

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
COMMISSIONER OF HEALTH AND MENTAL HYGIENE**

**NOTICE OF PUBLIC HEARING**

**NOTICE OF INTENTION TO AMEND CHAPTER 4  
OF TITLE 24 OF THE RULES OF THE CITY OF NEW YORK**

IN COMPLIANCE WITH SECTION 1043(a) OF THE NEW YORK CITY CHARTER NOTICE IS HEREBY GIVEN OF THE PROPOSED AMENDMENT OF CHAPTER 4 (HEALTH, SAFETY AND WELL-BEING OF RENTAL HORSES) OF TITLE 24 OF THE RULES OF THE CITY OF NEW YORK.

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 WEDNESDAY, FEBRUARY 3, 2010 IN THE THIRD FLOOR BOARDROOM (ROOM 330) AT 125 WORTH STREET, NEW YORK, NEW YORK 10013.

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

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

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

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

## **Statutory Authority**

This amendment is authorized by §§389(b) and 1043 (a) of the New York City Charter (the “Charter”) and §17-330 of the New York City Administrative Code (the “Administrative Code”). Charter §389(b) provides that “heads of mayoral agencies shall have the power to adopt rules to carry out the powers and duties delegated to the agency head or the agency by or pursuant to federal, state or local law.” Charter §1043(a) authorizes each agency to “adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law.”

## **Statement of Basis and Purpose**

Chapter 4 (Health, Safety and Well-Being of Rental Horses) was added to Title 24 of the Rules of the City of New York to implement Local Law 4 of 1982 (renumbered Local Law 64 of 1982) which established Subchapter 3 (Rental Horse Licensing and Protection Law) of Chapter 3 of Title 17 of the Administrative Code. Administrative Code §17-331 provides that the Commissioner shall appoint an Advisory Board that “shall make recommendations to the commissioner on regulations necessary to carry out the provisions of this subchapter and to promote the health, safety and well-being of horses which are required to be licensed hereunder and members of the public who hire such horses.”

The Advisory Board appointed by the Commissioner and the Department of Health and Mental Hygiene (the “Department”) are proposing that Chapter 4 be amended to incorporate more modern and humane standards for management, care and treatment of rental horses, and protection of the public. In addition, an attempt has been made to clarify that enforcement of most of these provisions is within the authority of agents and employees of the Department, the Department of Consumer Affairs, the ASPCA, and the NYPD. Provisions which apply generally to boarding, housing and care of all horses in stables required to hold Department permits have been incorporated in §161.21 of the New York City Health Code (the “Health Code”). Provisions which would apply only to care and housing of horses used in rental horse businesses have been revised when relevant and kept in Chapter 4.

§4-01. Definitions. The following changes have been made to this section:

“Abuse” – adds reference to Chapter 26 of the State Agriculture and Markets Law, and associated regulations.

“Bureau of Animal Affairs” – deleted; replaced by successor program at the Department, Office of Veterinary Public Health Services.

“Commissioner” – adds “Mental Hygiene” to Department of Health.

“Rental horse” – definition has been expanded to include any commercial use of a horse, including in exhibitions, theatrical or motion picture productions.

“Rental horse business” – lists the law and regulations for operation of such businesses.

“Retirement” – added to define the period when a rental horse is no longer employed in a rental horse business.

“Stable” – adds a reference to Article 161 of the Health Code which regulates all commercial stable premises.

“Veterinarian” – amended to specify a veterinary practitioner currently licensed in any United States jurisdiction.

“Work” – definition has been expanded to include work done by rental horses for any commercial purpose.

Abbreviations have been added to this section for “DCA” (Department of Consumer Affairs) and “NYPD” (New York City Police Department) and “Health Code” (New York City Health

Code). It should be clear, however, that although veterinarians, agents, employees and officers of these agencies are authorized to inspect stables, and the records required to be kept at stables by owners of licensed rental horses, they are not authorized to enforce these regulations by issuing notices of violation, or in any other manner. Each of these agencies has its own enforcement responsibilities under applicable law, and the ability to inspect conditions under which horses are kept at stables, and the records required to be kept at stables, is necessary for the agencies to exercise their enforcement responsibilities.

#### §4-02. Administrative Requirements.

Most of the substantive provisions of this section that track the requirements in the Administrative Code have been retained. However, some changes have been made.

Subdivision (a) requires that when a work horse has been transferred to a new owner, and the new owner intends to use the horse in a rental horse business, the new owner shall apply for a new license for the horse within 15 days of the transfer date. Paragraph (6) codifies current Department practice, designating the DCA as the Department's agent for the purpose of processing license applications.

Subdivision (b) requires that every rental horse licensed pursuant to this chapter be microchipped, and the unique identifying microchip number included on all documents, licenses and license tags related to the horse, to enable government agency inspectors and humane law enforcement agents to verify horses' identity at all times. The chip required to be used would be one that is registered with its manufacturer and for which scanners are available commercially enabling the information on the chip to be readily deciphered.

Subdivision (c) already requires that the owner of a rental horse notify the Department when a currently licensed rental horse dies at work, or under suspicious circumstances, and adds as examples of such circumstances instances where the horse was under 15 years of age, or had colic.

Subdivision (d) (1) has been amended to require that stables be constructed, maintained, equipped and operated in accordance with Article 161 of the Health Code and paragraph (2) adds requirements for recording in the daily log the microchip number of the horse, and recordings of ambient air temperature at the stands approved by the City Department of Transportation for horse drawn carriages to await passengers. Since no agency has resources to monitor these temperatures several times a day to determine when horses should be relieved of work during extreme temperatures, the responsibility for keeping records of temperatures has been placed on the drivers of horse drawn carriages who take the horse out of the stable each day.

Subdivisions (e) and (f) are new. Subdivision (e) requires a written emergency protocol, in accordance with §161.21 of the Health Code, and subdivision (f) requires that emergency cellular or other telephone contact information for owners of rental horse businesses be provided to all employees of such businesses.

#### §4-03. Housing.

A number of changes in this section and §4-04 are intended to upgrade stable conditions. Provisions that apply to commercial stables generally have been deleted from Chapter 4 entirely and have been included in Article 161 of the New York City Health Code, which is also being extensively revised by the Board of Health.

Subdivision (b) requires sprinkler systems to be installed in all rental horse stable premises by July 1, 2011. Most rental horse stable premises are in very old buildings which are not required by the City Building Code to maintain active fireproofing or fire retarding systems. They contain large quantities of straw, and other dry materials, have wooden stalls and ramps, and are not required to have sprinklers. The Department believes this is a very important safety measure.

The Advisory Board has recommended, and a new subdivision (d) would require, that beginning, July 1, 2011, stalls for rental horses in stables measure at least eight by eight or seven

by ten feet, in a configuration that allows an untethered horse to turn around and lay down in the stall. In addition, beginning July 1, 2011, no new stables may be built with stalls above the first, ground or street floor of the stable. This requirement has been included in Article 161 of the Health Code.

A new subdivision (e) requires that horses be furloughed for at least five weeks in every 12 months, and that records of furloughs be kept and made available for inspection. The five weeks of furlough may be spent at a stable, if the stable is equipped with sufficient size pasturage.

A new subdivision (f) requires that horses be exercised daily unless exercise is otherwise restricted by a veterinarian.

#### §4-04 Horse care.

Subdivision (b) adds a provision that horses be provided with adequate supplies of potable water to drink at work, and that food and water supplies be maintained in compliance with Health Code §161.21.

Subdivision (c) (Veterinary care) adds a provision that records of examinations and treatments be maintained at the horses' stables. A new provision, recommended by the Advisory Board, in paragraph (2) requires horses to be currently vaccinated against rabies, Eastern/Western equine encephalitis, West Nile virus, Rhinopneumonitis virus, and tetanus, and have an annual Coggins test. Paragraph (3) inserts a separate requirement that horses be examined and treated for internal parasites.

Although the Advisory Board has recommended that licensed horses be examined at least twice a year, the Administrative Code expressly limits such examinations to no more than one per year. Administrative Code §17-330 (n) provides that "Every horse required to be licensed hereunder shall be examined by a veterinarian prior to its use in a rental horse business and thereafter at intervals of not more than one year. ..."

Subdivisions (d) and (e) are substantively unchanged, and refer to provisions in §161.21 of the Health Code regarding maintenance of equipment and grooming.

#### §4-05 Working conditions.

To increase public safety, subdivision (a) adds a requirement that drivers and riders of rental horses not leave horses unattended and hold the reins of the horses at all times when horses are not stabled.

A new paragraph (2) of subdivision (b) requires that owners of carriage horse businesses provide their drivers with an accurate thermometer to measure the ambient air temperature at the places where the drivers wait to pick up passengers. Administrative Code §17-330 (o)(1) and (2) require that carriage horses not be worked when air temperature measurements are below 18 degrees Fahrenheit or above 90 degrees Fahrenheit. Paragraph (3) of Administrative Code §17-330(o) requires such temperatures to be measured "by the commissioner or his or her designee at street level at one of the stands designated pursuant to section 19-174 of the [Administrative] code." It is clearly beyond the resources available to any government agency to employ and assign sufficient government personnel to constantly take such temperature measurements, and the rule therefore designates the drivers of the carriages to take and record such measurements at the places where the carriages are allowed to stand and receive passengers, each time the carriage returns to its designated stand.

Paragraph (1) of subdivision (c) would restrict work on a night shift to the hours before 3 a.m.

Subdivision (e) has been amended to add a new provision in paragraph (1) that prohibits licensing "new" carriage horses that are younger than four or older than 20 years of age.

#### §4-06 Owners, riders and operators.

Subdivision (a) which prohibits specific distractions as a safety measure has been amended by adding prohibitions on smoking by drivers and passengers, and use by drivers of cell phones,

cameras, and electronic music players, e-mailing or text messaging, or any other devices that would distract drivers of horse drawn carriages.

Subdivision (c) adds a requirement that riding horses be matched to the rider's age, current skill level and experience, incorporating a recommendation of the State Department of Agriculture and Markets Horse Health Assurance Program.

New subdivisions (h) and (i) update these rules to indicate that license suspensions and revocations, and suspensions of horses from work, are to be adjudicated at the City's Office of Administrative Trials and Hearings, and that proceedings are to be conducted in accordance with Article 5 of the Health Code and Chapter 7 of Title 24 of the Rules of the City of New York.

§4-07 Training program for drivers of horse drawn cabs; fees.

A new subdivision (b) adds a requirement that a person registering for the course hold a currently valid license to drive a motor vehicle. The purpose of this requirement is to enhance safety of the public in general, passengers in carriages and horses, and the horses driven. Administrative Code §17-334.1 requires the Department to offer a training program, and to cover among its topics "traffic laws and rules of the city of New York." These traffic laws and rules have grown increasingly complex, and cannot be taught more than superficially in the brief training course offered by the Department. A horse drawn carriage driver who is not at least a licensed motor vehicle driver cannot be expected to know and observe rules governing all traffic, safeguard his or her passengers, and safely control his or her carriage and horse.

A new subdivision (d) provides that training materials and examinations will be regarded as confidential and will be withheld from disclosure to the full extent of the law. The Department uses the same materials without revision for five years, and the new rule would seek to prevent disclosure of the training materials and examinations for that period.

#### **Statement Pursuant to Charter Section 1042 - Regulatory Agenda**

The proposed rule change was not included in the Department's Regulatory Agenda because the need for the rule was not known at the time the Regulatory Agenda was published.

Note - Matter to be deleted is in [brackets]

Matter underlined is new

§1. It is hereby proposed that §4-01 of Chapter 4 of Title 24 of the Rules of the City of New York be amended to read as follows:

**§ 4-01. Definitions.** When used in [these regulations] this Chapter:

*Abuse.* "Abuse" means the failure to provide care for a horse in the manner prescribed by these regulations, [and/or] Subchapter 3 of Chapter 3 of Title 17 of the New York City Administrative Code, Article 26 of the Agriculture and Markets Law, or successor law, and any regulations of the Commissioner of the Department of Agriculture and Markets, or any other physical maltreatment of the rental horse.

*Adverse weather conditions.* "Adverse weather conditions" means any weather conditions which are hazardous to the health and safety of horse, driver, rider or public.

*ASPCA.* "ASPCA" means the American Society for the Prevention of Cruelty to Animals.

[*Bureau of Animal Affairs.* "Bureau of Animal Affairs" means the Bureau of Animal Affairs Of the Department of Health.]

*Carriage horse.* "Carriage horse" means any horse which is used by its owner or any other person to pull any vehicle, carriage, sled, sleigh or other device in exchange for a fee. A horse rented or leased by its owner to another for any of the foregoing purposes shall be deemed to be a carriage horse for the purposes of this title.

*Commissioner.* "Commissioner" means the Commissioner of the New York City Department of Health and Mental Hygiene.

*DCA.* "DCA" shall mean the Department of Consumer Affairs of the City of New York, or successor agency.

*Department.* "Department" means the New York City Department of Health and Mental Hygiene.

*Driver.* "Driver" means an individual licensed by the New York City Department of Consumer Affairs to operate a horse drawn carriage for a fee.

*Duplicate tag or certificate.* "Duplicate tag or certificate" shall include any replacement of the original thereof.

*Fee.* "Fee" means a monetary or other consideration for the rental of a horse.

*Health Code.* "Health Code" shall mean the New York City Health Code, found in Title 24 of the Rules of the City of New York.

*NYPD.* "NYPD" shall mean the New York City Police Department.

*Owner.* "Owner" means the owner of a horse which is required to be licensed pursuant to these regulations and the owner of a rental horse business in which such horse is used.

*Person.* "Person" means an individual, partnership, corporation, association or other legal entity.

*Rental horse.* "Rental horse" means a horse which is used in a rental horse business for any commercial use including, but not limited to, riding, exhibitions, or drawing a horse drawn carriage or other vehicle.

*Rental horse business.* "Rental horse business" means a business enterprise which provides or offers the use of a horse to the public for a fee for the purpose of riding or drawing a horse drawn vehicle or which operates a horse drawn vehicle for hire, including, but not limited to, [such as] a horse drawn cab business regulated by Subchapter 21, Chapter 2, of Title 20 of the New York City Administrative Code and the rules of the Department of Consumer Affairs (DCA) in Title 6 RCNY Chapter 2, or successor agency.

*Retirement.* "Retirement" means the period of a horse's life during which the horse is not used in a rental horse business.

*Rider.* "Rider" means an individual to whom a riding horse is rented for a fee.

*Riding horse.* "Riding horse" means a horse which is available to the public for a fee for the purpose of riding.

*Stable.* "Stable" means any place, establishment or facility subject to Article 161 of the New York City Health Code where one or more rental horses are housed or maintained.

*Under tack.* "Under tack" means that a horse is equipped for riding or driving.

*Veterinarian.* "Veterinarian" means a person currently licensed to practice veterinary medicine in the [State of New York,] United States.

*Work.* ["Work" means a] A horse is considered to be at work when it is out of its stable and presented to the public as being available for riding, pulling carriages, vehicles or other devices, or when it is saddled or in harness or when it is being ridden or is pulling a carriage, vehicle or device, or when it is being used for other commercial purposes, including but not limited to exhibitions, street fairs, and other events.

§2. It is hereby proposed that §4-02 of Chapter 4 of Title 24 of the Rules of the City of New York be amended to read as follows:

**§ 4-02. Administrative Requirements.**

(a) [*License.*] Horse license required.

(1) No person shall use or offer the use of a horse in a [Rental Horse Business] rental horse business unless such horse is licensed pursuant to [the provisions of these regulations. For purposes of these regulations, the use of a horse in the Rental Horse Business means that a horse is used or offered for use for the purposes of riding or is used in the operation of a horse drawn vehicle for hire, such as a horse drawn cab.] this Chapter.

(2) A license shall be issued for a term of one year from the date of issuance thereof and shall be renewed prior to the expiration of such date.

(3) The annual fee for a license or renewal shall be twenty-five dollars.

(4) An application for a license or renewal of a license shall be made [to the Department. Such application] on a form provided by the Department and shall contain the name and address of the owner of the horse and the rental horse business in which such horse is to be used, the age, sex, color, marks and any other identifying marks such as brands or tattoos of the horse, microchip number, the location of the stables where the horse is to be kept and any other information [which these regulations may require.] required by the Department. The application shall be accompanied by the license or renewal fee, and the health certificate specified in paragraph (7) of this subdivision. No license shall be transferable. Upon the transfer of ownership of any horse, the

new owner shall file an application for, and shall obtain a license for such horse within 15 days of the transfer date if the new owner intends to use the horse in a rental horse business in New York City.

(5) The Commissioner shall not issue or renew a horse license unless he or she is satisfied in accordance with Article 5 of the Health Code that the [provisions of] applicant for a new or renewal license is able and willing to comply with all applicable provisions of federal, state and local law, including the Agriculture and Markets Law, the [New York City] Health Code, the Administrative Code and [these regulations will be met] this Chapter.

(6) The Commissioner may designate the Department of Consumer Affairs (“DCA”), or successor agency, as the agent of the Department for the purpose of issuing such licenses.

(7) Health certificate. A health certificate in a form approved or provided by the Department that is prepared and signed by an examining veterinarian shall be submitted to the Department with each application for a new or renewal license, and a copy shall be maintained at the horse’s stable. The certificate shall include the horse’s license identification number, microchip number, the veterinarian’s assessment of the age and condition of the horse, and the maximum number of hours each day that, in the opinion of the veterinarian, the horse may be permitted to work.

(b) *[Identification] Microchipping, identification tag and [certificate of] license certificate.*

(1) Microchipping required. Commencing January 1, 2011, each owner shall arrange for a licensed veterinarian to implant a microchip between the shoulder blades of every horse employed in a rental horse business. The microchip number shall be registered with the manufacturer. The system selected for microchipping shall utilize any commercially available scanning methodology that enables the information on the chip to be readily deciphered. After microchipping, the unique number assigned to the microchip shall be included on all license applications, health certificates, inspection and other reports related to the horse.

[(1)] (2) Identification number. Each horse licensed pursuant to [the provisions of these regulations] this Chapter shall be assigned an official identification number by the Department. [Such] Until January 1, 2011, such identification number must be heat branded on a hoof and shall be re-branded whenever that number is no longer clearly visible. Each number shall be at least 3/4 inch high. Horses licensed for use in a rental horse business after January 1, 2011 shall be microchipped and shall not be branded or re-branded.

(3) License tag. [Such] The identification number shall also be inscribed on a metal tag which shall be securely attached to the right cheek strap of each rental horse at all times when the horse is at work. Such tag shall be issued to the owner [with the Certificate of License] holding the license certificate. Duplicate tags and [Certificate of Horse License] license certificates shall be

issued only upon surrender of the original or submission of proof of loss[,] satisfactory to the Department, and payment of a fee of \$2.00.

[(2) The Certificate of License](4) License certificates. The license certificate shall at all times remain at the stable where the horse is kept and shall be available for inspection by any [police officer, or agent of the Department, and the ASPCA, or to veterinarians employed or retained by the Department or ASPCA, or employees of the Department of Consumer Affairs or any persons designated by the Commissioner to enforce these regulations] veterinarian, employee, agent or officer of the Department, the NYPD, the DCA and the ASPCA.

(c) Disposition upon death, [ or] transfer of ownership, or retirement of licensed horses.

(1) If a currently licensed horse dies while at work or [under suspicious circumstances,] in a stable, [the Bureau of Animal Affairs of the Department must be notified within] the owner or other person managing or having custody of the horse shall notify the Department by telephone immediately, and in writing no later than 12 hours [of] after death. Such reports shall include all the information required by the Department. Remains shall not be removed from the City of New York nor disposed of for a minimum of 24 hours [of such] after providing telephone notice unless prior approval is given by the [Bureau.] Department. The [Bureau] Department may order the delivery of the remains to the ASPCA or other approved veterinary organization for the purpose of performing [an autopsy] necropsy, or may notify the Department of Sanitation that the remains may be disposed of in accordance with applicable law.

(2) The [Bureau shall be notified] owner of the horse shall notify the Department of the transfer of ownership or other disposition of a licensed horse in writing within [10] five business days [thereafter] of disposition. Such notice shall include date of disposition and if sold [in New York City], the name and address of buyer or other transferee. In the case of death, the notice shall include the date of death. A [licensed] horse [covered by these regulations] licensed pursuant to this Chapter [,] shall not be sold or disposed of except in a humane manner.

(d) Inspection and record keeping.

(1) Stables in which horses used in a rental horse business are kept shall be [open for inspection by authorized officers, veterinarians and employees of the Department of Health, and any persons designated by the Commissioner to enforce the provisions of this title, agents of the ASPCA, police officers, and employees of the Department of Consumer Affairs.] constructed, equipped, operated and maintained in accordance with Article 161 of the Health Code and shall be subject to inspection at all times by any veterinarian, employee, agent or officer of the Department, the NYPD, the DCA and the ASPCA.

(2) An owner of a [Rental Horse Business] rental horse business shall, at a minimum, keep [such

records] a daily log, in [the form shown in Appendix A, including but] a form provided or approved by the Department that includes, but is not limited to, a consecutive daily record of the movement of each licensed horse including driver's name and identification number, if applicable, rider's name, horse's identification number, microchip number, vehicle license plate number, if applicable, time of leaving stable and time of return to stable. Records of ambient air temperatures taken by horse drawn carriage drivers at the stands where horse drawn carriages wait for passengers, required pursuant to §4-05 (b)(2), shall be kept in the carriage by the carriage driver during the work shift and then inserted into the log book upon return to the stable on completion of each shift. Such records shall be kept on the premises of the stable where the horses are kept and shall be made available for inspection by any veterinarian, employee, agent or officer of the Department, the NYPD, the DCA and the ASPCA. A stable where rental horses are kept or maintained shall have a time clock or similar tamper-proof device to record by date and time the movement of a horse covered by these regulations to and from work.

(e) *Written emergency protocol.* Every person operating a horse rental business shall establish and maintain a written emergency plan that indicates how emergencies will be managed at horse stables operated by such business, and in other areas where horses are at work, in accordance with §161.21 of the Health Code, or successor provision. The protocol shall be kept at the stable, and updated as necessary. Owners shall notify and train all stable and other employees of such businesses in the procedures outlined in the protocols for emergency management. Copies shall be made available to stable employees, and to veterinarians, employees, agents and officers of the Department, the NYPD, the DCA and the ASPCA upon request.

(f) *Emergency contact information.* Owners of horse rental businesses shall provide all employees of such businesses with primary and alternative emergency cellular and other telephone contact information. Owners of horses housed in stables subject to this Chapter shall provide the owners and employees of such stables with emergency cell or other telephone contact information.

§3. It is hereby proposed that §4-03 of Title 24 of the Rules of the City of New York be amended to read as follows:

**§ 4-03. Housing.**

(a) *Stable permits and premises.* No person shall operate a stable where horses used in a rental horse business are boarded or housed without a permit issued by the Commissioner. All stables shall be maintained in accordance with §161.21 of the New York City Health Code, or successor provision.

[(1) *Walls and ceilings.* Walls and ceilings shall be covered with a smooth, nonabsorbent light-

colored finish and shall be maintained clean at all times.

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

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

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

(5) *Storage areas.* Storage areas shall be of adequate size, and shall be insect and rodent-proofed so as to provide no harborage and remain vermin free.]

[(6)](b) *Fire hazards.* Premises shall be kept free of fire hazards. Effective July 1, 2011, all stables used by a rental horse business shall be equipped with an operational sprinkler system installed in accordance with §BC903.3.1.1 of the New York City Building Code, or successor provision.

[(b)](c) *Internal temperature and ventilation.* An internal temperature of at least 35 degrees Fahrenheit shall be maintained in stables during the winter months. Adequate ventilation shall be maintained, but rental horses shall not be unnecessarily exposed to drafts in stables during cold weather.

[(c) *General sanitation.* All interior areas of a stable, and all exterior areas surrounding a stable shall be kept clean, properly drained and free of nuisances including, but not limited to, odors and accumulation of refuse or excrement. Each stable where rental horses are kept shall have implements and materials such as brooms, hoses, hose connections, covered metal receptacles, brushes, disinfectants and detergents as may be required to maintain sanitary conditions.

(d) *Rodent and insect control.* A pest control program acceptable to the Department shall be maintained.

(e) *Lighting.* All parts of premises shall be adequately lighted by natural or artificial means so as to permit the activity for which the premises are used to be carried on safely and to permit effective inspection and the cleaning of the premises.]

[(f)](d) *Stalls.*

(1) Until July 1, 2011, [Stalls] stalls in stables used in a rental horse business shall be a minimum of four feet wide, ten feet long, with a ceiling clearance of at least nine feet. [Bedding shall be changed at least once daily, and shall be at least three inches deep.]

(2) On and after July 1, 2011, stables used in a rental horse business shall be equipped with individual horse stalls that are sixty-four square feet or larger in area, with a minimum size of eight feet wide by eight feet long, or seven feet wide by ten feet long, in a configuration that enables an untethered horse to turn around and lay down in the stall. Ceiling clearance shall be at

least nine feet. A halter shall be placed on the horse or hung outside each stall at all times.

(e) Furloughs. A furlough, during which a currently licensed horse may not be worked in a rental horse business, shall be provided for each such horse for at least five weeks in every twelve months. Each furlough shall be for a minimum period of at least one week. If a stable maintains at least 1,000 square feet of pasturage per horse, the furlough can be at the stable premises. Records showing dates of and places where horses are furloughed shall be maintained by the stable owner or owner of the rental horse business and provided to veterinarians, employees, agents and officers of the Department, the NYPD, the DCA and the ASPCA on request.

(f) Exercise. Every horse owned by a rental horse business operator, whether or not currently licensed pursuant to this Chapter, shall be exercised outside its stall for at least one hour per day, for five days per week unless a veterinarian has advised against such exercise. Exercising may include time spent riding or driving a carriage on a work shift, or hand walking outside or at stable premises, if a stable maintains at least 1,000 square feet of pasturage per horse.

(g) Other laws. Rental [Horse Business] horse business stables shall comply with all applicable provisions of the New York City Administrative Code including but not limited to the Building, Fire and Electrical Codes and [shall also comply with the applicable provisions] Articles 131, 151 and 161 of the New York City Health Code.

§4. It is hereby proposed that §4-04 of Title 24 of the Rules of the City of New York be amended to read as follows:

**§ 4-04. Horse Care.**

(a) *Abuse.* No person shall abuse or knowingly permit others to abuse a horse.

(b) *[Food] Feed and water.* [Rental horses while at work shall be allowed to drink.] While at work, horses shall be provided with adequate supplies of potable water and shall be allowed to drink. However, a rental horse shall not be allowed to drink in large quantities unless it is first rested. Troughs shall be cleaned daily. Sufficient nutritional [foods] feed and water shall be provided [free of dust, mold, vermin and other contaminants] in accordance with §161.21 of the Health Code, or successor provision. Rental horses shall be fed at least twice daily with the larger feeding [being] provided after the horse has completed work.

(c) *[Medical] Veterinary care.*

(1) Examinations. Every horse [required to be] licensed [hereunder] pursuant to this Chapter shall be examined by a veterinarian prior to its initial use in a rental horse business, and [thereafter at intervals of not less than once a year] prior to the owner's submission of a each application for renewal of the horse's license. The horse shall be examined [and treated for

internal parasites;] and evaluated for its general physical condition, [which is to include] including, but not limited to, inspection of teeth, hoofs, and shoes; and for its physical ability to perform [the] required work [or duties as required of it]. The record of the examination shall [also] include a [record] notation of any injury, disease, or deficiency observed by the veterinarian at the time, together with [any prescription or humane correction or disposition of the same. A health certificate provided by the Department and signed by the examining veterinarian shall be maintained at the stable premises at which such horse is located, and shall contain the identification number, age and condition of the horse, as well as the maximum number of hours a day that, in the opinion of the veterinarian said horse should work. A copy of said certificate shall be mailed to the Bureau of Animal Affairs.] the treatment prescribed or other recommendation of the veterinarian. Horses shall thereafter be examined as necessary for evaluation and treatment of any acute or chronic physical condition or problem. All records of examinations and treatment of horses used in a rental horse business shall be kept on stable premises and shall be made available for inspection upon request by veterinarians, employees, agents and officers of the Department, the DCA and the ASPCA. The original record of each pre-licensing or pre-renewal examination shall be forwarded to the Department in accordance with §4-02 (a)(7) of this Chapter.

(2) Vaccinations. Each horse shall be currently vaccinated against rabies, Eastern/Western equine encephalitis, West Nile virus, Rhinopneumonitis virus, and tetanus, and shall have an annual equine infectious anemia blood screening test (Coggins Test).

(3) Deworming. Horses shall be examined and treated for internal parasites in accordance with accepted veterinary standards and deworming products shall be rotated as necessary to avoid development of parasitic drug resistance.

(d) *Equipment.* Saddles, blankets, harnesses, bridles and bits and any other equipment shall be properly fitted and kept in good repair, in accordance with §161.21 of the Health Code, or successor provision. Blankets, bridles and bits shall not be used by [another] more than one horse unless [it is] first disinfected and [disinsected.] treated to remove insects and parasites.

(e) *Grooming.* Horses shall be kept clean and [in an ectoparasites control program. Horses shall be trimmed or shod at least every three to six weeks or sooner, if necessary.] maintained in accordance with §161.21 of the Health Code, or successor provision.

§5. It is hereby proposed that §4-05 of Title 24 of the Rules of the City of New York be amended to read as follows:

**§ 4-05. Working Conditions.**

(a) *Control.* It shall be the responsibility of owners, drivers, and riders to protect the horse and, when under their control, to ensure that the horse is not left to roam freely and possibly cause harm to the public or itself. Owners, drivers and riders shall not leave horses unattended, and shall hold the reins of the horse at all times when horses are not in a stable.

(b) *Environment.*

(1) Owners shall not allow a horse to be worked on a public highway, path, park or street during adverse weather or other conditions which are a threat to the health or safety of the horse and the public. Adverse weather conditions shall include but not be restricted to snow, ice, heavy rain or other slippery conditions. A horse being worked when such conditions develop shall be returned to the stable by the most direct route [as soon as practicable] immediately.

(2) Owners of horses licensed to work in a horse drawn carriage business pursuant to this Chapter shall provide accurate thermometers to the drivers of horse drawn carriages and require drivers to take measurements of ambient air temperatures at the street stands where the drivers' carriages await passengers. Such measurements shall be made upon the arrival of the horse drawn carriage at the stand, and each time the carriage returns to the stand, and entered in a log on the carriage during the work shift and transferred after the work shift to a log required to be maintained at the stable pursuant to §4-02 (d) of this Chapter.

~~[(2)]~~ (3) Whenever the air temperature is 90 degrees Fahrenheit or above [and/or the wet bulb temperature is 85 degrees Fahrenheit or above] all rental horses [must immediately cease working, be offered shade when available, be rested and cooled off, and then walked] shall be returned to their stable. All horses [so ordered to return] returned to their stable [must] as a result of such conditions shall be unbridled and shall remain at the stable for at least one hour and until [both the wet bulb temperature is less than 85 degrees Fahrenheit and] the air temperature is less than 90 degrees Fahrenheit.

~~[(3)]~~ (4) During the winter months, horses stationed outdoors while awaiting riders or passengers shall be covered with blankets.

(c) *Work and rest periods.*

(1) Carriage horses shall not be at work for more than ten hours in any continuous twenty-four hour period[. including travel to and from their stables, and on a night shift shall work no later than 3 a.m. Riding horses shall not be at work for more than eight hours in any continuous twenty-four hour period.

(2) There shall be a rest period of the following duration:

(i) Riding horses--fifteen minutes for every riding hour.

(ii) Carriage horses--fifteen minutes for every two pulling hours.

(d) *Permissible riding paces.* Carriage horses shall not be driven at a pace faster than a trot. Riding horses may be ridden at a canter but shall not be galloped.

(e) [*Physical*] Age and physical condition.

(1) Age. A horse shall not be initially licensed as a carriage horse unless it is older than four years and less than 20 years of age.

(2) Condition. A horse required to be licensed pursuant to [these regulations] this Chapter which is [lamed] lame or suffers from a physical condition or illness making it unsuitable for work may be ordered [to be] removed from work by [the Commissioner or his designee or by an agent of the ASPCA or a veterinarian employed or retained by such Commissioner or ASPCA to inspect licensed horses] a veterinarian, employee, officer or agent of the Department, the NYPD or the ASPCA. A horse [for which such an order has been issued] ordered removed from work shall not be returned to work by its owner until a veterinarian has cleared the horse to return to work, by indicating on a certificate of examination that it has recovered from the condition which caused the issuance of the order or until such condition has improved sufficiently that its return to work will not aggravate the condition or otherwise endanger the health of the horse. A copy of such certificate shall be sent to the individual at the Department, the NYPD or the ASPCA who ordered the horse removed from work, and the original certificate shall be maintained with the horse's health care records at the stable. In any proceeding[, ] or adjudication of a notice of violation issued pursuant to [under] this section[, ] it shall be presumed that a horse which is found at work within forty-eight hours after the issuance of an order of removal and which is disabled by the same condition which caused such order to be issued has been returned to work in violation of this section. Such presumption may be rebutted by offering [a] the certificate of [a] the examining veterinarian indicating suitability to return to work prior to the expiration of the forty-eight hour period.

§6. It is hereby proposed that §4-06 of Title 24 of the Rules of the City of New York be amended to read as follows:

**§ 4-06. Owners, Riders and Operators.**

(a) *Use of alcohol or drugs or other distractions.* No person shall ride a horse or [shall] operate a horse drawn carriage while under the influence of alcohol or drugs or knowingly permit others to do so. Neither passengers nor drivers shall smoke while occupying or operating a carriage or riding a rental horse. Drivers of horse drawn carriages shall not use cell phones, electronic music players connected to earphones or ear buds, e-mail or text messaging devices, still or video or motion picture cameras or any other electronic or mechanical device that might interfere with the

operator's ability to give undivided attention to, and safely operate the carriage and control the carriage horse.

(b) *Age.* Owners and drivers of horse drawn carriages shall be of such age and experience as specified in [the Department of Consumer Affairs Rules and Regulations] regulations of the DCA or successor agency.

(c) *Provision for mounts for those who hire.* Owners of riding horses shall be responsible for providing a suitable and properly fitting mount for persons who hire a horse for riding purposes, matched to the rider's age, current skill level and experience.

(d) *Provision for escorts.* No person shall be permitted to take a riding horse off the stable grounds without the escort of a properly experienced rider unless such person has demonstrated sufficient skill in handling of the horse in the presence of stable personnel.

(e) *Joint liability of owner and renter.*

(1) An owner shall be jointly liable with the person to whom a horse is rented for any violation of [these regulations] this Chapter committed by such person if the owner had knowledge or notice of such act and did not attempt to prevent it from occurring.

(2) Owners, operators, or riders of horses shall be in violation of [these regulations] this Chapter and of Subchapter 3 of Chapter 3 of Title 17 of the New York City Administrative Code if a horse is abused during their ownership, care or custody. Joint responsibility for a horse shall exist under circumstances as described in § 4-06(e) (1).

(f) *Civil violations and penalties.* Any violation of Subchapter 3 of Chapter 3 of Title 17 of the New York City Administrative Code or of [these regulations] this Chapter shall be [may be prosecuted as civil violations] subject to a civil penalty of [a sum] not less than twenty-five nor more than five hundred dollars or by the suspension from work of the horse with respect to which the act which caused the violation was committed or by both such civil penalty and suspension. [Civil violations, under these regulations] Notices of violation seeking monetary penalties for violations of this Chapter or Title 17 of the Administrative Code shall be adjudicated before the Administrative Tribunal of the Department in accordance with Article 7 of the Health Code.

(g) *Appeals.* An appeal [from such prosecution] of a notice of decision finding an owner in violation of the provisions of this Chapter or Title 17 of the Administrative Code may be had as provided for in Article 7 of the [New York City] Health Code.

(h) *Objections to suspension from work or revocation of license.* An owner who objects to an order of the Commissioner suspending a horse from work or revoking a license issued pursuant to this Chapter may request that the Department schedule a hearing at the Office of Administrative Trials and Hearings of the City of New York (OATH) where the owner may show cause why

such order should not be enforced. Such hearing shall be scheduled for a date no later than 15 days after the date of the order. An order suspending a horse from work because the Department reasonably believes that a horse's health would be endangered by its continuing to work, shall not be stayed pending the outcome of such hearing.

(i) *Suspension or revocation of licenses.* Licenses issued to individual owners of horses for use in a horse drawn carriage or other rental horse business shall be subject to grounds and procedures for suspension or revocation, in accordance with Article 5 of the Health Code and the rules of the Department in Chapter 7 of these Rules.

§7. It is hereby proposed that §4-07 of Title 24 of the Rules of the City of New York be amended to read as follows:

**§ 4-07. Training [Program]Course for Drivers of Horse Drawn Cabs; Fees.**

(a) *Fee.* Each person registering for the training [program] course offered to drivers of horse drawn cabs shall pay a non-refundable fee of twenty-five dollars (\$25.00). [Except where the person has received course materials or has attended any part of the course, said fee shall be refundable upon request made prior to the conclusion of the course.]

(b) *Driver's license.* Each person registering for the course shall provide the Department with a copy of his or her currently valid New York State driver's license and such other identification as the Department may require as part of his or her registration.

(c) *When a registrant demonstrates by his or her conduct that he or she is not willing or able to comply with all applicable laws, the Department may terminate such person's registration and discontinue his or her participation in the course.*

(c) *Training course materials.* The Department will regard printed materials, manuals, tests and answers used in the training course as confidential and shall withhold such items from public disclosure to the full extent of the law.

§8. It is hereby proposed that Appendix A of Chapter 4 of Title 24 of the Rules of the City of New York be repealed.

Chapter 4 intention 2009.doc

12/23/09