

## NEW YORK CITY DEPARTMENT OF CITY PLANNING

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rules**

**What are we proposing?** The Department of City Planning (DCP) proposes to amend its rules to ensure that they provide the flexibility to operate the new Paperless Filing System, which will go into effect in June of 2018. The Paperless Filing System is a web-based platform that will provide a convenient and efficient system for internal DCP communications as well as communications between DCP, applicants, other public stakeholders (such as community boards) and the public regarding land use and environmental review applications.

**When and where is the Hearing?** The Department of City Planning will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 on January 17, 2018. The hearing will be held at the Department of City Planning, located at the lower level arcade of 120 Broadway, New York, New York 10271.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department of City Planning through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [planningrules@planning.nyc.gov](mailto:planningrules@planning.nyc.gov).
- **Mail.** You can mail comments to Dominick Answini, Counsel's Office, Department of City Planning, 120 Broadway, 31<sup>st</sup> Floor, New York, New York 10271.
- **Fax.** You can fax comments to the Department of City Planning at 212-720-3303.
- **Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-720-3676. You can also sign up in the hearing room before the hearing begins on January 17, 2018. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Written comments will be accepted until January 17, 2018.

**What if I need assistance to participate in the hearing?** You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-720-3676. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by January 10, 2018.

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public between the hours of 9:00 a.m. and 5:00 p.m. at the Freedom of Information Law Desk, 120 Broadway, 31<sup>st</sup> Floor, telephone number 212-720-3208.

**What authorizes the Department of City Planning to make this rule?** Sections 1043 and 191(b)(2) of the City Charter authorize the Department of City Planning to make this proposed rule. This proposed rule was not included in the Department of City Planning's regulatory agenda for this Fiscal Year because it was not contemplated when the Department of City Planning published the agenda.

**Where can I find the Department of City Planning's rules?** The Department of City Planning's rules are in Title 62 of the Rules of the City of New York.

**What laws govern the rulemaking process?** The Department of City Planning must meet the requirements of Section 1043 of the New York City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the New York City Charter.

## **Statement of Basis and Purpose of Proposed Rule**

Chapter 8 of The New York City Charter and Title 62 of the Rules of the City of New York (the “Rules”) provide for the submission, review and approval of land use applications and their related environmental review materials. Historically, such applications were received by the Department of City Planning (“DCP”) in hardcopy and, more recently, digitally via email. Review of such applications is conducted by DCP, community boards, borough president’s offices and other public entities, and the results of such reviews are transmitted, both to applicants and other stakeholders, via paper copies and email.

To improve the efficiency and reduce the cost of the application process, DCP is developing a paperless filing system (PFS) that will provide an electronic platform for the application process and enable the submission of applications and related communications without the use of paper and, for the most part, email. Facilitating collaboration, the PFS will enable DCP staff, applicants and their representatives, and governmental entities to access the system via a web-based interface, and those entities who make, modify or review applications to more smoothly exchange materials, comments, and ideas. PFS will also allow members of the public to more easily access applications and related materials and understand the timeline for public review.

The Rules currently contain certain terms and phrases which, if construed literally, would either not allow aspects of the PFS to be implemented or require methods of communication in addition to those proposed to be employed by the PFS.

To facilitate the full implementation of the PFS, DCP is proposing some minor changes to Chapters 1, 2, 3, 5, 6, 8, 9, & 10 of the Rules to ensure that the PFS will operate as intended without violating the Rules. The proposed revisions would not substantively modify the Rules in that they would still require forms of notice and document delivery (including applications) between DCP, applicants, and stakeholders but would remove references to certain methods and modes of communication that would conflict with the efficiencies enabled by the PFS. The proposed changes are also intended to be generic enough to allow for further evolution in communication that may develop in the future.

Specifically, to allow use of the PFS, the proposed rule changes would clarify, where necessary, that land use application or environmental review materials may be filed and sent among the stakeholders via media other than paper. Comments on such applications could be submitted to DCP via the PFS from a community board or borough president’s office with access to the PFS via DCP’s website. As the PFS would allow payment of application fees via methods other than by check, the current land use and CEQR fee rules would be modified to remove the requirement for payment to be attached to the application at the time of an application (although payment would be required for an application to be deemed “filed”). On a more basic level the proposed modifications would also remove references to the DCP’s and City Planning Commission’s former address at 22 Reade Street. With a similar purpose of updating and clarifying, the proposed rule change would also make the relevant ULURP rule for notice of (E) designations consistent with related Section 11-15 of the Zoning Resolution and incorporate reference to DCP’s website to reduce paper.

DCP’s authority for these rules is found in sections 1043 and 191(b)(2) of the New York City Charter.

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 department, unless otherwise specified or unless the context clearly indicates otherwise.

Title 62 of the Rules of the City of New York is amended to read as follows:

## **Chapter 1: Practice and Procedure of City Planning Commission**

\* \* \*

### **§ 1-02 The Calendar Officer: Notices, Calendars, Minutes, Record, and Communications.**

- (a) Notices of all special meetings shall be given to each member by the Calendar Officer.
- (b) The Calendar Officer shall prepare a calendar of the business to be presented and considered at each public meeting. The matters thereon shall be arranged in the order prescribed by § 1-01(f), and shall be properly classified. The Calendar Officer shall also keep a record of undetermined matters which have been laid over.
- (c) *Record.* The record of a public meeting, including a public hearing, shall consist of either an audio [tape] recording or verbatim stenographic record of the proceedings; a list of speakers' names and affiliations, if any; a notation of each speaker's own indication, on a form provided for that purpose, of support or opposition to the proposal; and any exhibits or written statements offered by speakers. The record shall be available online from the Department of City Planning's website or at the Calendar Office, City Planning Commission, [Room ]120 Broadway, 31<sup>st</sup> Floor, [2E, 22 Reade Street], New York, New York 10271[007-1216]. The Department of City Planning shall make available for public inspection, at the above location, a complete transcript of all public hearings of the Commission within sixty (60) days of such hearing.
- (d) The Calendar Officer shall maintain the minutes of each public meeting, and shall make them available for examination by the public in the Office of the Calendar Officer.
- (e) Minutes and a record of votes shall be taken at any executive session to the extent required by § 106 of the Public Officers Law.
- (f) All communications, petitions and reports intended for consideration shall be [addressed] sent to the Commission's attention through the Department of City Planning's website or the [and delivered at or mailed to the] Calendar Office [and shall consist of an original accompanied by seventeen copies].
- (g) The Calendar Officer shall transmit to the City Council and other city departments affected thereby true copies of all reports and resolutions adopted.

\* \* \*

## **Chapter 2: Uniform Land Use Review Procedure (ULURP)**

\* \* \*

### **§ 2-02 Applications**

- (a) *Applications: general provisions.*

(1) *Presentation of application.* A request for any action shall be submitted to the Department of City Planning [, Central Intake Room]. The application must be submitted [upon] as provided for in the instructions on the Department of City Planning's website. This includes the submission of [the proper forms for the action as provided by the Department, including] forms requesting information required for the "doing business database" established by Local Law 34 for the year 2007, and must [be accompanied by] include all of the information and documents required by such instructions and forms [in the appropriate number of copies specified thereon]. For purposes of the acquisition of property by the City, pursuant to §§ 2-01(e) and 2-01(k) of these rules, the applicant shall be the requesting agency and the Department of Citywide Administrative Services. For purposes of the approval of housing or urban renewal plans and projects or amendments thereof pursuant to City, State or Federal laws in accordance with § 2-01(h) of these rules, the applicant shall be the New York City Department of Housing Preservation and Development or the New York City Housing Authority, as appropriate, or their designees. [When presented at Central Intake, the application shall be accompanied by payment of the required fee, if any. Central Intake will not accept incomplete] The Department may refuse to accept applications without all required components. An application shall only be accepted if the fee has been paid or is paid concurrently with the submission of the application. [or applications without the required fee.]

(2) *Initial Review.* The Department of City Planning shall, within five (5) days, review each application to [i]ensure that all required forms, documents and other exhibits supplied have been submitted and prepared [in the manner]as required by the instructions. If any of the documentation is missing or has been improperly prepared, the application will be returned with a listing of its deficiencies. If the documentation is in order, the Department shall assign a docket number and shall [send ] transmit a Notice of Receipt[s] of the application to all the appropriate Department divisions and other agencies which review such application, and to the community board(s), Borough President(s), borough board (when appropriate), the City Council and the applicant in accordance with § 2-02(b). Such Notice of Receipt, when sent to the community board(s), Borough President(s), borough boards and City Council shall include a copy of the application form and all documents [and exhibits attached thereto] included therewith.

(3) *Substantive Review.* The application form, documents and other exhibits shall be subject to review by the appropriate divisions of the Department in order to [i]ensure that the requirements for completeness in § 2-02(a)(5) have been met prior to certification of the application into ULURP. The Department may request any additional documents, maps, plans, drawings or information necessary to complete or organize the submission, or to clarify its substance and the land use issues attendant to it. The Department of City Planning shall refer such additional application documents or amendments within five (5) days to each affected borough president, community board or borough board, and to the City Council. Not later than sixty (60) days after the Notice of Receipt has been sent, the Department of City Planning shall notify the applicant of any deficiencies or errors in the application, documents and other exhibits, and shall make any requests for revised or supplementary documents and exhibits. The applicant is expected to respond within a reasonable time. Upon receipt of the corrected, revised or supplementary material, the Department of City Planning shall review it within [a period of not] no more than sixty (60) days and make any additional request for further corrections or supplements if needed. If the applicant fails to respond within sixty (60) days after the receipt of a request for revisions, corrections or supplement, the Department of City Planning shall give notice to the applicant that the application will be deemed withdrawn.

(4) *Appeal for Certification.* At any time after one hundred and eighty (180) days have elapsed from the date of the Notice of Receipt of any application, the applicant may appeal in writing to the Commission to certify the application as complete. The affected Borough President may also appeal in writing if the Borough President finds that the application is

consistent with the land use policy or strategic policy statement of the borough formulated pursuant to § 82, subsection 14 of the Charter. Upon receipt of such an appeal, the Commission shall refer it to the Department of City Planning and the Office of Environmental Coordination or lead agency for an evaluation of the completeness of the application, which shall include an identification of all material requested by the Department of City Planning and the environmental review staff or lead agency but not yet provided by the applicant. If the Commission determines that all pertinent information has been supplied in accordance with the criteria of § 2-02(a)(5) below, it shall certify the application as complete. If the Commission determines that pertinent information has not been supplied, such information shall be listed by the Department of City Planning and the environmental review staff and sent by the Commission to the applicant within thirty (30) days of receipt of the appeal. When the applicant has responded, either by supplying all the information so requested, or by explaining why such information should not be required in order to certify the application, the Commission shall consider the evaluation and the applicant's response and either certify the application as complete in accordance with § 2-02(a)(5) or deny the appeal. A denial by the Commission shall state the information that must still be supplied or clearly state the reason for denial. Such determination shall be made not later than sixty (60) days from the date the appeal is received. If the appeal is one which has been made by the affected Borough President, and the land use proposed in the application is consistent with the land use policy or strategic policy statement of the affected Borough President, then a vote of five members shall be sufficient to certify the application as complete in accordance with § 2-02(a)(5) below. In all other instances, a majority vote of the Commission is necessary to certify an application. A denial of the appeal shall mean that the application remains incomplete, and the Department of City Planning and the environmental review staff shall continue with timely review of the application until all the information required for completeness has been provided at which time certification shall take place. If such review continues for an additional one hundred and eighty (180) days or more beyond the denial, the applicant may again appeal to the Commission under the procedure outlined above to certify the application.

(5) *Certification of Completeness.* The Department or the Commission shall certify the application as complete when compliance has been achieved with all of the following:

(i) The standard application form, including for any application certified on or after April 14, 2008, forms requesting information required for the "doing business database" established pursuant to Local Law 34 for the year 2007, has been [filled out] completed in its entirety with all requested information presented in clear language.

(ii) All accompanying documents, maps, plans, drawings, and other information are properly organized and presented in clear language and understandable graphic form.

(iii) The information supplied on the application form and accompanying documents is fully sufficient to address all issues of jurisdiction and substance which are required to be addressed for the category of action as defined in the Charter, statutes, Zoning Resolution, Administrative Code or other law or regulation.

(iv) All reviews by necessary and related agencies of the State and City have been completed and any required reports, certifications, sign-offs or other such agency actions required by law or regulation prior to ULURP have been secured, or a written waiver of the agency presented. If any such agency does not respond within sixty (60) days, it will be deemed to have waived its review and action as applicable law permits.

(v) A determination has been made whether the action is subject to City or State Environmental Quality Review, and if so subject, the lead agency has issued either:

(A) a Negative or Conditional Negative Declaration; or

(B) a Notice of Acceptance of a Draft Environmental Impact Statement.

(vi) Notification of any proposed (E) designation has been submitted to the Department of City Planning as required pursuant to § 2-02(e) hereof.

(b) *Referrals: general provisions.* Except as provided in § 2-02(c) hereof, within nine (9) calendar days after the certification by the Department of City Planning, [( ) or by the Commission if certification occurs pursuant to § 2-02(a)(4) above)], that a submission is a complete application, the Department of City Planning shall make the following referrals:

(1) any application relating to a proposal which occupies or would occupy land located in only one community district shall be referred to the community board for such district;

(2) any application relating to a proposal which occupies or would occupy land located in two or more community districts shall be referred to the community board for each such district and to the borough board for the appropriate borough;

(3) any application relating to a proposal which occupies or would occupy land located in a joint interest area not included within a community district shall be referred to the community board for each community district bounding such area and to the borough board for the appropriate borough;

(4) all applications shall be referred to the Borough President of the borough in question;

(5) all applications shall be referred to the City Council.

(c) *Charter § 201 applications.* A request for an amendment to the Zoning Map or the text of the Zoning Resolution by a taxpayer, community board, borough board, Borough President, the Mayor or the Land Use Committee of the Council pursuant to Charter § 201, shall be filed with the Department. Applications for special permits pursuant to § 201 may be filed by any person or agency. Such requests shall be subject to the application and certification procedure of § 2-02(a) hereof and shall be referred pursuant to § 2-02(b) hereof.

(d) *Withdrawals.* An applicant may at any time file with the Commission a statement that its application is withdrawn. If withdrawal occurs after filings have occurred pursuant to § 2-06(h)(4) of this chapter, the applicant shall also file a statement of withdrawal with the City Council. Upon the filing of such a statement, the application in question shall be void and no further processing of such application under this uniform land use review procedure shall be undertaken by a community board, Borough President, borough board or the Commission. The Commission shall promptly give notice of such withdrawal to the board or boards, to the Borough President to which the application was referred pursuant to § 2-02(b) and to the Council, if filings pursuant to § 2-06(h)(4) of this chapter have not occurred. The request to which the application relates may thereafter be advanced only in connection with a new application certified as complete pursuant to § 2-02(a) herein and processed according to this uniform land use review procedure.

(e) *Notification of proposed (E) designation.*

(1) [In the event that] If an application for an amendment to the Zoning Map or text of the zoning resolution pursuant to Charter § 197-c [and] or § 200 and [or] § 201, respectively, includes an (E) designation [for] with respect to potential hazardous materials, air quality or noise [contamination] on any tax lot or zoning lot pursuant to § 11-15 of the Zoning Resolution of the City of New York, at the time the application is referred pursuant to § 2-02(b) hereof, the owner or owners of any such tax lot or zoning lot, with the exception of the applicant, shall be notified of the proposed (E) designation. Such notification shall be by the lead agency, as defined in 6 New York Code of Rules and Regulations, Part 617, as amended, and 62 Rules of the City of New York § 5-02, as amended. [In the event] If the lead agency is other than the Commission, no such application [for an amendment to the Zoning Map] shall be certified as complete pursuant to § 2-02(a)(5) hereof until such other lead agency shall have submitted any notification of a proposed (E) designation, in the form and addressed to the parties required by this Section to the Department of City Planning, who shall send such notification [in the manner] as provided by this Section.

(2) Such notification shall be by first-class mail and shall be made to the person(s) or entity(ies) identified in the official records of the City of New York as the fee owners of such tax lot or zoning lot and shall be sent to the address or addresses indicated in such records.

- (3) The notification shall include or refer to the Department of City Planning's website for:
- (i) a description[be] of the existing zoning and the proposed rezoning for the properties that will include the (E) designation;
  - (ii) [inform] notice of the property owner of the right to attend and testify at any public hearing relating to the proposed Zoning Map amendment;
  - (iii) provide the phone numbers for a contact person at the lead agency, or if the lead agency is the Commission, a contact person or persons at the Department of City Planning;
  - (iv) [be accompanied by] [a copy of] § 11-15 of the Zoning Resolution of the City of New York.

### **§ 2-03 Community Board Actions**

#### ***(a) General provisions.***

(1) Except as provided below, within sixty (60) calendar days after a community board's receipt of a complete application referred by the Department of City Planning, the Board of Standards and Appeals or the Commission [as the case may be], the community board shall hold a public hearing and adopt and submit as provided herein a written recommendation concerning such application. For purposes of this paragraph (1), a community board shall be deemed to have received an application nine (9) calendar days after the date of certification. The Department of City Planning shall [insure delivery of] transmit a certified application to the community board, making it available to the community board within (8) days [by either mailing to the community board within five (5) days of the date of certification or by hand delivery within eight (8) days] from the date of certification.

(2) Where the negative vote of the community board was adopted without a public hearing, without a quorum or at a meeting conducted after its 60-day period for review, such non-complying negative vote shall not serve the purpose of Charter § 197-d(b)(2). The Commission may note the noncompliance and any other deficiency in compliance with this chapter in its report.

#### ***(b) Waivers of hearings and recommendations.***

(1) *Leases.* In the case of a proposed lease of property of the City which in the judgment of the community board does not involve a substantial land use interest, such board may waive the holding of a public hearing and preparation of a written recommendation. In such case the community board shall submit to the Department a written waiver of its right to hold a public hearing and to submit recommendations to the City Planning Commission and affected Borough President. When a written waiver of the community board's right to hold a hearing and submit a recommendation is received by the Department of City Planning the community board's period of review shall be deemed ended and the Borough President's time period begun.

(2) *Franchises.* In the case of Request for Proposal or other solicitation for a franchise which in the judgment of the community board does not involve a substantial land use interest, such community board may submit a written waiver to the Commission of the right to hold a public hearing and the preparation of a written recommendation.

(c) *Notice of hearing.* Notice of the time, place and subject of a public hearing to be held by a community board on an application shall be given as follows:

(1) by publication in The City Record for the five (5) days of publication immediately preceding and including the date of the public hearing;

(2) by publication in the Comprehensive City Planning Calendar distributed not less than five (5) calendar days prior to the date of public hearing;

(3) to the applicant ten (10) days prior to the date of hearing (with [a copy of] such notice also forwarded to the Department of City Planning);

(4) for all actions that result in acquisition of property by the City, other than by lease, whether by condemnation or otherwise, the applicant shall notify the owner or owners of the property in question by mail to the last known address of such owner or owners, as shown on



the City's tax records, not later than five (5) days prior to the date of hearing. An affidavit attesting to the mailing and a copy of the notice shall be submitted to the Department of City Planning prior to the Commission's public hearing;

(5) Community boards are also encouraged to publicize hearings by publication in local newspapers, posting notices in prominent locations, and other appropriate means.

(d) *Conduct of public hearing.*

(1) *Location.* A community board public hearing shall be held at a convenient place of public assembly chosen by the board and located within its community district. If in the community board's judgment there is no suitable and convenient place within the community district, the hearing shall be held at a centrally located place of public assembly within the borough. This provision is not intended to affect the requirement of Charter §2800(h) stating a community board's obligation to meet at least monthly (except during July and August) within its district.

(2) *General character.* Hearings shall be legislative type hearings, without sworn testimony or strict rules of evidence. Only members of a community board and persons expressly authorized by the chairperson may question a speaker. All persons appearing and wishing to speak shall be given the opportunity to speak. A community board hearing shall be conducted in accordance with by-laws adopted by the community board.

(3) *Quorum.* A public hearing shall require a quorum of 20% of the appointed members of the community board, but in no event fewer than seven such members. The minutes of a meeting at which a public hearing was held shall include a record of the individual members present.

(4) *Record.* The record of a public hearing shall consist of but not be limited to a list of speaker's names and affiliations (if any), a notation of each speaker's own indication, on a form provided for that purpose, of support or opposition to the application, and any exhibits or written statements offered by speakers.

(e) *Public attendance at meetings of a community board or its committees.* The public may attend all meetings of a community board or its committee at which an application for an action subject to this Chapter is to be considered or acted upon in a preliminary or final manner. A community board may close a meeting or committee meeting to the public only as provided in the New York State Open Meetings Law (Public Officers Law, §§ 100-111).

(f) *Recommendations and waivers.*

(1) *Quorum.* The adoption of a community board recommendation, or the waiver of a public hearing and recommendation by a community board, shall require a quorum of a majority of the appointed members of the board. The minutes of a meeting at which a recommendation or waiver was adopted shall record the individual members present.

(2) *Vote.* The adoption of a community board recommendation or the waiver of a public hearing and recommendation shall be by a public vote which results in approval by a majority of the appointed members present during the presence of a quorum, at a duly called meeting. The vote shall be taken in accordance with the by-laws of the community board.

(3) *Content.* A community board recommendation shall be in writing [on] via a form provided by the Department of City Planning and shall include a description of the application, the time and place of the public hearing on the application, the time and place of the meeting at which the recommendation was adopted and the vote by which the recommendation was adopted. The community board may include in its submission the reasons for the vote and any conditions attached to its vote. The community board may state that its conditional approval shall be considered a negative recommendation for purposes of Charter § 197-d(b)(2) if conditions that it considers essential to minimize land use or environmental impacts are not adopted by the Commission. The City Planning Commission shall give consideration only to those conditions which are related to land use and environmental aspects of the application.

(4) *Submission.* A community board shall submit its recommendation or waiver promptly after adoption, to the Commission, to the Borough President, to the applicant and, in the case of an application referred to two or more community boards and a borough board, to such borough board. If a community board fails to act within the time limits for review the application shall be deemed referred to the next level of review at the completion of the community board's time period.

(g) *Requests for review of action not in a community district.* A community board or borough board may [request a copy] obtain [of] the filed application and supporting documents for any action subject to ULURP which is not located within the district boundaries of such [the] community board[,] or [the] borough board [, making the request]. Such community board or borough board may request to review such applications, which [The] request must be made in writing to the Calendar Office of the Commission or through the Department's website, and it shall state the basis for the board's judgment that the application may significantly affect the welfare of the district or borough served by such board. [If such request is made, the Department of City Planning shall forward the information described above to said board.] Thereafter, the community board or borough board may schedule a public hearing on the application, such hearing and notice thereof to be in conformance with §§ 2-03(c), 2-03(d), 2-05(c) and 2-05(d) of this chapter and may submit a written recommendation to the Commission. The Commission may receive such recommendation at any time prior to its final action on the application; however, it shall have no authority to extend the review period defined in Charter § 197-c, nor shall a review by a second community board pursuant to this subparagraph (g) require that the application be reviewed by the borough board. A Borough President may similarly [request] [a copy of] obtain [an] a filed application and supporting documents for and request review of any action subject to ULURP which is not located within the boundaries of the borough.

\* \* \*

### **§ 2-05 Borough Board Actions.**

(a) *General provisions.* Except as provided below in § 2-05(b), an affected borough board may conduct a public hearing on an application and submit a written recommendation to the Commission. Such recommendation or waiver shall be submitted on the form provided not later than thirty (30) days after the filing of a recommendation or waiver with the Borough President by the last to respond of all affected community boards, or if any affected community board shall fail to act within the time period, thirty (30) days after the expiration of the time allowed for such community boards to act.

(b) *Notice of hearing.* Notice of the time, place and subject of a public hearing to be held by a borough board for all applications subject to this land use review procedure shall be given as follows:

(1) by publication in The City Record for the five (5) days of publication immediately preceding and including the date of the public hearing;

(2) by publication in the Comprehensive City Planning Calendar distributed not less than five (5) calendar days prior to the date of hearing;

(3) to the applicant ten (10) days prior to the date of hearing;

(4) for all actions resulting in acquisition of property by the City, other than by lease, whether by condemnation or otherwise, the applicant shall notify the owner or owners of the property in question by mail to the last known address of such owner or owners, as shown on the City's tax records, not later than five (5) days prior to the date of hearing. An affidavit attesting to the mailing and a copy of the notice shall be submitted to the Department of City Planning prior to the Commission's public hearing.

(c) *Conduct of hearing.*

(1) *Location.* A borough board public hearing shall be held at a convenient place of public assembly chosen by the board and located within the borough.

(2) *General character.* Hearings shall be legislative type hearings, without sworn testimony or strict rules of evidence. Only members of a borough board or persons expressly authorized by the chairperson may question a speaker. All persons appearing and wishing to speak shall be given the opportunity to speak. A borough board's hearing shall be conducted in accordance with by-laws adopted by such borough board.

(3) *Quorum.* A public hearing shall require a quorum of a majority of the borough board's members who are entitled to vote on the application in question. Pursuant to Charter § 85, community board members of the borough board may only vote on issues that directly affect the community district represented by such members. The minutes of the meeting at which a public hearing was held shall record the individual members present.

(4) *Record.* The record of a public hearing shall consist of a list of speakers' names and affiliations if any, a notation of each speaker's own indication, on [a] the form provided for that purpose, of support or opposition to the application and any exhibits or written statements offered by speakers.

(d) *Public attendance at meetings.* The public may attend all meetings of a borough board at which an application for an action subject to this Chapter is to be considered or acted upon in a preliminary or final manner. A borough board may close a meeting to the public only as provided in the New York State Open Meetings Law (Public Officers Law, §§ 100-111).

(e) *Recommendations and waivers.*

(1) *Quorum.* The adoption of a borough board recommendation or the waiver of a public hearing and recommendation by a borough board shall require a quorum of a majority of the borough board's members entitled to vote on the application in question. Pursuant to Charter § 85, community board members of the borough board may only vote on issues that directly affect the community district represented by such member. The minutes of a meeting at which a recommendation or waiver was adopted shall record the individual members present.

(2) *Vote.* Adoption of a recommendation shall be by a public roll call vote which results in approval by a majority of the members entitled to vote on the application in question present during the presence of a quorum, at a duly called meeting. Pursuant to Charter § 85, community board members of the borough board may only vote on issues that directly affect the community district represented by such member.

(3) *Content.* A borough board recommendation shall be in writing on a form provided by the Department of City Planning and shall include a description of the application, the time and place of public hearing, the time and place of the meeting at which the recommendation was adopted and the votes of individual borough board members. The borough board may include in its submission the reasons for its vote and any conditions to the vote.

(4) *Submission.* A borough board shall submit its recommendation or waiver on the form promptly after adoption to the Commission and to the applicant.

## **§ 2-06 City Planning Commission Actions.**

(a) *General provisions.* The Commission shall hold a public hearing on all applications made pursuant to § 197-c of the Charter not later than sixty (60) calendar days after the expiration of the time allowed for the filing of a recommendation or waiver with it by an affected Borough President. Following its hearing and within its applicable sixty (60) day period, the Commission shall approve, approve with modifications or disapprove such application and file its decision pursuant to § 2-05(h)(4) below.

(b) *Zoning text amendments pursuant to Charter § 200 or § 201.* The Commission shall hold a public hearing on an application for a zoning text amendment pursuant to Charter § 200 or § 201. Such hearing shall be conducted in accordance with § 2-06(f) of this Chapter.

(c) *Modification of application.*

(1) The Commission may propose a modification of an application, including an application for a zoning text amendment pursuant to Charter § 200 or § 201, which meets the criteria of § 2-06(g) below. Such proposed modification may be based upon a recommendation from an applicant, community board, borough board, Borough President or other source. Where a modification is proposed, the Commission shall hold a public hearing on the application as referred to a community board or boards and on the proposed modification. Promptly upon its decision to schedule a proposed modification for public hearing, the Commission shall refer the proposed modification to the community board or community boards, borough board, and the affected Borough President to which the application was earlier referred, for such action as such board or boards or Borough President deem appropriate.

(2) The above provision shall not limit the Commission's ability to make a minor modification of an application.

(d) *Notice of hearing.* Notice of the time, place and subject of a public hearing by the Commission for all applications subject to this uniform land use review procedure, including applications for zoning text amendments pursuant to Charter § 200 and § 201 and modified applications pursuant to § 2-06(c)(1), of this chapter, shall be given as follows:

(1) by publication in The City Record beginning not less than ten (10) calendar days immediately prior to the date of hearing and continuing until the day prior to the hearing;

(2) by publication in the Comprehensive City Planning Calendar distributed not less than ten (10) calendar days prior to the date of hearing;

(3) by [mailing] transmitting notice to the concerned community board or community boards Borough President and borough board and to the applicant not less than ten (10) calendar days prior to the date of hearing;

(4) for all actions that result in acquisition of property by the City, other than by lease, whether by condemnation or otherwise, the applicant shall notify the owner or owners of the property in question by mail to the last known address of such owner or owners, as shown on the City's tax records, not later than five (5) days prior to the date of hearing. An affidavit attesting to the mailing and a copy of the notice shall be submitted to the Department of City Planning prior to the Commission's public hearing.

(e) *Posting of notices for hearings on the disposition of occupied city-owned residential buildings.* For any application involving disposition of a city-owned residential building, which at the time of application is occupied by tenants, the applicant shall post notice of the Commission public hearing as [in the manner] discussed below:

(1) at least eight (8) days prior to the Commission public hearing a notice, on a form provided by the Department of City Planning, shall be posted by the applicant in the building subject to the application, informing the tenants of the proposed action and the right of the public to appear at the Commission hearing and testify; and

(2) such notice shall be posted in common public space on the ground floor of the building accessible to all building tenants; and

(3) the applicant will file with the Department of City Planning an affidavit attesting to the posting of the notice and date and specific location where the notice was posted. The affidavit shall be signed by the person posting the notice.

(f) *Conduct of hearing.*

(1) *Location.* Commission public hearings shall be held at 120 Broadway, New York, New York [in City Hall], unless otherwise ordered by the Chair.

(2) *General Character.* Hearings shall be legislative type hearings, without sworn testimony, strict rules of evidence or opportunity for speakers to cross-examine one another. Only members of the Commission may question a speaker (except at a joint Commission/CEQR hearing at which officers of the lead agency and the office of Environmental Coordination may also ask questions). All persons filling out an appearance form shall be given the opportunity to speak. The chairperson may prescribe a uniform limited time for each speaker.

(3) *Quorum.* A public hearing shall require a quorum of a majority of the members of the Commission.

(g) *Commission actions.*

(1) *Scope of action.* The Commission shall approve, approve with modifications or disapprove each application.

(2) *Vote.* The Commission shall act by the affirmative roll call vote of at least seven (7) members at a public meeting, except that pursuant to Charter § 197-c, subsection h, approval or approval with modifications of an application relating to a new city facility for site selection for capital projects, the sale, lease (other than the lease of office space), exchange or other disposition of the real property of the City, including sale or lease of land under water pursuant to § 1602, Chapter 15 of the Charter or other applicable provisions of law; or acquisitions by the City of real property (other than the acquisition of office space for office use or a building for office use), including acquisition by purchase, condemnation, exchange or lease and including the acquisition of land under water pursuant to § 1602, Chapter 15 and other applicable provisions of law, shall require the affirmative vote of nine members of the Commission if the affected Borough President:

(i) recommends against approval of such application pursuant to subdivision g of Charter § 197-c; and

(ii) has proposed an alternative location in the same borough for such new facility pursuant to subdivision f or g of Charter § 204.

(3) *Commission report.* A report of the Commission shall be written with respect to each application subject to this procedure on which a vote has been taken. The report shall include:

(i) a description of the certified application;

(ii) a summary of testimony at all Commission public hearings held on the application;

(iii) [a copy of] all community board, Borough President or borough board written recommendations concerning the application;

(iv) the consideration leading to the Commission's action, including reasons for approval and any modification of the application and reasons for rejection by the Commission of community board, Borough President or borough board recommendations;

(v) any findings and consideration with respect to environmental impacts as required by the State Environmental Quality Review Act and regulations;

(vi) the action of the Commission, including any modification of the application;

(vii) the votes of individual Commissioners;

(viii) any dissenting opinions.

(4) *Filing of decisions of the Commission.* The City Planning Commission shall file [copies of] its decision with the affected Borough President and with the City Council. All filings with the Council shall include all associated community board, Borough President or borough board recommendations. The Commission shall [mail a copy of] transmit any decision to the applicant and to the community board or community boards, and borough board to which the application was referred. Filings with the City Council and Borough President shall be completed within the Commission's sixty (60) day time period.

(5) *Review of Council modifications.* The Commission shall receive from the City Council during its fifty (50) day period for review [copies of] the text of any proposed modification to the Commission's prior approval of an action. Upon receipt the Commission shall have fifteen (15) days to review and to determine:

(i) in consultation with the Office of Environmental Coordination and lead agency as necessary, whether the modification may result in any significant adverse environmental effects which were not previously addressed; and

(ii) whether the modification requires the initiation of a new application. In making this determination, the Commission shall consider whether the proposed modification:

(A) increases the height, bulk, envelope or floor area of any building or buildings, decreases open space, or alters conditions or major elements of a site plan in actions (such as a zoning special permit) which require the approval or limitation of these elements;

(B) increases the lot size or geographic area to be covered by the action;

(C) makes necessary additional waivers, permits, approvals, authorizations or certifications under sections of the Zoning Resolution, or other laws or regulations not previously acted upon in the application; or

(D) adds new regulations or deletes or reduces existing regulations or zoning restrictions that were not part of the subject matter of the earlier hearings at the community board or Commission. If the Commission has determined that no additional review is necessary and that, either, no significant environmental impacts will result or that possible environmental impacts can be addressed in the time remaining for Commission and Council review, it shall so report to the Council. The Commission may also transmit any comment or recommendation with respect to the substance of the modification, and any proposed further amendment to the modification which it deems as necessary or appropriate. If the Commission has determined that the proposed modification will require a supplementary environmental review or the initiation of a new application, it shall so advise the Council in a written statement which includes the reasons for its determination.

(6) *Zoning Resolution text amendments pursuant to Charter §§ 200 and 201.* Applications for amendments to the text of the Zoning Resolution pursuant to Charter § 200 or § 201 shall be subject to the provisions of this paragraph (g).

\* \* \*

## **§ 2-08 Board of Standards and Appeals.**

(a) *Variance and special permit applications.*

(1) *Filing and referral.* An application for a variance of the Zoning Resolution or for a special permit which under the Zoning Resolution is within the jurisdiction of the Board of Standards and Appeals shall be filed with the Board of Standards and Appeals. In accordance with the rules of Practice and Procedures [;](Chapter 1 of the Board of Standards and Appeals rules)[;], the Board of Standards and Appeals shall refer the application to the community board within which district the site is located or, in the case of an application involving a site located within two or more community districts, to the community boards for such districts and to the borough board for the appropriate borough. The Commission, as a party to a proceeding to vary the Zoning Resolution, shall be provided [served with] all [papers] materials in such proceeding by the Board of Standards and Appeals. Upon the filing with a community board, or with two or more community boards and a borough board, of an application for a variance or a special permit under the jurisdiction of the Board of Standards and Appeals, such community board or community boards and borough board shall review such application pursuant to §§ 2-03 and 2-05 herein.

(2) *Community board waiver or recommendation.* In the case of an application to vary the Zoning Resolution or for a special permit under the jurisdiction of the Board of Standards and Appeals, a community board may waive in writing the holding of a public hearing and the adoption of a written recommendation. The community board recommendation or waiver shall be referred to the Board of Standards and Appeals, the Commission and, in the case of an application which was referred to two or more community boards and a borough board, to such borough board. Upon action by or expiration of time to act on an application for each concerned community board and when appropriate, action by or expiration of time to act for an affected borough board, the Board of Standards and Appeals may proceed to review the application and to make a decision.

(3) *Borough board review.* In the case of an application to vary the Zoning Resolution or for a special permit pursuant to the Zoning Resolution under the jurisdiction of the Board of Standards and Appeals, a borough board may waive in writing the holding of a public hearing and the adoption of a written recommendation. After action by or expiration of time to act for all affected community boards if subject to borough board review, and upon receipt of a waiver or recommendation from a borough board or expiration of the thirty (30) day time limit for borough board review, the Board of Standards and Appeals may proceed to review the application and to make a decision.

(b) *City Planning Commission review.* Appearance in Variance Proceeding – In the case of an application to the Board of Standards and Appeals for a variance of the Zoning Resolution, the Commission may appear before the Board of Standards and Appeals and be heard as a party in the variance proceeding if, in the Commission's judgment, granting the relief requested in such application would violate the requirements of the Zoning Resolution which relate to the granting of variances.

### **§ 2-09 Administrative Provisions.**

(a) *Referrals and filings.* Unless otherwise provided herein, any referrals and filings required under this chapter shall be directed to the entities below [made by hand delivery or first class mail] as follows:

(1) if to the Commission, then through the Department of City Planning's website or, alternatively, to the Land Use Review Division, Department of City Planning, 120 Broadway, 31<sup>st</sup> Floor [Room 2E, 22 Reade Street], New York, New York 10271[007-1216];

(2) if to a community board, then to the chairperson of such community board at its office or, if there is no office or if no office address is provided to the Land Use Review Division, Department of City Planning, then to such board c/o the Borough President of the borough in question;

(3) if to a borough board, then to such borough board c/o the Borough President of the borough in question;

(4) if to the Board of Standards and Appeals, then to the Secretary of the Board of Standards and Appeals, 11th Floor, 161 Avenue of the Americas, New York, New York 10013;

(5) if to the City Council then to the Office of the Speaker City Council, City Hall, New York, New York.

(b) *Time provisions.*

(1) *Expiration dates.* Where the expiration of a time period set forth herein falls on a Saturday, Sunday or legal holiday, the expiration date shall be deemed extended until the next working day.

(2) *Determination.* All time periods specified in these regulations shall be calendar days. The commencement and end of time periods shall be recorded and officially calculated and determined by the Director of City Planning.

[(c) *Transition.* Any application which has been voted upon by the community board and borough board, if required, and the recommendation concerning which has been received by the Department of City Planning prior to May 2, 1990 shall not be subject to these provisions, but shall rather be subject to the procedures in effect prior to May 2, 1990, which procedures shall remain in effect for that category of actions until June 30, 1990. In accordance with § 1152d(6)(b) of the Charter the time period for receiving any application referred to a Borough President in the month of May, 1990 shall be extended until June 30, 1990, at which time it shall be transmitted to the Commission.]

\* \* \*

## **Chapter 3: Fees and Contributions**

## **Subchapter A: City Environmental Quality Review (CEQR) (Department of City Planning and Department of Environmental Protection)**

### **§ 3-01 Fee for CEQR Applications.**

Except as specifically provided in this section, every application made pursuant to Executive Order 91 and Chapter 5 of these rules [shall include] requires a non-refundable fee which shall be submitted to the lead agency for the action or to an agency that could be the lead agency pursuant to § 5-03 of the rules of the Commission, [ , and shall be in the form of a check or money order made out to the “City of New York”] The fee for an application shall be as prescribed in the following Schedule of Charges, § 3-02 of these rules. The fee for modification for an action, which modification is not subject to § 197-c of the New York City Charter shall be twenty percent of the amount prescribed in the Schedule of Charges for an initial application. The fee for any modification for an action, which is subject to § 197-c of the New York City Charter shall be the amount set forth in the Schedule of Charges (§ 3-02) as if the modification were an initial application for the action. Where the fee for an application is set pursuant to § 3-02(a), and the square footage of the proposed modification is different from the square footage of the original action, the fee for an application for the modification shall be based upon the square footage of the modified action or as set forth in § 3-02(b), as determined by the lead agency. Agencies of the federal, state or city governments shall not be required to pay fees, nor shall a neighborhood, community or similar association consisting of local residents or homeowners organized on a non-profit basis be required to pay fees, if the proposed action for purposes of CEQR review consists of a zoning map amendment for an area of at least two blocks in size, in which one or more of its members or constituents reside. Fees shall be paid in the forms indicated on the Department of City Planning’s website when the application is filed [ , and these fees may not be combined in one check of money order with fees required pursuant to other land use applicants submitted to the Department of City Planning or the City Planning Commission.] . No application shall be processed by the lead agency until the fee has been paid [and twenty-five copies of the application have been filed with the lead agency].

\* \* \*

## **Subchapter B: Uniform Land Use Review (ULURP)**

### **§ 3-06 Fees for Applications Pursuant to City Charter § 197-c and Other Applications.**

Except as specifically provided in this section, every type of application listed in Section 3.07, Schedule of Charges, shall include a non-returnable fee which shall be paid in the forms indicated on the Department of City Planning’s website when the application is filed [by check or money order made out to the City of New York]. The fee for an initial application, or for a modification, renewal or follow-up action, shall be as prescribed in the following Schedule of Charges, provided that if an applicant simultaneously submits applications for several actions relating to the same project, the maximum fee imposed shall be two hundred percent of the single highest fee, provided that such maximum fee limitation shall not apply to supplemental fees. An additional fee shall be charged for any applications later filed in relation to the same project, while such project is pending review and determination. Agencies of the federal, state or city governments shall not be required to pay fees nor shall any fees be charged if a neighborhood, community or similar association consisting of local residents or homeowners organized on a non-profit basis applies for a zoning map amendment for an area of at least two blocks in size, in which one or more of its members or constituents reside.



**§ 5-05 Environmental Review Procedures.**

*(a) Threshold Determination.*

(1) In the case of any action for which a lead agency is prescribed by § 5-03 of these rules, and thus for which no agreement among involved agencies is necessary, only such lead agency may determine that such action, considered in its entirety, requires environmental review, and such determination shall be binding upon the city. The OEC shall, upon the request of such agency, assist in such determination.

(2) In the case of any action for which agreement among involved agencies is necessary for selection of a lead agency, if an agency that could be the lead agency for the particular action pursuant to subdivisions (b) through (g) of § 5-03 of these rules determines that such action may require environmental review, then the lead agency shall be agreed upon as provided in § 3 of these rules, and such lead agency shall determine whether such action, considered in its entirety, requires environmental review. Such determination shall be binding upon the city. The OEC shall assist in any determination made pursuant to this paragraph upon the request of the agency making such determination.

(3) Nothing contained in this subdivision shall be construed to require an affirmative determination, whether formal or informal, that an action is exempt from environmental review, or is a Type II action pursuant to the SEQRA Regulations, where such determination would not otherwise be required by law.

*(b) Other Determinations.*

(1) After the determination that an action requires environmental review, the lead agency shall notify the OEC that it is commencing environmental review and complete or cause to be completed the standardized environmental assessment statement provided by the OEC. Such statement shall provide guidance in determining whether the action may have a significant effect on the environment. The OEC and interested and involved agencies shall, upon the request of the lead agency, assist the lead agency in completing such statement.

(2) The OEC and interested and involved agencies shall, upon the request of the lead agency, assist such lead agency with respect to any aspect of a determination of significance and/or a draft, final and/or supplemental environmental impact statement.

(3) Whenever, in the preparation of a draft environmental impact statement, the lead agency identifies a potential significant impact, the lead agency shall consult with any agency that has primary jurisdiction to carry out possible mitigations, and with any city agency that has primary regulatory jurisdiction over the subject matter of such impact.

(4) Lead agencies shall [send]transmit copies of the following to the OEC upon issuance: notifications of commencement of environmental review, determinations of significance (including completed environmental assessment statements), draft and final scopes, draft and final environmental impact statements. In addition, lead agencies shall forward to the OEC significant supporting documentation comprising the official records of environmental reviews.

*(c) Type II.* The following actions are not subject to review under City Environmental Quality Review, the State Environmental Quality Review Act (Environmental Conservation Law, Article 8) or the SEQRA Regulations, subject to § 5-05(d) of these rules:

(1) Special permits for physical culture or health establishments of up to 20,000 gross square feet, pursuant to § 73-36 of the Zoning Resolution;

(2) Special permits for radio and television towers, pursuant to § 73-30 of the Zoning Resolution;

(3) Special permits for ambulatory diagnostic or treatment health care facilities, pursuant to § 73-125 of the Zoning Resolution;

(4) Special permits to allow a building or other structure to exceed the height regulations around airports, pursuant to § 73-66 of the Zoning Resolution;

(5) Special permits for the enlargement of buildings containing residential uses by up to 10 units, pursuant to § 73-621 of the Zoning Resolution;

(6) Special permits for eating and drinking establishments of up to 2,500 gross square feet with accessory drive-through facilities, pursuant to § 73-243 of the Zoning Resolution;

(7) Acquisition or lease disposition of real property by the City, not involving a change of use, a change in bulk, or ground disturbance;

(8) Construction or expansion of primary or accessory/appurtenant park structures or facilities involving less than 10,000 square feet of gross floor area;

(9) Park mapping, site selection or acquisition of less than ten (10) acres of existing open space or natural areas;

(10) Authorizations for a limited increase in parking spaces for existing buildings without parking, pursuant to § 13-442 and § 16-341 of the Zoning Resolution;

(11) Special permits for accessory off-street parking facilities, which do not increase parking capacity by more than eighty-five (85) spaces or involve incremental ground disturbance, pursuant to § 16-351 of the Zoning Resolution;

(12) Special permits for public parking garages and public parking lots, which do not increase parking capacity by more than eighty-five (85) spaces or involve incremental ground disturbance, pursuant to § 16-352 of the Zoning Resolution; and

(13) Special permits for additional parking spaces, which do not increase parking capacity by more than eighty-five (85) spaces or involve incremental ground disturbance, pursuant to § 13-45 of the Zoning Resolution.

(d) *Type II Prerequisites.*

(1) An action listed in § 5-05(c), which is also classified as Type I pursuant to 6 NYCRR Part 617.4, shall remain Type I and subject to environmental review.

(2) An action listed in § 5-05(c)(2)-(5), or (8) of these rules involving ground disturbance shall remain subject to environmental review, unless it is determined that any potentially significant hazardous materials impacts will be avoided.

(3) An action listed in § 5-05(c)(2), (3), (5), or (8) of these rules involving excavation of an area that was not previously excavated shall remain subject to environmental review, unless it is determined that the project site is not archaeologically sensitive.

(4) An action listed in § 5-05(c)(4) of these rules shall remain subject to environmental review, unless it is determined that any potentially significant noise impacts will be avoided.

(5) An action listed in § 5-05(c)(2), (3), (5), or (8) of these rules involving the removal or alteration of significant natural resources shall remain subject to environmental review.

(6) An action listed in § 5-05(c)(2), (4), (5), (6), (8), or (11)-(13) of these rules shall remain subject to environmental review if the project site is:

(i) wholly or partially within any historic building, structure, facility, site or district that is calendared for consideration or eligible for designation as a New York City Landmark, Interior Landmark or Scenic Landmark;

(ii) substantially contiguous to any historic building, structure, facility, site or district that is designated, calendared for consideration or eligible for designation as a New York City Landmark, Interior Landmark or Scenic Landmark; or

(iii) wholly or partially within or substantially contiguous to any historic building, structure, facility, site or district, or archaeological or prehistoric site that is listed, proposed for listing or eligible for listing on the State Register of Historic Places or National Register of Historic Places.

**§ 5-06 Involved and Interested Agencies; Required Circulation.**

(a) The lead agency and the OEC shall make every reasonable effort to keep involved and interested agencies informed during the environmental review process and to facilitate their participation in such process. If the City Council is involved in an action, staff of the lead agency

and/or staff of the OEC shall be made available to explain determinations made by the lead agency to the City Council or the appropriate City Council committee or staff.

(b) Any written information submitted by an applicant for [purposes of a determination by the lead agency] the lead agency to determine whether an environmental impact statement will be required by law, and documents or records intended to define or substantially redefine the overall scope of issues to be addressed in any draft environmental impact statement required by law, shall be [circulated] transmitted to all affected community or borough boards, where such [circulation] transmission is required by the Charter.

(c) If the City Council is involved in an action, any written information, documents or records that are required to be [circulated] transmitted to involved agencies or to affected community boards or borough boards shall be [circulated] transmitted to the City Council.

### **§ 5-07 Scoping.**

[Following the issuance of] After a notice of determination (positive declaration) is issued, the lead agency shall coordinate the scoping process, which shall ensure that all interested and involved agencies (including the City Council where it is interested or involved), the applicant, the OEC, community and borough boards, borough presidents and the public are able to participate. The scoping process shall include a public scoping meeting and take place in accordance with the following procedure:

(a) *Draft Scope.* Within fifteen days after [issuance of] a notice of determination (positive declaration) is issued, the lead agency shall issue a draft scope, which may be prepared by the applicant but must be approved by the lead agency. The lead agency may consult with the OEC and other agencies prior to issuance of the draft scope.

(b) *Public Notice and Comment.* Upon issuance of the draft scope and not less than thirty nor more than forty-five days prior to the holding of the public scoping meeting, the lead agency shall publish in the City Record a notice indicating that a draft environmental impact statement will be prepared for the proposed action and requesting public comment with respect to the identification of issues to be addressed in the draft environmental impact statement. Such notice shall be in a format provided by the OEC and shall state that the draft scope and the environmental assessment statement may be obtained by any member of the public from the lead agency and/or the OEC. Such notice shall also contain the date, time and place of the public scoping meeting, shall provide that written comments will be accepted by the lead agency through the tenth day following such meeting, and shall set forth guidelines for public participation in such meeting.

(c) *Agency Notice and Comment.* Upon issuance of the draft scope and not less than thirty nor more than forty-five days prior to the holding of the public scoping meeting, the lead agency shall [circulate] transmit the draft scope and the environmental assessment statement to all interested and involved agencies (including the City Council where it is interested or involved), to the applicant, to the OEC and to agencies entitled to send representatives to the public scoping meeting pursuant to § 197-c(d) or 668(a)(7) of the Charter. Together with the draft scope and the environmental assessment statement, a letter shall be [circulated] transmitted indicating the date, time and place of the public scoping meeting, and stating that comments will be accepted by the lead agency through the tenth day following such meeting. The lead agency may consult with other agencies regarding their comments, and shall forward any written comments received pursuant to this subdivision to the OEC.

(d) *Public Scoping Meeting.* The lead agency shall chair the public scoping meeting. In addition to the lead agency, all other interested and involved agencies that choose to send representatives (including the City Council where it is interested or involved), the applicant, the OEC, and agencies entitled to send representatives pursuant to § 197-c(d) or 668(a)(7) of the Charter may participate. The meeting shall include an opportunity for the public to observe discussion among interested and involved agencies, agencies entitled to send representatives,

the applicant and the OEC. Reasonable time shall be provided for the public to comment with respect to the identification of issues to be addressed in the draft environmental impact statement. The OEC shall assist the lead agency in ensuring that the public scoping meeting is conducted in an effective manner.

(e) *Final Scope.* Within thirty days after the public scoping meeting, the lead agency shall issue a final scope, which may be prepared by the applicant and approved by the lead agency. The lead agency may consult further with the OEC and other agencies prior to issuance of the final scope. Where a lead agency receives substantial new information after issuance of a final scope, it may amend the final scope to reflect such information.

(f) *Scoping of City Agency Actions.* For actions which do not involve private applications, nothing contained in these rules shall be construed to prevent a lead agency, where deemed necessary for complex actions, from extending the time frames for scoping set forth in this section, or from adding additional elements to the scoping process.

### **§ 5-08 Applications and Fees.**

(a) *Applications.* Applications submitted for City Environmental Quality Review for actions that require such review shall be submitted to the lead agency prescribed by these rules, or to an agency that could be the lead agency for the particular action pursuant to § 5-03 of these rules. Such applications shall include information required to be obtained from applicants in order for the lead agency to complete or cause to be completed the standardized environmental assessment statement, and such other documents and additional information as the lead agency may require to make a determination of significance. In addition, except as otherwise provided in these rules, such applications shall conform to the requirements of Executive Order 91. [Applicants shall file twenty-five copies of each application.]

(b) *Fees.* Except as otherwise provided by this section, fees in effect on the effective date of these rules pursuant to Executive Order 91 and codified as § 3-02 of these rules shall continue to govern City Environmental Quality Review applications, unless the City Planning Commission shall by rule modify such fees. Such fees shall be submitted to the lead agency prescribed by these rules, or to an agency that could be the lead agency for the particular action pursuant to § 5-03 of these rules [and shall be in the form of a check or money order made out to the "City of New York"].

\* \* \*

## **APPENDIX A TO CHAPTER 5 CITY ENVIRONMENTAL QUALITY REVIEW (CEQR) (EXECUTIVE ORDER NO. 91 OF 1977, AS AMENDED);**

§ 6-01; **Applicability.** (*Except as modified by City Planning Rules, § 502(a) and (d).*); No final decision to carry out or approve any action which may have a significant effect on the environment shall be made by any agency until there has been full compliance with the provisions of this chapter.

§ 6-02; **Definitions.** (*Additional definitions, City Planning Rules § 5-02(c).*); As used herein, the following terms shall have the indicated meanings unless noted otherwise: **Action.** (*Modified by City Planning Rules § 5-02(c)(2).*); "Action" means any activity of an agency, other than an exempt action enumerated in § 6-04 of this chapter, including but not limited to the following:

(1) non-ministerial decisions on physical activities such as construction or other activities which change the use or appearance of any natural resource or structure;

(2) non-ministerial decisions on funding activities such as the proposing, approval or disapproval of contracts, grants, subsidies, loans, tax abatements or exemptions or other forms of direct or indirect financial assistance, other than expense budget funding activities;

(3) planning activities such as site selection for other activities and the proposing, approval or disapproval of master or long range plans, zoning or other land use maps, ordinances or regulations, development plans or other plans designed to provide a program for future activities;

(4) policy making activities such as the making, modification or establishment of rules, regulations, procedures, policies and guidelines;

(5) non-ministerial decisions on licensing activities, such as the proposing, approval or disapproval of a lease, permit, license, certificate or other entitlement for use or permission to act.

**Agency.** *(Inapplicable. See City Planning Rules § 5-02(a), § 5-02(c)(3)(i).)*; "Agency" means any agency, administration, department, board, commission, council, governing body or any other governmental entity of the City of New York, unless otherwise specifically referred to as a state or federal agency.

**Applicant.** "Applicant" means any person required to file an application pursuant to this chapter.

**Conditional negative declaration.** "Conditional negative declaration" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action and accepted by the applicant in writing, which announces that the lead agencies have determined that the action will not have a significant effect on the environment if the action is modified in accordance with conditions or alternative designed to avoid adverse environmental impacts.

**DEC.** "DEC" means the New York State Department of Environmental Conservation.

**Environment.** "Environment" means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution or growth, and existing community or neighborhood character.

**Environmental analysis.** "Environmental analysis" means the lead agencies' evaluation of the short and long term, primary and secondary environmental effects of an action, with particular attention to the same areas of environmental impacts as would be contained in an EIS. It is the means by which the lead agencies determine whether an action under consideration may or will not have a significant effect on the environment.

**Environmental assessment form.** *(;Retitled Environmental Assessment Statement; see City Planning Rules § 5-04(c)(3).)*; "Environmental assessment form" means a written form completed by the lead agencies, designed to assist their evaluation of actions to determine whether an action under consideration may or will not have a significant effect on the environment.

**Environmental impact statement (EIS).** "Environmental impact statement (EIS)" means any written document prepared in accordance with §§ 6-08, 6-10, 6-12 and 6-13 of this chapter. An EIS may either be in a draft or a final form.

**Environmental report.** "Environmental report" means a report to be submitted to the lead agencies by a non-agency applicant when the lead agencies prepare or cause to be prepared a draft EIS for an action involving such an applicant. An environmental report shall contain an analysis of the environmental factors specified in § 6-10 of this chapter as they relate to the applicant's proposed action and such other information as may be necessary for compliance with this chapter, including the preparation of an EIS.

**Lead agencies.** *(Inapplicable, City Planning Rules § 5-02(a). Superseded by City Planning Rules § 5-02(b)(1) and § 5-02(c)(3)(vi); also see City Planning Rules § 5-03 for choice of lead agency.)*;

**Ministerial action.** "Ministerial action" means an action performed upon a given state of facts in a prescribed manner imposed by law without the exercise of any judgment or discretion as to the propriety of the action, although such law may require, in some degree, a construction of its language or intent.

**Negative declaration.** "Negative declaration" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action will not have a significant effect on the environment.

**Notice of determination.** (*See also City Planning Rules § 5-02(c)(3)(iii).*); "Notice of determination" means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action may have a significant effect on the environment, thus requiring the preparation of an EIS.

**NYCRR.** (*See also City Planning Rules § 5-02(c)(3)(viii).*); "NYCRR" means the New York Code of Rules and Regulations.

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

**Project data statement.** (*Inapplicable, City Planning Rules § 5-02(a). Superseded by Environmental Assessment Statement, see City Planning Rules § 5-04(c)(3). See also City Planning Rules § 5-05(b)(1) and § 5-08(a).*);

**SEQRA.** "SEQRA" means the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law).

**Typically associated environmental effect.** "Typically associated environmental effect" means changes in one or more natural resources which usually occur because of impacts on other such resources as a result of natural interrelationships or cycles.

**ULURP.** "ULURP" means the Uniform Land Use Review Procedure (§ 197-c of Chapter 8 of the New York City Charter).

§ 6-03; **Actions Involving Federal or State Participation.** (a) (*See also City Planning Rules § 5-04(e)*); If an action under consideration by an agency may involve a "major federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969," then the following procedures shall apply:

(1) in the case of an action for which there has been duly prepared both a draft EIS and a final EIS, no agency shall have an obligation to prepare an EIS or to make findings pursuant to § 6-12 of this chapter.

(2) in the case of an action for which there has been prepared a Negative Declaration or other written threshold determination that the action will not require a federal impact statement under the National Environmental Policy Act of 1969, the lead agencies shall determine whether or not the action may have a significant effect on the environment pursuant to this chapter, and the action shall be fully subject to the same.

(b) (*Inapplicable, City Planning Rules § 5-02(a). Entire subdivision (b) superseded by City Planning Rules § 5-03(j); and § 5-04(d).*);

§ 6-04&dagger; **Exempt Actions.** (See also City Planning Rules § 5-02(d).); The following actions shall not be subject to the provisions of this chapter:

(a) projects or activities classified as Type I pursuant to § 6-15 of this chapter directly undertaken or funded by an agency prior to June 1, 1977 except that if such action is sought to be modified after June 1, 1977, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this chapter;

(1) such actions include, but are not limited to, those actions defined in § 6-02 "Action" (1), (2), (3) and (4) of this chapter;

(2) an action shall be deemed to be undertaken at the point that:

- (i) the agency is irreversibly bound or committed to the ultimate completion of a specifically designed activity or project; or
  - (ii) in the case of construction activities, a contract for substantial construction has been entered into or if a continuous program of on-site construction or modification has been engaged in; or
  - (iii) the agency gives final approval for the issuance to an applicant of a discretionary contract, grant, subsidy, loan or other form of financial assistance; or
  - (iv) in the case of an action involving federal or state participation, a draft EIS has been prepared pursuant to the National Environmental Policy Act of 1969 or SEQRA, respectively.
- (b) projects or activities classified as Type I pursuant to § 6-15 of this chapter approved by an agency prior to September 1, 1977 except that if such action is sought to be modified after September 1, 1977, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this chapter;
- (1) such actions include, but are not limited to, those actions defined in § 6-02 "Action" (2) and (5) of this chapter;
  - (2) an action shall be deemed to be approved at the point that:
    - (i) the agency gives final approval for the issuance to an applicant of a discretionary contract, grant, subsidy, loan or other form of financial assistance; or
    - (ii) the agency gives final approval for the issuance to an applicant of a discretionary lease, permit, license, certificate or other entitlement for use or permission to act; or
    - (iii) in the case of an action involving federal or state participation, a draft EIS has been prepared pursuant to the National Environmental Policy Act of 1969 or SEQRA, respectively.
- (c) projects or activities not otherwise classified as Type I pursuant to § 6-15 of this chapter directly undertaken, funded or approved by an agency prior to November 1, 1978 except that if such action is sought to be modified after November 1, 1978, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this chapter;
- (1) such actions include, but are not limited to, those actions defined in § 6-02 "Action" of this chapter;
  - (2) an action shall be deemed to be undertaken as provided in paragraphs (a)(2) and (b)(2) of this section, as applicable.
- (d) enforcement or criminal proceedings or the exercise of prosecutorial discretion in determining whether or not to institute such proceedings;
- (e) *(See City Planning Rules § 5-02(d).);* ministerial actions, which shall appear on a list compiled, certified and made available for public inspection by the lead agencies, except as provided in § 6-15(a), Type I, of this chapter, relating to critical areas and historic resources;
- (f) maintenance or repair involving no substantial changes in existing structures or facilities;
- (g) actions subject to the provisions requiring a certificate of environmental compatibility and public need in Article 7 and 8 of the Public Service Law;
- (h) actions which are immediately necessary on a limited emergency basis for the protection or preservation of life, health, property or natural resources; and
- (i) actions of the Legislature of the State of New York or of any court.
- § 6-05; Determination of Significant Effect – Applications.** (a) *(Inapplicable, City Planning Rules § 5-02(a). Superseded by City Planning Rules § 5-05(a). See also City Planning Rules § 5-02(b)(2) and § 5-02(d).);*
- (b) *(Introductory paragraph inapplicable, City Planning Rules § 5-02(a). Paragraph (b) superseded by City Planning Rules § 5-08.);* The applicant initiating the proposed action, other than an exempt or Type II action pursuant to § 6-04 of this chapter, shall file an application with the lead agencies, which application shall include a Project Data Statement and such other documents and additional information as the lead agencies may require to conduct an

environmental analysis to determine whether the action may or will not have a significant effect on the environment. Where possible existing City applications shall be modified to incorporate this procedure and a one-stop review process developed;

(1) within 20 calendar days of receipt of a determination pursuant to § 6-03(b) of this chapter, if applicable, the lead agencies shall notify the applicant, in writing, whether the application is complete or whether additional information is required;

(2) *(Determination pursuant to § 5-03(b) deemed to refer to lead agency selection pursuant to City Planning Rules § 5-03. See City Planning Rules § 5-02(b)(3).)*; when all required information has been received, the lead agencies shall notify the applicant, in writing, that the application is complete.

(c) Each application shall include an identification of those agencies, including federal or state agencies, which to the best knowledge of the applicant, have jurisdiction by law over the action or any portion thereof.

(d) Where appropriate, the application documents may include a concise statement or reasons why, in the judgment of the applicant, the proposed action is one which will not require the preparation of an EIS pursuant to this chapter.

(e) Initiating applicants shall consider the environmental impacts of proposed actions and alternatives at the earliest possible point in their planning processes, and shall develop wherever possible, measures to mitigate or avoid adverse environmental impacts. A statement discussing such considerations, alternatives and mitigating measures shall be included in the application documents.

(f) Nothing in this section shall be deemed to prohibit an applicant from submitting a preliminary application in the early stages of a project or activity for review and comment by the lead agencies.

**§ 6-06 Determination of Significant Effect – Criteria.** (a) An action may have a significant effect on the environment if it can reasonably be expected to lead to one of the following consequences:

(1) a substantial adverse change to ambient air or water quality or noise levels or in solid waste production, drainage, erosion or flooding;

(2) the removal or destruction of large quantities of vegetation or fauna, the substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on critical habitat areas, or the substantial affecting of a rare or endangered species of animal or plant or the habitat of such a species;

(3) the encouraging or attracting of a large number of people to a place or places for more than a few days relative to the number of people who would come to such a place absent the action;

(4) the creation of a material conflict with a community's existing plans or goals as officially approved or adopted;

(5) the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources (including the demolition or alteration of a structure which is eligible for inclusion in an official inventory of such resources), or of existing community or neighborhood character;

(6) a major change in the use of either the quantity or type of energy;

(7) the creation of a hazard to human health or safety;

(8) a substantial change in the use or intensity of use of land or other natural resources or in their capacity to support existing uses, except where such a change has been included, referred to, or implicit in a broad "programmatic" EIS prepared pursuant to § 6-13 of this chapter.

(9) the creation of a material demand for other actions which would result in one of the above consequences;



(10) changes in two or more elements of the environment, no one of which is substantial, but taken together result in a material change to the environment.

(b) *(Reference to § 6-15 Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See City Planning Rules § 5-02(b)(2).);* For the purpose of determining whether an action will cause one of the foregoing consequences, the action shall be deemed to include other contemporaneous or subsequent actions which are included in any long-range comprehensive integrated plan of which the action under consideration is a part, which are likely to be undertaken as a result thereof, or which are dependent thereon. The significance of a likely consequence (i.e. where it is material, substantial, large, important, etc.) should be assessed in connection with its setting, its probability of occurring, its duration, its irreversibility, its controllability, its geographic scope and its magnitude (i.e. degree of change or its absolute size). Section 6-15 of this chapter refers to lists of actions which are likely to have a significant effect on the environment and contains lists of actions found not to have a significant effect on the environment.

**§ 6-07; Determination of Significant Effect – Notification.** (a) *(Error. Reference to § 6-05(a) should be to § 6-05(b).)* The lead agencies shall determine within 15 calendar days following notification of completion of the application pursuant to § 6-05(a) of this chapter whether the proposed action may have a significant effect on the environment;

(1) *(Reference to § 6-15(b) Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See City Planning Rules § 5-02(b)(2).);* In making their determination, the lead agencies shall employ the Environmental Assessment Form, apply the criteria contained in § 6-06 and consider the lists of actions contained in § 6-15 of this chapter;

(2) The lead agencies may consult with, and shall receive the cooperation of any other agency before making their determination pursuant to this subdivision (a).

(b) The lead agencies shall provide written notification to the applicant immediately upon determination of whether the action may or will not have a significant effect on the environment. Such determination shall be in one of the following forms:

(1) *Negative Declaration. (;Reference to § 6-15, Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13 See Rules § 5-02(b)(2).);* If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §§ 6-04 and 6-15 of this chapter, respectively, and that the action will not have a significant effect on the environment, they shall issue a Negative Declaration which shall contain the following information:

- (i) an action identifying number;
- (ii) a brief description of the action;
- (iii) the proposed location of the action;
- (iv) a statement that the lead agencies have determined that the action will not have a significant effect on the environment;
- (v) a statement setting forth the reasons supporting the lead agencies' determination.

(2) *Conditional Negative Declaration. (Reference to § 6-15, Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See City Planning Rules § 5-02(b)(2).);* If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §§ 6-04 and 6-15 of this chapter, respectively, and that the action will not have a significant effect on the environment if the applicant modifies its proposed action in accordance with conditions or alternatives designed to avoid adverse environmental impacts, they shall issue a Conditional Negative Declaration which shall contain the following information (in addition to the information required for a Negative Declaration pursuant to paragraph (1) of this subdivision):

(i) a list of conditions, modifications or alternatives to the proposed action which supports the determination;

(ii) the signature of the applicant or its authorized representative, accepting the conditions, modifications or alternatives to the proposed action;

(iii) a statement that if such conditions, modifications or alternatives are not fully incorporated into the proposed action, such Conditional Negative Declaration shall become null and void. In such event, a Notice of Determination shall be immediately issued pursuant to paragraph (3) of this subdivision.

(3) *Notice of Determination. (Reference to § 6-15 Type II list, deemed to be State Type II list of 6 NYCRR Part 617.13. See City Planning Rules § 5-02(b)(2).);* If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §§ 6-04 and 6-15 of this chapter, respectively, and that the action may have a significant effect on the environment, they shall issue a Notice of Determination which shall contain the following information:

(i) an action description number;  
(ii) a brief description of the action;  
(iii) the proposed location of the action;  
(iv) a brief description of the possible significant effects on the environment of the action;  
(v) a request that the applicant prepare or cause to be prepared, at its option, a draft EIS in accordance with §§ 6-08 and 6-12 of this chapter.

(c) *(See additional circulation provisions, City Planning Rules § 5-06(b) and § 5-06(c). City Clerk function transferred to Office of Environ. Coord., City Planning Rules § 5-02(b)(4).);* The lead agencies shall make available for public inspection the Negative Declaration, Conditional Negative Declaration or the Notice of Determination [, as the case may be,] and [circulate copies of] transmit the same to the applicant, the regional director of the DEC, the commissioner of DEC, the appropriate Community Planning Board(s), the City Clerk, and all other agencies, including federal and state agencies, which may be involved in the proposed action.

**§ 6-08 Draft Environmental Impact Statements – Responsibility for Preparation.** (a) *Non-agency applicants.*

(1) *(Rules add formal scoping, City Planning Rules § 5-07. Interested and involved agencies assist with DEIS on request. See City Planning Rules § 5-05(b)(2).);* After receipt of a Notice of Determination pursuant to § 6-07(c)(3) of this chapter, a non-agency applicant shall notify the lead agencies in writing as to whether it will exercise its option to prepare or cause to be prepared a draft EIS, and as to whom it has designated to prepare the draft EIS, provided that no person so designated shall have an investment or employment interest in the ultimate realization of the proposed action;

(2) *(See also City Planning Rules § 5-05(b)(3) for requirements of lead consultation on mitigations.);* the lead agencies may prepare or cause to be prepared a draft EIS for an action involving a non-agency applicant. In such event, the applicant shall provide, upon request, an environmental report to assist the lead agencies in preparing or causing to be prepared the draft EIS and such other information as may be necessary. All agencies shall fully cooperate with the lead agencies in all matters relating to the preparation of the draft EIS.

(3) if the non-agency applicant does not exercise its option to prepare or cause to be prepared a draft EIS, and the lead agencies do not prepare or cause to be prepared such draft EIS, then the proposed action and review thereof shall terminate.

(b) *Agency applicants.*

(1) When an action which may have a significant effect on the environment is initiated by an agency, the initiating agency shall be directly responsible for the preparation of a draft EIS. However, preparation of the draft EIS may be coordinated through the lead agencies.

(2) *(;See City Planning Rules § 5-05(b)(3)for requirements of lead consultation on mitigations.);* All agencies, whether or not they may be involved in the proposed action, shall fully cooperate with the lead agencies and the applicant agency in all matters relating to the coordination of the preparation of the draft EIS.

(c) Notwithstanding the provisions contained in subdivisions (a) and (b) of this section, when a draft EIS is prepared, the lead agencies shall make their own independent judgment of the

scope, contents and adequacy of such draft EIS.

§ 6-09 **Environmental Impact Statements – Content.** (a) *(Lead to be guided by technical standards and methodologies developed by Office of Environ. Coord., City Planning Rules § 5-04(c).);* Environmental impact statements should be clearly written in a brief and concise manner capable of being read and understood by the public. Within the framework presented in subdivision (d) of this section, such statements should deal only with the specific significant environmental impacts which can be reasonably anticipated. They should not contain more detail than is appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts.

(b) All draft and final EIS's shall [be preceded by] include a cover [sheet] page stating:

- (1) whether it is a draft or a final;
- (2) the name or other descriptive title of the action;
- (3) the location of the action;
- (4) the name and address of the lead agencies and the name and telephone number of a person at the lead agencies to be contacted for further information;
- (5) identification of individuals or organizations which prepared any portion of the statement; and
- (6) the date of its completion.

(c) If a draft or final EIS exceeds ten pages in length, it shall have a table of contents[,] following the cover [sheet] page.

(d) The body of all draft and final EIS's shall contain at least the following:

- (1) a description of the proposed action and its environmental setting;
- (2) a statement of the environmental impacts of the proposed action, including its short-term and long-term effects, and typically associated environmental effects;
- (3) an identification of any adverse environmental effects which cannot be avoided if the proposed action is implemented;
- (4) a discussion of the social and economic impacts of the proposed action;
- (5) a discussion of alternatives to the proposed action and the comparable impacts and effects of such alternatives;
- (6) an identification of any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;
- (7) a description of mitigation measures proposed to minimize adverse environmental impacts;
- (8) a description of any growth-inducing aspects of the proposed action, where applicable and significant;
- (9) a discussion of the effects of the proposed action on the use and conservation of energy, where applicable and significant;
- (10) a list of underlying studies, reports or other information obtained and considered in preparing the statement; and
- (11) (for the final EIS only) copies or a summary of the substantive comments received in response to the draft EIS and the applicant's response to such comments.

(e) An EIS may incorporate by reference all or portions of other documents which contain information relevant to the statement. The referenced documents shall be made available to the public in the same places where copies of the statement are made available. When a statement uses incorporation by reference, the referenced document shall be briefly described and its date of preparation provided.

§ 6-10 **Draft Environmental Impact Statements – Procedures.** (a) *Notice of Completion.* Upon the satisfactory completion of a draft EIS, the lead agencies shall immediately prepare, file and make available for public inspection a Notice of Completion as provided in paragraphs (1), (2) and (3) of this subdivision. Where a proposed action is simultaneously subject to the Uniform Land Use Review Procedure ("ULURP"), the City Planning Commission shall not certify an

application pursuant to ULURP until a Notice of Completion has been filed as provided in paragraph (3) of this subdivision.

(1) *Contents of Notice of Completion.* All Notices of Completion shall contain the following:

(i) an action identifying number;  
(ii) a brief description of the action;  
(iii) the location of the action and its potential impacts and effects; and  
(iv) a statement that comments on the draft EIS are requested and will be received and considered by the lead agencies at their offices. The Notice shall specify the public review and comment period on the draft EIS, which shall be for not less than 30 calendar days from the date of filing and circulation of the notice, or not less than 10 calendar days following the close of a public hearing on the draft EIS, whichever last occurs.

(2) [Circulating] Transmission, *Notice of Completion.* All Notices of Completion shall be [circulated] transmitted to the following:

(i) all other agencies, including federal and state agencies, involved in the proposed action;  
(ii) all persons who have requested it;  
(iii) the editor of the State Bulletin;  
(iv) the State clearinghouse;  
(v) the appropriate regional clearinghouse designated under the Federal Office of Management and Budget Circular A-95.

(3) *Filing Notice of Completion.* All Notices of Completion shall be filed with and made available for public inspection by the following:

(i) the Commissioner of DEC;  
(ii) the regional director of DEC;  
(iii) the agency applicant, where applicable;  
(iv) the appropriate Community Planning Board(s);  
(v) the City Clerk;  
(vi) the lead agencies.

(b) *Filing and availability of draft EIS.* (;City clerk function transferred to OEC, *City Planning Rules § 5-02(b)(4).*); All draft EIS's shall be filed with and made available for public inspection by the same persons and agencies with whom Notices of Completion must be filed pursuant to paragraph (a)(3) of this section.

(c) *Public hearings on draft EIS.*

(1) Upon completion of a draft EIS, the lead agencies shall conduct a public hearing on the draft EIS.

(2) The hearing shall commence no less than 15 calendar days or more than 60 calendar days after the filing of a draft EIS pursuant to subdivision (b) of this section, except where a different hearing date is required as appropriate under another law or regulation.

(3) Notice of the public hearing may be contained in the Notice of Completion or, if not so contained, shall be given in the same manner in which the Notice of Completion is [circulated] transmitted and filed pursuant to subdivision (a) of this section. In either case, the notice of hearing shall also be published at least 10 calendar days in advance of the public hearing in a newspaper of general circulation in the area of the potential impact and effect of the proposed action.

(4) Where a proposed action is simultaneously subject to ULURP, a public hearing conducted by the appropriate community or borough board and/or the City Planning Commission pursuant to ULURP shall satisfy the hearing requirement of this section. Where more than one hearing is conducted by the aforementioned bodies, whichever hearing last occurs shall be deemed the hearing for purposes of this chapter.

**§ 6-11 Final Environmental Impact Statements – Procedures.** (a) (;Interested and involved agencies assist with FEIS on request, *City Planning Rules § 5-05(b)(2).*); Except as provided in

paragraph (1) of this subdivision, the lead agencies shall prepare or cause to be prepared a final EIS within 30 calendar days after the close of a public hearing.

(1) If the proposed action has been withdrawn or if, on the basis of the draft EIS and the hearing, the lead agencies have determined that the action will not have a significant effect on the environment, no final EIS shall be prepared. In such cases, the lead agencies shall prepare, file and [circulate] transmit a Negative Declaration as prescribed in § 6-07 of this chapter.

(2) The final EIS shall reflect a revision and updating of the matters contained in the draft EIS in light of further review by the lead agencies, comments received and the record of the public hearing.

(b) Immediately upon the completion of a final EIS, the lead agencies shall prepare, file, [circulate] transmit and make available for public inspection a Notice of Completion of a final EIS in a manner specified in § 6-11(a) of this chapter, provided, however, that the Notice shall not contain the statement described in subparagraph (a)(1)(iv) of such section.

(c) Immediately upon completion of a final EIS, [copies] it shall be filed and made available for public inspection in the same manner as the draft EIS pursuant to § 6-11(b) of this chapter.

**§ 6-12 Agency Decision Making.** (a) No final decision to carry out or approve an action which may have a significant effect on the environment shall be made until after the filing and consideration of a final EIS.

(1) *(Inapplicable, City Planning Rules, § 5-02(a).);*

(2) *(Inapplicable, City Planning Rules, § 5-02(a).);*

(b) When an agency decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written decision:

(1) consistent with social, economic and other essential considerations of state and city policy, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects to the maximum extent possible, including the effects disclosed in the relevant environmental impact statement;

(2) consistent with social, economic and other essential considerations of state and city policy, all practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

(c) For public information purposes, [a copy of] the Decision shall be filed in the same manner as the draft EIS pursuant to § 6-11(b) of this chapter.

**§ 6-13 Programmatic Environmental Impact Statements.** (a) Whenever possible, agencies shall identify programs or categories of actions, particularly projects or plans which are wide in scope or implemented over a long time frame, which would most appropriately serve as the subject of a single EIS. Broad program statements, master or area wide statements, or statements for comprehensive plans are often appropriate to assess the environmental effects of the following:

(1) a number of separate actions in a given geographic area;

(2) a chain of contemplated actions;

(3) separate actions having generic or common impacts;

(4) programs or plans having wide application or restricting the range of future alternative policies or projects.

(b) No further EIS's need be prepared for actions which are included in a programmatic EIS prepared pursuant to subdivision (a) of this section. However:

(1) a programmatic EIS shall be amended or supplemented to reflect impacts which are not addressed or adequately analyzed in the EIS as originally prepared; and

(2) actions which significantly modify a plan or program which has been the subject of an EIS shall require a supplementary EIS;

(3) programmatic EIS's requiring amendment and actions requiring supplementary EIS's pursuant to this section shall be processed in full compliance with the requirements of this chapter.

§ 6-14 **Rules and Regulations.** (*Inapplicable, City Planning Rules § 5-02(a).*);

§ 6-15 **Lists of Actions.** (a) *Type I.* (*See City Planning Rules § 5-02(d).*); Type I actions enumerated in § 617.12 of 6 NYCRR 617 are likely to, but will not necessarily, require the preparation of an EIS because they will in almost every instance significantly affect the environment. However, ministerial actions never require the preparation of an EIS except where such actions may directly affect a critical area or an historic resource enumerated in paragraphs (22) and (23), respectively, of subdivision (a) of § 617.12. In addition, for the purpose of defining paragraph (2) of said subdivision and section, the following thresholds shall apply:

(1) relating to public institutions:

(i) new correction or detention centers with an inmate capacity of at least 200 inmates; (ii) new sanitation facilities, including:

(A) incinerators of at least 250 tons per day capacity;

(B) garages with a capacity of more than 50 vehicles;

(C) marine transfer stations;

(iii) new hospital or health related facilities containing at least 100,000 sq. ft. of floor area;

(iv) new schools with seating capacity of at least 1,500 seats;

(v) any new community or public facility not otherwise specified herein, containing at least 100,000 sq. ft. of floor area, or the expansion of an existing facility by more than 50 percent of size or capacity, where the total size of an expanded facility exceeds 100,000 sq. ft. of floor area.

(2) relating to major office centers: any new office structure which has a minimum of 200,000 sq. ft. of floor area and exceeds permitted floor area under existing zoning by more than 20 percent, or the expansion of an existing facility by more than 50 percent of floor area, where the total size of an expanded facility exceeds 240,000 sq. ft. of floor area.

(b) *Type II.*

(1) (*See City Planning Rules § 5-02(d).*); Type II actions will never require the preparation of an EIS because they are determined not to have a significant effect on the environment, except where such actions may directly affect a critical area or an historic resource enumerated in paragraphs (22) and (23), respectively, of subdivision (a) of § 617.12 of 6 NYCRR 617.

(2) (*Inapplicable. Replaced by State Type II list 6 NYCRR Part 617.13. See City Planning Rules § 5-02(a) and § 5-02(b)(2).*);

## **Chapter 6: Rules For the Processing of Plans Pursuant To Charter Section 197-a**

\* \* \*

### **§ 6-02 Plan Submission.**

(a) *Notification of Intent.* To assist the Department in anticipating the need for technical assistance for the preparation of plans in the efficient scheduling of their review, the sponsor of a plan shall notify the Department of its intent to prepare and submit a plan. This notice shall be given not less than ninety (90) days prior to the submission of a proposed plan. Periodically, the Department shall report to the Commission on the notices received and on the progress of 197-a plans underway.

(b) *Submission.* [Thirty (30) copies of a] All proposed plans shall be submitted to the Department of City Planning[, through its website or at [Intake Office, 22 Reade Street] 120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271 [007]]. If a plan has been initiated by a community board, borough board or Borough President, this initial submission shall include a summary record of the public hearing held by the board or Borough President. The submission shall also include the name(s) and address(es) of the person(s) designated by the sponsor to be its representative(s) in any discussions of the plan.

**§ 6-03 Threshold Review and Determination.**

(a) *Department Review.* Each proposed plan shall be reviewed by the Department staff who shall report to the Commission not later than 90 days after the plan's submission as to whether the plan appears to meet the standards for form and content and for consistency with sound planning, as set forth in § 6-04 of these rules. Prior to making the report, the staff shall inform the sponsor of all deficiencies with respect to form and content and any changes, additions or deletions which, in the opinion of the staff, may correct such deficiencies. The sponsor may, thereupon, indicate its willingness to make such changes, additions or deletions in which case the Department will defer its report to the Commission until the changes have been made. The sponsor may, instead, request that the plan be presented without change to the Commission for its threshold findings of form and content and sound planning policy. At the time of any Department report on a proposed plan, the Commission may receive a similar report from representatives of the sponsor.

(b) *City Planning Commission Determination.* Within 30 days after its presentation by the Department staff, the Commission shall determine, when required by the Charter and in accordance with the standards set forth in § 6-04 of these rules, whether the proposed plan is of appropriate form and sufficient content, and whether it is in accordance with sound planning policy. If the Commission has determined that a proposed plan does not meet the standards for form or content or for sound planning policy, it shall direct the plan back to the sponsor with a statement explaining its deficiencies. When the Commission has determined that a proposed plan is of appropriate form and content and is in accordance with sound planning policy, it shall direct the Department to undertake the necessary environmental review if the plan has been sponsored by a community board in accordance with Article 5 of these rules. If the plan has been sponsored by an agency other than a community board the Commission shall determine whether a Type II declaration, a negative declaration, or a notice of completion of a draft EIS has been issued, and if so, it shall direct the Department to distribute the plan in accordance with § 6-06 of these rules.

(c) *Coordination of Plan Review.* The Commission may determine that, despite its finding of appropriate form and content and sound planning policy, a proposed plan should not immediately proceed because there are other planning efforts, ULURP reviews or environmental studies underway which should be coordinated with the plan. In such a case, the Commission may direct the Department to work with the sponsor and any other interested agencies in developing an appropriate timetable and strategy for the plan, and to report back to the Commission.

(d) *Progress Report.* When 180 days has elapsed following a threshold determination pursuant to subdivision (b), if a proposed plan has not been distributed for review either because the environmental review remains incomplete, or because the plan has been delayed pursuant to subdivision (c), the sponsoring agency may make a written request to the Commission to expedite the plan's distribution. The Commission shall direct the Department to report in writing within a fixed period of time the progress of the plan, including any outstanding aspects of the environmental review, or any continuing problems of coordination delaying its review. Upon receipt of the report, the Commission may direct the Department to complete the review within a reasonable period of time.

\* \* \*

**§ 6-06 Plan Distribution and Review.**

(a) *Plan Distribution.* When pursuant to § 6-03(b) of these rules, the Commission directs the Department to distribute a proposed plan, the Department shall transmit [copies of] the plan simultaneously to all affected community boards, Borough Presidents and borough boards, as

defined in Charter §§ 196 and 197-a(c). The Commission may also direct its distribution to other agencies whose interests may be affected including neighboring community boards and Borough Presidents, and any city and state agency with jurisdiction over elements of the plan.

(b) *Community Board Review.* Each community board which has received from the Department of City Planning a proposed plan affecting land in its district shall conduct a public hearing on the plan except when a single borough-wide hearing is to be held on a borough plan. Notice of the public hearing shall be given and the hearing conducted in accordance with the ULURP rules for community board public hearings. Subsequent to the public hearing and within a period of sixty (60) days following its receipt of the plan, the community board shall transmit its written recommendation to the City Planning Commission with copies to the Borough President, City Council and the sponsor. The Community board which is the sponsor of a plan and which held a hearing on it prior to filing with the Department, need not hold a second hearing.

(c) *Borough president review.* The Borough President shall have one hundred twenty (120) days following the receipt of a proposed plan in which to review the plan and submit written recommendation to the City Planning Commission with copies to the City Council and sponsor. The Borough President may choose to conduct a public hearing on the plan.

(d) *Borough board review.* Each borough board which has received from the Department of City Planning a proposed plan affecting land in two or more community districts in its borough shall conduct a public hearing on the plan. Such public hearing shall take place and the report of the borough board shall be transmitted within one hundred twenty (120) days following its receipt of the plan. In the case of a plan affecting the entire borough, a single borough-wide public hearing may be held in lieu of separate hearings by the community boards. Notice of the public hearing shall be given and the hearing conducted in accordance with the ULURP rules governing borough board hearings. The borough board shall transmit its written recommendation to the City Planning Commission with copies to the City Council and the sponsor.

(e) *Request for review.* Any community board or borough board may make a written request to the Department to receive and review [a copy of] a proposed plan which does not involve land within its district or borough. In its request the Community board or borough board shall state the reason why the plan significantly affects the welfare of its district or borough. Upon receipt of the plan, the community board or borough board may conduct a public hearing and may make any recommendation to the City Planning Commission with copies to the City Council and sponsor. When it transmits such a plan, the Department shall notify the community board or borough board of the remaining time period during which it may review and comment on the plan.

(f) *Other requests.* A borough president may make a written request to the Department to receive and review [a copy of] a proposed plan for a district or area outside the borough. Any other interested party may similarly request a copy. Such request may be made to either the Department or the sponsor.

\* \* \*

#### **§ 6-09 Filing, Review and Revision.**

(a) *Filing.* Upon final adoption of a plan by the City Council, the plan shall be filed and indexed by the Calendar Officer of the Department. The Department shall make [copies of] the plan available for review by the public and shall transmit the plan to all affected agencies for their use.

(b) *Revision of Plans.* A plan may be periodically reviewed and revised by its sponsor or the Commission may initiate such review. Any such revision may be presented for adoption as an amendment to the plan in accordance with the procedures set forth in these rules.



(c) *Summary of Plans.* In each Zoning and Planning Report adopted pursuant to Charter § 192(b), the Commission shall include a summary of all 197-a plans adopted during the preceding four years.

\* \* \*

## **Chapter 8: Rules For the Processing of Applications For Permitted Parking Pursuant To Section 93-82 of the Zoning Resolution**

### **§ 8-01 Purpose.**

These rules of procedure are established for the review of applications for certification to allow permitted parking pursuant to §section 93-82 of the Zoning Resolution (ZR).

### **§ 8-02 Pre-Filing Process.**

#### *(a) Pre-Filing Review.*

(i) The applicant shall submit for review a draft application [, which draft application may be submitted electronically or in hard copy. Such draft application] which shall include zoning calculations for the site from which the number of permitted spaces for the site may be ascertained. Such draft applications shall be submitted to the Department of City Planning, [c/o] Director of the Department's Manhattan Office (hereinafter, "Director"). [, by mail to: New York City Department of City Planning, New York, New York 10007 or by email to: HYParking@planning.nyc.gov.] Upon receipt, the Director shall record the date and time of receipt. All applications shall be reviewed for completeness in order of receipt

(ii) The Department, acting by and through the Director, shall review each application for accuracy and completeness in order of receipt. The Director shall notify the applicant whether or not the application is complete and may be filed in accordance with the provisions of § 8-03, or whether the application is inaccurate or incomplete and requires revision. Such notification may be transmitted [mailed, faxed or emailed] to the applicant's representative, together with a specification of the portions of the application which are inaccurate or incomplete and require revision, if applicable.

(iii) The Director shall record the date and time of receipt of any revised draft application submitted in response to a notification provided under subparagraph (ii). A revised draft application shall be reviewed for completeness in order of receipt and the applicant's representative shall be notified of the Director's determination, pursuant to the procedure set forth subparagraph (ii) of this Section.

### **§ 8-03 Filing of Applications.**

(a) *Filing.* Following notification pursuant to §8-02(a) (ii) that a draft application is complete, the applicant shall file [nine (9) copies of] the application pursuant to § 10-09. [at] with the Department of City Planning[, Intake Office, 22 Reade Street, New York, New York 10007]. Applications which have not been reviewed and determined to be complete pursuant to § 8-02 shall not be accepted for filing. Applications shall not be permitted to be filed unless the fee has been paid or is paid concurrently with the submission of the application [accompanied by the payment of all applicable fees] in accordance with § 3-07(e)(4). Applications accepted for filing in accordance herewith shall be stamped by the Department with the date and time of filing.

\* \* \*

## Chapter 9: Rules For the Processing of Applications For Certification To Allow A Limited Increase In Street Wall Width Pursuant To Section 132-51 of the Zoning Resolution

\* \* \*

### **§ 9-02 Pre-Filing Process.**

- (a) The applicant must submit for review a draft application [, either electronically or in hard copy. Such draft application] which must include material required by the Department of City Planning ("the Department") demonstrating the information and items set forth in ZR Section 132-51. Draft applications must be submitted to the specific division of the Department that is designated on the application form for receipt of an application filed pursuant to ZR Section 132-51, by submission to [delivery or by mail to:] the division so named on the application form at the[,] New York City Department of City Planning. [, 22 Reade Street, New York, New York 10007, or by email to: RetailEC@planning.nyc.gov.] Upon receipt, the Department will record the date and time of receipt.
- (b) The Department will review each draft application for accuracy and completeness in order of receipt. The Department will notify the applicant in order of receipt whether the draft application is complete and may be filed in accordance with the provisions of § 9-03 of this title, or whether the draft application is incomplete and requires revision. Such notification will be provided via the delivery method identified by the applicant on the application form [(email, fax, or mail)], and will include a specification of the portions of the application that are incorrect or incomplete and require revision, if applicable.
- (c) The Department will record the date and time of receipt of any revised draft application submitted in response to a notification provided under subdivision (b) of this section. A revised draft application will be reviewed for completeness and the applicant will be notified of the Department's further determination in order of receipt of the revised draft application. Such notification of the Department's further determination will be provided pursuant to the procedure set forth in subdivision (b) of this section.

### **§ 9-03 Filing of Applications.**

*Filing.* Following notification pursuant to §9-02(b) or (c) of this title that a draft application is complete, the applicant must file [nine (9) copies of] the application pursuant to § 10-09. with [at] the Department of City Planning, [Central Intake Office, 22 Reade Street, New York, New York 10007]. Applications that have not been reviewed and determined to be complete pursuant to § 9-02 will not be accepted for filing. Applications [that are not accompanied by the payment of] shall only be accepted if all applicable fees in accordance with § 3-07(e)(4) of this title has been paid or is paid concurrently with the submission of the application [will not be accepted for filing]. Applications accepted for filing in accordance with these rules will be stamped by the Department with the date and time of filing.

\* \* \*

## Chapter 10: Pre-application Process: Submission and Meeting Participation Requirements Prior To Filing A Land Use Application Or Application For Environmental Review

\* \* \*

**§ 10-04 Pre-Application Statement.**

(a) Following the issuance of a Project ID number and notification pursuant to § 10-03(d) that the provisions of this section apply, an Applicant must submit a Pre-Application Statement ("PAS") to the Department. If an Applicant submits a PAS without a Project ID number pursuant to § 10-03(e), the Department must issue the Project ID number to such Applicant upon receipt of the PAS. A PAS consists of the PAS form and any accompanying materials required by the form. The PAS form is available on the Department's website or in hard copy from the Department. The completed PAS must be submitted [electronically, or in hard copy with the number of copies specified on the form] to the division or office of the Department indicated on the form.

(b) Within twenty (20) days of receiving an Applicant's PAS, the Department must provide the Applicant with a [return receipt by email if the Applicant provided an email address, or otherwise by email,] confirm[ing]ation of the receipt of the PAS, and:

(1) review the PAS to determine whether it has been submitted in the proper format and clearly and fully sets forth the information requested by the PAS form; and

(2) notify the Applicant that:

(i) the PAS is complete; or

(ii) additional or revised materials must be submitted to the Department. The Applicant must furnish any such additional or revised materials where the Department has made such a request. Within thirty (30) days of receiving such additional or revised materials, the Department must review such materials and notify the Applicant that the PAS is complete or that additional or revised materials must be submitted. The Department may continue requesting such materials in accordance with the procedures set forth in this paragraph until such time that the Department determines that the PAS is complete.

(3) upon notifying the Applicant that the PAS is complete, also notify the Applicant that:

(i) the Department will hold an ID Meeting pursuant to § 10-05, if the proposed project requires more than one division to review the land use application or application for environmental review material, and the divisions must coordinate their respective reviews to ensure that consistent and non-conflicting feedback is provided to Applicants; or

(ii) the Department will not hold an ID Meeting and the project is:

(A) classified as Type I or Unlisted, pursuant to SEQR, and subject to the procedures set forth in § 10-06; or

(B) classified as Type II, pursuant to SEQR, such that the procedures set forth in § 10-06 and § 10-08 do not apply. When providing notification pursuant to this paragraph, the Department must also notify the Applicant whether the Applicant is subject to the procedures set forth in § 10-07 or may directly proceed to file a land use application pursuant to § 10-09.

(c) If the Department fails to notify an Applicant pursuant to subdivision (b) of this section, the Applicant may proceed with filing a land use application as set forth in § 10-09 or an application for environmental review as set forth in § 10-10.

\* \* \*

**§ 10-06 Reasonable Worst Case Development Scenario (RWCDs).**

(a) Following notification to an Applicant pursuant to § 10-04(b)(3)(ii)(A) or § 10-05(b)(2)(i), as applicable, that the Applicant's project is classified as Type I or Unlisted, an Applicant proceeding with filing a land use application or application for environmental review must submit [electronically by email or a hard copy by mail,] a RWCDs Memorandum. The memorandum must be on a form provided by the Department that is available on the Department's website [or in hard copy from the Department]. The memorandum must set forth a description of, and the

basis for, the RWCDs that may result from the land use actions that facilitate the proposed project. A RWCDs is a conservative projection of the development that may occur pursuant to a discretionary action and is used by the Department to make reasonable conclusions regarding a land use action's likely effects on the environment, consistent with the requirements of SEQR/CEQR and the guidance of the City's CEQR Technical Manual.

(b) Within ninety (90) days of receiving a RWCDs Memorandum, the Department must review the memorandum and:

(1) notify an Applicant that:

(i) the Department accepts the RWCDs Memorandum and the Applicant may proceed to submit, pursuant to the procedures set forth in § 10-08, a draft CEQR short/full form as provided by the Mayor's Office of Environmental Coordination; or

(ii) the Department requires further information or a RWCDs Meeting in order to review and clarify the assumptions underlying the RWCDs Memorandum. Where a RWCDs Meeting is required, the Department must hold the meeting within thirty (30) days of notifying the Applicant that the Department requires a RWCDs Meeting, subject to the Applicant's availability. If the Applicant is not available within this period, the Department must hold the meeting as soon as practicable at a time at which both the Department and the Applicant are available. A RWCDs Meeting may be held in person, by telephone, or by other electronic means, including teleconference, as the Department deems appropriate. Within forty-five (45) days of receiving additional information or holding a RWCDs Meeting, the Department must notify the Applicant that it accepts the RWCDs Memorandum and the Applicant may proceed to submit a draft CEQR short/full form pursuant to the procedures set forth in § 10-08, or that it requires further information or an additional RWCDs Meeting in accordance with the procedures set forth in this paragraph in order to review and clarify the assumptions underlying the memorandum until such time that the Department accepts the memorandum and the Applicant may proceed to submit a draft CEQR short/full form.

(2) upon notifying an Applicant that the Department has accepted the Applicant's RWCDs Memorandum and that the Applicant may proceed to submit a draft CEQR short/full form, also notify the Applicant whether the Applicant is subject to the procedures set forth in § 10-07 or, if not subject the Applicant may directly proceed to file a land use application pursuant to § 10-09.

(c) If the Department fails to notify an Applicant pursuant to subdivision (b) of this section, the Applicant may proceed with filing a land use application as set forth in § 10-09 and an application for environmental review as set forth in § 10-10.

#### **§ 10-07 Draft Land Use Application.**

(a) The Department may request a draft land use application where a high degree of technical expertise is necessary to produce the land use application materials for an Applicant's proposed project. Following notification to an Applicant pursuant to § 10-03(d)(2)(ii), § 10-04(b)(3)(ii)(B), § 10-05(b)(2)(ii), or § 10-06(b)(2), as applicable, that the Applicant is subject to the procedures set forth in § 10-07, an Applicant proceeding with filing a land use application must submit a draft land use application to the Department for review. The Applicant must submit [, electronically by email or a hard copy by mail,] the draft land use application to the [Borough Office project manager handling the Applicant's project] Department. Such application must include all required forms, documents, and exhibits [in the manner] as required by instructions for submitting a land use application which are set forth on the Department's website and available upon request in hard copy from the Department.

(b) Within ninety (90) days of receiving a draft land use application, the Department must review the draft application and:

(1) notify an Applicant that the draft application includes all such required forms, documents, and exhibits as [in the manner] required by the instructions for submitting a land use

application, such that the Applicant may proceed to file a land use application pursuant to § 10-09; or

(2) notify an Applicant that the draft land use application is missing one or more required forms, documents, or exhibits, or is not submitted as [in the manner] required by the instructions for submitting a land use application. The Applicant must submit a revised draft land use application to the Department. Within forty-five (45) days of receiving the revised draft land use application, the Department must review it and notify the Applicant that the Applicant may proceed to file a land use application pursuant to § 10-09, or that additional or revised materials must be submitted. The Department may continue requesting such materials in accordance with the procedures set forth in this paragraph until such time that the Department determines that the Applicant may proceed to file a land use application pursuant to § 10-09.

(c) If the Department fails to notify an Applicant pursuant to subdivision (b) of this section, the Applicant may proceed with filing a land use application as set forth in § 10-09.

### **§ 10-08 Draft City Environmental Quality Review.**

(a) Following notification to an Applicant pursuant to § 10-06(b)(1) that the Applicant may proceed to submit a draft CEQR short/full form, an Applicant proceeding with filing an application for environmental review must submit a draft CEQR short/full form to the Department for review. The Applicant must submit [electronically by email or a hard copy by mail,] the draft CEQR short/full form to the Department and notify the Environmental Assessment Review division project manager handling the Applicant's project. Such application must include all required forms, documents, and exhibits [in the manner] as required by instructions for submitting a CEQR short/full form as provided by the Mayor's Office of Environmental Coordination.

(b) Within ninety (90) days of receiving a draft CEQR short/full form, the Department must review the draft and:

(1) notify an Applicant that the draft CEQR short/full form is substantially complete in form and substance such that the Applicant may proceed to file an application for environmental review pursuant to § 10-10; or

(2) provide comments to an Applicant on the draft CEQR short/full form, which the Applicant must address to the Department's satisfaction before the Applicant may proceed to file an application for environmental review pursuant to § 10-10. Within forty-five (45) days of receiving a revised draft CEQR short/full form, the Department must review the revised draft and notify the Applicant that the revised draft is substantially complete in form and substance such that the Applicant may proceed to file an application for environmental review pursuant to § 10-10, or that the revised draft does not address, in whole or in part, the comments previously provided by the Department to the Applicant, in which case the review process must continue in accordance with the procedures set forth in this paragraph until the Department determines that the draft is substantially complete in form and substance and the Applicant may proceed to file an application for environmental review pursuant to § 10-10.

(c) If the Department fails to notify an Applicant pursuant to subdivision (b) of this section, the Applicant may proceed with filing an application for environmental review as set forth in § 10-10.

### **§ 10-09 Filing of Land Use Application.**

(a) After an Applicant receives notification pursuant to § 10-03(d)(2)(ii), § 10-04(b)(3)(ii)(B), § 10-05(b)(2)(ii), § 10-06(b)(2), or § 10-07(b), as applicable, that it may proceed to file a land use application, the Applicant may file such application [at] with the Department [‘s Central Intake] in accordance with § 2-02(a)(1) of Title 62 of these rules.

(b) Notwithstanding subdivision (a) of this section, an Applicant may proceed with filing a land use application where otherwise provided in this chapter.

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** IMPLEMENTATION OF PAPERLESS FILING

**REFERENCE NUMBER:** 2017 RG 073

**RULEMAKING AGENCY:** DEPARTMENT OF CITY PLANNING

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: November 29, 2017

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Implementation of Paperless Filing**

**REFERENCE NUMBER: DCP-6**

**RULEMAKING AGENCY: Department of City Planning**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro  
Mayor's Office of Operations

November 29, 2017  
Date