stairs between uptown Lexington platform and Flushing and Lexington platforms</u> | <u>Flushing Line</u> |
| <u>TYPE 2 IMPROVEMENTS</u> | | |
| <u>Location</u> | <u>Type of Improvement</u> | <u>Transit Line</u> |
| <u>Lexington Avenue / 53rd – 51st Street station</u> | <u>Provide widened escalator between 53rd street platform and mezzanine</u> | <u>Lexington Avenue Line / 53rd Street Line</u> |
| <u>Lexington Av - 59th Street station</u> | <u>Provide ADA access elevator between northbound local Lexington Avenue Line platforms, northbound express Lexington Ave Line platform, and the</u> | <u>Lexington Avenue Line / Broadway-60th Street Line</u> |

| | | |
|---|--|--|
| <u>Lexington Av - 59th Street station</u> | <u>60th Street (BMT) line mezzanine</u> <u>Provide ADA access elevator between southbound local Lexington Avenue Line platforms, southbound express Lexington Avenue Line platform, and the 60th Street (BMT) line mezzanine</u> | <u>Lexington Avenue Line / Broadway-60th Street Line</u> |
| <u>47th / 50th Streets – Rocketfeller Ctr station</u> | <u>Provide two new platform stairs and widen seven remaining platform stairs</u> | <u>6th Avenue Line</u> |
| <u>Fifth and Av / 53rd Street station</u> | <u>Provide a new stairs from mezzanine level to upper platform, and a new stair from upper platform to lower platform to multiple levels of station</u> | <u>53rd Street Line</u> |
| <u>Fifth and Av / 53rd Street station</u> | <u>Provide ADA access elevator from mezzanine to multiple levels of station upper platform, and to lower platform</u> | <u>53rd Street Line</u> |
| <u>Fifth and Av / 53rd Street station</u> | <u>Provide two escalators from mezzanine to multiple levels of station upper platform</u> | <u>53rd Street Line</u> |
| <u>Fifth and Av / 53rd Street station</u> | <u>Provide new mezzanine area under East 53rd Street with fare control to accommodate street entrance and new access core</u> | <u>53rd Street Line</u> |
| <u>Fifth and Av / 53rd Street station</u> | <u>Provide new access core between platforms and street level to accommodate escalators, elevator, and stairs</u> | <u>53rd Street Line</u> |
| <u>Grand Central / 42nd Street station</u> | <u>Expand paid area and add Provide new platform stair between Flushing platform and upper mezzanine stair and expand transfer passageway to accommodate the addition of the stair</u> | <u>Flushing Line</u> |

TYPE 3 IMPROVEMENTS

| <u>Location</u> | <u>Type of Improvement</u> | <u>Transit Line</u> |
|--|---|--|
| <u>Grand Central / 42nd Street station</u> | <u>Renovation Renovate to contemporary standards the south end of the Grand Central Lexington Subway of remaining portions of Lexington mezzanine from the Shuttle Passageway and 125 Park Avenue entrances to join the renovated areas on the north end of the mezzanine</u> | <u>Flushing Line / Lexington Avenue Line</u> |

81-683

Criteria for improvements in the Public Realm Improvement Concept Plan

The #Public Realm Improvement Fund Governing Group# shall select priority improvements for the Public Realm Improvement Concept Plan (the “Concept Plan”) in accordance with the provisions of this Section.

All improvements in the Concept Plan, which may be funded through contributions to the #East Midtown Public Realm Improvement Fund#, shall:

- (a) be within the East Midtown Subdistrict, a location immediately adjacent thereto, or in a subway or rail mass transit facility in the Borough of Manhattan which has ~~with~~ significant ridership into and out of the Subdistrict;
- (b) have a City or State agency as a project sponsor;
- (c) meet the definition of a capital project under Section 210 of the New York City Charter; and
- (d) consist of either:
- (1) above-grade public realm improvements, including, but not limited to, pedestrian plazas that provide opportunities for passive recreation, or improvements along a street accommodating both vehicular and pedestrian access that may include pedestrian amenities, or streetscape, sidewalk, crosswalk and median enhancements; or
 - (2) below-grade public realm improvements, including, but not limited to widening, straightening, expanding or otherwise enhancing the existing below-grade pedestrian circulation network, additional vertical circulation, reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities, improved or new disabled access, or providing daylight access, or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways, within the East Midtown Subdistrict, a location immediately adjacent thereto, or in a subway or rail mass transit facility identified on the Priority Improvement List in Section 81-682 (Priority Improvement List for qualifying sites).

The Governing Group shall first consider the ~~selection and funding of the above-grade~~ public realm improvements set forth in the table below ~~within the East Midtown Subdistrict~~ prior to consideration and selection of ~~any~~ other above- or below-grade public realm improvements.

TABLE 1

PEDESTRIAN PLAZAS

Pershing Square East

East side of Park Avenue between East 40th Street and East 41st Street

West side of Park Avenue between East 40th Street and East 41st Street

SHARED STREETS

East 41st Street between 5th Avenue and Lexington Avenue

Vanderbilt Avenue between East 43rd Street and East 47th Street

East 43rd Street between Lexington Avenue and 3rd Avenue

East 44th Street between Lexington Avenue and 3rd Avenue

MEDIAN WIDENINGS

Expansion of Park Avenue medians between East 46th Street and East 57th Street

THOROUGHFARE IMPROVEMENTS

Five blocks of East 53rd Street between 2nd Avenue and 5th Avenue

81-684

Authorization ~~to allow enlargements on~~ for qualifying sites

(a) Authorization to allow enlargements on qualifying sites

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# for a #qualifying site# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the City Planning Commission may authorize modifications to the requirement in the definition of #qualifying site# in Section 81-613 ~~that the additional #floor area# permitted through the provisions of Section 81-64 be achieved exclusively through a #development#, and may to allow #enlargements# on #qualifying sites# to an existing #building# with a frontage along a #wide street#.~~ The Commission may also waive the requirement that such #qualifying site# provide publicly accessible space in accordance with the provisions of paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites). In order to permit such modifications, ~~provided that the Commission shall find~~ that such #enlargement# includes significant renovations to the existing #building# that will bring it up to contemporary space standards.

Where the existing #building# includes #non-complying floor area#, a contribution shall be deposited by the applicant into the #Public Realm Improvement Fund#. Such contribution shall be an amount equal to 20 percent of the #Public Realm Improvement Fund Development Rights Valuation# multiplied by the amount of such pre-existing #non-complying floor area#. For the purposes of such calculation, the amount of existing #non-complying floor area# shall not include any bonus #floor area# associated with a #publicly accessible open area# to remain on the #zoning lot#. The payment of the non-refundable contribution to the #Public Realm Improvement Fund#, shall be a precondition to the issuance of any foundation permit or new building permit by the Department of Buildings allowing the #enlargement# on a #qualifying site#.

For such #enlargements# to #buildings# with #non-complying floor area#, the proposed #floor area# beyond the amount contained in the pre-existing #non-complying building# shall be obtained by utilizing the applicable provisions of Section 81-64 (Special Floor Area Provisions for Qualifying Sites). For the purposes of applying the provisions of such Section, the reconstructed #floor area ratio# shall be considered the basic maximum #floor area ratio#. However, the maximum #floor area ratios# of Row E and Row H shall continue to apply.

However, an alternation of an existing #building# resulting in both the removal of more than 75 percent of the #floor area# and more than 25 percent of the perimeter walls of such existing #building#, and the replacement of any amount of #floor area#, shall be considered a #development#.

Applications for authorizations shall be referred to the affected Community Board for a period of at least 30 days for comment. The City Planning Commission shall grant in whole or in part or deny the application within 60 days of the completion of the Community Board review period.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

(b) Authorization for a qualifying site providing publicly accessible space

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# on a #qualifying site# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites) and providing publicly accessible space, open or enclosed, pursuant to paragraph (b) of Section 81-681 (Mandatory requirements for qualifying sites), the City Planning Commission may authorize the waiver of the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Retail Streets) and 81-671 (Special street wall requirements), requirements of Sections 81-42 (Retail Continuity Along Designated Streets) and 81-674 (Ground floor use provisions), the curb cut location restriction of paragraph (b) of Section 81-675 (Curb cut

restrictions and loading berth requirements), and the design requirements for publicly accessible space, open or enclosed, set forth in paragraph (b)(2) of Section 81-681.

In order to grant such authorization, the Commission shall find that such proposed waivers will result in a superior urban design relationship with surrounding #streets#, #buildings#, and other open areas, and;

- (1) for waiver of #street wall# regulations:
 - (i) such waiver is necessary due to constraints or conditions of the configuration of the site; and
 - (ii) such waiver will not unduly obstruct the access to light and air of surrounding #buildings# and open spaces;
- (2) for waivers of retail continuity and ground floor #use# provisions, such waivers are minimized by a site plan that requires pedestrian-oriented #uses# along the boundaries of any publicly accessible space, open or enclosed;
- (3) for waiver of the curb cut location restriction of paragraph (b) of Section 81-675, for a #qualifying site# on 47th Street between Park Avenue and Vanderbilt Avenue, that the proposed curb cut location will not unduly interrupt the flow of pedestrian traffic or result in any undue conflict between pedestrian and vehicular movement; and
- (4) for modifications of the design requirements for a publicly accessible space, open or enclosed:
 - (i) the publicly accessible space and proposed # building# on the #qualifying site# are designed in a manner that results in a cohesive and harmonious site plan,
 - (ii) the publicly accessible space is superior in design and quality of amenities;
 - (iii) the publicly accessible space provides connections to pedestrian circulation spaces in the immediate vicinity;
 - (iv) the pedestrian network of the surrounding area is enhanced by the publicly accessible space; and
 - (v) such waiver is the minimum waiver necessary to afford relief.

No modifications to the required amount of publicly accessible space set forth in paragraph (b) of Section 81-681 shall be permitted.

All applications pursuant to this Section shall be referred to the affected Community Board, the local Council Member, and the Borough President of Manhattan. No authorization shall be granted prior to sixty days after such referral.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

81-685**Special permit to modify qualifying site provisions**

In conjunction with any application that would allow additional #floor area# permitted beyond the basic maximum #floor area# for a #qualifying site# set forth in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), the City Planning Commission may permit modifications to certain #qualifying site# criteria, as well as height and setback regulations and mandatory plan elements, as set forth in paragraph (a) of this Section, provided that the Commission determines that the application requirements set forth in paragraph (b) and the findings set forth in paragraph (c) of this Section are met.

(a) The Commission may modify the following, whether singly or in any combination:

(1) the following #qualifying site# criteria:

(i) the requirement for minimum #wide street# frontage, including the requirement that no existing #buildings# will remain on such #wide street# frontage, set forth in paragraphs (b) and (c) of the definition of a #qualifying site# in Section 81-613 (Definitions);

(ii) the #building# performance and publicly accessible space requirements in the paragraph (f) of the definition of a #qualifying site# and Section 81-681 (~~Building energy design requirements for qualifying sites~~)(Mandatory requirements for qualifying sites); or

(iii) the requirement that the additional #floor area# permitted through the provisions of Section 81-64 be achieved exclusively through a #development#;

(2) the provisions for #zoning lots# divided by district boundaries set forth in Sections 77-02 (Zoning Lots no Existing Prior to Effective Date or Amendment of Resolution), 77-21 (General Provisions) or 77-22 (Floor Area Ratio), and the provisions of Section 81-612 (Applicability along district boundaries) requiring that #zoning lots# divided by Subarea boundaries utilize the provisions of Article VII, Chapter 7;

(3) the #street wall# regulations of Sections 81-43 (Street Wall Continuity Along Designated Streets) or 81-671 (Special street wall requirements), inclusive;

(4) the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation), inclusive, 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), inclusive, or 81-66 (Special Height and Setback Requirements); or

(5) the mandatory district plan elements of Sections 81-42 (Retail Continuity Along Designated Streets), 81-44 (Curb Cut Restrictions), 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair), 81-47 (Major Building Entrances), 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), 81-674 (Ground floor use provisions), 81-675 (Curb cut restrictions and loading berth requirements), 81-676 (Pedestrian circulation space requirements) or 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE), inclusive, except that no modifications to the required amount of pedestrian circulation space set forth in Section 37-51 shall be permitted.

(b) Application requirements

Applications for a special permit for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications. In addition, where modifications to #street wall# or height and setback regulations are proposed, any application shall contain the following materials, at a minimum:

- (1) drawings, including but not limited to, plan views and axonometric views, that illustrate how the proposed #building# will not comply with the #street wall# regulations of Section 81-43 (Street Wall Continuity Along Designated Streets), or as such provisions are modified pursuant to Section 81-671 (Special street wall requirements), as applicable, and that illustrate how the proposed #building# will not comply with the height and setback regulations of Sections 81-26 (Height and Setback Regulations – Daylight Compensation) or 81-27 (Alternate Height and Setback Regulations – Daylight Evaluation), or as such provisions are modified pursuant to Section 81-66 (Special Height and Setback Requirements), as applicable;
- (2) where applicable, formulas showing the degree to which such proposed #building# will not comply with the length and height rules of Section 81-26, or as such provisions are modified pursuant to Section 81-66; and
- (3) where applicable, #daylight evaluation charts# and the resulting daylight evaluation score showing the degree to which such proposed #building# will not comply with the provisions of Section 81-27 or as such provisions are modified pursuant to Section 81-66.

(c) Findings

The Commission shall find that such proposed modifications:

- (1) to the definition of #qualifying site# are the minimum extent necessary, and are harmonious with the Subdistrict objective to protect and strengthen the economic vitality and competitiveness of East Midtown by facilitating the development of exceptional modern and sustainable office towers;
- (2) to the requirement for #wide street# frontage in the definition of #qualifying sites# will not unduly concentrate #bulk# towards the middle of the #block# to the detriment of the surrounding area;
- (3) to the #building# performance requirements in the definition of #qualifying sites# and paragraph (a) of Section 81-681:
 - (i) are necessary due to the presence of existing #buildings# on the site; and
 - (ii) will not detract from the incorporation of innovative sustainable design measures;
- (4) to the publicly accessible space requirements in the definition of #qualifying sites and paragraph (b) of Section 81-681:
 - (ii) are the minimum necessary to accommodate the proposed #building#; and
 - (iii) that any reduction or waiver will result in a better site plan and will not detract from a lively streetscape and pedestrian experience;

(5) ~~(4)~~ to regulations pertaining to #zoning lots# divided by district boundaries will result in better site planning;

(6) ~~(5)~~ to the mandatory district plan elements:

- (i) will result in a better site plan for the proposed #development# or #enlargement# that is harmonious with the mandatory district plan element strategy of the #Special Midtown District#, as set forth in Section 81-41 (General Provisions); ~~and~~
- (ii) any adverse impact on retail continuity is minimized by a site plan that requires pedestrian-oriented #uses# along the boundaries of any open or enclosed public areas within the #zoning lot#; and

(7) ~~(6)~~ to the #street wall# or height and setback regulations:

- (i) are necessary due to constraints or conditions of the #development# or #enlargement# and conditions imposed by the configuration of the site;
- (ii) will not unduly obstruct the access of light and air to surrounding properties; and
- (iii) will result in an improved distribution of #bulk# on the #zoning lot# that is harmonious with the height and setback goals of the #Special Midtown District# set forth in Section 81-251 (Purpose of height and setback regulations); and
- (iv) the overall design of the #building# demonstrates an integrated and well-considered facade, taking into account factors such as #street wall# articulation, and fenestration, that creates a prominent and distinctive #building# which complements the character of the surrounding area; and constitutes a distinctive addition to the Midtown Manhattan skyline.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

81-686

Contribution in-kind for certain public realm improvements

The Chairperson of the City Planning Commission shall allow, by certification, in conjunction with a certification pursuant to Sections 81-642 (Transfer of development rights from landmarks to qualifying sites), or, where applicable, 81-643 (Special provisions for retaining non-complying floor area in commercial buildings), the applicant for a #development# or, where permitted, #enlargement# on a #qualifying site# that is immediately adjacent to a sidewalk improvement identified in the Public Realm Improvement Concept Plan to undertake such improvement, and to deduct ~~be deducted~~ the cost of such improvement from their contribution to the #Public Realm Improvement Fund#, provided that the provisions of this Section are met.

(a) The following requirements shall be completed prior to application for certification by the Chairperson:

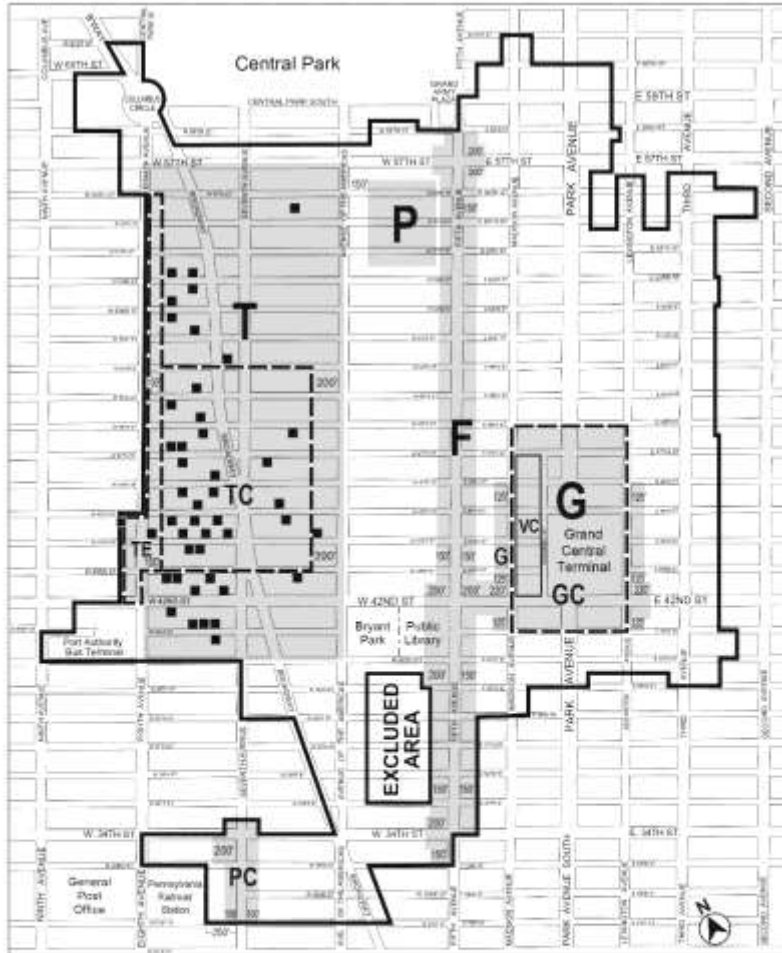
- (1) The applicant shall submit ~~concept~~ preliminary plans for the proposed improvement to the Chairperson, the Department of Transportation (DOT), and the #Public Realm Improvement Fund Governing Group# (the "Governing Group");

- (2) DOT shall provide a letter to the Chairperson and the Governing Group containing a conceptual approval of the proposed improvement including a statement of any considerations regarding the construction and operation of the improvement;
- (3) Construction documents and cost estimates shall be prepared for such proposed improvements by a professional engineer, and submitted to the Chairperson, the DOT and the Governing Group;
- (4) Upon review, the DOT and the Governing Group shall either approve such construction documents and costs estimates or detail discrepancies to be resolved by the applicant; and
- (5) Upon approval of the construction documents and cost estimates by the DOT and Governing Group, and prior to the issuance of a building permit as set forth in Section 81-642 and in this Section, the applicant shall execute agreements and legally enforceable instruments running with the land, setting forth the obligations of the owner and developer, their successors and assigns, to design and construct the improvement in accordance with the requirements of the DOT. A certified copy of such legal instruments shall be sent to the Chairperson.
- (b) Upon submittal of all the items in paragraph (a) of this Section, along with drawings indicating the portion of the #building# utilizing transferred #floor area# pursuant to the provisions of Section 81-642 (~~Transfer of development rights from landmarks to qualifying sites~~) or, where applicable, 81-643, the Chairperson shall certify that a #development# or, where permitted, #enlargement# on a #qualifying site# may undertake an improvement to an adjoining sidewalk.
- The execution and recording of legal instruments in accordance with paragraph (a) of this Section shall be a precondition to the issuance of any foundation permit or new building permit or alteration permit by the Department of Buildings allowing a #development# or, where permitted, #enlargement# on a #qualifying site# undertaking a contribution in-kind pursuant to this Section.
- (c) Upon certification by the Chairperson, monies equal to such agreed upon cost estimate between the applicant, DOT and the Governing Group shall be deposited by the applicant into an escrow account or other similar ~~fund~~ account established by the Governing Group, which shall not be commingled with ~~from~~ the #Public Realm Improvement Fund# (“the Improvement Fund”).
- (d) No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing transferred #floor area# pursuant to Section 81-642 until the Chairperson of the City Planning Commission, acting in consultation with the DOT and the Governing Group, has certified that the improvements are substantially complete and usable by the public. No permanent certificate of occupancy shall be granted by the Department of Buildings until the improvements have finally been completed in accordance with the approved plans and such final completion has been approved by the Chairperson, the DOT and the Governing Group.
- (e) Upon completion of the sidewalk improvement, the monies secured in the escrow account or other similar ~~fund~~ account established by the Governing Group shall be released to the applicant.
- (f) In the event that an applicant utilizing the provisions of this Section has not completed the sidewalk improvements within five years of obtaining a new building permit or alternation permit from the Department of Buildings, the Governing Group shall release the monies in the escrow account or other similar account ~~fund back~~ to the Improvement Fund.

**Appendix A
Midtown District Plan Maps**

Map 1: Special Midtown District and Subdistricts

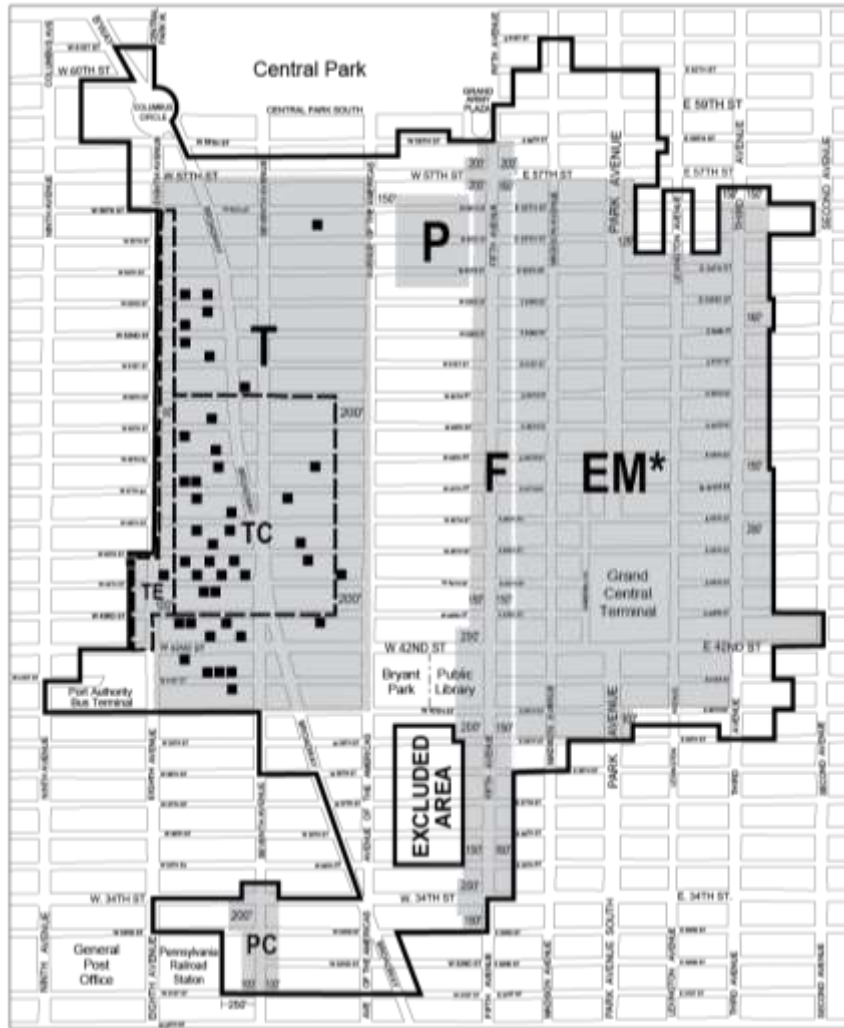
[EXISTING MAP]



MIDTOWN DISTRICT PLAN
MAP 1 - Special Midtown District and Subdistricts

- Special Midtown District
- F Fifth Avenue Subdistrict
- G Grand Central Subdistrict
- GC Grand Central Subdistrict Core
- VC Vanderbilt Corridor
- P Preservation Subdistrict
- PC Penn Center Subdistrict
- T Theater Subdistrict
- TC Theater Subdistrict Core
- TE Theater Subdistrict Eighth Avenue Corridor
- Listed Theaters

[PROPOSED MAP]



MIDTOWN DISTRICT PLAN

MAP 1 - Special Midtown District and Subdistricts

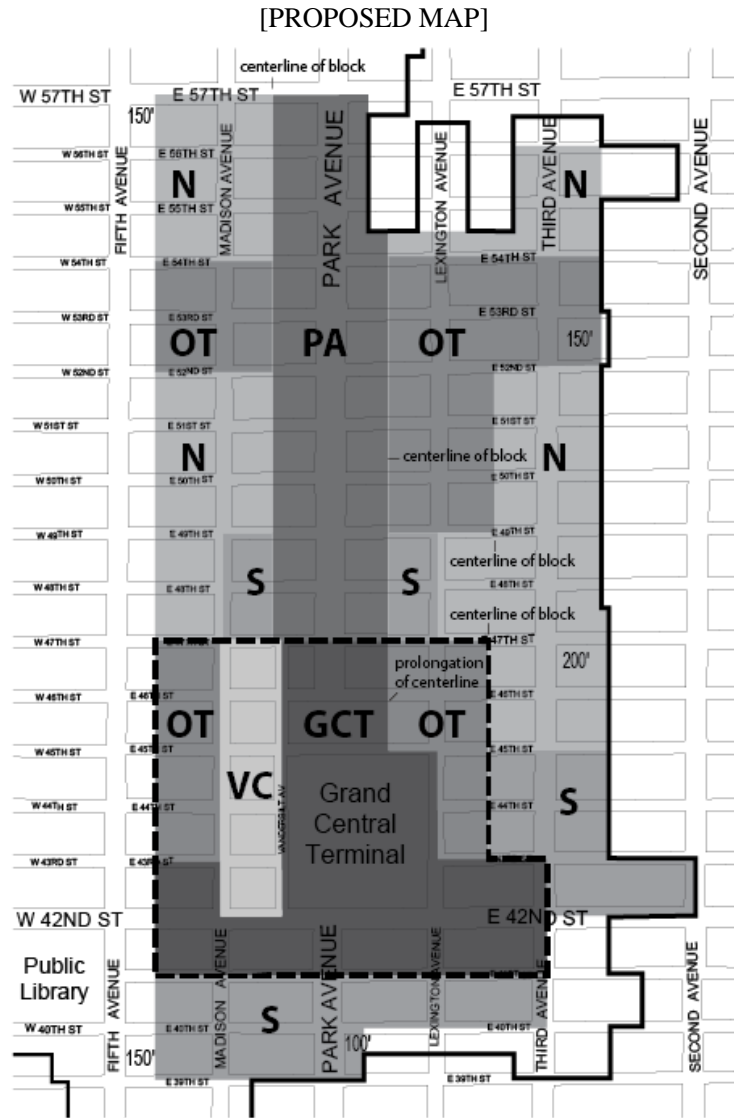
- F** Fifth Avenue Subdistrict
- EM** East Midtown Subdistrict
- PC** Penn Center Subdistrict
- P** Preservation Subdistrict
- T** Theater Subdistrict
- TC** Theater Subdistrict Core
- TE** Theater Subdistrict Eighth Avenue Corridor
- Listed Theaters
- Special Midtown District

* East Midtown Subareas are shown on Map 4

* * *



Map 4: East Midtown Subdistrict and Subareas



MIDTOWN DISTRICT PLAN
 MAP 4 - East Midtown Subdistrict and Subareas

- Grand Central Transit Improvement Zone Subarea (GCT)
- Park Avenue Subarea (PA)
- Other Transit Improvement Zone Subarea (OT)
- Southern Subareas (S)
- Northern Subareas (N)
- Vanderbilt Corridor (VC)
- Grand Central Core Area
- Special Midtown District



* * *

Appendix B
Daylight Evaluation Charts

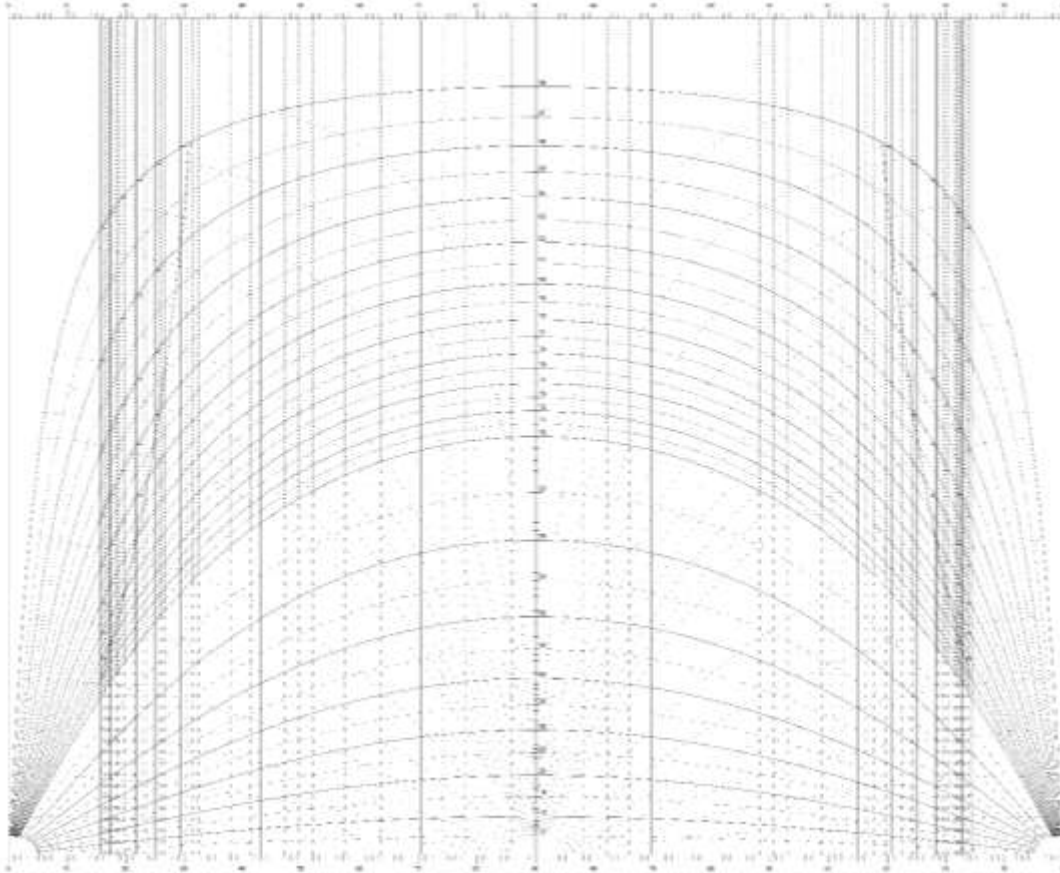
[MOVE EXISTING DAYLIGHT EVALUATION CHARTS INTO THIS NEW APPENDIX B]

* * *

Chart 4. Daylight Evaluation Diagram – Park Avenue

[PROPOSED CHART]

(A full size, 30" by 36", copy of this chart is available for purchase and inspection at the Department of City Planning's Bookstore.)

Daylight Evaluation Diagram, Park Avenue

* * *

DAVID G. GREENFIELD, *Chairperson*; DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; RAFAEL SALAMANCA, Jr.; Committee on Land Use, July 27, 2017.

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

Resolution approving various persons Commissioners of Deeds.

By the Presiding Officer -

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

(For Commissioner of Deeds information for this Stated Meeting of August 9, 2017, please refer to the Office of the City Clerk at 141 Worth Street, First Floor Executive Offices, New York, N.Y. 10013)

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

**ROLL CALL ON GENERAL ORDERS FOR THE DAY
(Items Coupled on General Order Calendar)**

- | | |
|-----------------------------------|---|
| (1) M-524 & Res 1616 - | Nasr O. Sheta as a member of the New York City Board of Standards and Appeals. |
| (2) M-535 & Res 1617 - | Michael Rivadeneyra as a member of the New York City Civilian Complaint Review Board. |
| (3) Int 347-B - | Remedies for the breach of the duty of an owner to refrain from harassment of tenants. |
| (4) Int 484-A - | Prohibiting smoking and the use of electronic cigarettes in the common areas of all multiple dwellings. |
| (5) Int 918-A - | Professionally certified applications for construction document approval and final inspections of permitted work. |
| (6) Int 924-A - | Administrative code of the city of New York, to vacate orders. |
| (7) Int 926-A - | Creating a task force on construction work in occupied multiple dwellings. |

- (8) **Int 930-A -** Distressed buildings subject to foreclosure by action in rem.
- (9) **Int 931-B -** Building violations adjudicated before the office of administrative trials and hearings.
- (10) **Int 936-A -** Tenant protection plans, and to repeal section 1704.20.10 of the building code, in relation to special requirements for work in occupied multiple dwellings.
- (11) **Int 938-A -** Requiring increased oversight of construction contractors.
- (12) **Int 939-A -** Increasing the penalties for work without a permit.
- (13) **Int 940-A -** Increasing the penalties for a violation of a stop work order.
- (14) **Int 944-A -** Construction work permits.
- (15) **Int 960-A -** Creating a safe construction bill of rights.
- (16) **Int 1131-B -** Sale of tobacco products in pharmacies.
- (17) **Int 1133-A -** Denial of certain building permits where outstanding charges are owed to the city.
- (18) **Int 1471-A -** Increasing the retail cigarette dealer license fee.
- (19) **Int 1523-A -** Creation of an office of the tenant advocate within the department of buildings.
- (20) **Int 1530-A -** Creating a rebuttable presumption regarding harassment.
- (21) **Int 1532-A -** Regulation of electronic cigarettes and the licensing of electronic cigarette retail dealers.

- (22) **Int 1544-B -** Regulation of retail dealers of tobacco products and of electronic cigarettes.
- (23) **Int 1547-A -** Expanding the retail dealer license to include retailers of tobacco products and setting caps on retail dealer licenses, and to repeal subdivision c of section 17-702.
- (24) **Int 1548-A -** Amending the definition of harassment to include repeatedly contacting or visiting a tenant under certain circumstances.
- (25) **Int 1549-A -** Repeated acts of harassment.
- (26) **Int 1556-A -** Penalties for tenant harassment.
- (27) **Int 1585-A -** Disclosure of smoking policies for class A multiple dwellings.
- (28) **Int 1648-A -** Nightlife and a nightlife advisory board.
- (29) **Int 1676 -** Increasing the maximum qualifying income for the senior citizen homeowner's exemption and the disabled homeowner's exemption.
- (30) **Int 1677 -** Wireless communications surcharge.
- (31) **L.U. 691 & Res 1618 -** App. C **170187 ZMM** Manhattan, Community Board 6, Council District 4.
- (32) **L.U. 692 & Res 1619 -** App. N **170186 (A) ZRM** Manhattan, Community Board 5 and 6, Council District 4.
- (33) **L.U. 694 & Res 1606 -** Appl. C **170217 PPX Bronx**, Community Board 12, Council District 12 **(Coupled to be Filed)**.
- (34) **L.U. 695 & Res 1607 -** App. C **170218 ZMX Bronx**, Community Board 12, Council District 12 **(Coupled to be Filed)**.

- (35) L.U. 696 & Res 1608 - App. N 170219 ZRX Bronx, Community Board 12, Council District 12 (Coupled to be Filed).
- (36) L.U. 697 & Res 1609 - App. C 170221 ZSX Bronx, Community Board 12, Council District 12. (Coupled to be Filed).
- (37) L.U. 698 & Res 1610 - App. C 170222 ZSX Bronx, Community Board 12, Council District 12. (Coupled to be Filed).
- (38) L.U. 699 & Res 1611 - App. C 170223 ZSX Bronx, Community Board 12, Council District 12 (Coupled to be Filed).
- (39) L.U. 712 & Res 1612 - App. 20175332 TCM Manhattan, Community Board 1, Council District 1 (Coupled to be Disapproved).
- (40) L.U. 713 & Res 1613 - App. 20175498 TCM Manhattan, Community Board 12, Council District 10.
- (41) L.U. 714 & Res 1614 - App. 20175444 TCM Manhattan, Community Board 12, Council District 10.
- (42) L.U. 715 & Res 1615 - App. N 170317 ZRM Manhattan, Community District 4, Council District 3.
- (43) Resolution approving various persons Commissioners of Deeds.

The Public Advocate (Ms. James) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative – Barron, Borelli, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – 42 .

The General Order vote recorded for this Stated Meeting was 42-0-0 as shown above with the exception of the votes for the following legislative items:

The following was the vote recorded for **Int. Nos. 347-B, 484-A, 918-A, 1523-A, and 1548-A:**

Affirmative – Barron, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – **41**.

Negative – Borelli – **1**.

The following was the vote recorded for **Int. Nos. 931-B and 1133-A:**

Affirmative – Barron, Borelli, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Vacca, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – **41**.

Negative – Ulrich – **1**.

The following was the vote recorded for **Int. No. 1131-B:**

Affirmative – Barron, Borelli, Chin, Cohen, Constantinides, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Vacca, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – **39**.

Negative – Ulrich – **1**.

Abstention – Cornegy and Koo – **2**.

The following was the vote recorded for **Int. No. 1471-A:**

Affirmative – Barron, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Perkins, Reynoso, Richards, Rodriguez, Rosenthal, Salamanca, Torres, Treyger, Vacca, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – **38**.

Negative – Borelli, Lancman, Rose, and Ulrich – **4**.

The following was the vote recorded for **Int. No. 1530-A:**

Affirmative – Barron, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Vacca, Williams, and the Speaker (Council Member Mark-Viverito) – **39**.

Negative – Borelli, Ulrich, and Vallone – **3**.

The following was the vote recorded for **Int. No. 1532-A:**

Affirmative – Barron, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Vacca, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – **40**.

Negative – Borelli, and Ulrich – **2**.

The following was the vote recorded for **Int. No. 1544-B:**

Affirmative – Barron, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lander, Levine, Maisel, Menchaca, Mendez, Perkins, Reynoso, Richards, Rodriguez, Rosenthal, Salamanca, Torres, Vacca, Vallone, and the Speaker (Council Member Mark-Viverito) – **33**.

Negative – Borelli, Greenfield, Lancman, Levin, Miller, Rose, Treyger, Ulrich and Williams – **9**.

The following was the vote recorded for **Int. No. 1547-A:**

Affirmative – Barron, Chin, Cohen, Constantinides, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Vacca, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – **38**.

Negative – Borelli and Ulrich – **2**.

Abstentions – Cornegy and Mendez – **2**.

The following was the vote recorded for **Int. No. 1648-A**:

Affirmative – Barron, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – **40** .

Negative – Borelli – **1**.

Abstentions – Mendez – **1**.

The following was the vote recorded for **Preconsidered Int. No. 1677**:

Affirmative – Barron, Chin, Cohen, Constantinides, Cornegy, Crowley, Deutsch, Dromm, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Vallone, Williams, and the Speaker (Council Member Mark-Viverito) – **39** .

Negative – Borelli, Ulrich, and Vacca – **3**.

The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 347-B, 484-A, 918-A, 924-A, 926-A, 930-A, 931-B, 936-A, 938-A, 939-A, 940-A, 944-A, 960-A, 1131-B, 1133-A, 1471-A, 1523-A, 1530-A, 1532-A, 1544-B, 1547-A, 1548-A, 1549-A, 1556-A, 1585-A, 1648-A, 1676, and 1677.

INTRODUCTION AND READING OF BILLS

Int. No. 1674

By Council Members Constantinides and Gentile.

A Local Law to amend the administrative code of the city of New York, in relation to generating, capturing and utilizing energy from city's water supply, wastewater treatment systems and natural bodies of water

Be it enacted by the Council as follows:

Section 1. Subdivision d of section 24-366 of the administrative code of the city of New York, as added by local law number 24 for the year 2012, is amended to read as follows:

d. [The] A resource assessment, technological review and economic analysis shall be completed [within eighteen months of the effective date of the local law that added this section] *by December 1, 2012, and by December 31 in every tenth year thereafter*, and shall be submitted to the mayor and the speaker of the council.

§ 2. Section 24-366 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

e. For each site identified in a resource assessment developed after December 1, 2012 where the department determines that generating electricity would be economically viable and would not negatively impact the safety of drinking water, the department shall promptly undertake appropriate measures to generate, capture and utilize energy from such site through the use of turbines or other equipment, provided that such turbine or other equipment is certified safe for drinking water in accordance with National Sanitation Foundation (NSF) standard 61 or 372 or a standard developed or adopted by the department, except that the department may elect to undertake such measures when undertaking an improvement or substantial repair at such site.

§ 3. This local law shall take effect immediately.

Referred to the Committee on Environmental Protection.

Int. No. 1675

By Council Member Constantinides.

A Local Law to amend the administrative code of the city of New York, in relation to installation of utility-scale battery storage systems on city buildings and conducting a feasibility study on installation of such systems throughout the city

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 4 of the administrative code of the city of New York is amended by adding a new section 4-207.2 to read as follows:

§ 4-207.2 *Utility-scale battery storage systems for city buildings. a. Definitions. As used in this chapter, the following terms have the following meanings:*

Battery storage system. The term "battery storage system" means a set of methods and technologies utilizing a range of electrochemical storage solutions, including advanced chemistry batteries and capacitors, for the purpose of storing energy.

City building. The term "city building" has the same meaning as set out in section 28-309.2.

Commissioner. The term "commissioner" means the commissioner of citywide administrative services.

Cost effective. The term "cost effective" means that the cumulative savings in energy costs expected to result from the use of a battery storage system, including expected savings will, in 25 years or less, equal or exceed the costs of acquisition, installation, and maintenance of such system, less all federal, state and other

non-city governmental assistance and including the social cost of carbon value, as described in paragraphs 3 and 4 of subdivision d of section 3-125. A higher site- or project-specific social cost of carbon value may be developed and used in lieu of the social cost of carbon value.

Department. The term "department" means the department of citywide administrative services.

b. The department, or any other agency authorized by the commissioner, shall, within two years from the effective date of the local law that added this section, submit to the mayor and the council a feasibility study regarding the use of utility-scale battery storage systems for city buildings. The feasibility study shall include a review of any available federal or state funds or incentives for the acquisition, installation, operation or maintenance of such systems.

c. The department, or any other agency authorized by the commissioner, shall install, or cause to be installed, utility-scale battery storage systems on all city buildings where the feasibility study has found it cost-effective.

d. Not later than December 15 of the year following the submission of the feasibility study, and every second year thereafter, the department shall report to the mayor and the council the following:

1. The city buildings where the installation of a utility-scale battery storage system would be cost effective and the projected annual energy and other cost savings for each such system, both individually and in the aggregate.

2. The city buildings where installation of a utility-scale battery storage system has been commenced by the department or any other agency authorized by the commissioner.

3. The city buildings where the installation of a utility-scale battery storage system has been completed by the department or any other agency authorized by the commissioner, and the annual energy and other cost savings associated with the installation of such battery storage systems.

§ 2. Report on feasibility of installation of utility-scale battery storage systems in non-city buildings. Not later than 2 years after the enactment of this local law, one or more offices or agencies designated by the mayor shall submit to the mayor and council, and make available to the public, a report on the feasibility of installing utility-scale battery storage systems throughout the city, not including city buildings as defined in section 28-309.2 of the administrative code of the city of New York. Such report shall also include, but need not be limited to, recommendations on where installation of utility-scale battery storage systems would be appropriate and identification of any financial or environmental benefits to the public that are associated with the installation of such systems.

§ 3. This local law takes effect immediately.

Referred to the Committee on Environmental Protection.

Preconsidered Int. No. 1676

By Council Members Deutsch, Maisel, Vallone, Treyger and Gentile (in conjunction with the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to increasing the maximum qualifying income for the senior citizen homeowner's exemption and the disabled homeowner's exemption

Be it enacted by the Council as follows:

Section 1. Paragraph (a) of subdivision 3 of section 11-245.3 of the administrative code of the city of New York, as amended by local law number 42 for the year 2006, is amended to read as follows:

(a) if the income of the owner or the combined income of the owners of the property exceeds the sum of twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, [and] twenty-nine thousand dollars beginning July first, two thousand nine, *and fifty thousand dollars beginning July first, two thousand seventeen* for the income tax year immediately preceding the date of making application for exemption. Income tax year shall mean the twelve month period for which the owner or owners filed a federal

personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property as provided in subparagraph (ii) of paragraph (d) of this subdivision, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include gifts, inheritances, a return of capital, payments made to individuals because of their status as victims of Nazi persecution as defined in P.L. 103-286, monies earned through employment in the federal foster grandparent program, and veterans disability compensation as defined in title 38 of the United States Code, and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income[.];

§ 2. Subdivision 7 of section 11-245.3 of the administrative code of the city of New York, as amended by local law number 42 for the year 2006, is amended to read as follows:

7. Notwithstanding the maximum income exemption eligibility level provided in subdivision three of this section, an exemption, subject to all other provisions of this section, shall be granted as indicated in the following schedule:

| Annual Income as of July 1, 2006 | Percentage Assessed Valuation |
|---|-------------------------------|
| | Exempt From Taxation |
| More than \$26,000 but less than \$27,000 | 45 per centum |
| \$27,000 or more but less than \$28,000 | 40 per centum |
| \$28,000 or more but less than \$29,000 | 35 per centum |
| \$29,000 or more but less than \$29,900 | 30 per centum |
| \$29,900 or more but less than \$30,800 | 25 per centum |
| \$30,800 or more but less than \$31,700 | 20 per centum |
| \$31,700 or more but less than \$32,600 | 15 per centum |
| \$32,600 or more but less than \$33,500 | 10 per centum |
| \$33,500 or more but less than \$34,400 | 5 per centum |

| Annual Income as of July 1, 2007 | Percentage Assessed Valuation Exempt From Taxation |
|---|---|
| More than \$27,000 but less than \$28,000 | 45 per centum |
| \$28,000 or more but less than \$29,000 | 40 per centum |
| \$29,000 or more but less than \$30,000 | 35 per centum |
| \$30,000 or more but less than \$30,900 | 30 per centum |
| \$30,900 or more but less than \$31,800 | 25 per centum |
| \$31,800 or more but less than \$32,700 | 20 per centum |
| \$32,700 or more but less than \$33,600 | 15 per centum |
| \$33,600 or more but less than \$34,500 | 10 per centum |
| \$34,500 or more but less than \$35,400 | 5 per centum |

| Annual Income as of July 1, 2008 | Percentage Assessed Valuation Exempt From Taxation |
|---|---|
| More than \$28,000 but less than \$29,000 | 45 per centum |
| \$29,000 or more but less than \$30,000 | 40 per centum |
| \$30,000 or more but less than \$31,000 | 35 per centum |
| \$31,000 or more but less than \$31,900 | 30 per centum |
| \$31,900 or more but less than \$32,800 | 25 per centum |
| \$32,800 or more but less than \$33,700 | 20 per centum |
| \$33,700 or more but less than \$34,600 | 15 per centum |

| | |
|---|---------------|
| \$34,600 or more but less than \$35,500 | 10 per centum |
| \$35,500 or more but less than \$36,400 | 5 per centum |

*Percentage Assessed Valuation
Exempt From Taxation*

Annual Income as of July 1, 2009

| | |
|---|---------------|
| More than \$29,000 but less than \$30,000 | 45 per centum |
| \$30,000 or more but less than \$31,000 | 40 per centum |
| \$31,000 or more but less than \$32,000 | 35 per centum |
| \$32,000 or more but less than \$32,900 | 30 per centum |
| \$32,900 or more but less than \$33,800 | 25 per centum |
| \$33,800 or more but less than \$34,700 | 20 per centum |
| \$34,700 or more but less than \$35,600 | 15 per centum |
| \$35,600 or more but less than \$36,500 | 10 per centum |
| \$36,500 or more but less than \$37,400 | 5 per centum |

*Percentage Assessed Valuation
Exempt From Taxation*

Annual Income as of July 1, 2017

| | |
|--|----------------------|
| <i>More than \$50,000 but less than \$51,000</i> | <i>45 per centum</i> |
| <i>\$51,000 or more but less than \$52,000</i> | <i>40 per centum</i> |

| | |
|--|----------------------|
| <i>\$52,000 or more but less than \$53,000</i> | <i>35 per centum</i> |
| <i>\$53,000 or more but less than \$53,900</i> | <i>30 per centum</i> |
| <i>\$53,900 or more but less than \$54,800</i> | <i>25 per centum</i> |
| <i>\$54,800 or more but less than \$55,700</i> | <i>20 per centum</i> |
| <i>\$55,700 or more but less than \$56,600</i> | <i>15 per centum</i> |
| <i>\$56,600 or more but less than \$57,500</i> | <i>10 per centum</i> |
| <i>\$57,500 or more but less than \$58,400</i> | <i>5 per centum</i> |

§ 3. Paragraph (a) of subdivision 3 of section 11-245.4 of the administrative code of the city of New York, as amended by local law number 41 for the year 2006, is amended to read as follows:

(a) if the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of twenty-six thousand dollars beginning July first, two thousand six, twenty-seven thousand dollars beginning July first, two thousand seven, twenty-eight thousand dollars beginning July first, two thousand eight, [and] twenty-nine thousand dollars beginning July first, two thousand nine, *and fifty thousand dollars beginning July first, two thousand seventeen*. Income tax year shall mean the twelve month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings, and net income from self-employment, but shall not include a return of capital, gifts, inheritances or monies earned through employment in the federal foster grandparent program and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income[.];

§ 4. Subdivision 6 of section 11-245.4 of the administrative code of the city of New York, as amended by local law number 41 for the year 2006, is amended to read as follows:

| Annual Income as of July 1, 2006 | Percentage Assessed Valuation Exempt From Taxation |
|---|--|
| More than \$26,000 but less than \$27,000 | 45 per centum |
| \$27,000 or more but less than \$28,000 | 40 per centum |
| \$28,000 or more but less than \$29,000 | 35 per centum |

| | |
|---|---------------|
| \$29,000 or more but less than \$29,900 | 30 per centum |
| \$29,900 or more but less than \$30,800 | 25 per centum |
| \$30,800 or more but less than \$31,700 | 20 per centum |
| \$31,700 or more but less than \$32,600 | 15 per centum |
| \$32,600 or more but less than \$33,500 | 10 per centum |
| \$33,500 or more but less than \$34,400 | 5 per centum |

Percentage Assessed Valuation

Annual Income as of July 1, 2007

Exempt From Taxation

| | |
|---|---------------|
| More than \$27,000 but less than \$28,000 | 45 per centum |
| \$28,000 or more but less than \$29,000 | 40 per centum |
| \$29,000 or more but less than \$30,000 | 35 per centum |
| \$30,000 or more but less than \$30,900 | 30 per centum |
| \$30,900 or more but less than \$31,800 | 25 per centum |
| \$31,800 or more but less than \$32,700 | 20 per centum |
| \$32,700 or more but less than \$33,600 | 15 per centum |
| \$33,600 or more but less than \$34,500 | 10 per centum |
| \$34,500 or more but less than \$35,400 | 5 per centum |

| Annual Income as of July 1, 2008 | Percentage Assessed Valuation |
|---|-------------------------------|
| | Exempt From Taxation |
| More than \$28,000 but less than \$29,000 | 45 per centum |
| \$29,000 or more but less than \$30,000 | 40 per centum |
| \$30,000 or more but less than \$31,000 | 35 per centum |
| \$31,000 or more but less than \$31,900 | 30 per centum |
| \$31,900 or more but less than \$32,800 | 25 per centum |
| \$32,800 or more but less than \$33,700 | 20 per centum |
| \$33,700 or more but less than \$34,600 | 15 per centum |
| \$34,600 or more but less than \$35,500 | 10 per centum |
| \$35,500 or more but less than \$36,400 | 5 per centum |

| Annual Income as of July 1, 2009 | Percentage Assessed Valuation |
|---|-------------------------------|
| | Exempt From Taxation |
| More than \$29,000 but less than \$30,000 | 45 per centum |
| \$30,000 or more but less than \$31,000 | 40 per centum |
| \$31,000 or more but less than \$32,000 | 35 per centum |
| \$32,000 or more but less than \$32,900 | 30 per centum |
| \$32,900 or more but less than \$33,800 | 25 per centum |
| \$33,800 or more but less than \$34,700 | 20 per centum |
| \$34,700 or more but less than \$35,600 | 15 per centum |

| | |
|---|---------------|
| \$35,600 or more but less than \$36,500 | 10 per centum |
| \$36,500 or more but less than \$37,400 | 5 per centum |

Percentage Assessed Valuation

Annual Income as of July 1, 2017

Exempt From Taxation

| | |
|--|----------------------|
| <i>More than \$50,000 but less than \$51,000</i> | <i>45 per centum</i> |
| <i>\$51,000 or more but less than \$52,000</i> | <i>40 per centum</i> |
| <i>\$52,000 or more but less than \$53,000</i> | <i>35 per centum</i> |
| <i>\$53,000 or more but less than \$53,900</i> | <i>30 per centum</i> |
| <i>\$53,900 or more but less than \$54,800</i> | <i>25 per centum</i> |
| <i>\$54,800 or more but less than \$55,700</i> | <i>20 per centum</i> |
| <i>\$55,700 or more but less than \$56,600</i> | <i>15 per centum</i> |
| <i>\$56,600 or more but less than \$57,500</i> | <i>10 per centum</i> |
| <i>\$57,500 or more but less than \$58,400</i> | <i>5 per centum</i> |

§ 5. This local law takes effect immediately and shall apply to applications made for an exemption pursuant to this local law for the fiscal year commencing in 2017 and all fiscal years thereafter. Applications received for the fiscal year commencing in 2017 shall be considered timely if they are filed on or before the one hundred twentieth day following the effective date of this local law.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Res. No. 1605

Resolution calling on the New York State Legislature to pass and the Governor to sign A.7063/ S.5563, legislation regarding the creation of a pilot program to improve social and emotional learning in schools, and calling on the City's Department of Education to establish such a pilot program in every community school district.

By Council Members Dromm, Gentile, Mendez, Vallone, Maisel, Koslowitz and Menchaca.

Whereas, Social and emotional learning (“SEL”), also called whole-child education, is a systematic and evidence-based approach to teaching students integral skills, like understanding and managing emotions, setting and achieving goals, establishing and maintaining positive relationships, and avoiding negative behaviors; and

Whereas, SEL provides an all-hands framework inviting educators, family members, school leaders, and community partners to coordinate, value, and support students’ social, emotional, and academic learning, connecting students with their world outside of school; and

Whereas, Educational efforts focused on academic performance have for too long pushed SEL skills aside, but educators and researchers are beginning to understand that content knowledge alone is not sufficient to prepare students for life after high school whether students continue onto higher education or enter the workforce; and

Whereas, Passing standardized tests may not translate into future success, and studies spanning students’ entire education careers are showing results that when SEL is integrated into schools, students learn life skills that will help their personal development as well as their academic performance, such as stress management, fulfilling mental and emotional health needs, making responsible choices, and contributing constructively to society; and

Whereas, SEL is a specific approach to education that aims to help all students, and particularly those from more vulnerable communities, by teaching them how to empathize, collaborate, and resolve conflict; and

Whereas, SEL seeks to address risk factors that can create barriers to learning, such as poverty, racism, violence, drug use, absent or displaced parents, and behavioral or cognitive disorders; and

Whereas, Schools utilizing SEL can more readily confront issues and provide early intervention measures to promote healthy student development; and

Whereas, SEL is an adapted support system for students growing up in adverse environments and helps to cultivate conditions that are more conducive to learning, such as emotional and physical safety, meaningful and caring connections, high expectations, and civic participation and engagement; and

Whereas, Educators teaching SEL create a supportive and trusting school environment where students feel safe and have the opportunity to thrive, thereby developing a culture in which students and teachers exchange respectful, positive interactions that strengthen relationships and motivates students to do their best; and

Whereas, According to a data analysis of 213 studies involving more than 270,000 students, published in the journal *Child Development* in January 2011, those who participated in SEL programs showed an 11-percentile-point gain in academic achievement compared to those in their cohort who did not participate in SEL programs; and

Whereas, Participating SEL students also showed improved classroom behavior, better ability to cope with stress, and more positive attitudes about themselves, their classmates, and school generally; and

Whereas, While No Child Left Behind relied heavily on students’ scores on standardized math and reading tests to determine success in schools, under the Every Student Succeeds Act, federal legislation passed in December 2015 to replace No Child Left Behind, states are now required to incorporate broader and non-academic measures, such as social and emotional skills, along with standardized test scores into their accountability systems; and

Whereas, A.7063, sponsored by Assemblymember Vivian E. Cook, and its companion bill S.5563, sponsored by Senator Joseph P. Addabbo, Jr., would direct the New York State Commissioner of Education to establish in each school system or district in the state a pilot program aimed at improving SEL in at least one school within their system or district; and

Whereas, In furtherance of this state legislation in New York City, the Council strongly urges the City’s Department of Education to establish a pilot program in at least one school within each community school district; and

Whereas, The advantages of SEL in education are numerous, including improvements in grades and attendance, decreases in suspensions and bullying, and other benefits still emerging as research continues; and

Whereas, A pilot program such as the one proposed would help bring those benefits to students across the state; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A.7063/ S.5563, legislation regarding the creation of a pilot program to improve social and emotional learning in schools, and calls on the City's Department of Education to establish such a pilot program in every community school district.

Referred to the Committee on State and Federal Legislation.

Preconsidered Int. No. 1677

By Council Member Ferreras-Copeland (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to a wireless communications surcharge

Be it enacted by the Council as follows:

Section 1. Section 11-2343 of the administrative code of the city of New York is amended by adding a new subdivision (d) to read as follows:

(d) Notwithstanding any provision of law to the contrary, no surcharge shall be imposed pursuant to this chapter on or after December 1, 2017.

§ 2. Title 11 of the administrative code of the city of New York is amended by adding a new chapter 23-C to read as follows:

*Chapter 23-C
Wireless Communications Surcharge*

§ 11-2351 Surcharge on wireless communications service.

(a) There is hereby imposed within the territorial limits of the city of New York, in accordance with the provisions of section 186-g of the tax law, a surcharge on wireless communications service, as such surcharge is described in paragraph (b) of subdivision 2 of section 186-g of the tax law.

(b) Such surcharge shall be imposed at the rate of thirty cents per month on each wireless communications device in service during any part of the month.

(c) A wireless communications service supplier shall begin to add such surcharge to the billings of its customers on December 1, 2017.

§ 11-2352 Surcharge on the retail sale of each prepaid wireless communications service.

(a) There is hereby imposed within the territorial limits of the city of New York, in accordance with the provisions of section 186-g of the tax law, a surcharge on prepaid wireless communications service, as such surcharge is described in paragraph (c) of subdivision 2 of section 186-g of the tax law.

(b) Such surcharge shall be imposed at the rate of thirty cents per retail sale.

(c) A prepaid wireless communications seller shall begin to collect such surcharge from its customers on December 1, 2017.

§ 3. This local law takes effect December 1, 2017.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Int. No. 1678

By Council Members Koo, Chin, Rodriguez and Gentile.

A Local Law to amend the administrative code of the city of New York, in relation to amending the definition of harassment to include discriminatory threats and requests for proof of citizenship status

Be it enacted by the Council as follows:

Section 1. Paragraph 48 of subdivision a of section 27-2004 of the administrative code of the city of New York is amended to add new subparagraphs f-4, f-5 and f-6 to read as follows:

f-4. threatening any person lawfully entitled to occupancy of such dwelling unit based on such person's actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, sexual orientation or alienage or citizenship status;

f-5. refusing to accept any type of valid government-issued personal identification, as such term is defined in section 21-908, of any person lawfully entitled to occupancy of such dwelling unit;

f-6. requesting identifying documentation for any person lawfully entitled to occupancy of such dwelling unit which would disclose the citizenship status of such person, when such person has provided the owner with valid government-issued personal identification, as such term is defined in section 21-908; or

§ 2. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Housing and Buildings.

Int. No. 1679

By Council Members Lancman and Gentile.

A Local Law to amend the administrative code of the city of New York, in relation to fees charged by bail bondsmen

Be it enacted by the Council as follows:

Section 1. Chapter 5 of Title 20 of the administrative code of the city of New York is amended by adding a new subchapter 19 to read as follows:

*Subchapter 19
Bail Bonds Businesses*

§ 20-824 *Definitions.* For the purposes of this subchapter, the following terms have the following meanings:

Bail bond business. The term "bail bond business" means any bail or insurance business, as defined in section 6801 of the New York insurance law.

Bailee. The term "bailee" means any person present in any courtroom having criminal jurisdiction or a party to any criminal action or proceeding, who requests a bail bond business to deposit money or property as bail or for whom such request is made.

Premiums. The term "premium" means the rate a bail bond business charges for giving bail bond or depositing money or property as bail, as described in section 6804 of the New York insurance law.

§ 20-825 *Disclosure related to premium limits for bail bond services.* Any bail bond business shall post in a conspicuous manner, at the location where its principal business transactions are executed, in a size and style to be determined by the commissioner, a sign stating the following:

"The premium charged for giving bail bond or depositing money or property as bail may not exceed the following amounts, under state law:

10% if such bond or deposit is \$3,000 or less; and
 8% for any portion of the bond or deposit between \$3,000.01 and \$10,000; and
 6% for any portion of the bond or deposit above \$10,000.

If the bond or deposit is less than \$200, a minimum of \$10 may be charged.”

§ 20-826 *Complaints.* The department shall create a mechanism whereby any person using bail bond services can alert the department when bail bond businesses charge more than the maximum limit for premiums permitted under the New York insurance law.

§ 20-827 *Enforcement.* a. The department shall refer any alleged violations of state insurance law section 6804 to the New York police department for investigation.

b. Any person who violates section 20-825 of this subchapter or any of the regulations promulgated thereunder is liable for a civil penalty not to exceed \$250 for each violation.

§ 20-828 *Rules and regulations.* The department is authorized to promulgate such rules and regulations as it deems necessary to implement and enforce the provisions of this subchapter.

§ 2. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Consumer Affairs.

Int. No. 1680

By Council Members Levine, Gentile and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to reporting on park capital expenditures

Be it enacted by the Council as follows:

Section 1. Section 18-145 of the administrative code of the city of New York is amended to read as follows:

§ 18-145 Reporting on capital project expenditures in parks. The department shall post on the city’s website, in a non-proprietary format that permits automated processing, the status of each capital project, as defined in section 5-101 of the administrative code of the city of New York, on property under the jurisdiction of the commissioner. Such information shall *be updated no less than quarterly and shall include the following:*

1. *For each such project, (i) the actual or estimated starting date and actual or estimated completion date of [the current] each phase of such project, and if any phase is delayed, a description of such delay and the cause thereof; (ii) the total amount of funds allocated to such project or, when applicable, a range of the funds available; (iii) the identification of each separate source of funding allocated to such project; (iv) a description of such project; (v) the location of such project, specified by borough, council district and community district; [and] (vi) [a quarterly update] the date when funding for such project was fully allocated; (vii) any addition or subtraction made to the funding allocation for such project after such date and the reasons for such addition or subtraction; (viii) the date such project is first assigned to an employee of the department; and (ix) a description of any projected or actual cost overrun for each phase of such project; and*

2. *The total number of capital projects that were completed during the most recent fiscal year and the average amount of time taken to complete such projects, measured from the date when each project was fully funded to the date construction was completed; and*

3. *The total number of capital projects currently under the jurisdiction of the department.*

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

Referred to the Committee on Parks and Recreation.

Int. No. 1681

By Council Members Torres, Chin, Menchaca and Treyger.

A Local Law to amend the administrative code of the city of New York, in relation to the provision of a staffer in the property management and maintenance office of a large housing development whenever the population of residents who speak any language other than English exceeds 10 percent of the large housing development's total population

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 14 to read as follows:

**CHAPTER 14
LANGUAGE ACCESS IN LARGE HOUSING DEVELOPMENTS**

§ 26-1401 Definitions. As used in this section, the following terms have the following meanings:

Large housing development. The term "large housing development" means a multiple dwelling as defined in article 1 of the multiple dwelling law that contains 100 or more dwelling units.

§ 26-1402 Language-access survey. Every large housing development shall survey its residents annually to determine what percent of residents speak a language other than English as their primary language and to identify those languages. The survey shall anonymize all personally identifiable information.

§ 26-1403 Language access. a. Whenever the population of residents who speak a particular language other than English exceeds 10 percent of a large housing development's total population, the large housing development shall have on staff a language-access employee who speaks that language in its property management and maintenance office, or in the equivalent office that serves the large housing development.

b. Any such language-access employee shall be available to residents of the large housing development during normal business hours for translation and interpretation services regarding housing-related documents, repair requests and other issues relating to maintenance and leasing.

c. Large housing developments shall report to the mayor and council for the prior calendar year the anonymized results of the language access survey, the number of language-access staff employed as a response to the survey results that year, and the number of language-access employees already employed that year. Such data shall be transmitted in a non-proprietary format that permits automated processing by March 1, 2018, and every March 1 thereafter.

§ 26-1404 Enforcement. Any person claiming to be aggrieved by a violation of this chapter by a non-governmental actor shall have a cause of action in a court of competent jurisdiction for any appropriate equitable relief. A violation of this chapter by a governmental actor shall be adjudicated in a proceeding pursuant to article 78 of the civil practice law and rules.

§ 2. This local law takes effect 60 days after it becomes law.

Referred to the Committee on Housing and Buildings.

Int. No. 1682

By Council Member Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to the use of hotel rooms as temporary shelter placements

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-318 to read as follows:

§ 21-318 Hotel disclosures. a. Definitions. For the purposes of this section, the term “hotel” means a building or portion of it which is regularly used and kept open as such for the lodging of guests. The term “hotel” does not include buildings which formerly were used and kept open for the lodging of guests, but have been converted for the sole use of temporary housing for homeless individuals or families.

b. Any hotel that enters into a contract or similar agreement with the department or with a contracted provider of the department for the purpose of providing a room to an eligible homeless person or family shall disclose such information on all forms of advertising for such hotel and shall post a sign with such information in a location that is readily accessible to hotel patrons. The size, style, and wording of such signs shall be determined in accordance with rules promulgated by the commissioner.

§ 2. This local law takes effect 90 days after its enactment into law, provided that the commissioner shall promulgate any rules necessary for implementing and carrying out the provisions of this local law prior to such effective date.

Referred to the Committee on General Welfare.

L.U. No. 729

By Council Member Greenfield:

Application No. N 170389 ZRM submitted by Friends of the High Line and Department of Parks and Recreation, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying special regulations for zoning lots adjacent to the High Line in Article IX, Chapter 8 (Special West Chelsea District), Borough of Manhattan, Community District 4, Council District 3.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 730

By Council Member Greenfield:

Application No. C 170029 ZMK submitted by Institute for Community Living pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c, changing from a C6-1 District to a C6-4 District property bounded by Schermerhorn Street, Nevins Street, a line midway between Schermerhorn Street and State Street, and a line 100 feet northwesterly of Nevins Street, Borough of Brooklyn, Community District 2, Council District 33.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 731

By Council Member Greenfield:

Application No. N 170030 ZRK submitted by the Institute for Community Living pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F, for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 2, Council District 33.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 732

By Council Member Greenfield:

Application No. C 160349 ZSM submitted by 40 Wooster Restoration, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of Section 42-10 to allow residential use on the cellar through 6th floor and retail use in the cellar and on the ground floor of an existing six-story building on property located at 40 Wooster Street (Block 475, Lot 34), Borough of Manhattan, Community District 2, Council District 1. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 733

By Council Member Greenfield:

Application No. C 170275 ZMM submitted by the New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 6b, changing from an M1-2 District to an C6-3 District property bounded by East 127th Street, First Avenue, East 126th Street, and Second Avenue, in the Borough of Manhattan, Community District 11, Council District 8.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 734

By Council Member Greenfield:

Application No. N 170276 ZRM submitted by the New York City Economic Development Corporation, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F, for the purpose of establishing a Mandatory Inclusionary Housing area, in the Borough of Manhattan, Community District 11, Council District 8.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 735

By Council Member Greenfield:

Application No. C 170093 MMM submitted by The New York City Economic Development Corporation pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 et seq. of the New York City Administrative Code for an amendment to the City Map involving: the elimination, discontinuance and closing of a portion of Second Avenue between East 126th Street and East 127th Street and the delineation of a sidewalk easement in the Borough of Manhattan, Community District 11, Council District 8.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 736

By Council Member Greenfield:

Application No. C170278 PPM submitted by the Department of Citywide Administrative Services (DCAS) pursuant to Section 197-c of the New York City Charter, for the disposition of one city-owned property located at 2460 Second Avenue (Block 1803, Lot 1), pursuant to zoning, Borough of Manhattan, Community District 11, Council District 8.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 737

By Council Member Greenfield:

Application No. C 170304 HAK submitted by the Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law of New York State and Section 197-c of the New York City Charter for the designation of a Urban Development Action Area, and approval of an Urban Development Action Area Project, and disposition of property located at 1616 and 1624 Fulton Street, and 20R Troy Avenue (Block 1699, Lots 35, 39, and 43), Borough of Brooklyn, Community District 3, Council District 36.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 738

By Council Member Greenfield:

Application No. 20185040 HAK submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for property located at Block 5063, Lot 58, Borough of Brooklyn, Community Board 14, Council District 40.

Referred to the Committee on Land Use and the Subcommittee on Planning Dispositions and Concessions.

L.U. No. 739

By Council Member Greenfield:

Application No. 20185042 HAQ submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for four properties located in the Borough of Queens, Community Districts 12 and 13, Council District 27.

Referred to the Committee on Land Use and the Subcommittee on Planning Dispositions and Concessions.

L.U. No. 740

By Council Member Greenfield:

Application No. 20185043 HAQ submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for eighteen properties located in the Borough of Queens, Community Boards 10 and 12, Council District 28.

Referred to the Committee on Land Use and the Subcommittee on Planning Dispositions and Concessions.

L.U. No. 741

By Council Member Greenfield:

Application No. 20185044 HAQ submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for property located at Block 11479, Lot 29, Borough of Queens, Community Board 10, Council District 32.

Referred to the Committee on Land Use and the Subcommittee on Planning Dispositions and Concessions.

L.U. No. 742

By Council Member Greenfield:

Application No. 20185048 HAK submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for property located at Block 1788, Lot 53, Borough of Brooklyn, Community Board 3, Council District 36.

Referred to the Committee on Land Use and the Subcommittee on Planning Dispositions and Concessions.

<http://legistar.council.nyc.gov/Calendar.aspx>

A N N O U N C E M E N T S

Monday, August 21, 2017

[Subcommittee on Zoning & Franchises](#)..... 9:30 a.m.

[See Land Use Calendar](#)

Committee Room – 250 Broadway, 16th Floor

Donovan Richards, Chairperson

[Subcommittee on Landmarks, Public Siting & Maritime Uses](#)..... 11:00 a.m.

[See Land Use Calendar](#)

Committee Room – 250 Broadway, 16th Floor

Peter Koo, Chairperson

[Subcommittee on Planning, Dispositions & Concessions](#)..... 1:00 p.m.

[See Land Use Calendar](#)

Committee Room – 250 Broadway, 16th Floor

Rafael Salamanca, Chairperson

Tuesday, August 22, 2017

[Committee on Land Use](#)..... 11:00 a.m.

[All items reported out of the Subcommittees](#)

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

Committee Room – City Hall

David G. Greenfield, Chairperson

Thursday, August 24, 2017

[Stated Council Meeting](#).....*Ceremonial Tributes – 1:00 p.m.*

.....*Agenda – 1:30 p.m.*

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Mark-Viverito) congratulated Council Member Cumbo on the birth of her son, Prince Noah, on August 8, 2017. Those assembled in the Chambers cheered and applauded on hearing the news.

Also during the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Mark-Viverito) acknowledged that Legislative Director Matt Gewolb was leaving the Council for a faculty position at New York Law School. She thanked Mr. Gewolb for all his work and praised him as the consummate professional and ultimate guide in explaining the legal complexities of legislation. The Speaker (Council Member Mark-Viverito) wished him the best as those assembled in the Chambers cheered and applauded.

Whereupon on motion of the Speaker (Council Member Mark-Viverito), the Public Advocate (Ms. James) adjourned these proceedings to meet again for the Stated Meeting on Thursday, August 24, 2017.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor's Local Law Note: Int. Nos. 709-A, 929-A, 932-A, 1219-A, 1225-A, 1233-A, 1259-A, 1304-B, 1347-A, 1503-B, 1531-A, 1541-A, 1561-A, 1576-A, 1581-A, and 1649, all adopted at the June 21, 2017 Stated Meeting, were returned unsigned by the Mayor on July 24, 2017. These bills had become law on July 22, 2017 pursuant to the City Charter due to the lack of Mayoral action within the Charter-prescribed thirty day time period. These bills were assigned subsequently as Local Laws Nos. 113 to 128 of 2017, respectively.

Int. Nos. 407-A, 671-A, 1000-B, 1234-A, 1411-A, 1519-A, and 1646-A, all adopted by the Council at the July 20, 2017 Stated Meeting, were signed into law by the Mayor on August 8, 2017 as, respectively, Local Law Nos. 129 to 135 of 2017.

