



New York City Department of Health and Mental Hygiene

Board of Health

Notice of Adoption of Amendments to Article 161 of the New York City Health Code

In compliance with §1043(b) of the New York City Charter (“Charter”) and pursuant to the authority granted to the New York City Board of Health (“Board”) by §558 of said Charter, a notice of intention to amend Article 161 of the New York City Health Code (“Health Code”) was published in the City Record on June 15, 2016 and a public hearing was held on July 26, 2016. Two comments were received supporting the amendment. On its own initiative, the New York City Department of Health and Mental Hygiene (“Department”) has made certain changes to the proposed amendment to clarify the physical spaces subject to the rule. At its meeting on September 13, 2016 the Board of Health adopted the following resolution.

Statement of Basis and Purpose

Amendment of Article 161 relating to animal nuisances

The Department’s Bureau of Veterinary and Pest Control Services enforces Health Code Article 161 concerning the control of animals in the City. Section 161.03(a) of Article 161 previously required that pet owners control their pets so that they do not “commit a nuisance on a sidewalk of any public place, on a floor, wall, stairway or roof of any public or private premises used in common by the public, or on a fence, wall or stairway of a building abutting on a public place.”

The Board now clarifies that this provision applies to any area used in common by the public, regardless of whether it is publicly or privately owned.

Statutory Authority

These amendments to Article 161 of the New York City Health Code are authorized by sections 556, 558 and 1043 of the New York City Charter. Section 556(c)(2) authorizes the Department to exercise control over and supervise the abatement of nuisances affecting or likely to affect the public health. 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 Department’s authority extends. Section 1043 grants the Department rulemaking authority.

The resolution is as follows:

Shall and must denote mandatory requirements and may be used interchangeably.

New text is underlined; deleted material is in [brackets].

RESOLVED, that subdivision (a) of section 161.03 of Article 161 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes, to read as follows:

§161.03 Control of dogs and other animals to prevent nuisance.

(a) A person who owns, possesses or controls a dog, cat or other animal shall not permit the animal to commit a nuisance on a sidewalk of any public place, on a floor, wall, stairway, sidewalk, lawn, garden or roof of any public or private premises used in common by the public, or on a fence, wall [or], stairway or entranceway of a building abutting on a public place.

Notes: By resolution adopted September 13, 2016, the New York City Board of Health amended subdivision (a) of Section 161.03 of the Health Code to clarify its applicability to sidewalks, lawns, gardens or other areas of private premises that are open to the public.