



# THE CITY RECORD

Official Journal of The City of New York

THE CITY RECORD U.S.P.S. 0114-660  
Printed on paper containing 30% post-consumer material

VOLUME CXLVIII NUMBER 110

WEDNESDAY, JUNE 9, 2021

Price: \$4.00

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## THE CITY RECORD

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

Subscription \$500 a year, \$4.00 daily (\$5.00 by mail). Periodicals Postage Paid at New York, NY  
POSTMASTER: Send address changes to THE CITY RECORD, 1 Centre Street, 17th Floor, New York, NY 10007-1602

Editorial Office/Subscription Changes:  
The City Record, 1 Centre Street, 17th Floor, New York, NY 10007-1602 (212) 386-0055

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## PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

## BOROUGH PRESIDENT - BRONX

### ■ PUBLIC HEARINGS

A VIRTUAL PUBLIC HEARING is being called by the President of the Borough of The Bronx, Honorable Ruben Diaz Jr. The hearing will take place on Tuesday, June 15, 2021, commencing at 11:00 A.M. To attend this hearing please see the attached link:

ULURP Hearing - Office of The Bronx Borough President

<https://nycbp.webex.com/nycbp/j.php?MTID=m0bba0de3bbb591c0e77754e625edd41b>

Tuesday, June 15, 2021, 11:00 A.M. | 1 hour | (UTC-04:00) Eastern Time (US & Canada)

Meeting number: 173 497 7493

Password: bx0615

The following matter will be heard:

### CD #7: ULURP APPLICATION: C 210338 PSX-Fordham Building CTAC Site Selection

IN THE MATTER OF an application submitted by the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the site selection of property located at 2556 Bainbridge Avenue, (Block 3286, Lot 14) for use as a Computer-based Testing and Application Center, Borough of The Bronx, Community District 7.

PLEASE DIRECT ANY QUESTIONS CONCERNING THIS HEARING TO THE OFFICE OF THE BRONX BOROUGH PRESIDENT (718) 590-6124.

Accessibility questions: Sam Goodman (718) 590-6124, by: Tuesday, June 15, 2021, 10:00 A.M.



J8-14

## BOROUGH PRESIDENT - BROOKLYN

### ■ PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that, pursuant to Section 201 of the New York City Charter, the Brooklyn borough president will hold a remote public hearing on the following matter, commencing at 6:00 P.M. on Monday, June 14, 2021.

The hearing will be conducted via the Webex video conferencing system.

Members of the public may join using the following information:

**Event Address:**

<https://nycbp.webex.com/nycbp/onstage/g.php?MTID=e6dc5817f90b28ca256ef5191bc0385d8>

**Event Number:** 173 938 0736

**Event Password:** Ulurp

Those wishing to call in without video may do so using the following information:

**Audio Conference:** +1-408-418-9388

**Access Code:** 173 938 0736

This hearing will be recorded for public transparency and made available on Borough President Adams' YouTube channel, One Brooklyn.

*Note: For further information on accessibility or to make a request for accommodations, such as sign language interpretation services, please contact Nathan Sherfinski via email at [nathan.sherfinski@brooklynbp.nyc.gov](mailto:nathan.sherfinski@brooklynbp.nyc.gov), or via phone at (718) 802-3857, at least five (5) business days in advance to ensure availability.*

**1) 101 Varick Avenue (210239 PCK)**

An application submitted by the New York City Department of Transportation (DOT) and the New York City Department of Citywide Administrative Services (DCAS), for site selection and acquisition of a 141,863 square-foot (sq. ft.) lot improved with a 70,500 sq. ft. warehouse and a 5,434 sq. ft. office building, at 101 Varick Avenue, in Brooklyn Community District 1 (CD 1). The M3-1 zoned property, is located in the North Brooklyn Industrial Business Zone (IBZ). The proposed facility would support two growing units within DOT's Traffic Operations and Sidewalk Inspection and Management (SIM) divisions.

**2) 1776 48th Street (200296 ZMK, 200297 ZRK)**

An application submitted by Yitzchock Stern, pursuant to Sections 197-c and 201 of the New York City Charter, for land use actions affecting the west side of 18<sup>th</sup> Avenue between 48<sup>th</sup> and 49<sup>th</sup> Streets, in Brooklyn Community District 12 (CD 12). The proposed zoning map amendment would change the project area from R5 to R6B and establish a C2-4 overlay 35 feet from 18<sup>th</sup> Avenue. A concurrent zoning text amendment would designate an MIH area coterminous with the project area. Such actions would facilitate an approximately 4,928 sq. ft., three-story, mixed-use building with five dwelling units and 2,065 sq. ft. of local retail uses.

**3) 307 Kent Avenue (200306 ZMK, 200307 ZRK)**

An application submitted by 307 Kent Associates, pursuant to Sections 197-c and 201 of the New York City Charter, for land use actions affecting the western half of a block bounded by Kent and Wythe Avenues, and South 2<sup>nd</sup> and 3<sup>rd</sup> Streets, presently zoned M3-1. The proposed zoning map amendment would establish an M1-5 district, to a depth of 120 feet from Kent Avenue, and extend an existing M1-4/R6A district, on the eastern half of the block to 300 feet from Wythe Avenue. A concurrent zoning text amendment would establish the additional M1-4/R6A section as a Mandatory Inclusionary Housing (MIH) area. Such actions would facilitate a nine-story, approximately 93,000 sq. ft., primarily commercial office building at the northeast corner of South 3<sup>rd</sup> Street and Kent Avenue in Brooklyn CD 1.

**4) 270 Nostrand Avenue (210151 ZMK, 210152 ZRK)**

An application submitted by BRP East Brooklyn Development LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for land use actions affecting a 48,000 sq. ft. property, on the west side of Nostrand Avenue between DeKalb Avenue and Kosciuszko Street in Brooklyn Community District 3 (CD 3). The proposed zoning map amendment would change the project area from R7A to R8A and establish a C2-4 district, to a depth of 100 feet from both DeKalb and Nostrand Avenues. A parallel zoning text amendment would create an MIH area coterminous with the rezoning boundary. Such actions would facilitate an approximately 342,921 sq. ft., 14-story development with 487 dwelling units, of which 144 would be affordable to households at an average of 115 percent AMI, pursuant to the MIH Workforce Option. Ground-floor retail uses enabled by the proposed commercial overlay would be located along the building's DeKalb and Nostrand avenue frontages. The development would also provide 176 parking spaces accessible via Kosciuszko Street.

Accessibility questions: Nathan Sherfinski, (718) 802-3857, [nathan.sherfinski@brooklynbp.nyc.gov](mailto:nathan.sherfinski@brooklynbp.nyc.gov), by: Tuesday, June 8, 2021, 1:00 P.M.



## BOROUGH PRESIDENT - QUEENS

### ■ PUBLIC HEARINGS

**NOTICE IS HEREBY GIVEN** that a Remote Public Hearing will be held by the Borough President of Queens, Donovan Richards on **Thursday, June 10, 2021** starting at 9:30 A.M. via a live stream available on the Office of the Queens Borough President web page at: [www.queensbp.org](http://www.queensbp.org). The following items will be heard:

**CD Q02 – ULURP #190260 ZMQ - IN THE MATTER OF** an application submitted by, 48-18 Van Dam Property Holdings, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 9b, by changing from an M2-1 District to an M1-5 District property bounded by 48th Avenue, Van Dam Street, Hunters Point Avenue, and 31st Place, Borough of Queens, Community District 2, as shown on a diagram (for illustrative purposes only) dated April 5, 2021, and subject to the conditions of CEQR Declaration E-608.

**CD Q02 – ULURP #N200069 ZRQ – IN THE MATTER OF** an application submitted by, Woodside 63 Management, LLC and Mare Nostrum Elements, Inc., pursuant to Sections 197-d and 201 of the New York City Charter for a zoning text amendment to designate the Project Area as a Mandatory Inclusionary Housing (“MIH”) area, Borough of Queens, Community District 2, as shown on a diagram (for illustrative purposes only) dated April 19<sup>th</sup>, 2021, and subject to the conditions of CEQR Declaration E-613. (Related ULURP #200070 ZMQ)

**CD Q02 – ULURP #200070 ZMQ - IN THE MATTER OF** an application submitted by, Woodside 63 Management, LLC and Mare Nostrum Elements, Inc., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 9d:

1. eliminating from an existing R6 District a C1-4 District bounded by Roosevelt Avenue, 63rd Street, a line 100 feet southerly of Roosevelt Avenue, and the northwesterly prolongation of the southwesterly street line of Trimble Road; and
2. changing from an existing R6 to a C4-4 District property bounded by Roosevelt Avenue, 63rd Street and its southerly prolongation, and the northwesterly prolongation of the southwesterly street line of Trimble Road;

Borough of Queens, Community District 2, as shown on a diagram (for illustrative purposes only) dated April 5, 2021, and subject to the conditions of CEQR Declaration of E-603. (Related ULURP #200070 ZMQ)

**CD Q01 – ULURP #210025 ZMQ – IN THE MATTER OF** an application submitted by, 11 Street & Broadway LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 9a:

1. changing from an R5 District to an M1-4/R7A District bounded by Broadway, 12<sup>th</sup> Street, 33<sup>rd</sup> Avenue, and 11<sup>th</sup> Street; and
2. establishing a Special Mixed Use District (MX-23) bounded by Broadway, 12<sup>th</sup> Street, 33<sup>rd</sup> Avenue, and 11<sup>th</sup> Street;

Borough of Queens, Community District 1, as shown on a diagram (for illustrative purposes only) dated April 19<sup>th</sup>, 2021, and subject to the conditions of CEQR Declaration E-613. (Related ULURP #210026 ZRQ)

**CD Q01 – ULURP #210026 ZRQ – IN THE MATTER OF** an application submitted by, 11 Street & Broadway LLC, pursuant to Sections 197-d and 201 of the New York City Charter for a zoning text amendment to designate the Project Area as a Mandatory Inclusionary Housing (“MIH”) area, Borough of Queens, Community District 1, as shown on a diagram (for illustrative purposes only) dated April 19<sup>th</sup>, 2021, and subject to the conditions of CEQR Declaration E-613. (Related ULURP #210025 ZMQ)

**CW – ULURP #N210406 ZRY – IN THE MATTER OF** an application submitted by the Metropolitan Transportation Authority and the Department of City Planning, pursuant to Sections 197-d and 201 of the New York City Charter, for a zoning text amendment to establish a framework for coordinating the siting and provision of transit station improvements with new developments or enlargements on adjacent sites to make the transit system more accessible, more quickly and better coordinated with the streets and buildings around it.

CITY COUNCIL

PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Council has scheduled the following remote public hearing on the matter indicated below:

The Subcommittee on Landmarks, Public Sitings, and Dispositions, will hold a remote public hearing, on the following matters, commencing at 2:00 P.M., on June 15, 2021, at https://council.nyc.gov/livestream/.

860-SEAT PRIMARY AND INTERMEDIATE SCHOOL FACILITY MANHATTAN CB - 12 20215029 SCM

Application, pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 860-Seat Primary and Intermediate School Facility, replacing a leased space currently occupied by two organizations presently known as PS18M and PSMS278M, located at 3761 10th Avenue (Block 2198, Lots 1 and 5), Borough of Manhattan, Council District 10, Community School District 6.

TBK1002 RISEBORO - UDAAP/ARTICLE XI BROOKLYN CB - 4 20215027 HAK

Application, submitted by the New York City Department of Housing Preservation and Development, pursuant to Article 16 of the General Municipal Law, and Section 577 of Article XI of the Private Housing Finance Law, for approval of an urban development action area project, waiver of the area designation requirement, waiver of the requirements of Sections 197-c and 197-d of the New York City Charter, and approval of a real property tax exemption for property, located at 135 Menahan Street (Block 3306, Lot 53), Community District 4, Council District 37.

TBX1002 MBD - UDAAP/ARTICLE XI BRONX CBs - 3 & 4 20215030 HAX

Application, submitted by the New York City Department of Housing Preservation and Development, pursuant to Article 16 of the General Municipal Law and Section 577 of Article XI of the Private Housing Finance Law, for approval of an urban development action area project, waiver of the area designation requirement, waiver of the requirements of Sections 197-c and 197-d of the New York City Charter, and approval of a real property tax exemption, for properties, located at 970 Anderson Avenue (Block 2504, Lot 70), and 1105 Tinton Avenue (Block 2661, Lot 52), Community Districts 3 and 4, Council Districts 8 and 16.

For questions about accessibility and requests for additional accommodations, please contact swerts@council.nyc.gov, or nbenjamin@council.nyc.gov, or (212) 788-6936, at least three (3) business days before the hearing.

Accessibility questions: Kaitlin Greer, kgreer@council.nyc.gov, by: Thursday, June 10, 2021, 3:00 P.M.



9-15

CITY PLANNING COMMISSION

PUBLIC HEARINGS

In support of the City's efforts to contain the spread of COVID-19, the City Planning Commission will hold a remote public hearing, via the teleconferencing application Zoom, at 10:00 A.M. Eastern Daylight Time, on Wednesday, June 23, 2021, regarding the calendar items listed below.

The meeting will be live streamed through Department of City Planning's (DCP's) website and accessible from the following webpage, which contains specific instructions on how to observe and participate, as well as materials relating to the meeting: https://www1.nyc.gov/site/nycengage/events/city-planning-commission-public-meeting/287253/1.

Members of the public should observe the meeting through DCP's website.

Testimony can be provided verbally by joining the meeting using either Zoom or by calling the following number and entering the information listed below:

877 853 5247 US Toll-free
888 788 0099 US Toll-free

253 215 8782 US Toll Number
213 338 8477 US Toll Number
Meeting ID: 618 237 7396

[Press # to skip the Participation ID]
Password: 1

To provide verbal testimony via Zoom please follow the instructions available through the above webpage.

Written comments will also be accepted until 11:59 P.M., one week before the date of vote. Please use the CPC Comments form that is accessible through the above webpage.

Please inform the Department of City Planning if you need a reasonable accommodation, such as a sign language interpreter, in order to participate in the meeting. The submission of testimony, verbal or written, in a language other than English, will be accepted, and real time interpretation services will be provided based on available resources. Requests for a reasonable accommodation or foreign language assistance during the meeting should be emailed to [AccessibilityInfo@planning.nyc.gov], or made by calling [212-720-3508]. Requests must be submitted at least five business days before the meeting.

CITYWIDE No. 1

ELEVATE TRANSIT - ZONING FOR ACCESSIBILITY CITYWIDE N 210270 ZRY

IN THE MATTER OF an application submitted by the Metropolitan Transit Authority and the New York City Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, creating Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations) and modifying related Sections.

Matter underlined is new, to be added;
Matter struck out is to be deleted;
Matter within # # is defined in Section 12-10;
\* \* \* indicates where unchanged text appears in the Zoning Resolution.

ARTICLE II RESIDENCE DISTRICT REGULATIONS

Chapter 3 Residential Bulk Regulations in Residence Districts

\* \* \*

23-10 OPEN SPACE AND FLOOR AREA REGULATIONS

\* \* \*

23-16 Special Floor Area and Lot Coverage Provisions for Certain Areas

\* \* \*

(b) For R10 Districts in Community District 7 in the Borough of Manhattan

Within the boundaries of Community District 7 in the Borough of Manhattan, in R10 Districts, except R10A or R10X Districts, the maximum #floor area ratio# shall be 10.0. No #floor area# bonuses shall be permitted except as authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements).

\* \* \*

ARTICLE III COMMERCIAL DISTRICT REGULATIONS

\* \* \*

Chapter 7 Special Urban Design Regulations

\* \* \*

37-40 OFF-STREET RELOCATION OR RENOVATION OF A SUBWAY STAIR

Where a #development# or an #enlargement# is constructed on a #zoning lot# of 5,000 square feet or more of #lot area# that fronts on a portion of a sidewalk containing a stairway entrance or entrances into a subway station located within the #Special Midtown District# as listed in Section 81-46, the #Special Lower Manhattan District# as listed in Section 91-43, the #Special Downtown Brooklyn District# as listed in Section 101-43, the #Special Long Island City Mixed Use District# as described in Section 117-44, the #Special Union Square District# as listed in Section 118-50, the #Special East Harlem Corridors District# as described in Section 138-33, and those stations listed in the following table, the existing entrance or entrances shall be relocated from the #street# onto the #zoning lot#. The new entrance or entrances\* shall be provided in accordance with the provisions of this Section.

A relocated subway stair or a subway stair that has been renovated in accordance with the provisions of Section 37-50 (REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE) may be counted as pedestrian circulation space pursuant to Section 37-50. In addition, for

#developments or #enlargements# on such #zoning lots# where a relocated or renovated subway stair has been provided in accordance with the provisions of this Section, the special #use#, #bulk#, parking, and streetscape modifications set forth in Sections 66-22 (Special Use Regulations) through 66-25 (Special Streetscape Regulations) may be applied.

\* \* \*

\* Provision of a new subway entrance or entrances pursuant to the requirements of this Section may also require satisfaction of additional obligations under the Americans with Disabilities Act of 1990 (ADA), including the ADA Accessibility Guidelines. The New York City Transit Authority should be consulted with regard to any such obligations

\* \* \*

37-50  
REQUIREMENTS FOR PEDESTRIAN CIRCULATION SPACE

\* \* \*

37-52  
Types of Pedestrian Circulation Space

The pedestrian circulation space provided shall be of one or more of the following types: an arcade, #building# entrance recess area, corner arcade, corner circulation space, relocation or renovation of a subway stair, sidewalk widening, subway station improvement #transit volumes# and improvements to #mass transit stations#, through #block# connection or #public plaza#. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

Each #zoning lot# shall be categorized as either a #corner lot#, #through lot# or #interior lot#, and pedestrian circulation space shall be provided on each #zoning lot# in at least one of the applicable types, or combinations of types, specified in the following table:

PROVISION OF PEDESTRIAN CIRCULATION SPACE ON CERTAIN TYPES OF LOTS

Type of Pedestrian Circulation Space	#Corner lot#	#Through lot#	#Interior lot#
Arcade	x	x	x
#Building# entrance recess area	x	x	x
Corner arcade	x		
Corner circulation space	x		
Relocation or renovation of subway stair	x	x	x
Sidewalk widening	x	x	x
Subway station improvement #Transit volumes# and improvements to #mass transit stations#	x	x	x
Through #block# connection	x	x	
#Public plaza#	x	x	x
	* * *		

37-53  
Design Standards for Pedestrian Circulation Spaces

\* \* \*

(g) Subway station improvement #Transit volumes# and improvements to #mass transit stations#

For #developments# or #enlargements# that are granted a special permit pursuant to Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan), no more than 3,000 square feet may count toward meeting the pedestrian circulation space requirement.

Where #transit volumes# or improvements to #mass transit stations# are provided pursuant to the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), each square foot of mass transit access may constitute one square foot of required pedestrian circulation space, not to exceed 3,000 square feet. For the purposes of this paragraph (g), defined terms include those in Section 66-11 (Definitions).

\* \* \*

ARTICLE VI  
SPECIAL REGULATIONS APPLICABLE TO CERTAIN AREAS

\* \* \*

Chapter 2  
Special Regulations Applying in the Waterfront Area

\* \* \*

62-10  
GENERAL PROVISIONS

\* \* \*

62-13  
Applicability of District Regulations

The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4, or Article VI, Chapter 6, the provisions of Article VI, Chapter 4, or Article VI, Chapter 6 shall control.

\* \* \*

62-30  
SPECIAL BULK REGULATIONS

62-32  
Maximum Floor Area Ratio and Lot Coverage on Waterfront Blocks

62-324  
Community facility and commercial uses in Residence Districts

In #Residence Districts#, for any #community facility building# or #community facility# portion of a #building# on a #zoning lot#, the following regulations shall apply:

- (a) The maximum #floor area ratio# shall be in accordance with the applicable district regulations, except that no #floor area# bonuses shall apply. In R7-3 and R9-1 Districts, the maximum #floor area ratio# shall be the maximum permitted for #residential buildings# pursuant to Section 62-322 (Residential uses in R1, R2, R6, R7, R8, R9 and R10 Districts). For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). No other #floor area# bonuses shall apply. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

62-325  
Buildings in Commercial Districts

In #Commercial Districts#, for any #commercial# or #community facility uses# on a #zoning lot#, the maximum #floor area ratio# shall be in accordance with the applicable district regulations, except:

- (a) no #floor area# bonuses shall be permitted except as permitted pursuant to the provisions of paragraph (c) of this Section; and
- (b) the #floor area ratio# on a #zoning lot# shall not exceed 10.0; and
- (c) for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

For #residential buildings# and #residential# portions of #mixed buildings#, the maximum #floor area ratio# and #lot coverage# applicable to #residential buildings# set forth in Sections 62-321 through 62-323 shall apply as set forth for the applicable #Residence District# and its corresponding #Commercial District# in Section 35-23 (Residential Bulk Regulations in Other C1 or C2 Districts or in C3, C4, C5 or C6 Districts).

62-326  
Buildings in Manufacturing Districts

In #Manufacturing Districts#, for any #zoning lot#, the maximum #floor area ratio# shall be in accordance with the applicable district regulations, except that no #floor area# bonuses shall be permitted. However, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

## Chapter 6 Special Regulations Applying Around Mass Transit Stations

[All text in this Chapter is new text]

### 66-00 GENERAL PURPOSES

The provisions of this Chapter establish special regulations which are designed to support and facilitate transit accessibility and improvements in conjunction with developments and enlargements near transit stations, and in doing so, promote and protect public health, safety, general welfare and amenity. The general goals of this Chapter include, among others, the following purposes:

- (a) to support the long-term planning needs of mass transit stations and systemwide accessibility;
- (b) to reduce pedestrian congestion on city streets in the vicinity of transportation nodes, by facilitating the provision of easements and moving transit station entrance infrastructure off the sidewalk;
- (c) to offset potential burdens of such easement on development feasibility by providing zoning flexibility where easements are provided;
- (d) to encourage well-designed development and pedestrian environment, including enhanced pedestrian circulation, around mass transit stations;
- (e) to coordinate the present and future relationship of land uses around transit stations; and
- (f) to promote the most desirable use of land in the area and thus to conserve the value of land and buildings, and thereby protect the City's tax revenues.

### 66-10 GENERAL PROVISIONS

#### 66-11 Definitions

For purposes of this Chapter, matter in italics is defined in Section 12-10 (DEFINITIONS) and in this Section, except where explicitly stated otherwise in individual provisions in this Chapter.

#### Above-grade mass transit station

For the purposes of this Chapter, an "above-grade mass transit station" shall refer to a #mass transit station# with a platform that is located entirely above five feet from #curb level#.

#### At or below-grade mass transit station

For the purposes of this Chapter, an "at- or below-grade mass transit station" shall refer to a #mass transit station# that is not an #above-grade mass transit stations#.

#### Central Business Districts

For the purposes of this Chapter, "Central Business Districts" shall refer to #Special Midtown District#, #Special Hudson Yards District#, #Special Lower Manhattan District#, #Special Downtown Brooklyn District#, #Special Long Island City Mixed Use District# or #Special Garment Center District#.

#### Clear path

For the purposes of this Chapter, a "clear path" shall refer to an unobstructed area between the #street line# and #street wall# that

- (a) directly #abuts# an adjoining public sidewalk; and
- (b) extends along the #street line# for a distance equal to the width of an existing or planned access point to a #mass transit station# facing such #transit-adjacent site#, plus, in the aggregate, a maximum of 30 feet from the outermost extents of such width.

All #clear paths# shall be accessible to the public at all times.

#### Easement volume

For the purposes of this Chapter, an "easement volume" shall refer to an area of the #zoning lot# used to accommodate either:

- (a) station access infrastructure, in the form of elevators, stairs, escalators, or fare control areas; or
- (b) ancillary facilities that are needed to support transit system functionality.

#### Eligible zoning districts

For the purposes of this Chapter, "eligible zoning districts" shall refer to the following zoning districts:

- (a) R5D, R6, R7, R8, R9 or R10 Districts;
- (b) #Commercial Districts# mapped within, or with an equivalent of an R5, R5D, R6, R7, R8, R9, or R10 District;
- (c) M1 Districts paired with R6 through R10 Districts; or
- (d) #Manufacturing Districts#.

#### Enlargements

For the purposes of applying the provisions of Sections 62-20, inclusive, an "enlargement" on any #transit-adjacent site# shall be limited to #enlargements# involving ground floor level construction.

#### Mass transit station

For the purposes of this Chapter, "mass transit station" shall refer to any subway or rail #mass transit station# operated by a #transit agency#. Such #mass transit stations# shall include all publicly accessible parts of the station, including but not limited to stairs, escalators, elevators, corridors, platforms, and fare control areas inclusive of paid and unpaid areas of the station. Publicly accessible parts of the station shall also include stairs, escalators, elevators, corridors and fare control areas that are currently closed but could be reopened and that have previously been open to the public.

#### Primary transit-adjacent sites

For the purposes of this Chapter, "primary transit-adjacent sites" shall refer to #transit-adjacent sites# that have a #lot area# of 5,000 square feet or more.

#### Qualifying transit improvement sites

For the purposes of this Chapter, "qualifying transit improvement sites" shall refer to #zoning lots# that are:

- (a) located in one of the following zoning districts:
  - (1) R9 or R10 Districts;
  - (2) #Commercial Districts# mapped within, or with an equivalent of an R9 or R10 District;
  - (3) M1 Districts paired with an R9 or R10 District; or
  - (4) M1-6 Districts; and
- (b) located wholly or partially within the following distance from a #mass transit station#:
  - (1) 500 feet for such #zoning lots# outside of #Central Business Districts#; or
  - (2) 1,500 feet for such #zoning lots# and #mass transit stations# within #Central Business Districts#.

Such distance shall be measured from the outermost extent of the #mass transit station#. For the purposes of such calculation, the outermost extent may include #buildings# containing #easement volumes# serving such #mass transit station#.

#### Secondary transit-adjacent sites

For the purposes of this Chapter, "secondary transit-adjacent sites" shall refer to #transit-adjacent sites# that have a #lot area# of less than 5,000 square feet.

#### Transit agency

For the purposes of this Chapter, a "transit agency" shall refer to any governmental agency with jurisdiction over the affected #mass transit station#.

#### Transit-adjacent sites

For the purposes of this Chapter, "transit-adjacent sites" shall refer to #zoning lots# that are located within 50 feet of a #mass transit station#, and located in #eligible zoning districts#. #Transit-adjacent sites# include #primary transit-adjacent sites# and #secondary transit-adjacent sites#.

#### Transit volume

For the purposes of this Chapter, a "transit volume" shall refer to an area of a #transit-adjacent site# where, pursuant to the provisions of this Chapter, a #transit agency# has determined transit or pedestrian circulation improvements are needed for a #mass transit station#. Such #transit volume# may be used to accommodate #easement volumes# or #clear paths#.

66-12  
Applicability

The provisions of this Chapter shall apply to #transit-adjacent sites# or #qualifying transit improvement sites#, as follows:

(a) For #transit-adjacent sites#

- (1) The provisions of Section 66-20 (SPECIAL PROVISIONS FOR PRIMARY TRANSIT-ADJACENT SITES), inclusive, shall apply to all #developments# or #enlargements#, as such term is modified pursuant to Section 66-11 (Definitions), on #primary transit-adjacent sites#.
- (2) The provisions of Section 66-30 (SPECIAL PROVISIONS FOR SECONDARY TRANSIT-ADJACENT SITES), inclusive, include optional provisions available to #developments# and #enlargements# on #secondary transit-adjacent sites#, #conversions# on #transit-adjacent sites#, as well as parking modifications available to all #transit-adjacent sites#.

(b) For #qualifying transit improvement sites#

The provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements) shall be optional for #qualifying transit improvement sites#.

66-13  
Applicability of District Regulations

The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, the following provisions of this Chapter shall not apply to certain areas:

(a) The provisions of Section 66-20 (SPECIAL PROVISIONS FOR PRIMARY TRANSIT-ADJACENT SITES), Section 66-30 (SPECIAL PROVISIONS FOR SECONDARY TRANSIT-ADJACENT SITES), shall not apply to the following areas within Special Purpose District:

- (1) All subdistricts except 34th Street Corridor Subdistrict C and South of Port Authority Subdistrict E within #Special Hudson Yards District#
- (2) #Qualifying sites# in the East Midtown Subdistrict within #Special Midtown District#, as defined in Section 81-613 (Definitions)
- (3) #Special Transit Land Use District#

(b) The provisions of 66-51 (Floor Area Bonus for Mass Transit Station Improvements) shall not apply to the following areas within Special Purpose Districts:

- (1) All subdistricts except 34th Street Corridor Subdistrict C and South of Port Authority Subdistrict E within #Special Hudson Yards District#
- (2) The Court Square Subdistrict within #Special Long Island Mixed Use District#
- (3) #Qualifying sites# in the East Midtown Subdistrict within #Special Midtown District#, as defined in Section 81-613 (Definitions)

66-14  
Applicability of Previously Filed Special Permits

If, before [date of adoption], an application for a special permit for a #floor area# bonus for subway station improvements has been referred by the City Planning Commission pursuant to Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan), as such Section existed prior to [date of adoption], such application may continue pursuant to the regulations in effect at the time such special permit was referred by the Commission. Such special permit, if granted by the Commission, may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such special permit was referred by the Commission.

66-20  
SPECIAL PROVISIONS FOR PRIMARY TRANSIT-ADJACENT SITES

For all #developments# or #enlargements# on #primary transit-adjacent sites#, a certification by the Chairperson of the City Planning Commission shall apply pursuant to Section 66-21 (Certification for Transit Volume) to determine if a #transit volume# is needed. Where a #transit volume# is needed, special #use#, #bulk#, parking, and streetscape regulations are set forth in Sections 66-22 (Special Use Regulations), 66-23 (Special Bulk Regulations), 66-24 (Special Regulations for Accessory Off-Street Parking and Curb Cuts), and 66-25 (Special Streetscape Regulations) respectively. Separate applicability is set forth within such Sections for #primary transit-

adjacent sites# with #easement volumes# and for those with #clear paths#.

66-21  
Certification for Transit Volumes

For all #developments# or #enlargements# on #primary transit-adjacent sites#, the #transit agency# and Chairperson shall jointly certify to the Commissioner of the Department of Buildings whether or not a #transit volume# is needed on the #zoning lot#, in accordance with the provisions of paragraph (a) of this Section. Such certification shall be obtained prior to any application with the Department of Buildings for an excavation permit, foundation permit, new building permit or alteration permit for such #development# or #enlargement#. Where an #easement volume# is needed, the additional requirements set forth in paragraph (b) of this Section shall apply.

(a) Application requirements

The owner of the #zoning lot# shall file an application with the #transit agency# and the Chairperson of the City Planning Commission requesting a certification as to whether or not a #transit volume# is needed on the #primary transit-adjacent site#.

Within 60 days of receipt of such application, the #transit agency# and the Chairperson shall jointly certify whether or not a #transit volume# is needed on the #zoning lot#. Failure to certify within the 60-day period will release the owner from any obligation to provide a #transit volume# on such #zoning lot#.

When the #transit agency# and the Chairperson indicate that a #transit volume# is needed, the #transit agency# shall, in consultation with the owner of the #zoning lot# and the Chairperson, determine the appropriate type, and reasonable dimensions for such #transit volume# based on a concept plan for the use of such volume.

The owner shall submit a site plan showing a proposed location of such #transit volume# that would accommodate needed transit or pedestrian circulation improvements and be compatible with the proposed #development# or #enlargement# on the #zoning lot# for joint approval and final certification by the #transit agency# and the Chairperson.

The #transit agency# and the Chairperson shall comment on such site plan within 45 days of its receipt and may, within such 45-day period or following its expiration, permit the granting of an excavation permit while the location and size of the #transit volume# is being finalized. Upon joint approval of a site plan by the #transit agency# and the Chairperson, copies of such certification shall be forwarded by the Chairperson to the Commissioner of the Department of Buildings.

(b) Recordation, completion procedures and termination of an easement volume

Where an #easement volume# is needed pursuant to paragraph (a) of this Section, the Chairperson of the City Planning Commission shall be provided with a certified copy of the legally enforceable instrument providing the mechanism for creating such #easement volume#, as well as necessary documentation setting forth other obligations and requirements pursuant to Section 66-40 (RECORDATION, CONSTRUCTION AND MAINTENANCE, AND TERMINATION).

66-22  
Special Use Regulations

Where an #easement volume# is provided, the applicable #use# regulations of this Resolution shall be modified in accordance with the provisions of Sections 62-221 (Temporary uses) and 62-222 (Special use allowances around easement volumes).

66-221  
Temporary uses

Any space within an #easement volume# may be temporarily allocated to the following #uses# until such time as the space is needed by the #transit agency#:

- (a) in all districts, any #community facility use# without sleeping accommodations allowed by the underlying district;
- (b) in #Residence Districts#, #uses# listed in Use Group 6A and 6C; and
- (c) in #Commercial# and #Manufacturing Districts#, any #commercial# or #manufacturing use# allowed by the underlying district.

The floor space allocated to such temporary #uses# within the #easement volume# shall continue to be exempt from the definition of #floor area# and shall not be included for the purpose of calculating #accessory# off-street parking, bicycle parking, or loading berths.

Improvements to, or construction of a temporary nature within the #easement volume# for such temporary #uses# shall be removed by

the owner of the #building# or portion of the #zoning lot# within which the #easement volume# is located prior to the time at which public #use# of the easement area is needed, except as otherwise specified by the #transit agency#. A minimum notice of six months shall be given, in writing, by the #transit agency# to the owner of the #building# or portion of the #zoning lot# to vacate the easement volume.

#### 66-222

##### *Special use allowances around easement volumes*

The following #use# allowances around #easement volumes# shall apply in applicable districts.

#### (a) Special #use# allowances in #Residence Districts#

In all #Residence Districts#, #uses# listed in Use Group 6A and 6C shall be permitted within a distance of 30 feet from the outermost edge of the #easement volume#:

- (1) at the ground floor level of a #building# on a #zoning lot# with an #easement volume# serving an #at- or below-grade mass transit station#, or
- (2) at the two lowest #stories# of a #building# on a #zoning lot# with an #easement volume# serving an #above-grade mass transit station#.

Such #uses# may be permitted so long as that in #buildings# that include #residential uses#, such #uses# are located in a portion of the #building# that has separate access to the outside with no opening of any kind to the #residential# portion of the #building#, and that such #uses# are not located directly over any #story# containing #dwelling units#.

#### (b) Special regulations for #commercial use# location in #mixed buildings# in #Commercial Districts#

In C1 or C2 Districts, the underlying provisions of Section 32-422 (Location of floors occupied by commercial uses) shall be modified for #mixed buildings# that are #developed# or #enlarged# with an #easement volume# serving an #above-grade mass transit station#, to allow all permitted #commercial uses# on the lowest two #stories#.

#### 66-23

##### *Special Bulk Regulations*

Where an #easement volume# is provided, the applicable #bulk# regulations of this Resolution shall be modified in accordance with the provisions of this Section. Where a #clear path# is provided, only the #street wall# provisions of Section 66-234 (Special street wall modifications) shall apply.

#### 66-231

##### *Special floor area modification*

The floor space contained within any #easement volume# shall be excluded from the definition of #floor area#.

#### 66-232

##### *Special open space, lot coverage and yard modifications*

The #open space#, #lot coverage# and #yard# modifications of this Section shall apply as follows.

#### (a) Permitted obstructions

##### (1) #Easement volumes# in all zoning districts

Any portion of an #easement volume# shall be considered a permitted obstruction within a required #open space#, #yards#, #rear yard equivalent#, or #court# pursuant to the regulations of this Resolution. Any #easement volume#, including any #use# or structure therein, shall be located at least 30 feet from any #legally required window# at the same level on the #zoning lot#.

##### (2) Non-residential uses in #Commercial# or #Manufacturing Districts#

Any #building# or portion of a #building# used for any permitted #commercial# or #community facility uses#, up to two #stories#, excluding #basements#, or 30 feet above #curb level, whichever is less, shall be considered a permitted obstruction in any #rear yard# or #rear yard equivalent# of a #zoning lot# with an #easement volume# serving an #above-grade mass transit station#. Any portion of a #building# containing residences or rooms used for living or sleeping purposes (other than a room in a hospital used for the care or treatment of patients, or #joint living-work quarters for artists#) shall not be a permitted obstruction.

#### (b) Special #open space# modifications in certain districts

In R5D Districts and #Commercial Districts# mapped within or with a #residential# equivalent of an R5 or R5D Districts, the provisions of paragraph (g) of Section 23-142 (Open space and floor area regulations in R1 and R2 Districts with a letter suffix and R3 through R5 Districts) shall not apply.

#### (c) Special #lot coverage# modifications in certain districts

The underlying #lot coverage# provisions shall apply except as modified pursuant to this paragraph.

- (1) Any #easement volume#, or portion thereof, that is open to the sky shall not be included in #lot coverage#.
- (2) In R5D Districts and #Commercial Districts# mapped within or with a #residential# equivalent of an R5 or R5D Districts, the maximum #residential lot coverage# for #interior lots# or #through lots# shall be 65 percent, and the maximum #residential lot coverage# for #corner lots# shall be 85 percent. Such provisions shall also apply to #buildings# utilizing the optional provisions for a #predominantly built-up area#.
- (3) In R6 and R7 Districts, for #Quality Housing buildings#, the maximum #residential lot coverage# for #interior lots# and #through lots# shall be 70 percent.

#### 66-234

##### *Special street wall modifications*

The #street wall# modifications of this Section shall apply to districts with #street wall# requirements.

#### (a) #Street wall# location where an #easement volume# is provided

For #Quality Housing buildings#, the underlying #street wall# location provisions shall be modified pursuant to this paragraph.

- (1) For all #zoning lots#, any portion of the #easement volume# facing the #street#, as well as any portion of a #building# behind or above such #easement volume# shall not be subject to #street wall# location provisions along the #street# frontage the #easement volume# is located.
- (2) Where an #easement volume# is located wholly beyond 50 feet of the intersection of two #street lines#, #street walls# within 15 feet of an #easement volume#, as measured along the #street line# may be recessed, provided that any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#. However, on #corner lots#, where an #easement volume# is placed partially or wholly within 50 feet of the intersection of two #street lines#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and 15 feet from the edges of the #easement volume#. For #corner lots# with an angle of 75 degrees or less, such distance may be increased to 20 feet.

#### (b) #Street wall# location where a #clear path# is provided

Where a #clear path# is provided, the interior boundary of such #clear path# shall be considered a #street line# for the purposes of applying the applicable #street wall# location requirements.

#### 66-235

##### *Special height and setback modifications*

The height and setback modifications of this Section shall apply as follows:

#### (a) Permitted obstructions

##### (1) #Easement volumes#

Any portion of an #easement volume# shall be considered a permitted obstruction within a required setback or above any maximum base height, maximum #building# height, or #sky exposure plane# set forth in height and setback regulations of this Resolution. Any #easement volume#, including any #use# or structure therein, shall be located at least 30 feet from any #legally required window# at the same level on the #zoning lot#.

##### (2) Dormers

For #Quality Housing buildings#, as an alternative to the provisions of paragraph (c) of Section 23-621, dormers may be a permitted obstruction within a required front setback distance above a maximum base height, provided that the aggregate width of all dormers at the maximum base height does not exceed 40 percent of the width of the #street wall# of the highest #story# entirely below the maximum base height. Such dormers need not decrease in width as the height above the maximum base height increases. For the purposes of this paragraph, the width of the #street wall# shall be determined pursuant to the provisions of paragraph (a) of Section 234 (Special street wall modifications).

#### (b) Special height and setback provisions for R5 Districts

The requirements of Section 23-63 (Height and Setback Requirements in R1 Through R5 Districts) shall be modified for the portions of a #building# used for #residential use#, as follows:



(1) In #Commercial Districts# mapped within, or with a #residential# equivalent of an R5 District, the maximum height of a #street wall# before setback shall be 35 feet. Above such height, a setback of 10 feet shall be provided, and the maximum #building# height shall be 45 feet. Such provisions shall also apply to #buildings# utilizing the optional provisions for a #predominantly built-up area#; and

(2) In R5D Districts or #Commercial Districts# mapped within, or with a #residential# equivalent of an R5D District, the maximum permitted #building# height shall be increased by 10 feet or one #story#, whichever is less.

(c) Special height provisions for R6 through R10 Districts and certain #Commercial# and M1 Districts

In R6 through R10 Districts, #Commercial Districts# mapped within or with a #residential# equivalent of such districts, M1 Districts paired with R6 through R10 Districts, and M1-6D Districts, where #building# height limitations apply, the maximum permitted height shall be increased by 10 feet, or one #story#, whichever is less.

However for #zoning lots# with an #easement volume# serving an #above-grade mass transit station# in R7 through R10 Districts, #Commercial Districts# mapped within or with a #residential# equivalent of such districts, M1 Districts paired with R7 through R10 Districts, and M1-6D Districts, the maximum permitted height for a #building or other structure# shall be increased by 20 feet or two #stories#, whichever is less.

**66-24**  
*Special Regulations for Accessory Off-Street Parking and Curb Cuts*

Where an #easement volume# is provided, the underlying parking regulations of this Resolution shall be modified in accordance with the provisions of Section 66-241 (Special accessory off-street parking provisions) and 66-242 (Special regulations for location of access to the street).

**66-241**  
*Special accessory off-street parking provisions*

Where off-street parking spaces are required pursuant to the underlying parking requirements, the following parking space deduction and waivers shall apply:

(a) Parking space deduction

For all applicable #zoning lots#, 15 spaces may be deducted from the total number of required #accessory# off-street parking spaces. Where #accessory# off-street parking spaces are required by multiple #uses# on a #zoning lot#, such deduction may apply to any required #accessory# off-street parking spaces provided that in no event shall the aggregate total of such deduction exceed 15 spaces.

(b) Special waiver of requirements for small #zoning lots#

For #zoning lots# with a #lot area# of 10,000 or 15,000 square feet or less, as applicable, requirements for #accessory# off-street parking spaces are waived pursuant to the following table:

District	Lot Area (in square feet)
R5 R5D C1-1 C2-1 C3 C4-1 C1-2 C2-2 C4-2 C8-1 C1-3 C2-3 C4-2A C4-3 C7 C8-2 M1-1 M1-2 M1-3 M2-1 M2-2 M3-1	10,000 or less
R6 R7 R8 R9 R10 C1-4 C2-4 C4-4 C4-5D C8-3 C1-5 C1-6 C1-7 C1-8 C1-9 C2-5 C2-6 C2-7 C2-8 C4-4A C4-4L C4-5 C4-5A C4-5X C4-6 C4-7 C5 C6 C8-4 M1-4 M1-5 M1-6 M2-3 M2-4 M3-2	15,000 or less

**66-242**  
*Special regulations for location of access to the street*

Where permitted or required off-street parking spaces or loading berths are provided, entrances and exits for #accessory# off-street parking spaces or loading berths, #public parking garages#, or #public parking lots# shall not be located less than 30 feet from a #transit volume#. In addition, such restriction, and the location of the #transit volume# shall be considered for the purposes of applying waivers provisions of Sections 25-27, 25-34, 36-24, 36-38 or 44-24 (Waiver of Requirements for All Zoning Lots Where Access Would be Forbidden).

**66-25**  
*Special Streetscape Regulations*

Where an #easement volume# is provided, the underlying ground floor level and planting requirements shall be modified in accordance with Sections 62-251 (Ground floor level requirements) and 62-252 (Planting requirements).

**66-251**  
*Ground floor level requirements*

An #easement volume# shall be excluded from any ground floor level requirements of this Resolution, including, but not limited to, the location of such ground floor in relation to the adjoining sidewalk level, the height of a #qualifying ground floor#, restrictions of types of #use#, the minimum depth for certain #uses#, maximum width for certain #uses#, minimum transparency requirement, and parking wrap and screening requirements.

**66-252**  
*Planting requirements*

(a) Planting requirements for R5D Districts

In R5D Districts, planting requirements shall be modified as follows:

(i) The #easement volume# shall be discounted from the area of a #front yard# for the purposes of applying the planting requirement of Section 23-451 (Planting requirement). Where planting is required within the #front yard# pursuant to Section 23-451 (Planting requirement), the area of the #easement volume# shall be discounted from the #street# frontage for the purposes of the #zoning lot# for the purposes of determining the minimum percentage of #front yard# to be planted; and

(ii) Where planting strips are required along the entire length of the curb of the #street# pursuant to Section 26-42 (Planting Strips), such planting strips may be interrupted by utilities or paved areas providing public access to an #easement volume#.

(b) Planting requirements for #Quality Housing buildings#

For #Quality Housing buildings#, the area of the #zoning lot# between the #street line# and the #easement volume# shall be exempt from the planting requirements of Section 28-23 (Planting Areas).

**66-26**  
*Additional Modifications*

The City Planning Commission may authorize or grant, by special permit, the modification of applicable regulations of this Resolution, other than #floor area ratio#, including the other modifications set forth within Section 66-20 (SPECIAL PROVISIONS FOR PRIMARY TRANSIT-ADJACENT SITES), inclusive, pursuant to Section 66-52 (Additional Modifications).

**66-30**  
*SPECIAL PROVISIONS FOR SECONDARY TRANSIT-ADJACENT SITES*

For all #secondary transit-adjacent sites#, the provisions of this Section are optional. On such sites, an optional #transit volume# may be provided in accordance with a certification by the Chairperson of the City Planning Commission pursuant to Section 66-31 (Certification for Optional Transit Volumes). Where a #transit volume# is provided, special #use#, #bulk#, parking, and streetscape regulations are set forth in Sections 66-32 (Special Modifications for Secondary Transit-adjacent Sites).

**66-31**  
*Certification for Optional Transit Volumes*

For all #developments# and #enlargements# on #secondary transit-adjacent sites# and #conversions# on all #transit-adjacent sites# seeking to provide a #transit volume#, the #transit agency# and Chairperson shall jointly certify to the Commissioner of the Department of Buildings the location, appropriate type, and reasonable dimensions for such #transit volume# in accordance with the provisions of paragraph (a) of this Section. Such certification shall be obtained prior to any application with the Department of Buildings for an excavation permit, foundation permit, new building permit or alteration permit for such #development#, #enlargement# or #conversion#. Where an #easement volume# is provided, the additional requirements set forth in paragraph (b) of this Section shall apply.

(a) Application requirements

The owner of the #zoning lot# shall file an application with the #transit agency# and the Chairperson of the City Planning Commission requesting a certification as to whether or not a #transit volume# is needed on the #secondary transit-adjacent site#.

Within 60 days of receipt of such application, the #transit agency# and the Chairperson shall jointly certify whether or



not a #transit volume# is needed on the #zoning lot#. When the #transit agency# and the Chairperson indicate that a #transit volume# is needed within the 60-day period, the #transit agency# shall, in consultation with the owner of the #zoning lot# and the Chairperson, determine the appropriate type, and reasonable dimensions for such #transit volume# based on a concept plan for the use of such volume.

The owner shall submit a site plan showing a proposed location of such #transit volume# that would accommodate needed transit or pedestrian circulation improvements and be compatible with the proposed #development# or #enlargement# on the #zoning lot# for joint approval and final certification by the #transit agency# and the Chairperson.

The #transit agency# and the Chairperson shall comment on such site plan within 45 days of its receipt and may, within such 45-day period or following its expiration, permit the granting of an excavation permit while the location and size of the #transit volume# is being finalized. Upon joint approval of a site plan by the #transit agency# and the Chairperson, copies of such certification shall be forwarded by the Chairperson to the Commissioner of the Department of Buildings.

(b) Recordation, completion procedures and termination of an easement volume

Where an #easement volume# is needed pursuant to paragraph (a) of this Section, the Chairperson of the City Planning Commission shall be provided with a certified copy of the legally enforceable instrument providing the mechanism for creating such #easement volume#, as well as necessary documentation setting forth other obligations and requirements pursuant to Section 66-40 (RECORDATION, CONSTRUCTION AND MAINTENANCE, AND TERMINATION).

66-32

*Special Modifications for Secondary Transit-adjacent Sites*

Where a #transit volume# is provided pursuant to Section 66-31 (Certification for Optional Transit Volumes), special #use#, #bulk#, parking, and streetscape regulations may be applied as follows:

- (a) For all #developments# or #enlargements# on #secondary transit-adjacent sites#, the modifications set forth in Sections 66-22 through 66-25 shall apply as if such #development# or #enlargement# was on a #primary transit-adjacent site#.
- (b) For #conversions# on all #transit-adjacent sites#, the following modifications shall apply as if such #conversion# was on a #primary transit-adjacent site#:
  - (1) #Use# modifications pursuant to Section 66-221 (Temporary uses);
  - (2) #Bulk# modifications pursuant to Section 66-231 (Special floor area modification), paragraph (a)(1) of Section 66-232 (Special open space, lot coverage and yard modifications), Section 66-234 (Special street wall modifications), and paragraph (a)(1) of Section 66-235 (Special height and setback modifications);
  - (3) Curb cut provisions pursuant to Section 66-242 (Special regulations for location of access to the street); and
  - (4) Streetscape modifications pursuant to Section 66-25 (Special Streetscape Regulations).

66-33

*Additional Modifications*

Where a #transit volume# is provided pursuant to Section 66-31 (Certification for Optional Transit Volumes), the City Planning Commission may authorize or grant, by special permit, the modification of applicable regulations of this Resolution, other than #floor area ratio#, including the other modifications set forth within this Section, pursuant to Section 66-52 (Additional Modifications).

66-40

**RECORDATION, CONSTRUCTION AND MAINTENANCE, AND TERMINATION PROVISIONS**

Where an #easement volume# is provided pursuant to Section 66-20 (SPECIAL PROVISIONS FOR PRIMARY TRANSIT-ADJACENT SITES) or Section 66-30 (SPECIAL PROVISIONS FOR SECONDARY TRANSIT-ADJACENT SITES) the provisions of this Section shall apply.

66-41

*Recordation and Completion Procedures*

The recordation and completion procedures of this Section shall apply to #transit-adjacent sites# providing an #easement volume#.

(a) Recordation

Legally enforceable instruments, running with the land, creating an #easement volume#, and setting forth the obligations of either

the #transit agency# or the owner and developer, their successors and assigns, to design and construct the improvement, as well as other basic terms of the easement shall be executed and recorded in a form acceptable to the #transit agency# and the Chairperson. The execution and recording of such instruments shall be a precondition to the issuance of any foundation permit, new building permit, or alteration permit by the Department of Buildings allowing such #development#, #enlargement# or #conversion#.

(b) Construction and maintenance

Where an #easement volume# is provided pursuant to this Section, transit access improvements within such volume shall be constructed and maintained either by the #transit agency# or the owner of the #zoning lot# with the #development#, #enlargement# or #conversion#.

(1) Where such transit access improvement is constructed and maintained by the #transit agency#:

- (i) Owner of #zoning lot# with the #development#, #enlargement# or #conversion# shall provide an #easement volume# that is designed and constructed in such a manner that would not inhibit the #transit agency's# functional requirements and ability to construct such transit access improvement at a future date.
- (ii) Where the construction of the improvement is not contemporaneous with the construction of the #development#, #enlargement# or #conversion#, any underground walls constructed along the #front lot line# adjacent to an #at- or below-grade mass transit station# shall include one or more knockout panels, below #curb level# down to the bottom of the #easement volume#. The actual location and size of such knockout panels shall be determined through consultation with the #transit agency#.
- (iii) Temporary construction access shall be granted to the #transit agency# on portions of the #zoning lot# outside of the #easement volume#, as needed, to enable construction within and connection to the #easement volume#.
- (iv) In the event that the #transit agency# has approved of obstructions associated with the #development#, #enlargement# or #conversion# within the #easement volume#, such as #building# columns or footings, such construction and maintenance shall exclude any such obstructions within the #easement volume#.

(2) Where such transit access improvement is constructed and maintained by the owner of the #development #, #enlargement# or #conversion#

- (i) a transit access improvement shall be provided in accordance with standards set forth by the #transit agency#;
- (ii) such improvement shall be accessible to the public at all times, except as otherwise approved by the #transit agency#;
- (iii) such improvement shall include #signs# to announce accessibility to the public. Such #signs# shall be exempt from the maximum #surface area# of non-#illuminated signs# permitted by Section 32-642 (Non-illuminated signs); and
- (iv) no temporary certificate of occupancy shall be granted by the Department of Buildings for the #building# until the Chairperson of the City Planning Commission, acting in consultation with the #transit agency#, has certified that the improvement is substantially complete and usable by the public.

66-42

*Termination of an Easement*

In the event that the #transit agency# and the Chairperson of the City Planning Commission jointly notify, in writing, the owner of the #zoning lot# and the Department of Buildings that an #easement volume# is not needed on such #zoning lot# in its final construction plans, the restrictions imposed on such #zoning lot# by the provisions of this Section shall lapse, following receipt of notification thereof by the owner, and the owner shall have the right to record an instrument reciting the consent of the #transit agency# to the extinguishment of the #easement volume#.

On any #zoning lot# which has been #developed#, #enlarged# or #converted# in accordance with the provisions of this Section and on which termination of the #easement volume# has been certified, pursuant to this paragraph, any floor space in a previously needed #easement volume# shall continue to be exempt from the definition of

#floor area# and shall not be included for the purpose of calculating requirements for #accessory# off-street parking, bicycle parking or loading berths. However, where such previously needed volume is located within a #building#, the ground floor space shall be subject to all applicable ground floor level requirements of this Resolution.

66-50  
SPECIAL APPROVALS

For #qualifying transit improvement sites#, a #floor area# bonus may be authorized by the City Planning Commission pursuant to Section 66-51 (Additional Floor Area for Mass Transit Improvements) where major #mass transit station# improvements are provided.

For all applications pursuant to the provisions of Sections 66-20 (SPECIAL PROVISIONS FOR PRIMARY TRANSIT-ADJACENT SITES), 66-30 (SPECIAL PROVISIONS FOR SECONDARY TRANSIT-ADJACENT SITES) or 66-51, additional modifications may be granted by the City Planning Commission, either by authorization or special permit, pursuant to Section 66-52 (Additional Modifications).

66-51  
Additional Floor Area for Mass Transit Station Improvements

For #developments# or #enlargements# located on #qualifying transit improvement sites# the City Planning Commission may authorize a #floor area# bonus in accordance with the provisions of paragraph (a) of this Section where a major improvement to a #mass transit station# is provided in accordance with paragraph (b). All applications for an authorization pursuant to this Section shall be subject to the conditions, application requirements, findings and additional requirements of paragraphs (c) through (e).

(a) #Floor area# bonus

The City Planning Commission may authorize a #floor area# bonus not to exceed 20 percent of the basic maximum #floor area ratio# permitted by the applicable district regulations of this Resolution, in accordance with the following provisions:

- (1) Such #floor area# increase may be applied to the maximum #floor area ratio# of any permitted #use#, provided that the total of all such #floor area ratios# does not exceed such percent increase applied to the greatest #floor area ratio# permitted for any such #use# on the #qualifying transit improvements#;
- (2) Such #floor area# bonus may be used in combination with other #floor area# bonuses. However, the maximum #floor area# permitted through the combination of bonuses may exceed 20 percent of the base #floor area ratio# only as follows:
  - (i) within #Inclusionary Housing designated areas# and in R10 Districts outside of #Inclusionary Housing designated areas#, the percent in #floor area# bonus granted on a #qualifying transit improvement site# shall be calculated from the maximum #floor area ratios# set forth in paragraph (a) or (b) of Section 23-154 (Inclusionary Housing); or
  - (ii) where explicitly specified in a #Special Purpose District#; and
- (3) For #compensated developments# or #MIH developments#, as defined in Section 23-911 (General definitions), the requirements of Section 23-154 (Inclusionary Housing) shall not apply to the bonus #floor area# authorized under the provisions of this Section.

(b) Conditions

All applications shall include a proposed improvement to a proximate #mass transit station#, and may consist of on-site or off-site improvements.

Such improvements shall be characteristic of current best practice in mass-transit network design, and shall include capacity-enhancing, accessibility or significant environmental improvements, including, but not limited to, the provision of elevators and escalators, widening, straightening, expanding or otherwise enhancing the existing pedestrian circulation network, reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities, or providing daylight access, retail #uses# or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways.

All proposed improvements shall be subject to the approval of the applicable #transit agency# and the City Planning Commission.

(c) Application requirements

All applications for an authorization pursuant to this Section shall include the following:

- (1) Prior to submitting an application for an authorization pursuant to this Section, the applicant shall submit a

schematic or concept plan for the proposed improvement to the #transit agency# and the Chairperson of the City Planning Commission. Such schematic or concept plan shall include such materials and information sufficient to provide the basis for the #transit agencies# to evaluate and determine the constructability of such proposed improvement.

- (2) At the time of certification, the Commission shall be provided with the following application materials:

- (i) a letter from the #transit agency# containing a conceptual approval of the improvement, including a statement of any considerations regarding the construction and operation of the improvement;
- (ii) all information and justification sufficient to provide the Commission with the basis for evaluating the benefits of such improvements to the general public; and
- (iii) initial plans for the maintenance of the proposed improvements.

- (3) Where a #transit volume# is needed pursuant to the provisions of Section 66-21 (Certification for Transit Volume), the applicant shall provide materials sufficient to demonstrate the relationship between the proposed on-site improvement and such #transit volume#.

(d) Findings

In order to grant such authorization, the Commission shall find that:

- (1) the public benefit derived from the #mass transit station# improvements merits the amount of additional #floor area# being granted to the proposed #development# pursuant to this authorization;
- (2) for improvements involving capacity enhancements or accessibility, that newly created or expanded accessible routes for persons with physical disabilities, or measures to improve station ingress and egress routes or platform capacity, will constitute significant enhancements to connectivity from the pedestrian circulation network to and through the #mass transit station#; or
- (3) for improvements involving environmental design, that measures to augment station beautification, walkability and passenger safety, or environmental noise or air quality, will constitute significant enhancements to the station environment.

(e) Additional requirements

In addition to the application requirements of paragraph (c) of this Section, additional requirements set forth in this paragraph shall apply.

- (1) Prior to the granting of an authorization pursuant to this Section, the following requirements shall be met:
  - (i) To the extent required by the #transit agency#, the applicant shall execute an agreement, setting forth the obligations of the owner, its successors and assigns, to establish a process for design development and a preliminary construction schedule for the proposed improvement; construct the proposed improvement; establish a program for maintenance and capital maintenance; and establish that such improvements shall be accessible to the public during the hours of operation of the station or as otherwise approved by the #transit agency#. Where the #transit agency# deems necessary, such executed agreement shall set forth obligations of the applicant to provide a performance bond or other security for completion of the improvement in a form acceptable to the #transit agency#.
  - (ii) The City Planning Commission shall be provided with a final letter of approval from the #transit agency# stating that the drawings and other documents submitted by the applicant have been determined by such #transit agency# to be of sufficient scope and detail to describe the size and character of the improvement as to architectural, structural, mechanical and electrical systems, materials, relationship to existing site conditions and such other conditions as may be appropriate, and that the construction of the improvement in accordance with such submission is feasible; and
- (2) Prior to obtaining a foundation permit or building permit from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the Chairperson of the City Planning Commission, containing complete drawings of the improvement and setting forth the obligations of the

owner as agreed upon with the #transit agency# pursuant to the requirements of paragraph (e)(1) of this Section, shall be recorded against such property in the Borough Office of the City Register of the City of New York. Proof of recordation of the declaration of restrictions shall be submitted in a form acceptable to the Department of City Planning.

- (3) No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# authorized pursuant to the provisions of this Section until the required improvements have been substantially completed, as determined by the Chairperson, acting in consultation with the #transit agency#, where applicable, and such improvements are usable by the public. Such portion of the #building# utilizing bonus #floor area# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.

No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# until all improvements have been completed in accordance with the approved plans, as determined by the Chairperson, acting in consultation with the #transit agency#, where applicable.

The Commission may prescribe additional appropriate conditions and safeguards to enhance the character of the surrounding area.

66-52
Additional Modifications

In conjunction with any application pursuant to Section 66-21 (Certification for Transit Volume), 66-31 (Certification for Optional Transit Volume) and 66-51 (Additional Floor Area for Mass Transit Station Improvements), modifications may be granted pursuant to Section 66-521 (Authorization for transit-adjacent sites or qualifying transit improvement sites) or Section 66-522 (Special permit for transit-adjacent sites or qualifying transit improvement sites).

66-521
Authorization for transit-adjacent sites or qualifying transit improvement sites

For #transit-adjacent sites# or #qualifying transit improvement sites#, the City Planning Commission may authorize the modification of applicable regulations of this Resolution, other than #floor area ratio#, including the other modifications set forth within this Chapter, provided that the Commission determines that the conditions and limitations set forth in paragraph (a), the application requirements of paragraph (b) and the findings set forth in paragraph (c) of this Section are met.

- (a) Conditions and limitations

Modifications to the maximum #building# height limits shall not result in a #building# height that exceeds 25 percent of the maximum permitted height as set forth in applicable district regulations, and as such heights are modified pursuant to the provisions of 66-235 (Special height and setback modifications), as applicable.

- (b) Application requirements

Applications for an authorization for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications.

- (c) Findings

The Commission shall find that:

- (1) such proposed modifications are the minimum extent necessary to
(i) reasonably accommodate an #easement volume# and associated access thereto; or
(ii) where improvements to #mass transit stations# are provided, reasonably accommodate the proposed #development# or #enlargement#;
(2) any modifications to #use# regulations will not be incompatible with or adversely affect the essential character, use or future growth of the surrounding area;
(3) any modifications to #bulk# regulations will not unduly obstruct access of light and air to surrounding #streets# and properties; and
(4) any modifications to #accessory# off-street parking or loading regulations will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

66-522
Special permit for transit-adjacent sites or qualifying transit improvement sites

For #transit-adjacent sites# or #qualifying transit improvement sites#, the City Planning Commission may grant, by special permit, the modification of applicable regulations of this Resolution, other than #floor area ratio#, including the other modifications set forth within this Chapter, provided that the Commission determines that the application requirements of paragraph (a) and the findings set forth in paragraph (b) of this Section are met.

- (a) Application requirements

Applications for a special permit for modifications pursuant to this Section shall contain materials, of sufficient scope and detail, to enable the Commission to determine the extent of the proposed modifications.

- (b) Findings

The Commission shall find that:

- (1) such modifications will result in a better site plan for the proposed #transit volume#, improvement to #mass transit station# or #building# that is superior in design and harmonious with the surrounding area;
(2) any modifications to #use# regulations will not be incompatible with or adversely affect the essential character, use or future growth of the surrounding area;
(3) any modifications to #bulk# regulations:
(i) will not unduly obstruct the access of light and air to surrounding #streets# and properties nor adversely affect the character of the surrounding area; and
(ii) will result in an improved distribution of #bulk# on the #zoning lot# that is harmonious with the surrounding area; and
(4) any modifications to #accessory# off-street parking or loading regulations will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

ARTICLE VII
ADMINISTRATION

Chapter 4
Special Permits by the City Planning Commission

74-60
PUBLIC SERVICE OR TRANSPORTATION FACILITIES

74-63
Bus Stations

74-63A
Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan

[Replaced by various provisions of Article VI, Chapter 6]

The City Planning Commission may grant, by special permit, a #floor area# bonus not to exceed 20 percent of the basic maximum #floor area ratio# permitted by the underlying district regulations, and may waive or modify the provisions of Article III, Chapter 7 (Special Regulations), and the #street wall# continuity provisions of Sections 81-43 (Street Wall Continuity Along Designated Streets), 91-31 (Street Wall Regulations) or 101-41 (Special Street Wall Location Regulations) for #developments# or #enlargements# located on #zoning lots# where major improvements to adjacent subway stations are provided in accordance with the provisions of this Section. For the purposes of this Section, "adjacent" shall mean that upon completion of the improvement, the #zoning lot# will physically adjoin a subway station mezzanine, platform, concourse or connecting passageway. Subway stations where such improvements may be constructed are those stations located within the #Special Midtown District# as listed in Section 81-292 (Subway station improvements), the #Special Lower Manhattan District# as listed in Section 91-43 (Off-street Relocation or Renovation of a Subway Stair), the #Special Downtown Brooklyn

District# as listed in Section 101-211 (Special permit for subway station improvements), the #Special Union Square District# as listed in Section 118-50 and those stations listed in the following table:

Station	Line
8th Street	Broadway-60th Street
23rd Street	Broadway-60th Street
23rd Street	Lexington Avenue
28th Street	Lexington Avenue
33rd Street	Lexington Avenue
34th Street-Penn Station	8th Avenue
59th Street/Lexington Avenue (60th St)	Lexington Avenue and Broadway-60th Street

The selection of subway station improvements shall be on a case-by-case basis and shall be subject to the approval of the Metropolitan Transportation Authority, New York City Transit and the City Planning Commission. All such improvements shall comply with all applicable design standards of the current station planning guidelines of New York City Transit.

(a) Pre-application requirements

Prior to submitting an application for a special permit pursuant to this Section, the applicant shall submit a schematic or concept plan for the proposed improvement to the Metropolitan Transportation Authority, New York City Transit and the Chairperson of the City Planning Commission.

(b) Requirements for application

An application for a special permit pursuant to this Section shall include a letter from New York City Transit to the City Planning Commission containing conceptual approval of the improvement and a statement of any special considerations regarding New York City Transit's future operation of the improvement. The applicant shall submit all information and justification sufficient to enable the Commission to:

- (1) evaluate the benefits to the City;
- (2) determine the appropriate amount of bonus #floor area#; and
- (3) where applicable, assess the advantages and disadvantages of waiving or modifying #street wall# continuity requirements.

(c) Conditions

- (1) Within the #Special Midtown District#, for a #development# or #enlargement# within the Theater Subdistrict on a #zoning lot# containing a theater designated as listed pursuant to Section 81-742 (Listed theaters), the Commission shall find that the requirements of Section 81-743 (Required assurances for continuance of legitimate theater use) have been met.
- (2) Within the #Special Midtown District#, for a #development# or #enlargement# located on a #zoning lot# divided by a Theater Subdistrict Core boundary, as defined in Section 81-71 (General Provisions), the amount of #lot area# eligible for bonus #floor area# shall not exceed an amount equal to twice the #lot area# of that portion of the #zoning lot# located outside the Theater Subdistrict Core.

(d) Findings

- (1) In determining the amount of #floor area# bonus, the City Planning Commission shall consider the degree to which:
  - (i) the general accessibility and security of the subway station will be improved by the provision of new connections, additions to or reconfigurations of circulation space, including provision of escalators or elevators; and
  - (ii) significant improvements to the station's environment by provision for direct daylight access, or improvements to noise control, air quality, lighting or rider orientation and satisfactory integration of the #street# level

entryway into the #development# or #enlargement# will occur.

- (2) In determining modifications to the requirements of Article III, Chapter 7 (Special Regulations), the Commission shall find that the provisions of a subway improvement cannot be accommodated without modification to these requirements.
- (3) In determining modifications to the #street wall# continuity provisions of Section 81-43 in the #Special Midtown District#, Section 91-31 (Street Wall Regulations) in the #Special Lower Manhattan District# or Section 101-41 in the #Special Downtown Brooklyn District#, the Commission shall find that the modification will permit the proposed design to provide for access of daylight and air to the subway platform, mezzanine or concourse and that the advantages of such access outweigh the disadvantages incurred by the interruption of #street wall# and retail continuity.

(e) Procedural requirements

Prior to the granting of a special permit, the City Planning Commission shall be provided with the following:

- (1) a letter from New York City Transit stating that the drawings and other documents submitted by the applicant have been determined by New York City Transit to be of sufficient scope and detail to fix and describe the size and character of the subway improvement as to architectural, structural, mechanical and electrical systems, materials, relationship to existing site conditions and such other conditions as may be appropriate, and that the construction of the subway improvement in accordance with such submission is feasible; and
- (2) a legally enforceable instrument running with the land and signed by the applicant and all parties in interest, other than parties in interest who have waived and subordinated their interests, containing complete drawings of the improvement and setting forth the obligations of owner and developer, their successors and assigns, to construct and provide capital maintenance for the improvement, establish a construction schedule and provide a performance bond for completion of the improvement.

(f) Recordation and completion procedures

Any instrument creating a transit easement on the #zoning lot# shall be recorded against the #zoning lot# in the Office of the Register of the City of New York and a certified copy of the instrument shall be submitted to the City Planning Commission and New York City Transit. The applicant shall not apply for nor accept a temporary certificate of occupancy for the bonus #floor area#, and the Department of Buildings shall not issue such a temporary certificate of occupancy, until New York City Transit has determined that the bonused subway improvement is substantially complete which shall, for this purpose, mean open to and usable by the public.

The applicant shall not apply for or accept a permanent certificate of occupancy for the #development# or #enlargement#, nor shall the Department of Buildings issue such permanent certificate of occupancy, until the bonused subway improvement has been completed in accordance with the approved plans and such completion has been certified by New York City Transit.

The Commission may prescribe additional appropriate conditions and safeguards to enhance the character of the surrounding area.

\* \* \*

ARTICLE VIII  
SPECIAL PURPOSE DISTRICTS

Chapter 1  
Special Midtown District

81-00  
GENERAL PURPOSES

\* \* \*

81-02  
General Provisions

81-021  
Applicability of underlying district regulations

Except as modified by the express provisions of this Chapter, the regulations of the underlying districts remain in effect.

The regulations of the districts set forth below are applicable in the following Midtown districts unless modified by this Chapter:

Midtown Districts	Districts Whose Regulations Apply
C5P C5-2.5	C5-2
C6-4.5	C6-4
C6-5.5	C6-5
C6-6.5	C6-6
C6-7T	C6-7

For #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

**81-022**  
*Applicability of Special Transit Land Use District regulations*

Except as otherwise provided in paragraphs (a), (b) or (c) of this Section, wherever the #Special Transit Land Use District# includes an area which also lies within the #Special Midtown District#, as designated on the #zoning map# by the letters "MiD-TA", the requirements of the #Special Transit Land Use District#, as set forth in Article IX, Chapter 5, shall apply.

- (a) However, the requirements of Article IX, Chapter 5, shall be waived where the City Planning Commission certifies, in the case of a specific #development# otherwise subject to those requirements, that:
- (1) the developer has agreed in a writing recorded against the property to implement a plan approved by the Commission and New York City Transit for off-street relocation of a subway stair entrance, in accordance with the requirements of Section 81-46 (Off-street Relocation or Renovation of a Subway Stair); or
  - (2) the developer has agreed in a writing recorded against the property to implement a plan approved by the Commission and New York City Transit for the provision of a subway station #mass transit station# improvement in accordance with the provisions of Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan) Section 66-51 (Additional Floor Area for Mass Transit Station Improvements).

\* \* \*

**81-06**  
*Applicability of Article VII Provisions*

\* \* \*

**81-066**  
*Special permit modifications of Section 81-254, Section 81-40 and certain Sections of Article VII, Chapter 7*

\* \* \*

- (b) For #developments# or #enlargements# on a #zoning lot# with a #lot area# of at least 60,000 square feet located wholly or partially in the Penn Center Subdistrict, which have been granted authorized a #floor area# bonus for subway station and/or rail mass transit facility improvements pursuant to Section 81-541 in accordance with Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan), the Commission may permit modifications of the mandatory district plan elements of Section 81-40, the height and setback regulations of 81-26 and 81-27, or the provisions of Article VII, Chapter 7 (Special Provisions for Zoning Lots Divided by District Boundaries), that determine the distribution of permitted #floor area# on such #zoning lots# and, in conjunction with such modifications, may also modify the applicable #yard# and #court# requirements subject to the following findings:

\* \* \*

**81-20**  
**BULK REGULATIONS**

**81-21**  
*Floor Area Ratio Regulations*

\* \* \*

**81-211**  
*Maximum floor area ratio for non-residential or mixed buildings*

- (a) For #non-residential buildings# or #mixed buildings#, the basic maximum #floor area ratios# of the underlying districts shall apply as set forth in this Section.
- (b) In the #Special Midtown District#, the basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:

**MAXIMUM FLOOR AREA ALLOWANCES FOR SPECIFIED FEATURES AND MAXIMUM FLOOR AREA RATIOS BY DISTRICTS**

Means for Achieving Permitted FAR Levels on a #Zoning Lot#	Maximum #Floor Area Ratio# (FAR)				
	C5P	C6-4 C6-5 M1-6	C5-2.5 C6-4.5 C6-5.5 C6-6.5	C6-7T	C5-3 C6-6 C6-7
A. Basic Maximum FAR	8.0	10.0	12.0	14.0	15.0
B. Maximum As-of-Right #Floor Area# Allowances:(District-wide Incentives), #Public plazas# - Section 81-23	—	1.0 <sup>1,2</sup>	1.0 <sup>1,3</sup>	—	1.0 <sup>2</sup>
C. Maximum Total FAR with As-of-Right Incentives	8.0	11.0 <sup>1,2,7</sup>	13.0 <sup>1,3</sup>	14.0	16.0
D. Maximum Special-Permit #Floor Area# Allowances by Authorization:(District-wide Incentives), Subway station improvements - Section 74-634 #Mass Transit Station# Improvements - Section 66-51	<u>1.6</u>	2.0 <sup>1,6</sup>	2.4 <sup>1</sup>	<u>2.8</u>	3.0
E. Maximum Total FAR with District-wide and As-of-Right Incentives	8.0	12.0	14.4	14.0	18.0
F. Maximum Special-Permit #Floor Area# Allowances by Authorization in Penn Center Subdistrict: #Mass Transit Facility Station# Improvement - Section 74-634 Section 81-541	—	2.0	—	—	3.0
G. Maximum Total FAR with As-of-Right, District-wide and Penn Center Subdistrict Incentives:	—	12.0	—	—	18.0
H. Maximum As-of-Right #Floor Area# Allowances in Theater Subdistrict:					
Development rights (FAR) of a "granting site" - Section 81-744	—	10.0	12.0	14.0	15.0
Maximum amount of transferable development rights (FAR) from "granting sites" that may be utilized on a "receiving site" - Section 81-744(a)	—	2.0	2.4	2.8	3.0

Inclusionary Housing - Sections 23-90 and 81-22	—	2.0 <sup>4</sup>	—	—	—
I. Maximum Total FAR with As-of-Right #Floor Area# Allowances in Theater Subdistrict	—	12.0	14.4	16.8	18.0
J. Maximum #Floor Area# Allowances by Authorization in Eighth Avenue Corridor - Section 81-744(b)	—	2.4	—	—	—
K. Maximum Total FAR with As-of-Right and Theater Subdistrict Authorizations	—	14.4	14.4	16.8	18.0
L. Maximum Special Permit #Floor Area# Allowances in Theater Subdistrict: Rehabilitation of "listed theaters" Section 81-745	—	4.4	2.4	2.8	3.0
M. Maximum Total FAR with Theater Subdistrict, District-wide and As-of-Right Incentives	8.0	14.4	14.4	16.8	18.0
N. Maximum FAR of Lots Involving Landmarks:					
Maximum FAR of a lot containing non-bonusable landmark - Section 74-711 or as-of-right	8.0	10.0	12.0	14.0	15.0
Development rights (FAR) of a landmark lot for transfer purposes - Section 74-79	8.0	10.0	13.0 <sup>5</sup>	14.0	16.0
Maximum amount of transferable development rights (FAR) from a landmark #zoning lot# that may be utilized on an "adjacent lot" - Section 74-79	1.6	2.0	2.4	No Limit	No Limit
O. Maximum Total FAR of a Lot with Transferred Development Rights from Landmark #Zoning Lot#, Theater Subdistrict Incentives, District-wide Incentives and As-of Right Incentives	9.6	14.4	14.4	No Limit	No Limit

- 1 Not available for #zoning lots# located wholly within Theater Subdistrict Core
- 2 Not available within the Eighth Avenue Corridor
- 3 Not available within 100 feet of a #wide street# in C5-2.5 Districts
- 4 Applicable only within that portion of the Theater Subdistrict also located within the #Special Clinton District#
- 5 12.0 in portion of C6-5.5 District within the Theater Subdistrict Core
- 6 Not available on west side of Eighth Avenue within the Eighth Avenue Corridor
- 7 12.0 for #zoning lots# with full #block# frontage on Seventh Avenue and frontage on West 34th Street, pursuant to Section 81-542 (Retention of floor area bonus for plazas or other public spaces)

81-29  
*Incentives by Special Permit for Provisions of Public Amenities*  
~~81-291~~  
*General provisions and procedures*

The City Planning Commission may grant special permits authorizing, for #non-residential# or #mixed buildings#, #floor area# bonuses in accordance with the provisions of this Section.

81-292  
*Subway station improvements*

[Replaced by various provisions of Article VI, Chapter 6]

Except in the Preservation Subdistrict and except for #zoning lots# wholly within the Theater Subdistrict Core, as defined in Section 81-71 (General Provisions), the City Planning Commission may grant special permits for #floor area# bonuses for #non-residential# or #mixed buildings#, in accordance with the provisions of Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan).

The subway stations where such improvements are permitted are listed in the following table and shown on Map 3 (Subway Station and Rail Mass Transit Facility Improvement Areas) in Appendix A of this Chapter.

MIDTOWN-SUBWAY STATIONS

Station	Line
34th Street-Penn Station	Broadway-7th Avenue
34th Street-Penn Station	8th Avenue
34th Street-Herald Square	6th Avenue/Broadway-60th Street
42nd Street-Times-Square/42nd Street-Port Authority Bus Terminal	Broadway-7th Ave/Broadway/8th Ave/42nd Street Shuttle
42nd Street-Bryant Park/Fifth Avenue	6th Avenue/Flushing
42nd Street-Grand Central	Lexington Avenue/Flushing/42nd Street Shuttle
47th-50th Street-Rockefeller Center	6th Avenue
49th Street	Broadway-60th Street
50th Street	8th Avenue
50th Street	Broadway-7th Avenue
7th Avenue	53rd Street
Fifth Avenue-53rd Street	53rd Street
51st Street/Lexington Avenue-53rd Street	53rd Street/Lexington Avenue
57th Street	Broadway-60th Street
57th Street	6th Avenue
59th Street-Columbus Circle	Broadway-7th Avenue/8th Avenue

\* \* \*

81-40  
 MANDATORY DISTRICT PLAN ELEMENTS

\* \* \*

81-42  
*Retail Continuity Along Designated Streets*

For #buildings developed# or #enlarged# after May 13, 1982, where the ground floor level of such #development# or #enlarged# portion of the #building# fronts upon a designated retail #street# (see Appendix A, Map 3), #uses# within #stories# on the ground floor or with a floor

level within five feet of #curb level# shall be limited to retail, personal service or amusement #uses# permitted by the underlying zoning district regulations but not including #uses# in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 and 12D or automobile showrooms or plumbing, heating or ventilating equipment showrooms. Museums and libraries shall be permitted. A #building's street# frontage shall be allocated exclusively to such #uses#, except for:

- (a) lobby space or entrance space;
(b) entrance areas to subway station improvements for which bonus #floor area# is granted and #street wall# continuity restrictions waived pursuant to Sections 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan) 66-51 (Additional Floor Area for Mass Transit Station Improvements) and 81-292 (Subway station improvements);

\* \* \*

81-43
Street Wall Continuity Along Designated Streets

\* \* \*

Pedestrian circulation spaces may be provided to meet the requirements of Sections 81-45 (Pedestrian Circulation Space), 81-46 (Off-street Relocation or Renovation of a Subway Stair) or 81-48 (Off-street Improvement of Access to Rail Mass Transit Facility), subject to the setback restrictions of this Section and to the minimum width of the #street wall# subject to such setback restrictions. However, the City Planning Commission may waive such restrictions for a subway entrance area which is part of a subway station or a rail mass transit facility improvement for which bonus #floor area# is granted, in accordance with the provisions of Sections 74-634 (Subway station improvements in Downtown Brooklyn and Commercial Districts of 10 FAR and above in Manhattan) 66-51 (Additional Floor Area for Mass Transit Station Improvements), 81-292 (Subway station improvements) and 81-542 (Retention of floor area bonus for plazas or other public spaces), or an off-street improvement of access to a rail mass transit facility that has been certified in accordance with Section 81-48.

\* \* \*

81-50
SPECIAL REGULATIONS FOR THE PENN CENTER SUBDISTRICT

\* \* \*

81-54
Floor Area Bonus in the Penn Center Subdistrict

81-541
Rail mass transit facility improvement Mass transit station improvements

In addition to the provisions of Section 81-29 (Incentives by Special Permit for Provisions of Public Amenities), the City Planning Commission may grant #floor area# bonuses for subway station and/or rail mass transit facility improvements for #non-residential# or #mixed buildings#, in accordance with Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan), and may modify or waive the provisions of Section 81-43 (Street Wall Continuity Along Designated Streets) in accordance with the provisions of Section 74-634, provided that such improvement is approved by the entities which own and/or operate the rail mass transit facility.

Prior to granting a special permit, the City Planning Commission shall be provided with:

- (a) a letter from each entity that operates the rail mass transit facility confirming that the drawings of the subway and/or rail mass transit improvement are of sufficient scope and detail to describe the layout and character of the improvements and that the proposed implementation of the improvements is physically and operationally feasible; and
(b) a legally enforceable instrument containing:
(1) drawings of the improvements, as approved by the transit operator;
(2) provisions that all easements required for the on-site improvements will be conveyed and recorded against the property;
(3) the obligations of the applicant to construct, maintain and provide capital maintenance for the improvements; and
(4) a schedule for completion of the improvements and a requirement that a performance bond or other appropriate security be provided to ensure the completion of the improvements.

For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission

pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

For the purposes of this Section, improvements to any rail mass transit facility #mass transit station# on a #zoning lot# #qualifying transit improvement site# located wholly or partially within the Subdistrict qualifies for bonus #floor area# in accordance with the provisions of Section 74-634 66-51, as modified herein. For #zoning lot# #qualifying transit improvement site# located partially within the Subdistrict, such bonus #floor area# may be located anywhere on such #zoning lot# #qualifying transit improvement site#. In addition, if a subway and/or rail mass transit #mass transit station# improvement has been constructed in accordance with an approved special permit authorization and has received a Notice of Substantial Completion in accordance with the provisions of Section 74-634 66-51, the bonus #floor area# may be retained at the full amount granted by the special permit authorization and may be utilized elsewhere on the #zoning lot# #qualifying transit improvement site# subject to any applicable review and approval process for such #development# or #enlargement#.

\* \* \*

81-60
SPECIAL REGULATIONS FOR THE EAST MIDTOWN SUBDISTRICT

\* \* \*

81-63
Special Floor Area Provisions for the Vanderbilt Corridor Subarea

For non-residential buildings# or #mixed buildings# in the Vanderbilt Corridor Subarea of the East Midtown Subdistrict, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the basic maximum #floor area ratios# of the underlying districts shall apply as set forth in this Section. Such basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:

Table with 2 columns: Means for Achieving Permitted FAR Levels on a #Zoning Lot# in the Vanderbilt Corridor Subarea, and Maximum #Floor Area Ratio# (FAR). Rows include A. Basic Maximum FAR (15), B. Maximum Special Permit #Floor Area# Allowances (3.0), C. Maximum FAR of Lots Involving Landmarks (15.0, 15.0), D. Maximum #Floor Area# Allowances by Special Permit (15.0), E. Maximum Total FAR of a Lot with Transferred Development Rights (30.0), F. Maximum Total FAR of a Lot with Transferred Development Rights (No Limit).

Any transfer of development rights from a landmark site may be made pursuant to either Section 74-79 or Section 81-632 (Special permit for transfer of development rights from landmarks to the Vanderbilt Corridor Subarea), but not both.

81-64
Special Floor Area Provisions for Qualifying Sites

\* \* \*



81-644

Special permit for transit improvements

For #qualifying sites# located in the Grand Central Transit Improvement Zone Subarea, or the Other Transit Improvement Zone Subarea, as shown on Map 2 (East Midtown Subdistrict and Subareas) in Appendix A of this Chapter, the City Planning Commission may permit a #floor area# bonus in accordance with the provisions of this Section, where a major improvement to a subway or mass rail transit facility is provided in accordance with paragraph (b). All applications for a special permit pursuant to this Section shall be subject to the conditions, application requirements, findings and additional requirements of paragraphs (c) through (e). an increase in the amount of #floor area ratio# permitted on such #zoning lots#, up to the amount specified in Row F of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites), as applicable, where subway station improvements are made in accordance with the provisions of Sections 81-292 (Subway station improvements) and 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan).

As a pre-condition to applying for such special permit, an applicant shall demonstrate that the maximum as-of-right #floor area ratio# for #qualifying sites# set forth in Row E of the table in Section 81-64 has been achieved prior to, or in conjunction with, the special permit application.

(a) #Floor area# bonus

The City Planning Commission may permit an increase in the amount of #floor area ratio# permitted on a #qualifying site#, up to the amount specified in Row F of the table in Section 81-64 (Special Floor Area Provisions for Qualifying Sites).

(b) Conditions

All applications shall include a proposed improvement to a proximate subway or rail mass transit facility, and may consist of on-site or off-site improvements.

Such improvements shall be characteristic of current best practice in mass-transit network design, and shall include capacity-enhancing, accessibility or significant environmental improvements, including, but not limited to, the provision of elevators and escalators, widening, straightening, expanding or otherwise enhancing the existing pedestrian circulation network, reconfiguring circulation routes to provide more direct pedestrian connections to subway or rail mass transit facilities, or providing daylight access, retail #uses# or enhancements to noise abatement, air quality, lighting, finishes or rider orientation in new or existing passageways.

All proposed improvements shall be subject to the approval of the Metropolitan Transportation Authority (MTA) and the City Planning Commission.

(c) Application requirements

All applications for a special permit pursuant to this Section shall include the following:

- (1) Prior to submitting an application for a special permit pursuant to this Section, the applicant shall submit a schematic or concept plan for the proposed improvement to the MTA and the Chairperson of the City Planning Commission. Such schematic or concept plan shall include such materials and information sufficient to provide the basis for the #transit agencies# to evaluate and determine the constructability of such proposed improvement.
(2) At the time of certification, the Commission shall be provided with the following application materials:
(i) a letter from the MTA containing a conceptual approval of the improvement, including a statement of any considerations regarding the construction and operation of the improvement.
(ii) all information and justification sufficient to provide the Commission with the basis for evaluating the benefits of such improvements to the general public; and
(iii) initial plans for the maintenance of the proposed improvements.

(d) Findings

In order to grant such special permit, the Commission shall find that:

- (1) the public benefit derived from the improvements to a subway or rail mass transit facility merits the amount of additional #floor area# being granted to the proposed #development# pursuant to this special permit.
(2) for improvements involving capacity enhancements or accessibility, that newly created or expanded accessible routes for persons with physical disabilities, or measures

to improve station ingress and egress routes or platform capacity, will constitute significant enhancements to connectivity from the pedestrian circulation network to and through the subway or rail mass transit facility; or

- (3) for improvements involving environmental design, that measures to augment station beautification, walkability and passenger safety, or environmental noise or air quality, will constitute significant enhancements to the station environment.

(e) Additional requirements

In addition to the application requirements of paragraph (c) of this Section, additional requirements set forth in this paragraph shall apply.

- (1) Prior to the granting of a special permit pursuant to this Section, the following requirements shall be met:
(i) To the extent required by the MTA, the applicant shall execute an agreement, setting forth the obligations of the owner, its successors and assigns, to establish a process for design development and a preliminary construction schedule for the proposed improvement; construct the proposed improvement; establish a program for maintenance and capital maintenance; and establish that such improvements shall be accessible to the public during the hours of operation of the station or as otherwise approved by the MTA. Where the MTA deems necessary, such executed agreement shall set forth obligations of the applicant to provide a performance bond or other security for completion of the improvement in a form acceptable to the MTA.
(ii) The City Planning Commission shall be provided with a final letter of approval from the MTA stating that the drawings and other documents submitted by the applicant have been determined by the MTA to be of sufficient scope and detail to fix and describe the size and character of the improvement as to architectural, structural, mechanical and electrical systems, materials, relationship to existing site conditions and such other conditions as may be appropriate, and that the construction of the improvement in accordance with such submission is feasible; and
(2) Prior to obtaining a foundation permit or building permit from the Department of Buildings, a written declaration of restrictions, in a form acceptable to the Chairperson of the City Planning Commission, containing complete drawings of the improvement and setting forth the obligations of the owner as agreed upon with the MTA pursuant to the requirements of paragraph (e)(1) of this Section, shall be recorded against such property in the Borough Office of the City Register of the City of New York. Proof of recordation of the declaration of restrictions shall be submitted in a form acceptable to the Department of City Planning.
(3) No temporary certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# granted pursuant to the provisions of this Section until the required improvements have been substantially completed, as determined by the Chairperson, acting in consultation with the MTA, where applicable, and such improvements are usable by the public. Such portion of the #building# utilizing bonus #floor area# shall be designated by the Commission in drawings included in the declaration of restrictions filed pursuant to this paragraph.
No permanent certificate of occupancy shall be granted by the Department of Buildings for the portion of the #building# utilizing bonus #floor area# until all improvements have been completed in accordance with the approved plans, as determined by the Chairperson, acting in consultation with the MTA, where applicable.

The Commission may prescribe additional appropriate conditions and safeguards to enhance the character of the surrounding area.

\* \* \*

81-65

Special Floor Area Provisions for All Non-qualifying Sites

For #non-residential buildings# or #mixed buildings# on #non-qualifying sites# in the East Midtown Subdistrict, the basic maximum #floor area ratios# of the underlying districts shall apply as set forth in this Section. Such basic maximum #floor area ratio# on any #zoning lot# may be increased by bonuses or other #floor area# allowances only in accordance with the provisions of this Chapter, and the maximum #floor area ratio# with such additional #floor area# allowances shall in no event exceed the amount set forth for each underlying district in the following table:

	Grand Central Core Area		Any Other Area	
	C5-3 C6-6	C5-2.5 C6-4.5	C5-3 C6-6	C5-2.5 C6-4.5
Means for achieving permitted FAR on a #zoning lot# for all other sites				
A. Basic Maximum FAR	15	12	15	12
B. Additional FAR for provision of a #public plaza# (Section 81-651)	--	--	1	1
C. Total as-of-right FAR	15	12	16	13
D. Additional FAR for subway station #mass transit station# improvements through special permit (Section 81-652)	3	2.4	3	2.4
E. Maximum FAR of a #landmark or other structure# for transfer purposes (Sections 74-79 and 81-653)	15	12	16	13
F. Maximum amount of transferable development rights from a landmark #zoning lot# that may be utilized on an #adjacent lot# (Sections 74-79 and 81-653)	No limit	2.4	No limit	2.4
G. Maximum FAR permitted on an #adjacent lot#	No limit	14.4	No limit	14.4

\* \* \*

81-652  
Floor area bonus for subway station mass transit station improvements

For #non-qualifying sites#, the City Planning Commission may permit an increase in the amount of #floor area ratio# permitted on such #zoning lots#, up to the amount specified in Row D of the table in Section 81-65 (Special Floor Area Provisions for All Non-qualifying Sites), as applicable, where subway station improvements are made in accordance with the provisions of Sections 81-292 (Subway station improvements) and Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan):

For #developments# or #enlargements# on #non-qualifying sites# that are #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

81-70  
SPECIAL REGULATIONS FOR THEATER SUBDISTRICT

\* \* \*

81-74  
Special Incentives and Controls in the Theater Subdistrict

\* \* \*

81-743  
Required assurances for continuance of legitimate theater use

Prior to the issuance of any special permit under the provisions of Sections 81-745 (Floor area bonus for rehabilitation of existing listed theaters) or 81-747 (Transfer of development rights from landmark theaters), or the issuance of a certification or authorization under the provisions of Sections 66-51 (Additional Floor Area for Mass Transit Station Improvements), 81-744 (Transfer of development rights from listed theaters), or 81-746 (Additional provisions for zoning lots divided by district or subdistrict core boundaries) the following conditions shall exist:

\* \* \*

Chapter 2  
Special Lincoln Square District

82-00  
GENERAL PURPOSES

\* \* \*

82-02  
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Lincoln Square District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Lincoln Square District# is superimposed are made inapplicable, and special regulations are substituted in this Chapter. Each #development# within the Special District shall conform to and comply with all of the applicable district regulations of this Resolution, except as otherwise specifically provided in this Chapter.

For #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

82-10  
MANDATORY DISTRICT IMPROVEMENTS

\* \* \*

82-13  
Special Provisions for a Transit Easement

Any #development# located on the east side of Broadway between West 66th Street and West 67th Street shall provide an easement on the #zoning lot# for public access to the subway mezzanine or station when required by the New York City Transit Authority (TA) in accordance with the procedure set forth in Section 95-04 (Certification of Transit Easement Volume) and hereby made applicable.

\* \* \*

82-30  
SPECIAL BULK REGULATIONS

\* \* \*

82-32  
Special Provisions for Increases in Floor Area

No #floor area# bonuses shall be permitted within the #Special Lincoln Square District# except as provided in this Section. The following #floor area# increases may be used separately or in combination, provided that the total #floor area ratio# permitted on a #zoning lot# does not exceed 12.0.

(a) #Floor area# increase for Inclusionary Housing

For any #development# to which the provisions of Section 23-90 (INCLUSIONARY HOUSING) are applicable, the maximum permitted #residential floor area ratio# may be increased by a maximum of 20 percent under the terms and conditions set forth in Section 23-90.

(b) #Floor area# bonus for public amenities

On a #zoning lot# that is adjacent to the West 59th Street (Columbus Circle) or the West 66th Street subway station mezzanine, platform, concourse or connecting passageway, where no tracks intervene to separate the #zoning lot# from these elements, and such #zoning lot# contains 5,000 square feet or more of #lot area#, the City Planning Commission may, by special permit pursuant to Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan), grant a maximum of 20 percent #floor area# bonus.

For a subway station improvement or for a subsurface concourse connection to a subway, the amount of #floor area# bonus that may be granted shall be at the discretion of the Commission. In determining the precise amount of #floor area# bonus, the Commission shall consider:

- (1) the direct construction cost of the public amenity;
- (2) the cost of maintaining the public amenity; and
- (3) the degree to which the station's general accessibility and security will be improved by the provision of new connections, additions to, or reconfigurations of, circulation space, including the provision of escalators or elevators.

For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station#

improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

Chapter 3  
Special Limited Commercial District

\* \* \*

83-00  
GENERAL PURPOSES

\* \* \*

83-02  
General Provisions

#Special Limited Commercial Districts# may only be mapped in #Commercial Districts# within areas, or portions of areas, designated by the Landmarks Preservation Commission as "Historic Districts" pursuant to Chapters 8A or 63 of the New York City Charter and Chapter 8A of the New York City Administrative Code.

In harmony with the general purpose and intent of this Resolution and the general purpose of the #Special Limited Commercial District# and in accordance with the provisions of this Chapter, certain specified #use#, #sign# and enclosure regulations of the districts on which #Special Limited Commercial Districts# are superimposed are made inapplicable, and are superseded by the #use#, #sign# and enclosure regulations of the #Special Limited Commercial District# as set forth in this Chapter.

In addition to meeting the #use#, #sign# and enclosure regulations as set forth in this Chapter, each #building# shall conform to and comply with all of the applicable district regulations of this Resolution, except as otherwise specifically provided in this Chapter.

For #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

Chapter 6  
Special Forest Hills District

\* \* \*

86-00  
GENERAL PURPOSES

\* \* \*

86-02  
General Provisions

In harmony with the general purposes of this Resolution and in accordance with the provisions of the #Special Forest Hills District#, the regulations of this Chapter shall apply within the Special District. Unless modified by the particular provisions of the Special District, the regulations of the underlying zoning districts shall remain in effect. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, for #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

Any special permit granted by the Board of Standards and Appeals before March 24, 2009, may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such special permit was granted, subject to the provisions of Sections 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution) and 11-43 (Renewal of Authorization or Special Permit).

\* \* \*

Chapter 8  
Special Hudson Square District

88-00  
GENERAL PURPOSES

\* \* \*

88-02  
General Provisions

In harmony with the general purposes and intent of this Resolution and the general purposes of the #Special Hudson Square District#, the provisions of this Chapter shall apply within the #Special Hudson

Square District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

88-30  
SPECIAL BULK REGULATIONS

\* \* \*

88-31  
Floor Area Regulations

Except in Subdistrict A of this Chapter, the maximum #floor area# ratio for #zoning lots# that do not contain #residences# shall be 10.0; no #floor area# bonuses shall apply.

The maximum base #floor area ratio# for #zoning lots# that contain #residences# shall be 9.0 plus an amount equal to 0.25 times the non-#residential floor area ratio# provided on the #zoning lot#, provided that such base #floor area ratio# does not exceed 10.0. Such #floor area ratio# may be increased to a maximum of 12.0 only as set forth in Section 88-32 (Inclusionary Housing). In addition, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). Such bonuses may be applied separately or in combination. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

88-311  
Special floor area regulations in Subdistrict A

For #zoning lots# in Subdistrict A of this Chapter that do not contain #residences#, the maximum #floor area ratio# shall be 10.0; no #floor area# bonuses shall apply except as specified in Section 88-31 (Floor Area Regulations).

\* \* \*

ARTICLE IX  
SPECIAL PURPOSE DISTRICTS

Chapter 1  
Special Lower Manhattan District

91-00  
GENERAL PURPOSES

\* \* \*

91-01  
General Provisions

\* \* \*

In #flood zones#, or for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

91-20  
FLOOR AREA AND DENSITY REGULATIONS

\* \* \*

91-22  
Floor Area Increase Regulations

The basic maximum #floor area ratio# (FAR) of the underlying district may be increased by the inclusion of specific additional bonus #floor area# for a maximum #floor area ratio# as specified in the table in this Section.

The provisions of paragraph (c) of Section 74-792 (Conditions and limitations), pertaining to the transfer of development rights from landmark sites, shall be subject to the restrictions on the transfer of development rights (FAR) of a landmark "granting lot" as set forth in this table. Wherever there may be an inconsistency between any provision in Section 74-79 and the table, the provisions of the table shall apply.

MAXIMUM FLOOR AREA RATIOS AND FLOOR AREA BONUSES BY ZONING DISTRICT  
 BASIC AND MAXIMUM FLOOR AREA RATIOS (FAR)

Means for Achieving Permitted FAR Levels on a #Zoning Lot#	#Special Lower Manhattan District# except within Core or Subdistrict				Historic & Comm Core	South Street Seaport Subdistrict and all waterfront #zoning lots#				
	R8	C6-4	C5-3 C5-5 C6-9	M1-4		C5-5	C2-8	C4-6	C6-2A	C5-3
Basic maximum FAR	6.02 <sup>1</sup> 6.5 <sup>3</sup>	10.0 <sup>2,3,4</sup>	10.0 <sup>4</sup> 15.0 <sup>2,3</sup>	2.0 <sup>2</sup> 6.5 <sup>3</sup>	10.0 <sup>4</sup> 15.0 <sup>2,3</sup>	2.0 <sup>2</sup> 3.4 <sup>3</sup> 10.0 <sup>4</sup>	3.4 <sup>2,3,4</sup>	6.0 <sup>2</sup> 6.02 <sup>4</sup> 6.5 <sup>3</sup>	10.0 <sup>4</sup> 15.0 <sup>2,3</sup>	15.0
Maximum as-of-right #floor area# bonus for #public plazas#	NA	2.0	3.0	NA	NA	NA	NA	NA	NA	NA
Maximum as-of-right #floor area# bonus for Inclusionary Housing (23-90)	NA	2.0	NA	NA	NA	NA	NA	NA	NA	NA
Maximum FAR with as-of-right #floor area# bonuses	6.02 <sup>1</sup> 6.5 <sup>3</sup>	12.0	18.0	2.0 <sup>2</sup> 6.5 <sup>3</sup>	15.0	2.0 <sup>2</sup> 3.4 <sup>3</sup> 10.0 <sup>4</sup>	3.4	6.0 <sup>2</sup> 6.02 <sup>4</sup> 6.5 <sup>3</sup>	15.0	15.0
Maximum special-permit #floor area# bonuses by <u>authorization and special permit: subway station #mass transit station# improvements and #covered pedestrian spaces#</u>	NA	2.0	3.0	NA	3.0	NA 2.0 <sup>8</sup>	NA	NA	NA 3.0 <sup>8</sup>	NA 3.0 <sup>8</sup>
Maximum FAR with as-of-right, and/ or authorization or special permit #floor area# bonuses	6.02 <sup>1</sup> 6.5 <sup>3</sup>	12.0	18.0	2.0 <sup>2</sup> 6.5 <sup>3</sup>	18.0	2.0 2.4 <sup>2</sup> 3.4 4.08 <sup>3</sup> 10.0 12.0 <sup>4</sup>	3.4	6.0 <sup>2</sup> 6.02 <sup>4</sup> 6.5 <sup>3</sup>	15.0 18.0	15.0 18.0
Development rights (FAR) of a landmark lot for transfer purposes (74-79)	NA	10.0	15.0 <sup>5</sup> 18.0 <sup>6</sup>	NA	15.0	NA	NA	NA	NA	NA
Maximum total FAR of designated receiving sites in South Street Seaport Subdistrict (91-60)	NA	NA	NA	NA	NA	NA	3.4	8.02	21.6 <sup>7</sup>	21.6 <sup>7</sup>
Maximum FAR with transferred development rights from landmark #zoning lot# and as-of-right and special permit #floor area# bonuses	6.02 <sup>1</sup> 6.5 <sup>3</sup>	14.0	21.6	2.4 <sup>2</sup> 7.8 <sup>3</sup>	21.6	NA	3.4	8.02	21.6 <sup>7</sup>	21.6 <sup>7</sup>

<sup>1</sup> maximum #floor area ratio# and minimum #open space ratio# shall be determined in accordance with the provisions of Article II, Chapter 3

<sup>2</sup> for a #commercial# or, where permitted, #manufacturing use#

<sup>3</sup> for a #community facility use#

<sup>4</sup> for a #residential use#

<sup>5</sup> if receiving lot is located in a zoning district with a basic maximum FAR of less than 15

<sup>6</sup> if receiving lot is located in a zoning district with a basic maximum FAR of 15

<sup>7</sup> maximum FAR for receiving lots less than 30,000 square feet

<sup>8</sup> pursuant to Section 66-51 (Additional Floor Area for Mass Transit Station Improvements)

\* \* \*

91-25  
Special Permit Bonuses for Increased Floor Area

\* \* \*

91-251  
Special permit for subway station improvements

[Replaced by various provisions of Article VI, Chapter 6]

Within the #Special Lower Manhattan District#, the City Planning Commission may grant, by special permit, a #floor area# bonus for #zoning lots# that provide subway station improvements, pursuant to the provisions of Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan).

The total additional #floor area# permitted on the #zoning lot# shall not exceed the maximum amount permitted in the underlying district by the provisions of Sections 91-21 (Maximum Floor Area Ratio) or 91-22 (Floor Area Increase Regulations).

For the purposes of the Special District, the #zoning lot# that will receive the #floor area# bonus shall be located within a #Commercial District# with a #floor area ratio# of 10.0 or above and shall be adjacent to a subway station where major improvements have been provided. Upon completion of the improvement, the #zoning lot# will physically adjoin a subway station mezzanine, platform, concourse or connecting passageway.

The subway stations where such improvements are permitted are listed in the following table and shown on Map 7 (Subway Station Improvement Areas) in Appendix A:

STATION	LINE
Bowling Green	Lexington Avenue
Broad St	Nassau Street
Broadway-Nassau Street	8th Avenue
Fulton Street	Nassau Street/Broadway-7th Ave/ Lexington Ave
Brooklyn Bridge-City Hall	Lexington Avenue
Chambers Street	Nassau Street
Chambers Street	Broadway-7th Avenue
Chambers Street	8th Avenue
Park Place	Broadway-7th Avenue
World Trade Center	8th Avenue
City Hall	Broadway-60th Street
Cortlandt Street-WTC	Broadway-7th Avenue
Cortlandt Street	Broadway-60th Street
Rector Street	Broadway-7th Avenue
Rector Street	Broadway-60th Street
Wall Street	Broadway-7th Avenue
Wall Street	Lexington Avenue
Whitehall Street-South Ferry	Broadway-7th Avenue/ Broadway-60th Street

91-252  
Special permit for covered pedestrian space

\* \* \*

Chapter 2  
Special Park Improvement District

92-00  
GENERAL PURPOSES

\* \* \*

92-02  
General Provisions

Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect.

For the purposes of this Chapter, Duke Ellington Circle, located at the intersection of Fifth Avenue and East 110th Street, shall be considered a separate #street#.

For #transit-adjacent sites# or #qualifying transit improvement sites#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

92-04  
Special Bulk Provisions

92-041  
Maximum Floor Area Ratio

The maximum #floor area ratio# for any #zoning lot# shall not exceed 10.0. No #floor area# bonuses shall be permitted. However, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

Chapter 3  
Special Hudson Yards District

93-00  
GENERAL PURPOSES

\* \* \*

93-02  
General Provisions

The provisions of this Chapter shall apply within the #Special Hudson Yards District#. The regulations of all other chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

93-20  
SPECIAL FLOOR AREA REGULATIONS

\* \* \*

93-22  
Floor Area Regulations in Subdistricts B, C, D, E and F

\* \* \*

93-222  
Maximum floor area ratio in the 34th Street Corridor Subdistrict C

In the 34th Street Corridor Subdistrict C, the basic maximum #floor area ratios# of #non-residential buildings# are set forth in Row A in the table in Section 93-22 and may be increased to the amount specified in Row C pursuant to Section 93-31 (District Improvement Fund Bonus). The basic maximum #floor area ratios# of any #building# containing #residences# are set forth in Row B.

The #floor area ratio# of any #building# containing #residences# may be increased from 6.5, pursuant to Sections 93-31 (District Improvement Fund Bonus) and 23-154 (Inclusionary Housing), as modified by Section 93-23 (Modifications of Inclusionary Housing Program), as follows:

- (a) the #residential floor area ratio# may be increased from 6.5 to a maximum of 12.0 only if for every five square feet of #floor area# increase, pursuant to Section 93-31, there is a #floor area# increase of six square feet, pursuant to Section 23-154, as modified by Section 93-23; and
- (b) any #floor area# increase above a #floor area ratio# of 12.0 shall be only pursuant to Section 93-31.

For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). As a pre-condition to applying for such authorization, the applicant shall demonstrate that a #floor area ratio# of no less than 0.1 of the maximum #floor area ratio# set

forth in Row C of Section 93-22 (Floor Area Regulations in Subdistricts B, C, D, E, and F), has been achieved prior to, or in conjunction with, the application. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

93-224

Maximum floor area ratio in the South of Port Authority Subdistrict E

In the South of Port Authority Subdistrict E, #residential use# shall only be permitted as part of a #development# or #enlargement# on a #zoning lot# with a #commercial floor area ratio# of 15.0 or more, or as provided for phased developments in Section 93-122 (Certification for residential use in Subdistricts A, B and E).

For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). As a pre-condition to applying for such authorization, the applicant shall demonstrate that a #floor area ratio# of no less than 0.1 of the maximum #floor area ratio# set forth in Row C of Section 93-22 (Floor Area Regulations in Subdistricts B, C, D, E, and F), has been achieved prior to, or in conjunction with, the application. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

Chapter 5

Special Transit Land Use District

95-00 GENERAL PURPOSES

\* \* \*

95-02

General Provisions

#Special Transit Land Use Districts# are mapped in the vicinity of existing or proposed subway stations. Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect.

Whenever this Special District overlaps another Special District and imposes contradictory regulations, the provisions of the #Special Transit Land Use District# shall apply. Nothing contained in this regulation shall be understood to supersede Landmark or Historic District designations of the New York City Landmarks Preservation Commission.

For #qualifying transit improvement sites#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

95-05

Terms and Conditions for Permitted Uses and Construction Within Transit Easement Volume

The transit easement volume shall be used as an entrance/exit for public access to the subway and/or to provide better access of light and air to the subway station mezzanine, and for related uses. Illustrative of such purposes are light wells, stairs, ramps, escalators, elevators or, for #zoning lots# subject to the provisions of Section 95-032 (Determination of transit easements at other stations), ancillary facilities required to support the functioning of subways, including, but not limited to, emergency egress or ventilation structures.

No #floor area# bonus shall be allowed for any transit easement provided on a #zoning lot#. When a transit easement volume required on a #zoning lot# is located within a #building#, any floor spaces occupied by such transit easement volume shall not count as #floor area#. Any portion of the #lot area# of a #zoning lot# occupied by a transit easement and weather protected by an overhang or roofed area, shall be considered as a #public plaza# in the districts that allow such #public plaza# bonuses. In addition, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-52 51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

The transit easement volume, any construction allowed therein or any weather protection thereon by an overhang or roofed area pursuant to Section 95-053, shall be considered permitted obstructions within required #yards#, #open space# or in a #public plaza# area.

\* \* \*

Chapter 6 Special Clinton District

96-00 GENERAL PURPOSES

\* \* \*

96-02

General Provisions

Except as modified by the express provisions of this Chapter, the regulations of the underlying districts, or as modified by the #Special Midtown District#, remain in effect.

The #Special Midtown District# and its regulations, where applicable in the #Special Clinton District#, shall also apply and shall supplement or supersede regulations as set forth in this Chapter pursuant to Section 96-22 (Special Regulations for Eighth Avenue Perimeter Area). In the event of any conflict or discrepancy between the regulations, the more restrictive regulations shall apply in accordance with Section 11-22 (Application of Overlapping Regulations). This portion of the Special Purpose District is designated on the #zoning map# by the letters "CL-MID."

In #flood zones#, or for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

96-20

PERIMETER AREA

\* \* \*

96-21

Special Regulations for 42nd Street Perimeter Area

\* \* \*

(b) #Floor area# regulations

(1) #Floor area# regulations in Subarea 1

In Subarea 1 of the 42nd Street Perimeter Area as shown in Appendix A, the basic #floor area ratio# on a #zoning lot# shall be 10.0, and may be increased to a maximum of 12.0 only in accordance with the provisions of Section 23-154 (Inclusionary Housing), except that any units for which a #floor area# increase has been earned, pursuant to Section 23-154 shall be within the #Special Clinton District#. In addition, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Improvements). Such bonuses may be applied separately or in combination. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

96-22

Special Regulations for Eighth Avenue Perimeter Area

For #zoning lots#, or portions thereof, located in an area bounded by a line 150 feet west of Eighth Avenue, West 56th Street, Eighth Avenue and West 45th Street, excluding such area between West 49th and West 50th Streets, the #floor area ratio# permitted by the underlying district may be increased from 10.0 to 12.0 only pursuant to Section 23-90 (INCLUSIONARY HOUSING), except that any units for which a #floor area# increase has been earned pursuant to Section 23-90 shall be within the #Special Clinton District#.

All #developments# or #enlargements# located in an area bounded by a line 150 feet west of Eighth Avenue, West 45th Street, Eighth Avenue and West 42nd Street shall comply with special regulations set forth in Article VIII, Chapter 1 (Special Midtown District), including Sections 81-21 (Floor Area Ratio Regulations) and 81-70 (SPECIAL REGULATIONS FOR THEATER SUBDISTRICT). For #developments# or #enlargements# that utilize a #floor area# increase pursuant to the Inclusionary Housing Program of Section 23-90, any units for which a #floor area# increase has been earned shall be within the #Special Clinton District#.

In addition, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Improvement Bonus). Such bonuses may be applied separately or in combination. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

Chapter 7  
Special 125th Street District  
97-00  
GENERAL PURPOSES

\* \* \*

97-02  
General Provisions

In harmony with the general purposes of the #Special 125th Street District# and in accordance with the provisions of this Chapter, the express requirements of the Special District shall apply within the Special District.

Except as modified by the particular provisions of the Special District, the regulations of the underlying zoning districts shall remain in effect. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

97-40  
SPECIAL BULK REGULATIONS

\* \* \*

97-42  
Additional Floor Area and Lot Coverage Regulations

Within #Inclusionary Housing designated areas#, as specified in APPENDIX F of this Resolution, the maximum #floor area ratio# may be increased pursuant to the #floor area# provisions of Section 97-421 (Inclusionary Housing) or paragraph (a) of Section 97-422 (Floor area bonus for visual or performing arts uses), which may be used concurrently.

Within #Mandatory Inclusionary Housing areas#, as specified in APPENDIX F of this Resolution, the maximum #floor area ratio# may be increased for certain #zoning lots# specified in paragraph (b) or (c), as applicable, of Section 97-412 (Maximum floor area ratio in the Park Avenue Hub Subdistrict) by the provisions of Section 97-422.

For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). Bonuses pursuant to Sections 66-51, 97-421 and 97-422 may be applied separately or in combination. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

Chapter 9  
Special Madison Avenue Preservation District  
99-00  
GENERAL PURPOSES

\* \* \*

99-02  
General Provisions

Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect.

For #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

99-04  
Special Bulk Provisions

For the purposes of this Chapter, the maximum #floor area ratio# on a #zoning lot# shall not exceed 10.0. In addition, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

ARTICLE X  
SPECIAL PURPOSE DISTRICTS

Chapter 1  
Special Downtown Brooklyn District  
101-00  
GENERAL PURPOSES

\* \* \*

101-02  
General Provisions

The provisions of this Chapter shall apply within the #Special Downtown Brooklyn District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

Whenever a #zoning lot# is divided by the boundary of the #Special Downtown Brooklyn District#, the requirements set forth in this Chapter shall apply, and shall apply only to that portion of the #zoning lot# within the #Special Downtown Brooklyn District#.

\* \* \*

101-20  
SPECIAL BULK REGULATIONS

The bulk regulations of the underlying districts shall apply, except as superseded, supplemented or modified by the provisions of this Section, inclusive.

Within #Mandatory Inclusionary Housing areas#, as shown on the map in APPENDIX F of this Resolution, the provisions of Sections 23-154 (Inclusionary Housing) and 23-90 (INCLUSIONARY HOUSING) shall apply.

In addition, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

101-21  
Special Floor Area and Lot Coverage Regulations

\* \* \*

(c) In C6-4.5 Districts

In C6-4.5 Districts, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be 12.0. No #floor area# bonuses for #commercial# or #community facility uses# shall be permitted except in accordance with the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements), where applicable.

(d) In C6-6 Districts

In C6-6 Districts, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be 15.0, and the maximum #residential floor area ratio# shall be 9.0. No #floor area# bonuses shall be permitted except in accordance with the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements), where applicable.

(e) In C6-9 Districts

In C6-9 Districts, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be 18.0, and no #commercial# or #community facility floor area# bonuses shall be permitted. In addition, #residential floor area ratio# may be increased only pursuant to the applicable provisions of Section 23-154 (Inclusionary Housing); and no other #residential floor area# bonuses shall be permitted.

However, in the C6-9 District bounded by Flatbush Avenue, State Street, 3rd Avenue and Schermerhorn Street, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be 12.0, and the maximum #residential floor area ratio# shall be 9.0. No #floor area# bonuses shall be permitted. However, on - On a #zoning lot# with a minimum #lot area# of 50,000 square feet improved with public #schools# containing at least 100,000 square feet of floor space #developed# pursuant to an agreement with the New York City Educational Construction Fund, the maximum permitted #floor area ratio# for #commercial# or #community facility uses# shall be 15.0, and the maximum #residential floor area ratio# shall be 12.0. Up to 46,050 square feet



of floor space within such public #schools# shall be exempt from the definition of #floor area# for the purposes of calculating the permitted #floor area ratio# for #community facility uses# and the total maximum #floor area ratio# of the #zoning lot#. In addition, any #building# containing #residences# may be #developed# in accordance with the Quality Housing Program and the regulations of Article II, Chapter 8 shall apply. In such instances, the #bulk# regulations of this Chapter shall be considered the applicable #bulk# regulations for #Quality Housing buildings#.

No #floor area# bonuses shall be permitted except as authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements).

~~101-211~~  
Special permit for subway station improvements

[Replaced by various provisions of Article VI, Chapter 6]

Within the #Special Downtown Brooklyn District#, the City Planning Commission may grant, by special permit, a #floor area# bonus for #buildings# that provide subway station improvements, pursuant to the provisions of Section 74-634 (Subway station improvements in Downtown Brooklyn and in Commercial Districts of 10 FAR and above in Manhattan).

The total additional #floor area# permitted on the #zoning lot# shall not exceed 20 percent of the basic maximum #floor area ratio# permitted by the underlying district regulations.

For the purposes of the Special District, the #zoning lot# for the #development# that will receive the #floor area# bonus shall be adjacent to a subway station where major improvements have been provided. Upon completion of the improvement, the #zoning lot# will physically adjoin a subway station mezzanine, platform, concourse or connecting passageway.

The subway stations where such improvements are permitted are listed in the following table and shown on Map 7 (Subway Station Improvement Areas) in Appendix E of this Chapter.

Station	Line
Borough Hall	Eastern Parkway
Court Street	Montague Street Tunnel
DeKalb Avenue	4th Avenue/Brighton
Hoyt Street	Eastern Parkway
Hoyt-Schermerhorn Street	Crosstown/Fulton Street
Jay St.-MetroTech	Culver/Fulton Street
Lawrence Street	Montague Street Tunnel
Nevins Street	Eastern Parkway
Atlantic Ave-Pacific Street	4th Avenue/Brighton/Eastern Parkway

\* \* \*

Chapter 4  
Special Manhattanville Mixed Use District

\* \* \*

104-00  
GENERAL PURPOSES

\* \* \*

104-02  
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Manhattanville Mixed Use District#, the regulations of this Chapter shall apply within the Special District. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or

for #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI-Chapter 4, shall control.

\* \* \*

Chapter 5  
Special Natural Area District

\* \* \*

105-00  
GENERAL PURPOSES

\* \* \*

105-02  
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Natural Area District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter, in order to protect outstanding #natural features# described herein. Except as modified by the express provisions of this Chapter, the regulations of the underlying district remain in effect.

The provisions of this Chapter shall apply to:

\* \* \*

When a #zoning lot# existing on the effective date of the Special District designation is subdivided into two or more #zoning lots#, an application shall be submitted to the Commission for review and approval pursuant to Section 105-90 (FUTURE SUBDIVISION).

For #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

Chapter 7  
Special South Richmond Development District

\* \* \*

107-00  
GENERAL PURPOSES

\* \* \*

107-02  
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purpose of the #Special South Richmond Development District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. Except as modified by the express provisions of this Chapter, the regulations of the underlying districts remain in effect. In #flood zones#, or for #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

Chapter 9  
Special Little Italy District

109-00  
GENERAL PURPOSES

\* \* \*

109-02  
General Provisions

In harmony with the general purposes and intent of this Resolution and the general purposes of the #Special Little Italy District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Little Italy District# are superimposed are made inapplicable, and special regulations are substituted therefore in this Chapter.

Except as modified by the express provisions of this Special District, the regulations of the underlying zoning district remain in effect. For the purposes of this Chapter, the provisions of Sections 23-15, 23-20 and 33-13 are made inapplicable.

For #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict

between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

109-30  
HOUSTON STREET CORRIDOR (Area B)

109-32  
Bulk Regulations

\* \* \*

109-321  
Floor area regulations

The maximum #floor area ratio# permitted on a #zoning lot# is 7.52 for #residential use#, 6.0 for #commercial use# and 7.5 for #community facility use#. In no event shall the total #floor area ratio# for all #uses# exceed 7.52. However, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

**ARTICLE XI  
SPECIAL PURPOSE DISTRICTS**

Chapter 1  
Special Tribeca Mixed Use District

111-00  
GENERAL PURPOSES

\* \* \*

111-02  
General Provisions

The provisions of this Chapter shall apply to all #developments, enlargements, extensions#, alterations, #accessory uses#, open and enclosed and changes in #uses# within the Special District.

Except as modified by the express provisions of the District, the regulations of the underlying districts remain in effect. In #flood zones#, or for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

111-20  
SPECIAL BULK PROVISIONS FOR AREAS A1 THROUGH A7

\* \* \*

(b) Area A2

The underlying regulations applicable to a C6-3 District shall apply to #developments# and #enlargements#, except as set forth herein.

(1) Maximum #floor area ratio#

No #floor area# bonuses shall be permitted in Area A2.

The maximum #floor area ratio# permitted shall be 7.52. In no case shall the #floor area ratio# of the #commercial# or #community facility# portion of the #building# be more than 6.0.

For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions). No other #floor area# bonuses shall be permitted in Area A2.

\* \* \*

Chapter 3  
Special Ocean Parkway District

\* \* \*

113-00  
GENERAL PURPOSES

\* \* \*

113-01  
General Provisions

In harmony with the general purposes of the #Special Ocean Parkway District# and in accordance with the provisions of this Chapter, certain specified regulations of the districts on which the #Special Ocean Parkway District# is superimposed are made inapplicable and special regulations are substituted therefor. Except as modified by the express provisions of the Special District, the regulations of the underlying districts remain in force. In #flood zones#, or for #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

Chapter 4  
Special Bay Ridge District

\* \* \*

114-00  
GENERAL PURPOSES

\* \* \*

114-01  
General Provisions

In harmony with the general provisions and intent of this Resolution and the general purposes of the #Special Bay Ridge District#, the regulations of the districts upon which this Special District is superimposed are supplemented or modified in accordance with the provisions of this Chapter. The provisions of this Chapter shall apply to all #buildings#.

Except as modified by the provisions of this Chapter, the regulations of the underlying districts remain in effect.

For #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

Chapter 5  
Special Downtown Jamaica District

115-00  
GENERAL PURPOSES

\* \* \*

115-01  
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Downtown Jamaica District#, the regulations of this Chapter shall apply within the #Special Downtown Jamaica District#. The regulations of all other chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, for #transit-adjacent sites# or #qualifying transit improvement sites#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

Any special permit granted by the City Planning Commission before September 10, 2007, may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such special permit was granted, subject to the provisions of Sections 11-42 (Lapse of Authorization or Special Permit Granted by the City Planning Commission Pursuant to the 1961 Zoning Resolution) and 11-43 (Renewal of Authorization or Special Permit).

\* \* \*

115-20  
SPECIAL BULK REGULATIONS

\* \* \*

115-21  
Floor Area Ratio, Open Space and Lot Coverage

(a) Maximum #floor area ratio# for #zoning lots# containing non-#residential uses#

In C6-2 and C6-3 Districts, the underlying #floor area ratio# and #open space# provisions shall not apply. In lieu thereof, the maximum #floor area ratio# permitted for #commercial# and #community facility uses#, separately or in combination, shall not exceed 6.0 in C6-2 Districts and 8.0 in C6-3 Districts. No #floor area# bonuses shall be permitted.

In C6-4 Districts, the underlying #floor area ratio# provisions, including #floor area# bonus provisions, shall apply to #community facility uses#. For #commercial uses#, the maximum #floor area ratio# shall be 12.0, and no #floor area# bonuses shall apply.

In M1-4 Districts, the maximum #floor area ratio# permitted for #commercial#, #community facility# or #manufacturing uses#, separately or in combination, shall be 2.0.

For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). No other #floor area# bonuses shall apply. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

- (b) Maximum #floor area ratio# for #zoning lots# containing #residential uses#

The maximum #floor area ratio# for any #zoning lot# containing a #residential use# shall not exceed the #floor area ratio# set forth in Section 115-211 (Special Inclusionary Housing regulations) for the applicable district. In addition, for #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51. Such bonuses may be applied separately or in combination. For the purposes of this paragraph, defined terms additionally include those in Section 66-11.

\* \* \*

Chapter 6
Special Stapleton Waterfront District

\* \* \*

116-00
GENERAL PURPOSES

\* \* \*

116-02
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Stapleton Waterfront District#, the provisions of this Chapter shall apply to all #developments#, #enlargements# and changes of #use# within the #Special Stapleton Waterfront District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or for #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control, except in Subarea E of this Chapter.

Within the #Special Stapleton Waterfront District#, the regulations of the underlying R6, C2-2, C4-2A and M2-1 Districts shall apply, as modified in this Chapter.

\* \* \*

Chapter 7
Special Long Island City Mixed Use District

117-00
GENERAL PURPOSES

\* \* \*

117-02
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Long Island City Mixed Use District#, the regulations of this Chapter shall apply within the #Special Long Island City Mixed Use District#. The regulations of all other Chapters of this Resolution are applicable, except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or for #transit-adjacent sites#

or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

117-50
QUEENS PLAZA SUBDISTRICT

\* \* \*

117-52
Queens Plaza Subdistrict Special Bulk Regulations

\* \* \*

117-522
Maximum floor area ratio for all uses

The maximum #floor area ratio# permitted for #commercial#, #community facility#, #manufacturing# and #residential uses# in accordance with the applicable designated district shall not apply. In lieu thereof, the maximum #floor area ratio# permitted for #commercial#, #community facility#, #manufacturing# or #residential uses#, separately or in combination, is specified in the following table:

MAXIMUM FLOOR AREA RATIO FOR ALL USES IN THE QUEENS PLAZA SUBDISTRICT

Table with 2 columns: Area, Maximum #Floor Area Ratio#. Rows include A-1 A-2 (12.0), B (8.0), and C (5.0).

For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

Chapter 8
Special Union Square District

118-00
GENERAL PURPOSES

\* \* \*

118-01
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Union Square District# and in accordance with the provisions of this Chapter, certain specified #use#, #bulk# and #sign# regulations of the underlying district are made inapplicable and are superseded by the #use#, #bulk# and #sign# regulations of the #Special Union Square District# as set forth in this Chapter. In addition, special #street wall# transparency and location of entrance requirements are set forth in this Chapter. Except as modified by the express provisions of this Chapter, the underlying district regulations remain in effect.

For #transit-adjacent sites# or #qualifying transit improvement sites#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

118-20
BULK REGULATIONS

118-21
Floor Area Regulations

The maximum #floor area ratio# permitted on property bounded by:

- (a) Broadway, a line midway between East 14th Street and East 13th Street, a line 100 feet west of University Place, Union Square West and Broadway, a line midway between East 17th Street and East 18th Street, a line 100 feet east of Park Avenue South and Union Square East, East 15th Street, Union Square East, East 17th Street, Union Square West and East 14th Street is 8.0; and

(b) Broadway, a line midway between East 13th Street and East 14th Street, south prolongation of the center line of Irving Place and Irving Place, East 15th Street, Union Square East, Fourth Avenue, and East 14th Street is 10.0, except as provided in Section 118-60 (SUBWAY STATION IMPROVEMENTS WITHIN THE SPECIAL UNION SQUARE DISTRICT).

In no event, shall the The commercial #floor area ratio# shall not exceed 6.0 except in accordance with the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements).

\* \* \*

118-60  
SUBWAY STATION IMPROVEMENTS WITHIN THE SPECIAL UNION SQUARE DISTRICT

[Replaced by various provisions of Article VI, Chapter 6]

The City Planning Commission may, by special permit, grant #residential floor area# bonuses for #developments# or #enlargements# that provide major improvements on the 14th Street/Union Square Subway Station in accordance with the provisions of Section 74-634. The #zoning lot# for the #development# or #enlargement# on which such #floor area# bonus is requested shall be adjacent to the 14th Street/Union Square Subway Station or to an existing passageway to the station.

As part of the special permit, the Commission may modify the #street wall# regulations of Section 118-30 (STREET WALL HEIGHT AND SETBACK REGULATIONS) if it finds that such major improvements cannot be provided without modifications of these provisions:

\* \* \*

ARTICLE XII  
SPECIAL PURPOSE DISTRICTS

Chapter 1  
Special Garment Center District

121-00  
GENERAL PURPOSES

\* \* \*

121-01  
General Provisions

The provisions of this Chapter shall apply within the #Special Garment Center District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

121-40  
SPECIAL BULK REGULATIONS WITHIN SUBDISTRICT A-2

\* \* \*

121-41  
Maximum Permitted Floor Area Within Subdistrict A-2

The basic maximum #floor area ratio# of a #zoning lot# containing #non-residential buildings# shall be 10.0 and may be increased to a maximum #floor area ratio# of 12.0 only pursuant to Section 93-31 (District Improvement Fund Bonus). Such #zoning lot# may also contain #residences# within #buildings# existing on January 19, 2005, provided that such #buildings# are not #enlarged# after such date. For #zoning lots# containing #residences# within a #building# that is #developed# or #enlarged# on or after January 19, 2005, the basic maximum #floor area ratio# shall be 6.5. The #floor area ratio# of any such #zoning lot# may be increased from 6.5, pursuant to Section 93-31, and pursuant to Section 23-90 (INCLUSIONARY HOUSING), as modified by Section 93-23 (Modifications of Inclusionary Housing Program), provided that for every five square feet of #floor area# increase pursuant to Section 93-31, there is a #floor area# increase of six square feet pursuant to Section 23-90, as modified by Section 93-23, inclusive. The maximum #residential floor area ratio# shall be 12.0.

For the #conversion# to #dwelling units# of #non-residential buildings#, or portions thereof, where the total #floor area# on the #zoning lot# to be #converted# to #residential use# exceeds a #floor area ratio# of 12.0, such excess #floor area# shall be permitted only pursuant to Section 93-31.

For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission

pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). As a pre-condition to applying for such authorization, the applicant shall demonstrate that a #floor area ratio# of no less than 0.1 of the maximum #floor area ratio# pursuant to Section 93-31 or Section 93-23, has been achieved prior to, or in conjunction with, the application. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

Chapter 2  
Special Grand Concourse Preservation District

\* \* \*

122-00  
GENERAL PURPOSES

\* \* \*

122-02  
General Provisions

Except as modified by the express provisions of the #Special Grand Concourse Preservation District#, the regulations of the underlying zoning districts shall remain in effect.

For #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

Chapter 3  
Special Mixed Use District

123-10  
GENERAL PROVISIONS

The provisions of this Chapter shall apply within the #Special Mixed Use District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

In #Special Mixed Use Districts#, an M1 District is paired with a #Residence District#, as indicated on the #zoning maps#.

The designated #Residence Districts# in #Special Mixed Use Districts# shall not include either an R1 or an R2 District.

\* \* \*

Chapter 5  
Special Southern Hunters Point District

\* \* \*

125-00  
GENERAL PURPOSES

\* \* \*

125-01  
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Southern Hunters Point District#, the regulations of this Chapter shall apply within the #Special Southern Hunters Point District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or for #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

125-20  
FLOOR AREA REGULATIONS

125-21  
East River Subdistrict

In the East River Subdistrict, the maximum #residential floor area ratio# shall be as set forth in the following table, and no #floor area#

bonuses shall apply. For #developments# or #enlargements# on #qualifying transit improvement sites#, a #floor area# bonus for #mass transit station# improvements may be authorized by the City Planning Commission pursuant to the provisions of Section 66-51 (Additional Floor Area for Mass Transit Station Improvements). No other #floor area# bonuses shall apply. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

Chapter 8  
Special St. George District

\* \* \*

128-00  
GENERAL PURPOSES

\* \* \*

128-02  
General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special St. George District#, the regulations of this Chapter shall apply within the #Special St. George District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or for #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

ARTICLE XIII  
SPECIAL PURPOSE DISTRICTS

\* \* \*

Chapter 1  
Special Coney Island District

\* \* \*

131-00  
GENERAL PURPOSES

\* \* \*

131-01  
General Provisions

The provisions of this Chapter shall apply within the #Special Coney Island District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or for #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

Chapter 2  
Special Enhanced Commercial District

\* \* \*

132-10  
GENERAL PROVISIONS

The provisions of this Chapter shall apply to all #buildings# with #street# frontage along a #designated commercial street#.

The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, for #transit-adjacent sites# or #qualifying transit improvement sites#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

Chapter 5  
Special Bay Street Corridor District

\* \* \*

135-00  
GENERAL PURPOSES

\* \* \*

135-04  
Applicability

\* \* \*

135-045  
Applicability of Article VI, Chapter 6

Notwithstanding the general provisions of Section 135-01, for #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

135-045 135-046  
Applicability of this Chapter to certain zoning lots in Subdistrict D

For #zoning lots# in Subdistrict D containing a Use Group 16 or 17 #use# operated in support of a public service or public transportation facility and existing on June 26, 2019, the provisions of this Chapter shall not apply. In lieu thereof, the provisions of an M1-1 District shall apply.

\* \* \*

Chapter 6  
Special Downtown Far Rockaway District

\* \* \*

136-00  
GENERAL PURPOSES

\* \* \*

136-01  
General Provisions

The regulations of this Chapter shall apply within the #Special Downtown Far Rockaway District#. The regulations of all other Chapters of this Resolution are applicable except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

For #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

Chapter 7  
Special Coastal Risk District

\* \* \*

137-10  
GENERAL PURPOSES

The provisions of this Chapter shall apply in the #Special Coastal Risk District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

For #transit-adjacent sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

Chapter 8  
Special East Harlem Corridors District

138-00  
GENERAL PURPOSES

\* \* \*

138-01  
General Provisions

The provisions of this Chapter shall apply within the #Special East Harlem Corridors District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, for #transit-adjacent sites# or #qualifying transit improvement sites#, in the event of a conflict between the provisions of this Chapter and

the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

\* \* \*

138-20  
SPECIAL BULK REGULATIONS

\* \* \*

138-21  
Floor Area Regulations

\* \* \*

138-211  
Special floor area regulations

\* \* \*

(c) Any floor space occupied by a subway entrance provided pursuant to the provisions of Section 138-33 (Off-street Relocation or Renovation of a Subway Stair) shall not count as #floor area#. For #transit-adjacent sites# or #qualifying transit improvement sites#, in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control. For the purposes of this paragraph, defined terms additionally include those in Section 66-11 (Definitions).

138-212  
Additional floor area regulations in the Park Avenue Subdistrict

Within the Park Avenue Subdistrict, as shown on Map 1 of the Appendix to this Chapter, the #floor area ratio# regulations of paragraphs (a) and (b) of Section 138-211 are further modified in this Section.

\* \* \*

ARTICLE XIV  
SPECIAL PURPOSE DISTRICTS

Chapter 1  
Special Jerome Corridor District

141-00  
GENERAL PURPOSES

\* \* \*

141-01  
General Provisions

The provisions of this Chapter shall apply within the #Special Jerome Corridor District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 6 shall control.

\* \* \*

Chapter 2  
Special Inwood District

142-00  
GENERAL PURPOSES

\* \* \*

142-01  
General Provisions

The provisions of this Chapter shall apply within the #Special Inwood District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control. However, in #flood zones#, or for #transit-adjacent sites# or #qualifying transit improvement sites#, as defined in Section 66-11 (Definitions), in the event of a conflict between the provisions of this Chapter and the provisions of Article VI, Chapter 4 (Special Regulations Applying in Flood Hazard Areas), or Article VI, Chapter 6 (Special Regulations Applying Around Mass Transit Stations), the provisions of Article VI, Chapter 4, shall control.

\* \* \*

142-09  
Off-street Relocation of Subway Station Entrances

For all #developments# or #enlargements# involving ground floor level construction on a #zoning lot# that is wholly or partially located within a Transit Easement Zone, as shown on Map 3 (Special Inwood District – Transit Easement Zones) in the Appendix to this Chapter, a transit easement volume may be required needed on such #zoning lot# for public access between the #street# and the adjacent above- or below-grade subway station, pursuant to the provisions of Section 66-20 (SPECIAL PROVISIONS FOR PRIMARY TRANSIT-ADJACENT SITES). Such #zoning lots# that are wholly or partially within a Transit Easement Zone shall be considered a #primary transit-adjacent site#, as defined in Section 66-11 (Definitions).

(a) Transit Easement

Prior to filing any application with the Department of Buildings for an excavation permit, foundation permit, new building permit or alteration permit for a #development# or #enlargement#, the owner of the #zoning lot# shall file an application with the Metropolitan Transportation Authority (MTA) and the Chairperson of the City Planning Commission requesting a certification as to whether or not a transit easement volume is required on the #zoning lot#.

Within 60 days of receipt of such application, the MTA and the Chairperson shall jointly certify whether or not a transit easement volume is required on the #zoning lot#. Failure to certify within the 60-day period will release the owner from any obligation to provide a transit easement volume on such #zoning lot#.

When the MTA and the Chairperson indicate that a transit easement volume is required, the MTA shall, in consultation with the owner of the #zoning lot# and the Chairperson, determine the appropriate type of transit easement and reasonable dimensions for such transit easement volume.

The owner shall submit a site plan showing a proposed location of such transit easement volume that would provide access between the #street# and the adjacent subway station and be compatible with the proposed #development# or #enlargement# on the #zoning lot# for joint approval and final certification by the MTA and the Chairperson. The MTA and the Chairperson shall comment on such site plan within 45 days of its receipt and may, within such 45-day period or following its expiration, permit the granting of an excavation permit while the location and size of the transit easement volume is being finalized. Upon joint approval of a site plan by the MTA and the Chairperson, copies of such certification shall be forwarded by the Chairperson to the Department of Buildings.

Legally enforceable instruments, running with the land, creating a transit easement volume, and setting forth the obligations of either the MTA or the owner and developer, their successors and assigns, to design and construct the improvement, shall be executed and recorded in a form acceptable to the MTA and the Chairperson. The execution and recording of such instruments shall be a precondition to the issuance of any foundation permit, new building permit, or alteration permit by the Department of Buildings allowing such #development# or #enlargement#.

(b) Construction and Maintenance

Where a transit easement volume is required pursuant to this Section, transit access improvements within such volume shall be constructed and maintained either by the MTA or the owner of the #zoning lot# with the #development# or #enlargement#.

(1) Where such mass transit improvement is constructed and maintained by the owner of the #development # or #enlargement#:

- (i) a transit access improvement shall be provided in accordance with standards set forth by the MTA;
- (ii) such improvement shall be accessible to the public at all times, except as otherwise approved by the MTA;
- (iii) such improvement shall include #signs# to announce accessibility to the public. Such #signs# shall be exempt from the maximum #surface area# of non-#illuminated signs# permitted by Section 32-642 (Non-illuminated signs); and
- (iv) no temporary certificate of occupancy shall be granted by the Department of Buildings for the #building# until the Chairperson of the City Planning Commission, acting in consultation with the MTA, has certified that the improvement is substantially complete and usable by the public.

(2) Where such mass transit improvement is constructed and maintained by the MTA:

- (i) Where the construction of the improvement is not contemporaneous with the construction of the #development# or #enlargement#, any underground

walls constructed along the #front lot line# adjacent to a below-grade subway station shall include a knockout panel, not less than 12 feet wide, below #curb level# down to the bottom of the easement. The actual location and size of such knockout panel shall be determined through consultation with the MTA.

- (ii) Temporary construction access shall be granted to the MTA on portions of the #zoning lot# outside of the transit easement volume, as necessary, to enable construction within and connection to the transit easement volume.
(iii) In the event that the MTA has approved of obstructions associated with the #development# or #enlargement# within the transit easement volume, such as building columns or footings, such construction and maintenance shall exclude any such obstructions within the transit easement volume.

(c) Additional modifications

Where a transit easement volume is required pursuant to paragraph (a) of this Section, the Chairperson of the City Planning Commission shall certify the following modifications in conjunction with such transit easement volume certification:

- (1) the edge of the transit easement volume facing the #street# shall be considered a #street wall# for the purposes of applying the #street wall# location provisions set forth in Section 142-40 (SPECIAL HEIGHT AND SETBACK REGULATIONS), inclusive, irrespective of whether such volume is incorporated into a #building#;
(2) for #zoning lots# adjacent to a below-grade subway station, the maximum height for the #building# set forth in Section 142-40, inclusive, shall be increased by 10 feet, and the maximum number of #stories#, if applicable, shall be increased by one, except where the provisions of Section 142-48 (Special Regulations for Certain Sites in Subdistricts C and F) are being utilized;
(3) the floor space contained within any transit easement volume required pursuant to this Section shall be excluded from the definition of #floor area#; and
(4) the street frontage of such transit easement volume shall be excluded for the purpose of applying the provisions of Section 142-14 (Ground Floor Level Requirements).

(d) Temporary Use

Any easement volume required on a #zoning lot# pursuant to paragraph (a) of this Section may be temporarily used for any permitted #commercial# or #community facility uses# until such time as required by the MTA for transit access improvements. The floor space allocated to such temporary #uses# within the transit easement volume shall continue to be exempt from the definition of #floor area# and shall not be included for the purpose of calculating #accessory# off-street parking, bicycle parking, or loading berths.

Improvements or construction of a temporary nature within the easement volume for such temporary #uses# shall be removed by the owner of the #building# or portion of the #zoning lot# within which the easement volume is located prior to the time at which public #use# of the easement area is required, except as otherwise specified by the MTA. A minimum notice of six months shall be given, in writing, by the MTA to the owner of the #building# or portion of the #zoning lot# to vacate the easement volume.

(e) Termination of an easement volume

In the event that the MTA and the City Planning Commission jointly notify the Department of Buildings and the owner in writing that a transit easement volume is not required on a #zoning lot# in its final construction plans, the restrictions imposed on such #zoning lot# by the provisions of this Section shall lapse, following receipt of notification thereof by the owner, and the owner shall have the right to record an instrument reciting the consent of the MTA to the extinguishment of the easement volume.

On any #zoning lot# which has been #developed# or #enlarged# in accordance with the provisions of this Section and on which termination of transit easement has been certified, pursuant to this paragraph, any floor space in a previously required transit easement volume shall continue to be exempt from the definition of #floor area# and shall not be included for the purpose of calculating requirements for #accessory# off-street parking, bicycle parking or loading berths. However, where such previously required volume is located within a #building#, the ground floor space shall be subject to the provisions of Section 142-14.

\* \* \*

BOROUGH OF BROOKLYN
Nos. 2 & 3
840 ATLANTIC AVENUE REZONING
No. 2

CD 8 C 210249 ZMK
IN THE MATTER OF an application submitted by Vanderbilt Atlantic Holdings LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 16c:

- 1. changing from an R6B District to a C6-3X District, property bounded by a line midway between Atlantic Avenue and Pacific Street, a line 125 feet easterly of Vanderbilt Avenue, Pacific Street, and a line 100 feet easterly of Vanderbilt Avenue; and
2. changing from an M1-1 District to a C6-3X District, property bounded by the northerly boundary line of the Long Island Railroad Right-Of-Way (Atlantic Division), a line 200 feet easterly of Vanderbilt Avenue and its northerly prolongation, a line midway between Atlantic Avenue and Pacific Street, a line 100 feet easterly of Vanderbilt Avenue, Pacific Street, and Vanderbilt Avenue and its northerly centerline prolongation;

as shown on a diagram (for illustrative purposes only), dated March 1, 2021, and subject to the conditions of CEQR Declaration E-604.

No. 3

CD 8 N 210250 ZRK
IN THE MATTER OF an application submitted by Vanderbilt Atlantic Holdings LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Article III Chapter 5 for the purpose of amending street wall location regulations and modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area.

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

\* \* \*

ARTICLE III
COMMERCIAL DISTRICT REGULATIONS

\* \* \*

Chapter 5

Bulk Regulations for Mixed Buildings in Commercial Districts

\* \* \*

35-66

Special Height and Setback Provisions for Certain Areas

\* \* \*

35-66Z

Special height and setback provisions in C6-3X Districts along Atlantic Avenue within Community District 8, Borough of Brooklyn

In C6-3X Districts in Community District 8, in the Borough of Brooklyn, for a #zoning lot# with frontage along Atlantic Avenue, the #street wall# provisions of paragraph (a) of Section 35-651 shall apply along the Atlantic Avenue #street# frontage, and shall also apply along #street# frontages intersecting Atlantic Avenue, within 50 feet of the intersection.

\* \* \*

APPENDIX F
Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

\* \* \*

BROOKLYN

\* \* \*

Brooklyn Community District 8

\* \* \*



Map 4. [date of adoption]



Mandatory Inclusionary Housing area  
 (see Section 23-154(d)(3))  
 Area # — [date of adoption] MIH Program Option 2  
 Portion of Community District 8, Brooklyn  
 \* \* \*

BOROUGH OF QUEENS

No. 4

133 BEACH 116<sup>TH</sup> STREET REZONING

CD 14 C 210148 ZMQ

IN THE MATTER OF an application submitted by Beach 116<sup>th</sup> Associates LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 30b:

1. eliminating from within an existing R7A District a C1-3 District, bounded by Beach 116<sup>th</sup> Street, a line 200 feet northwesterly of Ocean Promenade, a line midway between Beach 116<sup>th</sup> Street and Beach 117<sup>th</sup> Street, and a line 150 feet southeasterly of Rockaway Beach Boulevard; and
2. establishing within an existing R7A District a C2-4 District, bounded by Beach 116<sup>th</sup> Street, a line 200 feet northwesterly of Ocean Promenade, a line midway between Beach 116<sup>th</sup> Street and Beach 117<sup>th</sup> Street, and a line 150 feet southeasterly of Rockaway Beach Boulevard;

as shown on a diagram (for illustrative purposes only) dated April 5, 2021.

YVETTE V. GRUEL, Calendar Officer  
 City Planning Commission  
 120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
 Telephone (212) 720-3370



◀ j9-23

In support of the City's efforts to contain the spread of COVID-19, the City Planning Commission will hold a remote public hearing, via the teleconferencing application Zoom, at 10:00 A.M. Eastern Daylight Time, on Wednesday, June 9, 2021, regarding the calendar items listed below.

The meeting will be live streamed through Department of City Planning's (DCP's) website and accessible from the following webpage, which contains specific instructions on how to observe and participate, as well as materials relating to the meeting:  
<https://www1.nyc.gov/site/nycengage/events/city-planning-commission-public-meeting/287253/1>

Members of the public should observe the meeting through DCP's website.

Testimony can be provided verbally by joining the meeting using either Zoom or by calling the following number and entering the information listed below:

877 853 5247 US Toll-free  
 888 788 0099 US Toll-free

253 215 8782 US Toll Number  
 213 338 8477 US Toll Number

Meeting ID: 618 237 7396  
 [Press # to skip the Participation ID]  
 Password: 1

To provide verbal testimony via Zoom please follow the instructions available through the above webpage.

Written comments will also be accepted until 11:59 P.M., one week before the date of vote. Please use the CPC Comments form that is accessible through the above webpage.

Please inform the Department of City Planning if you need a reasonable accommodation, such as a sign language interpreter, in order to participate in the meeting. The submission of testimony, verbal or written, in a language other than English, will be accepted, and real time interpretation services will be provided based on available resources. Requests for a reasonable accommodation or foreign language assistance during the meeting should be emailed to [AccessibilityInfo@planning.nyc.gov] or made by calling [212-720-3508]. Requests must be submitted at least five business days before the meeting.

BOROUGH OF QUEENS  
 Nos. 1 & 2  
 BEACH 67<sup>TH</sup> REZONING  
 No. 1

CD 14 C 200230 ZMQ

IN THE MATTER OF an application submitted by Brisa Builders Development LLC and God's Battalion of Prayer Properties, Inc., pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 30c, by changing from an R4A District to an R6 District property bounded by a line 540 feet northerly of Beach Channel Drive, a line midway between Beach 66<sup>th</sup> Street and Beach 67<sup>th</sup> Street, a line 230 feet northerly of Beach Channel Drive, Beach 67<sup>th</sup> Street, a line 100 feet northerly of Beach Channel Drive, Beach 68<sup>th</sup> Street, a line 380 feet northerly of Beach Channel Drive, and Beach 67<sup>th</sup> Street, as shown on a diagram (for illustrative purposes only) dated March 1, 2021, and subject to the conditions of CEQR Declaration E-605.

No. 2

CD 14 N 200231 ZRQ

IN THE MATTER OF an application submitted by Brisa Builders Development LLC and God's Battalion of Prayer Properties, Inc., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area.

Matter underlined is new, to be added;  
 Matter ~~struck out~~ is to be deleted;  
 Matter within # # is defined in Section 12-10;  
 \* \* \* indicates where unchanged text appears in the Zoning Resolution.

\* \* \*

APPENDIX F  
 Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

\* \* \*

QUEENS

\* \* \*

Queens Community District 14

\* \* \*

Map 3- [date of adoption]



Mandatory Inclusionary Housing Area see Section 23-154(d)(3)

Area # — [date of adoption] — MIH Program Option 1 and Option 2

Portion of Community District 14, Queens

YVETTE V. GRUEL, Calendar Officer  
 City Planning Commission  
 120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271  
 Telephone (212) 720-3370



m25-j9

**COMMUNITY BOARDS**

■ PUBLIC HEARINGS

**NOTICE IS HEREBY GIVEN** that the following matters have been scheduled for public hearing by Community Board:

**BOROUGH OF BROOKLYN**

COMMUNITY BOARD NO. 18 - Wednesday, June 16, 2021, 7:00 P.M., via WeBex: <https://nycwb.webex.com/nycwb/onstage/g.php?MTID=eb8af9833cc5a5a6c0d7809d94d751550>

**N 210380 ZRY - Fresh Foods Store Update** – The Department of City Planning is proposing to update and expand the FRESH food stores program, which supports convenient, accessible grocery stores in underserved neighborhoods of the Bronx, Brooklyn, Queens and Staten Island. The update would bring the FRESH program to more communities across the city, among other changes to ensure FRESH stores are evenly distributed and financially viable. A citywide text amendment to expand the FRESH program to other underserved neighborhoods. The Proposal Information is available at: <https://www1.nyc.gov/site/planning/plans/fresh2/fresh2-overview.page>

j8-16

**NOTICE IS HEREBY GIVEN** that the following matters have been scheduled for public hearing by Community Board:

**BOROUGH OF BROOKLYN**

COMMUNITY BOARD NO. 18 - Wednesday, June 16, 2021, 7:00 P.M., via Webex: <https://nycwb.webex.com/nycwb/onstage/g.php?MTID=eb8af9833cc5a5a6c0d7809d94d751550>

**N 210382 ZRY - Health and Fitness Citywide Text Amendment** – Proposal to amend the Zoning Resolution to modify regulations related to gyms, spas, licensed massage therapy, and other health and fitness facilities defined as “Physical Culture or Health Establishments.” The proposed text amendment will remove the requirement for such facilities to receive a special permit by the Board of Standards and Appeals (ZR 73-36). The Proposal Information is available at: <https://www1.nyc.gov/site/planning/plans/health-and-fitness/health-and-fitness-overview.page>.

j8-16

**NOTICE IS HEREBY GIVEN** that the following matters have been scheduled for public hearing by Community Board:

**BOROUGH OF BROOKLYN**

COMMUNITY BOARD NO. 02 - Wednesday, June 9, 2021 at 6:00 P.M., via Zoom. Meeting ID: 935 2338 8786. Call-in 646 518 9805 Passcode: ExqA62. US (New York), Meeting ID: 935 2338 8786, Passcode: 896721.

ULURP# 210463ZRK 210462ZMK

**IN THE MATTER OF** an application to the Department of City Planning, Building 77 QALICB, Inc. (the “Applicant”) respectfully requests the following actions for a series of land use actions to facilitate the objectives of (the “Proposed Actions”), with respect to Brooklyn Block 2023, Lots 1 and 150 within the Brooklyn Navy Yard, located in Community District 2 in Brooklyn:

1. A zoning text amendment to create the Special Brooklyn Navy Yard District (the “Special District”) and
2. A zoning map amendment to: (i) map the Special District

*The Proposed Actions* would introduce tailored zoning regulations to facilitate and refine the further development of a modern manufacturing campus, at the Brooklyn Navy Yard (the “Yard”)

The Application and Documents are <https://zap.planning.nyc.gov/projects/2018K0463>

- Persons wishing to testify can pre-register by contacting [bk02@cb.nyc.gov](mailto:bk02@cb.nyc.gov), from June 2- June 9.
- Written testimony will be accepted through June 9, at 2:00 P.M.
- In-meeting registration through the chat feature from 5:45 P.M. to 6:30 P.M.
- Meeting link will be available in the online calendar at, <https://tinyurl.com/3edwrs4t>

Accessibility questions: Carol-Ann Church (718) 596-5410, [cachurch@cb.nyc.gov](mailto:cachurch@cb.nyc.gov), by: Friday, June 4, 2021, 1:00 P.M.



j2-9

**NOTICE IS HEREBY GIVEN** that the following matter has been scheduled for public hearing by Community Board:

**BOROUGH OF MANHATTAN**

COMMUNITY BOARD NO. 06 - Monday, June 28, 2021, at 6:30 P.M., on Zoom. A link to the hearing on Zoom can be found here: [https://zoom.us/webinar/register/WN\\_zLJ-YSuUSbu0Gev\\_Htjuaw](https://zoom.us/webinar/register/WN_zLJ-YSuUSbu0Gev_Htjuaw)

A public hearing with respect to a ULURP application by Commodore Owner LLC and the Department of Citywide Administrative Services for a zoning text amendment (N 210416 ZRM), special permits (210412 ZSM, 210413 ZSM, 210414 ZSM, 210415 ZSM), certifications and disposition of City-owned property (210417 PPM), to facilitate the construction of a new 1,646 ft tall, 2.25 million sf, office and hotel building at 109 East 42nd Street/175 Park Avenue.

j8-28

**NOTICE IS HEREBY GIVEN** that the following matters have been scheduled for public hearing by Community Board:

**BOROUGH OF QUEENS**

Community Board NO. 11 - Monday, June 7, 2021, 7:30 P.M. via Zoom: Join Zoom Meeting <https://zoom.us/j/93804476620> Meeting ID: 938 0447 6620 One tap mobile+16465588656,,93804476620# US (New York)

ULURP #N 210270 ZRY

Zoning for Accessibility (ZFA) seeks to make NYC’s transit more accessible, more quickly and better coordinated with the streets and buildings around it. Through ZFA, developers would work with the MTA to set aside space where needed for station elevators. It would expand incentives for developers to build elevators and related station upgrades in new, high-density buildings.

ULURP #N 210382 ZRY

Proposal to amend the Zoning Resolution to modify regulations related to gyms, spas, licensed massage therapy, and other health and fitness facilities defined in the “Physical Culture or Health Establishments”. The [proposed text amendment will remove the requirement for such facilities to receive a special permit by the Board of Standards and Appeals (ZR-73-36).

ULURP #N 210406 ZRY

A proposed zoning change that would require the City Planning Commission approval for new and enlarged hotels and motels, tourist cabins and boatels in commercial, mixed-use and paired M1/R districts.

j7-11

**EMPLOYEES’ RETIREMENT SYSTEM**

■ MEETING

Please be advised that the next Regular Meeting of the Board of Trustees of the New York City Employees’ Retirement System, is Thursday, June 10, 2021, at 9:30 A.M.

Due to the Covid-19 pandemic and for everyone’s safety, the NYCERS Regular Board of Trustees no longer meet in person and instead the meeting is held over Zoom. However, you can still view the meeting online, at [www.nycers.org/meeting-webcasts](http://www.nycers.org/meeting-webcasts).

j3-9

Please be advised, that the next Common Investment Meeting of the Board of Trustees of the New York City Employees’ Retirement System is Wednesday, June 16, 2021, at 9:00 A.M.

Due to the Covid-19 pandemic and for everyone’s safety, the NYCERS Regular Board of Trustees no longer meet in person and instead the meeting is held over Zoom. However, you can still view only the public session online, at <https://comptroller.nyc.gov/services/financialmatters/pension/common-investment-meeting/>.

◀ j9-15

## EQUAL EMPLOYMENT PRACTICES COMMISSION

### MEETING

#### Notice of NYC Equal Employment Practices Commission Meeting (Open to the Public)

**When and where is the Commission Meeting?** The Equal Employment Practices Commission's upcoming Commission Meeting will take place at 10:30 A.M., on Thursday, June 10, 2021. The meeting will be conducted by video conference via WebEx using the details below:

**Meeting number (event number):** 173 196 1068  
**Meeting password:** axRuMvqa826

- **Join by internet**  
[Click to join meeting](#)

- **Join by phone**  
 (408) 418-9388 United States Toll

- **Join by video system or application**  
 Dial [1731961068@webex.com](tel:1731961068)  
 You can also dial 173.243.2.68 and enter your meeting number.

#### How do I ask questions during the Commission meeting?

Anyone can ask questions during the Commission meeting by:

- **WebEx.** You can submit your questions directly through the chat panel of the WebEx once joined via the internet option above.
- **Email.** You can email questions to [mpinckney@eepc.nyc.gov](mailto:mpinckney@eepc.nyc.gov).

**Is there a deadline to submit questions?** Yes, you must submit all questions during the meeting session on June 10, 2021.

**Can I review the recording of the Commission Meeting?** Yes, you can review the recorded Commission meeting, which will be made available online by going to the Equal Employment Practices Commission's YouTube page <https://www.youtube.com/channel/UCdGaeD4p-esdjymDTdGScfA/featured> a few days after the meeting.

j3-10

## FRANCHISE AND CONCESSION REVIEW COMMITTEE

### MEETING

**PUBLIC NOTICE IS HEREBY GIVEN** that the Franchise and Concession Review Committee, will hold a remote public meeting on Wednesday, June 9, 2021, at 2:30 P.M., via Microsoft Teams dial-in. The dial-in information is below:

Dial-in # 1-646-893-7101  
 Access Code: 343 754 793  
 Press # on further prompts

For further information on accessibility or to make a request for accommodations, such as sign language interpretation services, please contact the Mayor's Office of Contract Services (MOCS), via email, at [DisabilityAffairs@mocs.nyc.gov](mailto:DisabilityAffairs@mocs.nyc.gov), or via phone, at (646) 872-0231. Any person requiring reasonable accommodation for the public meeting should contact MOCS, at least five (5) business days in advance of the meeting to ensure availability.

m21-j9

## HOUSING AUTHORITY

### MEETING

Because of the ongoing COVID-19 health crisis and in relation to Governor Andrew Cuomo's Executive Orders, the Audit Committee Meeting of the New York City Housing Authority, scheduled for **Thursday, June 17, 2021, at 10:00 A.M.**, will be limited to viewing the livestream, or listening, via phone, instead of attendance in person.

For public access, the meeting will be streamed live on NYCHA's Website, at <https://www1.nyc.gov/site/nycha/about/audit-committee-meetings.page>, or can be accessed by calling 1 (877) 853-5247 and using Webinar ID: 832 5212 8338.

For those wishing to provide public comment, pre-registration is required, via email, to [audit@nycha.nyc.gov](mailto:audit@nycha.nyc.gov), or by contacting

(212) 306-3441, no later than 2:00 P.M., on the day prior to the Audit Committee Meeting. When pre-registering, please provide your name, development or organization name, contact information, email address and item you wish to comment on. You will then be contacted with instructions for providing comment. Comments are limited to the items on the Agenda.

Speaking time will be limited to three minutes. Speakers will provide comment in the order in which the requests to comment are received. The public comment period will conclude upon all speakers being heard or at the expiration of 30 minutes allotted for public comment, whichever occurs first.

Copies of the Agenda will be available on NYCHA's Website, no earlier than 24 hours before the upcoming Audit Committee Meeting. Copies of the draft Minutes will also be available on NYCHA's Website, no earlier than 3:00 P.M., on Thursday, two weeks after the Audit Committee Meeting.

Any changes to the schedule will be posted here and on NYCHA's Website, at <https://www1.nyc.gov/site/nycha/about/audit-committee-meetings.page>, to the extent practicable at a reasonable time before the meeting.

For additional information regarding the Audit Committee Meeting, please visit NYCHA's Website, contact by phone, at (212) 306-3441, or by email, at [audit@nycha.nyc.gov](mailto:audit@nycha.nyc.gov).

m27-j17

Because of the ongoing COVID-19 health crisis and in relation to Governor Andrew Cuomo's Executive Orders, the Board Meeting of the New York City Housing Authority, scheduled for Wednesday, June 16, 2021, at 10:30 A.M., will be limited to viewing the live-stream or listening via phone instead of attendance in person.

For public access, the meeting will be streamed live on NYCHA's website <http://nyc.gov/nycha> and <http://on.nyc.gov/boardmeetings>, or can be accessed by calling (646) 558-8656 using Webinar ID: 896 6912 6975 and Passcode: 4393520253.

For those wishing to provide public comment, pre-registration is required via email to [corporate.secretary@nycha.nyc.gov](mailto:corporate.secretary@nycha.nyc.gov), or by contacting (212) 306-6088, no later than 5:00 P.M. on the day prior to the Board Meeting. When pre-registering, please provide your name, development or organization name, contact information and item you wish to comment on. You will then be contacted with instructions for providing comment. Comments are limited to the items on the Calendar.

Speaking time will be limited to three minutes. Speakers will provide comment in the order in which the requests to comment are received. The public comment period will conclude upon all speakers being heard or at the expiration of 30 minutes allotted for public comment, whichever occurs first.

Copies of the Calendar will be available on NYCHA's website, no earlier than 24 hours before the upcoming Board Meeting. Copies of the Minutes will also be available on NYCHA's website no earlier than 3:00 P.M. on the Thursday following the Board Meeting.

Any changes to the schedule will be posted here and on NYCHA's website, at <http://www1.nyc.gov/site/nycha/about/board-calendar.page> to the extent practicable at a reasonable time before the meeting.

For additional information, please visit NYCHA's website or contact (212) 306-6088.



m28-j16

Because of the ongoing COVID-19 health crisis and in relation to Governor Andrew Cuomo's Executive Orders, the Board Meeting of the New York City Housing Authority, scheduled for Wednesday, June 30, 2021, at 10:00 A.M., will be limited to viewing the livestream or listening, via phone, instead of attendance in person.

For public access, the meeting will be streamed live on NYCHA's Website, <http://nyc.gov/nycha> and <http://on.nyc.gov/boardmeetings>, or can be accessed by calling (646) 558-8656 using Webinar ID: 822 7060 5738 and Passcode: 3881717485.

For those wishing to provide public comment, pre-registration is required, via email, to [corporate.secretary@nycha.nyc.gov](mailto:corporate.secretary@nycha.nyc.gov), or by contacting (212) 306-6088, no later than 5:00 P.M., on the day prior to the Board Meeting. When pre-registering, please provide your name, development or organization name, contact information and item you wish to comment on. You will then be contacted with instructions for providing comment.

Comments are limited to the items on the Calendar.

Speaking time will be limited to three minutes. Speakers will provide comment in the order in which the requests to comment are received. The public comment period will conclude upon all speakers being

heard, or at the expiration of 30 minutes allotted for public comment, whichever occurs first.

Copies of the Calendar will be available on NYCHA's Website, no earlier than 24 hours before the upcoming Board Meeting. Copies of the Minutes will also be available on NYCHA's Website, no earlier than 3:00 P.M., on the Thursday following the Board Meeting.

Any changes to the schedule will be posted here and on NYCHA's Website, at <http://www1.nyc.gov/site/nycha/about/board-calendar.page>, to the extent practicable, at a reasonable time before the meeting.

For additional information, please visit NYCHA's Website, or contact (212) 306-6088.

✦ j9-30

## LANDMARKS PRESERVATION COMMISSION

### ■ PUBLIC HEARINGS

**NOTICE IS HEREBY GIVEN** that, pursuant to the provisions of Title 25, Chapter 3 of the Administrative Code of the City of New York (Sections 25-303, 25-307, 25-308, 25-309, 25-313, 25-318, 25-320), on Tuesday, June 22, 2021, at 9:30 A.M., the Landmarks Preservation Commission (LPC or agency), will hold a public hearing by teleconference with respect to the properties list below, and then followed by a public meeting.

The final order and estimated times for each application will be posted on the Landmarks Preservation Commission website, the Friday before the hearing. Please note that the order and estimated times are subject to change. The teleconference will be by the Zoom app and will be live streamed on the LPC's YouTube channel, [www.youtube.com/nyclpc](http://www.youtube.com/nyclpc). Members of the public should observe the meeting on the YouTube channel and may testify on particular matters by joining the meeting using either the Zoom app or by calling in from any phone. Specific instructions on how to observe and testify, including the meeting ID and password, and the call-in number, will be posted on the agency's website, under the "Hearings" tab, <https://www1.nyc.gov/site/lpc/hearings/hearings.page>, on the Monday before the public hearing. Any person requiring language assistance services or other reasonable accommodation in order to participate in the hearing or attend the meeting should contact the LPC, by contacting Anthony Fabre, Director of Community and Intergovernmental Affairs, at [anfahre@lpc.nyc.gov](mailto:anfahre@lpc.nyc.gov), at least five (5) business days before the hearing or meeting. Please note: Due to the City's response to COVID-19, this public hearing and meeting is subject to change and/or cancellation.

**Fort Greene Park - Fort Greene Historic District**  
**LPC-21-09533** - Block 2088 - Lot 1 - **Zoning:** Park  
**BINDING REPORT**

A 19th-century park, built in 1840 and altered in 1866-1873, to designs by Olmsted & Vaux and in 1906-1909, to designs by McKim, Mead & White. Application is to install barrier-free access pathways.

**109 State Street - Brooklyn Heights Historic District**  
**LPC-21-08044** - Block 267 - Lot 7 - **Zoning:** R6  
**CERTIFICATE OF APPROPRIATENESS**

A Greek Revival style rowhouse, built in 1839. Application is to alter front and side areaways, modify and install new window openings, add an oriel window, alter the rear extension, and construct rooftop additions.

**89 Remsen Street - Brooklyn Heights Historic District**  
**LPC-21-06338** - Block 248 - Lot 3 - **Zoning:** R6  
**CERTIFICATE OF APPROPRIATENESS**

A Greek Revival style house, built in 1840. Application is to replace the sidewalk.

**10 Montague Terrace - Brooklyn Heights Historic District**  
**LPC-21-09062** - Block 208 - Lot 501 - **Zoning:** R6  
**CERTIFICATE OF APPROPRIATENESS**

An Eclectic style rowhouse built in 1861-79. Application is to construct a terrace and install doors at the rear façade.

**48 Clifton Place - Clinton Hill Historic District**  
**LPC-21-07492** - Block 1951 - Lot 29 - **Zoning:** R6B  
**CERTIFICATE OF APPROPRIATENESS**

An Italianate style residence. Application is to modify window openings and construct a deck at the rear façade.

**114-11 177th Street - Addisleigh Park Historic District**  
**LPC-21-07831** - Block - Lot 63 - **Zoning:** R2  
**CERTIFICATE OF APPROPRIATENESS**

A Medieval Revival style free-standing house, design by C. Cahill and built in 1931. Application is to replace windows.

**4 Jane Street - Greenwich Village Historic District**  
**LPC-21-02996** - Block 615 - Lot 75 - **Zoning:** C1-6  
**CERTIFICATE OF APPROPRIATENESS**

A Greek Revival style rowhouse with Neo-Grec alterations, built in 1843. Application is to construct a rooftop addition, excavate the rear yard and construct a below-grade rear yard addition.

**235 West 11th Street - Greenwich Village Historic District**  
**LPC-20-09891** - Block 614 - Lot 36 - **Zoning:** R6  
**CERTIFICATE OF APPROPRIATENESS**

A rowhouse originally built in 1844 and altered in the early 20th century. Application is to modify the entrance and areaway, enlarge window openings, install ironwork, re-stucco the façade, and construct a rear yard addition.

**1780 Broadway - Individual Landmark**  
**LPC-21-09115** - Block 1029 - Lot 14 - **Zoning:** C5-1  
**CERTIFICATE OF APPROPRIATENESS**

An office building with Elizabethan, Jacobean and Viennese Secessionist influences, designed by Howard Van Doren Shaw in association with Ward & Willauer, and built in 1909. Application is to install flagpoles.

**1790 Broadway - Individual Landmark**  
**LPC-21-05624** - Block 1029 - Lot 53 - **Zoning:** C5-1  
**CERTIFICATE OF APPROPRIATENESS**

A Beaux-Arts style office building, designed by Carrere & Hastings and built in 1911-12, and altered in 1959. Application is to establish a master plan governing the future installation of banner signage.

**322 Central Park West - Upper West Side/Central Park West Historic District**  
**LPC-21-07488** - Block 1206 - Lot 29 - **Zoning:** R10A  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-Renaissance style apartment building with Gothic elements, designed by George and Edward Blum and built in 1926. Application is to extend a chimney.

**346 Convent Avenue - Hamilton Heights Historic District**  
**LPC-21-09450** - Block 2059 - Lot 47 - **Zoning:** R6A  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-French Renaissance style townhouse, built in 1886-90. Application is to replace windows and install an enclosure.

**2580-2595 Adam Clayton Powell Boulevard (aka 2802-2822 Frederick Douglass Boulevard, 209-247 West 149th Street, and 210- 246 West 150th Street) - Dunbar Apartments - Individual Landmark**  
**LPC-21-07160** - Block 2035 - Lot 1 - **Zoning:** R7-2/C1-4  
**CERTIFICATE OF APPROPRIATENESS**

A complex of six apartment buildings surrounding an interior garden courtyard, designed by Andrew J. Thomas and built in 1926-28. Application is to establish a Master Plan governing the future installation of fire escapes and louvers.

✦ j9-22

**NOTICE IS HEREBY GIVEN** that, pursuant to the provisions of Title 25, Chapter 3 of the Administrative Code of the City of New York (Sections 25-303, 25-307, 25-308, 25-309, 25-313, 25-318, 25-320) on Tuesday, June 15, 2021, the Landmarks Preservation Commission (LPC or agency) will hold a public hearing by teleconference with respect to the properties list below, and then followed by a public meeting.

The final order and estimated times for each application will be posted on the Landmarks Preservation Commission website, the Friday before the hearing. Please note that the order and estimated times are subject to change. The teleconference will be by the Zoom app and will be live streamed on the LPC's YouTube channel, [www.youtube.com/nyclpc](http://www.youtube.com/nyclpc). Members of the public should observe the meeting on the YouTube channel and may testify on particular matters by joining the meeting using either the Zoom app or by calling in from any phone. Specific instructions on how to observe and testify, including the meeting ID and password, and the call-in number, will be posted on the agency's website, under the "Hearings" tab, <https://www1.nyc.gov/site/lpc/hearings/hearings.page>, on the Monday before the public hearing. Any person requiring language assistance services or other reasonable accommodation in order to participate in the hearing or attend the meeting should contact the LPC by contacting Rich Stein, Community and Intergovernmental Affairs Coordinator, at [richstein@lpc.nyc.gov](mailto:richstein@lpc.nyc.gov), or (646) 248-0220 at least five (5) business days before the hearing or meeting. Please note: Due to the City's response to COVID-19, this public hearing and meeting is subject to change and/or cancellation.

**424 7th Avenue - Park Slope Historic District Extension**  
**LPC-21-08130** - Block 1043 - Lot 42 - **Zoning:** R6A, C2-4  
**CERTIFICATE OF APPROPRIATENESS**

A Queen Anne style flats building with stores, designed by William H. Wirth and built c. 1887. Application is to reconstruct and modify a garage.

**1207 8th Avenue - Park Slope Historic District**  
**LPC-21-02318** - Block 1099 - Lot 6 - **Zoning:** R6B  
**CERTIFICATE OF APPROPRIATENESS**

An apartment house, designed by William Musgrave Calder and built in 1900. Application is to legalize the replacement of an areaway fence without Landmarks Preservation Commission permit(s).

**114-11 177th Street - Addisleigh Park Historic District**  
**LPC-21-07831** - Block -10308 - Lot 63 - **Zoning:** R2  
**CERTIFICATE OF APPROPRIATENESS**

A Medieval Revival style free-standing house, designed by C. Cahill and built in 1931. Application is to replace windows.

**430 West 22nd Street - Chelsea Historic District**  
**LPC-21-00561** - Block 719 - Lot 60 - **Zoning:** R7B  
**CERTIFICATE OF APPROPRIATENESS**

A Greek Revival style building, built in 1843. Application is to construct a rear yard addition.

**30 Rockefeller Plaza - Individual and Interior Landmark**  
**LPC-21-09092** - Block 1265 - Lot 7501 - **Zoning:** C5-2.5, C5-3  
**CERTIFICATE OF APPROPRIATENESS**

An office building and designated lobby, designed by the Associated Architects and featuring artwork by Jose Maria Sert and Frank Brangwyn, and constructed in 1931-33 as part of an Art Deco style office, commercial and entertainment complex. Application is to modify openings, extend walls, and replace light fixtures within the interior lobby, install storefront infill at the ground floor, and install attractions and accretions at the rooftop observation terraces.

**170 Central Park West - Upper West Side/Central Park West Historic District**  
**LPC-21-08924** - Block 1129 - Lot 29 - **Zoning:** R10A R8B  
**CERTIFICATE OF APPROPRIATENESS**

A Roman Eclectic style museum and library, designed by York and Sawyer and built in 1903-1908, with wings added in 1937-1938 by Walker and Gillette. Application is to demolish a free-standing wall, construct an addition, re-construct and alter the library stack tower, and alter the south façade.

**200 Central Park West - Individual and Interior Landmark**  
**LPC-21-08864** - Block 1130 - Lot 1 - **Zoning:** 8C  
**ADVISORY REPORT**

A complex of museum exhibition and support buildings, designed by Vaux and Mould; Cady, Berg and See; Trowbridge and Livingston; John Russell Pope; Charles Volz; and others, located within a park, and built between 1874 and 1935. Application is to remove a statue, modify stairs and paving, and install plaques.

**333 Central Park West - Upper West Side/Central Park West Historic District**  
**LPC-21-05268** - Block 1207 - Lot 29 - **Zoning:** R10A R7-2  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-Renaissance style apartment building designed by Albert Joseph Bodker and built in 1909-1910. Application is to install rooftop structures.

**333 Central Park West - Upper West Side/Central Park West Historic District**  
**LPC-21-05268** - Block 1207 - Lot 29 - **Zoning:** R10A R7-2  
**CERTIFICATE OF APPROPRIATENESS**

A Neo-Renaissance style apartment building, designed by Albert Joseph Bodker and built in 1909-1910. Application is to install rooftop structures.

j2-15

**RENT GUIDELINES BOARD**

■ PUBLIC HEARINGS

**NOTICE IS HEREBY GIVEN** that the New York City Rent Guidelines Board (RGB), will hold a virtual public hearing, on **June 15, 2021**, from 4:00 P.M. to 7:00 P.M., to consider public comments concerning proposed rent adjustments, for renewal leases, for apartments, lofts, hotels (including class A and class B hotels, SROs, rooming houses and lodging houses), and other housing units subject to the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974. These adjustments will affect renewal leases commencing between October 1, 2021 through September 30, 2022.

The RGB will hold a virtual Zoom public hearing on the proposed guidelines, on June 15, 2021, beginning at 4:00 P.M. No in-person hearing will occur. The public may participate in the hearing online by going to, <https://us02web.zoom.us/j/83877223517>, and entering Passcode: 403700 (video), or by telephone, by dialing 646-558-8656, then when prompted, entering Meeting ID: 838 7722 3517; when prompted for Participant ID, pressing #; then when prompted, entering Passcode: 403700. Directions on how to register to speak can be found below. The public may also view, but not participate in, the hearing, via livestream from YouTube, at: <https://youtube.com/RentGuidelinesBoard>, and by listening on the phone, by dialing the number above and when prompted, entering the above Meeting ID.

People wishing to speak at the virtual public hearings can register in advance. The instructions for registering to speak follow below. If you are registered, you will be heard in the order of registration. If there is time at the end of each hearing, after all of those who have registered have been heard, we will hear from other attendees at each virtual hearing. The information for joining and/or participating in a hearing (whether registered or not), can be found above or can be obtained by calling our office, at (212) 669-7480.

Registration will begin on **May 17, 2021, at 9:00 A.M.**, and will end on **June 14, 2021, at 12:00 P.M.** Speakers can attend and participate in a hearing by two different methods. You can use a phone to dial in to the meeting or join the meeting online. Detailed instructions on how to attend and participate in a hearing can be found above.

You can register online through our website, <https://rentguidelinesboard.cityofnewyork.us/registration/>, or you can sign up to speak by calling (212) 669-7480 from 9:00 A.M. till 5:00 P.M., Monday through Friday.

Written requests for registration can be emailed, to [csuperville@nycrgb.org](mailto:csuperville@nycrgb.org), and must be received no earlier than 9:00 A.M. on May 17, 2021, and no later than 12:00 P.M., on June 14, 2021. Emails must include the name of the speaker, if they are speaking on behalf of tenants or owners and the method they will use to testify (telephone or video). Those testifying by phone must include their phone number and those testifying by video must include the exact name they will use to sign into the online meeting. Failure to provide the exact phone number or name may result in the loss of your place in the queue to speak. Instructions on how to attend the meeting will be emailed to the registered speaker.

Persons who request that a language interpreter or a sign language interpreter or other form of reasonable accommodation for a disability be provided at any of the scheduled hearings, must notify Ms. Charmaine Superville, at the NYC Rent Guidelines Board, at (212) 669-7480, or via email, at [csuperville@nycrgb.org](mailto:csuperville@nycrgb.org), by **Monday, June 7, 2021**, no later than 4:30 P.M.

Speakers who have confirmed their presence on the day of a hearing, will be heard in the order of registration. Public officials may be given priority over other speakers. The public is invited to observe all public meetings and public hearings but is invited to speak at only the public hearings.

j3-14

**NOTICE IS HEREBY GIVEN** that the New York City Rent Guidelines Board (RGB), will hold a virtual public hearing on **June 17, 2021** from 5:00 P.M. to 9:00 P.M. to consider public comments concerning proposed rent adjustments for renewal leases for apartments, lofts, hotels (including class A and class B hotels, SROs, rooming houses and lodging houses) and other housing units subject to the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974. These adjustments will affect renewal leases commencing between October 1, 2021 through September 30, 2022.

The RGB will hold a virtual Zoom public hearing on the proposed guidelines on June 17, 2021 beginning, at 5:00 P.M. No in-person hearing will occur. The public may participate in the hearing online by going to, <https://us02web.zoom.us/j/84907708770> and entering Passcode: 848480 (video) or telephone by dialing 646-558-8656, then when prompted, entering Meeting ID: 849 0770 8770; when prompted for Participant ID, pressing #; then when prompted, entering Passcode: 848480. Directions on how to register to speak can be found below. The public may also view, but not participate in, the hearing via livestream from YouTube at: <https://youtube.com/RentGuidelinesBoard> and by listening on the phone by dialing the number above and when prompted, entering the above Meeting ID.

People wishing to speak at the virtual public hearings can register in advance. The instructions for registering to speak follow below. If you are registered, you will be heard in the order of registration. If there is time at the end of each hearing, after all of those who have registered have been heard, we will hear from other attendees at each virtual hearing. The information for joining and/or participating in a hearing (whether registered or not) can be found above or can be obtained by calling our office, at (212) 669-7480.

Registration will begin on **May 17, 2021, at 9:00 A.M.** and will end on **June 14, 2021, at 12:00 P.M.** Speakers can attend and participate in a hearing by two different methods. You can use a phone to dial in to the meeting or join the meeting online. Detailed instructions on how to attend and participate in a hearing can be found above.

You can register online through our website, <https://rentguidelinesboard.cityofnewyork.us/registration/> or you can sign up to speak by calling (212) 669-7480 from 9:00 A.M. till 5:00 P.M., Monday through Friday.

Written requests for registration can be emailed, to [csuperville@nycrgb.org](mailto:csuperville@nycrgb.org) and must be received no earlier than 9:00 A.M., on May 17, 2021 and no later than 12:00 P.M. on June 14, 2021. Emails must include the name of the speaker, if they are speaking on behalf of tenants or owners and the method they will use to testify (telephone or video). Those testifying by phone must include their phone number and

those testifying by video must include the exact name they will use to sign into the online meeting. Failure to provide the exact phone number or name may result in the loss of your place in the queue to speak. Instructions on how to attend the meeting will be emailed to the registered speaker.

Persons who request that a language interpreter or a sign language interpreter or other form of reasonable accommodation for a disability be provided at any of the scheduled hearings must notify Ms. Charmaine Superville at the NYC Rent Guidelines Board, at (212) 669-7480 or via email, at [csuperville@nycrgb.org](mailto:csuperville@nycrgb.org) by **Wednesday, June 9, 2021** no later than 4:30 P.M.

Speakers who have confirmed their presence on the day of a hearing will be heard in the order of registration. Public officials may be given priority over other speakers. The public is invited to observe all public meetings and public hearings but is invited to speak at only the public hearings.

j7-16

## PROPERTY DISPOSITION

### CITYWIDE ADMINISTRATIVE SERVICES

■ SALE

The City of New York in partnership with PropertyRoom.com posts vehicle and heavy machinery auctions online every week, at: <https://www.propertyroom.com/s/nyc+fleet>

All auctions are open, to the public and registration is free.

Vehicles can be viewed in person, at: Kenben Industries Ltd., 1908 Shore Parkway, Brooklyn, NY 11214 Phone: (718) 802-0022

No previous arrangements or phone calls are needed to preview. Hours are Monday and Tuesday from 10:00 A.M. – 2:00 P.M.

f23-a4

### OFFICE OF CITYWIDE PROCUREMENT

■ SALE

The Department of Citywide Administrative Services, Office of Citywide Procurement is currently selling surplus assets on the Internet. Visit <http://www.publicsurplus.com/sms/nycdeas.ny/browse/home>

To begin bidding, simply click on 'Register' on the home page.

There are no fees to register. Offerings may include but are not limited to: office supplies/equipment, furniture, building supplies, machine tools, HVAC/plumbing/electrical equipment, lab equipment, marine equipment, and more.

Public access to computer workstations and assistance with placing bids is available, at the following locations:

- DCAS Central Storehouse, 66-26 Metropolitan Avenue, Middle Village, NY 11379
- DCAS, Office of Citywide Procurement, 1 Centre Street, 18th Floor, New York, NY 10007

j4-j30

### HOUSING PRESERVATION AND DEVELOPMENT

■ PUBLIC HEARINGS

All Notices Regarding Housing Preservation and Development Dispositions of City-Owned Property appear in the Public Hearing Section.

j4-d30

## PROCUREMENT

### “Compete To Win” More Contracts!

**Thanks to a new City initiative - “Compete To Win” - the NYC Department of Small Business Services offers a new set of FREE services to help create more opportunities for minority and Women-Owned Businesses to compete, connect and grow their business with the City. With NYC Construction Loan, Technical Assistance, NYC Construction Mentorship, Bond Readiness, and NYC Teaming services, the City will be able to help even more small businesses than before.**

- Win More Contracts, at [nyc.gov/competetowin](http://nyc.gov/competetowin)

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

### HHS ACCELERATOR

To respond to human services Requests for Proposals (RFPs), in accordance with Section 3-16 of the Procurement Policy Board Rules of the City of New York (“PPB Rules”), vendors must first complete and submit an electronic prequalification application using the City’s Health and Human Services (HHS) Accelerator System. The HHS Accelerator System is a web-based system maintained by the City of New York for use by its human services Agencies to manage procurement. The process removes redundancy by capturing information about boards, filings, policies, and general service experience centrally. As a result, specific proposals for funding are more focused on program design, scope, and budget.

Important information about the new method

- Prequalification applications are required every three years.
- Documents related to annual corporate filings must be submitted on an annual basis to remain eligible to compete.
- Prequalification applications will be reviewed to validate compliance with corporate filings, organizational capacity, and relevant service experience.
- Approved organizations will be eligible to compete and would submit electronic proposals through the system.

The Client and Community Service Catalog, which lists all Prequalification service categories and the NYC Procurement Roadmap, which lists all RFPs to be managed by HHS Accelerator may be viewed, at <http://www.nyc.gov/html/hhsaccelerator/html/roadmap/roadmap.shtml>. All current and prospective vendors should frequently review information listed on roadmap to take full advantage of upcoming opportunities for funding.

### Participating NYC Agencies

HHS Accelerator, led by the Office of the Mayor, is governed by an Executive Steering Committee of Agency Heads who represent the following NYC Agencies:

- Administration for Children’s Services (ACS)
- Department for the Aging (DFTA)
- Department of Consumer Affairs (DCA)
- Department of Corrections (DOC)
- Department of Health and Mental Hygiene (DOHMH)
- Department of Homeless Services (DHS)
- Department of Probation (DOP)
- Department of Small Business Services (SBS)
- Department of Youth and Community Development (DYCD)
- Housing and Preservation Department (HPD)
- Human Resources Administration (HRA)
- Office of the Criminal Justice Coordinator (CJC)

To sign up for training on the new system, and for additional information about HHS Accelerator, including background materials, user guides and video tutorials, please visit [www.nyc.gov/hhsaccelerator](http://www.nyc.gov/hhsaccelerator)

**ADMINISTRATION FOR CHILDREN'S SERVICES**

**ADMINISTRATION**

**INTENT TO AWARD**

*Services (other than human services)*

**PAY PER HOUR CAR SERVICES** - Negotiated Acquisition - Other-PIN# 06821N0040001 - Due 6-21-21 at 9:00 A.M.

The Administration for Children's Services (ACS) intends to enter negotiations with Corporate Transportation Group, for the continued provision of Pay Per Hour Car Services. In accordance with Section 3-04(b)(2)(iii) of the Procurement Policy Board Rules, ACS intends to use the negotiated acquisition extension process to extend their contract for one year from July 1, 2021 to June 30, 2022. This notice is for informational purposes only. Organizations interested in future solicitations for these services, are invited to do so by registering the NYC Mayor's Office of Contract Services (MOCS) PASSPort system. To register with PASSPort, please go to [www.nyc.gov/PASSPort](http://www.nyc.gov/PASSPort). There you will find additional guides to assist you with the registration process.

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

Administration for Children's Services, 150 William Street, 9th Floor, New York, NY 10038. Michael Walker (212) 341-3617; [michael.walker2@acs.nyc.gov](mailto:michael.walker2@acs.nyc.gov)

j3-9

**YOUTH AND FAMILY JUSTICE**

**INTENT TO AWARD**

*Human Services/Client Services*

**06821N0034-TUTORING GRANT #1** - Negotiated Acquisition/Pre-Qualified List - PIN# 06821N0034 - Due 6-22-21 at 2:00 P.M.

Tutoring grant to provide educational support services to youth in ACS secure detention and placement facilities.

This NA will not be sent to a PQL.

j8-14

**06821N0035-TUTORING GRANT #2** - Negotiated Acquisition/Pre-Qualified List - PIN# 06821N0035 - Due 6-22-21 at 2:00 P.M.

Tutoring grant to provide educational support services to youth in ACS secure detention and placement facilities.

This NA will not be sent to a PQL. This NA will not be sent to a PQL.

j8-14

**BROOKLYN NAVY YARD DEVELOPMENT CORP.**

**SOLICITATION**

*Services (other than human services)*

**ELEVATOR MAINTENANCE CAMPUS WIDE** - Request for Proposals - PIN# 000171 - Due 6-30-21 at 4:00 P.M.

RFP documents will be available, at BNYDC website, <https://brooklynnavyyard.org/about/contract-opportunities>.

Two separate mandatory pre-bid meetings and a walkthrough of all devices will take place, at 9:30 A.M., Thursday, June 10th, 2021 and 9:30 A.M., Friday, June 11th, 2021. Attendance at both meetings is required to be considered for this contract and a representative of your company must be present to sign the sign-in sheet on both days. Meetings will begin at BNYDC, Building 77, 8th Floor, Suite 801 on both days and move into the field. Failure to attend will result in disqualification.

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

Brooklyn Navy Yard Development Corp., 141 Flushing Avenue, Building 77, Suite 801. David Magdich (718) 907-5980; [dmagdich@bnydc.org](mailto:dmagdich@bnydc.org)

j1-9

**CITY PLANNING**

**AWARD**

*Services (other than human services)*

**MS PREMIER SUPPORT** - Intergovernmental Purchase - PIN# 03021O0001001 - AMT: \$120,000.00 - TO: Microsoft Corporation, 1 Microsoft Way, Redmond, WA 98052.

MS Premier Support Single award contract with Microsoft for Premier Support Design Engineer Support consulting services.

j9

**CITYWIDE ADMINISTRATIVE SERVICES**

**AWARD**

*Construction Related Services*

**COVID19 - REQUIREMENT CONTRACT FOR WINDOW AIR** - Competitive Sealed Bids - PIN# 85620B0003001 - AMT: \$1,500,000.00 - TO: AAA Electronic Services Inc, 218-10 Hillside Avenue, Queens Village, NY 11427.

Award Date: 2/9/2021.

Pursuant to Executive Order 101, the Commissioner of Department of Citywide Administrative Services, has designated the awarded contract as necessary to respond to the COVID-19 emergency. This procurement is being made for Personal Protective Equipment (PPE), to aid in this effort.

j9

*Goods*

**COVID19 - DELOS DOE AIR PURIFIERS AND FILTERS** - Emergency Purchase - PIN# 85621E0022001 - AMT: \$21,715,950.00 - TO: Delos Living LLC, 860 Washington Street, 4th Floor, New York, NY 10014.

Award Date: 4/12/2021.

Pursuant to Executive Order 101, the Commissioner of Department of Citywide Administrative Services, has designated the awarded contract as necessary to respond to the COVID-19 emergency. This procurement is being made for Personal Protective Equipment (PPE), to aid in this effort.

j9

**COVID19 - MCT DOE AIR PURIFIERS AND FILTERS** - Emergency Purchase - PIN# 85621E0023001 - AMT: \$7,800,000.00 - TO: MCT PRO Tools Inc., 7440 NW 52nd Street, Miami, FL, 33166.

Award Date: 4/12/2021.

Pursuant to Executive Order 101, the Commissioner of Department of Citywide Administrative Services, has designated the awarded contract as necessary to respond to the COVID-19 emergency. This procurement is being made for Personal Protective Equipment (PPE), to aid in this effort.

j9

**COVID19 - EMPIRE ELECTRONICS (CV-318) GLOVES** - Emergency Purchase - PIN# 85621E000021 - AMT: \$1,189,500.00 - TO: Empire Electronics Inc, 103 Fort Salonga Road, Suite 10, Northport, NY 11768.

Award Date 4/9/2021.

Pursuant to Executive Order 101, the Commissioner of Department of Citywide Administrative Services, has designated the awarded contract as necessary to respond to the COVID-19 emergency. This procurement is being made for Personal Protective Equipment (PPE), to aid in this effort.

j9

*Goods and Services*

**COVID19 - DEXPOSITO ADVERTISING SERVICES** - Emergency Purchase - PIN# 85621E0026001 - AMT: \$114,984.00 - TO: D Exposito & Partners LLC, 875 Avenue of the Americas, Floor 25, New York, NY 10001-3585.

Award Date 4/14/2021

Pursuant to Executive Order 101, the Commissioner of Department of Citywide Administrative Services, has designated the awarded contract as necessary to respond to the COVID-19 emergency. This procurement is being made for Personal Protective Equipment (PPE), to aid in this effort.

j9



**COVID19 (BARFIELD-MOIA) ADVERTISING SERVICES**

- Emergency Purchase - PIN# 85621E0025001 - AMT: \$110,000.00 - TO: Barfield Public Relations Inc, 638 Macon Street, 3rd Floor, Brooklyn, NY 11233.

Award Date 4/14/2021.

Pursuant to Executive Order 101, the Commissioner of Department of Citywide Administrative Services, has designated the awarded contract as necessary to respond to the COVID-19 emergency. This procurement is being made for Personal Protective Equipment (PPE), to aid in this effort.

← j9

*Services (other than human services)*

**REPORT DESIGN EDIT, REVIEW AND REDESIGN OUR CURRENT REPORTS.**

- Small Purchase - PIN# 85621C0033001 - AMT: \$19,875.00 - TO: Winston Strategic Partners LLC, 262 West Cedar Street, Norwalk, CT 06854.

Assigned to Coron Jones HC, is looking for a vendor who will be able to edit, review and redesign our current reports.

← j9

**ECONOMIC DEVELOPMENT CORPORATION**

**CONTRACTS**

■ SOLICITATION

*Goods and Services*

**LIFE SCIENCES INNOVATION INFRASTRUCTURE RFP**

- Request for Proposals - PIN# 97530001 - Due 8-18-21 at 11:59 P.M.

New York City Economic Development Corporation (NYCEDC), invites not-for-profit organizations or joint ventures led by not-for-profit organizations, to submit proposals for new or expanded facilities, to support the local commercial life sciences community of early-stage companies, academic researchers, and incubators/accelerators. This Life Sciences Innovation Infrastructure RFP seeks to identify projects that require funding for critical facilities and/or equipment to support the commercialization of life sciences R&D activity. Proposals to this RFP can support the development of new technologies across therapeutics, medical devices, diagnostics, synthetic biology, biomaterials, biomanufacturing, and bioinformatics.

A more competitive response will describe a project that accomplishes all, or most, of the following goals: supports R&D activity by constructing new, or expanding existing, facilities and/or equipment to meet a critical unmet need in New York City's life sciences R&D ecosystem; promotes commercialization of R&D technologies in New York City that could otherwise be commercialized in another city and stimulates measurable economic impact for the City (e.g. jobs, company creation); develops and operates a Project that will reach financial sustainability including through an ongoing pipeline of R&D projects that will leverage the facility and/or equipment; provides programming and services (e.g., technical expertise and educational programs), to maximize the utility and impact of the facility and/or equipment; demonstrates collaboration and accessibility across the ecosystem via formal joint partnerships and/or access to multiple users beyond the consultant; enhances the competitiveness of the City in attracting funding from industry, philanthropy, and/or the Federal government; and demonstrates consideration and paths for collaboration with the existing network of life sciences infrastructure supported by the City.

NYCEDC plans to select a consultant on the basis of factors stated in the RFP which include, but are not limited to: the level of impact on New York City's R&D ecosystem in the field or fields of technology that are addressed, the level of economic impact on New York City, and the value proposed in relation to the money requested and financial sustainability of the proposed project.

It is the policy of NYCEDC to comply with all Federal, State and City laws and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, age, disability, marital status and other protected category and to take affirmative action in working with contracting parties to ensure certified Minority and Women-Owned Business Enterprises (M/WBEs) share in the economic opportunities generated by NYCEDC's projects and initiatives. Please refer to the Equal Employment and Affirmative Compliance for Construction Contracts Addendum in the RFP.

This project has Minority and Women-Owned Business Enterprise ("M/WBE") participation goals, and all respondents will be required to submit a Contractor Statement on M/WBE Goals with their response. To learn more about NYCEDC's M/WBE program, visit <http://edc.nyc.gov/opportunity-mwdbe>. For the list of companies who have been certified with the New York City Department of Small Business Services as M/WBE, please go, to [www.nyc.gov/buycertified](http://www.nyc.gov/buycertified).

NYCEDC established the Contract Financing Loan Fund programs for Minority, Women and Disadvantaged Business Enterprise (M/W/DBE) interested in working on public construction projects. Contract Financing Loan Fund facilitates financing for short-term mobilization needs such as insurance, labor, supplies and equipment. Bidders/subcontractors are strongly encouraged to visit the NYCEDC website, at <http://edc.nyc.gov/opportunity-mwdbe>, to learn more about the program.

An optional informational session will be held virtually, on Wednesday, June 30, 2021, at 3:30 P.M. Link to follow, post RFP release. Those who wish to attend should RSVP by email to, [LifeSciencesInnovationInfrastructure@edc.nyc](mailto:LifeSciencesInnovationInfrastructure@edc.nyc), by Tuesday, June 29, 2021.

Respondents may submit questions and/or request clarifications from NYCEDC no later than 5:00 P.M., on Wednesday, July 28, 2021. Questions regarding the subject matter of this RFP should be directed, to [LifeSciencesInnovationInfrastructure@edc.nyc](mailto:LifeSciencesInnovationInfrastructure@edc.nyc). Answers to all questions will be posted by Wednesday, August 4, 2021, to <https://edc.nyc/rfps>. Questions regarding the subject matter of this RFP will not be accepted after 5:00 P.M., on Wednesday, July 28, 2021, however, technical questions pertaining to downloading and submitting proposals to this RFP may be directed to [LifeSciencesInnovationInfrastructure@edc.nyc](mailto:LifeSciencesInnovationInfrastructure@edc.nyc), on or before Wednesday, August 18, 2021.

Detailed submission guidelines and requirements are outlined in the RFP, available as of Wednesday, June 9, 2021. To download a copy of the solicitation documents, please visit <https://edc.nyc/rfps>. RESPONSES ARE DUE NO LATER THAN Wednesday, August 18, 2021. Please click the link in the "Deadlines" section of this project's web page (which can be found on <https://edc.nyc/rfps>), to electronically upload a proposal for this solicitation.

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

*Economic Development Corporation, One Liberty Plaza, 14th Floor, New York, NY 10006. Jessica Greenspan (212) 618-5766; [LifeSciencesInnovationInfrastructure@edc.nyc](mailto:LifeSciencesInnovationInfrastructure@edc.nyc)*

← j9

**ENVIRONMENTAL PROTECTION**

**WATER AND SEWER OPERATION**

■ SOLICITATION

*Services (other than human services)*

**82621B0028-BHOE-22-3Q** - Competitive Sealed Bids - PIN# 82621B0028 - Due 6-29-21 at 10:00 A.M.

BHOE-22-3Q-*Services* - Backhoe Loader(s) with operating engineer(s), Region 3, Queens This Competitive Sealed Bid ("RFx") is being released through PASSPort, New York City's online procurement portal. Responses to this RFx should be submitted via PASSPort. To access the solicitation, vendors should visit the PASSPort Public Portal, at <https://www1.nyc.gov/site/mocs/systems/about-go-to-passport.page>, and click on the "Search Funding Opportunities in PASSPort" blue box. This will take you to the Public Portal of all procurements in the PASSPort system. To quickly locate the RFx, insert the EPIN 82621B0028 into the Keywords search field. If you need assistance submitting a response, please contact [help@mocs.nyc.gov](mailto:help@mocs.nyc.gov). On the Response Due Date at 10:00 A.M., please be advised that you will be required to submit a PAPER copy of the Bid Submission Form and the Bid Security to NYC Department of Environmental Protection, 96-05 Horace Harding Expressway, 1st Floor Low Rise, Flushing, NY 11373.

Pre Bid Conference location - Virtual Meeting - Microsoft Team call in (audio only) +1 347-921-5612,386140044# Flushing, NY 11373. Mandatory: no Date/Time - 2021-6-17 10:00.

← j9

**WATER SUPPLY**

■ SOLICITATION

*Services (other than human services)*

**FOREST MANAGEMENT PROJECT #5175 BID SOLICITATION FOR THE SALE OF TIMBER AND FIREWOOD IN THE TOWN OF NEVERSINK, NEW YORK.** - Competitive Sealed Bids - PIN# FMP #5175 - Due 6-29-21 at 4:00 P.M.

**NOTICE OF PROJECT AVAILABILITY**

Project Information/Description: Bid Solicitation for the Sale of Timber and Firewood in the Town of Neversink. The City of New York will sell approximately 50,542 board feet (International 1/4" Rule) of sawtimber and 143 cords of hardwood cordwood through Forest Management

Project ID #5175. The products included in this sale are on NYCDEP land located on Viscomi Road in Neversink, NY.

Availability of Bid Information: Bid solicitation information and Bid Packages are available by calling Jamie Overton, DEP Forester, at (845) 334-7883, or requesting via email at joverton@dep.nyc.gov. Bid Packages can also be collected at one of the Bid Showings.

Show Dates: Prospective bidders are recommended to attend one of the public showings which will be held on Monday, June 14, 2021, at 1:00 P.M. and Tuesday, June 15, 2021, at 9:00 A.M. Participants should park and gather at the NYCDEP Sugarloaf Mountain Recreation Unit parking area on the north side of Viscomi Road. Meet-up location coordinates 41°52'07.2"N, 74°30'25.1"W. All prospective attendees must notify the DEP Forester of the representatives they will be sending to the showing at least 24 hours in advance.

Required Contractor Qualification: 1.The Contractor must maintain the required Workers Compensation and Disability Benefits Coverage. 2. The Contractor shall furnish and maintain Commercial General Liability & Commercial Auto Insurance Policies. 3. The Contractor must have demonstrated experience, ability and equipment to assure removal of timber under terms of the agreement.

Bid Due Date: All bid proposals must be received by Jamie Overton, P.O. Box 358, Grahamsville, NY 12740 (845-334-7883), NO LATER THAN Tuesday, June 29, 2021, at 4:00 P.M., local time.

Opening of Bids: Sealed bids will be publicly opened at the DEP Office, 16 Little Hollow Road, Grahamsville, NY, on Wednesday, June 30, 2021, at 9:00 A.M., local time. The projected date for awarding the bid is on or around Wednesday, July 7, 2021.

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

Environmental Protection, PO Box 358, Grahamsville, NY 12740. Jamie Overton (845) 334-7883; joverton@dep.nyc.gov

j1-14

**FIRE DEPARTMENT**

**AWARD**

Services (other than human services)

**057210000647 - CHANNEL 16 RADIO TECH REFRESH - PHASE 2** - Intergovernmental Purchase - PIN# 0572100001001 - AMT: \$411,959.99 - TO: New York State Technology Enterprise Corporation, 99 Otis Street, 2nd Floor, Rome, NY 13441.

The Fire Department of the City of New York (FDNY), is seeking technical and administrative services of New York State Technology Enterprise Corporation (NYSTEC), to ensure a timely and sound implementation of the Channel 16 Phase 2 Radio System. Radio Channel 16 Tech Refresh - Phase 1 project entailed enhancements to the FDNY's Channel 16 Fire/EMD radio system. The current system was a UHF R2 system with twenty-two (22) channels. The Channel 16 system consists of ten (10) transmitter/receiver sites with nineteen (19) additional receiver sites. NYSTEC is currently providing this service for the ongoing Channel 16 Phase 1 project to FDNY's satisfaction and this needs to continue with Phase 2 for the final effort.

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**HEALTH AND MENTAL HYGIENE**

**INTENT TO AWARD**

Human Services/Client Services

**FY22 RENEWAL - CRISIS RESPITE CENTER** - Renewal - PIN#81619F8040KXLR002 - Due 6-10-21 at 10:00 A.M.

In accordance with Section 4-04 of the Policy and Procurement Board Rules, the Department of Health and Mental Hygiene intends to renew the contract with the not-for-profit organization noted below for the provision of Crisis Respite Center during the term and at the location indicated. For information regarding the renewal of this contract, please contact Michael Santangelo at msantangelo@health.nyc.gov.

Provider Name: Riverdale Mental Health Association Inc.  
Contract PIN: 16AZ011301R3X00  
Contract Term: 7/1/2021 - 6/30/2024  
Service Address/Administrative Address: 640-642 West 232nd Street, Bronx, NY 10463

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-

qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.

Health and Mental Hygiene, 42-09 28th Street, 17th Floor, Long Island City, NY 11101. Michael Santangelo (347) 396-6671; msantangelo@health.nyc.gov

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**HUMAN RESOURCES ADMINISTRATION**

**INTENT TO AWARD**

Human Services/Client Services

**EXTENSION OF 31 CONTRACTS FOR 2272 UNITS OF SCATTER SITE HOUSING AND 173 UNITS OF VETERAN HOUSING** - Negotiated Acquisition - Other -PIN#06907P0017CNVN005 - Due 6-10-21 at 3:00 P.M.

The Human Resources Administration (HRA) HIV/AIDS Services (HASA), intends to enter into the Negotiated Acquisition Extension (NAE), for 31 Contracts, for 2272 units of Scatter Site Housing and 173 units of Veteran Housing, for provision of Non-Emergency Housing and Support for PLWAs and Veterans with following vendors: Bailey House, Inc., Camba, Inc. (3 contracts), Catholic Charities Neighborhood Services, Inc. (2 contracts), Coalition for the Homeless, Inc., Comunilife, Inc.I, Comunilife, Inc.II, Comunilife, Inc.III, FACES NY, Inc., Harlem Congregation for Community Improvement, Inc., Harlem United Community AIDS Center, Inc. (3 contracts), Housing and Services, Inc., Iris House: A Center for Women Living with HIV, Inc. (2 contracts), PRAXIS Housing, Inc. (2 contract), Project Hospitality, Inc., St.Nicks Alliance, Corp. (3 contracts), Unique People Services, Inc.I, Unique People Services, Inc.II, Unique People Services, Inc.III, Unique People Services, Inc.IV, Unique People Services, Inc.V, University Consultation and Treatment Center for Mental Hygiene, Inc., Volunteers of America Greater New York, Inc., Bailey House, Inc. Veterans, Harlem United AIDS Center, Inc. Veterans. Under this NAE the vendors will continue to provide vital Housing and Support Services for PLWAs and Veterans without interruption.

Contract term: 7.1.2021 - 6.30.2022. Total contract amount is \$72,467,226.00.

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

Human Resources Administration, 150 Greenwich Street (4WTC), 37th Floor, New York, NY 10007. Jacques Frazier (646) 669-4460; frazierjac@dss.nyc.gov

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**POLICE**

**MANAGEMENT AND BUDGET**

**INTENT TO AWARD**

Services (other than human services)

**05621Y0022-HAMILTON JET MARINE SERVICE AND PARTS** - Request for Information - PIN#05621Y0022 - Due 6-21-21 at 2:00 P.M.

Pursuant to Section 3-05 of the NYC Procurement Policy Board Rules, NYPD, intends to award a contract for Hamilton Jet Marine service and parts to Kraft Powers Corporation, located, at 241 West Parkway, NJ 07444. The NYPD has determined that the Sole Source Procurement Method is the best method to procure these goods because Kraft Powers is the only authorized distributor and provider of Hamilton Jet Marine service and parts. Due the complexity of the jet propulsion system only Hamilton Jet authorized service mechanics can work on the systems. Kraft Power Corporation is the sole and exclusive authorized distributor for Hamilton Jet Marine service and parts for the Northeast Geographical area, New York. The goods and services being sought in this contract are Hamilton Jet service and parts for Police Patrol operations of the NYPD's Harbor Unit. Any other supplier who is capable of providing Hamilton Jet Marine service and parts may express interest to Dorothy Carter-Starks, Administrative Procurement Analyst, NYPD Office Contract Administration Procurement Division. Such interest shall be provided by email to contracts@nypd.org, or in writing addressed to Dorothy Carterstarks, at 90 Church Street Suite 1206 New York, NY 10007, on or before 2:00 P.M. on June 21, 2021.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other

information; and for opening and reading of bids, at date and time specified above.

Police Department, Dorothy Carter-Starks (646) 610-5193;  
contracts@nypd.org

j4-11

## TRANSPORTATION

### ■ INTENT TO AWARD

*Services (other than human services)*

**84121D0008-DRIVER EDUCATION PROGRAM UNDER LOCAL LAW 36 OF 2020, CITYWIDE** - Demonstration Project - Other - PIN#84121D0008 - Due 6-18-21 at 5:00 P.M.

Driver Education Program under Local Law 36 of 2020, Citywide. The New York City Department of Transportation (NYCDOT), intends to enter into negotiations with Fund for the City of New York, Inc., for the award of a demonstration project for the provision of the design and administration of a safe driving class related to the launch of a Driver Education Program. The services is to assist the New York City Department of Transportation in implementing a Dangerous Vehicle Abatement Program for a group of drivers who have been identified as engaging in recurrent reckless behaviors on the roadways, pursuant to Local Law 36 of 2020.

The Program will consist of an education course that will be a combination of exploring driver behavior and a restorative justice model about the community impact of speeding and red light running. On February 2, 2021, the Agency Chief Contracting Officer determined that the services related to the demonstration project(s) of Driver Education Program in New York City, met the requirements enumerated, under Section 3-11(c) of the Procurement Policy Board Rules, for the award of a contract for a demonstration project, namely: to evaluate existing driver education courses that can be part of the Program to hold drivers in NYC accountable for their behaviors and encourage them to drive safely on our roadways. Vendors may express interest in providing this service, by contacting Gail Hatchett, New York City Department of Transportation, ACCO's Office, 55 Water Street, 8th Floor, New York, NY 10041, ghatchett@dot.nyc.gov, no later than 6/18/21, 5:00 P.M. E.S.T.

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

Gail Hatchett, Authorized Agency Contact; (212) 839-9308;  
ghatchett@dot.nyc.gov.

j9-15

## BRIDGES

### ■ SOLICITATION

*Construction Related Services*

**84121P0023 - SERVICE AGREEMENT FOR D/B OWNERS REP SERVICES CITYWIDE** - Competitive Sealed Proposals - Other - PIN#84121P0023 - Due 7-6-21 at 2:00 P.M.

Many City agencies are utilizing the Service Agreement format as a mechanism to respond to unforeseen needs, ensure program flexibility and to procure engineering services in an efficient and cost effective manner. The SA format allows DOT to utilize engineering services in a preset cost environment. That is having already procured the consultant based on technical merit & cost. The negotiation of each task is based on the scope of the assignment and the effort required completing it. As with all tasks, before actual contracting of service, both OMB & Comptroller approvals are secured. This Procurement is subject to participation goals for Minority-Owned Business Enterprises (MBEs) as required by Section 6-129 of the New York Administrative Code. The M/WBE goal for this project is 25%. This Request for Proposals (RFP) is released through PASSPort, New York City's online procurement portal. Responses to this RFP must be submitted via PASSPort. To access the RFP, vendors should visit the PASSPort public Portal, at <https://www1.nyc.gov/site/mocs/systems/about-go-to-passport>. page, and click on the "Search Funding Opportunities in PASSPort" blue box. Doing so will take one to the public portal of all procurements in the PASSPort system. To quickly locate the RFP, insert the EPIN, 84121P0023, into the Keyword search field. In order to respond to the RFP, vendors must create an account within the PASSPort system if they have not already done so.

Pre Bid Conference location - Pre-Proposal New York, NY 10041  
Mandatory: no Date/Time - 2021-6-17 10:00 N/A

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## CONTRACT AWARD HEARINGS

**NOTE: LOCATION(S) ARE ACCESSIBLE TO INDIVIDUALS USING WHEELCHAIRS OR OTHER MOBILITY DEVICES. FOR FURTHER INFORMATION ON ACCESSIBILITY OR TO MAKE A REQUEST FOR ACCOMMODATIONS, SUCH AS SIGN LANGUAGE INTERPRETATION SERVICES, PLEASE CONTACT THE MAYOR'S OFFICE OF CONTRACT SERVICES (MOCS) VIA E-MAIL AT DISABILITYAFFAIRS@MOCS.NYC.GOV OR VIA PHONE AT (212) 788-0010. ANY PERSON REQUIRING REASONABLE ACCOMMODATION FOR THE PUBLIC HEARING SHOULD CONTACT MOCS AT LEAST THREE (3) BUSINESS DAYS IN ADVANCE OF THE HEARING TO ENSURE AVAILABILITY.**



## ADMINISTRATION FOR CHILDREN'S SERVICES

### ■ PUBLIC HEARINGS

#### CORRECTED NOTICE

**NOTICE IS HEREBY GIVEN** that a Public Hearing will be held via a WebEx conference call on Friday, May 14, 2021, commencing at 10:00 a.m. on the following:

**IN THE MATTER OF** one (1) proposed contract between the Administration for Children's Services and Jewish Child Care Association Of New York, 120 Wall Street, New York, NY 10005 for the provision of Specialized Foster Care - Special Medical Services. The term of the proposed contract will be from July 1, 2021 through June 30, 2022. The EPIN is 06821N0067001 and the total contract amount is \$2,677,293.63.

The proposed contractor has been selected by means of the Negotiated Acquisition Extension procurement method, pursuant to Section 3-04 (b)(2)(iii) of the Procurement Policy Board Rules.

In order to access the Public Hearing or to testify, please join the public hearing WebEx call by calling 1-646-992-2010 (New York), 1-408-418-9388 (outside of NY), Meeting ID: 173 381 0796, no later than 9:50 am on the date of the hearing. If you require further accommodations, please contact Peter Pabon at peter.pabon@acs.nyc.gov, no later than three business days before the hearing date.

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## HEALTH AND MENTAL HYGIENE

### ■ PUBLIC HEARINGS

**NOTICE IS HEREBY GIVEN** that a Contract Public Hearing will be held on June 11, 2021 at 10:00 am via conference call. Call in: 866-213-1863, passcode: 6343549.

**IN THE MATTER OF** a proposed contract between the Department of Health and Mental Hygiene and Southeast Bronx Neighborhood Centers Inc. located at 955 Tinton Avenue, Bronx, NY 10456, for the Leisure Time Afterschool program to provide New York City residents diagnosed with Intellectual/Developmental Disabilities and their families with Recreational and/or Respite service. The contract term shall be from 07/01/2021 to 6/30/2022 with no option to renew. The contract amount will be \$403,856.00. PIN: 22MR008301R0X00 E-PIN #: 81621N0322. The proposed contractor was selected by means of Negotiated Acquisition Extension, pursuant to Section 3-04 (d) of the Procurement Policy Board Rules.

In order to access the Public Hearing and testify, please join the meeting no later than 5 minutes prior to the meeting start time.

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**NOTICE IS HEREBY GIVEN** that a Contract Public Hearing will be held on June 11, 2021 at 10:00am via conference call. Call in: 866-213-1863, passcode: 6343549.

**IN THE MATTER OF** a proposed contract between the Department of Health and Mental Hygiene and Weston united Community Renewal Inc. located at 290 Lenox Ave, 3rd Floor, New York, NY 10027., for the provision of supportive housing. The contract term shall be from

07/01/2021 to 6/30/2030 with no option to renew. The contract amount will be \$10,785,334.00 EPIN#81621N0320-NA: PIN #: 22AZ001701R0X00.

The proposed contractor is being funded through Required Authorized Method Appropriation, pursuant to Section 1-02 (d) of the Procurement Policy Board Rules. In order to access the Public Hearing and testify, please call: 1-866-213-1863, ACCESS CODE: 634 3549 no later than 9:55 AM.

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**YOUTH AND COMMUNITY DEVELOPMENT**

■ PUBLIC HEARINGS

**CORRECTED NOTICE**

**NOTICE IS HEREBY GIVEN** that a Contract Public Hearing will be held on **Monday 14, 2021** via **MS TEAMS (Dial In el+16468937101,,905550169# +1 646-893-7101/Phone Conference ID 905550169#)** commencing at 10:00 A.M on the following:

**IN THE MATTER OF** (1) one proposed **FY21** Tax Levy Discretionary contracts between the Department of Youth and Community Development and the Contractor listed below are to provide various programming services related to youth and community development Citywide. The term of this contract shall be from July 1, 2020 to June 30, 2021 with no option to renew.

Contract Number 26021L1379001  
Contractor Name **THE YOUNG MENS AND YOUNG WOMENS HEBREW ASSOCIATION**  
Contract Amount \$135,000.00  
Contractor Address 1395 LEXINGTON AVENUE, NEW YORK, NY 10128

The proposed contractor is being funded through Line Item Appropriations or Discretionary Funds pursuant to Section 1-02 (e) of the Procurement Policy Board (PPB) Rules.

In order to access the Public Hearing or to testify, please join the public hearing conference call via **MS TEAMS (Dial In el+16468937101,,905550169# +1 646-893-7101 / Phone Conference ID 905550169# )** no later than 9:50 am on the date of the hearing. If you require further accommodations, please contact Renise Ferguson via email, [referguson@dycd.nyc.gov](mailto:referguson@dycd.nyc.gov) no later than three business days before the hearing date.

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**AGENCY RULES**

**BOARD OF CORRECTION**

■ NOTICE

**Notice of Adoption of Rules**

**NOTICE IS HEREBY GIVEN** in accordance with section 1043(f) of the New York City Charter that the Board of Correction is adopting rules relating to the use of restrictive housing in facilities operated by the Department of Correction.

These rules are promulgated pursuant to sections 1043 and 626 of the New York City Charter.

On April 13 and April 14 2021, the Board of Correction held electronic public hearings on these rules. On June 8, 2021, the Board of Correction approved these rules at a public meeting also held electronically.

**STATEMENT OF BASIS AND PURPOSE**

Under § 626 of the New York City Charter, the Board of Correction (“Board” or “BOC”) is authorized to establish minimum standards “for the care, custody, correction, treatment, supervision, and discipline of all persons held or confined under the jurisdiction” of the New York City Department of Correction (“Department” or “DOC”). Pursuant to this authority, the Board hereby creates a new chapter 6 of its rules and amends certain existing rules, designed to ensure that people in

the Department of Correction’s custody: (1) are placed in restrictive housing in accordance with due process and procedural justice principles; and (2) are confined in the least restrictive setting and for the least amount of time necessary to address the specific reasons for their placement and to ensure their own safety as well as the safety of staff, other people in custody, and the public. Notably, these rules end the inhumane practice of solitary confinement (also referred to as punitive segregation or “PSEG”) in the New York City jails, replacing it with a more humane alternative that still holds people accountable for the commission of serious offenses in custody. In contrast to PSEG, the new model—known as the Risk Management and Accountability System (“RMAS”)—guarantees that people in custody who have committed serious offenses in jail still receive at least 10 hours outside of their cell per day with some opportunity for socialization. The rules also prohibit the Department from routinely shackling people during their time out of cell.

**From Reforms to Rules**

In just five years — 2014 through 2018 — the New York City jail system underwent groundbreaking reforms. These critical changes spurred a period of innovation and experimentation as the Department, under the oversight of the Board, developed alternatives to punitive segregation, alternative ways to reduce violence in the jails, and alternative strategies to manage its adolescent and young adult populations. Implementation of reforms required DOC to seek variances (i.e. temporary exceptions) from the Minimum Standards and led to the Board’s imposition of conditions on granting the variances.

In January 2015, the Board enacted historic amendments to its Minimum Standards: namely, limitations on the use of punitive segregation (“PSEG”)<sup>1</sup> and the creation of enhanced supervision housing (“ESH”)<sup>2</sup> for adults as part of systemic reforms in the City jails. The reforms included the elimination of PSEG for 16 to 21-year-olds and individuals with serious mental or serious physical disabilities or conditions.<sup>3</sup> Approximately one year later, in December 2015, BOC enacted further amendments, including some proposed by DOC, such as the 60-day sentence for assaults on staff. The Department achieved elimination of PSEG for adolescents (i.e., people ages 16 and 17) in December 2014 and for young adults (i.e., people ages 18 through 21) in October 2016. Just two years later, in October 2018, DOC achieved another milestone — the transfer of adolescents off Rikers Island to the Horizon Juvenile Center in the Bronx, under the joint care of DOC and ACS.<sup>4</sup>

The elimination of punitive segregation for young people led the Department to establish alternative restrictive housing for the young adult jail population: Second Chance Housing Unit (“Second Chance”), Transitional Restorative Unit (“TRU”), Secure Unit (“Secure”), and Young Adult ESH (“YA-ESH”).

During this period of reform, the Department commingled young adults with adults in certain ESH units, implemented the routine use of restraint desks in ESH Level 1 during all lock-out time, and operated a highly restrictive unit in West Facility without affording due process to the adults and young adults placed there. The Board viewed these actions as running counter to basic tenets underlying the Department’s Young Adult Plan<sup>5</sup>, the PSEG amendments, and the intended purposes of ESH. This retrenchment of the 2014-2015 reforms led to variances and variance conditions, most of which continue to the present day. It also led to the Board’s unanimous vote in 2016 to conduct rulemaking on restrictive housing.<sup>6</sup>

**2019 Board Vote on Proposed Rules**

On October 31, 2019, the Board voted to formally propose restrictive housing rules (“2019 Rule”), which were the result of extensive fact-finding in 2017-2018. This included discussions with 30 organizations and individuals — the local defense bar, criminal justice advocates, national criminal justice organizations and oversight entities, Correction Officers’ Benevolent Association (COBA), correctional experts, and academics — and our City partners, DOC and CHS.<sup>7</sup> This comprehensive effort also entailed a literature review and examination

- 1 Minimum Standard (“Min. Std.”) § 1-17 (“Limitations on the Use of Punitive Segregation”).
- 2 Min. Std. § 1-16 (“Enhanced Supervision Housing”).
- 3 Min. Std. § 1-17(b)(iii) (“Exclusions”).
- 4 “ACS” is the NYC Administration for Children’s Services. As of October 1, 2020, adolescents are in the sole custody of ACS.
- 5 In 2016, the Department of Correction put forth a plan to account for the developmental differences of the Young Adult population and their overall well-being while in custody. This plan included the following goals: removing all Young Adults from Punitive Segregation; housing Young Adults separately from adults; creating alternatives to Punitive Segregation housing; training all steady officers assigned to Young Adult housing in Safe Crisis Management; training all steady officers assigned to alternative housing units in Cognitive Behavioral Therapy; and providing a minimum of 5 hours of programming per day for Young Adults in the general population.
- 6 Minutes of January 12, 2016 Public Meeting (at 7-8), [https://www1.nyc.gov/assets/boc/downloads/pdf/BOCMinutes-\(1.12.16\).pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/BOCMinutes-(1.12.16).pdf).
- 7 “CHS” is the NYC Health + Hospitals’ Correctional Health Services Division.

of DOC directives, policies, and reports; Board staff research, analyses, and reports; consultation of model restrictive housing standards at the national and international level; and study of restrictive housing in jails and prisons nationwide. Recognizing the importance of capturing the voices of people in custody and uniformed staff about what it was like to reside or work in restrictive housing, in 2019, BOC staff also spoke with correction officers and people in custody in various restrictive housing units as part of the fact finding and rules development process.<sup>8</sup>

The 2019 Rule<sup>9</sup> included the following key provisions: (i) the maximum PSEG sentence was reduced from 30 to 15 days (other than for serious assault on staff)<sup>10</sup>; (ii) the maximum PSEG sentence for serious assault on staff remained at 60 days, but with the ability to earn a sentence reduction for good behavior<sup>11</sup>; (iii) expansion of exclusions from PSEG I (defined as 20-hour daily lock-in for people found guilty of Grade I violent offenses)<sup>12</sup>; (iv) elimination of an automatic monetary fine for all guilty infractions<sup>13</sup>; (v) videotaping of people's refusal to sign their notice of infraction or attend their hearing, and the requirement that DOC place a person in PSEG with 30 days of adjudication of guilt or else the person could not be placed there at a later time<sup>14</sup>; (vi) elimination of the routine use of restraints, including restraint desks, by February 2022<sup>15</sup>; and (vii) codification of variance conditions and standardization of existing DOC policies governing "transitional/administrative housing" (i.e., non-disciplinary restrictive housing), such as the increase in daily lock-out from seven to 10 hours for young adults, individual behavior support plans, periodic reviews, and a rebuttable presumption of progression within housing levels of a restrictive housing unit or out of the unit, based on specified criteria.<sup>16</sup>

### 2019 CAPA Hearings and the Path to Ending PSEG

The 2019 Rule was subject to the Citywide Administrative Procedure Act (CAPA) rulemaking process,<sup>17</sup> which included two public hearings — on December 2 and December 16, 2019 — for the presentation of oral testimony<sup>18</sup> and a three-month public comment period (November 1, 2019-January 31, 2020) for the submission of written comments.<sup>19</sup> The Board received oral testimony from 59 individuals and 54 written comments.

The vast majority of those who testified and/or submitted written comments — PSEG survivors and their loved ones; mental health, criminal justice, legal, and human rights experts; elected officials<sup>20</sup>; faith leaders; and community members (collectively, "commentators") — called for the immediate end to punitive segregation (also referred to as "solitary confinement") in the New York City jails. Commentators cited numerous studies finding that PSEG/solitary confinement causes severe and long-lasting psychological, emotional, and physical harm and is ineffective in preventing violence<sup>21</sup>. PSEG/solitary confinement survivors, both currently and formerly in DOC custody, described the damaging effects of isolation in moving detail.<sup>22</sup> Commentators also cited evidence that solitary confinement is disproportionately inflicted

8 Transcript of December 2, 2019 CAPA Hearing, pp. 5-6.

9 The 2019 Rule is available at: <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/2019.10.29%20-%20Rule%20and%20Certifications.pdf>

10 2019 Rule § 6-07(a)(i).

11 *Id.*, § 6-07(a)(viii).

12 *Id.*, § 6-07(a)(1)(i).

13 *Id.*, § 6-07(c).

14 2019 Rule §§ 6-30(b)(7) ("Notice of Infraction"), 6-30(b)(6) (same), 6-30(c)(5) ("Disciplinary Hearing"-Videotaping"), and 6-30(e)(2) ("Disciplinary Sanctions").

15 *Id.*, § 6-36(g).

16 *Id.*, See, generally, Subchapter E ("Transitional/Administrative Housing"); §§ 6-12(b) ("Young Adults with Ten (10)-Hour Daily Lockout"), 6-14 ("Individual Behavior and Programming Plan"), and 6-14 ("Periodic Review of Placement").

17 New York City Charter ("Charter") § 1401 *et seq.*

18 Transcripts of the December 2019 hearings are available at: <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/December/NYC-Board-of-Correction-CAPA-Hearing-re-Restrictive-Housing-Proposal-Rule-2019-12-02.pdf> (December 2, 2019 hearing transcript) and <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/December/BOC-CAPA-Hearing-Re-Restrictive-Housing-Proposal-Rule-2019-12-16.pdf> (December 16, 2019 hearing transcript).

19 The written comments are available at: <https://www1.nyc.gov/site/boc/jail-regulations/rulemaking-2017.page> (see comments listed underneath the heading "Written Comments").

20 Elected officials who testified and/or submitted comments urging the end to punitive segregation in the jails included NYC Public Advocate Jumaane D. Williams, NYC Council Speaker Corey Johnson, NYC Council Members Daniel Dromm, Bill Perkins, Keith Powers (Chair of Committee on Criminal Justice), Carlina Rivera, Antonio Reynoso, members of the Council's Progressive Caucus and Women's Caucus, and NYC Comptroller Scott M. Stringer.

21 For discussion of these studies, see "Subchapter D: Elimination of Punitive Segregation," pp.22-24, below.

22 See, e.g., testimony of Trent Taylor, Marvin Mayfield, Vidal Guzman, Herbert Murray, Harvey Murphy, Evie Litwok, and Candie at the December 2019 CAPA hearings as well as the comments of incarcerated people submitted by advocates.

on Black and Latinx people, queer, transgender, and non-conforming people, young people, and people with mental health needs.<sup>23</sup> Some commentators invoked the memory of Layleen Polanco, a 27-year-old Afro-Latinx transgender woman, who died after nine days in the Restrictive Housing Unit (a form of punitive segregation) on Rikers Island on June 7, 2019.<sup>24</sup>

Commentators called for the City to eliminate PSEG as it currently exists — a punitive approach based on sensory deprivation, lack of normal human interaction, and extreme idleness — and replace it with a disciplinary model that ensures safety through separation and promotes violence reduction/prevention through positive incentives, effective programming targeted at the underlying reason for violent behavior, and meaningful human engagement. Some commentators cited housing programs or models that have proved to be successful alternatives to PSEG in the city jails, such as the Clinical Alternatives to Punitive Segregation (CAPS) program, which CHS operates for seriously mentally ill individuals who have committed a Grade I violent offense.<sup>25</sup>

Following the CAPA hearings and public comment period, the Board commenced review of the oral testimony and written comments regarding the 2019 Rule. At the public meeting on March 10, 2020 and at public meetings thereafter, the Board acknowledged the broad consensus among those who testified and/or submitted comments to end PSEG in the City's jail system. The Board recognized the harmful and long-term impacts of extreme isolation and idleness that have been the hallmarks of punitive segregation in the City jails. At the same time, the Board emphasized that the primary goal of all stakeholders — maintaining the safety of staff and people in custody — could only be achieved by simultaneously ending PSEG and implementing an alternative disciplinary system that keeps all those who work or reside in the jails safe. Moreover, the alternative system must separate violent perpetrators from and limit their engagement with others immediately following a violent incident, hold perpetrators of violence accountable for their misconduct, and provide all necessary supports to address their violent behavior and prevent its recurrence.<sup>26</sup>

On June 29, 2020, the Mayor and Board Chair Jones Austin issued a joint press release calling for the end to PSEG and announcing the formation of a working group to develop an alternative disciplinary system "of accountability with a focus on safety for both staff and detained persons," "effective and robust programming," and "investment in training" of staff.<sup>27</sup> Led by Board Vice-Chair Stanley Richards and including DOC Commissioner Cynthia Brann, Just Leadership USA President, CEO DeAnna Hoskins, and COBA President Benny Boscio, the Working Group worked over the next three months to produce recommendations to be presented for inclusion in the proposed rules.<sup>28, 29</sup>

Guided by the Working Group's recommendations, BOC's *ad hoc* Rulemaking Committee developed a new rule to, among other things, eliminate punitive segregation and all other forms of restrictive housing except for the Transitional Restorative Unit ("TRU") and the Second Chance Housing Unit (which are both units for young adults with 14 hours of lock-out). Since the proposed elimination of punitive segregation and the creation of an alternate disciplinary housing model represented a significant change from the 2019 Rule, the Board determined to restart the CAPA process and afford the public a full opportunity to testify about and submit written comments on any new revisions to the proposed Chapter 6 rules.

### 2021 Proposed Rule and Changes to State Law

23 1/31/20 comment letter from 63 organizations and 20 individuals endorsing the "Blueprint for Ending Solitary Confinement in NYC Jails" and the enclosed Blueprint, p. 3.

24 See BOC's 6/23/20 "Report on the Death of Layleen Xtravaganza Cubilette-Polanco, 1991-2019," available ("Polanco Report") at: [https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2020.06\\_Polanco/Final\\_Polanco\\_Public\\_Report\\_1.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2020.06_Polanco/Final_Polanco_Public_Report_1.pdf)

25 See, e.g., Blueprint, p. 4; 1/31/20 Brooklyn Defender Services comment letter (p. 9); 12/16/19 Comptroller Scott Stringer comment letter (p. 2); 12/21/19 CAPA Hearing testimony of Julia Solomons (Bronx Defenders), p. 73; Public Advocate Jumaane Williams, pp. 78-79; Julia Davis (Children's Defense Fund), p. 85; 12/16/19 CAPA Hearing testimony of Council Member Daniel Dromm, p. 10 and Alana Silvin (on behalf of Speaker Corey Johnson), pp. 36-37.

26 Testimony of Interim Chair Jacqueline Sherman at March 10, 2020 public meeting (3/10/20 Hearing Tr., pp.3-5); testimony of Chair Jennifer Jones Austin at May 12, 2020 public meeting (5/12/20 Hearing Tr., pp. 4-5); testimony of Chair Jones Austin at July 14, 2020 public meeting (7/14/20 Hearing Tr., pp. 3-4); Minutes of September 14, 2020 public meeting (p. 3); Minutes of October 13, 2020 public meeting (p. 3); and Minutes of November 10, 2020 public meeting. All of the foregoing hearing transcripts and minutes are available on BOC's website at: <https://www1.nyc.gov/site/boc/meetings/2020-meetings.page>.

27 June 29, 2020 Press Release, available at: <https://www1.nyc.gov/office-of-the-mayor/news/481-20/mayor-de-blasio-board-correction-chair-jennifer-jones-austin-working-group-end>, p. 1.

28 *Id.*, pp. 1-2.

29 COBA President Boscio neither participated in developing nor endorsed any of the Working Group's recommendations. He has publicly opposed the elimination of punitive segregation.

On March 9, 2021, at a regularly scheduled public meeting, the Board voted to formally propose a new rules package (“2021 Proposed Rule”)<sup>30</sup> which, among other things, sought to end the use of PSEG and most other forms of restrictive housing (including ESH) and replace the eliminated units with the Risk Management Accountability System (RMAS), a three-level alternative disciplinary model intended to separate people from general population in response to their commission of an offense.

The new CAPA period commenced with the Board’s March 9, 2021 vote. Pursuant to CAPA, the Board then held two public hearings on the 2021 Proposed Rule—one in the morning on April 13, 2021<sup>31</sup> and one in the evening on April 14, 2021.<sup>32</sup> The Board also continued to accept written comment and additional oral comment via a dedicated voicemail line until April 23, 2021, at which point the CAPA public comment period closed. In total, during this public comment period, the Board received oral testimony from at least 124 unique individuals (with at least 17 offering multiple testimonies).<sup>33</sup> The Board also received 48 written testimonies, from government agencies and officials, to advocacy organizations and individuals.<sup>34</sup>

A significant portion of those offering testimony on the Proposed 2021 Rule expressed concern that the three-level RMAS system, as designed, was not sufficiently time-limited, and that people would remain there indefinitely. Many commentators also called for more out-of-cell programming for people in RMAS, as well as legal representation for people in RMAS to ensure due process and fairness.

As the Board was considering public comment on the Proposed 2021 Rule, it was also familiarizing itself with recent changes to state law governing restrictive housing, in particular amendments to the State Commission on Correction’s (SCOC’s) regulations related to special housing (i.e. disciplinary and administrative segregation), and the newly passed Humane Alternatives to Long-Term (HALT) Solitary Confinement bill (A.2500 / S.1623). While the Board concluded that the new provisions of HALT were nonbinding on the 2021 Proposed Rule—as HALT applies only to cell confinement for more than 17 hours per day, and RMAS was designed so that people would not be confined to a cell for more than 14 hours—the Board recognized that certain of the new SCOC regulations preempted provisions in the 2021 Proposed Rule. Specifically, the SCOC’s new regulations necessitated changing the structure of RMAS so that it was time-limited to 30 days in total (subject to specific exceptions).<sup>35</sup> The Board also made additional changes to the 2021 Proposed Rule based on feedback from the public and from DOC and CHS.

The following is a descriptive summary of the final rule package, including (i) amendments to Chapter 1 Standards to make them consistent with the Chapter 6 rules (Section 1); and (ii) the new rules in Chapter 6 (Section II). Chapter 6 includes rules regarding immediate placement responses to violence, restraints and canines, and variances, as well as a chart reflecting dates for implementation of rules that will not be implemented on the Effective Date. Chapter 6 also sets forth a comprehensive set of rules addressing key aspects of RMAS, including placement criteria and exclusions; time limitations; periodic reviews, and progression; procedural due process protections; case management and individual behavior support plans; staffing, training, and programming; and out-of-cell time and other conditions.

### I. Amendments to Chapter 1 Standards

The Board amends certain of its Minimum Standards in Chapter 1 of Title 40 of the Rules of the City of New York. The amendments:

- Prohibit, with certain exceptions, the commingling of young adults (ages 18-21) and adults (ages 22 and over);
- Ensure that all provisions in Chapter 1 are consistent with the restrictive housing rules in Chapter 6; and
- Further the Board’s commitment to employing person-first and gender-inclusive language in its Standards and general communications by modernizing all such language in each amended section of Chapter 1.

30 The 2021 Proposed Rule is available at: <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2021-Restrictive-Housing/2021.03.05-Proposed-Rule.pdf>.

31 Due to the ongoing COVID-19 pandemic, this hearing was held virtually. A video of the hearing can be found at [https://youtu.be/ke\\_1GHLj\\_c8](https://youtu.be/ke_1GHLj_c8).

32 Due to the ongoing COVID-19 pandemic, this hearing was held virtually. A video of the hearing can be found at <https://youtu.be/hZ57UgPFxfI>.

33 A summary of all oral testimony is located at <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2021-Restrictive-Housing/Summary%20of%20All%20Oral%20Testimony%20Received%20by%20BOC%20during%20Public%20Comment%20Period.pdf>.

34 Written public comment received by the Board during the 2021 CAPA period is located under the heading “Written Comments” at <https://www1.nyc.gov/site/boc/jail-regulations/public-comment-proposed-restrictive-housing-rule-2021.page>.

35 The SCOC Chairman’s Memorandum and regulatory additions and amendments, dated February 8, 2021, is located at <https://scoc.ny.gov/pdfdocs/CM-2-New-Regulations-Governing-Special-Housing.pdf>.

Following is a descriptive summary of the amendments.

### Amendments to § 1-02(c): Commingling of Young Adults with Adults

In 2015, the Board amended Minimum Standard § 1-02(c) to create a unique category of people in custody — young adults ages 18 through 21 — who were to be housed separately and apart from the adults in the Department’s custody (§ 1-02(c)(1))<sup>36</sup> and provided age-appropriate programming (§ 1-02(c)(2)).<sup>37</sup> These revisions were designed to reduce violence by: (i) segregating developmentally distinct age groups; (ii) fostering age-appropriate rehabilitative opportunities, and (iii) ensuring compliance with federal and local Prison Rape Elimination Act (PREA) standards.

Although the amended rule became effective in July 2016, the Board has continuously passed variances exempting the Department from full compliance. The Board began granting these variances to DOC in fall 2015. The latest iteration of the variance was passed on January 12, 2021 and allowed the Department to house young adults ages 19 through 21 under certain conditions.<sup>38</sup> As of December 15, 2020, 89% (n=319) of young adults in DOC custody were housed with their age group; 10% (n=34) were in comingled housing; and 1% (n=4) were housed with adults in specialized medical or mental health housing areas as permitted by other Board variances requested by CHS.

On October 31, 2019, the Board voted to formally propose a restrictive housing rule (i.e., the 2019 Rule) that would codify these variance conditions. During the comment period on the 2019 Rule, advocates and others voiced their opposition to this proposed change on the ground it marked a troubling departure from the DOC’s Young Adult Plan and would allow the Department to remove young adults from age-appropriate services, education, and programming. Further, there was no evidence that the practice of housing young adults with adults reduces violence.<sup>39</sup>

At public meetings during the last quarter of 2020, Board members expressed concern about the unacceptably high percentage of young adults housed with adults and their resulting lack of access to young-adult specific programming. They emphasized that it is precisely young adults who have engaged in violence who would benefit the most from such programming. Consequently, proposed rule § 1-02(b)(3) through (4) require that young adults be housed separate and apart from adults, except when housed in specialized medical housing units, specialized mental health housing, pregnant person housing or the Department nursery.<sup>40</sup>

Rule § 1-02(c)(3) states that the Department shall comply with the following data reporting requirements on commingling young adults with adults: (i) provide the Board with a monthly public census showing which housing units and facilities house young adults; the census shall indicate how many young adults are in each unit and whether the unit is a young-adult only unit or a comingled housing unit;<sup>41</sup> (ii) report to the Board the locations of all units operating as young adult-only housing units at each facility, the date each unit

36 Min. Std. § 1-02(c)(1) states: “No later than October 15, 2015, the Department shall implement the requirement . . . that [people in custody] ages 18 through 21 be housed separately and apart from [people] over the age of 22.”

37 Min. Std. § 1-02(c)(2) states: “Housing for [people in custody] ages 18 through 21 shall provide such [people] with age-appropriate programming. No later than August 1, 2015, the Department shall provide the Board with a plan to develop such age-appropriate programming.”

38 Record of Variance Action, with conditions, dated January 12, 2021, available at [https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2021/January/2021.01%20-%20Record%20of%20Variance%20Action%20-%20YA%20Co-mingling\\_final.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2021/January/2021.01%20-%20Record%20of%20Variance%20Action%20-%20YA%20Co-mingling_final.pdf)

39 See, e.g., the following comments on the 2019 Rule: Children’s Rights comment letter, December 12, 2019, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/2019-12-16-Public-Comment-Opposing-Restrictive-Housing-Rulemaking-Childrens-Rights.pdf>, pp. 1-2; Children’s Defense Fund-New York comment letter, November 27, 2019, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/2019-11-27-FINAL-CDF-Public-Comment-BOC.pdf>, pp. 1-3; Urban Justice Center Mental Health Project, comment letter, January 31, 2020, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/2020-01-31-UJC-MHP-Comments-on-Restrictive-Housing-Rulemaking.pdf>, p. 9; Legal Aid Society comment letter, January 31, 2020, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/2020-01-31-LAS-Comments-on-BOC-Proposed-Rules.pdf>, p. 10; Girls for Gender Equity comment letter, December 18, 2019, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/Girls-for-Gender-Equity-Comment-on-Restrictive-Housing.pdf>, pp. 1-2.

40 Rule § 1-02(c)(3) through (4). The rules define specialized medical units as “housing units for persons with medical conditions, such as infirmaries and contagious disease units (CDUs), where entry and discharge are determined by CHA according to clinical criteria” (rule § 6-03(b)(14)), and specialized mental health units as “Program for Accelerating Clinical Effectiveness (PACE) units, and Clinical Alternatives to Punitive Segregation (CAPS) units, where entry and discharge are determined by CHA according to clinical criteria” (rule § 6-03(b)(15)). These exceptions were the subject of two continuing variances one granted in November 2015 and the other in July 2016.

41 Rule § 1-02(c)(3)(i).



started operating as a young adult-only unit, and the date each unit stopped operating as a young adult-only unit;<sup>42</sup> and (iii) provide BOC with monthly public reports on the Department's plans for housing and providing age-appropriate programming and services to young adults (i.e., Young Adult Plan).<sup>43</sup>

#### **Amendments to Ensure Consistency between Chapter 1 and Chapter 6 Standards**

The other amendments to Chapter 1 Standards eliminate specific references to punitive segregation and enhanced supervision housing (ESH) and insert references to RMAS where appropriate.

##### **Section 1-05 (Lock-in)**

The amendments to § 1-05 eliminate the reference to punitive segregation and provide that the Chapter 1 Minimum Standards relating to lock-in do not apply to RMAS, where lock-in is governed by rule § 6-16.

##### **Section 1-06 (Recreation)**

Section 1-06(g) regarding recreation for people in segregation has been amended to replace the terms punitive segregation and "close custody" with a reference to RMAS.<sup>44</sup>

Existing § 1-06(h) states that a person in custody's "access to recreation may be denied for up to five days only upon conviction of an infraction for misconduct on the way to, from or during recreation." Subdivision (h) has been amended based upon SCOC guidance that the Department may not restrict recreation as part of a disciplinary sanction. It also now requires that the Chief of Department approve any limitations imposed on someone's access to recreation.

##### **Section 1-07 (Religion)**

Whereas existing § 1-07(h) ensures the free exercise of religion for all persons in punitive segregation, including congregate religious activities with appropriate security, the amendment replaces "punitive segregation" with a reference to RMAS.

##### **Section 1-08 (Access to Courts and Legal Services)**

Section 1-08(f)(6) is amended to eliminate references to punitive segregation and ESH and permit the Department to reduce or eliminate law library hours in RMAS Levels 1 and 2 provided that an alternative method of access to legal materials is instituted to permit effective legal research.

Section 1-08(j)(1) is amended to eliminate language allowing a person to be excluded from law library following a disciplinary infraction, in keeping with the SCOC guidance provided in the recreation context specifying that essential services cannot be restricted as part of a disciplinary sanction.

##### **Section 1-09 (Visiting)**

The amendment to § 1-09(f) permits the Department to impose limitations on contact visits with persons in RMAS according to the criteria in § 1-09(h) and the due process provisions governing disciplinary hearings set forth in rule § 6-24.

##### **Section 1-11 (Correspondence)**

Sections 1-11(c)(6) and 1-11(e)(1) currently permit the Warden of a facility to read non-privileged correspondence pursuant to a lawful search warrant or a Warden's written order articulating a reasonable basis to believe that the correspondence constitutes a security threat. In such cases, §§ 1-11(c)(6)(ii)-(iii) and 1-11(e)(1)(ii)-(iii) allow the Warden to read such correspondence without any notification to the sender or recipient when that person is in ESH; the existing sections also exempt the Warden from maintaining a written record of correspondence that has been read so long as the sender or recipient is in ESH. The amendments eliminate these exceptions related to people in ESH, and instead mandate that Wardens will be required to notify everyone in custody when a determination has been made to read their correspondence and will be required to keep a written record of all correspondence read pursuant to § 1-11.

##### **Section 1-16 (EHS) and Section 1-17 (Limitations on the Use of PSEG)**

As discussed above, these sections shall be repealed upon implementation of RMAS.

#### **Non-Substantive Language Amendments (§§ 1-05 through 1-09 and § 1-11)**

People in DOC custody are people first and the circumstance of their incarceration is not their defining feature. Therefore, the

42 Rule § 1-02(c)(6)(ii).

43 Rule § 1-02(c)(6)(iii).

44 Close custody was declared unlawful in *Matter of Jackson v Horn*, 27 Misc. 3d 463, 474 (Sup. Ct. N.Y. Cty. 2010) (holding that DOC's practice of confining people in close custody housing units violated §1-05 of the Board's Minimum Standards).

Board has made a commitment to employ person-first language in its Standards and general communications going forward. To this end, the Board is deleting all references to "Inmates" in favor of person-first terms such as "people/persons/individuals in custody" in Minimum Standards §§ 1-05 through 1-09 and § 1-11. The Board is also making a concerted effort towards gender inclusivity in its use of language and will avoid the use of terminology that suggests a gender binary.

## **II. CHAPTER 6 RULES**

### **Subchapter A: Core Principles § 6-01**

Rule § 6-01 enumerates the core principles upon which the Chapter 6 Standards are based. These principles are reflected in other Board Standards, model criminal justice standards, and DOC's policies on restrictive housing.

The first principle<sup>45</sup> seeks to protect the safety of people in DOC custody and the staff who work in DOC facilities<sup>46</sup> by: (i) ensuring that all people in custody and all staff are treated with dignity and respect; (ii) prohibiting restrictions that dehumanize or demean people in custody<sup>47</sup>; (iii) placing restrictions on people in custody that are limited to those required to achieve the appropriate objectives for which the restrictions are imposed<sup>48</sup>; and (iv) confining people to the least restrictive setting and for the least amount of time necessary to address the specific reasons for their placement and to ensure their own safety as well as the safety of staff, other people in custody, and the public.<sup>49</sup>

The second core principle<sup>50</sup> aims to place people in custody into restrictive housing in accordance with due process and procedural and restorative justice principles by: (i) explaining disciplinary rules and the sanctions for violating them when people are first admitted to DOC custody; (ii) imposing sanctions that are proportionate to the offenses committed; and (iii) applying disciplinary rules and imposing sanctions fairly and consistently.<sup>51</sup>

The third core principle<sup>52</sup> strives to promote the rehabilitation of people in custody and reintegrate them into the community by: (i) incentivizing good behavior; (ii) allowing people placed in restrictive housing as much out-of-cell time and programming participation as practicable, consistent with safety and security; and (iii) providing necessary programs and resources.<sup>53</sup>

The fourth and final core principle<sup>54</sup> seeks to monitor and track compliance with the rules and the core principles on which they are based by developing compliance metrics and regularly reporting outcomes to the Board and the public.<sup>55</sup> In furtherance of this principle,

45 Rule § 6-01(a)(1)(i) through (iv).

46 See, e.g., Minimum Standard ("Min. Std."); § 1-16 (a) (ESH/"Purpose"); § 1-16(b) (ESH/"Policy"); ABA Criminal Justice Standards on Treatment of Prisoners, Part I ("ABA Std.") (2011), Stds. 23-2.6(a) and 23-2.7, [https://www.americanbar.org/content/dam/aba/publications/criminal\\_justice\\_standards/Treatment\\_of\\_Prisoners.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/publications/criminal_justice_standards/Treatment_of_Prisoners.authcheckdam.pdf); American Correctional Association Restrictive Housing Expected Practices, ("ACA Std.") (January 2018), Std. 4-RH-0001, [http://www.aca.org/ACA\\_Prod\\_IMIS/ACA\\_MemberStandards\\_Accreditation/Standards/Restrictive\\_Housing\\_Committee/ACA\\_MemberStandards\\_and\\_Accreditation/Restrictive\\_Housing\\_Committee/Restrictive\\_Housing\\_Committee.aspx?hkey=458418a3-8c6c-48bb-93e2-b1fbcba482a2](http://www.aca.org/ACA_Prod_IMIS/ACA_MemberStandards_Accreditation/Standards/Restrictive_Housing_Committee/ACA_MemberStandards_and_Accreditation/Restrictive_Housing_Committee/Restrictive_Housing_Committee.aspx?hkey=458418a3-8c6c-48bb-93e2-b1fbcba482a2); and U.S. Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing, Final Report ("DOJ Final Report") (January 2016) (at 1), <https://www.justice.gov/archives/dag/file/815551/download>.

47 See, e.g., ABA Std. 23-1.1(d); United Nations Standard Minimum Rules for the Treatment of Prisoners ("Mandela Rules"), Rule 1, <https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf>.

48 See, e.g., Min. Std. § 1-16(d)(1) (ESH/"Conditions, Programming and Services"); § 1-17(b)(4) (PSEG/"Exclusions"); ABA Std. 23-1.1(c); and DOJ Final Report, Guiding Principle No. 19, <https://www.justice.gov/archives/dag/file/815556/download>.

49 See, e.g., Min. Std. § 1-02(f)(1) ("Classification of Prisoners"/"Security classification"); § 1-17(e) (PSEG/"Required out-of-cell time"); Variance from Min. Std. § 1-16(c)(1)(ii) (YA-ESH Variance), Condition Nos. 2, 5, and 7, <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/February/2019.02.12%20DRAFT%20Record%20of%20Variance%20Action%20-%20YA%20ESH.pdf>; ABA Std. 23-2.6(a); DOJ Final Report, Guiding Principle Nos. 1 and 2; and European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment Standards ("CPT Stds."), Standard 61, <https://rm.coe.int/16806cccc6>.

50 Rule § 6-01(a)(2)(i) through (iv).

51 See, e.g., Min. Std. § 1-16(g) (ESH/"Placement Review Hearing"); Min. Std. § 1-17(c) (PSEG/"Due process"); ABA Std. 23-4.2; and DOJ Final Report, Guiding Principle No. 20.

52 Rule § 6-01(a)(3)(i) through (iii).

53 See, e.g., § 1-16(a) (ESH/"Purpose"); ABA Std. 23-3.8(d); DOJ Final Report, Guiding Principle No. 30; and Association of State Correctional Administrators Restrictive Status Housing Policy Guidelines, August 9, 2013 ("ASCA Stds."), Std. No. 4, <https://asca.memberclicks.net/assets/2013%20ASCA%20Resolution%20Restrictive%20Housing%20Status%20Policy%20Guidelines.pdf>.

54 Rule § 6-01(a)(4)(i) and (ii).

55 See, e.g., § 1-16(i) (ESH/"Board Review of ESH Implementation"); § 1-17(h) (PSEG/"Reports on punitive segregation"); conditions imposed on variances

rules regarding data collection and review are designed to ensure that the Department and CHS track the information necessary to monitor compliance with the rules and promote transparency on compliance through regular reporting.

Chapter 6's data reporting provisions take a comprehensive and holistic approach toward data collection and review. They require DOC and CHS to publicly report information on compliance and conditions of confinement in restrictive housing and regular data sharing with the Board.<sup>56</sup> Many of the reporting provisions, such as those related to, RMAS,<sup>57</sup> are intended to replace existing rules or codify variance reporting conditions.<sup>58</sup> Regular reporting required in the rules will ensure the Board, DOC, CHS, and the public have the necessary information from which to measure compliance and progress. The rules related to each report also require that the Board and the Department jointly develop reporting templates for approval by the Board to ensure the necessary compliance metrics are clearly communicated to the public. The rules also require the Department to develop the system(s) necessary to collect accurate, uniform data to track due process requirements and compliance with RMAS rule provisions in a manner that may be analyzed electronically by the Board.<sup>59</sup>

The Department has begun soliciting recommendations from vendors to modernize the manner in which operations are tracked, recorded, and communicated. Currently, many processes related to restrictive housing exist only on paper forms and in paper logbooks. This inhibits efficient and safe operations and effective monitoring of compliance with the Minimum Standards. The Board understands that DOC has committed to enhancing and developing systems necessary to track the data and produce the reports required by the rules. Investments in comprehensive data tracking systems will position the Department to determine the effectiveness of agency programs, initiatives, policies, and practices; make data-driven policy decisions; and implement targeted corrective action when necessary.<sup>60</sup> With such systems, DOC would be able to determine whether any of its restrictive housing models or restrictions have been effective in preventing or reducing violence in the jails.

## Subchapter B: Definitions §§ 6-02 and 6-03

### General Definitions (§ 6-02)

Rule § 6-02 sets forth definitions of terms used throughout Chapter 6. Of note is the definition of a person confined in a DOC facility as a "person in custody." As noted in Section I, the Board has made a commitment to employ person-first language in its Standards and general communications going forward. To this end, the new Chapter refers to people in DOC custody as "people in custody."

### Definition of Restrictive Housing and Related Terms (§ 6-03)

Generally, § 6-03(a)(1) and (2) define restrictive housing as the placement of people in custody into housing units separate and apart from the general population where all those in the unit are subject to restrictions not applicable to the general population. A unit is restrictive if out-of-cell time in the unit or in any other level of the unit is less than 14 hours a day (as is offered to the general population).<sup>61</sup> A unit is also restrictive for purposes of this rule if it has one or more of the following characteristics: (i) services mandated under Chapter 1 of the Standards are provided in the housing unit as opposed to a facility's common areas, such as the chapel or law library;<sup>62</sup> (ii) a person

regarding commingling of young adults with adults, Young Adult-ESH, the Secure Unit, and PSEG (waiver of 7-day requirement), <https://www1.nyc.gov/site/boc/jail-regulations/variances.page>; ABA Stds. 23-11.1 and 23-11.3.

56 See, e.g., rules § 6-04(e) (Pre-Hearing Detention); § 6-05(k) (De-escalation Confinement); and § 6-25 (Data Collection and Review/RMAS).

57 *Id.*

58 See, e.g., Min. Std. § 1-16(i) ("Board Review of ESH Implementation"); Min. Std. § 1-17(h) ("Reports on punitive segregation"); Variance from Min. Std. § 1-16(c)(1)(ii) (YA-ESH Variance), Condition Nos. 13 and 15 through 17, [https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/November/2020.11%20-%20%20Record%20of%20Variance%20Action%20-%20YA%20ESH%20AD\\_final.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/November/2020.11%20-%20%20Record%20of%20Variance%20Action%20-%20YA%20ESH%20AD_final.pdf); and Variance from Min. Std. § 1-02(c)(1) ("Young Adult (YA) Commingling Variance"), Conditions Nos. 9 through 11, [https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2021/January/2021.01%20-%20Record%20of%20Variance%20Action%20-%20YA%20Co-mingling\\_final.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2021/January/2021.01%20-%20Record%20of%20Variance%20Action%20-%20YA%20Co-mingling_final.pdf)

59 Rules § 6-24(i)(1) and § 6-25(b).

60 The Vera Institute of Justice ("Vera") recommends that prisons and jails "[d]evelop robust systems for collecting and reporting data on the use of restrictive housing and other relevant measures, such as outcomes of the disciplinary process. Such data should be used to measure the impact of policy changes, identify areas in which the desired outcomes are not being achieved, and ensure that all people benefit from the improvements (including populations such as youth, women, and people of color)." Vera, "Rethinking Restrictive Housing: Lessons from Five U.S. Jail and Prison Systems" (May 2018) (at 37), <https://www.vera.org/downloads/publications/rethinking-restrictive-housing-report.pdf>.

61 Rule § 6-03(a)(1).

62 Rule § 6-03(a)(2)(i).

is housed alone in a unit;<sup>63</sup> and (iii) the physical design of the unit cannot accommodate more than four others in custody.<sup>64</sup>

The Rule's definition of restrictive housing was developed to address various forms of restrictive housing currently operating in the New York City jails. This includes punitive segregation of three types — PSEG I (also known as CPSU), the Restrictive Housing Unit, and PSEG II — and the Enhanced Supervision Housing or "ESH," all of which are units where people are held separate and apart from the general population as a consequence of behavior. The Rule's definition also includes housing units where the physical design of the unit permits people confined in the unit to congregate with a small number of other people in custody, such as units currently found at West Facility, North Infirmiry Command (NIC), and Manhattan Detention Complex (MDC). Finally, the restrictive housing definition also encompasses units currently characterized as "solo housing," previously defined as a temporary individual placement in a housing area after all other feasible alternatives for placement were determined to be unsuitable. The definition does not include units currently operating for young adults where privileges are restricted but daily lockout is 14 hours (Transitional Restorative Unit ("TRU") and Second Chance Housing Unit).

### ► Immediate Placement Responses to Violence

Immediate placement responses to violence, addressed in Subchapter C (§§ 6-04–6-06), include pre-hearing detention — the placement of a person into RMAS Level 1 pending the investigation or adjudication of the person's disciplinary infraction for a Grade I violent offense. Also subject to Subchapter C rules are de-escalation confinement (§ 6-05), and the emergency lock-in of people in their cells (§ 6-06).

### ► RMAS

The Risk Management Accountability System, addressed in Subchapter E (§§ 6-08–6-26), is defined as a progression model that separates people from general population in response to their commission of an infraction that currently would render them eligible for PSEG I, RHU, or PSEG II, and holds them accountable through a swift, certain, fair, and transparent process. RMAS promotes prosocial behavior and progression through positive incentives as well as case management services, behavior support plans, and evidence-informed programming, tailored to the person's individual needs. RMAS includes Levels 1 and 2, with Level 1 being the most restrictive.<sup>65</sup>

### ► RRU

The Restorative Rehabilitation Unit, addressed in Subchapter F (§ 6-27), is defined as a general population housing area of 15 or less people that offers enhanced programming, security, and therapeutic support for people stepping down from RMAS.

## Subchapter C: Immediate Placement Responses to Violence § 6-04, § 6-05, and § 6-06

Subchapter C covers: (1) pre-hearing detention; (2) confinement for de-escalation purposes; and (3) emergency lock-ins. These forms of restrictive confinement, which the Department utilizes as immediate responses to violence, are discussed below.

### Pre-Hearing Detention (§ 6-04)

People who must be immediately separated from others after committing a violent or other serious infraction are placed in pre-hearing detention ("PHD") to ensure the safety and security of staff and other people in custody. Rule § 6-04 incorporates provisions of Minimum Standard § 1-17(c)(2) (PSEG "Due Process") stating that people in custody who qualify for and are placed in PHD shall be afforded an infraction hearing no later than seven (7) business days after PHD placement, and time spent in PHD in RMAS Level 1 prior to the infraction hearing shall count toward the person's placement in RMAS Level 1.<sup>66</sup> The rule expands upon these requirements by codifying certain provisions in DOC policies regarding placement criteria and time limitations governing the Department's use of PHD.

To monitor compliance with § 6-04, subdivisions (e) and (f) require: (i) the Department to produce semi-annual reports on DOC's use of pre-hearing detention; and (ii) the Board and the Department jointly develop the reporting template, which shall be approved by the Board.

### Confinement for De-Escalation Purposes (§ 6-05)

#### Closed Housing Units

Rule § 6-05 sets forth parameters for the Department's confinement of people in custody for de-escalation purposes and builds upon DOC's existing policies on this subject. The need for parameters arose, in part, out of Board staff's discovery in 2016 of people being held in housing

63 Rule § 6-03(a)(2)(ii).

64 Rule § 6-03(a)(2)(iii).

65 Rule § 6-03(b)(16).

66 Rule § 6-04 and other Chapter 6 rules are intended to replace Min. Std. § 1-17 ("Limitations on the Use of Punitive Segregation") in its entirety as discussed later in Section I and in Section II, below.



units classified as “closed” by DOC, yet serving as temporary space for people who required immediate removal from their housing unit after a violent incident.<sup>67</sup> When a person in custody was moved to one of these units, few staff members were alerted to where the individual was and official records did not reflect these locations. The person was effectively hidden, including from BOC staff and other oversight. Health staff was also not aware of the location of their patients in these units, creating dangerous barriers to medication and healthcare. Board staff further determined that these units operated in violation of Minimum Standards and without any written procedures. In response to the Board’s concerns, the Department reported it would cease the practice of placing people in closed housing areas.

#### The Use of Intake Areas for De-escalation Confinement

At the outset, we note that mention of the *Nunez* litigation in our Statement of Basis and Purpose is for historical background only, and any requirements stemming from that litigation would supersede local rules. Nothing in our rules is intended to or could interfere with the orders and related agreements related to the *Nunez* litigation. As the *Nunez* Monitor has repeatedly noted in his Reports, the high number of uses of force occurring in intake areas has been of concern since the effective date of the *Nunez* Agreement.<sup>68</sup> The practice of escorting people in custody to an intake area immediately following a use of force or a person-on-person fight interferes with the delivery of prompt medical access to injured individuals and diverts DOC intake staff from their primary duty of processing people in and out of the facility. Additionally, placing an agitated person in the intake pens “brings unnecessary chaos and tension into the area, and sometimes erupts into additional violence,” and “the inherently chaotic environment of intake does not serve the de-escalation purpose for an agitated” person in custody.<sup>69</sup>

In prior monitoring periods, the Department initiated, on a pilot basis, Satellite Intake — a separate facility location where people were placed in individual cells as opposed to intake pens. DOC ceased this practice at the end of June 2018. Since then, the Monitor has continued to emphasize “the importance of a de-escalation tool in managing the immediate aftermath following an incident” and has encouraged the Department to reconsider Satellite Intake or a similar option as a viable strategy for post-incident response.<sup>70</sup>

During the Ninth Monitoring Period (i.e., the last six months of 2019), the Monitoring Team began to more closely scrutinize use of force incidents involving self-harm.<sup>71</sup> As part of this assessment, the Monitoring Team reviewed a number of self-harm incidents, including evaluation of the high-profile suicide attempt by 18-year-old Nicholas Feliciano, in an intake pen in November 2019.<sup>72</sup> According to press reports, he had been in an intake cell for approximately six hours before he tried to hang himself from a pipe with a piece of clothing, as several officers stood by without intervening for seven minutes.<sup>73</sup> As a result, he allegedly suffered permanent brain damage.<sup>74</sup>

In August 2020, the *Nunez* parties entered into a Remedial Consent Order Addressing Non-Compliance which, among other things, requires the Department, in consultation with the Monitor, to develop and implement a de-escalation protocol to be followed after UOF incidents. The protocol, which is subject to the Monitor’s approval, must be designed to minimize the use of intake areas to hold people in custody.

#### Section 6-05 Parameters

The parameters set forth in rule § 6-05 are designed to prevent unregulated use of closed housing units as occurred in 2016 and prevent the dangers associated with the use of intake areas, as discussed in Monitor Reports over the past four years and exemplified by the tragic incident involving Mr. Feliciano.

Rule § 6-05 permits the Department to confine people in custody for de-escalation purposes only (1) when a person’s behavior poses an immediate threat to the safety of the persons or others or significantly disrupts DOC activities in progress;<sup>75</sup> (2) to temporarily house a person in custody for the person’s own safety after the person has

been assaulted or otherwise victimized by another person in custody;<sup>76</sup> or (3) to facilitate the decontamination of people in custody following exposure to chemical spray.<sup>77</sup>

Rule § 6-05 requires, among other things, that the Department utilize only individual cells for the purpose of de-escalation confinement, and that such cells be located in areas other than intake areas.<sup>78</sup> Cells used for de-escalation confinement must have the features specified in, and be maintained in, accordance with the personal hygiene and space requirements of 40 RCNY § 1-03 and § 1-04.<sup>79</sup> Meals and snacks must be served to people in de-escalation confinement at or about the same time and of the same quality and quantity as the meals served to people in general population.<sup>80</sup>

The Department must ensure the immediate notification to CHA<sup>81</sup> of a person’s placement in de-escalation confinement, including the initial and any subsequent locations of such confinement, so that the person’s access to healthcare services and medication is not interrupted.<sup>82</sup> DOC must conduct visual and aural observation of people in de-escalation confinement every 15 minutes.<sup>83</sup>

A person in custody’s initial placement in de-escalation confinement shall be no more than six (6) hours, and re-authorization must be based upon written approval of DOC’s security chain of command every three (3) hours for a maximum of six (6) hours.<sup>84</sup> The approval for each three-hour authorization must consider the reasons therefor, including what attempts were made by the Department to transfer the person in custody out of de-escalation confinement.<sup>85</sup> Should DOC keep a person in de-escalation confinement for more than six (6) hours, it must declare an emergency variance pursuant to 40 RCNY § 1-15(b)(3).<sup>86</sup> Such declaration must include how long someone was kept there and the reasons why the person was not placed elsewhere. For the purposes of compliance with these time limitations, the length of a person in custody’s de-escalation confinement shall be calculated from the time of initial placement in the de-escalation confinement cell or area until the individual is transported to a newly assigned housing area, and shall include the time the person spends in any other subsequent de-escalation confinement cell or area to which the Department moves the individual prior to rehousing.<sup>87</sup>

To monitor compliance with § 6-05, subdivisions (i) and (j) require the Department to produce quarterly reports on DOC’s use of de-escalation confinement; and the Board and the Department jointly develop the reporting templates, which shall be subject to the Board’s approval.

Finally, rule § 6-05(k) requires DOC to commence using cells outside of intake areas for de-escalation purposes within six months of the Effective Date. Until then, the Department must operate intake areas used for this purpose in compliance with the other requirements of

§ 6-05.<sup>88</sup> Additionally, de-escalation confinement in an intake area must have an adequate number of flush toilets, wash basins with drinking water, and appropriate furnishings for seating and reclining to accommodate the number of people in custody confined there.<sup>89</sup> Such areas must be maintained in a clean and sanitized manner.<sup>90</sup>

#### Emergency Lock-Ins (§ 6-06)

Department policy permits staff to lock down housing areas and facilities to investigate or avoid serious violent incidents, conduct searches for contraband, and restore order. As a security response that impacts many people and services, Board analyses find that lock-ins contribute to perceptions of unfair and excessive punishment, frustrations, and tensions in the jails, and that they hinder DOC’s and CHS’s ability to meet the Minimum Standards.

The amendment to § 1-05(a) (“Lock-in”/“Policy”) states that except for people confined in RMAS housing or for medical reasons in contagious disease units, the time spent by people confined to their cells “should be kept to a minimum and required only when necessary for the safety and security of the facility.” Rule § 6-06 on emergency lock-ins (or “lockdowns”) builds on § 1-05(a). The rule is intended to minimize the

67 BOC Report on Satellite Intake: [https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2018.10.19-Satellite Intake Report.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/2018.10.19-Satellite%20Intake%20Report.pdf).

68 Ninth Report of the *Nunez* Independent Monitor (“Ninth Report”), <https://www1.nyc.gov/assets/doc/downloads/pdf/9thMonitorsReport052920AsFiled.pdf>, p.19; see also: Fourth Report (pp. 31, 67-68, and 250-252); Fifth Report (pp. 19-20, 60-61, 181-182); Sixth Report (pp. 1, 16, 196-197); Seventh Report (pp. 240-241); Eighth Report (pp. 32, 287); Ninth Report (pp. 22-28, 321-322); Tenth Report (pp. 19, 26-28, 279); All of the Monitor’s Reports are posted on DOC’s website at <https://www1.nyc.gov/site/doc/media/nunez-reports.page>.

69 Ninth Report, p. 19.

70 *Id.*, p. 322.

71 Remedial Consent Order Addressing Non-Compliance, *Nunez v. City of New York*, 11 Civ. 5845, <https://www.justice.gov/usao-sdny/press-release/file/1301816/download>, p. 3.

72 *Id.*

73 *Id.*

74 *Id.*

75 Rule § 6-05(a)(1).

76 Rule § 6-05(a)(2).

77 Rule § 6-05(a)(3).

78 Rule § 6-05(d).

79 Rule § 6-05(e).

80 Rule § 6-05(f).

81 Rule § 6-02(b) defines “CHA” as “the Correctional Health Authority designated by the City of New York as the agency responsible for health and mental health services for people in the care and custody of the Department.” Hereinafter, this Statement will refer to CHS as the current health care provider in the New York City jails.

82 Rule § 6-05(b).

83 Rule § 6-05(c).

84 Rule § 6-05(g)(1) through (2).

85 Rule § 6-05(g)(2).

86 Rule § 6-05(g)(3).

87 Rule § 6-05(g)(4).

88 Rule § 6-05(k)(1).

89 Rule § 6-05(k)(2).

90 *Id.*

impact of emergency lock-ins on access to mandated services, ensure adequate coordination between DOC and CHS when they occur, and improve transparency and accountability around the Department's use of this practice.

In 2018, the Board issued several reports on the number of emergency lock-ins and the total lock-in time experienced by people in custody from January 2017 through November 2017. This analysis found, among other things, that: (i) there was an 88% increase in the Department's use of emergency lock-ins since 2008; (ii) from 2016 to 2017, there was a 32% increase in the total number of emergency lock-ins; and (iii) DOC's current method of reporting and tracking these lock-ins does not readily allow for an accurate or comprehensive understanding of the number of lockdowns, total duration of lock-in time by people in custody, and the services impacted.<sup>91</sup>

The Board's May 2019 report<sup>92</sup> analyzed emergency lock-ins occurring in 2018 and found that while the Department had reduced the use of emergency lock-ins by 18% (from 1,595 in 2017 to 1,313 in 2018) and decreased their average duration by 8% (from 12 to 11 hours), more than half of all emergency lock-ins (58%, n=768) still resulted in nine (9) or more hours of continuous lock-in time for people in custody. The Board's report also found significant and concerning discrepancies between DOC and CHS documentation of the impact on health-related services. Board interviews with people working or held in areas where extended lock-ins occurred also confirmed that lockdowns can contribute to tensions and perceptions of unfairness. In its most recent analysis of 2019 data, the Board found that the Department had reduced the total number of emergency lock-ins by 46% (from 1,313 in 2018 to 706 in 2019) and maintained the average duration of 11 hours. More than half of all emergency lock-ins (56%, n=393) had resulted in nine (9) or more hours of continuous lock-in time for people in custody.

In response to the Board's findings, the Department publicly agreed to the Board's recommendations to continue reducing the number and duration of lockdowns and work toward ending the use of facility-wide lockdowns; notifying the public of lockdowns impacting visits and/or phone calls; and update the Incident Reporting System to track the impact of lockdowns on services, in a manner that may be analyzed electronically by the Board. Section 6-06 incorporates these recommendations.<sup>93</sup> The rule further provides: (i) DOC shall limit the scope of emergency lock-ins so that only those housing areas that must be locked down are affected;<sup>94</sup> (ii) as soon as an emergency lock-in occurs, or is extended beyond a regularly scheduled lock-in period, DOC shall notify the Board and CHS, in writing, as to the facilities and specific housing area locations and number of people impacted;<sup>95</sup> (iii) in all housing areas where lock-ins have continued for more than six (6) consecutive hours or more, CHS shall complete clinical rounds to check for medical and mental health; additionally, DOC shall ensure timely access to medical and mental health care during any lock-in and provide for other delayed or missed services as quickly as possible following the lock-in<sup>96</sup>; (iv) for lock-ins continuing for 24 hours or more, DOC shall notify the Board, in writing, of the steps taken to address the emergency and lift the lock-in;<sup>97</sup> and (v) DOC and CHS shall issue a written directive to staff regarding the requirements of § 6-06.<sup>98</sup> The directive must include protocols for communication and coordination between DOC and CHS during and after emergency lock-ins.<sup>99</sup>

Section § 6-06 requires quarterly DOC data reporting to the Board on emergency lock-ins to monitor compliance.<sup>100</sup> The rule also requires CHS to produce quarterly data reports on the impact of emergency lock-ins on required health services (rounding, scheduled and unscheduled services, and sick call) and share with the Board the data it used to produce the reports.<sup>101</sup>

#### **Subchapter D: Prohibition On The Use Of Punitive Segregation: § 6-07**

91 Lockdown Report (January 2018), <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/Lockdown-Report-Jan-8-2018.pdf>; Additional Lockdown Findings (January 2018), <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/April-20-2018/2018.01%20-%20Additional%20Lockdown%20Findings.pdf>; Audit of DOC Facility Report of Area Lock-In Forms (April 2018) <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2018/April-20-2018/2018.01%20-%20Additional%20Lockdown%20Findings.pdf>; and Consecutive Lockdowns and Duration of Lockdowns (April 2018), [https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/continuous\\_lockdowns\\_report\\_final.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/continuous_lockdowns_report_final.pdf).

92 Annual Lockdown Report (May 2019), [https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/Lockdown%20Report%202019\\_5.13.19\\_FINAL.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/BOC-Reports/Lockdown%20Report%202019_5.13.19_FINAL.pdf).

93 Rules §§ 6-06(a), (c), (d), (e), (f), and (j).

94 Rule § 6-06(b).

95 Rule § 6-06(c).

96 Rule § 6-06(g).

97 Rule § 6-06(h).

98 Rule § 6-06(l).

99 *Id.*

100 Rule § 6-06(m).

101 Rule § 6-06(o).

Between 2012 — when the average daily population (“ADP”) in PSEG reached its peak (n=868) — and 2020 — when the ADP in PSEG was 108 people<sup>102</sup> — the average daily PSEG population declined by 88%. As of December 10, 2020, there were 92 individuals held in PSEG.<sup>103</sup> The Department has only infrequently extended a person's PSEG sentence beyond the 30- and 60-day limitations in the 2015 rule amendments. During the period from September 1, 2015 through April 16, 2020 DOC considered only 39 “7-day waiver” requests, of which it approved 29 and denied 10.<sup>104</sup> The Department's reliance on the use of “60-day overrides” also has decreased over time.<sup>105</sup> In 2015, DOC requested 114 and approved 94 of such overrides, as compared to 2020, when it requested only 15 and approved only 4.<sup>106</sup>

The Board applauds the Department for its considerable achievements in PSEG reform and has designed the following rules to replace punitive segregation and other forms of restrictive housing with RMAS — an alternative disciplinary model to ensure safety, accountability, and support in the NYC jails.

Rule § 6-07(a) recognizes that punitive segregation (also known as solitary confinement):

imposes significant risks of psychological and physical harm on people in custody. These risks are intensified for those with pre-existing mental illness or medical conditions and young adults. The risk of self-harm and potentially fatal self-harm is also strongly associated with solitary confinement. The hallmarks of solitary confinement — social deprivation and enforced idleness — create these serious health risks and are antithetical to the goals of social integration and positive behavioral change.

Rule § 6-07(b) requires that the Department eliminate punitive segregation — PSEG I, RHU, and PSEG II — in all its existing and future facilities and implement RMAS by November 1, 2021. Thereafter, as prescribed in § 6-07(c), the only form of restrictive housing permitted in DOC facilities will be RMAS housing pursuant to rules § 6-08 through § 6-26.

The scientific evidence is well-established that punitive segregation's extreme isolation and deprivation of positive environmental stimulation places people in custody at significant risk of serious psychological harm.<sup>107</sup> A Rikers study by Drs. Homer Venters, Ross MacDonald, and Daniel Selling, among others, found that people who had spent time in PSEG were almost seven times more likely to attempt to commit acts of self-harm “during the days they were not in solitary confinement,” relative to people who were never placed there.<sup>108</sup> A study of over 200,000 individuals who were incarcerated and released from the North Carolina prison system from January 2000 to December 2015 found that those held in solitary confinement were more likely to die in the first year after release from incarceration, especially from suicide or homicide; more likely to die of an opioid overdose in the first two weeks after release; and more likely to be reincarcerated.<sup>109</sup>

102 This number — 108 — represents the combined population in PSEG I, RHU, and PSEG II.

103 61 individuals in PSEG I, 28 individuals in RHU, and 3 individuals in PSEG II.

104 Min. Std. § 1-17(d)(2) requires that a person who has served 30 consecutive days in PSEG be released for at least seven (7) days before the person can be returned to PSEG. In September 8, 2015, DOC first requested, and the Board approved, a variance permitting the Department, “in highly exceptional circumstances presenting safety and security concerns” to waive this requirement. Since then, the Board repeatedly approved renewal of this variance subject to certain conditions. The Department has not considered or approved a 7-day waiver request since October 26, 2018. Moreover, this variance was last approved by the Board on January 16, 2020 and expired on April 16, 2020, after which the Department did not request to renew it.

105 Min. Std. § 1-17(d)(3) states that a person may not be held in PSEG for more than a total of 60 days within a six-month period unless, upon completion of or throughout the 60-day period, the person has continued to engage in persistent, serious acts of violence, other than self-harm, such that any placement other than PSEG would danger other incarcerated persons or staff.

106 BOC reports on punitive segregation: <https://www1.nyc.gov/site/boc/reports/BOC-Reports/punitive-segregation-reports.page>.

107 Craig Haney (2018), “Restricting the Use of Solitary Confinement,” Annual Review of Criminology (2018) (“Haney”) (pp. 286-299), <https://www.annualreviews.org/doi/full/10.1146/annurev-criminol-032317-092326>; Stuart Grassian, “Psychiatric Effects of Solitary Confinement,” 22 Wash. U. J. L. & Pol'y 325 (2006), [https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1362&context=law\\_journal\\_law\\_policy](https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1362&context=law_journal_law_policy).

108 Kaba F., Lewis A., Glowa-Kollisch S., et al., “Solitary Confinement and Risk of Self-Harm Jail Inmates,” American Journal of Public Health. Vol. 104(3): 442-447, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3953781/>.

109 Brinkley-Rubinstein L., Sivaraman J., Rosen D., et al., “Association of Restrictive Housing During Incarceration with Mortality After Release,” JAMA Network Open, 2019;2(10):e1912516, <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2752350>.

There is little evidence that punitive segregation is necessary to ensure safety or that without it, more violence would occur.<sup>110</sup> The Vera Institute of Justice reports that “[s]ubjecting incarcerated people to the severe conditions of segregated housing and treating them as the ‘worst of the worst’ can lead them to become more, not less, violent.”<sup>111</sup> Studies show that people who have been placed in solitary confinement are more likely to commit crimes after their release than those who were not in solitary.<sup>112</sup> In contrast, states that have reduced their use of solitary confinement have demonstrated little or no increase in prison violence.<sup>113</sup>

As described below, RMAS — the disciplinary model that will replace PSEG in the jails — will eliminate the harmful effects of punitive segregation while ensuring the safety of staff and people in custody, holding those who commit violence accountable for their misconduct, and providing people with the supports necessary to address the root causes of violence while in RMAS and also upon discharge from RMAS, thereby preventing further violence.

#### **Subchapter E: Risk Management Accountability System (RMAS) §§ 6-08 through 6-26**

##### Purpose (§ 6-08)

Rule § 6-08 states that the purpose of RMAS is to: (i) separate from the general population a person in custody in response to the person’s recent commission of an offense, which significantly threatens the safety and security of other people in custody and staff; (ii) hold incarcerated individuals accountable for their misconduct through swift, certain, fair, and transparent processes; (iii) promote prosocial behavior and progression back to general population through utilization of positive incentives, case management services, and behavior support plans, and individualized evidence-based programming; and (iv) provide people in custody with meaningful opportunities to socially engage with others and pursue productive activities.

##### Exclusions (§ 6-09)

Rule § 6-09(a) excludes from RMAS: (i) people with a mental disorder that qualifies as a serious mental illness; (ii) people diagnosed with an intellectual disability (expanding the current mental illness exclusion for PSEG, in conformity with CHS’s current practice)<sup>114</sup>; and (iii) pregnant persons, persons within eight (8) weeks of pregnancy outcome, or persons caring for a child in the Department nursery program.<sup>115</sup>

The rule emphasizes CHS’s authority in determining which of its patients fit the exclusionary criteria, as well as CHS’s authority to

110 Shames, A., Wilcox, J. & Subramanian, R., “Solitary Confinement: Common Misconceptions and Emerging Safe Alternatives,” Vera Institute of Justice, May 2015, pp. 18-20, [https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report\\_1.pdf](https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf).

111 *Id.*

112 Butler B., Simpson M. & Robertson R., “A Solitary Failure: The Waste, Cost and Harm of Solitary Confinement in Texas, ALU (Feb. 2015), p. 8, [https://www.aclutx.org/sites/default/files/field\\_documents/SolitaryReport\\_2015.pdf](https://www.aclutx.org/sites/default/files/field_documents/SolitaryReport_2015.pdf) (Of all those who were released from Texas prisons in 2006, 48.8% were re-arrested within three years. For those who were released from isolation units, 60.8 percent were rearrested during that period); Lowell D., Johnson C., & Cain K., “Recidivism of Supermax Prisoners in Washington State,” *Crime & Delinquency* 53(4): 633-656 (Oct 1, 2007) (Study found higher felony recidivism rates among people released directly from supermax units in Washington State compared to those in the general population), [https://www.studypool.com/uploads/questions/262416/20170124233153article\\_for\\_review\\_9.3.pdf](https://www.studypool.com/uploads/questions/262416/20170124233153article_for_review_9.3.pdf); “Confronting Confinement: A Report of the Commission on Safety and Abuse in America’s Prisons, Vera Institute of Justice (May 2006), [https://www.vera.org/downloads/Publications/confronting-confinement/legacy-downloads/Confronting\\_Confinement.pdf](https://www.vera.org/downloads/Publications/confronting-confinement/legacy-downloads/Confronting_Confinement.pdf) (finding that solitary confinement was related to higher-than-average recidivism rates, especially when people are released into the community directly from solitary confinement).

113 Shames, A., Wilcox, J. & Subramanian, R., “Solitary Confinement: Common Misconceptions and Emerging Safe Alternatives,” Vera Institute of Justice, May 2015, pp. 18-20, [https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report\\_1.pdf](https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf) (“In Colorado, for example, the state has reduced its use of solitary confinement by 85%, and assaults on staff are at their lowest point since 2006. . . . In addition, other states, including Illinois, Maine, New Mexico and Washington have reduced their use of solitary confinement, opting to use alternative strategies. Evidence to date suggests there has been little or no increase in prison violence as a result”).

114 Compare Min. Std. § 1-17(b)(iii) (people with “serious mental disabilities or conditions” shall be excluded from PSEG) with rules § 6-09(a)(1) through (2) (excluding from RMAS people “with a mental disorder that qualifies as serious mental illness,” and those “diagnosed with an intellectual disability”).

115 Rule § 6-09(a)(3); See Humane Alternatives to Long-Term (HALT) Solitary Confinement bill (A. 2500/S. 1623) (eliminates segregated confinement (more than 17-hour daily lock-in) for pregnant and new mothers), [https://nyassembly.gov/leg/?default\\_fld=&leg\\_video=&bn=A02500&term=2019&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y](https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A02500&term=2019&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y); DOJ Report, Guiding Principle No. 49 (“Women who are pregnant, who are post-partum, who recently had a miscarriage, or who recently had a terminated pregnancy should not be placed in restrictive housing”).

remove patients from RMAS to specialized medical units at any time.<sup>116</sup> Finally, rule § 6-09(d) ensures that people who are excluded from RMAS at one time are not able to be placed in RMAS at a later date for the same infraction.

##### Placement Criteria (§ 6-10)

Under rule § 6-10(a), a person may be confined in RMAS Level 1 only in PHD following a Grade I offense or upon a finding, after a disciplinary hearing, that the person is guilty of having committed a Grade I violent offense; the placement must occur within 30 days of adjudication of guilt.<sup>117</sup> A Grade I violent offense is one which under existing Minimum Standard § 1-17, would have rendered the person eligible for placement in PSEG I. Grade I violent offenses include violent conduct such as a stabbing or slashing or assault of a person causing serious injury.

Under rule § 6-10(b), a person may be placed directly into RMAS Level 2 only upon a finding, after a disciplinary hearing, that the person is guilty of having committed a Grade I non-violent or a Grade II offense; the placement must occur within 30 days of adjudication of guilt.<sup>118</sup> Such offenses are those which under Minimum Standard § 1-17 would have rendered a person eligible for placement in PSEG II. Grade II infractions include non-violent conduct such as making, possessing, selling or exchanging any amount of a narcotic, narcotic paraphernalia or other controlled substance.

In furtherance of the central tenets of due process and procedural justice, rule § 6-10(c) requires that a person’s sentence after being found guilty of an offense at a disciplinary hearing must be proportionate to the infraction charge. Additionally, pursuant to rule § 6-10(d), the Department must provide the Board with a written penalty grid describing, among other things, each offense that would render a person eligible for placement in RMAS Level 1 or 2 and the sentence range for each offense. DOC must share the penalty grid with the Board within 3 months of the Effective Date of the Rule.

##### Case Management (§ 6-11)

Rule § 6-11(a) requires the assignment of a case manager to each person in custody upon the person’s placement into RMAS. To ensure continuity of engagement and support, the assigned case manager will, to the extent practicable, remain the person’s case manager throughout the person’s stay in RMAS and also once they step down to a RRU.<sup>119</sup> Additionally, case managers must possess a combination of credentials and experience that render them particularly qualified to assist people through RMAS and upon discharge.<sup>120</sup>

##### Individual Behavior Support Plan (§ 6-12)

Rule § 6-12(a) calls for the development of written individual behavior support plans for all people in custody upon their placement in RMAS that: (i) outline program expectations and services to facilitate the person’s reintegration into housing in the general population;<sup>121</sup> and (ii) tailor plan goals to the individual’s age, literacy, education level, and capacity to complete programming.<sup>122</sup> The Department shall review and update the person’s progress toward meeting these goals with the person’s participation at each periodic review.<sup>123</sup>

Each individual behavior support plan (“IBSP”) must also include a detailed assessment of what led the person to engage in the violent or disruptive behavior, whether the person will be receiving mental health services; what programming and/or services will be provided to address the person’s misbehavior and prevent its recurrence, whether special security staffing arrangements will be employed to manage the person’s behavior, and whether the involvement of family members, criminal defense counsel, and community resources will be employed to assist the person in meeting the goals of the person’s IBSP.<sup>124</sup>

Rule § 6-12(d) requires enhanced engagement of a person who commits a Grade I violent infraction while in RMAS Level 1. Specifically, the Department must review the person’s IBSP and update it to include the strategies DOC will employ to prevent the person from engaging in further violent or disruptive behavior.<sup>125</sup> Upon approval of the updated plan by the Chief of Department, the plan (and the Chief’s approval) will be transmitted to CHS, the Board, and the affected person.<sup>126</sup> The person’s case manager must also meet with the person at least five days a week to review the person’s progress toward meeting the plan’s goals and further update the plan if necessary.<sup>127</sup>

116 Rule §§ 6-09 (b) and (c).

117 See also rule 6-24(g).

118 *Id.*

119 Rule § 6-11(a).

120 Rule § 6-11(b).

121 Rule § 6-12(a)(1).

122 Rule § 6-12(a)(2).

123 Rule § 6-12(a)(3).

124 Rule § 6-12(a)(4)(i) through (v).

125 Rule § 6-12(d)(1).

126 Rule § 6-12(d)(2) through (3).

127 Rule § 6-12(d)(4).

Rule § 6-12 expands the purpose and scope of individualized support plans currently used in ESH, TRU, and Second Chance as per DOC policy and is also considered a best practice in other jurisdictions.<sup>128</sup>

#### Progression (§ 6-13)

As described above on pp. 6-7, the 2021 Proposed Rule originally conceived of RMAS a three-tiered progression model, with different criteria and exclusions for progression in each level. Following extensive public comment calling for more certain limits in the RMAS levels, and in consideration of the new time limits on special housing imposed by the SCOC, the rule was revised to make RMAS a two-tiered disciplinary model with stricter progression requirements. Specifically, § 6-13 has been revised to ensure that most people move through both levels of RMAS in no more than 30 days, with up to 15 days in each level. Section 6-13(a) specifies that there is strong presumption people will move out of Level 1 to Level 2 after 15 days, subject to a limited exception in § 6-15 in cases where there is specific, documented intelligence that someone poses a serious safety threat if they were to be transferred. Section 6-13(b) likewise suggests a presumption of 15 days in Level 2, stating that after a total of 30 days in RMAS (in any combination of levels), people must step down to the RRU unless the Department pursues the limited exception under § 6-15.

#### Periodic Review of Individual Behavior Support Plans (§ 6-14)

Rule § 6-14 furthers one of the core principles underlying the Chapter 6 Standards; namely to promote prosocial behavior and progression back to general population through case management services, behavior support plans, and individualized evidence-based programming. In order to monitor a person's progress towards behavioral change, this section requires: (i) periodic reviews at least every 15 days for people in RMAS<sup>129</sup>; (ii) 24 hours' notice to incarcerated individuals of their review, the right to participate in the review, and to submit a written statement;<sup>130</sup> and (iii) a multidisciplinary team, including DOC program staff and the person's case manager, to consider various factors, including whether the programming and therapeutic options currently offered to the person are having a positive behavioral impact, and if not, what other available programming and therapeutic options might be more successful in helping the person to further the goals of their individual behavior support plan.<sup>131</sup> Following all periodic reviews, the team's conclusions are to be recorded in a written report and made available to the person within one business day of the review, subject to security redactions.<sup>132</sup>

Recognizing that this new periodic review process marks a significant departure from past practices, the Mayor's Office has committed to funding a formal evaluation of the process by a third-party auditor and contracted independent auditor after 3 months, 6 months, and annually thereafter. The purpose of such audit would be to analyze outcomes, to determine the process's efficacy, and to recommend any necessary changes.

#### Extensions (§ 6-15)

As described in § 6-13, the rules contemplate that people will generally spend 30 or less day in RMAS –15 days in Level 1 and 15 days in Level 2. That said, the rules allow the Department to extend a person's time in each level under certain exceptional circumstances where a

128 At the Middlesex County Adult Correction Center in New Jersey, weekly interdisciplinary restrictive housing meetings comprised of senior facility staff, classification and intelligence staff, and mental health staff discuss the status of people in restrictive housing and their individualized case plans, to ensure they can successfully transition to less restrictive housing as soon as possible. Vera, "Rethinking Restrictive Housing" (May 2018) (at 24), <https://www.vera.org/downloads/publications/rethinking-restrictive-housing-report.pdf>; the Nebraska Department of Correctional Services (NDCS) utilizes a high-level Central Office Multi-Disciplinary Review Team that must approve the placement of prisoners in its "longer term restrictive housing" unit and periodically reviews each prisoner, including his behavioral programming plan, to determine whether transfer to a less restrictive setting is safely possible. NDCS Administrative Regulation No. 210.01 re Restrictive Housing (rev'd. 7.14.16), Appendix III to "The Safe Alternatives to Segregation Initiative: Findings and Recommendations for the Nebraska Department of Correctional Services," Vera Institute of Justice (2016), [https://storage.googleapis.com/vera-webassets/downloads/Publications/safe-alternatives-segregation-initiative-findingsrecommendations-ndcs.pdf](https://storage.googleapis.com/vera-webassets/downloads/Publications/safe-alternatives-segregation-initiative-findingsrecommendations/legacy_downloads/safe-alternatives-segregation-initiative-findingsrecommendations-ndcs.pdf); the North Dakota Department of Corrections and Rehabilitation (NDDOCR) operates the Behavioral Intervention Unit or BIU for individuals who commit the most serious in-custody offenses and utilizes individualized behavior plans to monitor progress toward plan goals and make progression decisions (Bertsch, "Reflections on North Dakota's Sustained Solitary Confinement Reform" (October 2018) (at 72-74), [https://law.yale.edu/sites/default/files/area/center/iman/document/asca\\_liman\\_2018\\_restrictive\\_housing\\_released\\_oct\\_2018.pdf](https://law.yale.edu/sites/default/files/area/center/iman/document/asca_liman_2018_restrictive_housing_released_oct_2018.pdf); DOJ Report, Guiding Principle No. 5 ("For every [person in custody] in restrictive housing, correctional staff should develop a clear plan for returning the [person] to less restrictive housing as promptly as possible. This plan should be shared with the [person] unless doing so would jeopardize the safety of the inmate, staff, other inmates, or the public").

129 Rule § 6-14(a).

130 Rule § 6-14(b).

131 Rule § 6-14(c).

132 Rule § 6-14(d).

person poses a serious safety threat if they were to be transferred. In such cases, the facility head and the Chief of the Department each must render a written determination citing to specific documented intelligence that the person poses serious threat to safety if they were moved, and these determinations may only be made on a 7-day basis.<sup>133</sup> The Board expects that that specific, documented intelligence will consist of physical evidence, such as recordings, or credible testimony of an impending threat; evidence of an individual's past behavior will not be sufficient for the Department to invoke an extension under this standard. Sections 15(b), (c), and (g) outline the process by which these written determinations must be made and served on the individual in custody, their legal representative, the Board, and CHS.

The extensions outlined in this section are intended to apply only in exceptional circumstances. Where possible, the Department should still make every attempt to find a suitable and safe housing arrangement in a less restrictive environment before invoking the limited extensions outlined in § 6-15. To ensure that most people still move through RMAS within the presumed time periods, the Board has added additional guardrails around the extension process, including ensuring (i) that the Department provide the affected person with sufficiently detailed information about why their time is being extended;<sup>134</sup> (ii) that people can file an administrative appeal to DOC's General Counsel once they have been held in RMAS for more than 30 days;<sup>135</sup> and (iii) that people have access to legal representation for purposes of this administrative appeal.<sup>136</sup> Section 6-15(j) outlines the timeline for the administrative appeal process.

Finally, pursuant to rule § 6-15(h), the Department may not extend a person's length of stay in RMAS by imposing consecutive lengths of stay regarding multiple offenses for which the incarcerated person was found guilty at a hearing. Instead, the Department must sentence someone according to the top charge for which they were found guilty.

#### Required Out-of-Cell Time (§ 6-16)

Rule § 6-16 requires that people in RMAS Level 1 be permitted at least 10 out-of-cell hours per day.<sup>137</sup> People in Level 2 must be afforded at least 12 out-of-cell hours each day.<sup>138</sup>

#### Other Conditions (§ 6-17)

Rule § 6-17 describes the following conditions, which become less restrictive as a person moves through RMAS.

##### (i) Rounding and Safety

Rule § 6-17(a) requires that security staff conduct visual observations of all persons housed in RMAS every 15 minutes when they are confined to their cells, borrowing from a former DOC policy which required the same in PSEG.<sup>139</sup> The rule explicitly requires that staff check for and confirm signs of life during these visual observations, a provision borne out of the Board's 2019 death review of Layleen Polanco which found that irregular and superficial rounding practices resulted in staff's failure for several hours to discover that Ms. Polanco had died while locked in her cell in the Restrictive Housing Unit (RHU).<sup>140</sup>

The Board's report on Layleen Polanco's death also found that housing area officers' lack of notice about Ms. Polanco's serious medical condition (epilepsy) ultimately compromised her safety in that unit. Consequently, the Board recommended that CHS and DOC develop a protocol to inform all housing area officers when someone in their charge has a serious medical condition where a medical emergency would be more likely to occur than for someone without such a condition. Given patient privacy considerations and confidentiality constraints on CHS, the Board recommended that the agencies design a protocol that would not reveal specific diagnoses or private medical information. As described further in § 6-21(a), the Board's rule codifies this recommendation to create a process whereby people in custody with certain enumerated medical conditions are identified by CHS on a list that is accessible to DOC. The Department is then responsible for ensuring that housing area staff are aware when someone in their custody has a serious medical condition. Rule § 6-17(b) seeks to add an additional level of protection for medically vulnerable people by requiring that at the beginning of every tour, all security staff confirm in their housing area logbooks that they have checked whether anyone on the unit has been identified by CHS as having a serious medical condition.

##### (ii) Meaningful Engagement

133 Rule § 6-15(a).

134 Rule § 6-15(d) – (f).

135 Rule § 6-15(i).

136 Id.

137 Rule § 6-16(a).

138 Rule § 6-16(b).

139 DOC Directive 4501R-D re "Pre-Hearing Detention and Punitive Segregation Status Inmates," (eff. January 23, 2016), section IV(D)(8), p. 28.

140 Supra, fn. 24.

Separation of a person from general population after the person commits a violent offense and limitation on how many people the person may engage with following a violent incident are necessary to ensure the safety of staff and other people in custody. Rule § 6-17(c) balances safety concerns with the opportunity for meaningful engagement in RMAS Level 1. People confined in Level 1 will have the opportunity to meaningfully engage both visually and aurally with at least one other person in custody during lockout in a setting where people can converse without needing to raise their voices to be heard.<sup>141</sup> DOC plans to expand the structurally restrictive housing units at North Infirmery Command (NIC) for this purpose. People housed in RMAS Level 2 will have the opportunity to meaningfully engage both visually and aurally with at least three other people during lockout,<sup>142</sup> as is the case currently in the Secure Unit at George R. Vierno Center (GRVC). The Department plans to expand structurally restrictive housing at GRVC for this purpose.

#### (iii) Individual Restrictions

Rule § 6-17 states that to the extent the Department imposes individual restrictions on a person in custody confined in RMAS that deviate from those imposed on people housed in the general population, such restrictions must be limited to those required to address the specific safety and security threat posed by the person.<sup>143</sup> Individual restrictions must also be imposed in conformity with due process. For example, if DOC wants to limit access to contact visits of a person in custody who is confined in RMAS, a hearing shall be held, as required in 40 RCNY § 6-24(d), which shall address the criteria set forth in 40 RCNY § 1-09(h) with regard to both the incarcerated person and any individual visitors with whom DOC wishes to limit contact.<sup>144</sup>

#### (iv) Law Library Services

Rule § 6-17 permits law library services to be provided in RMAS Level 1 and Level 2 units instead of a law library.<sup>145</sup> Such alternative must, at a minimum, provide access to law library services by means of electronic legal research and typing equipment in each Level 1 and Level 2 unit<sup>146</sup>; and assign one library coordinator to every two RMAS units at least five times per week<sup>147</sup>. The coordinator will provide instruction on available research tools and respond to incarcerated people's requests for law library services.<sup>148</sup>

#### (v) Recreation

Rule § 6-17(h) provides that, to the extent the Department offers people confined in RMAS recreation in outdoor recreation pens or in vacant cells, DOC must equip these pens or cells with exercise equipment such as dip bars, high bars, or pull-up bars.

#### (vi) Air Conditioning

Rule § 6-17(i) requires that all RMAS Level 1 and Level 2 units be air conditioned during the heat seasons.

#### (vii) Natural Light

Finally, based on testimony received during the public comment period, rule § 6-17(j) requires that all RMAS cells have access to natural light (i.e. windows to the outdoors).

#### Staffing (§ 6-18)

Rule § 6-18(a) states that the Department shall make strong efforts to staff RMAS units with as many steady officers as possible during each tour. Section 6-18(a) also requires the Department to retain records sufficient to show accurate, uniform data on the security staff transferring in and out of RMAS units and the years of experience and training of security staff assigned to and working in these units. DOC shall semi-annually report this information, in writing, to the Board.

Rule § 6-18(b) requires that DOC provide the Board with DOC's staffing plans developed for RMAS and regularly update BOC on any material changes to such plans.

#### Training (§ 6-19)

Rule § 6-19(a) incorporates Chapter 1 Minimum Standards § 1-16(e) (1) (ESH) and § 1-17(f)(1) (PSEG), and provides that (i) DOC staff assigned to RMAS units shall receive special training designed to address the unique characteristics of these units and the people in custody who are housed in these units; and (ii) such training shall include, but not be limited to, recognition and understanding of mental illness and distress, effective communication skills, and conflict de-escalation techniques. Rule § 6-19(b) requires specialized training for staff working with young adults housed in RMAS, including trauma-

141 Rule § 6-17(c).

142 Rule § 6-17(d).

143 Rule § 6-17(e).

144 Rule § 6-17(f). Subdivision (f) is patterned on the same provision in 40 RCNY § 1-16(d)(2) (ESH).

145 Rule § 6-17(g).

146 Rule § 6-17(g)(1).

147 Rule § 6-17(g)(2).

148 Rule § 6-17(g)(3).

informed training on managing and understanding young adult populations and crisis intervention.

Rule § 6-19(c) requires the Department to provide hearing adjudicators and other staff involved in RMAS sentencing and placement decisions training on procedural and restorative justice principles and written policies to guide sentencing and placement decisions. This requirement is informed by the findings and recommendations of the Vera Report and the Board's ESH Reports.

Vera determined that people in custody, as well as DOC and CHS staff, find the disciplinary process difficult to understand and attributed this to: (i) inconsistent DOC directives and other official documents;<sup>149</sup> (ii) a lack of clear communication between the Department's Adjudication Unit and the various parties involved in an incident regarding outcomes of the disciplinary process;<sup>150</sup> and (iii) as discussed below, delays and backlogs in the process, resulting in distrust in disciplinary proceedings and outcomes.<sup>151</sup> To address these issues, Vera recommended, among other things, that all correction officers be trained on due process and procedural justice principles.<sup>152</sup>

Rule § 6-19(d) states that on at least an annual basis, the Department shall provide the Board with information related to the training to be provided in accordance with 6-20(a) through (c) including, but not limited to the length of each type of training required by DOC, training schedules, and curricula.

#### Programming (§ 6-20)

Programming is an essential support for people confined in RMAS to assist them in maintaining good behavior while in RMAS and upon release to general population. Rule § 6-20 requires the Department to offer at least five hours of daily programming—not including daily recreation, meals, showers, or sick call—to people in RMAS and to those who step down from RMAS to the RRU.<sup>153</sup> Such programming must include in- and out-of-cell programming which is evidence-informed, age-appropriate, and tailored to each person's individual behavior support plan. Programming must also be aimed at facilitating rehabilitation, addressing the root causes of violence, and minimizing idleness. DOC shall also provide people confined in RMAS with access to both in-cell and out-of-cell productive activities.<sup>154</sup> In Level 1, at least one hour of daily programming must be in-person therapeutic programming, led by therapeutic programming staff in a separate shared space dedicated for such purpose (i.e. not in a space regularly used for RMAS lock-out, such as individual dayroom attached to a cell).<sup>155</sup> Similarly, in Level 2, at least two hours of programming must be in-person therapeutic programming, led by therapeutic programming staff in a separate shared space dedicated for such purpose (i.e. not in a lock-out cage).<sup>156</sup> The Department must ensure that any spaces used for therapeutic programming ensure a sufficient degree of privacy so that people can fully engage with the programming.<sup>157</sup>

Rule § 6-20(f) requires the Department to offer at least five hours of daily programming to young adults confined in RMAS, inclusive of school hours.<sup>158</sup> DOC shall also insure that young adults are offered and are able to access three hours of educational services per day.

Rule § 6-20 requires the Department to report data and other information to the Board so that BOC can effectively monitor DOC's compliance with this section. For example, the Department must provide and regularly update the Board with information on program offerings in RMAS and for people who step down from RMAS to the RRU,<sup>159</sup> document each individual's participation in each program session offered and refusals to participate in programming and the

149 Vera Report, Finding B12 at 43.

150 *Id.*

151 *Id.*, Finding B11 at 41.

152 *Id.*, Rec. G8 at 78-79 ("Vera encourages [DOC] to train all staff on procedural justice; while the Adjudication Unit plays a key role in [DOC's] due process procedures, staff at all levels initiate and engage with the adjudication process. By adding concepts of procedural justice into [DOC's] training curriculum, [DOC] has the opportunity to further legitimize the disciplinary process, equip its officers with the tools to effectively respond to unwanted behavior, and ultimately increase compliance with departmental rules.").

153 Rule § 6-20(b). Five hours of daily programming is a key component of the Department's Young Adult Plan; see <https://www1.nyc.gov/site/boc/jail-regulations/ya-plan.page>.

154 Rule § 6-20(a).

155 Rule § 6-20(d).

156 Rule § 6-20(e).

157 Rule § 6-20(f).

158 This provision is consistent with YA-ESH Variance condition no. 15 (stating that DOC "shall offer five hours of programming to each young adult in YA-ESH each day. For young adults enrolled in school, the five hours of programming can include three hours of school." November 10, 2020 Record of Variance Action (p. 3), [https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/November/2020.11%20-%20%20%20Record%20of%20Variance%20Action%20-%20YA%20ESH%20C2%AD\\_final.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/November/2020.11%20-%20%20%20Record%20of%20Variance%20Action%20-%20YA%20ESH%20C2%AD_final.pdf).

159 Rule § 6-20(h).

reasons therefor;<sup>160</sup> and provide the Board with quarterly public reports on programming for adults and young adults by RMAS level.<sup>161</sup> Such reports must contain the data points specified in rule § 6-20(j).

#### Access to Health Services (§ 6-21)

##### (i) Serious Medical Conditions

The Board carefully reviewed the 2019 death of Layleen Polanco, who died of a fatal seizure while inside of a cell in the Restrictive Housing Unit (RHU) at Rose M. Singer Center on Rikers Island, and published a report with recommendations on June 2020.<sup>162</sup> One such recommendation was for CHS to develop and implement a clinical instrument to identify people with serious medical conditions at intake and in subsequent clinical encounters who are at elevated risk for negative outcomes if placed in cell housing areas.<sup>163</sup> Prior to proposing the 2019 Rule and to the issuance of the Polanco report, the Board worked with CHS to design such a process in the context of punitive segregation. This new process was meant to advance the Board's goal of protecting medically vulnerable people from increased risk in prolonged isolation, while at the same time addressing CHS's dual loyalty<sup>164</sup> concerns about the existing PSEG exclusion process by having CHS identify medically vulnerable people at intake rather than following a disciplinary hearing. A week after the release of the Board's Polanco report, on June 29, 2020, the Mayor and Board Chair announced that "effective immediately," DOC would exclude individuals with several key medical conditions from being placed in any form of restrictive housing, including people on asthma medication, antiepileptic medications for seizures, or blood thinners, have any history of organ transplant, or have a diagnosis of heart disease, lung disease, or kidney disease.

This Chapter eliminates solitary confinement in the City jails, replacing it with an alternative disciplinary model (RMAS) that does not rely on the extended periods of isolation that characterize DOC's existing punitive segregation model. As the health risks to people with serious medical conditions stand to be similar whether they are in RMAS or in any other housing area in the jail system, it does not follow that medical conditions should exclude someone from RMAS. Rather, the rule builds off the lessons learned in the Polanco death review and from negotiations surrounding the 2019 Rule to ensure that people with serious medical conditions are properly supervised. Accordingly, rule § 6-21(a) requires CHS to identify individuals with serious medical conditions at intake and in clinical encounters, and without disclosing specific diagnoses, make a current list of such individuals available to the Department. The rule then requires the Department to ensure that staff in RMAS units are aware of all people in the unit who have been identified as having a serious medical condition. The goal of this provision—in conjunction with the 15-minute rounding/confirming signs of life required in § 6-17(a) and the daily clinical rounds required in § 6-21(b)—is to ensure adequate supervision of people with serious medical conditions so that medical events can be addressed as quickly as possible.

##### (ii) Daily Rounds

Rule § 6-21(b) incorporates and amends the requirement for daily CHS medical rounds in ESH per § 1-16(d)(4)<sup>165</sup> and daily mental health rounds in PSEG per § 1-17(d)(6) by requiring daily clinical rounds in RMAS to assess medical and mental health, and specifies that such rounds must be documented in writing.

##### (iii) Notification to CHA

To ensure continuity of medical and mental health treatment, it is vital that the Department immediately notify CHA, in writing, of each placement of a person in custody into restrictive housing. Rule § 6-21(c) incorporates this requirement.

##### (iv) Clinical Treatment

Rule § 6-21(d) recognizes the legal and ethical requirements to treat patients in private and confidential settings. Cell-side discussions of medical conditions are overheard by others, subject to significant background noise, and ineffective. The rule prohibits cell-side mental health and medical treatment. Instead the rule requires DOC to ensure that all individuals in RMAS are brought to the facility clinic for their scheduled appointments. Nothing in this provision is intended

to prevent CHS from interacting with a person in a cell who is in the midst of a crisis or emergency situation.

##### (v) Notification of Removal

Rule § 6-21(e) states that each time CHS determines removal of a person from RMAS to an alternative housing unit is appropriate, CHS shall notify the Board in writing of the circumstances related to the determination (e.g., medical or mental health concern, disability).

##### (vi) Data Collection and Review

Rule § 6-21 requires monthly public reports on compliance with the rule's requirements,<sup>166</sup> and data sharing with the Board.<sup>167</sup>

#### Fines (§ 6-22)

Rule § 6-22 adopts a Vera Report recommendation to eliminate the Department's automatic \$25 fine assigned to all guilty infractions because "fines disproportionately impact indigent individuals, and there is little evidence that they lead to behavioral changes."<sup>168</sup> The fine also penalizes infractioned people's families — most of whom are poor — by deducting the \$25 from moneys families have placed in their loved ones' commissary accounts.<sup>169</sup> DOC shall only include a financial penalty as an option for restitution for destruction of property, and any imposition of a fine shall take into account the person's ability to pay.

#### Disciplinary System Plans (§ 6-23)

Rule § 6-23 requires that, within three months of the Effective Date, the Department submit to the Board a written plan for a disciplinary process, one for young adults and one for adults, that addresses (i) Grade III offenses ("violations"),<sup>170</sup> and (ii) people who are excluded from placement in RMAS under rule § 6-09.<sup>171</sup>

As required by rule § 6-23(b)(1) through (8), each plan shall include: (i) mechanisms for addressing violations without resort to RMAS placement or limitations on individual movement or social interaction, such as positive behavioral incentives and privileges, targeted programming to address problematic behavior, and conflict resolution approaches in response to interpersonal conflict within the jails; (ii) criteria for restricting or affording privileges based on behavior (e.g., commissary); (iii) a process for DOC staff to respond to violations swiftly and consistently; (iv) a plan for communication of the rules of conduct, DOC responses to rule violations, and due process procedures in a clear and understandable manner to people in custody and all DOC staff, including non-uniformed staff who have routine contact with people in custody; (v) training curricula for uniformed and non-uniformed staff on the disciplinary process and procedures; (vi) assistance to people in custody to understand the disciplinary process and procedures and their rights thereunder; (vii) a process for engaging DOC staff in the plans' development; and (viii) potential housing options for people excluded from RMAS. Upon review of the plans, the Board and the Department shall jointly develop a public reporting template on the disciplinary systems.<sup>172</sup> The template shall be subject to the Board's approval.<sup>173</sup>

#### Due Process and Procedural Justice (§ 6-24)

Rule § 6-24 affords all people in RMAS procedural due process protections including written notice, a hearing, legal representation, written determination, and right to appeal. Section 6-24's provisions expand and seek to standardize the varying procedural due process protections currently set forth in Minimum Standards § 1-16(g) (ESH/"Placement Review Hearing") and § 1-17(c) (PSEG/"Due Process") as well as Department policies.

##### (i) Purpose

As stated in rule § 6-24(a), the protections set forth in this rule are intended to ensure that people in custody are placed into RMAS in accordance with due process and procedural justice principles. These protections are consistent with a central tenet of procedural justice — that "people believe justice as fair, based on their perception of fairness in the *process*, not just the perception of a fair *outcome*."<sup>174</sup> Research suggests that when people are treated with procedural justice and respect, "they view law and legal authorities as more legitimate and entitled to be obeyed. As a result, people become self-regulating, taking on the personal responsibility for following social

160 Rule § 6-20(i).

161 Rule § 6-20(j).

162 *Supra*, fn. 24.

163 *Id.*

164 "Dual loyalty is an ethical dilemma commonly encountered by health care professionals caring for people in custody. Dual loyalty may be defined as clinical role conflict between professional duties to a patient and obligations, express or implied, to the interests of a third party such as an employer, an insurer, or the state." Pont, et al., *Dual Loyalty in Prison Health Care*, 102 *Am J Public Health*, 475 (2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3487660/>.

165 Minimum Standard § 1-16(d)(4) states that "[a]ll [people in custody] in ESH shall be seen at least once each day by medical staff who shall make referrals to medical and mental health services where appropriate."

166 Rule § 6-21(f)(1) through (7).

167 Rule § 6-21(g).

168 Vera Report, Rec. B14 at 54; the Report further stated that "in meetings and focus groups with the Vera team, [DOC] staff reported fines were an ineffective sanction" (p. 54).

169 See, NYC Comptroller Report, "Fees, Fines and Fairness: How Monetary Changes Drive Inequity in New York City's Criminal Justice System" (September 2019), <https://comptroller.nyc.gov/reports/fees-fines-and-fairness/>.

170 Rule § 6-23(a)(1). Grade III offenses are minor rule violations that currently result in a reprimand but not placement in punitive segregation.

171 Rule § 6-23(a)(2).

172 Rule § 6-23(c).

173 *Id.*

174 Vera Report at 79 (emphasis in original).



rules.<sup>175</sup> Incorporating procedural justice principles in the New York City jails means ensuring through effective communication that people in custody understand the rules and the sanctions for violating them; sanctions proportionate to the offense are imposed consistently and fairly; and sentences are served swiftly following adjudication of guilt.<sup>176</sup>

As discussed below, rule § 6-24 adds new provisions regarding the videotaping of refusals to sign infraction notices and attend disciplinary hearings; legal representation for charges that could result in RMAS placement; and a process for ensuring people's placement in RMAS follows quickly upon adjudication.

(ii) Investigations

Subdivision (b) of § 6-24 states that: (i) disciplinary investigations must be conducted “promptly, thoroughly, and objectively;”<sup>177</sup> (ii) DOC personnel conducting the investigation must be the rank of Captain or above and must not have reported, participated in, or witnessed the conduct;<sup>178</sup> (iii) if the rule violation in question could lead to a subsequent criminal prosecution, DOC must inform the person in custody who is interviewed that any statements made by the person may be used against the person in a subsequent criminal trial, that the person has the right to remain silent, and that silence will not be used against the person;<sup>179</sup> (iv) all investigations must be documented in written reports that include “a description of the physical, testimonial, and documentary evidence as well as investigative facts and findings;”<sup>180</sup> (v) all investigations must commence within 24 hours after the Department is on notice of the incident<sup>181</sup>; and (vi) the Department shall only proceed with adjudication of charges against a person in custody upon a determination that there is reasonable cause to believe the person committed the infraction charged.<sup>182</sup>

(iii) Notice of Infraction

Rule § 6-24(c) requires that prior to the disciplinary hearing: (i) people in custody must receive written notice detailing the charges against them;<sup>183</sup> (ii) people who are unable to read or understand the notice shall be provided with assistance;<sup>184</sup> (iii) the notice must be served upon any person placed in pre-hearing detention within 24 hours of such placement<sup>185</sup> and upon people not in pre-hearing detention no later than two (2) business days after the incident, absent extenuating circumstances;<sup>186</sup> (iv) any member of DOC staff, except those who participated in the incident, may serve the person charged with the notice of infraction;<sup>187</sup> and (v) all refusals to sign the notice shall be videotaped.<sup>188</sup>

(iv) Disciplinary Hearing

Rule § 6-24(d) incorporates the due process provisions in Minimum Standard § 1-17(c), including the right to: (i) legal representation for charges that could result in a placement in RMAS; (ii) appear in person, make statements, present material evidence, and call witnesses at the infraction hearing; and (iii) a written determination.<sup>189</sup> Additionally, the Department has the burden of proof in all disciplinary proceedings, and a person's guilt must be shown by a preponderance of the evidence.<sup>190</sup> Section 6-24(d) also incorporates DOC policy on who can serve as a hearing adjudicator, how due process violations must be addressed, time limits on the length of hearings and hearing adjournments, and the right to appeal an adverse decision.<sup>191</sup> Finally, people's refusal to attend their hearing must be videotaped and made a part of the hearing record; if a person refuses to participate while at the hearing, then an audiotaped refusal at the hearing will suffice for purposes of this provision.<sup>192</sup>

175 Tom R. Tyler, “Restorative Justice and Procedural Justice: Dealing with Rule Breaking,” *Journal of Social Issues*, Vol. 62, No. 2, 2006 (at 308), <https://courses.washington.edu/pbafhall/514/514%20Readings/tyler%20justice.pdf>.  
 176 Vera Report at 45.  
 177 Rule § 6-24(b)(1) is consistent with 40 RCNY § 5-30(a) which also states that all PREA investigations into allegations of sexual abuse and sexual harassment must be conducted “promptly, thoroughly, and objectively.”  
 178 Rule § 6-24(b)(2).  
 179 Rule § 6-24(b)(3).  
 180 Rule § 6-24(b)(4) incorporates 40 RCNY § 5-30(f)(2)'s PREA requirement of written reports in PREA investigations.  
 181 Rule § 6-24(b)(5).  
 182 Rule § 6-24(b)(6).  
 183 Rule § 6-24(c)(1) incorporates the same language in Minimum Standard § 1-17(c)(1) (PSEG).  
 184 Rule § 6-24(c)(2) incorporates the same language in Minimum Standard § 1-17(c)(1) (PSEG).  
 185 Rule § 6-24(c)(3).  
 186 Rule § 6-24(c)(4).  
 187 Rule § 6-24(c)(5).  
 188 Rule § 6-24(c)(6).  
 189 Rule § 6-24(d)(6)(i) through (vii).  
 190 Rule § 6-24(d)(7).  
 191 Rule § 6-24(d)(1), (3), and (8); § 6-24(h) (right to appeal).  
 192 Rule § 6-24(d)(5).

(v) Legal Representation

As per Minimum Standards § 1-16 (ESH) and § 1-17 (PSEG), people in custody are currently afforded the assistance of a “hearing facilitator” only if the incarcerated person is “illiterate or otherwise unable to prepare for or understand the hearing process” or “has been unable to obtain witnesses or material evidence.”<sup>193</sup> The facilitator is limited to assisting the person “by clarifying the charges, explaining the hearing process, and . . . gathering evidence,”<sup>194</sup> and is expressly prohibited from advocating on the person's behalf.<sup>195</sup> Pursuant to DOC Directives, the adjudication captain determines whether the individual is unable to prepare and present evidence or arguments effectively on his or her behalf, in which case, a hearing facilitator will be assigned to assist the person.<sup>196</sup>

Proposed rule § 6-24(d)(9) provides that people who are charged with an offense that could result in a RMAS placement shall be permitted to have an attorney or other “legal representative” of their choosing to represent them at their disciplinary hearing.<sup>197</sup> Numerous criminal justice and legal advocacy organizations the Committee consulted and those who commented on the 2019 Rule and the 2015 PSEG amendments called for legal representation of people in custody at hearings.<sup>198</sup> The Board again received substantial testimony calling for legal representation during its 2021 public comment period.<sup>199</sup> The District of Columbia Department of Correction permits incarcerated people charged with a Class I offense to retain legal assistance from the Public Defender Service to represent them at their disciplinary hearing. This and other jurisdictions — Kentucky, Alaska, Wisconsin, and Federal Bureau of Prisons — permit “staff counsel” or “hearing advisors” to assist incarcerated persons in investigating the facts and presenting a defense at the hearing.<sup>200</sup>

193 Min. Std. § 1-16(g)(5)(i)(ii); Min. Std. § 1-17(c)(4)(i)(ii).  
 194 Min. Std. § 1-16(g)(5); Min. Std. § 1-17(c)(4)(i)(ii).  
 195 PSEG Due Process Directive, III(C)(9) at 11.  
 196 *Id.*, Section III(D)(10)(e) at 12; Draft ESH Directive, IV(E)(6) at 11-12; Secure Directive, IV(E)(6) at 8.  
 197 Rule § 6-03(b)(8) defines “legal representative” as an attorney or layperson who works under the supervision of an attorney.  
 198 In commenting on the 2019 Rule, the following organizations and elected officials advocated for legal representation of people at their disciplinary hearings: Legal Aid Prisoners' Rights Project, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/2020-01-31-LAS-Comments-on-BOC-Proposed-Rules.pdf> (pp. 5-6); Bronx Defenders, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/2020-01-31-BOC-Restrictive-Housing-CommentsBRONX-DEFENDERS.pdf> (pp. 1, 6); Brooklyn Defender Services, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/2020-01-31-BDS-Comments-to-BOC-Restrictive-Housing-Rulemaking.pdf> (p. 14); #HALT Solitary Campaign and JAC Petition to End Solitary Confinement, <https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2019/October/Redacted-HALTsolitary-JAC-Petition-for-Rulemaking-to-End-Solitary-Confinement.pdf> (pp. 15-16); Girls for Gender Equity, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/Girls-for-Gender-Equity-Comment-on-Restrictive-Housing.pdf> (pp. 3-4); NY County Defender Services, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/NYCDS-Solitary-Comments.pdf>; New York Lawyers for the Public Interest, [https://www1.nyc.gov/assets/boc/downloads/pdf/boc\\_solitary\\_testimony.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/boc_solitary_testimony.pdf) (pp. 1-2); NYC Bar Committee on Corrections and Community Re-Entry, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/2020-01-29-2020641-restrictivehousingincorrectionalfacilities-final-1-29-20.pdf> (pp. 4-5); NYC Public Advocate Jumaane Williams, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/PA-BOC-TESTIMONY-12-16-19.pdf> (p. 1); and NYC Council Member Dromm, <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2017-Restrictive-Housing/dromm-boc-restrictive-housing-comments-20191216.pdf> (pp. 1-2);  
 199 See written public comment on the 2021 Proposed Rule at <https://www1.nyc.gov/site/boc/jail-regulations/public-comment-proposed-restrictive-housing-rule-2021.page>, and a summary of oral public comment at <https://www1.nyc.gov/assets/boc/downloads/pdf/Jail-Regulations/Rulemaking/2021-Restrictive-Housing/Summary%20of%20All%20Oral%20Testimony%20Received%20by%20BOC%20during%20Public%20Comment%20Period.pdf>  
 200 The District of Columbia DOC permits an incarcerated person to (i) request legal assistance from the Public Defender Service (“PDS”) for the District of Columbia or a staff representative when charges include a Class I offense; or (ii) request assistance from a staff representative “to prepare a defense” when charges include a Class II offense. PDS has an entire unit devoted to reentry and advocacy for incarcerated people, including representing them at disciplinary hearings at the jail, and they meet regularly with the DOC commissioner in a friendly exchange of information. The staff representative is chosen by the Disciplinary Board, not the person in custody. Staff representatives may also be requested for incarcerated people who are not capable of collecting evidence on their own. Staff representatives are granted sufficient time to meet with the incarcerated person before the hearing, gather evidence, question witnesses, and represent the person at the hearing. DCDOC Program Manual re Inmate Disciplinary and Administrative Housing Hearing Procedures at 14-15, <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/PM%205300.1H%20Inmate%20Disciplinary%20and%20Administrative%20Housing%20Hearing%20Procedures%2006-28-17.pdf>. The Massachusetts Department of Correction allows attorney/law student representation at prison disciplinary hearings: <https://www.plsma.org/prisoner-self-help/prison-procedures/discipline/>. (The regulations governing

(vi) **Disciplinary Sanctions – Addressing the Backlog**

The Department reported that, as of September 30, 2020, 743 people in custody were waiting to be held in PSEG I, PSEG II, and RHU.<sup>201</sup> Historically, people in DOC custody have experienced significant delays between adjudication and placement into segregation, which result in a disciplinary system that “appears arbitrary” and negatively “impact[s] transparency and perceptions of fairness and legitimacy.”<sup>202</sup>

Vera analyzed 9,793 infractions committed in 2015 that resulted in a segregation sanction and discovered that by the end of 2015 nearly half of those cases had not resulted in an admission into PSEG.<sup>203</sup> For those who were eventually admitted to PSEG, the average time between the issuance of a sanction and admission into PSEG was 13 days. One third of admissions into PSEG came after two or more infractions had been adjudicated guilty. The Vera Report attributes several causes for the backlog, including (i) a delay in mental health reviews of people with “M” designations, which is required before their placement in PSEG<sup>204</sup>; and (ii) waiting for a person to clear the 30-day or 60-day sentence limitations. Vera-run focus groups revealed that people in custody and Correction Officers did not understand why some people were placed into segregation while others were not, resulting in a system that appeared arbitrary.<sup>205</sup>

To address this issue, rule § 6-24(g) requires that placement in RMAS Level 1 or Level 2 occur within 30 days of adjudication of guilt. If the Department does not place a person into RMAS within this 30-day period, DOC may not place the person in RMAS at a later time. The purpose of this rule is to ensure that, in keeping with procedural justice and due process principles underlying Chapter 6, punishment is “swift, certain, and fair.”<sup>206</sup>

prison disciplinary hearings are set forth in 103 CMR 430, <https://www.mass.gov/doc/cmr-430-inmate-discipline/download>.) For example, the Prisoner Legal Assistance Project at Harvard Law School represents prisoners at disciplinary hearings, <https://today.law.harvard.edu/stand-up-for-their-rights-representing-prisoners-and-training-lawyers-for-40-years/> and <https://clinics.law.harvard.edu/plap/>.

The **Kentucky Department of Corrections** allows for the assignment of “Staff Counsel” or an “Assigned Legal Aide” to assist an incarcerated person in preparing and presenting a defense if the person is not capable of collecting and presenting evidence on the person’s own behalf. Kentucky Corrections Adjustment Procedures and Programs at 4, <https://corrections.ky.gov/About/cpp/Documents/15/CP%2015.6.pdf>.

The **Alaska Department of Corrections** allows any accused prisoner to request a “hearing advisor” to assist in “investigating the facts and preparing and presenting a defense at the disciplinary hearing, unless the infraction charged is a minor infraction”; additionally, a prisoner is entitled to legal representation at the disciplinary hearing if a criminal complaint is filed by the District Attorney. In that event, the prisoner may retain a private attorney or contact the Alaska Public Defender to determine eligibility for representation. Legal representation “is for the limited purpose of preserving and protecting the prisoner’s Fifth Amendment right against self-incrimination. Attorneys are not allowed to argue the merits of the case or the sanctions.” Alaska DOCS Procedure re Disciplinary Committee, Hearing Officers, and Basic Operation at 6, <http://www.correct.state.ak.us/pnp/pdf/809.04.pdf>.

The **Federal Bureau of Prisons** permits a staff representative, who is a full-time staff member, to represent an incarcerated person before a disciplinary hearing officer upon the accused’s request. The representative speaks to witnesses and presents favorable evidence to the hearing officer on the merits of the charge. Guide to Segregation in Federal Prisons (6<sup>th</sup> page), [http://www.washlaw.org/pdf/Guide to Segregation in Federal Prisons.pdf](http://www.washlaw.org/pdf/Guide%20to%20Segregation%20in%20Federal%20Prisons.pdf).

**Wisconsin DOC** permits staff members to act as advocates for incarcerated persons accused of infractions. The advocate’s purpose is to help the accused understand the charges against him, help in preparation and presentation of any defense the accused has, including gathering evidence and testimony, and preparing the accused’s own statement. The advocate may speak on behalf of the accused at the hearing or may help the accused prepare to speak for himself. Wisconsin Administrative Code DOC 303.78(2), [https://docs.legis.wisconsin.gov/code/admin\\_code/doc/303/X/78/2](https://docs.legis.wisconsin.gov/code/admin_code/doc/303/X/78/2).

201 DOC 60-Day Report on Punitive Segregation for the period 8/1/2020-9/30/2020, <https://www1.nyc.gov/assets/boc/downloads/pdf/Reports/DOC-Reports/PSEG-60-DAY/60-Day-PSEG-Report-August-and-September-2020.pdf>

202 Vera Report, Finding B11 at 41-42; Report of Dr. James Gilligan and Dr. Bandy Lee to the NYC Board of Correction (September 5, 2013) (“Gilligan and Lee Report”) at 7, <https://solitarywatch.org/wp-content/uploads/2013/11/Gilligan-Report-Final.pdf> (“Any behavioral control that punishment purports to effect also becomes counterproductive when there is a long delay between the punishable behavior and the time when the person is actually locked up. We have seen examples at Rikers Island where [people in custody] have waited a month or two before they are placed in [PSEG] – even if during that intervening time they had obeyed every rule in the book. By that point, the only lesson they will learn, at an emotional level, from being locked up is that they are being punished for having behaved themselves in the meantime. Thus, the use of [PSEG] in these circumstances is completely self-defeating, in that it stimulates instead of inhibit[s] antisocial behavior, by embittering the [people in custody], who can only feel that they are being punished arbitrarily and unfairly for pro-social, law-abiding behavior”).

203 For the purposes of the Vera Report, “PSEG” included PSEG I, PSEG II, and RHU.

204 Pursuant to a settlement in *Brad H. v. City of New York*, a person is assigned an “M” designation (or Brad H. flag) if the person, during one incarceration event, has engaged with the mental health system at least three times or has been prescribed certain classes of medication.

205 Vera Report at 41-42.

206 *Id.* at 45; n. 72.

(vii) **Disciplinary Due Process Reporting**

To ensure compliance with the requirements of rule § 6-24, subdivision (i) of the rule requires the Department to: (i) develop the system(s) necessary to collect accurate, uniform data on these requirements;<sup>207</sup> (ii) provide public semiannual reports on the procedural due process protections provided to people placed in RMAS,<sup>208</sup> and share the data used to create the reports with the Board;<sup>209</sup> and (iii) to jointly develop with the Board the reporting template for these reports, which shall be subject to the Board’s approval.<sup>210</sup>

**Data Collection and Review (§ 6-25)**

To ensure compliance with the rules on RMAS, § 6-25 requires that the Department: (i) maintain and update as necessary a list of the type and specific location of all RMAS units (including the opening and closing dates of all such units), and notify the Board in writing when any new RMAS units open, close, or change level;<sup>211</sup> (ii) maintain and develop the system(s) necessary to collect accurate, uniform data on RMAS and the requirements of 40 RCNY Subchapter E, and to centrally store related documentation, in a manner that may be analyzed electronically by the Board;<sup>212</sup> (iii) provide the Board with monthly public reports with information on RMAS including, among other things, placements, exclusions, periodic reviews, and lengths of stay;<sup>213</sup> (iv) produce monthly public reports of time spent out of cell, including separate programming space; access to law library; access to showers; participation in recreation; and time spent participating in programming for each individual in RMAS;<sup>214</sup> (v) on a monthly basis, share data with the Board used to create the public reports required by 40 RCNY § 6-25(c) and (d) and all RMAS placement, review and IBSP documentation;<sup>215</sup> and (vi) jointly develop with the Board reporting templates for the required reports.<sup>216</sup> These templates shall be subject to the Board’s approval.<sup>217</sup> The requirement that DOC maintain and store data “in a manner that may be analyzed electronically by the Board” is an effort to move the Department away from using paper-based systems to analyze and monitor compliance and to ensure the Board has the data necessary to efficiently analyze compliance with RMAS. Practically speaking, this would mean that the Department provide the Board with usable data, rather than scans of forms and logbooks, so that the Board can easily verify reported information. Finally, pursuant to rule § 6-24(g), the Board shall review the information provided by the Department and any other information it deems relevant to the assessment of RMAS. No later than 18 months after implementation of RMAS, the Board shall meet to discuss the effectiveness of RMAS. The Board’s discussion shall address but not be limited to findings regarding the conditions of confinement in RMAS and the impact on the mental health of people housed therein.

**Transition (§ 6-26)**

Rule § 6-26 requires that pending implementation of RMAS and within prescribed timelines, the Department take the following action: (i) provide the Board with architectural renderings for RMAS housing units prior to their submission to the New York State Commission of Correction (SCOC);<sup>218</sup> the Department shall provide the Board with architectural renderings for such units as approved by SCOC within two (2) business days of SCOC’s approval;<sup>219</sup> (ii) within one (1) month of the Effective Date, provide a comprehensive transition plan, in writing to the Board, which shall include specified documents and information concerning the elimination of punitive segregation and the implementation of RMAS;<sup>220</sup> (iii) starting the first business day of August 2021 and until RMAS implementation is complete, provide monthly progress reports regarding the elimination of current PSEG units (e.g. PSEG I/CPSU, PSEG II, RHU) and reduction in existing restrictive housing units (e.g., EHS, etc.), construction and opening of new RMAS units, including explanations for unanticipated delays, and development of policies governing the operation of RMAS, implementation of training on RMAS and programming, and the provision of services such as recreation, visits,<sup>221</sup> and privileges in the general population which exceed the requirements of the Minimum

207 Rule § 6-24(i)(1).

208 Rule § 6-24(i)(2)(i) through (vi).

209 Rule § 6-24(i)(3).

210 Rule § 6-24(i)(4).

211 Rule § 6-25(a).

212 Rule § 6-25(b).

213 Rule § 6-25(c)(1) through (11).

214 Rule § 6-25(d).

215 Rule § 6-25(e).

216 Rule § 6-25(f).

217 *Id.*

218 Rule § 6-26(a).

219 *Id.*

220 Rule § 6-26(b)(1) through (7).

221 Rule § 6-26(c)(1) through (9).



Standards outlined in Chapter 1 of Title 40 of the Rules of the City of New York.<sup>222</sup>

### **Subchapter F: Step-Down from RMAS, § 6-27**

As explained above, RMAS is a time-limited disciplinary housing program that provides safety and accountability following a serious infraction. People in RMAS will be provided with a case manager, follow an individual behavior support plan (IBSP), have access to meaningful programming to address the root causes of the behavior that resulted in their RMAS placement, and meet regularly with a multidisciplinary team to assess their behavioral progress and make any necessary modifications to their IBSP. Borrowing from national best practices, the HALT Solitary Act, and public comment, these rules create a step-down general population unit called the Restorative Rehabilitation Unit (RRU) so that people transitioning out of RMAS can continue with their IBSP in a safe setting with higher staffing ratios and increased opportunities for prosocial programming.

#### **Restorative Rehabilitation Units (RRUs) (§6-27)**

##### **(i) Case Management, Individual Support Plans, and Periodic Reviews**

Section 6-27(b)(1) seeks to promote consistency in behavioral treatment by ensuring, where possible, that people stepping down to the RRU are able to maintain the same case manager they worked with in RMAS. Relatedly, the rule requires that people stepping down from RMAS to the RRU continue on the same IBSP with the same multidisciplinary team, meeting at least every 15 days to assess progress and make any necessary adjustments to the plan or programming schedule.<sup>223</sup> Because the RRUs are general population units, there is no entitlement to progress out of them; however, the multidisciplinary team can recommend to the facility head that someone be moved to a regular general population unit if such transfer would be in the person's best interest.<sup>224</sup> In any event, the Department cannot transfer someone out of an RRU who has stepped down from RMAS unless the multidisciplinary team has first approved the transfer.<sup>225</sup>

##### **(ii) Conditions**

The rule mandates that RRUs afford identical services and out-of-cell time as regular general population units, and that they be located in cell housing units that physically resemble standard general population areas (e.g., areas with a congregate dayroom).<sup>226</sup> In order to promote safety and supervision, RRUs may not house more than 15 people at one time.<sup>227</sup>

##### **(iii) Staffing and Training**

To promote good order, § 6-27(d)(1) encourages the Department to staff the RRUs with as many steady officers as possible, and to strive for a significantly higher staffing ratios than in standard general population units. Relatedly, the rule requires that RRU housing area staff receive specialized training on the population and operations in these units, including training on mental illness and distress, effective communication skills, and conflict de-escalation techniques.<sup>228</sup> It also requires young adult-specific training for staff assigned to RRUs that house young adults.<sup>229</sup>

##### **(iv) Programming**

The RRU is designed to be a programming-intensive general population setting for people stepping down from RMAS. As such, the Department must offer at least 6 hours of daily programming for such people, in addition to one hour of daily recreation.<sup>230</sup> Meals, showers, and sick call may not count towards this programming requirement,<sup>231</sup> and at least 3 of the daily programming hours must be offered in a congregate setting and led by appropriate staff.<sup>232</sup>

##### **(v) Data Collection and Review**

Sections 6-27(f)(1) and (2) ensure that the Department electronically track and report data related to the operation of RRUs, including

222 Rule § 6-26(c)(7). The Department plans to incentivize good behavior in, and progression through RMAS by increasing privileges from level to level. To accomplish this, DOC intends to increase the privileges that people in general population receive so that individuals who are placed into RMAS could earn back these privileges by refraining from violence and engaging in good behavior. DOC would also accomplish this by increasing the minimum services people in custody must receive pursuant to the Board's Minimum Standards (e.g., increasing daily lock-out in general population, the hours of daily recreation, and the number/length of visits and telephone calls).

223 Rule § 6-27(b)(2).

224 Rule § 6-27(b)(3).

225 Rule § 6-27(b)(4).

226 Rule § 6-27(c)(1) and (2).

227 Rule § 6-27(c)(3).

228 Rule § 6-27(d)(2).

229 Rule § 6-27(d)(3).

230 Rule § 6-27(e)(1).

231 *Id.*

232 Rule § 6-27(e)(2).

lists of where RRUs are located and their opening and closing dates. The rule also obligates the Department to provide the Board with a monthly public report containing various information about the RRUs (including but not limited to number of placements in the units, staffing ratios, and average daily population), as well as the underlying data used to create the report.<sup>233</sup> Finally, the Department must work jointly with the Board to develop the reporting templates for the monthly public report.<sup>234</sup>

### **Subchapter G: Restraints and Canines, §§ 6-28 and 6-29**

#### **Restraints (§ 6-28)**

Rule § 6-28(a) states that nothing in this section shall prohibit: (i) the use of restraints that are reasonable and necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, prevent escape, control a person in custody, or protect staff, other people in custody, and others from injury;<sup>235</sup> (ii) the immediate use of restraints to prevent a person in custody from self-harm, harming others, or causing serious property damage;<sup>236</sup> or (iii) the routine use of restraints for movement, escort, and transportation purposes.<sup>237</sup>

##### **(i) Limitations**

Section 6-28(b) through (d) sets limitations on the use of restraints that are enumerated in Department policy, such as: (i) restraints shall be only be imposed when no lesser form of control would be effective in addressing the risks posed by unrestricted movement;<sup>238</sup> (ii) the method of restraint shall be the least intrusive necessary to control a person in custody's movement;<sup>239</sup> and (iii) restraints shall be removed as soon as possible after the risks posed by unrestricted movement are no longer present.<sup>240</sup> Limitations are also imposed on the use of restraints with respect to people who are in a wheelchair;<sup>241</sup> visually impaired;<sup>242</sup> deaf, hearing impaired, or have impaired speech and communicate with hand gestures.<sup>243</sup> Of note, New York Correction Law § 611 already places limitations on the use of restraints to people in custody who are in labor, admitted to a hospital for delivery, or recovering after giving birth.

##### **(ii) Prohibitions**

Rule § 6-28(h) states that restraints must never be used to cause unnecessary physical pain or discomfort,<sup>244</sup> e.g., applied as punishment or retaliation,<sup>245</sup> or used inside a cell unless the cell is being used to hold more than one person in custody and restraints are the only way to ensure the safety of those held in the cell.<sup>246</sup> These prohibitions are enumerated in DOC policy.

##### **(iii) Restraint Desks**

In November 2016, the Department introduced restraint desks in ESH Level 1 for adults and young adults. In restraint desks, people have their ankles shackled to a desk. The use of restraint desks in ESH magnifies what is already a highly restrictive environment,<sup>247</sup> and was not disclosed to the Board during ESH rulemaking. Moreover, conditioning one's right to lock-out on being shackled to a desk is inherently punitive and inhumane and undermines the principles of procedural justice that form the bedrock of our criminal justice system and the 2015 amendments to the Board's Minimum Standards.

Cognizant of the Department's safety concerns in moving too quickly in eliminating the use of restraint desks for young adults who have engaged in serious acts of violence, the Board — while repeatedly citing its concerns publicly — held off imposing an effective elimination of restraint desks in ESH Level 1 as a condition to the variance it has continually approved since October 2016.<sup>248</sup> Over the next two years, the Department implemented important reforms of ESH, particularly for young adults. These reforms — some of which are embodied in variance conditions<sup>249</sup> — include moving people faster through the

233 Rule § 6-27(f) and (g).

234 Rule § 6-27(h).

235 Rule § 6-28(a)(1).

236 Rule § 6-28(a)(2).

237 Rule § 6-28(a)(3).

238 Rule § 6-28(b).

239 Rule § 6-28(c).

240 Rule § 6-28(d).

241 Rule § 6-28(j).

242 *Id.*

243 Rule § 6-28(k).

244 Rule § 6-28(h)(4).

245 Rule § 6-28(h)(1).

246 Rule § 6-28(h)(5).

247 In ESH (for young adults and adults), outdoor recreation takes place in recreation cages; showering takes place in shower cells; meals are provided in-cell; daily medical rounds take place through solid cell doors; and most people in ESH are subject to enhanced restraints and restricted to booth visits.

248 YA-ESH Variance.

249 *Id.*, Condition Nos. 2, 5-8; Secure Variance, Condition Nos. 2 and 3.

program, making the young adult placement criteria more specific, conducting more frequent periodic reviews and involving young adults in them, and establishing a separate school session for young adults in Levels 2 and 3, thereby obviating the need for restraint desks during school.

Between 2017 and 2019, the number of people in custody in ESH units with restraint desks has declined significantly. As of August 31, 2019, there were two ESH Level 1 housing units in operation housing 24 people in custody — four (4) young adults and 20 adults. This is down from August 31, 2017, when there were three (3) ESH units with restraint desks, housing 14 young adults and 28 adults. Similarly, the time spent by people in custody in ESH units with restraint desks declined significantly between 2017 and 2019. Young adults in ESH Level 1 on August 31, 2019 had spent an average of 27 total days (18 consecutive days) in ESH Level 1, compared to an average of 190 total days (83 consecutive days) for young adults on August 31, 2017. Adults in ESH Level 1 on August 31, 2019 had spent an average of 43 total days (32 consecutive days) in ESH Level 1, compared to an average of 176 total days (62 consecutive days) on August 31, 2017.

As of October 13, 2020, there were 13 young adults in ESH of which three were in Level 1 (with restraint desks). This decline coupled with the significant reduction in the overall jail population have paved the way for alternative measures such as smaller units and increased staffing ratios, which better reflect the intent of the Minimum Standards. This also led the Board, at the November 10, 2020 public meeting, to vote to approve a condition to the YA-ESH Variance, requiring the Department to discontinue the non-individualized use of restraints, including restraint desks, by Apr 15, 2021.<sup>250</sup>

For the foregoing reasons, rule § 6-28(e) states that the Department shall eliminate non-individualized use of restraint desks or other restraints during lockout in all facility housing units by November 1, 2021. Non-individualized use means placing any person or group of people in a restraint desk or other restraint as a condition of lockout, or solely based on their transfer to a restrictive unit.<sup>251</sup> Until then, subdivisions (f) through (g) of § 6-28 set forth conditions for the routine use of restraint desks, which are derived from Minimum Standard § 1-16<sup>252</sup> and conditions in the YA-ESH Variance.<sup>253</sup> This includes that: (i) the Department shall place a person in a restraint desk or other form of non-individualized restraint during lockout only if the person has recently participated in an actual or attempted slashing or stabbing, or engaged in activity that caused serious injury to a staff member or other person, and provided the use of a restraint desk is the least restrictive option necessary for the safety of others;<sup>254</sup> (ii) DOC shall review the placement of people in custody in routine restraint during lockout every seven (7) days;<sup>255</sup> and (iii) at each periodic review, a person in custody shall advance out of a restraint desk unless (a) the person has engaged in disruptive, violent, or aggressive behavior in the previous seven (7) days; or (b) there is credible intelligence that the person may engage in violence in a less restrictive level or housing unit.<sup>256</sup>

#### (ii) Restraint Statuses

Rule § 6-28(m) requires the Department to collect data regarding restrictive statuses involving the use of restraints (“restraint statuses”). For the purposes of Chapter 6, restraint statuses are: Enhanced restraints, Red ID, and Centrally Monitored Cases that include the use of handcuff covers. Specifically, the rule requires DOC to: (i) prepare a semiannual report on the use, reviews, and appeals of restraint statuses<sup>257</sup> and (ii) the Board and the Department to jointly develop the reporting templates, which are subject to the Board’s approval.<sup>258</sup>

#### Canines (§ 6-29)

Rule § 6-29 is based on a variance condition prohibiting the stationing of canines in ESH units that house young adults.<sup>259</sup> Consistent with DOC policy, § 6-29 permits the use of canines inside the secure perimeter of a facility only for searches,<sup>260</sup> and canines must never be used to extract people in custody from their cells, as a use of force, or for purposes of intimidation.<sup>261</sup>

250 YA-ESH Record of Variance, November 10, 2020, Condition No. 19 (p. 4), [https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/November/2020.11%20-%20%20%20Record%20of%20Variance%20Action%20-%20YA%20ESH%20AD\\_final.pdf](https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/November/2020.11%20-%20%20%20Record%20of%20Variance%20Action%20-%20YA%20ESH%20AD_final.pdf)

251 Rule § 6-28(e).

252 Min. Std. 1-16(h).

253 YA-ESH Variance Condition Nos. 2, 6, and 7.

254 Rule § 6-28(f).

255 Rule § 6-28(g).

256 Rule § 6-28(g)(3).

257 Rule § 6-28(m).

258 Rule § 6-28(n).

259 YA-ESH Variance, Condition No. 9.

260 Rule § 6-29(a).

261 Rule § 6-29(b)-(c).

#### Subchapter H: Variances § 6-30

Rule § 6-30 permits the Department and CHS to apply for a variance from a specific subdivision or section of these rules in accordance with § 1-15 of the Board’s Minimum Standards.

#### Authority

The Board of Correction’s authority for these rules is found in Sections 1043 and 626 of the New York City Charter.

#### PROPOSED RULES

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of the Board of Correction, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Section 1-16 of Chapter 1 of Title 40 of the Rules of the City of New York, relating to enhanced supervision housing, and section 1-17 of such title, relating to punitive segregation, are hereby REPEALED.

§ 2. Section 1-02 of Title 40 of the Rules of the City New York is amended to read as follows:

#### § 1-02 Classification of [Prisoners] People in Custody.

- (a) *Policy.* Consistent with the requirements of this section the Department shall employ a classification system for [prisoners] people in custody.
- (b) *Categories.*
- (1) Sentenced [inmates] individuals shall be housed separate and apart from [inmates] people awaiting trial or examination, except when housed in:
    - (i) punitive segregation;]
    - (ii) medical housing areas;]
    - (iii) mental health centers and mental observation cell housing areas;]
    - (iv) enhanced supervision housing;]
    - (v) nursery;]
    - (vi) adolescent housing areas;]
    - (i) RMAS housing units, defined in 40 RCNY § 6-03(b)(16);
    - (ii) Specialized medical housing units, defined in 40 RCNY § 6-03(b)(17);
    - (iii) Specialized mental health housing, defined in 40 RCNY § 6-03(b)(18);
    - (iv) pregnant person housing and the Department nursery; and
    - (vii) (v) housing areas designated for [inmates] people ages 18 to 21 inclusive.
  - (2) Where sentenced [inmates] individuals are housed with [inmates] people awaiting trial or examination in the housing areas listed in subparagraphs (i) through [(vii)] (v) of paragraph (1) of this subdivision, the sentenced [inmates] individuals shall be treated as [inmates] people awaiting trial or examination for all purposes other than housing.
  - (3) Within the categories set forth in paragraph (1), and subject to the exceptions set forth in 40 RCNY § 1-02(b)(4), the following groupings shall be housed separate and apart:
    - (i) male adults, ages 22 and over;
    - (ii) male young adults, ages 18 to 21 inclusive;
    - [(iii) male minors, ages 16 and 17;]
    - (iv) iii female adults, ages 22 and over;
    - (v) iv female young adults, ages 18 to 21 inclusive[;],
    - [(vi) female minors, ages 16 and 17.]
  - (4) Young adults shall be housed separate and apart from adults, except when housed in:
    - (i) specialized medical housing units, as defined in 40 RCNY § 6-03(b)(17);
    - (ii) specialized mental health housing, as defined in 40 RCNY § 6-03(b)(18);
    - (iii) pregnant person housing and the Department nursery.
- (c) *Inmates ages 18 to 21 inclusive*
- (1) [No later than October 15, 2015, the Department shall implement the requirement of paragraph 2 of subdivision (b) of this section that inmates ages 18 through 21 be housed separately and apart from inmates over the age of 21.

- (2) Housing for [inmates] people in custody ages 18 through 21 shall provide such [inmates] people with age-appropriate programming. [No later than August 1, 2015, the Department shall provide the Board with a plan to develop such age-appropriate programming.]
- (3) Data Collection and Review.
- (i) The Department shall provide the Board with a monthly public census showing which housing units and facilities house 18-year-olds and 19-21-year-olds. The census shall indicate how many young adults are in each unit, the housing category of each unit (e.g., general population, protective custody, specialized medical, specialized mental health, pregnant, nursery, etc.), and whether the unit is a young adult-only unit or a commingled housing unit.
- (ii) The Department shall report to the Board the locations of all units operating as young adult-only housing units at each facility, including the dates each unit started operating as a young adult-only unit and the date each unit stopped operating as a young adult-only unit (if applicable).
- (iii) The Department shall provide the Board with monthly public reports on its plans for housing and providing age-appropriate programming and services to young adults in custody (i.e., Young Adult Plan). The monthly report shall include but not be limited to the following information as of the first day of the reporting month:
- (A) Number of young adults, in total and disaggregated by gender, custody status (i.e., detainee, sentenced), and "M" designation, and the percent of young adults in each category out of the total young adult population and the DOC population as a whole;
- (B) Number of young adults, in total and disaggregated by facility and by young adult-only versus commingled housing units, and percent of the young adult population in each category out of the total young adult population in custody;
- (C) Number of young adults in young adult-only housing units, in total and disaggregated by classification level and custody status;
- (D) Number of young adults in commingled housing units, in total and disaggregated by classification level and custody status;
- (E) Number of young adults in medical and mental health housing units, in total and disaggregated by type of unit (e.g., CAPS, PACE, Detox, and Mental Observation);
- (F) Number of young adults in restrictive housing units, in total and disaggregated by type and level of housing;
- (G) Number of active young adult-only housing areas by facility during the reporting month;
- (H) A list and description of the staff trainings focusing on working with the young adult population offered by the Department (e.g., Safe Crisis Management, Direct Supervision);
- (I) For each training offered, the number and percent of staff working with young adults, in total (Department-wide) and disaggregated by facility and by status of young adult training received (qualified, trained but expired, never trained);
- (J) A list and description of young adult program offerings by facility, housing type (young adult-only, commingled), and provider, specifying Department-led programming and programming offered by external providers;
- (K) The number and percent of young adults in custody with an Individual Behavioral Support Plan; and
- (L) Any other information the Department or the Board deems relevant to assessment of the Young Adult Plan.
- (M) The Board and the Department shall jointly develop reporting templates for information required by 40 RCNY § 1-02(c)(3) for approval by the Board.
- (d) [Civil prisoners.] People in Custody for Civil Offenses. [(1) Prisoners] People who are not directly involved in the criminal process [as detainees or serving sentence] and are confined for other reasons including civil process, civil contempt or material witness, shall be housed separate and apart from [other prisoners] the rest of the jail population and, if possible, located in a different structure or wing. They must be afforded at least as many of the rights, privileges and opportunities available to other [prisoners] people in custody.
- (2) Within this category, the following groupings shall be housed separate and apart:
- (i) male adults, ages 22 and over;
- (ii) male young adults, ages 18 to 21 inclusive;
- [(iii) male minors, ages 16 and 17];
- [(iv)iii] female adults, ages 22 and over;
- [(v)iv] female young adults, ages 18 to 21 inclusive.
- [(vi) female minors, ages 16 and 17.]
- (e) Limited commingling. Nothing contained in this section shall prevent [prisoners] people in custody in different categories or groupings from being in the same area for a specific purpose, including, but not limited to, entertainment, classes, contact visits or medical necessity.
- (f) Security classification.
- (1) The Department shall use a system of classification to group [prisoners] people in custody according to the minimum degree of surveillance and security required.
- (2) The system of classification shall meet the following requirements:
- (i) It shall be in writing and shall specify the basic objectives, the classification categories, the variables and criteria used, the procedures used and the specific consequences to the [prisoner] person in custody of placement in each category.
- (ii) It shall include at least two (2) classification categories.
- (iii) It shall provide for an initial classification upon entrance into the corrections system. Such classification shall take into account only relevant factual information about the [prisoner] person in custody, capable of verification.
- (iv) It shall provide for involvement of the [prisoner] person in custody at every stage with adequate due process.
- (v) [Prisoners] People placed in the most restrictive security status shall only be denied those rights, privileges and opportunities that are directly related to their status and which cannot be provided to them at a different time or place than provided to other [prisoners] individuals in custody.
- (vi) It shall provide mechanisms for review of [prisoners] people placed in the most restrictive security status at intervals not to exceed four (4) weeks for [detainees] individuals awaiting trial and eight (8) weeks for sentenced [prisoners] people.
- § 3. Section 1-05 of Title 40 of the Rules of the City New York is amended to read as follows:
- § 1-05 Lock-in.**
- (a) Policy. The time spent by [prisoners] people confined to their cells should be kept to a minimum and required only when necessary for the safety and security of the facility. The provisions of this section are inapplicable to [prisoners confined in punitive segregation] people confined in RMAS housing or [prisoners] people confined for medical reasons in the contagious disease units.
- (b) Involuntary lock-in. [No prisoner] People shall not be required to remain confined to [his or her] their [cell] cells except for the following purposes:
- (1) At night for count or sleep, not to exceed eight hours in any 24-hour period;
- (2) During the day for count or required facility business that can only be carried out while [prisoners] people are locked in, not to exceed two hours in any 24-hour period. This time may be extended if necessary to complete an off count. [This paragraph shall not apply to prisoners confined in enhanced supervision housing, who may be locked in during the day for up to nine hours in any 24-hour period.]
- (c) Optional lock-in.
- (1) [Prisoners] People shall have the option of being locked in their cells during lock-out periods. [Prisoners] Individuals choosing to lock in at the beginning of a lock-out period of two (2) hours or more shall be locked out upon request after one-

half of the period. At this time, [prisoners] people who have been locked out shall be locked in upon request.

- (2) The Department may deny optional lock-in to a [prisoner] person in mental observation status if a psychiatrist or psychologist determines in writing that optional lock-in poses a serious threat to the safety of that [prisoner] person. A decision to deny optional lock-in must be reviewed every ten (10) days, including a written statement of findings, by a psychiatrist or psychologist. Decisions made by a psychiatrist or psychologist pursuant to this subdivision must be based on personal consultation with the [prisoner] person in custody.
- (d) *Schedule.* Each facility shall maintain and distribute to all [prisoners] people in custody or post in each housing area its lock-out schedule, including the time during each lock-out period when [prisoners] people may exercise the options provided by paragraph (c)(1) of this subdivision.

§ 4. Section 1-06 of Title 40 of the Rules of the City New York is amended to read as follows:

#### § 1-06 Recreation.

- (a) *Policy.* Recreation is essential to good health and contributes to reducing tensions within a facility. [Prisoners] People in custody shall be provided with adequate indoor and outdoor recreational opportunities.
- (b) *Recreation areas.* Indoor and outdoor recreation areas of sufficient size to meet the requirements of this section shall be established and maintained by each facility. An outdoor recreation area must allow for direct access to sunlight and air.
- (c) *Recreation schedule.* Recreation periods shall be at least one hour; only time spent at the recreation area shall count toward the hour. Recreation shall be available seven (7) days per week in the outdoor recreation area, except in inclement weather when the indoor recreation area shall be used.
- (d) *Recreation equipment.*
- (1) The Department shall make available to [prisoners] people in custody an adequate amount of equipment during the recreation period.
  - (2) Upon request each facility shall provide [prisoners] people in custody with appropriate outer garments in satisfactory condition, including coat, hat, and gloves, when they participate in outdoor recreation during cold or wet weather conditions.
- (e) *Recreation within housing area.*
- (1) [Prisoners] People shall be permitted to engage in recreation activities within cell corridors and tiers, dayrooms and individual housing units. Such recreation may include but is not limited to:
    - (i) table games;
    - (ii) exercise programs; and
    - (iii) arts and crafts activities.
  - (2) Recreation taking place within cell corridors and tiers, dayrooms and individual housing units shall supplement, but not fulfill, the requirements of subdivision (c) of this section.
- (f) *Recreation for [inmates] people housed in the contagious disease units.* In place of out-of-cell recreation, the Department, in consultation with medical providers, may provide [inmates] people confined for medical reasons in the contagious disease units with appropriate recreation equipment and materials for in-cell recreation. The Department must provide such [inmates] individuals with daily access to publications, such as newspapers, books, and magazines, which shall be made available in the six (6) most common languages spoken by the [inmate] jail population.
- (g) *Recreation for [prisoners] people in [segregation] restrictive housing.* [Prisoners] Persons confined in [close custody or punitive segregation] RMAS as defined in Chapter 6 of these Rules shall be permitted recreation in accordance with the provisions of subdivision (c) of this section.
- (h) *Limitation on access to recreation.* A [prisoner-s] person's access to recreation may be denied for up to five days only [upon conviction of an infraction for misconduct on the way to, from or during recreation] due to imminent safety and security risks, which must be recorded and transmitted to the Board within one business day of the restriction. Any limits imposed on a person's access to recreation must be approved by the Chief of the Department.

§ 5. Section 1-07 of Title 40 of the Rules of the City New York is amended to read as follows:

#### § 1-07 Religion.

- (a) *Policy.* [Prisoners] People in custody have an unrestricted right to hold any religious belief, and to be a member of any religious group or organization, as well as to refrain from the exercise of any religious beliefs. A [prisoner] person in custody may change his or her religious affiliation.
- (b) *Exercise of religious beliefs.*
- (1) [Prisoners] People in custody are entitled to exercise their religious beliefs in any manner that does not constitute a clear and present danger to the safety or security of a facility.
  - (2) No employee or agent of the Department or of any voluntary program shall be permitted to proselytize or seek to convert any [prisoner] person in custody, nor shall any [prisoner] person in custody be compelled to exercise or be dissuaded from exercising any religious belief.
  - (3) Equal status and protection shall be afforded to all [prisoners] people in the exercise of their religious beliefs except when such exercise is unduly disruptive of facility routine.
- (c) *Congregate religious activities.*
- (1) Consistent with the requirements of subdivision (a) of this section, [all prisoners] all persons in custody shall be permitted to congregate for the purpose of religious worship and other religious activities, except for [prisoners] people confined for medical reasons in the contagious disease units.
  - (2) Each facility shall provide all [prisoners] persons in custody with access to an appropriate area for congregate religious worship and other religious activities. Consistent with the requirements of paragraph (b)(1) of this section, this area shall be made available to [prisoners] people in custody in accordance with the practice of their religion.
- (d) *Religious advisors.*
- (1) As used in this section, the term «religious advisor» means a person who has received endorsement from the relevant religious authority.
  - (2) Religious advisors shall be permitted to conduct congregate religious activities permitted pursuant to subdivision (c) of this section. When no religious advisor is available, a [member of a prisoner] person in custody belonging to the religious group may be permitted to conduct congregate religious activities.
  - (3) Consistent with the requirements of paragraph (b)(1) of this section, [prisoners] people shall be permitted confidential consultation with their religious advisors during lock-out periods.
- (e) *Celebration of religious holidays or festivals.* Consistent with the requirements of paragraph (b)(1) of this section, [prisoners] people shall be permitted to celebrate religious holidays or festivals on an individual or congregate basis.
- (f) *Religious dietary laws.* [Prisoners] People in custody are entitled to the reasonable observance of dietary laws or fasts established by their religion. Each facility shall provide [prisoners] people with food items sufficient to meet such religious dietary laws.
- (g) *Religious articles.* Consistent with the requirements of paragraph (b)(1) of this section, [prisoners] people in custody shall be entitled to wear and to possess religious medals or other religious articles, including clothing and hats.
- (h) *Exercise of religious beliefs by [prisoners] people in [segregation] restrictive housing.*
- (1) [Prisoners] People confined in [administrative or punitive segregation] in RMAS housing shall not be prohibited from exercising their religious beliefs, including the opportunities provided by subdivisions (d) through (g) of this section.
  - (2) Congregate religious activities by [prisoners] people in [close custody or punitive segregation] Levels 1 and 2 of RMAS housing as defined in Chapter 6 of these Rules shall be provided for by permitting such [prisoners] individuals to attend congregate religious activities with appropriate security either with each other or with other [prisoners] people in custody.
- (i) *Recognition of a religious group or organization.*
- (1) A list shall be maintained of all religious groups and organizations recognized by the Department. This list shall be in Spanish and English and shall be distributed to all [incoming prisoners] persons entering custody or posted in each housing area.
  - (2) Each facility shall maintain a list of the religious advisor, if any, for each religious group and organization, and the time and place for the congregate service of each religion. This list

shall be in Spanish and English and shall be distributed to all [incoming prisoners] persons entering custody or posted in each housing area.

- (3) [Prisoner requests] People in custody may make requests to the Department to exercise the beliefs of a religious group or organization not previously recognized [shall be made to] by the Department.
- (4) In determining requests made pursuant to paragraph (3) of this subdivision, the following factors among others shall be considered as indicating a religious foundation for the belief:
- whether there is substantial literature supporting the belief as related to religious principle;
  - whether there is formal, organized worship by a recognizable and cohesive group sharing the belief;
  - whether there is an informal association of persons who share common ethical, moral, or intellectual views supporting the belief; or
  - whether the belief is deeply and sincerely held by the [prisoner] person making the request.
- (5) In determining requests made pursuant to paragraph (3) of this subdivision, the following factors shall not be considered as indicating a lack of religious foundation for the belief:
- the belief is held by a small number of individuals;
  - the belief is of recent origin;
  - the belief is not based on the concept of a Supreme Being or its equivalent; or
  - the belief is unpopular or controversial.
- (6) [In determining] Before the Department determines a request[s] made pursuant to paragraph (3) of this subdivision, [prisoners] the requestor shall be permitted to present evidence indicating a religious foundation for the belief.
- (7) The procedure outlined in paragraphs (1) and (3) of this subdivision shall apply when a [prisoner] request made pursuant to paragraph (i)(3) of this subdivision is denied.
- (j) *Limitations on the exercise of religious beliefs.*
- Any determination to limit the exercise of the religious beliefs of any [prisoner] person in custody shall be made in writing and shall state the specific facts and reasons underlying such determination. A copy of this determination, including the appeal procedure, shall be sent to the Board and to any person affected by the determination within [24 hours] one business day of the determination.
  - This determination must be based on specific acts committed by the [prisoner] person in custody during the exercise of his or her religion that demonstrate a serious and immediate threat to the safety and security of the facility. Prior to any determination, the [prisoner] individual must be provided with written notification of the specific charges and the names and statements of the charging parties and be afforded an opportunity to respond.
  - Any person affected by a determination made pursuant to this subdivision may appeal such determination to the Board.
    - The person affected by the determination shall give notice in writing to the Board and the Department of [his or her] the person's intent to appeal the determination.
    - The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.
    - The Board or its designee shall issue a written decision upon the appeal within 14 business days after receiving notice of the requested review.
- § 6. Section 1-08 of Title 40 of the Rules of the City New York is amended to read as follows:
- § 1-08 Access to Courts and Legal Services.**
- Policy.* [Prisoners] People in custody are entitled to access to courts, attorneys, legal assistants and legal materials.
  - Judicial and administrative proceedings.*
    - [Prisoners] People in custody shall not be restricted in their communications with courts or administrative agencies pertaining to either criminal or civil proceedings except pursuant to a court order.

- Timely transportation shall be provided to [prisoners] people scheduled to appear before courts or administrative agencies. Vehicles used to transport [prisoners] people in custody must meet all applicable safety and inspection requirements and provide adequate ventilation, lighting and comfort.
- (c) *Access to counsel.*
- [Prisoners] People in custody shall not be restricted in their communication with attorneys. The fact that [a prisoner] someone is represented by one attorney shall not be grounds for preventing [him or her] that person from communicating with other attorneys. Any properly identified attorney may visit any [prisoner] person in custody with [the prisoner's] that person's consent.
    - An attorney may be required to present identification to a designated official at the central office of the Department in order to obtain a facility pass. This pass shall permit the attorney to visit any [prisoner] person in the custody of the Department.
    - The Department only may require such identification as is normally possessed by an attorney.
  - The Department may limit visits to any attorney of record, or an attorney with a court notice for [prisoners] individuals undergoing examination for competency pursuant to court order.
  - Visits between [prisoners] people in custody and attorneys shall be kept confidential and protected, in accordance with provisions of 40 RCNY § 1-09. Legal visits shall be permitted at least eight hours per day between 8 a.m. and 8 p.m. During business days, four (4) of those hours shall be 8 a.m. to 10 a.m., and 6 p.m. to 8 p.m. The Department shall maintain and post the schedule of legal visiting hours at each facility.
  - Mail between [prisoners] people in custody and attorneys shall not be delayed, read, or interfered with in any manner, except as provided in 40 RCNY § 1-11.
  - Telephone communications between [prisoners] people in custody and attorneys shall be kept confidential and protected, in accordance with the provisions of 40 RCNY § 1-10.
- (d) *Access to co-defendants.* Upon reasonable request, regular visits shall be permitted between [a detainee] people awaiting trial and all of [his or her] their co-defendants who consent to such visits. If any of the co-defendants are incarcerated, the Department may require that an attorney of record be present and teleconferencing shall be used, if available.
- (e) *Attorney assistants.*
- Law students, legal paraprofessionals, and other attorney assistants working under the supervision of an attorney representing a [prisoner] person in custody shall be permitted to communicate with [prisoners] that person by mail, telephone and personal visits, to the same extent and under the same conditions that the attorney may do so for the purpose of representing the [prisoner] individual. Law students, legal paraprofessionals and other attorney assistants working under the supervision of an attorney contacted by a [prisoner] person in custody shall be permitted to communicate with that [prisoner] individual by mail, telephone, or personal visits to the same extent and under the same conditions that the attorney may do so.
  - An attorney assistant may be required to present a letter of identification from the attorney to a designated official at the central office of the Department in order to obtain a facility pass. A pass shall not be denied based upon any of the reasons listed in 40 RCNY § 1-09(h)(1).
  - The pass shall permit the assistant to perform the functions listed in subdivision (e) of this section. It may be revoked if specific acts committed by the legal assistant demonstrate [his or her] the legal assistant's threat to the safety and security of a facility. This determination must be made pursuant to the procedural requirements of paragraphs (2), (4) and (5) of subdivision (h) of 40 RCNY § 1-09.
- (f) *Law libraries.* Each facility shall maintain a properly equipped and staffed law library.
- The law library shall be located in a separate area sufficiently free of noise and activity and with sufficient space and lighting to permit sustained research.
  - Each law library shall be open for a minimum of five (5) days per week including at least one (1) weekend day. On each day a law library is open:

- (i) in facilities [with] housing more than six hundred (600) [prisoners] people, each law library shall be operated for a minimum of ten (10) hours, of which at least eight (8) shall be during lock-out hours;
- (ii) in facilities [with] housing six hundred (600) or fewer [prisoners] people, each law library shall be operated for a minimum of eight (8) and a half hours, of which at least six (6) and a half shall be during lock-out hours;
- (iii) in all facilities, the law library shall be operated for at least three (3) hours between 6 p.m. and 10 p.m.; and
- (iv) the law library will be kept open for [prisoners] people's use on all holidays which fall on regular law library days except New Year's Day, July 4th, Thanksgiving, and Christmas. The law library may be closed on holidays other than those specified provided that law library services are provided on either of the two days of the same week the law library is usually closed. On holidays on which the law library is kept open, it shall operate for a minimum of eight (8) hours. No changes to law library schedules shall be made without written notice to the Board of Correction and shall be received at least five (5) business days before the planned change(s) is to be implemented.
- (3) The law library schedule shall be arranged to provide access to [prisoners] people in custody during times of the day when other activities such as recreation, commissary, meals, school, sick call, etc., are not scheduled. Where such considerations cannot be made, [prisoners] people shall be afforded another opportunity to attend the law library at a later time during the day.
- (4) Each [prisoner] person in custody shall be granted access to the law library for a period of at least two (2) hours per day on each day the law library is open. Upon request, extra time may be provided as needed, space and time permitting. In providing extra time, [prisoners] people who have an immediate need for additional time, such as [prisoners] people on trial and those with an impending court deadline shall be granted preference.
- (5) Notwithstanding the provisions of paragraph (f)(4), [prisoners] people housed for medical reasons in the contagious disease units may be denied access to the law library. An alternative method of access to legal materials shall be instituted to permit effective legal research.
- (6) The law library hours for [prisoners] people in [punitive segregation or enhanced supervision] Levels 1 and 2 of RMAS housing as defined in Chapter 6 of these Rules may be reduced or eliminated, provided that an alternative method of access to legal materials is instituted to permit effective legal research.
- (7) Legal research classes for people housed in general population [prisoners] shall be conducted at each facility on at least a quarterly basis. Legal research training materials shall be made available upon request to [prisoners] people in [special housing] Levels 1 and 2 of RMAS housing.
- (8) The Department shall report annually to the Board detailing the resources available at the law library at each facility, including a list of titles and dates of all law books and periodicals and the number, qualifications and hours of English and Spanish-speaking legal assistants.
- (g) *Legal documents and supplies.*
- (1) Each law library shall contain necessary research and reference materials which shall be kept properly updated and supplemented and shall be replaced without undue delay when materials are missing or damaged.
- (2) [Prisoners] People in custody shall have reasonable access to typewriters, dedicated word processors, and photocopiers for the purpose of preparing legal documents. A sufficient number of operable typewriters, dedicated word processors, and photocopy machines will be provided for [prisoner] people's use.
- (3) Legal clerical supplies, including pens, legal paper and pads shall be made available for purchase by [prisoners] people in custody. Such legal clerical supplies shall be provided to indigent [prisoners] individuals at Department expense.
- (4) Unmarked legal forms which are commonly used by [prisoners] people in custody shall be made available. Each [prisoner] person shall be permitted to use or make copies of such forms for [his or her own] the person's use.
- (h) *Law library staffing.*
- (1) During all hours of operation, each law library shall be staffed with trained civilian legal coordinator(s) to assist [prisoners] people with the preparation of legal materials. Legal coordinator coverage shall be provided during extended absences of the regularly assigned legal coordinator(s).
- (2) Each law library shall be staffed with an adequate number of permanently assigned correction officers knowledgeable of law library procedures.
- (3) Spanish-speaking [prisoners] people in custody shall be provided assistance in use of the law library by employees fluent in the Spanish language on an as needed basis.
- (i) *Number of legal documents and research materials.*
- (1) [Prisoners] People in custody shall be permitted to purchase and receive law books and other legal research materials from any source.
- (2) Reasonable regulations governing the keeping of materials in cells and the searching of cells may be adopted, but under no circumstances may [prisoners] people's legal documents, books, and papers be read or confiscated by correctional personnel without a lawful warrant. Where the space in a cell is limited, an alternative method of safely storing legal materials elsewhere in the facility is required, provided that a [prisoner] person in custody shall have regular access to these materials.
- (j) *Limitation of access to law library.*
- (1) [A prisoner] People in custody may be removed from the law library if [he or she] they disrupt[s] the orderly functioning of the law library or do[es] not use the law library for its intended purposes. [A person may be excluded from the law library for more than the remainder of one law library period only for a disciplinary infraction occurring within a law library.]
- (2) Any determination to limit a [prisoner's] person's right of access to the law library shall be made in writing and shall state the specific facts and reasons underlying such determination. A copy of this determination, including the appeal procedure, shall be sent to the Board and to any person affected by the determination within [24 hours] one business day of the determination.
- (3) An alternative method of access to legal materials shall be instituted to permit effective legal research for any [prisoner] person excluded from the law library. A legal coordinator shall visit any excluded [prisoner] person to determine his or her law library needs upon request.
- (4) Any person affected by a determination made pursuant to this subdivision (j) may appeal such determination to the Board.
- (i) The person affected by a determination shall give notice in writing to the Board and to the Department of his or her intent to appeal the determination.
- (ii) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.
- (iii) The Board or its designee shall issue a written decision upon the appeal within five (5) business days after receiving notice of the requested review.
- § 7. Section 1-09 of Title 40 of the Rules of the City New York is amended to read as follows:
- § 1-09 Visiting.**
- (a) *Policy.* All [inmates] people in custody are entitled to receive personal visits of sufficient length and number. Maintaining personal connections with social and family networks and support systems is critical to improving outcomes both during confinement and upon reentry. Visitation with friends and family plays an instrumental role in a [n inmate's] person's ability to maintain these connections and should therefore be encouraged and facilitated by the Department. Additionally, the Board recognizes that a [n inmate's] person's family may not be limited to those related to the [inmate] individual by blood or by legally-recognized bonds, such as marriage or adoption. Therefore, the term "family" as it is used in this subdivision should be construed broadly to reflect the diversity of familial structures and the wide variety of relationships that may closely connect a [n inmate] person in custody to others. This should include, for example, but may not be limited to: romantic partners; godparents and godchildren; current and former step-parents, children, and siblings; and those connected to the [inmate] individual through current or former domestic partnerships, foster arrangements, civil unions, or cohabitation.

- (b) *Visiting and waiting areas.*
- (1) A visiting area of sufficient size to meet the requirements of this section shall be established and maintained in each facility.
  - (2) The visiting area shall be designed so as to allow physical contact between [prisoners] people in custody and their visitors as required by subdivision (f) of this section.
  - (3) The Department shall make every effort to minimize the waiting time prior to a visit. Visitors shall not be required to wait outside a facility unless adequate shelter is provided and the requirements of paragraph (b)(4) of this section are met.
  - (4) All waiting and visiting areas shall provide for at least minimal comforts for visitors, including but not limited to:
    - (i) sufficient seats for all visitors;
    - (ii) access to bathroom facilities and drinking water throughout the waiting and visiting periods;
    - (iii) access to vending machines for beverages and foodstuffs at some point during the waiting or visiting period; and
    - (iv) access to a Spanish-speaking employee or volunteer at some point during the waiting or visiting period. All visiting rules, regulations, and hours shall be clearly posted in English and Spanish in the waiting and visiting areas at each facility.
  - (5) The Department shall make every effort to utilize outdoor areas for visits during the warm weather months.
- (c) *Visiting schedule.*
- (1) Visiting hours may be varied to fit the schedules of individual facilities but must meet the following minimum requirements for [detainees] people awaiting trial:
    - (i) Monday through Friday. Visiting shall be permitted on at least three (3) days for at least three (3) consecutive hours between 9 a.m. and 5 p.m. Visiting shall be permitted on at least two (2) evenings for at least three (3) consecutive hours between 6 p.m. and 10 p.m.
    - (ii) Saturday and Sunday. Visiting shall be permitted on both days for at least five (5) consecutive hours between 9 a.m. and 8 p.m.
  - (2) Visiting hours may be varied to fit the schedules of individual facilities but must meet the following minimum requirements for sentenced [prisoners] individuals:
    - (i) Monday through Friday. Visiting shall be permitted on at least one (1) evening for at least three (3) consecutive hours between 6 p.m. and 10 p.m.
    - (ii) Saturday and Sunday. Visiting shall be permitted on both days for at least five (5) consecutive hours between 9 a.m. and 8 p.m.
  - (3) The visiting schedule of each facility shall be available by contacting either the central office of the Department or the facility.
  - (4) Visits shall last at least one (1) hour. This time period shall not begin until the [prisoner] person in custody and visitor meet in the visiting room.
  - (5) Sentenced [prisoners] individuals are entitled to at least two (2) visits per week with at least one (1) on an evening or the weekend, as the sentenced [prisoner] individual wishes. [Detainees] People awaiting trial are entitled to at least three (3) visits per week with at least one (1) on an evening or the weekend, as the [detainee] person wishes. Visits by properly identified persons providing services or assistance, including lawyers, doctors, religious advisors, public officials, therapists, counselors, and media representatives, shall not count against this number.
  - (6) There shall be no limit to the number of visits by a particular visitor or category of visitors.
  - (7) In addition to the minimum number of visits required by paragraphs (1), (2) and (5) of this subdivision, additional visitation shall be provided in cases involving special necessity, including but not limited to, emergency situations and situations involving lengthy travel time.
  - (8) [Prisoners] People in custody shall be permitted to visit with at least three (3) visitors at the same time, with the maximum number to be determined by the facility.
  - (9) Visitors shall be permitted to visit with at least two (2) [prisoners] people in custody at the same time, with the maximum number to be determined by the facility.
  - (10) If necessitated by lack of space, a facility may limit the total number of persons in any group of visitors and [prisoners] people in custody to four (4). Such a limitation shall be waived in cases involving special necessity, including but not limited to, emergency situations and situations involving lengthy travel time.
- (d) *Initial visit.*
- (1) [Each detainee] People awaiting trial shall be entitled to receive a non-contact visit within twenty-four (24) hours of [his or her] their admission to the facility.
  - (2) If a visiting period scheduled pursuant to paragraph (c)(1) of this section is not available within twenty-four (24) hours after a [detainee's] person awaiting trial's admission, arrangements shall be made to ensure that the initial visit required by this subdivision is made available.
- (e) *Visitor identification and registration.*
- (1) Consistent with the requirements of this subdivision, any properly identified person shall, with the [prisoner's] individual in custody's consent, be permitted to visit [the prisoner] that individual.
    - (i) Prior to a visit, a [prisoner] person in custody shall be informed of the identity of the prospective visitor.
    - (ii) A refusal by a [prisoner] person in custody to meet with a particular visitor shall not affect [the prisoner's] that person's right to meet with any other visitor during that period, nor [the prisoner's] that person's right to meet with the refused visitor during subsequent periods.
  - (2) [Each visitor] Visitors shall be required to enter in the facility visitors log:
    - (i) [his or her] their name;
    - (ii) [his or her] their address;
    - (iii) the date;
    - (iv) the time of entry;
    - (v) the name of the [prisoner or prisoners] individual or individuals to be visited; and
    - (vi) the time of exit.
  - (3) Any prospective visitors who [is] under sixteen (16) years of age shall be required to enter, or have entered [for him or her] on their behalf, in the facility visitors log:
    - (i) the information required by paragraph (2) of this subdivision;
    - (ii) [his or her] their age; and
    - (iii) the name, address, and telephone number of [his or her] their parent or legal guardian.
  - (4) The visitors log shall be confidential, and information contained therein shall not be read by or revealed to non-Department staff except as provided by the City Charter or pursuant to a specific request by an official law enforcement agency. The Department shall maintain a record of all such requests with detailed and complete descriptions.
  - (5) Prior to visiting a [prisoner] person in custody, a prospective visitor under sixteen (16) years of age may be required to be accompanied by a person eighteen (18) years of age or older, and to produce oral or written permission from a parent or legal guardian approving such visit.
  - (6) The Department may adopt alternative procedures for visiting by persons under sixteen (16) years of age. Such procedures must be consistent with the policy of paragraph (e)(5) of this subdivision and shall be submitted to the Board for approval.
- (f) *Contact visits.* Physical contact shall be permitted between [every inmate] all people in custody and all of [the inmate's] their visitors. Permitted physical contact shall include a brief embrace and kiss between the [inmate] person in custody and visitor at both the beginning and end of the visitation period. [Inmates] People in custody shall be permitted to hold children in [the inmate's] their family who are ages fourteen (14) and younger throughout the visitation period, provided that the Department may limit a [n inmate's] person in custody to holding [of children to] one child at a time. Additionally, [inmates] people in custody shall be permitted to hold hands with their visitors throughout the visitation period, which the Department may limit to holding hands over a partition that is no greater than six (6) inches. The provisions of this subdivision are inapplicable to [inmates] individuals housed for medical reasons in the contagious disease units. The Department may impose certain limitations on contact visits for [inmates] people confined in [enhanced supervision]



RMAS housing in accordance with the procedures and guidelines set forth in 40 RCNY § [1-16] 6-17(f).

(g) *Visiting security and supervision.*

- (1) All [prisoners] people in custody, prior and subsequent to each visit, may be searched solely to ensure that they do not possess [no] any contraband.
- (2) All prospective visitors may be searched prior to a visit solely to ensure that they do not possess [no] any contraband.
- (3) Any body search of a prospective visitor made pursuant to paragraph (2) of this subdivision shall be conducted only through the use of electronic detection devices. Nothing contained herein shall affect any authority possessed by correctional personnel pursuant to statute.
- (4) Objects possessed by a prospective visitor, including but not limited to, handbags or packages, may be searched or checked. Personal effects, including wedding rings and religious medals and clothing, may be worn by visitors during a visit. The Department may require a prospective visitor to secure in a lockable locker his or her personal property, including but not limited to bags, outerwear and electronic devices. A visit may not be delayed or denied because an operable, lockable locker is not available.
- (5) Supervision shall be provided during visits solely to ensure that the safety or security of the facility is maintained.
- (6) Visits shall not be listened to or monitored unless a lawful warrant is obtained, although visual supervision should be maintained.

(h) *Restrictions on visitation rights.*

- (1) The visitation rights of [an inmate] a person in custody with a particular visitor may be denied, revoked or limited only when it is determined that the exercise of those rights constitutes a serious threat to the safety or security of a facility, provided that visitation rights with a particular visitor may be denied only if revoking the right to contact visits would not suffice to reduce the serious threat.

This determination must be based on specific acts committed by the visitor during a prior visit to a facility that demonstrate the visitor's threat to the safety and security of a facility, or on specific information received and verified that the visitor plans to engage in acts during the next visit that will be a threat to the safety or security of the facility. Prior to any determination, the visitor must be provided with written notification of the specific charges and the names and statements of the charging parties and be afforded an opportunity to respond. The name of an informant may be withheld if necessary to protect the informant's safety.

- (2) [An inmate's] A person in custody's right to contact visits as provided in subdivision (f) of this section may be denied, revoked, or limited only when it is determined that such visits constitute a serious threat to the safety or security of a facility. Should a determination be made to deny, revoke or limit a [n inmate's] person's right to contact visits in the usual manner, alternative arrangements for affording the [inmate] individual the requisite number of visits shall be made, including, but not limited to, non-contact visits.

This determination must be based on specific acts committed by the [inmate] person while in custody under the present charge or sentence that demonstrate the [inmate's] person's threat to the safety and security of a facility, or on specific information received and verified that the [inmate] individual plans to engage in acts during the next visit that will be a threat to the safety or security of the facility. Prior to any determination, the [inmate] person must be provided with written notification of the specific charges and the names and statements of the charging parties and be afforded an opportunity to respond. The name of an informant may be withheld if necessary to protect the informant's safety.

- (3) Restrictions on visitation rights must be tailored to the threat posed by the [inmate] person in custody or prospective visitor and shall go no further than what is necessary to address that threat.
- (4) Visitation rights shall not be denied, revoked, limited or interfered with based on [an inmate's] a person in custody's or a prospective visitor's actual or perceived:
  - (i) sex;
  - (ii) sexual orientation;
  - (iii) race;
  - (iv) age, except as otherwise provided in this section;
  - (v) nationality;

- (vi) political beliefs;
- (vii) religion;
- (viii) criminal record;
- (ix) pending criminal or civil case;
- (x) lack of family relationship;
- (xi) gender, including gender identity, self-image, appearance, behavior or expression; or
- (xii) disability

- (5) Any determination to deny, revoke or limit a[n inmate's] person in custody's visitation rights pursuant to paragraphs (1) and (2) of this subdivision shall be in writing and shall state the specific facts and reasons underlying such determination. A copy of this determination, including a description of the appeal procedure, shall be sent to the Board and to any person affected by the determination within 24 hours of the determination.

(i) *Appeal procedure for visitation restrictions.*

- (1) Any person affected by the Department's determination to deny, revoke or limit access to visitation may appeal such determination to the Board, in accordance with the following procedures:
  - (i) The person affected by the determination shall give notice in writing to the Board and the Department of intent to appeal the determination.
  - (ii) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.
  - (iii) The Board or its designee shall issue a written decision upon the appeal within five (5) business days after receiving notice of the requested review, indicating whether the visitation determination has been affirmed, reversed, or modified.
  - (iv) Where there exists good cause to extend the time period in which the Board or designee may issue a written decision beyond five (5) business days, the Board or designee may issue a single extension not to exceed ten (10) business days. In such instances, the Board shall immediately notify the Department and any persons affected by the extension.

§ 8. Section 1-11 of Title 40 of the Rules of the City New York is amended to read as follows:

§ 1-11 Correspondence.

- (a) *Policy.* [Prisoners] People in custody are entitled to correspond with any person, except when there is a reasonable belief that limitation is necessary to protect public safety or maintain facility order and security. The Department shall establish appropriate procedures to implement this policy. Correspondence shall not be deemed to constitute a threat to safety and security of a facility solely because it criticizes a facility, its staff, or the correctional system, or espouses unpopular ideas, including ideas that facility staff deem not conducive to rehabilitation or correctional treatment. The Department shall provide notice of this policy to all [prisoners] people in custody.
- (b) *Number and language.*
  - (1) There shall be no restriction upon incoming or outgoing [prisoner] correspondence based upon either the amount of correspondence sent or received, or the language in which correspondence is written.
  - (2) If a [prisoner] person in custody is unable to read or write, he or she may receive assistance with correspondence from other persons, including but not limited to, facility employees and [prisoners] people in custody.
- (c) *Outgoing correspondence.*
  - (1) Each facility shall make available to indigent [prisoners] people in custody at Department expense stationery and postage for all letters to attorneys, courts and public officials, as well as two (2) other letters each week.
  - (2) Each facility shall make available for purchase by [prisoners] people in custody both stationery and postage.
  - (3) Outgoing [prisoner] correspondence shall bear the sender's name and either the facility post office box or street address or the sender's home address in the upper left-hand corner of the envelope.
  - (4) Outgoing [prisoner] correspondence shall be sealed by the [prisoner] sender and deposited in locked mail receptacles.



- (5) All outgoing [prisoner] correspondence shall be forwarded to the United States Postal Service at least once each business day.
- (6) Outgoing [prisoner] non-privileged correspondence shall not be opened or read except pursuant to a lawful search warrant or the warden's written order articulating a reasonable basis to believe that the correspondence threatens the safety or security of the facility, another person, or the public.
- (i) The warden's written order shall state the specific facts and reasons supporting the determination.
- (ii) The affected [prisoner] sender shall be given written notification of the determination and the specific facts and reasons supporting it. The warden may delay notifying the [prisoner] sender only for so long as such notification would endanger the safety and security of the facility, after which the warden immediately shall notify the [prisoner] person. [This requirement shall not apply to individuals confined in enhanced supervision housing.]
- (iii) A written record of correspondence read pursuant to this paragraph shall be maintained and shall include: the name of the [prisoner] person in custody, the name of the intended recipient, the name of the reader, the date the correspondence was read, and [, with the exception of prisoners confined in enhanced supervision housing,] the date that the [prisoner] person received notification.
- (iv) Any action taken pursuant to this paragraph shall be completed within five (5) business days of receipt of the correspondence by the Department.
- (7) Outgoing [prisoner] privileged correspondence shall not be opened or read except pursuant to a lawful search warrant.
- (d) *Incoming correspondence.*
- (1) Incoming correspondence shall be delivered to the intended [prisoner] recipient within forty-eight (48) hours of receipt by the Department unless the [prisoner] recipient is no longer in custody of the Department.
- (2) A list of items that may be received in correspondence shall be established by the Department. Upon admission to a facility, [prisoners] people shall be provided a copy of this list or it shall be posted in each housing area.
- (e) *Inspection of incoming correspondence.*
- (1) Incoming [prisoner] non-privileged correspondence
- (a) shall not be opened except in the presence of the intended [prisoner] recipient or pursuant to a lawful search warrant or the warden's written order articulating a reasonable basis to believe that the correspondence threatens the safety or security of the facility, another person, or the public.
- (i) The warden's written order shall state the specific facts and reasons supporting the determination.
- (ii) The affected [prisoner] recipient and sender shall be given written notification of the warden's determination and the specific facts and reasons supporting it. The warden may delay notifying the [prisoner] recipient and the sender only for so long as such notification would endanger the safety or security of the facility, after which the warden immediately shall notify the [prisoner] recipient and sender. [This requirement shall not apply to prisoners confined in enhanced supervision housing.]
- (iii) A written record of correspondence read pursuant to this subdivision shall be maintained and shall include: the name of the sender, the name of the intended [prisoner] recipient in custody, the name of the reader, the date that the correspondence was received and was read, and[, with the exception of prisoners confined in enhanced supervision housing,] the date that the [prisoner] recipient and sender received notification.
- (iv) Any action taken pursuant to this subdivision shall be completed within five (5) business days of receipt of the correspondence by the Department.
- (b) shall not be read except pursuant to a lawful search warrant or the warden's written order articulating a reasonable basis to believe that the correspondence threatens the safety or security of the facility, another person, or the public. Procedures for the warden's written order pursuant to this subdivision are set forth in paragraph (1) of this subdivision.
- (2) Incoming correspondence may be manipulated or inspected without opening, and subjected to any non-intrusive devices. A letter may be held for an extra twenty-four (24) hours pending resolution of a search warrant application.
- (3) Incoming privileged correspondence shall not be opened except in the presence of the recipient [prisoner] in custody or pursuant to a lawful search warrant. Incoming privileged correspondence shall not be read except pursuant to a lawful search warrant.
- (f) *Prohibited items in incoming correspondence.*
- (1) When an item found in incoming correspondence involves a criminal offense, it may be forwarded to the appropriate authority for possible criminal prosecution. In such situations, the notice required by paragraph (3) of this subdivision may be delayed if necessary to prevent interference with an ongoing criminal investigation.
- (2) A prohibited item found in incoming [prisoner] correspondence that does not involve a criminal offense shall be returned to the sender, donated or destroyed, as the [prisoner] recipient wishes.
- (3) Within twenty-four (24) hours of the removal of an item, the Board and the intended [prisoner] recipient shall be sent written notification of this action. This written notice shall include:
- (i) the name and address of the sender;
- (ii) the item removed;
- (iii) the reasons for removal;
- (iv) the choice provided by paragraph (2) of this subdivision; and
- (v) the appeal procedure.
- (4) After removal of an item, the incoming correspondence shall be forwarded to the intended [prisoner] recipient.
- (g) *Appeal.* Any person affected by the determination to remove an item from [prisoner] correspondence may appeal such determination to the Board.
- (1) The person affected by the determination shall give notice in writing to the Board and to the Department of his or her intent to appeal the determination.
- (2) The Department and any person affected by the determination may submit to the Board for its consideration any relevant material in addition to the written determination.
- (3) The Board or its designee shall issue a written decision upon the appeal within 14 business days after receiving notice of the requested review.

§ 9. Title 40 of the Rules of the City of New York is amended by adding a new Chapter 6 to read as follows:

**Chapter 6: Restrictive Housing in Correctional Facilities**

**Subchapter A: Core Principles**

**§ 6-01 Purpose.**

- (a) These Chapter 6 rules are based upon and promote the following core principles:
- (1) Protection of the safety of people in custody and the staff who work in facilities by:
- (i) Ensuring that all people in custody and all staff who work in facilities are treated with dignity and respect;
- (ii) Prohibiting restrictions that dehumanize or demean people in custody;
- (iii) Placing restrictions on people in custody that are limited to those required to achieve the appropriate objectives for which the restrictions are imposed; and
- (iv) Confining people in custody to the least restrictive setting and for the least amount of time necessary to address the specific reasons for their placement and to ensure their own safety as well as the safety of staff, other people in custody, and the public.
- (2) Placement of people in custody into restrictive housing in accordance with due process and procedural and restorative justice principles by:
- (i) Explaining disciplinary rules and the sanctions for violating them when people are first admitted to Department custody;

- (ii) Imposing sanctions that are proportionate to the offenses committed;
  - (iii) Applying disciplinary rules and imposing sanctions fairly and consistently; and
  - (iv) Ensuring that people in custody understand the basis for their placement into restrictive housing, and that they understand the basis for any individual restrictions imposed in conjunction with their placement in such housing.
- (3) Promotion of the rehabilitation of people in custody and their reintegration into the community by:
- (i) Incentivizing good behavior;
  - (ii) Allowing people placed into restricting housing as much out-of-cell time and programming participation as practicable, consistent with safety and security; and
  - (iii) Providing necessary programming and resources.
- (4) Monitoring and tracking compliance with these Chapter 6 rules and the core principles on which they are based by:
- (i) Developing performance measures; and
  - (ii) Regularly reporting performance outcomes to the public.

### **Subchapter B: Definitions**

#### **§ 6-02 General Definitions.**

For the purposes of this Chapter, the following terms have the following meanings:

- (a) “Board” means the New York City Board of Correction.
- (b) “CHA” means the Correctional Health Authority designated by the City of New York as the agency responsible for health and mental health services for people in the care and custody of the Department.
- (c) “Department” means the New York City Department of Correction.
- (d) “Facility” means a place, institution, building (or part thereof), set of buildings, structure, or area (whether or not enclosing a building or set of buildings) used by the Department for confinement of individuals.
- (e) “Health staff” means a medical health or mental health professional employed by CHA who, by virtue of education, credentials, and experience, is permitted by law to evaluate and care for patients within the scope of his or her professional practice.
- (f) “Person in custody” means any person confined in a facility.
- (g) “Security staff” means Department employees primarily responsible for the supervision and control of people in custody in housing units, recreational areas, dining areas, and other program areas of the facility.

#### **§ 6-03 Definition of Restrictive Housing and Related Terms.**

- (a) For the purposes of this Chapter, “restrictive housing” means units where the Department houses people in custody separately from people housed in the general population, and:
  - (1) The out-of-cell time offered per day in the unit is less than fourteen (14) hours; or
  - (2) People in the unit are subject to one or more of the following conditions:
    - (i) Services mandated under other Chapters of the Minimum Standards are provided in a more restricted manner than they are provided to people housed in the general population. This would include, for example, the provision of law library services other than in a facility law library or religious services other than in a facility chapel.
    - (ii) A person is housed alone in the unit.
    - (iii) The physical design of the unit cannot accommodate more than four (4) people in custody congregating in a dayroom.
- (b) For the purposes of this Chapter, the following terms related to restrictive housing have the following meanings:
  - (1) “Disciplinary hearing” means a hearing on an infraction with which a person in custody has been charged.
  - (2) “General population” or “general population housing” means all housing units that are not restrictive housing units, specialized medical units, or specialized mental health units as defined in this section

- (3) “Grade I, II or III offense” means the degree of offense defined in 39 RCNY § 1-03, the Department of Correction Inmate Rule Book. Grade I is the most serious grade of offense.
- (4) “Hearing Adjudicator” is a Department employee of the rank of Captain or above who presides at disciplinary hearings or placement review hearings of people in custody.
- (5) “Housing area” or “housing unit” means facility housing, including common areas, used to house people in custody.
- (6) “Infraction” means a violation of Department rules.
- (7) “Intake” or “intake area” is an area designated by a facility to temporarily secure a person in custody while awaiting further assessment of the person for appropriate housing placement.
- (8) “Legal Representative” is an attorney or layperson who works under the supervision of an attorney.
- (9) “M” Designation” is a designation assigned pursuant to a settlement in *Brad H. v. City of New York*, if a person, during one incarceration event, has engaged with the mental health system at least three (3) times, has been prescribed certain classes of medication, or has otherwise been assessed by the Health Authority as needing further mental health treatment.
- (10) “Mandated services” means services the Department is obligated to provide under the Board’s Minimum Standards.
- (11) “Pre-hearing detention” means the placement of a person in custody in RMAS Level 1 pending the investigation or adjudication of the person’s disciplinary infraction.
- (12) “PSEG” or “punitive segregation” means the placement of a person in custody in isolation for extended periods of time, separate and apart from the general population, pursuant to a disciplinary sanction imposed after a disciplinary hearing.
- (13) “Restraints” mean any of the following devices: handcuffs, flex cuffs, waist restraint systems (consisting of a belt or chain around the waist to which the person hands may be chained or handcuffed); leg restraints (shackles applied on the ankle area); handcuff safety covers (protective devices that cover the locking mechanism of handcuffs to prevent tampering); protective mittens (protective tube-like mittens which cover the hands and are secured with handcuffs); gurneys (wheeled stretchers); four-point restraints (restraint that secure both arms and legs); five-point restraints (four-point restraint plus the application of an additional restraint across the chest, such as restraint chairs and the WRAP restraint device); and restraint desks (school-type desk surface and chair with ankle restraints).
- (14) “Restorative Rehabilitation Unit” or “RRU,” pursuant to 40 RCNY § 6-27, is a general population housing area of 15 or less people that offers enhanced programming, security, and therapeutic support for people stepping down from RMAS.
- (15) “Restrictive status” means a status the Department assigns to people in custody who the Department determines require heightened identification, tracking, and/or monitoring for safety and security purposes.
- (16) “Risk Management Accountability System” or “RMAS,” pursuant to 40 RCNY § 6-08 through § 6-26, is a progression model that separates people from general population in response to their commission of an offense and holds them accountable through a swift, certain, fair, and transparent process. RMAS promotes prosocial behavior and progression through positive incentives as well as case management services, behavior support plans, and evidence-informed programming, tailored to the person’s individual needs. RMAS includes Levels 1 and 2, with Level 1 being the most restrictive.
- (17) “Specialized medical housing” are housing units for persons with medical conditions, including but not limited to infirmaries and contagious disease units (CDUs). Entry and discharge for specialized medical housing are determined by CHA according to clinical criteria.
- (18) “Specialized mental health housing” are housing units for persons with serious mental illness, including but

not limited to Program for Accelerating Clinical Effectiveness (PACE) units, and Clinical Alternatives to Punitive Segregation (CAPS) units. Entry and discharge are determined by CHA according to clinical criteria. Mental Observation (MO) units are not specialized mental health housing for purposes of this rule.

- (19) "Steady" staff are officers that are regularly assigned to the same post.
- (20) "Young adults" mean people in custody ages eighteen (18) through twenty-one (21).

### **Subchapter C: Immediate Placement Responses to Violence**

#### **§ 6-04 Pre-Hearing Detention.**

- (a) The Department may place a person in custody in pre-hearing detention in RMAS Level 1 if the person is under investigation for or charged with an infraction and meets the following criteria:
- (1) The person is reasonably believed by the Department to have committed a Grade I violent offense within the past one (1) business day; and
  - (2) The person's removal from general population is necessary to:
    - (i) Protect the safety of any person, including staff or other people in custody, prior to the person's hearing; or
    - (ii) Prevent the person from intimidating or coercing other people in custody to give false testimony or to refuse to testify at the person's infraction hearing.
- (b) A person in custody who qualifies for and is placed in pre-hearing detention shall be afforded a disciplinary hearing no later than seven (7) business days after the person's placement in pre-hearing detention. Time spent in such detention prior to the hearing shall count toward the person's sentence to RMAS Level 1.
- (c) If the Department does not hold an infraction hearing within seven (7) business days, the Department must release the person from pre-hearing detention.
- (d) If the Department determines that the person's retention in pre-hearing detention is not necessary for the safety or security of that person or others, including staff and other people in custody, the Department must release the person from pre-hearing detention.
- (e) The Department shall provide the Board with a semiannual report with information related to its use of prehearing detention including but not limited to: (1) the number of people placed in prehearing detention, (2) their placement infractions, (3) time from placement to hearing, (4) whether people placed in pre-hearing detention were adjudicated for continued placement in RMAS Level 1, and (5) any other information the Department or the Board deems relevant to the Board's assessment of pre-hearing detention. The report shall include data disaggregated by month.
- (f) The Board and the Department shall jointly develop reporting templates for the report required by 40 RCNY § 6-04(e) for approval by the Board.

#### **§ 6-05 Confinement for De-Escalation Purposes.**

- (a) The Department may only confine a person in custody for de-escalation purposes to:
- (1) Aid a person in calming behavior that poses an immediate threat to the safety of the person or others or significantly disrupts Department activities in progress. The Department may only resort to confinement for this purpose after other less restrictive measures have been exhausted or have been or are likely to be ineffective.
  - (2) Temporarily place a person in custody for the person's own safety after the person has been assaulted or otherwise victimized by another person in custody.
  - (3) Facilitate the decontamination of people in custody following exposure to chemical spray.
- (b) The Department shall immediately notify CHA of a person in custody's placement in de-escalation confinement, including the initial and any subsequent locations of such confinement, so that the person's access to medical and mental health services and medication is not interrupted.
- (c) The Department shall conduct visual and aural observation of every person in de-escalation confinement every fifteen (15) minutes.

- (d) The Department shall only utilize individual cells for the purpose of de-escalation confinement. Such cells may not be located in intake areas.
- (e) Cells used for de-escalation confinement must have the features specified in and be maintained in accordance with the personal hygiene and space requirements set forth in 40 RCNY § 1-03 and § 1-04.
- (f) The Department must serve meals and snacks to people in custody while in de-escalation confinement at or about the same time as, and be of the same quality and quantity of, the meals served to people in the general population.
- (g) The Department shall not hold someone in de-escalation confinement for longer than the minimum amount of time required for the Department to conduct an assessment and determine the person's subsequent placement. In addition, the following time limitations apply:
- (1) The Department may not place a person in de-escalation confinement for more than six (6) hours. The Department shall document every placement on a form designed for this purpose, which shall specify the reasons for the placement.
  - (2) After holding a person in de-escalation confinement for three (3) hours, the Department must reauthorize the confinement through written approval up the Department's security chain of command. The reauthorization approval shall consider the reasons therefor, including what attempts were made by the Department to transfer the person in custody out of de-escalation confinement after three (3) hours.
  - (3) Whenever the Department keeps a person in de-escalation confinement for more than the six (6) hour maximum, it must declare an emergency variance pursuant to 40 RCNY § 1-15(b)(3). Such declaration shall include how long someone was kept in de-escalation confinement in total, and the reasons why the person was not placed elsewhere. The Department shall include in this declaration the initial authorization and reauthorization forms and approvals specified in 40 RCNY §§ 6-05(g)(1) and (2).
  - (4) For the purposes of compliance with the time limitations in this section, the length of a person in custody's de-escalation confinement shall be calculated from the time of initial placement in the de-escalation confinement cell or area until the individual is transported to a newly assigned housing area. This shall include the time the person spends in any other subsequent de-escalation confinement cell or area prior to rehousing.
- (h) The Department shall maintain an updated list of the specific areas designated to be used for de-escalation purposes at each facility. The Department shall share this list with the Board and update the Board as soon as changes are made.
- (i) The Department shall provide the Board with a quarterly public report with information related to its use of de-escalation confinement for each month in the reporting period, including but not limited to (1) the number of placements in de-escalation confinement, overall and by reason for placement (2) the number whose placement lasted more than three hours, (3) the number whose placement lasted more than six hours, (4) the minimum, maximum, mean, and median time spent in de-escalation confinement, overall and by reason for placement, (5) the facility and locations of any units used for de-escalation confinement, and (6) any other information the Department or the Board deems relevant to the Board's assessment of the use of de-escalation confinement in Department facilities. Metrics in the public report shall be reported in total and by facility, and disaggregated by month. The data used to produce the report shall be tracked at the individual placement level and provided to the Board in a manner that may be analyzed electronically by the Board.
- (j) The Board and the Department shall jointly develop the reporting templates for the report required by 40 RCNY § 6-05(i), for approval by the Board.
- (k) The Department shall commence using individual cells outside of intake areas as required by 40 RCNY § 6-05(d) within six (6) months of the Effective Date. Pending such implementation:
- (1) The Department shall operate intake areas used for de-escalation confinement in accordance with all other requirements set forth in this section.
  - (2) De-escalation confinement in an intake area must have an adequate number of working flush toilets, wash

basins with drinking water, including hot and cold water, and appropriate furnishings for seating and reclining to accommodate the number of people in custody confined there. Such areas must be maintained in a clean and sanitized manner.

#### **§ 6-06 Emergency Lock-Ins.**

- (a) Emergency lock-ins shall never be in effect longer than necessary to allow staff to investigate or avoid a serious incident, conduct searches, or restore order or safety.
- (b) The Department shall limit the scope of emergency lock-ins so that only those housing areas that must be locked down are affected.
- (c) The Department must immediately notify the Board and CHA as soon as an emergency lock-in begins, a lock-in is extended beyond a regularly scheduled lock-in period, or a lock-in extends beyond 6 hours. This notification shall be in writing and include information regarding the facilities and specific housing area locations and number of people impacted. The Department may make this notification through the Department's Incident Reporting System, or a similar system that is in place for real-time, operational reporting.
- (d) As soon as the Department anticipates that an emergency lock-in will require the cancellation or delay of visits, the Department shall notify the public on its website or by other means with specific information about how visits will be affected.
- (e) The Department shall document the locations and reason(s) for each emergency lock-in (e.g., fight, slashing, use of force, missing razor) and the objectives to be accomplished during the lock-in related to those reasons (e.g., investigate use of force, conduct searches to recover contraband) in a manner that may be analyzed electronically by the Board.
- (f) When authorizing an extension of an emergency lock-in beyond a regularly scheduled lock-in period, the Department shall re-evaluate the stated reasons and objectives for the lock-in and shall document reasons as to why the lock-in must be continued (e.g., search still underway, not enough staff on post to lock out housing area).
- (g) In all housing areas where emergency lock-ins have continued for more than six (6) consecutive hours, CHA staff shall complete clinical rounds to assess medical and mental health. DOC shall ensure timely access to medical and mental health care — particularly emergency or time-urgent medical and mental health care — during any lock-in, and must provide for other delayed or missed services as quickly as possible following an emergency lock-in.
- (h) For lock-ins continuing for twenty-four (24) hours or more, the Department shall notify the Board in writing of the steps taken to address the emergency and lift the lock-in.
- (i) For the following services, the Department shall track and record, in a manner that may be analyzed electronically by the Board, whether services were impacted (i.e., cancelled, delayed, or not affected) due to an emergency lock-in and the number of housing areas and people affected:
  - (1) Recreation
  - (2) Law library
  - (3) Visits
  - (4) Religious services
  - (5) Educational services
  - (6) Sick call
  - (7) Other Clinic services
  - (8) Medication/pharmacy
  - (9) Scheduled Medical and Mental Health appointments (including on- and off- Island specialty appointments)
  - (10) Clinical rounds
  - (11) Programming
- (j) If services were delayed or otherwise affected, the Department shall track and report the time each service was afforded for each housing area impacted by the emergency lock-in.
- (k) The Department shall provide the Board with direct access to all documentation related to emergency lock-ins and lock-in extensions.

- (l) The Department and CHA shall issue a written directive to staff regarding the requirements of this section. The directive shall include protocols for communication and coordination between the Department and CHA during and after emergency lock-ins to facilitate the triage of necessary care by CHA, minimize disruptions to patient care, and ensure the rescheduling of medical/mental health appointments.
- (m) CHA shall provide the Board with a quarterly report including, but not limited to, the following data on reported emergency lock-ins and lock-in extensions occurring during the reporting period, disaggregated by month:
  - (1) Number of emergency lock-ins and lock-in extensions reported to CHA by the Department, in total and disaggregated by facility;
  - (2) Number of clinic closures during an emergency lock-in and reason for closure (e.g., clinic attending to staff injuries, no facility movement permitted), in total and disaggregated by facility;
  - (3) Number of previously scheduled appointments missed and number of previously scheduled appointments required to be rescheduled due to an emergency lock-in, in total and disaggregated by facility and service type;
  - (4) Number of non-scheduled CHA services (wound care, etc.) missed or delayed as a result of an emergency lock-in, in total and disaggregated by facility and service type;
  - (5) Number of required clinical rounds missed, in total and disaggregated by facility and restrictive housing units affected;
  - (6) Number of patients requesting sick call but not afforded sick call when requested, in total and disaggregated by facility;
  - (7) Number of patients whose medication services were missed or delayed as a result of an emergency lock-in, in total and disaggregated by facility; and
  - (8) Number of rounds conducted in housing areas with more than six (6) hours of non-scheduled continuous emergency lock-in, in total and disaggregated by facility.
  - (9) Any other information the CHA or the Board deems relevant to the Board's assessment of emergency lock-ins and their impact on access to health and mental health care.
- (n) The Board and CHA shall jointly develop the reporting template for the report required by 40 RCNY § 6-06(m), for approval by the Board.
- (o) On at least a quarterly basis, the Department shall provide the Board all emergency lock-in and lock-in extension incident-level data tracked by the Department. The Board and the Department shall jointly develop a reporting template for transmission of this data for approval by the Board.

#### **Subchapter D: Prohibition On The Use Of Punitive Segregation**

##### **§ 6-07 Policy.**

- (a) Punitive segregation, also known as PSEG or solitary confinement, imposes significant risks of psychological and physical harm on people in custody. These risks are intensified for those with pre-existing mental illness or medical conditions and young adults. The risk of self-harm and potentially fatal self-harm is also strongly associated with solitary confinement. The hallmarks of solitary confinement — social deprivation and enforced idleness — create these serious health risks and are antithetical to the goals of social integration and positive behavioral change.
- (b) By November 1, 2021, the use of all forms of punitive segregation as defined in 40 RCNY § 6-03(b)(12), shall be prohibited in all existing and future DOC facilities.
- (c) Upon the Department's elimination of punitive segregation and commencing November 1, 2021, the only form of restrictive housing the Department is permitted to operate will be RMAS housing pursuant to 40 RCNY § 6-08 through § 6-26.

#### **Subchapter E: Risk Management and Accountability System (RMAS)**

##### **§ 6-08 Purpose.**

- (a) The purpose of RMAS is to:
  - (1) Separate from the general population a person in custody in response to the person's recent commission of

an offense, which significantly threatens the safety and security of other people in custody and staff.

- (2) Hold incarcerated individuals accountable for their misconduct through swift, certain, fair, and transparent processes.
- (3) Promote prosocial behavior and progression back to general population through utilization of positive incentives, case management services, individual behavior support plans, and individualized evidence-based programming.
- (4) Provide people in custody with meaningful opportunities to socially engage with others and pursue productive activities.

#### **§ 6-09 Exclusions.**

- (a) The following categories of people in custody shall be excluded from RMAS:
  - (1) People with a mental disorder that qualifies as a serious mental illness;
  - (2) People diagnosed with an intellectual disability;
  - (3) Pregnant persons, persons within eight (8) weeks of pregnancy outcome, and persons caring for a child in the Department nursery program;
- (b) CHA shall determine if a person in custody meets one or more of the above exclusionary criteria in 40 RCNY § 6-09(a) (1) through (3).
- (c) CHA has the authority to determine if any person, after being placed in RMAS, should be removed to a specialized medical or mental health housing unit because the person meets a criterion in 40 RCNY § 6-09(a)(1) through (3) or because the housing is medically contraindicated.
- (d) People excluded from RMAS Level 1 or Level 2 at the time of an infraction due to health status pursuant to 40 RCNY § 6-09(a)(1) through (3) shall not be placed in RMAS Level 1 or Level 2 for the same infraction at a later date, regardless of whether their health status has changed.

#### **§ 6-10 Placement Criteria.**

- (a) Except for pre-hearing detention as set forth in 40 RCNY § 6-04, the Department may only confine a person to RMAS Level 1 after a finding within the past thirty (30) days that the person is guilty of having committed a Grade I violent offense.
- (b) The Department may only confine a person to RMAS Level 2 if:
  - (1) The person has just exited Level 1; or
  - (2) After a finding within the past thirty (30) days that the person is guilty of having committed a Grade I non-violent offense or a Grade II offense.
- (c) If a person has been found guilty of an offense at a disciplinary hearing, their sentence must be proportional to the infraction charge.
- (d) Within 3 months of the Effective Date of the Rule, the Department shall provide the Board with a written penalty grid:
  - (1) Describing each Grade I violent offense that would render a person eligible for placement in RMAS Level 1;
  - (2) Describing each Grade I non-violent offense and Grade II offense that would render a person eligible for placement in RMAS Level 2;
  - (3) The sentence range for each offense.
- (e) The Department shall immediately notify the Board, in writing, of any material changes to the penalty grid.

#### **§ 6-11 Case Management.**

- (a) The Department shall assign a case manager to each person in custody upon the person's placement into RMAS. To the extent practicable, the assigned case manager shall remain the person's case manager throughout the person's stay in RMAS and when they step down to a RRU.
- (b) The Department shall employ case managers with some combination of:
  - (1) Experience in providing case management, counseling, or community services, preferably in a human services or health discipline, and/or preferably to individuals involved in the criminal justice system; and/or

(2) Knowledge acquired through education, training, and/or field work, preferably in a correctional setting, of:

- (i) human behavior and performance;
  - (ii) individual differences in ability, personality, and interest, learning and motivation;
  - (iii) assessment and treatment of behavioral disorders; and
  - (iv) group behavior and dynamics and societal trends and influences; and/or
- (3) Demonstrated skills in active listening, conveying information effectively, and engaging empathetically with individuals in a correctional setting, collaborating with them in developing and monitoring treatment or behavioral support plans, and/or providing programming or support services to them.

#### **§ 6-12 Individual Behavior Support Plans.**

- (a) The Department shall develop, in writing, an individual behavior support plan (IBSP) for each person in custody who is placed in RMAS.
  - (1) The plan shall be informed by an evidence-informed assessment and describe specific services and measurable, achievable goals for the person while in RMAS to facilitate the person's reintegration into housing in the general population.
  - (2) The plan's goals shall be tailored to the person's age, literacy, education level, and capacity to complete programming.
  - (3) The plan shall be current, reflecting behavior close-in-time to the periodic review required under 40 RCNY § 6-14.
  - (4) The plan shall include:
    - (i) A detailed assessment of what led the person to engage in the violent or disruptive behavior;
    - (ii) Whether the person will be receiving mental health services;
    - (iii) What programming and/or services shall be provided to address the reasons for the person's violent or disruptive behavior;
    - (iv) Whether the Department will arrange for special staffing to manage the person's behavior; and
    - (v) Whether the Department will involve family members, criminal defense counsel, and community resources to assist the person in meeting the goals of the person's IBSP.
- (b) Within seventy-two (72) hours of a person's placement in RMAS, a case manager must review the IBSP with the person. At every periodic review, as required in 40 RCNY § 6-14, in the Department must review and update the person's IBSP and afford the person an opportunity to participate in the review.
- (c) The Department must record in writing the date of initial and subsequent periodic reviews with a person in custody. It must also document in writing all changes to the person's IBSP.
- (d) If a person in custody commits and is found guilty of a Grade I infraction while in RMAS
  - (1) The Department shall review the person's IBSP and update the plan to include the strategies the Department shall employ to prevent the person from engaging in further violent or disruptive behavior. The Department shall conduct this review and update the plan accordingly within two business days of the person's being found guilty of a Grade I infraction while in RMAS.
  - (2) The Department shall submit the person's updated IBSP to the Chief of Department for the Chief's approval. The Chief of Department shall approve or disapprove within one business day of receipt of the plan.
  - (3) Any IBSP that has been updated with the Chief of Department's approval shall be transmitted to CHS, the Board, and the affected person within one business day of its approval by the Chief of Department.
  - (4) After an IBSP has been updated with the Chief of Department's approval, the person's case manager shall meet with the person at least five days a week to review the person's progress toward meeting the goals

of the person's updated IBSP and further update the plan if necessary. Within twenty-four (24) hours of being updated, the Department must share the IBSP with the affected person.

**§ 6-13 Progression.**

- (a) All persons in Level 1 must progress to Level 2 after fifteen (15) days unless the facility head and the Chief of Department each approve a limited extension pursuant to the criteria set forth in 40 RCNY § 6-15.
- (b) All persons in RMAS must step down to a Restorative Rehabilitation Unit (RRU) after they have been in RMAS for a total of thirty (30) days, unless the facility head and the Chief of the Department each approve a limited extension in Level 2 pursuant to 40 RCNY § 6-15.

**§ 6-14 Periodic Review of Individual Behavior Support Plans**

- (a) The Department shall review the individual behavior support plans of a person in custody confined in RMAS at least every fifteen (15) days.
- (b) The Department must give written notice of an upcoming periodic review to the person in custody at least twenty-four (24) hours prior to such periodic review. The notice must advise the person of their right to submit a written statement for consideration, and their right to participate in the review. The Department must provide necessary assistance to any person who is unable to read or understand such notice or prepare a written statement.
- (c) Periodic review of a person's individual behavior support plan shall be conducted by a multidisciplinary team, including but not limited to Department program staff and the person's case manager, and shall consider the following:
  - (1) The continued appropriateness of each individual restriction on privileges and whether any such individual restrictions on privileges should be relaxed or lifted;
  - (2) Information regarding the person's subsequent behavior and attitude since placement in RMAS began;
  - (3) Any written statement the person submitted for consideration or any oral statement the person made at their periodic review;
  - (4) Any actions or behavioral changes that the person might undertake to further rehabilitative goals and facilitate the lifting of individual restrictions; and
  - (5) Whether the programming and therapeutic options currently offered to the person are having a positive behavioral impact, and if not, what other available programming and therapeutic options might be more successful in helping the person to further the goals of their individual behavior support plan.
- (d) The conclusions reached in the multidisciplinary team's periodic review, including recommendations about individualized programming and therapeutic options, shall be recorded in a written report. A copy of the report shall be provided to the person in custody within one business day of the review.

**§ 6-15 Extensions**

- (a) The Department may not hold someone in RMAS Level 1 or Level 2 for more than the time specified in 40 RCNY § 6-13 unless the facility head and the Chief of the Department each determine in writing, prior to the presumed end of the person's time in that level, that there is specific, documented intelligence or information that the person poses a serious threat to safety if they were to leave that level. Such extension determinations may only be made for seven (7) days at a time.
- (b) If the facility head determines to extend a person's time in Level 1 or Level 2 pursuant to the criteria in 40 RCNY § 6-15(a), the facility head must send that determination to the Chief of Department within one business day.
- (c) The Chief of Department shall review the facility head's extension determination and approve or reject it within one business day of receipt. The Chief's decision shall be stated in writing along with all supporting materials and physical evidence, and sent to the person in custody, their legal representative, the Board, and CHA within one business day of such decision.
- (d) When the Department sends the Chief's decision and supporting written materials to the person in custody and their legal representative, the Department may only withhold

or redact the following sensitive information based on security concerns:

- (1) Information that could reasonably lead to the identification of a confidential informant or vulnerable witness;
- (2) Personally identifying information not material to the decision;
- (3) Operational information not known to people in custody that is material to maintaining security.
- (e) The Department may not redact or withhold any material or physical evidence under 40 RCNY § 6-15(d)(1) – (3) from the affected person or their legal representative on the grounds that it is a photograph or recording taken inside the facility, or because it identifies witnesses, unless the Department also meets one of the justifications set forth in that section.
- (f) Any redactions or withholdings made pursuant to 40 RCNY § 6-15(d)(1) through (3) must be accompanied by a justification log, generally describing the redacted or withheld information and the reasons therefor. A copy of such justification log must be sent to the Board of Correction at the same time it is sent to the affected person and their legal representative.
- (g) The affected person will be asked to sign the notice of the Chief's decision as proof of receipt. If the person does not sign the notice, the staff person serving the notice must note the person's refusal on the notice.
- (h) The Department may not extend a person's length of stay in RMAS by imposing consecutive lengths of stay regarding multiple offenses for which the person was found guilty at a single hearing.
- (i) After a person has been in RMAS for thirty (30) days, they are entitled to file an administrative appeal to the Department's General Counsel any time the Chief of Department renders a decision to extend their time in RMAS pursuant to 40 RCNY § 6-15(c). The Department shall ensure people have access to legal representation for purposes of this administrative appeal, and that notice of the right to appeal is afforded to all persons held in RMAS longer than thirty (30) days.
- (j) People in custody seeking to file an administrative appeal under 40 RCNY § 6-15(i) shall have three (3) business days from receipt of the Chief of the Department's decision to file the appeal, and the Department's General Counsel shall render a decision within two (2) business days of receipt of the appeal.

**§ 6-16 Required Out-of-Cell Time.**

All people in custody who are housed in RMAS must be permitted the following out-of-cell hours per day:

- (a) People in Level 1 must be permitted at least ten (10) out-of-cell hours per day.
- (b) People in Level 2 must be permitted at least twelve (12) out-of-cell hours per day.

**§ 6-17 Other Conditions.**

- (a) Security staff shall conduct visual observations of every person housed in RMAS every fifteen minutes (15) when they are locked in their cells. During such observations, security staff must look for and confirm signs of life.
- (b) At the beginning of each tour, security staff in RMAS units shall confirm in the housing area logbook that they have checked which persons in the unit have serious medical conditions, as described in 40 RCNY § 6-21(a).
- (c) The Department shall provide people housed in RMAS Level 1 with the opportunity to lock out at the same time as at least one other person in custody in a setting where individuals can meaningfully engage both visually and aurally. Such lockout setting must allow for individuals to converse easily without the need to raise their voices to be heard.
- (d) The Department shall provide people in custody confined in RMAS Level 2 with the opportunity to lock out at the same time as at least three (3) other people in custody in a setting where individuals can meaningfully engage both visually and aurally. Such lockout setting must allow for individuals to converse easily without the need to raise their voices to be heard. If fewer than four (4) persons are confined in RMAS Level 2 at any given time, the Department must instead guarantee that a person in custody confined in RMAS Level 2 has the opportunity to lock out at the same time as least one other person in custody in a setting where individuals can

meaningfully engage both visually and aurally, and converse easily without the need to raise their voices to be heard.

- (e) The Department may not impose any individual restrictions on a person confined in RMAS that differs from those imposed on people housed in the general population, unless the individual restriction is necessary to address a specific safety and security threat posed by that person.
- (f) To the extent the Department seeks to limit access to contact visits of a person in custody who is confined in RMAS, a hearing shall be held, as required in 40 RCNY § 6-24(d), which shall address the criteria set forth in 40 RCNY § 1-09(h) with regard to both the incarcerated person and any individual visitors with whom the Department wishes to limit contact.
- (g) Law library services may be provided in RMAS Level 1 and Level 2 units instead of a law library. If so, the Department must ensure that:
  - (1) People in each Level 1 and Level 2 unit have access to electronic legal research and typing equipment;
  - (2) One library coordinator is assigned to every two (2) RMAS units at least five (5) times per week; and
  - (3) The law library coordinator will provide instruction on available legal research tools and respond to people in custody's requests for law library services.
- (h) To the extent the Department offers people confined in RMAS recreation in outdoor recreation pens or in vacant cells, the Department shall equip these pens or cells with exercise equipment such as dip bars, high bars, or pull-up bars.
- (i) All RMAS units shall be air conditioned during the heat season.
- (j) All cells used to house people in RMAS shall have access to natural light.

#### **§ 6-18 Staffing.**

- (a) *Steady Posts*

The Department shall endeavor to staff RMAS units with as many steady officers as possible during each tour. The Department shall retain records sufficient to show accurate, uniform data on the security staff transferring in and out of RMAS units and the years of experience and training of security staff assigned to and working in these units. The Department shall semi-annually report this information, in writing, to the Board, with the information disaggregated by month.

- (b) *Staffing Plans*

The Department shall provide the Board with the Department's staffing plans developed for RMAS and regularly update the Board on any material changes to such plans.

#### **§ 6-19 Training.**

- (a) Security staff assigned to RMAS units shall receive training designed to address the unique characteristics and operations of these units and the people in custody who are housed in these units. Such training shall include, but not be limited to recognition and understanding of mental illness and distress, effective communication skills, and conflict de-escalation techniques.
- (b) Security staff assigned to RMAS units housing young adults shall receive specialized training for managing and understanding young adult populations, including crisis intervention, conflict resolution, and trauma-informed training.
- (c) The Department shall provide hearing adjudicators and other staff involved in RMAS placement decisions training on procedural and restorative justice principles and written policies to guide sentencing and placement decisions.
- (d) On at least an annual basis, the Department shall provide the Board with information related to the training to be provided, including, but not limited to the length of each type of training required by the Department, training schedules, and curricula.

#### **§ 6-20 Programming.**

- (a) The Department must provide people in RMAS and people who step down from RMAS to a RRU (as set forth in 40 RCNY § 6-27) with programming both inside and outside of the cell. The programming must be informed by research evidence, be age-appropriate, and be tailored to each person's individual behavior support plan. The programming must

also be designed to facilitate rehabilitation, address the root causes of violence, and minimize idleness. In addition, the Department must also provide people confined in RMAS with productive activities inside and outside of the cell.

- (b) The Department shall make at least five (5) hours of daily programming available to people confined in RMAS, in addition to one (1) hour of daily recreation. Meals, showers, and sick call shall not count towards the five (5) hour daily programming requirement.
- (c) Programming offered by the Department may be provided by entities or persons outside the Department
- (d) In RMAS Level 1, the Department shall offer each person at least one (1) hour of in-person therapeutic programming per day, led by therapeutic programming staff in a separate shared space not adjacent to a cell.
- (e) In RMAS Level 2, the Department shall offer each person at least two (2) hours of in-person therapeutic programming per day, led by therapeutic programming staff in a separate shared space not used for regular lock-out.
- (f) In-person therapeutic programming shall only be offered in physical spaces that ensure privacy from non-participating staff and others in custody.
- (g) For young adults confined in RMAS, the 5-hours of daily programming may include, activities and/or services provided during school hours by entities or persons other than the Department. For young adults in RMAS who are eligible for educational services provided by or through the New York City Department of Education ("DOE") pursuant to N.Y. Education Law 3202(7) and implementing state regulation, the Department shall offer such young adults access to DOE-provided educational services each school day that DOE's school program is in session during the 10-month school year (or extended school year, if set forth on the student's special education plan), provided that the young adult indicates in writing that they wish to attend and demonstrates their eligibility for such services.
- (h) The Department shall provide and regularly update the Board with information on program offerings in RMAS and to people who step down from RMAS to the RRU. The Department shall maintain accurate and up-to-date programming schedules in each RMAS and RRU unit.
- (i) The Department shall document by date each individual's participation in each program session offered and any refusals to participate in RMAS programming and the reasons therefor.
- (j) The Department shall provide the Board with quarterly public reports on RMAS programming and programming to people who have stepped down from RMAS to a RRU, including but not limited to the following information for adults and young adults by RMAS level or RRU status, disaggregated by month:
  - (1) the name, description, and type of program offered and staff delivering each program offered;
  - (2) the number of sessions of each program offered;
  - (3) where and how each program was offered (e.g., in-cell or in-dayroom by tablet, out-of-cell in separate programming space led by staff, etc.);
  - (4) whether each program offered was individual or congregate;
  - (5) the average number of participants per session and the number of unique individuals in RMAS overall and the number of unique individuals participating in each program during the reporting period;
  - (6) the number of programming hours received per day (minimum, maximum, mean, median) by individuals in RMAS during the reporting period;
  - (7) the number of programming hours received per day in a separate programming space not adjacent to cell (minimum, maximum, mean, median) by individuals in RMAS during the reporting period;
  - (8) Any other information the Department or the Board deems relevant to the assessment of programming in RMAS.
- (k) The Department shall provide the Board with the individually identified data used to create the public reports required in this section.
- (l) The Board and the Department shall jointly develop the reporting templates for the public reports required by 40

RCNY §6-20(j), which shall be subject to approval by the Board.

#### § 6-21 Access to Health Services.

- (a) Upon intake and in subsequent clinical encounters, CHA shall identify individuals with serious medical conditions, as defined by CHA. Without disclosing specific diagnoses, CHA shall maintain a current list of all such individuals in DOC custody and make that list available to the Department. The Department shall then ensure that staff in RMAS units are aware of all people in the unit who have been identified by CHA as having a serious medical condition.
- (b) CHA shall provide daily clinical rounds to all people in custody in RMAS to assess medical and mental health. Such rounds must be documented in writing.
- (c) The Department shall immediately notify CHA of each placement of a person in custody into RMAS. Such notification shall be in writing.
- (d) Clinical treatment shall never occur cell-side. The Department shall ensure that every person who is placed into RMAS is brought to the facility clinic for all scheduled appointments they wish to attend. The Department may not use force to compel clinic visits.
- (e) Each time CHA determines removal of a person from RMAS to an alternate housing unit is appropriate, CHA shall notify the Board in writing of the circumstances related to the determination (e.g., medical concern, mental health concern, disability);
- (f) CHA shall provide the Board with a monthly public report. The report shall include but not be limited to:
  - (1) Number of notifications of placement in RMAS received by CHA during the reporting period, in total and disaggregated by type of restrictive housing and facility;
  - (2) Number of notifications of placement in de-escalation confinement received by CHA during the reporting period, in total and disaggregated by facility;
  - (3) Number of CHA determinations of removal from RMAS to an alternate housing unit during the reporting period, in total and disaggregated by RMAS level and facility;
  - (4) Number and percent of scheduled services by service type and outcome for people housed in RMAS during the reporting period, in total and disaggregated by RMAS level and facility; and
  - (5) Any other information CHA or the Board deems relevant to understanding access to health services in RMAS.
- (g) CHA shall provide the Board with the data used to prepare the report required in 40 RCNY § 6-21(f) and any other information CHA or the Board deems relevant to understanding access to health services in RMAS.
- (h) The Board and CHA shall jointly develop the reporting templates for the public report required by 40 RCNY § 6-21(f), subject to approval by the Board.

#### § 6-22 Fines.

The Department shall not automatically assign a monetary fine to all guilty infractions. The Department shall only include a financial penalty as an option for restitution for destruction of property. Any imposition of a fine shall take into account the person's ability to pay.

#### § 6-23 Disciplinary System Plans.

- (a) Within three (3) months of the Effective Date, the Department shall submit to the Board a written plan for a disciplinary process ("plan"), one for young adults and one for adults, that addresses:
  - (1) Grade III offenses ("violations"), and
  - (2) People subject to the exclusions in 40 RCNY § 6-09.
- (b) Each plan shall include:
  - (1) Mechanisms for addressing violations without resort to RMAS placement or limitations on individual movement or social interaction. Such mechanisms may include, e.g., positive behavioral incentives and privileges, targeted programming to address problematic behavior, and conflict resolution approaches in response to interpersonal conflict within the jails;
  - (2) Criteria for restricting or affording privileges based on behavior (e.g. commissary);
  - (3) A process for Department staff to respond to violations swiftly and consistently;

- (4) A plan for communicating the rules of conduct, Department responses to rule violations, and due process procedures in a clear and understandable manner to people in custody and to all Department staff, including non-uniformed staff who have routine contact with people in custody.
  - (5) Training curricula for uniformed and non-uniformed staff on the disciplinary process and procedures.
  - (6) The assistance the Department shall provide people in custody to understand the disciplinary process and procedures, including their rights thereunder. This shall include the procedures the Department will follow if the person in custody is non-English or limited-English proficient, illiterate, or has a disability including, for example, if the person is deaf or hard of hearing, is blind or has low vision, or has an intellectual, psychiatric, or speech disability.
  - (7) A process for engaging Department staff in the plans' development.
  - (8) Potential housing options for people excluded from RMAS.
- (c) Upon review of the plans required by this section, the Board and the Department shall jointly develop a public reporting template on the Department's disciplinary systems. The template shall be subject to the Board's approval.

#### § 6-24 Due Process and Procedural Justice.

- (a) Purpose
  - (1) The following minimum standards in this section are intended to ensure that people in custody are placed into RMAS with due process and procedural justice principles.
  - (2) The requirements in this section apply to people in custody who are charged with violating Department rules and may be placed in RMAS Level 1 or directly into RMAS Level 2, if they are found guilty of violating such rules.
- (b) Investigations
  - (1) When the Department conducts investigations into allegations of a person in custody's violation of Department rules, it shall do so promptly, thoroughly, and objectively.
  - (2) The investigation cannot be conducted by Department personnel who have reported, participated in, or witnessed the conduct, or who are below the rank of Captain.
  - (3) If the rule violation in question could lead to a subsequent criminal prosecution, the Department must inform the person interviewed that while the Department's investigation is not pursuant to a criminal proceeding, statements made by the person may be used against the person in a subsequent criminal trial. The person must also be informed of the right to remain silent and that silence will not be used against the person.
  - (4) All investigations shall be documented in written reports that include a description of the physical, testimonial, and documentary evidence as well as investigative facts and findings.
  - (5) Investigations shall commence within twenty-four (24) hours after the Department is on notice of the incident.
  - (6) The Department shall only proceed with adjudication of charges against a person in custody upon a determination that there is reasonable cause to believe the person has committed the infraction charged.
- (c) Notice of Infraction
  - (1) Prior to the disciplinary hearing provided in 40 RCNY § 6-24(d), people in custody must receive written notice detailing the charges against them. The notice must be legible, detailed, and specific and must include, at a minimum:
    - (i) Details as to the time and place of the rule violations charged;
    - (ii) A description of the person's actions and behavior that gave rise to the alleged violations;
  - (2) The Department must provide necessary assistance to any person in custody who is unable to read or understand the notice.



- (3) Whenever the Department places a person into pre-hearing detention, the Department must serve them notice of the infraction within twenty-four (24) hours. If extenuating circumstances prevent the possibility of service within this time frame, the Department must serve notice as soon as possible and document each reason for delay.
- (4) When the Department has charged a person with an infraction and has not placed them in pre-hearing detention, the Department must serve them notice of the infraction as soon as practicable, and no later than two (2) business days prior to the hearing. Failure to do so shall constitute a due process violation warranting dismissal, unless the Department can demonstrate through documentation that extenuating circumstances beyond the Department's control prevented timely service.
- (5) Any member of DOC staff may serve the person charged with the notice of infraction, except those who participated in the incident. The person will be asked to sign the notice as proof of receipt and to verbally indicate whether they would like to have a legal representative at their hearing. If the person does not sign the notice, a staff member other than the person serving the notice must note the person's refusal on the notice. Staff members who serve the notice, including staff members who note a person's refusal to sign the notice, shall indicate their name and shield number legibly on the notice.
- (6) All refusals to sign a notice of infraction and waivers of legal representation shall be videotaped. In such cases where the Department maintains that someone has refused to sign, the Department must produce the videotaped refusal and make it part of the hearing record. Failure to do so shall constitute a due process violation warranting dismissal.
- (d) Disciplinary Hearing
- (1) Hearing Adjudicators  
Infraction hearings shall be conducted by DOC staff of the rank of Captain or above. Hearing adjudicators shall not be DOC staff who initially recommended the person for adjudication or otherwise provided evidence to support the person in custody's infraction charge.
- (2) Time of Hearing  
Within three (3) business days of service of the notice of infraction on the person charged, the Department shall commence an adjudication hearing. The only exceptions to the Department's obligation to commence a hearing within three (3) days shall be if the person is absent from the facility for a conflicting court appearance; hospitalization; significant family event; emergency situation; medical appointment; or attorney visit. In such cases, the Department shall commence a hearing immediately after the person returns to the facility.
- (3) Due Process Violations  
Prior to calling the person charged to the hearing, the Hearing Adjudicator shall review the notice of infraction to determine whether there are any due process violations that may require dismissal of the infraction.
- (4) Recording  
All disciplinary hearings must be audibly recorded.
- (5) Refusal to attend or participate  
The refusal of people in custody to attend or participate in their hearing must be videotaped or audiotaped and made a part of the hearing record.
- (6) Rights of the Person Charged  
The Hearing Adjudicator shall advise the person charged of the following rights at the hearing, which must also be set forth in the notice of infraction:
- (i) The right to legal representation: People charged with any infraction that could result in a placement in RMAS Level 1 or 2 have the right to legal representation at their disciplinary hearing. If a person eligible for legal representation appears at a hearing unrepresented, the Department shall inform the person that they have the right to adjourn the hearing so they can engage a legal representative.
- (ii) The right to appear: The person charged has the right to appear personally unless the right is waived in writing or the person refused to attend the hearing.
- (iii) The right to make statements: The person charged has the right to make statements. In cases where the infraction in question could lead to a subsequent criminal prosecution, the Hearing Adjudicator must inform the person that while the proceeding is not a criminal one, the person's statements may be used against the person in a subsequent criminal proceeding. The Adjudicator must also inform the person of the right to remain silent and that silence will not be used against the person at the hearing.
- (iv) The right to present evidence and call witnesses: The person charged has the right to present evidence and call witnesses.
- (v) The right to review the Department's evidence:
- (A) The person charged and their legal representative have the right to review the evidence relied upon by the Department prior to the infraction hearing. Specific documented intelligence may be redacted in limited instances where the Department determines that disclosing such information would present a serious safety risk to specific individuals. In such cases, the Department shall inform the person in writing that the information is being redacted due to a specific security risk. The Department shall maintain records of both redacted and unredacted evidence.
- (B) Should the Department provide any evidence to the person for the first time at the hearing, the Department shall inform the person or their legal representative at the hearing that they have the right to adjourn the hearing so they can review and prepare their defense.
- (vi) The right to an interpreter: The Department shall ensure that every person charged is aware they are entitled to request an interpreter in their native language if they do not understand or are not able to communicate in English well enough to conduct the hearing in English.
- (vii) The right to an appeal. A person who is found guilty at a disciplinary hearing has the right to appeal an adverse decision as provided in § 6-24(h) of this Chapter.
- (7) Burden of Proof  
The Department has the burden of proof in all disciplinary proceedings. A person's guilt must be shown by a preponderance of the evidence to justify RMAS placement.
- (8) Hearing Time Frame
- (i) Once the hearing has begun, the Hearing Adjudicator shall make reasonable efforts to conclude the hearing in one session.
- (ii) Adjournments may be granted if the person charged or their legal representative requests additional time to locate witnesses, obtain the assistance of an interpreter, or prepare a defense.
- (iii) Hearing Adjudicators may also adjourn a hearing to question additional witnesses not available at the time of the hearing, gather further information, refer the person charged to mental health staff, or if issues are raised that require further investigation or clarification to reach a decision.
- (iv) Notwithstanding any adjournments, hearings must be completed within five (5) days, absent extenuating circumstances or unless the person charged waives this time frame in writing or on the record.
- (9) Legal Representation  
People charged with any infraction that could result in a sentence to RMAS Level 1 or 2 shall be permitted to have a legal representative represent them at their disciplinary hearing and any in related appeal. People entitled to such representation shall be permitted to choose their legal representative.
- (e) Determination

- (1) Absent extenuating circumstances, the person charged and their legal representative shall be served with a copy of the determination within two (2) business days of the conclusion of the disciplinary hearing.
- (2) The determination shall be in writing, legible, and contain the following:
- (i) A finding of “guilty,” “not guilty,” or “dismissed” on each charge in the infraction;
- (ii) A detailed description of the evidence relied upon by the Hearing Adjudicator in reaching such finding;
- (iii) The sanction imposed, if any;
- (3) A summary of each witness’s testimony, including whether the testimony was credited or rejected, with a statement of the reasons therefor. If the witness’s testimony contains specific documented intelligence, that intelligence may be redacted on the copy of the determination provided to the person in custody and their representative if the Department determines that disclosing such information would present a serious safety risk to specific individuals. In such cases, the Department shall inform the person and their legal representative in writing that the information is being redacted due to a specific security risk. The Department shall maintain records of both redacted and unredacted determinations.
- (4) Records generated pursuant to a disciplinary hearing in which a person is found not guilty of the charges, after either the disciplinary hearing or appeal, shall be kept confidential and shall not be considered in making decisions pertaining to the person’s access to programs, services, or in the granting of or withholding of “good time” credit for sentenced people, as defined in 39 RCNY § 1-03.
- (f) Hearing adjudicators shall impose sanctions that are fair and proportionate to the infraction of which a person was found guilty.
- (g) People in custody must be placed in RMAS within thirty (30) days of adjudication of guilt. If the Department does not place a person into RMAS within this thirty (30)-day period, the Department may not place the person in RMAS for that infraction at a later time.
- (h) Appeals
- (1) A person who is found guilty at a disciplinary hearing has the right to appeal such determinations. The appeal shall be in writing, shall be based on facts already in the record, and shall clearly set forth the basis for the appeal, except the person may raise any newly discovered evidence in the appeal.
- (2) People in custody shall have three (3) business days from receipt of a guilty determination to file an appeal, and the Department shall render a decision within two (2) business days of receipt of the appeal.
- (3) People charged with infractions that could result in placement in RMAS Levels 1 and 2 are entitled to legal representation for purposes of filing an appeal.
- (4) A person may appeal based on the belief that there was a due process violation, insufficient evidence to support a guilty finding, or because the Hearing Adjudicator was not impartial.
- (5) The decision on appeal shall be in writing, legible, and state the reasons for granting or denying the appeal. People who are unable to read or understand the decision shall be provided with necessary assistance.
- (6) Appeals shall be determined by Department staff of the rank of Captain or above. The appeal must not be determined by:
- (i) Staff who reported, witnessed, or investigated the incident underlying a guilty determination;
- (ii) Staff who recommended the person’s initial placement in restrictive housing;
- (iii) Staff who recommended that individual restrictions be imposed on the person;
- (iv) Staff who presided as the Hearing Adjudicator at the person’s disciplinary hearing.
- (i) Disciplinary Due Process Reporting
- (1) Within one year of the Effective Date, the Department shall develop the system(s) necessary to collect accurate, uniform data on the due process requirements of 40 RCNY §6-24, and to centrally store related documentation, in a manner that may be analyzed electronically by the Board.
- (2) The Department shall provide the Board with a public semiannual report on Disciplinary Due Process for the Adult and Young Adult population, including but not limited to information disaggregated by month on:
- (i) Notices of Infraction, including the number and percent of Infraction notices, by Grade of top infraction charge (e.g., Grade I violent, Grade I non-violent, Grade II, Grade III), by whether the person charged signed or refused to sign the Infraction Notice and whether refusal was recorded; and by whether the person charged requested assistance in reading or understanding the person’s infraction notice and whether the person was provided such assistance.
- (ii) Hearings and hearing determinations, including the number and percent of infractions served, by top infraction charge (i.e., Grade I violent, Grade I non-violent, Grade II, Grade III) by whether a hearing occurred, whether a person had a legal representative at the hearing, and by hearing outcome (Guilty, Not Guilty, Dismissed, e.g. due process violation).
- (iii) Rights of people charged, including the number and percent of hearings by top infraction charge Grade (i.e., Grade I violent, Grade I non-violent, Grade II, Grade III), by whether the person charged refused to attend their hearing and whether the refusal is documented on video; and by whether the person charged requested a legal representative and/or interpreter and whether such request was granted.
- (iv) Disciplinary sanctions, including the number and percent of guilty determinations by top infraction charge Grade (i.e., Grade I violent, Grade I non-violent, Grade II, Grade III), by whether the individual was placed in restrictive housing, including RMAS, and by the reasons not placed (e.g., discharged from custody, excluded due to health contraindication, or placement did not occur within 30 days of adjudication).
- (v) Appeals, including the number and percent of guilty determinations appealed by top infraction charge Grade (i.e., Grade I violent, Grade I non-violent, Grade II, Grade III), by whether the person had a legal representative for their appeal, and by outcome of appeal (e.g., determination upheld, determination reversed, remanded to redraw charges to address due process violation, dismissed due to discharge from custody).
- (vi) Any other information the Department or the Board deems relevant to assessment of RMAS Due Process.
- (3) The Department shall provide the Board with the individually identified data used to create the public reports required in this section and all due process documentation.
- (4) The Board and the Department shall jointly develop the reporting templates for the public reports required by 40 RCNY § 6-24(i)(2), which shall be subject to the Board’s approval.
- § 6-25 RMAS Data Collection and Review.**
- (a) The Department shall maintain and update as necessary a list of the type and specific location of all RMAS units. The list shall include the opening and closing dates of all such units. The Department shall provide this list to the Board on at least a monthly basis and notify the Board in writing when any new RMAS units open, close, or change level.
- (b) The Department shall maintain and develop the system(s) necessary to collect accurate, uniform data on RMAS and the requirements of 40 RCNY Subchapter E, and to centrally store related documentation, in a manner that may be analyzed electronically by the Board.
- (c) The Department shall provide the Board with a monthly public report with information on RMAS, including but not limited to the following information for the Adult and Young adult populations, overall and by each RMAS Level:

- (1) Number of sentences to RMAS by top offense (Rule Violation Grade Level, Rule Number, Rule Description) and length of sentence;
- (2) The mean, median, minimum, and maximum time from qualifying incident or violation to placement and from adjudication to placement for all placements in RMAS in the reporting period;
- (3) The total number of placements and unique people placed during the reporting period; the number and percent of people placed by age, race, ethnicity, gender, and "M" designation status, Security Risk Group, Red ID, and Enhanced Restraint status at time of placement; the average daily population; and the number of adults and young adults currently housed in RMAS as of the last day of the reporting period;
- (4) Number of determinations to extend a person's time in RMAS Level 1 or Level 2 pursuant to 40 RCNY § 6-15(a) during the reporting period by whether the extension was approved and whether it was appealed, and number of people for whom extensions and appeals were granted, in total and by number of extensions and appeals received;
- (5) Number of exits of people from RMAS during the reporting period and their cumulative and consecutive days in RMAS during current incarceration (i.e., minimum, maximum, mean, median days) and, for each exit, the date of exit, the reason for exit (e.g. time served, discharged from custody, medical transfer, mental health transfer, etc.), and the facility, housing unit, and housing category in which the person was housed prior to and upon exit;
- (6) Number of people in RMAS as of the last day of the reporting period and their cumulative and consecutive days in RMAS (i.e., minimum, maximum, mean, median days);
- (7) The number of periodic reviews required and conducted by whether people attended their review, and whether any modifications were made to a person's individual behavior support plan.
- (8) Average number of out-of-cell hours received per day; and average rate of participation in daily recreation.
- (9) Numbers and rates of: person-in-custody on person-in-custody fights, slashings/stabbings, assaults on staff, and uses of force, compared to the comparable age group in the general population;
- (10) Facility and housing unit locations for each RMAS unit, indicating RMAS level and whether the unit houses young adults or adults;
- (11) Any other information the Department or the Board deems relevant to understanding the Department's use of RMAS.
- (d) The Department shall produce monthly public reports of time spent out of cell; times spent in separate programming space that is not adjacent to cell or in regular lock-out space; access to law library; access to showers; participation in recreation; and time spent participating in programming for each individual in RMAS. Reports shall include the number, length of, and reasons for late lockouts in RMAS units and recommendations or corrective action(s) taken to address report findings related to improving access to and participation in mandated services. Reports shall indicate whether access to each type of mandated service or programming required a routine strip search. Information gathering to prepare this report shall not be conducted by staff regularly assigned to the facilities or units. At least four (4) dates per month shall be selected at random and shall not be previously disclosed to staff with responsibilities related to the units reviewed.
- (e) On a monthly basis, the Department shall provide the Board with the individually identified data used to create the public reports required by 40 RCNY §§ 6-25(c) and (d) and all supporting documentation including but not limited to RMAS placement, review, and IBSP documentation.
- (f) The Board and the Department shall jointly develop the reporting templates for the public reports required by 40 RCNY §§ 6-25(c) and (d). Such templates shall be subject to the Board's approval. Upon submission and review of the Department's disciplinary system plan submitted pursuant to 40 RCNY § 6-23, the reporting provisions outlined in 40 RCNY § 6-25(c) and associated templates shall be reviewed and revised as necessary.
- (g) The Board shall review the information provided by the Department and any other information it deems relevant to the assessment of RMAS. No later than eighteen months (18) after implementation of RMAS, the Board shall meet to discuss the effectiveness of RMAS. The Board's discussion shall address but not be limited to findings regarding the conditions of confinement in RMAS, the impact on the mental health of people housed therein, and the quality and effectiveness of programming provided in RMAS.
- § 6-26 Transition.**
- (a) The Department shall provide the Board with the architectural renderings for RMAS housing units prior to their submission to the New York State Commission of Correction (SCOC). The Department shall provide the Board with the architectural renderings for such units as approved by SCOC within two (2) business days of SCOC's approval.
- (b) Within one (1) month of the Effective Date, the Department shall provide a comprehensive transition plan, in writing to the Board, which shall include the following documents and information concerning the elimination of punitive segregation and the implementation of RMAS:
- (1) A list of written policies to implement RMAS;
  - (2) Specific plans related to implementation of RMAS for women in custody;
  - (3) Staffing plans for uniform and non-uniform staff who will work in RMAS;
  - (4) Training curricula for uniform and non-uniform staff who will work in RMAS;
  - (5) Programming to be provided to people housed in RMAS, and how, where, and by whom such programming will be afforded;
  - (6) Youth-specific staffing and programming plans for young adult RMAS units;
  - (7) Plans for conducting a process and outcome evaluation with proposed metrics to determine success of the RMAS model.
- (c) Starting the first business day of August 2021 and of each month thereafter until RMAS implementation is complete, the Department shall submit to the Board, on a monthly basis and in writing, a public progress report for the previous month, which shall include the Department's progress toward achieving:
- (1) Progress in reducing the PSEG population (i.e., PSEG I/Central Punitive Segregation Unit (CPSU), PSEG II, Restrictive Housing Unit (RHU));
  - (2) Progress in reducing the population housed in other restrictive housing units, including Enhanced Supervision Housing (ESH) and Secure;
  - (3) Construction, opening, and use of new RMAS housing units, including when plans are submitted to and approved by SCOC and explanations for unanticipated delays;
  - (4) Development of Department policies governing the operation of RMAS disaggregated by the stage of their development, as follows:
    - (i) Commenced drafting;
    - (ii) Signed by DOC and posted on DOC's public website;
    - (iii) Integrated into training of DOC staff.
  - (5) Implementation of training on RMAS, including:
    - (i) Status of curriculum development;
    - (ii) Number of staff scheduled to be trained disaggregated by uniform and non-uniform status;
    - (iii) Number of staff who have been trained, disaggregated by uniform and non-uniform status.
  - (6) Implementation of programming in RMAS.
  - (7) The provision of services such as recreation, visits, and privileges in the general population which exceed the requirements of the Minimum Standards outlined in Chapter 1 of Title 40 of the Rules of the City of New York;
  - (8) Any deviations from the detailed timelines and benchmarks set forth in the plan required by 40 RCNY § 6-26(b);

- (9) Any other information the Department or the Board deems relevant to understanding progress toward the elimination of punitive segregation and implementation of the RMAS model.

### **Subchapter F: Step-Down from RMAS**

#### **§ 6-27 Restorative Rehabilitation Units (RRUs)**

##### **(a) Purpose.**

The purpose of the RRU is to enable the Department to operate a general population setting with enhanced security, programming, and therapeutic support for people in custody who have been identified as posing an increased safety risk in a standard general population housing unit. This includes, but is not limited to, people being discharged from RMAS.

##### **(b) Case Management, Individual Support Plans, and Periodic Reviews**

- (1) People stepping down to a RRU from RMAS shall, to the extent practicable, retain the same case manager assigned to them in RMAS.
- (2) People stepping down to a RRU from RMAS shall continue with the same individual behavior support plan designed for them in RMAS, and their assigned multidisciplinary team shall continue to conduct periodic reviews as set forth in 40 RCNY § 6-14 every fifteen (15) days to assess progress with the plan, make any necessary adjustments to the plan, or modify programming recommendations.
- (3) Following a periodic review, the multidisciplinary team can recommend to the facility head that someone be moved out of a RRU to a regular general population housing area if such transfer would be advisable.
- (4) The Department may not transfer someone out of the RRU who has stepped down from RMAS unless the multidisciplinary team has approved of such transfer following a periodic review.

##### **(c) Conditions**

- (1) RRUs must afford identical services and out-of-cell time as are afforded to the rest of the general population.
- (2) RRUs must be located in cell housing units that share the same physical characteristics as standard general population cell housing areas (e.g., a congregate dayroom).
- (3) To promote enhanced safety and supervision, an RRU shall not house more than fifteen (15) people at one time.

##### **(d) Staffing and Training**

- (1) The Department shall endeavor to staff the RRUs with as many steady officers as possible. The Department shall also strive for a significantly higher staff-to-person-in-custody ratio in the RRUs than in standard general population units.
- (2) Security staff assigned to RRUs shall receive training designed to address the unique characteristics and operations of these units and the people in custody who are housed in these units. Such training shall include, but not be limited to recognition and understanding of mental illness and distress, effective communication skills, and conflict de-escalation techniques.
- (3) Security staff assigned to RRUs housing young adults shall receive specialized training for managing and understanding young adult populations, including crisis intervention, conflict resolution, and trauma-informed training.

##### **(e) Programming**

- (1) The Department shall offer at least six (6) hours of daily programming to people who step down to the RRU from RMAS, in addition to one (1) hour of daily recreation. Meals, showers, and sick call shall not count towards the six (6) hour daily programming requirement.
- (2) At least three (3) of the six (6) hours of daily programming required under § 6-27(e)(1) must be offered in a congregate setting and shall be led by therapeutic or programming staff.

##### **(f) Data Collection and Review**

- (1) The Department shall maintain and update as necessary a list of the type and specific location of all RRU units, including which RRUs contain individuals who have stepped down from RMAS. The list shall

include the opening and closing dates of all such units. The Department shall provide this list to the Board on at least a monthly basis and notify the Board in writing when any new RRU units open or close.

- (2) The Department shall maintain and develop the system(s) necessary to collect accurate, uniform data on RRUs and the requirements of 40 RCNY Subchapter F and to centrally store related documentation, in a manner that may be analyzed electronically by the Board.
- (3) The Department shall provide the Board with a monthly public report with information on RRUs, including but not limited to the following information for the Adult and Young adult populations:
  - (i) Facility and housing unit locations for each RRU unit;
  - (ii) Number of placements and unique people placed in RRU by reason for placement (e.g., RMAS stepdown, other therapeutic reason, etc.);
  - (iii) The average daily population, and the number of adults and young adults currently housed in RRU as of the last day of the reporting period;
  - (iv) Average staff-to-person in custody ratios in each RRU unit operating during the reporting period;
  - (v) Number of exits of people from RRU during the reporting period and their cumulative and consecutive days in RRU during current incarceration (i.e., minimum, maximum, mean, median days) and for each exit;
  - (vi) Number of people in RRU as of the last day of the reporting period and their cumulative and consecutive days in the RRU (i.e., minimum, maximum, mean, median days);
  - (vii) The number of periodic reviews required and conducted by whether people attended their review, and whether any modifications were made to a person's individual behavior support plan;
  - (viii) Any other information the Department or the Board deems relevant to understanding the Department's use of RRU for people stepping down from RMAS.
- (g) On a monthly basis, the Department shall provide the Board with the individually identified data used to create the monthly public report required by 40 RCNY § 6-27(f)(3) and all supporting documentation including but not limited to RRU placement, review, and IBSP documentation.
- (h) The Board and the Department shall jointly develop the reporting templates for the public report required by 40 RCNY § 6-27(f)(3).

### **Subchapter G: Restraints and Canines**

#### **§ 6-28 Restraints.**

- (a) Nothing in this section shall prohibit:
  - (1) The use of restraints that are reasonable and necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, prevent escape, control a person in custody, or protect staff, other people in custody, and others from injury;
  - (2) The immediate use of restraints to prevent a person in custody from self-harm or harming others or causing serious property damage;
  - (3) The routine use of restraints for movement, escort, and transportation purposes.
- (b) Restraints shall only be imposed when no lesser form of control would be effective in addressing the risks posed by unrestricted movement.
- (c) The method of restraint shall be the least intrusive method necessary and reasonably available to control a person in custody's movement based on the level and nature of the risks imposed.
- (d) Restraints shall be removed as soon as possible after the risks posed by unrestricted movement are no longer present.
- (e) As of November 1, 2021, the Department shall eliminate the non-individualized use of restraints – including restraint desks – during lockout in all facility housing units. Non-individualized use means placing any person or group of people in a restraint desk or other restraint as a condition of

lockout, or solely based on their transfer to a restrictive housing unit.

- (f) From the Effective Date of the Rule until the prohibition on non-individualized restraints takes effect on November 1, 2021, the Department shall not subject any person or group of people to routine restraints during lockout periods, unless the person or people have recently participated in an actual or attempted slashing or stabbing, or engaged in activity that caused serious injury to a staff member or another person. In such cases, the use of a restraint desk or other restraint must be the least restrictive option necessary for the safety of others.
- (g) From the Effective Date of the Rule and until the prohibition on non-individualized restraints takes effect on November 1, 2021, the Department shall review the placement of people in custody in non-individualized restraint during lockout every seven (7) days.
  - (1) At least twenty-four (24) hours prior to such periodic review, the Department shall provide written notice to people in custody of the pending review and of the person's right to submit a written statement for consideration and to participate in the review. People in custody who are unable to read or understand such notice shall be provided with necessary assistance.
  - (2) Periodic review of a person's placement in non-individualized restraint during lockout shall consider the following, with conclusions recorded in a written report made available to the person within two (2) days of the review:
    - (A) The justifications for continued placement of the person in non-individualized restraints during lockout;
    - (B) The continued appropriateness of the person in a form of non-individualized restraint during lockout;
    - (C) Information regarding the person's subsequent behavior and attitude since placement of the person in non-individualized restraints during lockout;
    - (D) Any written statement the person submitted for consideration or any oral statement the person made at the person's periodic review;
    - (E) Any other factors that may favor retaining the person or removing the person from non-individualized restraints during lockout; and
    - (F) If the person's placement in non-individualized restraints during lockout is to continue, any actions or behavioral changes that the person might undertake to further rehabilitative goals and facilitate the lifting of non-individualized restraints during lockout.
  - (3) At each periodic review, the Department shall advance a person out of non-individualized restraints during lockout unless:
    - (A) The person has engaged in violent behavior in the previous seven (7) days; or
    - (B) There is credible intelligence that the person may engage in violence in a less restrictive level or housing unit.
  - (4) The Department shall determine whether the person shall advance out of restraint desks or other form of non-individualized restraint within twenty-four (24) hours of the person's periodic review. If the Department determines that a person in custody should be moved out of restraint desks or other form of non-individualized restraint during lockout, the use of restraints shall cease within forty-eight (48) hours of such determination. If the use of restraints does not cease within forty-eight (48) hours, the Department shall notify the Board, in writing, within forty-eight (48) hours of its decision. The notification shall include the reason the Department did not move the person out of restraint desk or other form of non-individualized restraint.
- (h) Restraints shall never be:
  - (1) Applied as punishment or retaliation;
  - (2) Applied to the head or neck or in a manner that may restrict blood circulation or breathing;
  - (3) Used to pull or lead a person in custody;
  - (4) Used to cause unnecessary physical pain or discomfort;

(5) Used inside of a cell unless the cell is being used to hold more than one person in custody and restraints are the only way to ensure the safety of those held in the cell.

- (i) CHA shall notify the Department in writing of people in custody who have functional needs or impairments that contraindicate the imposition of one or more permitted restraints. The Department shall consider this information before such individuals are escorted in restraints, transported in restraints, or otherwise subject to restraints.
- (j) A person in a wheelchair or a visually impaired person may be handcuffed only in front.
- (k) People who are deaf, hearing impaired, or have impaired speech and communicate with hand gestures may only be restrained under controlled conditions, and when it is determined safe to do so, in a manner that allows for communication without jeopardizing safety.
- (l) Four- and five-point restraints shall not be used other than pursuant to 40 RCNY § 2-06, governing the physical restraint of persons in custody being observed or treated for mental or emotional disorders.
- (m) The Department shall provide the Board with a semiannual public report on the Department's use of restrictive statuses. The report shall include but not be limited to the following information for each restrictive status (i.e., Enhanced Restraint, Red ID, CMC), disaggregated by month:
  - (1) Number and percent of recommendations for placement in the restrictive status by age, race, ethnicity, gender, and "M" designation status of the person for which the restrictive status was recommended;
  - (2) Number and percent of people excluded from placement in such status due to a medical or mental health contraindication;
  - (3) Number of unique individuals placed in the restrictive status during the reporting period and the number of people currently classified in the restrictive status as of the last date of the reporting period;
  - (4) Number and percent of periodic reviews conducted, in total and disaggregated by outcome of review (i.e., continued or removed);
  - (5) Number and percent of appeals of placement into restrictive statuses, in total and disaggregated by outcome of appeal;
  - (6) Any other information the Department or the Board deems relevant to the understanding the Department's use of restrictive statuses.
- (n) The Board and the Department shall jointly develop reporting templates for the public report required by 40 RCNY § 6-28(m), for approval by the Board.

**§ 6-29 Canines.**

- (a) The Department may only use canines inside the secure perimeter of a facility only for searches.
- (b) The Department may never use canines as a use of force, including to extract people in custody from their cells.
- (c) Canines may never be used to harass, threaten or otherwise control people in custody.
- (d) Canines may not be stationed in RMAS.

**Subchapter H: Variances**

**§ 6-30 Variances.**

The Department or CHA may apply for a variance from a specific subdivision or section of these Chapter 6 rules in accordance with the procedures and criteria set forth in 40 RCNY § 1-15.

**§ 10 Effective Dates.**

The policies, procedures, criteria, programs, plans, reports, and forms required by this rule shall be developed, approved and implemented by the dates specified below. Unless otherwise stated, all time periods are computed from the effective date of these rules. Any provisions not specifically referenced below shall take effect as of the effective date of the rule.

SECTION	IMPLEMENTATION
§ 1-16 and 1-17, repealed	November 1

SECTION	IMPLEMENTATION
<p><b>§ 6-04: Pre-Hearing Detention</b>                      (a) Use RMAS Level 1 for PHD                      (e) (Semiannual report on Prehearing Detention)</p>	<p>November 1</p> <p>Starting July 1 and every 6 months thereafter</p>
<p><b>§ 6-05: De-escalation Confinement</b>                      (g) (time in de-escalation (6 hours), re-authorization (3 hours), notice to the Board if confinement exceeds 6 hours)                      (c) (visual and aural observation of people in de-escalation confinement every 15 minutes)                      (i) (Quarterly report on De-escalation)</p>	<p>Within 6 months of Effective Date</p> <p>Within 3 months of Effective Date</p> <p>Within 8 months of Effective Date</p>
<p><b>§ 6-06: Emergency Lock-Ins</b>                      (e) (documentation of reasons for and objectives to be accomplished during emergency lock-ins)                      (g) (CHS medical and mental health rounding in housing areas where emergency lock-ins have been in effect for more than 6 hours)                      (i) and (j) (tracking of services impacted by emergency lock-ins)                      (l) (DOC and CHS Directives regarding compliance with the requirements of this section)                      (m) (CHS Quarterly report re: emergency lock-ins)                      (o) (DOC data reporting on Emergency lock-ins)</p>	<p>Within 3 months of Effective Date</p> <p>Within 6 months of Effective Date</p>
<p><b>§ 6-07: Prohibition on the Use of Punitive Segregation</b>                      (a) The use of all forms of punitive segregation as defined in 40 RCNY § 6-03(b)(12) shall be prohibited in all existing and future DOC facilities.                      (b) Upon the Department's elimination of punitive segregation, the only form of restrictive housing permitted in DOC facilities will be RMAS housing pursuant to 40 RCNY § 6-08 through § 6-26.</p>	<p>November 1, 2021</p> <p>November 1, 2021</p>
<p><b>§ 6-10: Placement Criteria</b>                      (e) Written penalty grid.</p>	<p>By October 1, 2021</p>
<p><b>§ 6-15: Extensions</b></p>	<p>November 1, 2021</p>
<p><b>§ 6-18: Staffing</b>                      (a) (Semiannual report on staffing in restrictive housing)                      (b) (Staffing plans)</p>	<p>May 1, 2022 and every six months thereafter</p> <p>October 1, 2021</p>
<p><b>§ 6-19: Training</b>                      (c) (training for hearing adjudicators and staff involved in sentencing and placement decisions)                      (d) (information to the Board re: Training)</p>	<p>October 1, 2021</p>
<p><b>§ 6-20: Programming</b>                      (j) (Quarterly public reports)</p>	<p>February 1, 2022</p>
<p><b>§ 6-21 Access to Health Services</b>                      (f) CHS monthly public reports</p>	<p>Starting January 1, 2022</p>

SECTION	IMPLEMENTATION
<p><b>§ 6-23: Disciplinary System Plans</b></p>	<p>October 1, 2021</p>
<p><b>§ 6-24 Due Process and Procedural Justice</b>                      (c)(6) (videotaping of refusals to sign notice of infraction)                      (d)(5) (recording of refusal to attend hearing)                      (i)(1) system to track due process requirements and documentation                      (i)(2) Semiannual public report</p>	<p>November 1, 2021</p> <p>Within 1 year of Effective Date</p> <p>Within 1 year of Effective Date, and every 6 months thereafter</p>
<p><b>§ 6-25: RMAS Data Collection and Review</b>                      (b) (system to track RMAS placements and RMAS documentation)                      (c) (monthly public data reports)                      (d) (monthly public reports)</p>	<p>Within 1 year of Effective Date</p> <p>January 1, 2022</p>
<p><b>§ 6-26: Transition</b>                      (b) (comprehensive transition plan)                      (c) (monthly public progress reports)</p>	<p>Within 1 month of Effective Date</p> <p>August 1, 2021</p>
<p><b>§ 6-27: Restorative Rehabilitation Units</b>                      (f)(3) (monthly public reports)                      (f)(4) (monthly public data reports)</p>	<p>Starting January 1, 2022</p>
<p><b>§ 6-28: Restraints</b>                      (m) (Semiannual public report)</p>	<p>Within 1 year of Effective Date and every 6 months thereafter</p>

Margaret Egan  
 Executive Director  
 New York City Board of Correction

Re: Amendment of Minimum Standards Governing Restrictive Housing

No. 2019 RG 087

Dear Executive Director Egan:

Pursuant to New York City Charter § 1043 subd. c, the above-referenced rule has been reviewed and determined to be within the authority delegated by law to your agency.

Sincerely,

/s/ Steven L. Goulden

STEVEN GOULDEN  
 Senior Counsel  
 Division of Legal Counsel

cc: Kate McMahan  
 Francisco Navarro

**SPECIAL MATERIALS**

**CITY PLANNING**

■ NOTICE

**NEGATIVE DECLARATION**

**Project Identification**

CEQR No. 15DCP138M  
 ULURP No. N140439ZRM  
 SEQRA Classification: Type I

**Lead Agency**

City Planning Commission  
 120 Broadway, 31<sup>st</sup> Floor  
 New York, NY 10271

**Contact Person**

Olga Abinader, Director (212) 720-3493  
 Environmental Assessment and Review Division  
 New York City Department of City Planning

**23-25 Cleveland Place – Little Italy  
 Statement of No Significant Effect**

Pursuant to Executive Order 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review, found at Title 62, Chapter 5 of the Rules of the City of New York and 6 NYCRR, Part 617, State Environmental Quality Review, the Department of City Planning acting on behalf of the City Planning Commission assumed the role of lead agency for the environmental review of the proposed actions. Based on a review of information about the project contained in this environmental assessment statement (EAS) and any attachments hereto, which are incorporated by reference herein, the lead agency has determined that the proposed actions would not have a significant adverse impact on the environment. The above determination is based on information contained in this EAS, which finds the proposed actions sought before the City Planning Commission would not have a significant adverse impact on the environment. Reasons supporting this determination are noted below.

**Land Use, Zoning, and Public Policy**

A detailed analysis of land use, zoning, and public policy is included in the EAS. The project site is located, at 23-25 Cleveland Place (Manhattan Block 481/Lots 11 and 13), a mid-block property on the east side of Cleveland Place between Spring and Kenmare Streets, in the in the Nolita neighborhood of Manhattan, Community District 2. The proposed action is a zoning text amendment to modify Appendix A in Zoning Resolution (ZR) Article X, Chapter 9 (Special Little Italy District Map), to extend the boundary of Area C of the Special Little Italy District (“Bowery, Canal, Kenmare Street Corridor”) northward to include Block 481/Lot 13 which is currently in Area A (“Preservation Area”). The proposed text amendment would facilitate a proposal by the Applicant to develop a new 8-story (+/- 40,000 gross square foot) Use Group 6B commercial office building on the property located at 23-25 Cleveland Place. The project site is located partially within a C6-1 zoning district and partially within a C6-2 zoning district within the Special Little Italy District; no changes are proposed to the underlying zoning or the location of the C6-1/C6-2 boundary line. The property is also located within the Chinatown and Little Italy Historic District, which is on the National Register of Historic Places. Absent the proposed text amendment, the property could be developed with a 7-story commercial building at a height of 75 feet. The proposed zoning text amendment would enable the property owner to develop an 8-story commercial building at a height of 85 feet in conformance with the use and bulk provisions of the existing C6-1 and C6-2 zoning districts, pursuant to regulations embodied in the proposed Little Italy Area C district. The proposed 8-story building would abut a 12-story building to the north and a 5-story building to the south. Given the existing mixed-use character of Cleveland Place and the height and bulk associated with the adjoining buildings, the proposed project would result in significant adverse impacts to land use, zoning and public policy.

**Shadows**

A detailed analysis related to shadows is included in this EAS. Sunlight sensitive resources within the study area that could be affected by incremental shadows are limited to Petrosino Square, a passive recreational resource containing several benches and trees and ground cover, and located across the street from the project site. The duration of new incremental shadows cast by the project onto Petrosino Square would be approximately 1.5 hours or less during the early morning hours (before 10:15 A.M.) in the warmer months of the year. Most use of the Square occurs after 10:15 A.M. and occurs primarily during the midday period when workers in the area businesses and

local residents use the Square during their lunch hours as well as later in the day. In addition, there would be more than the minimum of four hours a day of sunlight required for plants in the growing season. Therefore, no significant adverse shadow impacts are anticipated.

**Historic and Cultural Resources**

A detailed analysis related to historic and cultural resources is included in this EAS. Historic and cultural resources within the study area include other buildings, located within the National Register listed Chinatown and Little Italy Historic District, the Soho Cast Iron Historic District Extension, located west of the project site, and a portion of the Former Police Headquarters Building (an individually designated historic resource). LPC notes that the two existing buildings on the site are contributing buildings within the Chinatown/Little Italy National Register Historic District. The existing buildings on the project site will be demolished under both the No-Action and With-Action Scenarios and the applicant intends to construct the No-Action Scenario building absent the requested zoning text amendment. zoning approval; that the No-Action Scenario and both With-Action Scenarios would include a building with a full cellar and a full sub-cellar, therefore there would be no incremental sub-surface disturbance between the No-Action and With-Action Scenarios relative to potential existing archaeological resources on the site. Consequently the proposed project would not result in any impacts to historic or archaeological resources.

**Urban Design and Visual Resources**

A detailed analysis related to urban design and visual resources is included in the EAS. The With-Action Development Scenario on the project site would not result in any significant impacts to the visual resources in the vicinity of the site as compared to a No-Action Development on the property. Views to Petrosino Square, the Chinatown and Little Italy Historic District, and the SoHo Cast-Iron Historic District Extension would still be available from Cleveland Place adjacent to the project site. Therefore, the proposed project would not result in a significant adverse impact to urban design and visual resources.

**Hazardous Materials**

A detailed analysis related to hazardous materials is included in the EAS. The increment between the No-Action and With-Action Scenarios would consist of an increase in height of 1-story (10 feet), and an increase in building floor area up to 9,134.8 gsf in the With-Action Scenario building. Both the No-Action Scenario and With-Action Scenarios would include a building with a full cellar and a full sub-cellar. Therefore, there would be no incremental sub-surface disturbance between the No-Action and With-Action Scenarios on the project site. Therefore, the proposed text amendment would not result in any significant hazardous materials impacts on the project site.

**Air Quality and Noise**

An (E) designation (E-569) related to air quality, and noise would be established as part of the approval of the proposed actions. Refer to “Determination of Significance Appendix: (E) designation” for the applicable (E) designation requirements. The air quality and noise analyses conclude that with the (E) designation in place, the proposed actions would not result in a significant adverse impact related to air quality or noise.

No other significant effects upon the environment that would require the preparation of a Draft Environmental Impact Statement are foreseeable. This Negative Declaration has been prepared in accordance with Article 8 of the New York State Environmental Conservation Law (SEQRA). Should you have any questions pertaining to this Negative Declaration, you may contact Evan Lemonides, at (212) 720-3509.

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**HUMAN RESOURCES ADMINISTRATION**

■ NOTICE

DSS/HRA (OCSS) intends to issue an RFP seeking qualified nonprofit CBOs to implement the Child Support Young Parents Initiative in every borough. The Office of Child Support Services (OCSS) offers child support services to custodial parents (CPs) and noncustodial parents (NCPs), as well as guardians and caretakers, regardless of income or immigration status. The initiative will serve custodial parents who are applying for child support services and who are neither applying nor receiving cash assistance. DSS/HRA (OCSS) is seeking feedback and comments via email to ACCOContractPlanning@dss.nyc.gov.

There is an information session scheduled for Webex on June 10, 2021, at 10:30 A.M.

WebEx information: Hosted by Office of Contracts  
<https://nyc-dss.webex.com/nyc-dss/j.php?MTID=m71419f82c1ce08e4a574a4a27c79edd4>  
 Meeting number: 173 804 9095



Join by phone
+1-646-992-2010 United States Toll (New York City)
+1-408-418-9388 United States Toll
Access code: 173 804 9095

The Concept Paper will be posted on PASSPort, EPIN: 06921Y0037-Child Support Young Parent Initiative https://passport.cityofnewyork.us/page.aspx/en/rfp/request\_browse\_public, from June 4, 2021 through June 11, 2021. Instructions on how to submit written comments will be included in the PASSPort posting as well as the concept paper itself.

j4-10

MANAGEMENT AND BUDGET

NOTICE

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FINAL NOTICE AND PUBLIC EXPLANATION OF A PROPOSED ACTIVITY IN A 100-YEAR FLOODPLAIN

To: All interested Agencies, Groups and Individuals

This is to give notice that the City of New York's Mayor's Office of Management and Budget (OMB) has conducted an evaluation as required by Executive Order 11988, in accordance with HUD regulations at 24 CFR 55.20 Subpart C Procedures for Making Determinations on Floodplain Management and Wetlands Protection. The activity is funded under the NYC Department of Housing Preservation and Development's (HPD) Demolition Program and under U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) grant #B-20-MC-36-0104.

The proposed project is, located at 630 Midland Avenue, Staten Island (Richmond County), NY (Block 3875, Lot 26). The subject property is a 17,200-square-foot, two-unit detached brick and frame commercial structure that includes three stories and a basement. The top floor structure exhibits significant signs of fire and water damage and the front awning has partially collapsed. The Supreme Court of the State of New York has found sufficient reason to order the building's demolition, which would include the removal of asbestos-containing materials, hand-demolition of the structure, removal of the foundation, grading the property, replacing the sidewalk, and the safe disposal of all debris in accordance with all applicable rules and regulations.

The building sits on an 8,480-square-foot lot (approximately .19 acres) on the eastern corner of Midland Avenue and Lincoln Avenue. According to FEMA Flood Insurance Rate Map Panel #3604970329F, the entire site is in the 100-year floodplain. The surrounding community of Midland Beach is a developed, mixed-use area situated in a 100-year floodplain bounded approximately by Miller Field on the south, Seaview Avenue on the north, Hylan Boulevard/Husson Street on the west, and the Franklin D. Roosevelt Boardwalk and Beach on the east.

OMB has considered the following alternatives and mitigation measures to minimize adverse impacts and to restore and preserve natural and beneficial values: taking no action, fencing the property, sealing/stabilizing the building, erecting sidewalk sheds, and rehabilitating the property. The City does not have the legal authority to rehabilitate the property, and none of the remaining alternatives would alleviate the health and safety threat.

OMB has reevaluated the alternatives to demolishing this structure and has determined that it has no practicable alternative. Environmental files that document compliance with steps 3 through 6 of Executive Order 11988, will be provided for public inspection as noted in the last paragraph of this notice for receipt of comments.

There are three primary purposes for this notice. First, people who may be affected by activities in floodplains and those who have an interest in the protection of the natural environment should be given an opportunity to express their concerns and provide information about these areas. Second, an adequate public notice program can be an important public educational tool. The dissemination of information and request for public comment about floodplains can facilitate and enhance Federal efforts to reduce the risks and impacts associated with the occupancy and modification of these special areas. Third, as a matter of fairness, when the Federal government determines it will participate in actions taking place in floodplains, it must inform those who may be put at greater or continued risk.

Written comments must be received by OMB, at the following address, on or before June 10, 2021: CDBGComments@omb.nyc.gov, or City of New York Mayor's Office of Management and Budget, Attention: Julie Freeman, Director of Community Development, 255 Greenwich Street, 8th Floor, New York, NY 10007.

Additional project information is contained in the Environmental Review Record (ERR). During the COVID-19 pandemic, the ERR will

only be made available to the public for review electronically. Please submit your request, to CDBGComments@omb.nyc.gov.

City of New York: Bill de Blasio, Mayor
Jacques Jiha, Ph.D., Director, Mayor's Office of Management and Budget

Date: June 3, 2021

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CHANGES IN PERSONNEL

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF DATE, AGENCY. Includes personnel changes for FIRE DEPARTMENT FOR PERIOD ENDING 04/30/21.



HUDSON RIVER PARK TRUST

PUBLIC HEARINGS

Pursuant to the Hudson River Park Act, the Hudson River Park Trust hereby gives notice of a public hearing and comment period to consider the draft Estuarine Sanctuary Management Plan for Hudson River Park: Progress Report & 2021-2030 Action Agenda (ESMP). The ESMP is a foundational management document that guides the Trust and its partners in protecting and conserving critical aquatic habitat while also facilitating access to the Hudson River and fostering awareness and public education about this vital natural resource.

The public comment period on the ESMP runs from May 27, 2021 to August 9, 2021. All written comments must be received at the Trust's office by 1:00 P.M. on August 9, 2021. Comments should be emailed to esmpcomments@hrpt.ny.gov. Sending comments by email is preferred but the Trust will also accept written comment letters sent by mail, express mail or personally delivered and received by August 9, 2021. Such letters should be addressed to Hudson River Park Trust, Pier 40, 353 West Street, Room 201, New York, NY 10014, Attn. Carrie Roble.

A virtual public hearing will be held, on June 29, 2021, from 4:30 P.M. to 6:30 P.M.

A copy of the ESMP, a detailed public notice and instructions for accessing the virtual public hearing is available, at https://hudsonriverpark.org/activities/esmp.

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