



# THE CITY RECORD

Official Journal of The City of New York

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## THE CITY RECORD

MICHAEL R. BLOOMBERG, Mayor

MARTHA K. HIRST, Commissioner, Department of Citywide Administrative Services.  
ELI BLACHMAN, Editor of The City Record.

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## PUBLIC HEARINGS AND MEETINGS

See Also: Procurement; Agency Rules

## COMMUNITY BOARDS

### ■ PUBLIC HEARINGS

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

#### BOROUGH OF BROOKLYN

COMMUNITY BOARD NO. 16 - Tuesday, December 22, 2009, 7:00 P.M., 444 Thomas S. Boyland Street, Brooklyn, NY

#### BSA# 304-09-BZ

Women In Need, Inc. has submitted an application for a variance to erect a ten-story, mixed-use residential community facility and commercial building in an M1-4 zoning district to be located at 75-121 Junius Street between Liberty and Glenmore Avenues.

d16-22

## INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS

### FRANCHISE ADMINISTRATION

#### ■ PUBLIC HEARINGS

NOTICE OF A FRANCHISE AND CONCESSION REVIEW COMMITTEE ("FCRC") PUBLIC HEARING to be held on Monday, January 11, 2010 commencing at 2:30 P.M. at 22 Reade Street, Borough of Manhattan, in the matter of the assignment to Van Wagner Kiosk Advertising, LLC ("Van Wagner") of a public pay telephone franchise currently held by Telebeam Telecommunications Corporation ("Telebeam"). The FCRC approved the franchise agreement between the City of New York ("the City") and the original franchisee, Urban Telecommunications, Inc. ("Urban"), on August 11, 1999 (Cal. No. 1). Subsequently, the FCRC approved an assignment of the franchise from Urban to Telebeam on March 14, 2007. The franchise provides the non-exclusive right to install, operate and maintain public pay telephones on, over and under the inalienable property of the City of New York.

A copy of the existing franchise agreement may be viewed at DoITT, 75 Park Place, 9th Floor, New York, New York 10007, commencing Thursday, December 17, 2009 through Monday, January 11, 2010, between the hours of 9:30 A.M. and 3:30 P.M., excluding Saturdays, Sundays and holidays. Hard copies of the franchise agreement may be obtained, by appointment, at a cost of \$.25 per page. All payments shall be made at the time of pickup by check or money order made payable to the New York City Department of Finance. The

existing franchise agreement may also be obtained in PDF form at no cost, by email request. Interested parties should contact Roxanne Chambers at (212) 788-6610 or by email at RChambers@doitt.nyc.gov.

NOTE: Individuals requesting sign language interpreters at the public hearing should contact the Mayor's Office of Contract Services, Public Hearings Unit, 253 Broadway, 9th Floor, New York, New York 10007, (212) 788-7490, no later than SEVEN (7) BUSINESS DAYS PRIOR TO THE PUBLIC HEARING. TDD users should call Verizon relay service.

The Hearing may be cablecast on NYC TV- CHANNEL 74.

d17-j11

## 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 25-307, 25-308, 25,309, 25-313, 25-318, 25-320) (formerly Chapter 8-A, Sections 207-6.0, 207-7.0, 207-12.0, 207-17.0, and 207-19.0), on Tuesday, **January 05, 2010 at 9:30 A.M.** in the morning of that day, a public hearing will be held in the Conference Room at 1 Centre Street, 9th Floor, Borough of Manhattan with respect to the following properties and then followed by a public meeting. Any person requiring reasonable accommodation in order to participate in the hearing or attend the meeting should call or write the Landmarks Commission no later than five (5) business days before the hearing or meeting.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF QUEENS 10-4398 - Block 8096, lot 41-240-07 38th Drive, aka 7 Little Neck Road- Douglaston Historic District  
An altered Colonial Revival style freestanding house, built circa 1925, and a one-car garage. Application is to demolish an existing shared garage and construct a new garage in connection with 240-11 38th Drive.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF QUEENS 10-4549- Block 8096, lot 39-240-11 38th Drive, aka 11 Little Neck Road- Douglaston Historic District  
A vernacular Colonial Revival style freestanding house, built circa 1920, and a one-car garage. Application is to demolish an existing shared garage and construct a new garage in connection with 240-07 38th Drive.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-4370- Block 41, lot 15-60 Pine Street - Down Town Association - Individual Landmark  
A Romanesque Revival style clubhouse designed by Charles C. Haight, built in 1886-87, and modified with an extension designed by Warren & Wetmore and built in 1910-11. Application is to construct a rooftop addition, infill the non-visible interior courtyard, alter the Cedar Street facade and areaway to provide barrier-free access, and remove a fire escape. Zoned C5-5.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-3122 - Block 193, lot 26-35 Walker Street - Tribeca East Historic District

A building built in 1808 and altered in the mid-19th century features originally built as a house circa 1808. Application is to reconstruct side walls, construct rooftop additions, install a barrier-free access ramp, and doors, and remove a fire escape. Zoned C6-2A.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-4104 - Block 189, lot 12-160 Franklin Street - Tribeca West Historic District  
A neo-Grec/Queen Anne style store and loft building designed by Berger & Baylies and built in 1886-87. Application is to install new storefront infill.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-4718 - Block 189, lot 5-144 Franklin Street - Tribeca West Historic District  
A neo-Grec style warehouse building designed by J. Morgan Slade and built in 1882-1883. Application is to modify windows and install a balcony.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-4234 - Block 625, lot 56-34 8th Avenue - Greenwich Village Historic District  
An apartment building originally constructed as a pair of rowhouses in 1841 and altered in the first half of the 20th century. Application is to install storefront infill.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 09-1987 - Block 593, lot 28-385 6th Avenue - Greenwich Village Historic District  
A Queen Anne style flats building designed by D. & J. Jardine Architects and built in 1877. Application is to modify the ground floor.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-4067 - Block 632, lot 55-535 Hudson Street - Greenwich Village Historic District  
An apartment building designed by Samuel Roth and built in 1951-1953. Application is to construct rooftop addition and rear yard additions. Zoned C1-6.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 08-5574 - Block 712, lot 11-439-445 West 14th Street, aka 438-440 West 15th Street - Gansevoort Market Historic District  
A Romanesque Revival style stables building designed by Thomas R. Jackson and built in 1892-93. Application is to construct a rooftop addition, install new storefront infill, and replace windows. Zoned M1-5.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-3463 - Block 837, lot 48-390 Fifth Avenue- The Gorham Building-Individual Landmark  
A Florentine Renaissance style building designed by Stanford White of McKim, Mead and White and built in 1904-06. Application is to replace windows.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-4023- Block 849, lot 7502-7 East 20th Street - Ladies' Mile Historic District  
A neo-Renaissance/modern French style store and loft building designed by William C. Frohne and built in 1907. Application is to replace windows.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-2634 - Block 1210, lot 33-100 West 80th Street - Upper West Side/Central Park West Historic District  
A Beaux-Arts style hotel and boarding house designed by Benjamin & Deisler and built in 1898-1900. Application is to construct a rooftop addition. Zoned C1-8A.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-2951 - Block 1405, lot 120-969 Lexington Avenue - Upper East Side Historic District  
A Queen Anne style house designed by Thom & Wilson and built in 1887-88 and altered by Bradley Delehanty in 1919-20. Application is to install an awning.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-4794 - Block 1410, lot 68-110-120 East 76th Street - Upper East Side Historic District  
A row of six neo-Grec style rowhouses designed by Augustus Hatfield, built in 1883-85 and altered in the 20th century. Application is to partially demolish and stabilize Nos. 112, 114 and 116 East 76th Street.

CERTIFICATE OF APPROPRIATENESS  
BOROUGH OF MANHATTAN 10-4437 - Block 1410, lot 68-110-120 East 76th Street - Upper East Side Historic District  
A row of six neo-Grec style rowhouses designed by Augustus

Hatfield, built in 1883-85 and altered in the 20th century. Application is to alter the facades, reconstruct and raise the height of one of the facades, and construct rooftop and rear yard additions. Zoned R8-8.

**EXECUTIVE SESSION**

**BOROUGH OF QUEENS AND MANHATTAN 10-4651-Block 1434, lot 1-Queensboro Bridge - Individual Landmark**  
A cantilevered bridge with Beaux-Arts style elements designed by Gustav Lindenthal and Henry Hornbostel and built in 1901-08.

**EXECUTIVE SESSION**

**BOROUGH OF BROOKLYN AND MANHATTAN 10-4650 - Block 25, lot 12-Brooklyn Bridge - Individual Landmark**  
A suspension bridge built in 1867-83 by John A. and Washington Roebling.

**CERTIFICATE OF APPROPRIATENESS**

**BOROUGH OF BROOKLYN 10-3900 - Block 43, lot 25-70 Hudson Avenue - Vinegar Hill Historic District**  
A Greek Revival style rowhouse built circa 1828-41. Application is to excavate the cellar.

**CERTIFICATE OF APPROPRIATENESS**

**BOROUGH OF BROOKLYN 10-3682-Block 1945, lot 15-343 Waverly Avenue - Clinton Hill Historic District**  
An Italianate style rowhouse built c.1869. Application is to legalize the installation of a security gate without Landmarks Preservation Commission permit(s).

**CERTIFICATE OF APPROPRIATENESS**

**BOROUGH OF BROOKLYN 10-4136 - Block 1159, lot 50-132 Underhill Avenue - Prospect Heights Historic District**  
A Romanesque/Renaissance Revival style rowhouse designed by William H. Reynolds and built c.1896. Application is to install a lamppost.

**CERTIFICATE OF APPROPRIATENESS**

**BOROUGH OF BROOKLYN 10-4363 - Block 1158, lot 76-191 Park Place - Prospect Heights Historic District**  
An Italianate style rowhouse built prior to 1869. Application is to construct a rear yard addition. Zoned R-6B.

**CERTIFICATE OF APPROPRIATENESS**

**BOROUGH OF BROOKLYN 10-3899 - Block 1152, lot 7502-645 Vanderbilt Avenue, aka 229-237 Prospect Place - Prospect Heights Historic District**  
Application is to modify storefront infill and install a flue.

d22-j5

**TRANSPORTATION****PUBLIC HEARINGS**

NOTICE IS HEREBY GIVEN, pursuant to law, that the following proposed revocable consents, have been scheduled for a public hearing by the New York City Department of Transportation. The hearing will be held at 55 Water Street, 9th Floor, Room 945 commencing at 2:00 P.M. on Wednesday, December 30, 2009. Interested parties can obtain copies of proposed agreements or request sign-language interpreters (with at least seven days prior notice) at 55 Water Street, 9th Floor SW, New York, NY 10041, or by calling (212) 839-6550.

**#1 IN THE MATTER OF** a proposed revocable consent authorizing Michael A. Cooper to maintain and use a stoop and a fenced-in area on the east sidewalk of St. Nicholas Avenue, north of West 145th Street, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from July 1, 2009 to June 30, 2019 and provides, among other terms and conditions, for compensation payable to the City according to the following schedule:

For the period July 1, 2009 to June 30, 2019 - \$25/per annum

the maintenance of a security deposit in the sum of \$1,000, and the filing of an insurance policy in the minimum amount of \$250,000/\$1,000,000 for bodily injury and property damage for each occurrence in the aggregate amount of \$100,000

**#2 IN THE MATTER OF** a proposed revocable consent authorizing Bayonne Energy Center, LLC to construct, maintain and use transmission cables under and along 25th Street Pier, in the Borough of Brooklyn. The proposed revocable consent is for a term of ten years from the Date of Approval by the Mayor to June 30, 2020, and provides among other terms and conditions, for compensation payable to the City according to the following schedule:

- \$40,240/annum

For the period July 1, 2010 to June 30, 2011 - \$41,447  
For the period July 1, 2011 to June 30, 2012 - \$42,654  
For the period July 1, 2012 to June 30, 2013 - \$43,861  
For the period July 1, 2013 to June 30, 2014 - \$45,068  
For the period July 1, 2014 to June 30, 2015 - \$46,275  
For the period July 1, 2015 to June 30, 2016 - \$47,482  
For the period July 1, 2016 to June 30, 2017 - \$48,689  
For the period July 1, 2017 to June 30, 2018 - \$49,896  
For the period July 1, 2018 to June 30, 2019 - \$51,103  
For the period July 1, 2019 to June 30, 2020 - \$52,310

the maintenance of a security deposit in the sum of \$53,000, and the filing of an insurance policy in the minimum amount of \$250,000/\$1,000,000 for bodily injury and property damage for each occurrence in the aggregate amount of \$100,000.

**#3 IN THE MATTER OF** a proposed revocable consent authorizing Findlay Plaza Housing Development Fund Corp. to maintain and use a bridge over and across Findlay Avenue, north of 167th Street, in the Borough of the Bronx. The proposed revocable consent is for a term of ten years from the Date of Approval by the Mayor to June 30, 2019 and provides, among other terms and conditions, for compensation payable to the City according to the following schedule:

From the Date of Approval to June 30, 2010 - \$ 838

For the period July 1, 2010 to June 30, 2011 - \$ 863  
For the period July 1, 2011 to June 30, 2012 - \$ 888  
For the period July 1, 2012 to June 30, 2013 - \$ 913  
For the period July 1, 2013 to June 30, 2014 - \$ 935  
For the period July 1, 2014 to June 30, 2015 - \$ 963  
For the period July 1, 2015 to June 30, 2016 - \$ 988  
For the period July 1, 2016 to June 30, 2017 - \$1,013  
For the period July 1, 2017 to June 30, 2018 - \$1,038  
For the period July 1, 2018 to June 30, 2019 - \$1,063

the maintenance of a security deposit in the sum of \$11,000, and the filing of an insurance policy in the minimum amount of \$1,250,000/\$5,000,000 for bodily injury and property damage for each occurrence in the aggregate amount of \$1,000,000.

**#4 IN THE MATTER OF** a proposed revocable consent authorizing Findlay Plaza Housing Development Fund Corp. to maintain and use a bridge over and across Teller Avenue, north of 167th Street, in the Borough of the Bronx. The proposed revocable consent is for a term of ten years from the Date of Approval by the Mayor to June 30, 2019 and provides, among other terms and conditions, for compensation payable to the City according to the following schedule:

From the Date of Approval to June 30, 2010 - \$783  
For the period July 1, 2010 to June 30, 2011 - \$806  
For the period July 1, 2011 to June 30, 2012 - \$829  
For the period July 1, 2012 to June 30, 2013 - \$852  
For the period July 1, 2013 to June 30, 2014 - \$875  
For the period July 1, 2014 to June 30, 2015 - \$898  
For the period July 1, 2015 to June 30, 2016 - \$921  
For the period July 1, 2016 to June 30, 2017 - \$944  
For the period July 1, 2017 to June 30, 2018 - \$967  
For the period July 1, 2018 to June 30, 2019 - \$990

the maintenance of a security deposit in the sum of \$10,250, and the filing of an insurance policy in the minimum amount of \$1,250,000/\$5,000,000 for bodily injury and property damage for each occurrence in the aggregate amount of \$1,000,000.

**#5 IN THE MATTER OF** a proposed revocable consent authorizing 640 Realty LLC & 86 Realty LLC to construct, maintain and use a stair, together with railing on the south sidewalk of Bleecker Street between Broadway and Crosby Street, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from the Date of Approval by the Mayor to June 30, 2020, and provides among other terms and conditions, for compensation payable to the City according to the following schedule:

From the Approval Date to June 30, 2010 - \$1,500/per annum  
For the period July 1, 2010 to June 30, 2011 - \$1,545  
For the period July 1, 2011 to June 30, 2012 - \$1,590  
For the period July 1, 2012 to June 30, 2013 - \$1,635  
For the period July 1, 2013 to June 30, 2014 - \$1,680  
For the period July 1, 2014 to June 30, 2015 - \$1,725  
For the period July 1, 2015 to June 30, 2016 - \$1,770  
For the period July 1, 2017 to June 30, 2018 - \$1,815  
For the period July 1, 2018 to June 30, 2019 - \$1,860  
For the period July 1, 2019 to June 30, 2020 - \$1,905

the maintenance of a security deposit in the sum of \$2,500, and the filing of an insurance policy in the minimum amount of \$250,000/\$1,000,000 for bodily injury and property damage for each occurrence in the aggregate amount of \$100,000.

**#6 IN THE MATTER OF** a proposed revocable consent authorizing Metropolitan Transportation Authority to construct, maintain and use bollards around the perimeter of Jamaica Station on the sidewalks of Archer Avenue and Sutphin Boulevard, in the Borough of Queens. The proposed revocable consent is for a term of ten years from the Date of Approval by the Mayor. There shall be no compensation required for this revocable consent.

There is no maintenance of a security deposit required, and the filing of an insurance policy in the minimum amount of \$250,000/\$1,000,000 for bodily injury and property damage for each occurrence in the aggregate amount of \$100,000.

**#7 IN THE MATTER OF** a proposed revocable consent authorizing Deutsche Bank AG, New York Branch to construct, maintain and use security bollards around the perimeter of 60 Wall Street, on the sidewalk of Wall Street between William and Pearl Streets, and on the sidewalk of Pine Street between William and Pearl Streets, in the Borough of Manhattan. The proposed revocable consent is for a term of ten years from the Date of Approval by the Mayor. There shall be no compensation required for this revocable consent in accordance with Title 34 Section 7-04(a)(33) of the Rules of the City of New York.

the maintenance of a security deposit in the sum of \$43,350, and the filing of an insurance policy in the minimum amount of \$250,000/\$1,000,000 for bodily injury and property damage for each occurrence in the aggregate amount of \$100,000.

d10-30

**COURT NOTICES****SUPREME COURT****NOTICE**

**RICHMOND COUNTY  
IA PART 74  
NOTICE OF ACQUISITION  
INDEX NUMBER (CY) 4036/09**

IN THE MATTER OF Application of the CITY OF NEW YORK relative to acquiring title in fee simple absolute to certain real property where not heretofore acquired for portions of

**FURMAN STREET (from Amboy Road to a point**

**approximately 131 feet north westerly therefrom and the northwesterly area of the intersection of Amboy Road and Furman Street),**

in the Borough of Staten Island, City and State of New York.

**PLEASE TAKE NOTICE**, that by order of the Supreme Court of the State of New York, County of Richmond, IA Part 74 (Hon. Abraham G. Gerges, J.S.C.), duly entered in the office of the Clerk of the County of Richmond on December 14, 2009, the application of the City of New York to acquire certain real property, for Furman Street, was granted and the City was thereby authorized to file an acquisition map with the Office of the Clerk of Richmond County. Said map, showing the property acquired by the City, was filed with the Clerk of Richmond County on December 14, 2009. Title to the real property vested in the City of New York on December 14, 2009.

**PLEASE TAKE FURTHER NOTICE**, that the City has acquired the following parcels of real property:

Damage Parcel	Block	Lot
1 (bed of street)	N/A	N/A
2 (bed of street)	N/A	N/A
3	6245	Part of 25
4 (bed of street)	N/A	N/A

**PLEASE TAKE FURTHER NOTICE**, that pursuant to said Order and to §§ 503 and 504 of the Eminent Domain Procedure Law of the State of New York, each and every person interested in the real property acquired in the above-referenced proceeding and having any claim or demand on account thereof is hereby required, on or before December 14, 2010 (which is one (1) calendar year from the title vesting date), to file a written claim with the Clerk of the Court of Richmond County, and to serve within the same time a copy thereof on the Corporation Counsel of the City of New York, Tax and Bankruptcy Litigation Division, 100 Church Street, New York, New York 10007. Pursuant to EDPL § 504, the claim shall include:

- the name and post office address of the condemnee;
- reasonable identification by reference to the acquisition map, or otherwise, of the property affected by the acquisition, and the condemnee's interest therein;
- a general statement of the nature and type of damages claimed, including a schedule of fixture items which comprise part or all of the damages claimed; and,
- if represented by an attorney, the name, address and telephone number of the condemnee's attorney.

Pursuant to EDPL § 503(C), in the event a claim is made for fixtures or for any interest other than the fee in the real property acquired, a copy of the claim, together with the schedule of fixture items, if applicable, shall also be served upon the fee owner of said real property.

**PLEASE TAKE FURTHER NOTICE**, that, pursuant to § 5-310 of the New York City Administrative Code, proof of title shall be submitted to the Corporation Counsel of the City of New York, Tax and Bankruptcy Litigation Division, 100 Church Street, New York, New York 10007 on or before December 14, 2011 (which is two (2) calendar years from the title vesting date).

Dated: December 16, 2009, New York, New York  
MICHAEL A. CARDOZO  
Corporation Counsel of the City of New York  
100 Church Street - Rm. 5-235  
New York, New York 10007  
Tel. (212) 788-0710

d18-j4

**PROPERTY DISPOSITION****CITYWIDE ADMINISTRATIVE SERVICES****DIVISION OF REAL ESTATE SERVICES****AUCTION****PROPOSED LEASES OF CERTAIN NEW YORK CITY REAL PROPERTY**

PUBLIC NOTICE IS HERBY GIVEN THAT the Deputy Commissioner of the Department of Citywide Administrative Services, Division of Real Estate Services, or his/her designee, will conduct a Sealed Bid Public Lease Auction on Thursday, January 14, 2010, at 1 Centre Street, 19th Floor North Conference, New York, NY 10007. Sealed Bids will be accepted from 10:00 A.M. to 11:00 A.M. Bids will be opened at 11:00 A.M.

In accordance with New York Administrative Code Section 4-203, these properties will be leased pursuant to the Standard Terms and Conditions. An asterisk (\*) appears next to those parcels subject to Special Terms and Conditions. For further information, a Brochure and a Sealed Bid Package, visit the Office of Public Auctions at 1 Centre Street, 19th Floor North, New York, New York 10007, or call (212) 669-2111 or 311.

8 Parcels  
Borough, Block, Lot, Location  
Minimum Bid

Manhattan, Block 932, Part of Lot 17  
\$948,000 annually

Brooklyn, Block 6036, Part of Lot 1  
\$162,000 annually

Bronx, Block 3542, Part of Lot 20  
\$8,040 monthly

Queens, Block 13432, Lots: Part of Lot 6, Part of Lot 20, Part of Lot 21, Part of Lot 40, Part of Lot 46, Part of Lot 49, Part of Lot 53, Part of Lot 59, Part of Lot 65, Part of Lot 67

and

Block 13433, Lots: Part of Lot 2, 5, 10, 15, 20, Part of Lot 23, Part of Lot 29, Part of Lot 34, Part of Lot 36, Part of Lot 53, Part of Lot 55, Part of Lot 57, Part of Lot 59, 69, Part of Lot 999 (formerly known as 150th Road)  
\$31,960 monthly

Queens, Block 13420, Lots: 8 and 999  
\$5,710 monthly

Staten Island, Block 4396, Lot: 999  
\$5,000 monthly

Brooklyn, Block 803, Part of Lot 5  
\$4,940 monthly

Brooklyn, Block 803, Part of Lot 5  
\$3,130 monthly

NOTE: Individuals requesting Sign Language Interpreters should contact Barry Gendelman, Assistant Commissioner of Property Management and Leasing, 1 Centre Street, 19th Floor North, New York, NY 10007, (212) 669-4001, no later than 14 days prior to the auction. TDD users should call Verizon relay services.

d7-j13

**POLICE**

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

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

Recovered, lost, abandoned property, property obtained from prisoners, emotionally disturbed, intoxicated and deceased persons; and property obtained from persons incapable of caring for themselves.

Motor vehicles, boats, bicycles, business machines, cameras, calculating machines, electrical and optical property, furniture, furs, handbags, hardware, jewelry, photographic equipment, radios, robes, sound systems, surgical and musical instruments, tools, wearing apparel, communications equipment, computers, and other miscellaneous articles.

**INQUIRIES**

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

**FOR MOTOR VEHICLES**

(All Boroughs):

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

**FOR ALL OTHER PROPERTY**

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

j1-d31

**PROCUREMENT**

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

**BUILDINGS**

**CONTRACTS UNIT**

■ INTENT TO AWARD

*Services (Other Than Human Services)*

**SUPPORT FOR PROPRIETARY SOFTWARE** – Sole Source – Available only from a single source - PIN# 81010ITX0070 – DUE 01-05-10 AT 3:00 P.M. – Any vendor who believes it is capable of providing such services may express its interest in doing so by writing to Benjamin S.

Karan at the indicated address by the date and time indicated.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department of Buildings, 280 Broadway, 6th Floor, NYC. Lesley Jones (212) 566-4095, lejones@buildings.nyc.gov*

d21-28

**CHIEF MEDICAL EXAMINER**

**AGENCY CHIEF CONTRACTING OFFICER**

■ INTENT TO AWARD

*Services (Other Than Human Services)*

**PREVENTIVE MAINTENANCE AND REPAIR SERVICES ON RAININ INSTRUMENTS BRAND PIPETTES** – Sole Source – Available only from a single source - PIN# 81611ME0007 – DUE 12-28-09 AT 3:00 P.M. – The Office of Chief Medical Examiner intends to enter into a sole source contract with Rainin Instruments LLC, at 7500 Edgewater Drive, Oakland, CA 94621, for the preventive maintenance and repair services of Rainin Instrument brand pipettes.

Any other vendor who is capable of providing this service to the NYC Office of Chief Medical Examiner may express their interest in doing so by writing to Luis A. Rodriguez, Office of Chief Medical Examiner, 421 East 26th Street, 10th Floor, NY, NY 10016. Luis A. Rodriguez (212) 323-1733, lrodriguez@ocme.nyc.gov

d18-24

**CITY UNIVERSITY**

■ INTENT TO AWARD

*Goods*

**PURCHASE OF PLANAR LIPID BILAYER WORKSTATION (BLM)** – Sole Source – Available only from a single source - PIN# 12142009 – DUE 12-31-09 AT 10:00 A.M. – LaGuardia Community College is entering into a sole source purchase agreement with Warner Instruments for the purchase of one (1) Planar Lipid Bilayer Workstation, part number BLM-WS. If your company can provide this specific product, please contact Tawanikka Smith, 31-10 Thomson Avenue, Room E413, Long Island City, NY 11101, (718) 482-5590 or email: tsmith@lagcc.cuny.edu

d21-28

**CITYWIDE ADMINISTRATIVE SERVICES**

**DIVISION OF MUNICIPAL SUPPLY SERVICES**

■ SOLICITATIONS

*Goods*

**GRAND MASTER KEY SYSTEM (BRAND SPECIFIC)** – Competitive Sealed Bids – PIN# 8571000397 – DUE 01-20-10 AT 10:30 A.M.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.  
*Department of Citywide Administrative Services 1 Centre Street, Room 1800, New York, NY 10007. Anna Wong (212) 669-8610.*

d22

■ AWARDS

*Goods*

**FRESH, FROZEN, CANNED FRUITS, VEGETABLES, ETC., DJJ** – Competitive Sealed Bids – PIN# 8571000145 – AMT: \$17,789.10 – TO: Mivila Corp. DBA, Mivila Foods, 226 Getty Avenue, Paterson, NJ 07503.  
● **FRESH, FROZEN, CANNED FRUITS, VEGETABLES, ETC., DJJ** – Competitive Sealed Bids – PIN# 8571000145 – AMT: \$41,622.30 – TO: Frank Gargiulo and Son Inc., 535 Sweetland Avenue, Hillside, NJ 07205.  
● **FRESH, FROZEN, CANNED FRUITS, VEGETABLES, ETC., DJJ** – Competitive Sealed Bids – PIN# 8571000145 – AMT: \$19,674.32 – TO: Jamac Frozen Food Corp., 570 Grand Street, Jersey City, NJ 07302.  
● **BREAKFAST/SNACKS - DEPT. OF JUVENILE JUSTICE** – Competitive Sealed Bids – PIN# 8571000162 – AMT: \$18,437.86 – TO: Universal Coffee Corp., 123 47th Street, P.O. Box 320187, Brooklyn, NY 11232.

d22

■ VENDOR LISTS

*Goods*

**ACCEPTABLE BRAND LIST** – In accordance with PPB Rules, Section 2-05(c)(3), the following is a list of all food items for which an Acceptable Brands List has been established.

1. Mix, Biscuit - AB-14-1:92
2. Mix, Bran Muffin - AB-14-2:91
3. Mix, Corn Muffin - AB-14-5:91
4. Mix, Pie Crust - AB-14-9:91
5. Mixes, Cake - AB-14-11:92A
6. Mix, Egg Nog - AB-14-19:93
7. Canned Beef Stew - AB-14-25:97
8. Canned Ham Shanks - AB-14-28:91
9. Canned Corned Beef Hash - AB-14-26:94
10. Canned Boned Chicken - AB-14-27:91
11. Canned Corned Beef - AB-14-30:91
12. Canned Ham, Cured - AB-14-29:91
13. Complete Horse Feed Pellets - AB-15-1:92
14. Canned Soups - AB-14-10:92D
15. Infant Formula, Ready to Feed - AB-16-1:93
16. Spices - AB-14-12:95
17. Soy Sauce - AB-14-03:94
18. Worcestershire Sauce - AB-14-04:94

Application for inclusion on the above enumerated Acceptable Brand Lists for foods shall be made in writing and addressed to: Purchase Director, Food Unit, Department of Citywide Administrative Services, Division of Municipal Supply

Services, 1 Centre Street, 18th Floor, New York, NY 10007. (212) 669-4207.

jy17-j4

**EQUIPMENT FOR DEPARTMENT OF SANITATION** – In accordance with PPB Rules, Section 2.05(c)(3), an acceptable brands list will be established for the following equipment for the Department of Sanitation:  
A. Collection Truck Bodies  
B. Collection Truck Cab Chassis  
C. Major Component Parts (Engine, Transmission, etc.)

Applications for consideration of equipment products for inclusion on the acceptable brands list are available from: Vendor Relations, Department of Citywide Administrative Services, Division of Municipal Supply Services, 1 Centre Street, 18th Floor, New York, NY 10007. (212) 669-8610.

jy17-j4

**OPEN SPACE FURNITURE SYSTEMS - CITYWIDE** – In accordance with PPB Rules, Section 2.05(c)(3), an Acceptable Brands List, #AB-17W-1:99, has been established for open space furniture systems.

Application for consideration of product for inclusion on this acceptable brands list shall be made in writing and addressed to: Vendor Relations, Department of Citywide Administrative Services, Division of Municipal Supply Services, 1 Centre Street, 18th Floor, New York, NY 10007, (212) 669-8610.

jy17-j4

**CULTURAL AFFAIRS**

■ SOLICITATIONS

*Goods & Services*

**PATRON EDGE TICKETING SOFTWARE FOR DTW** – Sole Source – Available only from a single source - PIN# 1260009875 – DUE 01-15-10 AT 5:00 P.M. – The Dept. of Cultural Affairs intends to enter into negotiations with Blackbaud, Inc., for the sole source procurement of Patron Edge for RE Users, including software licenses and implementation.

The agency has determined that it is in the best interest of the City to utilize the sole source method of source selection because, based on market research, it appears that Blackbaud, Inc. is the only source for the Patron Edge software. Any firm which believes it can also provide this category of service and would like to be considered, are invited to contact the Dept. of Cultural Affairs, 31 Chambers Street, 2nd Floor, New York, NY 10007, Attn: Louise Woehrl, Agency Chief Contracting Officer (212) 513-9310, or lwoehrl@culture.nyc.gov, no later than January 15, 2010.

d18-24

**DESIGN & CONSTRUCTION**

■ AWARDS

*Construction/Construction Services*

**RESIDENT ENGINEERING INSPECTION SERVICES** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 8502009HW0042P – AMT: \$835,911.00 – TO: Simco Engineering, P.C./Haider Engineering P.C. (JV), 80 Maiden Lane, Suite 501, New York, NY 10038. HWS2009M, For prior notice sidewalks, Manhattan.

d22

**AGENCY CHIEF CONTRACTING OFFICER**

■ SOLICITATIONS

*Construction/Construction Services*

**CORRECTION: HL82NYAMD, EDUCATION AND CONFERENCE CENTER UPGRADE** – Sole Source – Available only from a single source - PIN# 8502008HL0008P – DUE 12-30-09 AT 4:00 P.M. – CORRECTION: The Department of Design and Construction intends to enter into a sole source contract with New York Academy of Medicine for the above project. The contractor must have unique knowledge of the site, and must guarantee the assumption of all costs above the estimated cost of construction. In addition the contractor must make a private financial contribution to fund the design and construction of the project. Any firm which believes that it is also qualified to provide these services or would like to provide such services in the future is invited to indicate by letter to: Department of Design and Construction, 30-30 Thomson Avenue, 5th Floor, Long Island City, New York 11101. Steven Wong (718) 391-2550, wongs@ddc.nyc.gov

d16-22

■ INTENT TO AWARD

*Construction/Construction Services*

**LNCEA09MP, LIBRARY SERVICE CENTER - PHASE 2, TO PAY FOR DESIGN AND CONSTRUCTION MANAGEMENT SERVICES, FURNITURE AND EQUIPMENT, MANHATTAN, THE BRONX, AND STATEN ISLAND** – Sole Source – Available only from a single source - PIN# 8501010LN0002P – DUE 01-06-10 AT 4:00 P.M. – The Department of Design and Construction intends to enter into a sole source contract with the New York Public Library (NYPL) for the above project. The contract is for design and construction management services, furniture and equipment for the interior build-out of the space. Any firm which believes that it is qualified to provide these services is invited to indicated by letter to: Department of Design and Construction, 30-30 Thomson Avenue, 5th Floor, Long Island City, New York 11101. Steven Wong, Program Director, (718) 391-2550, wongs@ddc.nyc.gov

d22-29

**ENVIRONMENTAL PROTECTION**

■ SOLICITATIONS

*Construction Related Services*

**SHELLBANK BASIN DESTRATIFICATION FACILITY, QUEENS, NY** – Competitive Sealed Bids – DUE 01-21-10 AT 11:30 A.M. – PIN# 82610WP01180 - Electrical Work  
PIN# 82610WP01179 - General Const. Work  
CONTRACT CSO-JT-DF-E, CSO-JT-DF-G. Document Fee: \$80.00. There will be pre-bid conference on 1/7/2010 at 10:00

A.M. at 96-05 Horace Harding Expressway, 4th Floor Conference Room, Flushing, NY 11373. The Project Manager is Kevin Au (718) 595-6270. For contract CSO-JT-DG-G, please be advised that this contract is subject to Apprenticeship program requirements as describe in the solicitation materials. Vendor Source ID#: 65508.

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

Department of Environmental Protection  
59-17 Junction Boulevard, 17th Floor, Flushing  
New York 11373. Greg Hall (718) 595-6091,  
grehg@dep.nyc.gov

d22

## HEALTH AND HOSPITALS CORPORATION

The New York City Health and Hospitals Corporation is regularly soliciting bids for supplies and equipment at its Central Purchasing Offices, 346 Broadway, New York City, Room 516, for its Hospitals and Diagnostic and Treatment Centers. All interested parties are welcome to review the bids that are posted in Room 516 weekdays between 9:00 a.m. and 4:30 p.m. For information regarding bids and the bidding process, please call (212) 442-3863.

j1-d31

### SOLICITATIONS

#### Goods

**KLS MARTIN SURGICAL INSTRUMENTS** – Sole Source – Available only from a single source - PIN# 231-10-036SS – DUE 12-30-09 AT 10:00 A.M. – The North Brooklyn Health Network (NBHN) intends to enter into a sole source contract for surgical instruments with KLS Martin L.P., 112319-1 St. Johns Ind. Pkway S., Jacksonville, FL 32246.

Any other supplier who is capable of providing these products for the NBHN may express their interest in doing so by writing to Abraham Caban, Procurement Analyst, 100 North Portland Avenue, Rm. C-32, Brooklyn, NY 11205, or Abraham.Caban@nychhc.org on or before 10:00 A.M., Tuesday, December 29, 2009.

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.

North Brooklyn Health Network, 100 North Portland Avenue, C-32, Brooklyn, NY 11205. Abraham Caban (718) 260-7593, abraham.caban@nychhc.org

d22-29

#### Goods & Services

**REPLACEMENT OF NITROUS OXIDE MANIFOLD AND ALARMS** – Competitive Sealed Bids – PIN# 11210034 – DUE 01-04-10 AT 4:00 P.M. – Mandatory site visit scheduled 12/29/2009 at 10:00 A.M. All bidders to meet in the Purchasing Department on the 2nd Floor prior to site visit at Lincoln Hospital Center, 234 East 149th Street, Room 2A2, Bronx, New York 10451.

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

Lincoln Hospital Center, 234 East 149th Street, Bronx, NY 10451. Jannet Olivera (718) 579-5992, jannet.olivera@nychhc.org

d22

#### Services (Other Than Human Services)

**CLINICAL RISK GROUP ANALYSIS TOOL** – Request for Proposals – PIN# 100912R065 – DUE 01-15-10 AT 4:00 P.M. – This work includes analyzing data from a CRG perspective. Proposer must demonstrate expertise and experience with NYS Mainstream Medicaid and FHP products; a working knowledge of 3M's CRG software; an active practice producing risk-adjusted based performance improvements; and be able to furnish upon request, encounter and claims data for performance analysis. Prospective vendors wishing to receive an RFP package can also request it by fax at (212) 908-8620.

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.

MetroPlus Health Plan, 160 Water Street, 3rd Floor, New York, NY 10038. Kathleen Nolan (212) 908-8730, nolank@nychhc.org

d22

## HEALTH AND MENTAL HYGIENE

### SOLICITATIONS

#### Services (Other Than Human Services)

**NEW YORK CITY DRUG DISCOUNT CARD** – Request for Proposals – PIN# 11HM000700R0X00 – DUE 02-18-10 AT 2:00 P.M. – The Department is seeking to reduce the cost of drugs for NYC residents by sponsoring a "City of New York" drug discount card. As such, the Department is seeking an appropriately qualified concessionaire to serve as a Pharmacy Benefit Manager. There will be one (1) three-year term, with one (1) three-year option to renew, exercisable at the Department's sole discretion. No longer term will be considered. This concession will be operated pursuant to a License issued by the Department; no other leasehold or other proprietary right is offered.

A pre-proposal conference is scheduled for January 6, 2010 at 10:00 A.M. at 161 William Street, 6th Floor, New York, New York 10038.

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, 225 Broadway, 17th Floor  
New York, NY 10007. Eric Zimiles (212) 442-6506  
ezimiles@health.nyc.gov

d17-31

### INTENT TO AWARD

#### Goods

**UPGRADE KITS FOR THE SMART CYCLERS** – Sole Source – Available only from a single source - PIN# 10LB058601R0X00 – DUE 01-04-10 AT 4:00 P.M. – The NYC DOHMH intends to enter a Sole Source contract with Cepheid, Inc. to provide upgrade kits for the Smart Cyclers. The term of this contract will be from 1/11/2010 to 1/10/2011.

Any vendor that believes it can also provide these services for such procurement in the future is invited to indicate an expression of intent by letter.

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, 455 First Avenue, 12th Floor  
New York, NY 10016. Geri Bell (212) 447-2588  
gbell@health.nyc.gov

d22-29

#### Services (Other Than Human Services)

**MAINTENANCE OF IBM MACHINES** – Sole Source – Available only from a single source - PIN# 10MI067801R0X00 – DUE 12-30-09 AT 4:00 P.M. – The Department intends to award a contract to International Business Machines Corporation (IBM) for maintenance of IBM equipment (annual IBM maintenance renewal). The contract term will be from 7/1/09 to 6/30/12.

Any vendor that believes they can also provide these services for such procurement in the future is invited to indicate an expression of intent by letter.

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, 22 Cortlandt Street, 28th Fl.,  
New York, NY 10013. Lisa Grace (212) 313-5108  
lgrace@health.nyc.gov

d22-29

**PICK UP DELIVERY SERVICES FOR SPECIMENS** – Sole Source – Available only from a single source - PIN# 10LB051501R0X00 – DUE 01-04-10 AT 4:00 P.M. – The NYC DOHMH intends to enter a Sole Source contract with Federal Express Corporation to provide services for transportation of Infectious substances. The term of this contract will be from March 3, 2010 to March 1, 2014.

Any vendor that believes it can also provide these services for such procurement in the FUTURE is invited to indicate an expression of intent by letter.

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, 455 First Avenue, 12th Floor  
New York, NY 10016. Geri Bell (212) 447-2588,  
gbell@health.nyc.gov

d21-28

## HOMELESS SERVICES

### OFFICE OF CONTRACTS AND PROCUREMENT

#### SOLICITATIONS

#### Human / Client Service

**TRANSITIONAL RESIDENCES FOR HOMELESS/DROP-IN CENTERS** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# 071-00S-003-262Z – DUE 06-25-10 AT 10:00 A.M. – The Department of Homeless Services is soliciting proposals from organizations interested in developing and operating transitional residences for homeless adults and families including the Neighborhood Based Cluster Residence and drop-in centers for adults. This is an open-ended solicitation; there is no due date for submission.

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

Department of Homeless Services, 33 Beaver Street  
13th Floor, New York, NY 10004.  
Marta Zmoira (212) 361-0888, mzmaira@dhs.nyc.gov

j12-24

## HOUSING AUTHORITY

### SOLICITATIONS

#### Construction / Construction Services

**BUILDING ENTRANCE IMPROVEMENTS AT EAST 173RD ST. / VYSE AVENUE** – Competitive Sealed Bids – PIN# GR9012062 – DUE 01-12-10 AT 10:00 A.M. – Bid documents are available Monday through Friday, 9:00 A.M. to 4:00 P.M., for a \$25.00 fee in the form of a money order or certified check made payable to NYCHA.

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.

Housing Authority, 90 Church Street, 11th Floor  
New York, NY 10007. Gloria Guillo, MPA, CPPO  
(212) 306-3121, gloria.guillo@nychc.nyc.gov

d18-24

#### Services (Other Than Human Services)

**THIRD PARTY ADMINISTRATOR FOR WORKERS COMPENSATION** – Request for Proposals – PIN# 3066680 – DUE 01-15-10 AT 4:00 P.M.

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

Housing Authority, 90 Church Street, Room 6-501  
New York, NY. Robert Burke (212) 306-6680  
Robert.Burke@nychc.nyc.gov

d22

## JUVENILE JUSTICE

### SOLICITATIONS

#### Human / Client Service

**PROVISION OF NON-SECURE DETENTION GROUP HOMES** – Negotiated Acquisition – Judgment required in evaluating proposals - PIN# 13010DJJ000 – DUE 06-30-11 AT 2:00 P.M. – The Department of Juvenile Justice is soliciting applications from organizations interested in operating non-secure detention group homes in New York City. This is an open-ended solicitation; applications will be accepted on a rolling basis until 2:00 P.M. on 6/30/11.

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

Department of Juvenile Justice, 110 William Street  
14th Floor, New York, NY 10038.  
Chuma Uwechia (212) 442-7716, cuwechia@djj.nyc.gov

jy1-d16

## PARKS AND RECREATION

### CONTRACT ADMINISTRATION

#### SOLICITATIONS

#### Construction / Construction Services

**ADAPTIVE USE OF THE COMFORT STATION AS A LITTLE LEAGUE FACILITY AND PUBLIC RESTROOM** – Competitive Sealed Bids – PIN# 8462010M058C02 – DUE 01-29-10 AT 10:30 A.M. – In Marcus Garvey Park, Manhattan, known as Contract #M058-107MA. Vendor Source ID#: 65468.

A pre-bid meeting is scheduled for Friday, January 15, 2010, Design Conference Room, Olmsted Center at 2:00 P.M.

● **CONSTRUCTION AND RECONSTRUCTION OF PLAYGROUNDS IN SCHOOL YARDS** – Competitive Sealed Bids – PIN# 8462010Q000C02 – DUE 01-21-10 AT 10:30 A.M. - At IS 5; PS 721; PS 177 and PS 107, Queens, known as Contract #QG-309MA. Vendor Source ID#: 65469.

These procurements are subject to participation goals for MBEs and/or WBEs as required by Local Law 129 of 2005.

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

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

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

d22

### REVENUE AND CONCESSIONS

#### SOLICITATIONS

#### Services (Other Than Human Services)

**OPERATION OF THREE (3) MOBILE FOOD UNITS AND THE RENOVATION, OPERATION, AND MANAGEMENT OF A PARKING LOT, SNACK BAR, AND BEACH SHOP** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# B251-SB,PL – DUE 01-22-10 AT 3:00 P.M. – At Manhattan Beach, Brooklyn.

Parks will hold an on-site proposer meeting and site tour on Thursday, January 7, 2010 at 11:00 A.M. at the parking lot entrance at Oriental Blvd. and Irwin Street in Brooklyn. All interested parties are urged to attend.

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

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

Parks and Recreation, The Arsenal-Central Park  
830 Fifth Avenue, Room 407, New York, NY 10021.  
Joel Metlen (212) 306-1397, joel.metlen@parks.nyc.gov

d17-31

**RENOVATION, OPERATION AND MAINTENANCE OF A MARINA AND OPTIONAL FOOD SERVICE FACILITY** – Competitive Sealed Proposals – Judgment required in evaluating proposals - PIN# R79-M – DUE 01-29-10 AT 3:00 P.M. – At Lemon Creek Park, Staten Island.

Parks will hold an on-site proposer meeting and site tour on Thursday, January 14, 2010 at 11:00 A.M. We will be meeting at Lemon Creek Park along Lemon Creek, which is situated just off of Raritan Bay and Johnson Terrace between Seguire Avenue and Bayview in the parking lot off of Seguire Avenue. All interested parties are urged to attend.

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

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

*Parks and Recreation, The Arsenal-Central Park  
830 Fifth Avenue, Room 407, New York, NY 10021.  
Sandra Huber (212) 360-1397, sandra.huber@parks.nyc.gov*

d18-j4

## SCHOOL CONSTRUCTION AUTHORITY

### CONTRACT ADMINISTRATION

#### ■ SOLICITATIONS

#### Construction / Construction Services

**WINDOW LINTELS, EXTERIOR MASONRY, ROOF** – Competitive Sealed Bids – PIN# SCA10-12915D-1 – DUE 01-07-10 AT 11:30 A.M. – PS 92 (Brooklyn). Project Range: \$2,240,000.00 to \$2,360,000.00. Non-refundable bid documents charge: \$100.00, certified check or money order only. Make checks payable to the New York City School Construction Authority. Bidders must be pre-qualified by the SCA.

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

*School Construction Authority, 30-30 Thomson Avenue  
Long Island City, NY 11101. Rookmin Singh (718) 752-5843  
rsingh@nycsca.org*

d17-23

**FLOOD ELIMINATION** – Competitive Sealed Bids – PIN# SCA10-12031D-1 – DUE 01-11-10 AT 11:00 A.M. – JHS 10 (Queens). Project Range: \$1,090,000.00 to \$1,151,000.00. Non-refundable bid documents charge: \$100.00, certified check or money order only. Make checks payable to the New York City School Construction Authority. Bidders must be pre-qualified by the SCA.

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

*School Construction Authority, 30-30 Thomson Avenue  
Long Island City, NY 11101. Rookmin Singh (718) 752-5843  
rsingh@nycsca.org*

d21-28

### PROCUREMENT

#### ■ SOLICITATIONS

#### Construction / Construction Services

**PARAPETS/EXTERIOR MASONRY** – Competitive Sealed Bids – PIN# 10-13040D-1 – DUE 01-07-10 AT 10:30 A.M. – PS 55 (Queens). Project Range: \$3,491,000.00 - \$3,700,000.00. Pre-bid meeting 12/28/09 at 10:00 A.M. Non-refundable bid document charge: \$100.00, certified check or money order only. Make payable to The New York City School Construction Authority. Bidders must be pre-qualified by the SCA.

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

*School Construction Authority, 30-30 Thomson Avenue  
Long Island City, NY 11101. Iris Vega (718) 472-8292  
ivega@nycsca.org*

d21-28

## AGENCY RULES

## HEALTH AND MENTAL HYGIENE

### ■ NOTICE

#### NOTICE OF ADOPTION OF A RESOLUTION TO REPEAL AND RECODIFY ARTICLE 88 OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the “Charter”) and pursuant to the authority granted to the Board of Health by §558 of said Charter, notice of intention to repeal and recodify Article 88 (Temporary Food Service Establishments) of the New York City Health Code (the “Health Code”) was published in the City Record on September 28, 2009, and a public hearing was held on October 30, 2009. No persons testified and no written comments were received. However, as a result of further consideration, certain changes were made to requirements for permits, in §88.05. At its meeting on December 17, 2009, the Board of Health adopted the following resolution.

#### STATUTORY AUTHORITY

These amendments to the Health Code are promulgated pursuant to §§558 and 1043 of the Charter. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Commissioner and the Department of Health and Mental Hygiene (“the Department”) extends. Section 1043 grants the Department rule-making authority.

#### STATEMENT OF BASIS AND PURPOSE

#### INTRODUCTION

As part of a comprehensive review of the Health Code, the Board of Health has repealed and recodified Article 88 (“Temporary Food Establishments”) of the Health Code, and retitled the Article as “Temporary Food Service Establishments.” The title change better reflects practice and the regulatory environment. As recodified, Article 88 provides adequate legal tools to effectively address the health and safety needs of the public. Particular attention has been placed on emphasizing the applicability of relevant provisions of Article 81 (“Food Preparation and Food Establishments”) to the operation of temporary food service establishments.

In compliance with §1043(b) of the Charter, an initial Notice of Intention to Repeal and Recodify Article 88 (“Temporary Food Service Establishments”) was published in the City Record on September 22, 2008, and a public hearing was held on October 24, 2008. Since that time, however, additional changes were proposed in response to comments from agency staff and other City agency personnel. The major change involves an additional category of temporary food service establishments, those which are part of recurring events, and do not occur only on 14 or fewer consecutive days. These events have become more common in the City. For example, weekly flea markets in Fort Greene and at the foot of the Brooklyn Bridge in Brooklyn are scheduled for every Saturday or Sunday, from Spring through the Fall, and food service becomes an important part of the event. In some cases, the food becomes as important an event as the generating activity, such as the food services provided seasonally by the Red Hook Food Vendors Committee (“RHFV”) every weekend during local park sports and recreational activities. The press release of the RHFV at the beginning of its 2009 season provides the times and locations of its food services and reads, in pertinent part as follows:

“(Brooklyn, New York)- The Food Vendors Committee of Red Hook Park Inc. (AKA Red Hook Food Vendors; RHFV) is thrilled to announce the kick-off of their 09 season beginning May 2nd, 2009 in Red Hook park, Brooklyn every weekend through the end of October. Extended days of operation will include long holiday weekends, including Memorial Day & Labor Day weekends.

RHFV are also pleased to announce their continued collaboration with the incredibly successful Brooklyn Flea and its new DUMBO market location. RHFV satellite stands will open for business beginning April 18th at The Flea in Fort Greene every Saturday, and at the DUMBO market every Sunday—(For more information, please visit [www.brooklynflea.com](http://www.brooklynflea.com).)”

Article 88 of the Health Code and Subpart 14-2 (“Temporary Food Service Establishments”) of the State Sanitary Code §14-2.1 currently define temporary food service establishments (“TFSEs”) as those occurring for no more than “14 consecutive days duration” and neither the City nor the State provides for a permit for a TFSE operating for periods greater than 14 consecutive days. As a result, the Department is often attempting to determine whether the food service establishments at such recurring events should be considered mobile food vending or some other kind of food service establishment. Because these food service establishments are set up at recurring events, and may or may not conform to the definitions of “mobile food vending units” contained in Article 89 of the Code, the Department generally attempts, in each case, to modify requirements applicable to mobile food vending in an effort to accommodate such events, and impose additional necessary requirements for protection of public health, as appropriate. Having a category of “recurring event TFSE” makes it possible for these establishments to know in advance what regulations they will be required to comply with in every case, and not rely on modifications of other regulations that are not quite applicable.

In addition, after further discussions with the City agency responsible for permitting street events, the Department has determined that permitting of TFSEs may be conducted in a manner that is more responsive to the needs of their operators, without compromising public health interests, by (1) issuing an annual permit to persons who operate their TFSE at multiple events during the year and (2) not requiring an additional permit to operate a TFSE if the operator of the TFSE also currently holds a permit pursuant to Article 81 to operate a fixed food service establishment in New York City.

The following changes include those previously published and ones that have been made since the original publication for comment.

#### §88.01 Scope.

This section is new. It reinforces the DOHMH policy of considering temporary food service establishments as a type of food service establishment subject to Article 81 and other pertinent provisions of the Code, to the New York State Sanitary Code (10 NYCRR Chapter 2), and all rules and regulations governing the use of public streets.

#### §88.03 Definitions.

Definitions in former §88.01 appear in a new § 88.03, and the new section is expanded from two to five definitions. The term “temporary food service establishment” is redefined because these establishments may be found in many public and private, indoor and outdoor settings, and in connection with many different kinds of events and promotions.

A number of exceptions to the definition are listed, including for places where food is prepared by and served exclusively to group members and where the public is not invited, such as a school bake sale operated by a parent-teacher association. This is consistent with the State Sanitary Code §14-1.20, which excludes from the definition of a food service establishment those “food service operations where a distinct group mutually provides, prepares, serves and consumes the food such as a ‘covered dish supper’ limited to a congregation, club or fraternal organization.” Further exceptions added are for nutrition education programs and cooking demonstrations, and service of non-potentially hazardous

foods and beverages to participants or attendees at meetings or social functions when such “incidental refreshments” are prepared by the organization holding the meeting or function. A note to this section clarifies that when food is served to the public under other circumstances, authorization or a permit from the Department is required. The section defines other terms used in Article 88, including “event,” “food,” “sponsor,” and “operator.” The definition of “temporary food processing establishment” was deleted as obsolete. In addition, as noted above, the definition of temporary food service establishment now includes food services that are provided at events that recur at intervals that exceed 14 consecutive days.

#### §88.05 Permit required.

This section incorporates provisions of former §88.21 (“Responsibility of sponsor”) and amends former §88.03 (“Permit, registration”) as follows:

- Permits are required to operate any TFSE serving or distributing food to the public, including food provided by all commercial operators who contract with neighborhood, school, religious, fraternal or other affinity groups sponsoring community events. However, no additional TFSE permit is required for a fixed food service establishment that is currently operating a TFSE with a permit for a food service establishment issued pursuant to Articles 5 and 81 of the Health Code. Proof of an Article 81 permit must be provided, such as a copy of the permit, and the Article 81 permittee will be responsible for compliance with all requirements of Article 88.
- Permits are required for events that take one day or less or occupy one or more blocks.
- The distinction between temporary food processing and non-food processing establishments has been eliminated; all are considered TFSEs.
- An operator of a TFSE who is invited by sponsors of various events to participate in multiple events during a year may apply for a single annual permit.
- All operators of TFSEs are required to obtain a permit at least 30 days prior to any event in which they participate.
- All permits shall be made available for inspection on request.

#### §88.07 Food safety and protection.

This section replaces former §§ 88.05 and 88.09. It requires all permittees operating TFSEs to hold a food protection certificate (required by former §88.19) issued by the Department or a certificate issued by another jurisdiction that is acceptable to the Department. New requirements are added for thermometers to be provided and used to confirm that the establishment is holding potentially hazardous foods at required temperatures, and for using ice safely when holding potentially hazardous foods. However, prohibitions on service of specific potentially hazardous foods without the approval of the Department are eliminated. The Department has concluded that the new requirement that every operator or supervisor of food services at a TFSE hold a food protection certificate will result in increased food safety. Operators and supervisors will be better educated and more aware of the dangers of serving some potentially hazardous foods in event settings where environmental conditions may be difficult or impossible to control.

Subdivision (f) retains the Commissioner’s authority to prohibit sales or service of specific potentially hazardous foods or types of foods, including raw fish and shellfish.

Certain provisions originally proposed for inclusion in this section regarding hot and cold holding equipment and thermometers were deleted from this section and have been added to §88.09.

#### §88.09 Construction, facilities, equipment and utensils.

This section incorporates provisions from former §§88.07 and 88.15, as well as provisions from Article 81 regarding maintenance of food contact surfaces; sanitizing of utensils and equipment; provision of adequate shielded lighting; and the ventilation of steam, condensation, odors and fumes to prevent a nuisance.

Subdivision (h) requires that adequate hand washing facilities be provided, in accordance with Article 81. However, because the Department recognizes that there may be substantial variability in the plumbing facilities available at events and at participating TFSEs, this provision will allow the Department to approve alternative arrangements for hand washing where strict compliance with this Code requirement is not feasible.

A chart has been added to this section (Table 1) to enable a TFSE operator to determine the minimum equipment required, depending upon the food processes used, and whether food being prepared is potentially hazardous or prepackaged. Various subdivisions describe the general requirements for all equipment.

#### §88.11 Cooking and heating equipment.

This section retains requirements that equipment not create a hazard, and that flammable materials be maintained in accordance with Fire Department regulations and specifications.

#### §88.13 Water supply.

This section incorporates more rigorous requirements governing the provision and use of potable water for food preparation, and for hand washing and cleaning equipment, to protect food from contamination from untreated water, in accordance with the State Sanitary Code.

#### §88.15 Toilets and hand wash sinks.

This section is new and requires that sponsors of events provide adequate portable toilets and adjacent hand washing, soap and drying facilities for use of workers and patrons of

TFSEs where fixed plumbing facilities are not adequate or available.

#### §88.17 Single service articles.

This section retains a requirement for use of single service articles, as defined in Article 81.

#### §88.19 Refuse and trash.

This section is amended to clarify that its provisions for clean up do not apply to events regulated by the Mayor's Office of Citywide Events Coordination and Management, Street Activity Permit Office ("SAPO"). This office, in accordance with Mayor's Executive Order 100 (March, 2007) regulates all City public street and sidewalk events, and requires event sponsors to arrange with the New York City Department of Sanitation for the cleaning of streets and sidewalks and the appropriate disposal of wastes generated at such events. For other events, this section requires cleaning and maintenance. At the request of the Department of Sanitation, a provision related to disposal of recyclable materials has been added.

#### §88.21 Enforcement.

A provision authorizing the closure of a TFSE, formerly in §88.23, has been added to subdivision (b) of the revised §88.21. A new subdivision (a) ("Imminent health hazards") will allow the Department to dispose of food or order the disposal or sealing of unsafe, unclean, damaged or otherwise unsafe equipment that it identifies as an imminent health hazard, as defined in Article 81. Subdivision (c) incorporates a requirement of State Sanitary Code §14-2.17 (d) that access be provided to the Department's inspectors.

#### §88.23 Modification.

This section retains the authority of the Commissioner to modify requirements when strict compliance with a provision presents practical difficulties or unusual or unreasonable hardship.

The Proposal is as follows:

Matter underlined is new

**RESOLVED**, that Article 88 and the list of section headings for Article 88 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby are repealed and recodified, to be printed together with introductory notes to read as follows:

### **ARTICLE 88 TEMPORARY FOOD SERVICE ESTABLISHMENTS**

#### §88.01 Scope.

#### §88.03 Definitions.

#### §88.05 Permit required.

#### §88.07 Food safety and protection.

#### §88.09 Construction, facilities, equipment, and utensils.

#### §88.11 Cooking and heating equipment.

#### §88.13 Potable water supply.

#### §88.15 Toilets and hand wash sinks.

#### §88.17 Single service articles.

#### §88.19 Refuse and trash.

#### §88.21 Enforcement.

#### §88.23 Modification

#### *Introductory Notes:*

As part of a comprehensive review of the Health Code to assess its efficacy in protecting the public health, Article 88, "Temporary Food Service Establishments," was repealed and recodified by resolution of the Board of Health on December 17, 2009, to better reflect current practice and the regulatory environment, to provide adequate legal tools to effectively address the health and safety needs of the public and to harmonize its provisions with related provisions of the State Sanitary Code. As part of the revision effort, particular attention has been focused on the applicability of Article 81 ("Food Preparation and Food Establishments") to the operation of temporary food service establishments. A temporary food service establishment has been redefined to include not only food service establishments operating at events that is scheduled for 14 or fewer days, but also those at recurring events throughout the year, provided that each such event is scheduled for no more than three days per week.

#### §88.01 Scope.

A temporary food service establishment shall be constructed, maintained and operated in accordance with this article, Article 81 of this Code, Subpart 14-2 of the State Sanitary Code or successor regulations, and Chapter 23 ("Food Service Establishment Sanitary Inspection Procedures") of Title 24 of the Rules of the City of New York. Such temporary food service establishment shall not present a danger to the health or safety of patrons or to the public health with respect to the condition of the establishment, its equipment, utensils, personnel, mode of operations, surroundings, water supply, liquid and solid waste and sewage disposal, food served and appurtenances.

#### §88.03 Definitions. When used in this Article:

(a) *Event* shall mean (i) a single event or activity where food or food samples are distributed to the public, with or without charge, that operates for a period of time not to exceed fourteen (14) consecutive days, or (ii) a recurring event, that operates for a period of time not to exceed three days per week. Such event shall be scheduled to occur at a single specified location, where access is controlled by the event's sponsor, and may be held indoors or outdoors, in public or privately owned or leased premises, and shall include but not be limited to:

- (1) A street activity, regardless of whether the event requires a permit issued in accordance with the rules of the Mayor's Office of Citywide Events Coordination and Management, or any successor office or agency;
- (2) A business, advertising or media promotion or convention;
- (3) A celebration; a street or other fair; or
- (4) A sporting event, carnival, flea market, circus, public

exhibition, festival, religious or fraternal organization function, parade or other similar gathering.

(b) *Food* shall have the same definition as set forth in Article 71 of this Code.

(c) *Operator* shall mean the permittee or person who owns, operates, manages, controls or is otherwise in charge of a temporary food service establishment providing food services at an event, and who has been issued a permit by the Commissioner in accordance with §88.05 of this Article.

(d) *Potentially hazardous food* shall have the same meaning as set forth in Article 81 of this Code.

(e) *Sponsor* shall mean the person or organization that organizes, controls and manages the event at which a temporary food service establishment provides food service.

(f) *Temporary food service establishment* shall mean an individual food service establishment, as defined in Article 81 of this Code, operating from a booth, stand, vehicle, or cart, in a fixed public or private, indoor or outdoor location, at an event, where foods are stored, prepared or held for service to the public. A temporary food service establishment shall also mean a person who vends, dispenses or distributes pre-packaged or other non-potentially hazardous foods from a container or other equipment approved by the Department, that is carried upon his or her person at an event. A temporary food service establishment shall not mean:

(1) A food service establishment issued a permit in accordance with Article 81 of this Code that operates a temporary food service establishment in connection with an event in a public place directly outside and adjacent to the permitted establishment, that serves food prepared within the permitted establishment or by workers employed by the permitted establishment; or

(2) A place where a distinct neighborhood, school, religious, fraternal or other affinity group prepares, provides, or serves foods for consumption by such group, and where the public is not invited; or

(3) Service of incidental refreshments, consisting of pre-packaged or other foods and beverages, that are not potentially hazardous, as defined in Article 81 of this Code, that are prepared and served to participants or attendees at a business meeting or social function, when such refreshments are prepared by the organization or group holding the meeting or social function; or

(4) Food, nutrition and cooking demonstrations by governmental agencies or not-for-profit organizations or their contractors, for the purpose of providing education on nutrition, healthy eating, diet quality, food selection and preparation, safe food handling, or storage practices and food resource management.

#### *Notes:*

With respect to applicability of paragraph (2) of subdivision (f), distinct neighborhood, school, religious, fraternal or other affinity groups that invite the public to purchase foods are deemed to be operating either a temporary food service establishment or a food service establishment as defined in §81.05 of this Code. Such groups are required to notify the Department and obtain either the Department's authorization or a permit for operation of a temporary or other food service establishment. Similarly, with respect to the enforcement of paragraph (3) of subdivision (f), food service establishments or caterers providing any food and beverages at meetings or social functions are required to hold a permit issued in accordance with Article 81, regardless of whether refreshments are incidental.

#### §88.05 Permit required.

(a) A sponsor of an event shall not rent space to, nor allow food to be prepared, stored, served or sold by, any temporary food service establishment that fails to obtain a current and valid temporary food service establishment permit for the event. All sponsors and distinct neighborhood, school, religious, fraternal or other affinity groups contracting with commercial vendors shall require all such vendors to obtain temporary food service establishment permits.

(b) The sponsor shall submit to the Department, at least thirty (30) days prior to the first date of the event, a list of all individual food establishments and operators expected to participate in the event and, where feasible, an application for a permit from each operator of a temporary food service establishment at the event.

(c) The operator of each temporary food service establishment at an event shall obtain a permit issued by the Commissioner; provided, however, that no additional permit shall be required if the operator holds a currently valid permit to operate a food service establishment. Such existing permit, or a copy of such permit issued pursuant to Articles 5 and 81 of this Code shall be maintained at the temporary food service establishment and made available upon request of a Department inspector or a New York Police Department officer.

(d) The Commissioner may issue an annual permit to an operator of a temporary food service establishment who participates in multiple events during the year at the invitation of the sponsors of such events.

(e) All operators of temporary food service establishments shall maintain permits at the establishment during all hours of operation and shall make such permits available for inspection.

#### §88.07 Food safety and protection.

(a) *Food protection certificate required.* The operator or supervisor of food services at each temporary food service establishment shall hold a food protection certificate issued by the Department, or a certificate issued by another jurisdiction that is acceptable to the Department.

(b) *Food sources.* Food shall be obtained from approved sources, as defined in Article 81, operating pursuant to licenses or permits issued by federal, state or local regulatory agencies.

(c) *Utensils for service of food.* Between uses, food dispensing utensils shall be stored in food with the handle extended out of the food, or kept clean and dry and protected from contamination.

(d) *Ice.* Ice that is consumed or that touches food and food contact surfaces or utensils shall be made from potable water from approved sources in a manner that protects it from contamination. Ice shall be obtained only in chipped, crushed

or cubed form and in single-use food grade plastic or wet-strength paper bags filled and sealed at the point of manufacture. Ice shall be held until dispensed, in the manufacturer's bags, in a manner that protects it from contamination.

(e) *Cold storage on ice.* Packaged food may be stored in direct contact with ice or water if the food's packaging, wrapping, container or position in the ice prevents ice or water from direct contact with food or entering the package or container upon opening. Areas of packaging intended for use as eating or drinking surfaces shall not be in contact with ice or water at any time.

(f) *Prohibitions on processing, or service of specific foods.*

(1) No raw fish or shellfish shall be sold at a temporary food service establishment.

(2) The Commissioner may prohibit the sale or service of any other specific potentially hazardous foods or types of foods by temporary food service establishments.

(3) Whole animals shall not be butchered, de-boned, dressed, or cut into portion size at a temporary food service establishment.

(4) At the end of each day's service, leftover potentially hazardous foods shall be discarded if not sold.

(g) Persons who are not employed at a temporary food service establishment shall not be allowed to enter the establishment at any time.

(h) No person who is sick, or has any signs of illness or infection, as described in Article 81 of this Code, shall work in any temporary food service establishment.

#### §88.09 Construction, facilities, equipment, and utensils.

(a) *Equipment requirements.* Equipment and utensils shall be provided to prevent contamination and maintain temperatures of potentially hazardous and other foods, and to prevent nuisances, in accordance with Table 1 of this section.

#### (b) Food contact surfaces.

(1) Food contact surfaces, equipment and utensils shall be designed and constructed of materials that facilitate cleaning and inspection of all parts and shall be smooth and free from cracks or pits.

(2) All food contact surfaces, equipment and utensils shall be kept clean and shall be sanitized prior to use and as needed to prevent food contamination.

(3) Operators shall not use utensils, pots or containers that are chipped, cracked, rusted, corroded, badly worn or otherwise not easily cleaned and sanitized.

(4) Cloths used for wiping food spills from food contact surfaces must be kept clean and in a sanitary condition in accordance with Article 81 of this Code.

(d) *Lighting.* When the temporary food service establishment uses artificial lighting, shatter-proof or shatter guarded lighting shall be installed to adequately light all food contact and food preparation surfaces. Lighting fixtures located over or near food storage, preparation and service facilities shall be shielded to prevent broken glass from falling into food or onto food-contact surfaces.

(e) *Ventilation.* When required by Table 1 of this section, temporary food service establishments shall be ventilated so as to prevent nuisances resulting from excessive heat, steam, condensation, vapors, odors, smoke and fumes.

(f) *Culinary sinks.* When required by Table 1 of this section, a one compartment sink shall be provided and used only for washing raw foods. Such sink shall be sanitized between uses to prevent cross-contamination, and shall not be used for hand washing.

(g) *Sanitization and ware washing sinks.* When required by Table 1 of this section, sinks shall be provided for sanitizing of utensils and equipment. The number of compartments necessary in each such sink shall depend upon the method of sanitizing used and the instructions provided by the manufacturer of the sanitizing solution being used.

(h) *Hand washing facilities.* No person operating or working at a temporary food service establishment shall have bare hand contact with any ready to eat unpackaged foods. When required by Table 1 of this section, hand washing sinks dispensing hot and cold potable running water, equipped with soap dispensers, and drying devices or paper towels, shall be provided in or adjacent to each temporary food service establishment and in or adjacent to all toilet facilities at an event, and hand washing facilities may be shared provided they are conveniently located to the establishments vending at an event. When the operator of an establishment or the event sponsor cannot meet the hand washing requirements of Article 81 or this Article, the operator or event sponsor shall, in advance of the event, obtain prior Department approval for alternate hand washing arrangements.

(i) *Overhead structure.* When required by Table 1 of this section, and except where all foods are dispensed from closed containers, an overhead device, structure or awning shall be installed to protect food from dust, birds, dirt, rodents, insects and other pests, foreign material and other forms of contamination, in accordance with Article 81 of this Code.

(j) *Thermometers.* When required by Table 1 of this section, metal stem-type, numerically scaled, indicating thermometers, thermocouples, or thermistors, accurate to plus or minus two degrees Fahrenheit (one degree Celsius) shall be provided and used to determine whether required internal cooking, holding or refrigeration temperatures of all potentially hazardous foods are obtained and maintained in accordance with Article 81.

(k) *Hot and cold holding.* When required by Table 1 of this section, sufficient equipment and storage shall be provided and used to maintain potentially hazardous foods at temperatures required by Article 81 of this Code.

(l) *Storage facilities.* When temporary food service establishments are operating as part of a recurring event, such establishments may be stored at the event site or in another approved location, provided that any place in which an establishment is stored is constructed of materials whose surfaces are easily cleanable, non-toxic, non-absorbent and smooth and enclosed to afford protection from environmental contamination.

(1) Garbage and waste materials shall not be permitted to accumulate, create harborage conditions, or become a nuisance, but shall be stored, handled and disposed of in a sanitary manner that shall not create a nuisance.

(2) No cleaning shall be done on public streets or sidewalks.

- (3) No live animals shall be kept in any storage facility.  
 (4) No food shall be kept in any storage facility.

§88.09. TABLE 1. EQUIPMENT REQUIRED FOR TEMPORARY FOOD SERVICE ESTABLISHMENTS

Type of equipment required	Potentially hazardous raw foods	Potentially hazardous prepared foods	Potentially hazardous prepackaged foods	Non-potentially hazardous unpackaged foods	Non-potentially hazardous prepackaged foods
Culinary sink	X	X	=	=	=
Sanitizing/ware washing sink	X	X	=	X	=
Hand wash sink	X	X	=	X	=
Waste water tank	X	X	=	X	=
Overhead structure	X	X	=	X	=
Ventilation	X	X	=	X	=
Cold holding	X	X	X	=	=
Hot holding	X	X	X	=	=
Thermometers	X	X	X	=	=

**§88.11 Cooking and heating equipment.**

(a) *Hazards.* Cooking and heating equipment shall be constructed, located and used so as not to create a hazardous condition.

(b) *Flammable materials.* Storage and use of flammable material and fuel shall comply with all applicable law, rules, and standards, including those of the Fire Department.

**§88.13 Water; potable water supply; disposal of waste water.**

(a) *Potable hot and cold water.* Each temporary food service establishment shall be provided with sufficient potable hot and cold water from sources approved by the Department for food preparation, cleaning equipment and hand washing.

(b) *Bottled and packaged water.* Bottled and packaged potable water shall be obtained from a source approved by the State Commissioner of Health and handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(c) *Water tanks.*

(1) Potable water storage tanks in temporary food service establishments shall be constructed from food-grade materials, in accordance with Article 81 of this Code.

(2) Water storage tanks shall be sanitized, emptied and rinsed with potable water before use and between temporary food service events.

(3) Water shall not be transported from one event to another event.

(d) *Waste water storage and disposal.*

(1) The sponsor shall arrange for daily storage and disposal of waste water generated by each temporary food service establishment at an event in a manner that does not create a nuisance. Waste water storage containers shall be enclosed and leak-proof.

(2) When required by Table 1 of §88.09, temporary food service establishments shall maintain waste water storage tanks and pipes designed in manner that does not result in leaks or spills on sidewalks or public streets. Drains for waste water from sinks, refrigeration, other holding units, and cooking equipment shall be designed and installed so as to prevent backflow from waste water storage tanks into potable water supplies.

**§88.15 Toilets and hand wash sinks required.** Where sufficient fixed or permanent plumbing facilities are not available, the sponsor of an event shall provide and maintain portable chemical toilets, hand washing sinks equipped with hot and cold potable running water and drying facilities for use by temporary food service establishment food workers and patrons.

**§88.17 Single service articles.** Only single use articles as defined and described in Article 81 of this Code shall be provided for patrons' use, and shall be discarded after use.

**§88.19 Refuse and trash.**

(a) *Containers.* Where an event is not subject to the rules of the Mayor's Office of Citywide Events Coordination and Management Street Activity Permit Office (Chapter 1 of Title 50 of the Rules of the City of New York), or successor office or agency, the sponsor shall provide or arrange for an adequate number of receptacles and containers, constructed in compliance with Article 151 of this Code, for the storage and disposal of refuse, garbage and recyclables.

(b) *Cleaning and maintenance.* The sponsor shall maintain or arrange for maintenance of the event area and for the collection and removal of accumulated refuse and garbage at regularly scheduled intervals during and after the event.

**§88.21 Enforcement.**

(a) *Imminent health hazards.* When, in the opinion of the Department, any food, equipment, or temporary food service establishment at an event presents an imminent health hazard as defined in Article 81 of this Code, or is in an unclean condition, or is in disrepair or damaged to such an extent so as to render it unsafe, such food, equipment, establishment or any part thereof may be ordered sealed and its use or operation immediately discontinued upon the order of the Commissioner or designee. Upon such sealing, the Department shall affix thereto labels or conspicuous signs stating that the establishment has been closed because of an imminent health hazard. The operator may request an immediate opportunity to be heard by the Department, and an opportunity to reopen upon curing the imminent health hazard. Labels or signs affixed by the Department shall not be removed except as authorized by the Department.

(b) *Closure.* A temporary food service establishment found operating without a valid permit in violation of this Article shall be ordered closed and the operator ordered to cease all

food operations and to remain closed until the operator obtains a currently valid permit for the temporary food service establishment.

(c) *Access required.* Department inspectors shall be permitted access for purposes of inspection at all times that a temporary food service establishment is operation, regardless of whether it is open to the public for service of food. Refusal of access or admittance of an inspector shall be cause for revocation of a permit and issuance of an order to close.

**§88.23 Modification.** The Commissioner may modify requirements of this Article when compliance presents practical difficulties or unusual or unreasonable hardships in a specific instance, consistent with the purpose and intent of this Article and this Code.

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**NOTICE OF INTENTION TO AMEND ARTICLE 161 OF THE NEW YORK CITY HEALTH CODE**

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, notice is hereby given of the proposed amendment of Article 161 (Animals) of the New York City Health Code (the "Health Code").

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE WILL HOLD A PUBLIC HEARING ON THE PROPOSAL FROM 10:00 A.M. TO 12:00 NOON ON TUESDAY, FEBRUARY 3, 2010 IN THE THIRD FLOOR BOARDROOM (ROOM 330) AT 125 WORTH STREET, NEW YORK, NEW YORK 10013.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK SHOULD NOTIFY, IN WRITING, RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK; (212) 788-5010 BY 5:00 P.M. MONDAY, FEBRUARY 2, 2010. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL BUSINESS HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013; (212) 788-5010 BY JANUARY 20, 2010. REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 12:00 P.M. ON FEBRUARY 3, 2010. HOWEVER, PREFERENCE WILL BE GIVEN TO THOSE WHO PREREGISTER.

WRITTEN COMMENTS REGARDING THE PROPOSAL ADDRESSED TO THE ATTENTION OF THE BOARD OF HEALTH MUST BE SUBMITTED TO RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, BY MAIL TO 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013, BY FAX TO (212) 788-4315, BY E-MAIL TO RESOLUTIONCOMMENTS@HEALTH.NYC.GOV OR ONLINE (WITHOUT ATTACHMENTS) AT <http://www.nyc.gov/html/doh/html/notice/notice.shtml> ON OR BEFORE 5:00 P.M., TUESDAY, FEBRUARY 3, 2010. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED. COMMENTS RECEIVED AFTER FEBRUARY 3, 2010 WILL BE CONSIDERED TO THE EXTENT POSSIBLE.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY TO THE BOARD OF HEALTH AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. AT THE OFFICE OF THE SECRETARY. THE DEPARTMENT'S GENERAL POLICY IS TO MAKE WRITTEN COMMENTS AVAILABLE FOR PUBLIC VIEWING ON THE INTERNET. ALL COMMENTS RECEIVED, INCLUDING ANY PERSONAL INFORMATION PROVIDED, WILL BE POSTED WITHOUT CHANGE TO <http://www.nyc.gov/html/doh/html/comment/comment.shtml>

**STATUTORY AUTHORITY**

These amendments to the Health Code are promulgated pursuant to §§558 and 1043 of the Charter. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Commissioner and the Department of Health and Mental Hygiene (the Department) extends. Section 1043 grants the Department rule-making authority.

**Statement of Basis and Purpose**

**Introduction**

As part of a comprehensive review of the Health Code, the DOHMH proposes that Board of Health update various provisions of Article 161 of the Health Code to assure that it provides adequate legal tools for the Board and DOHMH to effectively address the City's current public health needs related to animals, and to provide consistency with other applicable law. The revisions reflect current law, policies and practices and update provisions regarding permits and licenses, dangerous dogs, shelter animals, pest management and stables for horses. Not all sections of the Article would be amended, however. The following changes are proposed.

**§ 161.01. Wild and other animals prohibited**

The title of this section has been amended to add the term "other animals" to more correctly reflect its provisions, indicating that possession of certain animals other than "wild" animals is prohibited in the City.

Paragraph (4) of subdivision (a) is new, and adds to the places where wild animals may be kept, a veterinary or other health care facility that is providing care to such animals.

Former paragraph (4), renumbered as paragraph (5) would require that a permit be obtained to exhibit and use animals whose possession or use would otherwise be prohibited; that animals for which there is a USDA approved rabies vaccine be vaccinated prior to use; that a permit application be

submitted by the user or exhibitor in advance of the proposed use; and that a fee may be imposed for such permit.

The following additions are proposed to the prohibited animals list in subdivision (b): in paragraph (2), the term "cross-breed" in addition to "hybrid or cross-breed offspring of a wild cat and domesticated or other cat;" in paragraph (10), "turtles or tortoises with a carapace length of less than four (4) inches;" in paragraph (14), "nutria;" in paragraph (15) "pigs, including pot bellied pig, goats, cattle;" and a new paragraph (18) prohibited "sea mammals ... and other predatory marine and freshwater animals and fishes including, but not limited to, sharks and piranha."

In response to a petition to commence rule making, the Department examined reports of bee stings and found that such incidents are minimal. As a result the Department is proposing to amend paragraph (12) to allow New Yorkers to keep hives of non-aggressive honey bees. No permit would be required, only notification to the Department, and appropriate practices to avoid creating a nuisance would have to be used. A definition of a beekeeping nuisance has been added to the definition of "animal nuisance" in §161.02.

**§ 161.02. Definitions.**

This section includes additional terms and updated definitions to harmonize with applicable law and to reflect current practice.

The existing terms, "shelter", "attack or guard dog" (eliminating the term "attack"), "boarding kennel", "stable", "grooming parlor", and "pet shop" have been updated to reflect modern usage and practice, "pet animal" has been removed, and the following terms and their definitions have been added:

- "adoption"
- "animal behaviorist"
- "animal nuisances"
- "animal rescue group"
- "cat"
- "dangerous dog"
- "dog"
- "exposure to rabies"
- "hybrid or cross-breed"
- "lost, stray and homeless animals"
- "owner"
- "service dog"
- "severe injury"
- "small animal"
- "State Sanitary Code"

The addition of these terms and their definitions updates and brings the Article into greater conformity with its regulatory scope.

**§ 161.04. Dog licenses.**

Subdivision (a) now includes specifications that animal rescue groups are required to obtain a license for any dog harbored by them for longer than six months.

A new subdivision (c) requires animal rescue groups to provide an animal shelter from which they obtain animals with proof that owners of dogs adopted through their efforts have licensed such dogs.

Subdivision (d) has been added to include an additional tag for service dogs and to waive the fee for such tags, a Department practice consistent with dog licensing requirements in the rest of the State. Instead of requiring that individuals with disability produce proof of disability, this provision requires only proof that the animal has been trained to provide services needed by such persons and is more consistent with provisions of the Americans with Disabilities Act.

A new subdivision (e) allows for the sale of licenses in any manner not prohibited by law.

Current subdivision (c) (Enforcement) has been renumbered as subdivision (f) and has been amended to authorize issuance of notices of violation for failure to comply by any peace officer.

**§ 161.05. Dogs to be restrained.**

Subdivision (c) has been amended to authorize any peace officer to issue a notice of violation for failure to comply with its requirements.

**§ 161.06. Dogs and cats to be vaccinated and treated prior to change in ownership.**

This section has been amended to update the reference to rabies vaccination requirements in Article 11 of the Health Code.

**§ 161.07. Dangerous dogs.**

It is proposed that this section be repealed and recodified in its entirety. As recodified, the section specifies procedures for addressing the perennial problem of dogs that are a danger because their owners are generally unable or unwilling to control them. The new section would provide a hearing to any owner disagreeing with the Department's assessment of his or her dog, but would specify a length of time that a dog which has inflicted injuries can be kept in a shelter prior to that hearing. It also modernizes and adds control measures to those currently available to the Department in §161.07.

**§ 161.09. Permits to keep certain animals.**

This section has been updated and extensively revised. Subdivision (a) would no longer require that a pet shop that exclusively sells dogs and cats and is a pet dealer regulated by Article 26-A of the Agriculture and Markets Law, or successor law be permitted by the Department. Similarly, subdivision (f) excludes such persons from holding a certificate in small animal holding.

Current subdivision (c) has been deleted. Sales of live rabbits and poultry are regulated by the US Department of Agriculture and the State Department of Agriculture and Markets.

Current subdivisions (d) (e) (f) have been relettered but are substantively the same. The relettered subdivision (c) has been amended to allow the possession or use of cattle, swine, sheep or goats only at a zoo, farm exhibit, or other place in accordance with §161.01(a) of this Article. The relettered subdivision (g) requires that the owners of trained guard dogs have their dogs implanted with a microchip as a permanent

identification, and that they supply the identification number to the Department. Paragraph (2) of this subdivision requires owners or other persons in control of any premises in which a trained guard dog is kept to post a durable sign or notice warning the public of the presence of such trained guard dog, rather than the Department providing the sign.

Requirements for the content of the sign are listed, including the name and other contact information for the owner of the guard dog. Paragraph (3) requires that all persons who train, sell or rent guard dogs must post a durable sign or notice stating that a copy of this section shall be provided by the trainer, seller or renter of a guard dog to any person who uses such dogs, warning that all users shall comply with licensing, tagging, microchipping and signage requirements.

**§ 161.11. Prevention of nuisances; cleaning.** Subdivision (b) has been amended to incorporate the definition of animal nuisance in §161.02.

Subdivision (c) has been amended to include reference to equipment required to maintain sanitary conditions.

**§ 161.15. Keeping of small animals for sale, boarding, grooming, or training.**

Subdivision (a) has been amended to clarify that animals to be sold or held for sale, or boarded, groomed or trained shall not be kept in any room in which a person lives and that only live food fish species from a source authorized by applicable law to supply such fish, or fish kept as pets in an ornamental aquarium, shall be sold or held for sale or kept, respectively, in the same place where food or drink is sold for human consumption.

Subdivision (e) has been added to require that a holder of a permit to operate a boarding kennel obtain proof from the dog's owner that any dog provided services is up to date on all vaccinations in accordance with §17-366 of the Administrative Code. The owner shall maintain such proof on the premises, and shall provide such records for inspection to the Department upon request.

**§ 161.17. Small animals kept for sale, shelters, kennels and training establishments; physical facilities and maintenance.**

This section has been amended to reference Article 131 (Buildings) and Article 151 (Pest Prevention and Management).

**§ 161.19. Keeping of livestock, live poultry and rabbits.** The title of this section has been amended to add the term "livestock."

Subdivision (a) has been amended to prohibit keeping a live rooster, duck, goose or turkey in the City of New York except in a slaughterhouse inspected by or on behalf of the US Department of Agriculture and the State Department of Agriculture and Markets or other places in accordance with §161.01 (a).

Subdivision (b) has been amended to reference applicable law and this Article's definition of animal nuisances.

Subdivision (c) contains provisions of current §161.09 (c).

**§ 161.21. Horse stables; rabies vaccination for horses; nuisance prevention.**

The current section, "Yarding of horses, cattle, swine, sheep and goats," is being repealed as outdated, and a repealed §161.23, "Stables for horses; physical facilities and maintenance," has been recodified and renumbered as §161.21. The new section provides general requirements for horse stables that are required to hold a permit pursuant to §161.09, including horse stables used in rental horse businesses regulated by Chapter 4 of the Title 24 of the Rules of the City of New York. Chapter 4 now includes only rules applicable to stables maintained by rental horse businesses. The new requirements reflect both the recommendations of the Advisory Board established pursuant to §17-331 of the Administrative Code and standards of the State Department of Agriculture and Markets Horse Health Assurance Program. The Department believes such standards, which reflect modern stable management practices, are appropriate for all commercial stables because they promote the safety and health of horses, and that of people who work and have other contact with horses, and prevent and control diseases of horses and other nuisance conditions at stables. New safety requirements include installation of sprinkler systems, emergency management procedures, establishing emergency contact information, and equipping stables with horse trailers for emergency care of horses. Stable operators will be required to have all horses in commercial stables immunized against rabies.

**§ 161.23 Sterilization of shelter animals.**

This section is new and addresses obligations for sterilization of shelter animals. Since 2002, Administrative Code §17-804 has required that dogs and cats released from an animal shelter must be spayed or neutered. The Administrative Code is silent regarding pre-adoption release of animals to animal rescue groups. Since 2002, the Mayor's Alliance for NYC's Animals, Inc., has actively promoted formal agreements with such groups, enabling them to take animals from shelters. These agreements relieve the City's shelters of overcrowding, and reduce pressures to euthanize adoptable animals. The groups hold dogs and cats until their adoption by permanent owners. This new Health Code provision would require shelters to sterilize dogs and cats before they are released to an animal rescue group, when practicable. It establishes an obligation for the animal rescue groups to maintain proof of sterilization of animals released to adopters, if the animals are not already sterilized. It also establishes procedures for management of cases whereby owners of animals being released from a shelter who object to sterilization of their dogs and cats may post a bond and take the animal out of the shelter, pending the owner's litigation of the matter, and establishes a spay neuter fund with the proceeds of forfeited bonds in the event that the owner does not timely commence litigation or does not prevail in court. Sums collected from forfeited bonds would be dedicated to cover the costs of free or subsidized spay and neuter services for dogs and cats.

**§161.25 Modification by the Commissioner.**

This section is new and would authorize the Commissioner in specific instances to modify the application of provisions of this Article.

The resolution is as follows.  
Matter deleted is [bracketed].  
Matter that is new is underlined.

Resolved, that subdivisions (a) and (b) of §161.01 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby are, amended, to be printed, together with explanatory notes, to read as follows:

**§161.01. Wild and other animals prohibited.**

(a) No person shall sell or give to another person, possess, harbor, [or]keep, or yard wild or other animals identified in [subsection (b) of] this section or in regulations promulgated by the Commissioner pursuant to [subsection] subdivision (e) of this section other than in:

(1) A zoological park or aquarium operated by the Department of Parks, by the Wildlife Conservation Society, or by the Staten Island Zoological Society; or

(2) A laboratory operated pursuant to §504 of the Public Health Law; or

(3) A circus or native wildlife rehabilitator licensed by federal or state agencies; or

(4) A veterinary hospital or other veterinary or medical facility where veterinary care is provided for such animals; or [(4) A place which has received the approval of the Department to exhibit or use such animals, and which has protective devices to prevent such animal from escaping or injuring the public. The Department may impose reasonable conditions and time limits on the granting of such approval.]

(5) A place that exhibits, uses or displays such animals, including, but not limited to, a rodeo, petting zoo, farm museum, school or similar institution, film, television, photographic or other production, or for commercial or other purposes, in accordance with a permit issued by the Commissioner. The Commissioner may impose reasonable conditions and time limits on such exhibitions, usages or displays when issuing such permits, including a condition that the place where animals are exhibited, used or displayed have protective devices to preventing animals from escaping or injuring the public.

(A) An application for a permit to exhibit, use or display animals shall be submitted to the Department at least five (5) business days prior to such exhibition, use or display by the person or entity that proposes to exhibit, use or display such animals.

(B) Any animal of a species for which a rabies vaccine licensed and approved by the USDA is available shall be currently vaccinated against rabies in accordance with the vaccine manufacturer's instructions sufficiently in advance of any permit being issued for its exhibition, use or display, so that such vaccine shall be effective at the time of the animal's exhibition, use or display.

(C) The Department may impose a fee to cover its costs in issuing such permits.

(b) For the purposes of this Code, a wild animal[s] are] is deemed to be any animal[s] which [are] is naturally inclined to do harm and capable of inflicting harm upon human beings and all such animals are hereby prohibited pursuant to [subsection] subdivision (a) of this section. Such animals shall also include: (i) any animals specified by the Commissioner in regulations promulgated pursuant to this section; (ii) any native or exotic wildlife whose possession or sale is prohibited because they are designated as protected or endangered pursuant to any federal, state or local law, regulation, or rule; and (iii) any of the following animals:

(1) All dogs other than domesticated dogs (*Canis familiaris*), including, but not limited to, wolf, fox, coyote, hyaena, dingo, jackal, dhole, fennec, raccoon dog, zorro, bush dog, aardwolf, cape hunting dog and any hybrid or cross-breed offspring of a wild dog and domesticated dog.

(2) All cats other than domesticated cats (*Felis catus*), including, but not limited to, lion, tiger, leopard, ocelot, jaguar, puma, panther, mountain lion, cheetah, wild cat, cougar, bobcat, lynx, serval, caracal, jaguarundi, margay and any hybrid or cross-breed offspring of a wild cat and domesticated or other cat.

\* \* \*  
(10) Reptiles (*Reptilia*). All Helodermatidae (gila monster and Mexican beaded lizard); all front-fanged venomous snakes, even if de venomized, including, but not limited to, all Viperidae (viper, pit viper), all Elapidae (cobra, mamba, krait, coral snake), all Atractaspididae (African burrowing asp), all Hydrophiidae (sea snake), all Laticaudidae (sea krait); all venomous, mid-or rear-fanged, Duvernoy-glanded members of the family Colubridae, even if de venomized; any member, or hybrid offspring of the family Boidae, including, but not limited to, the common or green anaconda and yellow anaconda; any member of the family Pythonidae, including, but not limited to, the African rock python, Indian or Burmese python, Amethystine or scrub python; any member of the family Varanidae, including the white throated monitor, Bosc's or African savannah monitor, Komodo monitor or dragon, Nile monitor, crocodile monitor, water monitor, Bornean earless monitor; any member of the family Iguanidae, including the green or common iguana; any member of the family Teiidae, including, but not limited to, the golden, common, or black and white tegu; all members of the family Chelydridae, including snapping turtle and alligator snapping turtle; all turtles and tortoises with a carapace length of less than four (4) inches; and all members of the order Crocodylia, including, but not limited to, alligator, caiman and crocodile.

\* \* \*  
(12) All venomous insects, including, but not limited to, [bee,] bees other than non-aggressive honey bees (*Apis mellifera*), hornet and wasp. Persons keeping honey bees shall file a notice with the Department, on a form provided or approved by the Department, containing the beekeeper's name, address, telephone, e-mail and fax numbers, emergency contact information, and location of the hive, and they shall notify the Department within ten business days of any changes to such information. Beekeepers shall adhere to appropriate beekeeping practices including maintaining bee colonies in moveable-frame hives that are kept in sound and usable condition; providing a constant and adequate water

source; locating hives so that the movement of bees does not become an animal nuisance, as defined in §161.02 of this Article; and shall be able to respond immediately to control bee swarms and to remediate nuisance conditions.

\* \* \*  
(14) All large rodents (*Rodentia*), including, but not limited to, gopher, muskrat, nutria, paca, woodchuck, marmot, beaver, prairie dog, capybara, sewellel, viscacha, porcupine and hutia.

(15) All even-toed ungulates (*Artiodactyla*) including, but not limited to, deer, antelope, sheep, pigs, including pot bellied pigs, goats, cattle, giraffe and hippopotamus. Such prohibition shall not affect persons who keep livestock in accordance with applicable law.

\* \* \*  
(18) Sea mammals (*Cetacea*, *Pinnipedia* and *Sirenia*), including, but not limited to, dolphin, whale, seal, sea lion and walrus, and any other predatory marine and freshwater animals and fishes including, but not limited to, sharks and piranhas.

Notes:

Subdivision (a) of §161.01 was amended by resolution adopted on XXX, adding a new paragraph (4) and renumbering former paragraph (4) as paragraph (5), to add to the places where wild animals may be kept a veterinary or other health care facility that is providing care to such animals. Former paragraph (4), now renumbered as paragraph (5) specifies requirements for obtaining a permit to exhibit and use otherwise prohibited animals, and requires rabies vaccination for such animals.

Subdivision (b) of §161.01 was amended by resolution adopted on XXX, adding to the animals prohibited in the City of New York the following: in paragraph (2), cross-breed offspring of wild and domesticated cats; in paragraph (10), turtles or tortoises with a carapace length of less than four (4) inches; in paragraph (14), nutria; in paragraph (15) pigs, including pot bellied pig, goats and cattle; and in paragraph (18) adding other predatory marine animals and fishes including, but not limited to, sharks and piranha. Paragraph (12) was amended to allow beekeeping.

Resolved, that §161.02 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby are, amended, to be printed, together with explanatory notes, to read as follows:

**§161.02. Definitions.** When used in this article[:], the following terms shall have the following meaning: Adoption means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring as a pet, a homeless, lost, stray, abandoned, seized, surrendered, or unwanted animal.

Animal behaviorist means a person certified as an applied animal behaviorist or veterinary behaviorist by the Animal Behaviorist Society or other person with qualifications acceptable to the Department, who works with pets and their owners to modify animal behavior, provide socialization training for animals and their owners, and assesses or diagnoses behavioral pathology in animals.

Animal nuisances shall include, but not be limited to, animal feces, urine, blood, body parts, carcasses, vomitus and pervasive odors; animals that carry or are ill with contagious diseases communicable to persons or other animals; and dangerous dogs. A beekeeping nuisance shall mean conditions that include, but not be limited to, aggressive or objectionable bee behaviors, hive placement or bee movement that interferes with pedestrian traffic or persons residing on or adjacent to the hive premises; and overcrowded, deceased or abandoned hives.

Animal rescue group shall mean a not-for-profit organization, group or unincorporated entity that accepts unwanted dogs or cats from an animal shelter or other place and attempts to find homes for, and promote adoption of, such animals by the general public.

[(a)] Animal [Shelter] shelter or shelter for homeless animals means a not-for-profit facility holding a permit in accordance with §161.09 of this Article where homeless, lost, stray, abandoned, seized, surrendered or unwanted animals are received, harbored, maintained [or] and made available for adoption to the general public, redemption by their owners or other lawful disposition, and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other organization devoted to the welfare, protection or humane treatment of animals.

[(d)] Boarding kennel[,] business[,] or establishment means a facility other than an animal shelter where animals not owned by the proprietor are sheltered, harbored, maintained, groomed, exercised, fed, or watered in return for a fee.

Cat means a domesticated animal of the species *Felis catus* kept as a pet, except for any animal that is a hybrid or cross-breed of such species whose possession is prohibited in New York City pursuant to §161.01 of this Article.

Dangerous dog means a dog, other than one registered with the Department pursuant to §161.09 of this Article as a guard dog, which menaces, threatens, attacks or bites a person or persons, or which kills or inflicts physical injury upon any persons, when such persons are peacefully conducting themselves in any place where they may lawfully be, and any dog owned or harbored for the purpose of dog fighting. A Department record of a bite report made pursuant to §11.03 or of a dog bite or other injury made by a police officer shall be prima facie evidence that a dog is dangerous. Dog means a domesticated animal of the species *Canis familiaris* kept as a pet, but does not mean any other animal that is a hybrid or cross-breed of such species whose possession is prohibited in New York City pursuant to §161.01 of this Article.

Exposure to rabies means a bite or non-bite penetration of the skin; or contamination of an open wound, abrasion, scratch or mucous membrane with saliva or other potentially infectious material from an animal subject to rabies.

[(c)] Grooming parlor, salon, business, or establishment means a facility where animals are presented by their owners for bathing, dipping, clipping, combing, or cleaning for the purpose of improvement of the animal's appearance and or well-being in return for a fee.] and establishments which provide facilities for owners to groom their own pets.

[(h)] Attack or guard dog | Guard dog means a dog which is trained or used for personal protection, area protection, and/or the apprehension or warding off of an individual by

means of barking, threatening gestures, biting, or restraining by the use of its teeth.

Hybrid or cross-breed shall mean the offspring produced by two animals of different breeds, varieties or species.  
Lost, stray and homeless animals. For the purpose of determining applicability of the Animal Shelters and Sterilization Act, §§17-801 *et seq.* of the Administrative Code, lost, stray and homeless animals shall mean any animals owned or formerly owned by residents of the City of New York, or animals whose owners are unknown, that are brought into or accepted by any New York City animal shelter by any person for any reason other than for the purpose of evaluation by an animal behaviorist pursuant to a request of the Department or order of the Commissioner. Owner means any person who owns, harbors, possesses, adopts, cares for or keeps an animal.

[(g) Pet animal or small animal means any bird, mammal, reptile, amphibian, fish, arthropod or other invertebrates kept as a pet for exhibit, work, companionship, or protection by a person, possession or which is not prohibited by the Commissioner or any Federal, State or local laws, rules, regulations.]

[(b) Pet shop means a facility other than an animal shelter where live animals are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail for profit. A pet shop shall not mean a pet dealer exclusively selling dogs and cats that is subject to Article 26-A of the Agriculture and Markets Law. However, a pet shop where animals other than, or in addition to, dogs and cats are sold shall hold a pet shop permit issued by the Commissioner and shall comply with all other applicable provisions of this Code and other applicable law.

Service dog shall mean a dog that has been individually trained to perform tasks for persons with a disability, as defined in Executive Law §292 or successor law, including, but not limited to, providing guidance for persons who are blind, alerting persons who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other tasks.

Severe injury, with respect to an injury inflicted by a dog, means any physical injury inflicted by such dog upon a person that causes at least a broken bone or a disfiguring laceration requiring either multiple stitches or cosmetic surgery.

Small animal means a companion animal such as a dog, cat, fish, bird, rabbit, reptile, gerbil, hamster or other animal whose possession is not prohibited by §161.01 of this Article.  
[(f) Stable for horses means a [rental, boarding, racing, or private facility] building where one or more horses are housed and/or maintained.

State Sanitary Code shall mean Chapter 1 of Title 10 of the Codes, Rules and Regulations of the State of New York, or successor rules.

[(e) Training establishment for small animals means a facility where small animals, whether or not belonging to the owner or employee of such facility, are trained for any purpose in return for a fee.

Notes: Section 161.02 was amended by resolution adopted on XXX to add definitions for terms used in Article 161.

Resolved, that §161.04 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, to be printed, together with explanatory notes, to read as follows:

#### §161.04. Dog licenses.

(a) License required. A dog license obtained in accordance with Chapter 115 of the New York State laws of 1894, as amended, shall be issued by the Department to every person who owns, possesses, keeps, harbors, adopts, purchases, or cares for a dog in New York City for each dog owned, possessed or controlled by such person, except that an animal shelter shall not be required to obtain a license for any dog kept by such shelter and an animal rescue group shall not be required to obtain a license for any dog harbored by such group for less than six months.

(b) License tag required in public. Every person who owns, possesses or controls a dog shall not permit it to be in any public place, or in any open or unfenced area abutting on a public place, unless the dog has a collar about its neck with a currently valid metal tag attached thereto bearing the number of the license obtained for such dog in accordance with Chapter 115 of the Laws of 1894 of the State of New York, as amended or §§109 and 112 of the Agriculture and Markets Law.) subdivision (c) of this section.

(c) Animal rescue groups. Animal rescue groups shall provide an animal shelter from which they obtain dogs or cats with proof acceptable to such shelter that the persons adopting dogs through their efforts have purchased licenses for such dogs.

(d) Service dogs. Owners of licensed dogs may request an additional tag from the Department indicating that the dog is trained to perform a task to assist a person with a disability, without paying an additional fee for such tag. An application for such tag shall be accompanied by a written statement from a trainer whose education, experience and training are acceptable to the Department, stating that such dog has been specifically trained to perform a task or tasks for the person applying for the tag.

(e) Sales of licenses authorized. Licenses may be sold by the Department in any manner that is not prohibited by law. The Department may authorize other persons to sell such licenses, upon such terms and conditions as it deems necessary to promote the sales of licenses. The Department may accept license applications and sell licenses electronically, and may impose a surcharge to cover the actual additional costs of selling licenses electronically, if any, including costs imposed by credit card issuers.

[(c) (f) Enforcement. Notices of violation for failure to comply with this section may be issued by any authorized employee, officer or agent of the Department, [or of] the Department[s] of Sanitation, [and] the Department of Parks and Recreation, or successor agencies, or any peace officer.

Notes: §161.04 was amended on XXX to clarify that dogs released by a shelter to an animal rescue group prior to permanent adoption do not need to be licensed; to authorize issuance of licenses for service dogs without a fee; to authorize sales of dog licenses in any manner; and to authorize any peace office to issue notices of violation for failure to comply with its provisions.

Resolved, that subdivision (c) of §161.05 of the New York City Health Code, found in Title 24 of the Rules of the City of New

York be, and the same hereby are, amended, to be printed, together with explanatory notes, to read as follows:

#### §161.05. Dogs to be restrained.

(c) Notices of violation for failure to comply with subdivision (a) of this section may be issued by any authorized employee, officer or agent of the Department, [or of] the Department of Sanitation, [or] the Department of Parks and Recreation, or successor agencies, or any peace officer.

Notes: Subdivision (c) was amended XXX to authorize issuance of notices of violation for violation of subdivision (a) this section by any peace officer.

Resolved, that §161.06 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, to be printed, together with explanatory notes, to read as follows:

#### §161.06. Dogs and cats to be vaccinated and treated prior to change in ownership.

No person shall offer for sale, sell or give away any dog or cat unless such animal has been vaccinated against rabies in accordance with [§11.65 of the] §11.29 of this Code, and treated for parasites or certified in writing by a duly licensed veterinarian to have been tested and found to be free of parasites.

Notes: §161.06 was amended on XXX to reflect the change in numbering of the rabies vaccination requirements in Article 11 of the Health Code.

Resolved, that §161.07 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, repealed and recodified, to be printed together with explanatory notes, to read as follows:

#### §161.07. Dangerous dogs.

(a) Policy and scope. When the Department receives a report of a dangerous dog, the Department may, in any case where it deems it necessary, investigate the circumstances giving rise to the report and, if the Department determines that the dog is a dangerous dog, it may take any action authorized by applicable law, including this Code, that it deems necessary to protect the public health and safety.

(b) Dogs brought into a shelter. When a dangerous dog is brought into an animal shelter, or when a dog held in an animal shelter injures a person, the operator of the shelter shall, no later than the first business day after the dog is admitted to the shelter or after the dog in the shelter injures a person, report the injury to the Department. The shelter shall obtain from the person owning or presenting the dog, and the report shall, to the extent that the shelter operator has such information, include a description of the circumstances in which injury was caused by the dog; the names, addresses and other contact information for the injured person(s), the dog's owner, and any witnesses to the incident; the types of injuries inflicted by the dog; and any other information required by the Department. The shelter operator shall thereafter immediately provide the Department with any additional information received about the incident.

(c) Rabies observation period. Any dog that is brought to a shelter after causing an injury to a person or that is involved in any incident that creates a possible exposure to rabies shall be held by the shelter for ten days, over which time such dog shall be observed by a veterinarian to determine whether it has developed signs and symptoms of rabies.

(1) A dog held for rabies observation that is subsequently involved in any other incident potentially exposing any person or animal at the shelter to rabies shall, commencing on the date of the most recent incident, be held by the shelter for an additional ten days to be observed for signs and symptoms of rabies.

(2) If a licensed veterinarian determines that a dog has signs or symptoms consistent with rabies, the dog shall be humanely euthanized and its remains shall be tested for rabies.

(3) The Department may authorize release of a dog to its owner before the expiration of the ten days rabies observation period if the Department determines that the dog is not a dangerous dog, and the owner agrees to continue to observe the dog for signs and symptoms of rabies over the remainder of the observation period and to make daily reports of his or her observations to the Department in accordance with §11.27 (e) of this Code.

(d) Determination of a dangerous dog.

(1) Evaluation of a dog in a shelter. The Department shall make a preliminary determination as to whether any dog being held in a shelter after causing injury to a person is a dangerous dog. In making such determination, the Department shall consider the circumstances of the incident resulting in the dog's placement in the shelter, the nature and severity of the injuries reportedly inflicted by the dog, and the dog's prior history of biting and/or causing injury. When deemed necessary by the Department, an assessment by an animal behaviorist may also be considered.

(2) If dog is determined to be dangerous. If the Department determines that a dog being held at a shelter is dangerous, it shall notify the owner of the dog of such determination in writing, prior to expiration of the ten day rabies observation period. The notification shall include the Department's recommendations for the disposition of the dog, including any control measures authorized by subdivision (g) of this section that the Department deems necessary as conditions for the owner's continued possession of the dog.

(3) If a dog is not determined to be dangerous. If the Department determines that a dog being held at a shelter is not dangerous, it shall notify the shelter that the dog may be returned to its owner at the end of the rabies observation period, provided the dog has been vaccinated against rabies, licensed, and surgically sterilized in accordance with applicable law.

(4) Other disposition. A dog surrendered to a shelter by its owner for any reason shall be made available for adoption or humanely euthanized, in accordance with applicable law. However, a dog that is surrendered by its owner as a dangerous dog or a dog trained for dog fighting shall not be made available for adoption by any person unless the shelter operator has completed a behavioral evaluation of the dog showing that the dog is not a dangerous dog, provided the results of the evaluation to the Department, and the

Department has approved the release of the dog for adoption. (e) Dogs that are not brought to a shelter. If the Department receives a report that a dog not being held by a shelter to be observed for symptoms and signs of rabies is dangerous, the Department may order the dog's owner to make the dog available for examination by an animal behaviorist, or may order any other control measures authorized by subdivision (g) of this section for protection of public health and safety.

(1) Place of examination. The Department may arrange for the examination to be conducted at a shelter or other place where the Department determines the public will be adequately protected. If a dog is brought by its owner to a shelter for examination pursuant to this section, the dog shall not be deemed a homeless or abandoned dog, and the shelter shall not be required to surgically sterilize the dog prior to releasing it to its owner. However, such dog shall not be released unless it is currently vaccinated against rabies in accordance with Health Code §11.29, and has been licensed in accordance with §161.04 of this Article.

(2) Failure to present dog for examination. If an owner fails to comply with an order of the Department to make his or her dog available for examination by an animal behaviorist, the owner's failure to comply with such order shall be evidence in any hearing commenced by the Department that the dog is dangerous and that its owner is perpetuating a nuisance in violation of §3.07 of this Code.

(f) Hearings.

(1) Owner objections. The Department shall notify the owner of a dog of its preliminary determination that the dog is dangerous and of any control measures authorized by subdivision (g) of this section that it deems necessary to protect public health and safety. If the owner does not agree with the Department's preliminary determination or that the proposed control measures are necessary, the Department shall serve the owner with a petition and notice of hearing to show cause at a hearing to be held at the City's Office of Administrative Trials and Hearings (OATH) why the dog should not be found to be a dangerous dog and why conditions should not be imposed on the dog and owner to protect the public's health and safety.

(2) Scheduling hearings.

(A) An OATH hearing shall be scheduled by the Department for a date and time that is no more than twenty days after the petition is mailed to the owner, and the petition and notice of hearing shall be mailed to owner no later than fifteen days after the dog's entry into the shelter, unless the owner of the dog and the Department agree to a later date. If the last dates for mailing and scheduling a hearing fall on a Saturday, Sunday or City holiday, the date of mailing the petition and scheduling the hearing shall be the next business day.

(B) Such time periods shall not apply when the owner's identity and address are not known when a dog is first admitted to a shelter. In such cases, when the Department subsequently learns the owner's identity and address, and if the time for reclaiming a dog from a shelter has not expired, the time period to schedule a hearing set forth in paragraph (2) above shall start to run on the date the Department learns the owner's identity and address.

(3) Severe injuries. A dog that has caused a severe injury to any person, or a dog that the Department determines, based on the circumstances that prompted the Department's investigation, was prevented from inflicting severe injury by the action of a third party or other circumstance, shall continue to be held in a shelter until and unless the Commissioner has received a report and recommendation of an OATH administrative law judge finding that the dog is not a dangerous dog.

(4) Other injuries. A dog that does not meet the criteria in paragraph (3) above, may remain with its owner or, if held in a shelter, shall be returned to its owner, at the completion of the rabies observation period, to remain with its owner pending an OATH hearing.

(5) Abandonment. If an owner of a dog that is preliminarily determined to be dangerous and that is being held at a shelter fails to appear at an OATH hearing and is found in default, or if the identity or address of a dog's owner is unknown, such dog shall be deemed abandoned and shall be disposed of in accordance with applicable law.

(g) Control measures authorized. The Commissioner may order any action deemed necessary to control a dangerous dog and prevent injuries to persons, including, but not limited to, ordering that a dangerous dog be:

(1) Surrendered for the purpose of humane euthanasia;

(2) Permanently removed from the City;

(3) Muzzled whenever it is in a public place or in any open or unfenced area abutting on a public place;

(4) Evaluated, at the owners' expense, by an animal behaviorist to determine whether the animal and any persons handling the animal may be trained in the safe management of the animal, and be trained when indicated;

(5) Spayed or neutered, if the owner does not maintain proof satisfactory to the Department that the animal was previously altered;

(6) Microchipped to enable identification of the dog if it inflicts further injury; or

(7) Confined in a place where there are sufficient barriers between the dog and passersby lawfully on public streets and areas abutting the owner's property.

(h) Guard dogs. Any dog owned, kept, engaged in or trained to attack persons that is not currently registered with the Department as a guard dog pursuant to §161.09(g) shall be deemed to be a dangerous dog and shall be surrendered to the Department, upon the request of the Department, by the person who owns, possesses or controls it, for the purpose of performing an examination and for such other disposition as the Department may order in accordance with this section.

(i) Dogs kept for dog fighting. Any dog owned, kept, engaged in or trained for dog fighting, or any dog owned, kept or trained to attack persons and not properly registered as a guard dog pursuant to §161.09 (g), shall be deemed to be a dangerous dog and shall be surrendered to the Department by the person who owns, possesses or controls it, for the purpose of performing an examination and for such other disposition as the Department may order in accordance with subdivision (g) of this section.

(j) Dangerous dogs presumed to be a nuisance. When the Department determines that a dog is dangerous in accordance with this section, it shall be presumed that the owner or other person who harbored the dog trained, caused

or permitted the dog to be dangerous, so as to establish a prima facie maintenance of a nuisance in violation of §3.09 of this Code.

(k) Impoundment. A dog that is in a public area and that is menacing persons, or a dog that has caused a severe injury to a person, or a dangerous dog owned by a person who has violated an order of the Commissioner issued pursuant to this section, may be impounded by the Department or by a police or other peace officer, or killed by a police or other peace officer, if capture is dangerous.

(l) Disclosure of medical information. In addition to submitting the reports of animal bites required by Article 11 of this Code, upon receipt of a written request from the Department, a medical or other health care provider shall forward to the Department copies of medical records concerning diagnosis and treatment of bites or other injuries to persons that were inflicted by, or resulted from attacks by dogs or other animals.

(m) Public information relating to dangerous dogs.

(1) Copies of records and reports maintained by the Department concerning dangerous dogs may be made available in accordance with the Public Officers Law, provided that, if the persons injured who are the subjects of such records are not the persons requesting such reports, such reports shall be redacted of all identifying information about the subjects, complainants and person(s) injured or menaced.

(2) Information about injuries caused by dangerous dogs contained in medical and other records obtained by the Department may be disclosed in the course of OATH proceedings to owners of dogs, their attorneys, and to administrative law judges at OATH if such information is relevant to a determination as to whether a dog is dangerous or has caused severe injury to a person. Such information shall not be further disclosed without authorization of the person to whom the records pertain except when disclosure may be necessary in further proceedings related to the OATH matter.

Notes: §161.07 was repealed and recodified on XXX, updating its provisions and clarifying procedures for addressing the serious public health problems presented by dangerous dogs.

Resolved, that §161.09 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, to be printed together with explanatory notes, to read as follows:

#### §161.09. Permits to keep certain animals.

(a) Permit required.

(1) No person shall operate a pet shop, grooming parlor, boarding kennel or training establishment for small animals whose possession is not prohibited by §161.01 of this Article, without a permit issued by the Commissioner except that a pet shop that exclusively sells dogs and cats and is regulated by Article 26-A of the Agriculture and Markets Law, or successor law, shall not require a permit issued by the Commissioner.

(2) Workers' compensation and disability benefits insurance. No permit required by this Article shall be issued to any person unless such person produces proof satisfactory to the Department that policies for workers' compensation insurance and disability benefits have been secured in accordance with Workers' Compensation Law §56, or successor statute.

(b) Animal shelter. No person shall construct or operate a shelter for homeless animals without a permit issued by the Commissioner.

(c) No person shall sell or keep for sale live rabbits or live poultry, including chickens, geese, ducks or other fowl, without a permit issued by the Commissioner. Such permit shall not include the right to slaughter rabbits or poultry for sale as food for human consumption for which a permit must be obtained pursuant to Article 93. A permit shall not be issued for the sale or keeping for sale of live roosters, ducks, geese or turkeys in the built-up portions of the City. A permit shall not be issued for the sale or keeping for sale of live rabbits or poultry on the same lot as a multiple dwelling as defined in section 4 of the Multiple Dwelling Law or, unless the consent of the occupants is obtained, on the same lot as a two-family home. A permit shall not be issued unless the coops or runways are more than 25 feet from an inhabited building other than a one-family home occupied by the applicant and unless the applicant submits to the Department the written consent of the owner of the lot on which the poultry or rabbits are to be kept.]

(d) (c) Keeping and yarding of cattle, swine, sheep and goats prohibited. Except [on premises abutting upon a slaughter house,] as provided in §161.01(a) of this Article, no person shall [yard horses or] keep or yard cattle, swine, sheep or goats, [without a permit issued by the Commissioner. Such permit shall be issued only for unimproved areas of the borough of Richmond used for farming purposes.]

(e) (d) Permits for horse stables required. No person shall maintain or operate a stable for horses without a permit issued by the Commissioner except that no permit shall be required where a natural person or family owns a horse stable solely for housing and maintaining horses owned and used by the person or family for its exclusive recreational, non-commercial purposes.

(f) (e) Selling of certain animals prohibited. No person shall engage in the business of or hold herself or himself out as engaging in the business of importing, or selling, or offering for sale any animal of a species [which is wild, ferocious, fierce, dangerous, or naturally inclined to do harm or any venomous snake] whose possession is prohibited pursuant to §161.01 of this Article and no person shall operate a [snake farm engaged in the ] facility for the preparation or manufacturing of snake or arachnid anti-venom without a permit issued by the Commissioner.

(g) (f) Small animal handling course required. No person who is charged with the supervision of a pet shop or business for the sale or offer for sale of dogs, cats or other small animals, or the boarding or grooming of small animals, or animal training, or similar type of operations, shall engage or be employed in such capacity unless he or she obtains a certificate indicating the successful completion of a course, acceptable to the Department, in the care and handling of such animals. Such certificate shall not be required for persons who are pet dealers who exclusively sell dogs and cats, in accordance with Article 26-A of the Agriculture and Markets Law.

(h) (1) Such certificate shall be placed in a clean, transparent cover or frame and displayed on the premises where the holder thereof is so engaged or employed in such a manner as to be clearly visible to the public. It shall be available for inspection at all times by the Department. No person shall mutilate, obstruct or tear down such certificate. (i) (2) The holder of such certificate shall successfully complete a refresher course in the care and handling of such animals when deemed necessary by the Department. The Department may require the holder of such certificate to complete a refresher course acceptable to the Department when the Department finds continuing violations of the Code, or when a zoonotic outbreak implicates animals cared for, treated or held in the establishment she or he supervises, or when the Department requires such course to acquaint him or her with current developments in animal care and handling principles.

(j) (3) The Department may conduct such courses or approve courses conducted by educational institutions. Persons electing to enroll in such courses conducted by the Department may be charged a reasonable enrollment fee to defray all or part of the costs incurred by the Department in their administration.

(k)(g) Guard dogs. No person shall own a trained guard [or attack] dog for use within the City unless she or he has licensed and registered such animal with the Department. Any case of loss, theft or transfer of ownership of a trained guard [or attack] dog shall be reported by the owner to the Department within five (5) days of any such loss, theft or transfer. The Department may charge a reasonable fee to defray all or part of the cost incurred by the Department in the administration of this [subsection] subdivision.

(l) (1) Microchipping required. The owner of a trained guard [or attack] dog shall have such dog implanted with a microchip as a permanent identification, and supply the identification number to the Department, and provide and see to it that such animal wears at all times a tag issued by the Department. Such tag shall have printed or stamped thereon, in clear and legible type, the words: "GUARD DOG" [or "ATTACK DOG"]. Such tag shall be suspended at least three quarters of an inch and not more than one and one half inches from a collar worn by such animal. Lost, stolen or damaged tags shall be reported to the Department and may be replaced by the Department at reasonable cost.

(m) All (2) Signs to be posted. Owners or other persons in control of any premises in which a trained guard [or attack] dog is kept shall [be provided with] post a durable sign or notice, printed in clear and legible type [and conspicuously displayed], warning the public of the presence of such trained guard [or attack] dog. The sign shall include the name and other contact information for the owner of the guard dog. [All establishments used in the business of training, selling or renting]

(3) Notice required. All persons who train, sell or rent guard [or attack] dogs shall [be provided with] post a durable sign or notice, printed in clear and legible type [and conspicuously displayed, advising the patrons or consumers of the requirements set forth in] stating that a copy of this section [applicable to the use of such animals in the City, and the person engaged in such business shall provide a written copy of such notice to each of his or her patrons or consumers in a form deemed suitable by the Department] shall be provided by the trainer, seller or renter of a guard dog to any person who uses such dogs, warning that all users shall comply with licensing, tagging, microchipping and signage requirements. Notes: §161.09 was amended on XXX, relettering several provisions. Subdivision (c) was repealed and subdivision (d) was relettered as subdivision (c), and now prohibits keeping or yarding livestock except as provided in §161.01 (a) of this Article. Subdivision (e) was relettered as subdivision (d). Subdivision (f) was relettered as subdivision (e), and is substantially the same, but adds a requirement for a permit for production of arachnid anti-venom to the permit already required for production of snake anti-venom. Subdivision (h) has been relettered as subdivision (g); subdivision (i) is now paragraph (1); and subdivision (j) is now paragraph (2) of subdivision (g), regulating guard dogs and now requires microchipping, signage and notice requirements for owners of such dogs. The term "attack dog" has been deleted since the Department no longer licenses attack dogs.

Resolved, that §161.11 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, to be printed, together with explanatory notes, to read as follows:

#### §161.11. Prevention of nuisances; cleaning.

(a) A permit required by §161.09 shall not be issued unless the applicant proves to the satisfaction of the Commissioner that the place for which the application is made does not constitute a nuisance because of its proximity to a residential, business, commercial or public building, and that the place will be maintained so as not to become a nuisance.

(b) The owner, lessee or person in charge of any place where animals are kept pursuant to a permit required by §161.09, shall take all measures necessary for [insect and rodent control] integrated pest management of insect, rodent and other vermin required by Article 151 of this Code, and shall conduct such place so as not to create an animal nuisance [by reason of the noise of the animals, the escape of offensive odors, or the maintenance of any condition dangerous or prejudicial to public health] as defined in this Article.

(c) Every place where animals are kept pursuant to a permit required by §161.09 shall be equipped with and shall [have] maintain supplies of implements and materials, such as brooms, hoses, hose connections, vacuum cleaners where dusty conditions are found, covered metal receptacles, brushes, disinfectants and detergents, as may be required to maintain sanitary conditions. Such places shall have regularly assigned personnel to maintain sanitary conditions. Notes: This section was amended on XXX to update its provisions.

Resolved, that subdivision (a) be amended, and a new subdivision (e) be added to §161.15 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, to be printed, together with explanatory notes, to read as follows:

#### §161.15. Keeping of small animals for sale, boarding, grooming, or training.

(a) [Dogs, cats, birds or other small animals shall not] No animals shall be sold or held for sale, or boarded, groomed or trained in a room in which a person lives. [Such] No aquatic animals, as defined in Article 81 of this Code, except live food fish species from a source authorized by applicable law to supply such fish or live fish in an ornamental aquarium, shall [not] be sold or held for sale or kept in the same place where food or drink is sold for human consumption [unless necessary precautions are taken to prevent contamination of the food or drink and the creation of a nuisance].

(e) A holder of a permit to operate a boarding kennel shall require proof from the owner of each dog provided services that such dog is currently actively vaccinated against rabies, distemper, adenovirus, parainfluenza, parvovirus and Bordetella, shall maintain such proof on the premises, and shall provide such records for inspection to the Department upon request.

Note: Subdivision (a) was amended on XXX to clarify prohibitions on keeping small animals and fish in food service establishments, and a new subdivision (e) was added to require immunizations for dogs provided services in boarding kennels.

Resolved, that §161.17 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, to be printed, together with explanatory notes, to read as follows:

#### §161.17. Small animals kept for sale, shelters, kennels and training establishments; physical facilities and maintenance.

A place issued a permit pursuant to §161.09 of this Article where small animals are kept for sale, a shelter for homeless animals or a kennel or other place where animals are boarded or trained shall meet the requirements of [Article 135 governing walls, floors, ventilation, lighting and plumbing] Articles 131 and 151 of this Code for maintenance of the physical facilities and eliminating conditions conducive to pests. An individual cage shall be provided for the use of each dog or cat three months of age or over except when isolation in a separate cage is medically contraindicated or, as specified in individual cases, animals are caged together for a humane reason. A veterinarian shall provide a written statement and such documentation as the Department may require indicating the reason why more than one animal should be caged together. Such documentation shall be maintained on the premises and be available for inspection. The floors, walls, implements and cages in such place shall be kept clean and in good repair. Cages shall be disinfected when necessary. Nothing in this Code shall prohibit the establishment of canine or feline congregate socialization or play areas in boarding facilities regulated by this Code provided that animals allowed in such areas are certified by a veterinarian as vaccinated against rabies and free of other diseases transmissible to humans or other animals. Notes: This section was amended on XXX to update references to other Health Code articles and to apply to cats the provisions allowing for congregate play and socialization afforded to dogs in boarding facilities

Resolved, that §161.19 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended, to be printed, together with explanatory notes, to read as follows:

#### §161.19. Keeping of livestock, live poultry and rabbits.

(a) No person shall keep a live rooster, duck, goose or turkey in [a built-up portion of] the City of New York except (1) in a slaughterhouse authorized by federal or state law that is subject to inspection by the New York State Department of Agriculture and Markets or the United States Department of Agriculture, or (2) as authorized by §161.01 (a) of this Article.

(b) A person who [holds a permit] is authorized by applicable law to keep for sale or sell livestock, live rabbits or poultry shall keep [them in coops and runways and prevent them from being at large. Coops shall be whitewashed or otherwise treated in a manner approved by the Department at least once a year and at such other times as the Department may direct in order to keep them clean. Coops, runways] the premises in which such animals are held and slaughtered and the surrounding areas [shall be kept] clean and free of animal nuisances.

(c) Live rabbit and poultry markets. Live rabbits and poultry intended for sale shall not be kept on the same premises as a multiple dwelling as defined in section 4 of the Multiple Dwelling Law, or other residence. Coops or runways of live rabbit and poultry markets shall be located at least 25 feet away from any building.

Notes: This section was amended on XXX to modernize provisions related to keeping livestock, poultry and rabbits in the City.

Resolved, that §161.21 (Yarding of horses, cattle, swine, sheep and goats) and §161.23 (Stables for horses; physical facilities and maintenance) of Article 161 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be and the same hereby are repealed, and that §161.23 (Horse stables; rabies vaccination for horses; nuisance prevention), be recodified, to be printed together with explanatory notes, to read as follows:

#### §161.21 Horse stables; rabies vaccination for horses; nuisance prevention.

(a) Applicability and scope. This section shall apply to all commercial stables, including, but not limited to, stables whose owners board horses for individual horse owners; stables that provide riding lessons and rent horses to the public; stables that board stable owners' or other owners' carriage or other rental horses regulated by Chapter 4 of Title 24 of the Rules of the City of New York; and, except for stables under the jurisdiction of the New York Racing Association, stables that board or temporarily provide housing and maintenance for horses in exhibitions, shows, competitions, or other events. Requirements for rabies vaccination for horses shall apply to all horses housed or brought into any stable in the City of New York regardless of whether the stable is required to hold a permit issued pursuant to this Article. The duty to prevent nuisance and provisions of this Code that require maintenance and sanitation of stables and other premises shall apply to the

owners, operators and users of all stables and any other facilities or places where horses are used, kept or boarded.

(b) Physical facilities. Stables shall meet all requirements of Articles 131 and 151 of the Code and this Article for maintenance of the physical facilities and eliminating conditions conducive to pests.

(1) Walls and ceilings. Walls and ceilings shall be covered with a smooth, nonabsorbent light-colored finish and shall be maintained clean at all times.

(2) Floors. Floors shall be level, free of holes and openings and graded for proper drainage to trapped sewer connections.

(3) Doors. Doors to the exterior shall be properly rodent-proofed.

(4) Toilets. A sufficient number of toilets and sinks with running water, soap and individual clean towels or mechanical drying devices shall be provided for the use of employees.

(5) Storage areas. Storage areas shall be of adequate size, and shall be insect and rodent-proofed so as to provide no pest harborage and shall be kept free of pests.

(6) Fire hazards. Premises shall be kept free of fire hazards. Effective July 1, 2011, all buildings in which stables are located shall be equipped with an operational sprinkler system installed in accordance with §BC903.3.1.1 of the New York City Building Code, or successor provision.

(8) Electrical wiring.

(A) All electrical appliances shall be plugged directly into properly grounded electrical outlets.

(B) Electrical wiring shall be installed and maintained in metal electrical conduits.

(C) Extension cords may be used for brief periods of time, not to exceed three (3) hours, and such cords shall be disconnected and removed when the appliances or tools to which they are connected are not being used.

(7) Lighting. Interiors and exteriors of stable premises shall be adequately lighted by natural or artificial means so as to permit the activity for which the stables are used to be carried on safely and to permit effective inspection and the cleaning of the premises.

(8) General sanitation and maintenance. All physical facilities and equipment in a stable and any premises abutting a stable shall be kept clean and maintained in good repair. All interior areas and exterior areas surrounding a stable shall be kept clean, shall be properly graded, drained and kept free of nuisances including, but not limited to, odors and accumulation of refuse or excrement.

(9) Equipment. Saddles, blankets, harnesses, bridles and bits and other equipment shall be properly fitted and kept in good repair. Blankets, bridles and bits shall not be used by another horse unless disinfected and treated to remove insects and parasites. Each stable shall have implements and materials such as brooms, hoses, hose connections, covered metal receptacles, brushes, disinfectants and detergents as may be required to maintain sanitary conditions.

(10) Pest management. All stables shall establish procedures for control of pests, birds and other wildlife, and shall institute an integrated pest management program for insect, rodent and other vermin in accordance with Article 151 of this Code.

(11) Stalls. Stalls shall be cleaned as often as necessary to prevent odors and other nuisance conditions. On or after January 1, 2011, no new stables shall be equipped with stalls that are located above the first or street level floor of the stable.

(12) Bedding.

(A) Bedding in stalls shall be changed at least once daily.

(B) Bedding provided shall be at least three inches deep, and shall consist of suitable materials that will absorb fluids and odors and that do not contain any materials toxic to horses.

(C) Straw, hay or other material used as bedding shall not be placed upon a street, sidewalk or roof of a building or in an area that may cause a fire hazard or be conducive to pests.

(c) Food and water.

(1) Troughs and mangers. Troughs and mangers shall be cleaned daily, kept clean and free of rodent and bird droppings.

(2) Feed quality. Stable owners shall provide sufficient nutritional foods appropriate for the type, age and condition of horses boarded at the stable.

(3) Storage. Feed shall be stored in clean, dry, sealed containers secure from horse, rodent and other pest access, kept clean and uncontaminated by rodent feces, insects and non-feed substances such as dust, mold, vermin and other contaminants.

(4) Hay. Hay shall be kept clean and dry and shall be stored in areas that are inaccessible to birds, rodents, insects and other pests.

(5) Water. Horses shall have access at all times to an adequate and clean water supply. Horse-watering troughs shall be constructed of easily cleanable materials, maintained in a clean and sanitary condition and supplied with potable water.

(d) Manure. Manure shall be collected and disposed of in a manner that does not create a nuisance. All manure and other refuse shall be kept and treated within the stable so as to minimize odors and prevent the breeding of flies or other nuisance conditions.

(e) Rabies vaccination. All horses owned, boarded, used or brought into the City of New York for any purpose shall have an annual rabies vaccination. Every person who owns or maintains a stable for horses shall maintain records of rabies vaccinations and make such records available to officers, agents and employees of the Department for examination upon request.

(f) Emergencies. Every person who holds a permit to operate a stable shall establish and maintain written procedures to respond to fires and other emergencies, and for care of injured or sick horses. A copy of the written procedures shall be kept in the stable, and updated as necessary. Owners shall notify and train all employees in the procedures outlined in the protocols for emergency management. Copies shall be made available to stable employees, and to employees, agents and officers of the Department.

(g) Emergency contact information. Owners of stables shall provide employees with primary and alternative emergency telephone or other contact information for owners of the stable and horses housed in the stable. Owners of horses housed in stables shall provide the owners of such stables with emergency telephone or other contact information.

(h) Trailers. A horse trailer in operating condition shall be

maintained at all times in each stable for emergency transport.

Notes: This section was adopted on XXX, applies to all commercial stables in the City and incorporates and modernizes provisions of former §161.23.

Resolved, that Article 161 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended by adding a new §161.23, to be printed together with explanatory notes, to read as follows:

#### **§161.23 Sterilization of shelter animals.**

(a) Sterilization required. No animal shall be released from an animal shelter for adoption by or return to a resident of the city of New York without first being spayed or neutered, except if the animal is exempt from sterilization pursuant to §17-804 of the Administrative Code.

(b) Release to animal rescue groups. Whenever practicable, animals shall not be released by a shelter to an animal rescue group without first being spayed or neutered when such animal is being taken by the animal rescue group to assist in its adoption by others, except if, in the judgment of the shelter veterinarian, the health of the animal would be compromised by sterilization surgery at the time of release to the rescue group. No dog may be released by an animal rescue group to a person who resides in the City of New York unless the dog is sterilized and licensed pursuant to §161.04 of this Article.

(c) Objections to sterilization. Any resident of the City of New York seeking to redeem an animal from a shelter and objecting to its sterilization may bring a cause of action in a court of competent jurisdiction seeking a declaration that such animal need not be sterilized.

(1) Upon delivery to the shelter operator of a bond in the amount of \$20,000, the animal shall be returned to its owner.

(2) The bond amount shall be returned to the owner at the conclusion of the litigation, if the owner prevails in such litigation.

(3) The bond shall be forfeited if

(A) No cause of action is commenced within three months of the release of the animal to its owner, or

(B) The owner does not prevail in such litigation, and the animal either is (i) not returned to the shelter for sterilization or (ii) verifiable proof of sterilization is not submitted to the shelter.

(4) Spay neuter fund established. Sums collected from forfeited bonds shall be transmitted by the shelter operator to the Fund for Public Health in New York, Inc., or other not for profit agency approved by the Department, and placed in an animal spay neuter fund to be established by such fund or other agency. Expenditures of such collected sums shall be authorized by the Department to pay for free or low-cost animal sterilization services.

Notes: This section was adopted on xxx to clarify sterilization requirements for dogs and cats released from a shelter subject to provisions of Administrative Code §17-804. It provides for procedures allowing owners who object to sterilization to remove the animals from the shelter without sterilization, and requiring such persons to post a bond that would be forfeited if the owners failed to prevail in a court challenge, or failed to challenge the sterilization requirement in court. Sums collected from forfeited bonds would be dedicated to cover the costs of free or subsidized spay and neuter services for dogs and cats.

Resolved, that Article 161 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended by adding a new §161.25, to be printed together with explanatory notes, to read as follows:

#### **§161.25 Modification by the Commissioner.**

When the strict application of any provision of this article presents practical difficulties or unusual hardship, the Commissioner in a specific instance may modify the application of such provision consistent with the general purpose of this article and upon such conditions as, in his or her opinion are necessary to protect public health.

Notes: This section was adopted on xxx to authorize the Commissioner or designee to modify provisions of this Article as necessary.

Resolved, that the Schedule of Section Headings in Article 161 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, amended to be printed together with explanatory notes, to read as follows:

### **ARTICLE 161 ANIMALS**

#### **§161.01 Wild and other animals prohibited.**

\* \* \* \*

#### **§161.07 [Vicious or dangerous animals.] Dangerous dogs.**

\* \* \* \*

#### **§161.19. Keeping of livestock, live poultry and rabbits.**

#### **§161.21 Yarding of horses, cattle, swine, sheep and goats.]**

#### **§161.21 Horse stables; rabies vaccination for horses; nuisance prevention.**

#### **§161.23 Sterilization of shelter animals.**

#### **§161.25 Modification by the Commissioner.**

Notes: The Schedule of Section Headings was amended by resolution on XXX to include new §§161.21, 161.23 and 161.25, added that date, and to reflect amendments to the titles of §§161.01 and 161.19.

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### **NOTICE OF INTENTION TO AMEND ARTICLE 207 OF THE NEW YORK CITY HEALTH CODE**

In compliance with §1043(b) of the New York City Charter and pursuant to the authority granted to the Board of Health by §558 of said Charter, notice is hereby given of the proposed amendment of Article 207 (General Vital Statistics Provisions) of the New York City Health Code.

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE WILL HOLD A PUBLIC HEARING ON THE PROPOSAL FROM 10:00 A.M.

TO 12:00 NOON ON MONDAY, FEBRUARY 1, 2010 IN THE THIRD FLOOR BOARDROOM (ROOM 330) AT 125 WORTH STREET, NEW YORK, NEW YORK 10013.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK SHOULD NOTIFY, IN WRITING, RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK; (212) 788-5010 BY 5:00 P.M. FRIDAY, JANUARY 29, 2010. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL BUSINESS HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013; (212) 788-5010 BY JANUARY 19, 2010. REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 12:00 P.M. ON FEBRUARY 1, 2010. HOWEVER, PREFERENCE WILL BE GIVEN TO THOSE WHO PREREGISTER.

WRITTEN COMMENTS REGARDING THE PROPOSAL ADDRESSED TO THE ATTENTION OF THE BOARD OF HEALTH MUST BE SUBMITTED TO RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, BY MAIL TO 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013, BY FAX TO (212) 788-4315, BY E-MAIL TO RESOLUTIONCOMMENTS@HEALTH.NYC.GOV OR ONLINE (WITHOUT ATTACHMENTS) AT <http://www.nyc.gov/html/doh/html/notice/notice.shtml> ON OR BEFORE 5:00 P.M., MONDAY, FEBRUARY 1, 2010. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED. COMMENTS RECEIVED AFTER FEBRUARY 1, 2010 WILL BE CONSIDERED TO THE EXTENT POSSIBLE.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY TO THE BOARD OF HEALTH AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. AT THE OFFICE OF THE SECRETARY. THE DEPARTMENT'S GENERAL POLICY IS TO MAKE WRITTEN COMMENTS AVAILABLE FOR PUBLIC VIEWING ON THE INTERNET. ALL COMMENTS RECEIVED, INCLUDING ANY PERSONAL INFORMATION PROVIDED, WILL BE POSTED WITHOUT CHANGE TO <http://www.nyc.gov/html/doh/html/comment/comment.shtml>.

#### **STATUTORY AUTHORITY**

These amendments to the New York City Health Code ("Health Code") are promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (the "Charter"). Section 556 of the Charter provides the Department of Health and Mental Hygiene ("DOHMH") with jurisdiction to regulate all matters affecting the health in the City of New York. Section 558(b) and (c) of the Charter empower the Board of Health (the "Board") to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants the DOHMH rulemaking powers.

#### **STATEMENT OF BASIS AND PURPOSE**

#### **INTRODUCTION**

As part of a comprehensive review of the Health Code to assess the efficacy of the articles in protecting the public's health, the DOHMH proposes that current Article 207, General Vital Statistics Provisions, be amended to assure that the revised provisions provide adequate legal tools to effectively address general public health matters and to reflect modern thought on public health. As part of the revision effort, obsolete provisions have been omitted and the standards set forth in revised Article 207 have been modernized to reflect current Department practice. Pursuant to this review and assessment of the Health Code, the Department proposes that the Board amend Article 207 as provided for below.

#### **Section 207.01**

Subdivision (a) was amended to make the provision more readable and to reflect gender neutrality. Subdivision (a) was also amended to provide for the amendment of the confidential medical report of death for deaths on or after January 1, 2010, as subdivision (a) of Section 205.07 now provides for inspection of the confidential medical report of death by specified persons on or after January 1, 2010. Subdivision (a) was further amended to restrict the category of guardian able to apply for a birth certificate amendment to the legal guardian, to distinguish from informal guardianships. The subdivision was further amended to remove the restriction that the person named on the certificate, if 18 years of age or over, can only apply for an amendment if such person's parents are dead, as this was a needless restriction. The subdivision was also amended to provide for amendments to the spontaneous termination of pregnancy certificate by the parents or surviving parent, and for amendments to the death certificate and confidential medical report of death by the person in control of disposition as defined in Article 205. This was to conform to Article 205 of this Code and the provisions of State Public Health Law §4201, which applies in the City.

Subdivision (b) was amended to remove the requirement to provide a certified copy of the certificate involved, as most amendments will require the payment of a fee instead of a certificate exchange. The amendment of a certificate of birth registration, which is issued without charge to all new mothers, is an exception. An original certificate of birth registration may be exchanged without charge for a new corrected certificate of birth registration if the application to amend is made by the person filing the original certificate within one year of the date of birth, as opposed to within a year of reporting the birth. These changes conform to the

Department's current practice.

Subdivision (c) was amended to reflect gender neutrality and to provide for correcting omissions as well as the confidential medical report of death.

Subdivision (d) was added to define the term "vital record", as used within this Article and the other Articles of Title V.

#### Section 207.03

Subdivision (a) was amended to clarify that the corrections and amendments referred to in this section are to vital records, including certificates and confidential medical reports, and not certifications.

Subdivision (b) was amended to clarify that only the Office of Chief Medical Examiner may submit missing information at any time, and that all other persons may only add missing information after one year following the filing of the certificate upon approval of an application in the manner specified in §207.01. The subdivision was further amended to change the time period during which missing information may be added from within one year of the date of birth, termination of pregnancy or death, to within one year of filing the event. These changes conform to the Department's current practice.

#### Section 207.05

Paragraph (1) of subdivision (a) was amended to conform to language in the acknowledgment of paternity form pursuant to New York State Public Health Law §4135-b.

Paragraph (3) of subdivision (a) was amended to update the reference to the Administrative Code.

Paragraph (4) of subdivision (a) was amended to conform to language in the acknowledgment of paternity form pursuant to New York State Public Health Law §4135-b.

Subdivision (b) was amended to provide for sealing documents physically or electronically, which is the case in digital or image storage systems.

Subdivision (c) was amended to make the provision more readable and to reflect gender neutrality. It was also amended to increase the period during which a new birth certificate may be filed when an application for amendment is submitted by the person filing the original certificate from three to twelve months from the date of birth, to be consistent with Department practice. The subdivision was further amended to replace "filed" with "submitted," which more clearly describes the function of an electronic system.

#### Section 207.07

This section was deleted as no longer necessary in light of contemporaneous changes to subdivisions 207.01(b), 207.05(c) and re-lettered 207.13(b). The section number, 207.07, is being held in reserve.

#### Section 207.11

This section was amended to include "vital" in the section heading to clarify that this section is applicable to vital records or data. It has also been divided into subdivisions to make the section more readable.

Subdivision (a) was amended to conform the language to the related language as provided for in revised section 3.25 of the Health Code. It was also amended to specify conditions related to requests by governmental agencies, whether foreign or domestic, for certified copies, individually identifiable information or verifications. This would enable prevention or detection of fraud and inter-jurisdictional exchange of records or data that relate to residents of those jurisdictions or persons born in those jurisdictions if such information is necessary for a proper purpose. Such requests would be granted only if the Commissioner or the Commissioner's designee agree that the requested information is necessary for a proper purpose. Language related specifically to death information was deleted from subdivision (a) and added as a new subdivision (b).

Subdivision (b) was added to make the section more readable. It includes a person in control of disposition, instead of next of kin, as an entitled party, which is in conformance with §4201 of the New York State Public Health Law.

Subdivision (c) was added to specify the conditions under which researchers be granted access to unidentifiable vital records data or identifiable vital records information, and to strengthen the protections of vital records data.

Subdivision (d) was added to provide stricter requirements concerning the proof of the identity of the party requesting access to vital records to help prevent fraudulent obtainment and use of such information.

#### Section 207.13

Paragraph (1) of subdivision (a) was amended to provide for fees for searches and issuance of certificates of spontaneous termination of pregnancy. It was also amended to update the Health Code to reflect the \$15.00 fee for each search and issuance of a certified copy that has been in effect since 1990, in accordance with §4179 of the New York State Public Health Law.

Paragraph (3) of subdivision (a) was amended to add "electronic equivalent," to update the code to include electronic systems and to add the word "and."

Paragraph (4) of subdivision (a) was amended to delete the word "and."

Paragraph (5) of subdivision (a) was repealed as access to vital statistics indexes will no longer be allowed, to prevent the fraudulent use of the information provided in the indexes

Subdivision (b) was deleted as the Department no longer issues uncertified copies of certificates and confidential medical reports under the circumstances contemplated by the deleted language. The subdivisions following the subdivision were re-lettered.

Re-lettered subdivision (b) was reworded to improve clarity and to add spontaneous termination of pregnancy certificates.

Re-lettered subdivision (d) was amended to update the reference to New York State Civil Practice Law and Rules.

Re-lettered subdivision (e) was amended to specify that verifications of information contained on birth, spontaneous termination of pregnancy or death certificates may be issued without charge to an agency of the City or State of New York. It was further amended to permit the Department to issue such verifications for a negotiated and agreed-upon fee to other governmental agencies. This would enable the Department to participate in the electronic verification of vital event information with federal agencies for fraud prevention purposes.

#### Section 207.15

This section was amended to allow for other methods of preservation should such other methods be developed.

#### Section 207.17

This section amended to allow for other devices for completing certificates should such other devices be developed.

#### Section 207.19

This section was amended to delete the specific reference to the Department's Manhattan office.

The proposal is as follows:

Note – Matter in brackets [ ] to be deleted  
Matter underlined is new

RESOLVED, that the list of section headings and the Introductory Notes to Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

### ARTICLE 207 GENERAL VITAL STATISTICS PROVISIONS

#### § 207.01 **Correction of records; application and approval; accompanying documents.**

\* \* \* \*

#### § 207.05 **Correction of records; filing of new birth certificates.**

#### §207.07 **[Correction of records; copy of amended certificate to be issued.] Reserved.**

#### §207.09 **Preparation or filing of certificates or reports; payment prohibited.**

#### §207.11 **Inspection of vital records or data; transcripts.**

#### §207.13 **Fees for [searches and transcripts of records] vital statistics services.**

\* \* \* \*

#### Introductory Notes:

This article supplements the three articles dealing with the reporting of vital events, i.e., Articles 201, 203 and 205. It provides for the correction of vital records, inspection of records, fees for searches and transcripts of records and other general matters. In addition, it contains a provision for the reporting of vital events occurring on carriers, such as ships and airplanes, which terminate their voyage in this City.

As part of a comprehensive review of the Code to assess the efficacy of the articles in protecting the public's health, Article 207 was amended by resolution adopted on XXX to provide adequate legal tools to effectively address general public health matters. As part of the revision effort, obsolete provisions, including § 207.07 (Correction of records; copy of amended certificate to be issued), were repealed and other provisions amended to reflect current Department practice.

RESOLVED, that §207.01 of Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

#### § 207.01 **Correction of records; application and approval; accompanying documents.**

(a) The Commissioner or [other personnel of the Department designated by him] the Commissioner's designee may approve the amendment of a birth, termination of pregnancy or death certificate, or of a confidential medical report of death for deaths occurring on or after January 1, 2010. Application shall be made on a form furnished by the Department. Application for amendment of a birth certificate shall be made by the parents or surviving parent, or by the legal guardian of the person whose birth certificate is to be corrected or by the person [himself] if [he] such person is 18 years of age or over, [and his parents are dead.] Application for amendment of a spontaneous termination of pregnancy shall be made by the parents or surviving parent. Application for amendment of a death [or termination of pregnancy] certificate, or of a confidential medical report of death shall be made by the person in control of disposition as defined in Article 205 of this Code or by the person identified on the death certificate as providing the personal particulars pursuant to Article 205 of this Code. [next of kin or, if there is no next of kin, by the persons authorized to arrange for burial or cremation of the remains.]

(b) Every application shall be accompanied by supporting documentary evidence, [and by a certified copy of the certificate involved.] An application for amendment of a birth certificate if made within one year of the date of [reporting of the [birth, may], however,] be accompanied by a certificate of birth registration which, if the application is approved, shall be exchanged without charge for a new corrected certificate of birth registration except as provided in §207.13(5)(f). [instead of a certified copy of the birth certificate.]

(c) No application shall be approved unless the Commissioner or [his] the Commissioner's designee is satisfied that the evidence submitted shows the true facts and that an error or omission was made at the time of preparing and filing of the certificate or confidential medical report of death, or that the name of a person named in a birth certificate has been changed pursuant to court order.

(d) As used in this Title, "vital record" shall mean any certificate or confidential medical report required to be filed with the Department pursuant to this Title, whether written or electronic.

#### Notes:

Subdivision (a) of this section was amended on XXX to reflect gender neutrality and to conform to Article 205 of this Code and § 4201 of the State Public Health Law; subdivision (b) was amended to remove the requirement that a copy of the certificate involved be provided; subdivision (c) was amended to reflect gender neutrality and provide for correcting omissions in certificates and confidential medical reports of death; and subdivision (d) was added to clarify the meaning of the term "vital record" as used within this Article and other Title V articles.

RESOLVED, that §207.03 of Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

#### § 207.03 **Correction of records; method of amendment; adding missing information.**

(a) Except as provided in § 207.05, when an application for amendment of a certificate is approved, a single line shall be drawn through the information subject to amendment, and the correct information shall be inserted immediately above it. The certificate shall be marked to show that it is amended, and the name of the person approving the amendment and the date thereof shall be noted on the certificate. When the name of a person is changed pursuant to court order, the new name shall be similarly inserted on the certificate together with a statement that the change of name is by court order and the date of the order. The Department may use an alternate method of recording corrections or other amendments to electronic vital records. [records or forms.] The history of these electronic corrections or amendments shall be clearly recorded within the electronic certificate and confidential medical report [record or form] by the Department.

(b) Within one year following the date [filing] of a birth, termination of pregnancy or death certificate, any missing information may be added upon submission of the information on a form furnished by the Department by the person who filed the certificate; provided that the Office of Chief Medical Examiner may submit missing information at any time. [any person authorized to file an application for amendment pursuant to § 207.01.]Except for such submissions by the Office of Chief Medical Examiner, [A]after one year following the date of event [filing] of a certificate, however, missing information shall be added only upon approval of an application for amendment in the manner specified in § 207.01.

#### Notes:

This section was amended on XXX to clarify that certifications are not included amongst the vital records that may be corrected or amended under this section. Subdivision (b) was amended to conform to the Department's current practice.

RESOLVED, that §207.05 of Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

#### § 207.05 **Correction of records; filing of new birth certificates.**

(a) A new birth certificate shall be filed when:

- (1) [Proof is submitted to the Department that the previously unmarried parents of a child have intermarried subsequent to the birth of such person; or] A father/parent's name is added upon submission of proof that the parents of a child were married at any time during the pregnancy or at the time of birth of such child; or,
  - (2) Notification is received by the Department from the clerk of a court of competent jurisdiction or proof is submitted of a judgment, order or decree relating to the parentage of the person; or,
  - (3) Notification is received by the Department from the clerk of a court of competent jurisdiction or proof is submitted of a judgment, order or decree relating to the adoption of the person. Every new birth certificate filed because of adoption shall bear a statement that it is filed pursuant to [§567-2.0(a)(3)] §17-167 of the Administrative Code; or,
  - (4) [A putative father of a child consents under oath to the filing of a new birth certificate bearing his name as the father of the child born out of wedlock; or] The parents of a child have completed, signed and filed with the Department an acknowledgment of paternity form pursuant to New York State Public Health Law §4135-b; or,
  - (5) The name of the person has been changed pursuant to court order and proof satisfactory to the Department has been submitted that such person has undergone convertive surgery.
- (b) When a new birth certificate is filed pursuant to [subsection (a) of] this section, the original birth certificate, the application for a new birth certificate and supporting documents shall be placed under physical or electronic seal, and such seal shall not be broken except by order of a court of competent jurisdiction. Thereafter, when a certified copy is requested of the certificate of birth of the person for whom a new certificate has been filed pursuant to the provisions of this section, a copy of the new certificate of birth shall be issued, except when an order of a court of competent jurisdiction requires the issuance of a copy of the original certificate of birth.
- (c) A new birth certificate may be filed when an application for amendment is submitted by a person required to file such certificate within twelve [three] months after the [report] date of birth, or when the Commissioner or [other personnel

of the Department designated by him) the Commissioner's designee finds it desirable by reason of the nature and extent of the amendments. In such a case, the original certificate of birth registration may [shall] be [filed] submitted with the application for amendment.

**Notes:**

This section was amended on XXX to reflect gender neutrality and improve readability. This section was also amended to conform to the requirements of the New York State Public Health Law § 4135-b and to update references to the New York City Administrative Code.

RESOLVED, that §207.07 (Correction of records; copy of amended certificate to be issued) of Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, repealed.

**Notes:**

This section was repealed on XXX in light of contemporaneous changes made to other sections in this Article and is being held in reserve.

RESOLVED, that §207.11 of Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

**§ 207.11 Inspection of vital records or data; transcripts.**

(a) Except as provided in §§ 201.07, 203.07 and 205.07, inspection of vital records or data filed with the Department pursuant to this Title may be made and transcripts of records may be obtained pursuant to the provisions of § 3.25 [3.27] of this Code and § 17-169 of the Administrative Code, respectively. Requests by governmental agencies, whether foreign or domestic, for certified copies of birth and spontaneous termination of pregnancy records or for certifications of birth pursuant to § 17-169, or for any individually identifiable information contained in the Department's vital records maintained pursuant to this Title, or for verifications thereof, shall specify the official use to which the requested information will be put and why the information is necessary for a proper purpose. The request may be granted only if the Commissioner or the Commissioner's designee agree that the requested information is necessary for a proper purpose. [No paper, file, report, record or proceeding concerning a death shall, however, be open to inspection except to a person, or to his representative who shall be an agent or other person having a legal or fiduciary obligation to such person, who has a personal interest therein as a relative, next of kin, heir or beneficiary, of a deceased person to whom the records pertain, or to a person who has a vested right in property by reason of the death of the person to whom the records pertain, or who otherwise establishes that such inspection or transcript is necessary or required for a judicial or other proper purpose, or to prevent the misuse or misappropriation of City, state or federal governmental funds.] Inspection of any vital records or data for the collection of information for sale or release to the public, or for other commercial or speculative purposes shall not be deemed a proper purpose. The Department may impose reasonable conditions as to the use and redisclosure of information, and may limit access to the minimum necessary to fulfill the purpose for which information is requested.

(b) No transcript, paper, file, report, record, or proceeding concerning a death shall, however, be open to inspection or copies thereof provided, except upon request, to persons or to their representatives, who are agents of, or who otherwise have a legal or fiduciary obligation to such persons; or who have a personal interest, as a relative, person in control of disposition, heir or beneficiary, of a deceased person to whom the records pertain; or who have a vested right in property by reason of the death of the person to whom the records pertain; or who otherwise establish that such records are necessary or required for a judicial or other proper purpose; or to prevent the misuse or misappropriation of City, state or federal governmental funds.

(c) Except as provided in §205.07 (a) of this Code, the Commissioner or the Commissioner's designee may grant access to unidentifiable line or cell vital records data or identifiable vital records information to qualified researchers for scientific purposes. Researchers shall submit a written request for access to such information to the Commissioner or the Commissioner's designee for review. The Commissioner or the Commissioner's designee may require such researcher to agree to conditions governing the possession and use of the data by the researcher. No person shall violate any term or condition of a written data use agreement filed with the Department upon which the Department or the Commissioner has relied to grant access to information or data.

(d) Proof satisfactory to the Department of the identity of the person making a request to inspect vital records or data such as a government issued identification record which may include a birth certificate, passport and other photographic identification, shall be provided to Department prior to inspection.

**Notes:**

This section was amended on XXX and divided into subdivisions to improve readability, and to conform to related provisions in § 3.25 of the Code. Subdivision (b) was added to include provisions in conformance with § 4201 of the New York State Public Health Law. Subdivisions (c) and (d) were added clarify the conditions under which researchers may be granted access to certain data and to require stricter proof of identity of parties seeking access to vital records data in order to prevent identity theft.

RESOLVED, that §207.13 of Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

**§ 207.13 Fees for [searches and transcripts of records] vital statistics services.**

(a) The Department shall charge fees for searches and transcripts as follows:

(1) For a search of two consecutive calendar years under one name and for issuance of a certified copy of a certificate of birth, death, or spontaneous termination of pregnancy, or a certification of birth or death, or a certification that the record cannot be found, the fee is \$15.00 for each copy in accordance with §4179 of the New York State Public Health Law.

(2) For each additional calendar year search, if applied for at the same time or within three months of the original request and if proof of payment for the basic search is submitted, the fee is \$1;

(3) For a certified copy of the reverse side of a death certificate, or its electronic equivalent, issued at the same time as a copy of the face of the certificate, the fee is \$2; and

(4) For a two calendar year search under one name for documents relating to transportation of human remains and the issuance of a certified copy of one side of a document, the fee is \$3 and for each certified copy of an additional side, the fee is \$1.50; and,

(5) For consulting indexes to vital statistics records, in accordance with the provisions of § 3.27(e), the fee is \$5 for each day or part thereof. The fee for consulting such indexes for one year is \$100, which shall enable the applicant to designate not more than two representatives to consult such indexes on his behalf.

(b) When the Board permits inspection or disclosure of information contained in a confidential medical report of birth, termination of pregnancy or death, fees shall be charged as follows:

(1) For a search of two consecutive calendar years under one name and for issuance of an uncertified copy of the certificate and confidential medical report, if found, the fee is \$2.50. For each additional year searched the fee is \$1.

(2) When the certificate number is furnished or search is made by the person or a representative of the person to whom approval has been granted, the fee for an uncertified copy of the certificate and confidential medical report is \$1.]

[c](b) Upon proper application by an authorized person, the Department shall exchange a certified copy of a birth or death certificate, or a certification that such a record cannot be found, for a certification of birth or death [and a] if the record can then be found. Upon proper application by an authorized person, the Department shall exchange a certification of birth or death, or a certification that such a record or a spontaneous termination of pregnancy certificate cannot be found, for a certified copy of a birth, spontaneous termination of pregnancy or death certificate if the record can then be found. Such exchanges shall be made without charge. when application is made within three months of the issuance of the certification that a record cannot be found or of the certified copy or certification to be exchanged.

[d](c) When application for searches and issuance of transcripts is made by any agency of the government of the United States, a voucher for future payment of required fees may be accepted by the Department instead of immediate payment of fees.

[e](d) The Department shall make searches and issue certified copies or transcripts without charge when:

(1) Requested for official purposes by any agency of the City or State or of any other political subdivision of the State; or,

(2) Requested pursuant to [§ 1384-n of the Civil Practice Act] the Civil Practice Law and Rules in connection with an application for benefits available from the Veterans Administration, if written proof of the application is first submitted; or,

(3) Requested in connection with applications for allowances for dependents of persons in the armed forces of the United States, in connection with an induction or enlistment into any armed force of the United States, or in connection with an application for a veterans' bonus pursuant to any law of the State, if written proof of the application, induction or enlistment is first submitted; or,

(4) Requested by an officer of the New York Society for the Prevention of Cruelty to Children for use in court cases; or,

(5) The Commissioner or the person in charge of the office of the Department designated to receive vital records, for good cause, so directs.

[f](e) The Department may issue without charge verifications of information contained on birth, spontaneous termination of pregnancy or death certificates [records] filed with the Department when such information is provided and a verification is requested by an agency of the City[,] or State of New York[.]. The Department may issue such verifications for a negotiated and agreed-upon fee to other governmental agencies, whether foreign or domestic. [the government of the United States, any state, territory or possession of the United States or any political subdivision thereof, the government of the District of Columbia, or by charitable or social welfare organizations or agencies.]

[g](f) The Department shall, effective January 1, 2010, charge an application fee of \$40.00 to correct or amend birth or death certificates as follows:

- (1) Adding a given name more than 60 days after birth
- (2) Correcting birth and death certificate errors and omissions made by family members and informants
- (3) Correcting hospital birth certificate errors and omissions after 12 months
- (4) Correcting funeral home errors
- (5) Correcting funeral home omissions filed after 12 months
- (6) Amending a birth certificate for an adoption
- (7) Amending a new birth certificate for a person who has undergone convertive surgery
- (8) Re-submitting an application more than 1 year after rejection.

[h](g) The Department shall, effective January 1, 2010, charge a fee of \$40.00 for disposition permits issued pursuant

to Article 205, except those for burials in the City cemetery.

**Notes:**

This section was amended on XXX to provide for fees covering searches and issuance of certificates of spontaneous termination of pregnancy. This section was also amended to reflect the current certified copy fee in use in accordance with § 4179 of the New York State Public Health Law. In addition, paragraphs (3) and (4) of subdivision (a) were amended to provide for greater clarity. Paragraph (5) of subdivision (a) was repealed and subdivision (b) was deleted in order to reflect current policy and practice. Re-lettered subdivisions (b), (d) and (e) were reworded or amended to improve clarity or amended to update references.

RESOLVED, that §207.15 of Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

**§ 207.15 Preservation of records.**

Registries of birth, termination of pregnancy or death, and permits required to be kept on file pursuant to § 205.21[5(b)], may be permanently preserved electronically, or through photostatic, microphotographic or microfilm copies, or such other preservation methods as may be approved by the department.

**Notes:**

This section was amended on XXX to allow for other methods of records preservation if such methods are developed.

RESOLVED, that §207.17 of Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

**§ 207.17 Certificates and reports; legibility and correctness.**

Every certificate of birth, termination of pregnancy and death, and every confidential medical report which is not filed electronically in accordance with other provisions of this Code shall be filled out legibly on typewriter or other device acceptable to the Department or with permanent black ink and shall be properly signed. No certificate or report shall be accepted which is imperfectly filled out, or on which a felt-tipped type of pen has been used, or if it has been corrected, interlined or altered in any manner.

**Notes:**

This section was amended on XXX to allow for other devices for completing certificates if such other devices are developed.

RESOLVED, that §207.19 of Article 207 (General Vital Statistics Provisions) of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

**§ 207.19 Births, termination of pregnancy and deaths on buses, train, ships and airplanes.**

When a birth, termination of pregnancy or death occurs on a bus, train, ship or airplane which terminates a voyage, trip or flight at a terminal in The City of New York, the person in charge or the owner of such bus, train, ship or airplane shall file with the Department a certificate of such birth, if the child is brought into the City, or a certificate of termination of pregnancy or death if the remains are brought into the City. A certificate of birth occurring on a ship or airplane during any voyage, trip or flight which terminates at a terminal in the Port of New York, but not in The City of New York, may be filed with the Department if the child is brought into the City. Certificates, on a form prescribed by the Board and furnished by the Department, shall be filed with [the Manhattan office of] the Department within 24 hours following the arrival of the bus, train, ship or airplane. Certificates shall contain such information as the Board may require, including the specific location or the latitude and longitude where such event took place and whether the event occurred on land, at sea, or in the air.

**Notes:**

This section was amended on XXX to delete a reference to the Manhattan office of the Department as a place to file a certificate of birth.

**NOTICE OF INTENTION TO AMEND ARTICLE 11 OF THE NEW YORK CITY HEALTH CODE**

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, notice is hereby given of the proposed amendment of Article 11 of the New York City Health Code (the "Health Code").

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE WILL HOLD A PUBLIC HEARING ON THE PROPOSAL FROM 10:00 A.M. to 12:00 P.M. ON THURSDAY, FEBRUARY 4, 2010 IN ROOM 225 AT 125 WORTH STREET, NEW YORK, NEW YORK 10013.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK SHOULD NOTIFY, IN WRITING, RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK; (212) 788-5010 BY 5:00 P.M. WEDNESDAY, FEBRUARY 3, 2010. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL BUSINESS HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125

WORTH STREET CN-31, NEW YORK, NEW YORK 10013; (212) 788-5010 BY JANUARY 21, 2010.

REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 12:00 P.M. HOWEVER, PREFERENCE WILL BE GIVEN TO THOSE WHO PREREGISTER.

WRITTEN COMMENTS REGARDING THE PROPOSAL ADDRESSED TO THE ATTENTION OF THE BOARD OF HEALTH MUST BE SUBMITTED TO RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, BY MAIL TO 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013, BY FAX TO (212) 788-4315, BY E-MAIL TO [RESOLUTIONCOMMENTS@HEALTH.NYC.GOV](mailto:RESOLUTIONCOMMENTS@HEALTH.NYC.GOV) OR ONLINE (WITHOUT ATTACHMENTS) AT <http://www.nyc.gov/html/doh/html/notice/notice.shtml> ON OR BEFORE 5:00 P.M., TUESDAY, FEBRUARY 3, 2010. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED. COMMENTS RECEIVED AFTER FEBRUARY 4, 2010 WILL BE CONSIDERED TO THE EXTENT POSSIBLE.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY TO THE BOARD OF HEALTH AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. AT THE OFFICE OF THE SECRETARY. THE DEPARTMENT'S GENERAL POLICY IS TO MAKE WRITTEN COMMENTS AVAILABLE FOR PUBLIC VIEWING ON THE INTERNET. ALL COMMENTS RECEIVED, INCLUDING ANY PERSONAL INFORMATION PROVIDED, WILL BE POSTED WITHOUT CHANGE TO <http://www.nyc.gov/html/doh/html/comment/comment.shtml>

#### STATUTORY AUTHORITY

These amendments to the New York City Health Code (the "Health Code") are promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (the "Charter"). Section 556 of the Charter provides the Department of Health and Mental Hygiene (the "Department") with jurisdiction to regulate all matters affecting the health in the city of New York. Section 558(b) and (c) of the Charter empower the Board of Health (the "Board") to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 of the Charter grants the Department rulemaking powers.

#### STATEMENT OF BASIS AND PURPOSE

The Board of Health, at its meeting on September 17, 2008 adopted a resolution repealing and reenacting Article 11 of the New York City Health Code (Reportable Diseases and Conditions). The Department requests that the Board of Health amend § 11.15 (Control Measures; duty to exclude; exclusion orders) of Article 11 of the Health Code to remove the requirement that individuals who are enrollees or attendees under the age of six or staff members in contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or health care practitioners providing oral care who are diagnosed with *campylobacteriosis*, *salmonellosis* (other than typhoid) or *yersiniosis* be excluded until two negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department.

The applicable exclusion provisions in §11.15 cause undue burden and economic hardship to families and health care practitioners where routine hygiene and rapid implementation of improved infection control practices are sufficient to prevent transmission of *campylobacteriosis*, *salmonellosis* (other than typhoid) and *yersiniosis*. For example, children with special needs, such as those with developmental delays or autism, may be needlessly deprived of educational therapy and the loss of workdays among health care practitioners will cause an undue burden in settings where there is a low risk of transmission. However, exclusion is warranted for those listed in §11.15(a) who contract gastrointestinal infections such as *Shigella*, hepatitis A, or *E. Coli* O157:H7 as the infectious dose for these pathogens is low and outbreaks associated with them in daycare settings are well documented in medical literature.

The Department will require that individuals diagnosed with *campylobacteriosis*, *salmonellosis* (other than typhoid) or *yersiniosis* who are enrollees or attendees under the age of six or staff members in contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or health care practitioners providing oral care to those diagnosed with these conditions be excluded only until they are asymptomatic, unless they are determined by the Department to represent a continuing risk to others. In addition, the exclusion requirements pertaining to food handlers will remain unchanged.

#### References:

Buchwald DS, Blaser MJ. A Review of Human Salmonellosis: II. Duration of Excretion Following Infection with Nontyphi *Salmonella*. *Reviews of Infectious Diseases* 1984;6:345-356.

Pickering LK, Bartlett AV, Woodward WE. Acute Infectious Diarrhea Among Children in Day Care: Epidemiology and Control. *Reviews of Infectious Diseases*; 1986;8:539-547.

Pickering LK, Baker CJ, Long SS, McMillan JA eds. Red Book 2006 Report of the Committee on Infectious Diseases. 27 ed. Elk Grove Village, IL. American Academy of Pediatrics, 2006 pp. 130-136.

#### Statement Pursuant to Charter § 1043

This proposal was not included in the Department's regulatory agenda because the need for the amendment became known after publication of the regulatory agenda.

The amendment is as follows:  
Matter underlined is new  
Matter to be deleted is indicated by [brackets].

**RESOLVED**, that §11.15(a) of Article 11 (Reportable Diseases and Conditions) of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, adopted by resolution on the seventeenth of September, two thousand eight, be, and the same hereby is, amended, to be printed together with explanatory notes to read as follows:

#### §11.15 Control measures; duty to exclude; exclusion orders.

(a) Any individual required to be isolated pursuant to provisions of this Article, and certain cases, suspect cases, contacts and carriers, as indicated in this subdivision, shall be excluded by the operator, employer or person in charge of the applicable institution, facility or place as set forth in this subdivision.

(1) A case or carrier of the following diseases [listed in this paragraph] who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care; shall be excluded until two negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided that, if the [patient] individual has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Campylobacteriosis  
Cholera  
E. coli 0157:H7 and other Shiga toxin producing  
Escherichia coli (STEC) infections  
Salmonellosis (other than typhoid)  
Shigellosis  
Yersiniosis

(2) A case or carrier of the following diseases who is an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care shall be excluded until two negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided that, if the individual has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Cholera  
E. coli 015:H7 and other Shiga toxin producing  
Escherichia coli (STEC) infections  
Shigellosis

(3) A case or carrier of the following diseases who is an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner who provides oral care, shall be excluded until the individual no longer has symptoms, unless the Department determines that there is a continuing risk to others:

Campylobacteriosis  
Salmonellosis (other than typhoid)  
Yersiniosis

[(2)] (4) A case or carrier of the diseases listed in this paragraph who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care, shall be excluded until three negative stool samples, taken not less than 24 hours apart and no less than 48 hours after resolution of symptoms, are submitted to the Department and until determined by the Department to no longer be a risk to others; provided, however, that, if the [patient] individual has received antimicrobial therapy, the first stool sample shall be taken no less than 48 hours after the last dose:

Amebiasis  
Cryptosporidiosis  
Giardiasis

[(3)] (5) A case or household contact of Hepatitis A who is a food handler; an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care, shall be excluded until determined by the Department to no longer be a risk to others.

Notes:  
Subdivision (a) of §11.15 was amended, and its paragraphs relettered, by resolution adopted on XXX to reflect new exclusion requirements pertaining to a case or carrier of *campylobacteriosis*, *salmonellosis* (other than typhoid) and *yersiniosis* who is an enrollee or attendee under the age of six or staff member who has contact with children under the age of six in a school, day care facility, camp or other congregate care setting with children under the age of six; or a health care practitioner in a hospital or medical facility who provides oral care.

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#### NOTICE OF INTENTION TO AMEND ARTICLE 81 OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, notice is hereby given of the proposed amendment of Article 81 (Food Preparation and Food Establishments) of the New York City Health Code (the "Health Code").

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE WILL HOLD A PUBLIC HEARING ON THE PROPOSAL FROM 10:00 A.M.

TO 12:00 NOON ON FRIDAY, FEBRUARY 5, 2010, IN THE THIRD FLOOR BOARDROOM (ROOM 330) AT 125 WORTH STREET, NEW YORK, NEW YORK 10013.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK SHOULD NOTIFY, IN WRITING, RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK; (212) 788-5010 BY 5:00 P.M. THURSDAY, FEBRUARY 4, 2010. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL BUSINESS HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013; (212) 788-5010 BY JANUARY 22, 2010. REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 12:00 P.M. FEBRUARY 5, 2010. HOWEVER, PREFERENCE WILL BE GIVEN TO THOSE WHO PREREGISTER.

WRITTEN COMMENTS REGARDING THE PROPOSAL ADDRESSED TO THE ATTENTION OF THE BOARD OF HEALTH MUST BE SUBMITTED TO RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, BY MAIL TO 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013, BY FAX TO (212) 788-4315, BY E-MAIL TO [RESOLUTIONCOMMENTS@HEALTH.NYC.GOV](mailto:RESOLUTIONCOMMENTS@HEALTH.NYC.GOV) OR ONLINE (WITHOUT ATTACHMENTS) AT <http://www.nyc.gov/html/doh/html/notice/notice.shtml> ON OR BEFORE 5:00 P.M., FRIDAY, FEBRUARY 5, 2010. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED. COMMENTS RECEIVED AFTER FEBRUARY 5, 2010 WILL BE CONSIDERED TO THE EXTENT POSSIBLE.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY TO THE BOARD OF HEALTH AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. AT THE OFFICE OF THE SECRETARY. THE DEPARTMENT'S GENERAL POLICY IS TO MAKE WRITTEN COMMENTS AVAILABLE FOR PUBLIC VIEWING ON THE INTERNET. ALL COMMENTS RECEIVED, INCLUDING ANY PERSONAL INFORMATION PROVIDED, WILL BE POSTED WITHOUT CHANGE TO <http://www.nyc.gov/html/doh/html/comment/comment.shtml>.

#### STATUTORY AUTHORITY

These amendments to the Health Code are promulgated pursuant to §§558 and 1043 of the Charter. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Commissioner and the Department of Health and Mental Hygiene (the Department) extends. Section 1043 grants the Department rule-making authority.

#### STATEMENT OF BASIS AND PURPOSE

##### Background

The Department is charged with preventing and controlling disease, including food-borne illness. Food service establishments, including restaurants, are an important source of food for New York City residents. An estimated one third of daily caloric intake comes from foods purchased and prepared outside the home, and this proportion is increasing.<sup>1</sup> Maintaining safe food service establishments is therefore a core public health function.

The Department enforces provisions of the Health Code, the State Sanitary Code, Public Health Law and other applicable laws relating to food served directly to consumers throughout the City. This includes regulation of food that is commercially prepared and sold by food service establishments (establishments or FSEs), a broad category that includes restaurants. The Department issues permits to and inspects all New York City food service establishments, as defined in §81.03(j) and (p) of the Health Code.

Sanitary inspections cover a range of specific practices, including the manner in which food is received and stored, processed, and the temperatures at which food is cooked, held, and reheated. These inspections are unannounced, and are conducted by Public Health Sanitarians who are trained public health professionals with college degrees and backgrounds in the sciences. Additionally, the Health Code requires that a food service establishment have a supervisor with a Food Protection Course certificate present during all hours of operation.

More than a quarter of restaurants in New York City have sufficiently serious or numerous violations of the Health Code on initial inspections to require a reinspection. These rates have fluctuated between about 20 and 30% over the past five years. Food service establishment inspections are scored in accordance with Chapter 23 of Title 24 of the Rules of the City of New York (RCNY). In the past fiscal year (FY09), nearly 11,000 inspections, about 27% of all inspections, resulted in scores exceeding 27 points, requiring reinspection. In the same year, there were more than 1,500 restaurants closed by the Department as a result of serious, repeated violations or imminent health hazards found on sanitary inspections. Department analysis of New York State Department of Health hospital discharge data indicates that hospitalization rates for food-borne illness in New York City rose over the past ten years. Informing consumers at point-of-entry about food sanitation inspection results by means of a grading system would provide an additional incentive beyond fines to FSEs to improve their food handling practices. Over time this should lead to improved compliance with Health Code and State Sanitary Code food safety requirements.

The goals of a sanitary inspection grading system are to:

1. communicate risks to the public to enable informed public choice about where to dine;
2. improve compliance by food service establishments; and
3. reduce, over time, restaurant-attributable food-borne illness.

<sup>1</sup> Guthrie JF, Lin BH, Frazao E. Role of food prepared away from home in the American diet, 1977-78 versus 1994- 96: changes and consequences. *Society for Nutrition Education* 2002; 34:140-150.

#### Information helps consumers compare options and make informed decisions

Food establishment grading information provided at the time of restaurant selection would enable New Yorkers concerned with food hygiene and sanitary practices to consider the practices of the establishments where they may choose to eat. Currently, a summary of inspection findings are available on the Department's website and copies of complete inspection reports are available on request from the Department. The Department's website lists point totals from inspection findings, with greater numbers of points indicative of more violations. As an educational tool, the current system is limited in important ways. First, though New Yorkers across full educational and economic spectra dine out, websites are disproportionately used by more educated and affluent residents. Second, the ability of consumers to use inspection scores in decision-making depends on checking scores on-line in advance for many. Third, the presentation of inspection scores, the higher the score, the worse the performance, is for many counter-intuitive.

This proposal to introduce point-of-entry posted letter grading addresses each of these fundamental limitations. It will enable point-of-entry viewing of scores; it equalizes access to inspection results; it normalizes scoring into a categorical letter grade that comports with a far more common approach to communicating performance; and it categorizes scores into grades that are easily understood but remain tied to historical distinctions in scoring.

Sanitary inspection grades that are conspicuously posted at FSEs enable consumers to make choices about where to eat based on their degree of confidence in the restaurants' food safety inspection results. A 2001 survey of 2,000 Los Angeles County residents found that 84% of respondents had heard of the grading system and 77% of respondents noticed posted grades always or most of the time. The survey also found that 65% of respondents were influenced in their selection of food facilities by letter grades always or most of the time. Of respondents who dined out, only 3% responded that they would eat at "C" restaurants, and 25% would eat at a "B" restaurant, whereas 88% would eat at an "A" restaurant always or most of the time. Three-quarters of respondents identified the Los Angeles County Department of Public Health as being the sponsor of the grading system, making it the most widely recognized program within the Department of Public Health and confirming people's association of the grades with health and hygiene.

#### Posting of sanitary grades at restaurants is associated with improvements, over time, in restaurants' compliance with sanitary codes.

Many restaurants recognize their duty to operate their establishments in a safe and sanitary manner. Currently, external incentives for restaurants' compliance with the Health Code consist principally of the avoidance of fines and the threat of closure. While appropriate, these incentives are insufficient to compel routine compliance for a substantial number of restaurants. Evidence from other jurisdictions that have implemented restaurant grading suggests that the adoption of mandatory grade posting leads to significant improvements in food safety and sanitary practices in restaurants. Though Tennessee, Georgia, South Carolina and North Carolina have adopted letter grading, Los Angeles County's grading system was first adopted in 1998 and is the most formally evaluated program in the United States. In 1998, when grading was first adopted in Los Angeles, just 40% of restaurants scored an "A." By 2002, 82% received "A" grades and that percentage has held steady.

#### Restaurants contribute to food-borne illnesses and restaurant grading has been associated with a decline in food-borne illness.

Today more people eat out and they eat out more often, elevating the importance of food hygiene in restaurants. In 1970, Americans spent 26% of their food dollars on foods prepared outside their homes; by 2006 they spent almost half (48%).<sup>2</sup> Nationally, it is estimated that about half of all food-borne illness outbreaks are associated with dining in restaurants. By applying national estimates of food-borne illness and the percentage of those cases that are attributable to dining out, the Department estimates that each year more than 5,000 people are hospitalized and about 10,000 visit hospital emergency departments for food-borne illnesses that are likely attributable to restaurant dining in New York City. Thousands of cases of diarrhea each day are attributable to restaurant dining.<sup>3</sup>

In other jurisdictions, adoption of restaurant grading has been associated with declines in food-borne illnesses. Although the association is not proven, one study compared trends in food-borne illness hospitalizations in Los Angeles compared to California jurisdictions that had not adopted grading. That study found a 20% decline in hospitalizations for food-borne illnesses associated with the adoption of the posting of sanitary grades in food service establishments.<sup>4</sup>

The Department proposes that the Board repeal current §81.51 (Examination of most recent inspection report by patron or customer; posting sign) and adopt a new §81.51 to authorize the Department to develop a system for grading inspection results and to require posting of grades by certain

food service establishments. Food establishments that would not be covered by the new provision would include primary and secondary school and hospital-operated cafeterias, correctional facilities, charitable organizational feeding programs, membership organization food service establishments, temporary food service establishments, mobile vendors and mobile vending commissaries. The proposed provision will require posting of "A" (the highest) grades immediately by FSEs that receive fewer than 14 points on an initial sanitary inspection. Immediate posting would not be required for FSEs receiving scores of 14 or more points. These FSEs would be reinspected, receiving an opportunity to decrease their scores on a compliance inspection, and would then be required to post grade placards reflecting compliance inspection scores, after the notices of violation issued on the compliance inspection were adjudicated at the Administrative Tribunal.

Mandating restaurant grading information for restaurants is feasible, informs consumer choice and is likely to improve restaurants' compliance with Health Code requirements and reduce the burden of food-borne illness in New York City.

<sup>2</sup> National Restaurant Association (NRA). Industry at a Glance. 2005.

<sup>3</sup> Mead, PS, Slutsker, L, Dietz, V, McCaig, LF, Bresee, JS, Shapiro, C, Griffin, PM, Tauxe, RV. Food-related Illness and Death in the United States. *Emerging Infectious Diseases*: 5(5)

<sup>4</sup> Ten Year Anniversary of Restaurant Grading Program. *County of Los Angeles Public Health*. January 28, 2008.

The resolution is as follows:

Matter that is deleted is in brackets [ ] ; matter that is underlined is new.

Resolved, that §81.51 of Article 81 of the New York City Health Code, found in Title 24 of the Rules of the City of New York be, and the same hereby is, repealed and recodified, to be printed together with explanatory notes, to read as follows:

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

(a) Grading. The Department shall establish and implement a system for grading and classifying inspection results for food service establishments using letters to identify and represent an establishment's degree of compliance with the provisions of this Code, the State Sanitary Code and other applicable laws that require such establishments to operate in a sanitary manner so as to protect public health. The letter "A" shall be the grade representing the highest degree of compliance with such laws. Subject to the provisions of this section, the Department shall provide each operating establishment that it inspects with a letter grade card indicating the establishment's inspection grade, except that no letter grade card shall be provided when the Department orders an establishment closed after an inspection.

(b) Posting. Upon receipt, and except as provided in subdivisions (c) and (e), an establishment shall conspicuously post a letter grade card so that it is visible to the general public and to patrons prior to entering the establishment. The letter grade card shall not be defaced, marred, camouflaged or hidden from public view.

(c) Issuance of grade card.

(1) "A" grades. For any establishment receiving an "A" grade, the Department shall provide the establishment with a letter grade card at the conclusion of the inspection where such grade is determined. The grade card shall be posted immediately.

(2) Other grades. For any food service establishment receiving a grade lower than an "A," the Department shall advise the establishment of its inspection grade and the findings upon which it was based. The Department shall conduct a subsequent inspection of the establishment no sooner than seven (7) days after the first inspection. At the conclusion of the second inspection, the Department shall provide the establishment with a letter grade card indicating the inspection grade that the establishment received on that inspection.

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

(e) When posting may be deferred.

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

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

adjourned hearing date. In no event shall an establishment defer posting its letter grade card after the adjourned hearing date if the establishment is not able to proceed on such date. (f) Scope and applicability. This section shall not apply to mobile food vending units, mobile food vending commissaries, temporary food service establishments, food service establishments operated in or by primary and secondary schools, hospital-operated cafeterias, correctional facilities, or charitable organizations, including soup kitchens or other prepared food distribution programs, nor to food service establishments operated by not for profit membership organizations.

(g) No effect on other enforcement. Nothing in this section shall affect the Department's authority to take any other action necessary to protect the public health or to enforce the provisions of this Code or any other law or rule applicable to operation of a food service establishment.

Notes: Section 81.51 was repealed and recodified by resolution adopted on XXX, requiring the Department to institute a letter grading system for certain food service establishments. Former §81.51 required posting a sign indicating where inspection reports may be obtained. Since inspection results are now posted on the Department's website, and may be obtained from the Department on request under the Freedom of Information Law, this signage is no longer necessary.

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

#### ARTICLE 81 FOOD PREPARATION AND FOOD ESTABLISHMENTS

**§81.01 Scope.**  
\* \* \* \* \*

**§81.50 Calorie labeling.**  
**§81.51 [Examination of most recent inspection report by patron or customer; posting sign.] Grading of inspection results and posting of grades by certain food service establishments.**

Notes: The Table of Section Headings was amended by resolution on XXX when §81.51 (Examination of most recent inspection report by patron or customer; posting sign) was repealed and a new §81.51 authorizing the Department to develop a letter grading system for food service establishments was added.

• d22

## SPECIAL MATERIALS

### PARKS AND RECREATION

#### ■ NOTICE

#### Notice of Adoption

Revision of Parks Department Rules

**NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN** the Commissioner of the Department of Parks & Recreation ("Parks") by section 533(a)(9) of the New York City Charter, and in accordance with the requirement of section 1043 of the New York City Charter, that Parks hereby revises section 1 of Title 56 of the Rules of the City of New York. Matter underlined is new. Deletions are indicated by brackets.

Written comments regarding the rules were received in accordance with notice published in the City Record and a public hearing was held on October 21, 2009 at the Chelsea Recreation Center, 430 West 25th Street, New York, NY 10010. Written comments and a tape recording of oral comments received at the hearing are available for public inspection between the hours of 9:00 A.M. and 5:00 P.M. at The Arsenal, Room 313, 830 Fifth Avenue, New York, NY 10065.

New material is indicated by underlining. Deletions are indicated by brackets.

#### Section 1. Section 1-02 of Title 56 of the Rules of the City of New York is amended to add three new definitions to read as follows:

Bicycle. "Bicycle" means every two- or three-wheeled device upon which a person or persons may ride, propelled by human power through a belt, a chain or gears, with such wheels in a tandem or tricycle, except that it shall not include such a device having solid tires and intended for use only on a sidewalk by pre-teenage children.

Park path. "Park path" means any road, path or trail through or within a park that is not used for vehicular traffic, except for possible use by emergency motor vehicles or Department motor vehicles, provided that it shall not include a path designated by the Commissioner as a bikepath.

Pedicab. "Pedicab" means a bicycle as defined in this section or other device that is designed and constructed to transport or carry passengers, that is solely propelled by human power, and that is operated to transport passengers for hire.

**§ 2. Subdivision (i) of section 1-05 of Title 56 of the Rules of the City of New York is amended to read as follows:**

§ 1-05

(i) Bicycling and operating Pedicabs

(1) Any person bringing a bicycle or a pedicab into any park shall obey all park signs pertaining to the use of such bicycles or pedicabs. Only pedicabs that carry a registration plate as required by §20-255 of the New York City Administrative Code and are operated by, or are authorized to be operated by, a pedicab business that possesses a valid pedicab business license, as defined by §20-249 of the New York City Administrative Code, may be operated within property under the jurisdiction of the Department. Only a pedicab driver as defined by §20-249 of the New York City Administrative Code who has a valid pedicab driver's license as defined by §20-249 of the New York City Administrative Code may operate a pedicab within property under the jurisdiction of the Department.

(2) No bicycle or pedicab shall be ridden or otherwise operated in vegetated areas or on any bridle path, pedestrian way, park path, sitting or play area, [or] playground, or in any other area so designated. Bicycles may be ridden and operated on park roads, bikepaths, and other areas specifically designated by the Commissioner. Pedicabs may only be operated on park roads designated by the Commissioner and may not be operated or stopped in (i) any recreation lane designated by the Commissioner for use by pedestrians or bicyclists; or (ii) any bikepath designated by the Commissioner.

(3) No person shall operate a bicycle or a pedicab in a reckless manner. Any person operating a bicycle or pedicab shall ride in the direction of traffic and obey all traffic lights and road signs. Persons operating pedicabs may not ride adjacent to another pedicab, bicycle or vehicle, except when using the left lane to pass another pedicab, bicycle or motor vehicle.

(4) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except children may be carried in seats securely attached to a bicycle. No person riding [upon] a bicycle shall attach himself or herself or his/her bicycle to the outside of any vehicle being operated upon a roadway.

(5) [Bicyclists] Any person operating a bicycle shall yield the right of way to pedestrians, in-line skaters, and horse drawn carriages. Any person operating a pedicab shall yield the right of way to pedestrians, bicyclists, in-line skaters, and horse drawn carriages.

(6) On the park roads in Central Park, all pedicabs shall remain in the far right lane, except when passing another pedicab, bicycle, or vehicle, in which case the pedicab may use the next lane to the left to pass.

(7) No person shall operate a pedicab adorned with commercial advertising in any park, or at any other location under the jurisdiction of the Department, unless the pedicab is on a park road during a time when private motor vehicles are allowed to operate on such park road.

(8) No person operating a pedicab in any park, or at any other location under the jurisdiction of the Department, shall solicit, pick up or release passengers except at areas specifically designated by the Commissioner, subject to any limitation imposed by the Commissioner as to the number of pedicabs that may solicit, pick up or release passengers in such designated areas at any given time. Signs shall be posted informing the public of the designation of such areas for solicitation, pick up or release of pedicab passengers.

(9) No person operating a pedicab shall occupy an area reserved solely for buses, taxicabs, horse drawn carriages or other vehicles or motor vehicles.

(10) In addition to complying with the provisions of this subdivision (i) of §1-05, pedicab drivers shall operate pedicabs in compliance with the provisions of §20-259 of the New York City Administrative Code.

(11) If there are exceptional circumstances, the Commissioner, in consultation with the Commissioners of the Police, Transportation and Consumer Affairs Departments, shall be authorized, upon notice, to restrict or prohibit any pedicab driver, as defined by §20-249 of the New York City Administrative Code, from operating his or her pedicab on any park road otherwise designated for pedicab use, for a consecutive period of time, not to exceed fourteen days, or on one or more particular days. For purposes of this paragraph, exceptional circumstances shall include, but not be limited to, unusually heavy pedestrian or bicycle traffic, existence of any obstructions on Department property, a parade, demonstration, special event, or other such similar event or occurrence at or near such location. Notwithstanding the preceding provisions of this paragraph, the Commissioner may restrict or prohibit the operation of pedicabs within property under the jurisdiction of the Department for periods of time in excess of fourteen days when such restrictions apply to bicycles or other types of vehicles.

STATEMENT OF BASIS AND PURPOSE

These Rules are promulgated pursuant to the authority of the Commissioner (the "Commissioner") of the Department of Parks and Recreation (the "Department") under sections 389(b), 533(a)(9) and 1043 of the New York City Charter and under section 20-265 of the New York City Administrative

Code. The Commissioner is authorized to establish and enforce rules for the use, governance and protection of public parks and of all property under the charge or control of the Department.

After publishing the proposed Rules in the City Record, comments were received from the public. The Rules have been modified to reflect some of the recommendations received. In particular, as the prohibition on the operation of pedicabs on park paths includes areas that would be covered by the prohibition on the operation of pedicabs on greenways under the jurisdiction of the Department, the prohibition on operating pedicabs in any Department greenway has been deleted. Technical changes have also been made to the Rules. The Rules address the operation of pedicabs within City parks so as to promote safety, preserve aesthetic values and provide a balanced interaction with other park users, while still permitting pedicab drivers to continue to ply their trade.

• d22

DESIGN & CONSTRUCTION

■ NOTICE

DETERMINATION AND FINDINGS BY THE CITY OF NEW YORK PURSUANT TO SECTION 204 OF THE NEW YORK STATE EMINENT DOMAIN PROCEDURE LAW

Whereas, the New York City Department of Design and Construction ("DDC"), on behalf of the New York City Housing Preservation & Development ("HPD") and the City of New York ("City"), has proposed the acquisition of certain street properties known as portions of Beach 46th St., Beach 47th St., Beach 48th St., Beach 49th St., Norton Ave., and Rockaway Beach Boulevard in the Borough of Queens; and

Whereas, the New York State Eminent Domain Procedure Law ("EDPL") sets forth uniform procedures for condemnations by municipalities throughout the State of New York, which also govern over this acquisition; and

Whereas, pursuant to the EDPL, the City is required to hold a public hearing to determine whether the public would be better served by the proposed acquisition of the above-mentioned properties and the impact of such an acquisition on the neighborhood where the project is to be constructed; and

Whereas, the City held a public hearing in relation to this acquisition on September 18, 2009 in the Borough of Queens.

Now, therefore, let it be known that the City, pursuant to Section 204 of EDPL, hereby determines and finds:

(1) The public use and benefit of this project is for the reconstruction of roadways, sidewalks, curbs; installation of new storm sewers; the upgrading of existing sanitary sewers and the upgrading of existing water mains at certain portions of Beach 46th St., Beach 47th St., Beach 48th St., Beach 49th St., Norton Ave., and Rockaway Beach Boulevard in the Borough of Queens (the "Project").

(2) The properties to be acquired are shown on the City's Tax Map for the Borough of Queens and include the following properties:

- Block 15837, part of Lots 1, 5, 7, 13, 15, 17, 19, 23, 25, 27, 29;
● Block 15838, part of Lots 3, 5, 6, 9, 11, 12, 13, 15, 17, 19, 20, 21, 22, 24, 25, 27, 34, 37, 39, 41, 43, 45, 47, 48, 49, 51, 53, 55, 57, 59, 61, 63, 67, 70, 72, 74, 76;
● Block 15839, part of Lots 1, 3, 5, 6, 8, 9, 13, 15, 17, 19, 21, 22, 24, 25, 26, 34, 36, 38, 40, 42, 43, 44, 46, 47, 49, 58, 60, 61, 63, 64, 67, 68, 70, 72, 75;
● Block 15840, part of Lots 6, 64 65;
● Block 15964, part of Lots 61, 63, 65;
● Block 15968, part of Lots 3, 5, 6, 7, 8, 9, 10, 12, 14, 19, 24, 26, 27, 29, 31, 32, 33, 35, 36, 38, 39, 41, 42, 44;
● Block 15969, part of Lots 42, 43, 44, 45, 46, 51, 52, 53, 55, 56, 58, 61, 63, 64, 65, 67, 68, 69, 71, 73, 74, 76;
● Block 15972, part of Lots 1, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 28, 33;
● Block 15973, part of Lots 38, 39, 40, 41;
● And the bed of street for Beach 46th St., Beach 47th St., Beach 48th St., Beach 49th St., Norton Avenue and Rockaway Beach Blvd.

The proposed acquisition shall consist of the following locations in the Borough of Queens: Beach 46th St. from Rockaway Beach Blvd. to Norton Avenue, Beach 47th St. from Rockaway Beach Blvd. to Joseph H. May Drive (Beach Channel Drive), Beach 48th St. from Rockaway Beach Blvd. to Norton Ave., Beach 49th St. from

Rockaway Beach Blvd. to Joseph H. May Drive (Beach Channel Drive), Norton Ave. from Beach 49th St. to Beach 45th St., Rockaway Beach Blvd. from Beach 49th St. to Beach 46th St.

The City selected these locations based on a need for the reconstruction of roadways, sidewalks, curbs; installation of new storm sewers; the upgrading of existing sanitary sewers and the upgrading of existing water mains.

(3) The general effect on the neighborhood will be improved traffic and pedestrian safety and living conditions. The proposed Project involves standard roadway, sewer, and water main construction and will have no significant adverse effect on the environment. The Project was also the subject of a complete Environmental Impact Statement ("EIS") in July 1997. Based on the recommendations contained in the EIS, necessary mitigation measures are included in the design for this Project and were also incorporated in other projects in the area covered by the EIS.

(4) Comments and concerns raised by the property owners at the public hearing and through subsequent written submissions are currently being reviewed by the City. Issues and concerns raised by the property owners include, as follows: a) the time frame of the process and who to contact if necessary; b) the impact of construction activities on the residents such as vibrations to foundations, property damage and loss of utility services such as water damage, parking and access to and from the construction area, especially to emergency vehicles, due to the large number of disabled people in the area; c) the need for ribbon sidewalks and trees; d) the availability of plans and project details to homeowners. The City will work with all public and private parties involved in the project to minimize the impact of construction activities on the street, residents and environment. The City has also reviewed all potential alternate locations and has determined that no other sites are feasible for the Project. The City continues to review its plans and will make modifications addressing these issues whenever possible. DDC will also work with HPD, other agencies and the community in order to review the situations and address the concerns.

NOTICE:

Pursuant to EDPL Section 207, property owners have thirty (30) days from completion of the publication of this "Determination and Findings" to seek judicial review of this determination. Expected dates of publication are December 21, 2009 through December 23, 2009.

Pursuant to EDPL Sections 207 and 208, the exclusive venue for the judicial review of this determination is the Appellate Division of the Supreme Court in the Judicial Department where any part of the property to be acquired is located.

A copy of this Determination and Findings by the City is available without cost upon written request to:

New York City Department of Design and Construction
Office of General Council - 4th Floor
30-30 Thomson Avenue
Long Island City, New York 11101

d21-23

HUMAN RESOURCES ADMINISTRATION

■ NOTICE

The 2010-2011 Biennial Temporary Assistance and Food Stamp Employment Plan for the City of New York for the period January 1, 2010, through December 31, 2011, mandated by Social Services Law Sec. 333 and 18 N.Y.C.R.R. Sec. 385.10 is available for review and comment until the close of business on January 21, 2010. The plan can be obtained by writing to the New York City Human Resources Administration, 180 Water Street, Room 2017, New York, New York 10038, Attn: Andrew Mandell, Assistant Deputy Commissioner, Office of Policy, Procedures and Training, Family Independence Administration, or by email to mandella@hra.nyc.gov

Persons wishing to comment on the 2010-2011 Biennial Temporary Assistance and Food Stamp Employment Plan should do so in writing to Mr. Mandella at the above address, either by mail or email.

d21-22

CHANGES IN PERSONNEL

Table with columns: NAME, TITLE, SALARY, ACTION, PROV, EFF DATE. Row: CIAMPA, FELIX, 13259, \$179990.0000, APPOINTED, YES, 11/22/09.

Table with columns: NAME, TITLE, SALARY, ACTION, PROV, EFF DATE. Row: WHITE, EUGENE, 94367, \$11.9000, APPOINTED, YES, 11/22/09.

Table with columns: NAME, TITLE, SALARY, ACTION, PROV, EFF DATE. Row: MOLITOR, DONALD, 40491, \$34898.0000, RESIGNED, NO, 11/22/09.

PRESIDENT BOROUGH OF MANHATTAN FOR PERIOD ENDING 12/11/09

Table with columns: NAME, TITLE, SALARY, ACTION, PROV, EFF DATE. Rows: ARNABAL, VERENA, 1002C, \$64896.0000, RESIGNED, YES, 09/29/09; MCGILL, ELIZABET E, 1002C, \$55000.0000, APPOINTED, YES, 11/29/09; RILEY, RICHARD A, 10033, \$140608.0000, RESIGNED, YES, 09/01/09.

BOROUGH PRESIDENT-QUEENS FOR PERIOD ENDING 12/11/09

Table with columns: NAME, TITLE, SALARY, ACTION, PROV, EFF DATE. Row: VARON, GALINA, 83008, \$57.0800, APPOINTED, YES, 12/02/09.

OFFICE OF THE COMPTROLLER FOR PERIOD ENDING 12/11/09

Table with columns: NAME, TITLE, SALARY, ACTION, PROV, EFF DATE. Row: CENTO, GERARD A, 40510, \$74744.0000, RETIRED, NO, 12/01/09.

Table with columns: NAME, CURTIS, R, 10026, \$90000.0000, APPOINTED, YES, 11/22/09. Includes sections for OFFICE OF EMERGENCY MANAGEMENT, OFFICE OF MANAGEMENT & BUDGET, LAW DEPARTMENT, DEPARTMENT OF CITY PLANNING, DEPARTMENT OF INVESTIGATION, CIVILIAN COMPLAINT REVIEW BD, and POLICE DEPARTMENT.

Table with columns: BENNETT, KAREN, D, 70205, \$9.8800, APPOINTED, YES, 11/13/09. Includes names like BERBERICH, BHARAT, BLAKE, BLIZZARD, BODNAR, BOLDEN, BRAVO, BRAZIL, BROADUS, BRYAN, BULLOCK, BUNTING, BUTHORN, CABALLERO, CADDY, CALLAHAN, CAMA, CAMACHO, CAMPOS, CANTERO, CARBONE, CARRERO, CARRILLO, CARRILLO-ORTIZ, CARTER, CARTHEN, CASSIDY, CASTILLO, CENG, CEPIN, CESAR, CHANG, CHEATUM, CHENG, CHERNYAVSKY, CHEUNG, CHIANG, CHIU, CLARK, CLEARY, CLISTI JR, CODD-PEREZ, CONCEPCION, CORNELIUS, CORNER, COUNCIL, CRICHLAW, CRISPIN, CRUZ, CRUZ, D'AMICO, DANDRIDGE, DANIEL, DAVID, DAVIS, DAVIS, DAVIS, DAVIS, DE LA CRUZ, DEANS, DELANEY, DERRICK, DIAZ, DIBARTOLO, DICKS, DIFFENDALE, DILAPI, DUBOC, DUNSTON, DURAN, EAMES, EDWARDS, ELLIS, ETKINS JR, EVANS, FAIRCLOUGH, FEALY, FEDELE.

LATE NOTICE
CITY PLANNING COMMISSION
PUBLIC HEARINGS
NOTICE IS HEREBY GIVEN THAT RESOLUTIONS Have been adopted by the City Planning Commission scheduling public hearings on the following matters to be held at Spector Hall, 22 Reade Street New York, New York, on Wednesday, January 6, 2010, commencing at 10:00 A.M.
BOROUGH OF THE BRONX
No. 1
LDGMA TEXT AMENDMENT
CD 10
IN THE MATTER OF an application submitted by the New York City Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article II, Chapter 5 (Accessory Off-Street Parking and Loading Regulations) and Article III, Chapter 6 (Accessory Off-Street Parking and Loading Regulations), relating to off-street parking regulations.

#italicized# shall be interpreted in accordance with the provisions set forth in this Section.
Lower density growth management area
A "lower density growth management area" is any R1, R2, R3, R4A, R4-1 or C3A District in the following designated areas, and any #development# accessed by #private roads# in R1, R2, R3, R4, R5 or C3A Districts within such areas:
The Borough of Staten Island
Community District 10 in the Borough of the Bronx
In the Borough of Staten Island, #lower density growth management areas# shall also include any C1, C2, or C4 District.
In the Borough of the Bronx, in Community District 10, #lower density growth management areas# shall also include any R6, R7, C1 or C2 Districts for the purposes of applying the parking provisions of Article II, Chapter 5, and Article III, Chapter 6.
Chapter 5
Accessory Off-Street Parking and Loading Regulations
25-24
Modification of Requirements for Small Zoning Lots
R6 R7 R8 R9 R10
In the districts indicated, for small #zoning lots#, the requirements set forth in Section 25-23 (Requirements Where Group Parking Facilities Are Provided) shall be modified in accordance with the provisions of this Section.
25-241
Reduced requirements
R6 R7 R8 R9 R10
In the districts indicated, for #zoning lots# of 10,000 or 15,000 square feet or less, the number of required #accessory# off-street parking spaces is as set forth in the following table:
REDUCED REQUIREMENTS FOR SMALL ZONING LOTS
Parking Spaces Required as a Percent of Total #Dwelling Units#
#Lot Area# District
10,000 square feet or less 50 R6 R7-1\* R7B 30 R7-1 R7A R7D R7X
10,001 to 15,000 square feet 30 R7-2 20 R8\*\* R9 R10

\* Within #lower density growth management areas# in Community District 10, Borough of the Bronx
\*\* In R8B Districts, the parking requirements may not be reduced
25-26
Waiver of Requirements for Small Number of Spaces
R4B R5B R5D R6 R7 R8 R9 R10
In the districts indicated, the requirements set forth in Section 25-21 (General Provisions) shall be waived if the required number of #accessory# off-street parking spaces resulting from the application of such requirements is no greater than the maximum number as set forth in this Section, except that the requirements shall not be waived for #non-profit residences for the elderly#.
However, the following provisions shall apply:
(a) in R5D Districts, the provisions of this Section, inclusive, shall only apply to #zoning lots# existing both on June 29, 2006 and on the date of application for a building permit; and
(b) in R6 and R7 Districts in #lower density growth management areas# in Community District 10 in the Borough of the Bronx, the provisions of this Section, inclusive, shall only apply to #zoning lots# existing both on (effective date of amendment) and on the date of application for a building permit.
Chapter 6
Accessory Off-Street Parking and Loading Regulations
36-30
REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR RESIDENCES WHEN PERMITTED IN COMMERCIAL DISTRICTS
36-34
Modification of Requirements for Small Zoning Lots
C1 C2 C4-2 C4-3 C4-4 C4-5 C4-6 C4-7 C5 C6
In the districts indicated for small #zoning lots#, the requirements set forth in Section 36-33 (Requirements Where Group Parking Facilities are Provided), shall be modified in accordance with the provisions set forth in this Section.
36-341
Reduced requirements in C1 or C2 Districts governed by surrounding Residence District bulk regulations
C1-1 C1-2 C1-3 C1-4 C1-5 C2-1 C2-2 C2-3 C2-4 C2-5
In the districts indicated, for #zoning lots# of 10,000 or

15,000 square feet or less, the number of required #accessory# off-street parking spaces is determined by the #Residence District# within which such #Commercial District# is mapped, in accordance with the following table:

REDUCED REQUIREMENTS FOR SMALL ZONING LOTS

Table with 3 columns: #Lot Area#, Parking Spaces Required as a Percent of Total #Dwelling Units#, District within which C1 or C2 District is Mapped. Rows include 10,000 square feet or less, 10,001 to 15,000 square feet.

\* In C1 or C2 Districts mapped within R7-1 Districts within #lower density growth management areas# in Community District 10, Borough of the Bronx
\*\* In R8B Districts, the parking requirements may not be reduced.

36-361 For new development or enlargements in C1 or C2 Districts governed by surrounding Residence District bulk regulations

In the districts indicated, where such districts are mapped within R6, R7, R8, R9 or R10 Districts, the requirements set forth in Section 36-31 (General Provisions) for new #development# or #enlargements# shall be waived if the required number of #accessory# off-street parking spaces resulting from the application of such requirements is no greater than the maximum number as set forth in the following table. The maximum number is determined by the #Residence District# within which the #Commercial District# is mapped.

NUMBER OF SPACES FOR WHICH REQUIREMENTS ARE WAIVED

Table with 2 columns: #Residence District# within which C1 or C2 District is Mapped, Maximum Number of Spaces Waived. Rows include R5D, R6 R7-1 R7B, R7-2 R7A R7D R7X R8 R9 R10.

However, the following provisions shall apply:

- (a) in C1 or C2 Districts mapped within R5D Districts, the provisions of this Section, inclusive, shall only apply to #zoning lots# existing both on June 29, 2006 and on the date of application for a building permit; and
(b) in C1 or C2 Districts mapped within R6 and R7 Districts in #lower density growth management areas# in Community District 10 in the Borough of the Bronx, the provisions of this Section, inclusive, shall only apply to #zoning lots# existing both on (effective date of amendment) and on the date of application for a building permit.

BOROUGH OF MANHATTAN No. 2 57-63 GREENE STREET

CD 2 C 090100 ZSM IN THE MATTER OF an application submitted by Greene Mercer Holdings, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify the use regulations of:

- 1. Section 42-14D(1)(b) to allow Joint Living Work Quarters for Artists on portions of the 2nd through 6th floors of an existing 6-story building erected prior to December 15, 1961 and where the lot coverage is greater than 5000 square feet; and
2. Section 42-14D(2)(a) to allow UG 6 uses (retail uses) on portions of the ground floor and cellar of an existing 6-story building occupying more than 3,600 square feet of lot area;

on property located at 57-63 Greene Street (Block 486, Lot 29), in an M1-5A District, within the Soho-Cast Iron Historic District.

Plans for this proposal are on file with the City Planning Commission and may be seen in Room 3N, 22 Reade Street, New York, N.Y. 10007.

No. 3 SULLIVAN STREET

CD 2 C 100026 ZMM IN THE MATTER OF an application submitted by DJL Family Limited Partnership pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12a, establishing within an existing R7-2 District a C1-5 District bounded by a line 100 feet southerly of Spring Street, a line midway between Sullivan Street and Thompson Street, a line 200 feet northerly of Broome Street, and Sullivan Street, as shown on a diagram (for illustrative purposes only) dated September 21, 2009 and subject to the conditions of CEQR Declaration E-241.

No. 4 HUDSON YARDS PARKING TEXT AMENDMENT CD 4 & 5 N100119 ZRM

IN THE MATTER OF an application submitted by the 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, concerning Article IX, Chapter 3 (Special Hudson Yards District).

Hudson Yards Parking Text Amendment

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

Article IX - Special Purpose Districts

Chapter 3 Special Hudson Yards District

93-052 Applicability of Chapter 3 of Article I, Chapter 3 #Public parking lots# authorized pursuant to Section 13-552 (Public parking lots) prior to January 19, 2005, and #accessory# off-street parking facilities for which a special permit has been granted pursuant to Section 13-561 prior to January 19, 2005, may be renewed subject to the terms of such authorization or special permit.

Additional provisions of Article I, Chapter 3, shall be applicable as specified in Section 93-80 (inclusive).

\* \* \*

93-054 Applicability of Chapter 4 of Article VII, Chapter 4

(b) The following provisions regarding special permits by the City Planning Commission shall be applicable as modified:

Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas) shall be applicable to the renewal of City Planning Commission special permits for #public parking lots# of any capacity and to #public parking garages#, granted prior to (date of enactment) or portions thereof, located above grade, subject to the findings of Section 93-821 (Authorization for above-grade parking). However, the findings of Section 93-821 shall not apply to any public parking facility in existence prior to January 19, 2005, that is the subject of a renewal or new special permit.

\* \* \*

93-16 Public Parking Facilities

In C2-5, C2-8 and C6 Districts, the provisions of Sections 32-17 (Use Group 8) and 32-21 (Use Group 12) with respect to #public parking garages# and #public parking lots# are modified to require a special permit pursuant to Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas) for #public parking lots# of any capacity, and in C2-8 and C6 Districts, to allow, as of right, #public parking garages#, provided such garages are entirely below grade and contain not more than 0-30 parking spaces for each 1,000 square feet of #floor area# on the #zoning lot#. However, no #public parking garages# shall be permitted within the #Phase 2 Hudson Boulevard and Park#, as shown on Map 1 in Appendix A of this Chapter inapplicable and are superseded by the provisions of Section 93-80.

\* \* \*

93-80 OFF-STREET PARKING REGULATIONS

The regulations governing permitted and required #accessory# off-street parking spaces of Article I, Chapter 3 (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a Portion of Community Districts 1 and 2 in the Borough of Queens) and Article II, Chapter 5; Article III, Chapter 6; and Article IV, Chapter 4 (Accessory Off-Street Parking and Loading Regulations) shall not apply except as set forth in this Section. In lieu thereof, the provisions of this Section, inclusive, shall apply.

93-81 Definitions

Hudson Yards parking regulations applicability area

The "Hudson Yards parking regulations applicability area" is comprised of the #Special Hudson Yards District#, the 42nd Street Perimeter Area of the #Special Clinton District# and Area P2 of the #Special Garment Center District#.

Hudson Yards development parking supply

The "Hudson Yards development parking supply" shall be the aggregate number of off-street parking spaces in #accessory# individual or #group parking facilities#, #public parking lots# and #public parking garages# in the #Hudson Yards parking regulations applicability area#.

- (a) that have been constructed, pursuant to the as-of-right regulations in effect subsequent to January 19, 2005, and before (date of enactment), to the extent that such spaces satisfy the ratios of Section 93-821;
(b) that have been constructed, pursuant to a City Planning Commission special permit approved subsequent to January 19, 2005, and before (date of enactment);
(c) for which the Chairperson has issued a certification, pursuant to Section 93-821, paragraph (e); and
(d) that have been approved by Board of Standards and Appeals variance, pursuant to Section 72-21, to the extent that:
(1) such spaces satisfy the ratios of Section 93-821, or
(2) the Board determines that any spaces in excess of the ratios of Section 93-821 are necessary to satisfy the need for #accessory# off-street parking generated by the #uses# or #floor area# permitted by such variance.

However, all off-street parking on Site 1 as shown in Map 6 of Appendix A shall be counted toward the #Hudson Yards development parking supply#.

For purposes of this definition, "constructed" shall include any off-street parking spaces in #accessory# or #group parking facilities#, #public parking garages# or #public parking lots# that were completed on (date of enactment); under construction on such date with the right to continue construction pursuant to Section 11-331; or granted a City Planning Commission special permit after January 19, 2005, where such permit had not lapsed as of (date of enactment).

Public parking

"Public parking" shall be off-street parking that is open to the public during the business day for hourly, daily or other time-defined rental of parking spaces, for which a fee is charged;

Reservoir deficit

The "reservoir deficit" shall be the amount by which the #reservoir surplus# is less than zero;

Reservoir parking supply

The "reservoir parking supply" shall be the sum of:

- (a) all off-street parking spaces lawfully operating as of May 27, 2009, in the #Hudson Yards parking regulations applicability area# as #public parking#; and
(b) any off-street parking spaces for which a valid building permit had been issued, as of May 27, 2009, and which have been constructed before (date of enactment).

For purposes of this definition, "constructed" shall include any off-street parking spaces in #accessory# individual or #group parking facilities#, #public parking garages# or #public parking lots# that were either completed on (date of enactment) or under construction on such date with the right to continue construction pursuant to Section 11-331. However, any off-street parking space that satisfies the definition of the #Hudson Yards development parking supply# in this Section shall not be counted as part of the #reservoir parking supply#.

Reservoir surplus

The initial #reservoir surplus# shall be 3,600 off-street parking spaces. The "reservoir surplus" shall be increased by:

- (a) the aggregate number of off-street parking spaces in the #reservoir parking supply# for which a building permit has been issued, pursuant to the as-of-right regulations in effect subsequent to January 19, 2005, and before the (date of enactment);
(b) the number of off-street parking spaces in the #Hudson Yards parking regulations applicability area# above the ratios permitted in Section 93-821, either certified by the Chairperson pursuant to Sections 93-822, paragraph (c), or by City Planning Commission special permit, pursuant to Section 93-823; and
(c) the number of off-street parking spaces lawfully added in the #Hudson Yards parking regulations applicability area#, other than those permitted pursuant to this Section 93-80 et. seq., except for any increase by Board of Standards and Appeals variance that is counted as part of the #Hudson Yards development parking supply#.

The #reservoir surplus# shall be decreased by:

- (a) the aggregate number of parking spaces counted at any time in the #reservoir parking supply#, that subsequently are:
(1) reduced through modification or discontinuance of the applicable Department of Consumer Affairs license or certificate of occupancy or otherwise cease operation permanently; or
(2) not constructed in accordance with the applicable building permit, as reflected in a modification of such building permit or the issuance of a certificate of occupancy for a reduced number of spaces; or
(b) the issuance of a certificate of occupancy for a #development# or #enlargement# providing a smaller number of spaces than allowed, pursuant to Section 93-821, to the extent of the difference between the number of #accessory# off-street parking spaces allowed, and the number provided. However, this paragraph shall not apply to Sites 2, 3, 4 and 5, as shown on Map 6 of Appendix A, and shall apply to no more than 200 #accessory# off-street parking spaces on Site 6 as shown on Map 6.

Substantial construction "Substantial construction" shall mean the substantial enclosing and glazing of a new #building# or of the #enlarged# portion of an existing #building#.

93-82 Required and Permitted Parking

All #Developments# or #enlargements# on #zoning lots# greater than 15,000 square feet in the #Hudson Yards parking regulations applicability area# may shall provide #accessory# parking spaces in accordance with the provisions of this Section. For #zoning lots# of 15,000 square feet or less, #accessory# parking spaces are permitted up to the maximum number allowed for required spaces as set forth in this Section. The provisions of Sections 36-52 (Size and Location of Spaces) and 36-53 (Location of Access to the Street) shall apply to all permitted #accessory# off-street parking spaces.

93-821 Permitted parking when the reservoir surplus is greater than zero

When the #reservoir surplus# is greater than zero, off-street parking spaces may be provided only in accordance with the provisions of this Section.

- (a) For #residences#, #accessory# off-street parking spaces shall be provided for at least not more than 33 30 percent of the total number of #dwelling units#, except that where such #dwelling units# are comprised of #low income floor area#, #moderate income floor area# or #middle income floor area#, as defined in Section 23-911 of this Resolution government assisted, pursuant to paragraph (c) of Section 25-25, #accessory# off-street parking spaces shall may be provided for at least 25 not more than eight percent of the total number of such #dwelling units#. The total number of off-street parking spaces #accessory# to #residences# shall not exceed 40 percent of the total number of #dwelling units#. However, if the total number of #accessory# off-street parking spaces required for such #use# on the #zoning lot# is less than 15, no such spaces shall be required.
(b) For Use Group 5 #transient hotels#, the provisions of Section 13-131 shall apply with respect to the number of permitted #accessory# off-street parking spaces, provided that the number of such spaces does not exceed 0.16 for every 1,000 square feet of #floor area#.
(c) For Use Group 6B offices #commercial# and #community facility uses#, a minimum of 0.30 #accessory# off-street parking spaces shall be provided for each 1,000 square feet of #floor area#, and not more than 0.325-0.16 #accessory# off-street parking spaces shall may be provided for every 1,000 square feet of #floor area#. However, if the total number of #accessory# off-street parking spaces required for such #uses# on the #zoning lot# is less than 40, no such spaces shall be required. No parking shall be required for houses of worship or #schools#.
(d) The required and permitted amounts of #accessory# off-street parking spaces shall be determined separately for #residential#, #commercial# and #community facility uses#.

(d) **In the Eastern Rail Yard Subarea A1, no #accessory# off-street parking shall be required paragraphs (a) through (c) of this Section shall not apply, and any #accessory# off-street parking shall comply with the provisions of this paragraph, (d).**

- (1) For #residential uses#, #accessory# off-street parking spaces may be provided for not more than 40 percent of the total number of #dwelling units#.
- (2) For #commercial# and #community facility uses#, not more than 0.325 #accessory# off-street parking spaces may be provided for every 1,000 square feet of #floor area#, provided that in no event shall the number of off-street parking spaces #accessory# to #commercial# or #community facility uses# exceed 350 spaces.
- (3) In no event shall the total number of #accessory# off-street parking spaces for all #uses# exceed 1,000.

(e) The provisions of Sections 26-52 (Size and Location of Spaces) and 26-53 (Location of Access to the Street) shall apply to all permitted or required #accessory# off-street parking spaces.

The Department of Buildings shall not issue a building permit for any #accessory# off-street parking pursuant to paragraphs (a) through (c) of this Section unless the Chairperson has certified that the sum of the following is less than 6,084 spaces:

- (1) the #reservoir surplus# or zero, whichever is less;
- (2) the #Hudson Yards development parking supply#; and
- (3) the number of spaces proposed to be added by the #development# or #enlargement# for which certification is sought.

Any such certification granted by the Chairperson shall lapse after two years if #substantial construction# of the subject #accessory# off-street parking spaces has not occurred. In making a certification pursuant to this Section, the Chairperson shall not consider any prior certification or any special permit that has lapsed in accordance with the provisions of this Resolution.

**93-822 Permitted parking when a reservoir deficit exists**

When a #reservoir deficit# exists, additional off-street parking spaces may be provided in accordance with the provisions of this Section. However, this Section shall not apply in the Eastern Rail Yard Subarea A1:

- (a) The number of permitted #accessory# off-street parking spaces for Use Group 5 hotels may exceed 0.16 for every 1,000 square feet of #floor area#, up to the number permitted by Section 13-131;
- (b) The number of permitted #accessory# off-street parking spaces for Use Group 6B offices may be increased by up to 33 percent of the number permitted pursuant to Section 93-821, paragraph (b);
- (c) The Department of Buildings shall not issue a building permit for any additional #accessory# off-street parking spaces permitted pursuant to this Section unless the Chairperson has certified that
  - (1) a #reservoir deficit# exists; and
  - (2) the number of #accessory# off-street parking spaces in excess of the ratios permitted by Section 93-821 proposed to be added by the #development# or #enlargement# for which certification is sought, does not exceed such #reservoir deficit#.

Any such certification granted by the Chairperson shall lapse after two years; if #substantial construction# of the subject #accessory# off-street parking spaces has not occurred. In making a certification pursuant to this Section, the Chairperson shall not consider any prior certification or any special permit that has lapsed in accordance with the provisions of this Resolution.

**93-823 Parking permitted by special permit**

When a #reservoir deficit# exists, the City Planning Commission may allow, by special permit, Use Group 6B offices to exceed the number of #accessory# off-street parking spaces permitted by Section 93-822, in accordance with the provisions of Section 13-561, except that finding (a) of Section 13-561 shall not apply. In addition, the Commission shall find that the number of #accessory# off-street parking spaces in excess of the number permitted by Section 93-821, proposed to be added by the #development# or #enlargement# that is the subject of the application under review, does not exceed the #reservoir deficit#. In making such finding, the Commission shall not consider any prior certification or any special permit that has lapsed in accordance with the provisions of this Resolution.

**93-824 Publication of data**

The Department of City Planning shall make available, in a form easily accessed by the public, regularly updated calculations of the current #Hudson Yards development parking supply#, #reservoir parking supply#, and #reservoir surplus# or #reservoir deficit#, as applicable.

**93-823 Use and Location of Parking Facilities**

The provisions of this Section shall apply to all off-street parking spaces within the #Special Hudson Yards District#.

- (a) All off-street parking spaces #accessory# to #residences# shall be used exclusively by the occupants of such #residences#. Except in the Eastern Rail Yard Subarea A1, all #accessory# off-street parking spaces #accessory# to Use Group 5 #transient hotels# and Use Group 6B offices may be made available for public use. However, any

such space shall be made available to the occupant of a #residence# to which it is #accessory# within 30 days after written request therefore is made to the landlord. Furthermore, if #accessory# and public parking spaces are provided on the same #zoning lot#, all such spaces shall be located within the same parking facility. However, in C1-7A Districts and in C2-5 Districts mapped within RSA Districts, all #accessory# off-street parking spaces shall be used exclusively by the occupants of the #residential development#, #enlargement# or conversion. Where a parking facility is located partially within a C2-5 District mapped within an RSA District and partially within another district, all such #accessory# off-street parking spaces may be made available for public use provided more than half of the floor space of the parking facility is located outside the C2-5 District mapped within an RSA District.

(b) All #accessory# off-street parking spaces may be provided within parking facilities on #zoning lots# other than the same #zoning lot# as the #uses# to which they are #accessory#, provided:

- (1) such parking facilities are located within a C2-8 or C6-4 District within the #Special Hudson Yards District#, or within the 42nd Street Perimeter Area of the #Special Clinton District# or within Area P-2 of the #Special Garment Center District#;
- (2) the off-street parking space within such facility is counted only once in meeting the parking requirements for a specific #zoning lot#; and
- (3) the number of parking spaces within such facility shall not exceed the combined maximum number of spaces permitted on each #zoning lot# using such facility, less the number of any spaces provided on such #zoning lots#. The provisions of Section 13-141 (Location of accessory off-street parking spaces), inclusive, shall apply.

(c) All off-street parking spaces shall be located within facilities that, except for entrances and exits, are:

- (1) entirely below the level of any #street# or publicly accessible open area upon which such facility, or portion thereof, fronts; or
- (2) located, at every level above-grade, behind commercial, community facility or #residential floor area# so that no portion of such parking facility is visible from adjoining #streets# or publicly accessible open areas.

**93-8231 Authorization for above-grade parking**

The City Planning Commission may authorize parking facilities that do not comply with the provisions of paragraph (c) of Section 93-823 (Use and Location of Parking Facilities) and may authorize floor space used for parking and located above a height of 23 feet to be exempt from the definition of #floor area#, provided that:

- (a) below-grade parking has been provided to the fullest extent feasible, and such above-grade facility is necessary due to subsurface conditions such as the presence of bedrock, railroad rights-of-way or other conditions that impose practical difficulties for the construction of below-grade parking facilities;
- (b) the scale of the parking facility is compatible with the scale of #buildings# in the surrounding area;
- (c) the materials and articulation of the #street wall# of the parking facility is compatible with #buildings# in the surrounding area;
- (d) the ground floor level of such parking facilities that front upon #streets# is occupied by #commercial#, #community facility# or #residential uses# that activate all such adjoining #streets#, except at the entrances and exits to the parking facility. Where site planning constraints make such #uses# infeasible, the parking facility shall be screened from adjoining #streets# or public access areas with a densely planted buffer strip at least 10 feet deep. Where such screening is not desirable, such ground floor wall of the parking facility shall be articulated in a manner that provides visual interest;
- (e) any floor space above the ground floor level utilized for parking is located, to the greatest extent feasible, behind #commercial#, #community facility# or #residential floor area# so as to minimize the visibility of the parking facility from adjoining #streets# or public access areas. Any exterior wall of the parking facility visible from an adjoining #street# or public access area shall be articulated in a manner that is compatible with #buildings# in the surrounding area;
- (f) for portions of parking facilities that are visible from #streets#, publicly accessible open areas or nearby properties, interior lighting and vehicular headlights are shielded to minimize glare on such #streets#, public access areas or properties; and
- (g) the location of vehicular entrances and exits will not unduly inhibit surface traffic and pedestrian flow.

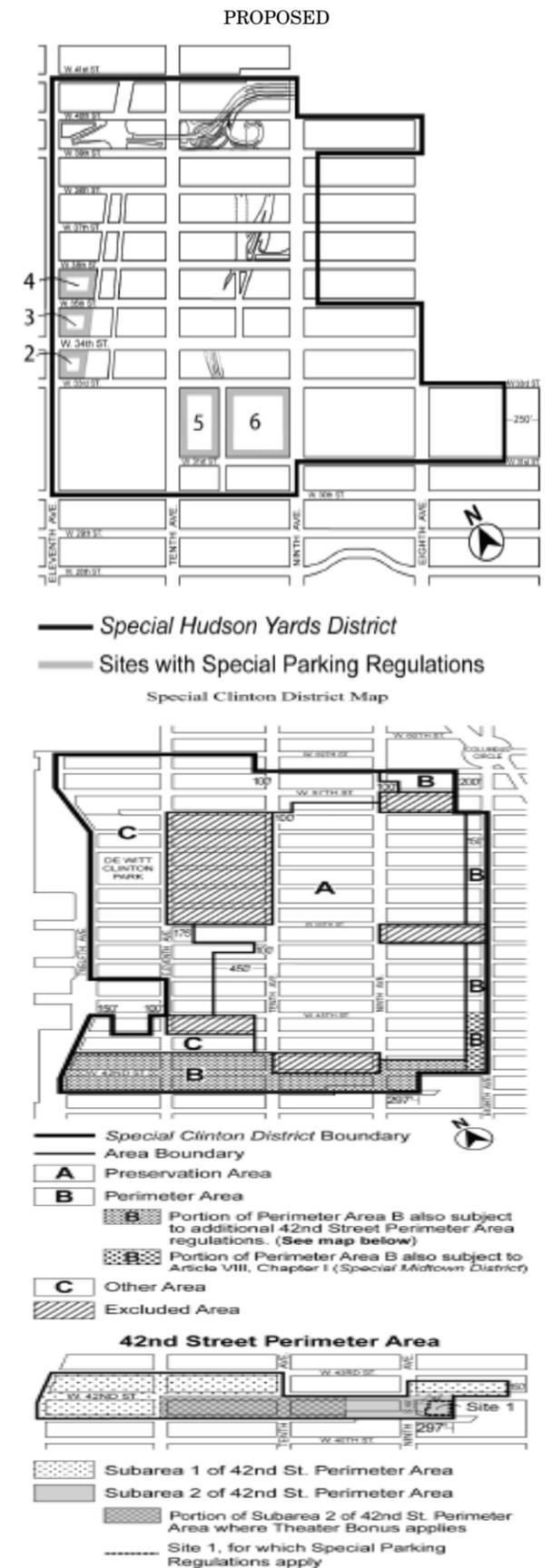
The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

**93-83 93-84 Curb Cut Restrictions**

**93-831 93-841 Curb cut restrictions in the Large-Scale Plan Subdistrict A**

**93-832 93-842 Curb cut restrictions in the Farley Corridor Subdistrict B**  
**93-84 93-85 Authorization for Additional Curb Cuts**

Map 6 Sites for which Special Paking Regulations Apply



**BOROUGH OF STATEN ISLAND No. 5 WATER SIPHON FACILITY**

**CD 1 C 100110 PSR**  
**IN THE MATTER OF** an application submitted by the Department of Environmental Protection and 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 Hannah, Front and Bay streets (Block 487, p/o Lot 100) for construction of a water siphon tunnel shaft and chlorination station for the Staten Island - Brooklyn Water Siphon.

**Nos. 6 & 7 BROOKFIELD LANDFILL No. 6**

**CD 03 C 100132 PQR**  
**IN THE MATTER OF** an application submitted by the Department of Environmental Protection and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the acquisition of property (Block 5550, p/o Lot 17) generally bounded by the Brookfield Avenue Landfill and Arthur Kill Road.

**No. 7**

**CD 3 C 100133 PPR**  
**IN THE MATTER OF** an application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of New York City Charter, for disposition to the New York City Economic Development Corporation of two (2) city-owned properties, pursuant to zoning, located at:

Block	Lot
5550	p/o 22
4454	p/o 1

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

# READER'S GUIDE

The City Record (CR) is, published each business day and includes notices of proposed New York City procurement actions, contract awards, and other procurement-related information. Solicitation notices for most procurements valued at or above \$100,000 for information technology and for construction and construction related services, above \$50,000 for other services, and above \$25,000 for other goods are published for at least one day. Other types of procurements, such as sole source, require notice in the City Record for five consecutive days. Unless otherwise specified, the agencies and offices listed are open for business Mondays thru Fridays from 9:00 A.M. to 5:00 P.M. except legal holidays.

## NOTICE TO ALL NEW YORK CITY CONTRACTORS

The New York State Constitution ensures that all laborers, workers or mechanics employed by a contractor or subcontractor doing public work are to be paid the same wage rate that prevails in the trade where the public work is being done. Additionally, New York State Labor Law §§ 220 and 230 provide that a contractor or subcontractor doing public work in construction or building service must pay its employees no less than the prevailing wage. Section 6-109 (the Living Wage Law) of the New York City Administrative Code also provides for a "living wage", as well as prevailing wage, to be paid to workers employed by City contractors in certain occupations. The Comptroller of the City of New York is mandated to enforce prevailing wage. Contact the NYC Comptrollers Office at [www.comptroller.nyc.gov](http://www.comptroller.nyc.gov), click on Labor Law Schedules to view rates.

New York City's "Burma Law" (Local Law No. 33 of 1997) No Longer to be Enforced. In light of the United States Supreme Court's decision in **Crosby v. National Foreign Trade Council**, 530 U.S. 363 (2000), the City has determined that New York City's Local Law No. 33 of 1997 (codified in Administrative Code Section 6-115 and Charter Section 1524), which restricts City business with banks and companies doing business in Burma, is unconstitutional. This is to advise, therefore, that the language relating to Burma contained in existing New York City contracts may not be enforced.

## CONSTRUCTION/CONSTRUCTION SERVICES OR CONSTRUCTION RELATED SERVICES

The City of New York is committed to achieving excellence in the design and construction of its capital program, and building on the tradition of innovation in architecture and engineering that has contributed to the City's prestige as a global destination.

## VENDOR ENROLLMENT APPLICATION

New York City procures approximately \$7 billion worth of goods, services, construction and construction-related services every year. The NYC Procurement Policy Board Rules require that agencies primarily solicit from established mailing lists called bidder/proposer lists. To register for these lists-free of charge-, prospective suppliers should fill out and submit the NYC-FMS Vendor Enrollment application.

- Online at <http://nyc.gov/selltonyc>
- To request a hardcopy application, call the Vendor Enrollment Center at (212) 857-1680.

## Attention Existing Suppliers:

Even if you already do business with NYC agencies, be sure to fill out an application. We are switching over to citywide, centralized Bidders Lists instead of the agency-specific lists previously used to issue notices about upcoming contract opportunities. To continue receiving notices of New York City contract opportunities, you must fill out and submit a NYC-FMS Vendor Enrollment application. If you are uncertain whether you have already submitted an application, call us at (212) 857-1680.

## SELLING TO GOVERNMENT TRAINING WORKSHOP

New and experienced vendors are encouraged to register for a free training course on how to do business with New York City. "Selling to Government" workshops are conducted by the Department of Small Business Services, 110 William Street, New York, NY 10038. Morning and afternoon sessions are convened on the first Tuesday of each month. For more information, and to register, call (212) 618-8845.

## PRE-QUALIFIED LIST

New York City procurement policy permits agencies to develop and solicit from pre-qualified lists of vendors, under prescribed circumstance. When it is decided by an agency to develop a pre-qualified list, criteria for pre-qualification must be clearly explained in the solicitation and notice of the opportunity to pre-qualify for that solicitation must be published in at least five issues of the CR.

Information and qualification questionnaires for inclusion on such list may be obtained directly from the Agency Chief Contracting Officer at each agency, (see Vendor Information Manual). A completed qualification Questionnaire may be submitted to the Chief Contracting Officer at any time, unless otherwise indicated and action (approval or denial) shall be taken by the agency within 90 days from the date of submission. Any denial or revocation of pre-qualified status can be appealed to the Office of Administrative Trials and Hearings, (OATH), Section 3-11 of the Procurement Policy Board Rules describes the criteria for the general use of pre-qualified lists.

## NON-MAYORAL ENTITIES

The following agencies are not subject to Procurement Policy Board rules and do not follow all of the above procedures: City University, Department of Education, Metropolitan Transportation Authority, Health & Hospitals Corporation, Housing Authority. Suppliers interested in applying for inclusion on bidders list should contact these entities directly (see Vendor Information Manual) at the addresses given.

## PUBLIC ACCESS CENTER

The Public Access Center is available to suppliers and the public as a central source for supplier-related information through on-line computer access. The Center is located at 253 Broadway, 9th floor, in lower Manhattan, and is open Monday through Friday from 10:00 A.M to 3:00 P.M. For information, contact the Mayor's Office of Contract Services at (212) 788-0010.

## ATTENTION: NEW YORK CITY MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES

Join the growing number of Minority and Women Owned Business Enterprises (M/WBEs) that are competing for New York City's business. In order to become certified for the program, your company must substantiate that it: (1) is at least fifty-one percent (51%) owned, operated and controlled by a minority or woman and (2) is either located in New York City or has a significant tie to New York City's business community. To obtain a copy of the certification application and to learn more about the program, contact the New York City Department of Small Business Services, 110 William Street, 2nd Floor, New York, New York 10038 (212) 513-6311.

## PROMPT PAYMENT

It is the policy of the City of New York to pay its bills promptly. The Procurement Policy Board Rules generally require that the City pay its bills within 30 days after the receipt of a proper invoice. The City now pays interest on all late invoices. The grace period that formerly existed was eliminated on July 1, 2000. However, there are certain types of payments that are not eligible for interest. These are listed in Section 4-06 of the Procurement Policy Board Rules. The Comptroller and OMB determine the interest rate on late payments twice a year, in January and in July.

## PROCUREMENT POLICY BOARD RULES

The Rules may also be accessed on the City Website, <http://nyc.gov/selltonyc>

## COMMON ABBREVIATIONS USED IN THE CR

The CR contains many abbreviations. Listed below are simple explanations of some of the most common ones appearing in the CR:

- AB ..... Acceptable Brands List
- AC ..... Accelerated Procurement
- AMT ..... Amount of Contract
- BL ..... Bidders List
- CSB ..... Competitive Sealed Bidding (including multi-step)
- CB/PQ ..... CB from Pre-qualified Vendor List
- CP ..... Competitive Sealed Proposal (including multi-step)
- CP/PQ ..... CP from Pre-qualified Vendor List
- CR ..... The City Record newspaper
- DA ..... Date bid/proposal documents available
- DUE ..... Bid/Proposal due date; bid opening date
- EM ..... Emergency Procurement
- IG ..... Intergovernmental Purchasing
- LBE ..... Locally Based Business Enterprise
- M/WBE ..... Minority/Women's Business Enterprise
- NA ..... Negotiated Acquisition
- NOTICE.... Date Intent to Negotiate Notice was published in CR
- OLB..... Award to Other Than Lowest Responsible & Responsive Bidder/Proposer
- PIN..... Procurement Identification Number
- PPB ..... Procurement Policy Board
- PQ ..... Pre-qualified Vendors List
- RS..... Source required by state/federal law or grant
- SCE ..... Service Contract Short-Term Extension
- DP ..... Demonstration Project
- SS ..... Sole Source Procurement
- ST/FED ..... Subject to State &/or Federal requirements

## KEY TO METHODS OF SOURCE SELECTION

The Procurement Policy Board (PPB) of the City of New York has by rule defined the appropriate methods of source selection for City procurement and reasons justifying their use. The CR procurement notices of many agencies include an abbreviated reference to the source selection method utilized. The following is a list of those methods and the abbreviations used:

- CSB ..... **Competitive Sealed Bidding** (including multi-step)  
*Special Case Solicitations / Summary of Circumstances:*
- CP ..... **Competitive Sealed Proposal** (including multi-step)
- CP/1 ..... Specifications not sufficiently definite
- CP/2 ..... Judgement required in best interest of City
- CP/3 ..... Testing required to evaluate
- CB/PQ/4 ....
- CP/PQ/4 .... **CB or CP from Pre-qualified Vendor List/** Advance qualification screening needed
- DP ..... Demonstration Project
- SS ..... **Sole Source Procurement/**only one source
- RS..... Procurement from a Required Source/ST/FED
- NA..... Negotiated Acquisition  
*For ongoing construction project only:*
- NA/8 ..... Compelling programmatic needs

- NA/9 ..... New contractor needed for changed/additional work
- NA/10 ..... Change in scope, essential to solicit one or limited number of contractors
- NA/11 ..... Immediate successor contractor required due to termination/default  
*For Legal services only:*
- NA/12 ..... Specialized legal devices needed; CP not advantageous
- WA ..... **Solicitation Based on Waiver/Summary of Circumstances** (Client Services/BSB or CP only)
- WA1 ..... Prevent loss of sudden outside funding
- WA2 ..... Existing contractor unavailable/immediate need
- WA3 ..... Unsuccessful efforts to contract/need continues
- IG ..... **Intergovernmental Purchasing** (award only)
- IG/F ..... Federal
- IG/S ..... State
- IG/O ..... Other
- EM ..... **Emergency Procurement** (award only) An unforeseen danger to:
- EM/A ..... Life
- EM/B ..... Safety
- EM/C ..... Property
- EM/D ..... A necessary service
- AC ..... **Accelerated Procurement/**markets with significant short-term price fluctuations
- SCE ..... **Service Contract Extension/**insufficient time; necessary service; fair price  
*Award to Other Than Lowest Responsible & Responsive Bidder or Proposer / Reason* (award only)
- OLB/a ..... anti-apartheid preference
- OLB/b ..... local vendor preference
- OLB/c ..... recycled preference
- OLB/d ..... other: (specify)

## HOW TO READ CR PROCUREMENT NOTICES

Procurement Notices in the CR are arranged by alphabetically listed Agencies, and within Agency, by Division if any. The notices for each Agency (or Division) are further divided into three subsections: Solicitations, Awards; and Lists & Miscellaneous notices. Each of these subsections separately lists notices pertaining to Goods, Services, or Construction.

Notices of Public Hearings on Contract Awards appear at the end of the Procurement Section. At the end of each Agency (or Division) listing is a paragraph giving the specific address to contact to secure, examine and/or to submit bid or proposal documents, forms, plans, specifications, and other information, as well as where bids will be publicly opened and read. This address should be used for the purpose specified UNLESS a different one is given in the individual notice. In that event, the directions in the individual notice should be followed. The following is a SAMPLE notice and an explanation of the notice format used by the CR.

## SAMPLE NOTICE:

### POLICE

#### DEPARTMENT OF YOUTH SERVICES

#### ■ SOLICITATIONS

*Services (Other Than Human Services)*

**BUS SERVICES FOR CITY YOUTH PROGRAM** – Competitive Sealed Bids – PIN# 056020000293 – DUE 04-21-03 AT 11:00 A.M.

*Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.*  
NYPD, Contract Administration Unit, 51 Chambers Street, Room 310, New York, NY 10007. Manuel Cruz (646) 610-5225.

☛ m27-30

ITEM	EXPLANATION
POLICE DEPARTMENT	Name of contracting agency
DEPARTMENT OF YOUTH SERVICES	Name of contracting division
■ SOLICITATIONS	Type of Procurement action
<i>Services (Other Than Human Services)</i>	Category of procurement
BUS SERVICES FOR CITY YOUTH PROGRAM	Short Title
CSB	Method of source selection
PIN # 056020000293	Procurement identification number
DUE 04-21-03 AT 11:00 am	Bid submission due 4-21-03 by 11:00 am; bid opening date/time is the same.
<i>Use the following address unless otherwise specified in notice, to secure, examine-submit bid/proposal documents; etc.</i>	Paragraph at the end of Agency Division listing giving contact information, or submit bid/information and Agency Contact address
	NYPD, Contract Administration Unit 51 Chambers Street, Room 310 New York, NY 10007. Manuel Cruz (646) 610-5225.
☛	Indicates New Ad
m27-30	Date that notice appears in City Record

## NUMBERED NOTES

**Numbered Notes are Footnotes.** If a Numbered Note is referenced in a notice, the note so referenced must be read as part of the notice. **1.** All bid deposits must be by company certified check or money order made payable to Agency or Company.