

LANDMARKS PRESERVATION COMMISSION

Notice of Adoption of Final Rules

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE LANDMARKS PRESERVATION COMMISSION by Section 3020 of the New York City Charter and Sections 25-303, 25-305, 25-306, 25-307, 25-308, 25-310, 25-313 and 25-319 of the Administrative Code of the City of New York, and in accordance with the requirements of section 1043 of the New York City Charter, that the Landmarks Preservation Commission hereby adopts amendments to Chapters 2, 3, 5, 7 and 11 of Title 63 of the Rules of the City of New York.

These amendments and new rules were first published in the City Record on January 30, 2018, and a public hearing was held on March 27, 2018. After receiving public comments, the proposed rules were further amended, and a new set of rules were then published in the City Record on August 9, 2018 in advance of a second public hearing that was held on October 16, 2018, where public comments were received. The adopted rules reflect certain of these comments, as well as technical typographical corrections to the text.

Statement of Basis and Purpose of Rules

Introduction

The Landmarks Preservation Commission (“LPC” or “Commission”) has adopted both new rules and amendments to previous rules set forth in Chapters 2, 3, 5, 7 and 11 of Title 63. In Chapter 2, the chapter that has undergone most of the revisions, sections have been re-arranged, re-numbered and combined, amendments made to various sections, and new rules added concerning barrier-free access, sidewalks and excavation; Chapter 3 (windows), has been repealed and reorganized, as amended, as a new section incorporated into Chapter 2; in Chapter 5, there are amendments to sections 5-01 through 5-03 and new section 5-04 has been added; in Chapter 7, there are amendments to sections 7-01 through 7-06; and in Chapter 11, there are amendments to sections 11-01 through 11-06.

Purposes of the Rulemaking

In adopting this comprehensive revision to its rules, the LPC has had the following goals:

(1) to make the work of the Commission more transparent and efficient by authorizing the LPC Staff to approve a variety of work types that are consistently approved by the Commission utilizing established criteria;

(2) to make the Commission more efficient by ensuring that applicants do not have to go through the more time-intensive Certificate of Appropriateness public hearing process for work types that are regularly approved by the Commission utilizing established criteria;

(3) to bring the Commission’s rules up to date with Commission approvals concerning compliance with a wide variety of other governmental codes and criteria, including barrier-free access, energy codes and resiliency mandates;

(4) to amend previous rules, as well as add new ones, to reflect current and established practices of the Commission;

(5) to reorganize the rules comprising Subchapter B of Chapter 2, including consolidation of some existing rules, to make them more intuitive and user-friendly; and

(6) to ensure that the Commission has the capacity at future public hearings and meetings to review an increasing number of applications, by delegating to the LPC Staff the authority to approve work that is consistently approved by the Commission.

Summary of Changes to Title 63

Most of the rule changes are found in Chapter 2. All of sections 2-11 through 2-21 have been amended, in some cases sections have been consolidated, and all have been reorganized. The chart below sets forth the prior regulatory scheme adjacent to the adopted revisions, accompanied by general explanatory notes. A more detailed summary of the changes in each section and chapter follows this chart.

<u>Previous Provisions of Title 63</u>	<u>Notes</u>	<u>Adopted Revisions to Title 63</u>	<u>Notes</u>
Chapter 2 (Alteration of Landmarks and Historic District Buildings)		Chapter 2 (Approval of Proposed Work on Designated Buildings and Structures)	Re-titled to reflect that it will cover some work on buildings in Scenic Landmarks and other structures
§2-04	Amendments made	§2-04 (Summonses – New Applications)	
§2-11 (Installation of Heating, Venting and Air-Conditioning Equipment)	Repealed, amended and re-enacted as §2-21	§2-11 (Repair, Restoration, Replacement and Recreation of Building Facades, Materials, Surfaces, Features and Elements)	<ul style="list-style-type: none"> ●Combination of former §§2-14 (Sandstone Restoration/Replacement) and 2-17 (Restoration of Building Façade Features) ●Amendments made
§2-12 (Awnings)	Combined with storefront criteria	§2-12 (Storefronts and Commercial and Residential	●Combines previous awning section with storefront criteria from

		Awnings)	former §2-17 <ul style="list-style-type: none"> ●Includes canopies ●Amendments made
§2-13 (Fire Escapes)	Amended and re-codified as §2-22	§2-13 (Signage)	<ul style="list-style-type: none"> ●Previously codified as §2-20 (Bracket Signs) ●Amended and re-titled as Signage
§2-14 (Sandstone Restoration/Replacement)	Combined with §2-17, amended and re-codified as §2-11	§2-14 (Windows and Doors)	<ul style="list-style-type: none"> ●Windows previously in Chapter 3 ●Includes former §2-15 (New Window Openings) ●Adding criteria for doors ●Amendments made
§2-15 (New Window Openings)	Combined with Window rules and re-codified as §2-14	§2-15 (Additions: Rooftop and Rear Yard Additions)	<ul style="list-style-type: none"> ●Combines former §§ 2-16 and 2-19 ●Amendments made
§2-16 (Rear Yard Additions)	Combined with §2-19 (Rooftop additions) and re-codified as §2-15	§2-16 (Excavation)	New section
§2-17 (Restoration of Building Façade Features)	Combined with §2-14 and re-codified as §2-11	§2-17 (Front Yards and Areaways)	New section
§2-18 (Temporary Installations)	Amended and re-codified as §2-05.	§2-18 (Barrier-Free Access)	New § 2-05; amendments made
§2-19 (Rooftop Additions)	Combined with §2-16 (Rear Yard Additions) and re-codified as §2-15	§2-19 (Sidewalks)	New section
§2-20 (Bracket Signs)	Amended and re-codified as §2-12	§2-20 (Health, Safety and Utility Equipment)	New section
§2-21 (Public Pay Telephones and Public Communication Structures)	Re-codified as §2-23	§2-21 (Heating, Venting and Air-Conditioning)	<ul style="list-style-type: none"> ●Previously codified as §2-11 ●Repealed and re-enacted with amendments
§2-22	Currently reserved	§2-22 (Fire Escapes)	<ul style="list-style-type: none"> ●Previously codified as §2-13 ●Amendments made
§2-23	Currently reserved	§2-23 (Public Pay Telephones and Public Communication Structures)	<ul style="list-style-type: none"> ●Currently codified as §2-21 ●No amendments made

§§2-25 – 2-29	Currently Reserved	§§2-25 – 2-29	[Reserved]
§2-31 (Definitions)	Amendments made	§2-31 (Definitions)	Amendments made
§2-32 (Expedited Certificates of No Effect)	Amendments made	§2-32 (Expedited Certificates of No Effect)	Amendments made
§2-34 (Remedies for False Statements)	Amendments made	§2-34(Remedies for False Statements)	Amendments made
Chapter 3 (Repair and Replacement of Windows in Landmarks and Historic District Buildings)	Moved to Chapter 2 and re-codified as §2-14	[Reserved]	[Reserved]
Chapter 5 (Historic Preservation Grant Program)	Amendments made to various sections	Chapter 5 (Historic Preservation Grant Program)	Amendments made to §§ 5-01, 5-02, 5-03 and 5-04
Chapter 7 (Permit Expiration and Renewal)	Amendments made to various sections	Chapter 7 (Permit Duration, Renewal and Revocation)	<ul style="list-style-type: none"> ● Re-titled ● § 7-05 repealed and § 7-06 renumbered as § 7-05 ● Amendments made to §§ 7-02, 7-03, and 7-04
Chapter 11 (Administrative Enforcement)	Amendments made to various sections	Chapter 11 (Administrative Enforcement)	<ul style="list-style-type: none"> ● Amendments made to §§ 11-01, 11-02, 11-03, 11-04, 11-05 and 11-06 ● OATH Penalty Schedule added as Appendix A

Description of Changes

The following is a chapter-by-chapter, section-by-section description of the changes. It is organized by chapter and followed by the relevant section(s).

With respect to Chapter 2, where most of the changes have been made, the following descriptions of the revisions are organized by new section numbers. Each section identifies the most significant changes; whether the change is to a previous rule or is a new rule; describes how it has been renumbered; and whether it is a consolidation or combination of various rules.

A. Chapter 2: Approval of Proposed Work on Designated Buildings and Structures

Section 2-04: Summons – New Applications

This section sets forth the procedure for reviewing a new application for work when there already is a “Notice of Violation” on the property due to work being done either without a permit or in noncompliance with a permit. It has been amended to remove references to “Notice of Violation” and the term “Summons,” the term recently adopted by the Office of Administrative Trials and Hearings, is used in its stead.

Section 2-05: Temporary Installations. This section was previously codified as § 2-18. Because this is more a permit type than a work type, it has been reorganized to be part of Subchapter A: Application Procedures.

Substantively, amendments have been made to extend the amount of time a temporary sign can be installed from 60 to 180 days; to codify the interpretation of the existing rule that a temporary approval may not be renewed; and to make explicit that the start of the time period for a temporary approval begins to run from issuance of the approval, unless otherwise stated in the approval.

Section 2-11: Repair, Restoration, Replacement and Recreation of Building Facades, Materials, Surfaces, Features and Elements. The previous restoration rules were codified at §§ 2-14 and 2-17. Section 2-14 was limited to sandstone and brownstone repair. Section 2-17 concerned restoration of a building or building façade features based on physical, documentary or other evidence. They have been combined, re-codified as § 2-11, and amended. The rule codifies criteria for repair, restoration and recreation for other materials, including other masonry, brick, stucco, cast iron, and terra cotta. In addition to providing criteria for specific repair, restoration and recreation, the rule includes general requirements for restoration work, such as environmental conditions, probes and samples.

The rule codifies the agency preference for replacement of materials in-kind to match the historic materials, but authorizes the use of substitute materials in certain instances depending on the material. For example:

- No substitute material may be used for brick and stucco.
- Replacement of wood siding must be in-kind on the primary façade except if building or fire codes prohibit it, in which case fiber-cement board can be used.
- Cast iron must be replaced in-kind or with a painted cast metal at the sixth story or below on the primary façade, and painted cast metal and other substitute materials can be used for discrete elements above the sixth floor.
- Terra cotta must be replaced in-kind at or below the sixth story, except that substitute materials may be used for coping elements and for other limited applications. Above the sixth story substitute materials can be used for projecting cornices and balconies with weight and/or attachment issues where use of in-kind materials has the potential to cause the loss of additional historic material.

In each case the substitute material could not be discernible and could not detract from the significant architectural features of the building or neighboring buildings. Except in limited situations, substitute materials may not be used for Individual Landmarks.

Finally, subdivision (e) codifies the Commission’s practice of approving façade reconstructions on buildings in historic districts where a façade must be taken down due to severe structural issues and/or materials failures, as documented in a peer-reviewed structural conditions report. Historic façade material must be salvaged and re-used to the greatest extent feasible. This subdivision does not apply to Individual Landmarks.

Section 2-12: Storefronts and Commercial and Residential Awnings. The storefront rules and awning rules were previously codified at §§ 2-17 and 2-12, respectively. The rules now combine and these as § 2-12, with amendments, and largely duplicate the previous rules, with certain modifications that codify existing Commission practices and policies. Of note are the following changes that LPC Staff can approve:

- New storefronts can incorporate display windows comprised of operable doors or operable windows over a fixed bulkhead, but there must also be mullions, piers, some fixed display windows or a combination of these elements to avoid creating the appearance of a void at the base of the building.
- Films with reversible grayscale treatments can be applied to the lower part of a display window to give privacy, and in a transom to cover up a dropped ceiling or security gate.
- New infill must be set back from the storefront surround to avoid concealing significant architectural features and in no instance less than four inches from the face of the storefront surround, unless conditions indicate otherwise.
- With respect to interior partitions, which must be set back at least 18 inches from the glass, the partitions cannot block more than 50 percent of the area of the display window and must have an interior quality finish that faces the street.
- New door openings and doors can be installed in an existing storefront and a new door opening and door can be installed through plain brick in the same façade in close proximity to the store, provided no historic storefront infill is affected.
- New infill can be installed at service entrances, such as those serving freight elevators or other utilitarian uses, and, if there is no historic fabric, a service entrance can be removed and replaced with a storefront entrance or display window.
- Awnings on most window types, except if the shape of the window opening would make the awning detracting, could have either retractable or fixed awnings.

Finally, there is a new section regarding LPC Staff approvals for sidewalk canopies for buildings that historically featured canopies, such as residential buildings, hotels and clubs. The rule has a number of requirements, including that there is historic precedent for a canopy on the building or a building of its type; the installation would meet all requirements of the Zoning Resolution and the Department of Buildings (“DOB”) and/or the Department of Transportation; installation of the canopy would not cause removal of or damage to any significant architectural feature; the canopy would recall historic canopy designs; and signage would be limited to the address (numbers and lettering), building or institution name and a small logo.

Section 2-13: Signage. The signage rules were previously codified at § 2-20. As amended, the rules are relocated and renumbered to follow sequentially the rules for storefronts and awnings. The rules largely track the previous rules, with some changes, and expand the types of signs the LPC Staff can approve, including the following:

- Authorize LPC Staff to approve signs routinely approved by the Commission, such as signs installed on channels and signs illuminated by halo lighting, menu boxes, plaques, and certain types of signage for below-grade storefronts. In considering an application for signage LPC Staff could not approve signage, or could require existing or approved signage to be removed or not installed, if it determines that the cumulative amount of proposed and existing signage will detract from the significant architectural features of the building.
- The maximum size of a neon sign in a display window is defined.
- With respect to bracket signs, the rules correct size and projection criteria to reflect the criteria in the Zoning Resolution, and authorize LPC Staff to approve a bracket sign with an exterior light source that is integrated into the design of the bracket sign.

Section 2-14: Window and Door Repair and Replacement; Modified and New Window Openings. The window repair and replacement rules, and the rules for new and modified window opening rules, were previously codified in Chapter 3 and Chapter 2 (§ 2-15), respectively. These rules have been combined, provisions for repair and replacement of doors added, and, with other amendments, re-codified as § 2-14.

The prior rules were amended by adding provisions for restoring, altering and installing new doors, providing criteria for applied films to windows, and providing the LPC Staff with new authority to approve certain types of windows and window openings.

The prior rules limited replacement of historic windows on Individual Landmarks and for special windows to situations where the windows are deteriorated beyond reasonable repair, based on a conditions report. This is unchanged. The adopted rules now allow window replacement for non-special windows and windows in other buildings could be made as-of-right, for reasons such as operability, energy efficiency and sound attenuation, without need for a conditions report.

The rules include an amended definition of what constitutes a “Special Window” to reflect current Commission practices. Specifically, and consistent with the current rules for square headed one-over-one windows, square headed one-over-one windows with simple arched paneling (e.g., half-round, elliptical arch, quarter-round and pointed arch) are not considered “special” since they now can be replicated in a variety of materials. In addition, French doors are not included as special windows. Finally, windows in bay or oriel windows would not be considered special unless they otherwise meet the criteria for special windows, because “bays” and “oriel” are façade features not windows. Windows in bays or oriels might meet the definition of special because they have stained glass or have intricately carved mullions, but they would not be deemed special simply because they are part of a bay or oriel.

The adopted rules include changes to the windows that LPC Staff may approve for the primary façade, including:

- Approving a double hung window with a fixed upper sash.

- Approving installation of so-called “passive house” windows (fixed upper sash and inward tilting lower sash) provided the windows otherwise match the historic windows and all windows on the primary façade are changed at the same time.
- Approving a new window in an existing non-original window opening (e.g., a parlor floor door that has been changed to a window when the stoop was removed), provided the window matches or otherwise harmonizes with the configuration, details, materials and finish of the historic windows.
- Changing the operation of a pivot window to hinged.
- Approving replacement windows for arched headed sash in a different material if the historic windows are one-over-one.

The rules for modifying existing window openings and creating new window openings in nonvisible or minimally visible secondary facades have been amended. Except for the top floor, LPC Staff can approve enlarging windows, provided that at least 18 inches of masonry remains between the windows above and below; and can approve combining windows on the same floor, provided that at least one bay of windows is not combined and the modified window opening retains the outer masonry pier(s). With respect to rowhouses, the windows at the bottom two floors of a rear façade that is not visible or is only minimally visible could be combined, provided that the outer masonry piers are at least 24 inches wide if the window is the full width of the building, there is a spandrel or other horizontal element at least 12 inches wide that marks the location of the missing floor, and other elements, such as mullions or muntins, are utilized to break down the scale of the new window. At intersecting facades, such as rear “els”, enlarged and modified window openings could not wrap continuously around a corner. Finally, a modified or new window opening could not detract from any significant architectural feature of the building or adjacent buildings and, for enlarged openings, the window is subdivided to give the window scale and texture.

Section 2-15: Additions: Rooftop and Rear Yard Additions. Standards for attached rear yard and rooftop additions, previously found in §§ 2-16 and 2-18, have been consolidated, amended and re-codified as § 2-15. Provisions for additions consisting of heating, venting and air-conditioning (“HVAC”) equipment, previously codified with rooftop additions, have been removed from this section and consolidated with the general provisions for approving HVAC work in § 2-21. The substantive provisions of the current rules for additions largely remain. Thus, rear yard additions could not be visible and rooftop additions of occupiable space could not be visible over a primary or secondary façade, with an exception for buildings over six stories, which could have a minimally visible addition over a secondary façade. Other modest changes are outlined below.

The definition of “minimally visible” has been amended to reflect criteria used by the Commission. First, slightly more visibility is allowed, the taller the building. The previous definition allowed up to 12 inches of visibility; this has been amended to allow 12 inches if the addition is less than 60 feet above the ground; 18 inches if the addition is between 60-80 feet, 24 inches if between 81 and 100 feet above the ground, and 36 inches if the addition is more than 100 feet above the ground. Furthermore, the visible portion of the addition could not span more than 50 percent of the length of the facade it is seen above, unless it is an open railing or other installation with a similarly open quality. In addition, the existing criterion that an addition not

detract from any significant architectural features or call undue attention to itself has been clarified to provide that this determination should be made in relation to specific contextual factors, such as the distance it is seen, whether it is seen from limited vantage points or an oblique angle, or is visible in combination with other additions or structures. Rear yard additions could not be visible at all, with the exception of wood or metal decks.

Rooftop Additions

The previous rules for rooftop additions limited LPC Staff approvals to one story with a maximum height of 11 feet, set back from the front and rear facades. This remains unchanged. The rules have been clarified regarding how to measure the height of the addition. An existing chimney or exhaust flue is now allowed to be minimally visible, where required by code to be raised due to the construction of the addition. In addition, LPC Staff can approve a compliant addition that is not as-of-right for use, although they may not approve an addition that is not as-of-right for bulk.

The rules have several new provisions. The prohibition against visible occupiable additions over a secondary façade has an exception for a minimally visible addition on top of a building in a historic district that is taller than 6 stories. This exception would not apply to Individual Landmarks. The rules now also allow a nonvisible dormer addition on the rear of a pitched roof if the dormer does not span the entire width of the roof and meets other criteria.

For buildings within a historic district, the rules have an exception to the previous rule that a non-occupiable addition, such as a stair bulkhead or railing, can be minimally visible over the primary and/or secondary façade(s): now, in limited circumstances, LPC Staff can approve an elevator bulkhead adjacent to the primary façade that is more than minimally visible if that is where the existing elevator shaft is located, the elevator is not being extended to service a new floor, and the presence of an elevator bulkhead at the front façade is commonly found in the district. (Such districts are listed in the rule.)

Rear Yard Additions

The criteria for LPC Staff approval for a rear yard addition in the proposed rules are the same as the previous rule: LPC Staff can approve a nonvisible rear yard addition if at least 51 percent of the other similar buildings in the block in the district have an addition, and the height and depth of the addition is based on the existing additions. The rules have a few exceptions. First, LPC Staff are permitted to approve a one-story addition in an enclosed central or side court that does not open to the rear yard. Second, the rule codifies the current criteria used by LPC Staff to approve a rear deck off the historic façade or the façade of an addition. Third, simple corbeled brickwork at the top of a wall or parapet is no longer considered a significant feature and could be removed to accommodate an approved addition. Finally, additional design criteria for rear yard additions have been added to prohibit certain materials, such as exposed or painted concrete or concrete masonry units, vinyl siding and exterior insulated finish systems (EIFS).

Section 2-16: Excavation. These are new rules that codify the Commission's current standards and practices for approving excavations. With respect to application materials, the

rules require an applicant to submit a conditions report on the building to assess the condition of its facades and foundations; a draft of the DOB Support of Excavation filing drawings; and a monitoring plan for buildings of five stories or less and built before 1900, where the building is constructed of wood or has stone, rubble or unreinforced foundations. Finally, the work must be designed and executed in compliance with DOB regulations under the supervision of a licensed professional engineer or registered architect.

Specifically, the rules allow LPC Staff to approve excavations:

- To lower an existing basement or cellar floor to create a usable floor to ceiling height not to exceed 10 feet from floor to ceiling.
- Relating to existing or new structural elements such as footings and foundations, and pits for elevators and escalators and other building infrastructure.
- For new, and repairs to existing, architectural elements such as stairwells, sunken terraces, in-ground pools or water features, provided the work does not affect significant architectural features of the building or adjacent building, and does not substantially eliminate the presence of a rear yard.
- Occurring underneath an existing or approved addition to a depth not to exceed the lowest story of the original building.

Section 2-17: Front, Side and Rear Yards. These are new rules that codify existing Commission practice with respect to certain work within yards and areaways of Individual Landmarks and buildings in historic districts.

The rules recognize that historically yards and areaways have been places of change to address utilitarian and safety concerns, and changing attitudes towards planting and greening of the streetscape. With respect to alterations to areaways in front of rowhouses, townhouses and other types of attached buildings, the rules allow LPC Staff to approve alterations to the paving, steps or planted areas in areaways, including bringing the areaway to sidewalk grade, and improving access to entrances underneath stoops. LPC Staff can also approve installing garbage enclosures, lampposts and basement or cellar access hatches.

The adopted rules codify existing Commission practice with respect to walls and fences. They allow the introduction of railings to the top of stoop walls and areaway walls, as well as the introduction of a masonry wall or fence to an areaway that is consistent with the style and type of work found on similar buildings. For example, if one particular building never had an areaway fence but such fences are common on buildings of a similar style and type on the street, LPC Staff can approve a fence that matched or recalled these other fences.

The Commission's approach to approving walls and fences in the Jackson Heights and Sunnyside Gardens Historic Districts, in particular, involves delegating these tasks to LPC Staff. Specifically, with respect to the Sunnyside Gardens Historic District, fences are limited to the rear yards and must be constructed of metal pickets and no taller than 36 inches. In the Jackson Heights Historic District the rules differentiate between the large apartment buildings and the one- to two-family garden homes. LPC Staff can approve a black picket fence around the areaway or side yard of an apartment building if the fence and its masonry curbing are no taller

than 28 inches. Finally, for garden homes in Jackson Heights, LPC Staff can approve a low brick retaining wall no higher than 5 brick courses to separate the front lawn from the sidewalk, if the wall does not feature decorative brickwork or ironwork, does not return and run back to the house, and the design either matches the adjacent retaining wall or, if none exists, is compatible with other retaining walls on the block in terms of height and design.

For free-standing houses in other districts, LPC Staff can approve the installation of a fence in the side or rear yard behind the primary facades if the fence is not taller than 6 feet and is constructed of wood with the finished side facing away from the property. Finally, for corner rowhouses, LPC Staff can approve a wood or metal 6-foot fence at the rear yard that has an open quality.

LPC Staff can also approve new driveways in districts where driveways are common features, provided that the driveway would not eliminate a significant architectural or landscape feature or significantly reduce the greenspace; the driveway would be proportional to the size of the yard and building; and the proposed location and design would be consistent with other driveways in the district.

Finally, the rules allow LPC Staff to approve an accessory ramp for loading or other service functions in an alley, side or rear yard of a large apartment building, hotel or commercial building, provided the ramp is not required for handicap access, would be partially obscured by walls or ironwork, would have no switch-backs, would not damage or obscure a window or any significant architectural features and the ramp would have a simple and neutral design.

Section 2-18: Barrier-Free Access. The rules govern LPC Staff approvals for alterations to buildings to make them accessible, based on existing Commission criteria and approaches. They apply generally to buildings in historic districts and scenic landmarks, and in a few instances apply to individual landmarks. The rules require applicants to consider changes to the interior that could eliminate the need for an exterior ramp or significantly reduce the impact of an exterior ramp by making it shorter so that it does not need a handrail. The rules cover a variety of standard approaches to making buildings and places accessible, including changing door swings, lowering doors to make at-grade entrances, altering doors (except for Special Doors) and door surrounds, making doors open automatically, adding handrails to stoops and steps, constructing ramps, adding lifts, and modifying areaway walls and fences to meet accessibility requirements.

With respect to making an at-grade entrance, LPC Staff can approve dropping or raising the grade no more than 18 inches at a prominent primary entrance and no more than 30 inches at other entrances. If the steps are cast iron with lights, only one step could be removed and the tread must be reinstalled flush at the entryway. As part of this work the design of the existing entryway could be extended and the door opening modified to accommodate the change, such as the introduction of a transom. LPC Staff can also approve sloping a concrete sidewalk up to an entrance as an alternative way to make it at-grade.

With respect to ramps with and without handrails, LPC Staff can approve them if their installation would not damage or conceal significant architectural features; the ramp would be as short as possible with no switch-backs, unless a longer ramp will have less visual impact on a

façade; and the ramp would be simply designed and constructed with utilitarian materials or materials to match the immediately adjacent façade material. Ramps for storefronts would have to be confined to the storefront opening or building. Ramps for large apartments, hotels and commercial buildings with deeply recessed entrance courts or areaways, would have to be located in the recess.

Finally, the rules also cover the installation of various types of lifts, including chair lifts on rails on stoops, wheelchair platform lifts and lifts on rails, provided that the installation does not damage historic fabric or detract from significant architectural features or adjacent buildings, and they are located so that they do not call attention to themselves. Wheelchair platform lifts would have to be stored in the down position. LPC Staff would not approve these with respect to an Individual Landmark.

Section 2-19: Sidewalks. These new rules codify Commission criteria and practice for work on bluestone, granite and other sidewalks, vault lights and accessible sidewalks. They apply to historic districts where historic paving is a significant feature. They also apply to concrete sidewalks in districts characterized by sidewalks with a grass planting area between the sidewalks and the curb. In districts where these features are not present, either because there always was concrete paving or where little or no historic paving remains, no Commission approval will be required. Where applicable, the rules authorize LPC Staff to approve:

- A new sidewalk to match a bluestone, granite or other historic sidewalk.
- Consolidating existing bluestone or granite pavers and replacing missing or broken pavers with tinted concrete to match.
- Replacing a concrete sidewalk with a new concrete sidewalk tinted and scored to match the adjacent sidewalk(s). Where the new sidewalk is adjacent to bluestone or bluestone tinted sidewalks on at least one side, the new concrete sidewalk will be tinted to match the bluestone. An existing granite or bluestone curb must remain if possible or be replaced with a granite or tinted concrete curb to match the adjacent curb.
- Removing some historic paving material in connection with approved widening of planting areas for street trees.
- Covering existing, deteriorated vault lights with diamond plate.
- Installing ramps and other devices at corners to facilitate travel by people with disabilities.
- Sloping a sidewalk up to a building or store to make the building or store entrance accessible.
- Installing metal post plates into concrete pavers in connection with a detachable flood protection system.

Section 2-20: Health, Safety and Utility Equipment. These are new rules that codify Commission criteria and practice for approving the installation of health, safety and utility equipment, such as fire alarm bells and Siamese connections, security cameras, lighting, and water, gas and/or electric meters. They also cover installation of HVAC equipment at the ground floor where such installation is required due to interior structural issues. They cover objects required by another agency or an entity similar to a utility, or commonly used for security measures, such as lighting, security cameras and intercom panels. The rules prohibit installation of many of these types of objects on a primary façade unless there is no feasible alternative or the location is mandated by an agency or entity. Installation must minimize or avoid damage or loss

of significant architectural features, and the object would have to be as small as possible, its visibility is minimized by, for example, installing it behind an areaway wall or fence, under a stoop, or behind plantings. Finally, unless required to be a different color, it would have to be finished to match the building or otherwise not call undue attention to itself or detract from the building.

The section also addresses the installation of security bars at windows at the cellar, basement and parlor floor windows, and security doors at entryways underneath stoops. Lastly, it allows penetrations through plain areas of the façade (excluding decorative areas, metalwork and cast iron) for mechanical fasteners associated with removable flood barriers.

Section 2-21: Heating, Venting and Air-Conditioning Equipment (“HVAC”). These rules were previously codified at § 2-11. They have been repealed, amended and re-codified as § 2-21. The rules generally follow the previous rules, although they have been simplified for easier reading and there are changes and additions that reflect the Commission’s practices and criteria. The adopted rules include criteria for rooftop HVAC and other mechanical installations, which have been moved from the rooftop additions section. The same definition of “minimally visible” that applies to non-occupiable additions in the rooftop additions section applies to rooftop HVAC installations. The rules have been broadened to include other common mechanical equipment such as water tanks, solar and wind energy installations, generators and dunnage. They now have a new subdivision on HVAC installations that do not require a permit, including seasonal and nonpermanent installations and installations of storm windows and films. They allow the permanent installation of projecting HVAC in existing window openings with glazed or solid filler panels. They also allow LPC Staff to approve visible flue and other mechanical exhaust extensions on visible secondary facades. Finally, they broaden the previous rules to allow for HVAC installations in front and side yards. Of note are the following changes and additions:

- The number of building categories are reduced to make the rules easier to apply.
- Rooftop installations could not be visible unless LPC Staff determines it is not feasible to make the equipment not visible. However, visibility could be the result of an approved addition. If it cannot be made not visible, and consistent with the criteria for non-occupiable rooftop additions in § 2-15, HVAC equipment could be minimally visible over the primary façade of a designated building, depending on how high the installation is: visibility could be up to 12 inches if installed below 60 feet; up to 18 inches if installed between 61 and 80 feet; up to 24 inches if installed between 81 and 100 feet; and up to 36 inches if installed above 100 feet.
- Through-wall HVAC installations would not have to strictly adhere to an existing pattern if impractical to do so.
- HVAC equipment could be installed in front yards where there is no practical alternative and provided that the installation would be no more than minimally visible, which could include being screened by architectural or building elements (e.g., behind an areaway wall or in a lightwell). HVAC equipment could be located in side yards if no more than minimally visible, which could include the use of screening by plantings to achieve minimal visibility.

Section 2-22: Fire Escapes. Rules for fire escapes were previously codified at § 2-13, which has been amended and re-codified as § 2-22. The previous rules are unchanged with respect to preservation of decorative fire escapes; LPC Staff cannot approve the removal of a decorative fire escape. The previous rules have been amended to authorize Staff to approve alteration of an existing fire escape by extending it horizontally or vertically as required, and to exchange a drop ladder for a swing stair, or vice-versa. A new fire escape could be approved where none currently exists if there is no feasible alternative to installing the fire escape; fire escapes are common in the district; it would be utilitarian in design; and it would be located on the least visible façade possible. These amendments codify Commission criteria and practices.

Section 2-23: Public Pay Telephones and Public Communication Structures. This section was previously codified as § 2-21. It has not been amended, except for being renumbered as § 2-23.

Section 3-31: Definitions. This section has been amended to replace references to “Notice of Violation” with “Summons”, reflecting nomenclature recently adopted by the Office of Administrative Trials and Hearings.

Section 3-32: Expedited Review Procedures. This section has been amended to broaden the types of interior work eligible for expedited review to include interior work at or above the third full story, interior work at or below the second full story where there is no commercial use below the second full story, and interior work in the cellar or basement that does not require excavation, except for limited excavation related to elevator or mechanical work that does not require underpinning. In addition, the amendments prohibit the installation of a dropped ceiling greater than one foot below the head of a window, perpendicular partition abutting a window, or a parallel partition blocking more than one foot of a window. None of this work could be closer than 12 inches from the window.

Section 3-34: Remedies for False Statements and Procedures for Action. This section has been amended to replace references to “Notice of Violation” with “Summons”, as noted above regarding § 3-31.

B. Chapter 3: Windows. The content of this Chapter have been deleted and its provisions consolidated into proposed new § 2-14 (Windows and Doors), as described above. The Chapter will be reserved for future use.

C. Chapter 5: Historic Preservation Grant Program

This Chapter has been amended to provide clarification about grant application materials and to give notice to applicants of the types of conditions that would apply to the award of a grant, including the need to submit tax returns, obtain at least three competitive bids for the proposed work and a lead inspection, and that grantees could not be in arrears for real estate taxes or water or sewer charges. In addition, the amendments include an explicit statement about the resale restriction that is part of the federal program. Under this provision a grantee would have to reside for at least five years in at least one unit of the property that is the subject of the grant. If an owner were to sell or move out of the property within five years of the final payment

to the contractor, the owner would be required to reimburse the Commission for twenty percent of the grant for each year they are in noncompliance with this requirement.

D. Chapter 7: Permit Expiration and Renewal.

This Chapter has been retitled as “Permit Duration, Renewal and Revocation”.

Section 7-02: Duration of Permits. This section has been amended to:

- Extend the duration of permits issued in connection with special permits and variances, which require extensive and time-consuming processes at the City Planning Commission and the Board of Standards and Appeals;
- Codify the existing interpretation of the section with respect to when work has to be completed;
- Codify the existing practice of issuing a “design” Certificate of Appropriateness when an application is also seeking a special permit or variance;
- Apply a six-year term for binding and advisory reports issued pursuant to § 25-318 of the Administrative Code for work relating to City-owned property or connected to City-aided projects; and
- Apply an eight-year term for Modifications of Use or Bulk.

Section 7-03: Renewal of Permits. This section has been significantly amended. It codifies some existing interpretations of the section and make changes to the provisions and process for renewals. Specifically, the rules:

- Clarify that only two renewals are allowed: one LPC Staff approval as-of-right and one approval at the discretion of the Chair if all relevant criteria are satisfied.
- The renewal terms of the three basic approvals (CNE, PMW and C of A), remain the same, but there is a three-year renewal term for binding and advisory reports and Modifications of Use or Bulk.
- The process for applying for a renewal has been changed to make it easier for owners to renew and avoid inadvertently letting approvals expire. Instead of requiring that an application for an as-of-right renewal be filed at least 60 days before expiration, owners will only have to submit the application before the approval expired.
- For work that does not require a DOB permit, the application will have to include a signed contract for the approved work requiring that work commence within 180 days of the expiration date.
- For work that requires a DOB permit, an applicant will no longer be required to have a DOB permit for all work approved by the LPC at the time of application. Instead, an applicant can have a DOB permit for a substantial portion of the approved work, with the condition that the applicant provides proof that work on that permit has begun and that the applicant has applied to DOB for a permit for the remaining work.
- The Chair can reinstate an expired permit where substantial work has occurred prior to expiration, the work is continuing, the applicant has all necessary permits to finish the work, the work would be completed within 36 months of the expiration of the approval, and the Chair determines it would be unreasonable to require applicants to stop the work. The

application for reinstatement would have to be received within 90 days from the expiration of the permit.

Section 7-04: Effect of Expiration of Permits. This section has been amended to reflect long-standing interpretation of the rules that an applicant may, after a permit has expired, continue to do necessary work to stabilize and secure the site pending issuance of a renewal or new approval. Finally, a renewed or reinstated permit will not be a defense against an enforcement proceeding related to work after a permit has expired and before renewal or reinstatement.

Section 7-05: Miscellaneous. This section has been repealed and the existing § 7-06 renumbered as § 7-05.

E. Chapter 11: Administrative Enforcement

This Chapter has been amended to replace all references to “Notice of Violation” with “Summons” and in addition:

- Section 11-02 has been amended to reflect that the Environmental Control Board (“ECB”) is now a division of OATH.
- Section 11-05 makes it clear that if a respondent acts accordingly and qualifies for the grace period there would be no monetary fine. Section 11-05 has also been amended to authorize OATH to determine penalties in accordance with a penalty schedule, which would be attached as Appendix A to the Chapter. (The penalty schedule is not new; it has been part of ECB’s rules.)
- Section 11-06 has been amended to change from 48 hours to two business days the time allowed for the Commission to mail a Stop Work Order to the respondent, where the Stop Work Order has been affixed to the premises or given orally.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this Commission, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. The title of Chapter 2 of Title 63 of the Rules of the City of New York is amended to read as follows:

CHAPTER 2
[Alteration of Landmark and Historic District Buildings]
Approval of Proposed Work on Designated Buildings and Structures

§ 2. Section 2-04 of Subchapter A of Chapter 2 of Title 63 of the Rules of the City of New York is amended to read as follows:

§2-04 [Notices of Violation] Summonses -- New Applications.

The Landmarks Preservation Commission will not process an application for work on a designated property when [an] a Landmarks Preservation Commission [Notice of Violation] Summons is in effect against that property. A [Notice of Violation] Summons in effect against that property indicates non-compliance with the Landmarks Law. With respect to Chapter 63 of the Rules of the City of New York and sections 25-301 through 25-322 of the Administrative Code, the term “Summons” will be construed to include and apply to any previously issued “Notice of Violation.”

(a) *Effect of a Summons on Processing of a New Application.* Upon receipt of an application, [staff] LPC Staff must verify that no [Notice of Violation] Summons is in effect against the property. [In the event that] If a [Notice of Violation] Summons is in effect, [staff should proceed as follows] LPC Staff will:

(1) Obtain copies of all Summonses, previously issued Notices of Violation and Notices to Stop Work for the file.

(2) Contact the owner/applicant to inform them that because a [Notice(s) of Violation] Summons is [(are)] in effect [staff] LPC Staff cannot process an application for new work until the [Notice(s)] Summons has [(have)] been rescinded.

(3) Send a letter to the applicant explaining that [staff] LPC Staff cannot process the new application because a [Notice(s) of Violation] Summons is[(are)] in effect against the property, that processing can only commence upon rescission of the [Notice(s)] Summons or when the applicant begins to address the [Notice(s)] conditions described in the Summons. Along with the letter send copies of the [Notice(s)] Summons, an application form, and instructions for filing. Send copies of the letter to the [Director of Preservation,] Supervisor, and the Director of Enforcement.

(b) *Exceptions to this [procedure] Procedure.* LPC Staff may issue permits for new work when a [Notice of Violation] Summons is in effect in the following instances:

(1) The proposed work will correct a hazardous condition.

(2) The proposed work [addresses] will address [the prevention of] deterioration affecting the building, and the work will clearly further the continuing preservation of the building.

(3) A permit has been issued to correct work cited in a [Notice of Violation] Summons, and an escrow agreement or other acceptable form of assurance has been established to provide a mechanism, acceptable to the Landmarks Preservation Commission, that ensures that the corrective work approved under the permit to [correct] address the [Notice of Violation] Summons will be completed within a specified time period.

§ 3. Section 2-18 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is renumbered § 2-05, added to Subchapter A of such Chapter 2, and amended to read as follows:

[§ 2-18] §2-05 Temporary Installations.

LPC Staff [of the Landmarks Preservation Commission] is authorized to approve and issue a Certificate of No Effect (CNE) or Permit for Minor Work (PMW) for proposals calling for the temporary installation of signs, banners or other temporary installations such as various forms of artwork or kiosks, if the following criteria are met:

(a) "Temporary Installation" is defined as an installation for [sixty (60)] one hundred eighty (180) days or less for signs and banners or one (1) calendar year or less for other temporary installations. The duration of any temporary installation authorized under this rule will be specified in the CNE or PMW. Any temporary installation must be for a single period not to exceed [sixty (60)] one hundred eighty (180) days for signs and banners or one (1) calendar year for other temporary installations. An approval for a temporary installation cannot be renewed pursuant to Chapter 7 of these rules, nor shall such installation be the subject of a subsequent application for a temporary approval. However, approvals of temporary installations related to approved construction on the property and temporary installations on publicly owned properties may be renewed for up to two additional installation periods. With respect to temporary installations related to approved construction on the property, [the staff] LPC Staff will make a determination, prior to renewing the approval, that the project is proceeding with reasonable promptness; and

(b) the installation will cause no damage to protected architectural features of the property; and

(c) an acceptable plan and time schedule for the dismantling of the [property] installation has been submitted to the Commission as a component of the application, along with specifications for any repair work that might be required after dismantling of the [property] installation. In the case of artwork, the applicant is also required to submit a written instrument signed by the artist and the building owner that evidences the owner's authority to remove the artwork when the temporary installation permit expires and that waives any protection under applicable federal or state law afforded to the artist or artwork that would prevent such removal at the expiration of the temporary permit, including but not limited to, the Visual Artists Rights Act of 1990, 17 U.S.C. 101 et seq. and Article 14 of the New York State Law on Arts and Cultural Affairs; and

(d) with respect to temporary installations related to approved construction work, an acceptable plan for dismantling, storing and reinstalling any significant features that had to be removed to perform such work has been submitted to the Commission; and

(e) if the applicant is not a public or quasi-public agency, an escrow agreement or other adequate assurance acceptable to the Commission is provided to establish that a mechanism is available for the removal of the installation upon expiration of the permit should the applicant fail to remove the installation.

(f) The time period for an approval of a temporary installation will commence upon issuance of the temporary permit, unless the approval explicitly provides for a different commencement date.

§ 4. Sections 2-14 and 2-17 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York are REPEALED.

§ 5. Section 2-11 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York, as repealed by section 16 of this rule amendment, is re-promulgated to read as follows:

§2-11 Repair, Restoration, Replacement and Re-creation of Building Façades and Related Exterior Elements.

(a) Introduction. This section authorizes LPC Staff to approve applications for work to repair, restore and re-create building façades and related exterior elements in order to maintain, restore, replace, re-create and, in certain instances, recall original or historic exterior architectural elements. LPC Staff reviews these applications with the presumption that historic materials should be maintained, repaired and replaced in-kind whenever possible. This approach results in the most authentic and sympathetic interventions and preserves the design, materiality and engineering of the historic building or improvement and its features. Furthermore, the use of historic materials and methods typically ensures compatibility with surrounding materials in terms of expansion and contraction, permeability and absorption, and structural capacity, among other things. Most historic material are proven to be long-lasting and durable when properly maintained, and will age and perform in a predicable way in support of the long-term economic viability of their continued use. Notwithstanding the preference for original and historic materials, LPC Staff may consider alternative repair methods and substitute materials in certain situations as set forth in this subdivision, while in other situations use of substitute materials is prohibited.

For purposes of this section, the term “primary façade” means: (1) a façade fronting a street or public thoroughfare that is not a street, such as a mews or court; (2) A visible façade that possesses a level of design or significant architectural features that are commensurate with the building’s street-fronting façade(s), and where such façade (i) faces but does not front a street, such as a setback façade, or (ii) is part of a dominant massing element where at least one façade is street-fronting or street-facing, such as a tower element; or (3) A façade with a primary entrance to the building.

(b) General Conditions and Requirements.

(1) Probes and other investigative work. No permit is required for non-intrusive investigative work or probes, provided the work is fully reversible and does not damage any historic fabric, and further provided that the existing condition is reinstated upon completion. LPC Staff may approve and issue an approval for selective intrusive investigative work or probes in order to assess the current condition of building materials and systems, or for the temporary removal of a feature or portion of a feature in order to make a mold for replication, if the proposed work meets all of the following applicable criteria:

(i) The probes or removal(s) are requested in connection with an anticipated or open application for work, or for an approval that has been granted;

(ii) No more material will be removed than is necessary to discover the underlying condition or make the mold for replication and, where possible, removal will be limited to non-character defining features and materials;

(iii) The probe(s) or removal(s) will be performed in an unobtrusive location;

(iv) Temporary protection of the area being probed will be provided; and

(v) Where original fabric is removed in connection with the probe, it will be re-installed to match the original condition, or if necessary the material will be replaced in-kind. For removals in connection with making a mold for replication, the original fabric will be re-installed or adequate protective measures will be taken to ensure that the façade is kept watertight until such time as the reinstallation or replacement of the feature is complete.

(2) Documentation and assessment of deteriorated conditions. The applicant must provide current photographs of the building as documentation of deteriorated conditions, along with a written scope of work summary. Where replacement of large quantities of materials and/or significant architectural features is proposed, the applicant must provide an assessment of the deteriorated conditions warranting such replacement(s). Repair will be given priority over replacement if feasible.

(3) Physical and aesthetic characteristics of materials and features. In all cases, except where noted, the repair, restoration, replacement or re-creation must match the original or historic materials and features in terms of its physical and aesthetic characteristics, including design, detail, profile, dimension, material, texture, tooling, dressing, color and finish, as applicable.

(4) Specifications. The specifications, methods and materials for the repair, restoration, replacement or re-creation must be identified and described by the architect, engineer or contractor as part of a written scope of work or specifications manual or on the filing drawings.

(5) Samples. LPC Staff may, prior to commencement of the work and as a condition of approval or as a stipulation for continuing work, require that samples of work, including samples of materials, methods and finishes, be prepared for review and approval. The applicant may notify the LPC Staff by letter or email that the samples are ready for review. LPC Staff may request photographs of the samples or delivery of the samples to the LPC Staff member prior to the site visit. Work may not commence or proceed until LPC Staff has approved the sample(s). With respect to a request for samples:

(i) Samples of joint preparation for repointing work at primary facades of a small size and at locations requiring repointing will be provided prior to raking or cutting the entire façade(s);

(ii) The applicant must provide at least two (2) samples of pointing, masonry repairs, and/or replacement unit masonry, of a size to be determined by LPC Staff, and the samples must be located at areas requiring the repairs where reasonable and feasible;

(iii) Samples must be adequately set or dried prior to photographing or contacting LPC Staff to arrange for a site inspection;

(iv) Samples approved by LPC Staff will serve as the standard for the entire job; and

(v) For certain scopes of work, such as large amounts of masonry replacement or façade reconstruction, LPC Staff may require a separate sign-off of the samples, including stopping work and submission of photographs or a site visit, once a portion of the work, as stipulated by LPC Staff, has been completed.

(6) Shop drawings. LPC Staff may, prior to issuance of a permit, or prior to commencement of the work and as a condition of approval or as a stipulation for continuing work, require the submission and approval of shop drawings for the in-kind replacement of significant architectural features.

(7) Environmental conditions. The repair, restoration, replacement, or reconstruction of mortar joints and unit masonry will be performed only when the temperature remains at a constant 45 degrees Fahrenheit or above for a 72-hour period from the commencement of the work. Other means and methods for providing a comparable controlled environment, such as providing heated enclosures or heating the material itself, may be considered on a case-by-case basis subject to review and approval by LPC staff.

(c) *Repair or Restoration of Façade Materials and Features.* Where the applicant has provided documentation, assessment, and specifications, as applicable, LPC Staff will approve repair or restoration of deteriorated façade materials and features as provided below.

(1) Cleaning and removal of paint and coatings. LPC Staff will approve cleaning and removing paint and coatings from exterior masonry and cast iron facades if the proposed work meets all of the following applicable criteria:

(i) Cleaning and paint removal products and methodologies will provide for the gentlest effective method to avoid causing damage to the masonry; and

(ii) Water pressure will be the lowest necessary to clean and remove paint or coatings and will not exceed 300 psi for cast iron or 500 psi for masonry.

(2) *Painting and coating of facades.*

(i) Painting facades and features that were originally or historically painted and are currently unpainted. LPC Staff will approve painting facades and building features that historically were painted in order to protect them from damage or return them more closely to their historic appearance if the proposed work meets all of the following applicable criteria:

(A) The paint will match original or historic paint in terms of physical and aesthetic characteristics, and the color will be in keeping with the historic color palette of the building's type, style, and age, except that in the case of historic masonry the proposed color will match the color of the underlying masonry, unless the color is part of a significant later alteration. For Individual Landmarks, if a substantial portion of the paint on a primary façade is being removed, the applicant must perform a paint analysis unless one already exists;

(B) A particular finish that is already required pursuant to an LPC Modification of Use or Bulk, or was an important criterion for an approval of a Certificate of Appropriateness application, will be maintained.

(ii) Painting non-original or altered features or facades. LPC Staff will approve the painting of facades or features that are not original, or were altered or damaged prior to designation, in order to improve their appearance or conceal non-original materials, if the proposed work meets all of the following applicable criteria:

(A) The paint will blend with the surrounding materials, helping the feature recede from view;
or

(B) The paint will be harmonious with other elements on the building or adjacent buildings, thereby helping unify the appearance and relationship of the elements.

(C) Repainting a façade or feature to match the existing condition does not require a permit, provided the existing condition is grandfathered or approved by the Commission. Any perceptible change in color will require a permit, subject to the conditions set forth in paragraph (2)(A) and (B) of this subdivision. See subparagraph (iii) below for use of non-paint coatings, as applicable.

(iii) Coating masonry facades and features. LPC Staff will approve coating masonry facades and building features with non-paint material, such as a mineral coating or stain that is absorbed into the substrate and/or bonds with it, in order to protect them from damage, if the proposed work meets all of the following applicable criteria:

(A) Water infiltration has occurred or is occurring through the façade or feature due to its deteriorated surface condition; or

(B) The base of the façade has been subjected to graffiti on a recurring basis; and

(C) The coating will be highly breathable, and in most cases will be clear with a dull finish to maintain the appearance of the underlying masonry unless some coloration is desirable to conceal prior non-matching repairs or surface damage; and

(D) The coating will not be a waterproofing product, unless such product already exists on the building façade or feature and cannot be removed without damaging the underlying material, and the scope of recoating is limited to touching up small areas. A larger scope of recoating, or

complete recoating, may not be approved if there is potential for diminishing breathability and damaging the façade or feature due to build-up of multiple layers of the coating.

(3) Pointing of mortar joints. LPC Staff will approve raking, cutting and pointing mortar joints with a cementitious mortar mix, if the proposed work meets all of the following applicable criteria:

(i) The mortar will match original or historic mortar in terms of physical and aesthetic characteristics. For Individual Landmarks a mortar analysis must be performed if a substantial amount of the primary façade is being repointed;

(ii) The mortar type will be of a strength less than, and permeability greater than, that of the masonry unit, and the mortar mix will typically consist of lime, white or gray Portland cement, and sand, plus pigments as required;

(iii) If the façade has been previously pointed in a color, texture or tooling not matching the original or historic mortar, and only limited areas of the façade require repointing, the mortar may match the existing mortar;

(iv) If the majority of mortar joints have been previously widened by improper cutting to the extent that it changes the character of the brickwork, the mortar may be an alternative color, texture or tooling that helps to unify the appearance of the façade; and

(v) The joints will be raked by hand without power tools, except that wide joints may be mechanically cut with power tools if specifications for execution are provided to ensure there will be no over-cutting into masonry or widening of mortar joints which would cause irreversible damage to the brick.

(4) Repair of natural and cast stone. LPC Staff will approve the repair of natural and cast stone (concrete mixtures that employ molded shapes, decorative aggregates, and masonry pigments to simulate natural stone) elements if the proposed work meets all of the following applicable criteria:

(i) For rusticated stone, special decorative elements, and types of stone which are difficult to recreate with a cementitious patch, LPC Staff will approve an application to reset, re-tool or consolidate the significant fabric, or install Dutchmen. As used in this subparagraph, the term "Dutchman" refers to any new or matching salvaged stone fitted into the existing facade stone as follows:

(A) The Dutchman repair will match original or historic stone in terms of its physical and aesthetic characteristics; and

(B) Materials and methods for adhesives and/or anchoring will be compatible with the stone, and will be discreet or concealed from view.

(ii) For other types of stone, LPC Staff will approve an application to remove the original stone surface and patch or resurface it with a cementitious mix, if the proposed work meets all of the following applicable criteria:

(A) The deteriorated portions of the stone will be cut back to sound stone and the new surface keyed into the sound stone with a tinted cementitious patching compound or built up in successive layers using a cementitious mix with the top layer tinted, and will match original or historic stone in terms of its physical and aesthetic characteristics;

(B) Materials and methods for anchoring will be compatible with the stone and the cementitious patching compound or mix, and will be discreet or concealed from view.

(5) Repair of fired clay and ceramic unit masonry (including brick and terra cotta). LPC Staff will approve an application to repair brick, glazed terra cotta or other fired unit masonry surfaces if the proposed work meets all of the following applicable criteria:

(i) Repairs will match the original or historic brick or terra cotta in terms of physical and aesthetic characteristics;

(ii) Repairs are limited to minor spalling or chipping of the brick or terra cotta glazing;

(iii) Deteriorated areas of glazing are painted with a compatible coating to match the original glaze finish.

(6) Repair of stucco. LPC Staff will approve an application to repair stucco elements and surfaces, including any underlying wood or metal lathe, if the proposed work meets all of the following applicable criteria:

(i) The stucco or cementitious patching compound will match original or historic stucco in terms of physical and aesthetic characteristics;

(ii) Materials and methods for anchoring, fasteners, control or expansion joints, and/or sealants will be compatible with the stucco and the underlying material, and will be discreet or concealed from view.

(7) Repair of ornamental sheet metal. LPC Staff will approve an application to repair sheet metal elements by removing, repairing and reinstalling existing elements, if the proposed work meets all of the following applicable criteria:

(i) The sheet metal repair will match original or historic ornamental sheet metal in terms of physical and aesthetic characteristics; and

(ii) Materials and methods for anchoring, fasteners, soldering, patching, filling and/or sealants will be compatible with the ornamental sheet metal, and will be discreet or concealed from view.

(8) Repair of cast and wrought iron and other cast or extruded ornamental metals. LPC Staff will approve an application to repair cast, wrought or extruded metal elements by removing, repairing and reinstalling existing elements, if the proposed work meets all of the following applicable criteria:

(i) The cast, wrought or extruded metal repair will match original or historic cast and wrought iron and other cast or extruded ornamental metals in terms of physical and aesthetic characteristics;

(ii) Materials and methods for anchoring, fasteners, welding, patching, filling and/or sealants will be compatible with the cast and wrought iron and other cast or extruded ornamental metals, and will be discreet or concealed from view.

(9) Repair of wood features. LPC Staff will approve an application to repair wood elements by removing, repairing and reinstalling existing elements, if the proposed work meets all of the following applicable criteria:

(i) The wood repair will match original or historic wood in terms of physical and aesthetic characteristics; and

(ii) Materials and methods for anchoring, fasteners, patching, filling, piecing-in (“Dutchmen” repairs), consolidating, or other reinforcement will be compatible with the wood, and will be discreet or concealed from view.

(10) Repair of other materials. LPC Staff will approve the repair of other materials or building facades that do not fall into any of the previously described categories, including but not limited to laminates, plastic and synthetic rubbers, curtain walls, and poured concrete, if the repair will match original or historic material in terms of physical and aesthetic characteristics. In connection with such repairs, LPC Staff may approve the repair of minor portions of these other materials with substitute materials that otherwise match the physical and aesthetic characteristics, provided the use of substitute materials will not detract from the original materials.

(d) *Replacement of Deteriorated Architectural Features.* Where the applicant has provided adequate documentation and assessment that an architectural feature cannot be repaired and retained, typically in the form of a descriptive analysis and photographic and/or other evidence, LPC staff will approve replacement of such a feature as provided below. For purposes of this subdivision, “architectural feature” means both the individual components (e.g., cornice, lintel, band course or column) and the material (e.g., brick, stone, wood or terra cotta) that comprise the basic façade material.

(1) Criteria.

(i) Replacement materials and features should match the original or historic material or feature in terms of physical and aesthetic characteristics. For purposes of this subdivision, this means that replacement material should be “in-kind” in terms of using the actual original or

historic material and installation techniques. In-kind replacement should be prioritized and fully considered prior to proposing substitute materials.

(ii) Materials other than the original or historic material (hereinafter “substitute materials”) may be approved in some cases where the substitute material matches or recalls the appearance of the original or historic material in terms of texture, finish, color and details, with the expectation that it will be long-lasting and maintained, provided the substitute material and installation methods do not directly or indirectly damage the surrounding original or historic material, the substitute material and/or its installation methods are not discernible or otherwise call attention to the work, and as provided for, and limited by, this subdivision and subdivisions (e) and (f). Unless otherwise authorized, a substitute material may not be used to replace all or a substantial portion of an entire façade. LPC Staff may request a written explanation describing the reason(s) for proposing to use a substitute material in lieu of an in-kind replacement.

(iii) Substitute materials may not be used at buildings seeking or subject to a special permit (“Modification of Use and Bulk” or “MOU”), except where the approval requires or anticipates the use of substitute materials, and except if the original or historic material is no longer commercially available and replacement in-kind is infeasible. In addition, substitute materials may not be used on a building or portions of a building where in-kind replacement was an important aspect of an approval of a Certificate of Appropriateness application.

(iv) Requirements for the replacement of historic materials in-kind and the use of substitute materials are as follows:

(A) Cast iron. Replacement of cast iron with a painted finish must be in-kind at or below the sixth story at the primary façade(s), except that cast aluminum or another cast metal with a painted finish may be used. In addition to these provisions, above the sixth story at primary façade(s) and at secondary facades, substitute materials may also be used for limited quantities of discrete elements. At Individual Landmarks, substitute materials may not be used.

(B) Cast metals and sheet metals. Replacement of cast metals and sheet metals with a natural finish, and wrought metals, must be in-kind at or below the sixth story at the primary façade(s). Above the sixth story at primary façade(s), substitute materials may be used. At Individual Landmarks, substitute materials may not be used.

(C) Brick and stucco. Replacement of brick and stucco must be in-kind at any location on the building. At Individual Landmarks, substitute materials may not be used.

(D) Cast and natural stone. Replacement of (historic) cast stone and natural stone (other than brownstone) must be in-kind at or below the sixth story at the primary façade(s), except substitute materials may be used for coping elements. In addition to these provisions, above the sixth story at primary façade(s), substitute materials may also be used at projecting cornices and balconies with weight and/or attachment issues when in-kind replacement has the potential to cause additional loss of surrounding materials, as determined by a licensed engineer; and for limited quantities of other discrete elements that are not part of a cladding field of similar units

where physical and visual compatibility is critical. At Individual Landmarks, substitute materials may not be used, except for coping elements.

(E) Brownstone. Replacement of brownstone may be in-kind at the primary façade(s), or cast stone may be used for façade elements and features, and cast stone or stucco over backup masonry may be used at stoops and areaway walls. At Individual Landmarks, stucco over backup masonry may not be used.

(F) Terra cotta. Replacement of terra cotta must be in-kind at or below the sixth story at the primary façade(s), except substitute materials may be used for coping elements, as well as for limited quantities of other discrete elements that are not part of a cladding field of similar units where physical and visual compatibility is critical. In addition to these provisions, above the sixth story at primary façade(s), substitute materials may also be used at projecting cornices and balconies with weight and/or attachment issues when in-kind replacement has the potential to cause additional loss of surrounding materials, as determined by a licensed engineer. At Individual Landmarks, substitute material may not be used, except for coping elements, as well as for limited quantities of other discrete elements that are not part of a cladding field of similar units where physical and visual compatibility is critical.

(G) Wood siding. Replacement of wood siding must be in-kind at the primary façade(s) and at Individual Landmarks, except that fiber-cement board may be used only if applicable building, fire or other code(s) prohibit the use of wood siding, provided the use of the substitute material is the minimum required by such code(s).

(H) Painted wood and sheet metal. Replacement of painted wood and sheet metal elements must be in-kind at the primary façade(s), except that painted wood and sheet metal elements may be used interchangeably at façade elements that were historically used in a similar manner, such as cornices and bay windows; and other substitute materials may be used at elaborate top floor cornices less than 25 feet in length where any joints in the material would be hidden or obscured by the design elements. Above the sixth story at primary façade(s), substitute materials may be used. At Individual Landmarks, substitute materials may not be used.

(I) Roofing material. Replacement of original or historic roofing, flashing, gutters, leaders, and/or decorative elements, or replace roofing where the original or historic roofing material has been removed, must meet all of the following applicable criteria:

(a) The new roofing components will match the original or historic roofing components in terms of their physical and aesthetic characteristics; or

(b) If the original or historic roofing is existing, LPC Staff may approve a substitute material at roofs of buildings six stories tall or less at the primary façade if the material is not visible from a public thoroughfare. For buildings seven stories tall or greater, substitute materials may be used at the primary and secondary facades if the material is not visible or minimally visible from a public thoroughfare, where because of the height or discreet presence the substitute material will not be discernible or will not call attention to itself or detract from the significant historic features of the building, or district if the building is in a historic district. In

all cases, new visible flashing, gutters, leaders and/or decorative elements will match the original or historic materials. All substitute materials must satisfy the criteria of clause (c) below. This clause (b) does not apply to Individual Landmarks or buildings seeking or subject to a special permit (“Modification of Use or Bulk” or “MOU”).

(c) If the original or historic roofing is missing, LPC Staff may approve a substitute material that recalls, but does not necessarily match, the original or historic roofing in terms of its visual characteristics (including artificial slate or clay shingles, architectural asphalt shingles, and “solar shingles”, which are designed to look like and function as conventional roofing material while also producing electricity), if the substitute material will not call attention to itself or detract from the significant historic features of the building, or district if the building is in a historic district, provided that any new visible flashing, gutters, leaders and/or decorative elements will match the original or historic materials. This clause (c) does not apply to buildings seeking or subject to a special permit (“Modification of Use or Bulk” or “MOU”). For purposes of this clause (c):

(1) If the existing roofing material is asphalt shingles, the new roofing material can be asphalt shingles provided it is an architectural shingle that better recalls the historic roofing material; and

(2) Standing seam metal roofing may be replaced in kind.

(d) If the roof is a flat roof, no LPC permit is required to replace the flat roof, including proposals to install or increase insulation as part of the replacement. However, any alterations or replacement of visible flashing, gutter, leaders and/or decorative elements, or raising or installing of visible railings, associated with the flat roof replacement will be subject to LPC Staff and Commissioners’ review and must meet applicable criteria as identified in this section.

(J) Where a substitute material has previously been approved as an aspect of a Certificate of Appropriateness application, LPC Staff may continue the use of the same or other comparable substitute material in new applications for the same building or structure consistent with that approval, provided the substitute material has proven to be an acceptable match in terms of appearance and compatibility over time with the surrounding original or historic material.

(v) Except as otherwise prohibited by the criteria of this subdivision, substitute materials may be approved at any location on a secondary facade not fronting on a publicly accessible thoroughfare if the substitute material will not be discernible or will not call attention to itself or detract from the significant historic features of the building, or district, if the building is in a historic district.

(e) *Reconstruction of Facades.* For buildings in historic districts, if the entire façade cannot be stabilized and repaired in-place, the applicant must provide a structural conditions report from a licensed professional engineer, an assessment of the existing materials and potential for unit masonry and other features to be salvaged and re-used, and fully-dimensioned survey drawings of the façade. The recommendation for reconstruction of a primary facade made by the engineer will be subject to peer review by an structural engineer contracted with by the Commission, who

must concur with the recommendation in order for LPC staff to approve the application. Historic façade material must be salvaged and reused to the greatest extent feasible at primary facades. This subdivision (e) does not apply to Individual Landmarks or buildings seeking or subject to a special permit (“Modification of Use and Bulk” or “MOU”).

(1) The façade must be reconstructed in kind in terms of wall construction, including full-width brick and stone at the outer wythe, except that back-up masonry can be either brick or concrete masonry units. Existing modified architectural features that are not significant later alterations must be recreated to match their original or historic appearance at primary facades and visible secondary facades. For example, if the lintels or sills have been stripped, and the modification is not a significant later alteration, the proposal must include recreating the original or historic sills or lintels. Substitute materials may be employed in recreating these historic details, as provided for by subdivision (d).

(f) *Re-Creation and Restoration of Missing Façade Features.* LPC Staff will approve the re-creation and restoration of building facade element(s) (including but not limited to roofs and cornices, stoops, storefronts, window and door openings, window and door enframements, ironwork, porches and siding) to their original or historic appearance if they determine that the proposed work satisfies the following conditions:

(1) The restoration would not cause the removal of original fabric or significant historic fabric (such as Victorian period features on an earlier structure) that may have been added over time, and the authenticity of the restoration is documented by:

(i) Photographic evidence;

(ii) Physical evidence on the building;

(iii) Original or historic drawings or documents; or

(iv) Matching buildings.

(2) If there is no available documentary evidence as described in paragraph (1) of this subdivision, the design of the missing feature, including its physical and aesthetic characteristics, may be based on that found on buildings of a similar age and style that contain stylistic elements that follow a set pattern or type, in consultation with LPC Staff. This provision does not apply to Individual Landmarks or buildings seeking or subject to a special permit (“Modification of Use and Bulk” or “MOU”).

(3) Materials for re-creating and restoring missing façade features must match the original or historic materials in kind or be a substitute material that meets the requirements of subdivision (d) of this section.

(4) The work will not result in the substantial reconstruction of the façade, unless also meeting the requirements of subdivision (e).

§ 6. Section 2-12 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is re-titled and amended to read as follows:

§2-12 [**Rules for Installation of Awnings**] **Storefronts, Awnings and Canopies.**

(a) [*Introduction.* These rules are issued to assist building owners in applying to the Landmarks Preservation Commission ("Commission") for approval to install or repair awnings. The rules set forth Commission policy with respect to such installation and repair and explain the procedures and criteria required to apply for and receive a permit from the staff of the Commission. The goal of these rules is to facilitate the approval of appropriate awnings for designated buildings. Certain awning repairs and installations can be approved at staff level in conformance with the procedures and criteria set forth in these rules. Proposed installations or alterations that do not conform to these rules require a certificate of appropriateness review by the full Commission in accordance with the procedures and criteria set forth in §§25-305, 25-307 and 25-308 of the New York City Administrative Code.

These rules are based on the following principles:

(1) Awnings were historically employed for weather protection above residential windows and doors and for advertising as well as weather protection above storefronts.

(2) The location of awnings historically corresponded to the size and shape of the openings they covered, and awnings were installed directly above the wall openings they covered.

(3) Removal or damage of any significant feature is to be avoided in connection with the installation of awnings.

Applicants are encouraged to submit applications for master plans, pursuant to §2-02 of Title 63 of these Rules, for commercial portions of buildings with multiple storefronts or for residential buildings, which will permit the installation of awnings over a period of time in a single building or building complex.]

(b) *Definitions.* As used in [these rules] this section, the following terms [shall] have the following meanings:

Awning. "Awning" [shall mean] means a metal frame clad with fabric attached above or within an opening, or within an integral housing, at a window, door, porch or storefront to provide protection from the weather.

Bulkhead. "Bulkhead" means the part of the storefront that forms a base for one or more display windows.

Canopy. "Canopy" means a metal frame clad with fabric that extends from a building entrance over the sidewalk to the curb, where it is supported on vertical posts.

Display window. "Display window" means the large glazed portion of the storefront infill, and the associated framing, above the bulkhead and below the transom, extending pier to pier.

The display window is typically used for the display of goods and to provide daylight and visibility into the commercial space.

Facade. "Facade" [shall mean] means an entire exterior face of a building. See “primary façade” definition below.

Fixed awning. "Fixed awning" [shall mean] means an awning with a non-retractable metal frame clad with fabric.

Historic fabric. "Historic fabric" [shall mean] means a building's original or significant historic facade construction material or ornament, or fragments thereof.

Historic Storefront. “Historic storefront” means the visual appearance of a storefront as originally built or at a point in time after it has undergone alterations or additions that enhance or contribute to the building’s or site’s special architectural, aesthetic, cultural or historic character.

Landmarks Law. "Landmarks Law" [shall refer] refers to §3020 of the New York City Charter and Chapter 3 of Title 25 of the Administrative Code of the City of New York.

Lintel. "Lintel" [shall mean] means the horizontal member or element above a door, [or] window or storefront opening.

LPC staff. "LPC staff" [shall mean] means the staff of the Landmarks Preservation Commission acting in the Commission's agency capacity.

Pier. “Pier” means an exterior vertical member(s) or element(s), usually of brick, stone or metal, placed at intervals along a wall that typically separates storefront openings within a single building or define a single storefront opening.

Primary facade. "Primary facade" [shall mean] means a facade facing a street or a public thoroughfare that is not necessarily a municipally dedicated space, such as a mews or court.

Residential awning. "Residential awning" [shall mean] means any awning on a residential building and any awning on a commercial or mixed-use building except for storefront awnings.

Retractable awning. "Retractable awning" [shall mean] means an awning attached to a frame which allows it to be extended out or folded or rolled back tight against the building facade.

Roll-down gate. “Roll-down gate” means a security gate with a retracting mechanism that allows it to roll up and down.

Security gate. “Security gate” means a movable metal fixture installed in front of a storefront opening or bay, or inside the display window or door, to protect the store from theft or vandalism when the store is closed.

Security gate housing (or housing). “Security gate housing,” or “housing,” means the container that houses the rolling mechanism of a roll-down security gate.

Security gate tracks. “Security gate tracks” means the interior or exterior tracks along the sides or top and bottom of the storefront opening or bay that hold the edges of the roll-down gate.

Serving window. “Serving window” means an operable storefront display window, or window assembly within a larger window or assembly, that allows direct commercial interaction between the public and the purveyor of goods or services.

Significant feature. "Significant feature" [shall mean] means an exterior architectural component of a building that contributes to its special historic, cultural, and/or aesthetic character, or in the case of an historic district, that reinforces the special characteristics for which the historic district was designated.

Skirt. "Skirt" [shall mean] means a bottom finishing piece of fabric that hangs from the lower edge of an awning.

Storefront. "Storefront" [shall mean] means the first or second story area of the facade that provides access or natural illumination into a space used for retail or other commercial purposes.

Storefront bay. “Storefront bay” means the area of a storefront defined by and spanning two piers.

Storefront infill. “Storefront infill” means the framing, glazing and cladding contained within a storefront opening in the façade, including but not limited to display windows, bulkheads and entranceways.

Storefront opening. "Storefront opening" [shall mean] means the [first story] area of the facade [that is framed by piers or walls on the sides and a lintel or arch above, and that contains a storefront] between the piers and lintel which contains storefront infill. Steps and platforms in front of, and leading up to, an entry door are not part of the storefront opening.

Storefront surround. “Storefront surround” means decorative elements or treatment on the façade around the storefront opening.

Transom. "Transom" [shall mean] means the glazed area above a display window or door separated from the [main] display window [area] or door by a [transom bar] horizontal framing member (“the transom bar”). The glazing in the transom may be fixed or operable.

Terms not otherwise defined in these rules [shall] have the meanings given them in the Landmarks Law.

(b) General.

(1) Type of storefront work. This section sets forth criteria and other standards for proposals for new storefronts that are not re-creations or restorations of original or historic storefronts, which instead are addressed in § 2-11(f).

(2) Related storefront work. Storefront work often involves other work that is covered by different sections of the Commission's rules. Specifically, applicants for new storefronts and storefront components may also want to consult the following rule sections for the applicable standards:

(i) Signage. The design and installation of signage and lighting must meet the criteria set forth in § 2-13.

(ii) Heating, venting and air-conditioning. The installation of heating, venting and air conditioning equipment and grilles must meet the criteria set forth in § 2-21.

(iii) Restoration of storefront façade features. Restoration of storefronts and specific architectural features must meet the criteria set forth in § 2-11(f).

(iv) Barrier-free access. Work to make storefronts accessible must meet the criteria set forth in § 2-18.

(3) This section does not apply to:

(i) Individual landmarks, except where specifically indicated.

(ii) Buildings subject to a building or district master plan, or other special rule approved by the Commission, governing the installation and characteristics of a storefront or awning.

(iii) Buildings with three or more uniform storefront openings, where the Commission after a Public Hearing already has approved a new storefront but not a storefront master plan

(iv) Awnings on windows that, due to their shape, size or location, will result in an awning that will detract from the special architectural features of the building.

(4) No permit is required for the following types of ordinary repair and routine maintenance work on awnings:

(i) Seasonal removal and installation of Commission approved window awnings;

(ii) Fabric patching in a matching material;

(iii) Minor repairs or adjustments to the rolling or folding arm mechanism of an awning's frame; and

(iv) Cleaning of awning material.

(c) [*Routine maintenance.* A permit is not required to undertake the following types of ordinary repair and maintenance work:

- (1) Seasonal removal and installation of LPC approved window awnings.
- (2) Fabric patching in a matching material.
- (3) Minor repairs or adjustments to the rolling or folding arm mechanism of an awning's frame.
- (4) Cleaning of awning material.

Ordinary repair and maintenance does not include replacement of, or repairs to, significantly damaged or deteriorated awning frames and armatures.] Storefront Infill. LPC Staff will issue an approval for new storefront infill for existing storefront openings, including openings that have been infilled, for buildings in historic districts that were designed with storefronts, and buildings that were altered historically by the construction of ground floor storefronts, and at service entrances as provided in paragraph (7)(iii) of this subdivision, where no significant historic fabric exists, if the proposed work meets all of the relevant criteria set forth below:

(1) Design. The design of the new infill matches the original or historic appearance determined pursuant to the requirements of section 2-11(f)(1) or is based on historic storefront prototypes and details within the specific historic district and for buildings of similar age, type and style, except that storefront infill for a building that already has storefront infill approved pursuant to this section must match the previously approved storefront infill in terms of the location, design and materials of piers, the proportions of the elements of storefront infill and finish, but allowing for minor variations in detail and finish. If the building contains three or more uniform storefronts and at least one of the storefronts contains most of its historic elements, a new storefront must match the historic design pursuant to the requirements of section 2-11(f)(1). Where the historical, architectural or cultural significance of the building or storefront is reflected in changes to the storefront after the initial construction, the new storefront may be required to match the historic appearance as represented by such changes pursuant to the requirements of section 2-11(f)(1). In all cases the design may be modified to make the storefront meet accessibility requirements.

(2) Configuration. The configuration of the new infill is consistent with the proportions of display windows, transoms (if necessary, given the size of the display windows) and bulkheads of historic storefront infill.

(3) Display windows.

(i) Display windows must be fixed, except that the new infill may consist of operable doors and/or operable windows over a fixed bulkhead provided:

(A) Operable doors feature bottom rails that match the height, and maintain the design intent, of storefront bulkheads required by subdivision (6) of this section;

(B) Operable windows are installed over storefront bulkheads required by this section;

(C) The infill includes either mullions, piers, fixed display windows, or a combination of these elements to avoid creating the appearance of a void at the base of the building when the storefront windows and doors are open; and

(D) The width of individual operable doors or windows are as large as practicable, and when closed the operable doors or windows will read as display windows over a bulkhead and will maintain a sense of transparency at the base of the building. In the case of a serving window, such window is no larger than fifty (50) percent of the width of the storefront bay, and any mullion or other structural element necessary to accommodate the operable window must match the material and finish of, and be consistent with, the storefront framing; and

(ii) Glazing in display windows and transoms must be clear, except that a reversible, gray-scale translucent treatment may be applied to the interior face of display window glazing, the lesser of forty-eight (48) inches above the sidewalk or half of the height of the display window, exclusive of transom windows; or to the interior face of a transom window where existing interior conditions preclude the installation of clear transom windows; or where a dropped ceiling or security roll-gate housing is installed in conformance with this section.

(4) Framing. Storefront framing must feature profiled trim that recalls the articulation of historic storefront framing, and may be a traditional or contemporary type.

(5) Orientation. New infill must be installed parallel to the building's sidewalk and/or consistent with the plane of the facade and the location of the historic infill, and must be set back from the face of the existing storefront surround the minimum dimension required to avoid concealing any significant architectural feature, including features previously concealed by existing storefront infill, but in no event less than four (4) inches from the face of the storefront surround, unless conditions indicate otherwise.

(6) Bulkhead. The bulkhead must be between eighteen (18) and thirty (30) inches in height, including a stone or masonry curb, unless the historic storefront prototype indicates a lower or higher bulkhead, in which case the bulkhead may match the height of the historic prototype, and must feature details or materials that recall the articulation of historic storefronts except:

(i) Where the infill is based on a traditional example or model with paneled bulkheads, the bulkhead must feature panels and stiles, rails, and moldings that match historic prototypes; or

(ii) Where a limited amount of existing non-original infill is being modified, the new bulkhead may match the existing.

(7) Entrance and Doors.

(i) Recessed entrances may have either splayed or straight returns.

(ii) The width of the entrance will match the proportions of entryways to display windows found in historic storefronts, and will also meet minimum requirements for accessibility.

(iii) The design of the new door will maintain the design intent of new entrance infill required by this section, or will be a re-creation or restoration of the original or historic door pursuant to the requirements § 2-11(f). New infill in service entrances, such as those that historically provided egress or access to freight elevators or had other utilitarian uses and were not historically used for storefronts or residential entrances, may vary in design, configuration and material in keeping with similar service entrances found in the particular historic district where the installation occurs. Alternatively, provided there is no significant historic fabric, a service entrance that was not a garage opening or loading bay for vehicles, may be removed and replaced with a storefront entrance, display window or other storefront infill pursuant to this section.

(8) Material. If the building was constructed prior to 1900, the material of the new infill must either match the historic material, if known, or be wood; for buildings constructed in or after 1900, or built before and altered in or after 1900 to include storefronts, the material of the new infill may be wood or metal or match the historic material.

(9) Finish. New storefront infill must have a finish that recalls the finish of historic storefronts.

(10) Interior Partitions and/or Built-In Features. Interior partitions, built-in features and vitrines built parallel to a display window must be a minimum of eighteen (18) inches behind the glass of the display window and:

(i) Have a surface area that blocks no more than fifty (50) percent of the area of the display window (exclusive of the transom), not including dropped soffits;

(ii) Have an interior quality finish and/or materials on the street facing side and feature non-illuminated, or indirectly illuminated display(s) of graphics or merchandise;

(iii) Are limited to a first floor storefront, except a partition or built-in feature may also be allowed at second story storefronts of commercial buildings;

(iv) Where such partition or built-in feature is a free-standing partition or vitrine within the display window below the transom, the horizontal dimension shall not block more than seventy-five (75) percent of the width of the display window; and

(v) Dropped soffits at the ceiling may be no closer than twelve (12) inches to the glass of the display or transom window and may be dropped the minimum distance necessary to address the structural or other issues requiring such dropped soffit.

(11) Piers. If original or historic piers have been previously removed, the design must include the restoration of the piers or the introduction of features that recall the location, size, and dimension of such piers.

(12) Removal of modern cladding. If an applicant is proposing to remove modern cladding on the storefront or the area surrounding the storefront, the applicant must first perform probes of the material to see if historic material or elements exist behind the modern cladding.

(i) If significant historic storefront material or elements exists underneath the cladding, the historic material must be restored and the new storefront can only be approved pursuant to § 2-11(f).

(ii) If a significant portion of the historic storefront surround exists underneath the cladding, but no historic storefront infill remains, the storefront surround must be restored, pursuant to § 2-11(f), as part of the application for new storefront infill under this paragraph.

(13) Restoration of the original storefront opening. If the original storefront opening has been reduced or increased in size the design must include the restoration of the height and width of the original opening, except that:

(i) The existing storefront opening may be maintained where the size and organization of storefront bays and entrances were altered in a way that is consistent with other buildings within the historic district that include storefronts, or

(ii) Where interior conditions preclude restoration to the original height (e.g., later structural elements or existing interior roll-gate housing or mechanical systems) the existing storefront opening shall be enlarged or reduced to the greatest extent feasible, and:

(A) The design of the surround is consistent with the materials and details of the historic base of the building; and

(B) If necessary, given the size of the display windows, the design features an opaque glazed transom window.

(14) New door and door opening. A new door opening and door may be constructed to provide access to an existing storefront where:

(i) The new door is on the same façade and in close proximity to an existing storefront display window;

(ii) The new door opening will be installed in non-historic storefront infill or through plain brick;

(iii) The width of the new door opening is the minimum necessary to provide for a door that meets accessibility requirements and, if needed, sidelight, and the height of the door opening is aligned with the height of the storefront or other storefront feature and does not call undue attention to itself; and

(iv) The design of the new door is consistent with existing storefront doors or is consistent with the criteria for a replacement door.

(15) Security gates. LPC Staff may approve an application for roll-down security gates and grilles on proposed storefronts where:

(i) The security gate is located behind the storefront infill and the gate is open mesh where it covers glazed areas; or

(ii) If the roll-down security gate is mounted so that the gate rolls down on the exterior side of the display window and door:

(A) The installation does not affect, obscure or damage historic fabric;

(B) The housing for the roll-down security gates is installed so as not to protrude, or protrudes the least amount feasible, beyond the face of the storefront display window or transom, and it is finished to match the storefront framing;

(C) The security gate tracks are recessed or set into reveals along the sides of the storefront; and

(D) The security gate is open mesh where it covers glazed areas of the storefront.

(d) Awnings and Canopies at Commercial Storefronts and at Residential and Other Buildings.

[(d)] (1) [Recladding and retention of existing awnings] Recladding and retention of existing awnings and sidewalk canopies.

[(1)] (i) LPC [staff shall] Staff will issue a Certificate of No Effect or a Permit for Minor Work [certificate of no effect or a permit for minor work] for recladding [of] existing awnings and sidewalk canopies if the proposed recladding meets both of the following criteria:

[(i)] (A) The awning [to be reclad] or canopy was present at the time of designation or was previously approved by an LPC permit; and

[(ii)] (B) The existing frame will be reclad in a material and finish that conforms to the criteria set forth in [§2-12 (e)(7)-(9)] subdivision (d)(2)(vii)-(ix) or [2-12(f)(9)-(11)] (d)(3)(ix)-(xi) of [these rules] this section.

[(2)] (ii) [In the event]If a new storefront is being installed, an existing storefront awning or canopy in noncompliance with the criteria set forth in [subsection] paragraph [(f)](3) below cannot be retained unless the applicant can demonstrate to LPC [staff] Staff that the new storefront installation will not require even the temporary removal of the existing awning or [awnings] canopy.

[(e)] (2) [Installation of new awnings on residential windows, doors and porches] Installation of new awnings on windows, doors and porches that are not associated with storefronts. LPC [staff shall] Staff will issue a [certificate of no effect or a permit for minor work] Certificate of

No Effect or a Permit for Minor Work for new awnings on residential windows, doors and porches if the proposed awning meets all of the following criteria applicable for such installation:

[(1)] (i) Awnings installed on residential windows, doors and porches [shall] will be either retractable [awnings] or fixed.

[(2)] (ii) Awnings [shall] will be installed at or below the lintel, or within the window opening, as close to the top of the window as feasible, and [shall] will conform to the size and shape of the window or door opening.

[(3)] (iii) The attachment of the awning will not cause the loss of, damage to, or hide or obscure any significant feature.

[(4)] (iv) Awnings [shall] will project at an angle and be of a length, size and slope which are proportional to the size and height of the window or door.

[(5)] (v) Awnings at occupiable terraces and architectural setbacks above the ground floor may extend over more than one opening, so long as the overall length of the awning is proportional to the size and length of the terrace or setback and the depth does not exceed the depth of the terrace or setback.

[(6)] (vi) Awnings on porches [shall] will conform to the bay structure and proportions of the porch.

[(7)] (vii) All awnings on a building or portions of a mixed use building that are not associated with storefronts must match in terms of fabric color and pattern if installed on primary or visible secondary facades.

[(8)] (viii) Awnings [shall] will be clad only with water repellant canvas with a matte finish or other fabric of a similar appearance.

[(9)] (ix) Awning fabric [shall] will consist of a solid color or vertical stripes that harmonize with the historic color palette of the building. No lettering or signage is permitted on awnings that are not associated with storefronts except for an address number on an awning over an entrance, and the numbers of such address [shall] must be no greater than six inches in height.

[(f)] (3) Installation of new awnings on storefronts, display windows and doorways. LPC [staff shall] Staff will issue a Certificate of No Effect or a Permit for Minor Work [certificate of no effect or a permit for minor work] for new awnings on ground story storefronts, ground or second story display windows, and doorways if the proposed work meets all of the following criteria applicable for such installation:

[(1)] (i) The awning must be retractable on [Individual Landmarks, on storefront restorations approved by a restorative certificate of no effect (Title 63 § 2-17(c)), and on] buildings which were designed with integral retractable awning housings as part of the storefronts. In all other cases, the awning may be either retractable or fixed. If fixed, the awning [shall] must have a

straight slope and be open at the sides. If retractable, the awning [shall] must have a straight or curved slope and may or may not have side panels. Retractable awnings may follow the curved configuration of the window or door [openings] opening over which they are installed. If a display window or doorway opening has an arched or segmental head, the awning must be retractable if it is installed at the head of the window, but may be fixed if it is installed at the rectilinear transom bar. Both retractable and fixed awnings may or may not have a skirt. Awning skirts must be unframed. The skirt height [shall] must be proportional to the height and size of the awning, but cannot be greater than twelve (12) inches.

[(2)] (ii) The attachment of the awning will not cause the loss of, damage to, or hide or obscure any significant feature.

[(3)] (iii) The awning [shall] will be installed within the storefront opening, surround or enframing, or, if that is not possible, at or directly below or above the lintel or transom bar, except that the awning may be attached [up to eight inches] above the lintel where:

[(i)] (A) a roll-down security gate that either was present at the time of designation or was previously approved by the Commission makes it impossible to install the awning at the lintel or transom bar; or

[(ii)] (B) installing the awning at the lintel or transom bar will result in the lowest framed portion of the awning being less than eight feet above the sidewalk[.], and

(C) [Where] where the awning is installed above the lintel, the awning encroachment above the lintel [shall] will be the minimum required to accommodate the conditions described above in [subparagraphs (i) and (ii)] clauses (A) and (B), and [in no instance shall exceed eight inches] will not detract from the significant architectural features of the storefront, building or, where relevant, historic district.

[(4)] (iv) In cases where the storefront itself projects from the facade, the awning [must] will be attached to the projecting storefront below the storefront cornice or cap.

[(5)] (v) The length of the awning [shall] will not exceed the length of the storefront opening or the associated window opening, and the edges of the awning shall be aligned as closely as possible with the inside face of the principal piers of the storefront, or the window or door opening.

[(6)] (vi) The underside of the awning [shall] will be open.

[(7)] (vii) The lowest framed portion of the awning [shall] will be at least [8] eight (8) feet above the sidewalk. The lowest unframed portion [shall] will be at least [7] seven (7) feet above the sidewalk or otherwise meet applicable Department of Buildings and/or Department of Transportation criteria.

[(8)] (viii) The awning [shall] will project at an angle and be of a length, size and slope which are proportional to the size and height of the storefront, window or door, as relevant.

[(9)] (xi) The awning [shall] will be clad only with [water repellant] canvas with a matte finish or other fabric of a similar appearance.

[(10)] (x) Signs, such as lettering or graphics, are permitted to be painted on the awning skirt only; no lettering or graphics [shall] will be permitted on the sloped portion of the awning. The size of lettering [shall] will be proportional to the height of the awning skirt.

[(11)] (xi) Awning fabric [shall] will consist of a solid color or vertical stripes that harmonize with the historic color palette of the building, but are not required to match other awnings on buildings with multiple storefronts.

(xii) Awnings installed pursuant to approvals issued in connection with a Modification of Use or Bulk shall continue to comply with such approvals. Unless otherwise provided for in this section, awnings installed on Individual Landmarks and on storefront restorations approved by a restorative approval pursuant to § 2-11(f) may be retractable or fixed, and if fixed:

(A) Have a “lean-to” frame with no connecting part between the top bar and the side bar installed perpendicular to the facade;

(B) The side bar perpendicular to the facade is round in shape;

(C) The frame is finished with a clear-coat, or grey finish; and

(D) Feature an unframed skirt.

[(g) *Applicability.* The provisions of this section shall not apply to proposals to install awnings:

(1) On buildings subject to a building or district master plan, or other special rule approved by the Commission, governing the installation and characteristics of an awning; and

(2) On buildings, including historic modifications thereof, that did not originally or historically have awnings, including without limitation thereof public and institutional buildings such as houses of worship, schools, post offices and fire houses. Where the LPC staff reasonably believes that a building did not originally or historically have an awning, the LPC staff shall, at the applicant's request, calendar the proposal for a certificate of appropriateness public hearing. The applicant may request a meeting with the Director of Preservation or, in his or her absence, the Deputy Director, to discuss the LPC staff's interpretation of these rules.]

(4) New sidewalk canopies on certain types of buildings. Installation of new sidewalk canopies on residential, hotel and former residential buildings or buildings historically constructed with an accessory residential component, including private clubs. LPC Staff will approve the installation of a sidewalk canopy where:

(i) There is historic precedent for the installation of a canopy between the building entrance and the sidewalk on this building, this type of building or, if the building is located within a historic district, in the historic district; and

(ii) The construction, installation, attachment, and height of the canopy will conform to the requirements of the Zoning Resolution and Department of Buildings and/or Department of Transportation requirements, but in no event can the bottom of the canopy be less than eight (8) feet above the sidewalk; and

(iii) The size and basic design of the canopy will be consistent with canopies historically found at buildings of this type; and

(iv) The canopy will be clad in canvas with a matte finish or other fabric of a similar appearance, in a color and pattern that matches or recalls historic designs and does not distract from the building's historic color palette. The front and side of the canopy may have the building or institutional name and address number in numbers or letters no taller than twelve (12) inches, and a logo of not more than 4 square feet on the street-facing end of the canopy, but shall not have any other signage, numbering or lettering;

(v) The underside of the canopy will be open, and the framing members may be exposed or enclosed in canvas that closely follows the profile of the shape of the canopy or canopy roof;

(vi) Small, simply designed fixtures may be attached to the framing underneath the canopy, including down-light type fixtures to illuminate the sidewalk and building entrance/walkway, heat lamps and cameras, provided such installations are not visible except from underneath the canopy;

(vii) The installation of the canopy will not damage or cause the removal of, any significant architectural feature;

(viii) The canopy frame will be attached to the façade and sidewalk with the minimal number of fasteners practical, installed in mortar joints or flat, unrelieved portions of ornamental materials, and in non-historic paving where feasible;

(ix) The canopy has round metal poles with a painted or natural finish, in keeping with style and age of the building;

(x) The canopy has a bowed profile, or to the extent precedents exist for such a design, relates to the shape of the opening; and

(xi) The canopy is installed within the architectural features enframing the opening, such as piers, cornices, lintels, and surrounds, except that where installing the canopy within the opening enframing will result in the lowest portion of the canopy being less than eight (8) feet above the sidewalk, or the operation of the door impeded, a canopy may be approved if:

(A) Sufficient space exists between the high-point of the canopy and the underside of any projecting cornice or other ornament surround enframing the entrance doors to visually separate the two elements; and

(B) At its widest points, it will overlap, extend past, or obscure ornamental elements enframing the entrance the least feasible amount.

§ 7. Section 2-20 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is renumbered § 2-13 and is amended to read as follows:

[§2-20 Bracket Signs in the Tribeca East, Tribeca West, Tribeca North, Tribeca South, SoHo Cast-Iron, NoHo, and Ladies' Mile Historic Districts] §2-13 Signage.

(a) *Introduction.* Signage was a typical feature of historic buildings that contained commercial or manufacturing uses. Such signage included signs painted or affixed above storefronts in signbands, signs within display windows, bracket signs, and signs hanging from underneath canopies. This rule sets [for] forth the requirements for [staff] LPC Staff approval of some types of storefront signage and associated lighting for such signage. All proposals for signage not seeking a discretionary approval from another City agency must comply with the Zoning Resolution in terms of size, placement, projection and illumination.

(b) *Definitions.* As used in this §[2-20] 2-13, the following words [shall] have the following meanings:

Armature. "Armature" means a metal structural support for a rigid projecting sign. The armature may support the bracket sign by means of one or two projecting arms, or may be flush mounted with a sleeve and/or concealed.

Bracket Sign. "Bracket Sign" means a rigid outdoor sign, with two display faces, installed perpendicular to a building façade and attached to an armature, used as an announcement for an establishment in the building, consisting of the rigid display faces and all letters, words, numerals, illustrations, decorations, trademarks, emblems, symbols or their figures or characters associated with the name of the establishment that are applied to the faces. In addition, a bracket sign may consist solely of an outline of a shape and/or letters intended to act as a symbol or sign for the establishment.

Canopy means a metal frame clad with fabric that extends from a building entrance over the sidewalk to the curb, where it is supported on vertical posts.

CNE. "CNE" means Certificate of No Effect as defined by §25-306 of the New York City Administrative Code.

Establishment. "Establishment" means a manufacturing, commercial or retail business or profession.

Façade. "Façade" means an entire exterior face of a building.

LPC. "LPC" means the Landmarks Preservation Commission.

LPC or Commission Staff. "LPC staff" or "Commission staff" means the staff of the Landmarks Preservation Commission acting in the Commission's agency capacity.

PMW means a Permit for Minor Work pursuant to §25-310 of the New York City Administrative Code.

Pier means an exterior vertical member(s) or element(s) (usually of brick, stone, or metal), placed at intervals along a wall, which typically separates storefront openings within a single building or defines a single storefront opening.

Sign means a fixture or area containing lettering or graphics used to advertise a store, goods, or services.

Signage means any lettering or other graphics used to advertise a store, goods, or services.

Signband means the flat, horizontal area on the façade, usually located immediately above the storefront and below the second story window sill where signs were historically attached. Signbands can also be found immediately above the storefront display window, but below the masonry opening's lintel. A signband shall not include the frieze of a cornice that is less than 12" in height. A signband may exist above a second story storefront.

Significant architectural feature means an exterior architectural component of a building that contributes to or reinforces its special historic, cultural, and aesthetic character.

Storefront means [storefront infill] the first or second story area of the facade that provides access or natural illumination into a space used for retail or other commercial purposes.

Storefront infill means the framing, glazing, and cladding contained within a storefront opening in the façade, including display windows, bulkheads, entranceways, etc.

Storefront opening means the area of the façade between the piers and lintel, which contains storefront infill.

Transom means a glazed area above a display window or door that is separated from the display window or door by a horizontal framing member ("the transom bar"). The glazing in the transom may be fixed or operable.

(c) *Installation of [storefront signs for existing storefronts] Storefront Signs.* The LPC [staff] Staff will issue a CNE or PMW for a storefront sign, other than a bracket sign, if the proposed work meets the relevant criteria listed below:

(1) The signage is as-of-right pursuant to the Zoning Resolution and the Building Code.

(2) The installation of signage will not damage, destroy or obscure significant architectural features or material of the building or storefront.

[(2)] (3) Signs [may] will be installed in the signband above a storefront opening or within the storefront opening.

[(3)] (4) Signs [may] will include [pin-mounted] dimensional letters and logos composed of wood or metal, or painted plastic, that project no more than [one inch] two inches if installed directly into masonry or wood [and letters and logos applied] signbands, or directly on wood, metal, or opaque glass sign panels mounted flat with the signband, or painted directly onto the ground floor signband and lintels. Pin mounted letters [may be installed directly into the storefront material, but not including cast iron] requiring numerous attachments points to historic masonry signbands should utilize mounting strips where feasible, and will not be allowed in any instance on cast iron.

[(4)] (5) Flat sign panels will project no more than [3] 2 inches from the façade, and [pin-mounted] dimensional letters on sign panels will project no more than [1 inch] 2 inches beyond the panel for a total projection of four (4) inches from the façade. In the case of dimensional letters installed on a metal channel within a transom, the channel may be straight or slightly bowed, and the letters will not project beyond the plane of the façade, and will be no larger than 18 inches and in no event higher than the height of the transom glass, and the channel will be no more than 1 inch tall. LPC Staff will not approve both a sign in the signband and a sign on a metal channel within a transom.

[(5)] (6) The sign [must] will be proportional to the signband, but in no event [shall] will it exceed 90 percent of the area of the signband and the letters [may] will not be higher than eighteen (18) inches in total whether one or two lines of text is used.

[(6)] (7) [Exterior signage may] Signage mounted on the exterior will not be internally illuminated, except that it may be “halo” lit with a light source behind opaque letters.

[(7)] (8) One interior neon sign per display window is permissible, provided that the sign is transparent, is installed a minimum of six (6) inches behind the glass, does not substantially reduce the transparency of the display window and [in no event exceeds] does not exceed [4 square feet in] fifteen (15) percent of the area of the display window or transom. Non-concealed illuminated lighting [Neon] strips outlining the display window will not be permitted. Any other illuminated signage must be at least eighteen (18) inches set back from the inside plane of the glass of the display window or transom.

[(8)] (9) Painted and vinyl signage may be applied directly onto the storefront glazing, including glazing at the doors, transom and display window, provided that the signage [does not substantially reduce the transparency of the display window, and] does not exceed more than twenty (20) percent of the glazed area. For purposes of this paragraph, the percent of the glazed area covered by signage will be calculated by the total area of the sign as a visual object and the collective groupings of text and images, without subtracting for voids between letters, numbers or graphics.

~~[(9)]~~ (10) Signage installed on the exterior may be illuminated externally with a shielded source of light, including “halo” lit with a light source behind opaque letters, or with a small [“goose-neck” type of] projecting fixture twelve (12) inches or less in length or width placed above the sign, with a maximum [of one fixture per 5 linear feet of sign] number of fixtures as follows: one fixture for the first one to six (1-6) feet of storefront opening; two fixtures if the storefront opening is between six to twelve (6-12) feet; three fixtures if the storefront opening is between twelve to eighteen (12-18) feet; and four fixtures if the storefront opening is between eighteen to twenty-four (18-24) feet. In no event will the light fixture arm project more than eighteen (18) inches from the sign. Cove fixtures must have the same finish as the sign, and if the sign projects from the façade, the cove fixture must be an integral part of the sign.

~~[(10)]~~ (11) Light fixtures will be installed in areas of plain masonry, metal, or wood, provided that the installation does not damage, destroy, or obscure significant architectural features of the building or storefront.

~~[(11)]~~ (12) Lighting conduits will be concealed.

~~[(12)]~~ (13) Exterior light fixtures, limited in number as set forth in paragraph (10), may only illuminate [storefronts and related] signage at signbands or sign panels, or may illuminate storefronts and/or awnings where no signbands or sign panels are being utilized.

~~[(13)]~~ (14) In approving an application for signage the LPC [staff] Staff will consider the overall amount of approved and grandfathered signage for the storefront and building. If the [staff] LPC Staff determines that the overall amount of signage for the storefront or building is excessive and will detract from the architectural features of the building, the adjacent buildings, or the streetscape, the staff will require that existing or proposed staff approved signage be eliminated or reduced. Such signage includes but not limited to signs on awning skirts [and], signage in a signband, signage applied to the storefront glazing, and bracket signs. LPC Staff will not approve new signage that will result in a storefront having a sign in the signband, signage on an awning, signage in a storefront and a bracket sign.

~~(d) Installation of [bracket signs]~~ Bracket Signs. The LPC [staff shall] Staff will issue a CNE for a bracket sign if the proposed work meets all of the following criteria:

(1) The armature [shall] will be installed below the second story, or above the second story at the lowest point to meet the minimum height criteria of the Zoning Resolution, within the storefront opening or on the flat face of a plain masonry, wood or metal pier, but not including cast iron, and [shall] will be mechanically fastened into the storefront infill or into the mortar joints of a plain masonry pier, or attached to the framing members at the underside of a metal canopy on an industrial building, and such installation [shall] will neither damage nor conceal any significant architectural features of the building.

(2) The armature [shall] will be a [dark finished] metal finished to be harmonious with the storefront finish, and [shall] will be simply designed.

(3) The display faces of the bracket sign may be made of wood or metal. If the bracket sign has display faces, the letters, words, numerals, illustrations or graphics[, etc.] may be painted or applied onto the display faces, and may be raised slightly from the surface. Any raised features, including letters, words, numerals, illustrations or graphics, must be made of wood or metal, or painted plastic. The overall width, as measured from face to face, [shall] will not exceed two (2) inches, and, if there are raised [letters, illustrations, etc.] features the bracket sign shall not exceed a width of three inches as measured from the outside plane of such raised features[letters or illustrations]. The display faces and the letters, words, numerals, illustrations or graphics, [etc.] whether raised or not, [shall] will be of a color or colors that do not detract from the significant architectural features of the building or neighboring buildings. No neon or other vividly bright colors [shall] will be permitted.

(4) The bracket sign [shall] will not be internally illuminated, [nor shall such sign have neon or L.E.D. (Light Emitting Diode) lighting of any kind, nor shall any lighting fixture or mechanism be attached to the armature] but the display faces may be externally illuminated by a lighting fixture that is integral or attached to the sign or armature, is, if not concealed, as small and discrete as possible and does not call attention to itself, and is finished to blend with the sign or armature.

(5) The bracket sign [may] will be fixed or may move freely from its points of attachment to the armature, but in no event [shall] will the bracket sign be made to move by mechanized or controlled means.

(6) Number of bracket signs for ground floor establishments.

(i) Except for signs subject to [subparagraph] subparagraphs (ii) and (iii) below, one bracket sign per ground floor establishment [shall] will be permitted.

(ii) In buildings with more than one ground floor establishment, one sign per establishment may be installed, provided that there is no more than [one sign per 25] two signs per twenty (20) feet of building façade fronting on a street, and further provided that the size, design, placement, materials and details of all of the armatures match or are similar. The placement of the bracket sign on the building [shall] will be in close proximity to the establishment that is identified on the bracket sign.

(iii) A ground floor establishment with a corner storefront may have one bracket sign on each building façade with at least [25] twenty (20) feet of street frontage, provided that each façade has a primary entrance and each bracket sign is located in close proximity to an entrance, but in no event [shall] will more than one bracket sign be located within twenty (20) feet of the corner of the building.

(7) Bracket signs for upper story establishments. A single armature for a bracket sign for an upper story establishment or establishments may be installed adjacent to the building entrance for such upper story establishments. This armature may hold one sign for each upper story establishment, provided such signs hang vertically underneath one another on the same armature,

and further provided that in no event [shall] will the total dimensions of such signs, taken together, exceed the size requirements specified in paragraph (8) below.

(8) The size of the bracket sign, oriented horizontally or vertically, [shall] will conform to the requirements of the Zoning Resolution, but in no event [shall] will the size exceed twenty-four (24) inches by ~~thirty-six (36)~~ inches[, oriented horizontally or vertically] in districts that were historically manufacturing or industrial in character, eighteen (18) inches by twenty-four (24) inches in districts that were historically commercial, or twelve (12) inches by eighteen (18) inches in districts that were historically residential in character. Novelty shapes, such as circles, polygons and irregular shapes are permitted, as are novelty objects, provided such shapes and objects generally fall within the parameters described in this paragraph.

(9) The projection of the bracket sign and armature beyond the property line [shall] will conform to the requirements of the Zoning Resolution and Building Code, but in no event shall extend more than 40 inches from the façade in districts that were historically manufacturing or industrial in character, eighteen (18) inches in districts that were historically commercial, and no more than [22] twelve (12) inches in districts that were historically residential in character.

(10) The bracket sign [shall] will be installed so that the lowest portion of the sign is at least ten (10) feet above the sidewalk.

(11) The establishment seeking approval for a bracket sign [shall] is not, for the same building, already [be] utilizing an LPC-approved, grandfathered or unapproved flagpole and banner, nor [shall] will it have approval from the LPC for installing a new flagpole and banner on the same building.

(12) In approving an application for a bracket sign, [the Commission staff shall] LPC Staff will consider the overall amount of [staff and Commission] approved and grandfathered signage for the storefront and building. If the [staff] Staff determines that the overall amount of signage for the storefront or building [with the proposed bracket sign] is excessive and will detract from the architectural features of the building, adjacent buildings or streetscape the [staff shall] Staff will require that other types of existing or proposed staff approved or approvable signage, including but not limited to signs on awning skirts and signage applied to the storefront glazing, be eliminated or reduced.

(e) Signage for Commercial Spaces Below the Sidewalk. Where a commercial establishment has an entrance below the sidewalk level, LPC staff will issue an approval for a sign that is installed:

(1) On a plain masonry band above the storefront opening, if one exists, and provided the signage otherwise meets the criteria set forth in subdivision (c); or

(2) On a flat metal or wood panel attached to an existing areaway fence, and provided:

(i) The attachment does not damage original or historic fabric or call attention to itself or detract from significant features of the fence;

(ii) The sign panel is not more than 1 inch thick and the signage is painted or applied to the panel; and

(iii) The panel is not bigger than twelve (12) inches by thirty-six (36) inches.

(f) *Miscellaneous Commercial Signage.*

(1) Plaques. Plaques are a traditional form of advertising for professional services, such as doctors' offices. Staff will issue an approval for a metal, glass or stone plaque in connection with a storefront or on a building that does not contain a storefront, such as a row house or small apartment building, if the plaque:

(i) Is as-of-right under the Zoning Resolution and Building Code;

(ii) Is installed into areas of plain, unornamented masonry or otherwise will not conceal or damage significant architectural features;

(iii) Is not more than one-half inch thick; and

(iv) Is not larger than twelve (12) inches by eighteen (18) inches and the LPC Staff determines that due to its size and proportion the plaque does not call undue attention to itself; and

(v) If attached to a free-standing pole installed in an areaway;

(A) The pole has a dark finish and is not taller than six (6) feet;

(B) The pole is installed through non-historic paving, away from the façade and does not obscure or hid decorative features of the building or detract from adjacent buildings;

(C) There are no more than three plaques on the pole;

(D) Each plaque is not larger than six (6) inches by twelve (12) inches.

(2) Poster Boxes on Certain Types of Buildings. With respect to poster boxes on the facades of buildings used as theaters, religious institutions, community centers, libraries, museums, and clubs, or other buildings that traditionally used poster boxes, LPC staff will issue an approval if the poster box:

(i) Is installed into areas of plain, unornamented masonry or otherwise will not conceal or damage significant architectural features;

(ii) Consists of a metal or wood frame with clear glass;

(iii) Any lighting is restricted to the inside of the box with concealed wiring; and

(iv) The LPC staff determines the size of the box does not call undue attention to itself or detract from significant architectural features.

(3) Menu Boxes. With respect to menu boxes on storefronts used as restaurants, LPC staff will issue an approval if there is no more than one menu box per entrance per street and such menu box:

(i) Is installed at or near the entrance;

(ii) Is installed into areas of plain, unornamented masonry, or into non-historic storefront material, or otherwise will not conceal or damage significant architectural features, or is attached to an areaway fence in such a way that does not damage original or historic fabric or call attention to itself or detract from significant features of the fence;

(iii) Consists of a metal or wood frame with clear glass;

(iv) Is not larger than twenty-eight (28) inches by thirty (30) inches and LPC Staff determines that because of its size it does not call undue attention to itself or detract from significant architectural features; and

(v) Any lighting is restricted to the inside of the box with concealed wiring.

§ 8. Section 2-14 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is REPEALED and a new section 2-14 is added to read as follows:

§2-14 Windows and Doors

(a) Introduction.

These rules apply to proposals for work involving the installation of windows and doors at buildings that are Individual Landmarks or are within a historic district or scenic landmark in existing window and door openings. The rules are categorized according to types of facades (e.g., primary facades; visible secondary facades; and minimally visible and non-visible facades) and building types (e.g., small residential and commercial buildings; large residential and commercial buildings). In addition, these rules govern the creation of modified window openings and new window and door openings, and the installation of windows and doors in such openings. Finally, the rules cover window and door “add-ons”, such as storm windows and doors, screens and applied films.

(b) Definitions. As used in this section, the following terms have the following meanings:

Color. "Color" means the sensible perception of hue, value and saturation characteristics of surfaces of window and door components. In the event of disagreement, the Munsell system of color identification will govern.

Commission. "Commission" means the Landmarks Preservation Commission as established by §3020 of the New York City Charter.

Commissioners. "Commissioners" means the eleven Commissioners of the Landmarks Preservation Commission, including the Chair, as established by §3020 of the New York City Charter.

Configuration. "Configuration" means the number, shape, organization and relationship of panes (lights) of glass, sash, frame, muntins, or tracery.

Details. "Details" means the dimensions and contours of both the stationary and moveable portions of a window or door, and moldings.

Dutchman. "Dutchman" means a repair technique for replacing small sections of a damaged material with new material that matches the original material.

Entrance infill. "Entrance infill" means the assembly of door(s), transom(s), sidelight(s), spandrel(s) and other framing elements, as opposed to a singular door, within an entrance opening.

Existing window or existing door. "Existing window" or "existing door" means the window and/or door existing at the time of designation or a window and/or door which has been changed subsequent to designation pursuant to a permit issued by the Commission.

Fenestration. "Fenestration" means the arrangement, proportioning and design of windows in a building.

Finish. "Finish" means the visual characteristics, including color, texture and reflectivity of exterior material. Finish can be based on the original or historic finish, or finishes used at similar buildings in later eras of significance typical of a particular historic district as an alternative to matching the original or historic finish.

Frame. "Frame" means the stationary portion of a window or door unit that is affixed to the facade and holds the sash or other operable portions of the window or door.

Glazing. "Glazing" means the material, usually glass, that fills spaces between sash members (rails, stiles and muntins), commonly referred to as panes or lights. *Note: glazing may consist of multiple layers of glass, including laminated glass and insulated glass with or without low-e coatings, provided the glass is otherwise clear.*

Head. "Head" means the upper horizontal part of a window or door frame or opening.

Historic window or historic door. "Historic window" or "historic door" means:

(1) a window or door installed at time of construction of the building; or

(2) a window or door of a type installed at time of construction of similar buildings in similar periods and styles; or

(3) a window or door installed at time of major facade alterations 30 or more years ago.

Jamb. "Jamb" means the side parts of a window or door frame or opening, as distinct from head and sill.

Landmarks law. "Landmarks Law" means Title 25, Chapter 3 of the Administrative Code of the City of New York.

Light. "Light" means a pane of glass, a window, or a sub-pane of a window or door.

Low-e. "Low-e" means a coating or sheet of material applied to glass that reduces the amount of heat transferred through the glass, which is considered clear or untinted for the purposes of these rules.

LPC. "LPC" means the Commission acting in its agency capacity to implement the landmarks law.

LPC Staff. "LPC Staff" means the staff of the Landmarks Preservation Commission acting in the Commission's agency capacity.

Match. "Match" means either an exact or an approximate replication. If not an exact replication, the approximate replication must be designed so as to achieve a suitable, harmonious and balanced result.

Meeting rail. "Meeting rail" means a sash rail in a double-hung window designed to interlock with an adjacent sash rail.

Member. "Member" means a component part of a window or door.

Molding. "Molding" means a piece of trim that introduces varieties of outline or curved contours in edges or surfaces as on window or door jambs and heads. Moldings are generally divided into 3 categories: rectilinear, curved and composite-curved.

Mullion. "Mullion" means a vertical primary framing member that separates paired or multiple windows within a single opening.

Muntin. "Muntin" means the tertiary framing member that subdivides the sash into individual panes, lights or panels; lead "comes" are often used in stained glass windows. *Note:* Muntins may be traditional true divided, or simulated divided light ("SDL") type; however, grids placed between two sheets of glass only are not considered muntins.

Operation. "Operation" means the manner in which a window or door unit opens, closes, locks, or functions (e.g., casement or double-hung). If non-operable, a window unit (such as a side light) is identified as "fixed."

Panning. "Panning" means an applied material, usually metal, that covers the front (exterior) surface of an existing window frame or mullion.

Permit. "Permit" means any permit, certificate or report issued by the Commission in accordance with the provisions of the Landmarks Law.

(1) "PMW" means Permit for Minor Work as defined by §25-310 of the Landmarks Law.

(2) "CNE" means Certificate of No Effect as defined by §25-306 of the Landmarks Law.

(3) "C of A" means Certificate of Appropriateness as defined by §25-307 of the landmarks law.

(4) "Report" means the report referenced in §25-318 of the Landmarks Law or a report issued in connection with a review of work pursuant to § 856(h) of the New York City Charter.

Primary facade. "Primary facade" means:

(1) a façade fronting a street or public thoroughfare that is not a street, such as a mews or court;

(2) A visible façade that possesses a level of design or significant architectural features that are commensurate with the building's street-fronting façade(s), and where such façade (i) faces but does not front a street, such as a setback façade, or (ii) is part of a dominant massing element where at least one façade is street-fronting or street-facing, such as a tower element; and

(3) A façade with a primary entrance to the building.

Rail. "Rail" means a horizontal sash member.

Repair. "Repair" means work to correct deterioration or decay of, or damage to, a window or door or any part thereof and to restore same, as closely as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage. The term "ordinary repair" refers to work that does not require a permit.

Restoration. "Restoration" means the process of returning, as nearly as possible, a building or any of its architectural features to its original form and condition.

Sash. "Sash" means the secondary part of a window which holds the glazing in place. It may be operable or fixed, and is usually constructed of horizontal and vertical members. A sash may be subdivided with muntins.

Secondary facade. "Secondary facade" means a facade that does not front on a street or a public thoroughfare and that does not possess significant architectural features that are commensurate with the street fronting façade.

Significant architectural feature. "Significant architectural feature" means an architectural component of a building that contributes to its special historic, cultural and aesthetic character, or that in the case of an historic district reinforces the special characteristics for which the district was designated.

Sill. "Sill" means the lower horizontal part of a window frame or window opening; also the accessory member which extends as a weather barrier from frame to outside face of wall.

Special window or special door. "Special window" or "special door" means a window or door that possesses rare or distinctive traits reflective of its style and age, including but not limited to:

(1) A rare shape and distinctive pattern, including but not limited to square sash with complex arched paneling; diamond, round and oval sash; sash with intersecting curved muntins; and multi-light sash or door leafs with densely-gridded window panes of thirty (30) square inches or less; and arch-headed doors. Unless otherwise classified as a special window or special door, the following window types are not considered special windows: square sash; square sash with simple arched paneling (e.g., half-round arch, elliptical arch, quarter-round arch, pointed arch); fixed or operable sash in simple arched transoms; sash with simply curved muntins; and multi-light sash or door leafs with large panes of more than thirty (30) square inches.

(2) Distinctive glazing, including but not limited to leaded; stained; etched; textured; and curved glazing. Unless otherwise classified as a special window or special door, clear or frosted glazing is not considered distinctive.

(3) Fine craftsmanship and/or distinctive materials, including bronze; brass; nickel silver; cast metal; and elaborate carved woodwork. Unless otherwise categorized as a special window or special door, the following are not considered fine craftsmanship or distinctive materials: copper or other sheet metal; kalamein; rolled steel; and extruded aluminum.

(4) Unique typology, including curved sash; bi-folding sash; operable true arch-headed double-hung or casement sash; and monumental window or door assemblies. Unless otherwise categorized as a special window or special door, the following are not considered unique: pivot sash, French doors, and casements.

(5) Age, including original windows at buildings constructed prior to 1850.

Stile. "Stile" means a vertical sash member.

Story. "Story" means a habitable floor level, including a basement but not including a cellar.

(c) Work for Which No Approval is Required.

(1) Maintenance, repair and retrofit of windows, doors and add-ons, except for special windows and special doors if removal to an off-site location is required to perform the work. Ordinary maintenance, minor repair and retrofits, including modifications to improve energy efficiency and weatherization, to windows, doors and add-ons (e.g., screens, storm windows, and films) at primary facades and secondary facades of Individual Landmarks and buildings in historic districts and scenic landmarks, including:

(i) In-kind replacement of clear glass, glazing putty and stops, and screens;

(ii) Prepping and repainting of windows, doors and add-ons to match the existing color and finish;

(iii) Replacing or installing perimeter caulking and sealants;

(iv) Repairing or replacing window or door hardware, such as hinges, knobs and handles, but excluding ornate historic exterior hardware on special doors;

(v) Replacing or installing weather-stripping;

(vi) Patching or straightening metal window and door components;

(vii) Patching or consolidating wood fibers or partially rebuilding wood window and door components with Dutchmen.

(2) Interior add-ons. New interior window and door add-ons at primary facades and visible portions of secondary facades, if the work meets all of the following criteria applicable to the work:

(i) The work is not occurring in an Interior Landmark;

(ii) The interior add-ons have no mullions, muntins or wide frames that are conspicuous as seen through the glazing of the primary window or door from the exterior of the building;

(iii) The interior add-ons have clear glass or clear acrylic (including plexiglass) or screens with a dark fabric; and/or

(iv) The add-on is an applied film and is clear.

(3) Interior and exterior add-ons at non-visible facades. New interior and exterior window and door add-ons at non-visible portions of secondary facades if the work is not occurring in an Interior Landmark and no significant exterior architectural feature of the window, door or building will be lost or damaged.

(d) *Installation of Exterior Add-Ons for Windows and Doors in Individual Landmarks and Buildings in Historic Districts and Scenic Landmarks.*

(1) Storm windows and doors and screens. LPC Staff may approve an application for new exterior window and door add-ons at primary facades and visible portions of secondary facades, provided the work meets all of the following criteria applicable to such work:

(i) The add-on fits tightly within the window or door opening with minimal or no sub-frame around the perimeter, and is set as far back from the plane of the exterior wall as possible;

(ii) The add-on will be made of wood, metal or fiberglass with a finish that matches the color of the primary window or door frame, with clear glass;

(iii) A window add-on will have horizontal mullions or meeting rails that match the primary window's meeting rail or substantial mullions, is placed in the same relative location, with no additional divisions;

(iv) A door add-on will have horizontal mullions only in conjunction with the rails of the primary door, with no additional divisions; and

(v) The installation of the add-on will not damage or destroy any significant feature of the window, door or building.

(2) Applied films. LPC Staff may approve an application for applied films on windows or doors at primary facades and visible portions of secondary facades, provided the work meets all of the following criteria applicable to such work:

(i) The applied film is clear or translucent and/or tinted in greyscale, except that only clear film may be used for special windows or doors;

(ii) The installation is on the interior face of the glass and is reversible; and

(iii) If translucent and/or tinted, the overall installation is limited in scope so as to not change the character of the overall fenestration of the building (for example, applied only at bathroom windows).

(e) *Special Windows and Special Doors; Any Facade.*

(1) If existing original or historic special windows or special doors are deteriorated beyond reasonable repair, as described in a condition assessment submitted by the applicant, new windows or doors may be approved if they match the original or historic windows and doors in terms of details, materials, operation, configuration and finish. The assessment should generally be prepared by a qualified architect or engineer; however, for more limited scopes of work a contractor or other professional with preservation experience may be deemed acceptable. For purposes of this subdivision, the criteria established for window replacement at Primary Facades of Individual Landmarks will be used, with the additional variations and exceptions as described in paragraph (f)(1).

(2) A window that is special due only to its glazing can be removed and reinstalled in a new window sash that otherwise complies with the relevant criteria for replacement of non-special windows.

(f) *Primary Facades.*

(1) General criteria. New windows or doors may be approved if they match the original or historic windows and doors in terms of details, materials, operation, configuration and finish. Historic doors may be replaced only if they are deteriorated beyond reasonable repair, as described in a condition assessment. For purposes of this subdivision, the following variations and exceptions apply, except as noted in each provision.

(i) Details. Variations in details will be permitted if such variations do not significantly affect the visual characteristics of the window or door. LPC Staff may approve a diminution of glazing area from the historic window not to exceed ten (10) percent for metal windows and six (6) percent for wood windows, except that the diminution percentages may be slightly exceeded for specific window types due to their small size or muntin pattern, or due to building, energy, accessibility or other code requirements that must be met, provided that LPC Staff determines that the proposed window will not call attention to itself or detract from the significant architectural features of the building. In addition to the window sashes, door leafs and frames, the new window's or door's muntins, mullions and brickmolds must also match the historic condition. Simulated divided light ("SDL") muntins are acceptable substitutes for true divided light muntins, provided the exterior muntins are built into the frames of the sashes and are of the same material and there are spacers between multiple layers of glass and interior muntins. At large residential and commercial buildings in historic districts, spacers and interior muntins are not required.

(ii) Materials.

(A) A historic wood window or door can be replaced with wood of any species. A historic metal window or door can be replaced with a different metal, including replacing metal-clad windows with a non-metal substrate material. However, Special Windows and Special Doors may require matching the original material exactly.

(B) At small residential and commercial buildings in historic districts, straight- and arch-headed, double-hung wood windows for which the historic condition had no divided lights (without muntins) may be replaced with windows of a different material, including aluminum and fiberglass, but not including vinyl, provided the historic wood brickmolds are retained or replicated in wood, aluminum or fiberglass; the new windows are installed in the same plane as the historic window; and the window and brickmolds have a matching finish that replicates the historic finish;

(C) If the historic transom window originally or historically had stained or leaded glass but did not retain such glass at the time of designation, the replacement window does not have to match the stained glass but can be either clear glass or recall the stained or leaded glass window.

(iii) Operation.

(A) The upper sash of a double-hung window, or of a transom window, may be fixed, and the direction of the swing (e.g., outward or inward) of a casement, awning or hopper window may be changed.

(B) Except at Individual Landmarks, the historic operation of the lower sash of a double-hung window may be changed to a hinged operation to meet high-performance energy-efficiency or accessibility standards or goals provided that:

(a) The operation of the lower sash is limited to an inward tilting hopper for ventilation, except for additional inward turning capabilities for maintenance purposes only, and the plane of the lower sash approximates that of the historic sash;

(b) The details closely match that of the historic double-hung window, with additional dimensional tolerances (typically deeper sashes and frames) to accommodate thicker insulated glazing and the change in operation at the lower sash, and such additional minor changes do not call attention to themselves or detract from the appearance of the building or adjacent buildings, if in a district; and

(c) All windows on the primary facades eligible for this exception, excluding special windows, are being replaced at the same time or as part of an approved master plan to ensure a uniform installation and appearance.

(C) The operation of a door must match the historic operation, except that the historic operation of a swinging door may be changed to fixed or reversed in swing or hinging; in addition, the historic operation of a swinging, sliding, roll-down or overhead garage or loading door may be substituted interchangeably;

(D) Except at Individual Landmarks, the historic operation of a pivot window may be changed to a hinged operation matching the vertical or horizontal orientation of the pivot operation; and

(iv) Configuration of a door. The following exception to matching the configuration of a historic door may apply if the door is not a Special Door or located on an Individual Landmark: the historic configuration of equal leaf paired doors may be changed to unequal leaves or a single leaf, if the applicant can demonstrate an inability to meet accessibility requirements through other modifications, provided that the new door(s) will match or recall the configuration and details of the historic door(s), and the work meets other relevant criteria in § 2-18.

(2) Specific criteria for primary facades.

(i) Individual Landmarks.

(A) Existing original or historic window and door openings. If original or historic windows or doors are deteriorated beyond reasonable repair due to physical conditions as described in a

condition assessment submitted by the applicant, new windows or doors will be approved if they match the original or historic windows and doors in terms of configuration, operation, details, material and finish. The assessment should generally be prepared by a qualified architect or engineer; however, for more limited scopes of work a contractor or other professional with preservation experience may be deemed acceptable.

(B) Existing non-original or non-historic window and door openings. If the window or door opening is not original or historic, or has been substantially modified, such as a window opening installed after the removal of a stoop and entrance door, or a door opening installed after the installation of a fire escape, a new window or door may be approved if it matches or otherwise harmonizes with the configuration, details and materials of the original or historic windows and doors on the building.

(ii) Small residential and commercial buildings in historic districts.

(A) Applicability. For purposes of this subparagraph, a small residential or commercial building is a building which is six stories or less in height and has a street frontage of forty (40) feet or less, and includes rowhouses, townhouses, mansions, detached and semi-detached houses and carriage houses; small apartment buildings, tenements and hotels; and small, utilitarian, commercial and loft buildings, including cast-iron fronted buildings, department stores, banks and office buildings. Notwithstanding the above, a corner rowhouse, town house, mansion, detached and semi-detached house and carriage house shall be deemed a small residential and commercial building regardless of the length of its longest street frontage.

(B) Existing original or historic window and door openings. New windows installed in existing original or historic openings will be approved if they match the historic windows in terms of configuration, operation, details, material and finish. If original or historic doors are deteriorated beyond reasonable repair due to physical conditions as described in a condition assessment submitted by the applicant, new doors replacing historic doors will be approved if they match the historic doors in terms of configuration, operation, details, material and finish, and new doors replacing non-historic doors will be approved if they match the historic doors in terms of operation, material and finish, and recall the configuration and details of the historic doors. The assessment should generally be prepared by a qualified architect or engineer, however for more limited scopes of work a contractor or other professional with preservation experience may be deemed acceptable.

(C) Existing non-original or non-historic window and door openings. If the existing window or door opening is not original or historic, or has been substantially modified, such as a window opening installed after the removal of a stoop and entrance door, or a door opening installed after the installation of a fire escape, the new window or door will be approved if it matches, or otherwise harmonizes with, the configuration, operation, details, material and finish of the historic windows and doors on the building. The design may maintain the existing opening or may include the modification of the height and width of the existing opening, and may introduce new architectural features on the area surrounding the opening, provided that:

(a) The design of the surround is consistent with or harmonious the materials and details of the building.

(b) For modifications to entrances at the base of the building, see § 2-14(i).

(iii) Large residential and commercial buildings in historic districts.

(A) Applicability. For purposes of this subparagraph, a large residential or commercial building means a building that is seven or more stories in height, or has a street frontage of more than forty (40) feet, and includes large apartment buildings and hotels, and large commercial and loft buildings, including cast-iron fronted buildings, department stores, banks and office buildings.

(B) Existing original or historic window and door openings. New windows installed in existing original or historic openings will be approved if they match the historic windows in terms of configuration, operation, details and finish. New doors installed in existing original or historic openings will be approved if they recall the historic doors in terms of configuration, operation, details and finish.

(C) Existing non-original or non-historic window and door openings. If the existing window or door opening is not original or historic, or has been substantially modified, such as a window opening installed after the removal of a stoop and entrance door, or a door opening installed after the installation of a fire escape, the new window or door will be approved if it matches, or otherwise harmonizes with, the configuration, operation, details, material and finish of the historic windows and doors on the building. The design may maintain the existing opening or may include the modification of the height and width of the existing opening, and may introduce new architectural features on the area surrounding the opening, provided that:

(a) The design of the surround is consistent or harmonious with the materials and details of the building.

(b) For modifications to entrances at the base of the building, see § 2-14(i).

(iv) Other buildings in historic districts.

(A) Applicability. For purposes of this subparagraph, "other buildings" include buildings such as churches and synagogues, hospitals, schools, libraries and the one- or two-story commercial building known as a "taxpayer."

(B) Existing original or historic window and door openings. New windows and doors installed in existing original or historic openings will be approved if they satisfy the criteria in set forth in paragraph (2) of subdivision (f) as determined by whether the other building type is seven or more stories in height or has more than forty (40) feet of street frontage.

(C) Existing non-original or non-historic window and door openings. If the existing window or door opening is not original or historic, or has been substantially modified, such as a window

opening installed after the removal of a stoop and entrance door, or a door opening installed after the installation of a fire escape, the new window or door will be approved if it matches or otherwise harmonizes with the configuration, details, material and finish of the historic windows and doors on the building. The design may maintain the existing opening or may include the modification of the height and width of the existing opening, and may introduce new architectural features on the area surrounding the opening, provided that:

(a) The design of the surround is consistent or harmonious with the materials and details of the building.

(b) For modifications to entrances at the base of the building, see § 2-14(i).

(v) Buildings in Scenic Landmarks.

(A) Applicability. This subparagraph shall apply to buildings in Scenic Landmarks that are not Individual Landmarks, and shall include such buildings as educational centers, sports-related buildings, utility buildings (including sheds and maintenance buildings), stables, carriage houses, garages, boat houses, historic houses, police stations, zoo buildings, theater and performance buildings, and comfort stations.

(B) Existing original or historic window and door openings. New windows and doors installed in existing original or historic openings will be approved if they satisfy the criteria in set forth in paragraph (2) of subdivision (f) as follows: buildings six or less stories in height and with less than forty (40) feet of primary façade shall follow the criteria in paragraph (2)(ii) of subdivision (f), and shall follow the criteria in paragraph (2)(iii) of subdivision (f) if taller or with more than forty (40) feet of primary façade.

(g) *Secondary Facades; Visible Facades.* This subdivision applies to new windows and doors, and modified and new window and door openings, at visible portions of secondary facades for all building types.

(1) Existing window and door openings. New windows and doors installed in existing openings, whether original, historic or modified, will be approved if they match the historic windows and doors in terms of configuration and finish.

(i) Existing window and door openings that do not contain a special window or door can be filled in provided:

(A) If the façade is masonry, the window and door opening will be filled in with new masonry to match the surrounding masonry, except if an original or historic window opening is being filled in, the new masonry must be set flush with but not toothed into the surrounding masonry, or set slightly back of the plane of the façade, and the lintel and sill retained, provided that the filled in openings will not detract from the existing windows or doors on the secondary façade or the primary façade if such filled in windows can be seen in conjunction with the primary façade. Notwithstanding the foregoing, original or historic window openings at the top

floor of a building built as part of a row of identical or similar buildings, where the building retains its original height, cannot be filled in.

(B) If the façade is sided with wood, the window or door opening can be filled in with wood to match the existing façade, except at the top floor of a building that was built as part of a row.

(2) Modified and new window and door openings. New windows and doors installed in existing openings being modified by enlarging or reducing the opening in height and/or width, or new windows and doors installed in newly created openings, on visible portions of secondary facades will be approved if the modified or new opening, and the window or door, meet all of the following criteria as applicable:

(i) Modified and new window and door openings.

(A) A modified or newly created window or door opening will retain the same general shape and pattern as existing windows and doors on the same facade, or, where there are no existing openings, the newly created opening will be located in a place and be of a size and shape where it can form the basis for a regular and consistent pattern; and that the number, size or placement of the new window or door opening does not change the character of the facade as a secondary and subservient facade with a high solid to void ratio;

(a) With respect to proposals for creating new window or door openings at secondary facades of row houses or townhouses, mansions, detached and semi-detached houses and carriage houses, staff may approve new window openings provided that, together with the existing openings, there is no more than one window opening on a secondary façade of less than twenty (20) feet, two window openings if the façade is between twenty-one (21) and forty (40) feet, and 3 window openings if more than forty (40) feet; the placement, pattern and sizes of windows on the façade do not detract from significant architectural features of the buildings or neighboring buildings if in a district; and the original window openings on the top floor of a rear facade are not modified, with the exception of one window opening which may be lowered to provide access to an approved or grandfathered balcony, terrace or deck. However, previously altered window openings on the top floor of these building types may be enlarged or reduced to restore or more closely match the original window openings, as deemed appropriate by LPC Staff.

(b) No opening with a special window or door may be modified.

(ii) New windows and doors installed in modified and new window and door openings approved pursuant to subparagraph (i) of this paragraph will be approved if they match the historic windows and doors in terms of configuration and finish, and

(A) The new window or door will not replace a Special Window or Special Door;

(B) The new and/or modified window or door opening, and window or door, will not detract from the significant architectural features of the building or adjacent buildings by virtue of their proximity to such features.

(h) Secondary Facades; Nonvisible and Minimally Visible Facades. New and modified window and door openings, and new windows and doors installed in existing openings, new openings, and modified openings will be approved if the proposed work meets all of the following relevant criteria:

(1) New windows and doors in existing openings.

(i) LPC Staff will approve a new window or door in an existing opening, provided the window or door being removed is not a special window or special door, except that if the “Special Window” is limited to distinctive glazing, the glazing can be removed and installed in a new window and in a new location on the façade;

(ii) Existing window and door openings that do not contain a special window or door can be filled in with new masonry to match the surrounding masonry or filled in with new façade cladding to match the surrounding façade cladding for non-masonry facades, except at the top floor of a building built as part of a row or identical or similar buildings where the building retains its historic height, and provided that the filled in opening does not detract from the existing windows or doors on the secondary façade. One (1) original or historic window opening at the top floor of a building built as part of a row may be filled in, if the new masonry is set slightly back of the plane of the façade and the lintel and sill are retained.

(2) Modified window and door openings.

(i) Existing window and door openings on the same floor, except as provided below for the top floor and bottom two floors, may be modified by enlarging or reducing the opening in height and/or width or combining horizontally adjacent openings, provided that at least one bay of windows is not combined and the modified opening maintains the existing masonry wall or cladding at the outer piers, other mullions or muntins break down the scale of the window and the enlarged opening does not extend above or below a floor, and there are at least eighteen (18) inches between the enlarged opening and the windows above and below;

(A) With respect to the top floor, the historic window openings cannot be modified except that one window opening may be lowered to provide access to an approved or grandfathered balcony, terrace or deck, including a new Juliette-style balcony, and the modified window opening may be widened if necessary to meet minimum code requirements;

(B) With respect to the bottom two floor levels of the existing building, a modified window and door opening can combine all windows and doors on a floor, and may span vertically between the bottom two floor levels to create a single large opening, if the modified opening will maintain at least twenty-four (24) inches of masonry or wall cladding at the outer piers and between the floors above the modified opening, and provided there is a spandrel or horizontal element of at least twelve (12) inches that marks the location of the missing floor and other mullions or muntins that break down the scale of the window, except that if the modified window is to be installed in an addition or extension that does not extend the full width of the building, 12 (twelve) inches of masonry or wall cladding must remain at the outer piers; and

(ii) At intersecting facades, such as those occurring at partial rear extensions, modified and enlarged openings may not wrap continuously around the outside or inside corners and must maintain at least 12 (twelve) inches of separation with masonry or wall cladding.

(3) New window and door openings. The new opening must:

(i) Match or be consistent with the size and scale of existing openings and placed so as to be consistent with an existing pattern or to create a consistent pattern; or

(ii) Match or be consistent with the modifications to existing window and door openings provided for in this section; and

(iii) Not detract from significant architectural features of the building or adjacent buildings.

(4) New windows and doors in modified existing openings and in new openings. LPC Staff will approve new windows and doors to be installed in new openings and existing openings modified as permitted under this subsection, provided that:

(i) The new window or door does not detract from any significant exterior architectural feature of the building or neighboring buildings by virtue of its proximity to such feature(s); and

(ii) If the opening has been widened, combined horizontally and/or vertically, the new windows and doors are subdivided to give the window scale and texture and, for purposes of this subparagraph, sliding glass doors may be installed in a modified or new opening if the opening faces onto a deck or the ground.

(5) For purposes of this subdivision (h), a secondary façade is “minimally visible” if the façade is seen at such an angle that the configuration of the windows cannot be seen or is very difficult to discern, or only a small portion of the façade is seen through a gap in the streetwall and is visually disconnected from the primary façade of the building.

(i) Entrance Infill, Excluding Entrances in Storefront Infill. LPC Staff will issue an approval for new entrance infill for existing entrance openings (e.g., at primary and secondary entries for lobbies, vestibules, service areas or egress), but not including entrance openings in Individual Landmarks, where no significant historic fabric exists, if the proposed work will restore the historic infill pursuant to the requirements of § 2-11(f) or meets all of the relevant criteria set forth below:

(1) Design. The design of the new infill is based on the historic entrance prototypes and details within the specific historic district and for buildings of similar age, type and style, except that entrance infill for a building that already has entrance infill approved pursuant to this section must be harmonious with the previously approved entrance infill in terms of the design, materials and finish. At commercial and mixed-use buildings where entrance infill and storefront infill was installed in similar openings historically, the entrance infill can also be removed and replaced with storefront infill pursuant to § 2-12(c) of these rules.

(2) Configuration. The configuration of the new infill is consistent with the proportions of doors, sidelights, transoms and other features of historic entrance infill or previously approved entrance infill.

(3) Door, transom and sidelight glazing. Glazing in doors, transoms and sidelights must be clear, except that a gray-scale translucent treatment may be applied the interior face of glazing where existing interior conditions preclude the installation of clear transom windows; or at a service entrance.

(4) Framing. Entrance framing must feature profiled trim that recalls the articulation of historic entrance framing, and the details will be traditional or contemporary, except that at small residential buildings the framing details must recall traditional framing.

(5) Orientation. New infill must be installed parallel to the building's sidewalk and consistent with the plane of the facade, and must be set back from the face of the existing entrance surround the minimum dimension required to avoid concealing any significant architectural feature, including features previously concealed by existing entrance infill, but in no event less than four (4) inches from the face of the entrance surround.

(6) Entrances and doors.

(i) The new entrance will be accessible if feasible or required by law; and

(ii) The design of the new door will maintain the design intent of new entrance infill required by this section, or will match the original or historic door pursuant to the criteria for door replacement addressed in subdivision (f) of this section.

(7) Material. If the building was constructed prior to 1900, the material of the new infill must match the historic material, if known, or be wood; for buildings constructed in or after 1900, or built before and altered in or after 1900 to include entrances, the material of the new infill may be wood or metal or match the historic material, except that:

(i) At small residential buildings of six (6) stories or less and with a street frontage of forty (40) feet or less, the material of the new infill must match the historic material, except that corner rowhouses, town houses, mansions, detached and semi-detached houses and carriage houses are subject to this clause regardless of the length of the façade with the longest street frontage.

(ii) Service entrances, such as those that historically accessed freight elevators or had other utilitarian uses, may be wood or metal regardless of when the building was constructed, in keeping with similar service entrances found within the specific historic district and for buildings of similar age, type and style.

(8) Finish. New entrance infill must have a finish that recalls the finish of historic or approved entrances or is otherwise harmonious with the building.

(9) Removal of modern cladding. If an applicant is proposing to remove modern cladding on the entrance or the area surrounding the entrance, the applicant must first perform probes of the material to see if historic material or elements exist behind the modern cladding.

(A) If significant historic material or elements exists underneath the cladding, the historic material must be restored and the new entrance can only be approved pursuant to § 2-11(f).

(B) If a significant portion of the historic entrance surround exists underneath the cladding, but no historic entrance infill remains, the entrance surround must be restored, pursuant to § 2-11(f), as part of the application for new entrance infill under this paragraph.

(10) Restoration of the original entrance opening. If the original entrance opening has been reduced or increased in size the design may maintain the existing entrance opening, or may include the restoration of the height and width of the original opening, except that where interior conditions preclude restoration to the original height (e.g., later structural elements or existing interior roll gate housing or mechanical systems):

(i) The existing entrance opening may be enlarged or reduced to the greatest extent feasible; and

(ii) The design of the surround is consistent with or harmonious the materials and details of the historic base of the building.

(11) Modification of the existing entrance opening. If the existing entrance opening is not original to the building, the proposed work may maintain the existing entrance opening or may include the modification of the height and width of the existing opening, and may introduce new architectural features on the area surrounding the entrance, provided that the design of the surround is consistent or harmonious with the materials and details of the historic base of the building.

§ 9. Section 2-15 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is REPEALED and a new section 2-15 is added to read as follows:

§2-15 Additions: Rooftop and Rear Yard Additions or Enlargements.

(a) Applicability.

(1) This section addresses LPC Staff approvals for additions to existing buildings, including rooftop, rear and side yard additions. It does not apply to additions to buildings in scenic landmarks.

(2) This section does not apply to any building already subject to a District Master Plan that includes criteria for additions. (See Chapters 4, 6 and 12, and the Sunnyside Gardens Historic District guidelines.)

(3) The design and installation of additions consisting of heating, ventilation and air-conditioning equipment must meet the requirements set forth in § 2-21. Flues and chimneys that are part of an addition or that must be raised as a result of an addition are included in this section.

(4) For purposes of this section, “minimally visible” means the visibility of a portion of an addition or enlargement which, from its maximum point of visibility, when viewed from any public thoroughfare:

(i) Projects into the maximum line of sight from such public thoroughfare no more than twelve (12) inches in height if the addition or enlargement is less than sixty (60) feet above the ground, projects no more than 18 inches if the addition or enlargement is between sixty-one (61) and eighty (80) feet above the ground, and projects no more than 24 inches if the addition or enlargement is between eighty-one (81) and one hundred (100) feet above the ground, and projects no more than thirty-six (36) inches if the addition is more than one hundred (100) feet above the ground, and the visible portion of the addition does not span more than fifty (50) percent of the length of the façade it is seen above unless it is an open railing or other installation with a similar open quality; or

(ii) Otherwise does not call attention to itself or detract from any significant architectural features of the building or other buildings if in a historic district. In determining whether an addition does not call attention to itself or detract, LPC Staff will consider the following factors:

(A) The addition is visible at a significant distance;

(B) The addition is visible from limited vantage points, including through alleyways, yards, or similar open portions of sites which are not building sites;

(C) The addition is visible from an oblique angle; or

(D) The addition is visible in combination with other existing additions or structures that share a similar level of visibility.

(5) For purposes of this section, the term “primary façade” means:

(i) a façade fronting a street or public thoroughfare that is not a street, such as a mews or court;

(ii) A visible façade that possesses a level of design or significant architectural features that are commensurate with the building’s street-fronting façade(s), and where such façade (A) faces but does not front a street, such as a setback façade, or (B) is part of a dominant massing element where at least one façade is street-fronting or street-facing, such as a tower element; and

(iii) A façade with a primary entrance to the building.

(b) Rooftop Additions of Occupiable Space; General Requirements. The following criteria apply to all additions of occupiable space approvable by LPC Staff, subject to specific

exemptions described below. For purposes of this section, “occupiable space” means a room or enclosure and accessory installations that are intended for human occupancy or habitation.

(1) The addition is as-of-right for bulk, massing and height under the Building Code and the Zoning Resolution;

(2) The installation of the addition will not damage or remove a significant feature of the roof;

(3) The addition is not on top of an existing rooftop addition but may expand an existing addition horizontally, and is not more than one story, with a maximum height of eleven (11) feet as measured from the mid-point on the existing roof of the structure on which such addition is to be constructed; and

(4) The addition is back at least three feet from the plane of the rear façade.

(c) *Rooftop Additions of Occupiable Space; Specific Requirements.* In addition to the criteria set forth in subdivisions (b) and (g) of this section, the following criteria apply:

(1) Individual landmark. LPC Staff may approve an addition of occupiable space if the addition and any chimney or flue that needs to be raised because of the addition, or any railing associated with such addition, is not visible from a public thoroughfare.

(2) Building within a historic district. LPC Staff may approve an addition of occupiable space if:

(i) The addition is not visible from a public thoroughfare in connection with the primary façade, except that a required enlargement of an existing chimney and/or exhaust flue associated with the construction of the addition may be minimally visible in combination with either a primary or secondary facade where:

(A) The quantity and dimension of the flue extension will be limited to the greatest extent feasible;

(B) The proposed chimney or exhaust flue extension will be seen in combination with other existing additions, enlargements, or other construction of a comparable size; and

(C) The chimney or flue extension will not draw undue attention to itself or detract from significant features of the building on which it is located or neighboring buildings; and

(ii) The addition is not visible in connection with a secondary façade of the building or neighboring buildings, except that an addition constructed on top of a building seven (7) stories or greater in height can be minimally visible over a secondary façade.

(d) *Rooftop Additions of Non-occupiable Space; Specific Requirements.* In addition to the criteria set forth in subdivision (b), the following criteria apply to additions of non-occupiable space. For purposes of this subdivision, “non-occupiable space” means structures; stair and

elevator bulkheads, skylights, satellite dishes, unenclosed decks, pergolas, trellises, and privacy screens, fences and railings. Criteria for the installation of heating, ventilation and air-conditioning equipment (“HVAC”) and other equipment such as alternative or distributive energy equipment (including solar panels and wind turbines), batteries, water tanks and emergency generators and their dunnage, are codified in § 2-21 (“Installation of Heating, Ventilation, Air Conditioning and Other Mechanical Equipment) of these rules.

(1) Individual landmarks.

(i) The addition or structure will not be visible in connection with the primary façade, except such addition may be minimally visible if installed more than sixty (60) feet above the ground; and

(ii) The addition or structure may be minimally visible in connection with a secondary façade if the addition:

(A) Will not be seen in connection with a distinguishing architectural feature; and

(B) Will be finished to blend with the predominant finish of the predominant material and/or finish of the secondary facade, or adjacent structures or comparable adjacent features so as not to call attention to itself.

(2) Building within a historic district.

(i) The addition or structure is no more than minimally visible in connection with the primary façade, provided the applicant demonstrates that it is not feasible to make the addition not visible, except that LPC Staff will approve work that increases visibility of an existing addition or structure if such increase is required by the Building Code or Fire Code and there is no feasible alternative. For purposes of this paragraph, LPC Staff will approve an elevator bulkhead adjacent to the front façade that is more than minimally visible where the elevator shaft is in its historic location, the elevator is not being extended to service an additional floor or floors, the bulkhead is the minimum necessary to meet relevant codes, the bulkhead is in a material and with a finish that relates to the primary façade or is utilitarian and does not call undue attention to itself, and buildings with elevator bulkheads adjacent to the front façade are commonly found in the historic district, including the Soho-Cast Iron Historic District and the SoHo-Cast Iron Extension, the Tribeca East, West, North and South Historic Districts, the NoHo Historic District, the NoHo East Historic Districts, The NoHo Extension and the Ladies Mile Historic District;

(ii) The addition or structure may be minimally visible in connection with a secondary façade of the building or neighboring buildings.

(e) *New and Enlarged Dormers on the Rear Façade of a Building within a Historic District.* LPC Staff may approve the installation of one or more non-visible dormers on a peaked or pitched roof, where such roof is considered a significant feature, where:

(1) The design and materials of the new dormer(s) will be in keeping with the style and type of dormers on buildings of a similar age and style, and will harmonize with the building's fenestration pattern; and

(2) The dormer(s) is to be constructed on a peaked or pitched roof facing the rear yard and:

(i) A new dormer or an enlarged dormer does not encompass the entire width of the roof, and the historic roof pitch is maintained for at least twenty-four (24) inches at both sides of the dormer; and

(ii) The highest point of the dormer is at least eighteen (18) inches below the existing ridgeline of the roof and set back at least eighteen (18) inches from the plane of the rear façade, unless the building is of a type or style that historically had a higher or lower dormer, and retains a portion of the roof below the dormer.

(f) *Rear Yard Additions on Buildings in Historic Districts but not including Individual Landmarks.* LPC Staff may approve a rear yard addition if the addition meets the following relevant criteria:

(1) The addition is not visible from a public thoroughfare;

(2) The addition is as-of-right for bulk, massing and height under the Building Code and Zoning Resolution;

(3) The proposed work satisfies the criteria for excavations (see § 2-16, "Excavation");

(4) No significant architectural features, including but not limited to decorative lintels and/or sills, and projecting bays, but not including simple corbeled brickwork at the top of a facade or parapet, will be lost or damaged as a result of the construction of the addition;

(5) A majority of the buildings of a similar type that share the open space within the interior of the block, within the historic district, feature rear yard additions or els;

(6) The depth and height of the proposed addition is not deeper than the predominant depth or taller than the predominant height of additions or els on buildings of a similar type, and in no event shall the proposed addition rise to the full height of the rear facade, except that parapets and railings may extend above the predominant height of additions, up to forty-two (42) inches above the roof or deck surface of the addition required by the Building or Fire Codes, but must be at least fifty (50) percent open using railings at the façade of the addition facing the central open space of the block;

(7) The façade(s) of the addition recall(s) the character of rear facades and additions of buildings of its type within the historic district in terms of materials and fenestration, including:

(A) Traditional and modern materials and finishes at the façade facing the central open space, such as brick, stucco or fiber cement siding, but excluding exposed or painted concrete or

concrete masonry units, vinyl siding, and exterior insulated finish systems (“EIFS”). The lot-line walls must have a neutral finished surface, but cannot be exposed or painted concrete or concrete masonry units or vinyl siding;

(B) Window and door openings and configurations that will be consistent with the criteria established in § 2-14 for new and modified windows and doors at minimally or non-visible secondary facades; and

(C) If the work involves combining adjacent buildings the addition expresses the original width of each of the historic buildings.

(8) The proposed addition or enlargement will not extend to the rear lot line or substantially eliminate the presence of a rear yard; except an addition may be approved which fills in an enclosed central or side court that is not open to the rear yard, and the addition is no more than one story above the existing grade.

(9) Decks. A rear façade of a building, or an existing addition or proposed addition may include a projecting wood or metal deck that is minimally visible, provided the deck projects from the ground or parlor floor and extends no more than eight (8) feet from the façade it projects from, excluding steps from the deck down to the rear yard, but in no instance shall the deck intrude into a required rear yard. If the deck is proposed to be projecting from a proposed addition, the existence of the deck shall not be a factor in determining the depth of the proposed addition, as determined by paragraph (6) above.

(g) Rooftop and Rear Yard Additions; Cumulative Impact of Additions. LPC Staff will consider the cumulative impact of occupiable rooftop and rear yard additions when considering an application for an addition. LPC Staff will not approve a new occupiable rooftop addition if there is an existing or approved rear yard addition, but not including an original partial width “el”, or a new rear yard addition if there is an existing or approved occupiable rooftop addition. For purposes of his subdivision, a deck above the rear yard off the historic rear façade shall not count as a rear addition. Nothing in this subdivision shall prevent LPC Staff from approving the rebuilding of an existing rear yard or rooftop addition.

§ 10. Section 2-16 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is REPEALED and a new § 2-16 is added to read as follows:

§2-16 Excavation.

(a) Introduction. Excavation on landmark sites or within historic districts must comply with all requirements of the Department of Buildings. The purpose of this section is to ensure that applicants demonstrate they have an understanding of the physical and structural conditions of the building and, where relevant, adjacent buildings, and to protect these buildings.

(b) Application Materials. Except for work exempt from these requirements as described in paragraph (5) of this subdivision, an application for excavation work must, in addition to any other plans and materials required for the work, include:

(1) A structural conditions report that addresses the building's age and original construction type, and the condition of the foundations and facades;

(2) A pre-construction site survey;

(3) A finished draft of the Department of Buildings Structural and Support of Excavation filing drawings;

(4) A plan for monitoring the facades of any building of six (6) stories or less which

(i) was constructed before 1901;

(ii) is constructed of wood;

(iii) has an unreinforced masonry foundation; or

(iv) has a foundation of stone or brick that is affected by or adjacent to the excavation;
and

(5) An application for excavation that does not require underpinning, or requires only limited underpinning and does not occur at or adjacent to any designated building that falls under any of the categories described in paragraph (4), will not be required to include the additional materials listed in paragraphs (1) through (4) of this subdivision.

(c) *Excavation Work.* LPC Staff will issue a permit for excavation work as described below, provided the work meets all of the following criteria and pertains to:

(1) The lowering and replacing of the lowest existing floor slab (e.g., the basement or cellar) to increase the floor-to-ceiling height to no more than ten feet from floor to ceiling.

(2) The construction of new structural elements, or repairs to existing structural elements related to a building's infrastructure, including but not limited to footings and foundation walls, retaining walls, pits for elevators and escalators.

(3) The construction of new architectural elements, or repairs to existing architectural elements (including but not limited to light wells, stair-wells, sunken terraces, in-ground pools or water features, planting beds and other significant landscape features and significant re-grading); provided the LPC Staff determines the effect of such work will not substantially eliminate the presence of a rear yard, will provide for at least a five (5)-foot unexcavated planting area at the rear of the lot, and will have no effect on significant architectural features of the building or adjacent buildings if the work is occurring within a historic district.

(4) The construction of a new crawlspace or cellar or basement story below an existing addition or new, approved addition, to a depth not to exceed the lowest story of the original

building, taking into account a modification approved pursuant to paragraph (1) of this subdivision.

(5) The work will be designed and executed in compliance with Department of Buildings regulations under the supervision of a licensed professional engineer or registered architect, with the goal of protecting the building's facades and the facades of adjacent buildings.

§ 11. Section 2-17 of Subchapter B of Title 63 of the Rules of the City of New York is REPEALED and a new § 2-17 is added to read as follows:

§ 2-17 Front, Side and Rear Yards.

(a) Alterations to Front Areaways of Rowhouses, Townhouses, Flats, Tenements and Other Attached Buildings.

(1) General. Areaways historically have been modified to address access and safety concerns, and to add greenery. This includes the addition of, and modification to, walls and fences around areaways, modification of the areaway itself, modifications to main entrances and entrances underneath stoops, and the addition of planting areas and planters.

(2) Alterations to areaway paving, steps, or planted areas. LPC Staff will issue an approval for alterations to or involving paving, steps or planted areas if the work meets all of the following relevant criteria:

(i) The work will be contained within the areaway, which is defined as the area in front of a rowhouse, townhouse, flat, tenement or other attached building typically constructed without a side yard, which often is enclosed by a fence, balustrade or wall;

(ii) The work will not result in the removal or destruction of significant architectural features;

(iii) The proposed paving materials are consistent with the paving materials historically found in areaways and yards of buildings of a similar age and type, or will match the adjacent sidewalk in terms of material and color;

(iv) The size and placement of the planted area, including at-grade planting beds and built-in or attached planters, will not call undue attention to itself or detract from significant architectural features of the building or adjacent buildings if in a historic district;

(v) Adjustments to steps or planted areas will not substantially alter the apparent grade of the areaway or yard. For purposes of this subparagraph:

(A) Lowering the entire areaway, including the removal of one step, to allow at-grade access from the sidewalk to the areaway;

(B) Excavation to accommodate new steps or reconfiguration of existing steps to improve access to a basement level entrance, including enlarging or widening steps, will be approved, provided:

(a) The excavation and steps will occupy fifty (50) percent or less of the square footage of the areaway;

(b) The excavation, steps and landing are in keeping with expanded basement entrances found on buildings of similar age and style within the historic district; and

(c) The excavation, steps and landing do not detract from significant architectural features of the building or, if the building is part of a row, do not detract from adjacent buildings or the streetscape;

(C) Excavation to construct a small ramp with no switchbacks to provide access to a basement entrance, which does not require railings or only minimal railings (such as well-mounted handrails or simple posts with top rails), provided the work does not affect more than fifty (50) percent of the areaway; and

(vi) The proposed areaway changes will be compatible with the special architectural and historic character of the building and the historic district.

(3) Garbage enclosures. LPC Staff will issue an approval for new or replacement garbage enclosures that are not easily moveable if the work satisfies all of the following relevant criteria:

(i) The work will be contained within the areaway defined by an existing fence, balustrade or wall, and will not result in damage to or the removal of architectural fabric from the building's façade, or areaway enclosure;

(ii) The garbage enclosure will not be physically attached to the building, areaway fence or wall, but instead will be attached to the areaway paving, but not through historic paving material;

(iii) The garbage enclosure will be of a simple design and painted to match the immediately adjacent façade or areaway enclosure material, or otherwise will have a neutral or dark finish that does not call undue attention to itself;

(iv) The enclosure will be limited in footprint and height to the general dimensions of the garbage receptacles it contains, and its size does not detract from the overall areaway proportions and configuration, or the building.

(4) Lampposts. LPC Staff will issue an approval for the installation of lampposts in the areaway, defined by an existing fence, balustrade or wall, if the work meets all of the following relevant criteria:

(i) The lamppost will not be installed through historic paving material;

(ii) The proposed lamppost will be situated at least several feet from the primary façade so as not to directly obscure significant architectural features;

(iii) The proposed placement of the lamppost relates to the spacing of elements within the areaway, such as the steps, planted areas and under-stoop entrance, and does not conflict with the façade's composition;

(iv) The proposed installation will not result in exposed conduit;

(v) The lamppost and lantern will be of a simple and proportional design, and will not exceed the sills of the parlor (or second) floor windows in height;

(vi) The lamppost and lantern will be metal and have a black painted finish; and

(vii) The proposed lamppost is in keeping with similar lamppost and areaway configurations within the streetscape and historic district.

(5) Basement/cellar level access hatches. LPC Staff will issue an approval for basement/cellar access hatches if the work satisfies all of the following relevant criteria:

(i) The proposed hatch will not be installed through historic paving material where feasible;

(ii) The placement of the hatch will not damage or directly obscure any significant architectural features of the building; and

(iii) The hatch will be constructed in wood or metal with a dark or neutral finish, in keeping with similar utilitarian installations.

(b) *Installation of New Ironwork.*

(1) Scope. This subdivision concerns applications for ironwork on top of areaway or stoop walls, or at alleyways, where the building has not previously had such ironwork of a type found on similar building types. For example, many stoops have been altered over time by the addition of handrails on the side or on top of stoop walls. Applications to restore or re-create original or historic ironwork must be made consistent with the criteria set forth in § 2-11.

(2) New ironwork at areaways, stoops, service alleys or facades where no historic ironwork exists. LPC Staff will approve such work as follows:

(i) The installation of the new ironwork will not conceal, damage, or cause the removal of significant architectural features;

(ii) The new ironwork, with respect to its location on the building or property (e.g., on top of the areaway wall or stoop wall) and its scale and visual characteristics (including details and finish), will match or recall ironwork typically found on buildings of similar age, style and type; and where the building is part of a row, it is harmonious with other ironwork in the row;

(iii) The installation of the new ironwork will be harmonious with the special architectural and historic character of the building and the historic district.

(c) Walls and Fences.

(1) Scope. This subdivision concerns applications for walls and fences at small residential buildings, including rowhouses, townhouses, flats, and tenement buildings. LPC Staff will approve proposals that satisfy the criteria set forth below:

(i) New areaway wall or fence.

(A) The new wall or fence will not conceal, damage, or cause the removal of significant architectural features; and

(B) The scale, visual characteristics and location on the building or property of the new wall or fence will be in keeping with the age and style of the building, and, where the building is part of a row, is harmonious with other walls or fences in the row.

(ii) New fences at small residential buildings, including rowhouses, townhouses, flats and tenement buildings.

(A) LPC Staff will issue an approval for a rear yard fence if the work meets all of the following relevant criteria:

(a) The fence will not exceed six (6) feet in height;

(b) The fence will have a perforated or open design, which can include a portion of the fence being solid, if installed along the sidewalk at a corner building; and

(c) The fence will be constructed in wood or iron, whichever is most compatible with the building's age and style, and finished in a dark or neutral color, or clear finish. If visible, the design and finish of a metal fence should be simple and based on ironwork found in the district on buildings of similar type. If the fence is made of wood, the finished side must face away from the property if installed at the sidewalk of a corner rowhouse.

(d) Variations in material will be considered if the fence is not visible from a public thoroughfare and otherwise complies with applicable codes.

(e) A masonry wall, but not including cement masonry units enclosing a rear yard shall be approved if not visible and is no more than six (6) feet in height.

(B) LPC Staff will issue an approval for a metal picket fence at the side yard of a corner rowhouse if the work meets the following relevant criteria:

(a) The fence will match the height of an areaway fence but shall not exceed 36 inches in height;

(b) The fence will be simply designed and have a black or dark finish .

(2) Garden historic districts. This paragraph applies to proposals to install walls and fences in garden-style houses and apartment buildings in districts designated in part for the relationship between gardens and plantings and the buildings, including but not limited to buildings in the Sunnyside Gardens Historic District and the Jackson Heights Historic District. LPC Staff will approve applications for walls and fences if the following relevant criteria are met:

(i) Sunnyside Gardens Historic District. In the case of the Sunnyside Gardens Historic District, a new rear yard fence will be approved by LPC Staff if the fence:

(A) Will enclose the immediate rear yard behind the building that was not part of what was historically the shared common space. An application to enclose some or all of the rear yard that was historically part of the shared common space must be accompanied by proof that the restrictive easement providing for common space has lapsed and is no longer in place;

(B) Will not exceed thirty-six (36) inches in height; and

(C) Will be constructed of metal picket fencing with a dark finish.

(ii) Jackson Heights Historic District. In the case of an apartment building in the Jackson Heights Historic District, a new fence will be approved by LPC Staff if the fence:

(A) Will be limited to the planting area around the building;

(B) Has a black painted metal picket design that has an open quality; and

(C) The curb and fence combined will not exceed thirty (30) inches in height.

(iii) Jackson Heights Historic District. In the case of an original single- or two-family house in the Jackson Heights Historic District, LPC Staff will approve a low brick retaining wall at the border of the sidewalk and front yard if:

(A) The retaining wall will be as short as possible to contain erosion and in no event is higher than five brick courses, inclusive of a coping of brick or cast stone;

(B) The brick will closely match the brick façade of the building;

(C) The retaining wall will not feature decorative brickwork or ironwork;

(D) The retaining wall will not incorporate a perpendicular run from the sidewalk to the house, except a return to meet the lower stairs, which would divide the continuous front lawns of the row; and

(E) The retaining wall will match the height and design of an adjacent low garden wall that meets the requirements of this section or, if there is no adjacent retaining wall, is compatible with other low retaining walls on the block that meet the requirements of this section in terms of height and design.

(3) Free-standing houses. LPC Staff will issue an approval for the installation of a fence at free-standing houses if the work satisfies all of the following relevant criteria:

(i) The fence will be placed in the side or rear yard, behind the street-facing façade(s);

(ii) The fence will not exceed six (6) feet in height and is constructed of wood with the finished side facing away from the property;

(iii) Variations in the height and material will be considered if the fence is not visible from a public thoroughfare or the fence is permanently obscured from view by vegetation and the building otherwise complies with applicable codes.

(d) Driveways.

(1) General criteria.

(i) New driveway. LPC Staff will approve a new driveway only in districts where driveways are a common feature. As a general matter, these districts are comprised of what were historically detached single-family dwellings. If there is currently no existing curb cut, the applicant must provide documentation that the new curb cut will comply with the Zoning Resolution and the City Administrative Code, and that the applicant has filed for the curb cut with the Department of Buildings and the Department of Transportation.

(ii) Proposals to install a driveway or parking pad within the areaway or front yard of an attached or semi-attached house, or a row house, will require review by the full Commission at a Public Hearing.

(2) Specific criteria. LPC Staff will issue an approval to repair, alter or replace an existing driveway, and for a new driveway and a curb cut at the front, side or rear yard, if the work satisfies all of the following relevant criteria:

(i) Repair, alteration and replacement of an existing driveway.

(A) Repairs will match the existing driveway in terms of materials, details and finish;

(B) The existing footprint of a driveway may be altered by widening or creating a bump-out for turning or parking, provided the materials match the existing materials; the alterations do not significantly reduce the amount of green space of the yard; and the driveway is well scaled to the yard and building;

(C) Replacing an existing driveway. The materials and design of an existing driveway may be replaced as follows:

(a) If the existing driveway is an original or historic driveway and retains its original material and design, the replacement must match the material and design but the footprint may be altered as provided in clause (B) of this paragraph;

(b) If the existing driveway is not an original or historic driveway, it may be replaced with a driveway with different materials and design provided the new driveway satisfies the criteria of clause (E) of subparagraph (ii) of this paragraph.

(ii) New driveway where none currently exists.

(A) The installation of the driveway and curb cut will not eliminate any significant architectural feature, paving, or fabric from the building or site;

(B) The proposed location and design of the driveway and curb cut will be consistent with other buildings found in the historic district;

(C) The driveway will not significantly reduce the open and planted space within the yard and will not result in the loss or damage of a significant landscape improvement or feature identified in the relevant designation report;

(D) The driveway and curb cut are well scaled to the yard and building; and

(E) The proposed driveway paving materials match the predominant paving material and pattern within the streetscape, except staff may approve a substitute paving material that recalls the predominant paving material if the substitute meets applicable standards for improving the permeability of the paved surface and otherwise does not detract or call undue attention to itself.

(e) *Accessory Ramps.* LPC Staff will issue an approval for an accessory ramp for loading or other service functions that are not intended or required for barrier-free access, if the work satisfies all of the following relevant criteria:

(1) It is located within a service alley, or side or rear yard of a large apartment, hotel, or commercial building;

(2) The installation will be significantly obscured by existing masonry walls or ironwork;

(3) The proposed installation or any required excavation will not result in damage to or the removal of significant architectural features or historic fabric, including historic paving;

(4) The ramp will not block a window or obscure any significant architectural features of the building;

(5) The ramp will have no switchbacks and will be constructed in a material that matches the predominant paving or façade material, or is otherwise neutral in appearance and does not detract from the building or streetscape; and

(6) The railings will be simply designed or based on existing ironwork found on the building, and will have a black or neutral finish.

§ 12. Section 2-18 of Subchapter B of Title 63 of the Rules of the City of New York is renumbered § 2-05 and a new § 2-18 is added to read as follows:

§2-18 **Barrier-Free Access.**

(a) Introduction.

(1) Historic structures can and should be made accessible.

(2) Accessible routes should coincide with or be located in the same general area of regular circulation paths, and the primary entrance should be accessible wherever possible.

(3) Proposed alterations to make a building or space accessible must comply with applicable statutes and codes, including the American National Standard (ANSI), the New York City Building Code, and the Americans with Disabilities Act Standards for Accessible Design.

(4) Applications for barrier-free access should take into consideration changes to interior spaces that may reduce grade changes at the entrance which will lessen the level of impact of, or eliminate the need for, exterior changes.

(5) Where there is more than one acceptable approach for making a building or space accessible, LPC Staff will approve the proposal that will allow barrier-free access with the least impact on significant architectural features of the building and neighboring buildings if the work is occurring in a historic district.

(6) Where proposed alterations to make a building accessible will have a major impact on significant architectural features, LPC Staff may ask an applicant to seek a waiver. Accessibility waivers may be granted by the Department of Buildings after consulting with the Mayor's Office of People with Disabilities. If no waiver is granted the application shall be reviewed by the full Commission at a Certificate of Appropriateness public hearing.

(7) Proposed work that does not conform to these rules, such as a wheelchair platform lift on an Individual Landmark, will be reviewed by the full Commission at a Certificate of Appropriateness public hearing.

(b) At-Grade Entrances. LPC Staff may issue a permit for a proposal to lower an existing entrance at a building in a historic district or a building in a scenic landmark that is not an individual landmark to provide an accessible at-grade entrance if the work meets all of the following relevant criteria:

(1) The work required to bring the entrance to grade, including the removal of the existing steps, landings, ramps, or other elevated elements at the entrance point, will not result in damage to or the removal of significant architectural features of the building, except as noted below;

(2) Except as note below in clause (4), the proposal involves dropping or raising the entrance no more than eighteen (18) inches at a prominent primary entrance and no more than thirty (30) inches at other entrances to the building;

(3) Historic materials and features removed in connection with the work will be re-used where possible;

(4) If the treads contain cast iron vault lights, only one tread can be removed to create the at-grade entrance and the tread is installed flush at the entry to recall the presence of the vault lights;

(5) A sidewalk may be modified, including sloping a sidewalk to make an entrance accessible, provided the work meets the requirements of § 2-19 of these rules;

(6) A new door for the modified entrance shall have proportions that recall the historic door, which may require the addition of a transom to the door opening; and

(7) The proposed work will allow for barrier-free access for the building in the least obtrusive manner possible.

(c) *Door and Door Surround Changes.* LPC Staff may issue an approval for proposals to alter doors and door surrounds for buildings in historic districts and scenic landmarks that are not individual landmarks to meet accessibility requirements, such as clearance, if the work meets all of the following relevant criteria:

(1) If the existing door is original or historic:

(i) The proposed work will retain the historic fabric at the entrance, such as sidelights, door(s), transoms, framing or door surround detailing; and

(ii) Historic doors and vestibule entrances may be altered with respect to door swing, changing hardware and hinges, and the installation of automatic opener hardware provided the door configuration and details are maintained.

(2) If the existing door is not original or historic:

(i) The proposed work will retain a maximum amount of historic fabric at the entrance, such as sidelights, transoms, framing or door surround detailing;

(ii) The door opening may be widened up to eight (8) inches if necessary to meet applicable codes, provided that the door surround is recreated in-kind with the necessary adjustments for the new door opening;

(iii) The operation of replacement doors may be altered to meet required clearances, such as paired doors that may be changed to a single door with a fixed leaf or sidelight condition, or a single door with the appearance of paired doors;

(iv) The width of operable leafs and sidelights may vary from the historic condition provided that the replacement door(s) recalls the historic detailing and general configuration;

(v) A replacement door in an alternate material may be installed to meet force limitations in operating the leaf;

(vi) The replacement doors and accompanying elements must recall the historic condition in terms of configuration, detailing, material (if it meets code), and finish; and

(vii) The proposed changes to the door and door opening will not detract from the special architectural and historic character of the building.

(d) *Actuators for Automatic Doors.* LPC Staff may issue an approval for proposals to install an actuator device if the work meets all of the following relevant criteria:

(1) Door actuators installed on building facades.

(i) The push plate or actuator will be as small as feasible and located in the least obtrusive place possible;

(ii) The actuator will not be installed through decorative features or cast iron;

(iii) The actuator will be installed on flat unornamented masonry, brick, or metal, or at non-historic storefront infill, at a door return or side of a plain masonry pier, and will be attached through mortar joints or seams to minimize damage to historic fabric. Such proposed installation will to the greatest extent feasible not result in exposed conduit; and

(iv) The installation will not call undue attention to itself or otherwise detract from significant architectural features of the building or adjacent buildings.

(2) Door actuators installed on free-standing bollards, stanchions or posts (collectively “posts”). If the actuator cannot be installed pursuant to paragraph (1) of this subdivision due to façade conditions or other constraints, LPC Staff will approve an actuator installed on a post where the post is:

(i) Installed into non-historic paving;

(ii) Simply designed and finished to match the adjacent façade material or other neutral finish; and

(iii) The post will be an unobtrusive presence in conjunction with the façade and will not detract from or obscure any significant architectural features of the building.

(e) Handrails and Areaway Alterations.

(1) LPC Staff will issue an approval for a proposed handrail on an existing stoop or areaway steps on a building in a historic district or scenic landmark if the work meets all of the following relevant criteria:

(i) The installation of the handrail will not damage any decorative features of the masonry stoop walls, ironwork, or areaway enclosure;

(ii) The handrail will be simply designed and will not detract from the significant architectural features of the building; and

(iii) The handrail will be attached to the coping of the stoop wall, inside the stoop wall, or at the treads, whichever location the LPC Staff determines is the least obtrusive, taking into account other such installations on the block and the purpose of the handrail.

(2) LPC Staff will issue an approval for a proposal to alter an areaway enclosure to accommodate an accessible entrance:

(i) If the areaway enclosure consists of historic ironwork or masonry, the alterations are as minimal as possible to meet accessibility requirements and the ironwork and/or masonry is finished to match the historic condition; and

(ii) If no historic fabric exists in the areaway, the ironwork and/or masonry is finished to match the existing conditions.

(f) Ramps. LPC Staff may issue an approval for certain ramps as specified below. For purposes of this subdivision, a “ramp” includes the associated landing(s) and any steps integrated into the ramp.

(1) Ramps without handrails. Ramps that do not require a handrail may be approved on individual landmarks and buildings in historic districts and scenic landmarks if:

(i) The installation will not result in damage to significant historic fabric, including sidewalk paving materials or vault lights, steps and landings, or will involve the removal or modification of discrete portions of historic fabric, and the fabric that is removed is re-used in connection with the ramp work where possible;

(ii) The ramp will be constructed in materials to match the immediately adjacent façade material or sidewalk and threshold paving, or with utilitarian materials with a neutral finish so as to have an unobtrusive presence on the building;

(iii) The ramp will be as short as possible, with no switch-backs, except that LPC Staff may approve a longer ramp, with no switch-backs, if the longer ramp will have less visual impact on the façade; and

(iv) The proposed changes will not detract from the special architectural and historic character of the building.

(2) Ramps with handrails. Ramps that require a handrail may be approved for buildings in historic districts and scenic landmarks that are not individual landmarks if:

(i) The installation of the ramp and handrails will not eliminate or conceal any significant architectural features of the building or sidewalk, or landscape feature if in a scenic landmark, except as provided for below;

(ii) The installation is obscured or partially obscured by existing architectural features where possible, such as ironwork or masonry walls;

(iii) The ramp will be as short as possible, with no switch-backs and intermediate landings, except that LPC Staff may approve a longer ramp, with no switch-backs, if they determine that the longer ramp will have less visual impact on the façade;

(iv) For storefronts, the ramp will be confined to the storefront or building associated with the entrance being made accessible;

(v) For buildings with deeply recessed entrance courts or areaways, a ramp must be located within the recess, unless LPC Staff determines that a different location provides equal accessibility with less impact on the building;

(vi) The presence and location of the ramp will not disrupt, or will be consistent with, the façade's composition. For purposes of this rule, steps and landing leading to the entryway that are extending outward to receive the ramp should retain the historic orientation where feasible, and the favored position for a ramp in a recessed court or areaway is presumed to be off to one side so that it is as inconspicuous as possible, but, depending on the façade's composition, LPC Staff may determine that another location is more consistent and harmonious with the design of the façade;

(vii) Minimal excavation will be permitted to facilitate barrier-free access;

(viii) The handrail will be simply designed with the minimum number of vertical elements permitted;

(ix) The ramp will be simply designed and constructed in materials to match the immediately adjacent façade material or ironwork, or with utilitarian materials with a neutral finish, whichever will result in the least obtrusive presence on the building; and

(x) The proposed work will not detract from the special architectural and historic character of the building, district or scenic landmark.

(g) Lifts. LPC Staff may issue an approval for a wheelchair platform lift or a chair lift on a rail on a building in a historic district or scenic landmark, other than an individual landmark, if the proposed work meets all of the following relevant criteria:

(1) Wheelchair platform lifts.

(i) The lift will not require significant alterations to existing fabric at the proposed location, and any such alterations are reversible;

(ii) Only minimal historic fabric will be removed to access the lift at the elevated position;

(iii) The lift will be located in a recessed location on the façade, or otherwise located to not disrupt the façade's composition, and will be obscured or partially obscured by existing features such as ironwork or masonry walls;

(iv) The lift will be stored in the down position to minimize its visual presence; and

(v) The lift will be finished to match the immediately adjacent façade materials, or will have a neutral finish; and

(vi) The proposed work will not detract from the special architectural and historic character of the building, streetscape or scenic landmark.

(2) Wheelchair and chair lifts on rails.

(i) The installation does not require any significant alterations to the existing areaway, stoop, handrail, or building façade, and is reversible;

(ii) The installation will require minimal attachment points through non-decorative elements; and

(iii) The lift will be painted to match the finish of the adjacent ironwork or masonry, or will have a neutral finish.

(iv) The proposed work will not detract from the special architectural and historic character of the building, streetscape or scenic landmark.

(h) Replacement or Modification of Existing Commission-Approved or Grandfathered Ramps and Lifts. If an applicant can demonstrate that it is not feasible to replace or modify an existing

ramp to meet the requirements of this section, LPC Staff may issue an approval to modify or replace an existing Commission-approved or grandfathered ramp or lift to meet current accessibility codes if the work meets all of the following relevant criteria:

(1) The replacement ramp will match or be smaller and/or shorter than the existing ramp in terms of footprint and overall rise, or is altered to the minimum degree necessary for compliance;

(2) The replacement ramp will be constructed using materials that either match the materials and handrail design of the existing ramp or match the adjacent façade material and/or railing, or utilitarian materials with a neutral finish. A change in handrail design to the minimum number of vertical elements required by code is permitted;

(3) The platform lift and guiderails will be installed in the same locations using existing penetrations in the building façade or other elements. Some additional penetrations may be approved if required to meet code.

(4) The lift mechanicals will be located in the same location and will match the footprint and height of the existing mechanicals, or will be reduced in size;

(5) The lift may be fully enclosed if necessary to meet code; and

(6) The previously approved finishes will be maintained or modified to better blend with the adjacent façade material.

§ 13. Section 2-19 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is REPEALED and a new § 2-19 is added to read as follows:

§ 2-19 Sidewalks.

(a) General Requirements.

(1) Scope. This section applies to sidewalk replacement in historic districts where the paving material is a significant feature (e.g., bluestone, granite and brick) or the location of the sidewalk is a significant feature (e.g., “ribbon sidewalks where there is a planted area between the curb and the sidewalk not limited to tree pits) and where the existing sidewalks adequately recall the historic paving, either by the amount of historic paving that remains or due to the combination of historic paving and tinted sidewalks that exists in the district, or the location of the sidewalk. For purposes of this section, the term “sidewalk” means the portion of the sidewalk and curb fronting upon specific property.

(i) Appendix A of this section sets forth the list of historic districts that are subject to the provisions of this section. These historic districts are districts where historic paving was a significant feature and where there currently exists sufficient historic or tinted paving to adequately recall this historic condition. For these districts the long-term regulatory goal is to replace non-historic paving with paving that matches the historic paving material in terms of

standard characteristics or which adequately recalls the historic paving material through a tinted concrete.

(ii) For historic districts designated after the effective date of these rules, the designation report must explicitly state whether the sidewalk paving is a significant feature and will be subject to these rules. The Commission will maintain a list on its website and at its offices of all historic districts subject to this rule.

(iii) In all other historic districts no approval is required from the Commission for replacing sidewalks.

(2) Other approvals. In addition to the requirements set forth in this section, all methods and materials for sidewalk work must conform to all applicable rules, requirements and guidelines of the Department of Transportation (“DOT”) and the Department of Design and Construction.

(b) *Repairing, Resetting and New Bluestone Sidewalks.* LPC Staff will issue an approval to repair and/or reset existing bluestone pavers, or to install new bluestone pavers, if the work satisfies all of the following relevant criteria:

(1) Resetting and repairing existing bluestone pavers. If intact pavers exist, they must be preserved if they meet applicable DOT standards for thickness and size, and must be reset pursuant to DOT standards. Small amounts of cementitious patching, tinted to match the color of the pavers, can be applied to preserve existing pavers that have spalled, and the joint between pavers may be ground down to produce a level surface.

(2) New bluestone pavers. If the existing sidewalk is missing one or more bluestone pavers, or the existing bluestone pavers are beyond reasonable repair due to cracking or other conditions, or the owner is proposing to install a new bluestone sidewalk where no bluestone exists, new bluestone pavers may be installed, consistent with the DOT specifications and installation requirements, if:

(i) The pavers will closely match the existing bluestone pavers, if any, with respect to dimension, color and paver pattern; and

(ii) The edges of the pavers can be sawn, rubbed or thermal.

(3) Consolidation of existing bluestone pavers. If the existing sidewalk is missing bluestone pavers, or some of the existing bluestone pavers are beyond the point of reasonable repair due to cracking or other conditions, the existing bluestone pavers that meet DOT standards for thickness and size may be consolidated and tinted concrete pavers installed in the remaining area, provided:

(i) The maximum number of intact bluestone pavers will be consolidated within the sidewalk;

(ii) Resetting of bluestone pavers will meet the requirements of paragraphs (1) and (2) of this subdivision;

(iii) New concrete pavers are tinted and scored to match the historic bluestone pavers;

(iv) An existing bluestone or granite curb will be retained if possible, and any replacement curb will be granite or tinted/untinted concrete to match adjacent curbing; and

(v) For purposes of this paragraph (3), if the enlargement of a sidewalk tree pit requires the removal of some or all of a bluestone paver:

(A) The removal of bluestone will be the minimum necessary to meet the applicable requirements, and

(B) The bluestone paver, or the part that is removed, will be consolidated within the property lines if there are areas of the sidewalk that do not have bluestone pavers, provided the paver, or part thereof, otherwise meets applicable DOT standards.

(c) Replacement of an Existing Non-Bluestone Sidewalk. Where the property on which the sidewalk exists is not part of a bluestone sidewalk, and the owner does not intend to install a new bluestone sidewalk consistent with the requirements of subdivision (b), the new sidewalk must:

(1) Consist of concrete pavers scored to match the size of pavers on adjacent sidewalks, with saw-cut joints. If the sidewalk is adjacent to a bluestone or bluestone-tinted concrete sidewalk the new sidewalk must be tinted to match the bluestone. If the sidewalk is not adjacent to a bluestone or bluestone-tinted concrete sidewalk the sidewalk may be either untinted concrete to match the adjacent sidewalk or bluestone-tinted concrete; and

(2) An existing bluestone or granite curb will be retained if possible, and any replacement curb will be bluestone, granite or tinted/untinted concrete to match adjacent curbing. DOT???

(3) Unique or decorative scoring patterns may be used at front entryways of large apartment buildings, hotel or commercial buildings in historic districts if there is evidence that the building once had such decorative paving or if decorative scoring is a characteristic of the building type (e.g., hotel, large apartment building or club building) and the design does not call undue attention to itself or detract from the significant architectural features of the building or streetscape.

(4) Metal post plates, and/or bolt holes associated with detachable flood protection barriers, may be installed in concrete sidewalks, provided the post plates are set flush with the sidewalk and the installation does not call undue attention to itself or detract from the building or streetscape.

(d) Vault Lights. LPC Staff will issue an approval to repair or replace existing vault lights, re-create missing vault lights, or recall the presence of missing historic vault lights with diamond plate if the proposed work satisfies all of the following relevant criteria:

(1) New vault lights.

(i) New vault lights may be approved to restore missing vault lights, or to replace existing vault lights, whether uncovered or covered by diamond plate steel or concrete, that are beyond reasonable repair;

(ii) New vault lights will match the existing or historic vault lights in terms of approximate panel size and overall footprint, material, finish and details;

(iii) Where no vault lights exist, the basis for the design and materials of the new vault lights will be based on photographic or physical evidence relating to the building or adjacent buildings, or, if no documentation exists, the design and materials will be based on vault lights found at buildings of similar age, style and type;

(iv) New vault lights may be set flush with the existing sidewalk over the original or new metal framing or over a solid concrete substrate where the historic condition occurred at grade, or set on the original or new metal platform where the historic condition was raised above grade.

(2) Protection of existing uncovered and deteriorated vault lights. Existing uncovered vault lights that are in a deteriorated state and are no longer water-tight may be protected by covering the vault lights with dark-finished diamond plate steel. Vault lights at vertical surfaces and lower-traffic areas such as steps and landings should remain uncovered where feasible.

(3) Protection of existing covered vault lights.

(i) Existing vault lights that are covered by diamond plate steel or concrete may be re-covered with new dark-finished diamond plate steel;

(ii) If the existing vault lights underneath the diamond plate or concrete are highly deteriorated or broken, they may be removed and replaced with new vault lights in accordance with paragraph (1).

(4) Replacing diamond plate. If no vault lights are present under existing diamond plate steel, the diamond plate steel will be replaced with new dark finished diamond plate steel, except that if the historic district in which the building exists is not characterized by vault lights and/or diamond plate, the staff may approve replacing the diamond plate with concrete to match the adjacent concrete.

(e) Granite Sidewalks. LPC Staff will issue an approval to repair or reset existing granite sidewalks, or to install new granite sidewalks, and new concrete pavers tinted to match the existing granite pavers, if the work satisfies all of the following relevant criteria:

(1) The maximum number of intact granite pavers will be maintained or consolidated within the property lines;

(2) Areas no longer covered by granite pavers will be replaced with new granite pavers or concrete pavers tinted and scored to recall the size of the historic granite pavers and saw cut;

(3) Existing granite pavers will be sliced horizontally to create new or lighter pavers, provided that (i) the footprint of each paver is maintained and the paver is reinstalled in approximately the same location, and (ii) the resulting paver(s) will maintain a minimum of three to four (3-4) inch thickness and otherwise meet DOT requirements and comply with Department of Buildings structural requirements; and

(4) New granite pavers will match the color, texture, dimensions and edge treatment of the existing granite pavers and will have a slip-resistant finish in accordance with DOT requirements.

(f) *Other Sidewalk Materials.* LPC Staff may issue an approval to repair, reset or replace in-kind sidewalks of different historic materials, such as Belgian Block, brick or special concrete aggregates, provided such material is typically found in the district. For ribbon sidewalks, defined as sidewalks located with a grass or planting strip between the sidewalk and the curb, the material should match the historic material or the predominant material in the district, and the width of the sidewalk is not increased. For unique or atypical sidewalk treatments, such as a brick sidewalk in front of a carriage house in a district characterized by bluestone sidewalks, or a special sidewalk approved by the Public Design Commission or its predecessor, LPC Staff may require repair or in-kind replacement if the sidewalk treatment represents a significant historic alteration or if removal is deemed to result in the loss of a significant historic feature.

(g) *Accessible Sidewalks.*

(1) Pedestrian ramps at sidewalk intersections. LPC Staff will issue an approval to install accessible pedestrian ramps at sidewalk intersections if the proposed work satisfies all of the following relevant criteria:

(i) For new or existing concrete sidewalks, accessible pedestrian ramps will consist of tinted concrete to match the color, texture and scoring of the adjacent or predominant sidewalk paving;

(ii) For existing bluestone and granite sidewalks, bluestone or granite pavers may be cut, honed or otherwise modified to form the slope and flared sides of the ramp, or replaced in kind to accommodate the ramp. In addition:

(A) If the existing sidewalk is predominately bluestone or granite, but the portion of the sidewalk at the intersection that needs to be modified is concrete, the ramp may consist of concrete tinted to match the adjacent historic paving material;

(B) Existing bluestone or granite at the corner may be cut and moved within the property lines to replace missing or deteriorated bluestone pavers, and a concrete ramp, tinted to match the adjacent historic paving material, installed at the corner; or

(C) Existing bluestone or granite sidewalks will remain and a concrete “neckdown” (an expansion of the sidewalk at the intersection into the road to shorten the pedestrian crosswalk) tinted to match the adjacent paving installed to accommodate the ramp and preserve the historic paving material in place;

(iii) Detectable warning units, designed to alert people who are vision impaired that they are at an intersection, may be surface applied or imbedded into the concrete or stone; and

(iv) The dimensions and slope of the ramp, and color differentiation for detectable warning units comply with applicable federal, state and city codes and requirements.

(2) Sloping sidewalks. LPC Staff will issue an approval to slope a sidewalk in order to make a store or space accessible if the work will not damage or detract from historic paving or, if the sidewalk is concrete, the color and scoring pattern of the concrete matches the existing sidewalk, and the work complies with all applicable federal, state and City codes and requirements, including the requirements of § 2-18 of these rules, and provided that the work will not result in damage to or concealment of significant architectural features of the building.

APPENDIX A

Historic Districts Having Continued Sidewalk Regulation

Addisleigh Park Historic District
African Burial Ground and The Commons Historic District
Audubon Terrace Historic District
Bedford Historic District
Bedford Stuyvesant/Expanded Stuyvesant Heights Historic District
Boerum Hill Historic District
Brooklyn Academy of Music Historic District
Brooklyn Heights Historic District
Carroll Gardens Historic District
Charlton-King-Vandam Historic District
Chelsea Historic District
Chelsea Historic District Extension
Clinton Hill Historic District
Cobble Hill Historic District
Cobble Hill Historic District Extension (3 buildings)
Ditmas Park Historic District
Douglaston Historic District
DUMBO Historic District
Eberhard Faber Pencil Historic District
Fieldston Historic District
Fiske Terrace-Midwood Park Historic District
Gansevoort Market Historic District
Governors Island Historic District

Gramercy Park Historic District
Gramercy Park Historic District Extension
Greenpoint Historic District
Greenwich Village Historic District
Hunters Point Historic District
Jumel Terrace Historic District
Ladies' Mile Historic District
Manhattan Avenue Historic District
Metropolitan Museum Historic District
Noho East Historic District
NoHo Historic District
NoHo Historic District Extension
Park Slope Historic District
Park Slope Historic District Extension
Park Slope Historic District Extension II
Prospect Park South Historic District
Riverdale Historic District
Sniffen Court Historic District
SoHo-Cast Iron Historic District
SoHo-Cast Iron Historic District Extension
South Village Historic District
South Street Seaport Historic District
South Street Seaport Historic District Extension
St. George/New Brighton Historic District
St. Mark's Historic District Extension
St. Mark's Historic District
St. Nicholas Historic District
St. Paul's Avenue-Stapleton Heights Historic District
Stone Street Historic District
Stuyvesant Heights Historic District
Stuyvesant Square Historic District
Tribeca East Historic District
Tribeca North Historic District
Tribeca South Historic District
Tribeca South Historic District Extension
Tribeca West Historic District
Vinegar Hill Historic District
Wallabout Historic District

§ 14. Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is amended by adding a new section 2-20 to read as follows:

§ 2-20 Health, Safety and Utility Equipment.

(a) Introduction. Buildings may be required to have a variety of equipment related to particular health, safety and utility maintenance. These types of installations can be mandated by

the Fire and Building Codes (e.g., fire alarm bells and Siamese connections) or by utilities (e.g., gas and electricity meters). Other equipment is not required by law but is commonly used for safety reasons (e.g., window security bars, security cameras, lighting and intercom panels). Given the relatively small and/or discrete nature of these types of installations, their physical requirements and constraints, and their ubiquitous presence throughout the city, these types of equipment can be installed without having a significant effect on architectural features or detracting from such features or the building or, in the case of buildings in historic districts, from adjacent buildings or the streetscape.

(b) *General Installation Criteria.* LPC Staff may issue an approval for work on individual landmarks, buildings in historic districts and scenic landmarks to install health, safety and utility equipment, such as the examples listed below in subdivision (c), if the proposed work meets all of the following relevant criteria:

(1) The installation will not occur on or in front of a primary façade unless there is no feasible alternative for the installation or the location is mandated by another law or rule. In making a determination that there is no feasible alternative, LPC Staff will consider whether the need for such equipment on the primary façade is necessitated by recent or related discretionary interior renovations;

(2) The equipment will be attached in a manner that minimizes damage to, or loss of, any significant architectural features and will be installed at mortar joints or through plain brick, stone or wood to the greatest extent possible;

(3) If the installation is proposed to be made through areaway or sidewalk paving, the installation will not be installed through historic paving unless there is no feasible alternative;

(4) If the installation is required by applicable law or rule it will be as small as feasible;

(5) The finish of the equipment if not otherwise required by law or rule, will match the surrounding building material or will not call undue attention to its presence;

(6) If the installation requires a conduit: there will be no visible conduit or, if this is not feasible, a maximum of approximately ten (10) inches of visible conduit will be permitted; the conduit will not be placed on decorative surfaces; the visible conduit will be painted to match the background surface and will be secured into mortar joints where possible; and, if there are multiple proposed or existing installations, the proposed installation of conduit will, to the maximum extent feasible, combine and minimize the amount of conduit;

(7) The installation will be either not visible from a public thoroughfare or as minimally visible as possible (e.g., beneath a band course, underneath a stoop, behind an areaway wall or fence, or behind plantings). Unless the installation meets the requirements of paragraph (1) of this subdivision, the installation will be on a secondary facade; and

(8) The proposed installation will not call undue attention to itself or detract from any significant architectural feature(s) of the building or of adjacent buildings if the work is occurring in a historic district, by virtue of its size or proximity to any such features or buildings.

(c) *Certain Types of Equipment and Additional Criteria.* The following are the types of installations addressed by this section, including, where appropriate, installation criteria that are in addition to the general criteria set forth in subdivision (b) of this section:

(1) Utility meters, including electrical, gas and water meters.

(2) Fire alarm bells.

(3) Light fixtures and intercom panels. These installations must be installed within the door opening or adjacent to the door opening, and will be limited to a maximum of two light fixtures and one intercom panel per door opening, except that an intercom panel may also be installed on a fence or wall in front of the entranceway.

(4) Security cameras. These installations must be as small and as limited in number as feasible, with no more than two (2) security cameras for every twenty-five (25) feet of street frontage for small residential or commercial buildings of six (6) stories or less and with a street frontage of forty (40) feet or less, and no more than three (3) security cameras for every twenty-five (25) feet of street frontage for larger commercial, residential and institutional buildings. In every case the security camera(s) will be located to avoid a cluttered or haphazard appearance, and must be attached in a manner and location that minimizes their visible impact.

(5) Hookups for temporary generators and boilers, electrical boxes, inverter boxes.

(6) Mailboxes and mail key lockboxes. These installations must be installed within or adjacent to the door opening. If a building has a stoop, the mailbox may be attached to a gate or door underneath the stoop or, provided the installation meets the requirements of paragraphs (1), (2), (3), (4), (5) and (8) of this subdivision, to the façade of the building or stoop adjacent to the doorway underneath the stoop. A mailbox may also be attached to an areaway fence, or may be free-standing in the areaway if the attachment does not damage original or historic fabric or call undue attention to itself or detract from significant features of the building or adjacent building.

(7) Exterior Siamese connections/standpipes, oil fill pipes, boiler and dryer vents, water spigots.

(8) Rooftop security fences installed between properties. These installations may be installed only on small commercial buildings or large commercial or residential buildings, provided that they:

(i) Will not cause damage to any significant architectural feature of any façade or the roof;

(ii) Will be as low as is practicable and allowed by the Fire Code or the Building Code;

(iii) Will not be installed in front of or below a cornice where there is a continuous cornice line; and

(iv) Will either not be visible or will be minimally visible, or the visibility will be in the context of other rooftop features and will not call undue attention to itself or detract from the significant architectural features of the building or adjacent buildings.

(9) Certain heating, venting or air-conditioning equipment (“HVAC”). HVAC (including air intakes or exhausts at basement, cellar or areaway windows, walls or floors) that, due to existing structural or other physical constraints, must be installed below the second story at or in front of the primary façade or visible secondary façade. Staff may decide not to approve such installation if staff determines that the structural or other condition necessitating such installation was the result of recent or related discretionary interior changes.

(10) Window security bars installed at cellar, basement or parlor floor windows. These installations may be installed on any building, provided they:

(i) Will not cause damage to any significant architectural feature of any façade;

(ii) Will match historic ironwork or be of a simple design and will not call undue attention to themselves or detract from the significant architectural features of the building;

(iii) Will fasten to the window frame or surround at limited attachment points, and will not include continuous perimeter framing.

(11) Security gates at door openings below or under stoops. These installations can be installed on any building, provided that they:

(i) Will not cause damage to, or detract from, any significant architectural feature of any façade;

(ii) Will match historic ironwork or be of a simple design and will not call undue attention to itself or detract from the significant architectural features of the building;

(iii) Will fasten to the door surround at limited attachment points, and will not include continuous perimeter framing.

(iv) If replacing a grandfathered door where no door existed originally or historically, a new door may be approved if it maximizes the amount of transparency, with or without new ironwork, in keeping with the appearance of open gates below stoops.

(12) Detachable flood protection barriers. Penetrations through plain areas of the façade (excluding decorative masonry or metalwork, and cast iron) at discrete locations for mechanical fastening of flood barriers, with plugs finished to match the surrounding material, and permanent posts at service and garage door openings and loading bays, with associated hardware finished to

match the surrounding material or otherwise neutral in finish, may be installed, provided the installation does not call undue attention to itself or detract from the building or streetscape.

§ 15. Section 2-21 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York, entitled “Rules Relating to Installation of Public Pay Telephones and Public Communication Structures”, is renumbered § 2-23.

§ 16. Section 2-11 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is REPEALED and a new § 2-21 is added to read as follows:

§ 2-21 Installation of Heating, Ventilation, Air Conditioning and other Mechanical Equipment.

(a) Introduction. These rules set forth criteria for LPC Staff approval of heating, ventilation and air conditioning (“HVAC”) or other mechanical equipment in buildings which are designated landmarks or are within designated historic districts or scenic landmarks. These rules are based on the following principles:

(1) The distinguishing historical qualities or character of a building or its site should be protected. The removal or alteration of any significant architectural feature should be avoided.

(2) The visual integrity of the building's exterior walls should be maintained.

(3) In general, HVAC and other mechanical equipment are part of a building’s infrastructure that must be installed in compliance with various building and energy codes, and health and safety standards. These codes and standards change over time due to technological advances, and as a result of the changing needs of occupants.

(4) HVAC and other mechanical equipment play a critical role in the sustainability and resiliency of historic buildings. Applicants are encouraged to install appropriate HVAC and mechanical equipment that meet or exceed the requirements of the New York City Energy Conservation Code, even if the equipment is exempt from such standards.

(5) Applicants are strongly encouraged to develop building master plans for the installation of HVAC equipment, which will facilitate expeditious review and approval of applications.

(b) Definitions.

Decorative masonry. The term "decorative masonry" means terra cotta, cast-stone or natural stone (such as limestone, marble, brownstone or granite) and brick facade areas and/or any ornamental feature which is a component of the facade such as belt courses, banding, water tables, cornices, corbelled brick work, medallions, enframements, and surrounds, and ornamental bonding patterns, e.g., tapestry or diaper brick patterns. The term does not include entirely plain units of stone, masonry or brick laid up with simple, non-decorative coursing.

HVAC equipment. The term "HVAC equipment" includes through-window, through-wall, rooftop, areaway, and façade and yard mounted heating, ventilation, and air conditioning equipment, including louvers, wall-mounted louvers and stove, restaurant, bathroom and/or dryer vents.

Mechanical equipment. The term "mechanical equipment" means equipment other than HVAC equipment, such as solar and wind power equipment, batteries and emergency generators, and including any associated elements such as safety railings and sound attenuation screens, baffles and other structures.

Minimally visible. The term "minimally visible" means visibility of any portion of the HVAC or other mechanical equipment which, from its maximum point of visibility, when viewed from any public thoroughfare:

(1) Projects into the maximum line of sight from such public thoroughfare no more than twelve (12) inches in height if the equipment is less than sixty (60) feet above the ground, projects no more than eighteen (18) inches if the equipment is between sixty-one (61) and eighty (80) feet above the ground, and projects no more than twenty-four (24) inches if the equipment is between eighty-one (81) and one hundred (100) feet above the ground, and projects no more than thirty-six (36) inches if the equipment is more than one hundred (100) feet above the ground; or

(2) Does not call attention to itself or detract from any significant architectural features of the building or other buildings if in a historic district. In determining whether equipment does not call attention to itself or detract the LPC Staff will consider the following factors:

(i) The visibility meets the requirements of paragraph (1) above;

(ii) The equipment is visible at a significant distance;

(iii) The equipment is visible from very limited vantage points, including through alleyways, yards, or similar open portions of sites which are not building sites;

(iv) The equipment is visible from an oblique angle; or

(v) The equipment is visible in combination with other existing additions or structures that share a similar level of visibility.

Primary facade. The term "primary facade" means:

(1) a façade fronting a street or public thoroughfare that is not a street, such as a mews or court;

(2) A visible façade that possesses a level of design or significant architectural features that are commensurate with the building's street-fronting façade(s), and where such façade (i) faces but does not front a street, such as a setback façade, or (ii) is part of a dominant massing element where at least one façade is street-fronting or street-facing, such as a tower element; and

(3) A façade with a primary entrance to the building.

Secondary facade. The term "secondary facade" means a facade that does not front on a street or a public thoroughfare and that does not possess significant architectural features that are commensurate with the street fronting facade.

Terms not otherwise defined in these rules have the meanings ascribed to them in the Landmarks Law.

(c) Installations of HVAC Equipment Within Window Openings.

(1) No permit required. No permit is required for installing seasonal and non-permanent HVAC equipment in windows if the following relevant criteria are satisfied:

(i) Seasonal window air-conditioning unit installations.

(A) The installation requires only raising or lowering the sash of a double-hung window, or opening the sash of a casement, hopper or awning window or transom, and temporarily fixing the sash in place without removing it;

(B) The window unit and any filler panel (glazed or solid) will be installed at any location within the window frame, and will not fully rest on an architectural element of the façade outside of the window frame, such as a cornice, parapet or sill; and

(C) The support brackets, if required, will fasten to the window frame or the interior side of the wall opening, and/or may brace against the exterior wall without mechanical attachments.

(D) If the installation is visible from a public thoroughfare, the window unit does not need to be painted; however, any filler panel (if solid) must have a finish that matches or approximates the color of the window frame.

(ii) New non-permanent louver and vent installations.

(A) The installation requires only the raising or lowering of the sash of a double-hung window, or opening the sash of a casement, hopper or awning window or transom, and temporarily fixing the sash in place without removing it;

(B) The louver or vent, and any filler panel (glazed or solid), will be installed at any location within the window frame; and

(C) If the installation is visible from a public thoroughfare, the louver or vent, and any solid filler panel, will have a finish that matches or approximates the color of the window frame.

(2) Permit required. A permit, certificate or report is required for all other types of HVAC equipment installations within windows in individual landmarks and buildings in historic districts and scenic landmarks.

(i) Primary facades. Installations of HVAC equipment within window openings on primary facades of Individual Landmarks and building in historic districts and scenic landmarks, where there is no feasible alternative to installing the HVAC equipment on a secondary facade.

(A) Rowhouses, detached houses, carriage houses, small apartment buildings, tenements, and hotels. Except for installations on the primary façade that meet the requirements of § 2-20, for buildings originally constructed as private residences (rowhouses, town houses, detached and semi-detached houses) or carriage houses, as well as small apartment houses and other types of multiple dwellings which are six (6) stories or less in height and with a street frontage of forty (40) feet or less, the small scale and potential for affecting the significant architectural and historic character of the buildings require that proposals for installations on primary facades be reviewed by the full Commission for a Certificate of Appropriateness (“C of A”) or report.

(B) Large apartment buildings and hotels and commercial and loft buildings. This clause (B) applies to large apartment buildings, hotels and other types of multiple dwellings that have a street frontage of more than forty (40) feet or are seven (7) or more stories in height, and all commercial and loft buildings originally designed to serve commercial, retail or warehouse uses, including cast-iron fronted buildings, department stores, banks and office buildings. LPC Staff will approve permanent installations of HVAC equipment, louvers and vents in window openings if the proposal meets the following relevant criteria:

(a) The window is not a special window as defined in § 2-14; and

(b) The installation involves removing only glazing or modifying or removing the window sash and retaining the window frame. At large apartment buildings and hotels, only one of the double-hung sashes or a portion of a casement window assembly may be removed. If the exterior louver is flush-mounted, it will be mounted flush with or behind the plane of the window frame and behind the existing or reinstated brickmold or panning. If the window unit is projecting, it will be mounted within the window frame. In either case, if the exterior louver or window unit fills only a part of the window frame, it can be placed anywhere within the modified or removed sash, and the remainder will be filled with a filler panel (glazed or solid) or partial height window sash to otherwise match the configuration, size permitting, of the overall window; or

(c) The installation involves installing the exterior louver or projecting window unit in conjunction with installing a new window at the same time, and the resulting installation complies with both the criteria set forth in this clause (B) and the applicable new window criteria; and

(d) The exterior louver and any solid filler panel will be finished to match the window frame; however, a window HVAC unit does not need to be painted; and

(e) The installation will not damage or remove a significant architectural feature of the building and, for buildings in historic districts, will not detract from the significant architectural features of adjacent buildings.

(ii) Secondary facades. Installations of HVAC equipment within window openings on secondary facades of Individual Landmarks and buildings within historic districts and scenic landmarks. LPC Staff will approve the installation of HVAC equipment if the proposal meets the following relevant criteria:

(A) The window is not a “special window” as defined in § 2-14;

(B) The installation will occur within an existing window opening, either as an exterior louver, projecting window unit or a small vent with a flush or minimally projecting cap and filler panel, set back from the plane of the façade to approximate the depth of the window; or

(C) The installation will occur in conjunction with installing a new window at the same time, and the resulting installation complies with both the criteria of this subparagraph and the applicable new window criteria; and

(D) If the installation is visible from a public thoroughfare,

(a) The installation is only part of the full height of the sash being removed, the remainder will be filled with a filler panel (glazed or solid) or partial height window sash to otherwise match the configuration, size permitting, of the overall window; or

(b) The installation involves an exterior louver or small vent with a flush or minimally projecting cap, the louver, vent, cap and solid filler panel will be finished to match the window frame; and

(E) The installation will not damage or remove a significant architectural feature of the building and, for buildings in historic districts or scenic landmarks, if visible will not detract from the significant architectural features of adjacent buildings.

(d) *Installations of Through-Wall HVAC Equipment.*

(1) Primary facades. Through-wall installation of HVAC equipment on primary facades.

(i) Individual Landmarks. Except for installations on the primary façade that meet the requirements of § 2-20, proposals for through-wall installations on primary facades must be reviewed for a C of A.

(ii) Buildings within historic districts.

(A) Through-wall installations approvable only by C of A. Except for installations that meet the requirements of § 2-20, proposals for installations of through-wall HVAC equipment on primary facades of the following building types must be reviewed for a C of A due to their small

scale, limited areas of plain masonry and/or the potential for affecting significant the significant architectural and historical character of the buildings:

(a) Rowhouses, townhouses, detached and semi-detached houses, carriage houses, flats, small apartment buildings, tenements, hotels and other types of multiple dwellings. For purposes of this item (a), this means buildings originally constructed as private residences, carriage houses or multiple dwellings, which are six (6) stories or less in height and with a street frontage of forty (40) feet or less, except that a corner rowhouse, townhouse, detached or semi-detached house or carriage house may have one street frontage that is larger than forty (40) feet;

(b) Manufacturing and loft buildings, originally designed to serve commercial, retail, or warehouse uses, including cast-iron fronted buildings, department stores, and banks.

(B) Through-wall installations approvable by LPC Staff. LPC Staff will approve through-wall installations if the proposal meets the following relevant criteria:

(a) Large apartment buildings, hotels and other types of multiple dwellings which either have a street frontage greater than forty (40) feet or which are seven (7) or more stories in height, if the proposal meets all of the following relevant criteria:

(1) The installation will be centered beneath the window opening, or, if the window opening is wide enough to accommodate more than one set of sashes, is placed beneath the window opening in accordance with the predominant existing pattern of through-wall installations;

(2) The exterior louver will be a rimless type architectural louver with flat metal blades;

(3) The exterior louver will be mounted as flush as possible with the surrounding masonry and with the minimum projection feasible;

(4) The exterior louver will be finished to match the color of the surrounding masonry;

(5) The location corresponds to a regular pattern of installations, or where demonstrated to be impractical or unfeasible, the location will form the basis for a new pattern of installations or will otherwise not detract from the façade or, if in a historic district, adjacent buildings; and

(6) The installation will not damage or remove decorative masonry or a significant architectural feature of the building and will not detract from the significant architectural features of adjacent buildings. For purposes of this clause (B), removal of small areas of plain masonry to accommodate the through-wall unit shall not be considered damage or removal of a significant architectural feature.

(iii) Other buildings. For other buildings that do not fall into any of the previously described categories, including specialized building types such as churches and synagogues, hospitals, schools, and libraries, with a street frontage of more than forty (40) feet or are seven (7) or more stories in height, LPC Staff will approve through-wall installations of HVAC equipment if they determine that:

(A) There is no feasible alternative to installing the HVAC equipment on the primary façade;

(B) The installation will satisfy the criteria set forth in subdivision (d)(1)(ii)(B)(a)(2)-(4) of this section; and

(C) The installation will not damage or remove a significant architectural feature of the building, or detract from such features of the building or adjacent buildings if in a historic district. For purposes of this item (b), removal of small areas of plain masonry or non-decorative brick to accommodate the through-wall unit shall not be considered damage or removal of a significant architectural feature.

(2) Secondary facades. LPC Staff will approve the installation of through-wall HVAC equipment on a visible secondary facade of any building if the proposal meets the following relevant criteria:

(i) The unit will be:

(A) Centered beneath or above a window opening if the vent or louver exceeds one hundred forty-four (144) square inches in surface area; or

(B) Installed below, above, or to the side of a window opening if the vent or louver is one hundred forty-four (144) square inches or less in surface area; or

(C) Installed in a uniform pattern on portions of secondary facades devoid of windows (variations from the predominant existing pattern on the building may be permitted if the applicant does not have interior space which would permit such installation in conformance with such pattern). For purposes of this paragraph (2), louvers greater than one hundred forty-four (144) square inches shall only be permitted through a masonry facade; and

(ii) The exterior louver will be mounted as flush as possible with the exterior wall or façade cladding and with the minimum projection feasible, except that if the louver is one hundred forty-four (144) square inches or less in surface area, a minimally projecting cap may be permitted if the projection does not call undue attention to itself or otherwise have an adverse effect on the secondary façade; and

(iii) The exterior louver will be finished in a manner which approximates the color of the surrounding façade cladding; and

(iv) No decorative masonry or other façade cladding, or other significant architectural feature of the building, will be affected by the installation, and the installation will not detract from adjacent buildings. For purposes of this subparagraph (iv), removal of small areas of plain masonry or other façade cladding to accommodate the through-wall unit will not be considered damage or removal of a significant architectural feature.

(3) Installation of HVAC equipment on non-visible secondary facades. LPC Staff will approve the installation of through wall HVAC equipment on a non-visible secondary facade of any building if the proposal meets the following relevant criteria:

(i) The installation will not be visible from any public thoroughfare; and

(ii) The exterior louver will be mounted as flush as possible with the surrounding masonry or façade cladding, except that if the opening is one hundred forty-four (144) square inches or less in surface area, a minimally projecting cap may be permitted if the projection does not have an adverse effect on the secondary facade; and

(iii) No decorative masonry or other decorative façade cladding, or any significant architectural feature of the building, will be affected by the installation.

(e) Wall Mounted Installations of HVAC and Other Mechanical Equipment on Secondary Facades. LPC Staff will approve the installation of wall mounted HVAC and other mechanical equipment on secondary facades if the proposal meets the following relevant criteria:

(1) Visibility.

(i) Wall mounted HVAC, such as ductless split system HVAC equipment and other mechanical equipment on platforms and/or brackets, will be no more than minimally visible from a public thoroughfare. In scenic landmarks, such installations may be made minimally visible by the introduction and maintenance of plantings;

(ii) Wall-mounted flues and ducts required by applicable governmental laws and rules (including, but not limited, to Building, Fire and Health Codes) may be minimally visible from a public thoroughfare, or where more than minimally visible, will be located in the least visible location and so as to not disrupt the composition of the façade, and will not extend higher than required by such laws or rules;

(2) The attachment of associated platforms, brackets and straps to the façade will be designed to maximize reversibility and minimize damage to the building fabric (e.g., installed through the mortar joints where possible in masonry walls);

(3) Any penetrations for associated conduits or ducts through the facade will be as small as possible in conformance with the manufacturer's recommended dimensions;

(4) If the installation is visible from a public thoroughfare, the HVAC and other mechanical equipment, flues and ducts, and associated platforms, brackets and straps, will have a finish that matches the color of the underlying material, or is otherwise neutral so as to not call attention to itself; and

(5) The installation will not damage or remove a significant architectural feature of the building and, for buildings in historic districts, if visible will not detract from the significant architectural features of adjacent buildings.

(f) Installation of HVAC Equipment in Storefronts and Storefront Doors. LPC Staff will approve the installation of HVAC equipment in storefronts and storefront doors if:

(1) The installation involves removing only glazing, or modifying or removing the transom window sash and retaining the storefront or door frame.

(i) The exterior louver will be mounted flush with or behind the plane of the transom window frame and behind the existing or reinstated brickmold or panning, and

(ii) If the exterior louver will replace only part of the transom window sash being removed, the remainder of the space will be filled with a flat panel (glazed or solid) or partial height transom window sash to otherwise match the finish and configuration, size permitting, of the overall transom window; or

(2) At recessed storefront entrances only, the installation involves removing only glazing, or modifying or removing the transom window sash and retaining the storefront or door frame, and the window unit (projecting or flush) will be mounted within the transom window frame, and if the window unit only fills part of the opening, it can be placed anywhere within the modified or removed transom window sash, the remainder will be filled with a filler panel (glazed or solid) or partial height transom window sash finished to otherwise match the finish and configuration, size permitting, of the overall transom window; or

(3) The installation involves installing the exterior louver in conjunction with installing a new storefront or door at the same time, and the resulting installation complies with both the criteria in this subdivision and the applicable new storefront or door criteria set forth in § 2-12; and

(4) The exterior louver and any solid filler panel will be finished to match the storefront or door frame; or

(5) The installation will be through a non-historic storefront bulkhead, integrated into the design of the bulkhead or will otherwise not detract from the storefront; and

(6) The exterior louver will be rimless with horizontal blades finished to match the color of the surrounding storefront bulkhead, and will be mounted as flush as possible with the surrounding material and the minimum projection feasible; and

(7) The installation will not damage or remove a significant architectural feature of the building and, for buildings in historic districts, will not detract from the significant architectural features of adjacent buildings.

(g) Installation of HVAC and Other Mechanical Equipment on Rooftops or Terraces. With respect to Individual Landmarks and buildings in historic districts and scenic landmarks, LPC Staff may approve the installation of HVAC and other mechanical equipment on rooftops and terraces if the proposal satisfies the following relevant criteria:

(1) Primary façade.

(i) The installation will not damage or remove significant architectural features.

(ii) The installation will not be visible. If it is not practicable or feasible to make the installation invisible, and the visibility is not caused by the equipment being placed on an LPC-approved addition, LPC Staff may approve a minimally visible installation.

(iii) With respect to existing grandfathered or approved HVAC installations, LPC Staff may (A) approve work that increases existing visibility slightly if such increase is required by building or fire codes and there is no feasible alternative; and (B) approve replacement of a grandfathered or approved installation with a matching or smaller, one even if the new installation is more than minimally visible, provided there is no feasible alternative location that would be not visible or minimally visible, and the visibility of the new installation is less than the existing installation.

(2) Secondary façade. The installation will not be visible, or will not be more than minimally visible, over a secondary façade. If the installation is occurring within a scenic landmark, the visibility will be controlled by existing or new trees, plantings or other foliage.

(h) *Installation of HVAC Equipment and Mechanical Equipment in Yards and Areaways of Landmarks and Buildings in Historic Districts and Scenic Landmarks.* LPC Staff will approve the installation of HVAC and mechanical equipment in the front, side or rear yard if the proposal meets the following relevant criteria:

(1) Primary facades. Installations fronting primary facades of individual landmarks and buildings in historic districts and scenic landmarks:

(i) There is no practical or feasible alternative to installing the equipment in front of the primary façade;

(ii) The installation of HVAC and other mechanical equipment, at grade or on platforms, will not be visible from a public thoroughfare, or will be minimally visible due to location and/or screening by architectural or hardscape features of the building (e.g., behind an areaway wall or within a below-grade light-well);

(iii) Any penetrations for associated conduits or ducts through the facade will be as small as possible in conformance with the manufacturer's recommended dimensions;

(iv) If there is any visibility of the installation from a public thoroughfare, the HVAC and other mechanical equipment, and associated platforms, will have a finish that matches the color of the underlying material, or is otherwise neutral so as to not call attention to itself; and

(v) The installation will not damage or remove a significant architectural feature of the building and, for buildings in historic districts and scenic landmarks, will not detract from the significant architectural features of adjacent buildings or significant landscape features.

(2) Secondary facades. Installations fronting secondary facades:

(i) The installation of HVAC and other mechanical equipment at grade or on platforms will not be visible from a public thoroughfare, or will be minimally visible to the greatest extent possible. For purposes of this subparagraph (i), visibility can be reduced or eliminated through the use of permanent plantings;

(ii) The installation is set back from the public thoroughfare to the greatest extent feasible;

(iii) Any penetrations for associated conduits or ducts through the facade will be as small as possible in conformance with the manufacturer's recommended dimensions;

(iv) If the installation is visible from a public thoroughfare, the HVAC and other mechanical equipment, and associated platforms, will have a finish that matches the color of the underlying material, or is otherwise neutral so as to not call attention to itself; and

(v) The installation will not damage or remove a significant architectural feature of the building and, for buildings in historic districts and scenic landmarks, detract from the significant architectural features of adjacent buildings or significant landscape features.

§ 17. Section 2-13 of Subchapter B of Chapter 2 of Title 63 of the Rules of the City of New York is renumbered § 2-22 and as renumbered is amended to read follows:

§2-22 [Removal of] Fire Escapes.

[The following will clarify instances in which staff may issue a Certificate of No Effect (CNE) for the removal of fire escapes from designated buildings.

The removal of a fire escape requires either a CNE or a Certificate of Appropriateness (C of A). If the fire escape is a significant protected feature, then a C of A is required to approve its removal. However, staff may issue a CNE for a fire escape removal if it determines:

(a) That the fire escape is not a significant protected feature on the building based on the finding that:

(1) the fire escape is not original to the building, and

(2) the fire escape does not have architectural merit in itself, and

(3) the fire escape is not mentioned in the LPC designation report, and

(4) the building with the fire escape is not located within an historic district in which fire escapes are significant architectural elements that contribute to the special architectural and historic character for which that historic district was designated.

(b) That any damage to the facade will be repaired to match the adjacent fabric (patching any holes would be invisible enough to have "no effect" on the significant protected feature of the building);

(c) that the removal of the fire escape will not leave gaps, holes, or unsightly conditions on the facade. Occasionally, the installation of a fire escape requires the removal of architectural elements or portions of architectural elements (e.g. cornices). If the applicant is not prepared to remedy these conditions in connection with the removal of the fire escape, staff will have to make a judgment as to whether or not it would be desirable to allow the removal. If the applicant is willing to make restorative repairs, staff will have to decide whether these would require a Permit for Minor Work (PMW) or a C of A. It would be inappropriate to include these restorative repairs on a CNE since obviously they would have an effect on the significant protected features of the building. If the level of restoration requires a C of A, a CNE should not be issued for the removal, but rather the removal should be calendared for a public hearing with the restoration.]

(a) Removal of an Existing Fire Escape. LPC Staff will approve the removal of an existing fire escape if the proposal satisfies the following relevant criteria:

(1) The fire escape is not a significant protected feature of the building based on a finding that:

(i) The fire escape is not original to the building;

(ii) The fire escape does not have architectural merit in itself; and

(iii) The fire escape is not mentioned or otherwise called out as significant in the LPC designation report; or

(iv) The fire escape is not located on a building within a historic district in which fire escapes are identified as significant architectural features that contribute to the special architectural and historic character of the district.

(2) Damage to the façade caused by the installation, presence or removal of, or exposed by the removal of, the fire escape will be repaired to match the historic fabric; and

(3) Architectural elements removed, damaged or altered by the installation of the fire escape will be reinstalled, repaired or, if beyond repair, replaced or replicated.

(b) Alteration, Restoration and Maintenance of an Existing Fire Escape. LPC Staff will approve work on an existing fire escape if the proposal satisfies the following relevant criteria:

(1) Replacement of a fire escape drop ladder with a swing stair or a swing stair with a drop ladder matches the material, general details and color of the existing fire escape;

(2) Installation of a horizontal and/or vertical extension matches the material, details, color and dimensions of the existing fire escape, provided the installation will not conceal or damage any significant architectural features of the building; and

(3) Restoration and maintenance, including replacing any parts in kind with parts, match the existing fire escape in terms of material, details and color, or repainting of the existing color, a dark color such as black or brown that is typical of the historic district, or a color that matches or is similar in hue to the existing color of the façade.

(c) *Installation of New Fire Escapes.* LPC Staff will approve the installation of a new fire escape if the proposed work satisfies all of the following relevant criteria:

(1) Primary façade of a building in a historic district.

(i) Similar installations are commonly found on historic buildings in the district;

(ii) The fire escape is simple and utilitarian in design;

(iii) The installation will not cause the removal or, or damage to, any significant architectural features of the building;

(iv) The installation will not detract from the special historic and architectural character of the building or adjacent buildings;

(v) The fire escape cannot be located on a secondary façade; and

(vi) There is no feasible alternative to installing the fire escape. In making a determination that there is no feasible alternative, LPC Staff will consider whether the need for a fire escape on the primary façade is necessitated by recent or approved interior renovations.

(2) Visible secondary façade of a building in a historic district.

(i) The fire escape is simple and utilitarian in design;

(ii) The installation will not cause the removal or, or damage to, any significant architectural feature of the façade;

(iii) The installation will not detract from the special historic and architectural character of the building or adjacent buildings;

(iv) The fire escape cannot be located on a nonvisible secondary façade; and

(v) There is no feasible alternative to installing the fire escape. In making a determination that there is no feasible alternative, LPC Staff will consider whether the need for a fire escape on a visible secondary façade is necessitated by recent or approved interior renovations.

(3) Nonvisible secondary façade of any building.

(i) The fire escape is simple and utilitarian in design; and

(ii) The installation will not cause the removal of, or damage to, any significant architectural feature of the façade.

§ 18. Subchapter C of Chapter 2 of Title 63 of the Rules of the City of New York is amended to read as follows:

**SUBCHAPTER C
EXPEDITED REVIEW OF CERTAIN APPLICATIONS
FOR CERTIFICATES OF NO EFFECT**

§ 2-31. Definitions.

As used in these Rules, the following terms [shall] have the following meanings:

Architect. "Architect" [shall mean] means an individual, partnership, corporation or other legal entity licensed to practice the profession of architecture under the education law of the State of New York.

CNE. "CNE" [shall mean] means a Certificate of No Effect as defined by §25-306 of the Landmarks Law.

Day. "Day" [shall mean] means any day other than a Saturday or Sunday or legal holiday.

Engineer. "Engineer" [shall mean] means any individual, partnership, corporation or other legal entity licensed to practice the profession of engineering under the education law of the State of New York.

Landmarks Law. "Landmarks Law" [shall refer] refers to New York City Charter §3020 and Chapter 3 of Title 25 of the Administrative Code of the City of New York.

Landmarks Preservation Commission. "Landmarks Preservation Commission" [shall mean] means the Commission acting in its agency capacity to implement the Landmarks Law.

LPC staff. "LPC Staff" means the staff of the Landmarks Preservation Commission acting in the Commission's agency capacity.

[**Notice of Violation.** "Notice of Violation" shall mean]] **Summons.** "Summons" means a notice from the Landmarks Preservation Commission that work on a landmark site or within an historic district was performed without a permit or was not performed in accordance with a permit issued by the Landmarks Preservation Commission. With respect to Chapter 63 of the

Rules of the City of New York and sections 25-301 through 25-322 of the Administrative Code, the term “Summons” will be construed to include and apply to any previously issued “Notice of Violation.”

Story. "Story" [shall be] is defined as a habitable floor level, including a basement but not including a cellar.

Terms not otherwise defined in these rules [shall] have the meaning given them in the Landmarks Law.

§2-32 **Expedited Review Procedures.**

(a) *General.* [An applicant may request that an application for interior work above the second story or in the cellar or basement in any landmark or building within an Historic District, other than an application for interior work on a part of the building which has been designated an [interior landmark] Interior Landmark, be reviewed on an expedited basis.] The expedited review procedures set forth in this section are available for certain interior work as detailed below. Expedited review is predicated upon the statements and representations of the architect or engineer and the owner and upon the satisfaction of certain terms and conditions, all as set forth in this [§2-32] section.

(b) *Work [eligible for expedited review] Eligible for Expedited Review.* The following work is eligible for expedited review:

(1) Interior work which is to be performed [above the second story or in the cellar or basement] at or above the third full story and which does not involve any [excavation, except for minimal excavation related to elevator or mechanical work, or] change to, replacement of, or penetration of, an exterior wall, window, skylight or roof, including but not limited to penetrations, replacements or changes for ducts, grilles, exhaust intakes, vents or pipes, may qualify for an expedited review;

(2) Interior work which is to be performed at or below the second full story in a building where there is no commercial use below the second full story, where the proposed work does not involve change to, replacement of, or penetration of an exterior wall, window, skylight or roof, including but not limited to penetrations, replacements or changes for ducts, grilles, exhaust intakes, vents or pipes;

(3) Interior work which is to be performed in the cellar or basement, provided the work does not require excavation, except for minimal excavation related to elevator or mechanical work that does not require underpinning, and the work does not involve any change to, replacement of, or penetration of, a visible exterior wall or window;

(4) Expedited review will not be permitted for work proposed to be performed within a designated Interior Landmark.

(c) [*Conditions to expedited review*] Criteria and Conditions for Expedited Review. Each of the following conditions must be satisfied in order to obtain an expedited review:

(1) The work [shall] will be eligible work as described in §2-32(b) above.

(2) The application for which an expedited review is requested [shall] will be accompanied by a completed Landmarks Preservation Commission expedited review form which [shall] must include:

(i) a statement signed and sealed by the architect or engineer that:

(A) the architect or engineer has prepared, or supervised the preparation of, the plans and specifications submitted with the application;

(B) all work shown on such plans and specifications is:

(a) interior work only,

(b) to be performed only at or above the [second] third full story or in the cellar or basement, or at or below the second full story in a building where there is no commercial use on the ground floor.

(c) not to be performed on any portion of a space designated as an Interior Landmark,

(d) does not involve excavation, except for minimal excavation related to elevator or mechanical work, or any change to, replacement of, or penetration of, a window, skylight, exterior wall or roof or any portion thereof, and

(e) for floors [3-6] one through six (1-6) does not involve a dropped ceiling [or a partition] greater than one foot (1'0") below the head of a window, a perpendicular partition abutting a window, or a parallel partition blocking more than one foot (1'0") of a window, any of which is less than a minimum of one foot (1'-0") back from interior window sill or frame, whichever is further from the glass.

(C) that where there are associate architects or engineers, that they likewise join in the request for an expedited review of the application;

(D) that the architect or engineer and associate architects or engineers, if any, are aware that the Landmarks Preservation Commission will rely upon the truth and accuracy of the statements contained in the application made by them, and any amendments submitted in connection therewith, as to compliance with the provisions of the Landmarks Law and these rules;

(ii) a sworn statement executed by the owner of the property that:

(A) the proposed work [described is of the type] meets the criteria for expedited review as described in [§2-32] subdivision (b);

(B) no change to, or modification of, the proposed work [shall] will be undertaken by the owner, his or her architect or engineer or any other agent of the owner without the prior approval of the Landmarks Preservation Commission; and

(C) the necessary remedial measures to obtain compliance will be taken, if the same becomes necessary;

(3) No ["Notice of Violation"] Summons from the Landmarks Preservation Commission [shall] is in effect against the property which is the subject of the proposed work for which an expedited review is requested; and

(4) The application is complete in all other respects.

(5) The architect or engineer and associate architects or engineers, if applicable, have not been excluded by:

(i) the Chair of the Landmarks Preservation Commission from the procedures for expedited review pursuant to §2-34 of these rules; or

(ii) the Commissioner of the Department of Buildings from the Department's procedures for limited supervisory check of applications and plans set forth in 1 RCNY §21-02.

(d) *Issuance of [permit] Permit*. If all conditions to an expedited review have been satisfied, [the Landmarks Preservation Commission shall] LPC Staff will:

(1) issue a CNE to the applicant within five business days of receipt of a complete application; and

(2) [shall] perforate all drawings accompanying such application to indicate approval thereof.

§2-34 Remedies for False Statements and Procedures for Action.

(a) *Grounds for action.* (1) The Chair of the Landmarks Preservation Commission may exclude any architect or engineer from the procedures for expedited review of applications if the Chair of the Landmarks Preservation Commission finds that:

(i) In connection with the Landmarks Preservation Commission expedited review form described in §2-32(c)(1) of these rules the architect or engineer has:

(A) knowingly or negligently made any false or misleading statement; or

(B) knowingly or negligently omitted a statement or failed to state a material fact; or

(C) knowingly or negligently falsified or allowed to be falsified any fact; or

(D) willfully induced another person to do any of the above; or

(ii) A ["Notice of Violation"] Summons, a previously issued Notice of Violation, or "Notice to Stop Work" has been issued by the Landmarks Preservation Commission against work performed pursuant to any plans, prepared by or under the supervision of such architect or engineer, and such architect or engineer knew, or had reason to know, that the work performed pursuant to such application, plan, certification, or report was not carried out in accordance with approved plans or exceeded the scope of such approved plans and such architect or engineer failed to act to stop such work and/or correct such work.

(2) The powers, rights and remedies of the Landmarks Preservation Commission set forth in this §2-34(a) are non-exclusive and [shall] will not be deemed to limit or supersede any other power, right or remedy of the Landmarks Preservation Commission.

(b) *Procedures.* (1) Written notice of a preliminary determination, together with the basis for such action to exclude from expedited review [shall] must be served on the Architect or Engineer of record pursuant to the provisions of New York State Civil Practice Law and Rules §308.

(2) The Architect or Engineer notified under §2-34(b)(1) [shall] will be entitled to, and scheduled for, a hearing on the preliminary determination in accordance with §2-34(c) if written objection to the preliminary determination and the grounds for such objection are submitted to the Chair of the Landmarks Preservation Commission within fifteen (15) [Days] days after the date that the notice of preliminary determination is served.

(3) If no hearing is requested pursuant to §2-34(b)(2) above, the preliminary determination of the Chair of the Landmarks Preservation Commission [shall] will be deemed confirmed and [shall] will become final and effective on the sixteenth [(16) Day] 16th day after the preliminary notice of determination is served.

(4) If after a hearing in accordance with §2-34(c), the Chair of the Landmarks Preservation Commission confirms the preliminary determination, the Chair [shall] must notify the Architect or Engineer of such decision and such notice [shall] must include a written statement indicating the reason for his or her determination.

(5) On or after the effective date of the final determination to exclude an Architect or Engineer from participation in expedited review procedures all of the plans prepared by or under the supervision of such Architect or Engineer [shall] must be subject to full review by the Landmarks Preservation Commission.

(c) *Hearing.* (1) Any hearing described in §2-34(b)(2) will be held at, and conducted by the Office of Administrative Trials and Hearings in accordance with their rules and procedures.

(2) The Architect or Engineer may be represented by counsel and may present evidence in his or her behalf. A transcribed or tape-recorded record [shall] must be kept of the hearing.

(3) The Chair of the Landmarks Preservation Commission [shall] must notify the respondent of the final determination within ten (10) [Days] days after the receipt of the findings of fact from the Office of Administrative Trials and Hearings on such matters. The determination of the Landmarks Preservation Commission [shall] must be supported by substantial evidence.

(d) *Review of Determination.* At the expiration of two (2) years from the date of the initial determination to exclude an Architect or Engineer from participation in the procedures for expedited review of applications, and at intervals of no more than six months thereafter, upon request of the Architect or Engineer, the Chair of the Landmarks Preservation Commission [shall] must reexamine such determination. If the Architect or Engineer has not committed any of the acts described in clause (2) of §2-34(a) above during such period, the Chair of the Landmarks Preservation Commission may rescind such determination.

[§ 2-35. **Miscellaneous.**

Any application submitted on or after the effective date hereof shall be subject to these Rules.]

§ 19. Chapter 3 of Title 63 of the Rules of the City of New York is REPEALED.

§ 20. Chapter 5 of Title 63 of the Rules of the City of New York is amended to read as follows:

**CHAPTER 5
HISTORIC PRESERVATION GRANT PROGRAM**

§5-01 Introduction.

The Historic Preservation Grant Program provides grants to eligible nonprofit organizations and homeowners for the preservation of designated landmark properties through restoration, repair and rehabilitation work. All grants must meet the guidelines laid out for historic preservation activities under the federal Community Block Grant program regulations. 24 CFR Sec. 570.202(d).

Application forms and fact sheets for the Historic Preservation Grant Program may be obtained from the Commission's website or by contacting the Commission's Director of the Historic Preservation Grant Program.

§5-02 General Eligibility Requirements.

In addition to any applicable federal regulations regarding the Community Block Grant Program, grant applicants [shall] must also meet the following criteria:

(a) *Eligible [structures] Structures.* Structures which are designated or calendared individual landmarks, are located in designated historic districts, or contain [interior landmarks] Interior Landmarks. Eligible structures may also include those improvements located in New York City that are listed or eligible for listing on the National Register. [The premises cannot be in arrears

for unpaid real estate taxes, water/sewage charges, or have any unrescinded notice of violations issued by the Landmarks Preservation Commission or the Department of Buildings.]

(b) *Eligible [repairs] Repairs.* Grants [shall] may be made for the following work:

(1) [to] To repair and restore exterior features of an eligible structure;

(2) [to] To address structural damage or severe deterioration that threatens to undermine the integrity of an eligible structure;

(3) [to] To repair and restore eligible interiors;

(4) To make alterations which will protect the landmark from physical damage, including the installation of appropriate flood barriers; and

(5) To make alterations that will make the landmark more energy efficient.

(c) *Ownership/[occupancy] Occupancy.* (1) *Homeowners.* Owners of eligible residential properties may receive grant funds if the owner and/or occupants meet §8 income limits as they appear in the federal Community Block Grant Program regulations. 24 CFR §570.208(a)(2)(i)(B) and (C).

(2) *Nonprofit organizations.*

(i) Nonprofit organizations applying for grant funds must either own or hold a long term lease on the property for which funds are sought.

(ii) To be eligible for consideration as a non-profit organization, the applicant must be a charitable, cultural, educational, scientific, literary, or other entity organized under §501(c)(3) of the Internal Revenue Code.

(d) *Grant [beneficiaries] Beneficiaries.* All grant-funded work must (1) principally benefit low and moderate income persons or (2) address slum and blight conditions as set forth in and defined under the federal Community Block Grant Program regulations. 24 CFR §570.208.

§5-03 [Application Requirements and] Selection Board and Criteria.

(a) Grant applications will be evaluated and funds will be awarded by a board composed of the director of the Historic Preservation Grant Program and other staff members of the Landmarks Preservation Commission as the [Chairman] Chair shall in his or her discretion appoint.

(b) In awarding grants, the Historic Preservation Grant Program board will give preference to properties designated or calendared by the Landmarks Preservation Commission and will consider the following factors, among others:

- (1) [the] The architectural and historical importance of the building; [and]
 - (2) [the] The condition of the building and the degree to which the proposed work will materially address the building's condition; [and]
 - (3) [the] The applicant's financial resources; [and]
 - (4) Whether the applicant is proposing to use other funds along with the grant to pay for the proposed work; and
- [the] (5) The effect the grant will have on improving the building and/or the district.

[(c) Application forms and fact sheets for the Historic Preservation Grant Program may be obtained by contacting the Commission's Director of the Historic Preservation Grant Program.]

§5-04 Application Materials.

In addition to any other material required by LPC Staff, the following documents, as applicable, must be submitted in support of an application for a grant:

(a) *Individuals.* An applicant who is an individual, or is comprised of multiple individuals, must submit for each individual, as applicable, the following documents:

(1) Signed current federal tax forms, or, if no tax return was required to be filed, a signed statement with an explanation. If income has changed substantially, the applicant must submit relevant tax forms for the last three (3) years;

(2) W-2 Forms and Schedules A, B, C, D, and E filed with each 1040 Tax Form;

(3) A signed list of all properties owned and related rent receipts in lieu of Schedule E;

(4) Pension receipts;

(5) Notification of Social Security, disability or other benefits;

(6) Records of all other income or distributions;

(7) List of sources of funding for restoration project; and

(8) The property deed in the name(s) of the applicant(s).

(b) *Non-Profit Entity.* An applicant that is a nonprofit organization must submit the following documentation:

(1) A copy of the articles of incorporation and confirmation from the Internal Revenue Service of its non-profit status; and

(2) the property deed or long-term lease in the name of the applicant.

(c) Conditions. In addition to any other condition required or imposed by law or rule, the following conditions apply to every grant:

(1) The grant pays for specific work items;

(2) Work cannot begin until:

(i) LPC Staff and the grant recipient sign a contract;

(ii) Re-sale and insurance clauses of the contract have been satisfied;

(iii) LPC issues approval(s) for the work; and

(iv) LPC Staff notifies the contractor that work can begin;

(3) Except under unusual circumstances, at least three (3) competitive bids must be obtained for proposed work; bids will be solicited by the LPC Staff and work must be approved by the Commission before funds are disbursed to the contractor;

(4) Depending on the scope of work, the property may be inspected for the presence of lead-based paint. If lead-based paint hazards are found, the grant recipient will be responsible for the remediation of those hazards pursuant to City and/or federal law;

(5) Preference is given to extremely low-, low-, and moderate-income owners that use other funds along with the grant to restore the façade of their building;

(6) Grantees cannot have unpaid real estate taxes or water or sewer charges; and

(7) If there are Landmarks Preservation Commission or Department of Buildings violations on an otherwise eligible property, the presence of such violations, the nature of the violations and any plans to address the violations, will be considered.

(8) Occupancy requirement/resale restriction:

(i) The grant recipient must continuously occupy at least one Unit on the property that is the subject of the grant as his or her primary residence, for a period of five (5) years from the date of final payment to the contractor for the work performed pursuant to the grant.

(ii) If the grant recipient transfers the property within such five-year period, the grant recipient must return to the Landmarks Preservation Commission the grant on a pro-rated basis as follows: one hundred (100) percent of the grant if the property is transferred during the first year after final payment; eighty (80) percent if transferred during the second year; sixty (60) percent if

transferred during the third year; forty (40) percent if transferred during the fourth year; and twenty (20) percent if transferred during the fifth year after the final payment.

§ 21. Section 7-05 of Chapter 7 of Title 63 of the Rules of the City of New York is REPEALED, section 7-06 is renumbered 7-05, and the title and sections 7-01 through 7-04 of such are amended to read as follows:

CHAPTER 7: PERMIT [EXPIRATION AND] DURATION, RENEWAL AND REVOCATION

§7-01 Definitions.

As used in [these Rules] this section, the following terms [shall] have the following meanings:

Day. The term “day” [“Day” shall mean] means any day other than a Saturday or Sunday or legal holiday.

Landmarks law. The term “Landmarks Law” [“Landmarks law” shall be understood to refer] refers to §3020 of the New York City Charter and Chapter 3 of Title 25 of the Administrative Code of the City of New York.

Landmarks [preservation commission] Preservation Commission. The term “Landmarks Preservation Commission” [“Landmarks preservation commission” shall mean] means the [commission] Commission acting in its agency capacity to implement the [landmarks law] Landmarks Law.

Permit. The term “permit” [“Permit” shall mean any permit] means an approval, other than a Notice to Proceed, issued by the Landmarks Preservation Commission, in accordance with the provisions of the Landmarks [law] Law and §854(h) of the New York City Charter:

(1) “PMW” [shall mean] means a [permit for minor work] Permit for Minor Work as defined by §25-310 of the Landmarks [law]Law.

(2) “CNE” [shall mean] means a Certificate of No Effect [certificate of no effect] as defined by §25-306 of the Landmarks [law] Law.

(3) “C of A” [shall mean] means a Certificate of Appropriateness [certificate of appropriateness] as defined by §25-307 of the Landmarks [law] Law and shall not refer to a Certificate of Appropriateness [certificate of appropriateness] as defined by §25-309.

(4) “MOU” means a modification of use or bulk issued by the Commission in connection with an application by an applicant to the City Planning Commission pursuant to the Zoning Resolution, including but not limited to §§ 74-11 and 74-79, and as required by such sections of the Zoning Resolution.

(5) “Report” means an Advisory or Binding Report as defined by §25-218 of the Landmarks Law and as referenced in §854(h) of the New York City Charter.

§7-02 **Duration of Permits.**

(a) General. (1) [All permits shall] A permit will be of limited duration as provided in these rules.

(2) [Each] A permit [shall] must clearly state the expiration date of such permit on the permit.

(3) Work approved by a permit must be substantially completed within the time period for such permit.

(b) Duration of Approvals. The following [permits shall] types have the following durations:

(1) PMW. Each PMW [shall] will be valid for four (4) years from the date of issuance for such PMW, or six (6) years from the date of issuance if issued in connection with an approval for a Modification of Use or Bulk.

(2) CNE. Each CNE [shall] will be valid for four (4) years from the date of issuance for such CNE, or six (6) years from the date of issuance if issued in connection with an approval for a Modification of Use or Bulk.

(3) [Each] C of A. Except as provided in paragraph (7), each C of A [shall] will be valid for six (6) years from the date of a Commission vote [on] to approve such C of A.

(4) Report. Each Report, whether Binding or Advisory and whether issued by LPC Staff or the Commission, will be valid for six (6) years from the date of issuance for such Report.

[~~(4)~~] (5) Master Plan. Any PMW, CNE [or], C of A or Report issued for a master plan [shall] will be valid indefinitely.

(6) MOU. Each MOU will be valid for eight (8) years from the date the Commission votes to approve the application.

(7) Conceptual approval; extension of approval for C of A. If an applicant is also applying to the Commission for a Modification of Use or Bulk, or otherwise applies to the City Planning Commission for a special permit or authorization, or to the Board of Standards and Appeals for a variance, the Commission will issue a conceptual or design C of A with a watermark for the sole purpose of allowing the City Planning Commission and/or the Board of Standards and Appeals, pursuant to § 25-305(b)(1) of the Administrative Code, to act on the application. Upon approval of the special permit, authorization or variance, and submission of all required drawings and materials to the LPC staff, the Commission will issue the final C of A,

and the expiration of the final C of A will be eight years from the Commission's vote to approve the application.

(c) Shorter Period of Time to Cure a Condition Subject to a Warning Letter or Summons. Without limiting the time periods for permit duration set forth in [subsection] subdivision 7-02(b), where a permit or certificate has been issued to [cure a violation] address conditions subject to a warning letter or Summons issued pursuant to Chapter 11 of Title 63, the Commission may require by the terms of such permit or certificate that the work be performed within a specified time period. The failure to perform the work and [cure the violation] remedy the conditions within the specified time period [shall mean] means that the Chair may serve a warning letter[,] or a first, second or subsequent [NOV] Summons in accordance with the provisions of §§[25-317.1b] 25-317.1(b) and 25-317.2 of the Administrative Code.

§7-03 **Renewal and Reinstatement of Permits.**

(a) [The landmarks preservation commission may issue a renewal of a permit only upon the satisfaction of all of the following conditions:

(1) An application requesting a renewal shall be filed with the landmarks preservation commission no later than sixty (60) days prior to the expiration date shown on such permit.

(2) The application requesting a renewal shall include (i) a copy of a signed contract which is binding on the parties thereto for the work which is the subject of the permit then expiring and which specifies that work thereunder is to be commenced by a date which is at least sixty (60) days prior to the expiration date of such permit and (ii) if a building permit is required for the work which is the subject of the expiring permit, a copy of a valid building permit based on the landmarks commission's permit for the work which is the subject of the permit then expiring.

(3) No "Notice of Violation" from the landmarks preservation commission shall be in effect against the property subject to the permit for which a renewal is requested; provided, however, that if the landmarks preservation commission shall find that (i) the work which is the subject of the permit for which a renewal is requested (A) will correct a hazardous condition or (B) prevent deterioration affecting the building; or (ii) an escrow agreement, or other acceptable form of assurance, has been established to provide a mechanism, acceptable to the landmarks preservation commission, to ensure that work approved to correct the notice of violation will be completed within a specified time period, then this subsection (3) shall not apply.

(b) If all conditions to the renewal of a permit have been met on or before the expiration date of such permit, the landmarks preservation commission shall issue a renewal permit to the applicant which shall be valid for (i) two (2) years from the date of the expiration of the original permit if the permit renewed in either a PMW or a CNE or (ii) three (3) years from the date of the expiration of the original permit if the permit renewed is a C of A.

(c) (1) Notwithstanding the foregoing provisions, the chair of the landmarks preservation commission shall have the discretion, based on extraordinary circumstances, to allow the renewal of any permit. Such circumstances may include, but shall not be limited to, (i) delays resulting

from the inability to obtain other governmental approvals, licenses or permits or (ii) an inability to complete construction of a project for which work has begun and is continuing with due diligence.

(2) Request for any such discretionary extension shall be made in writing no later than sixty (60) days prior to the expiration date of the permit or within ten (10) days after receipt of notice that the permit will not be renewed, and may include supporting documentation. The chair shall respond to such request within twenty (20) days of receipt of the request. If the chair of the landmarks preservation commission determines that a renewal of the permit should be allowed, the landmarks preservation commission shall renew the permit for a stated term of years.

(3) In allowing the renewal, the chair may set reasonable conditions including clearing up any outstanding violations within a reasonable stated time.

(d) The expiration of any permit shall be tolled if judicial proceedings to review the decision to grant the permit, or any other governmental approval, license, permit or similar action applied for, or granted in connection with, the project have been instituted until the date of the entry of a final order in such proceedings, including all appeals.] Number of Renewals. An approval may be renewed twice, as set forth below: once by LPC Staff renewal and once by a Chair's renewal. An expired approval may be reinstated one time.

(b) Conditions for LPC Staff Renewal.

(1) Requirements. LPC Staff will issue a renewal of an LPC Staff or Commission approval upon satisfaction of all of the following conditions:

(i) An application requesting a renewal is filed with the Commission prior to the expiration date shown on such permit;

(ii) The application requesting a renewal includes the following documents:

(A) In the case of an approval that does not require a building permit for the work which is the subject of the approval, a copy of a signed contract that is binding on the parties for the work which is the subject of the approval then expiring and which specifies that work is to be commenced by a date which is no more than one hundred and eighty (180) days after the expiration date of such approval, or

(B) In the case of an approval that does require a building permit for the work which is the subject of the approval, either:

(a) A copy of a valid building permit for all of the work approved in the Commission's approval for the work which is the subject of the permit then expiring, or

(b) A copy of a valid building permit for a substantial portion of the work approved in the Commission's approval for the work which is the subject of the approval then expiring. This must also include proof that work has commenced on such building permit, and proof that the

applicant has applied for a building permit for all of the remaining work approved in Commission's approval for the work which is the subject of the approval then expiring; and

(iii) No Summons or previously issued Notice of Violation from the Landmarks Preservation Commission is in effect against the property subject to the approval for which a renewal is requested, except that this requirement will not apply if:

(A) The Commission finds that the work which is the subject of the approval for which a renewal is requested will correct a hazardous condition or prevent deterioration affecting the building; or

(B) An escrow agreement, or other form of assurance acceptable to LPC Staff, has been established to provide a mechanism to ensure that work approved to correct the Summons or previously issued Notice of Violation will be completed within a specified time period.

(2) Duration of renewal. If all conditions required for the renewal of an approval have been met, LPC Staff will renew the approval for an additional:

(i) Two years from the date of expiration of the original approval if the original approval is either a PMW or a CNE, or

(ii) Three years from the date of the expiration of the original approval if the original approval is a C of A, an advisory or binding report, or a MOU.

(c) Conditions for Chair's Discretionary Renewal.

(1) Extraordinary circumstances. Notwithstanding the foregoing provisions, the Chair of the Commission has the discretion, based on extraordinary circumstances, to allow the renewal of any LPC Staff or Commission approval. Such circumstances may include, but are not limited to:

(i) Delays resulting from the inability to obtain other governmental approvals, licenses or permits, but not including time spent in connection with applying for an approval from the City Planning Commission that is subject to the Uniform Land Use Review Procedure ("ULURP") or from the Board of Standards and Appeals, or

(ii) An inability, due to factors beyond the control of the applicant, to complete construction of a project within the term of such permit, where work has begun and is continuing with due diligence.

(iii) In making a finding with respect to this subdivision, the Chair may consider whether the applicant has already obtained an LPC Staff renewal pursuant to paragraph 7-03(b)(2) of this section and, if there was an LPC Staff renewal, whether there has been a significant change in Commission policy or practice since the LPC Staff renewal was granted.

(2) Timing. A request for an extension under this subdivision (c) must be made in writing prior to the expiration date of the approval or within ten (10) days after receipt of notice that the

approval will not be renewed pursuant to subparagraph (a) above. A request must include supporting documentation explaining the extraordinary circumstances. The Chair will respond in writing to such request within twenty (20) days of receipt of the request. If the Chair determines that a renewal of the approval is appropriate, the Chair will extend the approval for a stated period of time.

(3) Reasonable conditions. In allowing the renewal, the Chair may set reasonable conditions, including removal of any conditions related to outstanding Summons, warning letters or Notices of Violation within a reasonable stated time.

(d) Tolling of the Expiration Date. The expiration of any approval will be tolled if a judicial proceeding to review the Commission's decision to grant the approval, or any other governmental approval, license, permit or similar action applied for, or granted in connection with, the project has been instituted until the date of the entry of a final order in such proceeding, including all appeals.

(e) Conditions for the Chair's Discretionary Reinstatement of Expired Permit.

(1) Requirements. The Chair of the Commission has the discretion to reinstate a permit that has expired where:

(i) The applicant demonstrates that substantial work has occurred prior to the expiration;

(ii) The work is continuing with due diligence;

(iii) The applicant has all necessary permits to finish the work;

(iv) There is no Summons or previously issued Notice of Violation in effect against the property or that part of the property subject to the permit;

(v) The work will be substantially complete within thirty-six (36) months of the expiration date of the permit; and

(vi) The Chair determines that it would be unreasonable to require the applicant to stop the work in order to obtain a new permit pursuant to these rules.

(2) Timing. A request to reinstate an expired permit under subdivision (e)(1) must be made in writing no more than ninety (90) days from the expiration of the permit, and must include supporting documentation, including the status of the work, documentation that the work that has already occurred is in compliance with the permit, and the reasons it would be unreasonable if the work had to stop. If the Chair determines that reinstatement is appropriate, the Chair will reinstate the expired permit for a stated period of time not to exceed three years after expiration of the permit and may impose reasonable conditions.

[e] (f) No Renewal or Reinstatement if a Summons or Previously Issued Notice of Violation is in Effect Against Property. Any person who has been notified by the [commission] Commission

that a permit will not be renewed or reinstated because [a "notice of violation"] a Summons or previously issued Notice of Violation from the [landmarks commission] Commission is in effect against the property may request that the [chair] Chair of the [commission] Commission, or the Chair's designee, review whether the notice of violation is properly in effect against the property. Such request [shall] must be made in writing within ten (10) days from the date of the notification that the permit will not be renewed and may include supporting documentation. The [chair] Chair of the [landmarks preservation commission shall] Commission will respond to such request within twenty (20) days of receipt of the request. If the [chair] Chair or the Chair's designee determines that [a notice of violation] a Summons or previously issued Notice of Violation was not properly in effect against the property, the [landmarks preservation commission shall] Chair will issue a renewed permit or reinstate an expired permit if it finds that all other conditions set forth in these rules have been met.

§7-04 Effect of Expiration of Permits.

(a) Upon expiration of any permit, such permit [shall] will terminate and be of no further effect, except if the permit is renewed or reinstated pursuant to § 7-03 or otherwise complies with the provisions of § 7-02(a)(3). Work done after an approval has expired, except for reasonable and necessary work undertaken to stabilize and secure the site pending application for and issuance of a renewed or reinstated approval subject to § 7-03, or a new approval, will constitute a violation of the Landmarks Law and may be subject to enforcement proceedings. A renewed or reinstated permit will not be a defense against any enforcement proceedings related to work occurring after the expiration and before such renewal or reinstatement.

(b) An applicant may apply for a new permit for work which is the subject of an expired permit. The [landmarks preservation commission shall] Commission will treat such application [for a renewal which does not meet the condition for the renewal of permits] as a new application in all respects and it will be subject to all applicable procedures, rules and guidelines in effect at the time of such application [for renewal].

§ 22. Chapter 11 of Title 63 of the Rules of the City of New York is amended to read as follows:

CHAPTER 11 ADMINISTRATIVE ENFORCEMENT

Introduction. These rules [are promulgated to] implement the provisions of Sections 25-317.1 and 25-317.2 of the Administrative Code, insofar as such sections concern the issuance of [notices of violation] Summonses and previously issued Notices of Violation, warning letters and stop work orders and the enforcement of the requirements of chapter 3, title 25 of the Administrative Code in administrative tribunals, including the imposition and adjudication of administrative penalties. For purposes of the Administrative Code and the rules of the Landmarks Preservation Commission, the term "Notice of Violation" or "NOV" means "Summons".

§11-01 Definitions.

The following definitions shall apply to this chapter:

(a) The term "Landmarks Law" [shall mean] means chapter 3 of title 25 of the Administrative Code of the City of New York.

(b) The term "respondent" [shall mean] means a person who is alleged to have violated the Landmarks Law by creating, authorizing, performing or maintaining work on a landmarks site, within the boundaries of a historic district or to any part of an [interior landmark] Interior Landmark without, or in violation of, a permit from the Landmarks Preservation Commission ("Commission").

(c) The term "stop work order" [shall mean] means an order, issued pursuant to section 25-317.2 of the Administrative Code.

(d) A violation is "corrected" by removing the illegal condition, only where such condition can be easily removed without damage to underlying building material and where such removal does not require a permit from the Commission. For example, a violation for the installation of a sign or awning without a permit may be corrected by removing the sign or awning, if such removal does not result in damage to the underlying building material. Correcting a violation does not include or otherwise permit the reinstallation of a preexisting condition or the installation of a substitute condition. For example, a violation for the installation of a sign or awning without a permit, where such installation involved the removal of a preexisting sign or awning, may not be corrected by reinstalling the prior sign or awning, or installing a different sign or awning. A violation is not corrected for purposes of section 25-317.1b(6) of the Landmarks Law if the same or a similar illegal condition is installed within 180 days of the respondent's representation to the Commission that the violation has been corrected.

(e) A violation is "legalized" when the Commission issues a permit approving and authorizing the work that was done without a permit.

(f) A violation is "cured" where the Commission issues a permit authorizing modifications to the illegal condition to make it appropriate, or where the Commission authorizes work to replace the illegal work, and the modification or replacement work is completed and the Commission has issued a Notice of Compliance.

(g) For purposes of sections 11-03, 11-04 and 11-06, the term "mail," "mailed" and "mailing" [shall mean] means first class United States mail or express or overnight delivery to a respondent as follows:

(1) Where the respondent is an owner, the warning letter, [notice of violation] Summons or stop work order shall be mailed to the owner's address as contained in the records of the Department of Finance for purposes of the assessment or collection of real estate taxes or as contained in the records of the Commission for purposes of the implementation or enforcement of the relevant portions of the charter or administrative code.

(2) Where the respondent is a tenant or occupant of the premises where the violation occurred, the warning letter, [notice of violation] Summons or stop work order shall be mailed to the address where the violation occurred.

(3) Where the respondent is a contractor or other person who performed or was in charge of overseeing the work that was done without, or in violation of, a permit, the warning letter, [notice of violation] Summons or stop work order shall be mailed to the contractor's or person's business address as generally advertised or represented to the public, unless such contractor or other person is the owner, tenant or occupant.

(4) Where the respondent is any other person in charge of a designated improvement or improvement parcel, the warning letter, [notice of violation] Summons or stop work order shall be mailed to such person's business address, as generally advertised or represented to the public, or as such address is contained in the records of the Department of Finance for purposes of the assessment or collection of real estate taxes or as contained in the records of the Commission for purposes of the implementation or enforcement of the relevant portions of the [charter] Charter or [administrative code] Administrative Code.

§11-02 Enforcement of [Notices of Violation] Summons.

All [first Notices of Violation ("NOV") issued after July 5, 1998 for a Type A or Type B Violation shall] Summons or previously issued Notices of Violation will be heard at the [Environmental Control Board ("ECB")] Office of Administrative Trials and Hearings-Hearing Division ("OATH") or its successor. [For Type A Violations, all second and subsequent NOV's for the same condition shall be heard at the Office of Administrative Trials and Hearings ("OATH") or its successor.] For purposes of this subchapter, OATH [shall be] is authorized to issue final, binding decisions. [For Type B Violations, second and subsequent NOV's shall be heard at the ECB. Notices of violation for violating a stop work order may be heard at either ECB or OATH.]

§11-03 Service of [Notice of Violation] Summons.

In addition to the service requirements of the court or tribunal at which a [NOV] Summons is to be heard, a [NOV] Summons may be served by mailing such [notice of violation] Summons to a respondent.

§11-04 Warning Letter.

Subject to the exceptions set forth in section 25-317.1b(1) of the Administrative Code, the LPC shall mail a warning letter to a respondent prior to the issuance of a [NOV] Summons. The warning letter shall inform the respondent that the LPC believes a violation of the Landmarks Law has occurred at the subject premises and shall also: (1) describe the violation in general detail; (2) warn the respondent that the law authorizes civil and criminal penalties for violations; (3) notify the respondent that a [NOV] Summons may be served unless, within 20 working days of the date of the warning letter, the violation is corrected or an application to legalize or cure the violation is received by the Commission.

§11-05 [Notice of Violation] **Summons; Grace Period.**

(a) A respondent [shall] will qualify for the grace period set forth in section 25-317.1 [b] (b)(6) of the Administrative Code, and not be subject to a fine, by delivering, at least fourteen (14) days prior to the hearing date set forth in the [NOV] Summons or previously issued Notice of Violation, the following to the Commission:

- (1) Admission of liability, and
- (2) proof, satisfactory to the Commission, that the violation has been corrected, or
- (3) an application to legalize or cure the violation.

(b) For purposes of [subsection] paragraph (2), "proof" [shall mean] means the submission of an affidavit or other sworn statement describing the violation and the work performed to correct the violation. The affidavit or sworn statement [shall] must be supplemented by photographs and any other supporting material that demonstrates that the illegal condition has been corrected. The Commission may reject the proof submitted if it does not unequivocally demonstrate that the illegal condition has been corrected.

(c) OATH will determine penalties for violations based on the Schedule attached as Appendix A to this Chapter.

§11-06 **Stop Work Order.**

Service. A stop work order may be served: (1) by mailing the stop work order to the respondent; (2) by affixing the stop work order to the place where the violation is occurring[. Where the stop work order is affixed, a copy of the order shall also be mailed to the respondent]; or (3) [or] orally. Where the stop work order is affixed or given orally, the Commission [shall] must within [48 hours] two (2) business days thereof mail a copy of the stop work order to the respondent.

APPENDIX A: Penalty Schedule

<u>Section of Law</u>	<u>Violation Description</u>	<u>TYPE</u>	<u>1st Offense Penalty</u>	<u>1st Offense Mitigated</u>	<u>1st Offense Default</u>	<u>2nd Offense Penalty</u>	<u>2nd Offense Default</u>
<u>25-305</u>	<u>Work w/o or in violation of a C of A or CNE - Alteration to exterior architectural feature</u>	Type A	<u>500</u>	<u>250</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-305</u>	<u>Work w/o or in violation of a C of A or CNE - Alteration to storefront</u>	Type A	<u>1,500</u>	<u>750</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>

<u>25-305</u>	<u>Work w/o or in violation of a C of A or CNE - Alteration to Interior Landmark</u>	Type A	<u>1,000</u>	<u>500</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-305</u>	<u>Work w/o or in violation of a C of A or CNE - Modification of existing bulk of building – Type A</u>	Type A	<u>1,500</u>	<u>750</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-305</u>	<u>Work w/o or in violation of a C of A or CNE - Elimination of greenspace</u>	Type A	<u>500</u>	<u>250</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-305</u>	<u>Work w/o or in violation of a C of A or CNE – Alteration to non-building improvement</u>	Type A	<u>500</u>	<u>250</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-305</u>	<u>Work w/o or in violation of a C of A or CNE - Failure to submit periodic inspection reports</u>	Type A	<u>2,500</u>	<u>1,250</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-305</u>	<u>Work w/o or in violation of a C of A or CNE - flag, signs, banners, awnings</u>	Type C	<u>250</u>	<u>125</u>	<u>500</u>	<u>500</u>	<u>500</u>
<u>25-305</u>	<u>Work w/o or in violation of a C of A or CNE - Miscellaneous violations</u>	Type C	<u>100</u>	<u>50</u>	<u>500</u>	<u>500</u>	<u>500</u>
<u>25-310</u>	<u>Work without or in violation of a PMW - Alteration to exterior architectural feature</u>	Type A	<u>500</u>	<u>250</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-310</u>	<u>Work without or in violation of a PMW - Alteration to storefront</u>	Type A	<u>1,500</u>	<u>750</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-310</u>	<u>Work without or in violation of a PMW - Alteration to Interior Landmark</u>	Type A	<u>1,000</u>	<u>500</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-310</u>	<u>Work without or in violation of a PMW - Modification of existing bulk of building</u>	Type A	<u>1,500</u>	<u>750</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-310</u>	<u>Work without or in violation of a PMW - Elimination of greenspace</u>	Type A	<u>500</u>	<u>250</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-310</u>	<u>Work without or in violation of a PMW - Alteration to non-building improvement</u>	Type A	<u>500</u>	<u>250</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-310</u>	<u>Work without or in violation of a PMW - Failure to submit periodic inspection reports</u>	Type A	<u>2,500</u>	<u>1,250</u>	<u>3,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-310</u>	<u>Work w/o or in violation of a PMW- flag, signs, banners, awnings</u>	Type C	<u>250</u>	<u>125</u>	<u>500</u>	<u>500</u>	<u>500</u>

<u>25-310</u>	<u>Work w/o or in violation of a PMW Miscellaneous violations</u>	<u>Type C</u>	<u>100</u>	<u>50</u>	<u>500</u>	<u>500</u>	<u>500</u>
<u>25-311</u>	<u>Failure to maintain an improvement in good repair</u>	<u>Type B</u>	<u>3,500</u>	<u>1,750</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>
<u>25-322 (b)</u>	<u>Failing to notify lessee of Landmark status in Commercial space</u>		<u>250</u>	<u>125</u>	<u>500</u>	<u>500</u>	<u>500</u>

“C of A” means “Certificate of Appropriateness”; “CNE” means “Certificate of No Effect”; “PMW” means “Permit for Minor Work”