



THE CITY RECORD

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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

BOARD MEETINGS

NOTICE OF MEETINGS

City Planning Commission

Meets in Spector Hall, 22 Reade Street, New York, New York 10007, twice monthly on Wednesday, at 10:00 A.M., unless otherwise ordered by the Commission.

City Council

Meets by Charter twice a month in Councilman's Chamber, City Hall, Manhattan, New York 10007, at 1:30 P.M.

Contract Awards Public Hearing

Meets in Spector Hall, 22 Reade Street, Main Floor, Manhattan, weekly, on Thursday, commencing 10:00 A.M., and other days, times and location as warranted.

Design Commission

Meets in City Hall, Third Floor, Manhattan, New York 10007 on the second Monday of the month, except August. For changes in the schedule, copies of monthly agendas, or additional information, please call (212) 788-3071 or visit our web site at nyc.gov/artcommission

Department of Education

Meets in the Hall of the Board for a monthly business meeting on the Third Wednesday, of each month at 6:00 P.M. The Annual Meeting is held on the first Tuesday of July at 10:00 A.M.

Board of Elections

32 Broadway, 7th floor, New York, NY 10004, on Tuesday, at 1:30 P.M. and at the call of the Commissioner

Environmental Control Board

Meets at 66 John Street, 10th floor, conference room, New York, NY 10038 at 9:15 A.M., once a month at the call of the Chairman.

Board of Health

Meets in Room 330, 125 Worth Street, Manhattan, New York 10013, at 10:00 A.M., at the call of the Chairman.

Health Insurance Board

Meets in Room 530, Municipal Building, Manhattan, New York 10007, at call of the Chairman.

Board of Higher Education

Meets at 535 East 80th Street, Manhattan, New York 10021, at 5:30 P.M., on fourth Monday in January, February, March, April, June, September, October, November and December. Annual meeting held on fourth Monday in May.

Citywide Administrative Services

Division Of Citywide Personnel Services will hold hearings as needed in Room 2203, 2 Washington Street, New York, N.Y. 10004.

Commission on Human Rights

Meets on 10th floor in the Commission's Central Office, 40 Rector Street, New York, New York 10006, on the fourth Wednesday of each month, at 8:00 A.M.

In Rem Foreclosure Release Board

Meets in Spector Hall, 22 Reade Street, Main Floor, Manhattan, Monthly on Tuesdays, commencing 10:00 A.M., and other days, times and location as warranted.

Franchise And Concession Review Committee

Meets in Spector Hall, 22 Reade Street, Main Floor, Manhattan, Monthly on Wednesdays, commencing 2:30 P.M., and other days, times and location as warranted.

Real Property Acquisition And Disposition

Meets in Spector Hall, 22 Reade Street, Main Floor, Manhattan, bi-weekly, on Wednesdays, commencing 10:00 A.M., and other days, times and location as warranted.

Landmarks Preservation Commission

Meets in the Hearing Room, Municipal Building, 9th Floor North, 1 Centre Street in Manhattan on approximately three Tuesday's each month, commencing at 9:30 A.M. unless otherwise noticed by the Commission. For current meeting dates, times and agendas, please visit our website at www.nyc.gov/landmarks.

Employees' Retirement System

Meets in the Boardroom, 22nd Floor, 335 Adams Street, Brooklyn, New York 11201, at 9:30 A.M., on the third Thursday of each month, at the call of the Chairman.

Housing Authority

Board Meetings will be held every other Wednesday at 10:00 A.M. (unless otherwise noted) in the Board Room on the 12th Floor of 250 Broadway. These meetings are open to the public. Pre-registration of speakers is required. Those who wish to register must do so at least forty-five (45) minutes before the scheduled Board Meeting. Comments are limited to the items on the agenda. Speakers will be heard in the order of registration. Speaking time will be limited to three (3) minutes. The public comment period will conclude upon all speakers being heard or at the expiration of thirty (30) minutes allotted by law for public comment, whichever occurs first.

For Board Meeting dates and times, and/or additional information, please visit our website at nyc.gov/nycha or contact us at (212) 306-6088. Copies of the agenda can be picked up at the Office of the Secretary at 250 Broadway, 12th floor, New York, New York, no earlier than 3:00 P.M. on the Friday before the upcoming Wednesday Board Meeting. Any person requiring a reasonable accommodation in order to participate in the Board Meeting, should contact the Office of the Secretary at (212) 306-6088 no later than five (5) business days before the Board Meeting.

Parole Commission

Meets at its office, 100 Centre Street, Manhattan, New York 10013, on Thursday, at 10:30 A.M.

Board of Revision of Awards

Meets in Room 603, Municipal Building, Manhattan, New York 10007, at the call of the Chairman.

Board of Standards and Appeals

Meets at 40 Rector Street, 6th Floor, Hearing Room "E" on Tuesdays at 10:00 A.M. Review Sessions begin at 9:30 A.M. and are customarily held on Mondays preceding a Tuesday public hearing in the BSA conference room on the 9th Floor of 40 Rector Street. For changes in the schedule, or additional information, please call the Application Desk at (212) 513-4670 or consult the bulletin board at the Board's Offices, at 40 Rector Street, 9th Floor.

Tax Commission

Meets in Room 936, Municipal Building, Manhattan, New York 10007, each month at the call of the President.

BROOKLYN BOROUGH PRESIDENT

PUBLIC MEETING

NOTICE IS HEREBY GIVEN that Brooklyn Borough President Marty Markowitz will hold a meeting of the Brooklyn Borough Board in the Borough President's Conference Room, First Floor, Brooklyn Borough Hall, 209 Joralemon Street, Brooklyn, New York 11201, commencing at 6:00 P.M. on Tuesday, October 6, 2009.

Note: To request a sign language interpreter, or to request TTD services, call Mr. Andrew Steininger at (718) 802-3877 at least 5 business days before the day of the hearing.

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, October 7, 2009, commencing at 10:00 A.M.

BOROUGH OF BROOKLYN

No. 1

SUNSET PARK 197-A PLAN

CD 7 N 080396 NPK
IN THE MATTER OF a plan concerning Community District 7 in Brooklyn, submitted by Community Board 7, for consideration under the rules for the processing of plans pursuant to Section 197-a of the New York City Charter. The proposed plan is called, "New Connections/New Opportunities - Sunset Park 197-A Plan."

The proposed plan can be reviewed at the Department of City Planning, 22 Reade Street, Room 6E, New York, New York 10007.

BOROUGH OF QUEENS

No. 2

DCAS OFFICE SPACE

CD 1 N 100108 PXQ

IN THE MATTER OF a Notice of Intent to acquire office space submitted by the Department of Citywide Administrative Services, pursuant to Section 195 of the New York City Charter for the use of property located at 45-02 Ditmars Boulevard (Block 769, Lot 1) (Queens Community Board 1 District office).

YVETTE V. GRUEL, Calendar Officer

City Planning Commission
22 Reade Street, Room 2E
New York, New York 10007
Telephone (212) 720-3370

s24-o7

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. 13 - Wednesday, September 30, 2009, 7:30 P.M., Coney Island Hospital, Auditorium, 2601 Ocean Parkway, Brooklyn, NY

Public Hearing on Proposed Capital and Expense Items for Inclusion in Budget Requests for Fiscal Year 2011.

s24-30

BOROUGH OF BRONX

Community Board NO. 6 - Public Hearing on Capital and Expense Budget for FY 2011 will take place on Wednesday, October 10, 2009 at 6:30 P.M. at O'Hara Hall, Fordham University, Bronx, (In the O'Keefe Lounge) (enter through the Southern Boulevard - Dr. Kazimiroff Boulevard entrance).

s28-o2

BOROUGH OF BRONX

Community Board NO. 8 - Public Hearing on Capital and Expense Budget for FY 2011 will take place on Tuesday, October 13, 2009 at 7:30 P.M. at Amalgamated Housing Corp., Vladek Hall, 74 Van Cortlandt Park South.

s28-o2

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

BOROUGH OF QUEENS

COMMUNITY BOARD NO. 8 - Wednesday, September 30, 2009 at 7:30 P.M., Beacon 168, Parsons J.H.S. - Auditorium, 158-40 76th Road, Flushing, NY

BSA# 728-29-BZ

154-04 Horace Harding Expressway

Exxon Mobil Station
Proposal to extend the term of the zoning variance for a period of (10) ten years for a gasoline service station located in an R4 zoning district.

s24-30

INDUSTRIAL DEVELOPMENT AGENCY

■ PUBLIC HEARINGS

The New York City Industrial Development Agency (the "Agency") is empowered under the New York State Industrial Development Agency Act (constituting Title 1 of Article 18-A of the General Municipal Law), and Chapter 1082 of the 1974 Laws of New York, as amended, to issue nonrecourse revenue bonds to provide financing for qualified projects, and to enter into industrial and small industry incentive program transactions and other straight-lease transactions for the benefit of qualified projects, and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York (the "State") and to improve their prosperity and standard of living. The Agency has been requested (i) to make available the proceeds of its bonds to be issued in the approximate aggregate dollar amounts, to be used by the persons, for the purposes, and at the addresses identified below, and (ii) to participate in industrial and small industry incentive program straight-lease transactions and other straight-lease transactions for the purposes and at the addresses also identified below. As used herein, "bonds" are bonds, the interest on which may be exempt from local and/or State and/or Federal income taxes; and the "City" shall mean The City of New York. As used herein with reference to bond amounts, "approximately" shall be deemed to mean up to such stated bond amount or a greater principal amount not to exceed 10 % of such stated bond amount.

Straight lease (Small Industry Incentive Program) transaction on behalf of a to-be-formed real estate holding company, for the benefit of Acme American Repairs Inc., a servicer and repairer of commercial food equipment; Acme American Refrigeration, Inc., an installer and servicer of commercial refrigeration equipment; Acme American Environmental, Inc., a servicer and cleaner of commercial kitchen ducts; and Commercial Kitchen Design, Inc., a designer and distributor of commercial kitchens; all in connection with the acquisition, renovation, equipping and/or furnishing of an approximately 23,125 square foot facility located on an approximately 33,335 square foot parcel of land located at 99 Scott Avenue, Brooklyn, New York 11237. The financial assistance proposed to be conferred by the Agency will consist of payments in lieu of City real property taxes, exemption from City and State mortgage recording taxes and exemption from City and State sales and use taxes.

Straight lease (Industrial Incentive Program) transaction for the benefit of The Mandell School, Inc., a for-profit private school; to be a tenant of 795 Columbus LLC, a developer/landlord, and 775 Columbus LLC, a developer/landlord, in connection with the long-term lease, renovation, equipping and/or furnishing of an approximately 50,000 square foot condominium unit, constituting a part of an approximately 300,000 square foot building, located on an approximately 40,000 square foot parcel of land located at 795 Columbus Avenue, New York, NY 10025, and in connection with the long-term lease, renovation, equipping and/or furnishing of an approximately 10,000 square foot condominium unit, constituting a part of an approximately 200,000 square foot building, located on an approximately 14,000 square foot parcel of land located at 775 Columbus Avenue, New York, NY 10025. The financial assistance proposed to be conferred by the Agency will consist of payments in lieu of City real property taxes, exemption from City and State mortgage recording taxes and exemption from City and State sales and use taxes.

Straight lease (Industrial Incentive Program) transaction for the benefit of Kingsland 359 LLC, on behalf of Broadway Stages Ltd., a full service producer of film, television and music videos, in connection with: the acquisition, renovation, equipping and/or furnishing of two approximately 5,000 square foot facilities located on an approximately 74,000 square foot parcel of land located at 359-381 Kingsland Avenue, Brooklyn, New York 11222 (Block 2608, Lot 50); the acquisition, renovation, equipping and/or furnishing of an approximately 9,000 square foot facility located on an approximately 40,000 square foot parcel of land located at 359-381 Kingsland Avenue, Brooklyn, New York 11222 (Block 2608, Lot 25); the construction, renovation, furnishing and/or equipping of an approximately 53,000 square foot facility on an approximately 74,000 square foot parcel of land located at 359-381 Kingsland Avenue, Brooklyn, New York 11222 (Block 2608, Lot 50); the construction, renovation, furnishing and/or equipping of an approximately 20,000 square foot facility on a 40,000 square foot parcel of land located at 359-381 Kingsland Avenue, Brooklyn, New York 11222 (Block 2608, Lot 25); and the construction, renovation, furnishing and/or equipping of an approximately 30,000 square foot facility on an approximately 40,000 square foot parcel of land located at 359-381 Kingsland Avenue, Brooklyn, New York 11222 (Block 2608, Lot 25). The financial assistance proposed to be conferred by the Agency will consist of payments in lieu of City real property taxes, exemption from City and State mortgage recording taxes and exemption from City and State sales and use taxes.

Straight lease (Industrial Incentive Program) transaction for the benefit of a to-be-formed real estate holding company on behalf of PA Austin LLC, an automotive parts distributor, in connection with the acquisition, renovation, equipping and/or furnishing of an approximately 7,350 square foot facility located on an approximately 14,250 square foot parcel of land located at 89-40 Metropolitan Avenue, Queens, New York 11374. The financial assistance proposed to be conferred by the Agency will consist of payments in lieu of City real property taxes, exemption from City and State mortgage recording taxes and exemption from City and State sales and use taxes.

Straight lease (Industrial Incentive Program) transaction for the benefit of a to-be-formed real estate holding company, on behalf of Dinas Distributing Corp., a commercial importer/warehouse and distributor of grocery items, in connection with the acquisition, renovation, equipping and/or furnishing of an approximately 32,000 square foot facility located on an approximately 30,269 square foot parcel of land located at 104-46 Dunkirk Street, Queens, New York 11412. The financial assistance proposed to be conferred by the Agency will consist of payments in lieu of City real property taxes, exemption from City and State mortgage recording taxes and exemption from City and State sales and use taxes.

Pursuant to Section 859a of the General Municipal Law of the State of New York and Internal Revenue Code Section 147(f), the Agency will hold a hearing on the proposed financings and transactions set forth above at the office of New York City Economic Development Corporation

("NYCEDC"), 110 William Street, 4th Floor, New York, New York commencing at 10:00 A.M. on **Thursday, October 8, 2009**. Interested members of the public are invited to attend. The Agency will present information at such hearing on the proposed financings and transactions set forth above. Pursuant to subdivision 3 of the above-referenced Section 859a, the Agency will, in addition, provide an opportunity for the public to review at such hearing the project application and the cost-benefit analysis for each of the proposed financings and transactions. For those members of the public desiring to review project applications and cost benefit analyses before the date of the hearing, copies of these materials will be made available, starting on or about noon on the Friday preceding the hearing. Persons desiring to obtain copies of these materials may visit the website of New York City Economic Development Corporation at www.nycedc.com or may call (212) 312-3598. Persons desiring to make a brief statement regarding the proposed financings and transactions should give prior notice to the Agency at the address or phone number shown below. Written comments may be submitted to the Agency to the attention of Ms. Frances Tufano at the address shown below. Please be advised that certain of the aforementioned proposed financings and transactions may possibly be removed from the hearing agenda prior to the hearing date. Information regarding such removals will be available by contacting ftufano@nycedc.com on or about noon on the Friday preceding the hearing.

New York City Industrial Development Agency
Attn: Ms. Frances Tufano
110 William Street, 5th Floor
New York, New York 10038
(212) 312-3598

s28

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, **October 06, 2009 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 10-2402 - Block 8027, lot 49-21 Beverly Road, aka 235-31 Beverly Road and 31-20 West Drive - Douglaston Historic District
A free standing Arts and Crafts style home designed by A. Maney and built in 1907. Application is to replace windows at the porch.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF QUEENS 09-8163 - Block 8058, lot 10-234-24 Melrose Lane - Douglaston Historic District
A vacant lot. Application is to construct a new house.
Zoned R1-1.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 10-2069 - Block 77, lot 7-1809 Avenue H - Fiske Terrace-Midwood Park Historic District
A Colonial Revival style freestanding house with later alterations, designed by A. White Pierce, and built in 1906. Application is to replace windows at the porch.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 10-2500 - Block 1063, lot 5, 6-79-81 7th Avenue - Park Slope Historic District
Two one-story commercial buildings built prior to 1939. Application is to demolish the existing buildings and construct a new one-story building. Zoned C1-3.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 10-2525 - Block 306, lot 16-202 Warren Street - Cobble Hill Historic District
An Italianate style rowhouse built in 1853-1855 and altered in the mid-20th century. Application is to construct a stoop and alter the facade and areaway.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF BROOKLYN 10-2317 - Block 1961, lot 23-405 Clinton Avenue - Clinton Hill Historic District
A Romanesque Revival/Queen Anne style house designed by William Tubby and built in 1889. Application is to demolish a rear yard addition.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 09-5327 - Block 196, lot 9-416 Broadway - Tribeca East Historic District
A Renaissance Revival style store and office building designed by Jordan & Giller and built in 1898-99. Application is to legalize the installation of a rooftop addition without Landmarks Preservation Commission permits and the installation of storefront infill in non-compliance with Certificate of Appropriateness 06-3975.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 09-8921 - Block 47, lot 7501-120 Broadway - The Equitable Building- Individual Landmark
A Beaux-Arts style office building designed by E.R. Graham and built in 1913-15. Application is to legalize the installation of rooftop mechanical equipment without Landmarks Preservation Commission permits.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 10-1925 - Block 621, lot 69-67 Charles Street - Greenwich Village Historic District
A French Second Empire style rowhouse built c.1867. Application is to construct a rooftop bulkhead and a rear yard addition, and to excavate at the cellar and rear yard.
Zoned R6.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 10-1418 - Block 253, lot 63-111 Waverly Place - Greenwich Village Historic District
A Greek Revival style brick house built in 1839-40. Application is to replace and consolidate the bluestone sidewalk.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 10-1846 - Block 588, lot 62-324 Bleecker Street - Greenwich Village Historic District

An Italianate style building built in 1854 and altered in the 20th century. Application is to demolish and reconstruct the facade.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 09-7363 - Block 609, lot 71-151 West 13th Street - Greenwich Village Historic District
A Greek Revival style house built in 1847-48. Application is to excavate the cellar and rear yard and construct rear yard and rooftop additions. Zoned R6.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 10-1847 - Block 645, lot 44-21-27 9th Avenue - Gansevoort Market Historic District
A row of four Greek Revival rowhouses, built circa 1844-1846 and altered in the 1880's and 1920's. Application is to construct a rooftop addition, alter a canopy, and install new storefront infill and signage. Zoned M1-5.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 10-0949 - Block 545, lot 26-4-8 Astor Place, 8-10 Astor Place - NoHo Historic District
A Romanesque Renaissance Revival style loft building designed by Francis H. Kimball and built in 1891; and a neo-Grec style factory and printing office designed by Griffith Thomas and built in 1875-1876. Application is to install signage.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 10-1307 - Block 738, lot 33-81 8th Avenue - New York Savings Bank- Interior Landmark, Individual Landmark
A Classical Revival style bank and banking hall designed by R. H. Robertson, constructed in 1896-97 and altered in 1930. Application is to renovate the banking hall and to install signage at the exterior.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 10-0465 - Block 821, lot 14-39 West 19th Street - Ladies' Mile Historic District
A neo-Renaissance style store and loft building, built by Maynicke & Franke, and built in 1910. Application is to install windows.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 09-8974 - Block 1141, lot 23-123 West 69th Street - Upper West Side /Central Park West Historic District
A neo-Grec style brownstone rowhouse designed by Thom & Wilson and built in 1882. Application is to install a stoop railing.

CERTIFICATE OF APPROPRIATENESS
BOROUGH OF MANHATTAN 10-0112 - Block 1143, lot 7503-100 West 72nd Street - Upper West Side/Central Park West Historic District
A Renaissance Revival style store building designed by McKim, Mead and White and built in 1892-1893. Application is to construct a new shade structure and privacy fences at the penthouse roof.

s23-o6

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, September 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 224 Development LLC to construct, maintain and use a planted area on the south sidewalk of 16th Street, west of Sixth Avenue, 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:

From the Approval Date to June 30, 2020 - \$71/per annum

the maintenance of a security deposit in the sum of \$3,000, 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 St Johns Episcopal Hospital to maintain and use a bridge over and diagonally across Beach 19th Street, south of Brookhaven Avenue, in the Borough of Queens. 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, 2010 - \$12,845
For the period July 1, 2010 to June 30, 2011 - \$13,219
For the period July 1, 2011 to June 30, 2012 - \$13,593
For the period July 1, 2012 to June 30, 2013 - \$13,967
For the period July 1, 2013 to June 30, 2014 - \$14,341
For the period July 1, 2014 to June 30, 2015 - \$14,715
For the period July 1, 2015 to June 30, 2016 - \$15,089
For the period July 1, 2016 to June 30, 2017 - \$15,463
For the period July 1, 2017 to June 30, 2018 - \$15,837
For the period July 1, 2018 to June 30, 2019 - \$16,211

the maintenance of a security deposit in the sum of \$30,000, 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.

#3 In the matter of a proposed revocable consent authorizing YMCA of Greater New York to construct, maintain and use a handicap ramp and stairs on the south sidewalk of Catalpa Avenue and on the west sidewalk of 64th Street, in the Borough of Queens. 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 date of approval by the Mayor to June 30, 2020 - \$25/annum

the maintenance of a security deposit in the sum of \$6,000, and the filing of an insurance policy in the minimum amount of \$500,000/\$2,000,000 for bodily injury and property damage for each occurrence in the aggregate amount of \$200,000.

#4 In the matter of a proposed revocable consent authorizing New York Institute of Technology to install, maintain and use cables in the existing facilities of the Empire City Subway Company (Limited) in Broadway, West 61st Street, Columbus Avenue and West 62nd 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 Date of Approval to June 30, 2010 - \$4,532/annum
 For the period July 1, 2010 to June 30, 2011 - \$4,668
 For the period July 1, 2011 to June 30, 2012 - \$4,804
 For the period July 1, 2012 to June 30, 2013 - \$4,940
 For the period July 1, 2013 to June 30, 2014 - \$5,076
 For the period July 1, 2014 to June 30, 2015 - \$5,212
 For the period July 1, 2015 to June 30, 2016 - \$5,348
 For the period July 1, 2016 to June 30, 2017 - \$5,484
 For the period July 1, 2017 to June 30, 2018 - \$5,620
 For the period July 1, 2018 to June 30, 2019 - \$5,756
 For the period July 1, 2019 to June 30, 2020 - \$5,892

the maintenance of a security deposit in the sum of \$6,000, 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.

#5 In the matter of a proposed revocable consent authorizing 411-417 West 13th Street Condominium to construct, maintain and use stairs and a wheelchair lift on the north sidewalk of West 13th Street, between Washington Street and Ninth Avenue, 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:

- \$1,591/annum
 For the period July 1, 2010 to June 30, 2011 - \$1,638
 For the period July 1, 2011 to June 30, 2012 - \$1,685
 For the period July 1, 2012 to June 30, 2013 - \$1,732
 For the period July 1, 2013 to June 30, 2014 - \$1,779
 For the period July 1, 2014 to June 30, 2015 - \$1,826
 For the period July 1, 2015 to June 30, 2016 - \$1,873
 For the period July 1, 2016 to June 30, 2017 - \$1,920
 For the period July 1, 2017 to June 30, 2018 - \$1,967
 For the period July 1, 2018 to June 30, 2019 - \$2,014
 For the period July 1, 2019 to June 30, 2020 - \$2,061

the maintenance of a security deposit in the sum of \$10,000, 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.

s10-30

PROPERTY DISPOSITION

CITYWIDE ADMINISTRATIVE SERVICES

DIVISION OF MUNICIPAL SUPPLY SERVICES

■ AUCTION

PUBLIC AUCTION SALE NUMBER 10001-G

NOTICE IS HEREBY GIVEN of a bi-weekly public auction of City fleet vehicles consisting of cars, vans, light duty vehicles, trucks, heavy equipment and miscellaneous automotive equipment to be held on Wednesday, September 30, 2009 (SALE NUMBER 10001-G). This auction is held every other Wednesday unless otherwise notified. Viewing is on auction day only from 8:30 A.M. until 9:00 A.M. The auction begins at 9:00 A.M.

LOCATION: 570 Kent Avenue, Brooklyn, NY (in the Brooklyn Navy Yard between Taylor and Clymer Streets).

A listing of vehicles to be offered for sale in the next auction can be viewed on our website, on the Friday prior to the sale date at: <http://www.nyc.gov/auctions>

Terms and Conditions of Sale can also be viewed at this site. For further information, please call (718) 417-2155 or (718) 625-1313.

s16-30

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

■ AUCTION

PUBLIC AUCTION SALE NUMBER 1168

NOTICE IS HEREBY GIVEN of a ONE (1) day public auction of unclaimed salvage vehicles, motorcycles, automobiles, trucks, and vans. Inspection day is October 5, 2009 from 10:00 A.M. - 2:00 P.M.

Salvage vehicles, motorcycles, automobiles, trucks, and vans will be auctioned on October 6, 2009 at approximately 9:30 A.M.

Auction will be held at the Erie Basin Auto Pound, 700 Columbia Street (in Redhook area of B'klyn., 2 blocks from Halleck St.)

For information concerning the inspection and sale of these items, call the Property Clerk Division's Auction Unit information line (646) 610-4614.

s23-o6

PROCUREMENT

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

ADMINISTRATION FOR CHILDREN'S SERVICES

■ INTENT TO AWARD

Services (Other Than Human Services)

COMMUNITY PARTNERSHIP INITIATIVE – Negotiated Acquisition – DUE 09-30-09 AT 2:00 P.M. – PIN# 06810INV0007 - University Settlement Society of NY PIN# 06810INV0008 - Edwin Gould Services

The New York City Administration for Children's Services (ACS) Office of Procurement intends to enter into negotiated acquisitions with the two organizations cited for the provision of the Community Partnership Initiative. In accordance with Section 3-04 (b)(2)(III) of the Procurement Policy Board Rules, ACS intends to use the negotiated acquisition process to extend the subject contracts' terms to ensure continuity of services. The term of the contracts is projected to be for 7 months, from December 1, 2009 to June 30, 2010. Suppliers may express interest in future procurements by contacting Michael Walker at ACS, Office of Procurement, 150 William Street, 9th Floor, NY, NY 10038, email: michael.walker@dfa.state.ny.us or by calling (212) 341-3617 between the hours of 10:00 A.M. and 4:00 P.M. on business days.

s22-28

AGING

■ AWARDS

Goods & Services

SERVICES FOR SENIOR CITIZENS – BP/City Council Discretionary – South Brooklyn Youth Consortium 2970 West 27th Street, Brooklyn, NY 11224 PIN# 12510DISC2N4 - Contract Amount: \$88,000

All American Association of Invalids and Veterans of WWII 3111 Brighton 7th Street, Ste. 6L, Brooklyn, NY 11235 PIN# 12510DISC2YS - Contract Amount: \$8,000

The Brooklyn Arts Council Inc. 55 Washington Street, Ste. 218, Brooklyn, NY 11201 PIN# 12510DISC2ZR - Contract Amount: \$34,000

St. Marks United Methodist Church 2017 Beverly Road, Brooklyn, NY 11226 PIN# 12510DISC2YD - Contract Amount: \$20,000

Council of Jewish Organization of Staten Island Inc. 984 Post Avenue, Staten Island, NY 10302 PIN# 12510DISC5WR - Contract Amount: \$21,500

Lutheran Augustana Center for Extended Care and Rehabilitation 5434 2nd Avenue, Brooklyn, NY 11220 PIN# 12510DISC2T9 - Contract Amount: \$10,000

s28

SERVICES FOR SENIOR CITIZENS – Negotiated Acquisition – Available only from a single source - PIN# 12510TRNA219 – AMT: \$262,130.00 – TO: Heights and Hills Community Council, 57 Willoughby Street, 4th Floor, Brooklyn, NY 11201. Negotiated Acquisition Extension.

s28

CITY UNIVERSITY

■ INTENT TO AWARD

Services (Other Than Human Services)

FIRE ALARM SYSTEM MAINTENANCE – Sole Source – Available only from a single source - PIN# 092209 – DUE 10-09-09 AT 10:00 A.M. – LaGuardia Community College, CUNY is entering into a Purchase Order contract with Fireservice, a subsidiary of Firecom, Inc. for the yearly maintenance of the College's Firecom fire alarm system. Firecom is the sole licensed manufacturer, distributor, and service provider for this equipment. This notice is not intended to invite competition, but if your company is authorized to provide these services, contact Tawanikka Smith at tsmith@lagcc.cuny.edu with an authorized statement from the manufacturer and your contact information. This notice is intended to fulfill the requirement for giving Public Notice or a Sole Source purchase as per New York State Finance Law, Section 163.

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.
 City University, 31-10 Thomson Avenue, Room E413 Room E405, Long Island City, NY 11101.
 Tawanikka Smith (718) 482-5590, tsmith@lagcc.cuny.edu

s28-o2

CITYWIDE ADMINISTRATIVE SERVICES

DIVISION OF MUNICIPAL SUPPLY SERVICES

■ AWARDS

Goods

FORKLIFTS, VARIOUS SIZES - DCAS – Competitive Sealed Bids – PIN# 857900667 – AMT: \$480,270.00 – TO: Doosan Infracore America Corp., 3481 Whitby Lane, High Ridge, MO 63049.

s28

■ 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.

fy17-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.

fy17-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.

fy17-j4

EDUCATION

DIVISION OF CONTRACTS AND PURCHASING

■ SOLICITATIONS

Goods

NATIONAL GEOGRAPHIC EDUCATIONAL SOFTWARE – Competitive Sealed Bids – PIN# Z1277040 – DUE 10-19-09 AT 5:00 P.M. – If you cannot download this bid, please send an e-mail to VendorHotline@schools.nyc.gov with the bid number and title in the subject line of your e-mail. For all questions related to this bid, please send an

e-mail to DPontrelli@schools.nyc.gov with the bid number and title in the subject line of your e-mail.
Bid opening: Tuesday, October 20th, 2009 at 11:00 A.M.

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

ENVIRONMENTAL PROTECTION

■ INTENT TO AWARD

Services (Other Than Human Services)

CSF WORKSHOP SOFTWARE SUPPORT AND MAINTENANCE – Sole Source – Available only from a single source - PIN# 826X040069 – DUE 10-16-09 AT 11:00 A.M. – The Department of Environmental Protection/Bureau of Customer Services intends to enter into a sole source agreement with Metavante for support and maintenance of their CSF workshop software. Any firm which believes they can also provide the required services and support is invited to do so by mail or e-mail to the attention of Ira M. Elmore, Deputy Agency Chief Contracting Officer, 59-17 Junction Blvd., 17th Floor, Flushing, NY 11373, (718) 595-3259, email: irae@dep.nyc.gov

MEGACRYPTION SOFTWARE SUPPORT AND MAINTENANCE – Sole Source – Available only from a single source - PIN# 826X040031 – DUE 10-16-09 AT 11:00 A.M. – The Department of Environmental Protection/Bureau of Customer Services intends to enter into a sole source agreement with Advanced Software Products Group, Inc. for support and maintenance coverage of their MEGACRYPTION software product. Any firm which believes they can also provide the required maintenance support is invited to do so by mail or e-mail to the attention of Ira M. Elmore, Deputy Agency Chief Contracting Officer 59-17 Junction Blvd., 17th Floor, Flushing, NY 11373 (718) 595-3259, email: irae@dep.nyc.gov

BUREAU OF WATER SUPPLY

■ SOLICITATIONS

Services (Other Than Human Services)

SIEMENS MICROFILTRATION MAINTENANCE FOR VARIOUS WWTP'S – Sole Source – Available only from a single source - PIN# 82610WS00020 – DUE 10-13-09 AT 4:00 P.M. – DEP intends to enter into a Sole Source Agreement with Siemens Water Technologies, for CAT-383: Siemens Microfiltration Maintenance for Various WWTP's. This specialty preventive maintenance and technical service contract is required for the microfiltration systems located in the five (5) Wastewater plants in the Upstate Watershed, BWS Wastewater Treatment Operations Division. The microfiltration systems are part of the NYSDEC-SPDES permit and FAD agreement. These systems are critical to the effluent quality discharged into the drinking water supply of NYC. They are highly technical in nature and require personnel with expertise and experience. Any firm which believes it can also provide the required service is invited to so, indicated by letter which must be received no later than October 13, 2009, 4:00 P.M. at: Department of Environmental Protection, Agency Chief Contracting Officer, 59-17 Junction Blvd., 17th Floor, Flushing, New York 11373, Attn: Ms. Debra Butlien, dbutlien@dep.nyc.gov (718) 595-3423.

FIRE

■ SOLICITATIONS

Construction Related Services

OVERHEAD DOOR REPAIR SERVICES – Competitive Sealed Bids – PIN# 057090002695 – DUE 10-27-09 AT 4:00 P.M. – This procurement is subject to goals for project participation by minority owned business enterprises (MBEs) and/or women owned enterprises (WBEs) as required by Local Law 129 of 2005. This procurement is subject to Local Law 220, Prevailing Wage requirements. Vendor Source ID#: 63479.

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.
Fire Department, 9 MetroTech Center, 5th Floor, Brooklyn NY 11201. Kristina LeGrand (718) 999-1234
legrandkm@fdny.nyc.gov

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.

■ SOLICITATIONS

Goods & Services

PEDIATRIC POSITIONING CHAIR AND ACCESSORIES – Competitive Sealed Bids – PIN# 22210025 – DUE 10-06-09 AT 3:00 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.
Lincoln Hospital Center, 234 East 149th Street, Room 2A2 Bronx, NY 10451. David Pacheco (718) 579-5989
david.pacheco@nychhc.org

LOW VOLTAGE CIRCUIT BREAKER – Competitive Sealed Bids – PIN# 11210021 – DUE 10-13-09 – Replacement breaker coming in from 136th Street - Kountz Pavilion.

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. Junior A. Cooper (718) 579-5509
junior.cooper@nychhc.org

OPHTHALMIC ULTRASOUND SCANNER – Competitive Sealed Bids – PIN# 22210024 – DUE 10-05-09 AT 3:00 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.
Lincoln Hospital Center, 234 East 149th Street, Room 2A2 Bronx, NY 10451. David Pacheco (718) 579-5989
david.pacheco@nychhc.org

HEALTH AND MENTAL HYGIENE

AGENCY CHIEF CONTRACTING OFFICER

■ AWARDS

Human/Client Service

MENTAL HEALTH SERVICES – Required Method (including Preferred Source) – PIN# 10AZ019401ROX00 – AMT: \$343,389.00 – TO: Cameflot of Staten Island, Inc., 4442 Arthur Kill Road, Suite 4, Staten Island, NY 10309.
● **MENTAL HEALTH SERVICES** – Required Method (including Preferred Source) – PIN# 10AZ020101ROX00 – AMT: \$203,856.00 – TO: Lesbian and Gay Community Services Center, Inc., 208 West 13th Street, New York, NY 10011.
● **MENTAL HEALTH SERVICES** – Required Method (including Preferred Source) – PIN# 10AZ021001ROX00 – AMT: \$667,158.00 – TO: Federation Employment and Guidance Services, Inc., 315 Hudson Street, New York, NY 10013.
● **MENTAL HEALTH SERVICES** – Required Method (including Preferred Source) – PIN# 10AZ019701ROX00 – AMT: \$571,422.00 – TO: International Center for the Disabled, Inc., 340 East 24th Street, New York, NY 10010.
● **MENTAL HEALTH SERVICES** – Required Method (including Preferred Source) – PIN# 10AZ019601ROX00 – AMT: \$148,400.00 – TO: Covenant House New York/Under 21, 460 West 41st Street, New York, NY 10036.
● **MENTAL HEALTH SERVICES - SUPPORTED CASE MANAGEMENT AND BLENDED CASE MANAGEMENT** – Renewal – PIN# 07PO020801R1X00 – AMT: \$1,409,652.00 – TO: Beth Israel Medical Center, First Avenue at 16th Street, New York, NY 10003.

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

HOUSING AUTHORITY

■ SOLICITATIONS

Construction/Construction Services

APARTMENT RESTORATION (10 UNITS) AT OCEAN BAY APARTMENTS – Competitive Sealed Bids – PIN# GR9003856 – DUE 10-19-09 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

ELEVATOR REHABILITATION FOR FIFTEEN (15) ELEVATORS AT EASTCHESTER GARDENS – Competitive Sealed Bids – PIN# EV9007160 – DUE 10-13-09 AT 10:30 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

REPLACEMENT OF BOILERS AT 45 ALLEN STREET

– Competitive Sealed Bids – PIN# HE9013065 – DUE 10-15-09 AT 11:00 A.M.
● **REPLACEMENT OF UNDERGROUND STEAM DISTRIBUTION SYSTEM AT MELROSE HOUSES** – Competitive Sealed Bids – PIN# HE9007156 – DUE 10-15-09 AT 10:30 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

REPLACEMENT OF ROOF WATER TANKS AT VARIOUS DEVELOPMENTS – Competitive Sealed Bids – PIN# PL9015197 – DUE 10-08-09 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 (212) 306-3121
gloria.guillo@nychc.nyc.gov

HUMAN RESOURCES ADMINISTRATION

■ INTENT TO AWARD

Services (Other Than Human Services)

TIER II SHELTER FOR VICTIMS OF DOMESTIC VIOLENCE – Negotiated Acquisition – Available only from a single source - PIN# 06910H072501 – DUE 09-24-09 – Human Resources Administration, Office of Domestic Violence Emergency Intervention Services (ODVEIS) entered in contract negotiations with the current vendor to provide TIER II Shelter for victims of Domestic Violence. Vendors interested in responding to future solicitations should call the NYC Vendor Enforcement Center at (212) 857-1680 to request an application or you may complete the application on-line by visiting www.nyc.gov/selltonyc.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.
Human Resources Administration, 180 Water Street 24th Floor, New York, NY 10038.
Greg Washington (212) 331-4595, washingtonge@hra.nyc.gov

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

PAYROLL ADMINISTRATION

■ INTENT TO AWARD

Services (Other Than Human Services)

CITYTIME SUBJECT MATTER EXPERTS (SME'S) AND QUALITY ASSURANCE (QA) – Negotiated Acquisition – PIN# 10131000047864 – DUE 10-09-09 AT 5:00 P.M. – As per Procurement Policy Board (PPB) Rules Section 3-04(b)(2)(iii), the Office of Payroll Administration (OPA) intends to enter into negotiations with Spherion Corporation for a team of selected consultants to continue to provide Subject Matter Experts ("SMEs") and Quality Assurance (QA) Services to insure continuity of CityTime, a secure, web-based time and attendance systems. The consultants that will continue services on the project through Negotiated Acquisition have extensive expertise and knowledge of the specific requirements and processes supporting CityTime. The project is also entering a critical juncture during which OPA will be transitioning the contractors that have been staffing the project for years. Accordingly, continuing with the services of these consultants is crucial to the success of the transition and ultimate completion of the CityTime project. The Subject Matter Experts augment the City team and assist with testing deliverables, technical, business and

system implementation and administrative tasks as required by OPA. The contract term shall commence on January 16, 2010 and will conclude on January 15, 2012.

Any Contractors who believe they are able to provide such specific services in the future may submit expressions of interest in writing to Valerie Himelewski, Agency Chief Contracting Officer, at 1 Centre Street, Room 200N, New York, NY 10007 or vhimelowski@payroll.nyc.gov

Per Procurement Policy Board (PPB) Rules Section 3-04(b)(2)(iii), there is a compelling need to extend a contract one or more times beyond the now-permissible cumulative twelve-month limit, provided that the vendor's performance is satisfactory or that any deficiencies have been or are addressed or are effectively addressed through a corrective action plan, and the extension(s) is for the minimum time necessary to meet the need.

Use the following address unless otherwise specified in notice, to secure, examine or submit bid/proposal documents, vendor pre-qualification and other forms; specifications/blueprints; other information; and for opening and reading of bids at date and time specified above.
Office of Payroll Administration, 1 Centre Street, Room 200N, New York, NY 10007. Amer Parvez (212) 669-4667, aparvez@payroll.nyc.gov

s28-o2

SCHOOL CONSTRUCTION AUTHORITY

CONTRACT ADMINISTRATION
SOLICITATIONS

Construction / Construction Services

A&E SERVICES FOR ACOUSTIC ANALYSIS/DESIGN – Request for Proposals – PIN# 10-00018R – DUE 10-07-09 AT 2:00 P.M. – The NYC School Construction Authority (SCA) is seeking qualified consulting interested in responding to a Request for Proposal (RFP) SCA No. 10-00018R to provide Architecture and Engineering Services in connection with Acoustical Analysis and Design Consulting for various schools throughout New York City.

Proposal will be accepted from the following firms: Acentech Inc.; Acoustic Dimensions; Cerami Associates; Lewis Goodfriend and Associates; Ostergaard Associates; Akustics, LLC; Arup Acoustics; Clayton Acoustics Group; Clifford R. Bragdon and Assoc.; Creative Acoustics; DiGeronimo; Houghton Associates, LLC; Jaffe Holden Acoustics; Marshall/KMK Acoustics; Paul Carpenter Associates; Ronnette Riley Architects; Shen Milsom and Wilke, LLC; Sound Engineering Services; Wilson, Ihrig and Associates, Inc.

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 1st Floor, Long Island City, New York 11101.
Donald Mezick (718) 752-5479, dmezick@nycsca.org

s25-o1

TRIBOROUGH BRIDGE & TUNNEL AUTHORITY

SOLICITATIONS

Construction / Construction Services

TOLL PLAZA IMPROVEMENTS AT THE VERRAZANO-NARROWS BRIDGE – Competitive Sealed Bids – PIN# VN0300000000 – DUE 10-30-09 AT 3:00 P.M. A MANDATORY site tour and pre-bid conference is scheduled for 10/08/09 at 10:00 A.M. Reservations must be made by contacting Gavin Masterson, Contract Manager at (646) 252-7070 no later than noon of the preceding work day. Must have protective equipment including a reflective safety vest and a hard hat and two (2) forms of identification, including photo ID. All vendors interested in purchasing these documents must follow instruction for CCR and FedBizOpps at www.mta.info/bandt/procure/preactcon.htm.

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.
Triborough Bridge and Tunnel Authority, 3 Stone Street, Bid Suite, New York, NY 10004. Victoria Warren (646) 252-6101, vprocure@mtabt.org

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AGENCY RULES

HEALTH AND MENTAL HYGIENE

NOTICE

NOTICE OF ADOPTION OF AMENDMENTS TO ARTICLE 7 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 amend Article 7 (Administrative Tribunal) of the New York City Health Code (the "Health Code") was published in the City Record on June 26, 2009 and a public hearing was held on July 29, 2009. No testimony or comments were received. At its meeting on September 22, 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

The Board of Health, at its meeting on June 18, 2008, adopted a resolution repealing and reenacting Article 7 of the New York City Health Code (Administrative Tribunal). Thereafter, the Department requested and the Board further amended §7.09 (Appearances) and §7.11 (Hearings and mail adjudications) of this Article. Subdivision (d) of §7.09 provides that a default may be found if the respondent fails to appear at a hearing of a notice of violation. The hearing examiner, after finding the respondent in default, will then review the allegations in the notice of violation, and may issue a default decision, finding the respondent in violation of the specific law or regulations cited. A respondent is notified of the default decision by certified mail. A respondent may then, within 30 days of the mailing of the notice of decision, request that the Tribunal vacate or reopen the default. The Tribunal has reported that respondents or their representatives often come to the Tribunal and ask for a copy of the default decision in order to expedite reopening of the default. This is usually done because they discover that they can't renew their permits because of an unpaid default penalty, and the Tribunal has been providing copies of default decisions upon request. While §7.09 (d) neither prohibits nor allows this practice, this amendment authorizes and codifies this practice in such instances. The Tribunal has drafted a new Notice of Appearance form and added a box to capture a signature to show personal receipt of the default decision. The amendment further provides that the thirty days for a respondent to request that a default be reopened would start to run from the earlier of the date of certified mailing or the date the copy is provided personally to the respondent or respondent's representative. The amendment does not require the Department to serve notices of decision on default personally, and does not extend the thirty days allowing a respondent to reopen or vacate a default. Subdivision (h) of §7.11 has also been amended to reflect the change in §7.09 (d), authorizing mailing and personally providing a copy of a default decision to a respondent.

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 subdivision (d) of §7.09 of Article 47 (Administrative Tribunal) 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 eighteenth of June, two thousand eight, be, and the same hereby is, amended, to be printed together with explanatory notes, to read as follows:

§7.09 Appearances.

(d) Failure by the respondent to appear in person, by sending an attorney or other authorized representative, or by mail shall constitute a waiver of the right to a hearing and shall authorize the hearing examiner, without further notice to the respondent, to find that the respondent is in default and that the facts are as alleged in the notice of violation, and to render a default decision sustaining the allegations and imposing a penalty pursuant to Article 3 of this Code or as authorized by other applicable law. If, before issuing a default decision, the Tribunal finds that the failure of the party to appear was caused by circumstances beyond the party's reasonable control, the Tribunal may choose to not issue a default decision and instead adjourn the matter for a new hearing date. A decision that is adverse to a respondent by reason of the respondent's default shall be issued only after the hearing examiner has determined that the notice of violation was served as required by applicable law, and that the notice of violation alleges sufficient facts to support the violations charged. The Tribunal shall notify a defaulting respondent of the issuance of a default decision by mailing a copy of the decision by certified mail. or by providing a copy to a respondent or respondent's representative who appears personally at the Tribunal and requests a copy. A respondent may request in writing that a default decision be reconsidered, if the request to reconsider is postmarked or received by the Tribunal within thirty days of the date of mailing of the default decision to the respondent. or the date a copy was provided to the respondent or the respondent's representative at the Tribunal, whichever date is earlier. One such request shall be granted administratively as of right provided that the Tribunal's records show that there have been no other failures to appear in relation to the particular notice of violation. In all other cases a request to reconsider a default decision shall be accompanied by a statement setting forth good cause for the respondent's failure to appear and either a meritorious defense to any violation found in the decision or a jurisdictional defect in the notice of violation. Such statement, and any supporting documentary evidence deemed necessary by a hearing examiner, shall be reviewed by a hearing examiner who shall determine if it establishes a reasonable excuse for the default and a legally sufficient basis to reconsider a default decision. However, under no circumstances shall more than two requests to reconsider default decisions be entertained in relation to a particular notice of violation. Denial of a request to vacate a default decision shall not be subject to review by the Review Board.

Notes: Subdivision (d) of §7.09 was amended by resolution of the Board of Health adopted on September 22, 2009 to authorize the Tribunal to alternatively notify a respondent or representative of a default by certified mailing, or by providing a copy of a default decision to a respondent or respondent's representative who personally appears at the Tribunal and requests such a copy. The amendment does not require personal service of any notices of decision issued on default of the respondent. A respondent still has thirty (30) days to request reconsideration of a default and the time is counted from the earlier of the date of mailing or date on which a copy of the default decision is personally provided.

RESOLVED, that subdivision (h) of §7.11 of Article 47 (Administrative Tribunal) 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 eighteenth of June, two thousand eight, be, and the same hereby is, amended, to be printed together with explanatory notes, to read as follows:

§7.11 Hearings and mail adjudications.

(h) A written decision sustaining or dismissing each charge in the notice of violation shall be promptly rendered by the hearing examiner who presided over the hearing, or who

conducted the adjudication by mail, or who rendered a default decision. Each decision, other than a default decision, shall contain findings of fact and conclusions of law and, where a violation is sustained, shall impose a penalty. A copy of the decision, other than a default decision mailed or otherwise provided in accordance with §7.09(d) hereof, shall be served forthwith on the respondent or on the respondent's counsel, registered representative or other authorized representative, either personally or by certified mail. Any fines imposed shall be paid within thirty days of service of the decision. If full payment of fines is not made within thirty days, an additional penalty may be imposed per NOV in an amount of fifty dollars, if paid between thirty one and sixty days after service of the decision, and one hundred dollars if paid more than sixty days after service of the decision. Notes: Subdivision (h) of §7.11 was amended by resolution adopted by the Board of Health on September 22, 2009 to be consistent with provisions of subdivision (d) of §7.09 regarding notification of a default decision.

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NOTICE OF ADOPTION OF AMENDMENTS TO ARTICLE 47 OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, a notice of intention to amend Article 47 (Child Care Services) of the New York City Health Code (the "Health Code") was published in the City Record on June 26, 2009 and a public hearing was held on June 31, 2009. No testimony or comments were received. At its meeting on September 22, 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

The Board of Health, at its meeting on March 6, 2008, adopted a resolution repealing and reenacting Article 47 of the New York City Health Code (Child Care Services). At the Department's request the Board has further amended §47.09 (Applications for permits) of the Code to require child care services to maintain e-mail addresses and to provide the Department with e-mail contact information.

The Department sought this amendment to enable it to better and more timely communicate directly to child care services information of public health concern that may affect the health and safety of children. Timely, rapid communication is important, for example, in instances of product recalls or public health or other emergencies, when the Department needs to advise permittees of appropriate protocols and preventive measures.

During the spring 2009 H1N1 influenza outbreak, the Department's Bureau of Child Care attempted to communicate immediately with child care services to inform permittees of preventive measures and reporting protocols. The bureau was able to communicate directly by e-mail with approximately 50% of the 2,000 child care services, but could only use mail and fax for the remaining services, unnecessarily delaying communication efforts.

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 §47.09 of Article 47 (Child Care Services) 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 sixth of March, two thousand eight, be, and the same hereby is, amended, to be printed together with explanatory notes, to read as follows:

§47.09 Applications for permits. A person or entity that has never held a permit issued by the Commissioner to operate a child care service and that proposes to operate a child care service subject to such permit, shall attend a pre-permit orientation session held by the Department and shall thereafter submit an application for a permit to the Department.

(a) *New application.* An application for a new permit shall be submitted on forms approved or provided by the Department and shall include:

- (7) Proof of workers' compensation and disability benefits insurance covering all employees.
- (8) Proof of the service's ability to receive electronic communications. An e-mail address shall be provided for the educational director and for one or more other persons designated by the permittee or other person in control of a child care service as persons to receive electronic communications from the Department. The Department shall be notified of changes in e-mail addresses for the educational director or other designees when such changes become effective.

(c) *Renewal application.* An application for renewal of a permit shall be submitted on forms provided by the Department no later than 90 days before the expiration date of the current permit, and shall include the permit fee, and a full description of any changes in teaching staff, written safety plan, e-mail communication information, written health plan, physical facilities, required staff training or program which occurred after submission of the previous permit application.

Notes: Subdivisions (a) and (c) of §47.09 were amended by resolution of the Board of Health on September 22, 2009 to require that new and renewal applications for permits to operate a child care service contain e-mail addresses for the educational director and one or more other persons designated by the permittee to enable rapid receipt of communications from the Department in the event of product recalls, or public health or other emergencies affecting the health and safety of children attending the service.

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NOTICE OF ADOPTION OF A RESOLUTION TO REPEAL AND RECODIFY ARTICLE 131 AND TO REPEAL ARTICLE 135 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 the Charter, on April 29, 2009, a public hearing was held on a proposal to repeal Article 131 (Buildings Generally) and Article 135 (Commercial Premises) of the New York City Health Code (the "Health Code") and to recodify Article 131 (Buildings) of the Health Code. Four persons testified at the public hearing, and written comments were received from three of the persons who testified. In response to the comments received, several changes have been made to the resolution. At its meeting on September 22, 2009, the Board of Health adopted the following resolution.

STATUTORY AUTHORITY

These amendments to the Health Code are promulgated pursuant to §§556, 558 and 1043 of the Charter. Section 556 of the Charter confers on the Department of Health and Mental Hygiene ("DOHMH" or the "Department") the 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 to amend the Health Code and to include in the Health Code all matters to which the DOHMH's authority extends. Section 1043 of the Charter grants the DOHMH rulemaking powers.

STATEMENT OF BASIS AND PURPOSE

As part of a comprehensive review of the Health Code to assess its efficacy in protecting the public health, the Board of Health has updated various provisions of the Health Code to provide adequate legal tools for the Board and the DOHMH to effectively address the City's current and future public health needs. One aspect of this revision is the repeal of Article 131 (Buildings Generally) and Article 135 (Commercial Premises), and the incorporation of surviving provisions of both articles into a new Article 131 (Buildings). The new Article 131 eliminates outdated and obsolete provisions of both articles, revises the provisions that have been retained, and adds new provisions consistent with the Department's current priorities and concerns. The comments received are addressed in the individual section discussions that follow.

§131.01 Scope. This section is new and clarifies the purpose and applicability of this Article. As indicated in the introductory notes, the provisions of this Article are not intended to duplicate authority exercised by other City agencies.

§131.03 Definitions. This section is new and defines terms used in the Article.

§131.05 Duty; responsibility for violations. This section is derived in part from both former §131.01 (Violations; responsibility) and §135.13 (Responsibility for compliance).

§131.07 Heating. The provisions of former §131.03 have been modified and updated, and are incorporated into this section. The 1968 Building Code, Administrative Code §§27-740ff, and the 2008 New York City Building Code §1204 specify minimum heating system capacities for various building use categories but do not require that minimum temperatures be maintained during times buildings are occupied. The New York City Department of Housing Preservation and Development ("HPD") enforces Housing Maintenance Code §27-2029, which establishes minimum heating requirements for dwellings. The Health Code temperature requirements are therefore currently only enforced in buildings not subject to Housing Maintenance Code requirements.

Minimum seasonal (between October 1 and May 31) temperatures maintained for occupied buildings not used as dwellings (with the exception of those buildings otherwise regulated, such as child day care, school, or health care facilities, buildings housing non-regulated educational, social or health services or buildings whose heating arrangements are subject to lease or contract) have been lowered from 68 degrees F (20 degrees C) to 65 degrees F (18.33 degrees C). The change in minimum temperature is based on city-wide sustainability and energy saving efforts and is consistent with PlaNYC of 2007, as well as World Health Organization (WHO) recommendations for indoor temperatures of 64.4 to 69.8 degrees F (18 to 21 degrees C) for the general population, which was issued in 1985. WHO reviewed these recommendations again in 2007 and determined that there is little scientific evidence correlating indoor air temperatures with public health and that more research is needed in this subject area. A comment received in favor of the proposed reduction in commercial building temperatures also recommended reducing the minimum temperature to be maintained in dwellings. However, as previously noted, dwelling temperatures are established in the Housing Maintenance Code, are the subject of legislation and cannot be amended by rule.

In addition, as noted above, the Statement of Basis and Purpose as originally published indicated an intention that buildings housing educational, social or health services and programs be exempt from the lowered minimum temperature, but the text of the resolution itself omitted such a provision. The resolution adopted by the Board corrects this omission and includes a provision explicitly exempting buildings in which such services are located from the reduced minimum temperature.

§131.09 Commercial buildings. This section retains provisions of former Article 135 that remain applicable to such buildings with respect to lighting (former §135.05); ventilation (§135.07); plumbing (§135.09); water, wash basins and utility sinks (§135.11); floors (§135.13); walls and ceilings (§135.15); and cleanliness and repair (§135.17). Provisions of former §135.19 (control of offensive or annoying conditions) have been incorporated in a new §131.13, as noted below.

§131.11 Posting signs. This section removes provisions of former §131.09, which requires posting of ownership information at certain residential buildings, because it largely duplicates rules of HPD. Current HPD rules require that owners of multiple dwellings consisting of six or more apartments, or those who are otherwise required to post certificates of inspections in these buildings, maintain on those certificates "complete and correct information ... as the premises' address, registration number, name and address of owner or managing agent registered with the [HPD] Office of Code Enforcement, and a telephone number which tenants may call for service and repairs." See 28 RCNY §25-241(i). Because such information is important to persons residing in other rental properties who may not otherwise have access to ownership information, this section preserves the requirement that minimum ownership information be posted in rental residential buildings not subject to HPD's rules.

The proposal published for public comment required additional signage that would alert occupants of multiple

dwellings to the need to return notices to their landlords regarding lead paint and window guard inspections, and would warn about dry scraping of lead paint. Comments were received both objecting to and favoring such changes in signage requirements, from groups representing owners and occupants, respectively. In consideration of the comments received, the proposal to require building owners to post information about lead paint and window guards has been withdrawn. Signage requirements alerting building occupants to these particular health and safety responsibilities of building owners will be further considered in a future proposal so that Department requirements can be consistent with those of other agencies. They will be more concise and therefore less burdensome than the requirements originally proposed, and also be better able to effectively convey public health messages.

§131.13 Control of unsafe conditions. This section is derived from former §135.19 (Control of offensive or annoying conditions) and has been updated to reflect current regulatory practice. A comment was received from the DOS that "§131.041 Refrigerators, discarded; removal of locking devices," originally proposed for repeal, does not duplicate any provision in DOS rules, and remains an important safeguard against children accidentally locking themselves in discarded refrigerators. Accordingly, this provision has been restored to the resolution and incorporated as subdivision (c) in this section.

§131.15 Window guards. This section retains all the provisions of former §131.15, but has been amended to incorporate references to the rules of the Department set forth in 24 RCNY Chapter 12, containing specifications for window guards and their installation, and for notices to tenants.

§131.17 Dry cleaning facilities. This section is new and prohibits contamination of residential and child occupied buildings by perchloroethylene (PERC) vapors from dry cleaning facilities located in the same or adjacent buildings. The City Department of Environmental Protection regulates and issues permits to dry cleaners using PERC in the City pursuant to 15 RCNY Chapter 12. The State Environmental Conservation Law regulates the equipment used in such facilities. However, no law currently establishes permissible limits for emissions from dry cleaning facilities into child-occupied or residential facilities. This section codifies current Department regulatory practice, and requires operators of dry cleaning facilities to provide for proper operation and exhaust ventilation of equipment using PERC. The standard for residential PERC contamination is based on research and guidelines issued by the New York State Department of Health ("NYSDOH").

The Department received comments from dry cleaner and solvent industry associations objecting to the establishment of the current intervention level of 100 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) of PERC as excessive, and expressing their concern that the Department would "automatically" issue notices of violation to dry cleaning establishments that exceed this threshold. The Department does not agree that the standard is excessive. NYSDOH established the level of 100 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) as guidance for emissions into residences in 1991. The level was again formally reviewed by NYSDOH in 1997. NYSDOH has also used the toxicity value, which forms the basis for the guidance level, in a more recent (2004-2006) effort to establish related health-based guidance values for PERC.

The Department's intention, with the promulgation of this rule, has been to codify and provide public notice of its practice. The Department's current practice does not require that a notice of violation ("NOV") be automatically issued upon receipt of laboratory results showing elevated levels of PERC in residential premises. Professional judgment is always exercised when evaluating environmental sampling in environmental investigations.

Although no change has been made to the intervention level, in response to a comment regarding potentially duplicative requirements (*see, e.g.*, City Department of Environmental Protection rules in Chapter 12 Title 15 of the Rules of the City of New York), the Department has amended §131.17 (c) by replacing the term "install and maintain mechanical ventilating systems or other devices for control of vapors" with "evaluate and correct problems associated with vapor control."

§131.19 Modification by Commissioner. This section contains the provisions of former §131.17.

The following provisions of former Articles 131 and 135 have been repealed because they are either obsolete or are duplicative of laws and regulations covering matters comprehensively regulated by other City agencies:

Obsolete provisions repealed:

- §131.04 Gas fired refrigerators; certain prohibited; sealing of defective.
- §131.042 Approved space and water heaters to be provided in certain one- and two- family residential buildings.
- §131.05 Self inspection of gas appliances.
- §131.07 Cellar and basement occupancy.
- §131.13 Flexible gas tubing.
- §135.21 Location of certain trades.
- §135.23 Cooperation with other governmental and private agencies.

Provisions repealed because of duplicative enforcement authority:

- §131.042 (l) Rules for venting of gas appliances are enforced by the Department of Buildings ("DOB") (1 RCNY §§41 and 40-39) and, in multiple dwellings, are enforced by HPD (28 RCNY §25-29).
- §131.11 Receptacles for removal of waste materials duplicates Administrative Code §16-120.

The proposal is as follows:

Text in brackets [] is to be deleted; underlined text is new.

RESOLVED, that Article 131 and the list of section headings in Article 131 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 and explanatory notes to read as follows:

**Article 131
Buildings**

- §131.01 Scope.**
- §131.03 Definitions.**
- §131.05 Duty; responsibility for violations.**
- §131.07 Heating.**
- §131.09 Commercial buildings.**
- §131.11 Posting signs.**
- §131.13 Control of unsafe conditions.**
- §131.15 Window guards.**
- §131.17 Dry cleaning facilities.**

§131.19 Modification by Commissioner.

Introductory Notes:

As part of a comprehensive review and revision of the Health Code, a resolution was adopted by the Board of Health on September 22, 2009, repealing Article 131 and Article 135, and recodifying Article 131. The new Article 131 retains some provisions of both articles, adds new provisions, and eliminates provisions that are obsolete or that duplicate provisions of law enforced by the City's Department of Buildings ("DOB"), Department of Housing Preservation and Development ("HPD"), Department of Environmental Protection ("DEP") and the Fire Department ("FDNY"), where such law comprehensively regulates various aspects of commercial and residential buildings' structure and occupancy. *See, e.g.*, the State Multiple Dwelling Law and the City Building, Housing Maintenance, Electrical, Plumbing and Fire Prevention Codes in Titles 27 and 28 of the Administrative Code of the City of New York ("Administrative Code"). Provisions that do not duplicate current law, and those related to window guards and nuisance control and abatement, have been retained. New provisions regulate fugitive perchloroethylene emissions from dry cleaning facilities into certain co-located or adjacent occupied buildings.

§131.01 Scope and applicability. This Article shall apply to all occupied commercial and residential buildings unless otherwise specified.

§131.03 Definitions

When used in this Article, the following terms shall have the following meanings.

- (a) Child-occupied premises shall mean a building or part of a building used as a residence for persons under eighteen (18) years of age, or in which child care or educational services are provided to such persons.
- (b) Commercial building shall mean any building or part thereof in which a business, occupation, or trade is conducted but shall not mean a building that is registered with HPD in accordance with §§27-2097ff of the Administrative Code or any successor provision.
- (c) Dry cleaning facility shall mean any building or part of a building in which dry cleaning equipment using perchloroethylene is used.
- (d) Dust shall mean the solid particles generated by means such as handling, crushing, grinding, and rapid impact of materials such as rock, metal, and wood.
- (e) Fumes shall mean the airborne particles formed from the condensation of a volatilized solid.
- (f) Gas shall mean the state of a substance in which it can expand indefinitely and completely fill its container.
- (g) Multiple dwelling shall mean a residential building consisting of three or more dwelling units, rooms or apartments.
- (h) Nuisance shall mean any condition dangerous to life or detrimental to health, as defined in §17-142 of the Administrative Code or any successor provision.
- (i) Vapor shall mean the gaseous form of a substance that is normally in a solid or liquid state at room temperature and pressure.

§131.05 Duty; responsibility for violations.

- (a) Duty. The owner, manager, agent, lessee, tenant, occupant or other person who manages or controls all or part of a building shall operate such building or part thereof in a safe condition and in a manner that maintains the structural integrity, prevents infestation by pests, and provides heat, ventilation and lighting in accordance with this Code and other applicable law, and shall not create or allow to exist in such building any nuisance or other condition dangerous to the life or health of occupants, invitees or members of the public who are within such building or in or on premises adjacent to such building.
- (b) Violations. The owner, manager, agent, lessee, tenant, and occupants of a building shall be jointly and severally liable for the existence in such building of a nuisance, or condition dangerous to life or health, or a violation of any provision of this article, insofar as they have the power to prevent or abate such condition or violation. Such persons shall comply with an order of the Commissioner or the Department, or of HPD, DOB, DEP or DOS, to remove any nuisance, or dangerous or unsanitary condition.

§ 131.07 Heating.

- (a) Any person who contracts to supply heat to a building or any part thereof shall furnish heat to every occupied portion of such building so that the minimum temperatures prescribed by subdivision (c) of this section are maintained during the times specified therein. The provisions of this section shall not apply to a building used for trades, businesses or occupations in which a lower temperature is essential and unavoidable.
- (b) Any owner, agent, lessee, superintendent or janitor of a building who has under her or his control a furnace, boiler or other heating device or equipment in such building shall be deemed to have contracted to supply heat pursuant to subdivision (a) of this section unless otherwise provided by written contract or lease. An owner, agent, lessee, superintendent or janitor who is required by this section to provide heat shall be liable for failure to comply with this section.
- (c) Unless otherwise provided by written contract or lease, or as provided by applicable law, including this Code, the minimum temperatures required by subdivision (a) of this section shall be maintained as follows:
 - (1) In a dwelling, during the months between October first and May thirty-first between the hours of six A.M. and ten P.M.: a temperature of at least 68 degrees F when the outside temperature falls below 55 degrees F (12.78 degrees C) and during the hours between 10:00 P.M. and 6:00 A.M. a temperature of at least 55 degrees F (12.78 degrees C) whenever the outside temperature falls below 40 degrees F (4.44 degrees C); and
 - (2) In any other building, except for buildings in which educational, nutritional, geriatric, social, mental health, health care or similar services are provided directly to recipients when such services are being provided, a temperature of at least 65 degrees F (18.33 degrees C) shall be maintained when the outside temperature falls below 50 degrees F (10 degrees C) during the usual working hours of the occupants.
- (d) The owner, agent, lessee, superintendent or janitor of (1) a one- or two- family home which is occupied in whole or in part by a tenant or tenants and in which there was within the previous year a violation of subdivision (a), (b) or (c) of this section due to a breakdown in the heating system; or (2) a multiple dwelling shall ensure that the furnace, boiler or other heating equipment under her or his control in such building is inspected by a qualified person between May first and October first of each year. In addition to testing the efficiency of the heating system to produce the heat required by this section, the central heating system or water heating appliance and its flues, vents and dampers shall be inspected for escape of carbon monoxide gas. The findings on inspection shall be recorded on forms approved by DOB within 15 days following the inspection and shall be kept on file by the owner for a period of one year. Such inspection reports shall be made available upon request to authorized employees or

agents of DOB, HPD and the Department. All defects found upon inspection shall be corrected prior to the fifteenth day of October of the year in which the inspection was conducted.

§131.09 Commercial buildings. Any person whose duty it is to maintain a commercial building in a safe condition shall equip such building as follows and provide the following services:

(a) **Lighting.** All parts of such building shall be adequately lighted by natural or artificial means so as to enable any activity in such building to be carried on safely and to permit effective inspection and cleaning.

(b) **Ventilation.** All parts of such building shall be adequately ventilated by natural or artificial means so as to be free from harmful heat, dust, fumes, vapors or gases and, except in refrigerators and hardening rooms, condensate.

(c) **Plumbing.** Plumbing and plumbing fixtures, including the water supply system, fixture traps, soil, waste, storm water drainage and vent pipes, drains, sewers, and all devices connected thereto within or adjacent to the building shall be properly connected, vented, drained, installed and maintained in good repair, and shall not contaminate the building's potable water supply. Water supply outlets and connections to water supply fixtures or appliances shall be protected from back-flow into the water system.

(d) **Water; toilets, hand wash and utility sinks.**

(1) Potable water shall be supplied under adequate pressure in quantities sufficient for drinking and sanitary needs of occupants.

(2) A sufficient number of hand wash sinks with running hot and cold water, liquid soap and individual disposable towels or mechanical drying devices shall be provided.

(3) A sufficient number of utility sinks of adequate size, with running water, shall be provided and shall be readily accessible to the areas where they are required for the washing of equipment or the building. Running hot water required for cleaning and sanitation, and when otherwise required by the Department, shall be provided.

(4) A sufficient number of toilet facilities shall be provided for the use of employees. Toilet facilities shall be equipped with the minimum number of water closets, urinals and other plumbing fixtures required by Chapter 4 of the New York City Plumbing Code, Administrative Code §28-PC 403, or successor law. Such toilets shall be properly flushed and trapped, conveniently located, adequately lighted and ventilated, and kept in a sanitary manner and in good repair.

(e) **Floors.** Floors shall be constructed of smooth, non-slip, hard materials, and kept clean and in good repair. When building use results in wet floors or requires frequent flushing of floors, floors shall be constructed of smooth cement, tile laid in cement, or other hard non-absorbent, watertight material; shall be graded and drained to properly trapped drains; and junctures formed by the wall and floor shall be covered with waterproof material that shall extend to a point at least six inches above the floor.

(f) **Walls and ceilings.** Walls and ceilings shall be constructed of hard materials, kept clean and in good repair. When uses of the building create steam or vapor, or when required by the Department, walls and ceilings shall be constructed of smooth cement, glazed tile, glazed brick or other non-absorbent material.

(g) **Cleanliness and repair.** Such buildings shall be regularly cleaned and kept clean and in good repair, and shall not be allowed to become overcrowded so as to impair the safety of operations or effectiveness of cleaning.

(h) Nothing in this section shall be interpreted as interfering with or prohibiting any private contract, lease, agreement or other arrangement between an owner, manager, tenant or occupant concerning their respective obligations to equip a building or provide the services required by this Code.

§131.11 Posting signs.

(a) **Owner information in residential rental buildings and units.** Except for the New York City Housing Authority, owners of all residential buildings, and owners of residential rental units in one- and two- family houses, cooperatives and condominiums, who are not required to post certificates of inspection pursuant to the rules of HPD (28 RCNY §25-241, or any successor rule), shall post a sign in each building or individual rental unit owned, as applicable, containing the premises address; name and address of owner or managing agent for such building or unit; and a telephone number which tenants or occupants may call for service and repairs.

(b) **Signs to be maintained.**

(1) Signs required by this section shall be printed on a durable metal or plastic base, and shall be lettered in a size, form and color that is easily readable. When appropriate, such signs shall be translated into languages other than English that will be understood by the majority of tenants and other persons residing in or visiting a building.

(2) Signs shall be replaced when defaced or in disrepair. Except when it is necessary to replace a sign, no person shall remove, mutilate, destroy or obliterate such sign or its lettering.

(3) In addition to employees of the Department, this section may be enforced and notices of violation issued by employees of HPD, DOB, or any successor agencies.

§131.13 Control of unsafe conditions.

(a) **Contaminants.** When activities conducted within a building result in the production of contaminants that the Department determines are harmful to public health, the Department may order the owner or person in control of the building to take such measures that the Department determines are necessary to eliminate or reduce such conditions so that they are no longer harmful to the public health.

(b) **Ventilation.** When required by the Department mechanical ventilating systems, devices for the control of dust, gases, vapors and fumes, abatement devices, or other means of reducing conditions dangerous to health shall be installed and maintained in a building or surrounding premises by persons in control of such building or premises.

(c) **Discarding refrigerators.** Every person who discards a refrigerator shall remove the refrigerator door, locking device or hinges before placing the refrigerator on the street for collection by DOS or other waste removal service.

Notes:

A public health nuisance, regardless of whether it is caused by a violation of other applicable law, remains subject to the nuisance abatement powers of the Department. See, e.g., §3.09 of this Code (General standards to protect health and safety; prohibited acts; necessary acts and precautions), which was upheld as constitutional in the predecessor to the Health Code, New York City Sanitary Code §181, in *People ex rel. Styler v. Commonwealth Sanitation Co.*, 107 N.Y.S. 2d 982, 985 (Magistrates Ct. 1951): "The terms used by Section 181 of the Sanitary Code prohibiting careless and negligent acts and acts detrimental to health or dangerous to life, are no more indefinite and uncertain than those used in Sections 43 and 722 of the Penal Law and in many other criminal statutes, whose constitutionality has never been questioned."

§131.15 Window guards.

(a) **Window guards required.**

(1) The owner, manager, lessee, agent or other person who manages or controls a multiple dwelling, including, but not limited to, owners of condominium units and the board of

directors of a cooperative, shall provide, install, and maintain, a window guard of a type and installation in accordance with the specifications of the Department set forth in Chapter 12 of Title 24 of the Rules of the City of New York, on the windows of each apartment in which a child or children ten (10) years of age and under reside, and on the windows, if any, in the public halls of a multiple dwelling in which such children reside.

(2) This section shall not apply to windows giving access to fire escapes or to a window on the first floor that is a required means of egress from the dwelling unit. It shall be the duty of each such person who manages or controls a multiple dwelling to ascertain whether such a child resides therein, in accordance with the notice requirements of the Department in Chapter 12 of Title 24 of the Rules of the City of New York.

(b) **No refusal of window guards by occupant.** No tenant or occupant of a multiple dwelling unit, or other person, shall obstruct or interfere with the installation of window guards required by subdivision (a) of this section, nor shall any person remove such window guards.

(c) **No refusal to install by owners.** No owner, manager, lessee or other person who manages or controls a multiple dwelling shall refuse a written request of a tenant or occupant of a multiple dwelling unit, to install window guards regardless of whether such is required by subdivision (a), except that this section shall not apply to windows giving access to fire escapes.

(d) **Declaration of nuisance.**

(1) Failure to install or maintain window guards pursuant to this section is hereby declared to constitute a nuisance and a condition dangerous to life and health, pursuant to §17-145 of the Administrative Code.

(2) Every person obligated to comply with the provisions of subdivision (a) of this section is hereby ordered to abate such nuisance by installing and maintaining required window guards.

(3) Whenever a nuisance or condition is found to exist in violation of this section, the Department may order the person or persons obligated to install and maintain window guards to do so. In the event such order is not complied with within five (5) days after service of such order, the Department may request an agency of the City to execute such order pursuant to the provisions of §17-147 of the Administrative Code and shall be entitled to enforce its rights for reimbursement of expenses incurred thereby, pursuant to the provisions of Chapter 1, Title 17 of the Administrative Code. If such order is executed by HPD, or its successor agency, the expense of execution may be recovered by such agency pursuant to subchapter five of chapter two of Title 27 of the Administrative Code.

(e) **Enforcement by Department of Housing Preservation and Development.** Orders to install or repair window guards in multiple dwellings required by this section and any rules of the Department may be issued by the Commissioner and by HPD or any successor agency on behalf of the Commissioner.

Notes:

Prior to adoption of this section in 1976, window falls were one of the leading causes of preventable, accidental deaths in children ten (10) years of age. Courts have determined that this section is constitutional and not void for vagueness. See, e.g., *People v. Portnoy*, 140 Misc. 2d 945, 535 N.Y.S.2d 305 (Crim. Ct. Bronx Cty. 1988). Courts have also upheld the strict liability aspect of this section, and, for that matter, the entirety of the Code. In *People v. Nemadi*, 140 Misc. 2d 712, 531 N.Y.S.2d 693 (Crim. Ct. N.Y. Cty. 1988), the court concluded that the City's authority to create strict liability offenses derives not from Public Health Law §12-b (1) but from §558(e) of the New York City Charter and that the City's determination that every violation was a misdemeanor was not arbitrary and was justified by the densely populated areas of New York City. Indeed, while strict liability offenses are generally disfavored, the legislative power to impose liability without fault is often found valid in cases of public health, safety and welfare, and the hazard sought to be prevented by this section is of the sort traditionally dealt with by means of strict liability offenses. See, e.g., *People v. Simon*, 148 Misc.2d 845, 562 N.Y.S.2d 369 (Crim. Ct. Bronx Cty. 1990).

§131.17 Dry cleaning facilities.

(a) **Perchloroethylene emissions.** Dry cleaning facilities shall exhaust emissions from equipment using perchloroethylene so that no perchloroethylene vapors in excess of the nuisance level specified in subdivision (b) of this section enter co-located or adjacent dwellings, child-occupied facilities, or other occupied premises through windows, ventilation systems, or building structural penetrations.

(b) **Nuisance level.** Detection of perchloroethylene vapors from dry cleaning facilities in dwellings, child-occupied facilities, or other occupied premises at levels at or above 100 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) shall constitute a nuisance.

(c) **Remediation orders.** The Department may order the operators of such facilities to evaluate and correct problems when deemed necessary to prevent or remediate such nuisance.

§131.19 Modification by Commissioner.

When the strict application of any provision of this article presents practical difficulties or unusual hardships, the Commissioner, in a specific instance, may modify the application of such provision consistent with the general purpose of this article and upon such condition as, in his or her opinion are necessary to protect life and health. The denial by the Commissioner of a request for modification may be appealed to the Board in the manner provided pursuant to §5.21 of this Code.

RESOLVED, that Article 135 and the list of section headings in Article 135 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.

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NOTICE OF INTENTION 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 is hereby given of intention to repeal and recodify Article 88 (Temporary Food Service 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, OCTOBER 30, 2009 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, OCTOBER 29, 2009. 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 OCTOBER 16, 2009. REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 12:00 P.M. OCTOBER 30, 2009. 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., FRIDAY, OCTOBER 30, 2009. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED. COMMENTS RECEIVED AFTER OCTOBER 30, 2009 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 to assess the efficacy of its provisions in protecting the public health, the Department is asking the Board of Health to repeal and recodify Article 88 ("Temporary Food Establishments") of the Health Code, and retitle the Article as "Temporary Food Service Establishments." The title change better reflects practice and the regulatory environment; and as recodified, Article 88 would provide adequate legal tools to effectively address the health and safety needs of the public and harmonize its provisions with related provisions of other applicable law, including Article 81 of the Health Code and the State Sanitary Code. As part of the revision effort, 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 would add 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.)"

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 as occurring for no more than "14 consecutive days duration" and neither the City nor the State provides for a permit for temporary establishments 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" 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 temporary food service establishments would make 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 such cases.

Accordingly, the Notice of Intention originally published for public comment has been further modified. Changes to both the current Article 88 and to the Notice of Intention originally published are set forth below.

§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.

In response to comments received, further exceptions to this definition have been made. One is 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 amends former §88.03 (“Permit, registration”) in several ways. First, the exemption from permit requirements for events that take one day or less or occupy one or more blocks has been eliminated. The provision has been amended to clarify that permits must be obtained whenever food is being served or distributed to the public, including food provided by all commercial vendors, contracting with neighborhood, school, religious, fraternal or other affinity groups sponsoring such events. Second, the distinction between temporary food processing and non-food processing establishments has been eliminated and all are defined as temporary food service establishments. Finally, all operators of food service establishments are required to obtain a permit at least 30 days prior to any event in which they participate. This section also incorporates provisions of former §88.21 (“Responsibility of sponsor”).

§88.07 Food safety and protection

This section replaces former §§ 88.05 and 88.09. It requires all permittees operating temporary food service establishments to hold a food protection certificate (required in 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 temporary food service establishment 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.

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 temporary food service establishments, 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 temporary food service establishment 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 temporary food service establishments 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 Community Assistance Unit (CAU) Street Activity Permit Office. The CAU rules set forth in Chapter 1 of Title 50 of the Rules of the City of New York now regulate all City street and sidewalk events, and require 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 temporary food service establishment, 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 reenacted by resolution of the Board of Health on XXXX, 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 New York City Community Assistance Unit, or any successor 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* means 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.

§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 cooked or 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 in 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, including the rules, regulations and standards 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 Chapter 1 of Title 50 of the Rules of the City of New York ("Application, Fees and Charges for Street Activity Permits") of the rules of the Community Assistance Unit, or any successor 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 ADOPTION TO AMEND ARTICLE 143 AND REPEAL ARTICLE 145 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 amend Article 143 (Disposal of Sewage) and repeal Article 145 ("Water Pollution Control") of the New York City Health Code (the "Health Code") was published in the City Record on June 26, 2009 and a public hearing was held on the proposal on July 30, 2009. No written comments or testimony were received. At its meeting on September 22, 2009 the Board of Health adopted the following resolution.

STATUTORY AUTHORITY

The amendments to Article 143 and the repeal of Article 145 of the New York City Health Code ("Health Code") are promulgated pursuant to §§556, 558 and 1043 of the Charter. Section 556 of the Charter provides the Department of Health and Mental Hygiene ("DOHMH" or "Department") with jurisdiction to regulate all matters affecting health in the city of New York. Section 558(b) and (c) of the Charter empowers the Board of Health (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

1. Amend Article 143.

As part of a comprehensive review of the Health Code to assess its efficacy in protecting the public health, the Board of Health is amending Article 143, covering the disposal of sewage, repealing provisions for construction of private sewage disposal systems, and the issuance of permits for site and sub-soil evaluation related to such construction, in order to better reflect practice and the current regulatory environment. In addition, for the reasons stated below, the Board is repealing Article 145 (Water Pollution Control).

Article 143 broadly addresses disposal of wastes within the City, in particular, the disposal of human, household, and commercial liquid wastes which are not directly discharged into City waters. Article 145 complements Article 143 by regulating wastes directly entering City waters.

Under Health Code §§143.03 and 143.05, the Department regulates private sewage disposal systems, such as septic tanks and privies that are not connected to the City's sewage disposal system and that discharge into a local site and underlying sub-soil.

Health Code §143.07 requires proof of proper maintenance of private sewage disposal systems. Health Code §143.09 regulates private sewage disposal systems for one and two family dwellings. Health Code §143.13 provides that private sewage disposal systems are subject to Department inspection and be operated so as not to create a nuisance.

When Local Law 50/1991 was enacted, amending Charter §1403, the New York City Department of Environmental Protection was granted jurisdiction over the "location, construction, alteration, repair, maintenance and operation of all sewers" including the "authority to supervise and adopt rules regarding private sewage disposal systems...and to prescribe civil penalties for the violation of such rules...and to issue permits pursuant to such rules for the construction and maintenance of such private sewage disposal systems..."

Local Law 65/1996 amended New York City Building Code §27-157(4) to remove a reference requiring that a site and sub-soil evaluation be obtained from the Department prior to the construction of a private sewage disposal system. Also, under Charter §643(5), the Buildings "[C]ommissioner may approve the installation of and issue a permit for the

construction of an individual on site private sewage disposal system for premises. Such permit shall be issued in accordance with the commissioner, in consultation with the commissioner of environmental protection, for the installation of an individual on site private sewage disposal system."

Therefore, based on the above, Health Code §§ 143.03, 143.05, 143.07, 143.09 and 143.13 are no longer necessary as the Department is no longer responsible for regulating private sewage disposal facilities. Under New York City charter provisions §643 and §1403, the Department of Buildings issues permits for individual private sewage disposal systems and the Department of Environmental Protection has enforcement authority regarding these systems.

The current definitions set forth in §143.01 are being kept and subdivision (c) is being amended to make clear that the Health Department does not regulate portable toilets such as those found on street locations or at construction sites; and a new subdivision (e) defining "community private sewage disposal systems" is being added to §143.01 as this term is not defined in the Health Code, although the Health Department currently regulates such sewage disposal systems under §143.11.

2. Repeal Article 145

Article 145 ("Water Pollution Control") requires a permit from the Department for discharge of sewage into City waters. The Board hereby repeals Article 145 as no longer necessary. The discharge of waste into City waters is comprehensively regulated by the U.S. Environmental Protection Agency pursuant to the Clean Water Act, 22 U.S.C.A. §1251 et seq., and by the New York State Department of Environmental Conservation under 6 NYCRR Part 750 (State Pollutant Discharge Elimination System).

The resolution is as follows.

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

RESOLVED, that subdivision (c) of §143.01 (Definitions) of Article 143 (Disposal of Sewage) of the New York City Health Code found in Title 24 of the Rules of the City of New York, be, and the same is, amended, and a new subdivision (e) is added, to be printed with explanatory notes to read as follows.

§143.01 Definitions.

(c) Privy means a permanent facility for urinating or defecating embedded in the subsurface which is not water flushed and which does not connect, directly or otherwise, to a private sewage disposal system or the municipal sewage disposal system, and includes a chemical toilet[.] but does not include portable toilets such as those found in transportation facilities or at construction or other street locations.

(e) Community private sewage disposal system means a private sewage disposal system which services fifteen or more dwellings.

Notes:
Subdivision (c) was amended and a new subdivision (e) was added by resolution adopted by the Board of Health on September 22, 2009 to redefine "privy" and to add a definition of "community private sewage disposal system."

RESOLVED, that §143.03 (Disposal of sewage generally; use of private sewage disposal system and privies) of Article 143 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, amended by resolution adopted on the seventh of November nineteen hundred sixty, be and the same hereby is, repealed.

RESOLVED, that §143.05 (Private sewage disposal systems; permit for site and sub-soil evaluation; standards, exception) of Article 143 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, amended by resolution adopted on the fifteenth of January nineteen hundred seventy-six, be and the same hereby is, repealed.

RESOLVED, that §143.07 (Private sewage disposal systems; proof of proper maintenance) of Article 143 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.

RESOLVED, that §143.09 (Private sewage disposal systems; requirements for one and two family dwellings) of Article 143 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, amended by resolution adopted on the twenty-third of September nineteen hundred seventy-one, be and the same hereby is, repealed.

RESOLVED, that §143.13 (Private sewage disposal systems; inspection; operation) of Article 143 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, amended by resolution adopted on the eighteenth of December nineteen hundred sixty-nine, be and the same hereby is, repealed.

RESOLVED, that the list of section headings of Article 143 (Disposal of sewage) 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 Introductory Notes, to read as follows.

**ARTICLE 143
DISPOSAL OF SEWAGE**

- §143.01 Definitions.**
- [§143.03 Disposal of sewage generally; use of private sewage disposal system and privies.**
- §143.05 Private sewage disposal systems; permit for site and sub-soil evaluation; standards, exception.**
- §143.07 Private sewage disposal systems; proof of proper maintenance.**
- §143.09 Private sewage disposal systems; requirements for one and two family dwellings.]**
- §143.11 Community private sewage disposal system.**
- [§143.13 Private sewage disposal systems; inspection; operation.]**
- §143.15 Privies.**
- §143.17 Modification by Commissioner.**

Introductory Notes:
As part of a comprehensive review of the Code, Article 143 was amended by resolution of the Board on September 22, 2009 to better reflect practice and the regulatory environment, and to harmonize its provisions with related provisions of local law, §143.01 was amended, and §§143.03,

143.05, 143.07, 143.09 and 143.13 were repealed as no longer necessary. In accordance with Local Law 50/1991 and Local Law 65/1996, the New York City Department of Buildings and the New York City Department of Environmental Protection have jurisdiction over the activities formerly regulated by the Department.

RESOLVED, that Article 145 (Water Pollution Control) of the New York City Health Code found in Title 24 of the Rules of the City of New York, as amended by resolution on the twentieth day of December nineteen hundred and seventy-three be and the same hereby is repealed.

Notes:

Article 145 was repealed by resolution adopted on September 22, 2009 as part of a Health Code revision process intended to modernize and update the Health Code as this provision is no longer necessary. The discharge of waste into City waters is comprehensively regulated by the U.S. Environmental Protection Agency pursuant to the Clean Water Act, 22 U.S.C.A. §1251 et seq., and by the New York State Department of Environmental Conservation under 6 NYCRR Part 750 (State Pollutant Discharge Elimination System).

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NOTICE OF ADOPTION OF A RESOLUTION TO AMEND ARTICLE 205 OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, a Notice of Intention of the proposed amendment of Article 205 of the New York City Health Code (the "Health Code") was published in the City Record on June 26, 2009, and a public hearing was held on July 28, 2009. One person testified at the public hearing and one written comment was received. In addition to notes being added after each section to reflect the rationale set forth in the Statement of Basis and Purpose, one change was made to the resolution in response to public comments. At its meeting on September, 22 2009, the Board of Health adopted the following resolution.

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 ("Department" or "DOHMH") with jurisdiction to regulate all matters affecting 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 DOHMH'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 Department proposed that Article 205, Deaths and Disposals of Human Remains, be amended, effective January 1, 2010, to assure that the revised provisions provide adequate legal tools to effectively address public health matters and to reflect modern standards and current programmatic practice while removing outdated provisions.

Pursuant to this review and assessment of the Health Code, the Board amended Article 205 as provided for below.

Section 205.01

Subdivision (c) was amended to more fully define human remains, including a conceptus, to clarify when a permit for disposition is required. The 24 weeks or more of gestation is consistent with former §205.13, which required a permit for disposition after 24 weeks.

Subdivision (d) was added to define "hospice," which under State Public Health Law includes hospice care programs as well as hospice facilities. Hospice is increasingly utilized as a form of end-of-life care, and consequently hospice providers are preparing a larger proportion of death certificates.

Subdivision (e) was deleted. It had defined "use for anatomical purposes", which was referred to in section 205.13 and has been deleted. New subdivision (e) was added to conform to the provisions of State Public Health Law §4201, which applies in the City and establishes the persons in descending priority who shall have the right to control the disposition of the remains of a decedent. It replaces former subdivision (d), which defined "next of kin" and their order of priority to receive communications and to give instructions regarding the disposal of a decedent's remains.

Section 205.03

Subdivision (a) has been amended to clarify the circumstances when a hospital or hospice must report a death and to broaden the situations in which institutions are required to report deaths to include deaths occurring en route to a hospital or while under the care of a hospice. This subdivision was also amended to permit the designee of a person in charge of a hospital or hospice to report a death to the DOHMH. This will enable the hospital or hospice to delegate the task of filing the report to a lower level employee. Subdivision (a) has also been amended to reflect the correct name of the office of chief medical examiner, and to reflect that a medical examiner within the Office of Chief Medical Examiner is the person responsible for reporting a death. The subdivision was further amended to reflect gender neutrality.

Subdivision (b) was amended to correct legal nomenclature distinguishing between a "subsection" and a "paragraph." The words "office of" were added to chief medical examiner to indicate that it is the office that is required to report.

Subdivision (c) was amended to remove a general description of electronic filing of death certificates, as it is described in greater detail in new subdivision 205.03 (d). This subdivision was also amended to add agents of funeral directors or undertakers and agents or designees of the person in charge of the City mortuary. Funeral directors or undertakers and the person in charge of the City mortuary may use agents to file paper certificates and confidential medical reports with the Department, and now this subdivision will reflect this practice. The subdivision will now require that if funeral directors or undertakers use such agents they must be registered with the Department to ensure compliance with Departmental procedures. Subdivision (c) was also amended

to correct legal nomenclature distinguishing between a "subdivision" and a "subsection."

Subdivision (d) was added to require all hospitals and hospices that report 25 or more deaths to the Department per year, and the office of chief medical examiner, to report deaths electronically. When a required reporter files electronically, a funeral director or undertaker authorized to take charge of the remains, or the person in charge of the City mortuary when filing an application for a disposition permit, must also file such application electronically. All persons required or authorized to report a death or to file a death certificate with the Department that are not required to report or file electronically may, at their election and upon approval of the Department, implement an electronic reporting system or continue to report deaths on approved paper forms. This subdivision takes effect on April 1, 2010.

Subdivision (e) was added to require departmental approval of electronic reporting systems, in order to ensure the uniformity and quality of data collection. Toward that end, all individuals utilizing the electronic reporting system must be trained or approved by the Department in the proper use of the system and completion of electronic reporting forms. The subdivision also provides for alternative arrangements, upon the Department's approval or initiative, in particular circumstances.

Subdivision (f) was added to provide for situations in which a reporter receives required information after reporting the death. The reporter must submit such information within five business days of receipt.

Subdivision (g) was added to provide for situations in which a reporter receives autopsy results or other information that would change the information in the cause of death section of the certificate or the confidential medical report. The reporter must submit such information within five business days of receipt.

Subdivision (h) was added to require reporters to provide, within five business days of a request by the Department, additional information necessary to complete, clarify or verify the information required to be reported. Such information may include, for example, updated causes of death.

Section 205.05

The title of section 205.05 was amended to "Preparation and certification of certificate of death and confidential medical report of death" and the paragraph titles "Preparation" and "Certification" were added to subdivision (a). These changes were made to indicate that separate rules apply to the preparation and certification of certificates.

Paragraph (1) of subdivision (a) was amended to permit the designee of a person in charge of a hospital or hospice to prepare the required certificate and confidential medical report, if any. Such a designee must be trained or approved by the Department. This is particularly useful for electronic reporting and will enable the hospital or hospice to delegate the task of preparing the certificate to a lower level employee. The training and approval requirement should improve data quality. It was further amended to clarify the circumstances when a hospital or hospice must report a death and to broaden the situations in which institutions are required to report deaths to include deaths occurring en route to a hospital or while under the care of a hospice. Paragraph (1) of subdivision (a) was also amended to delete the reference to that portion of the confidential medical report of death pertaining to race and ancestry to be completed by the funeral director or, in the case of city burial, by the physician. The Department is planning to modify the death certificate form so that the race and ancestry items will no longer be contained in the confidential medical report of death.

Paragraph (2) of subdivision (a) is substantially new and was amended to clarify which physicians may certify a death, including the physician in attendance or such physician's duly authorized medical associate. A person certifying a certificate and confidential medical report, if any, shall examine the documents for correctness of the information contained thereon and make necessary changes.

Subdivision (b) was amended by deleting the requirement that the Board of Health approve the electronic form of certificates, because, aside from incidental formatting differences, electronic forms are merely reflective of the paper forms prescribed by the Board pursuant to this subdivision. Subdivision (b) was also amended to reflect changes made to subdivision (a) and to provide for improving the quality of data collection. Any worksheets used by anyone authorized to prepare certificates of death and confidential medical reports must be approved by the Department. Any individual who uses such worksheets shall be trained or approved by the Department. The worksheets shall be retained by the hospital or hospice for a period of three years from the date of event and shall, upon request, be made available to the Department for inspection. The subdivision also clarifies which person preparing the certificate and confidential medical report shall be responsible for completing its various sections.

Section 205.07

Subdivision (a) was amended to provide that disclosure of the confidential medical report of death shall not be compelled, in order to be consistent with the confidentiality provisions of Articles 3 and 11 of this Code. It was further amended to provide for inspection by researchers authorized and approved by the National Death Index of the National Center for Health Statistics of the federal Centers for Disease Control and Prevention, or its successor agency. This is to facilitate scientific research of death data by researchers who apply through the federally established National Death Index. Subdivision (a) was also amended to provide for inspection of confidential medical reports of death occurring on or after January 1, 2010 by the spouse, domestic partner, parent or child of the deceased, or by the individual who is identified on the death certificate as the person in control of disposition. This change will make cause of death information available to the above list of individuals, which is consistent with the policies of some states. The addition of the person in control of disposition was made in response to a public comment.

Subdivision (b) was amended to include epidemiologic surveillance and investigation conducted by governmental public health agencies within the meaning of "scientific purposes".

Section 205.09

This section was essentially reenacted and renumbered from the former Section 205.06, which was deleted.

Subdivision (a) was amended to provide discretion to the Department in the issuance of certifications of deaths, which are abstracts of death certificates. The Department does not

currently have the systems to prepare or issue such certifications.

Subdivision (b) was amended to update the minimum amount of information that would be useful on a certification of death by adding the date that the certificate was accepted for filing by the Department and the manner of death (accident, suicide, homicide or natural).

Section 205.11

This section was amended to reflect gender neutrality. Subdivision (b) was deleted and replaced with Section 205.03 (g), which provides for situations in which a reporter receives autopsy results or other information that would change the information in the cause of death section of the certificate or the confidential medical report.

Section 205.13

Former section 205.13, concerning disposal of certain human remains after use for anatomical purposes, was deleted as an unnecessary requirement for public health purposes. Section 205.01, defining "human remains", and Section 205.21, concerning the issuance of disposition permits, now specify the circumstances when such a permit is required or authorized.

New section 205.13 is derived from the former section 205.17. Subdivision (a) was amended to add a reference to remains, as defined in section 205.01(c), resulting from a termination of pregnancy occurring in the City in order to be consistent with the rest of the section. This subdivision was also amended to correct legal nomenclature distinguishing between a "subdivision" and a "section."

Subdivision (b) was added to provide for the holding of human remains for more than the time periods specified in subdivision (a) of this section without being buried, cremated or transported out of the City if an appropriate interim disposition permit has been issued. This was to accommodate, among other circumstances, the interim holding of body parts (as occurred during the World Trade Center disaster), or the holding of human remains during mass mortality events or while being used for anatomical purposes.

Section 205.15

This section is derived from former section 205.19. This section was amended to clarify that it applies to deaths or terminations of pregnancy that occur in hospice or other health care facilities, in addition to hospitals. The reference to "a permit issued pursuant to §205.25" was deleted because, in practice, disposition permits are not issued until after death certificates are prepared, certified and registered. The references to "next of kin" and the "Public Administrator" were deleted and replaced with the "person in control of disposition" as now defined in section 205.01. The section was further amended to clarify that the performance of an autopsy pursuant to §4214(1) of the State Public Health Law refers to unclaimed remains. The section was also amended to reflect gender neutrality.

Section 205.17

This section is derived from former section 205.21. This section was amended by replacing "next of kin, legal representative or, in the absence of arrangements by such next of kin or legal representative, by a friend of the deceased" with the "person in control of disposition". This is consistent with amendments to Section 205.01. The section was also amended to reflect gender neutrality.

Section 205.19

This section, relating to the removal of human remains, is derived from former section 205.23. Subdivision (a) was amended by separating it into paragraphs (1) and (2). Paragraph (1) was amended to update, clarify and conform to current practice the circumstances under which human remains may be removed from the place of death or termination of pregnancy. The paragraph now provides for electronic filing prior to removal. The paragraph was further amended to clarify that the filing must be made by the person required to report a death or termination of pregnancy pursuant to subdivision (a) of §205.03 or subdivision (a) of §203.03, and was amended to reference interim disposition permits in accordance with changes to sections 205.13 and 205.21. Paragraph (1) was amended to delete the requirement that a licensed funeral director or undertaker must have in his or her possession a "completed" certificate of death or termination of pregnancy, as the personal particulars section may not yet have been completed by the funeral director or undertaker. The paragraph was further amended to clarify throughout that it applies to terminations of pregnancy as well as deaths.

Paragraph (2) of subdivision (a) is new. It provides for the removal of human remains from the place of death or termination of pregnancy in the case of a death from natural causes occurring elsewhere than in a hospital or hospice if the funeral director, undertaker or person in charge of the mortuary has obtained authorization from the office of chief medical examiner to remove the remains, or has obtained authorization to remove the remains and assurance from the physician attending the death, or from his or her duly authorized medical associate, that the death is from natural causes and that said physician or medical associate assumes responsibility for certifying to the cause of death. This is consistent with current practice.

Subdivision (b) was amended to correct legal nomenclature distinguishing between a "subdivision" and a "subsection" and to correct the title of the office of chief medical examiner.

Subdivision (c) was amended to correct the title of the office of chief medical examiner, reflect gender neutrality and correct legal nomenclature distinguishing between a "subdivision" and a "subsection."

Subdivision (d) was amended to clarify that the police department is of the City, and to correct the title of the office of chief medical examiner.

Section 205.21

This section, regarding disposition permits, is derived from former section 205.25. Permits to bury, cremate or to transport human remains have long been required in New York City. In circumstances such as during mass mortality events or when human remains are used for anatomical purposes, it may be necessary to temporarily hold human remains beyond the periods specified in section 205.13 without burial, cremation or transportation. Subdivision (b) of section 205.13 requires the issuance of an interim disposition permit by the Department to temporarily hold human remains for such periods. Accordingly, subdivision (a) of this section 205.21 has been amended to include reference to interim temporary holding permits, in addition to burial, cremation and transportation permits.

Subdivision (b) has been divided into three paragraphs. New paragraph (3) of subdivision (b) specifies the information required to be kept by a person to whom an interim holding permit has been issued. It also requires the surrender of the interim permit when a final disposition permit to bury, cremate or transport the human remains is issued.

Subdivision (d) has been revised to utilize the newly defined term "person in control of disposition".

Section 205.23

This section is derived from former section 205.27. It has been amended to clarify that when human remains are being transported into the City from a jurisdiction that does not issue disposition permits, the Department may accept certified copies of certificates of death or termination of pregnancy in lieu of a permit.

Section 205.25

This section is derived from former section 205.31. Subdivision (a) has been repealed as the regulation of new cemeteries and cemetery name changes is wholly within the jurisdiction of the New York State Department of Health and Department of State pursuant to the Public Health Law and Not-for-Profit Corporation Law and related regulations. The remaining subdivisions have been re-lettered accordingly.

Section 205.27

This section, regarding disinterment permits, is derived from former section 205.33 and remains essentially unchanged. Modifications were made to reflect renumbering of sections, correcting the title of the Office of Chief Medical Examiner, the use of the new term "person in control of disposition" and gender neutrality.

Section 205.29

Former section 205.29, regarding when and where permits are obtained, has been deleted as unnecessary.

This new section 205.29 is derived from former section 205.35.

Subdivision (a) now requires that agents of funeral directors or undertakers who seek to file certificates with the Department must, in addition to the funeral directors or undertakers, register with the Department.

Subdivision (b) was amended to require presentation of a government issued picture identification, in addition to the State-issued certificate, in order for a funeral director or undertaker to register with the Department.

Subdivision (c) was added to specify the documentation that an agent must present in order to be registered with the Department. Such measures provide a greater level of security to the registration process.

Section 205.31

This section, regarding the authority of funeral directors or undertakers to apply for departmental permits, is derived from former section 205.37. Subdivision (a) now uses the term "person in control of disposition" as it is newly defined in section 205.01. Paragraphs (1) and (2) were also amended to reflect gender neutrality.

Section 205.33

This section replaced former section 205.39 and provides authority for the Department to withhold registration of funeral directors, undertakers or their agents, to refuse to issue permits or to accept certificates for filing such when serious or repeated violations of the Code are found to have been committed. When City registration is denied, suspended or revoked, an opportunity to be heard will be provided pursuant to the rules of the Department, currently found in Chapter 7 of Title 24 of the Rules of the City of New York. Such a strict enforcement mechanism will prevent abuses of the registration process.

The adopted rule is as follows:

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

RESOLVED, that, effective January 1, 2010, Article 205 of the New York City Health Code be and the same hereby is revised, to be printed together with explanatory notes to read as follows:

ARTICLE 205 Deaths and Disposals of Human Remains

Introductory Notes

This Article contains provisions for the reporting of deaths occurring in the City, for the maintenance of registries of deaths, [for the reporting of autopsies of infants,] and for the disposal of human remains. In following the traditional and administratively convenient pattern of incorporating both the requirements for reporting of deaths and sepulture, this Article serves two aims-to assure statistical accuracy as well as sound disposal of the dead. As part of a comprehensive review and revision of the Code, the amendments to this Article seek, in particular, to reflect modern standards and current programmatic practice while removing outdated provisions.

§205.01 Definitions.

When used in this title:

- (a) "Burial" means interment of human remains in the ground or in a tomb, vault, crypt, cell or mausoleum, and includes any other usual means of final disposal of human remains other than cremation.
- (b) "Cremation" means the burning of human remains in a crematory.
- (c) "Human remains" or "remains" means a [dead fetus] conceptus which has completed 24 weeks or more of gestation or all or any part of the dead body of a human being but does not include human ashes recovered after cremation. For purposes of this Article a conceptus of less than 24 weeks gestation for which the issuance of a disposition permit pursuant to §205.21 has been requested shall be treated as human remains.
- (d) "Hospice" means a program issued a certificate of approval pursuant to Article 40 of the Public Health Law and defined as such in §4002 of said law.
- (d)(e) "Person in control of disposition" [Next of kin] means, in accordance with all of the provisions of §4201 of the Public Health Law, the [person or] following persons who are eighteen years of age or older in [the following] descending order of priority: [, who are available within the applicable limits of time as provided in this article to receive communications and to give instructions regarding the disposal of a decedent's remains either personally, by telephone, telegraph, mail or other usual means:
- (1) The spouse or the domestic partner who has registered a

domestic partnership in accordance with applicable law with the City Clerk, or has registered such a partnership with the former City Department of Personnel pursuant to Executive Order 123 (dated August 7, 1989) during the period August 7, 1989 through January 7, 1993. (The records of domestic partnerships registered at the former City Department of Personnel are to be transferred to the City Clerk.); or,

- (2) The children who are 18 years of age or over; or
- (3) The grandchildren and other descendants who are 18 years of age or over; or,
- (4) The parents or surviving parent; or,
- (5) The brothers and sisters and their descendants who are 18 years of age or over; or,
- (6) The grandparents; or,
- (7) The great grandparents and uncles and aunts who are 18 years of age or over; or,
- (8) Such other persons who are 18 years of age or over and would be entitled to share in the estate of the decedent as specified in §4-1.1 of the Estates, Powers and Trusts Law.]
- (1) the person designated in a written instrument executed pursuant to the provisions of §4201 of the Public Health Law;
- (2) the decedent's surviving spouse;
- (2-a) the decedent's surviving domestic partner;
- (3) any of the decedent's surviving children;
- (4) either of the decedent's surviving parents;
- (5) any of the decedent's surviving siblings;
- (6) a guardian appointed pursuant to article seventeen or seventeen-a of the Surrogate's Court Procedure Act or article eighty-one of the Mental Hygiene Law;
- (7) any person who would be entitled to share in the estate of the decedent as specified in §4-1.1 of the Estates, Powers and Trusts Law, with the person in closest relationship having the highest priority;
- (8) a duly appointed fiduciary of the estate of the decedent;
- (9) a close friend or relative who is reasonably familiar with the decedent's wishes, including the decedent's religious or moral beliefs, when no person higher on this list is reasonably available, willing, or competent to act, provided that such person has executed a written statement pursuant to subdivision seven of §4201 of the Public Health Law; or
- (10) a chief fiscal officer of a county or a public administrator appointed pursuant to article twelve or thirteen of the surrogate's court procedure act, or any other person acting on behalf of the decedent, provided that such person has executed a written statement pursuant to subdivision seven of §4201 of the Public Health Law.
- [(e) Use for anatomical purposes means the performance of an autopsy or dissection, or the preservation in an anatomical library.]

Notes:

This section was amended by resolution adopted on September 22, 2009.

Subdivision (c) was amended to more fully define human remains, including a conceptus, to clarify when a permit for disposition is required. The 24 weeks or more of gestation is consistent with former §205.13, which required a permit for disposition after 24 weeks.

Subdivision (d) was added to define "hospice," which under State Public Health Law includes hospice care programs as well as hospice facilities. Hospice is increasingly utilized as a form of end-of-life care, and consequently hospice providers are preparing a larger proportion of death certificates.

Subdivision (e) was deleted. It had defined "use for anatomical purposes", which was referred to in section 205.13 and has been deleted. New subdivision (e) was added to conform to the provisions of Public Health Law §4201, which applies in the City and establishes the persons in descending priority who shall have the right to control the disposition of the remains of a decedent. It replaces former subdivision (d), which defined "next of kin" and their order of priority for receiving communications and giving instructions regarding the disposal of a decedent's remains.

§205.03 Reporting deaths.

- (a) When a death occurs in the City, it shall be reported to the Department as follows:
- (1) If the death is from natural causes and occurs in a hospital, or en route thereto, or while under the care of a hospice, by the person in charge of the hospital or hospice, or his or her designee; or,
- (2) If the death is from natural causes and occurs elsewhere than in a hospital, or en route thereto, or while not under the care of a hospice, by the licensed physician in attendance or by [his] such physician's duly authorized medical associate, provided such associate reviews the medical records of the decedent and certifies that he or she has found no evidence of suspicious or unusual circumstances; or,
- (3) If the death is investigated by the [office of the chief medical examiner] Office of Chief Medical Examiner pursuant to Title 17, Chapter 2 of the Administrative Code, and jurisdiction over the remains is assumed by that office, by a medical examiner within the [office of the chief medical examiner] Office of Chief Medical Examiner.
- (b) The person required to report a death pursuant to paragraphs (1) or (2) of subdivision (a) [subsection (a)(1) or (2)] of this section shall file a certificate of death and a confidential medical report, and the [chief medical examiner] Office of Chief Medical Examiner, when required to report pursuant to paragraph (3) of subdivision (a) [subsection (a)(3)] of this section, shall file a certificate of death only. Reports shall be filed within 24 hours after the death or the finding of the remains with any office maintained and designated by the Department for such purposes.
- (c) In circumstances where the person required to report a death pursuant to subdivision (a) of this section does not file a report thereof electronically, [The] the requirement of filing the certificate of death and the confidential medical report, if any, may be fulfilled by delivering the same immediately upon demand and within the time prescribed by subdivision [subsection] (b) of this section, to a funeral director or undertaker authorized to take charge of the remains, or to the person in charge of the [city] City mortuary if the remains are to be buried in the [city] City cemetery. Such funeral director, undertaker or person in charge of the [city] City mortuary, or an agent of such funeral director or undertaker registered with the department pursuant to this Article or a designee of the person in charge of the mortuary, shall file the certificate and confidential medical report with the Department within 72 hours following death or the finding of the remains. Funeral directors, undertakers, [and] the person in charge of the City mortuary, and their agents or designees, shall not divulge information contained in the confidential medical report of death except to authorized personnel of the Department. [Certificates of death and confidential medical reports may be filed with the Department electronically by means of computer programs specified and provided or otherwise authorized for use by the Department.]
- (d) All hospitals and hospices that report 25 or more deaths to the Department per year, and the Office of Chief Medical Examiner, shall electronically prepare any death certificates and confidential medical reports, and shall, within 24 hours after the death or finding of the remains, file such documents electronically with the Department by means of computer programs specified and provided or otherwise authorized for use by the Department. In circumstances where a person

required to report a death pursuant subdivision (a) of this section files a report thereof electronically with the Department, and an authorized funeral director or undertaker has taken charge of the remains, such funeral director or undertaker shall, within 72 hours after the death or the finding of the remains, file such document with the Department electronically by means of computer programs specified and provided or otherwise authorized for use by the Department. If the remains are to be buried in the City cemetery, the person required to report a death pursuant to subdivision (a) of this section shall complete the process of electronically filing the entire certificate of death and confidential medical report, if any, within 72 hours after the death or finding of the remains. All persons required or authorized to report a death or to file a death certificate with the Department that are not required to report or file electronically pursuant to this subdivision may, at their election and upon approval by the Department, implement an electronic reporting system or continue to report deaths on approved paper forms. This subdivision shall take effect on April 1, 2010.

(e) All facilities, organizations or individuals required or electing to report electronically pursuant to subdivision (d) of this section shall apply to the Department prior to implementing any system and, upon approval by the Department, shall make electronic reports only in such manner and on computer programs prescribed and provided or otherwise authorized by the Department. All individuals utilizing the Department's electronic reporting system to prepare, certify, enter information onto or file death certificates or confidential medical reports, pursuant to §205.05, shall be trained or approved by the Department in the proper use of the system and completion of the electronic reporting forms. Written paper reports may be submitted for a limited period of time only in the case of extenuating circumstances, temporary equipment failure, or prolonged inability to access the electronic reporting system, and only with the specific approval of the Department. In addition, the Department may on its own initiative allow written, paper reports to be submitted if electronic reporting is not possible in a particular circumstance. The Department may, in addition, require summary, cumulative or periodic reports on such reporting schedule as it may deem necessary.

(f) The person required to report a death or to file a death certificate shall provide to the Department any information that was required to be reported, but that was not so reported, within five business days of that person receiving the information.

(g) Within five business days of receipt of any autopsy results or other information that would change the information in the cause of death section of the certificate or the confidential medical report, the person required to report the death shall file a supplemental report of the cause of death to amend the certificate or confidential medical report, if any. Said supplemental report shall be certified by a person specified in paragraph (2) of subdivision (a) of §205.05 of this Article.

(h) Upon a request by the Department for additional information that may be necessary to complete, clarify or verify the information required to be reported, the person required to report a death or to file a death certificate shall provide such information to the Department within five business days of the request.

Notes:

This section was amended by resolution adopted on September 22, 2009.

Subdivision (a) has been amended to clarify the circumstances when a hospital or hospice must report a death and to broaden the situations in which institutions are required to report deaths to include deaths occurring en route to a hospital or while under the care of a hospice. This subdivision was also amended to permit the designee of a person in charge of a hospital or hospice to report a death to the DOHMH. This will enable the hospital or hospice to delegate the task of filing the report to a lower level employee. Subdivision (a) has also been amended to reflect the correct name of the Office of Chief Medical Examiner, and to reflect that a medical examiner within the Office of Chief Medical Examiner is the person responsible for reporting a death. The subdivision was further amended to reflect gender neutrality.

Subdivision (b) was amended to correct legal nomenclature distinguishing between a "subsection" and a "paragraph." The words "Office of" were added to Chief Medical Examiner to indicate that it is the office that is required to report.

Subdivision (c) was amended to remove a general description of electronic filing of death certificates, as it is described in greater detail in new subdivision 205.03 (d). This subdivision was also amended to add agents of funeral directors or undertakers and agents or designees of the person in charge of the City mortuary. Funeral directors or undertakers and the person in charge of the City mortuary use agents to file certificates and confidential medical reports with the Department, and now this subdivision will reflect that practice. The subdivision will now require that all such agents used by funeral directors or undertakers to be registered with the Department to ensure compliance with Departmental procedures. Subdivision (c) was also amended to correct legal nomenclature distinguishing between a "subdivision" and a "subsection."

Subdivision (d) was added to require all hospitals and hospices that report 25 or more deaths to the Department per year, and the Office of Chief Medical Examiner, to report deaths electronically. When a required reporter files electronically, a funeral director or undertaker authorized to take charge of the remains, or the person in charge of the City mortuary when filing an application for a disposition permit, must also file such application electronically. All persons required or authorized to report a death or to file a death certificate with the Department that are not required to report or file electronically may, at their election and upon approval of the Department, implement an electronic reporting system or continue to report deaths on approved paper forms. This subdivision takes effect on April 1, 2010.

Subdivision (e) was added to require departmental approval of electronic reporting systems, in order to ensure the uniformity and quality of data collection. Toward that end, all individuals utilizing the electronic reporting system must be trained or approved by the Department in the proper use of the system and completion of electronic reporting forms. The subdivision also provides for alternative arrangements, upon the Department's approval or initiative, in particular circumstances.

Subdivision (f) was added to provide for situations in which a reporter receives required information after reporting the death. The reporter must submit such information within five business days of receipt.

Subdivision (g) was added to provide for situations in which a reporter receives autopsy results or other information that would change the information in the cause of death section of the certificate or the confidential medical report. The reporter must submit such information within five business days of receipt.

Subdivision (h) was added to require reporters to provide, within five business days of a request by the Department, additional information necessary to complete, clarify or verify the information required to be reported. Such information may include, for example, updated causes of death.

§205.05 Preparation and certification of certificate of death and confidential medical report of death.

(a) (1) Preparation. Except with regard to personal particulars as specified in subdivision (b) of this section, [The] the certificate of death and confidential medical report, if any, shall be prepared by the person required to [file] report the same pursuant to subdivision (a) of §205.03, but when a death occurs in a hospital or en route thereto, or while under the care of a hospice, the certificate and confidential medical report shall be prepared by the physician in attendance or assisting, by the chief medical officer of the hospital or hospice, [or] by the physician in charge of the service on which the death occurs, or by a designee of the person in charge of the hospital or hospice who is trained or approved by the Department. [That portion of the confidential medical report of death pertaining to race and ancestry shall be completed by the funeral director or, in the case of city burial, by the physician.]

(2) Certification. A certificate of death and the confidential medical report, if any, shall be certified by a physician in attendance or such physician's duly authorized medical associate, by the chief medical officer of the hospital or hospice reporting the death, or by the physician in charge of the service on which the death occurred. When a death certificate is filed by the Office of Chief Medical Examiner, the certificate shall be certified by a medical examiner within that office. A person certifying a certificate and confidential medical report, if any, shall examine said documents for correctness of the information contained thereon and make necessary changes.

(b) The certificate of death and confidential medical report, if any, shall, except when such are filed electronically pursuant to §205.03(d), be prepared on forms prescribed by the Board and furnished by the Department. [Certificates of death and confidential medical reports may be filed with the Department electronically by means of computer] Computer programs specified and provided or otherwise authorized for use by the Department for electronic filing shall reflect the forms prescribed by the Board except to the extent that differences may be necessary or warranted in order to accommodate electronic formatting. The [physician] person preparing the certificate and confidential medical report, if any, pursuant to paragraph (1) of subdivision (a) of this section, shall enter the name of the deceased and all other information required by the form, but the [personal] information concerning the deceased characterized as "personal particulars" shall be entered by the funeral director or undertaker authorized to take charge of the remains except when the remains are to be buried in the [city] City cemetery, in which case such personal particulars shall be entered by the person preparing the certificate pursuant to paragraph (1) of subdivision (a) of this section. The confidential medical report shall contain a statement of the cause of death which shall represent the physician's best opinion on the basis of all the evidence available to him or her. When the death is reported by [occurs in] a hospital or hospice, the information required by the forms shall be taken from the hospital or hospice records of the case. If, in a hospital or a hospice, worksheets are used in the preparation of certificates of death and confidential medical reports, they shall be provided or approved by the Department, and individuals using such worksheets shall be trained or approved by the Department. Worksheets shall be retained by the hospital or hospice for a period of three years from the date of the event, and shall, upon request, be made available to the Department for inspection.

Notes:

This section was amended by resolution adopted on September 22, 2009.

The title of section 205.05 was amended to "Preparation and certification of certificate of death and confidential medical report of death" and the paragraph titles "Preparation" and "Certification" were added to subdivision (a). These changes were made to indicate that separate rules apply to the preparation and certification of certificates.

Paragraph (1) of subdivision (a) was amended to permit the designee of a person in charge of a hospital or hospice to prepare the required certificate and confidential medical report, if any. Such a designee must be trained or approved by the Department. This is particularly useful for electronic reporting and will enable the hospital or hospice to delegate the task of preparing the certificate to a lower level employee. The training and approval requirement should improve data quality. It was further amended to clarify the circumstances when a hospital or hospice must report a death and to broaden the situations in which institutions are required to report deaths to include deaths occurring en route to a hospital or while under the care of a hospice. Paragraph (1) of subdivision (a) was also amended to delete the reference to that portion of the confidential medical report of death pertaining to race and ancestry to be completed by the funeral director or, in the case of city burial, by the physician. The Department is planning to modify the death certificate form so that the race and ancestry items will no longer be contained in the confidential medical report of death.

Paragraph (2) of subdivision (a) is substantially new and was amended to clarify which physicians may certify a death, including the physician in attendance or such physician's duly authorized medical associate. A person certifying a certificate and confidential medical report, if any, shall examine the documents for correctness of the information contained thereon and make necessary changes.

Subdivision (b) was amended by deleting the requirement that the Board of Health approve the electronic form of certificates, because, aside from incidental formatting differences, electronic forms are merely reflective of the paper forms prescribed by the Board pursuant to this subdivision. Subdivision (b) was also amended to reflect changes made to subdivision (a) and to provide for improving the quality of data collection. Any worksheets used by anyone authorized to prepare certificates of death and confidential medical reports must be approved by the Department. Any individual who uses such worksheets shall be trained or approved by the Department. The worksheets shall be retained by the hospital or hospice for a period of three years from the date of event and shall, upon request, be made available to the Department for inspection. The subdivision also clarifies

which person preparing the certificate and confidential medical report shall be responsible for completing its various sections.

§205.06 Certifications of Death.

(a) A party entitled to obtain a transcript of a record of death, or a certified copy of a certificate of death, may request a certification of death, and the Department shall thereupon issue such a certificate.

(b) A certification of death shall contain only the name, sex, date of death and the place of death of the person to whom it relates, as well as the death record number from which said information is derived.]

§205.07 Confidential medical report of death; not subject to [subpoena] compelled disclosure or inspection.

(a) The confidential medical report of death shall [not] be confidential and not subject to [subpoena] compelled disclosure or to inspection by persons other than the Commissioner or authorized personnel of the Department, except in a criminal action or criminal proceeding, or for official purposes by a Federal, State, county or municipal agency charged by law with the duty of detecting or prosecuting crime, or by researchers authorized and approved by the National Death Index of the National Center for Health Statistics of the federal Centers for Disease Control and Prevention, or successor agency. The Commissioner may, however, approve the inspection of such confidential medical reports for scientific purposes and, for confidential medical reports of deaths occurring on or after January 1, 2010, by the spouse, domestic partner, parent or child of the deceased or by the individual identified on the death certificate filed with the Department as the person in control of disposition.

(b) Within the context of this section, scientific purposes shall mean epidemiologic surveillance and investigation by a governmental public health agency, research, and/or the compilation of statistics relating factors bearing on disease incidence, prevalence, mortality or treatment.

(c) Not [withstanding subsection (a), upon application of an individual licensed to practice medicine, the Commissioner may release a certified copy of the confidential medical report of death, or, in his or her sole discretion, provide abstracts of such information, when, and to the extent that:

(1) a need for the family medical history has been demonstrated, to the satisfaction of the Commissioner, in order to counsel or to diagnose and/or treat an illness or condition in an individual; and

(2) the information contained in the confidential medical report of death has been demonstrated, to the satisfaction of the commissioner, to be otherwise unavailable.

(d) The information released pursuant to subsection (c) may be issued only to the licensed practitioner making the request.

Notes:

This section was amended by resolution adopted on September 22, 2009.

Subdivision (a) was amended to provide that disclosure of the confidential medical report of death shall not be compelled, in order to be consistent with the confidentiality provisions of Articles 3 and 11 of this Code. It was further amended to provide for inspection by researchers authorized and approved by the National Death Index of the National Center for Health Statistics of the Centers for Disease Control and Prevention, or its successor agency. This is to facilitate scientific research of death data by researchers who apply through the federally-established National Death Index. Subdivision (a) was also amended to provide for inspection of confidential medical reports of death occurring on or after January 1, 2010 by the spouse, domestic partner, parent or child of the deceased, or by the individual identified on the death certificate as the person in charge of disposition. This change will make cause of death information available to the above list of individuals, which is consistent with the policies of some states.

Subdivision (b) was amended to include epidemiologic surveillance and investigation conducted by governmental public health agencies within the meaning of "scientific purposes".

§205.09 Certifications of Death.

(a) A party entitled to obtain a transcript of a record of death, or a certified copy of a certificate of death, may request a certification of death, and the Department may, at its discretion, thereupon issue such a certificate.

(b) A certification of death shall contain only the name, sex, date of death, date that the certificate was accepted for filing by the Department, manner of death and the place of death of the person to whom it relates, as well as the death record number from which said information is derived.

Notes:

This section was added by resolution adopted on September 22, 2009.

This section was essentially reenacted and renumbered from the former Section 205.06, which was deleted.

Subdivision (a) was amended to provide discretion to the Department in the issuance of certifications of deaths, which are abstracts of death certificates. The Department does not currently have the systems to prepare or issue such certifications.

Subdivision (b) was amended to update the minimum amount of information that would be useful on a certification of death by adding the date that the certificate was accepted for filing by the Department and the manner of death (accident, suicide, homicide or natural).

§205.11 Performance and reports of autopsies.

[(a)] When, in the opinion of the Commissioner, the prevention of spread of disease or other public health consideration requires that an autopsy be performed, he or she may request the [office of the chief medical examiner] Office of Chief Medical Examiner of the City or arrange for a pathologist to perform the same and to file an autopsy report with and in the manner specified by the Department.

[(b)] Except when such autopsy is performed by the office of the chief medical examiner, the person in charge of a hospital shall file a report of every autopsy performed in the hospital on the remains of an infant under one year of age. The report shall be submitted on a form furnished by the Department and shall be filed within one month of death with any office maintained and designated by the Department for such purposes. The autopsy report shall contain the findings of the pathologist and such additional facts concerning the causes of death as do not appear in the confidential medical report of death as originally filed. It shall be subject to the provisions governing confidentiality of medical reports of death pursuant to §205.07.]

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section was amended to reflect gender neutrality. Subdivision (b) was deleted and replaced with Section 205.03 (g), which provides for situations in which a reporter receives autopsy results or other information that would change the information in the cause of death section of the certificate or the confidential medical report.

§205.13 Disposal of certain human remains after use for anatomical purposes.

When the death of an infant under one year of age or a spontaneous termination of pregnancy in which the conceptus has completed 24 weeks of gestation occurs in a hospital, the hospital may use the human remains for anatomical purposes if it obtains the written consent of the next of kin and a permit from the Department. After such use and without further authorization or permit, the hospital may itself dispose of the remains by incineration if it has the necessary facilities, or it may request the person in charge of the City mortuary to undertake the disposal.]

§205.17 §205.13 Disposal of human remains; time limit.

(a) Except as set forth in subdivision (b) of this section, [Remains] remains of persons dying in the City, or remains resulting from a termination of pregnancy occurring in the City, shall be buried, cremated or transported out of the City within four days following death or termination of pregnancy. Such remains may, however, within the four-day period, be placed in the general reception vault of a cemetery for a period not exceeding ten days from the placement therein. The Department may extend the time limitations contained in this subdivision [section] and may, in granting an extension, specify conditions to be observed to prevent seepage or escape of offensive odors.

(b) Human remains may be temporarily held for more than the time periods specified in subdivision (a) of this section without being buried, cremated or transported out of the City only if an appropriate interim disposition permit has been issued pursuant to §205.21 of this Article.

Notes:

This section was amended by resolution adopted on September 22, 2009.

Former section 205.13, concerning disposal of certain human remains after use for anatomical purposes, was deleted as an unnecessary requirement for public health purposes. Section 205.01, defining "human remains", and Section 205.21, concerning the issuance of disposition permits, now specify the circumstances when such a permit is required or authorized.

New section 205.13 is derived from the former section 205.17. Subdivision (a) was amended to add a reference to remains, as defined in section 205.01(c), resulting from a termination of pregnancy occurring in the City in order to be consistent with the rest of the section. This subdivision was also amended to correct legal nomenclature distinguishing between a "subdivision" and a "section."

Subdivision (b) was added to provide for the holding of human remains for more than the time periods specified in subdivision (a) of this section without being buried, cremated or transported out of the City if an appropriate interim disposition permit has been issued. This was to accommodate, among other circumstances, the interim holding of body parts (as occurred during the World Trade Center disaster), or the holding of human remains during mass mortality events or while being used for anatomical purposes.

§205.19 §205.15 Delivery of remains to funeral director or undertaker; unclaimed remains.

When a death or termination of pregnancy occurs in a hospital, hospice or other health care facility, the person in charge shall deliver the remains immediately upon demand and within the time for filing reports prescribed in §§203.03(c) and 205.03(b) to a funeral director or undertaker who presents [a permit issued pursuant to §205.25 or] a certification that he or she has been authorized to take charge of the remains by the person in control of disposition [next of kin] as defined in §205.01 [or by the Public Administrator]. If the remains are not claimed within 24 hours following death or termination of pregnancy, the person in charge of the hospital, hospice or other health care facility shall immediately notify the person in charge of the City mortuary. If, however, an autopsy is to be performed on unclaimed remains pursuant to §4214(1) of the Public Health Law, [he] the person in charge of the hospital, hospice or other health care facility shall notify the person in charge of the City mortuary within 48 hours of death and prior to the autopsy. Under such circumstances the filing of the certificate of death and confidential medical report may be postponed until 72 hours after death. The requirement of filing may be fulfilled by delivery of the certificate and confidential medical report to the person in charge of the City mortuary when the remains are removed from the hospital or other health care facility.

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section is derived from former section 205.19. This section was amended to clarify that it applies to deaths or terminations of pregnancy that occur in hospice or other health care facilities, in addition to hospitals. The reference to "a permit issued pursuant to §205.25" was deleted because, in practice, disposition permits are not issued until after death certificates are prepared, certified and registered. The references to "next of kin" and the "Public Administrator" were deleted and replaced with the "person in control of disposition" as now defined in section 205.01. The section was further amended to clarify that the performance of an autopsy pursuant to §4214(1) of the State Public Health Law refers to unclaimed remains. The section was also amended to reflect gender neutrality.

§205.21 §205.17 Claiming of human remains removed to the City mortuary.

When human remains which have been removed to the City mortuary are subsequently claimed, the person in charge of the City mortuary shall deliver the remains, on demand, to a funeral director or undertaker who submits a written statement that he or she, or the funeral establishment with which he or she is associated, has been employed by the person in control of disposition [next of kin, legal representative or, in the absence of arrangements by such next of kin or legal representative, by a friend of the deceased]. Together with the remains, the person in charge of the [city]City mortuary shall deliver the certificate of death or termination of pregnancy and confidential medical report, if any, or, if such documents have been filed with the Department, any permit issued by the Department authorizing burial in the City cemetery. When the funeral director or undertaker is required to notify the [Public Administrator] public administrator of a county in the City pursuant to §1113 of the Surrogate's Court Procedure Act, the statement of such funeral director's or undertaker's

employment shall first be approved by the [Public Administrator] public administrator.

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section is derived from former section 205.21. This section was amended by replacing “next of kin, legal representative or, in the absence of arrangements by such next of kin or legal representative, by a friend of the deceased” with the “person in control of disposition”. This is consistent with amendments to Section 205.01. The section was also amended to reflect gender neutrality.

[§205.23] §205.19 Removal of human remains from place of death or termination of pregnancy.

(a) (1) Except as specified in this section, [No]no person shall remove human remains from the place of death or termination of pregnancy unless a certificate of death or termination of pregnancy and a confidential medical report, if any, have been filed electronically with the Department by the person required to report a death or termination of pregnancy pursuant to subdivision (a) of §205.03 or subdivision (a) of §203.03, or unless such documents have been delivered to a funeral director, undertaker or to the person in charge of the City mortuary pursuant to §205.03 or §203.03, or unless a burial, cremation, interim or transportation permit has been issued pursuant to [§205.25] §205.21. Prior authorization of the Department shall not be required to remove human remains to a county in [the]a State contiguous to the City. However, an appropriate permit shall be obtained prior to burial or cremation of human remains, temporary holding of remains pursuant to subdivision (b) of §205.13, or transportation to any other area [prior to burial or cremation], as required pursuant to this Article. When a death or termination of pregnancy occurs under circumstances which do not require notification to the [office of the chief medical examiner] Office of Chief Medical Examiner, the remains may be removed from the place of death, termination of pregnancy or autopsy to another place within the City or to a county within [the]a State contiguous to the City by a licensed funeral director or undertaker [who] if such person has in his or her possession a [completed] certificate of death or termination of pregnancy including any confidential medical report, or if such certificate and confidential medical report, if any, have been filed electronically with the Department by the person required to report the death or termination of pregnancy pursuant to subdivision (a) of §205.03 or subdivision (a) of §203.03. If, however, the death or termination of pregnancy is required to be reported to the Department by the [office of the chief medical examiner] Office of Chief Medical Examiner pursuant to §205.03(a)(3) or §203.03(a)(4), [respectively,] the remains may be removed from the place of death, termination of pregnancy or autopsy by the funeral director or undertaker [who has]if either he or she has received a completed death or termination of pregnancy certificate from the medical examiner who had taken charge of the remains, or if a death or termination of pregnancy certificate has been electronically filed by the [office of chief medical examiner] Office of Chief Medical Examiner.

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

(b) When a death occurs in a hospital, under circumstances which do not require notification to the [office of the chief medical examiner] Office of Chief Medical Examiner, the person in charge of the hospital may remove the remains to another hospital for purposes of autopsy, but such remains shall not be removed from the hospital in which the autopsy is performed unless the applicable provisions of subdivision [subsection] (a) of this section have been complied with.

(c) When a death occurs under circumstances which do not require notification to the [office of the chief medical examiner] Office of Chief Medical Examiner and while the deceased was under the continued medical supervision of a staff physician of a voluntary or municipal hospital as part of the general care offered by such hospital to a patient who has been transferred from the hospital to his or her home, the person in charge of such hospital may remove the remains to the hospital for purposes of autopsy, but such remains shall not be removed from the hospital unless the applicable provisions of subdivision [subsection] (a) of this section have been complied with.

(d) This section shall not prevent the transportation of human tissues for diagnostic purposes or pathological study, the removal of human remains by the person in charge of the City mortuary for burial in the City cemetery or the removal of human remains when ordered by an officer of the City [Police Department] police department or the Office of [the] Chief Medical Examiner pending completion of an investigation by either agency or by both.

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section, relating to the removal of human remains, is derived from former section 205.23. Subdivision (a) was amended by separating it into paragraphs (1) and (2). Paragraph (1) was amended to update, clarify and conform to current practice the circumstances under which human remains may be removed from the place of death or termination of pregnancy. The paragraph now provides for electronic filing prior to removal. The paragraph was further amended to clarify that the filing must be made by the person required to report a death or termination of pregnancy pursuant to subdivision (a) of §205.03 or subdivision (a) of §203.03, and was amended to reference interim disposition permits in accordance with changes to sections 205.13 and 205.21. Paragraph (1) was amended to delete the requirement that a licensed funeral director or undertaker must have in his or her possession a “completed” certificate of death or termination of pregnancy, as the personal particulars section may not yet have been completed by the funeral director or undertaker. The paragraph was further amended to clarify throughout that it applies to terminations of pregnancy as well as deaths.

Paragraph (2) of subdivision (a) is new. It provides for the removal of human remains from the place of death or termination of pregnancy in the case of a death from natural causes occurring elsewhere than in a hospital or hospice if the funeral director, undertaker or person in charge of the mortuary has obtained authorization from the Office of Chief Medical Examiner to remove the remains, or has obtained

authorization to remove the remains and assurance from the physician attending the death, or from his or her duly authorized medical associate, that the death is from natural causes and that said physician or medical associate assumes responsibility for certifying to the cause of death. This is consistent with current practice.

Subdivision (b) was amended to correct legal nomenclature distinguishing between a “subdivision” and a “subsection” and to correct the title of the Office of Chief Medical Examiner.

Subdivision (c) was amended to correct the title of the Office of Chief Medical Examiner, reflect gender neutrality and correct legal nomenclature distinguishing between a “subdivision” and a “subsection.”

Subdivision (d) was amended to clarify that the police department is of the City, and to correct the title of the Office of Chief Medical Examiner.

[§205.25] §205.21 Burial, cremation, holding and transportation of human remains; disposition permit.

(a) When a death or termination of pregnancy occurs in the City, the remains shall not be buried, cremated, temporarily held as an interim disposition pursuant to subdivision (b) of §205.13 or transported out of the City unless an appropriate disposition permit has been issued by the Department. However, remains may be transported out of the city to a contiguous county in the State without obtaining prior authorization to transport from the Department. In such cases, an appropriate disposition permit must still be issued by the Department prior to burial, [or] cremation, interim disposition or transportation to any other area. Such burial, [or] cremation, interim disposition or transportation permit shall not be issued until a certificate of death or termination of pregnancy and, if required, a confidential medical report have been filed with the Department. A permit to bury, temporarily hold or cremate human remains or to transport them out of the City includes authorization to remove the remains from the place of death or termination of pregnancy pursuant to [§205.23(a)]§205.19(a). If remains are to be transported out of the City by common carrier, they shall be prepared in such manner as to comply with the State Sanitary Code.

(b) (1) No person in charge of a cemetery or crematory in the City shall allow human remains to be buried or cremated in the cemetery or crematory until a permit issued pursuant to subsection (a) of this section is surrendered to him or her, and he or she shall not accept any permit which has been changed or altered unless the change or alteration is countersigned by the Department. A permit for the burial or cremation of human remains issued by the authorized agency of any municipality or county within the United States, of any state, territory or possession of the United States, the District of Columbia, or of any foreign State within whose jurisdiction the death or termination of pregnancy occurred, which specifies the cemetery or crematory, may be accepted by the person in charge of the cemetery or crematory instead of a permit issued by the Department. If a permit issued in another jurisdiction does not specify the cemetery or crematory, or if the cemetery or crematory specified is not the actual place of intended burial or cremation, it shall not be accepted by the person in charge of a cemetery or crematory but shall be exchanged for a permit issued by the Department.

(2) The person in charge of a cemetery or crematory shall maintain a permanent record of each burial or cremation which shall include the permit number and permit issuing authority of all permits received pursuant to this subdivision[section] and after making such permanent record, he or she may completely destroy such permits by incineration or other equally effective means.

(3) The person to whom an interim disposition permit has been issued in accordance with subdivision (b) of §205.13 shall maintain a permanent record of each of the human remains being temporarily held which shall include the permit number, and shall maintain the original interim disposition permit until such time it is surrendered to the Department in exchange for a final burial, cremation or transportation permit.

(c) A burial permit issued pursuant to this section includes authorization to place the remains in the general reception vault of the cemetery named in the permit prior to permanent burial in such cemetery.

(d) Application for a cremation permit shall be made by the person in control of disposition [next of kin, legal representative or friend of the deceased]. The application shall be supported by an affidavit which establishes the authority of such person in control of disposition [next of kin, legal representative or friend] to request cremation. The affidavit shall contain the name of the funeral director or undertaker who is to arrange for cremation, the name of the crematory where cremation is to take place and a statement that the applicant assumes all responsibility for the cremation. Such affidavit shall be maintained by the funeral director or undertaker. No cremation permit shall be issued unless the application is approved by the office of the chief medical examiner pursuant to [§ 878-3.1] §17-204 of the Administrative Code.

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section, regarding disposition permits, is derived from former section 205.25. Permits to bury, cremate or to transport human remains have long been required in New York City. In circumstances such as during mass mortality events or when human remains are used for anatomical purposes, it may be necessary to temporarily hold human remains beyond the periods specified in section 205.13 without burial, cremation or transportation. Subdivision (b) of section 205.13 requires the issuance of an interim disposition permit by the Department to temporarily hold human remains for such periods. Accordingly, subdivision (a) of this section 205.21 has been amended to include reference to interim temporary holding permits, in addition to burial, cremation and transportation permits.

Subdivision (b) has been divided into three paragraphs. New paragraph (3) of subdivision (b) specifies the information required to be kept by a person to whom an interim holding permit has been issued. It also requires the surrender of the interim permit when a final disposition permit to bury, cremate or transport the human remains is issued.

Subdivision (d) has been revised to utilize the newly defined term “person in control of disposition”.

[§205.27]§205.23 Transportation of human remains into City.

Human remains shall not be brought into the City unless a permit for their transportation, burial or cremation has been issued by the authorized agency of a municipality or county within the United States, of a state, territory or possession of the United States, the District of Columbia or of any foreign state within whose jurisdiction death or termination of pregnancy occurred. When the jurisdiction in which the event occurred does not issue such permits, the Department may accept certified copies of certificates of death or termination

of pregnancy in lieu of such permits. Remains brought into the City for burial or cremation shall be dealt with pursuant to [§205.17] §205.13 and [§205.25] §205.21. Remains brought into the City in the course of transit shall not be detained for any purpose other than transshipment unless a permit is first obtained from the Department specifying where, how long and under what conditions such remains may be held, but no such permit shall be required for the uninterrupted transit or for the direct transshipment of remains. This section does not apply to the transportation of human tissues to be used for diagnostic purposes or pathological study.

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section is derived from former section 205.27. It has been amended to clarify that when human remains are being transported into the City from a jurisdiction that does not issue disposition permits, the Department may accept certified copies of certificates of death or termination of pregnancy in lieu of a permit.

[§205.29 Obtaining of permits.

Application for permits to remove, bury, cremate or transport human remains shall be made during regular office hours at the office of the Department maintained and designated for such purposes. The Department may, however, in its discretion, authorize the issuance of permits during other hours and at other offices of the Department.]

[§205.31] §205.25 Cemeteries, crematories, mausoleums, vaults and tombs.

[(a) No new cemetery or crematory, and no mausoleum, vault, tomb, grave or other place of burial which is not within an existing cemetery shall be established in the City without the consent of the Board. The owner of a cemetery or crematory shall notify the Department of any change of name of the cemetery or crematory.]

[(b)] (a) When human remains are buried in the ground, the top of the coffin or casket shall be at least three feet below the level of the ground, but if the coffin or casket is enclosed in a concrete or metal vault, the top of the vault shall be at least two feet below the level of the ground.

[(c)] (b) General vaults in cemeteries used for the permanent burial of human remains shall be provided with crypts or cells which can be sealed, and every crypt or cell shall be sealed immediately after remains are placed in it unless the remains are enclosed in a hermetically-sealed metal or stone coffin or casket.

[(d)] (c) General reception vaults in cemeteries shall be maintained in good sanitary condition.

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section is derived from former section 205.31. Subdivision (a) has been repealed as the regulation of new cemeteries and cemetery name changes is wholly within the jurisdiction of the New York State Department of Health and Department of State pursuant to the Public Health Law and Not-for-Profit Corporation Law and related regulations. The remaining subdivisions have been re-lettered accordingly.

[§205.33] §205.27 Disinterment permits; opening of coffins or caskets.

(a) No person shall disinter a coffin or casket containing human remains or expose or disturb a mausoleum, vault, tomb, grave or other place of burial unless a disinterment permit has been issued by the Department, but this requirement does not apply during the course of a burial for which a burial permit has been obtained pursuant to [§205.25] §205.21. No disinterment permit is required when the disinterment is ordered by the [office of the chief medical examiner] Office of Chief Medical Examiner or the district attorney of a county within the City in the exercise of official duties. A disinterred coffin or casket containing human remains shall be prepared so as to comply with the State Sanitary Code.

(b) Disinterment permits may be issued only to funeral directors and undertakers of, if the remains are to be reburied in the same cemetery, to the person in charge of the cemetery. Application for a disinterment permit shall be made on a form furnished by the Department and submitted at any office maintained and designated by the Department for such purposes. The application shall be supported by an affidavit from the person in control of disposition [next of kin, legal representative] or other authorized person requesting disinterment. Such affidavit shall be maintained by the funeral director or undertaker.

(c) No person, other than the chief medical examiner or [his] the chief medical examiner's duly authorized representative, shall open a coffin or casket which has been disinterred unless the opening is ordered by a court of competent jurisdiction.

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section, regarding disinterment permits, is derived from former section 205.33 and remains essentially unchanged. Modifications were made to reflect renumbering of sections, correcting the title of the Office of Chief Medical Examiner, the use of the new term “person in control of disposition” and gender neutrality.

[§205.35] §205.29 Registration of funeral directors and undertakers, and their agents.

(a) No permit or authorization pursuant to this article shall be issued or granted to a funeral director or undertaker who has not registered with the Department pursuant to subdivision [subsection] (b) of this section. No certificate of death or confidential medical report shall be filed with the Department on behalf of a funeral director or undertaker except by an agent of such funeral director or undertaker who has registered with the Department pursuant to subdivision (c) of this section.

(b) A funeral director or undertaker who has a State certificate of registration pursuant to §3428 of the Public Health Law may register with the Department upon presentation of his or her State registration certificate and a government-issued picture identification of said funeral director or undertaker. The registration shall contain [his] the registrant's name and address and the name and address of funeral establishments with which [he] such registrant is associated, if any, and [he] such registrant shall present evidence of such associations. [He] The registrant shall subsequently register any change of name or address or association.

(c) An agent of a funeral director or undertaker may register with the Department upon presentation of (1) a letter of authorization in a form specified by the Department from the funeral director or undertaker who is the principal of the agent, and (2) a government-issued picture identification of the agent.

Notes:

This section was amended by resolution adopted on September 22, 2009.

Former section 205.29, regarding when and where permits are obtained, has been deleted as unnecessary.

This new section 205.29 is derived from former section 205.35.

Subdivision (a) now requires that agents of funeral directors or undertakers who seek to file certificates with the Department must, in addition to the funeral directors or undertakers, register with the Department.

Subdivision (b) was amended to require presentation of a government issued picture identification, in addition to the State-issued certificate, in order for a funeral director or undertaker to register with the Department.

Subdivision (c) was added to specify the documentation that an agent must present in order to be registered with the Department. Such measures provide a greater level of security to the registration process.

[§205.37] **§205.31 Authority of funeral director or undertaker.**

(a) No funeral director or undertaker shall apply for any permit required pursuant to this article unless he or she, or the funeral establishment with which he or she is associated, has been employed by the person in control of disposition [next of kin, legal representative or a friend of the deceased]. When applying for such permit, the funeral director or undertaker shall sign a statement on the certificate of death or fetal death which shall contain:

- (1) His or her name and [New York] State license number;
- (2) The name, business address and [New York] State business registration number of the funeral establishment with which he or she is associated;
- (3) The name and the relationship to the decedent of the person who has employed the funeral establishment with which he or she is associated.

(b) When a funeral director or undertaker is required to notify the [Public Administrator] public administrator of a county in the City pursuant to §1113 of the Surrogate's Court Procedure Act, the employment of the funeral director or undertaker shall first be approved by such [Public Administrator] public administrator before a burial, cremation or transportation permit may be issued.

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section, regarding the authority of funeral directors or undertakers to apply for departmental permits, is derived from former section 205.37. Subdivision (a) now uses the term "person in control of disposition" as it is newly defined in section 205.01. Paragraphs (1) and (2) were also amended to reflect gender neutrality.

[§205.39] **§205.33 Authority of Department to withhold registration, permits and filing of certificates.**

In addition to the forfeitures and penalties set forth in Articles 3 and 5 of this Code, when serious, repeated or persistent violations of any of the provisions of this Code are found, the Department may deny, suspend or revoke any registration and refuse to issue burial permits or other authorizations issued pursuant to this Article, or refuse to accept for filing certificates of death or confidential medical reports. Any funeral director, undertaker or funeral establishment, or registered agent of such director, undertaker or establishment, whose City registration is denied, suspended or revoked shall thereafter be provided with an opportunity to be heard pursuant to the rules of the Department. [When, in the discretion of the Department, an investigation is to be instituted, the Department may withhold the issuance of any permit authorized to be issued pursuant to this article.]

Notes:

This section was amended by resolution adopted on September 22, 2009.

This section replaced former section 205.39 and provides authority for the Department to withhold registration of funeral directors, undertakers or their agents, to refuse to issue permits or to accept certificates for filing such when serious or repeated violations of the Code are found to have been committed. When City registration is denied, suspended or revoked, an opportunity to be heard will be provided pursuant to the rules of the Department, currently found in Chapter 7 of Title 24 of the Rules of the City of New York. Such a strict enforcement mechanism will prevent abuses of the registration process.

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NOTICE OF ADOPTION OF AMENDMENT TO ARTICLE 181 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 of the intention to amend Article 181 of the New York City Health Code was published in the City Record on June 26, 2009, and a public hearing on the proposal was held on July 30, 2009. DOHMH received comments from 46 persons on behalf of themselves or organizations. Of those comments, 33 were in support of the proposal and 13 were in opposition. Changes were made in response to the comments received and for clarity. At its meeting on September 22, 2009, the Board of Health adopted the following resolution.

STATUTORY AUTHORITY

This amendment to the Health Code is promulgated pursuant to §§558 and 1043 of the New York City Charter (the "Charter"). Sections 558(b) and (c) of the Charter empower the Board of Health to amend the New York City Health Code (the "Health Code") and to include in the Health Code all matters to which the authority of the Department of Health and Mental Hygiene (the "Department" or "DOHMH") extends. Section 1043 grants the Department rule-making authority.

STATEMENT OF BASIS AND PURPOSE

I. Background

Reducing the burden of tobacco use is a core function of DOHMH. In 2002, the Department launched a comprehensive tobacco control program to reduce and prevent smoking in New York City. By implementing multiple, intensive interventions – taxation, legislation, public education, and cessation strategies – and rigorously evaluating these efforts, the Department has taken a pioneering approach to tobacco control that has yielded unprecedented results.

Despite the Department's tobacco control successes, more than 950,000 adults and 20,000 public high school students still smoke in New York City.^{1,2} Continued tobacco use among these smokers may reflect a lack of awareness and comprehension of the negative health outcomes associated with tobacco use, as well as a lack of knowledge about the availability of smoking cessation assistance.

The Department proposes that the Board of Health enact the proposed amendment to require that locations that sell tobacco products post signs describing the health harms associated with tobacco use and the smoking cessation resources available to New Yorkers. This amendment will promote further reductions in smoking prevalence in New York City.

¹ Unpublished data. New York City Department of Health and Mental Hygiene, Bureau of Epidemiology Services: New York City Community Health Survey 2008; April 2009.

² Unpublished data. New York City Department of Health and Mental Hygiene, Bureau of Epidemiology Services: New York City Youth Risk Behavior Survey 2007; April 2009.

II. Tobacco use is the leading cause of preventable death.

Smoking is the leading cause of preventable death in the United States and in New York City. Up to one half of life-long smokers, depending on age, are expected to die of tobacco-related diseases.³ Smokers who die of tobacco-related diseases lose an average of 14 years of life.⁴ In New York City, nearly one in seven deaths are smoking-related; smoking kills about 7,400 people a year, a third of them before age 65.⁵ Despite a 27% reduction in adult smoking prevalence since 2002, nearly one million New Yorkers still smoke.

There are numerous health risks associated with smoking. Research has linked tobacco use with chronic diseases including lung cancer, heart disease, stroke, blindness, asthma, chronic obstructive pulmonary disorder and emphysema. Bladder, larynx, esophagus, cervix, kidney, lung, pancreas, and stomach cancers have also been shown to be associated with tobacco. Smoking also has numerous reproductive effects including infertility, pre-term delivery and low birth weight.⁶

³ U.S. Department of Health and Human Services. *The Health Consequences of Smoking: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2004.

⁴ Centers for Disease Control and Prevention (CDC). Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Economic Costs—United States, 1995-1999. *MMWR* 2002;51(14):300-303.

⁵ New York City Department of Health and Mental Hygiene (NYC DOHMH), Bureau of Vital Statistics.

⁶ U.S. Department of Health and Human Services. *The Health Consequences of Smoking: A Report of the Surgeon General*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2004.

III. Tobacco users' behaviors are influenced by their awareness and understanding of the health risks associated with tobacco use

Since the first Surgeon General's report was published in 1964, much information has been made public about the health risks associated with smoking. Despite this, there remain significant gaps in smokers' understanding of these risks.^{7,8,9} These gaps in risk awareness are widest among lower socioeconomic groups.¹⁰

Smokers' health behaviors are strongly influenced by their understanding of the health risks of smoking. Smokers who perceive greater smoking-related health hazards are more likely to consider quitting and to quit smoking successfully. Health warnings are strongly associated with health knowledge.^{11,12} Research has shown that health warnings which communicate the adverse health effects of tobacco use are among the most effective at prompting smokers to quit.¹³ In addition, research has shown that smokers find pictorial warnings more effective and engaging than text-only warnings.^{14,15} Pictorial warnings appear to be especially effective among youth: 78% of Canadian youth agree that pictorial warnings on Canadian packages have been effective in informing them about the effects of cigarette smoking, and 46% report that the pictorial warnings have been effective in getting them to try to quit smoking.¹⁶

⁷ Oncken, C et al. (2005). Knowledge and perceived risk of smoking-related conditions: a survey of cigarette smokers. *Prev Med* 40 (6): 779-784.

⁸ Weinstein, ND et al. (2005). Smokers' unrealistic optimism about this risk. *Tob Ctrl* 14: 55-59.

⁹ Hammond D et al. (2006). Effectiveness of cigarette warning labels in informing smokers about the risks of smoking: findings from the International Tobacco Control (ITC) Four Country Survey. *Tob Ctrl* 15(Suppl 3): iii19 – iii25.

¹⁰ Siahpush M et al. (2006). Socioeconomic and country variations in knowledge of health risks of tobacco smoking and toxic constituents of smoke: results from the 2002 International Tobacco Control (ITC) Four Country Survey. *Tob Ctrl* 15 (Suppl 3): iii65-iii70.

¹¹ Hammond D et al. (2006). Effectiveness of cigarette warning labels in informing smokers about the risks of smoking: findings from the International Tobacco Control (ITC) Four Country Survey. *Tob Ctrl*

15(Suppl 3): iii19 – iii25.

¹² O'Hegarty M et al. (2006). Reactions of young smokers to warning labels on cigarette packages. *Am J Prev Med* 30(6): 467-473.

¹³ Biener, L et al. (2000). Adults' response to Massachusetts anti-tobacco television advertisements: impact of viewer and advertisement characteristics. *Tob Control* 9 (4): 401-407.

¹⁴ O'Hegarty M et al. (2006). Reactions of young smokers to warning labels on cigarette packages. *Am J Prev Med* 30(6):467-73.

¹⁵ Hammond D et al. (2006). Effectiveness of cigarette warning labels in informing smokers about the risks of smoking: findings from the International Tobacco Control (ITC) Four Country Survey. *Tob Ctrl* 15 (Suppl 3): iii19 – iii25.

¹⁶ Health Canada. The health effects of tobacco and health warning messages on cigarette packages – Survey of youth: Wave 9 surveys. Prepared by Environics Research Group, Jan 2005, available at <http://www.smoke-free.ca/warnings/WarningsResearch/POR-04-19%20Final%20Report%20-%205552%20Youth%20wave%209-fnal.pdf>.

IV. Smoking cessation information will increase the likelihood that smoking cessation aids are utilized and contribute to reductions in smoking prevalence.

In 2007, nearly 70% of all adult smokers in New York City tried to quit smoking at least once.¹⁷ But without assistance, fewer than 10% of smokers who try to quit achieve permanent abstinence.¹⁸ Studies have consistently shown that smokers can double their chances of quitting smoking successfully by getting counseling and using nicotine replacement therapy or other appropriate drug treatments.¹⁹ Free cessation counseling and nicotine replacement therapy are available to New York residents who call the New York State Smokers' Quitline, but New Yorkers must first be made aware of the availability of that service.

Research has shown that utilization of cessation services increases when smokers are made aware of their availability.^{20,21,22} Displaying this information where cigarettes are sold will ensure that smokers are informed about resources that are available to help them quit smoking for good, and increase utilization of these resources to further decrease smoking prevalence in New York City.

¹⁷ Community Health Survey, 2008. NYC DOHMH, Division of Epidemiology. Unpublished data.

¹⁸ Fiore MC et al. *Treating Tobacco Use and Dependence: 2008 Update*. Clinical Practice Guideline. Rockville, MD: U.S. Department of Health and Human Services, Public Health Service. May 2008.

¹⁹ Fiore MC et al. *Treating Tobacco Use and Dependence: 2008 Update*. Clinical Practice Guideline. Rockville, MD: U.S. Department of Health and Human Services, Public Health Service. May 2008.

²⁰ Farrelly, MC et al (2007). Effectiveness and cost effectiveness of television, radio and print advertisements in promoting the New York smokers' quitline. *Tob Control* 16 (Suppl.1): i21-i23.

²¹ Campbell SL et al (2008). Tobacco quitline use: enhancing benefit and increasing abstinence. *Am J Prev Med* 35(4): 386-388.

²² Burns, ME et al. (2005). Use of a new comprehensive insurance benefit for smoking-cessation treatment. *Preventing Chronic Disease: Public Health Research, Practice, and Policy* 2 (4): 1 – 12.

V. Point-of-sale tobacco information will contribute to reductions in youth tobacco sales.

The majority of adult smokers begin smoking during adolescence; two-thirds of them are daily smokers by the age of 19.²³ Despite existing New York State and New York City laws prohibiting tobacco sales to people under the age of 18, minors are able to purchase cigarettes illegally at some licensed retail establishments.²⁴

Requiring health warning signs at the point-of-sale in places where cigarettes are sold will reinforce compliance with existing laws prohibiting tobacco sales to minors. By highlighting the undesirability and unacceptability of tobacco use, health warning signs will be consistent with other Department efforts to prevent youth smoking initiation and will further de-normalize smoking.

²³ Campaign for Tobacco-Free Kids. (2008). Smoking and kids. Available at

<http://www.tobaccofreekids.org/research/factsheets/pdf/0001.pdf>.

²⁴ Tobacco Product Regulation Act (TPRA) and Adolescent Tobacco Use Prevention Act (ATUPA) 2008 Annual Report. Prepared by DOHMH and DCA.

VI. Proposed changes to Health Code to require that health warnings and smoking cessation information be posted at all tobacco retail locations.

Accordingly, the Department requests that the Board amend Article 181 of the Health Code to add a provision that would require the posting of tobacco health warnings and smoking cessation information in all places where tobacco is sold in New York City.

VII. Response to comments

The Department received 46 comments from individuals on behalf of themselves or organizations. Of those comments, 33 were in support of the proposed amendment to Article 181 and 13 were in opposition. The proposal has been amended in response to comments and for clarity. Several comments expressed concern that the size of the required health warning signage was too large to be accommodated by many New York City retailers. Accordingly, the proposal has been amended to reduce the maximum size of the required signage from 1,296 square inches to 576 square inches, and to give retailers the option of posting smaller signage at each place of payment, or larger signage near tobacco displays. In addition, the proposal has been amended to authorize the New York City Department of Consumer Affairs (DCA) to distribute the health warning signage, to enforce Section 181.19, and to adjudicate at its Administrative Tribunal violations of Section 181.19 that are issued by DCA.

The proposal is as follows:

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

RESOLVED, that Article 181 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York be, and the same hereby is, amended to add a new

§181.19 concerning mandatory posting of point-of-sale tobacco health warnings and smoking cessation information in places where tobacco is sold, to read as follows:

**ARTICLE 181
PROTECTION OF PUBLIC HEALTH GENERALLY**

§181.19 Required Point-of-Sale Tobacco Health Warnings and Smoking Cessation Information.

§181.19 Required Point-of-Sale Tobacco Health Warnings and Smoking Cessation Information.

- (a) Any person in the business of selling tobacco products face-to-face to consumers in New York City shall prominently display tobacco health warning and smoking cessation signage produced by the Department.
- (b) The signage required by subdivision (a) of this section shall be:
 - 1. designed by the Department and may include:
 - a. information about tobacco products and the adverse health effects of tobacco use;
 - b. a pictorial image illustrating the effects of tobacco use; and
 - c. information about how to get help to quit using tobacco;
 - 2. produced in two sizes:
 - a. one "small sign," not to exceed 144 square inches; and
 - b. one "large sign," not to exceed 576 square inches;
 - 3. distributed by the Department or by the Department of Consumer Affairs, although additional signage may be ordered by calling 311.
- (c) Persons who engage in face-to-face sales of tobacco products to consumers in New York City shall prominently display the signs required by subdivision (a) of this section by posting:
 - 1. one "small sign" on or within 3 inches of each cash register or each place where payment may be made so that the sign(s) are unobstructed in their entirety and can be read easily by each consumer making a purchase; or
 - 2. one "large sign" at each location where tobacco products are displayed so that:
 - a. the sign(s) are unobstructed in their entirety and can be read easily by each person considering a tobacco product purchase; and
 - b. in such a way that the distance between the bottom of the sign(s) and the floor shall be no less than four feet, and the distance between the top of such sign(s) and the floor shall be no more than seven feet.
- (d) The Commissioner shall have the authority to modify periodically the text, images and content of signage produced by the Department pursuant to subdivision (a) of this section based on the Commissioner's determination that such modifications may contribute to the prevention or reduction of tobacco use and its harms, the prevention of tobacco sales to minors, or the correction of misinformation among consumers about the health effects of tobacco use. Persons required to post health warning and smoking cessation signage pursuant to subdivision (a) of this section shall display any modified signage upon receipt, as set forth in subdivision (c) of this section.
- (e) The provisions of this section may be enforced by any authorized agent or employee of either the Department or the Department of Consumer Affairs, or successor agency. Any violation of this section issued by the Department of Consumer Affairs may be adjudicated at any tribunal authorized to hear such agency's violations.
- (f) If any provision of this section, or its application to any person or circumstance, is held invalid by any court of competent jurisdiction, the remaining provisions or the application of the section to other persons or circumstances shall not be affected.

Notes: The Department proposes that the Board of Health amend Article 181 of the Health Code to add a new §181.19 that would require the posting of tobacco health warnings and smoking cessation information in all places where tobacco is sold in New York City.

NOTICE OF ADOPTION OF A RESOLUTION TO AMEND SECTIONS 207.07 and 207.13 OF ARTICLE 207 OF THE NEW YORK CITY HEALTH CODE

In compliance with §1043(b) of the New York City Charter (the "Charter") and pursuant to the authority granted to the Board of Health by §558 of said Charter, a Notice of Intention of the proposed amendment of Sections 207.07 and 207.13 of Article 207 of the New York City Health Code (the "Health Code") was published in the City Record on June 26, 2009, and a public hearing was held on July 28, 2009. One person testified at the public hearing and one written comment was received. Two technical changes were made to the resolution. At its meeting on September 22, 2009, the Board of Health adopted the following resolution.

STATUTORY AUTHORITY

This amendment to the Health Code is made pursuant to §§ 556, 558 and 1043 of the New York City Charter ("Charter"). Section 556 of the Charter provides the Department of Health and Mental Hygiene ("Department") with jurisdiction to regulate all matters affecting health in the City of New York. Sections 558(b) and (c) of the Charter empower the

Board of Health to amend the New York City Health Code ("Health Code") and to include in the Health Code all matters to which the authority of the Department extends. Section 1043 grants the Department rule-making authority.

STATEMENT OF BASIS AND PURPOSE

The Board of Health hereby approves revisions to Sections 207.07 and 207.13 of the Health Code to establish fees, effective January 1, 2010, for certain vital records corrections and permits. The effective date of the fees is being added to the resolution to reflect the Department's intent.

Background

The Department does not currently charge fees for correcting or amending birth and death certificates, or for issuing disposition permits to funeral directors, which are required for burial, cremation or transport outside the City. The Department is proposing to charge fees based on cost analyses to partially recover the Department's costs in performing these functions.

Cost calculations

Fees for each service were calculated through a user cost analysis, conducted by the Department's Division of Finance and Planning in cooperation with the City's Office of Management and Budget. A user cost analysis assesses costs of current operations involved in providing a specific service to the public. A fee, no greater than the cost, is then determined on a per unit basis. The costs that are factored into the calculation include direct costs (PS-personal services, including fringe and OTPS-other than personal services) and indirect costs (executive management overhead, including fringe; administrative services overhead, including fringe; space and utilities; and cost of other agency services).

The new disposition permit fee matches the Department's cost. The correction fee will recover roughly two-thirds of the Department's costs and will be comparable to fees charged by other jurisdictions.

Corrections and amendments application fee

The Department's Office of Vital Records receives and processes requests for corrections and amendments to birth and death certificates. Approximately 45,000 corrections applications are processed annually. Currently, Health Code §207.07 requires the Department to issue amended certificates "without further charge" when amendments are approved. In order to avoid confusion and potentially conflicting provisions, the Department is deleting these words from §207.07. The Department is further adding a subdivision (g) to §207.13, effective January 1, 2010, to charge a \$40.00 fee, to be paid upon application, for about two-thirds of the corrections applications for the following:

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

No fee will be charged for the following:

- Acknowledgments of paternity
- Orders of filiation (parentage)
- Medical Examiner amendments
- Recording delayed registrations of births
- Reports of foundlings
- Correcting Department errors
- Birth certificate amendments filed within 12 months of the birth when filed by hospitals or licensed midwives
- Adding missing information within 12 months of filing a death certificate by a medical certifier or funeral director

Disposition permit fee (burial, cremation, transport permits) Health Code §205.25(a) requires, in part, that, "When a death or termination of pregnancy occurs in the City, the remains shall not be buried, cremated or transported out of the City unless an appropriate permit has been issued by the Department." Furthermore, the Department is considering amending the Code to reflect the issuance of an interim disposition permit. If such a proposal is adopted, the Department will charge a fee for the interim permit, but will not charge when that permit is surrendered in exchange for a final disposition permit. In 2007, there were 54,073 deaths and several hundred terminations over 24-weeks gestation. Each of these requires a disposition permit. The Department is adding a subdivision (h) to section 207.13, effective January 1, 2010, to charge a \$40.00 fee for each disposition permit, to be paid upon application, except for those burials in the City cemetery (about 3,000 per year). A reference to Article 205 of the Code is being added to the resolution in order to clarify that the fee will be imposed for disposition permits issued pursuant to that Article.

STATEMENT PURSUANT TO SECTION 1042-REGULATORY AGENDA

This rule was not included in the Department's Fiscal Year 2009 Regulatory Agenda as this action is in response to recent analysis by the Department.

The adopted rule is as follows:

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

RESOLVED, that §207.07 and §207.13 of Article 207 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, and the same hereby are amended to delete the words "without further charge" from §207.07, to re-title §207.13 as "Fees for vital statistics services" and to add new subdivisions (g) and (h) to §207.13 to reflect the broader range of fees contained in this section, to be printed together with explanatory notes to read as follows:

**ARTICLE 207
GENERAL VITAL STATISTICS PROVISIONS**

§207.07 Correction of records; copy of amended certificate to be issued.

When a certificate of birth, termination of pregnancy or death is amended, the Department shall issue to the applicant [without further charge] in exchange for the copy submitted with the application pursuant to §207.01 the following:

Notes: This section was amended by resolution adopted on September 22, 2009. The words "without further charge" were deleted from the first sentence of this section in order to avoid confusion or potential conflict with new subdivision (g) of §207.13 which authorizes the charging of fees for some corrections or amendments of birth or death certificates.

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

(g) 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) 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 by resolution adopted on September 22, 2009. The section was re-titled as "Fees for vital statistics services" and new subdivisions (g) and (h) were added to include fees for corrections of birth and death certificates and for disposition permits issued pursuant to Article 205. The fees are based on cost analyses to partially recover the Department's costs in performing these functions.



COMPTROLLER

■ NOTICE

NOTICE OF ADVANCE PAYMENT OF AWARDS PURSUANT TO THE STATUTES IN SUCH cases made and provided, notice is hereby given that the Comptroller of the City of New York, will be ready to pay, at 1 Centre Street, Rm. 629, New York, NY 10007 on 10/7/09 to the person or persons legally entitled an amount as certified to the Comptroller by the Corporation Counsel on damage parcels, as follows:

Damage Parcel No.	Block	Lot
12	146	29

Acquired in the proceeding entitled: FIFTH AMENDED BROOKLYN CENTER URBAN RENEWAL PROJECT, PHASE 2 subject to any liens and encumbrances of record on such property. The amount advanced shall cease to bear interest on the specified date above.

William C. Thompson, Jr.
Comptroller

s23-o7

HOMELESS SERVICES

■ NOTICE

Notice of Concept Paper

The Department of Homeless Services ("DHS") intends in the near future to issue a Request for Proposals seeking a qualified vendor to provide Targeted Rapid Re-housing Services for the City's homeless families. The primary goal of this program is to place homeless families from shelter into the community and deliver stabilization services to ensure they remain in the community and are linked to community resources as needed. These objectives are to provide the following:

- Quick and intensive housing placement services for clients with barriers to permanency.
- Stabilization services delivered to maintain clients in the community.

In advance of the issuance of the RFP, DHS is releasing a "concept paper" presenting the agency's proposed approach and requesting comments and feedback on this new program. The concept paper will be posted on the agency's website www.nyc.gov/dhs, beginning **October 5, 2009** and public comment is invited until **October 16, 2009**. Please go to the DHS website for additional information.

s28-o2

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, 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/9New 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)
- WA1Prevent loss of sudden outside funding
- WA2Existing contractor unavailable/immediate need
- WA3Unsuccessful efforts to contract/need continues
- IG **Intergovernmental Purchasing** (award only)
- IG/F.....Federal
- IG/S.....State
- IG/OOther
- 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/crecycled 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.