

SUPPLEMENT TO

# THE CITY RECORD

THE COUNCIL —STATED MEETING OF  
THURSDAY, FEBRUARY 11, 2010

## THE COUNCIL

*Minutes of the  
STATED MEETING*

*of*  
Thursday, February 11, 2010, 2:50 p.m.

The President Pro Tempore (Council Member Comrie)  
*Acting Presiding Officer*

### Council Members

Christine C. Quinn, Speaker

Maria del Carmen Arroyo	Sara M. Gonzalez	Annabel Palma
Charles Barron	Daniel J. Halloran III	Domenic M. Recchia, Jr.
Gale A. Brewer	Vincent M. Ignizio	Diana Reyna
Fernando Cabrera	Robert Jackson	Joel Rivera
Margaret S. Chin	Letitia James	Ydanis A. Rodriguez
Leroy G. Comrie, Jr.	Peter A. Koo	Deborah L. Rose
Elizabeth S. Crowley	G. Oliver Koppell	James Sanders, Jr.
Inez E. Dickens	Karen Koslowitz	Eric A. Ulrich
Daniel Dromm	Bradford S. Lander	James Vacca
Mathieu Eugene	Jessica S. Lappin	Peter F. Vallone, Jr.
Julissa Ferreras	Stephen T. Levin	Albert Vann
Lewis A. Fidler	Melissa Mark-Viverito	James G. Van Bramer
Helen D. Foster	Darlene Mealy	Mark S. Weprin
Daniel R. Garodnick	Rosie Mendez	Thomas White, Jr.
James F. Gennaro	Michael Nelson	Jumaane D. Williams
Vincent J. Gentile	James S. Oddo	

Excused: Council Members Dilan and Seabrook.

***Editor's Note:*** *There is presently a vacancy in the Council pending the certified results of the Special Election to be held on Tuesday March 23, 2010 in the 44<sup>th</sup> Council District (Brooklyn).*

Pursuant to a request by the Speaker (Council Member Quinn), the Deputy Majority Leader (Council Member Comrie) assumed the Chair as the President Pro Tempore and acting presiding officer.

After being informed by the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the President Pro Tempore (Council Member Comrie).

*There were 48 Council Members present at this Stated Meeting.*

At this point, the President Pro Tempore (Council Member Comrie) acknowledged the presence of Assembly Member Jose Peralta (39<sup>th</sup> Assembly District, Queens) in the Chambers.

## INVOCATION

The Invocation was delivered by Rev. Maggie Howard, Pastor, Stapleton United AME Church, 49 Tompkins Avenue, Staten Island, NY 10304.

Eternal God, our Father,  
good afternoon.  
It is indeed a pleasure  
to be in Your perfect presence  
and we call upon You  
that You might move and minister  
in this meeting as only You can.  
As this body comes together,  
oh God, to make decisions  
and to invoke changes,  
we pray that You would move  
upon each of their hearts,  
but as You move  
upon their hearts, dear God,  
we pray that You  
would grant them the wisdom  
and fortitude to do  
that which is necessary.  
We ask that You would move  
And minister in their families  
and in their daily decisions.  
Thank you. Amen.

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

## REPORTS OF THE STANDING COMMITTEES

### Report of the Committee on Consumer Affairs

Report for Int. No. 5-A

**Report of the Committee on Consumer Affairs 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 disclosure of the use of tenant screening reports.**

The Committee on Consumer Affairs, to which the annexed amended proposed local law was referred on February 3, 2010 (Minutes, page 185), respectfully

### REPORTS:

#### I. INTRODUCTION

On Thursday, February 11, 2010, the New York City Council will vote on Introductory Bill Number 5-A ("Intro. 5-A"), a Local Law to amend the administrative code of the city of New York, in relation to disclosure of the use of tenant screening reports. The Committee on Consumer Affairs, chaired by Council

Member Karen Koslowitz, held its first hearing on this legislation on February 1, 2010. It was voted out of committee on February 11, 2010.

**II. BACKGROUND**

With only one-third of its residents actually owning their homes,<sup>1</sup> New York City is clearly a renter’s town. Tenant screening reports are increasingly used by landlords to evaluate the fitness of potential tenants. Offered by over 600 companies throughout the country, tenant screening companies compile information on a potential tenant’s housing court history, among other items, to evaluate the fitness of a prospective renter.<sup>2</sup> Applicants with a history of landlord-tenant disputes in housing court may raise a red flag for landlords who want to avoid taking in tenants whom they perceive as particularly litigious or likely to not pay their rent.<sup>3</sup> A history of involvement with housing court as reported on a tenant-screening report makes it unnecessarily difficult for a person to rent a new apartment. Because a tenant screening report is a type of consumer credit report, it is subject to both the Federal Fair Credit Reporting Act and the New York State Fair Credit Reporting Act, the latter of which provides additional protections to tenants by treating an apartment rental as a credit transaction.<sup>4</sup>

Since housing court filings are public information, tenant screening companies serving clients in New York City can obtain such records from the New York City Housing Court’s Office of Court Administration (“OCA”).<sup>5</sup> Though the law only requires the court to make housing court records available one file at a time, the OCA currently sells large quantities of data in electronic form all at once to tenant screening companies.<sup>6</sup> The court first began selling data on housing filings in the late 1990s, and currently serves eight companies for less than \$1 million a year.<sup>7</sup>

Many have criticized the sale of housing court filings because the information that is released publishes only the filings, not the deposition or the eventual outcome.<sup>8</sup> The mere presence of a housing court filing on a prospective tenant’s record – even if the tenant prevailed or the case was dismissed – is often the basis for a rejected application by a landlord.<sup>9</sup> For many landlords, the very existence of a housing court filing suggests that a tenant is a risk or uncooperative.<sup>10</sup> There are, however, many legitimate reasons that one might have a housing court filing on their record. For example, a tenant may be the target of an unfair eviction filing after he or she has legally withheld rent from a landlord in order to get repairs accomplished.<sup>11</sup> Other unfair eviction filings, such as owner-occupancy evictions or harassment-based evictions, will also produce a housing court file for a tenant.<sup>12</sup>

Often a tenant screening report contains erroneous information based on housing court filings involving someone with the same name as the tenant.<sup>13</sup> Thus, a tenant may be rejected for an apartment because of the similarity of his or her name to someone with a housing court history. Representatives from the tenant screening industry claim that while they will correct a record if a tenant contests it, they are not responsible for following the progress of a case.<sup>14</sup> The practice of rejecting tenants who have housing court filings on their record puts all tenants at a severe disadvantage by deterring them from legitimately withholding rent from a landlord.<sup>15</sup> In fact, housing advocates now often counsel their clients to be wary of withholding rent for legitimate purposes for fear of ending up in housing court and being unable to rent apartments in the future.

Housing advocates have sued tenant screening companies charging that manner in which the companies compile data and create reports violates both state and federal credit reporting acts. In 2004, First American Registry, now known as First Advantage SafeRent, was sued after an individual was rejected for an apartment subsequent to an inaccurate report that referenced an eviction filing that was unfairly produced and later dropped.<sup>16</sup> Three years later, a Manhattan federal judge found that the company was producing inaccurate and incomplete reports, and forced it to pay a \$1.9 million settlement to tenants who had been rejected from apartments because of their actions.<sup>17</sup> The settlement also required the company, one of the biggest in the nation, to overhaul its screening methods and expunge from its screening reports any housing court filings that were brought on by mistake or without merit.<sup>18</sup>

**III. RELEVANT FEDERAL AND STATE LAWS**

**A. Federal Law**

for the Lower Ma\_\_\_\_\_

<sup>1</sup> “New York City,” The Furman Center for Real Estate & Urban Policy, Available at [http://furmancenter.org/files/New\\_York\\_City.pdf](http://furmancenter.org/files/New_York_City.pdf), accessed on June 17, 2009.

<sup>2</sup> Lombardi, F., “New Bill Would Let Tenants Challenge Screening Reports,” *N.Y. Daily News*, May 28, 2009, at 47.

<sup>3</sup> Rogers, T. K., “Only the Strongest Survive,” *N.Y. Times*, November 26, 2006.

<sup>4</sup> Hevesi, D., “When The Credit Check Is Only The Start,” *N.Y. Times*, October 12, 2003.

<sup>5</sup> Lamport, J., “Blacklisting Tenants,” *Gotham Gazette*, February 8, 2006, Available at [www.gothamgazette.com/article/housing/20060208/10/1753](http://www.gothamgazette.com/article/housing/20060208/10/1753), Accessed on June 16, 2009.

<sup>6</sup> *Id.*

<sup>7</sup> Gregorian, D. and Fruman, B., “Lease on Life,” *N.Y. Post*, July 13, 2007.

<sup>8</sup> *Supra* note 4.

<sup>9</sup> Rich, M., “TURF: A Blacklist for Renters,” *N.Y. Times*, April 8, 2004.

<sup>10</sup> *Supra* note 3.

<sup>11</sup> *Supra* note 5.

<sup>12</sup> Wishnia, S., “Tenant Blacklist,” *Tenant/Inquilino*, November 2003, Vol. 33, No. 10, at 1.

<sup>13</sup> *Supra* note 4.

<sup>14</sup> *Supra* note 9.

<sup>15</sup> Barbanel, J., “Residential Real Estate; Suit Disputes the Accuracy of Tenant Screening Reports,” *N.Y. Times*, February 27, 2004.

<sup>16</sup> *Supra* note 9.

<sup>17</sup> Zambito, T., “Tenants get 1.9M over blacklisting,” *N.Y. Daily News*, March 27, 2007.

<sup>18</sup> *Supra* note 5.

The Federal Credit Reporting Act (“FCRA”) governs the compilation, use and distribution of reports pertaining to a consumer’s credit worthiness, character or general reputation, amongst other things, which are used primarily to establish his or her eligibility for credit for personal, family, or household purposes.<sup>19</sup> Additionally, companies that compile information about tenants into tenant screening reports are considered “specialty consumer reporting agencies” for purposes of the FCRA.<sup>20</sup> In addition to being subject to all general credit reporting requirements, including ensuring that the reported information is accurate and used only for a permitted purpose,<sup>21</sup> and limiting the length of time negative information may be reported,<sup>22</sup> a nationwide specialty consumer reporting agency is mandated to provide consumers with one free copy per year of their specialty consumer report.<sup>23</sup> The FCRA also outlines the process by which consumers can dispute inaccurate information on their report.<sup>24</sup>

**B. State Law**

Tenant screening reports are also subject to the New York Fair Credit Reporting Act (“NYFCRA”).<sup>25</sup> The NYFCRA works in conjunction with the federal law to ensure protections for consumers about whom companies compile credit and other information. Among other things, NYFCRA outlines: (i) the permissible use of tenant screening reports,<sup>26</sup> (ii) disclosure requirements for agencies who have received a request from a consumer pertaining to their report,<sup>27</sup> and (iii) procedures for resolving consumer disputes. Furthermore, if a user of a report takes an adverse action against the subject of a report based on information contained in the report, the user must inform the subject of this action and supply her or him with the name and address of the reporting company who compiled the report.<sup>28</sup>

**IV. INTRODUCTORY BILL 5-A**

Intro. 5-A would ensure that all potential tenants are aware of the existence of tenant screening reports and permit tenants to obtain copies of such reports to determine the accuracy and/completeness of the information contained therein. The bill would require any person who collects application information from potential tenants in connection with offering residential real estate for rent, including landlords, management companies and real estate agents, to disclose the name whether or not the information will be used to obtain a tenant screening report. If a tenant screening report is to be requested, the name and the address of the tenant screening company from whom they receive the report must be disclosed on all application materials distributed to potential tenants. Additionally, landlords, management companies and real estate agents would be mandated to inform potential tenants that:

- if the user takes an adverse action against a potential tenant based on information included in his or her tenant screening report, the user must notify the tenant of the name and address of the company from whom they obtained the report; and
- potential tenants are entitled to one free tenant screening report per national tenant screening reporting company per year, and one free credit report per year from [www.annualcreditreport.com](http://www.annualcreditreport.com), the free site maintained by the federal government.

Beyond disclosure on written materials, most users of such reports would be required post a sign in a location visible to all potential subjects of tenant screening reports notifying them of the screening companies used and their right to a free report. In order to prevent landlords from having to post signs in their private residences, tenant screening report users who own and occupy a building with five or fewer units would be exempted from the posting requirement. Non-compliance with the disclosure requirement would result in a fine of between \$250 and \$500 for the first violation and between \$500 and \$700 for subsequent violations. The Department of Consumer Affairs would have authority to adjudicate violations and impose penalties under this subchapter through its own tribunal.

**(The following is from the text of the Fiscal Impact Statement for Int. No. 5-A:)**

**FISCAL IMPACT STATEMENT:**

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
<b>Revenues (+)</b>	\$0	\$0	\$0
<b>Expenditures (-)</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** There is a potential impact on revenues through the collection of fines resulting from the enactment of this legislation. However, there is no way to estimate the actual impact at this time.

for the Lower Ma\_\_\_\_\_

<sup>19</sup> 15 USCS §1681a (d)

<sup>20</sup> 15USCS §1681a (w)

<sup>21</sup> 15 USCS §1681b

<sup>22</sup> 15 USCS §1681c

<sup>23</sup> 15 USCS §1681j (a)(c)

<sup>24</sup> 15 USCS §1861i

<sup>25</sup> NY CLS Gen Bus 380 et seq.

<sup>26</sup> NY CLS Gen Bus §380-b

<sup>27</sup> NY CLS Gen Bus§380 d-e.

<sup>28</sup> NY Gen Bus §380-i.

**IMPACT ON EXPENDITURES:** There would be no impact on expenditures resulting from the enactment of this legislation.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** City Council Finance Division

**ESTIMATE PREPARED BY:** Jonathan Rosenberg, Deputy Director  
Walter Pitts, Legislative Financial Analyst

**HISTORY:** The Committee on Consumer Affairs held a hearing on the Pre-considered Item on February 1, 2010 and it was laid over. Int. 5 was introduced by the Council and referred to the Committee on Consumer Affairs on February 3, 2010. An amendment has been proposed, and the bill will be considered by the Committee on Consumer Affairs as Proposed Int. 5-A on February 11, 2010.

Accordingly, this Committee recommends its adoption, as amended.

**(The following is the text of Int. No. 5-A:)**

Int. No. 5-A

By Council Members Garodnick, Brewer, Gonzalez, James, Koppell, Koslowitz, Lander, Lappin, Mark-Viverito, Palma, Seabrook, Williams, Arroyo, Crowley, Nelson, Reyna, Vann and Rodriguez.

**A Local Law to amend the administrative code of the city of New York, in relation to disclosure of the use of tenant screening reports.**

*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 16, to read as follows:

**Subchapter 16**  
**Tenant Screening Report Disclosure**

**§20-807 Definitions.**

**§20-808 Disclosure.**

**§20-809 Posting of signs.**

**§20-810 Violations.**

**§20-811 Hearing authority.**

**§20-807 Definitions.** For purposes of this subchapter, the following definitions shall apply:

a. "Application information" means all information any prospective tenant or tenants is/are required to provide in connection with renting or leasing residential real property, the purpose of which is to gather information about such prospective tenant or tenants, including, but not limited to personal information such as names, addresses, contact information, social security numbers, employment history, rental history or other information pertinent to entering into a real estate tenancy agreement.

b. "Consumer reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports, tenant screening reports or other investigative consumer reports to third parties.

c. "Person" means any natural person, firm, partnership, joint venture, corporation or association,.

d. "Tenant screening report" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, history of contact with any housing, civil or criminal court of any state, or mode of living, which is used or expected to be used or collected in whole or part for the purpose of serving as a factor in establishing a consumer's suitability for housing.

**§20-808 Disclosure.** a. Any person who requests application information directly from a prospective tenant or tenants or such tenant(s)' agent or agents shall disclose to the prospective tenant or tenants the following:

(i) either:

(1) that the application information provided by the prospective tenant or tenants may be used to obtain a tenant screening report and the name and address of the consumer reporting agency or agencies which will be used to obtain such report, or

(2) that the application information provided will not be used to obtain a tenant screening report and that the person requesting such information, and his or her agent(s), do not use tenant screening reports to determine a prospective tenant or

tenants' suitability for housing; and

(ii) that pursuant to federal and state law:

(1) if the person requesting the information takes adverse action against a prospective tenant or tenants on the basis of information contained in a tenant screening report, such person must notify the tenant that such action was taken and supply the name and address of the consumer reporting agency that provided the tenant screening report on the basis of which such action was taken;

(2) any prospective tenant against whom adverse action was taken based on information contained in a tenant screening report has the right to inspect and receive a free copy of such report by contacting the consumer reporting agency;

(3) every tenant or prospective tenant is entitled to one free tenant screening report from each national consumer reporting agency annually, in addition to a credit report that should be obtained from [www.annualcreditreport.com](http://www.annualcreditreport.com) <<http://www.annualcreditreport.com>>; and

(4) every tenant or prospective tenant may dispute inaccurate or incorrect information contained in a tenant screening report directly with the consumer reporting agency.

b. If application information is requested in writing, the statements required by subdivision a of this section shall be in writing, located immediately adjacent to where personal information is requested, and set off in a box and printed in a color that sharply contrasts with the print surrounding it. If application information is requested orally, the person requesting such information shall provide written copies of the statements required by subdivision a of this section.

**§20-809 Posting of signs.** a. Any person requesting application information from a prospective tenant or tenants shall post a sign, the form and manner of which shall be determined by rule of the commissioner, in any location at which the principal purpose is conducting business transactions pertaining to the rental of residential real estate properties. Such sign shall be posted in a location visible to potential subjects of such reports and shall disclose in conspicuous size type the name and address of all consumer reporting agencies used. Such sign shall also contain a statement that consumers are entitled to one free tenant screening report from each consumer reporting agency annually and may dispute inaccurate or incorrect information contained in such tenant screening report directly with the consumer reporting agency.

b. A person requesting application information who has the right to rent or lease housing units in one building with five or fewer housing units that is owned and occupied by such person shall not be required to post a sign pursuant to subdivision a of this section in such building.

**§20-810 Violations.** A person violating sections 20-808 or 20-809 of this subchapter shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first violation. Subsequent violations shall be subject to civil penalties of not less than five hundred dollars nor more than seven hundred dollars for each violation.

**§20-811 Hearing authority.** a. Notwithstanding any other provision of law, the department shall be authorized, upon due notice and hearing, to impose civil penalties for the violation of any provision of this subchapter and any rules promulgated thereunder. The department shall have the power to render decisions and orders and to impose civil penalties not to exceed the amounts specified in section 20-810 of this subchapter for each such violation. All proceedings authorized pursuant to this section shall be conducted in accordance with rules promulgated by the commissioner. The penalties provided for in section 20-810 of this subchapter shall be 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.

b. All proceedings under this subchapter shall be commenced by the service of a notice of violation returnable to the administrative tribunal of the department. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

§2. This local law shall take effect 120 days after enactment, except that the commissioner of consumer affairs shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

KAREN KOSLOWITZ, Chairperson; MICHAEL C. NELSON, CHARLES BARRON, JAMES F. GENNARO, G. OLIVER KOPPELL, JULISSA FERRERAS, Committee on Consumer Affairs, February 11, 2010.

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

**Reports of the Committee on Land Use**

Report for L.U. No. 18

**Report of the Committee on Land Use in favor of approving Application no. 20105201 HKK (N 100141 HKK), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.421, LP-2334) by**

**the Landmarks Preservation Commission of the Ocean on the Park Historic District as a historic district, Council District no. 41.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on February 3, 2010 (Minutes, page 250), respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 9 20105201 HKK (N 100141 HKK)**

Designation by the Landmarks Preservation Commission (List No. 421/LP-2334), pursuant to Section 3020 of the New York City Charter of the landmark designation of the Ocean on the Park Historic District, as an historic landmark.

*Report Summary*

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** February 8, 2010

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Comrie and Lander offered the following resolution:

Res. No. 43

**Resolution affirming the designation by the Landmarks Preservation Commission of the Ocean on the Park Historic District, Borough of Brooklyn, Designation List No. 421, LP-2334; L.U. No. 18; 20105201 HKK (N 100141 HKK).**

By Council Members Comrie and Lander.

**WHEREAS**, the Landmarks Preservation Commission filed with the Council on November 5, 2009 a copy of its designation dated October 27, 2009 (the "Designation"), of the Ocean on the Park Historic District. The district boundaries are: bounded by a line beginning at a point on the eastern curblineline of Ocean Avenue on a line extending westerly from the southern property line of 211 Ocean Avenue, easterly along said line and the southern property line of 211 Ocean Avenue, northerly along the eastern property lines of Nos. 211 through 189 Ocean Avenue, westerly along the northern property line of 189 Ocean Avenue to the eastern curblineline of Ocean Avenue, and southerly along the eastern curblineline of Ocean Avenue, to the point of beginning, as an historic district, Borough of Brooklyn, pursuant to Section 3020 of the New York City Charter;

**WHEREAS**, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

**WHEREAS**, the City Planning Commission submitted to the Council on December 18, 2009 its report on the Designation dated December 16, 2009 (the "Report");

**WHEREAS**, upon due notice, the Council held a public hearing on the Designation on January 26, 2010; and

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Designation;

**RESOLVED:**

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

LEROY G. COMRIE, Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO,

DANIEL J. HALLORAN, PETER A. KOO, Committee on Land Use, February 11, 2010.

On motion of the Speaker (Council Member Quinn), 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. 22

**Report of the Committee on Land Use in favor of approving Application no. 20105272 HAR, an Urban Development Action Area Project located at 14 Hill Street, 35 and 37 Susan Court, 36A and 15 Thelma Court; Council District no. 49 Borough of Staten Island. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 696 of the General Municipal Law for an exemption from real property taxes.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on February 3, 2010 (Minutes, page 251), respectfully

**REPORTS:**

**SUBJECT**

Proposals subject to Council review and action pursuant to the Urban Development Action Area Act, Article 16 of the New York General Municipal Law, at the request of the Department of Housing Preservation and Development ("HPD"),

<u>ADDRESS</u>	<u>BLOCK/LOT</u>	<u>NON- ULURP NO.</u>	<u>L.U. NO.</u>	<u>PROGRAM PROJECT</u>
14 Hill Street	556/142	20105272 HAR	22	Asset Central Area
35 Susan Court	556/149			
37 Susan Court	556/160			
36A Thelma Court	556/168			
15 Thelma Court	556/193			
Staten Island				
562 Gates Avenue	1815/27	20105274 HAK	24	Cornerstone
564 Gates Avenue	1815/28			
566 Gates Avenue	1815/29			
566A Gates Avenue	1815/100			
560A Gates Avenue	1815/126			
562A Gates Avenue	1815/128			
Brooklyn				

**INTENT**

HPD requests that the Council:

1. Find that the present status of the Disposition Areas tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to said Section;
3. Waive the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law;
4. Approve the projects as Urban Development Action Area Projects pursuant to Section 694 of the General Municipal Law; and
5. Approve an exemption of the project from real property taxes pursuant to Section 696 of the General Municipal Law for L.U. No. 22.

*Report Summary*

**COMMITTEE RECOMMENDATION AND ACTION**

DATE: February 8, 2010

The Committee recommends that the Council approve the attached resolution and thereby the proposals, grant the requests made by the Department of Housing Preservation and Development, and make the findings required by Article 16 of the General Municipal Law.

In connection herewith, Council Members Comrie and Levin offered the following resolution:

Res. No. 44

**Resolution approving an Urban Development Action Area Project located at 14 Hill Street (Block 556, Lot 142), 35 Susan Court (Block 556, Lot 159), 37 Susan Court (Block 556, Lot 160), 36A Thelma Court (Block 556, Lot 168), and 15 Thelma Court (Block 556, Lot 193), Borough of Staten Island, and waiving the urban development action area designation requirement and the Uniform Land Use Review Procedure, pursuant to Sections 693 and 694 of the General Municipal Law (L.U. No. 22; 20105272 HAR).**

By Council Members Comrie and Levin.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on January 4, 2010 its request dated December 14, 2009 that the Council take the following actions regarding the following Urban Development Action Area Project (the "Project") located at 14 Hill Street (Block 556, Lot 142), 35 Susan Court (Block 556, Lot 159), 37 Susan Court (Block 556, Lot 160), 36A Thelma Court (Block 556, Lot 168), and 15 Thelma Court (Block 556, Lot 193), Community District 1, Borough of Staten Island (the "Exemption Area"):

1. Find that the present status of the Exemption Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to said Section;
3. Waive the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law;
4. Approve the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law; and
5. Approve the exemption of the Project from real property taxes pursuant to Section 696 of the General Municipal Law (the "Tax Exemption").

**WHEREAS**, the Project is to be developed on land that is now an eligible area as defined in Section 692 of the General Municipal Law, consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings, and does not require any change in land use permitted under the New York City Zoning Resolution;

**WHEREAS**, upon due notice, the Council held a public hearing on the Project on February 8, 2010;

**WHEREAS**, the Council has considered the land use and financial implications and other policy issues relating to the Project;

**RESOLVED:**

The Council finds that the present status of the Exemption Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council waives the area designation requirement pursuant to Section 693 of the General Municipal Law.

The Council waives the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Project shall be developed in a manner consistent with the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The exemption of the Project from real property taxes pursuant to Section 696 of the General Municipal Law is approved as follows:

- a. All of the value of the buildings, structures, and other improvements situated on the Exemption Area shall be exempt from local and municipal real property taxation, other than assessments for local improvements and land value, for a period of ten years during the last five years of which such exemption shall decrease in equal annual decrements, commencing on the January 1<sup>st</sup> or July 1<sup>st</sup> (whichever shall first occur) as certified by HPD, following certification by HPD of its designee that (i) rehabilitation of the building on the Exemption Area has been substantially completed and a temporary or permanent Certificate of Occupancy of such building has been issued by the Department of Buildings or is not required, and (ii) the cost of such rehabilitation is at least equal to the assessed value of such building as determined in the tax year immediately preceding the grant of the tax exemption hereunder.
- b. The partial tax exemption granted hereunder shall terminate with respect to all or any portion of the Exemption Area if HPD determines that such real property has not been, or is not being, developed, used, and/or operated in compliance with the requirements of all applicable agreements made by the Sponsor or the owner of such real property with, or for the benefit of, the City of New York or HUD. HPD shall deliver written notice of any such determination of noncompliance to the owner of such real property and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than ninety (90) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the partial tax exemption granted hereunder shall prospectively terminate with respect to the real property specified therein.

**ATTACHMENT:**

20105272 HAR  
Page 1 of 1  
L.U. No. 22

**PROJECT SUMMARY**

1. PROGRAM: ACA PROGRAM
2. PROJECT: Staten Island Site
3. LOCATION:
  - a. BOROUGH: Staten Island
  - b. COMMUNITY DISTRICT: 1
  - c. COUNCIL DISTRICT: 49
  - d. DISPOSITION AREA:
 

BLOCK	LOTS	ADDRESSES
556	142	14 Hill Street
556	159	35 Susan Court
556	160	37 Susan Court
556	168	36A Thelma Court
556	193	15 Thelma Court
4. BASIS OF DISPOSITION PRICE: Not Applicable
5. TYPE OF PROJECT: Moderate to Substantial Rehabilitation
6. APPROXIMATE NUMBER OF BUILDINGS: 5
7. APPROXIMATE NUMBER OF UNITS: 5
8. HOUSING TYPE: 1-4 Family Homes.
9. ESTIMATE OF INITIAL PRICE: Affordable to individuals and families whose income does not exceed 115% of the area median income (AMI) for New York City (\$88,335). Purchasers must also repay any HUD and/or HPD subsidy attributable to their homes by delivering cash and/or notes and appropriate security instruments to HUD, and/or HPD. A portion of the HPD subsidy may be forgiven or unsecured based on the home's post-rehabilitation appraised value.
10. INCOME TARGETS: Up to 115% of AMI
11. PROPOSED FACILITIES: None
12. PROPOSED CODES/ORDINANCES: None
13. ENVIRONMENTAL STATUS: Type II
14. PROPOSED TIME SCHEDULE: Approximately 18 months from closing to completion of construction

LEROY G. COMRIE, Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO, DANIEL J. HALLORAN, PETER A. KOO, Committee on Land Use, February 11, 2010.

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

**Report of the Committee on Land Use in favor of approving Application no. 20105274 HAK, an Urban Development Action Area Project located at 562, 564, 566, 566A, 560A and 562 A Gates Avenue, Council District no. 36 Borough of Brooklyn. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on February 3, 2010 (Minutes, page 252), respectfully

**REPORTS:**

(For text of the report, please see the Report of the Committee on Land Use for LU No. 22 printed in these Minutes).

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Members Comrie and Levin offered the following resolution:

Res. No. 45

**Resolution approving an Amended Urban Development Action Area Project located at 562 Gates Avenue (Block 1815, Lot 27), 564 Gates Avenue (Block 1815, Lot 28), 566 Gates Avenue (Block 1815, Lot 29), 566A Gates Avenue (Block 1815, Lot 100), 560A Gates Avenue (Block 1815, Lot 126), and 562A Gates Avenue (Block 1815, Lot 128), Borough of Brooklyn, and waiving the urban development action area designation requirement and the Uniform Land Use Review Procedure, pursuant to Sections 693 and 694 of the General Municipal Law (L.U. No. 24; 20105274 HAK).**

By Council Members Comrie and Levin.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on January 4, 2010 its request dated December 14, 2009 that the Council take the following actions regarding an Amended Urban Development Action Area Project (the "Project") located at 562 Gates Avenue (Block 1815, Lot 27), 564 Gates Avenue (Block 1815, Lot 28), 566 Gates Avenue (Block 1815, Lot 29), 566A Gates Avenue (Block 1815, Lot 100), 560A Gates Avenue (Block 1815, Lot 126), and 562A Gates Avenue (Block 1815, Lot 128), Community District 3, Borough of Brooklyn (the "Disposition Area"):

1. Find that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law;

2. Approve the designation of the Disposition Area as an Urban Development Action Area pursuant to Section 693 of the General Municipal Law; and

3. Approve the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law.

**WHEREAS**, the Project is to be developed on land that is now an eligible area as defined in Section 692 of the General Municipal Law, consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings, and does not require any change in land use permitted under the New York City Zoning Resolution;

**WHEREAS**, the Project amends a previously approved Urban Development Action Area Project (C 070243 HAK, L.U. No. 374, Resolution No. 843 of 2007);

**WHEREAS**, upon due notice, the Council held a public hearing on the Project on February 8, 2010;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Project;

**RESOLVED:**

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a

designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Disposition Area as an urban development action area under Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Project shall be disposed of and developed upon the terms and conditions in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

**ATTACHMENT:**

<u>AMENDED PROJECT SUMMARY</u>		20105274 HAK Page 1 of 2 L.U. No. 24																					
1. PROGRAM:	CORNERSTONE PROGRAM																						
2. PROJECT:	Gates Avenue Cooperatives																						
3. LOCATION:																							
a. BOROUGH:	Brooklyn																						
b. COMMUNITY DISTRICT:	3																						
c. COUNCIL DISTRICT:	36																						
d. DISPOSITION AREA:	<table border="0"> <thead> <tr> <th>BLOCK</th> <th>LOTS</th> <th>ADDRESSES</th> </tr> </thead> <tbody> <tr> <td>1815</td> <td>27</td> <td>562 Gates Avenue</td> </tr> <tr> <td>1815</td> <td>28</td> <td>564 Gates Avenue</td> </tr> <tr> <td>1815</td> <td>29</td> <td>566 Gates Avenue</td> </tr> <tr> <td>1815</td> <td>100</td> <td>566A Gates Avenue</td> </tr> <tr> <td>1815</td> <td>126</td> <td>560A Gates Avenue</td> </tr> <tr> <td>1815</td> <td>128</td> <td>562A Gates Avenue</td> </tr> </tbody> </table>	BLOCK	LOTS	ADDRESSES	1815	27	562 Gates Avenue	1815	28	564 Gates Avenue	1815	29	566 Gates Avenue	1815	100	566A Gates Avenue	1815	126	560A Gates Avenue	1815	128	562A Gates Avenue	
BLOCK	LOTS	ADDRESSES																					
1815	27	562 Gates Avenue																					
1815	28	564 Gates Avenue																					
1815	29	566 Gates Avenue																					
1815	100	566A Gates Avenue																					
1815	126	560A Gates Avenue																					
1815	128	562A Gates Avenue																					
4. BASIS OF DISPOSITION PRICE:	Nominal. Sponsor delivered a note and mortgage to the City for the remainder of the Disposition Area's appraised value ("Land Debt"). For a period of fifteen (15) years following completion of construction, the Land Debt will be repayable out of resale or refinancing profits, with the remaining balance, if any, forgiven in the 15 <sup>th</sup> year.																						
5. TYPE OF PROJECT:	New Construction																						
6. APPROXIMATE NUMBER OF BUILDINGS:	One																						
7. APPROXIMATE NUMBER OF UNITS:	34 dwelling units																						
8. HOUSING TYPE:	Cooperative. If cooperative units remain unsold at the end of the Marketing Period and HPD determines in writing that (i) sale is not feasible within a reasonable time, and (ii) a rental fallback is the best available alternative, then the building may be operated as rental housing in accordance with the written instructions of HPD.																						
9. ESTIMATE OF INITIAL PRICE:	Prices will be established in compliance with the requirements of lenders, where applicable. The Land Debt will be allocated to income and price restricted cooperative units and will evaporate with respect to such units over fifteen (15) years of owner-occupancy in accordance with a formula determined by HPD. Purchasers of income and price restricted units must also repay the Land Debt attributable to their units out of resale and refinancing profits.																						
10. INCOME TARGETS:	Up to \$84,187 for all units																						
11. PROPOSED FACILITIES:	None																						
12. PROPOSED CODES/ORDINANCES:	None																						
13. ENVIRONMENTAL STATUS:	Type II																						
14. PROPOSED TIME SCHEDULE:	Approximately 24 months from closing to completion of construction																						

20105274 HAK  
Page 2 of 2  
L.U. No. 24

LEROY G. COMRIE, Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO, DANIEL J. HALLORAN, PETER A. KOO, Committee on Land Use, February 11, 2010.

On motion of the Speaker (Council Member Quinn), 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. 27

**Report of the Committee on Land Use in favor of approving Application no. 20105099 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Pam Real Thai II, Inc.. d/b/a Thai**

**Encore to continue, to maintain and operate an unenclosed sidewalk café located at 402 West 47th Street, Borough of Manhattan, Council District no. 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on February 3, 2010 (Minutes, page 253), respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 4**

**20105099 TCM**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Pam Real Thai II Corp., d/b/a Pam Real Thai Encore, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café at 402 West 47<sup>th</sup> 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.

**Report Summary**

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** February 8, 2010

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Comrie and Weprin offered the following resolution:

Res. No. 46

**Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 402 West 47<sup>th</sup> Street, Borough of Manhattan (20105099 TCM; L.U. No. 27).**

By Council Members Comrie and Weprin.

**WHEREAS**, the Department of Consumer Affairs filed with the Council on January 14, 2010 its approval dated January 14, 2010 of the petition of Pam Real Thai II Corp., d/b/a Pam Real Thai Encore, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 402 West 47<sup>th</sup> Street, Community District 4, 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 February 8, 2010; 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.

LEROY G. COMRIE, Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO, DANIEL J. HALLORAN, PETER A. KOO, Committee on Land Use, February 11, 2010.

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

**Report of the Committee on Public Safety**

Report for Int. No. 1

**Report of the Committee on Public Safety in favor of approving and adopting a Local Law to amend the administrative code of the city of New York, in relation to criminal street gang initiation activity.**

The Committee on Public Safety, to which the annexed proposed local law was referred on February 3, 2010 (Minutes, page 151), respectfully

**REPORTS:**

**I. INTRODUCTION**

On February 11, 2010, the Committee on Public Safety, chaired by Council Member Peter Vallone Jr., will hold a hearing to discuss Int. No. 1. This bill would amend the Administrative Code of the city of New York, and create a class A misdemeanor for criminal street gang initiation activity. On January 28, 2010 a hearing was held on the bill and testimony was received from the Office of the Criminal Justice Coordinator and from the Legal Aid Society. Last session, on December 3, 2009, a hearing was held on gang activity and commentary on a bill substantially similar to this one, Proposed Int. No. 941-A, was received. Testimony was given from several groups representing a diverse range of interests and viewpoints, including the New York City Police Department, four of the City's District Attorney offices, the New York Civil Liberties Union, Harlem Mothers Save, Street Corner Resources, Bronx Defenders, the Legal Aid Society, El Puente, Council for Unity, and PAX: Real Solutions to Gun Violence.

**II. BACKGROUND**

The existence of gangs and the culture of violence and intimidation that follow in their wake have a debilitating effect on numerous communities throughout the nation. A nationwide study completed in 2007 by the Department of Justice ("DOJ") shows that although gang-related problems declined from the mid-1990s to the early 2000s, there has been a recent resurgence in gang activity, with the number of such problems rising nearly each year from 2001 until the report's publication.<sup>1</sup> Although gang-related incidents pose problems for law enforcement agencies in every part of the country, urban areas and larger cities are especially susceptible to such activity. According to the 2007 DOJ study, 86 percent of law enforcement agencies that serve larger cities reported experiencing gang motivated incidents in 2007 whereas only 25 percent of agencies that serve smaller cities and 15 percent of agencies that serve rural counties reported experiencing gang activity in the same year.<sup>2</sup>

New York City has seen gang-related activity rise and fall over the past ten years. According to the 2009 Mayor's Management Report, the New York Police Department ("NYPD") reported 520 gang motivated incidents in fiscal year 2005, 554 incidents in FY 2006, and 713 incidents in FY 2007.<sup>3</sup> In FY 2008 and FY 2009, however, the City experienced a decline in gang-related violence, recording 577 incidents and 335 incidents in these years, respectively.<sup>4</sup>

Even though a decline in gang related incidents from 2007 to the present is a hopeful sign, the City's gang problem is not solved and the related violence – or fear thereof – continues to terrorize neighborhoods. In the months preceding this hearing there were several tragic incidents relating to gang violence. On November 16, 2009, a 15-year-old girl, Vada Vasquez, was shot in the head by members of a gang who were attempting to shoot someone else.<sup>5</sup> Just a few weeks before that, on October 20, Sadie Mitchell, a 92 year-old woman, was killed when a bullet fired during a clash of two groups of youths in Northern Manhattan broke through her apartment window and struck her.<sup>6</sup> In another recent tragedy in September of 2009, a 21-year-old college student was beaten to death by a gang as he washed his grandmother's windows. The gang mistakenly believed that the college student was part of a rival gang who had assaulted one of their friends.<sup>7</sup> Moreover, in late August 2009, a 19 year-old purported member of the Bloods gang was gunned down in the Marcy Housing Project<sup>8</sup> and in November of 2009 several murders in Staten Island were attributed to a gang war.<sup>9</sup> Additionally, at the December 3, 2009 hearing, several attorneys from District Attorney offices around the city testified that their offices handled an increasing number of gang-related cases in the past few years.<sup>10</sup>

As underscored by these recent tragedies, gang activity continues to threaten the stability and peace of many communities throughout the City. Additionally, throughout the past few years, the nature and organization of gangs has changed, which may be causing gang-related activity to be more difficult to identify.<sup>11</sup> One noticeable difference between current gangs and gangs from several years ago is the lack of centralization found among present groups compared to their predecessors. In speaking of the tragic death of Sadie Mitchell, for example, Police Commissioner Ray Kelly described those involved as "not classic gangs, but . . . groups of people sort of protecting their turf."<sup>12</sup> According to Ric Curtis, chair of the Anthropology Department at John Jay College of Criminal Justice, "Even though many [groups] invoke gang affiliation, their memberships in the gangs is really very temporary, and very thin."<sup>13</sup> Nevertheless, as exemplified by current events, gang

activity represents a serious problem with tragic consequences. It is crucial, therefore, that the city takes all possible steps to combat it.

**III. INTRODUCTION NO. 1 AND THE PROBLEM OF GANG INITIATION**

There are a myriad of ways in which routine gang activity can threaten communities. Among other harms, gangs spread their influence, along with fear and intimidation, through initiation exercises. During periods when gangs are initiating new members, the lives of local residents are disrupted and residents may become prisoners in their own neighborhoods, worrying about walking down certain streets at certain times out of fear of being attacked by a gang or caught in the middle of violence. Local residents who are unaffiliated with gangs fear for their safety and the safety of their children. In the summer of 2008, for example, several incidents occurred in which persons were attacked by a machete-wielding individual or individuals for no apparent purpose.<sup>14</sup> Reports surfaced that the attacks might have been related to gang-initiation activities.<sup>15</sup>

Businesses are also affected by initiation activities as they face decisions about whether to increase security or close during certain days that are known as gang initiation days.<sup>16</sup> Last Easter, for example, there were several reports of disruption in Times Square and one McDonald’s manager reported doubling the number of security guards to handle the disruption caused by gang initiation activities, such as throwing chairs and cups of ice.<sup>17</sup>

Int. No. 1 targets this activity by creating an A misdemeanor, punishable by imprisonment for up to one year and/or a fine of up to one thousand dollars, for engaging in criminal street gang initiation activity. Under the provisions of the bill, a person may be guilty of criminal street gang initiation activity when, in the course of either his own or another person’s initiation or affiliation with a criminal street gang, he or she either (a) intentionally or recklessly engages in conduct that creates a substantial risk of physical injury to such other person or a third person; or (b) by physical menace, intentionally places or attempts to place another person in fear of death, imminent serious physical injury or physical injury.

The bill defines “criminal street gang” as any “ongoing organization, association, or group of three or more persons, whether formal or informal, that engages in criminal conduct as one of its primary purposes or activities.” “Criminal conduct,” in turn, is defined as a set of specified felonies and misdemeanors that are typical of street gang activity. Specifically, the following articles of the penal law constitute “criminal conduct” for purposes of the bill: one hundred twenty, relating to assault and related offenses; one hundred twenty-five, relating to homicide; one hundred thirty, relating to sex offenses; one hundred thirty-five, relating to kidnapping, coercion and related offenses; one hundred forty, relating to burglary and related offenses; one hundred forty-five, relating to criminal mischief and related offenses; one hundred fifty, relating to arson; one hundred fifty-five, relating to larceny; one hundred sixty, relating to robbery; one hundred sixty-five, relating to theft; two hundred fifteen, relating to judicial proceedings; two hundred twenty, relating to controlled substances offenses; two hundred twenty-one, relating to offenses involving marijuana; two hundred twenty-five, relating to gambling offenses; two hundred thirty, relating to prostitution offenses or two hundred sixty-five, relating to firearms and other dangerous weapons; or harassment in the first degree or aggravated harassment in the first or second degree, as defined in article two hundred forty.

Current tools available in state law for combating initiation activity allow a perpetrator to be charged with hazing in the first degree or second degree, depending on whether an injury occurs. An individual may be charged with hazing in the first degree if, while initiating someone, he or she intentionally or recklessly engages in conduct that creates a substantial risk of physical injury to the person being initiated or to a third party, and an injury does occur.<sup>18</sup> The penalty for such action is a class A misdemeanor. If the same behavior is performed but there is no injury, then the action constitutes hazing in the second degree, which is considered a violation.<sup>19</sup> A class A misdemeanor can result in imprisonment for up to one year<sup>20</sup> and a fine of up to \$1,000;<sup>21</sup> a violation can result in imprisonment for up to 15 days<sup>22</sup> and a fine of up to \$250.<sup>23</sup> The requirement of proving an injury to make out the elements of initiation in the first degree necessitates that there be a cooperating witness for a successful prosecution. Under Int. No. 1, however, there is no requirement that an injury take place, which allows a prosecution to go forward without an injury, or, as is so often the case in gang-related incidents, when there is an injury but there is no cooperating witness who will testify to the injury.

Current state law also allows a person to be charged with menacing in the third degree, “when, by physical menace, he or she intentionally places or attempts to place another person in fear of death, imminent serious physical injury or physical injury.”<sup>24</sup> This crime is a class B misdemeanor that can result in a fine not to exceed \$500<sup>25</sup> and up to three months imprisonment.<sup>26</sup> Int. No. 1 would elevate this conduct to an A misdemeanor when it is undertaken in conjunction with gang-related activity, thus reflecting the seriousness of such activity and the importance of deterring it.

Additionally, Int. No. 1 expands upon the state statutes on hazing, when the conduct occurs in the context of criminal street gang initiation, and will therefore have a greater deterrent effect by allowing a charge to be filed against the person being initiated as well as the one directing the initiation. The state hazing law essentially views the person being initiated as solely a victim, whereas Int. No. 1 recognizes that the person being initiated may be just as responsible for dangerous actions as the person leading the initiation.

**V. CONCLUSION**

At today’s hearing the committee will vote on Int. No. 1, which would amend the administrative code of the city of New York, in relation to criminal street

gang initiation activity. The committee has already received extensive testimony on a substantially similar bill during the last session and received further testimony on this bill on January 28, 2010.

Although Int. No. 1 is not directed at the violent crime of gangs because it contains only a misdemeanor penalty, it has the potential to undercut gang activity that is truly damaging and may lead to violence. Initiating members into gangs in dangerous ways is part of the culture of fear and violence that gangs can promote and which may affect the community at large. It is the committee’s belief that the bill will add a useful tool to the city’s ever-evolving fight against gangs.

<sup>1</sup> The United States Department of Justice Office of Juvenile Justice and Delinquency Prevent (OJJDP), *OJJDP: Fact Sheet – Highlights of the 2007 National Youth Gang Survey*, <http://www.ncjrs.gov/pdffiles1/ojjdp/225185.pdf> (Issued in April 2009).

<sup>2</sup> *Id.*

<sup>3</sup> [http://www.nyc.gov/html/ops/downloads/pdf/\\_mmr/nypd.pdf](http://www.nyc.gov/html/ops/downloads/pdf/_mmr/nypd.pdf)

<sup>4</sup> *Id.*

<sup>5</sup> Rich Schapiro, *One tough teen: Bronx girl shot in head by stray bullet, Vada Vasquez, taken off ventilator*, *The New York Daily News*, November 20, 2009.

<sup>6</sup> Al Baker, *18-Year-Old Charged with Murder in Death of Woman, 92*, *New York Times*, October 23, 2009.

<sup>7</sup> Edgar Sandoval and Bill Hutchinson, *300 March in Harlem to Honor Slain Student*, *The New York Daily News*, September 16, 2009.

<sup>8</sup> Errol Louis, *A Sorry Excuse for a Leader*, *The New York Daily News*, September 10, 2009.

<sup>9</sup> Wil Cruz and Androcco Parascandola, *Bodies Pile up in Staten Island Gang War: victims all affiliated with Bloods*, *The New York Daily News*, November 30, 2009.

<sup>10</sup> See New York City Council Public Safety Committee hearing, “Oversight: Efforts to combat the “stop snitching” message & Proposed Introduction 183-A: A Local Law to amend the administrative code of the city of New York, in relation to criminal street gang activity & Proposed Introduction 941-A: A Local Law to amend the administrative code of the city of New York, in relation to criminal street gang initiation activity & Proposed Introduction 945-A: A Local Law to amend the administrative code of the city of New York, in relation to criminal street gang solicitation,” Transcript pp. 71-72 (December 3, 2009).

<sup>11</sup> Kai Wright, *Where Murder Won’t Go Quietly*, *New York Magazine*, January 7, 2008 (According to a study performed for the Brooklyn District Attorney office, “The massive, corporate-style drug organizations of the eighties and early nineties are long gone . . .” replaced by “a wildly fractured drug market populated by an amorphous and crowded field of close-knit, hard-to-identify miniature gangs . . .”)

<sup>12</sup> Patrice O’Shaughnessy, *For Sadie, let’s launch war on gangs*, *The New York Daily News*, October 27, 2009.

<sup>13</sup> Vinnie Rotondaro, *Gang Violence Explored at Hynes-Sponsored Summit*, *Brooklyn Eagle*, October 13, 2009.

<sup>14</sup> Saki Knafo, *For a Weapon with a Past, a New Life of Crime*, *The New York Times*, October 31, 2009 (reporting on the trend of gang members using machetes in violent acts; *Cops Fail to Cut Back on Williamsburg Stabbings*, *Gothamist*, July 12, 2008, available at <http://gothamist.com/2008/07/12/stabbings.php> (reporting on possible gang initiation link between stabbings).

<sup>15</sup> *Cops Fail to Cut Back on Williamsburg Stabbings*, *Gothamist*, July 12, 2008, available at <http://gothamist.com/2008/07/12/stabbings.php>.

<sup>16</sup> Kevin Fasick and Adam Nichols, *Easter Thugs Egging on Gang Violence in Times Sq.*, *The New York Post*, April 11, 2009.

<sup>17</sup> *Id.* In past years that McDonalds has been advised to close for the day. Workers at the New York International Auto Show also reported increasing security due to fears of gang initiation activity.

<sup>18</sup> NY Penal Law § 120.16.

<sup>19</sup> NY Penal Law § 120.17.

<sup>20</sup> NY Penal Law § 70.15(1).

<sup>21</sup> NY Penal Law § 80.05(1).

<sup>22</sup> NY Penal Law § 70.15(4).

<sup>23</sup> NY Penal Law § 80.05(4).

<sup>24</sup> NY Penal Law § 120.15.

<sup>25</sup> NY Penal Law § 80.05(2).

<sup>26</sup> NY Penal Law § 70.15(2).

**(The following is from the text of the Fiscal Impact Statement for Int. No. 1:)**

**FISCAL IMPACT STATEMENT:**

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

**IMPACT ON REVENUES:** N/A

**IMPACT ON EXPENDITURES:** There would be no additional resources needed to implement this legislation.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division , Office of Management and Budget

**ESTIMATE PREPARED BY:** Lionel Francois, Legislative Finance Analyst  
Andy Grossman, Deputy Director

**HISTORY:** This legislation was first considered at a hearing held on January 28th, 2010 by the Committee on Public Safety. It was then introduced to the Council as a pre-considered item at the Stated Hearing on February 3rd, 2010 and designated Introduction 1. A second hearing and vote on this Introduction will be held by the Committee on Public Safety on February 11th, 2010.

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 1:)

Int. No. 1

By Council Members Arroyo, Vallone, Jr., Recchia, the Speaker (Council Member Quinn), Foster, Gonzalez, Koppell, Koslowitz, Nelson, Palma, Rivera, Crowley, White, Gennaro, Reyna and Van Bramer.

**A Local Law to amend the administrative code of the city of New York, in relation to criminal street gang initiation activity.**

*Be it enacted by the Council as follows:*

Section 1. Declaration of legislative findings and intent. The Council hereby finds and declares that gang activity is capable of destroying lives and communities and should be deterred using all lawful means. The Council furthermore finds that initiation activities for gangs cause multiple harms. Such activities often cause the aspiring gang members to commit disruptive and potentially dangerous acts in the community. Additionally, when community members believe such activities are imminent, witness initiation activities, or experience random acts of disruption and violence through such activities, a sense of fear and foreboding permeates the community.

A recent federal study found that gang activity is prevalent in large urban centers and the Council finds that New York City, where gang activity is an ongoing problem, is no exception. In recent years gang initiation has resulted in physical injury to innocent bystanders, the disruption of local businesses, and the spread of fear throughout local communities. The Council finds that the person being initiated is as culpable in these activities as the person leading the initiation. For all of these reasons, it is the finding and intent of the Council that such activity must be deterred in New York City by ensuring that such conduct be punishable as an A misdemeanor and that such penalty apply to all parties to unlawful initiation activity.

§ 2. Title 10 of the administrative code of the city of New York is amended by adding a new section 10-170 to read as follows:

*§10-170. Criminal street gang initiation activity.*

a. A person is guilty of criminal street gang initiation activity when, in the course of his or her own or another person's initiation or affiliation into a criminal street gang, he or she:

1. intentionally or recklessly engages in conduct that creates a substantial risk of physical injury to another person; or

2. by physical menace, intentionally places or attempts to place another person in fear of death, imminent serious physical injury or physical injury.

b. Definitions. For purposes of this section, the following terms shall have the following meanings: 1. "Criminal conduct" shall mean the felonies or misdemeanors defined in any of the following articles of the penal law: one hundred twenty, relating to assault and related offenses; one hundred twenty-five, relating to homicide; one hundred thirty, relating to sex offenses; one hundred thirty-five, relating to kidnapping, coercion and related offenses; one hundred forty, relating to burglary and related offenses; one hundred forty-five, relating to criminal mischief and related offenses; one hundred fifty, relating to arson; one hundred fifty-five, relating to larceny; one hundred sixty, relating to robbery; one hundred sixty-five, relating to theft; two hundred fifteen, relating to judicial proceedings; two hundred twenty, relating to controlled substances offenses; two hundred twenty-one, relating to offenses involving marijuana; two hundred twenty-five, relating to gambling offenses; two hundred thirty, relating to prostitution offenses or two hundred sixty-five, relating to firearms and other dangerous weapons; or harassment in the first degree or aggravated harassment in the first or second degree, as defined in article two hundred forty of the penal law.

2. "Criminal street gang" shall mean any ongoing organization, association, or group of three or more persons, whether formal or informal, that engages in criminal conduct as one of its primary purposes or activities.

c. Penalties. Any person who violates the provisions of this section shall be guilty of a class A misdemeanor.

§ 3. This local law shall take effect 90 days after its enactment into law.

PETER F. VALLONE JR., Chairperson; ERIK MARTIN-DILAN, HELEN D. FOSTER, JAMES F. GENNARO, VINCENT J. GENTILE, DANIEL R.

GARODNICK, DANIEL J. HALLORAN, ERIC A. ULRICH, Committee on Public Safety, February 11, 2010.

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

**GENERAL ORDER CALENDAR**

**Resolution approving various persons Commissioners of Deeds**

**By the Presiding Officer –**

**Resolved,** that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

*Approved New Applicant's Report*

<u>Name</u>	<u>Address</u>	<u>District #</u>
Wayne Cunningham	800 Concourse Village West #23H Bronx, NY 10451	16
Denise DeLagarde	1411 Linden Blvd #9F Brooklyn, NY 11212	42
Shie Morozow	1612 Carrol Street #2 Brooklyn, NY 11213	35
Antoinette Waite	143-50 Hoover Avenue #412 Jamaica, NY 11435	24

*Approved New Applicants and Reapplicants*

<u>Name</u>	<u>Address</u>	<u>District #</u>
Annie Abraham	89-37 Pontiac Street Queens, NY 11427	23
Dorothy Statharos	216-12 Union Turnpike Bayside, NY 11364	23
Marie M. Beaudouin	140 Alcott Place #20 Bronx, NY 10475	12
Sylvia Phyllis Williams	9 B Broun Place Bronx, NY 10475	12
Albert J. Berube Jr.	60 St. Felix Street Brooklyn, NY 11217	35
Teresa Mills	212 Crown Street #2C Brooklyn, NY 11225	35
Rebecca Besdin	330 Haven Avenue #3M New York, NY 10033	7
Mildred Luciano	3456 Broadway #5B New York, NY 10031	7
Milagros E. Rodriguez	4305 Broadway #1 New York, NY 10033	7
Eric Black	42-52 Union Street #405 Flushing, NY 11355	20
Mai Xuan Huynh	142-05 Roosevelt Avenue #210 Flushing, NY 11345	20
Ollie M. Bowens	119-05 234 Street Queens, NY 11411	27
Jean Yvette Parrish-Chenault	186-09 Ilion Avenue Saint Albans, NY 11412	27
Madeline Candelaria	2309 Holland Avenue #2J Bronx, NY 10467	13
Vincent DeGeorge	74 Sandalwood Drive Staten Island, NY 10308	51

Ameena M. Hanif	94-11 59th Avenue #C23 Elmhurst, NY 11373	25
Janice Jackson	125 Beach 17th Street Far Rockaway, NY 11691	31
Jacqueline J. Jackson	1489 East 46th Street Brooklyn, NY 11234	45
Darlyne Joseph	33-32 96th Street Queens, NY 11368	21
Janise Manaigo	281 East 205th Street Bronx, NY 10467	11
Anna S. Nevarez	604 Clinton Street #2E Brooklyn, NY 11231	38
Phyllis K. Plato	375 Lexington Avenue #1F Brooklyn, NY 11216	36
Marilyn Rivera	300 Bushwick Avenue #2A Brooklyn, NY 11206	34
Benjamin R. Salk	389 Atlantic Avenue #3 Brooklyn, NY 11217	33
Patricia Schaeffer	91-27 112th Street Richmond Hill, NY 11417	28
Marzina Shireen	352 Simonson Avenue Staten Island, NY 10303	49
Jesus M. Soriano	125 New Jersey Avenue Brooklyn, NY 11207	37
Trevor S. Williams	1326 Blake Avenue #2 Brooklyn, NY 11208	42

On motion of the Speaker (Council Member Quinn), 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) | <b>Int 1 --</b>   | Criminal street gang initiation activity.   |
| (2) | <b>Int 5-A --</b>   | Disclosure of the use of tenant screening reports.  |
| (3) | <b>L.U. 18 &amp; Res 43 --</b>                                      | App. <b>20105201 HKK</b> (N 100141 HKK), Ocean on the Park Historic District as a historic district, Council District no. 41. |
| (4) | <b>L.U. 22 &amp; Res 44 --</b>                                      | App. <b>20105272 HAR</b> , UDAAP, 14 Hill Street, 35 and 37 Susan Court, 36A and 15 Thelma Court; CD 49 Staten Island.        |
| (5) | <b>L.U. 24 &amp; Res 45 --</b>                                      | App. <b>20105274 HAK</b> , UDAAP, 562, 564, 566, 566A, 560A and 562 A Gates Avenue, Council District no. 36 Brooklyn.         |
| (6) | <b>L.U. 27 &amp; Res 46 --</b>                                      | App. <b>20105099 TCM</b> , Pam Real Thai II, Inc., unenclosed sidewalk café located at 402 West 47th Street, Manhattan, CD 3. |
| (7) | <b>Resolution approving various persons Commissioners of Deeds.</b> |   |

The President Pro Tempore (Council Member Comrie) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

**Affirmative** –Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dromm, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gonzalez, Halloran, Ignizio, Jackson, James, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Recchia, Reyna, Rodriguez, Rose, Sanders, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, White, Williams, Oddo, Rivera, and the Speaker (Council Member Quinn) – **48**.

**The General Order vote recorded for this Stated Meeting was 48-0-0 as shown above with the exception of the votes for the following legislative items:**

The following was the vote recorded for **Int No. 1**:

**Affirmative** – Arroyo, Cabrera, Chin, Comrie, Crowley, Dickens, Dromm, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gonzalez, Halloran,

Ignizio, Jackson, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Nelson, Palma, Recchia, Reyna, Sanders, Ulrich, Vacca, Vallone, Jr., Van Bramer, Weprin, White, Oddo, Rivera, and the Speaker (Council Member Quinn) – **38**.

**Negative** - Barron, James, Mark-Viverito, Mealy, Mendez, Rodriguez, Rose, Vann and Williams - **9**.

**Abstention** –Brewer– **1**.

*The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 1 and 5-A.*

#### INTRODUCTION AND READING OF BILLS

Int. No. 29

By Council Member Brewer, Fidler, Gentile, Gonzalez, James, Lander, Palma, Nelson, Lappin and Dromm.

**A Local Law to amend the administrative code of the city of New York, in relation to creating open data standards.**

*Be it enacted by the Council as follows:*

Section 1. Title 23 of the administrative code of the city of New York is amended by adding a new chapter 3 to read as follows:

##### CHAPTER 3

##### ACCESSIBILITY TO PUBLIC DATA SETS

§ 23-301 Definitions.

§ 23-302 Public data sets availability.

§ 23-303 Internet data set policy and technical standards.

§ 23-304 Agency compliance plan.

§ 23-305 Exemptions and timetable.

§23-301 Definitions. As used in this chapter: a. "Agency" means an office, administration, department, division, bureau, board, commission, authority, corporation, advisory committee or other governmental entity performing a governmental function of the city of New York.

b. "Consensus" means general agreement, but not necessarily unanimity, and includes a process for attempting to resolve objections by interested parties, as long as all comments have been fairly considered.

c. "Data" means any factual information collected, produced or reproduced by, with or for an agency that records any aspect of a measurement, a transaction, or a determination.

d. "Data set" means a comprehensive collection of interrelated data on any subject that is maintained on a computer system owned or operated by an agency. Such term shall not refer to data collected and stored on computing devices where such data has not been added to any data set or used to create a new data set, provided that the data stored on such computing devices is routinely added to a data set. Such term shall not refer to copies of the data set, or portions thereof, that may be stored on computing devices.

e. "Department" means the department of information technology and telecommunications or any successor agency.

f. "Determination" means any final decision made by an agency with respect to a person, including, but not limited to: (1) eligibility for services or benefits; (2) issuing a permit; (3) registration, certification and licensing; and (4) liability for civil and criminal penalties.

g. "Measurement" means to quantify by means of comparison to a reference standard any characteristic of a phenomenon or object.

h. "Public data set" means any data set that is maintained by an agency that must be accessible for inspection by the public in accordance with any provision of law or that an agency shall decide to make accessible, excluding any data to which an agency may deny access pursuant to section eighty-seven of the public officers law.

j. "Technical standard" means (1) the common and repeated use of rules, conditions, guidelines or characteristics for products or related processes and production methods, and related management systems practices; and (2) the definition of terms; classification of components, delineation of procedures; specifications of dimensions, materials, performance, designs or operations; measurement of quality and quantity in describing materials, processes, products, systems, services or practices; test methods and sampling procedures; or descriptions of fit and measurements of size or strength.

j. "Transaction" means any interaction between an agency and any person, including employees.

k. "Voluntary consensus standards" means standards developed or adopted by voluntary consensus standards bodies, both domestic and international. These standards include provisions requiring that owners of relevant intellectual property agree to make such intellectual property available on a non-discriminatory, royalty-free or reasonable royalty basis to all interested parties.

l. "Voluntary consensus standards bodies" means domestic or international organizations which plan, develop, establish, or coordinate voluntary consensus standards using agreed-upon procedures.

m. "Web application programming interface" means an interface through which an application program may request services or information from a web page or library through the Internet.

§23-302 Public data set availability. a. All public data sets maintained by city agencies shall be made available for inspection by the public on the Internet through a single web portal that is linked to nyc.gov or any successor website maintained by or on behalf of the city of New York.

b. All public data sets shall be formatted to enable viewing by web browsers and, where practicable, mobile devices. All public data sets shall also be made available in their raw or unprocessed form.

c. All public data sets shall be updated as often as necessary to preserve the integrity and usefulness of the data sets. The web portal hosting the public data sets shall make use of web syndication technology to notify the public of all updates for each public data set and for each agency.

d. All public data sets shall be presented and structured in a format that permits automated processing.

e. All public data sets shall be made available without any registration requirement, license requirement or restrictions on their use.

f. All public data sets shall be accessible to external search capabilities.

g. The department shall create or adopt and utilize a web application programming interface that shall permit application programs to request and receive public data sets directly from the web portal.

§23-303 Internet data set policy and technical standards. a. The department shall promulgate rules establishing an Internet data set policy for the city of New York no later than July 5, 2010, for the purposes of ensuring agency compliance with the provisions and open data principles set forth in section 23-302 of this chapter. Such policy shall include, but not be limited to, guidelines to assist agencies in classifying their public data sets either as immediate, priority and legacy pursuant to section 23-304 of this chapter.

b. No later than July 5, 2010, the department shall prepare and publish a technical standards manual for the publishing of public data sets on the Internet by city agencies for the purpose of making public data available to the greatest number of users and for the greatest number of applications and shall, whenever practicable, use non-proprietary technical standards for web publishing and e-government that have been developed or adopted by voluntary consensus standards bodies. Such manual shall identify the reasons why each technical standard was selected and for which types of data it is applicable and may recommend or require that data be published in more than one technical standard. Such manual shall be updated by the department as necessary.

c. The department shall consult with voluntary consensus standards bodies and shall, when such participation is feasible, in the public interest and is compatible with agency and departmental missions, authorities and priorities, participate with such bodies in the development of technical standards.

§23-304 Agency compliance plan. a. Each agency, in consultation with the department, shall review all public data sets under its control and shall classify them as immediate, priority and legacy, in accordance with subdivision c of this section and pursuant to guidelines promulgated by the department under section 23-303 of this chapter.

b. Each agency, in consultation with the department, shall submit an agency compliance plan to the mayor and the council no later than July 5, 2010. Such plan shall describe how such agency intends to achieve full compliance with this chapter by December 2, 2013, and shall include an accounting of all public data sets under the control of the agency, how such data sets have been classified pursuant to subdivision a of this section, and the rationale for each classification. No later than the first Monday in January of each year beginning in 2011, each agency shall submit an annual update to its compliance plan to the mayor and the council until such agency reports full compliance with this chapter.

c. Public data sets shall be classified as follows:

1. Immediate. Any public data set in possession of an agency as of the effective date of the local law that added this chapter and any public data set such agency acquires or creates after such effective date through July 5, 2010, that can be made available on the Internet pursuant to section 23-302 of this chapter within thirty days of the agency acquiring or creating such public data set shall be classified as immediate. Agencies should make best efforts to classify as many public data sets as immediate as is possible. Any public data set acquired or created after July 5, 2010, shall be classified as immediate.

2. Legacy. Any public data set that, due to its size or complexity, or due to technology constraints, cannot be made available on the Internet pursuant to section 23-302 of this chapter by January 2, 2012, shall be classified as legacy. Agencies shall make best efforts to avoid placing public data sets into the legacy classification.

3. Priority. Any public data set that does not meet the conditions of immediate or legacy shall be classified as priority.

§23-305 Exemptions and timetable. a. Public data sets classified as immediate pursuant to section 23-304 of this chapter shall be exempt from the provisions of section 23-302 of this chapter and from applicable rules promulgated by the department pursuant to such section until January 3, 2011.

b. Public data sets classified as priority pursuant to section 23-304 of this chapter shall be exempt from the provisions of section 23-302 of this chapter and from applicable rules promulgated by the department pursuant to such section until January 2, 2012.

c. Public data sets classified as legacy pursuant to section 23-304 of this chapter shall be exempt from the provisions of section 23-302 of this chapter and from applicable rules promulgated by the department pursuant to such section until December 2, 2013.

§2. This local law shall take effect immediately.

Referred to the Committee on Technology.

Int. No. 30

By Council Members Brewer, Chin, Ferreras, Gentile, James, Palma, Nelson, Lappin, Dromm, Halloran and Koo.

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting general vendors from leaving pushcarts, stands or goods unattended.**

Be it enacted by the Council as follows:

Section 1. Section 20-465 of the administrative code of the city of New York is amended by adding a new subsection r to read as follows:

r. No general vendor shall leave his or her pushcart, stand or goods unattended for more than thirty minutes at any time. No general vendor shall leave his or her pushcart, stand or goods on the sidewalk or in any public space when said vendor is not actively engaged in vending such goods or vending from such pushcart or stand for more than thirty minutes at any time.

§2. Section 20-468 (e) of the administrative code of the city of New York is amended to read as follows:

e. Any police officer may seize any vehicle, pushcart, stand or goods of a vendor operating any general vending business in violation of the following subdivisions of section 20-465: subdivisions b, e, i, [or] the provisions of subdivision m relating to obstruction of ventilation grilles, or subdivision r. The owner or other person lawfully entitled to the possession of such vehicle, pushcart, stand, or goods may be charged with reasonable costs for removal and storage payable prior to the release of such vehicle, pushcart, stand or goods, unless the violation has been dismissed.

§3. This local law shall take effect immediately.

Referred to the Committee on Consumer Affairs.

Int. No. 31

By Council Members Brewer, James and Palma.

**A Local Law to amend the administrative code of the city of New York, in relation to for-hire vehicle licenses.**

Be it enacted by the Council as follows:

Section 1. Section 19-504 of the administrative code of the city of New York is amended by adding a new subdivision q to read as follows:

q. No for-hire vehicle license shall be issued for use with any vehicle that is not registered in the state of New York. This provision shall apply to new licenses and renewals issued after the effective date of the local law that added this subdivision.

§2. This local law shall take effect immediately.

Referred to the Committee on Transportation.

Int. No. 32

By Council Members Brewer, James and Palma.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring motion detectors for commercial buildings.**

Be it enacted by the Council as follows:

Section 1. Chapter 13 of the building code of the city of New York is amended by adding a new section BC1302, to read as follows:

BC1302 Motion detectors in commercial buildings. a. For purposes of this section, "commercial building" shall mean all buildings and structures, except those classified by this code in occupancy groups "I" or "R".

b. Motion detectors shall be installed as part of all new construction of commercial buildings for the purpose of shutting off lights when movement has not been detected for a period to be established by the commissioner by rule which

period shall not be longer than twenty minutes. Such motion detectors shall also be installed within one year of the effective date of this section for all existing commercial buildings.

c. There shall be at least one motion detector for each unit of area to be established by the commissioner by rule, but not less than one for every one hundred square feet or portion thereof of such building except for stairwells intended to be used in case of emergencies. However, if a portion of such building may be fully enclosed in such a manner so that the enclosed area is less than one hundred square feet and there is artificial light within such enclosed area, then a motion detector shall be installed within such enclosed area.

§2. This local law shall take effect thirty days after enactment.

Referred to the Committee on Housing and Buildings.

Int. No. 33

By Council Members Brewer, Barron, Chin, Gentile, James, Koppell, Lander, Mark-Viverito, Palma, Recchia, Rodriguez, Sanders, Vann, Williams, Nelson, Lappin, Vallone, Jr. and Foster.

**A Local Law to amend the administrative code of the city of New York, in relation to extending J-51 benefits to owners of multiple dwellings for green roofs.**

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 11-243 of the administrative code of the city of New York is amended by adding new paragraphs 9, 10 and 11 to read as follows:

9. "Green roof" shall mean a roofing system covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane.

10. "Solar panel roof" shall mean a roofing system that utilizes solar panels or a photovoltaic device.

11. "White roof" shall mean a roofing system that utilizes white paint to reflect radiation back into space.

§2. Subdivision b of section 11-243 of the administrative code of the city of New York is amended by adding a new paragraph 11 to read as follows:

;or (11) the installation or alteration of a green roof, solar panel roof, or a white roof.

§3. This local law shall take effect immediately.

Referred to the Committee on Housing and Buildings.

Res. No. 36

**Resolution calling upon the New York State Legislature to introduce, and the Governor to sign, legislation which would authorize municipalities to create a loan program to assist small business owners in securing commercial lease space.**

By Council Members Brewer, Chin, Dickens, Ferreras, Fidler, Gentile, James, Koslowitz, Lander, Palma, Reyna, Rodriguez, Sanders, Williams, Nelson, Mark-Viverito, Lappin, White and Koo.

**Whereas**, Landlords of residential and commercial real estate require security deposits when they lease their real estate to tenants; and

**Whereas**, Security deposits are monies deposited by a tenant to a landlord as security (guarantee) for full and faithful performance by the tenant of the lease provisions, including maintaining good condition of the premises; and

**Whereas**, The purpose of the security deposit is to protect the real estate owner from the cost of physical damage to the property when a tenant leaves, and/or to give the owner a financial cushion in the event of the tenant's monetary default; and

**Whereas**, Unlike residential real estate, however, leases on commercial real estate are not subject to most consumer protection laws that govern residential leases, for example, there are no caps on security deposits or rules protecting a tenant's privacy in leases of commercial real estate; and

**Whereas**, Accordingly, landlords demand as security what they think they will need to cover potential loss of revenue and expense if a tenant defaults on the lease provisions; and

**Whereas**, According to Bankrate.com, commercial real estate owners typically request ten percent of the lease total as security deposit to cover defaults and incidentals; and

**Whereas**, In New York City, many small business owners have reported paying up to six months rent for a security deposit when entering into or renewing a lease for commercial real estate; and

**Whereas**, As a result, renting commercial space in New York City has become cost-prohibitive for many small business owners, who now contemplate renting space outside of the five boroughs; and

**Whereas**, Providing small business owners the financial assistance they need to enter into and renew a lease for commercial real estate will allow such owners to keep their businesses in New York City, and keep their businesses financially viable; now, therefore be it

**Resolved**, That the Council of the City of New York calls upon the New York State Legislature to introduce, and the Governor to sign, legislation which would authorize municipalities to create a loan program to assist small business owners in securing commercial lease space.

Referred to the Committee on Small Business.

Int. No. 34

By Council Members Dickens, Brewer, Chin, Fidler, James, Koppell, Lander, Mark-Viverito, Palma, Reyna, Rodriguez, Sanders, Vann, Williams, Foster and Dromm.

**A Local Law to amend the administrative code of the city of New York, in relation to notifying tenants of city-owned buildings about the potential for tenant ownership prior to disposition.**

Be it enacted by the Council as follows:

Section 1. Legislative findings. The Council finds that many tenants who reside in housing owned by the City are not adequately notified of the opportunity to organize themselves and to prepare themselves to responsibly take the necessary steps that would give them the ability to purchase and manage the building in which they reside prior to its disposition by the City. Thus the Council seeks to impose mandatory notification requirements in order to inform tenants of the options available to them before the City divests itself of their building and to ensure that tenants know that they have the potential ability to purchase their own building with the appropriate support and guidance.

§2. Title 26 of the administrative code of the city of New York is hereby amended by adding a new chapter 10 to read as follows:

Chapter 10

Notification to Tenants of City-Owned Property Prior to Disposition

§26-901. Definitions

§26-902. Notification

§26-903. Tenant Meeting

§26-904. Delivery by Mail

§26-901. Definitions. For the purposes of this chapter, the following definitions shall apply:

a. "Department" shall mean the department of housing preservation and development.

b. "Disposition" shall mean a sale or transfer of property or change in the title or ownership of property from the city.

c. "Tenant" shall mean any lawful occupant of a multiple dwelling who is eighteen years of age or older.

§26-902. Notification. Notwithstanding any law or rule to the contrary, prior to any disposition of a multiple dwelling owned by the city, the city shall provide a written notice to tenants residing in such multiple dwelling, which shall include language clearly and fully explaining all of the department's disposition programs and their specific requirements for participation, such as, but not limited to, the tenant interim lease apartment purchase program, and shall include a department telephone number for tenants to contact for further information. Such notice shall also include specific language in at least 16 point font size in bold letters, "The tenants of this building may have the right to tenant home ownership and should inquire with the department of housing preservation and development." The right to such notice shall not be dependent upon an action by the tenant, such as a written or verbal request. A duplicate written notice shall also be conspicuously placed and be of sufficient size to be easily readable in the lobby and in at least one other common area of such multiple dwelling.

§26-903. Tenant Meeting. a. Prior to any disposition of a multiple dwelling owned by the city but after the tenants of such multiple dwelling have received the written notice as described in section 26-902 of this chapter, a public meeting of the tenants of such multiple dwelling shall be held by the department at such multiple dwelling or at a location in close proximity thereto if such multiple dwelling does not have a suitable space for such meeting of the tenants. Such meeting shall take place between the hours of 6:00 p.m. and 9:00 p.m. and representatives of the department shall be on hand to describe and distribute literature relating to every department disposition program. At such meeting, tenants shall be informed of their right to possibly participate in one of these programs including the potential to participate in a program that will result in ownership by the tenants of such multiple dwelling.

b. A written notice informing the tenants of such meeting and listing a department telephone number for further information shall be posted by the department in a conspicuous manner in the lobby and in at least one other common area of such multiple dwelling at least ten days prior to such tenant meeting. Such notice shall also include specific language in at least 16 point font size in bold letters, "The tenants of this building may have the right to tenant home ownership." The department must document that a majority of tenants were informed of the

various department disposition programs at the meeting through the production of a signed petition or through the production of return receipts from certified mail as described in section 26-904 of this chapter or through a combination thereof.

c. Prior to the disposition of such city-owned multiple dwelling, a majority of tenants must consent in writing to such transfer and such consent must be documented by the department through a signed petition collected during or at the conclusion of such meeting, or through the return of a written document with the tenant's signature indicating such consent, which document was delivered to the tenant via certified mail, as described in section 26-904 of this chapter, which mail included a postage paid envelope addressed to the department for return use. Notwithstanding, the department shall not take any action to dispose of a multiple dwelling subject to this chapter, prior to the passage of at least one hundred days, at a minimum, from the date of the public meeting of the tenants of such multiple dwelling as required by this section.

§26-904. *Delivery by Mail.* Each written notice described in section 26-902 of this chapter or described in section 26-903 of this chapter shall be sent to each tenant by the department via certified mail, return receipt requested. The notice required by section 26-903 shall be sent at least ten business days prior to the tenant meeting. An attempt at such certified mail delivery shall be made by the department at least two times for the notice described in section 26-902 and at least two times for the notice described in section 26-903. Such written notification shall also be affixed to or placed under the door of each dwelling unit in such multiple dwelling and shall be attested to by a representative of the department.

§3. This local law shall take effect one hundred and twenty days after enactment except that the commissioner of housing preservation and development shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Housing and Buildings.

Res. No. 37

**Resolution urging the United States Congress to pass the Breast Cancer Patient Protection Act of 2009 (S. 688/H.R. 1691).**

By Council Members Dickens, Barron, Brewer, Ferreras, Fidler, Gentile, James, Koslowitz, Nelson, Palma, Reyna, Rodriguez, Van Bramer, Williams, Lappin, Foster, Dromm and Koo.

**Whereas**, According to the American Cancer Society (ACS), breast cancer is the most common cancer among women, except for nonmelanoma skin cancers; and

**Whereas**, ACS statistics also indicate that the chance of a woman developing invasive breast cancer at some point in her life is about 1 in 8; and

**Whereas**, Breast cancer is the second leading cause of cancer death, after lung cancer, for women in the United States; and

**Whereas**, According to an Issue Brief from the National Research Center (NRC) for Women and Families entitled *Mastectomy v. Lumpectomy: Who Decides?*, in 2006, more than 200,000 women in the United States will be diagnosed with breast cancer; and

**Whereas**, The most common methods of treatment for breast cancer in the United States are surgery, which include lumpectomy or mastectomy, radiation, chemotherapy, hormone therapy and biologic therapy; and

**Whereas**, The NRC brief also states that half of women who are deemed eligible for lumpectomy will opt to undergo mastectomy surgery instead; and

**Whereas**, Such surgeries should allow for a hospital stay sufficient to ensure that the patient is not experiencing any adverse affects; and

**Whereas**, The Breast Cancer Patient Protection Act of 2009 (S. 688/H.R. 1691), a bill currently before Congress, would ensure that hospital stays could not be limited to less than 48 hours for a mastectomy or breast conserving surgery, or to less than 24 hours for surgeries involving lymph node dissection; and

**Whereas**, The Breast Cancer Patient Protection Act of 2009 would also ensure coverage of a second opinion for any breast cancer diagnosis, as well as coverage for radiation therapy for patients undergoing a lumpectomy; and

**Whereas**, The Breast Cancer Patient Protection Act of 2009 would help place control of important medical decisions in the hands of the patient and doctor, rather than with insurance companies; and

**Whereas**, Patients should not be forced as a result of insurance limitations to leave a hospital too quickly following surgery, against their wishes or the advice of their doctor, nor should patients be denied potentially life saving radiation therapy if they choose to have a lumpectomy rather than a mastectomy; now, therefore, be it

**Resolved**, That the Council of the City of New York urges the United States Congress to pass the Breast Cancer Patient Protection Act of 2009 (S. 688/H.R. 1691).

Referred to the Committee on Health.

Res. No. 38

**Resolution calling upon the New York City Department of Education to develop a plan for the construction and/or renovation of school gymnasiums as part of its Five-Year Capital Plan to ensure that every school has adequate facilities in order to comply with New York State physical education requirements and to provide for healthy children and youth.**

By Council Members Dickens, Barron, Brewer, Chin, Ferreras, Fidler, Gentile, James, Koppell, Koslowitz, Palma, Recchia, Reyna, Rodriguez, Williams, White, Foster and Dromm.

**Whereas**, A major issue threatening the health of our school age children (pre-K through high school) is obesity resulting, in large part, from a lack of physical activity; and

**Whereas**, According to the National Center for Health Statistics of the Centers for Disease Control and Prevention (CDC), in 2003-04, 17.1% of children and adolescents 2 to 19 years of age (over 12.5 million) were overweight, and 32.2% of adults (over 66 million) were obese; and

**Whereas**, The prevalence of obesity for children and adolescents in the United States has virtually tripled since 1980 according to the CDC; and

**Whereas**, A report issued by Trust for America's Health in 2009 found that New York State had the 18<sup>th</sup> highest percent of obese and overweight children in the U.S.; and

**Whereas**, A 2003 survey conducted by the New York City Department of Health and Mental Hygiene found that 43% of all elementary school students in New York City are overweight or obese, which is higher than the national average; and

**Whereas**, The health implications for being overweight, according to the CDC, include increased risk for hypertension, Type 2 diabetes, coronary heart disease, stroke, some cancers, high cholesterol, osteoarthritis, asthma and other respiratory problems among others; and

**Whereas**, There is a direct connection between a healthy body and a healthy mind; and

**Whereas**, Considerable research evidence reveals that children who are physically active and fit are likely to have stronger academic performance, including a 2009 University of Illinois study which suggests that physical activity may increase students' ability to pay attention and result in better performance on achievement tests; and

**Whereas**, Recent studies by the CDC, PE4life and the California School Boards Association also show a positive link between physical education and academic achievement; and

**Whereas**, The New York State Education Department requires participation in a physical education program on a daily basis for pupils in grades K through 3, not less than three times a week for at least 120 minutes overall for those in grades 4 through 6, and not less than three times per week in one semester and two times per week in the other semester for grades 7 through 12; and

**Whereas**, The New York City Department of Education (DOE) fails to provide its students with the adequate and legally mandated amount of physical education according to a 2008 survey by the Public Advocate; and

**Whereas**, The survey by the Public Advocate found that 96% of elementary schools surveyed violated state mandates requiring daily physical education for children in grades K through 3, 88% violated state regulations requiring 120 minutes of physical education per week for fourth graders, and 69% of middle schools surveyed violated state regulations requiring 120 minutes of physical education per week for sixth graders; and

**Whereas**, Further, the Public Advocate found that 81% of elementary schools and 48% of middle schools surveyed do not have any extracurricular sports program or athletic teams; and

**Whereas**, The Public Advocate's office found in a 2004 survey that some schools have no gymnasium at all or have inadequate facilities; and

**Whereas**, The Public Advocate's finding that physical education facilities are inadequate or non-existent in many New York City public schools is supported by a survey of Manhattan schools by the office of former Council Member Alan Gerson, which found that approximately 20%, 55 out of 272 schools, have no gymnasium; and

**Whereas**, The DOE's 2005-2009 Five-Year Capital Plan, when adopted in June 2004, allocated just \$338.3 million for physical fitness upgrades towards meeting a projected \$1.55 billion ten-year need and allocated just \$48.3 million for gymnasium upgrades compared to the projected ten-year need of \$366.6 million; and

**Whereas**, Subsequent amendments to the DOE's 2005-2009 Five-Year Capital Plan reduced allocations for physical fitness upgrades, with the November 2009 final report showing the amount allocated for physical fitness upgrades was \$201.9 million and the amount for gymnasium upgrades was \$43.2 million; and

**Whereas**, DOE's current 2010-2014 Five-Year Capital Plan, adopted in June 2009, allocated \$215.4 million for physical fitness upgrades and \$50.2 million for gymnasium upgrades; and

**Whereas**, DOE's Proposed Amendment to the 2010-2014 Five-Year Capital Plan, released on February 3<sup>rd</sup> 2010, allocated \$226.8 million for physical fitness upgrades and \$46.4 million for gymnasium upgrades, far short of the amount needed; now, therefore, be it

**Resolved,** That the Council of the City of New York calls upon the New York City Department of Education to develop a plan for the construction and/or renovation of school gymnasiums as part of its Five-Year Capital Plan to ensure that every school has adequate facilities in order to comply with New York State physical education requirements and to provide for healthy children and youth.

Referred to the Committee on Education.

Int. No. 35

By Council Members Gennaro, Crowley, Koslowitz, James, Koppell, White, Reyna, Comrie and Sanders.

**A Local Law to amend the administrative code of the city of New York, in relation to the regulation of horse drawn cabs.**

*Be it enacted by the Council as follows:*

Section 1. Subdivisions b, c, g, l, n and p of section 17-330 of the administrative code of the city of New York are amended and two new subdivisions q and r are added to read as follows:

b. 1. Horses shall not be left untethered or unattended except when confined in a stable or other enclosure. *When tethered, all horses shall be secured by the use of a rope attached to the halter, not to the bit or bridle.*

2. *Horse bridles and halters shall be used on carriage horses at all times when operating a carriage.*

c. [Standing stalls in stables shall be of a size specified by regulation of the commissioner.] *Standing stalls in stables shall be sixty four square feet or larger, with a minimum width of seven feet, and shall be configured to permit a horse to turn around and safely lay down within the stall. Horses shall be un-tied when stabled. A halter shall be on the horse or hung outside each stall at all times.*

g. 1. Carriage horses shall not be at work for more than nine hours in any continuous twenty-four hour period. Riding horses shall not be at work for more than eight hours in any continuous twenty-four hour period. Rest periods for carriage horses and riding horses shall be of such duration and at such intervals as the commissioner shall prescribe, but rest periods for carriage horses shall in no event be for less than fifteen minutes after each two hour working period, and the time of such rest period shall be included in calculating the number of hours the horse has worked in any twenty-four hour period. During such rest periods, the person in charge of such carriage horses shall make fresh water available to the horse.

2. *Carriage horses shall receive no less than five non-consecutive weeks of vacation or furlough per year at a horse stable facility which allows daily access to paddock or pasture turnout. Proof of such vacation or furlough shall be provided upon request to the department of health and/or the ASPCA.*

l. An owner of a rental horse business shall keep such records as the commissioner of health shall prescribe including but not limited to a consecutive daily record of the movements of each licensed horse including the driver's name and identification number, if applicable, rider's name, the horse's identification number, vehicle license plate number, if applicable, time of leaving stable and time of return to stable. *An owner of a rental horse business shall also keep written protocols for emergencies, including but not limited to primary and secondary emergency contact information for each horse and insurance company information, if applicable.* Such records shall be kept on the premises of the stable where the horses are kept and shall be available for inspection. The commissioner may, in his or her discretion, require a time clock, date stamp or time stamp where such commissioner believes it is appropriate.

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

p. [In the event that any regulation requiring horse drawn carriages to be equipped] *Every horse required to be licensed hereunder shall be equipped with a manure catching device. [is adopted by any city agency or agencies, such] Such devices shall be affixed or attached to the carriage and shall at no time be affixed or attached to the horse.*

q. *Carriage horses shall not be younger than five years of age nor older than 20 years of age at the time of purchase. Acceptable proof of age shall include a signed letter from a licensed veterinarian stating the horse's age, a certificate from an officially recognized national registry of horses stating the horse's age, or another industry approved method of certifying age.*

r. *Owners shall insure that during the months of November through April every carriage is equipped with a heavy winter horse blanket large enough to cover the horse from crest of neck to top of rump. Such blankets shall be used to cover*

*carriage horses in cold weather. Waterproof horse blankets of a lighter material shall be provided at all times to cover the horse from withers to tail during periods of wet weather when the air temperature is 55 degrees or below.*

§2. Section 17-333 of the code is amended to read as follows:

§ 17-333 Lighting *and safety equipment for* [of] horse drawn cabs. a. The commissioner of consumer affairs shall promulgate rules requiring that sufficient lighting *and reflective materials*, as prescribed by such commissioner, be provided on horse drawn cabs which operate at night or during other periods of low visibility, and requiring sufficient lighting on the rear axle of all horse drawn cabs where their licenses are affixed. Such rules shall be enforced in the same manner as the enforcement of rules relating to horse drawn cabs and drivers promulgated pursuant to section 20-384 of the code.

b. *Every horse drawn cab licensed pursuant to this section and/or section 20-384 of the code must be equipped with an emergency break system, unaffected by rain or wet street conditions.*

§3. Section 20-380 of the code is amended to read as follows:

§20-380. Rates of horse drawn cabs. The amount to be charged and collected for the use of a horse drawn cab by one or more passengers shall be the total of the following items: [thirty-four] *fifty* dollars for the first [half-hour] *twenty minutes* or fraction thereof[, the fraction of the half-hour shall be at the passenger's option,] and [ten] *twenty* dollars for each additional [fifteen] *ten* minutes thereafter. *Such rates shall be indexed for inflation every three years.*

§4. Section 20-381 of the code is amended by adding a new section f to read as follows:

f. *An applicant who has not previously held a license under this subsection shall be issued a probationary license upon approval of his/her application. Such probationary license shall be valid from the date of issuance until six months after the date of issuance and may be revoked for any violation of the rules and regulations pertaining to rental horses and horse drawn cabs. A holder of a probationary license shall only be permitted operate a horse drawn cab at staging areas immediately adjacent to Central Park and on roadways or paths wholly within a New York City park, but may ride alongside a licensed driver. At the conclusion of six months, if the licensee has accrued no violations under Subchapter 3 of Title 17 or this subchapter, the licensee shall be issued a horse drawn cab driver's license under the terms of this subchapter.*

§5. Subsections a and b of section 20-381.1 of the code is amended to read as follows:

a. 1. It shall be unlawful for a driver of a horse drawn cab to operate such cab at any time when and where such operation is prohibited.

2. *In addition to the time restrictions on the operation of horse drawn carriages as prohibited by this section, no horse drawn cab may operate on any street in New York between the hours of 3:00 a.m. and 7:00 a.m., seven days a week.*

b. (1) Horse drawn cabs shall not be driven or operated in the borough of Manhattan between the hours of 7:00 a.m. and 10:00 a.m. on Monday through Friday. Horse drawn cabs shall not be driven or operated in the borough of Manhattan between the hours of 10:00 a.m. and 9:00 p.m. on Monday through Friday except for that area inside or immediately adjacent to Central Park.

(2) Between the hours of 9:00 p.m. and 11:30 p.m. on Monday through Friday, between the hours of 12:30 p.m. and 11:30 p.m. on Saturday, and between the hours of 1:30 p.m. and 7:00 p.m. on Sunday, horse drawn cabs shall not be driven or operated in the borough of Manhattan in the areas bounded by and including the following streets: on the north by West Fifty-seventh Street, on the east by Seventh Avenue, on the south by West Forty-second Street and on the west by Ninth Avenue; and on the north by West Sixty-fifth Street, on the east by Columbus Avenue, on the south by West Fifty-seventh Street and on the west by Amsterdam Avenue.

(3) [On Saturday between the hours of 10:00 a.m. and 8:00 p.m. throughout the year and on Sunday between the hours of 10:00 a.m. and 7:00 p.m. during the period commencing with the Sunday preceding Thanksgiving until the sixth day of January immediately thereafter,] *Except on Sundays between the hours of 7:00 p.m. and 7:00 a.m., horse drawn cabs shall not be driven or operated in the borough of Manhattan in the area bounded by and including the following streets: on the north by West Fifty-seventh Street, on the east by Fifth Avenue, on the south by West Forty-second Street and on the west by Avenue of the Americas.*

(4) On New Year's Day, Thanksgiving Day and Christmas Day, the restrictions set forth in paragraphs one, two and three of this subdivision shall not apply. On the aforementioned days between the hours of 10:00 a.m. and 11:30 p.m., horse drawn cabs shall not be driven or operated in the borough of Manhattan in the areas bounded by and including the following streets: on the north by West Fifty-seventh Street, on the east by Seventh Avenue, on the south by West Forty-second Street and on the west by Ninth Avenue; and on the north by West Sixty-fifth Street, on the east by Columbus Avenue, on the south by West Fifty-seventh Street and on the west by Amsterdam Avenue.

(5) At no time shall any horse drawn cab be driven or operated on or in any bridge or tunnel within the city of New York.

(6) *At no time shall any horse drawn cab be driven or operated on any street below 34<sup>th</sup> Street in the borough of Manhattan.*

§6. Subsection a of section 24-330 of the code is amended to read as follows:

a. 1. Within the city, all publicly owned watering troughs, and those erected or maintained by the American Society for the Prevention of Cruelty to Animals, shall be provided with the necessary piping and fixtures to enable the filling of pails with water therefrom, or otherwise modified in construction so as to meet the requirements of the board of health. The supply of water for such troughs shall be

furnished by the department of environmental protection[.] and shall be maintained and made available to horses for drinking year round. All other horse-watering troughs on streets and public places in the city shall likewise be provided with the piping and fixtures necessary to enable the filling of pails with water at all times, and the use of the water for that purpose shall be paid for. All horse-watering stations in streets and public places hereafter constructed or operated, shall conform to the provisions of this section. It shall be unlawful to draw water from such fixtures except to water horses or other animals. It shall be unlawful to tamper with such fixtures.

§ 7. This local law shall take effect immediately, except that section 17-330 (c) shall take effect one hundred eighty days after the local law that added this section became effective and except that the commissioner of the department of health shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Consumer Affairs.

Int. No. 36

By Council Members Gonzalez, Lander, Nelson, Palma, Recchia Jr. and Halloran.

**A Local Law to amend the administrative code of the city of New York, in relation to vending in Sunset Park, Brooklyn.**

Be it enacted by the Council as follows:

Section 1. Legislative declaration. Throughout New York City's history, vendors have been an integral part of the street life of the city. However, in recent years the complexity of the vending laws has led to confusion among vendors, store owners, police, and community residents in certain parts of the city. For this reason, the Council sees a need to create a new scheme for vending in certain areas of the city that takes into consideration the needs of all parts of the community.

The proliferation of both licensed and unlicensed vendors in the community of Sunset Park, Brooklyn has been a source of neighborhood concern for at least a decade. As local demographics have changed so have the needs and tastes of the neighborhood. Many vendors in Sunset Park are actually Sunset Park residents and cater to their community. At present, the main thoroughfare of 5<sup>th</sup> Avenue is the preferred spot for the majority of vendors. However, the existence of vendors on 5<sup>th</sup> Avenue, a street with heavy pedestrian and vehicular congestion, creates a serious and immediate threat to the health and safety of the public. Based on this finding, it is necessary to completely restrict vending on 5<sup>th</sup> Avenue between 38<sup>th</sup> Street and 64<sup>th</sup> Street.

§2. Subchapter 27 of title 20 of the administrative code of the city of New York is hereby amended by adding a new section 20-474.4 to read as follows:

a. Definitions. For the purposes of this section the following words and terms shall have the following meanings:

(1) "Community Board." The community board for the district in which the Sunset Park vending district is located.

(2) "Designated Vending Location." A defined area measuring approximately ten linear feet parallel to a curb in which a vendor is permitted to vend. No more than one vendor may vend within each designated vending location.

(3) "Sunset Park BID." The Sunset Park 5<sup>th</sup> Avenue Business Improvement District as established by local law 22 of 1995.

(4) "Sunset Park Vending District." The area in the borough of Brooklyn bounded on the south up to and including 64<sup>th</sup> street and on the north up to and including 38<sup>th</sup> street and on the east and west of 5<sup>th</sup> avenue to the property line of the first building that is exclusively residential at the street level.

(5) "Sunset Park Vending License." Any one of the 40 additional general vending licenses or 40 additional food vending permits issued pursuant to this section.

(5) "Vendor of Written or Original Material." A vendor who hawks, peddles, sells or offers to sell, at retail, items protected by the First Amendment, including, but not limited to, newspapers, periodicals, books, pamphlets, or original artwork.

b. (1) Within 30 days of the effective date of this law, without increasing the number of full-term licenses in effect in pursuant to section 20-459 or full term permits in effect pursuant to section 17-307 of the Administrative Code of the city of New York, 40 additional full-term general vending licenses, as defined in section 20-453, and 40 additional full-term food vending permits, as defined in section 17-307, for a total of 80 Sunset Park Vending licenses, shall be issued and designated for use exclusively within the Sunset Park Vending District.

(2) Applications for such 40 additional general vending licenses shall be made in accordance with provisions specified in subchapter 27 of chapter 2 of title 20 and applications for such 40 additional food vending permits shall be made in accordance with subchapter 2 of chapter 3 of title 17 of this code. Preferences for the issuance of such 80 Sunset Park vending licenses shall be given to the following categories of persons in the following order:

(i) Disabled veterans;

(ii) Disabled persons;

(iii) Veterans;

(iv) Those persons currently on a waiting list for a license pursuant to section 20-459 or a permit pursuant to section 17-309 of this code;

(v) New applicants.

(3) Sunset Park vending licenses shall be distinctive and easily recognizable in accordance with rules to be established by the commissioner and shall be displayed visibly at all times.

(4) Sunset Park vending licenses shall permit the licensee to vend only within the Sunset Park Vending District and shall not be considered a valid license or permit for purposes of vending in any other district or area of the city.

(5) Sunset Park vending licenses shall be non-transferable.

c. It shall be unlawful for any individual to act as a food vendor or general vendor within the Sunset Park Vending District without having first obtained a Sunset Park vending license, except that it shall be lawful for a vendor of written or original material to vend such within the Sunset Park Vending District without obtaining a license therefor. Vending licenses issued pursuant to any other section of the administrative code shall not be considered valid for purposes of vending within the Sunset Park Vending District, except that it shall be lawful for a vendor licensed pursuant to Article 4 of the New York State General Business Law to vend within the Sunset Park Vending District.

d. (1) Vendors issued Sunset Park vending licenses shall be assigned a designated vending location within the Sunset Park Vending District.

(2) At least 30 days prior to the effective date of this law, the community board shall file map(s) of proposed designated vending locations within the Sunset Park Vending District with the department. The map(s) shall delineate each and every legal location where a general vendor can vend consistent with the provisions of section 20-465 of this code and each and every legal location where a food vendor can vend consistent with the provisions of section 17-315 of this code and shall specify whether each identified legal vending location is a legal vending location for general vending, food vending or both general and food vending. The commissioner shall have fourteen days to review the map(s) of proposed designated vending locations to ensure such designated vending locations are legally consistent with section 17-315 and section 20-465 of this code. If the commissioner determines the map(s) include designated vending locations not legally consistent with section 17-315 and section 20-465 of this code, he shall specify which such locations are inconsistent and such locations shall be eliminated. If the commissioner determines that a legal vending location has been omitted from such map(s) he shall add such location. If no action is taken by the commissioner within fourteen days from the date the map(s) are submitted, the proposed designated vending locations shall be deemed approved. At any time after the approval of the map(s) of proposed designated vending locations, a vendor may submit evidence to the department that a vending location that is legally consistent with the provisions of section 17-315 and section 20-265 of this code was not designated and request the department to designate such location.

(3) Within fourteen days of the approval of the map(s) of designated vending locations, the community board shall reserve every fourth designated vending location available to general vendors for vendors of original or written material beginning with the easternmost designated vending location available to general vendors on the northern blockface of 38<sup>th</sup> street and continuing westward along the northern blockface across 5<sup>th</sup> avenue to the westernmost designated vending location, across 38<sup>th</sup> street to the southern blockface and continuing in this manner along each blockface of the Sunset Park Vending District in ascending numerical order until the southern blockface of 64<sup>th</sup> street is reached.

(4) Within 30 days of the issuance of the Sunset Park vending licenses a lottery shall be conducted by the Sunset Park BID to assign the designated vending locations within the Sunset Park Vending District to vendors issued such licenses.

(i) The names of vendors issued Sunset Park vending licenses shall be selected at random from a pool of all such vendors and each vendor so selected shall be afforded the opportunity to choose a designated vending location within the Sunset Park Vending District provided such designated vending location was not (i) already chosen by a previously selected vendor or (ii) set aside pursuant to section 20-474.4 (d)(3) of this section for vendors of written or original material. Vendors issued general vending licenses pursuant to this section shall only be permitted to choose designated vending locations identified on the map as available to general vendors or available to both general and food vendors.

(ii) Within 24 hours after conducting the lottery, the Sunset Park BID shall submit the results of such lottery, including the designated vending locations assigned to each vendor, to the department. The commissioner shall have fourteen days to review the results of the lottery to ensure such lottery was conducted in accordance with the provisions of this section and no fraud was involved in any aspect of the lottery. If no action is taken by the commissioner within fourteen days from the date the lottery results are submitted, the results shall be deemed approved.

(5) Each vendor issued a license pursuant to this section shall vend from his or her assigned designated vending location only and shall not vend from any other location within the Sunset Park Vending District. No more than one vendor shall vend from each assigned designated vending location.

(6) Any vendor who, without prior notice to the commissioner, does not vend from his or her assigned designated vending location for fourteen consecutive days may be deemed to have forfeited his or her assigned vending location in accordance with the rules of the commissioner.

(7) Any vendor issued a license pursuant to this section found to be vending in a location other than his or her assigned designated vending location within the

*Sunset Park Vending District shall be deemed to be vending without a license.*

*e. In addition to the rules and penalties imposed by this section, vendors issued general vending licenses pursuant to this section shall be subject to all rules and penalties imposed by this subchapter and vendors issued food vending permits pursuant to this section shall be subject to all rules and penalties imposed by subchapter 2 of chapter 3 of title 17 of this code; provided, however, that notwithstanding any provision of this code or the rules promulgated thereunder, a vendor who is vending in his or her assigned designated location in compliance with the provisions of this section shall not be in violation of section 20-465 or section 17-315 of this code.*

*f. Vending shall be prohibited at all times on Fifth avenue, from 38th street to 64th street, in the Borough of Brooklyn.*

*g. Penalties. Any person who violates the provisions of subsection c of this section shall be guilty of a misdemeanor punishable by a fine of not less than two hundred fifty dollars nor more than one thousand dollars, or by imprisonment for not more than three months or by such fine and imprisonment.*

§3. Subsections a and c of section 20-472 of the administrative code of the city of New York are amended to read as follows:

a. Any person who violates the provisions of sections 20-453, [and] 20-474.1 and 20-474.4 (c) of this subchapter shall be guilty of a misdemeanor punishable by a fine of not less than two hundred fifty dollars nor more than one thousand dollars, or by imprisonment for not more than three months or by both such fine and imprisonment. In addition, any police officer may seize any vehicle used to transport goods to a general vendor, along with the goods contained therein, where the driver is required to but cannot produce evidence of a distributor's license. Any vehicle and goods so seized may be subject to forfeiture upon notice and judicial determination. If a forfeiture proceeding is not commenced, the owner or other person lawfully entitled to possession of such vehicle and goods may be charged with the reasonable cost for removal and storage payable prior to the release of such vehicle and goods, unless the charge of unlicensed distributing has been dismissed.

c. 1. In addition to the penalties prescribed by subdivision a of this section, any person who violates, or any person aiding another to violate, the provisions of sections 20-453 or 20-474.4(c) of this subchapter shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars together with a penalty of two hundred fifty dollars per day for every day during which the unlicensed business operated.

2. In addition to the penalties prescribed by subdivision b of this section, any person who violates any provision of this subchapter, other than sections 20-453 or 20-474.4(c), or any of the rules or regulations promulgated hereunder shall be liable for a civil penalty as follows:

(a) For a first violation, a penalty of not less than twenty-five dollars nor more than fifty dollars.

(b) For a second violation within a period of two years of the date of a first violation, a penalty of not less than fifty dollars nor more than one hundred dollars.

(c) For a third violation within a period of two years of the date of a first violation, a penalty of not less than one hundred dollars nor more than two hundred fifty dollars.

(d) For any subsequent violations within a period of two years of the date of a first violation, a penalty of not less than two hundred fifty dollars nor more than one thousand dollars.

§4. Subdivision c of section 17-321 of the administrative code of the city of New York is amended to read as follows:

c. An officer or employee designated in subdivision a of this section may seize any vehicle or pushcart which (i) does not have a permit or (ii) is being used to vend on property owned by the city and under the jurisdiction of a city agency including, but not limited to, the department of parks and recreation or the department of small business services, without the written authorization of the commissioner of such department, or (iii) is being used by an unlicensed vendor, or (iv) is being used to vend in the area including and bounded on the east by the easterly side of Broadway, on the south by the southerly side of Liberty Street, on the west by the westerly side of West Street and on the north by the northerly side of Vesey Street, or (v) is selling food not authorized by the permit, or (vi) is being used by a vendor to vend within the Sunset Park Vending District from a location other than his or her assigned designated vending location, and may seize any food sold or offered for sale from such vehicle or pushcart. Such vehicle, pushcart or food shall be subject to forfeiture as provided in section 17-322 of this subchapter. If a forfeiture proceeding is not commenced, the vendor may be charged with the reasonable costs for removal and storage payable prior to the release of such food, vehicle or pushcart unless the charge of vending without a permit or vending without a license or vending without the authorization of such commissioner is dismissed.

§5. This local law shall take effect one hundred twenty days after its enactment into law and shall expire two years from the date on which the lottery results for the designated vending locations are deemed approved provided, however, that the commissioner of consumer affairs and the community board for the district in which the Sunset Park vending district is located shall take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

Referred to the Committee on Consumer Affairs.

Int. No. 37

By Council Members Gonzalez, Brewer, Fidler, James, Koppell, Lander, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Jackson, Foster, Crowley and Halloran.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring the commissioner of the department of juvenile justice to report on census data.**

*Be it enacted by the Council as follows:*

Section 1. Title 9 of the administrative code of the city of New York is amended by adding a new chapter to read as follows:

#### CHAPTER 2

##### DEPARTMENT OF JUVENILE JUSTICE

##### §9-201 Census Data.

9-201 Census Data. a. Beginning no later than September 30<sup>th</sup> of the year of enactment of the local law that added this section and on or before September 30<sup>th</sup> of each year thereafter, the Department of Juvenile Justice shall post a report on the department website regarding the total number of admissions to secure detention facilities in the previous fiscal year disaggregated by the following: (i) age; (ii) gender; (iii) race and ethnicity; (iv) zip code of residence; (v) precinct of arrest; and (vi) charged offense.

b. Beginning no later than September 30<sup>th</sup> of the year of enactment of the local law that added this section and on or before September 30<sup>th</sup> of each year thereafter, the Department of Juvenile Justice shall post a report on the department website regarding the total number of admissions to non-secure detention facilities in the previous fiscal year disaggregated by the following: (i) age; (ii) gender; (iii) race and ethnicity; (iv) zip code of residence; (v) precinct of arrest; and (vi) charged offense.

§2. This local law shall take effect sixty days after enactment.

Referred to the Committee on Juvenile Justice.

Int. No. 38

By Council Members Koppell, Brewer, Crowley, Gonzalez and Palma.

**A Local Law to amend the administrative code of the city of New York, in relation to an owner's duty to purchase and install radiator covers.**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2046.3 to read as follows:

§27-2046.3 Radiator Covers. a. The owner of a multiple dwelling shall provide radiator covers in accordance with the provisions of this section.

b. The owner of a multiple dwelling shall provide to an occupant of a dwelling unit at the signing of a lease, including a lease renewal, if any, or upon any agreement to lease, or at the commencement of occupancy if there is no lease, a notice that complies with subdivision c of this section. If there is a lease, such notice shall be included in the lease or be attached as a rider to the lease. Such notice shall be completed by the occupant at the time of signing of a lease, including a renewal lease, if any, or an agreement to lease, or at the commencement of occupancy if there is no lease, and shall clearly indicate whether a child ten years of age or under resides, or will reside, in the dwelling unit.

c. Any notice required or delivered pursuant to this section shall, in a manner approved by the department, at a minimum:

(i) explain the duties of the owner and occupant authorized by this section;

(ii) inquire whether a child ten years of age or under resides or will reside in the leased, rented or occupied dwelling unit;

(iii) be titled "Radiator Cover Notice" underlined and in bold face type; and

(iv) be provided in English and Spanish.

d. (1) Except as provided in subparagraph (iii) of this paragraph, each year the owner of a multiple dwelling shall cause to be delivered to each dwelling unit no earlier than January first and no later than January sixteenth a notice that complies with subdivision a of this section. The owner shall satisfy the requirement to deliver such notice by any one of the following methods:

(i) by first class mail addressed to the occupant of the dwelling unit;

(ii) by hand delivery to the occupant of the dwelling unit;

(iii) by enclosure with the January rent bill, if such rent bill is delivered after December fifteenth but no later than January sixteenth;

(iv) by delivering such notice in conjunction with the annual notice required pursuant to section 17-123 of this code, the rules of the department of health and mental hygiene pertaining to the installation of window guards and

section 131.15 of the New York City health code;

(v) by delivering such notice in conjunction with the annual notice pursuant to section 27-2056.4 of the administrative code and the rules of the department pertaining to lead poisoning prevention and control; or

(vi) by delivering such notice in conjunction with both notices listed in subparagraphs (iv) and (v) of this paragraph.

(2) Upon receipt of such notice pursuant to its delivery under this subdivision, the occupant shall have the responsibility to deliver by February fifteenth of that year, a written response to the owner indicating whether or not a child ten years of age or under resides in the dwelling unit. Where an occupant has responded to the notice that complies with subdivision a of this section, whether received pursuant to subdivision b, c or d, by indicating that no child ten years of age or under resides in the dwelling unit during the period between the date of such response and the delivery of the notice provided by the owner pursuant to this subdivision during the immediately following year, the occupant shall have the responsibility to inform the owner in writing of any child ten years of age or under that comes to reside in the dwelling unit during such period.

(3) If, subsequent to delivery of such notice pursuant to this subdivision, the owner does not receive a written response from the occupant by February fifteenth of the year in which the notice was sent, and does not otherwise have actual knowledge as to whether a child ten years of age or under resides therein, then the owner shall at reasonable times and upon reasonable notice inspect that occupant's dwelling unit to ascertain the residency of a child ten years of age or under and, when necessary, conduct an investigation in order to make that determination. Such inspection may be made in conjunction with the inspection required pursuant to the rules of the department of health and mental hygiene pertaining to the installation of window guards. Where, between February sixteenth and March first of that year, the owner has made reasonable attempts to gain access to a dwelling unit to determine if a child ten years of age or under resides in that dwelling unit and was unable to gain access, the owner shall notify the department of that circumstance in writing by March thirtieth of that year.

e.(1) When an owner of a multiple dwelling has been informed in writing or ascertains that a child ten years of age or under resides in a dwelling unit in such multiple dwelling, such owner shall install within thirty days approved radiator covers over every uncovered radiator in such dwelling unit. Such radiator covers shall meet the specifications established pursuant to subdivision f of this section.

(2) The owner shall have the responsibility to:

(i) replace any missing or damaged radiator cover in any dwelling unit before the commencement of a new occupancy of such dwelling unit regardless of whether or not a child ten years of age or under will reside in the dwelling unit; and

(ii) repair or replace any radiator cover that has fallen into disrepair.

(3) Upon the written request of any tenant or occupant in a dwelling unit within a multiple dwelling, the owner shall provide for the installation of radiator covers.

f. The department shall establish by rule specifications for one or more types of radiator covers that may be installed in compliance with this section. Such rules shall, at a minimum, authorize the installation of radiator covers that (1) completely cover the top, sides and front of the radiator, except that such cover shall have a door or flap to allow access to valves and other controls necessary to operate the radiator and (2) have grill openings on the front to allow heat from the radiator to exit the radiator cover but that shall be of a size as to prevent a child from inserting a finger through such opening. Such rules shall also establish the hazard class of violations of this section.

g. Upon the written request of anyone residing in a dwelling unit with a person who has a developmental disability that makes it difficult or impossible for such person to understand the dangers of radiators and radiator burns, the owner shall have the responsibility to install approved radiator covers over every uncovered radiator in such dwelling unit. The department may in conjunction with the department of health and mental hygiene establish by rule the specifications for persons qualifying to make a determination of a developmental disability for the purpose of this subdivision.

§2. This local law shall take effect one hundred and twenty days after enactment except that the commissioner of the department of housing preservation and development jointly with the commissioner of the department of health and mental hygiene shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Housing and Buildings.

Int. No. 39

By Council Members Koppell, Brewer, James, Palma and Nelson.

**A Local Law to amend the administrative code of the city of New York, in relation to the re-keying of lock cylinders in the entrance doors of multiple dwelling units at the beginning of each new tenancy.**

Be it enacted by the Council as follows:

Section 1. Subdivision 27-2043(a) of the administrative code of the city of New York is amended to read as follows:

(a). The owner of a dwelling shall provide [a] an operational key lock in the entrance door to each dwelling unit and at least one key to operate such lock at all times. In a class A multiple dwelling such door shall be equipped with a heavy duty latch set and a heavy duty dead bolt operable by a key from the outside and a thumb-turn from the inside. The owner of a class A multiple dwelling shall re-key the key lock in the entrance door to a dwelling unit at the beginning of each new tenancy of such dwelling unit or install an entirely new lock and provide a new key to operate such lock. For the purposes of this subdivision the term "re-key" shall mean disassembling the lock cylinder, discarding the original lock pins and installing new lock pins in the original cylinder to match the new key.

§2. This local law shall take effect sixty days after its enactment.

Referred to the Committee on Housing and Buildings.

Int. No. 40

By Council Members Koppell and Fidler.

**A Local Law to amend the administrative code of the city of New York, in relation to pitching by high school children in competitive baseball games.**

Be it enacted by the Council as follows:

Section 1. Chapter one of title 10 of the administrative code of the city of New York is amended by adding a new section 10-168 to read as follows:

§10-168 High school baseball pitching protections. a. Definitions. For the purposes of this section, the following terms shall have the following meanings:

1. "Competitive baseball game" shall mean any organized baseball game at which a certified umpire officiates and which takes place in the city of New York.

2. "High school age children" shall mean persons older than thirteen years of age, but younger than eighteen years of age.

3. "School" shall mean any public or private school which includes any grade nine through twelve and which is located in the city of New York.

b. The commissioner of health and mental hygiene shall promulgate safety rules regarding pitching in competitive baseball games for high school age children. Such rules shall include, but not be limited to, the following:

i. a limit for the number of pitches that may be thrown by any high school age child in a competitive baseball game; and

ii. a specific number of rest days that must occur between competitive baseball games for any high school age child who pitches in such games.

c. The rules promulgated by the commissioner pursuant to this section shall apply in any competitive baseball game in which high school age children are participants and which involves the participation and/or sponsorship of a school.

§2. This local law shall take effect one hundred and twenty days after its enactment into law, provided that the commissioner may promulgate the rules necessary for implementing and carrying out the provisions of this section prior to its effective date.

Referred to the Committee on Youth Services.

Int. No. 41

By Council Members Koppell, Fidler and Palma.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring exterior lighting to contain fully shielded fixtures.**

Be it enacted by the Council as follows:

Section 1. Article 17 of subchapter 7 of chapter 1 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-505.1 to read as follows:

§27-505.1 Requirement that exterior lighting have fully shielded light fixtures. a. For purposes of this section, the following terms shall have the following meanings:

1. "Exterior lighting source" shall mean artificial light generated from an indoor or outdoor source that provides illumination to a surface, building, structure, device, or other outdoor feature.

2. "Fully shielded" shall mean a light fixture or luminaire constructed and installed in such a manner that all light emitted from the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal plane through the luminaire's lowest light emitting part.

3. "Lighting" shall mean equipment and effects of lighting produced by artificial means.

4. "Lumens" shall mean the unit of measurement used to quantify the amount of light produced by a light bulb or emitted from a light fixture.

b. Unless otherwise provided for in this section, all new and replacement exterior lighting sources that are rated to emit 1800 lumens or greater shall be installed and be maintained as fully shielded light fixtures.

c. This section shall not apply to the following:

1. Lighting regulated pursuant to any other provision of law.
2. Underwater lighting;
3. Lighting used to illuminate a structure located on public property;
4. Lighting used to illuminate a flag;
5. Within the theater subdistrict, as such subdistrict is defined in the zoning resolution.

d. Any person who violates any provision of this section shall be liable for a civil penalty of not less than two hundred dollars nor more than one thousand dollars for each day that such violation exists.

§2. This local law shall take effect immediately upon enactment.

Referred to the Committee on Housing and Buildings.

Int. No. 42

By Council Members Koppell and Palma.

**A Local Law to amend the administrative code of the city of New York, in relation to banning the release of certain birds for ceremonial purposes.**

Be it enacted by the Council as follows:

Section 1. Chapter one of title 17 of the administrative code of the city of New York is amended by adding a new section 17-196 to read as follows:

§17-196 Restrictions on ceremonial bird release. a. Definitions. For the purposes of this section, the following terms shall have the following meanings:

1. "Prohibited birds" shall mean white ring neck doves, white squab, and untrained white homing pigeons.
2. "Approved birds" shall mean trained white homing pigeons.
3. "Person" shall mean any natural person, corporation, partnership, firm, organization or other legal entity.
4. "Home aviary" shall mean the normal enclosure where birds are kept in confinement and trained to return.

b. Ceremonial releases. No person shall release or attempt to release any prohibited birds for ceremonial purposes. No person shall release or attempt to release approved birds after dusk, in inclement weather, or more than fifty miles from the home aviary.

c. Any violation of this section shall be a misdemeanor triable by a judge of the criminal court of the city of New York and punishable by not more than six months imprisonment or by a fine of not more than one thousand dollars or both.

d. In addition to the penalties prescribed by subdivision c any person who violates any of the provisions of this section shall be liable for a civil penalty of not less than two hundred dollars nor more than one thousand dollars per violation.

§ 2. This local law shall take effect ninety days after its enactment into law.

Referred to the Committee on Health.

Int. No. 43

By Council Members Koppell, Nelson and Koo.

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting obstructions or nuisances in or upon sidewalks, flagging or curbstones, streets and medians of streets and establishing a rebuttable presumption regarding responsibility for the placement of signs constituting such obstructions or nuisances.**

Be it enacted by the Council as follows:

Section 1. Paragraph a of subdivision 2 of section 16-118 of the administrative code of the city of New York, as amended by local law number 108 for the year 2005, is amended to read as follows:

(a) Every owner, lessee, tenant, occupant or person in charge of any building or premises shall keep and cause to be kept the sidewalk, flagging and curbstone abutting said building or premises free from obstruction and nuisances of every kind, and shall keep said sidewalks, flagging, curbstones, and air shafts, areaways, backyards, courts and alleys free from garbage, refuse, rubbish, litter, debris and other offensive material. Such persons shall also remove garbage, refuse, rubbish, litter, debris and other offensive material between the curbstone abutting the building or premises and the roadway area extending one and one-half feet from the curbstone into the street on which the building or premises front. Such persons shall not, however, be responsible for cleaning the garbage, refuse, rubbish, litter, debris and other offensive material [which] that accumulates at catch basins located within

the one and one-half foot distance from the curbstone into the street.

§2. Subdivision 2 of section 16-118 of the administrative code of the city of New York is amended by adding three new paragraphs c, d and e to read as follows:

(c) No person shall place or cause to be placed an obstruction or nuisance of any kind anywhere in or upon any sidewalk, flagging or curbstone, street or median of a street. For purposes of this subdivision, the term "median" shall mean the dividing area between lanes of traffic on a street.

(d) When it is determined that there exists an obstruction or nuisance in violation of paragraph c of this subdivision and such obstruction or nuisance is a sign, including, but not limited to, an A-frame sign or a sandwich board, there shall be a rebuttable presumption that the person whose name, address, telephone number or other identifying information appears on any such sign, placed, or caused to be placed, such sign, and has violated paragraph c of this subdivision.

(e) Where the obstruction or nuisance is a sign, including, but not limited to, an A-frame sign or a sandwich board, and was placed in violation of paragraph c of this subdivision, and such sign fails to display a name, address, telephone number or other identifying information that would reasonably allow an officer or employee of the department to identify the person that placed, or caused to be placed, such sign, such sign shall be deemed abandoned and an authorized officer or employee of the department may remove and dispose of such sign.

§3. This local law shall take effect immediately upon enactment.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 44

By Council Members Lappin, James, Rodriguez and Nelson.

**A Local Law to amend the administrative code of the city of New York, in relation to creating one day temporary parking permits for a fee.**

Be it enacted by the Council as follows:

Section 1. Subchapter two of chapter one of title nineteen of the administrative code of the city of New York is amended by adding a new section 19-162.3 to read as follows:

§ 19-162.3 Temporary Parking Permits. a. The department shall issue one day temporary parking permits to allow drivers to load and unload heavy materials from their passenger car at a specified location. The department shall determine whether a temporary parking permit is warranted for each request and shall set a fee for such permits not to exceed twenty dollars.

b. Notwithstanding any local law or rule to the contrary, it shall be permissible to park a passenger car for a period of up to four hours where parking is prohibited by a posted sign, provided that such car displays a temporary parking permit and is parked in an available space adjacent to the location specified in the temporary parking permit.

§ 2. This local law shall take effect immediately upon enactment.

Referred to the Committee on Transportation.

Int. No. 45

By Council Members Lappin, Ferreras, Fidler, Gennaro, Gentile, James, Koppell, Koslowitz, Lander, Mark-Viverito, Palma, Rodriguez and Sanders.

**A Local Law to amend the administrative code of the city of New York, in relation to allowing wheelchair accessible taxicabs to use Express Lanes or High Occupancy Vehicle (HOV) lanes.**

Be it enacted by the Council as follows:

Section 1. Chapter 5 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-538, to read as follows:

§ 19-538 Use of express lanes or high-occupancy vehicle (HOV) lanes by taxicabs.

a. Definition. For purposes of this section, "wheelchair accessible taxicabs" means any taxicab approved for use by the commission that meets the specifications and requirements for accessible vehicles pursuant to the americans with disabilities act of 1990, as amended, and rules promulgated by the commission.

b. Wheelchair accessible taxicabs shall be allowed to use any street or bridge lanes designated by the department of transportation as an express lane or high-occupancy vehicle (HOV) lane, regardless of whether such taxicabs are occupied by a passenger.

§ 2. This local law shall take effect immediately.

Referred to the Committee on Transportation.

Int. No. 46

By Council Members Lappin, Brewer, Gennaro, James, Koppell, Lander, Nelson and Dromm.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of transportation to create a plan for parking motorcycles.**

*Be it enacted by the Council as follows:*

Section 1. Legislative findings and intent. Persons cannot park motor vehicles in areas controlled by muni-meters without first purchasing the amount of parking time desired from the meter, and displaying a payment receipt in the vehicle windshield if such requirement is indicated. The Council finds that persons parking motorcycles have little to no means of securing such payment receipt on the vehicle for display. Thus, payment receipts for motorcycles are often lost, damaged or stolen. This bill would address this problem by requiring the Department of Transportation to create a plan to address motorcycle parking in areas controlled by muni-meters.

§2. Subchapter two of chapter one of title nineteen of the administrative code of the city of New York is amended by adding a new section 19-175.4 to read as follows:

§ 19-175.4 *Plan for street parking of motorcycles in areas controlled by municipal meters. a. Definitions. For the purposes of this section, the following terms shall be defined as follows:*

1. "Motorcycle" shall have the same meaning as defined in section 123 of the New York state vehicle and traffic law.

2. "Muni-meter" shall have the same meaning as defined in section 19-167.1 of the code.

b. The department shall make muni-meter payment receipt holders equipped with locks that can be fastened securely to motorcycles available to motorists for cost.

c. No later than one hundred twenty days after the effective date of the local law that added this section, the department shall create and implement a plan for motorcycle parking in areas controlled by muni-meters. Such plan shall include, but not be limited to, developing a method to secure muni-meter receipts on motorcycles

§3. This local law shall take effect sixty days upon enactment.

Referred to the Committee on Transportation.

Int. No. 47

By Council Members Lappin, Brewer, Chin, Gennaro, Gentile, James, Lander, Palma, Van Bramer, Mendez, Foster, Dromm, Koppell, Jackson and Gonzalez.

**A Local Law to amend the administrative code of the city of New York, in relation to the creation of an office of road safety within the department of transportation.**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 3 of chapter one of title 17 of the administrative code of the city of New York is amended by adding a new section 19-183 to read as follows:

§19-183 *Office of road safety. a. There shall be a division known as the "office of road safety" within the department that shall function to reduce the incidents of traffic violations, crashes, injuries and fatalities.*

b. This office shall coordinate at least once a month meetings with the police department, the vehicular crimes unit of each district attorneys office, the department of health and mental hygiene, at least one family member of a fatal traffic crash, and other parties that it deems necessary, to devise strategies for the department and the police department to improve roadway safety.

c. Such strategies may include:

i. Programs and initiative to reduce traffic violations and to encourage traffic calming and safety measures.

ii. Suggestions for behavioral modification to reduce traffic accidents in the city.

iii. Increasing collaboration between the department of transportation and the police department.

iv. Making traffic safety a priority for the police department.

d. The office shall issue an annual report to the mayor and council by the first day of February every year. Such report shall include the strategies devised by the office, whether any strategies were implemented, and the status of such implementation.

§ 2. This local law shall take effect ninety days after its enactment into law.

Referred to the Committee on Transportation.

Int. No. 48

By Council Members Mark-Viverito, Brewer, Chin, Dickens, Ferreras, Fidler, James, Lander, Palma, Reyna, Rodriguez, Van Bramer, Vann, Williams, Nelson, Mendez, Levin, Foster, Dromm, Crowley, Arroyo, Koslowitz, Jackson, Lappin and Cabrera.

**A Local Law to amend the New York city charter, in relation to an annual census of vacant properties.**

*Be it enacted by the Council as follows:*

Section 1. Section 15 of the New York city charter is amended by adding a new subdivision f to read as follows:

f. *Citywide census of vacant properties. a. The office of operations or such other office or department as may be designated by the mayor shall conduct a census each year of every vacant building and vacant lot within the city and shall disaggregate the results by borough and community district. The first such census shall be initiated no later than ninety days after the effective date of this subdivision and shall be completed within one hundred eighty days thereafter. A new vacancy census shall be conducted every twelve months thereafter. For the purposes of this section, "a vacant building" is a building which is not being used for any purpose for which it may lawfully be used and a "vacant lot" shall mean a parcel of land on which no lawful structure exists and which is not otherwise being used for any purpose for which it may lawfully be used.*

b. The departments of environmental protection, buildings and sanitation and the fire department shall provide to the office of operations such records concerning the physical condition of and services provided to any building or parcel of land within the city as shall any other agency for which the office of operations makes such request in order to aid the office in determining whether any building or lot is vacant.

c. A list of the vacant buildings and vacant lots disclosed as a result of such census, the owners of each such vacant building or vacant lot and when the office of operations was first able to determine when such building or lot became vacant shall be compiled and such list shall be made available to the public in print and on the city's website. The office of operations shall also track each such building or lot to determine when it is no longer is vacant. Sources of information relating to ownership shall include, but not be limited to, records of the department of housing preservation and development, the department of finance and the department of buildings and each agency shall provide to the office of operations such information as shall be requested.

§2. This local law shall take effect immediately.

Referred to the Committee on Housing and Buildings.

Int. No. 49

By Council Members Mendez, Brewer, Chin, Koslowitz, Mark-Viverito, Palma, Williams and Dromm.

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the display of wild or exotic animals for public entertainment or amusement.**

*Be it enacted by the Council as follows:*

Section 1. Chapter one of title 17 of the administrative code of the city of New York is amended by adding a new section 17-196 to read as follows:

§17-196. *Display of Wild or Exotic Animals for Public Entertainment or Amusement a. Definitions. For purposes of this section, the following terms shall have the following meanings:*

1. "Display" shall mean to undertake any exhibition, act, circus, ride, trade show, carnival, parade, race, photographic opportunity, performance or similar undertaking in which animals are required to perform tricks, fight or participate as accompaniments in performances for the amusement or benefit of an audience.

2. "Exhibition" shall mean any public showing, presenting to view, public display or exposition.

3. "Exotic animal" shall mean any and all of the following orders and families, whether bred in the wild or in captivity, and shall include any or all of their hybrids with domestic species:

i. proboscidae, including, but not limited to, elephant;

ii. cetacea, pinnipedia, sirenia and other species of sea mammals, including, but not limited to, dolphin, whale, seal, sea lion and walrus;

iii. marsupialia, including, but not limited to, tasmanian devil, dasyure, bandicoot, kangaroo, wallaby, opossum, wombat, koala bear, cuscus, numbat, pigmy, sugar and great glider;

iv. perissodactyla, including, but not limited to, rhinoceros and tapir; provided that such term shall not include the species equus caballus, including, but not

limited to, horse, donkey and mule.

v. *artiodactyla*, including, but not limited to, deer, antelope, sheep, hippopotamus, giraffe and camel;

vi. *mustelidae*, including, but not limited to, skunk, weasel, otter, marten, mink, ermine, pole cat, zorille, wolverine, stoat, ferret and badger;

vii. *procyonidae*, including, but not limited to, raccoon, kinkajou, coon, cat-bear, panda and coatimundi;

viii. *edentata*, including, but not limited to, sloth and armadillo;

ix. *viverridae*, including, but not limited to, mongoose, civet, binturong, fossa, linsang, suricate and genet;

x. all predatory or large birds, including, but not limited to, eagle, hawk, falcon, owl, vulture, condor, emu, rhea and ostrich;

xi. *sciuridae*;

xii. *chiroptera*;

xiii. all venomous insects, including, but not limited to, bee, hornet and wasp;

xiv. *arachnida* and *chilopoda*, including, but not limited to, all venomous spiders, scorpion, and all venomous arthropods;

xv. all large rodentia, including, but not limited to, gopher, muskrat, paca, woodchuck, marmot, beaver, prairie dog, capybara, sewellel, viscacha, porcupine and hutia;

xvi. *hyracoidea*;

xvii. *pholidota*;

xviii. *insectivora*, including, but not limited to, aardvark, anteater, shrew, otter shrew, gymnure, desman, tenrec, mole and hedge hog; and

xix. *dermoptera*.

4. "Person" shall mean any individual, establishment, firm, association, organization, partnership, trust, corporation or company.

5. "Wild animal" shall mean any and all of the following orders and families; provided that such term shall not include "companion animal" as such term is defined in section three hundred fifty of the New York state agriculture and markets law:

i. non-human primates and prosimians, including, but not limited to, chimpanzee and monkey;

ii. *felidae* and all hybrids thereof; provided that such term shall not include the species *felis catus*;

iii. *canidae*; provided that such term shall not include domesticated dogs and captive bred fennec foxes;

iv. *ursidae*;

v. *crocodylia*; and

vi. all reptiles that are venomous by nature and the following species and orders: burmese python, reticulated python, african rock python, green anaconda, yellow anaconda, australian amethystine python, indian python, asiatic monitor, nile monitor, white throat monitor, black throat monitor, crocodile monitor, komodo dragon and any hybrid thereof.

6. "Felis catus" shall mean: (i) domesticated cats, feral cats, domesticated cats that were formerly owned and that have been abandoned and that are no longer socialized, and the offspring of such cats; and (ii) hybrids of *felis catus* that are registered by the american cat fanciers association or the international cat association, provided that such cats shall be without any wild felid parentage for a minimum of five generations.

7. "Wildlife sanctuary" shall mean any organization as described in section 170(b)(1)(A)(vi) of the Internal Revenue Code of 1986, and its subsequent amendments, and that is in compliance with all applicable provisions of the Animal Welfare Act, 7 U.S.C. §§ 2131, et. seq., and operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned or displaced wild animals are provided care for their lifetime or rehabilitated and released back to their natural habitat and, with respect to any animal owned by the organization, does not: (i) use any such animal for any type of entertainment, recreational or commercial purpose, except for the purpose of exhibition as defined by the New York state department of environmental conservation at section 175.2(b) of part 175 of subchapter I of chapter I of title six of the New York codes, rules and regulations; (ii) sell, trade, lend or barter such animal or the body parts of such animal; or (iii) breed such animal.

b. Prohibited acts. No person shall display or sponsor the display of a wild animal or an exotic animal within the city of New York; provided, however, that this section shall not apply to (i) any institution accredited by the American zoo and aquarium association; (ii) any institution operated by the wildlife conservation society of New York state; (iii) any veterinarian in the ordinary course of such veterinarian's practice of business; (iv) any wildlife sanctuary; and (v) any laboratory operated pursuant to section 504 of the New York state public health law.

c. Enforcement. Any authorized employee, officer or agent of the department or any other city agency designated by the mayor shall be empowered to enforce the provisions of this section or any rule promulgated thereunder.

d. Violation and penalty. Any person who violates paragraph b of this section or any rule promulgated thereunder shall be liable for a civil penalty not to exceed one thousand dollars for each violation; provided that for a first such violation, such person may be issued a written warning in lieu of such civil penalty.

e. Rules. The commissioner of the department or the commissioner of any other city agency designated by the mayor to enforce the provisions of this section may promulgate any rules as may be necessary for the purposes of carrying out the provisions of this section.

§2. Severability. If any subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall remain in full force and effect.

§3. This local law shall take effect one hundred and eighty days after its enactment.

Referred to the Committee on Health.

Res. No. 39

**Resolution urging the United States Congress to reintroduce and pass legislation that would amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases.**

By Council Members Mendez, Brewer, Chin, Dickens, Ferreras, Fidler, Gentile, Koppell, Koslowitz, Lander, Palma, Van Bramer, Williams, Nelson and Dromm.

**Whereas**, In the twenty-five years following the first reported case of Acquired Immune Deficiency Syndrome (AIDS), 40 million people worldwide are living with this incurable disease; and

**Whereas**, Over the previous decade, HIV/AIDS infections in women have grown to the point that the National Institute of Allergy and Infectious Diseases now estimates that women account for half of new HIV infections worldwide; and

**Whereas**, Scientists are actively working to develop new methods of preventing HIV/AIDS infection; and

**Whereas**, Microbicides, which would give women a prevention tool that they can control, are one of the most promising new developments in this field; and

**Whereas**, Microbicides, both vaginal and rectal, are topical products in the form of a gel, cream, film, vaginal ring or suppository that will reduce the risk of transmission of HIV and other sexually transmitted diseases; and

**Whereas**, Microbicides have the potential to be an effective tool to prevent HIV; and

**Whereas**, Introduction of microbicides in 73 developing countries could, according to the London School of Hygiene and Tropical Medicine, prevent 2.3 million HIV infections over three years; and

**Whereas**, Despite the fact that microbicides are moving into later stage clinical trials, the National Institutes of Health (NIH) spends a mere two percent of its HIV/AIDS research budget on microbicide development; and

**Whereas**, There is a demonstrated need for increased federal funding and coordination of microbicide research efforts in order to speed the development of an effective microbicide that has the potential to save millions of lives; and

**Whereas**, In the 109<sup>th</sup> Congress, then-Senator Barack Obama of Illinois introduced S. 823, the Microbicide Development Act, and Congressman Jan Schakowsky of Illinois introduced a companion bill, H.R. 1420; and

**Whereas**, The Microbicide Development Act would create a dedicated microbicide research unit within NIAID, authorize funding increases for microbicide research, and require coordination between federal research agencies such as NIAID and NIH; and

**Whereas**, The Centers for Disease Control estimates that 56,300 Americans will be infected with HIV in 2006, clearly demonstrating the need for new and more powerful protective measures against this deadly virus; now, therefore, be it

**Resolved**, That the Council of the City of New York urges the United States Congress to reintroduce and pass legislation that would to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases.

Referred to the Committee on Health.

Int. No. 50

By Council Members Nelson, Brewer and Palma.

**A Local Law to amend the New York city charter, in relation to the waterfront management advisory board.**

Be it enacted by the Council as follows:

Section 1. Section 1303 of chapter 56 of the New York city charter is amended to read as follows:

§1303. Waterfront management advisory board. a. There shall be a waterfront management advisory board, which shall consist of the deputy mayor for economic development, as chairperson; the commissioner of small business services, as vice

chairperson; the chairperson of the city planning commission; the commissioner of environmental protection; *the commissioner of parks and recreation; the commissioner of housing preservation and development*; [one] *two* city council [member] *members* to be designated by the city council; and [twelve] *fifteen* members to be appointed by the mayor with the advice and consent of the city council, provided that there is at least one appointed member from each borough. Appointed members shall include representatives of labor, the maritime industries, the transportation industries, the real estate industry, the hospitality industries, as well as environmental advocates and community advocates.

b. Appointed members of the board shall not hold any other public office or employment and shall be appointed for terms of three years without compensation, except that of the members first appointed, [four] *five* shall be appointed for terms of one year, [four] *five* shall be appointed for terms of two years and [four] *five* shall be appointed for terms of three years. No appointed member may be removed other than for cause to be determined after a hearing before the office of administrative trials and hearings.

c. In the event of a vacancy on the board during the term of office of an appointed member, the mayor shall appoint a successor with the advice and consent of the city council to serve the balance of the unexpired term.

d. The ex officio and council members of the board may designate a representative who shall be counted as a member for the purpose of determining the existence of a quorum and who may vote on behalf of such member. The designation of a representative shall be made by a written notice of the ex officio or council member served upon the chairperson of the board prior to the designee participating in any meeting of the board, but such designation may be rescinded or revised by the member at any time. The commissioner of small business services may designate as his or her representative the president of the economic development corporation or the designee of the president.

e. The board shall (1) hold at least one meeting every six months; (2) consult with and advise the deputy mayor for economic development, the commissioner of small business services and the city planning commission on any matter relating to the industrial, commercial, residential, recreational or other use or development of wharves, waterfront property and waterfront infrastructure in the city, and on other matters as may be requested by the chairperson of the board; (3) create any committees or subcommittees consisting of at least one board member or their designated representative as the board deems appropriate to carry out the board's responsibilities, provided that there shall be a committee on recreational uses of the waterfront; (4) *permit the representatives of federal, state, and bi-state agencies and authorities to participate as a non-voting members of the board*; (5) *oversee the drafting of such portions of the comprehensive waterfront plan as may be authorized by the director of city planning pursuant to section 205 of this charter*; and [(4)] (6) issue a report by March first, [two thousand ten] *two thousand eleven*, and every two years thereafter, to the mayor, the city council, and borough presidents regarding the development of wharves, and waterfront property and infrastructure in the city during the immediately preceding two calendar years[, provided that the report due March first, two thousand ten shall relate to calendar year two thousand nine only].

§ 2. Section 205 of chapter 8 of the New York city charter is amended to read as follows:

§ 205. Comprehensive waterfront plan. Not later than the thirty-first day of December, two thousand and ten and not less than every ten years thereafter, the department of city planning shall file with the mayor, the council, the public advocate, the borough presidents, and the community boards, a comprehensive waterfront plan. Such plan shall be drafted in consultation with the appropriate city, state, and federal agencies and regulatory bodies, and with input from the public, and shall include (1) an assessment of waterfront resources for the natural waterfront, the public waterfront, the working waterfront and the developing waterfront, (2) a statement of the planning policy of the department of city planning, which policy shall take into consideration, among other things, the ten year capital strategy, the assessment of waterfront resources included pursuant to (1) above, the four year capital plan, the strategic policy statements provided for in section seventeen and plans approved pursuant to section one hundred ninety-seven-a and (3) proposals for implementing the planning policy of the department whether by amendment of the zoning resolution, development of plans or otherwise. *The director of city planning may authorize the waterfront management advisory board to oversee the drafting of such portions of the comprehensive waterfront plan as the director deems appropriate, provided that the department of city planning remains responsible for complying with all provisions of this section.*

§ 3. This local law shall take effect immediately upon enactment.

Referred to the Committee on Waterfronts.

Int. No. 51

By Council Members Nelson, Fidler, Gonzalez, Koppell and Recchia.

**A Local Law to amend the administrative code of the city of New York in relation to the time at which discarded leaves may be placed out for collection from residential buildings.**

*Be it enacted by the Council as follows:*

Section 1: Subdivision c of section 16-120 of the administrative code of the city

of New York is amended to read as follows:

c. [Incinerator, residue, ashes, refuse] *Refuse* and liquid waste shall be stored in the building or dwelling or at the rear of the building or dwelling as may be required by the department of health *and mental hygiene* or the department of housing preservation and development until time for removal and kept in tightly covered metal receptacles or containers made of other materials of a type and grade acceptable to the department of sanitation, department of health *and mental hygiene*, and the department of housing preservation and development. *Between the months of September and December, any person receiving Saturday leaf collection provided or approved by the department shall be permitted to place such leaves out for collection beginning at 3 p.m. on the Friday immediately preceding the Saturday on which such collection is scheduled to take place.* After the contents have been removed by the department [of sanitation] or other collection agency any receptacles remaining shall be removed from the front of the building or dwelling before 9:00 p.m. on the day of collection, or if such collection occurs after 4:00 p.m., then before 9:00 a.m. on the day following collection. The receptacles shall at all times be kept covered or closed and kept in a manner satisfactory to the department [of sanitation], the department of health, and in the case of residential premises, the department of housing preservation and development. No receptacles, refuse, incinerator residue or ashes, or liquid waste shall be kept so as to create a nuisance. Yard sweepings, hedge cuttings, grass, leaves, earth, stone or bricks shall not be mixed with household wastes.

§2. This local law shall take effect immediately upon enactment.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 52

By Council Members Nelson, Brewer, Chin, Ferreras, Fidler, Gennaro, Gonzalez, Koppell, Lander, Palma, Sanders, Foster, Koslowitz, Crowley and Mealy.

**A Local Law to amend the administrative code of the city of New York, in relation to testing of local fish for health related risks and posting of subsistence fishing warnings in appropriate locations and conducting a public education campaign.**

*Be it enacted by the Council as follows:*

Section 1. Legislative findings and intent. The Council finds that fish is an important food source for health and economic reasons. Preliminarily, fish are a healthful source of dietary protein and other nutrients for humans. Fish are relatively low in fat, and are a good source of omega-3 fatty acids, found in fish oils. Omega-3 fatty acids are known to improve infant development, lower the risk of Alzheimer's disease and reduce the risk of cardiovascular disease. It also usually costs less to purchase many kinds of fish than it costs to purchase other sources of animal protein, and if someone can fish, he or she can often bypass the need to get to a store and to purchase protein. For some of these fishermen, fishing provides not only food for their own consumption and but also provides a source of food for consumption by relatives and neighbors. However, most fish caught in New York City waters contain potentially harmful levels of chemical contaminants and contaminated fish can be the main source of human exposure to some of these contaminants. New York state issues advisories for eating sportfish, such as Striped bass, Bluefish, Rainbow smelt or White perch, to alert the public to the health risks of consumption of contaminated fish. These health advisories are posted on the state Department of Health ("DOH") and the state Department of Environmental Conservation ("DEC") websites but are not generally available to individuals who do not have access to computers.

The Council further finds that the health advisories developed by the state Department of Health and the state Department of Environmental Conservation are a part of a collaborative process by which the DEC captures the target fish, analyzes the data and submits the data to the DOH. DOH then takes the data and uses it to establish health protective levels of fish consumption by species. However, the current data for most of the New York City region is almost ten years old and neither the DEC nor the DOH post the health advisories at popular fishing locations nor do these agencies undertake extensive or significant fish consumption education programs. Therefore the Council finds that it is in the best interests of the City to obtain more recent data, to update the health advisories and, working collaboratively with the DOH, to undertake more aggressive education initiatives to assure that subsistence and marine fishermen and women and children in New York City are advised of the risks associated with consumption of fish from local waters.

§ 2. Chapter 3 of title 17 of the administrative code of the city of New York is amended by adding a new subchapter 9 to read as follows:

*Subchapter 9*

*Fish Consumption Warnings*

*17-371. Definitions*

*§17-372. Surface fish capture and analysis program mandated*

*§ 17-373. Annual marine fishing health advisories required.*

*§ 17-374. Posting of marine fishing health advisories.*

*§ 17-375 Marine fishing public education program.*

*§17-371. Definitions For purposes of this subchapter the following terms shall have the following meanings:*

(a) *"Surface waters" shall mean the Hudson River, the Upper Bay of New*

York Harbor, Arthur Kill, Kill Van Kull, Newark Bay, Raritan Bay west of Wolfe's Pond Park, Harlem River, the East River and Jamaica Bay.

(b) "Marine fishing area" shall mean any property owned or leased by the city that borders publicly accessible surface waters containing a pier or that is otherwise known as a site routinely used for shore line, bulkhead or beach fishing.

(c) "Marine fishing health advisories" shall mean fish health advisories intended to alert marine fishermen and women and the general public to the risk of consuming fish caught in surface waters due to elevated levels of contaminants.

(d) "The department" shall mean the department of health and mental hygiene.

§ 17-372. Surface fish capture and analysis program mandated. The department shall establish a program to annually capture and analyze representative local fish, including sportfish, such as gamefish pursued for sport by recreational anglers, or migratory fish likely to be present in surface waters and marine fishing areas, for the presence of pollutants, such as result from discharges of chemical wastes into water, and contaminants, such as naturally occurring wastes, and shall seek input and comments from the New York state department of environmental conservation and the New York state department of health during the development and administration of the program.

§ 17-373. Annual marine fishing health advisories required. The department, working jointly with the New York state department of environmental conservation and the New York state department of health, to the extent possible, shall use the data obtained, pursuant to section 17-373 of this subchapter, to generate annual marine fishing health advisories for representative local fish, including sportfish or migratory fish likely to be present in surface waters.

§ 17-374. Posting of marine fishing health advisories. The department, working jointly with the New York state department of environmental conservation and the New York state department of health, to the extent possible, shall post marine fishing health advisories at each marine fishing area in English, and in such other languages as are appropriate to the site, or by universal signage. In addition, the department shall solicit information from the public respecting known marine fishing locations, not initially identified, as a suitable location for posting marine fishing health advisories and may consider recommendations by fishing advocacy and other environmental organizations. The department shall designate or conduct outreach to these organizations.

§ 17-375 Marine fishing public education program. The department, working jointly with the New York state department of environmental conservation and the New York state department of health, to the extent possible, shall develop a comprehensive public education program to inform the public, including those members that do not have access to the Internet, of the health advisories and limitations on consumption of locally caught fish from surface waters.

§2. This local law shall take effect ninety days after it is enacted into law, except that the commissioner of health and mental hygiene shall take such measures, including the promulgation of rules, as are necessary for its implementation prior to such effective date.

Referred to the Committee on Health.

Int. No. 53

By Council Members Nelson, Brewer, Chin, Fidler, Gennaro, Gentile, James, Koppell, Lander, Palma, Recchia, Sanders, Williams, Vallone, Jr., Foster, Dromm and Vacca.

**A Local Law to amend the administrative code of the city of New York, in relation to creating a plan to combat illegal dumping into the waterways of New York City.**

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of chapter 1 of title 22 of the administrative code of the city of New York is amended by adding a new section 22-112.1 to read as follows:

§22-112.1 a. Definitions. For purposes of this section, the following terms shall have the following meanings: 1. "Illegal dumping" shall mean placing, discharging or depositing, by any process or in any manner, piles, lumber, timber, driftwood, dirt, ashes, cinders, mud, sand, dredging, sludge, acid, oil, cement, or any other refuse matters, floatable or otherwise, in the New York city waterways.

2. "New York city waterways" shall mean all areas mapped as waterways and included in the city map pursuant to section 198 of the New York city charter.

3. "Commissioner" shall mean the commissioner of small business services.

b. The commissioner, in conjunction with the commissioner of environmental protection, the commissioner of sanitation and the heads of such other agencies and offices as the commissioner deems appropriate, shall devise and prepare a plan to combat illegal dumping in the New York city waterways. The plan shall, at a minimum, include the following:

(i) promulgation of rules for the safe handling, loading and unloading of materials on waterfront properties in order to minimize spillage and environmental contamination;

(ii) creation of a waterfront task force to aid the commissioner in devising the rules for the safe handling, loading and unloading of materials on waterfront properties and other common waterfront procedures the commissioner deems relevant, which shall include, but shall not be limited to, the mayor or his or her

designee, the speaker of the city council or his or her designee, and five additional representatives who shall each reside in a different borough which shall represent property owners and/or tenant organizations, manufacturing and commercial advocacy groups, community-based organizations, environmental advocacy organizations and members of the general public;

(iii) creation of an accessible and centralized source of contact for the reporting of illegal dumping and providing information statutes, laws, rules and regulations relating to illegal dumping;

(iv) creation of a protocol for coordination with other governmental entities that have jurisdiction over illegal dumping;

(v) a coordinated enforcement plan of the department, the department of environmental protection and the department of sanitation, that would include, at a minimum, a waterfront survey to identify dumping sites, periodic inspections of waterfront properties to ensure compliance with all applicable rules, regulations and laws concerning the handling of materials, dumping and abandoning of property, and the posting of signs to discourage dumping and abandoning of property;

(vi) a coordinated plan of the department, the department of environmental protection and the department of sanitation to identify and remove derelict and abandoned vessels; and

(vii) a public education and outreach program to increase awareness about illegal dumping on the New York city waterways.

c. The commissioner shall implement all of the elements of the plan to combat illegal dumping on or before January 1, 2012.

d. The commissioner shall submit a report to the mayor and the speaker of the city council on or before April 1, 2013 and on or before April 1 of every other year thereafter. The report shall include, but shall not be limited to, the following information for the immediately preceding two calendar year period: the number of complaints of illegal dumping received by the city, the number of notices of violation issued for illegal dumping, the total amount of fines and civil penalties imposed for illegal dumping, and the total amount of fines and civil penalties collected by the city for illegal dumping into waterways. The report shall also include the commissioner's best efforts to obtain similar information regarding complaints, notices of violations issued and fines and civil penalties imposed and collected during the reporting period by all relevant federal, state, and bi-state agencies and authorities. The report shall also include any recommendations made by the waterfront task force to increase the fines and civil penalties imposed for illegal dumping as well as any revisions to the plan implemented since the prior plan's submission, including the reasons for the implementation of such revisions.

§2. This local law shall take effect immediately.

Referred to the Committee on Waterfronts.

Int. No. 54

By Council Members Nelson, Fidler, Gennaro, Gentile, Gonzalez, James, Koppell, Palma, Recchia, Sanders, Williams, Lappin and Vallone.

**A Local Law to amend the administrative code of the city of New York, in relation to increasing fines for violations of the law for illegal dumping along waterfront property into New York City waterways.**

Be it enacted by the Council as follows:

Section 1. Section 22-112 of the administrative code of the city of New York is amended by adding a new subdivision c to read as follows:

c. Any person violating any provision of this section shall be liable for a civil penalty of not less than one thousand five hundred dollars nor more than ten thousand dollars for the first violation, and not less than five thousand dollars nor more than twenty thousand dollars for each subsequent violation. Such penalties may be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board.

§ 2. Subdivision a of section 16-119 of the administrative code of the city of New York is amended to read as follows:

§16-119. Dumping prohibited. a. It shall be unlawful for any person, his or her agent, employee or any person under his or her control to suffer or permit any dirt, sand, gravel, clay, loam, stone, rocks, rubble, building rubbish, sawdust, shavings or trade or household waste, refuse, ashes, manure, garbage, rubbish or debris of any sort or any other organic or inorganic material or thing or other offensive matter being transported in a dump truck or other vehicle to be dumped, deposited or otherwise disposed of in or upon any street, lot, park, public place, wharf, pier, dock, bulkhead, slip, navigable waterway or other area whether publicly or privately owned.

§ 3. Subdivision c of section 16-119 of the administrative code of the city of New York is amended by adding a new paragraph 4 to read as follows:

(4) The provisions of this section may also be enforced by the commissioner of small business services and the commissioner of environmental protection on wharfs, piers, docks, bulkheads, and slips located on waterfront property.

§4. This local law shall take effect immediately.

Referred to the Committee on Waterfronts.

Res. No. 40

**Resolution calling upon the State Legislature and the Governor to support the passage of A.5745 and S.3645 which would reinstate the modest tax on non-City residents known as the “commuter tax” in the wake of the economic crisis facing New York City, so that New York City can continue to provide an adequate level of services to those who work and live in the City and can continue to serve as the economic engine for the state.**

By Council Members Nelson, Gentile, Brewer, Chin, Fidler, Gennaro, James, Koppell, Lander, Palma, Reyna, Sanders, Williams, Lappin, Vallone, Jr., Foster, Dromm and Koslowitz.

**Whereas**, In 1999, the State Legislature adopted, and Governor Pataki signed, the legislation repealing the commuter tax, a tax on non-residents of New York City who work in the City and use city services; and

**Whereas**, It was estimated that prior to the repeal, 450,000 non-residents were paying the commuter tax which provided the City with \$360 million in revenue, a large portion of which went towards city services which are utilized by the commuter population; and

**Whereas**, It is estimated that the current cost to the City of the repeal of the commuter tax averages \$525 million per a year; and

**Whereas**, The City of New York is the economic engine of the State, sending approximately \$11 billion more in tax revenue to the state than it gets back in state aid and services annually; and

**Whereas**, The commuter tax was set at a modest rate of less than \$1.50 per day and amounted to 0.45% of wage earners’ income, and 0.65% of the earnings of the self employed; and

**Whereas**, Other large cities impose commuter taxes and New York City’s was modest in comparison; and

**Whereas**, Similar bills to reinstate the commuter tax have been presented in the recent past and the current economic downturn and high New York City unemployment rate have renewed calls for action on the proposed legislation in light of the urgency of the City’s economic situation; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon the State Legislature and the Governor to support the passage of A.5745 and S.3645 which would reinstate the modest tax on non-City residents known as the “commuter tax” in the wake of the economic crisis facing New York City, so that New York City can continue to provide an adequate level of services to those who work and live in the City and can continue to serve as the economic engine for the state.

Referred to the Committee on State and Federal Legislation

Int. No. 55

By The Public Advocate (Mr. de Blasio) and Council Members James, Koppell, Palma, Sanders, Williams, Vallone, Jr. and Dromm.

**A Local Law to amend the administrative code of the city of New York, in relation to commercial recycling.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision a of section 16-306 of title 16 of the administrative code of the city of New York is amended to read as follows:

a. *In addition to the materials already designated by rule of the commissioner as recyclable for solid waste collected by private carters under the department’s general designation for food or beverage service establishments and residential generators of private carter-collected waste, [The]the commissioner shall within six months of the effective date of this section, adopt and implement rules requiring all commercial buildings receiving private carter waste collection to source separate the following materials, in order to be consistent with the department’s determination of economic markets and designation for source separation by food or beverage service establishments: containers made of glass or metal and bottles and jugs made of polyethylene terephthalate plastic (known as PET, or plastic resin number 1) or high density polyethylene plastic (known as HDPE, or plastic resin number 2), aluminum foil and aluminum foil products. The commissioner shall ensure that all materials designated as recyclable pursuant to this section shall [designating recyclable materials that] constitute in the aggregate at least one-half of all solid waste collected by private carters, and may include additional materials if the commissioner determines that economic markets exist for [them] such materials. Pursuant to subdivision b of this section, such rules shall require generators of private carter-collected waste to source separate some or all of the designated materials and to arrange for lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters of such source separated materials. With regard to designated materials that are not required by such rules to be source separated, generators of private carter-collected waste may source separate these designated materials and, in any event, shall arrange for their lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters. If a generator or private carter-collected waste has source separated the designated materials in accordance with the rules and arranged for the lawful*

collection for recycling, reuse or sale for reuse by private carters or persons other than private carters of such source separated materials and, with regard to designated materials that are not required by such rules to be source separated, arranged for lawful collection for recycling, reuse or sale for reuse by private carters or persons other than private carters, such arrangement shall constitute an affirmative defense to any proceeding brought against the generator pursuant to section 16-324 of this chapter.

§ 2. This local law shall take effect immediately.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 56

By the Public Advocate (Mr. de Blasio) and Council Members Brewer, Chin, Ferreras, James, Koppell, Lander, Palma, Rodriguez, Sanders, Williams, Nelson, Foster and Dromm.

**A Local Law to amend the administrative code of the city of New York, in relation to the posting of notices of provisions of the City’s Human Rights Law that relate to housing discrimination.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision 5 of section 8-107 of Title 8 of the administrative code of the city of New York is amended by adding a new paragraph p to read as follows:

(p) *Posting of Fair Housing Information. The Commission on Human Rights shall create a poster containing information on the prohibition of housing discrimination against any person on the basis of the actual or perceived race, creed, color, national origin, gender, age, disability, sexual orientation, marital status, partnership status, or alienage or citizenship status of such person or persons, or because of any lawful source of income of such person or persons, or because children are, may be or would be residing with such person or persons, or such person’s status as a member of any other group protected under this title. Such poster shall be made available by the Commission to covered entities under this section.*

(1) *Every covered entity must post and maintain such poster, in accordance with the rules of the Commission, in a conspicuous location accessible to all employees and housing applicants.*

(2) *The Commission may charge each covered entity a fee to cover printing, postage and handling expenses incurred in connection with making such poster available.*

§ 2. This local law shall take effect 120 days after its enactment into law, provided, however, that the commissioner may take any actions necessary prior to the effective date of this local law, including, but not limited to, the promulgation of rules.

Referred to the Committee on Civil Rights.

Int. No. 57

By Council Members Vallone, Jr., Fidler, Gentile, Nelson and Oddo.

**A Local Law to amend the administrative code of the city of New York, in relation to cellular telephone service equipment and the inspection of the exterior walls of buildings greater than six stories in height.**

*Be it enacted by the Council as follows:*

Section 1. Article 302 of chapter three of title 28 of the administrative code of the city of New York as added by local law number 33 for the year 2007, is amended by adding a new section 28-302.7 to read as follows:

§28-302.7 *Exterior walls and appurtenances thereof, cellular telephone service apparatus.*

(a) *Where a critical examination of an applicable building’s exterior walls and appurtenances thereof cannot be conducted in whole or in part in accordance with section 28-302.2 due to the presence of any apparatus related to the provision of cellular telephone service, the owner of such property shall immediately contact the department in writing describing the nature of the circumstances for such inability and shall also indicate the building address, the cellular telephone service carrier or carriers whose equipment it is, and why such examination cannot be timely completed.*

(b) *The owner of the property to which subdivision a applies shall immediately coordinate with the cellular telephone service carrier or carriers for the critical examination of such exterior walls and appurtenances thereof, which carrier or carriers shall allow the owner, or his or her representative, to conduct such examination promptly and such carrier or carriers shall, if necessary, shut-off such apparatus for such period of time as is necessary to permit a complete critical examination as is required by section 28-302.2 of this article. Upon the completion of such critical examination, the apparatus related to the operation of cellular telephone service may resume unless such critical examination reveals that such exterior wall and appurtenances thereof are in need of immediate repair. The report*

of such critical examination shall be filed in accordance with section 28-302.4 of this article and any necessary repair of exterior walls or unsafe conditions made in accordance with section 28-302.5 of this article.

§2. This local law shall take effect immediately.

Referred to the Committee on Housing and Buildings.

Int. No. 58

By Council Members Vallone, Jr., Lander, Nelson and Halloran (by request of the Mayor).

**A Local Law to amend the administrative code of the city of New York, in relation to biological, chemical and radiological detectors.**

Be it enacted by the Council as follows:

Section 1. Legislative findings and purpose. The Council recognizes the need to protect the citizens of New York City from possible terrorist attacks involving chemical, biological, radiological, or nuclear weapons. As part of this effort, the Council understands the importance of the deployment of certain instruments designed to detect the presence of certain chemicals, biological agents, and radiation in the environment in order to provide an early warning of a possible biological, chemical or radiological attack. While the proliferation of these defensive capabilities may represent a positive development in furthering public safety, such instruments should be deployed and operated only with the knowledge of the Police Department and other appropriate City agencies. Moreover, the City has an interest in the reliability and effectiveness of these instruments so that their deployment will not cause excessive false alarms and unwarranted anxiety that a large-scale public emergency is occurring. To that end, the City has worked with the New York State Department of Health to ensure that detectors deployed in New York City will meet appropriate certification standards. Therefore, the Council finds that, to further the public safety, the possession and deployment of biological, chemical and radiological detectors should be regulated by the issuance of permits and the promulgation of standards for such detectors and their use, that alarms triggered by such detectors should be immediately reported according to prescribed procedures, and that the Police Department should be responsible for enforcing local laws and rules applicable to biological, chemical and radiological detectors possessed or deployed as an early warning device with a purpose of detecting a possible weapons attack.

§ 2. Title 10 of the administrative code of the city of New York is amended by adding a new chapter 8 to read as follows:

CHAPTER 8

BIOLOGICAL, CHEMICAL AND RADIOLOGICAL DETECTORS

§ 10-801 Definitions.

§ 10-802 Permits for possession or deployment of biological, chemical and radiological detectors.

§ 10-803 Application for permit.

§ 10-804 Permit term.

§ 10-805 Notifications.

§ 10-806 Coordination.

§ 10-807 Rules.

§ 10-808 Penalties.

§ 10-809 Certain biological, chemical and radiological detectors not subject to this chapter.

§ 10-801 Definitions. For the purposes of this chapter, the following terms shall have the following meanings.

a. The term “alarm” shall mean any alarm or other indication of a biological, chemical or radiological detector that indicates the presence of a biological agent, chemical agent, radiation or radioactive substance at the level or levels prescribed pursuant to section 10-807 of this chapter.

b. The term “biological agent” shall mean any micro-organism, including bacteria and viruses, or structural components or products of such micro-organisms, including toxins, whether engineered or naturally occurring, that are capable of causing death, disease or other biological malfunction in a living organism, deterioration or poisoning of food or water, or deleterious alteration of the environment.

c. The term “biological detector” shall mean an instrument used for the purpose of monitoring the release or presence of one or more biological agents, including an instrument that samples the air for such purpose.

d. The term “chemical agent” shall mean a chemical, which through its action on life processes, can cause death, serious physical injury or permanent harm to humans or animals and shall include but not be limited to toxic industrial chemicals and chemical warfare agents as identified by the commissioner.

e. The term “chemical detector” shall mean an instrument used for the purpose of monitoring the release or presence of one or more chemical agents, including an instrument that samples the air for such purpose.

f. The term “commissioner” shall mean the police commissioner of the city of New York or his or her designee.

g. The term “critical agent” shall mean critical agent as such term is

defined in section 55-2.13 of title ten of the codes, rules and regulations of the state of New York, as amended from time to time.

h. The term “deploy” shall mean use or operate a biological, chemical or radiological detector, and “deployment” shall mean the use or operation of such a detector.

i. The term “permit” shall mean the permit issued by the commissioner for possession or deployment of a biological, chemical or radiological detector.

j. The term “radioactive substance” shall mean a substance that emits ionizing radiation including alpha, beta, gamma or neutron radiation.

k. The term “radiological detector” shall mean an instrument used for the purpose of monitoring the release or presence of radiation or a radioactive substance.

l. The term “select agent” shall mean “select agent and/or toxin” as such term is defined in section 73.1 of title 42 of the code of federal regulations, as amended from time to time.

§ 10-802 Permits for possession or deployment of biological, chemical and radiological detectors. a. It shall be unlawful for any person to possess or deploy a biological, chemical or radiological detector in the city of New York as an early warning device with a purpose of detecting a possible attack using biological, chemical or radiological agents, including critical agents or select agents, unless such person holds a valid permit therefor.

b. This section shall not apply to:

(1) biological, chemical and radiological detectors possessed or deployed by the department of health and mental hygiene, the fire department, the department of environmental protection, or any other city agency authorized by the commissioner to possess or deploy a biological, chemical or radiological detector without a permit;

(2) fixed portal radiological detectors owned by the department of health and mental hygiene and possessed or deployed by a hospital or other health care facility, provided that such detectors are possessed and deployed subject to a protocol established by the department of health and mental hygiene with the concurrence of the commissioner governing required notification of alarms; or

(3) biological, chemical and radiological detectors possessed by any person, without deployment, for the sole purpose of (i) selling such detector to another person for deployment by another person or (ii) transporting such detector from one location to another.

§ 10-803 Application for permit or renewal of permit. a. Application for a permit to possess or deploy a biological, chemical or radiological detector, or for renewal of such permit, shall be made to the commissioner upon such form as the commissioner shall prescribe and shall contain such information as the commissioner may require, including but not limited to a detailed description of the biological, chemical or radiological detector to be possessed or deployed, the manner in which such detector will be installed and maintained, the location of such installation (or, if such detector is portable, a description of the types of locations in which it will be deployed), the manner by which such detector will indicate or transmit an alarm, and the proposed emergency action plan to be implemented in the event of an alarm, including any such plan maintained in accordance with section 404.1.1 of the fire code or developed pursuant to section 404.3.2 of such code. For a detector that requires any other local, state or federal permit or certification for its possession or deployment, the applicant shall provide a copy of such valid permit or certification, provided that such permit or certification has been issued at the time of application. Applicants shall affirm the truth of the contents of the application under penalty of perjury.

b. There shall be no fee required for processing such application.

c. The commissioner shall review the application and investigate the information contained therein, requesting and receiving from the applicant any further information as may be necessary for his or her determination, including but not limited to information regarding any other required local, state or federal permits or certifications. The commissioner may consult as appropriate with other agencies with respect to such application or investigation, including but not limited to the New York state department of health, the department of health and mental hygiene, the fire department and the department of environmental protection. The commissioner may provide a copy of the application and all further information supplied in furtherance of the application to the New York state department of health upon request.

d. Applicants also may be required to meet with the police department and other appropriate city agencies in order to coordinate potential emergency responses to an alarm indicated or transmitted by a biological, chemical or radiological detector.

e. An application for a permit or for renewal thereof will be approved and a permit will be issued or renewed by the commissioner if he or she determines that the application and the biological, chemical or radiological detector to be possessed or deployed meet the requirements of this chapter and the rules promulgated hereunder. Such permit or renewal thereof shall be issued upon such terms and conditions the commissioner may prescribe, including but not limited to the requirements set forth in section 10-807 of this chapter. If an application for a permit or renewal thereof is disapproved, the commissioner shall so notify the applicant, including any reasons for the disapproval.

f. The commissioner shall render a determination on an application for a permit or for renewal thereof within sixty days of receipt of a completed application; provided, however, that where the commissioner previously approved a permit for the same type and model of biological, chemical or radiological detector sought to be possessed or deployed, whether submitted by the applicant or by another

individual or entity, the commissioner shall render a determination on an application for a permit or for renewal thereof within thirty days of receipt of a completed application. Where the commissioner fails to render a determination on an application for a permit or for renewal thereof in accordance with this subdivision, such application shall be deemed approved and the applicant shall be subject to the requirements applicable to a permit holder set forth in this chapter and the rules promulgated hereunder until such time as such person's application for a permit or renewal thereof is denied.

§ 10-804 Permit term. A permit issued pursuant to this chapter shall expire on the last day of the fifth December after the date of issue and may be renewed for five-year terms thereafter by submission of an application for renewal in accordance with section 10-803 of this chapter and the rules promulgated hereunder.

§ 10-805 Notifications. a. Following issuance of the permit, or any renewal thereof, the permit holder shall immediately notify the commissioner of any material change in the information contained in the application, including without limitation the issuance, suspension, limitation, revocation or denial of any other local, state or federal permit or certification required for the possession or deployment of all detectors that are the subject of the permit and the acquisition of a biological, chemical or radiological detector different from the detector for which the permit was issued, or of other relevant circumstances established by rule of the commissioner. Upon notification of such change, the commissioner may suspend, revoke or amend the permit and/or direct that the holder submit an application for a new permit.

b. Any person deploying a biological, chemical or radiological detector for which a permit is required by this chapter shall notify the police department if such detector indicates an alarm, notwithstanding whether the person holds a permit for such detector, pursuant to such procedures and utilizing such technologies as are prescribed by rule of the commissioner and/or are included as a term of the permit itself.

§ 10-806 Coordination. With respect to biological, chemical and radiological detectors possessed or deployed within the city of New York by local, state, regional, federal or foreign government agencies or authorities, or as an element of programs or initiatives undertaken by such agencies or authorities, the commissioner shall be authorized to coordinate such activities and request and receive such information as is necessary to carry out such coordination.

§ 10-807 Rules. a. The commissioner is authorized to promulgate such rules as he or she deems necessary to implement the provisions of this chapter. To promote the legislative purposes of this chapter, such rules may include but are not limited to:

(1) minimum technological standards that must be met by biological, chemical and radiological detectors, as determined in consultation with other appropriate city agencies, including but not limited to the department of health and mental hygiene and department of environmental protection, provided that such rules shall be amended as necessary to ensure consistency with any rule established by the New York state department of health setting forth such standards for biological and chemical detectors, other than those detectors that only sample the air and do not analyze the sample collected;

(2) requirements relating to the location, installation and maintenance of biological, chemical and radiological detectors, provided that such rules shall be amended as necessary to ensure consistency with any rule established by the New York state department of health setting forth such requirements for biological and chemical detectors, other than those detectors that only sample the air and do not analyze the sample collected;

(3) for biological, chemical and radiological detectors subject to section 10-802 of this chapter:

(i) requirements relating to the manner in which such detectors will indicate or transmit an alarm;

(ii) the thresholds of an indicated biological agent, chemical agent, radiation or radioactive substance, as determined in consultation with the New York state department of health, the department of health and mental hygiene and the department of environmental protection, at which the police department must be notified by persons deploying such detectors, as well as any other action that must be taken by persons possessing or deploying such detectors when such thresholds are met or exceeded;

(iii) requirements relating to the means by which the police department will be notified in the event of an alarm, including whether such notification shall be immediate or shall follow preliminary investigation by persons deploying a biological, chemical or radiological detector; and

(iv) emergency response protocols and any other requirements for the emergency action plan to be implemented in the event of an alarm, including a requirement that permit holders comply with the instructions of police department personnel and cooperate in any investigation resulting from such alarm;

(4) requirements relating to the character and fitness of applicants to possess or deploy biological, chemical or radiological detectors;

(5) requirements relating to the procedures to be followed for applications for and renewals of permits;

(6) requirements relating to the responsibility of applicants and permit holders to provide additional information or a new application upon material change to information contained in the permit application or other circumstances affecting the permit;

(7) the grounds for the refusal to issue or renew, revocation or suspension of a permit and the procedures to be followed in the event of such refusal to issue or renew, revocation or suspension, including but not limited to provisions relating to

administrative appeal of such action;

(8) provisions relating to the ability of applicants and permit holders to consult with the police department regarding whether a permit is required for the possession or deployment of a biological, chemical or radiological detector; and

(9) provisions relating to the enforcement of a violation of this chapter or rule as provided in subdivision a of section 10-808, which may provide for enforcement by prompt issuance of an appearance ticket pursuant to article one hundred fifty of the criminal procedure law rather than by arrest without a warrant pursuant to article one hundred forty of the criminal procedure law.

b. In the event the New York state department of health promulgates rules establishing requirements for the installation and maintenance or other standards for the certification of biological and chemical detectors, other than those detectors that only sample the air and do not analyze the sample collected, the commissioner shall consult with such department and amend the police department's rules or establish such additional procedures as may be necessary or appropriate to ensure that the regulation of such detectors within the city will be consistent with such rules of the New York state department of health.

§ 10-808 Penalties; affirmative defense; suspension and revocation of permit. a. Any person who violates section 10-802 or section 10-805 of this chapter or any rule promulgated pursuant to section 10-807 of this chapter or who misrepresents the proposed or actual possession or deployment of a biological, chemical or radiological detector shall be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment of not more than twenty days, or both.

b. It shall be an affirmative defense to a violation of this chapter or rule as provided in subdivision a of this section that the defendant is a natural person who is an agent of a corporation acting within the scope of his or her employment and on behalf of such corporation. In such event, the corporation in whose behalf such natural person was acting shall nevertheless be subject to criminal liability for such violation pursuant to section 20.20 of the penal law.

c. The commissioner may suspend or revoke a permit upon his or her determination that: (1) an application contains a material false statement; (2) the permit holder or his or her authorized employee or agent has failed to comply with this chapter, the rules promulgated hereunder, or the terms and conditions of a permit; (3) the biological, chemical or radiological detector for which a permit was issued is not in compliance with such chapter, rules or permit; or (4) the permit holder or his or her authorized employee or agent has failed to comply with the instructions of the police department or cooperate in any investigation relating to the permit or to the biological, chemical or radiological detector for which a permit was issued.

§ 10-809 Certain biological, chemical and radiological detectors not subject to this chapter. a. The provisions of this chapter shall not apply to the following classes or types of biological, chemical or radiological detectors:

(1) smoke alarms;

(2) carbon monoxide detectors;

(3) radon detectors;

(4) hand-held chemical detectors, radiological detectors, personal dosimeters or Geiger counters designed and intended for use by individuals;

(5) detectors that are not possessed or deployed as an early warning device with a purpose of detecting a possible attack using biological, chemical or radiological agents, including critical agents or select agents, including but not limited to the following classes or types of such detectors:

(i) biological, chemical and radiological detectors possessed or deployed by an accredited academic or instructional institution in an academic setting, whether in a laboratory, classroom or in the field, for the purpose of academic instruction or research;

(ii) radiological detectors possessed or deployed by hospitals or other health care facilities, except for fixed portal radiological detectors. A hospital or other health care facility possessing or deploying a fixed portal radiological detector owned by the department of health and mental hygiene and possessed or deployed pursuant to the provisions of paragraph two of subdivision b of section 10-802 of this chapter shall not be required to have a permit for such detector but shall be subject to a protocol established in accordance with such paragraph;

(iii) biological, chemical and radiological detectors possessed or deployed by utility companies or in an industrial setting for the purpose of monitoring internal air quality or leakage of hazardous materials; and

(iv) biological, chemical and radiological detectors possessed or deployed by certified industrial hygienists, labor unions and other individuals or entities responsible for or engaging in testing or monitoring of workplace or environmental safety, including such testing or monitoring in the aftermath of a possible biological, chemical or radiological accident or attack.

§ 3. This local law shall take effect immediately and shall apply to all biological, chemical or radiological detectors subject to chapter eight of title ten of the administrative code of the city of New York, as added by section two of this local law, possessed or deployed on or after the effective date of the rules promulgated pursuant to section 10-807 of such chapter; provided, however, that no enforcement of the requirement of a permit for the possession or deployment of a biological, chemical or radiological detector pursuant to such chapter shall take place with respect to any such detector possessed or deployed before the effective date of such rules if:

(a) the police commissioner is notified, no later than five days following the effective date of such rules and in accordance therewith, of such possession and deployment; and

(b) a complete application for a permit for the possession or deployment of such detector is submitted to the police commissioner pursuant to section 10-803 of such chapter and the rules thereunder no later than twenty days following the effective date of such rules or twenty days following the date application forms have been made available by the police commissioner, whichever date is later.

Where the police commissioner is timely notified of the possession or deployment of a biological, chemical or radiological detector in accordance with paragraph (a) of this section and a timely application for such detector is submitted to the police commissioner in accordance with paragraph (b) of this section, a person shall be authorized to possess or deploy such detector in accordance with chapter eight of title ten of the administrative code of the city of New York, as added by section two of this local law, and the rules thereunder, until such time as such application is denied or any issued permit no longer is valid. No person shall be authorized to possess or deploy a biological, chemical or radiological detector for which no timely notification has been provided pursuant to paragraph (a) of this section or timely application has been submitted pursuant to paragraph (b) of this section, and any such detector shall be disposed of in accordance with the rules promulgated pursuant to section 10-807 of such chapter; provided, however, that the police commissioner in his or her discretion may extend the period of time in either such paragraph with respect to a biological, chemical or radiological detector, or any class of biological, chemical or radiological detector, for good cause. Possession or deployment of a detector in violation of the preceding sentence shall be deemed to be a violation of section 10-802 of such chapter for purposes of section 10-808 of such chapter, and disposal of a detector in violation of such sentence shall be deemed to be a violation of rules promulgated pursuant to section 10-807 of such chapter for purposes of section 10-808 of such chapter.

Referred to the Committee on Public Safety.

Res. No. 41

**Resolution calling upon the New York State Legislature to amend the state's Criminal Procedure Law to authorize a judge to consider a defendant's "danger to the community" as a factor in bail decisions.**

By Council Members Vallone, Jr., Fidler, Gennaro, Gentile, Nelson, Sanders, Van Bramer and Oddo.

**Whereas**, New York State's Criminal Procedure Law (§510.30) does not explicitly authorize a judge to deny bail to a dangerous defendant who poses a "danger to the community;" and

**Whereas**, In order to protect individuals as well as the community from a dangerous defendant, §510.30 should be amended to explicitly authorize a judge to withhold bail from certain defendants who pose a danger to the community; absent this authority, judges in New York State do not have the full range of options afforded to their counterparts in other jurisdictions; and

**Whereas**, The federal government and 34 states give a judge the authority to deny a bail application on the grounds that the defendant poses a danger to the community; and

**Whereas**, According to the Bail Reform Act of 1984 ("The Act"), which grants federal judges such authority, bail may be denied "if no condition will reasonably assure the appearance of the defendant and the safety of the community;" and

**Whereas**, The Act defines a defendant as a "danger to the community" when, if released on bail, the defendant is likely to commit: (1) a crime of violence; (2) an offense carrying a penalty of life imprisonment or death; (3) a federal drug offense carrying a penalty of ten years or more; or (4) any felony following convictions for two or more of the above three offenses, two or more comparable state or local offenses, or a combination of such offenses; and

**Whereas**, Many of New York's neighboring states have provisions that a defendant's prospective danger to the community may be used as a factor in bail decisions, including Connecticut, New Hampshire, Massachusetts, Pennsylvania, and Vermont; and

**Whereas**, The bail determination process often involves a difficult balance of many factors and judges must exercise proper discretion and ensure that a defendant who may not be a danger to the community receives a fair bail hearing; and

**Whereas**, New York State has the responsibility to protect its citizens from dangerous individuals who, if released on bail, would continue to engage in criminal activity that would be detrimental to the well-being of the community; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon the New York State Legislature to amend the state's Criminal Procedure Law to authorize a judge to consider a defendant's "danger to the community" as a factor in bail decisions.

Referred to the Committee on Public Safety.

Int. No. 59

By Council Members Van Bramer, Brewer, Chin, Dickens, Ferreras, Fidler, Gennaro, Gentile, James, Koppell, Koslowitz, Lander, Reyna, Rodriguez,

Sanders, Williams, Nelson, Lappin, Jackson, Recchia, Cabrera, Rivera, Foster, Crowley, Vann, Ulrich, Halloran and Ignizio.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to distribute information on obtaining a library card to all students.**

*Be it enacted by the Council as follows:*

Section 1. Subchapter one of chapter two of title three of the administrative code of the city of New York is amended by adding a new section 3-209.1 to read as follows:

§ 3-209.1 *Distribution of library card application materials. a. Definitions. For the purposes of this section, the following terms shall be defined as follows:*

1. "School" shall mean any public school in the city of New York that contains any combination of grades from and including grade one through grade twelve.

2. "Public library systems" shall mean the New York Public Library, the Brooklyn Public Library and the Queens Borough Public Library.

3. "Department" shall mean the department of education.

b. The department shall develop a pamphlet or written materials containing information regarding each public library system and how students can obtain a library card at the library system that serves the location of their school. At a minimum, such pamphlet or written materials shall include: (i) a comprehensive description of the public library system; and (ii) an application for a library card and/or instructions on how to obtain a library card. Such pamphlet or other written materials shall be produced and distributed to every student annually.

c. The department shall ensure that pamphlets or other written materials developed pursuant to subdivision b of this section are provided to all schools in sufficient quantity to enable such schools to satisfy the requirements of subdivision d of this section.

d. The department shall ensure that such pamphlets or other written materials are available in the main or central office in each school under the jurisdiction of the department for students and parents who wish to obtain such materials.

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

Referred to the Committee on Education.

Res. No. 42

**Resolution calling upon the New York City Department of Education to eliminate the fingerprinting fee for individuals seeking to volunteer in New York City public schools.**

By Council Members Vann, Brewer, Dickens, Fidler, James, Lander, Palma, Rodriguez, Williams and Foster.

**Whereas**, The Obama Administration created the "United We Serve" initiative in the summer of 2009 as an ongoing effort to combat the effects of the recession by championing increased volunteerism within communities; and

**Whereas**, The Bloomberg Administration has made community service and volunteerism a major focus of its agenda, and aims to have 50,000 volunteers in the New York City area in the upcoming year through initiatives such as New York Cares; and

**Whereas**, The City of New York has encouraged volunteer participation in schools since 1956 to supplement teacher instruction in all subject areas; and

**Whereas**, The National Academies Commission on Behavioral and Social Sciences and Education (CBASSE) states that college students who volunteer in public schools are more likely to enter the teaching profession and continue to serve young people; and

**Whereas**, Citizen Schools, a national program that allows adult volunteers to run after-school programs in various parts of the country, has shown that student performance is dramatically improved when enhanced by volunteers throughout the community; and

**Whereas**, National research conducted by California University at Los Angeles' Center for Mental Health in Schools concludes that having volunteers in schools eases the burden on staff, and improves the outcomes for students and their families; and

**Whereas**, On October 17, 1999, The New York Times reported that the participation of volunteers at public schools in New York City had become an integral part of the school system; and

**Whereas**, The goal of efforts such as NYC Service is to help encourage volunteer activity to address the City's most pressing needs; and

**Whereas**, There are many organizations around the City that generously organize volunteers to serve in local public schools; and

**Whereas**, The current DOE policy states that all volunteers who may be alone with children must be fingerprinted prior to beginning any work; and

**Whereas**, The cost of fingerprinting through the DOE can range from anywhere from \$115 to \$135 according to the DOE's website, creating a financial disincentive for prospective volunteers who wish to donate their time; and

Whereas, According to the DOE, a volunteer applicant may have their fingerprinting fee waived only if they are on full public assistance, or if their program/employer has contracted with DOE to assume the cost of fingerprinting; and

Whereas, In November 2009, The New York Times reported that increased class sizes in schools has forced school principals to hire “assistants” from within the parent community using school funds, and that the Mayor’s recent halting of this practice may lead many schools to request additional volunteers to fill the gap; and

Whereas, New York City students will benefit from having more volunteers in the classroom and on school premises; and

Whereas, Volunteer participation in the City’s public schools must be encouraged, for the benefit of New York City school children; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education to eliminate the fingerprinting fee for individuals seeking to volunteer in New York City public schools.

Referred to the Committee on Education.

L.U. No. 35

By Council Member Comrie:

Application no. 20105061 SCR, a proposed site for a new 844 seat Primary School Facility to be located at 1034, 1050 Targee Street (Block 3168, Lot 4, 20 and 195), Council District 50, Borough of Staten Island. This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities Law.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

L.U. No. 36

By Council Member Comrie:

Application no. 20105081 SCM, a proposed site for a new 630 seat Primary/Intermediate School Facility to be located at 515-533 West 44th Street (Block 1073, Lot 1), Council District 3, Borough of Manhattan . This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

Friday, February 12, 2010

★ Addition
Committee on ECONOMIC DEVELOPMENT.....10:00 A.M.
Organizational Meeting
Hearing Room – 250 Broadway, 16th Floor .....Thomas White, Chairperson

Committee on YOUTH SERVICES.....10:00 A.M.
Oversight - The Summer Jobs [SYEP] Program: An Overview and Prospects for Summer 2010

Res 2 - By Council Members Fidler, Cabrera, Arroyo, Barron, Brewer, Dickens, Ferreras, Foster, Gentile, Gonzalez, James, Koppell, Koslowitz, Lander, Mealy, Nelson, Palma, Reyna, Sanders, Seabrook, Vann and Williams - Resolution calling upon the New York State Legislature to fully fund summer youth employment programs. Res 3 - By Council Members Fidler, Cabrera, Arroyo, Barron, Brewer, Dickens, Ferreras, Foster, Gentile, Gonzalez, James, Koppell, Koslowitz, Lander, Levin, Mark-Viverito, Mealy, Nelson, Palma, Reyna, Sanders, Seabrook, Vallone, Vann and Williams - Resolution calling upon the United States Congress to include \$500 million in the 2010 jobs bill for a summer youth employment program and to pass the bill as soon as possible.
Council Chambers – City Hall ..... Lewis A. Fidler, Chairperson

Committee on SMALL BUSINESS .....10:00 A.M.
Oversight - Increasing Support for Programs that Provide Technical Assistance to Small Businesses
Hearing Room – 250 Broadway, 14th Floor..... Diana Reyna, Chairperson

★ Addition
Committee on VETERANS .....11:00 A.M.
Organizational Meeting
Hearing Room – 250 Broadway, 16th Floor Mathieu Eugene, Chairperson

★ Deferred
Committee on JUVENILE JUSTICE jointly with the
Committee on GENERAL WELFARE..... 12:00 P.M.
Oversight— Merging the Department of Juvenile Justice and the Administration for Children Services
Hearing Room – 250 Broadway, 14th Floor..... Sara M. Gonzalez, Chairperson
.....Annabel Palma, Chairperson

★ Deferred
Committee on Economic Development ..... 1:00 p.m.
Agenda to be announced
Council Chambers – City Hall .....Thomas White, Chairperson

★ Addition
Committee on PUBLIC SAFETY jointly with the
Committee on LOWER MANHATTAN REDEVELOPMENT ..... 1:00 P.M.
Oversight - The Proposed 9/11 trials in Lower Manhattan: Exploring the Ramifications and Alternatives
Council Chambers – City..... Peter Vallone, Chairperson
.....Margaret Chin, Chairperson

★ Addition
Committee on AGING .....1:30 P.M.
Oversight - An Update to the Modernization of DFTA’s Home Delivered Meals Services
Hearing Room – 250 Broadway, 16th Floor ..... Jessica Lappin, Chairperson

★ Deferred
Committee on CONSUMER AFFAIRS .....2:00 P.M.
Int – 6 – By Council Member Garodnick, Brewer, Gonzalez, James, Koppell, Koslowitz, Lappin, Palma, Seabrook and Vallone – A Local Law to amend the administrative code of the city of New York, in relation to process servers.
Hearing Room – 250 Broadway, 14th Floor ..... Karen Koslowitz, Chairperson

Monday, February 15, 2010

President’s Day Observed

Tuesday, February 16, 2010

★ Addition
Committee on JUVENILE JUSTICE jointly with the
Committee on GENERAL WELFARE.....11:00 A.M.
Oversight - Merging the Department of Juvenile Justice and the Administration for Children Services
Council Chambers – City Hall..... Sara M. Gonzalez, Chairperson
.....Annabel Palma, Chairperson

Monday, February 22, 2010

★ Deferred
Committee on LOWER MANHATTAN REDEVELOPMENT .....10:00 A.M.
Agenda to be announced
Hearing Room – 250 Broadway, 14th Floor ..... Margaret Chin, Chairperson

★ Deferred
Committee on GOVERNMENTAL OPERATIONS .....10:00 A.M.
Agenda to be announced

Hearing Room — 250 Broadway, 16<sup>th</sup> Floor .....Gale Brewer, Chairperson

Committee on IMMIGRATION jointly with the
Committee on WOMEN'S ISSUES ..... 10:00 A.M.
Oversight - How does the Violence Against Women Act Impact Services for
Immigrant Women in New York City?
Council Chambers – City Hall ..... Daniel Dromm, Chairperson
..... Julissa Ferreras, Chairperson

Committee on SANITATION AND SOLID WASTE MANAGEMENT 1:00 P.M.
Agenda to be announced
Council Chambers – City Hall ..... Letitia James, Chairperson

Committee on COMMUNITY DEVELOPMENT ..... 1:00 P.M.
Res 17 - By Council Member Vann, Barron, Brewer, Fidler, James, Koppell, Lander,
Mark-Viverito, Sanders and Williams - Resolution calling upon the New York State
Legislature to adopt and the Governor to sign legislation which would allow credit
unions, savings banks, and savings and loan associations to accept and secure
deposits from municipal corporations.
Hearing Room – 250 Broadway, 14th Floor ..... Albert Vann, Chairperson

★ Addition
Committee on WATERFRONTS..... 1:00 P.M.
Int 53 - By Council Member Nelson - A LOCAL LAW - To amend the
administrative code of the city of New York, in relation to creating a plan to combat
illegal dumping into the waterways of New York city.
Int 54 - By Council Member Nelson - A LOCAL LAW - To amend the
administrative code of the city of New York, in relation to increasing fines for
violations of the law for illegal dumping along waterfront property into New York
city waterways.
Hearing Room – 250 Broadway, 16th Floor..... Michael Nelson, Chairperson

Tuesday, February 23, 2010

Committee on FIRE AND CRIMINAL JUSTICE SERVICES jointly with the
Committee on HEALTH.....10:00 A.M.
Oversight - The FDNY and its Utilization of Neighborhood Volunteer Ambulances
Council Chambers – City Hall..... Elizabeth Crowley, Chairperson
..... Maria del Carmen Arroyo, Chairperson

★ Deferred
Committee on CIVIL RIGHTS.....10:00 A.M.
Agenda to be announced
Hearing Room – 250 Broadway, 16th Floor ..... Larry Seabrook, Chairperson

Committee on CONTRACTS.....10:00 A.M.
Oversight - The Procurement Policy Board
Hearing Room – 250 Broadway, 14th Floor..... Darlene Mealy, Chairperson

★ Addition
Committee on PARKS AND RECREATION..... 1:00 P.M.
Agenda to be announced
Hearing Room – 250 Broadway, 16th Floor ..... Melissa Mark-Viverito, Chairperson

★ Deferred
Committee on WATERFRONTS..... 1:00 P.M.
Agenda to be announced
Hearing Room – 250 Broadway, 16th Floor ..... Michael Nelson, Chairperson

Committee on EDUCATION ..... 1:00 P.M.
Oversight - DOE's Proposed School Closings
Council Chambers – City Hall..... Robert Jackson, Chairperson

★ Deferred
Committee on WOMEN'S ISSUES ..... 1:00 P.M.
Agenda to be announced
Hearing Room – 250 Broadway, 14th Floor ..... Julissa Ferreras, Chairperson

★ Addition
Committee on PARKS AND RECREATION..... 1:00 P.M.
Int 4 - By Council Member Foster, Dickens, Gonzalez, James, Lappin, Mark-
Viverito, Mealy and Palma - A Local Law to amend the administrative code of the
city of New York, in relation to replacement of trees.

Hearing Room – 250 Broadway, 16th Floor
..... Melissa Mark-Viverito, Chairperson

★ Addition
Committee on HOUSING AND BUILDINGS jointly with the
Committee on GENERAL WELFARE and
Committee on PUBLIC HOUSING ..... 1:00 P.M.
Oversight – The Recent Loss of Section 8 Vouchers and the Future of Section 8
in New York City – Part II
Hearing Room – 250 Broadway, 14th ..... Erik Martin-Dilan, Chairperson
..... Annabel Palma, Chairperson
..... Rosie Mendez, Chairperson

Wednesday, February 24, 2010

Subcommittee on ZONING & FRANCHISES .....9:30 A.M.
See Land Use Calendar Available Friday, February 19, 2010, in Room 5 City Hall
Hearing Room – 250 Broadway, 16th Floor..... Mark Weprin, Chairperson

Committee on HIGHER EDUCATION.....10:00 A.M.
Oversight - Diversity Among CUNY's Instructional Staff
Council Chambers – City Hall ..... Ydanis Rodriguez, Chairperson

Subcommittee on LANDMARKS, PUBLIC SITING &
MARITIME USES.....11:00 A.M.
See Land Use Calendar Available Friday, February 19, 2010, in Room 5 City Hall
Hearing Room – 250 Broadway, 16th Floor ..... Brad Lander, Chairperson

Subcommittee on PLANNING, DISPOSITIONS &
CONCESSIONS..... 1:00 P.M.
See Land Use Calendar Available Friday, February 19, 2010, in Room 5 City Hall
Hearing Room – 250 Broadway, 16th Floor ..... Stephen Levin, Chairperson

Committee on PUBLIC SAFETY ..... 1:00 P.M.
Agenda to be announced
Council Chambers – City..... Peter Vallone, Chairperson

★ Deferred
Committee on TRANSPORTATION..... 1:00 P.M.
Agenda to be announced
Hearing Room – 250 Broadway, 14th Floor ..... James Vacca, Chairperson

Thursday, February 25, 2010

★ Deferred
Committee on CIVIL SERVICE AND LABOR.....10:00 A.M.
Agenda to be announced
Council Chambers – City Hall ..... James Sanders, Chairperson

Committee on LAND USE.....10:00 A.M.
All items reported out of the subcommittees
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
Hearing Room – 250 Broadway, 16th Floor ..... Leroy...

Committee on TECHNOLOGY.....10:00 A.M.
Oversight - NYC Media (NYC-TV)
Hearing Room – 250 Broadway, 14th Floor ..... Daniel Garodnick, Chairperson

★ Addition
Committee on TRANSPORTATION .....10:00 A.M.
Oversight - Will the MTA Service Cuts Strand Riders?
Committee on Mental Health, Mental Retardation, Alcoholism, Drug Abuse and
Disability Services will join Committee on Transportation at 1:00 p.m. for the
following topic:
Oversight - Will the MTA's proposed Access-A-Ride cuts have a negative impact on
disabled New Yorkers?
Council Chambers – City Hall ..... James Vacca, Chairperson
..... G. Oliver Koppell, Chairperson

★ Note Location Change
Committee on ENVIRONMENTAL PROTECTION..... 1:00 P.M.

Oversight - Wind Energy Generation: New York City Opportunities and Impediments

★ Hearing Room – 250 Broadway, 16<sup>th</sup> Floor ..... James F. Gennaro, Chairperson

Committee on **CULTURAL AFFAIRS, LIBRARIES & INTERNATIONAL INTERGROUP RELATIONS**..... **1:00 P.M.**

Oversight - How will the Cultural Data Project Impact the Arts in New York City?  
Hearing Room – 250 Broadway, 14<sup>th</sup> Floor ..... James Van Bramer, Chairperson

★ *Deferred*

Committee on **PARKS AND RECREATION**..... **1:00 P.M.**

Agenda to be announced

Hearing Room –

250 Broadway, 16<sup>th</sup> Floor ..... Melissa Mark Viverito, Chairperson

**Friday, February 26, 2010**

★ *Deferred*

Committee on **MENTAL HEALTH, MENTAL RETARDATION, ALCOHOLISM, DRUG ABUSE AND DISABILITY SERVICES** ..... **10:00 A.M.**

Agenda to be announced

Council Chambers – City ..... G. Oliver Koppell, Chairperson

★ *Deferred*

Committee on **ECONOMIC DEVELOPMENT**..... **1:00 P.M.**

Agenda to be announced

Hearing Room – 250 Broadway, 14<sup>th</sup> Floor ..... Thomas White, Chairperson

Committee on **HEALTH**..... **1:00 P.M.**

Oversight - New York City’s Efforts to Increase Bone Marrow Donation  
Council Chambers – City ..... Maria del Carmen Arroyo, Chairperson

★ *Deferred*

Committee on **VETERANS**..... **1:00 P.M.**

Agenda to be announced

Hearing Room – 250 Broadway, 16<sup>th</sup> Floor ..... Mathieu Eugene, Chairperson

**Monday, March 1, 2010**

Committee on **FINANCE**..... **10:00 A.M.**

Oversight - Update on the impact of the Federal Economic Stimulus Package on New York City

Council Chambers – City Hall ..... Domenic M. Recchia, Chairperson

Committee on **COMMUNITY DEVELOPMENT** ..... **1:00 P.M.**

Oversight - Update on the impact of the Federal Economic Stimulus Package on New York City: Focus on Community Development Block Grants

Hearing Room – 250 Broadway, 14<sup>th</sup> Floor ..... Albert Vann, Chairperson

Committee on **GENERAL WELFARE**..... **3:00 P.M.**

Oversight - Update on the impact of the Federal Economic Stimulus Package on New York City: Focus on social services issues

Hearing Room – 250 Broadway, 14<sup>th</sup> Floor ..... Annabel Palma, Chairperson

Tuesday, March 2, 2010

Committee on **IMMIGRATION** ..... **10:00 A.M.**

Agenda to be announced

Hearing Room – 250 Broadway, 14<sup>th</sup> Floor ..... Daniel Dromm, Chairperson

Committee on **ECONOMIC DEVELOPMENT**..... **1:00 P.M.**

Oversight - Update on the impact of the Federal Economic Stimulus Package on New York City: Focus on job creation, labor, and small business

Hearing Room – 250 Broadway, 14<sup>th</sup> Floor ..... Thomas White, Chairperson

Committee on **CONSUMER AFFAIRS** ..... **1:00 P.M.**

Int 6 - By Council Member Garodnick, Brewer, Gonzalez, James, Koppell, Koslowitz, Lappin, Palma, Seabrook and Vallone - A Local Law to amend the administrative code of the city of New York, in relation to process servers.

Hearing Room – 250 Broadway, 16<sup>th</sup> Floor ..... Karen Koslowitz, Chairperson

**Wednesday, March 3, 2010**

*Stated Council Meeting*..... *Ceremonial Tributes – 1:00 p.m.*

..... *Agenda – 1:30 p.m.*

**New York City Council Fiscal Year 2011 Preliminary Budget,  
Mayor’s FY ’10 Preliminary Management Report and  
Agency Oversight Hearings**

**Thursday, March 4, 2010**

**10:00 a.m. Finance Committee – Council Chambers – City Hall**

10:00 a.m. Office of Management and Budget

◆ Capital Budget

◆ Expense Budget

◆ Revenue Budget

12:45 p.m. Contract Budget (Joint with Committee on Contracts)

1:15 p.m. Department of Finance

2:15 p.m. Department of Design and Construction

3:15 p.m. Comptroller

3:45 p.m. Independent Budget Office

4:00 p.m. Public

**Friday, March 5, 2010**

**10:00 a.m. Sanitation & Solid Waste Management Committee – Council Chambers – City Hall**

10:00 a.m. Department of Sanitation

12:00 p.m. Public

12:00 p.m. Higher Education Committee – Hearing Room – 250 Broadway, 14<sup>th</sup> Floor

12:00 p.m. City University of New York

1:30 p.m. Public

**Monday, March 8, 2010**

**10:00 a.m. General Welfare Committee – Council Chambers – City Hall**

10:00 a.m. Department of Homeless Services

12:00 p.m. Human Resources Administration / Department of Social Services

1:30 p.m. Administration for Children’s Services (Agency for Child Development) joint with Women’s Issues Committee

3:30 p.m. Public

**10:00 a.m. Environmental Protection Committee – Hearing Room – 250 Broadway, 14<sup>th</sup> Floor**

10:00 a.m. Department of Environmental Protection (Capital)

11:15 a.m. Department of Environmental Protection (Expense)

12:30 p.m. Public

**1:00 p.m. Oversight & Investigations Committee – Hearing Room – 250 Broadway, 16<sup>th</sup> Floor**

1:00 p.m. Department of Investigation

2:15 p.m. Public

**Tuesday, March 9, 2010**

**10:00 a.m. Aging Committee – Council Chambers – City Hall**

10:00 a.m. Department for the Aging (joint with the Subcommittee on Senior Centers)

11:00 a.m. Public

**11:00 a.m. Juvenile Justice Committee – Hearing Room – 250 Broadway, 14<sup>th</sup> Floor**

11:00 a.m. Department of Juvenile Justice

11:45 p.m. Public

**Wednesday, March 10, 2010**

**10:00 a.m. Fire & Criminal Justice Services Committee – Council Chambers – City Hall**

10:00 a.m. Fire/Emergency Medical Service  
 12:00 p.m. Department of Probation  
 12:30 p.m. Department of Correction  
 1:00 p.m. Criminal Justice Coordinator (Indigent Defense Services)  
 2:00 p.m. Legal Aid  
 3:00 p.m. Public

**Thursday, March 11, 2010**

**10:00 a.m. Public Safety Committee – Council Chambers – City Hall**

10:00 a.m. Police Department  
 12:00 p.m. Office of Emergency Management  
 12:45 p.m. District Attorneys/Special Narcotics Prosecutor  
 2:00 p.m. Civilian Complaint Review Board  
 3:00 p.m. Public

**11:00 a.m. Land Use Committee – Hearing Room – 250 Broadway, 14<sup>th</sup> Floor**

11:00 a.m. Landmarks Preservation Commission  
 12:00 p.m. Department of City Planning  
 1:00 p.m. Department of Information, Technology & Telecommunications (joint with the Technology Committee)  
 2:00 p.m. Public

**1:30 p.m. Mental Health, Mental Retardation, Alcoholism, Drug Abuse & Disability Services Committee – Hearing Room – 250 Broadway, 16<sup>th</sup> Floor**

1:30 p.m. Department of Health & Mental Hygiene (joint with Subcommittee on Drug Abuse)  
 3:00 p.m. Public

**Monday, March 15, 2010**

**10:00 a.m. Youth Services Committee – Council Chambers – City Hall**

10:00 a.m. Department of Youth and Community Development (★ Joint with Community Development Committee)  
 11:30 a.m. Public

**10:00 a.m. Governmental Operations Committee – Hearing Room – 250 Broadway, 14<sup>th</sup> Floor**

10:00 a.m. Campaign Finance Board  
 10:45 a.m. Board of Elections  
 11:30 a.m. Law Department  
 12:15 p.m. Department of Citywide Administrative Services  
 12:45 p.m. Department of Records and Information Services  
 1:15 p.m. Community Boards  
 1:45 p.m. Public

**1:30 p.m. Public Housing Committee – Hearing Room – 250 Broadway, 16<sup>th</sup> Floor**

1:30 p.m. NYC Housing Authority  
 2:30 p.m. Public

**Tuesday, March 16, 2010**

**10:00 a.m. Cultural Affairs, Libraries & International Intergroup Relations Committee – Council Chambers – City Hall**

10:00 a.m. Department of Cultural Affairs  
 11:30 a.m. Libraries (joint with Select Committee on Libraries)  
 1:00 p.m. Public

**10:30 a.m. Housing and Buildings Committee – Hearing Room – 250 Broadway, 14<sup>th</sup> Floor**

10:30 a.m. Department of Housing Preservation and Development (Expense)  
 11:00 a.m. Department of Housing Preservation and Development (Capital)

12:30 p.m. Department of Buildings  
 1:15 p.m. Public

**2:00 p.m. Consumer Affairs Committee – Hearing Room – 250 Broadway, 16<sup>th</sup> Floor**

2:00 p.m. Department of Consumer Affairs  
 3:00 p.m. Business Integrity Commission  
 3:30 p.m. Public

**Thursday, March 18, 2010**

**10:30 a.m. Health Committee – Council Chambers – City Hall**

10:30 a.m. Medical Examiner  
 11:00 a.m. Department of Health & Mental Hygiene  
 1:00 p.m. Health & Hospitals Corporation  
 2:30 p.m. Public

**10:00 a.m. Standards and Ethics Committee – Hearing Room – 250 Broadway, 14<sup>th</sup> Floor**

10:00 a.m. Conflicts of Interest Board  
 10:45 a.m. Public

**12:00 p.m. Economic Development Committee – Hearing Room – 250 Broadway, 14<sup>th</sup> Floor**

12:00 p.m. Economic Development Corporation (Capital)  
 1:30 p.m. Department of Small Business Services (joint with Small Business Committee)  
 2:30 p.m. Public

**Friday, March 19, 2010**

**10:00 a.m. Education Committee – Council Chambers – City Hall**

10:00 a.m. Department of Education and School Construction Authority (Capital)  
 12:00 p.m. Public

**Monday, March 22, 2010**

**10:00 a.m. Transportation Committee – Council Chambers – City Hall**

10:00 a.m. Taxi and Limousine Commission  
 10:45 a.m. MTA/NYC Transit (Expense)  
 11:15 a.m. MTA/NYC Transit (Capital)  
 11:45 a.m. Department of Transportation (Capital)  
 12:45 p.m. Department of Transportation (Expense)  
 1:15 p.m. Public

**11:00 a.m. Civil Rights Committee – Hearing Room – 250 Broadway, 14<sup>th</sup> Floor**

11:00 a.m. Equal Employment Practices Commission  
 11:30 a.m. Public

**Wednesday, March 24, 2010**

**10:00 a.m. Education Committee – Council Chambers – City Hall**

10:00 a.m. Department of Education (Expense)  
 12:00 p.m. Public  
 2:00 p.m. Parks & Recreation Committee – Council Chambers – City Hall  
 2:00 p.m. Department of Parks & Recreation (Expense)  
 3:30 p.m. Department of Parks & Recreation (Capital)  
 4:00 p.m. Public

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Comrie) adjourned these proceedings to meet again for the Stated Meeting on Wednesday, March 3, 2010.

MICHAEL M. McSWEENEY, City Clerk  
 Clerk of the Council









