

DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH

NOTICE OF INTENTION TO AMEND ARTICLE 151
OF THE NEW YORK CITY HEALTH CODE

NOTICE OF PUBLIC HEARING

In compliance with Section 1043(b) of the New York City Charter and pursuant to the authority granted to the Board of Health by Section 558 of the Charter, notice is hereby given of intention to amend Article 151 (Pest Prevention and Management) of the New York City Health Code.

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT WILL HOLD A PUBLIC HEARING ON THE PROPOSAL ON FRIDAY, JULY 23, 2010 FROM 10:00 A.M. TO 12:00 NOON 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, JULY 22, 2010. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL WORKING 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 JULY 12, 2010.

REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 12 NOON. 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 ELECTRONICALLY (WITHOUT ATTACHMENTS) THROUGH www.nyc.gov/nycrules OR <http://www.nyc.gov/html/doh/html/notice/notice.shtml> ON OR BEFORE 5:00 P.M., FRIDAY, JULY 23, 2010. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED. COMMENTS RECEIVED AFTER JULY 23, 2010 WILL BE CONSIDERED TO THE EXTENT POSSIBLE.

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

STATUTORY AUTHORITY

These amendments to the New York City Health Code (“Health Code”) are promulgated pursuant to §§556, 558 and 1043 of the New York City Charter (the “Charter”). Section 556 of the Charter provides the Department of Health and Mental Hygiene (the “Department” or “DOHMH”) with jurisdiction to regulate all matters affecting the health in the city of New York. Section 558(b) and (c) of the Charter empower the Board of Health (the “Board”) to amend the Health Code and to include in the Health Code all matters to which the 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 the efficacy of the articles in protecting public health, the Board of Health repealed and recodified Article 151 (Pest Prevention and Management) of the Health Code by resolution adopted at its December 16, 2008 meeting.

Title 16 of the City’s Administrative Code provides that the commissioner of the Department of Sanitation (“DSNY”), “from time to time, shall propose to the board of health such additions to or amendments of the health codes as in his or her opinion will promote sanitary control in the city and conduce to the security of the comfort, life and health of its inhabitants. The commissioner shall set forth fully the reasons for the proposed changes.” Administrative Code of the City of New York §16-110.

The DSNY has requested that the Board grant it authority to enforce Article 151. DOHMH supports their request and believes that such authority would increase the overall effectiveness of the City’s pest control initiatives, especially with regard to further limiting rat harborage conditions. DSNY currently has over 70 Sanitation Police, 239 Sanitation Enforcement Agents and a number of Bureau of Cleaning and Collection Supervisors that are authorized to issue violations on patrol throughout the City. Currently, these personnel issue violations against property owners for various sanitation related issues, including but not limited to dirty sidewalk and litter conditions that may be located on or appurtenant to their property. Granting DSNY the authority to issue violations under Article 151 will enhance the City’s existing ability to target those sanitation conditions that are conducive to rodents, insects and other pests.

Accordingly, the Department is requesting that the Board amend §151.04 (Enforcement by the Department and other City agencies) of Article 151 to add the City’s Department of Sanitation to the agencies currently authorized to enforce Article 151, the Departments of Buildings and Housing, Preservation and Development.

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 §151.04 of Article 151 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be, and the same hereby is amended, to be printed together with explanatory notes to read as follows:

§151.04 Enforcement by the Department and other City agencies.

Without limiting the authority of the Department, in addition to the Department, the City Departments of Buildings, [and] Housing Preservation and Development and Sanitation are authorized to enforce this Article.

Notes: §151.04 was amended by resolution of the Board of Health adopted on XXX to add the City's Department of Sanitation to the agencies authorized to enforce this Article.