SUPPLEMENT TO

THE CITY RECORD

THE COUNCIL —STATED MEETING OF

MONDAY, APRIL 30, 2012

THE COUNCIL

Minutes of the Proceedings for the
STATED MEETING
of
Monday, April 30, 2012, 2:50 p.m.

The President Pro Tempore (Council Member Rivera)
Acting Presiding Officer

Council Members

Christine C. Quinn, Speaker

Maria del Carmen Arroyo	Vincent J. Gentile	James S. Oddo
Charles Barron	Sara M. Gonzalez	Annabel Palma
Gale A. Brewer	David G. Greenfield	Domenic M. Recchia, Jr.
Fernando Cabrera	Daniel J. Halloran III	Diana Reyna
Margaret S. Chin	Vincent M. Ignizio	Joel Rivera
Leroy G. Comrie, Jr.	Letitia James	Ydanis A. Rodriguez
Elizabeth S. Crowley	Peter A. Koo	Deborah L. Rose
Inez E. Dickens	G. Oliver Koppell	James Sanders, Jr.
Erik Martin Dilan	Karen Koslowitz	Larry B. Seabrook
Daniel Dromm	Bradford S. Lander	Eric A. Ulrich
Mathieu Eugene	Jessica S. Lappin	James Vacca
Julissa Ferreras	Stephen T. Levin	Peter F. Vallone, Jr.
Lewis A. Fidler	Melissa Mark-Viverito	Albert Vann
Helen D. Foster	Darlene Mealy	James G. Van Bramer
Daniel R. Garodnick	Rosie Mendez	Mark S. Weprin
James F. Gennaro	Michael C. Nelson	Jumaane D. Williams
		Ruben Wills

Excused: Council Member Jackson.

The Majority Leader (Council Member Rivera) assumed the Chair as the President Pro Tempore and Acting Presiding Officer.

After being informed by the Deputy City Clerk and Acting Clerk of the Council (Ms. Fuentes), the presence of a quorum was announced by the President Pro Tempore (Council Member Rivera).

There were 50 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, N.Y., N.Y. 10007.

INVOCATION

The Invocation was delivered by Council Member Fernando Cabrera.

Let's bow our heads.
Lord, we come before you as Council Members,
recognizing that unless you build a house,
he who builds, builds in vain.
We ask you for strength,
we ask you for peace,
we ask you for sound judgment
to make the right decisions
that are going to be impacting literally
thousands upon thousands of people.
We ask you that, Lord,
That today there be anything in our minds
and our hearts that would, Lord,
just take away from what we have to do,
that you will just remove it.
We thank you for the opportunity
to serve this great city,
the greatest city in the world.
We pray all these things
in your mighty name
and everyone says.
Amen.

Council Member Wills moved to spread the Invocation in full upon the Record.

At this point, the Speaker (Council Member Quinn) asked for a Moment of Silence in memory of the following individuals:

Enoch Williams, 84, former New York City Council Member, died on April 24, 2012. A World War II veteran who worked his way up from private to Major General, Council Member Williams was a decorated officer who also served as the commanding officer of the New York State Guard. He served in the City Council for twenty years from 1978 through 1997 where he represented the constituents of the 41st Council District in Brooklyn. N.Y. As chair of the Committee on Youth Services, he fought for school programs and increased funding for the Summer Youth Employment program. After leaving the Council, Council Member Williams retired to Florida where he organized Democratic clubs and veterans' groups. He is survived by wife, Marian, his children, his 17 grandchildren, and three great grandchildren.

At this point, the floor was yielded to the Majority Whip (Council Member Vann) who spoke in respectful memory of his friend, Council Member Enoch Williams.

At this point, the Speaker (Council Member Quinn) also sadly noted the death of Council Member Jackson's father-in-law as well as the death of Alan Rodus, the father of longtime Council staffer Jeffrey Rodus.

ADOPTION OF MINUTES

Council Member Chin moved that the Minutes of the Stated Meeting of March 28, 2012 be adopted as printed.

MESSAGES & PAPERS FROM THE MAYOR

M-798

Communication from the Mayor - Mayors veto and disapproval message of Introductory Number 18-A, in relation to establishing a prevailing wage

requirement for building service employees in city leased or financially assisted facilities.

April 25, 2012

Michael McSweeney
City Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney:

Transmitted herewith is the bill disapproved by the Mayor. The bill is as follows:

Introductory Number 18-A

A local law to amend the administrative code of the city New York, in relation to establishing a prevailing wage requirement for building service employees in city leased or financially assisted facilities.

Sincerely,

Patrick A. Wehle

(The following is the text of the Mayor's Veto and Disapproval Message regarding Int No. 18-A:)

April 25, 2012

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney:

Pursuant to Section 37 of the New York City Charter, I hereby disapprove Introductory Number 18-A, which would amend the Administrative Code of the City of New York "in relation to establishing a prevailing wage requirement for building service employees in city leased or financially assisted facilities."

Introductory Number 18-A would mandate the payment of a prevailing wage to building service employees in connection with non-exempted projects that receive from the City at least $1 million in discretionary financial assistance for large commercial or residential housing projects. Employers would be required to maintain extensive records and to report on hours, wage and benefit information for all such employees. It would also mandate the payment of a prevailing wage in buildings in which the City leases space resulting in additional significant leasing costs to the City and make the City a less attractive tenant to landlords. It would threaten some of the City's most innovative economic development projects, and at the same time hamper our ability to build and preserve affordable housing. With its onerous reporting requirements and penalties, the bill would discourage businesses from engaging in the kinds of economic development projects that are vital to the City. Furthermore, Introductory Number 18-A seeks to legislate in subject areas, and to assert jurisdiction over entities, that are governed by State law. Moreover, by prescribing business terms for the acquisition and disposition of real property in contravention of the land use processes set forth in the Charter, and by providing a prominent enforcement to the City Comptroller, this proposal would upset the balance of powers, carefully crafted in the Charter, among elected officials.

The creation of well-paying, sustainable jobs has never been more critical to New York City residents and to the future of the City's economic health, which is why we have waged an aggressive ten-year campaign of job creation and workforce skill development that is designed to help expand economic opportunity for all New Yorkers. This has been central to the strategy to power the City's recovery from the Great Recession, and it has yielded promising results. In 2011, New York City created new private-sector jobs at a rate that was approximately 55% faster than the nation as a whole. Furthermore, as of March 2012, New York City had gained back an encouraging 185% of private sector jobs lost during the recession, compared to merely 42% of those recaptured nationwide.

Despite these results, there remain too many New Yorkers who are unemployed and looking for work. Part of our ongoing efforts involves incentive programs to encourage job-creating developments that otherwise would not occur, often in low- and moderate-income communities, or in challenging sectors of the economy such as industrial developments. Our focus with these programs is not companies who have clearly established a competitive advantage and do not need any additional incentive to be here, but rather those projects that are on the margins, where targeted support induces developers to make investments that would otherwise be financially unfeasible. Often, it means the difference between jobs gained and jobs lost.

This bill—which would increase the costs associated with development by mandating higher staff costs for projects receiving financial assistance from the City—would erase the competitive advantage induced by this assistance. It will make it harder for companies—which have the option to do business anywhere—to make decisions to invest in New York.

When the value of these incentives are cancelled out, the cost of the projects are passed along to others—either to taxpayers, in the form of making higher subsidies necessary to incentivize these types of projects, or to the end-user—consumers who will be faced with higher prices for goods and services. Additionally, other projects may not move forward at all because they are no longer financially viable. This is particularly troubling for industrial companies, which provide good-paying, high-quality jobs for hundreds of thousands of New Yorkers. This bill would make it more difficult for them to stay here and expand at a time when the City should be making it easier for them.

Moreover, the penalties included in this legislation—rescinding financial assistance for noncompliance—would complicate potential lenders' ability to quantify the risks inherent in a project, which in turn would make it more difficult for projects that are already financially challenging to access financing. This poses significant challenges for companies in planning for the future, and it could dissuade them from expanding and hiring.

The bill would further require private owners to pay building service employees a prevailing wage when the City leases space. Having the City as a tenant can be an important tool for spurring economic development—especially outside Manhattan—but this bill would impose additional costs on these buildings, making the City a less attractive tenant. The cost of the bill would also fall on taxpayers by driving up rents for City-leased space in private buildings, because property owners will pass along the added staff costs mandated by this legislation the form of higher rents.

While this bill would result in higher wages for some workers, these increases would come at the cost of job creation. It also would reduce opportunities for entry-level workers, because if employers are forced to pay higher wages, they will choose to hire more experienced employees to economically justify the increased costs. I will not endorse a law that risks having the opposite impact of its intentions, distorting the market in such a way that would reduce opportunities for those who most need them and force taxpayers to bear the burden.

Apart from raising these important policy concerns, Introductory Number 18-A is legally flawed for several significant reasons.

The bill seeks to cover parties and circumstances that are remote from direct City involvement, and also generally regulates payment of wages in transactions of the City that are not procurements of goods or services and thus are not within the City's specified home rule powers in light of a State-wide minimum wage. It defines categories of prevailing wage work under circumstances that the State Legislature has not subjected to prevailing wage requirements even where public agencies contract directly for the services. These measures effectively amount to an effort to impose a regulatory minimum wage upon sectors of the City economy, a subject matter reserved to the State under applicable Court of Appeals case law.

Moreover, the bill purports to set the terms under which the City may acquire an interest in real property or may dispose of real property for development projects, thus preventing the Mayor and executive agencies from dealing with other parties in real property transactions. This constitutes an improper infringement upon the discretionary powers of the Mayor and other officials involved in the land use review processes. By allowing the City Council to go beyond its prescribed role of reviewing land use decisions through processes specified in the Charter, the bill would unlawfully alter the balance among key City officials.

By using broad definitions of terms such as "city economic development entity" and "financial assistance", the bill appears to seek to cover projects aided by various entities created by State law to further goals such as affordable housing and economic development. To the extent that the bill frustrates the purposes of such State laws or otherwise interferes with such programs, it would be pre-empted. Finally, the bill improperly provides a major role in enforcement investigations to the City Comptroller. The Charter generally does not provide to the Comptroller this type of proactive role in investigations and enforcement given the role of the Mayor and his appointees in executing the laws. In other prevailing wage schemes, the Comptroller's role has been authorized by the State Legislature, but that is not the case here.

My administration has sought to work with the Council to strike the proper balance between improving the employment opportunities of the City's workers and creating opportunities for innovative economic development programs. Unfortunately, this bill goes further than we believe to be in the City's best interests and is impermissible on both policy and legal grounds.

Accordingly, I hereby disapprove Introductory Number 18-A.

Sincerely,

Michael R. Bloomberg
Mayor

•

Referred to the Committee on Finance.

COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES

M-799

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Samfort Car Service L.L.C., Council District 35, pursuant to Section 19-511(i), of the administrative code of the city of New York.

April 23, 2012

The Honorable Speaker Christine C. Quinn
Attention: Mr. Gary Altman
Council of the City of New York
250 Broadway, 15th Floor
New York, New York 10007

Re: Taxi & Limousine Commission
For-Hire Vehicle Base License approvals

Dear Speaker Quinn:

Please be advised that on April 19, 2012 the Taxi & Limousine Commission voted to approve the following for-hire vehicle base license application:

RENEWAL (2):	LICENSE #	COUNCIL DISTRICT
Samfort Car Service L.L.C.	B02318	35
One Cancun Car Service	B02300	48

The complete application packages compiled for the above bases are available for your review upon request. If you wish to receive a copy please contact Ms. Michelle Lange, Business Licensing Unit, at langem@tlc.nyc.gov. Please find enclosed herein the original applications for the approved base stations.

Very truly yours,

Christopher Tormey
Director of Applicant Licensing
Licensing & Standards Division
Taxi & Limousine Commission

Referred to the Committee on Transportation.

M-800

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license One Cancun Car Service, Council District 48, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC Letter, please see M-799 printed above in this Communications from City, County and Borough Offices section of the Minutes)

Referred to the Committee on Transportation.

LAND USE CALL UPS

M-801

By Council Member Jackson:

Pursuant to Rule 11.20(b) of the Council and Section 20-226 (g) or Section 20-225(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed/enclosed sidewalk café located at 247 Dyckman Street, Borough of Manhattan, Committee Board no. 12, Application 20125338 TCM shall be subject to review by the Council.

Coupled on Roll Call.

LAND USE CALL UP VOTE

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such motion which was decided in the **affirmative** by the following vote:

Affirmative –Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Halloran, Ignizio, James, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Recchia, Reyna, Rodriguez, Rose, Sanders, Seabrook, Ulrich, Vacca, Vallone Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, Rivera and the Speaker (Council Member Quinn) – **50.**

At this point, the President Pro Tempore (Council Member Rivera) declared the aforementioned item **adopted** and referred this item to the Committee on Land Use and to the appropriate Land Use subcommittee.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Contracts

Report for Int. No. 251-A

Report of the Committee on Contracts in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring the payment of a living wage to employees employed on property developed by recipients of financial assistance for economic development.

The Committee on Contracts, to which the annexed amended proposed local law was referred on May 25, 2010 (Minutes, page 1896), respectfully

REPORTS:

Introduction

On April 30, 2012, the Committee on Contracts (the "Committee"), chaired by Council Member Darlene Mealy, will meet to vote on Proposed Int. No. 251-A (the "bill" or the "legislation"), which would require the payment of a "living wage" to those employed on property developed by recipients of financial assistance for economic development from New York City. The Committee held hearings on prior versions of the legislation on May 12, 2011 (the "May hearing") and November 22, 2011 (the "November hearing").

Background

An Overview of Living Wage

The term "living wage" describes compensation sufficiently high that a full-time worker can support a family at a standard of living above the poverty line.[1] Living wages are distinct from their predecessors, minimum wages—while minimum wage laws set a statutory floor for remuneration paid by all employers within a given jurisdiction, living wage laws establish the lowest compensation to be paid by a small subset of employers with business and financial ties to the government.[2] Baltimore enacted the first living wage law in 1994 to ensure that government contractors did not pay poverty wages.[3] Today, many living wage laws also target employers in connection with government subsidized economic development projects.[4]

for the Lower Ma

[1] Mark D. Brenner, "The Economic Impact of Living Wage Ordinances," University of Massachusetts Amherst, Political Economy Research Institute, July 2003, available at http://www.peri.umass.edu/fileadmin/pdf/working_papers/working_papers_51-100/WP80.pdf.

[2] *See* Harry J. Holzer, "Living Wage Laws: How Much Do (Can) They Matter," Brookings Institution Metropolitan Policy Program, Dec. 2008, available at http://www.brookings.edu/~/media/Files/rc/reports/2008/1210_living_wage_holzer/living_wage_report.pdf

[3] Lester, T William and Ken Jacobs. "Creating Good Jobs in Our Communities: How Higher Wage Standards Affect Economic Development and Employment," Center for American Progress Action Fund, Nov. 2010, available at http://www.americanprogressaction.org/issues/2010/11/pdf/living_wage.pdf.

[4] *Id.*

Proponents of living wage laws extoll the benefits of such legislation on both employees and employers.[5] There is, however, a great deal of uncertainty among economists regarding the economic impacts of living wage laws. Over the past two decades, many cities across the country instituted living wage laws,[6] but because of: (i) large variations in the way such laws are tailored and enforced; (ii) the relatively small number of wage earners that the laws directly affect; and (iii) the difficulties of acquiring relevant data, isolating and measuring the direct impacts of these laws is problematic. Nonetheless, most scholarship on the subject falls into one of two basic camps.

Those in the first find that living wage laws do what they are intended to do, namely boost incomes for low wage earners who are below the federal poverty line. Economists who espouse this position generally find minimal, if any, negative side effects of living wage laws: few, if any, job losses due to higher labor costs; small, if any, decline in overall economic output; and little, if any, increased costs to taxpayers and consumers as a result of higher prices.[7] The "pro-living wage" camp also contends that the higher labor costs associated with living wage laws are relatively small as a percentage of total revenues, and notes that although employers can respond to higher labor costs by reducing labor and output, they can also respond by increasing productivity, raising prices, and/or subsisting on lower profits.[8] Essentially, the pro-living wage scholars argue that because the higher labor costs associated with living wage laws are small, they are primarily absorbed through increased productivity gained from lower turnover and higher morale and from minor price increases.[9] Accordingly, these scholars conclude that economic output and jobs do not suffer from the enactment of living wage legislation and that costs are not passed down to taxpayers or consumers in any significant way.

Economists in the second camp take the opposing view, finding that higher labor costs associated with living wage laws hurt the very people such laws are intended to help by forcing employers to reduce the overall number of low wage, low skilled jobs.[10] As a result, they argue, living wage laws simply redistribute income from some low wage workers to others. And while the workers receiving the additional income are moderately better off, the workers losing their jobs are significantly worse off, as they go from earning a low wage to earning no wage.[11] Opponents of living wage laws also note that increased labor costs on the lower end of the wage spectrum may reduce the number of higher wage jobs, reduce economic output, and increase costs to taxpayers and consumers as a result of higher prices or the need to provide greater subsidies in order to attract the same amount of investment.[12]

In response to claims regarding increased productivity due to lower turnover and higher morale, these economists argue that any such productivity increase cannot possibly be large enough to compensate for the higher labor costs, since profit-maximizing firms would already have raised wages if this was in their interest.[13] The economists who find living wage laws problematic also maintain that the administrative costs and bureaucratic burden of complying with such laws, including the attendant costs associated with the risk of being found non-compliant, are substantial.[14] Finally, they argue that the benefits of living wage laws largely do not reach their intended targets: workers whose total household income puts them below the poverty line. Rather, many workers earning wages that are at or slightly above the minimum wage come from middle income households and/or are seeking to supplement their incomes (such as teenagers or senior citizens).[15]

Living Wage in New York City – Current Law and the Proposed Legislation

In 1996, the Council passed Local Law 79, which established a prevailing wage mandate covering employees performing building, food, and temporary services under a City contract.[16] In 2002, the Council passed Local Law 38, which extended the wage protections of Local Law 79 to require a living wage for care providers of Medicaid homecare, center-based day care, and Head Start programs.[17]

Proposed Int. No. 251-A, which would require direct recipients of economic development subsidies and certain employers in connection with property that was developed or improved with such subsidies to pay employees a living wage, would again expand the population of employees covered by living wage legislation. The legislation raises many of the same issues covered in the above discussion of living wage laws.

The EDC's Study

In 2010, the New York City Economic Development Corporation ("EDC") commissioned Charles River Associates to study the economic impact of the then proposed living wage legislation (Int. No. 251-2010, an earlier draft of the legislation being considered today).[18] On May 9, 2011, the EDC published a preliminary report of key findings from this study, which reviewed the effects of living wage laws in other cities and forecast effects of the proposed legislation in New York City.[19] On October 5, 2011, the EDC released the final report, "The Economic Impacts on New York City of Proposed Living Wage Mandate."[20] The study found, in substance, that the enactment of the proposed living wage legislation would generate only negligible benefits for low wage workers in New York City and would trigger wide scale employment losses as a result of a decline in real estate investments.[21] Most job and investment losses would occur in the outer boroughs, where financial assistance is most needed to spur development.[22] Specifically, the study found that 34,000-62,000 low wage workers would receive an average wage gain of $1.65-$1.67 per hour.[23] This gain among some low wage workers would come at the expense of 6,000-13,000 fewer low wage jobs, as employers cut back due to higher labor costs.[24] Furthermore, the report noted that 33 percent of retail developments in the outer boroughs and 24 percent of office projects in Manhattan would not proceed as a result of the legislation, causing a loss of 33,000 jobs per year at all compensation levels[25] and losing the City $7 billion in private investment.[26] The study found similar employment effects in other cities, and concludes that living wage laws do not have an appreciable effect on reducing poverty.[27]

Many objected to the methodology and conclusions drawn in the study. Following the release of the key findings, a coalition of living wage advocates issued a research brief that criticized the study for its estimation of real estate market impacts, on the basis that such impacts were premised on a subsidy that was not covered by the law, and its evaluation of labor market impacts, on the basis that the methodology utilized was unreliable.[28]

The May Hearing

The Committee considered Proposed Int. No. 251-A, a slightly revised version of the original 2010 introduction, on May 12, 2011.[29] Over the course of nearly six hours, the Committee heard testimony from 42 witnesses. The Committee also received an additional 26 submissions of written testimony.

In sum, advocates emphasized the need for City subsidized projects to provide decent wages.[30] These advocates argued that the increased costs of the bill were too small to make a noticeable impact on the City's economy, and that the number of jobs and total economic output would not be affected.[31] Opponents appreciated the goal of addressing poverty, but worried that increased labor costs mandated by the legislation would diminish the appeal of the City's financial assistance programs, meaning that the City would either need to provide larger subsidies, or that development projects would be stymied, sapping the City of jobs and economic growth.[32] In addition, beyond the costs associated with higher wages, opponents expressed concern about the expenditure of money and other limited resources on enforcement and compliance, as: (i) all employers benefitting from financial assistance—including those exempt from the wage and benefit requirement—would need to report on their payrolls; and (ii) all who receive financial assistance would have to ensure the compliance of, among others, their tenants, leaseholders, and contractors.[33]

At the outset of the hearing, one of the prime sponsors of the bill described it as a work in progress,[34] and as witnesses registered specific concerns about the legislation, other sponsors reiterated this willingness to negotiate and revise the bill.[35]

for the Lower Ma———————————————

[5] *See, e.g.,* "Top Ten Reasons A Living Wage Makes Sense for New York City," Fiscal Policy Institute, May 5, 2011.

[6] *Supra* note 2. Many large U.S. cities—including Los Angeles, San Francisco, Detroit, Philadelphia, San Antonio, Santa Fe, Cleveland, and Minneapolis—have instituted living wage laws that are tied to economic subsidies. *Supra* note 3.

[7] *Supra* note 3.

[8] Reich, Hall and Jacobs, "Living Wages and Economic Performance: The San Francisco Airport Model," Institute of Industrial Relations, University of California, Berkeley, Mar. 2003, available at http://www.irle.berkeley.edu/research/livingwage/sfo_mar03.pdf.

[9] *Id.*

[10] Tolley, Bernstein and Lesage. "Economic Analysis of a Living Wage Ordinance," Employment Policies Institute, July 1999, available at http://epionline.org/studies/tolley_07-1999.pdf.

[11] Aaron Yelowitz, "Santa Fe's Living Wage Ordinance and the Labor Market," Employment Policies Institute, Sept. 23, 2005, available at http://epionline.org/studies/yelowitz_09-2005.pdf.

[12] *Supra* note 10.

[13] Interviews of labor economists conducted by Committee staff, April–May 2011.

[14] *Supra* note 10.

[15] *Id*.

[16] Local Law 79 of 1996.

[17] Local Law 38 of 2002; *see also*, Committee Report, *Proposed Int. No.66-A*, Oct. 30, 2002, Committees on Governmental Operations and Contracts.

[18] New York City Economic Development Corporation, *Work Begins on Comprehensive Study Regarding Effects of Wage Policy on New York City's Economy*, August 12, 2010, available at http://www.nycedc.com/PressRoom/PressReleases/Pages/WorkBeginsonWagePolicy.aspx.

[19] On file with Committee staff.

[20] *See* Daniel Massey, *Study restarts war over living-wage bill*, Crain's New York Business, Oct. 5, 2011.

[21] *See The Economic Impacts on New York City of Proposed Living Wage Mandate,* Charles River Associates, available at http://www.nycedc.com/sites/default/files/filemanager/Resources/Studies/CombinedReportLivingWageImpacts.pdf.

[22] *Id.*

[23] *Id.* Such gains are estimated over a 20 year period. *See* Daniel Massey, *Living wage bill would kill city jobs, study says*, Crain's New York Business, May 9, 2011.

[24] *Supra* note 21.

[25] *Id.*

[26] Daniel Massey, *Living wage bill would kill city jobs, study says*, Crain's New York Business, May 9, 2011.

[27] *Supra* note 21.

[28] *An Assessment of the Methods and Findings of the New York Economic Development Corporation's Living Wage Study*, May 12, 2011, available at http://www.nelp.org/page/-/Justice/2011/AssessmentEDCStudyMay2011.pdf?nocdn=1.

[29] For a summary of the original revisions to Int. No. 251-2010, *see* Committee Report, *Proposed Int. No. 251-A*, May 12, 2011, Committee on Contracts, at 18.

[30] *See generally,* Transcript, *Proposed Int. No. 251-A*, May 12, 2011, Committee on Contracts.

[31] *See* Testimony of Bill Lester, Transcript, *Proposed Int. No. 251-A*, May 12, 2011, Committee on Contracts, at 182-184.

[32] *See, e.g.,*Testimony of Lamont Blackstone and Pat Brodhagen, Transcript, *Proposed Int. No. 251-A*, May 12, 2011, Committee on Contracts, at 253-258.

[33] *See, e.g.,* Testimony of Mary Ann Rothman, Transcript, *Proposed Int. No. 251-A*, May 12, 2011, Committee on Contracts, at 203-205. *See also, supra* note 18.

[34] Opening Statement of Council Member Oliver Koppell, Transcript, *Proposed Int. No. 251-A*, May 12, 2011, Committee on Contracts, at 15.

The November Hearing

In response to issues raised during the May hearing, the sponsors of Proposed Int. No. 251-A[36] further amended the bill to clarify and narrow the scope of the legislation.[37] Among other revisions, the amended bill increased the threshold of financial assistance from $100,000 to $1 million; removed as-of-right assistance from the financial assistance calculation, limiting the type of financial assistance to discretionary grants negotiated or awarded by the City or a City economic development entity; changed the standards and categories for exemptions; and decreased the duration of compliance with the law.[38]

The Committee considered this amended version of Proposed Int. No. 251-A at a hearing on November 22, 2011. Again, the legislation generated substantial interest and participation: in a hearing that lasted over six hours, the Committee heard staff presentations about the scope and economic impact of the law, heard testimony from 33 witnesses, and received written submissions from an addition 13 witnesses. Notwithstanding the revisions to the legislation, the principal arguments offered during the November hearing tracked closely those raised during the May hearing, with less emphasis on the EDC study and more emphasis on the comparative review of living wage programs in Los Angeles and San Francisco.[39]

Revisions to Proposed Int. No. 251-A

Following the November hearing, the bill sponsors agreed to further revise the legislation to reach a compromise that would balance the interests and concerns expressed during the May and November hearings.[40] The noteworthy amendments to the bill are as follows:

- In the previous version of the bill, all tenants, sub-tenants, leaseholders, and subleaseholders were required to comply with the requirements of the law.[41] The law now includes only those select tenants, sub-tenants, leaseholders and subleaseholders who are majority-owned by the financial assistance recipient and those who are operating on the premises of a sports facility developed with financial assistance.[42]
- Grocery store participants in the Food Retail Expansion to Support Health (FRESH) program and commercial construction projects within the Hudson Yards "Zone 3 Adjacent Developments" are additions to the bill's categories of exemptions.[43]
- Financial assistance recipients are no longer required to guarantee compliance of covered employers operating on their premises; rather, they are required to notify the covered employers of their obligations under the law and assist the City to investigate and remedy non-compliance.[44]
- In addition to the living wage mandate set forth in the law, the bill now also establishes a goal of providing a living wage on 75% goal of all hourly jobs in the City and EDC's economic portfolio, including those jobs created by retail tenants.[45]
- To help evaluate the City's progress towards that goal, the law would require the City and EDC to report their efforts to negotiate a living wage on all subsidized projects[46] and to provide wage data on large projects (those receiving $1 million of aid)—the total number of employees on a project site (including employees of tenants) and the number and percentage of such employees earning less than a living wage.[47]
- In addition to grandfathering existing projects where financial assistance has been granted and project agreements have been executed, the law would not apply to projects for which financial assistance has been approved via inducement resolution. Also, the law would now only apply to existing project agreements to the extent that such agreements are renewed, modified, or extended in a way that provides the recipient with additional financial assistance.[48]

Summary of Proposed Int. No. 251-A

Proposed Int. No. 251-A would establish the "Fair Wages for New Yorkers Act," which would require recipients of City economic development subsidies to pay their employees who work on property developed or improved using that financial assistance (a "developed property") a living wage. As set forth in greater detail below, the legislation contains two components: the first (i) mandates the payment of a living wage, a combination of wages and benefits, (the "living wage requirement") and (ii) establishes a reporting and monitoring mechanism to enforce the living wage requirement; the second (i) encourages living wage jobs beyond the living wage requirement by setting an aspirational goal to provide living wage jobs on all economic development projects; and (ii) requires reporting to help assess progress towards that goal. The legislation would expand the universe of employees in New York entitled to a living wage under the current living wage law.[49]

The Living Wage Requirement

Definition of Living Wage

The bill defines a living wage as $10.00 per hour plus heath care benefits or $11.50 per hour without health care benefits.[50] Employers that offer health benefits must pay the difference, if any, between the value of health benefits provided and the supplemental health care benefits rate ($1.50).[51] In the case of tipped employees, tips are credited towards the living wage such that employers are required to pay the difference, if any, between employees' base wage plus tips and the living wage.[52]

The bill also requires an annual adjustment of the living wage and health benefits supplement rates based upon twelve-month percentage increases, if any, in the Consumer Price Index for All Urban Consumers for All Items and the Consumer Price Index for All Urban Consumers for Medical Care, respectively, as published by the Bureau of Labor Statistics of the U.S. Department of Labor.[53]

Covered Employers and Employees

The bill would provide living wages in connection with a broad spectrum of benefits conferred by the City. "Financial assistance recipients" covered by the legislation are those granted (a) discretionary assistance of (b) cash payments or grants, bond financing, tax abatements or exemptions, tax increment financing, filing fee waivers, energy cost reductions, environmental remediation costs, write-downs in the market value of buildings, land, or leases, or the cost of capital improvements related to real property, (c) worth, in total present financial value, greater than or equal to $1 million, (d) for the improvement or development of real property, economic development, job retention and growth, or other similar purposes, (e) that is negotiated or awarded directly by the City or through an economic development entity, and (f) paid in whole or in party by the City.[54]

While the bill is targeted towards direct recipients of financial assistance, it also includes certain additional employers who occupy or contract to perform work on a developed property. Financial assistance recipients must notify all of these covered employers of their obligation to comply with the law's requirements and must assist the City to investigate and help remedy their non-compliance.[55] In addition to financial assistance recipients, such covered employers would include:

- Tenants, sub-tenants, leaseholders or subleaseholders who occupy property that is improved or developed with financial assistance if they are majority owned by the financial assistance recipient;[56]
- Concessionaires—including any contractors, subcontractors or tenants—operating on the premises of any sports facility developed with financial assistance;[57] and
- Contractors or subcontractors hired by a financial assistance recipient to perform work for a period of more than ninety days on the premises.[58]

Any person employed by a covered employer within the City would receive a living wage under the bill.[59] An employee is defined as one working on a full-time, part-time, temporary or seasonal basis, as well as an independent contractor and contingent or contracted worker, such as one performing work through temporary services, staffing or employment agencies.[60] Where financial assistance is tied to particular real property, only those employed on such property would be entitled to receive a living wage for hours worked at or in connection with the property.[61]

Application

The requirements of Proposed Int. No. 251-A would apply for the term of the financial assistance that brought the project within the ambit of the legislation or for ten years from the date that the financially assisted project opens or commences operations, whichever is longer.[62] Such requirements would not apply to any financial assistance provided prior to the enactment of the legislation, nor to any project agreement that was entered into or any project for which an inducement resolution was adopted (that is, a project for which financial assistance was formally approved) prior to such enactment.[63] However, if any project agreement is extended, renewed, amended or modified on or after the enactment of the law in a manner that results in the grant of any additional financial assistance, the financial assistance for the Lower Ma

---

[35] *See, e.g.,* Transcript, *Proposed Int. No. 251-A*, May 12, 2011, Committee on Contracts, at 60, 122, and 155.

[36] Note that all subsequent amended iterations of Council introductions are identified as "A" versions of the legislation.

[37] *See* Daniel Massey, *Living-wage bill weakened*, Crain's New York Business, Oct. 3, 2011.

[38] For additional details regarding these revisions, *see* Committee Report, *Proposed Int. No. 251-A*, Nov. 22, 2011, Committee on Contracts.

[39] *See generally*, Transcript, *Proposed Int. No. 251-A*, Nov. 22, 2011, Committee on Contracts.

[40] *See* Kate Taylor, *Council Leader Offers Compromise on Wage*, New York Times, Jan.13, 2012.

[41] *See* Committee Report, *Proposed Int. No. 251-A*, Nov. 22, 2011, Committee on Contracts.

[42] Proposed Int. No. 251-A, §1, §6-134(b)(4).

[43] Proposed Int. No. 251-A, §1, §6-134(d).

[44] *See* Committee Report, *Proposed Int. No. 251-A*, Nov. 22, 2011, Committee on Contracts; Proposed Int. No. 251-A, §1, §6-134(f)(1).

[45] Proposed Int. No. 251-A, §1, §6-134(h)(1).

[46] Proposed Int. No. 251-A, §1, §6-134(h)(2).

[47] Proposed Int. No. 251-A, §1, §6-134(h)(3); Proposed Int. No. 251-A, §2, §1301(b)(xii).

[48] Proposed Int. No. 251-A, §1, §6-134(i)(1).

[49] *See supra* page 5. The universe is currently defined in Section 109 of Title 6 of the Administrative Code.

[50] Proposed Int. No. 251-A, §1, §6-134(b)(9).

[51] *Id.*

[52] *Id.*

[53] *Id.*

[54] Proposed Int. No. 251-A, §1, §6-134(b)(7); §6-134(b)(8).

[55] Proposed Int. No. 251-A, §1, §6-134(f)(1).

[56] Proposed Int. No. 251-A, §1, §6-134(b)(4)(b).

[57] Proposed Int. No. 251-A, §1, §6-134(b)(4)(c).

[58] Proposed Int. No. 251-A, §1, §6-134(b)(4)(d).

[59] Proposed Int. No. 251-A, §1, §6-134(b)(5).

[60] *Id.*

[61] *Id.*

[62] Proposed Int. No. 251-A, §1, §6-134(c)(3). For financial assistance granted in furtherance of job retention, the requirements apply from the date the job retention project commences.

[63] Proposed Int. No. 251-A, §1, §6-134 (i)(1).

recipient (and that entity's covered employers) would become subject to the requirements of the law.[64]

Notice Posting, Recordkeeping, and Retaliation

Proposed Int. No. 251-A requires each covered employer to post and provide each employee with a written notice, prepared by the Comptroller, detailing the wages, benefits, and other protections to which employees would be entitled under the legislation.[65] Any employees paid less than a living wage may notify the Comptroller and request an investigation.[66]

Under the legislation, covered employers must maintain original payroll records for each of their employees reflecting the days and hours worked, and the wages and benefits provided for such hours worked.[67] Failure to maintain such records—for at least six years after the work is performed—would create a rebuttable presumption that the covered employers did not pay their employees a living wage.[68] Upon request by the Comptroller or the City, the covered employer would be required to provide a certified original payroll record.[69]

The proposed legislation protects covered employees by making it unlawful for covered employers to retaliate, discharge, demote, suspend, or take any other adverse employment action in the terms and conditions of employment, or otherwise discriminate against employees, for reporting or asserting a violation, participating in investigatory or court proceedings, or otherwise exercising rights under the law.[70] A rebuttable presumption of retaliation is formed when a covered employer takes an adverse employment action within sixty days against an employee who has exercised such rights.[71]

Implementation and Reporting

Financial assistance recipients would be required to annually certify under penalty of perjury that their employees are paid no less than a living wage and that they have notified covered employers operating on their premises or developed property of their obligations under the law, and would be required to provide the contact information of any such covered employers.[72] Covered employers would in turn be required to provide a statement certifying that they pay employees working on that property no less than a living wage prior to commencing work on/at such premises.[73]

Monitoring, Investigation and Enforcement

The bill would require the Comptroller to monitor compliance and investigate alleged violations of Proposed Int. No. 251-A.[74] To perform this duty, the Comptroller would be authorized to conduct site visits, employee interviews, and payroll audits.[75] Upon complaint or belief that an employee's rights were violated, the Comptroller would be required to conduct an investigation and could request at the commencement of an investigation that the City or EDC withhold its financial assistance from the relevant recipient.[76] The Comptroller would be required to report the results of his or her investigation to the Mayor, who would be empowered to issue a disposition based upon such investigation, taking into account the gravity of the violation, the history of previous violations, the good faith of the covered employer, and any failure to comply with record-keeping, notice, reporting, or other non-wage requirements.[77] Possible dispositions include: payment of denied wages/benefits; payment of a civil penalty; filing or disclosure of records; reinstatement or other relief (for an employee found to have been subjected to retaliation or discrimination); payment of sums withheld from the financial assistance recipient; and declaring a financial assistance recipient or other covered employer ineligible to receive financial assistance or operate on developed property if it received within any six year period two dispositions determining that it had willfully failed to comply with the wage/benefit, anti-retaliation, recordkeeping, notice or reporting requirements of the law.[78] Before issuing such dispositions, the Mayor would be required to serve notice to the affected parties.[79] The Mayor could also negotiate a settlement or refer the matter to the Office of Administrative Trials and Hearings, which would provide the covered employer with notice and offer the covered employer an opportunity to be heard.[80]

If a covered employer failed to comply with the terms of a disposition, the Mayor would be required to file an order with the city clerk of the outstanding amount due.[81] The City or City economic development entity would be required to take appropriate actions, including, but not limited to, declaring the financial assistance recipient to be in default of its project agreement, imposing sanctions, and recovering financial assistance provided.[82]

An employee would also be permitted to file a civil action in any court of appropriate jurisdiction to seek relief against a covered employer and would receive an award of attorneys' fees and costs if the court found in his or her favor.[83]

The remedies for employees set forth in Proposed Int. No. 251-A are not exclusive.[84]

Exemptions

Proposed Int. No. 251-A exempts from its living wage requirements the following categories of employers that would otherwise constitute covered employers:

- Small businesses—entities that have annual gross revenues of less than five million dollars, including the aggregated revenues of any parent entity, any subsidiary entities, and any entities owned or controlled by a common parent entity;[85]
- Not-for-profit organizations;[86]
- Manufacturers—entities that manufacture on the developed property;[87]
- Affordable housing developments—projects where residential units comprise more than 75% of the project area and no less than 75% of such units are affordable for families earning less than 125% of the area median income;[88]
- Grocery store participants in the Food Retail Expansion to Support Health (FRESH) program;[89]
- Commercial construction projects within the Hudson Yards "Zone 3 Adjacent Developments;"[90] and
- Construction and building services contractors.[91]

The above entities would be required to certify their status and basis for exemption from the living wage requirement.[92]

Additional Living Wage Coverage

Goal and Reporting

In addition to the living wage mandate set forth above, Proposed Int. No. 251-A would encourage the City and EDC to pursue a living wage for jobs on all economic development projects, including jobs offered by tenants.[93] The law would establish a goal to provide a living wage on 75% of all hourly jobs in the City and EDC's economic development portfolio.[94] To accomplish this goal, the City and EDC may, when evaluating responses to project solicitations, exercise a preference for parties who demonstrate a commitment to paying a living wage.[95]

The City and EDC would be required to report to the Council details of their efforts to negotiate living wage jobs on economic development projects.[96] In addition, for projects receiving more than $1 million of assistance, the law would also require the City and EDC to report wage information for employees[97] working on the developed property, including the tenants, sub-tenants, leaseholders, and subleaseholders at the project site.[98] Specifically, the City and EDC would report the total number of employees at the site and the number and percentage of such employees earning less than a living wage, categorized by industrial jobs, restaurant jobs, retail jobs, and other jobs including retail tenant jobs.[99]

Application and Enactment

The legislation is to be liberally construed in favor of its purposes, but would not be construed to preempt or otherwise limit City provisions for payment of higher or supplemental wages or benefits, or additional penalties or remedies for a violation of this law.[100]

The bill would take effect ninety days after its enactment into law.[101]

for the Lower Ma

[64] *Id.*
[65] Proposed Int. No. 251-A, §1, §6-134(e)(1).
[66] *Id.*
[67] Proposed Int. No. 251-A, §1, §6-134(e)(2).
[68] *Id.*
[69] *Id.*
[70] Proposed Int. No. 251-A, §1, §6-134(e)(3).
[71] *Id.*
[72] Proposed Int. No. 251-A, §1, §6-134(f)(1).
[73] *Id.*
[74] Proposed Int. No. 251-A, §1, §6-134(g)(1).
[75] *Id.* The Comptroller or the Mayor must not inquire about work performed more than three years prior to the filing of the complaint or the commencement of an investigation, whichever is earlier. Proposed Int. No. 251-A, §1, §6-134 (g)(6).
[76] Proposed Int. No. 251-A, §1, §6-134(g)(1).
[77] Proposed Int. No. 251-A, §1, §6-134(g)(2); §6-134(g)(3).
[78] Proposed Int. No. 251-A, §1, §6-134(g)(2).
[79] Proposed Int. No. 251-A, §1, §6-134(g)(4).
[80] *Id.*
[81] Proposed Int. No. 251-A, §1, §6-134(g)(5).
[82] Proposed Int. No. 251-A, §1, §6-134(g)(7).
[83] Proposed Int. No. 251-A, §1, §6-134(g)(8).
[84] Proposed Int. No. 251-A, §1, §6-134(g)(11).
[85] Proposed Int. No. 251-A, §1, §6-134(d)(1).
[86] Proposed Int. No. 251-A, §1, §6-134(d)(2).
[87] Proposed Int. No. 251-A, §1, §6-134(d)(3).
[88] Proposed Int. No. 251-A, §1, §6-134(d)(4).
[89] Proposed Int. No. 251-A, §1, §6-134(d)(5).
[90] Proposed Int. No. 251-A, §1, §6-134(d)(7).
[91] Proposed Int. No. 251-A, §1, §6-134(d)(6).
[92] Proposed Int. No. 251-A, §1, §6-134(f)(2).
[93] Proposed Int. No. 251-A, §1, §6-134(h)(1).
[94] *Id.*
[95] *Id.*
[96] Proposed Int. No. 251-A, §1, §6-134(h)(2).
[97] It is intended that such reports include all employees, including permanent and temporary employees, hourly and salaried employees, full time and part-time employees, as well as contract employees.
[98] Proposed Int. No. 251-A, §1, §6-134(h)(3); Proposed Int. No. 251-A, §2, §1301(b)(xii).
[99] *Id.*
[100] Proposed Int. No. 251-A, §1, §6-134(i)(3).
[101] Proposed Int. No. 251-A, §3.

(The following is the text of the Fiscal Impact Statement for Int. No. 251-A:)

THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
PRESTON NIBLACK, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 251-A

COMMITTEE: Contracts

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring the payment of a living wage to employees employed on property developed by recipients of financial assistance for economic development.

SPONSOR By Council Members Koppell, Palma, Brewer, Arroyo, Cabrera, Chin, Dromm, Ferreras, James, Lander, Mendez, Sanders Jr., Mark-Viverito, Foster, Seabrook, Barron, Gonzalez, Rivera, Rodriguez, Van Bramer, Vann, Williams, Rose, Jackson, Eugene, Levin, Mealy, Garodnick, Gentile, and Crowley (by the request of the Bronx Borough President)

SUMMARY OF LEGISLATION: Intro 251-A would add a new section (§ 6-134) to Chapter 1 of Title 6 of the City's Administrative Code, relating to Contracts and Purchases. The legislation mandates that covered employers provide an hourly compensation package of no less that the living wage rate plus a health benefit supplement. The living wage would initially be $10 per hour, and if a healthcare benefit is not provided, the health benefit supplement would be $1.50 per hour. The two rates will increase annually starting in 2013 based upon the Consumer Price Index and its medical care component.

Covered employers are those receiving direct financial assistance of over $1 million from a New York City economic development entity, as well as concessionaires and certain contractors and subcontractors of the financial assistance recipients. Tenants of projects receiving financial assistance that are majority owned by financial assistance recipients are also covered.

Financial assistance includes only discretionary assistance negotiated or awarded by the city or a city economic development entity.

Covered employers are required to maintain payroll records, and to certify annually that all covered employees are paid at least the living wage.

The city will annually submit to the council a report on the extent to which projects that receive financial assistance pay the living wage. The city and its economic development entities will encourage living wage jobs and will strive to have 75 percent or more of hourly jobs in economic development projects pay a living wage or better.

Manufacturers, small business with gross incomes of less than $5 million, not for profits, and certain projects with affordable housing are exempt from provisions of the bill other than the reporting requirements. Supermarkets in the city's FRESH program, projects in a part of the Hudson Yard and construction and building service contractors are also exempt.

EFFECTIVE DATE: This legislation would take effect 90 days after enactment.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: FISCAL 2014

FISCAL IMPACT STATEMENT:

	Effective FY13	FY Succeeding Effective FY14	Full Fiscal Impact FY14
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: There will be no direct impact on revenue.

IMPACT ON EXPENDITURES

The fiscal impact is expected to be minimal. Since the living wage requirement is limited to negotiated benefits, the fiscal impact will be a function of the mix of projects, partners chosen for those projects, and the specific terms of the negotiated deals as determined by City's economic development entities primarily the Economic Development Corporation (EDC). Therefore, it is expected that the bill's impact will mostly fall on that mix of projects, partners and terms, rather than on the City's budget.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: City Treasury

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Economic Development Corporation

ESTIMATE PREPARED BY: Raymond Majewski, Deputy Director/Chief Economist
Paul Sturm, Supervising Analyst

HISTORY: Introduced by City Council and referred to the Committee on Contracts on May 25, 2010. The Committee on Contracts held hearings on proposed amended versions of the legislation on May 12, 2011 and November 22, 2011.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 251-A:)

Int. No. 251-A

By Council Members Koppell, Palma, Brewer, Arroyo, Cabrera, Chin, Dromm, Ferreras, James, Lander, Mendez, Sanders, Mark-Viverito, Foster, Seabrook, Barron, Gonzalez, Rivera, Rodriguez, Van Bramer, Vann, Williams, Rose, Jackson, Eugene, Levin, Mealy, Garodnick, Gentile, Crowley, Koslowitz, Comrie and Gennaro (by the request of the Bronx Borough President).

A Local Law to amend the administrative code of the city of New York, in relation to requiring the payment of a living wage to employees employed on property developed by recipients of financial assistance for economic development.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 6 of the administrative code of the city of New York is amended to add a new section 6-134, to read as follows:

§ 6-134 Living Wage for Employees in City Financially Assisted Workplaces.

a. This section shall be known as and may be cited as the "Fair Wages for New Yorkers Act".

b. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(1) "City" means city of New York, and all subordinate or component entities or persons.

(2) "City economic development entity" means a local development corporation, not-for-profit corporation, public benefit corporation, or other entity that provides or administers economic development benefits and with which the department of small business services serves as a liaison pursuant to paragraph b of subdivision one of section 1301 of the New York city charter.

(3) "Comptroller" means the Comptroller of the city of New York and his or her authorized or designated agents.

(4) "Covered employer" means:

(a) A financial assistance recipient;

(b) Any tenant, sub-tenant, leaseholder or subleaseholder of the financial assistance recipient in which the financial assistance recipient maintains an ownership interest of fifty percent or more who occupies property improved or developed with financial assistance;

(c) Any concessionaire. For purposes of this section, concessionaire shall include any contractor, subcontractor, or tenant operating on the premises of any stadium, arena, or other sports facility developed pursuant to a project agreement; or

(d) Any person or entity that contracts or subcontracts with a financial assistance recipient to perform work for a period of more than ninety days on the premises of the financial assistance recipient or on the premises of property improved or developed with financial assistance including but not limited to temporary services or staffing agencies, food service contractors, and other on-site service contractors.

(5) "Employee" means any person employed by a covered employer within the city of New York. This definition includes persons performing work on a full-time, part-time, temporary or seasonal basis, and includes employees, independent contractors, and contingent or contracted workers, including persons made

available to work through the services of a temporary services, staffing or employment agency or similar entity. Provided, however, that if the financial assistance is targeted to particular real property, then only persons employed at the real property to which the financial assistance pertains shall be deemed employees.

(6) "Entity" or "Person" means any individual, sole proprietorship, partnership, association, joint venture, limited liability company, corporation or any other form of doing business.

(7) "Financial assistance" means assistance that is provided to a financial assistance recipient for the improvement or development of real property, economic development, job retention and growth, or other similar purposes, and that is provided either (a) directly by the city, or (b) indirectly by a city economic development entity and that is paid in whole or in part by the city, and that at the time the financial assistance recipient enters into a project agreement with the city or city economic development entity is expected to have a total present financial value of one million dollars or more. Financial assistance includes, but is not limited to, cash payments or grants, bond financing, tax abatements or exemptions (including, but not limited to, abatements or exemptions from real property, mortgage recording, sales and use taxes, or the difference between any payments in lieu of taxes and the amount of real property or other taxes that would have been due if the property were not exempted from the payment of such taxes), tax increment financing, filing fee waivers, energy cost reductions, environmental remediation costs, write-downs in the market value of building, land, or leases, or the cost of capital improvements undertaken for the benefit of a project subject to a project agreement. Financial assistance shall include only discretionary assistance that is negotiated or awarded by the city or by a city economic development entity, and shall not include as-of-right assistance, tax abatements or benefits, such as those under the Industrial and Commercial Abatement Program, the J-51 Program, and other similar programs. Any tax abatement, credit, reduction or exemption that is given to all persons who meet criteria set forth in the state or local legislation authorizing such tax abatement, credit, reduction or exemption shall be deemed to be as-of-right (or non-discretionary); further, the fact that any such tax abatement, credit, reduction or exemption is limited solely by the availability of funds to applicants on a first come, first served or other non-discretionary basis set forth in such state or local law shall not render such abatement, credit, reduction or exemption discretionary. Where assistance takes the form of leasing city property at below-market lease rates, the value of the assistance shall be determined based on the total difference between the lease rate and a fair market lease rate over the duration of the lease. Where assistance takes the form of loans or bond financing, the value of the assistance shall be determined based on the difference between the financing cost to a borrower and the cost to a similar borrower who does not receive financial assistance from the city or a city economic development entity.

(8) "Financial assistance recipient" means any entity or person that receives financial assistance, or any assignee or successor in interest of real property improved or developed with financial assistance, including any entity to which financial assistance is conveyed through the sale of a condominium, but shall not include any entity who is exempt under subdivision d of this section.

(9) "Living wage" means an hourly compensation package that is no less than the sum of the living wage rate and the health benefits supplement rate for each hour worked. As of the effective date of the local law that added this section, the living wage rate shall be ten dollars per hour and the health benefits supplement rate shall be one dollar and fifty cents per hour. The portion of the hourly compensation package consisting of the health benefits supplement rate may be provided in the form of cash wages, health benefits or any combination of the two. The value of any health benefits received shall be determined based on the prorated hourly cost to the employer of the health benefits received by the employee. Beginning in 2013 and each year thereafter, the living wage rate and the health benefits supplement rate shall be adjusted based upon the twelve-month percentage increases, if any, in the Consumer Price Index for All Urban Consumers for All Items and the Consumer Price Index for All Urban Consumers for Medical Care, respectively, (or their successor indexes, if any) as published by the Bureau of Labor Statistics of the United States Department of Labor, based on the most recent twelve-month period for which data is available. The adjusted living wage rate and health benefits supplement rate shall each then be rounded to the nearest five cents. Such adjusted rates shall be announced no later than January 1 of each year and shall become effective as the new living wage rate and health benefits supplement rate on April 1 of each year. For employees who customarily and regularly receive tips, the financial assistance recipient may credit any tips received and retained by the employee towards the living wage rate. For each pay period that an employee's base cash wages and tips received total less than the living wage rate multiplied by the number of hours worked, the financial assistance recipient must pay the employee the difference in cash wages.

(10) "Not-for-profit organization" means an entity that is either incorporated as a not-for-profit corporation under the laws of the state of its incorporation or exempt from federal income tax pursuant to subdivision c of section five hundred one of the United States internal revenue code.

(11) "Project agreement" means a written agreement between the city or a city economic development entity and a financial assistance recipient pertaining to a project. A project agreement shall include an agreement to lease property from the city or a city economic development entity.

(12) "Small business" has the meaning specified in paragraph 1 of subdivision d of this section.

c. Living Wage Required

(1) Covered employers shall pay their employees no less than a living wage.

(2) In addition to fulfilling their own obligations under this section, financial assistance recipients shall help to ensure that all covered employers operating on their premises or on the premises of real property improved or developed with financial assistance pay their employees no less than a living wage and comply with all other requirements of this section.

(3) The requirements of this section shall apply for the term of the financial assistance or for ten years, whichever is longer, from the date of commencement of the project subject to a project agreement or the date the project subject to a project agreement commences operations, whichever is later.

d. Exemptions

The requirements established under this section shall not apply to the following entities or persons except with respect to the reporting requirements set forth in paragraph 2 of subdivision f of this section:

(1) Any otherwise covered employer that is a small business, which shall be defined as an entity that has annual gross revenues of less than five million dollars. For purposes of determining whether an employer qualifies as a small business, the revenues of any parent entity, of any subsidiary entities, and of any entities owned or controlled by a common parent entity shall be aggregated.

(2) Any otherwise covered employer that is a not-for-profit organization.

(3) Any otherwise covered employer whose principal industry conducted at the project location is manufacturing, as defined by the North American Industry Classification System.

(4) Any otherwise covered employer operating on the premises of a project where residential units comprise more than 75% of the project area, and no less than 75% of the residential units are affordable for families earning less than 125% of the area median income.

(5) Any otherwise covered employer that is a grocery store participating in the Food Retail Expansion to Support Health (FRESH) program.

(6) Any otherwise covered employer that is a construction contractor or a building services contractor, which shall include but not be limited to any contractor of work performed by a watchperson, guard, doorperson, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, or window cleaner.

(7) Any otherwise covered employer, excepting a financial assistance recipient who executed a project agreement and any entity with which such financial assistance recipient contracts or subcontracts, occupying or operating on the premises of property improved or developed within the geographical delineations described in the definition of "Zone 3 Adjacent Developments," without regard to whether or not the applicable project is deemed to be a "Hudson Yards Commercial Construction Project," as such terms are defined in the first amendment to the Third Amended and Restated Uniform Tax Exemption Policy of the New York City Industrial Development Agency, as approved by the board of directors of the city industrial development agency on November 9, 2010, provided, however, that such exemption shall not extend to any such covered employer who receives financial assistance through the purchase of a condominium in the event that the city or city economic development entity grants such covered employer additional financial subsidies in addition to the financial assistance originally granted pursuant to such project agreement thereafter assigned or otherwise made available to such purchaser following such purchase.

e. Notice Posting, Recordkeeping and Retaliation

(1) No later than the day on which an employee begins work at a site subject to the requirements of this section, a covered employer shall post in a prominent and accessible place at every such work site and provide each employee a copy of a written notice, prepared by the comptroller, detailing the wages, benefits, and other protections to which employees are entitled under this section. Such notice shall also provide the name, address and telephone number of the comptroller and a statement advising employees that if they have been paid less that the living wage they may notify the comptroller and request an investigation. Such notices shall be provided in English and Spanish. The comptroller shall provide the city with sample written notices explaining the rights of employees and covered employers' obligations under this section, and the city shall in turn provide those written notices to covered employers.

(2) A covered employer shall maintain original payroll records for each of its employees reflecting the days and hours worked, and the wages paid and benefits provided for such hours worked, and shall retain such records for at least six years after the work is performed. Failure to maintain such records as required shall create a rebuttable presumption that the covered employer did not pay its employees the wages and benefits required under this section. Upon the request of the comptroller or the city, the covered employer shall provide a certified original payroll record.

(3) It shall be unlawful for any covered employer to retaliate, discharge, demote, suspend, take adverse employment action in the terms and conditions of employment or otherwise discriminate against any employee for reporting or asserting a violation of this section, for seeking or communicating information regarding rights conferred by this section, for exercising any other rights protected under this section, or for participating in any investigatory, administrative, or court proceeding relating to this section. This protection shall also apply to any covered employee or his or her representative who in good faith alleges a violation of this section, or who seeks or communicates information regarding rights conferred by this section in circumstances where he or she in good faith believes this section applies. Taking adverse employment action against an employee or his or her representative within sixty days of the employee engaging in any of the aforementioned activities shall raise a rebuttable presumption of having done so in retaliation for those activities. Any employee subjected to any action that violates this paragraph may pursue administrative remedies or bring a civil action as authorized pursuant to subdivision g of this section in a court of competent jurisdiction.

f. Implementation and Reporting

(1) Each financial assistance recipient shall provide to the comptroller and the city or city economic development entity that executed the project agreement an annual certification, executed under penalty of perjury, stating that all of its employees are paid no less than a living wage, confirming the notification to all covered employers operating on its premises that such employers must pay their employees no less than a living wage and comply with all other requirements of this section, providing the names, addresses and telephone numbers of such employers, and affirming its obligation to assist the city to investigate and remedy non-compliance of such employers. Where the financial assistance applies only to certain property, such statement shall be required only for the employees employed on such property. Where there are multiple covered employers operating on the premises of a financial assistance recipient, each covered employer shall, prior to commencing work at such premises, provide a statement certifying that all the employees employed by each such covered employer on the property subject to a project agreement are paid no less than a living wage. All statements shall be certified by the chief executive or chief financial officer of the covered employer, or the designee of any such person. A violation of any provision of such certified statements shall constitute a violation of this section by the party committing the violation of such provision.

(2) An otherwise covered employer that qualifies for an exemption from the requirements of this section under subdivision d of this section shall provide a statement, executed under penalty of perjury, certifying that the employer qualifies for an exemption and specifying the basis for that exemption. Such an employer shall update or withdraw such statement on a timely basis if its eligibility for the claimed exemption should change.

(3) The comptroller and the city or city economic development entity that executed the project agreement may inspect the records maintained pursuant to paragraph 2 of subdivision e of this section to verify the certifications submitted pursuant to paragraph 1 of this subdivision.

(4) The city or city economic development entity that executed the project agreement shall maintain for four years all certifications submitted pursuant to this subdivision and make them available for public inspection.

(5) The city shall maintain a list of financial assistance recipients subject to project agreements that shall include, where a project agreement is targeted to particular real property, the address of each such property. Such list shall be updated and published as often as is necessary to keep it current.

g. Monitoring, Investigation and Enforcement

(1) The comptroller shall monitor covered employers' compliance with the requirements of this section. Whenever the comptroller has reason to believe there has been a violation of this section, or upon a verified complaint in writing from an employee or an employee's representative claiming a violation of this section, the comptroller shall conduct an investigation to determine the facts relating thereto. The name of any employee identified in a complaint shall be kept confidential as long as possible, and may be disclosed only with the employee's consent, provided, however, that such consent shall not be required once notice is required to be given pursuant to paragraph 4 of this subdivision. For the purpose of conducting investigations pursuant to this section, the comptroller shall have the authority to observe work being performed on the work site, to interview employees during or after work hours, and to examine the books and records relating to the payrolls being investigated to determine whether or not the covered employer is in compliance with this section. At the start of such investigation, the comptroller may, in a manner consistent with the withholding procedures established by subdivision 2 of section 235 of the state labor law, request that the city or city economic development entity that executed the project agreement withhold any payment due to the financial assistance recipient in order to safeguard the rights of the employees.

(2) The comptroller shall report the results of such investigation to the mayor, or his or her designee, who shall, in accordance with provisions of paragraph 4 of this subdivision and after providing the covered employer an opportunity to cure any violations, where appropriate issue an order, determination, or other disposition, including, but not limited to, a stipulation of settlement. Such order, determination, or disposition may, at the discretion of the mayor, or his or her designee, impose the following on the covered employer committing the applicable violations:

(a) Direct payment of wages and/or the monetary equivalent of benefits wrongly denied, including interest from the date of underpayment to the employee, based on the interest rate then in effect as prescribed by the superintendent of banks pursuant to section 14-a of the state banking law, but in any event at a rate no less than six percent per year;

(b) Direct payment of a further sum as a civil penalty in an amount not exceeding two hundred percent of the total amount found to be due in violation of this section;

(c) Direct the filing or disclosure of any records that were not filed or made available to the public as required by this section;

(d) Direct the reinstatement of, or other appropriate relief for, any person found to have been subjected to retaliation or discrimination in violation of this section;

(e) Direct payment of the sums withheld at the commencement of the investigation and the interest that has accrued thereon to the financial assistance recipient; and

(f) Declare ineligible to receive financial assistance or prohibit from operating as a covered employer on the premises of a financial assistance recipient or on real property improved or developed with financial assistance any person against whom a final disposition has been entered in two instances within any consecutive six year period determining that such person has willfully failed to pay the required wages in accordance with the provisions of this section or to comply with the anti-retaliation, recordkeeping, notice, or reporting requirements of this section.

(3) In assessing an appropriate remedy, due consideration shall be given to the gravity of the violation, the history of previous violations, the good faith of the covered employer, and the failure to comply with record-keeping, notice, reporting, or other non-wage requirements. Any civil penalty shall be deposited in the city general fund.

(4) Before issuing an order, determination, or any other disposition, the mayor or his or her designee shall give notice thereof, together with a copy of the complaint, which notice shall be served personally or by mail on any person affected thereby. The mayor, or his or her designee, may negotiate an agreed upon stipulation of settlement or refer the matter to the office of administrative trials and hearings for a hearing and disposition. Such covered employer shall be notified of a hearing date by the office of administrative trials and hearings, or other appropriate tribunal, and shall have the opportunity to be heard in respect to such matters.

(5) When a final disposition has been made in favor of an employee and the person found violating this section has failed to comply with the payment or other terms of the remedial order of the mayor, or his or her designee, as applicable, and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding has expired, the mayor, or his or her designee, as applicable, shall file a copy of such order containing the amount found to be due with the clerk of the county of residence or place of business of the person found to have violated this section, or of any principal or officer thereof who knowingly participated in the violation of this section. The filing of such order shall have the full force and effect of a judgment duly docketed in the office of such clerk. The order may be enforced by and in the name of the mayor, or his or her designee, as applicable, in the same manner and with like effect as that prescribed by the state civil practice law and rules for the enforcement of a money judgment.

(6) In an investigation conducted under the provisions of this section, the inquiry of the comptroller or mayor, or his or her designee, as applicable, shall not extend to work performed more than three years prior to the filing of the complaint, or the commencement of such investigation, whichever is earlier.

(7) Upon determining that a covered employer is not in compliance, and where no cure is effected and approved by the mayor, or his or her designee, as applicable pursuant to paragraph 2 of this subdivision, the city or city economic development entity shall take such actions against such covered employer as may be appropriate and provided for by law, rule, or contract, including, but not limited to: declaring the financial assistance recipient who has committed a violation in default of the project agreement; imposing sanctions; or recovering from such covered employer the financial assistance disbursed or provided to such covered employer, including but not limited to requiring repayment of any taxes or interest abated or deferred.

(8) Except as otherwise provided by law, any person claiming to be aggrieved by a violation of this section shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the comptroller or the mayor with respect to such claim. In an action brought by an employee, if the court finds in favor of the employee, it shall award the employee, in addition to other relief, his/her reasonable attorneys' fees and costs.

(9) Notwithstanding any inconsistent provision of paragraph 8 of this subdivision, where a complaint filed with the comptroller or the mayor is dismissed an aggrieved person shall maintain all rights to commence a civil action pursuant to this chapter as if no such complaint had been filed, provided, however, that for purposes of this paragraph the failure of the comptroller or the mayor to issue a disposition within one year of the filing of a complaint shall be deemed to be a dismissal.

(10) A civil action commenced under this section shall be commenced in accordance with subdivision 2 of section 214 of the New York civil practice law and rules.

(11) No procedure or remedy set forth in this section is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This section shall not be construed to limit an employee's right to bring a common law cause of action for wrongful termination.

(12) Notwithstanding any inconsistent provision of this section or any other general, specific, or local law, ordinance, city charter, or administrative code, an employee affected by this law shall not be barred from the right to recover the difference between the amount paid to the employee and the amount which should have been paid to the employee under the provisions of this section because of the prior receipt by the employee without protest of wages or benefits paid, or on account of the employee's failure to state orally or in writing upon any payroll or receipt which the employee is required to sign that the wages or benefits received by the employee are received under protest, or on account of the employee's failure to indicate a protest against the amount, or that the amount so paid does not constitute payment in full of wages or benefits due to the employee for the period covered by such payment.

h. Living Wage Preferred

(1) The city and city economic development entity shall encourage living wage jobs on economic development projects, including those jobs offered by tenants, sub-tenants, and leaseholders of subsidy recipients, by employing measures that may include exercising a preference when evaluating responses to requests for proposals and other solicitations for those parties who commit to the payment of a living wage and those who demonstrate that they have paid and/or required related parties to pay a living wage on prior projects. The city and city economic development entity shall strive to achieve a living wage for 75% or more of the hourly jobs created overall with respect to the portfolio of all such economic development projects.

(2) Upon entering into any agreement to develop property for an economic development project, the city or city economic development entity shall submit to the

council a report detailing its efforts to provide living wage jobs. Such report shall indicate whether its agreement with the economic development subsidy recipient mandated the payment of a living wage for any jobs created by the project. If the agreement includes such a mandate, the city or city economic development entity shall provide an analysis outlining the number of living wage jobs anticipated to be created beyond those jobs for which a living wage is required pursuant to this section and a description of the applicable penalties if the wage requirement in the agreement is not ultimately fulfilled. If the agreement does not include such a mandate, the city or city economic development entity shall explain why such an agreement could not be reached.

(3) The city shall submit to the council and post on the city's website by January 31 of each year a report detailing the extent to which projects that receive financial assistance provide employees a living wage. Such reports shall provide, for employees at each site covered by the project in the categories of industrial jobs, restaurant jobs, retail jobs, and other jobs, including all permanent and temporary full-time employees, permanent and temporary part-time employees, and contract employees, the total number of employees and the number and percentage of employees earning less than a living wage, as that term is defined in this section. Reports with regard to projects for which assistance was received prior to July 1, 2012 need only contain such information required by this paragraph as is available to the city, can be reasonably derived from available sources, and can be reasonably obtained from the business entity to which assistance was provided.

i. Miscellaneous

(1) The provisions of this section shall not apply to any financial assistance that was provided prior to the enactment of the local law that added this section, nor shall they apply to any project agreement that was entered into or to any project for which an inducement resolution was adopted in furtherance of entering into a project agreement prior to the enactment of the local law that added this section, except that extension, renewal, amendment or modification of such project agreement occurring on or after the enactment of the local law that added this section that results in the grant of any additional financial assistance to the financial assistance recipient shall make the financial assistance recipient and any other covered employers operating on the premises of the financial assistance recipient or at the real property improved or developed with financial assistance subject to the requirements of this section.

(2) In the event that any requirement or provision of this section, or its application to any person or circumstance, should be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other requirements or provisions of this section, or the application of the requirement or provision held unenforceable to any other person or circumstance. To this end, the parts of this section are severable.

(3) This section shall be liberally construed in favor of its purposes. This section shall not be construed to preempt or otherwise limit the applicability of any law, policy, contract term or other action by the city or a city economic development entity that provides for payment of higher or supplemental wages or benefits, or for additional penalties or remedies for violation of this or any other law.

Section 2. Paragraph b of subdivision 1 of section 1301 of the New York city charter is amended to read as follows:

b. to serve as liaison for the city with local development corporations, other not-for-profit corporations and all other entities involved in economic development within the city. In furtherance of this function, the department shall include in any contract with a local development corporation under which such local development corporation is engaged in providing or administering economic development benefits on behalf of the city and expending city capital appropriations in connection therewith, a requirement that such local development corporation submit to the mayor, the council, the city comptroller, the public advocate and the borough presidents by January 31 of each year, a report for the prior fiscal year in the form prescribed hereunder with regard to projected and actual jobs created and retained in connection with any project undertaken by such local development corporation for the purpose of the creation or retention of jobs, whether or not such project involves the expenditure of city capital appropriations, if in connection with such project assistance to a business entity was provided by such local development corporation in the form of a loan, grant or tax benefit in excess of one hundred fifty thousand dollars, or a sale or lease of city-owned land where the project is estimated to retain or create not less than twenty-five jobs. The report shall be for the period commencing on the date that the project agreement and any other documents applicable to such project have been executed through the final year that such entity receives assistance for such project, except that, as to projects consisting of a lease or sale of city-owned land, each annual report shall include only (1) a list of each existing lease, regardless of when such lease commenced, and a list of each sale of city-owned land that closed on or after January 1, 2005, and (2) for such leases or sales, any terms or restrictions on the use of the property, including the rent received for each leased property in the prior fiscal year, and for sales, the price for which the property was sold and any terms or restrictions on the resale of the property, and need not include any other information with regard to such lease or sale of a type required for reports for other projects hereunder. Information on any such lease shall be included until the lease terminates and information on sales of city-owned land shall be included for fifteen years following closing. The report, other than for leases or sales of city-owned land, shall contain, for the prior fiscal year, the following information with respect thereto: (i) the project's name; (ii) its location; (iii) the time span over which the project is to receive any such assistance; (iv) the type of such assistance provided, including the name of the program or programs through which assistance is provided; (v) for projects that involve a maximum amount of assistance, a statement of the maximum amount of assistance available to those projects over the duration of the project agreement, and for those projects that do not have a maximum amount, the current estimated amount of assistance over the duration of the project agreement, the amount of tax exempt bonds issued during the current reporting year and the range of potential cost of those bonds; project assistance to be reported shall include, but shall not be limited to, PILOT savings, which shall be defined for the purposes of this paragraph as the difference between the PILOT payments made and the property tax that would have been paid in the absence of a PILOT agreement, the amount of mortgage recording fees waived, related property tax abatements, sales tax abatements, the dollar value of energy benefits and an estimated range of costs to the city of foregone income tax revenues due to the issuance of tax exempt bonds; (vi) the total number of employees at all sites covered by the project at the time of the project agreement including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of full-time equivalents, and the number of contract employee where contract employees may be included for the purpose of determining compliance with job creation or retention requirements; (vii) the number of jobs that the entity receiving benefits is contractually obligated to retain and create over the life of the project, except that such information shall be reported on an annual basis for project agreements containing annual job retention or creation requirements, and, for each reporting year, the base employment level the entity receiving benefits agrees to retain over the life of the project agreement, any job creation scheduled to take place as a result of the project, and where applicable, any job creation targets for the current reporting year; (viii) the estimated amount, for that year and cumulatively to date, of retained or additional tax revenue derived from the project, excluding real property tax revenue other than revenue generated by property tax improvements; (ix) the amount of assistance received during the year covered by the report, the amount of assistance received since the beginning of the project period, and the present value of the future assistance estimated to be given for the duration of the project period; (x) for the current reporting year, the total actual number of employees at all sites covered by the project, including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of contract jobs, and, for entities receiving benefits that employ two hundred fifty or more persons, the percentage of total employees within the "exempt" and "non-exempt" categories, respectively, as those terms are defined under the United States fair labor standards act, and for employees within the "non-exempt" category, the percentage of employees earning up to twenty-five thousand dollars per year, the percentage of employees earning more than twenty-five thousand per year up to forty-thousand dollars per year and the percentage of employees earning more than forty thousand dollars per year up to fifty thousand dollars per year; (xi) whether the employer offers health benefits to all full-time employees and to all part-time employees; *(xii) for the current reporting year, for employees at each site covered by the project in the categories of industrial jobs, restaurant jobs, retail jobs, and other jobs, including all permanent and temporary full-time employees, permanent and temporary part-time employees, and contract employees, the number and percentage of employees earning less than a living wage, as that term is defined in section 134 of title 6 of the administrative code of the city of new york. Reports with regard to projects for which assistance was received prior to July 1, 2012 need only contain such information required by this paragraph as is available to the city, can be reasonably derived from available sources, and can be reasonably obtained from the business entity to which assistance was provided;* [(xii)]*(xiii)* for the current reporting year, with respect to the entity or entities receiving assistance and their affiliates, the number and percentage of employees at all sites covered by the project agreement who reside in the city of New York. For the purposes of this subparagraph, "affiliate" shall mean (i) a business entity in which more than fifty percent is owned by, or is subject to a power or right of control of, or is managed by, an entity which is a party to an active project agreement, or (ii) a business entity that owns more than fifty percent of an entity that is party to an active project agreement or that exercises a power or right of control of such entity; [(xiii)]*(xiv)* a projection of the retained or additional tax revenue to be derived from the project for the remainder of the project period; [(xiv)]*(xv)* a list of all commercial expansion program benefits, industrial and commercial incentive program benefits received through the project agreement and relocation and employment assistance program benefits received and the estimated total value of each for the current reporting year; [(xv)]*(xvi)* a statement of compliance indicating whether, during the current reporting year, the local development corporation has reduced, cancelled or recaptured benefits for any company, and, if so, the total amount of the reduction, cancellation or recapture, and any penalty assessed and the reasons therefore; [(xvi)]*(xvii)* for business entities for which project assistance was provided by such local development corporation in the form of a loan, grant or tax benefit of one hundred fifty thousand dollars or less, the data should be included in such report in the aggregate using the format required for all other loans, grants or tax benefits; and [(xvii)]*(xviii)* an indication of the sources of all data relating to numbers of jobs. For projects in existence prior to the effective date of this local law, information that business entities were not required to report to such local development corporation at the time that the project agreement and any other documents applicable to such project were executed need not be contained in the report.

The report shall be submitted by the statutory due date and shall bear the actual date that the report was submitted. Such report shall include a statement explaining any delay in its submission past the statutory due date. Upon its submission, the report shall simultaneously be made available in electronic form on the website of the local development corporation or, if no such website is maintained, on the website of the city of New York, provided that reports submitted in 2012 or after shall simultaneously be made available in a commonly available non-proprietary database format on the website of the local development corporation or, if no such website is maintained, on the website of the city of New York, except that any terms and restrictions on the use or resale of city-owned land need not be included in such non-proprietary database format, and provided further that with respect to the report

submitted in 2012 in the commonly available non-proprietary database format, the local development corporation shall include, in such format, the data included in the reports for the period from July 1, 2005 to June 30, 2010. Reports with regard to projects for which assistance was rendered prior to July 1, 2005, need only contain such information required by this subdivision as is available to the local development corporation, can be reasonably derived from available sources, and can be reasonably obtained from the business entity to which assistance was provided.

Section 3. This local law shall take effect in ninety days after its enactment into law.

DARLENE MEALY, Chairperson; MICHAEL C. NELSON, ROBERT JACKSON, LETITIA JAMES, MELISSA MARK-VIVERITO; Committee on Contracts, April 30, 2012.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Finance

Report for Int. No. 485-A

Report of the Committee on Finance in favor of approving and adopting, as amended, a Local Law to amend the New York City charter, in relation to the evaluation of depository banks.

The Committee on Finance, to which the annexed amended proposed local law was referred on February 16, 2011 (Minutes, page 418), respectfully

REPORTS:

I. Introduction

On November 23, 2010, the Finance Committee, jointly with the Committee on Community Development, held an oversight hearing to examine the process used by the Banking Commission to select banks to hold city funds ("depository banks"), with an emphasis on the Banking Commission's reliance on a bank's commitment to providing services and programs that address the needs of the community in which it does business.

As a result of the hearing, the Committees learned that the current members of the Banking Commission – the Mayor, the Comptroller, and the Commissioner of the Department of Finance, and the Department of Finance ("DOF"), which performs the administrative functions of the Banking Commission – did not have a process in place to ensure that the designated banks were meeting the needs of the communities in which they do business.

Specifically, we learned that:

1. Although rule 1-03(c)(4) of the Banking Commission requires the Banking Commission to issue a separate community service rating for each designated bank, the Banking Commission conceded that they do not issue a separate rating, but instead simply rely on a bank's federal and state Community Reinvestment Act ("CRA") rating to gauge a bank's community service. Issues with the CRA rating are discussed further in this report;

2. The information required in the designation application, as set forth in the rules of the Banking Commission, does not sufficiently solicit information from a bank to gauge whether such bank is providing services to a community to adequately and sufficiently meet the banking and credit needs of such community; and

3. The Banking Commission does not specify the particular needs of a community a bank seeking designation or redesignation should aspire to meet.

II. Proposed Int. 485-A

To gain a better understanding of a bank's community activities, on February 16, 2011 and March 7, 2011, the Council introduced and held a hearing, respectively, on Int. 485, which would require the Commissioner of Finance ("Commissioner") to establish a classification system that would rank City depository banks based on their community involvement. Under Int. 485, the classification system would be at the discretion of the Commissioner, and the goal was to require the Commissioner to establish criteria to evaluate whether banks are addressing the credit and financial needs of the City and its communities.[1]

After that hearing, and subsequent meetings with the Administration, banking industry, and community based organizations, Int. 485 was amended. The newly amended legislation, Proposed Int. 485-A, is summarized below.

1. Community Investment Advisory Board

Proposed Int. 485-A amends the administrative code of the City of New York by adding a new section 1524-A to establish the Community Investment Advisory Board ("CIAB"), purpose of which will be to conduct an assessment of banking services needs throughout the City and to evaluate the performance of the City's depository banks in meeting those needs through a broad-based, collaborative process.[2]

The CIAB will be an advisory board, and its findings may be considered by the Banking Commission when reviewing a bank's application for designation or redesignation.[3]

As an advisory board, the CIAB's findings and recommendations will not be binding on the Banking Commission, which has the sole authority to decide which banks are designated as city depositories.

2. CIAB Membership

To ensure a broad-based and collaborative process between stakeholders, and ensure that each stakeholder is fairly and adequately represented, the CIAB will be composed of elected officials, commissioners, members of the banking industry, small business owners or representatives, and community based organizations to conduct an assessment of banking services needs throughout the City and to evaluate the performance of the City's depository banks in meeting those needs. Specifically, the CIAB would consist of 8 members who will serve without compensation: the Banking Commission Members (Mayor, Comptroller, and the Commissioner of Finance), the Speaker of the Council, the Commissioner of Housing Preservation and Development, and three "private members": a representative of the City's banking industry (appointed by the Mayor), a representative of community development/housing organizations or consumer protection, and a small business owner representative (both appointed by the Speaker).[4] The Mayor, Comptroller, Speaker and Commissioners will serve on the CIAB for the duration of their tenure, and the 3 non-governmental members will serve 4 years, or through the issuance of two needs assessments, whichever is longer, and be eligible for reappointment.[5] Any vacancy occurring other than by expiration of term shall be filled in the same manner as the original position was filled for the unexpired portion of the term.[6] CIAB Members will be appointed within 60 days of enactment of Proposed Int. 485-A.[7]

3. CIAB Functions.

Beginning March 1, 2014, and every 2 years thereafter, Proposed Int. 485-A requires the CIAB to prepare an assessment of the state of banking services in New York City and its communities to identify local needs for banking services, particularly in traditionally underserved communities and populations, establish benchmarks and best practices for meeting local banking needs, and make recommendations on meeting those needs.[8] Once the City's banking services needs are assessed, then the CIAB will also issue an annual report that details and evaluates the performance of each depository bank in meeting those needs.[9]

Currently, applications for bank redesignation as a depository bank are due by March 1st of the second year in which the bank was originally designated.[10] The Banking Commission established a redesignation cycle so that all banks are redesignated at the same time, which decreases the administrative burden of going through redesignation applications every year.[11] The next redesignation process will occur in the spring of 2013.[12] Proposed Int. 485-A parallels the due dates for the needs assessment and the annual report produced by the CIAB with the application deadline for bank redesignation as a depository bank, so that the annual report can be considered by the Banking Commission when reviewing its designation or redesignation applications.[13]

4. Needs Assessment

Beginning March 1, 2014, and every 2 years thereafter, Proposed Int. 485-A requires the CIAB to conduct and publish on the DOF website a needs assessment that will assess the credit, financial, and banking services needs throughout the City.[14] Such assessment must establish benchmarks, best practices, and recommendations for meeting the City's banking needs identified by the assessment.[15]

The assessment will be made using:

- Information learned at public hearings. One public hearing must be conducted by the CIAB in each borough[16];
- Public comments received describing the credit, financial, and banking service needs throughout the City[17]; and
- Census-tract level data collected by the CIAB to enable the CIAB to understand banks' efforts to:

  a. address the key credit and financial services needs of small businesses;

  b. develop and offer financial services and products that are most needed by low and moderate income individuals and communities throughout the city and provide physical branches;

  c. provide funding, including construction and permanent loans and investments, for affordable housing and economic development projects in low and moderate income communities;

d. In the case of properties acquired by foreclosure and owned by the bank, reasonably address serious material and health and safety deficiencies in the maintenance and condition of the property;

e. conduct consumer outreach, settlement conferences, and similar actions relating to mortgage assistance and foreclosure prevention, and provide information, at the community district level to the board, relating to mortgage and foreclosure actions, including, but not limited to, total number of loans serviced and/or owned by the bank, total number of loans that are at least sixty days delinquent, total number of foreclosures commenced, total number of foreclosures prevented through loan modification, short sales, deeds in lieu of foreclosure or other mechanisms, total number of loan modifications applications, total number of loan modifications made and denied, and bank owned properties donated or sold at a discount;

f. partner in the community development efforts of the city;

g. positively impact on the city and its communities through activities including, but not limited to, philanthropic work and charitable giving; and

h. plan for and articulate how the bank will respond to the credit, financial and banking services needs of the city identified by the needs assessment, as applicable to the bank's type and size.[18]

In the needs assessment, the CIAB must also use the above criteria to assess the efforts of the City's banking industry as whole.[19]

5. Annual Report

Following the assessment of the City's banking needs, beginning March 1, 2015, and every year thereafter, Proposed Int. 485-A requires the CIAB to issue, publish on the DOF website, and transmit to the Banking Commission, an annual report in plain language that details a deposit's bank's progress in meeting the City's banking needs identified in the needs assessment from the previous fiscal year.[20] Such annual report must include:

- An evaluation of each bank's performance relative to the benchmarks and best practices identified in the needs assessment[21];
- Identification of areas of improvement from past evaluations, where applicable, and areas where improvement is necessary[22];
- If applicable, the bank's failure to provide information requested in writing by the CIAB to perform its needs assessment and annual report[23];
- A summary of the written comments received at public hearings held by the CIAB relating to deposit bank's efforts to meet the City's banking needs[24]; and
- A summary of data, in tabular format at the community district, borough and citywide levels of aggregation, collected by the CIAB in preparing the needs assessment and annual report[25].

The annual report may be considered by the Banking Commission when reviewing a bank's application for designation or redesignation.[26]

6. Public Data

Proposed Int. 485-A requires information collected by the CIAB for the annual report to be published on DOF's website no later than November 1st of the year preceding the annual report.[27] While the information considered by the CIAB will be collected at the census tract level and very detailed, the information published on the DOF website will be summarized at the community, borough, and citywide levels of aggregation.[28] To prevent public dissemination of potential proprietary or confidential information, a bank's plan to address the credit, financial and banking services needs of the city identified by the needs assessment, as applicable to the bank's type and size will only be made available on the DOF website if the bank deems such plan as non-confidential or non-proprietary.[29]

7. <u>Public hearing on Public Data used for Annual Report</u>

No later than 30 days after the data is published on DOF's website, but no later than December 15th of each year, Proposed Int. 485-A requires the CIAB to hold a public hearing that will be open to oral and written testimony.[30] Written comments will be accepted by the CIAB for at least 30 days before the start of the public hearing.[31]

8. <u>General Provisions of Proposed Int. 485-A</u>

As noted on page 5 of this report, the first needs assessment of the City is due on March 1, 2014, and the first annual report on how depository banks are meeting those needs is due on March 1, 2015. To ensure the public has access to the non-confidential and non-proprietary data collected by the CIAB prior to the release of the first needs assessment, Proposed Int. 485-A requires the CIAB to post data on DOF's website on or before March 1, 2013, and on or before March 1, 2014 collected by the CIAB in preparation of the first needs assessment and the first annual report.[32]

Currently, the Banking Commission designates and redesignates banks, and revokes such designation without notice to the council or the public. Proposed Int. 485-A would require the Banking Commission to notify the council within 30 days of receiving an application for designation or redesignation, and shall also notify the council within thirty days of approving or denying such application and, if designation or redesignation was denied, the basis for denial.[33] The bill would also require the Banking Commission to post notice on DOF's website of the revocation of a deposit bank's designation and the reason for such revocation.[34]

The bill would take effect immediately.[35]

9. <u>Community Investment Advisory Board Timeline of Actions</u>

One public hearing will be held in each borough during this time

May 25, 2012	July 25, 2012	July 25, 2012 to March 1, 2013	March 1, 2013*	March 1, 2014*	November 1, 2014	December 15, 2014	March 1, 2015
↓	↓	↓	↓	↓	↓	↓	↓
Bill Takes Effect	Appointment of CIAB members	Data collection and analysis by CIAB begins .	Collected Data is posted on DOF website. *Redesignation applications due to Banking Commission.	First City Needs Assessment is released.	Collected Data is posted on DOF website	Public Hearing	First Annual Report on Banks' Efforts is released. *Redesignation applications due to Banking Commission.

*****Between March 1, 2013 and March 1, 2014, the Banking Commission will begin their designation cycle, and begin to designate and redesignate depository banks.

[1] For more detail on Int. 485 and the Banking Commission, see Int. 485 and the March 7, 2011 briefing paper prepared by Finance Committee staff relating to Int. 485, available at http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=842832&GUID=85888256-843D-4BB1-A8C7-E8A888C1DAE3&Options=ID|Text|&Search=485 (last accessed April 29, 2012).

[2] *See* Proposed Int.485-A, §1, §1524-A.

[3] *See* Proposed Int.485-A, §1, §1524-A (1)(b).

[4] *See* Proposed Int.485-A, §1, §1524-A (2)

[5] *See id.*

[6] *See id.*

[7] *See id.*

[8] *See* Proposed Int.485-A, §1, §1524-A (1)(a).

[9] *See* Proposed Int.485-A, §1, §1524-A (1)(b).

[10] *See* 22 RCNY 1-03(b).

[11] February 2012 communications between Banking Commission staff and Finance Division staff

[12] *See id.*

[13] *See* Proposed Int.485-A, §1, §1524-A (1)(b).

[14] *See* Proposed Int.485-A, §1, §1524-A (1)(a).

[15] *See id.*

[16] *See* Proposed Int.485-A, §1, §1524-A (1)(a)(1)(i).

[17] *See* Proposed Int.485-A, §1, §1524-A (1)(a)(1)(ii).

[18] *See* Proposed Int.485-A, §1, §1524-A (1)(a)(1)(iii); *See also* Proposed Int.485-A, §1, §1524-A (3).

[19] *See* Proposed Int.485-A, §1, §1524-A (3).

[20] *See* Proposed Int.485-A, §1, §1524-A (1)(b).

[21] *See* Proposed Int.485-A, §1, §1524-A (1)(b)(i).

[22] *See* Proposed Int.485-A, §1, §1524-A (1)(b)(ii).

[23] *See* Proposed Int.485-A, §1, §1524-A (1)(b)(iii).

[24] *See* Proposed Int.485-A, §1, §1524-A (1)(b)(iv).

[25] *See* Proposed Int.485-A, §1, §1524-A (1)(b)(v).

[26] *See* Proposed Int.485-A, §1, §1524-A (1)(b).

[27] *See* Proposed Int.485-A, §1, §1524-A (4).

[28] *See id.*

[29] *See id.*

[30] *See id.*

[31] *See id.*

[32] *See* Proposed Int.485-A, §1, §1524-A (5).

[33] *See* Proposed Int.485-A, §2, §1524 (1).

[34] *See* Proposed Int.485-A, §3, §1524 (2)(b).

[35] *See* Proposed Int.485-A, §4.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 485-A:)

Int. No. 485-A

By Council Members Vann, Recchia, Mark-Viverito, Lander, Arroyo, Comrie, Dickens, Ferreras, Fidler, Foster, Gonzalez, Jackson, Koppell, Koslowitz, Mendez, Reyna, Rivera, Rose, Sanders, Seabrook, Van Bramer, Williams, Wills, Dromm, Brewer, Eugene, Cabrera, Gentile, Rodriguez, Barron, Palma, James, Levin, Garodnick, Chin, Koo, Mealy, Greenfield and Gennaro.

A Local Law to amend the New York City charter, in relation to the evaluation of depository banks.

Be it enacted by the Council as follows:

Section 1. Chapter 58 of the New York City charter is amended by adding a new section 1524-A to read as follows:

§ 1524-A. Community investment advisory board. 1. There is hereby established within the department an advisory board known as the community investment advisory board, which shall perform the following functions:

a. Conduct a needs assessment every two years, the first of which shall be published on the department's website on or before March 1, 2014. In conducting such needs assessment the board shall (1) assess the credit, financial and banking services needs throughout the City with a particular emphasis on low and moderate income individuals and communities, by means including but not limited to (i) convening at least one public hearing in each borough of the city; (ii) accepting, reviewing and considering public comments which describe the nature and extent of such needs; and (iii) considering the data and information collected by the board pursuant to subdivision 3 of this section; and (2) establish benchmarks, best practices, and recommendations for meeting the needs identified in such needs assessment, by, among other things, considering the data and information collected by the board pursuant to subdivision 3 of this section; and

b. Issue an annual report in plain language, the first of which shall be published on the department's website and transmitted to the banking commission on or before March 1, 2015 and each March first thereafter to be considered by the banking commission in reviewing a bank's application for designation or redesignation as a deposit bank, covering the preceding fiscal year, which (i) addresses how each bank that is designated as a deposit bank pursuant to section 1524 of the charter is meeting the needs identified pursuant to paragraph a of this subdivision and subdivision 3 of this section, including an evaluation of how each bank performed relative to the benchmarks and best practices applicable to such bank as established by the board pursuant to the needs assessment required pursuant to paragraph a of this subdivision, (ii) identifies areas of improvement from past evaluations, where applicable, and areas where improvement is necessary, taking into account the information collected by the board pursuant to subdivision 3 of this section, (iii) specifically identifies any deposit bank's failure to provide information requested in writing by the board pursuant to subdivision 3 of this section that is applicable to such deposit bank, (iv) summarizes written comments submitted to the board pursuant to subdivision 4 of this section and the role played by such comments; and (v) summarizes, in tabular format, the data collected by the board pursuant to paragraphs a through g of subdivision 3 of this section, and to the extent not deemed confidential or proprietary by the bank, paragraph h, at the community district, borough, and citywide levels of aggregation. For purposes of this section, "fiscal year" shall mean the period from July first to June thirtieth.

2. The board shall consist of eight members who shall be: the mayor or his or her designee, the comptroller or his or her designee, the speaker of the council or his or her designee, the commissioner of the department of housing preservation and development, the commissioner of the department of finance, a member of a community-based organization whose principal purpose is community and/or economic development, or consumer protection who shall be designated by the speaker, a representative of an organization or association that represents small business owners who shall be designated by the speaker and a representative of the city banking industry who shall be designated by the mayor. The mayor, comptroller, speaker and commissioners shall serve for the duration of their tenure. The three nongovernmental members shall serve four years from the date of their appointment, or through the issuance of two needs assessments pursuant to paragraph a of subdivision 1 of this section, whichever is longer, and be eligible for reappointment; provided, however, that each member shall serve until his or her qualified successor is appointed. Any vacancy occurring other than by expiration of term shall be filled in the same manner as the original position was filled for the unexpired portion of the term. Members shall serve without compensation. The members of the board shall be appointed within sixty days of the effective date of the local law that added this section.

3. In performing its functions as set forth in subdivision 1 of this section, the board shall seek to collect and consider information at the census tract level, relating to the credit, financial and banking services needs throughout the City and the extent to which such needs are being met, including but not limited to, information, to the extent applicable, regarding each deposit bank's efforts to:

a. address the key credit and financial services needs of small businesses;

b. develop and offer financial services and products that are most needed by low and moderate income individuals and communities throughout the city and provide physical branches;

c. provide funding, including construction and permanent loans and investments, for affordable housing and economic development projects in low and moderate income communities;

d. In the case of properties acquired by foreclosure and owned by the bank, reasonably address serious material and health and safety deficiencies in the maintenance and condition of the property;

e. conduct consumer outreach, settlement conferences, and similar actions relating to mortgage assistance and foreclosure prevention, and provide information, at the community district level to the board, relating to mortgage and foreclosure actions, including, but not limited to, total number of loans serviced and/or owned by the bank, total number of loans that are at least sixty days delinquent, total number of foreclosures commenced, total number of foreclosures prevented through loan modification, short sales, deeds in lieu of foreclosure or other mechanisms, total number of loan modifications applications, total number of loan modifications made and denied, and bank owned properties donated or sold at a discount;

f. partner in the community development efforts of the city;

g. positively impact on the city and its communities through activities including, but not limited to, philanthropic work and charitable giving; and

h. plan for and articulate how the bank will respond to the credit, financial and banking services needs of the city identified by the needs assessment pursuant to paragraph a of subdivision 1 of this section, as applicable to the bank's type and size.

In performing the needs assessment pursuant to paragraph a of subdivision 1 of this section, the board shall also consider, to the extent practicable, the information listed in paragraphs a through g of this subdivision relating to the efforts of the city's banking industry as a whole.

4. In preparation for each annual report pursuant to paragraph b of subdivision 1 of this section, the board shall publish all information collected pursuant to paragraphs a through g of subdivision 3 of this section, and to the extent not deemed confidential or proprietary by the bank, paragraph h, summarized at the community district, borough, and citywide levels of aggregation, for each deposit bank on the department's website no later than November first of the year preceding the issuance of the report. At least thirty days after such publication, but no later than December fifteenth, the board shall hold a public hearing at which the public may testify concerning the efforts and extent to which the deposit banks are meaningfully addressing the credit and financial needs throughout the city. The board shall also take written comments for at least thirty days preceding such public hearing.

5. On or before March 1, 2013 and on or before March 1, 2014, the board shall publish on the department's website, for each deposit bank, the information collected pursuant to paragraphs a through g of subdivision 3 of this section, and to the extent not deemed confidential or proprietary by the bank, paragraph h, summarized at the community district, borough, and citywide levels of aggregation. Each such publication of information shall specifically identify any deposit bank's failure to provide information requested in writing by the board pursuant to subdivision 3 of this section that is applicable to such deposit bank.

§2. Subdivision 1 of section 1524 of the New York City charter is amended to read as follows:

1. The banking commission which consists of the mayor, the commissioner and the comptroller shall, by majority vote, by written notice to the commissioner, designate the banks or trust companies in which all moneys of the city shall be deposited, and may by like notice in writing from time to time change the banks and trust companies thus designated. *The banking commission shall notify the council within thirty days of receiving an application for designation or redesignation, and shall also notify the council within thirty days of approving or denying such application and, if designation or redesignation was denied, the basis for denial.*

§3. Paragraph (b) of subdivision 2 of section 1524 of the New York City charter is amended to read as follows:

b. If the banking commission by a majority vote shall decide that a requirement or condition contained in paragraph a of this subdivision has been violated after giving the bank or trust company an opportunity to be heard, then upon thirty days' notice to the bank or trust company such designation may be revoked. *The banking commission shall post notice of such revocation and the reason for such revocation on the department's website.*

§4. This local law shall take effect immediately upon its enactment.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, HELEN D. FOSTER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER; Committee on Finance, April 30, 2012.

Laid Over by the Council

Report of the Committee on Housing and Building

Report for Int. No. 340-A

Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the New York city building code, in relation to sun control devices

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on September 29, 2010 (Minutes, page 4079), respectfully

REPORTS:

BACKGROUND AND ANALYSIS:

On April 30, 2012, the Committee on Housing and Buildings, chaired by Council Member Erik Martin Dilan, will conduct a hearing on Proposed Int. No. 340-A, a Local Law to amend the New York City Building Code, in relation to sun control devices. On October 20, 2010 the Committee held a hearing on an earlier version of this bill and received testimony from representatives of the Mayor's Office of Long Term Planning and Sustainability and other persons interested in this legislation.

Renewable Energy background

Energy shortages are by no means new in the history of modern man[1] but most Americans trace their initial awareness of the issues surrounding fossil fuel consumption to the global oil shortages of the 1970s.[2] It was then that policymakers became aware that the limited supplies of imported fossil fuels would not indefinitely meet the rising energy demands of Americans. In 1979, when then President Jimmy Carter installed solar panels on the roof of the White House West Wing, he said "a generation from now, this solar heater can either be a museum piece, an example of a road not taken or…one of the most exciting adventures ever undertaken by the American people."[3] When oil prices stabilized, funding for research into alternative energy sources was significantly reduced and ultimately the solar panels did become museum pieces.[4]

Now, almost thirty years later, when the world has, arguably, reached its peak of oil extraction,[5] we are once again concerned about energy shortages. Our society and our planet need energy sources that can meet our demands—sources that are sustainable, affordable and that contribute to energy independence. The sun has the potential to meet our global energy needs by a factor of 1500.[6] The energy from 40 minutes of solar radiation upon the earth is equivalent to global energy consumption for a year.[7] The sun's energy is widely distributed and could provide energy independence for a number of countries, in addition to our own, and for isolated areas off the grid.[8]

Moreover, as mandated by Local Law 22 of 2008, known as the New York City Climate Protection Act, City operations must decrease its greenhouse gas emissions by 30 percent by 2017. Energy efficiency alone will not allow the City to meet these requirements; the City must increase its use of renewable energy. The Mayor's PlaNYC 2030 ("PlaNYC") estimates that demand will increase by 25 percent by 2030.[9] PlaNYC notes that "with limited land available to build new power plants, our challenge is to find a new approach to improve the City's long-term energy outlook."[10] According to PlaNYC, wholesale energy prices will increase 60 percent between 2005-2030.[11] Furthermore, our additional electricity needs are currently projected to be met mostly in the form of more natural gas and petroleum with only a small percent increase in overall renewable energy supply.[12]

Proposed Int. No. 340-A

Sun control devices can be used to combat heat gains in buildings, reduce glare, and improve occupant comfort. If properly designed, sun control devices can decrease air conditioning loads by 30%-60%. The Building Code currently only allows sun control devices to extend ten inches from a building's façade, decreasing their effectiveness. However, when placed above windows, awnings are allowed to extend up to five feet in the street line. As the shading and visual impact of awnings and sun control devices are the same, standards controlling their use should be similar.

Section 1 of the bill provides the statement of findings and purpose. Section 2 amends Section BC 202 by adding a definition for sun control device. Sections 3, 4, 5, 6 and 7 add the phrase "sun control devices" to provisions regulating the use of awnings. Section 8 adds sun control devices to the list of elements subject to area limitations on encroachments of the street line. Section 9 deletes the phrase "sun control devices" from the provision restricting their projection to 10 inches and extends the allowed projection for balconies, including railings and supporting brackets, from 22 inches to 2 feet 6 inches beyond the street line. Section 10 allows sun control devices which are supported entirely from the building to project not more than 2 feet 6 inches beyond the street line so long as no part of such sun control device is less than 8 feet above the ground or sidewalk level. Any portion of a sun control device that is located over a sidewalk and is more than 10 inches beyond the street line and less than 40 feet above the ground or sidewalk must be removable or retractable to less than 10 inches beyond the street line. Section 11 provides that this local law shall take effect on July 1, 2012.

Amendments to Int. No. 340

- A new bill section 3 was added, which adds sun control devices to Section 1607.11.2.4 of the Building Code. Such section of the Building Code regulates the use of awnings.
- Former bill sections 3, 4, and 5 were renumbered as new bill sections 4, 5, and 7, respectively.
- A new bill section 8 was added, which adds sun control devices to the list of encroachments of the street line which are subject to area limitations.
- Former bill section 6 was renumbered as new bill section 9 and was amended to extend the allowed projection for balconies, including railings and supporting brackets, from 22 inches to 2 feet 6 inches beyond the street line.
- A new bill section 10 was added, which allows sun control devices supported entirely from the building to project not more than 2 feet 6 inches beyond the street line so long as no part of such sun control device is less than 8 feet above the ground or sidewalk level.
- Former bill section 8, the enactment clause, was renumbered as bill section 11 and amended to provide for an effective date of July 1, 2012.

[1] Stephen F. Williams, Mandating Solar Hot Water Heating in New Residential Construction By Local Governments: An Energy Policy Perspective on Solar Hot Water Equipment Mandates, 1 UCLA J. Envtl. L. & Pol'y 135 (Spring 1981) (describing attempts by the English Parliament to address shortages and escalating prices of wood).

[2] Sanya Carleyolsen, Tangled in the Wires: An Assessment of the Existing U.S. Renewable Energy Legal Framework, 46 Nat. Resources J. 759, 761 (Summer 2006).

[3] Jimmy Carter Library & Museum News Release, March 30, 2007. In addition, President Obama recently installed solar panels on the residence portion of the White House.

[4] Id.

[5] Sanya Carleyolsen, see note 2 at pg. 762.

[6] Jessika Ebba Trancik, Photovoltaics—A Niche Market Distraction or a Global Energy Solution?, 11 Geo. Public Pol'y Rev. 69, 71 (Winter 2006).

[7] Ken Zweibel, James Mason and Vasilis Fthenakis, A Solar Grand Plan, Scientific American Magazine, January 2008, www.sciam.com/article.cfm?id=a-solar-grand-plan&page=1.

[8] Jessica Ebba Trancik, Photovoltaics—A Niche Market Distraction or a Global Energy Solution?, 11 Geo. Public Pol'y Rev. 69, 71 (Winter 2006); Ken Zweibel, supra.

[9] MAINTAINYC, *available at* http://home2.nyc.gov/html/planyc2030/ downloads/pdf/maintainyc_energy.pdf; *See also* PLANYC, *available at* http://home2.nyc.gov/html/planyc2030/ downloads/pdf/full_report.pdf.

[10] PLANYC, *available at* http://home2.nyc.gov/html/planyc2030/ html/about/maintainyc_energy.shtml

[11] New York City Economic Development Corporation, "PlaNYC: A Greener, Greater New York", Oct. 2007.

[12] PAUL CHERNICK ET AL. ENERGY PLAN FOR THE CITY OF NEW YORK 73 (2003), *available at* http://resourceinsight.com/work/nyc_irp.pdf.

(The following is the text of the Fiscal Impact Statement for Int. No. 340-A:)

THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
PRESTON NIBLACK, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 340-A

COMMITTEE: Housing and Buildings

TITLE: To amend the administrative code of the city of New York, in relation to the maximum allowable projection of sun control devices.	SPONSOR**:** Dilan, Brewer, Cabrera, Chin, Comrie, Fidler, Garodnick, Gonzalez, James, Koppell, Koslowitz, Lander, Mark-Viverito, Palma, Vann, Williams, Rodriguez, Van Bramer, Jackson, Dromm and Halloran.

SUMMARY OF LEGISLATION: This legislation would allow a sun control device to extend the maximum allowable projection of said device beyond the street line of a building to 2 feet 6 inches, increased from the current regulation of 10 inches. The reason for this increase is to increase the effectiveness of the sun control device.

A sun control device, which must be constructed of non-combustible materials, is defined as an architectural projection that provides protection against solar radiation entering a building through glazed areas and is supported by the building to which it is attached. A sun control device includes, but is not limited to, a fixed, retractable or rotating sun control device. A fixed sun control device has no moving parts and is typically composed of horizontal overhangs or vertical fins. A retractable sun control device extends or retracts, and in the extended position casts a shadow on designated portions of the building. A rotating sun control device may be of fixed or adjustable length and pivots at its base. Sun control devices do not include awnings and canopies.

EFFECTIVE DATE: This local law shall take effect on July 1, 2012.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: FISCAL 2013

FISCAL IMPACT STATEMENT:

	Effective FY13	FY Succeeding Effective FY14	Full Fiscal Impact FY14
Revenues (+)	**$0**	**$0**	**$0**
Expenditures (-)	**$0**	**$0**	**$0**
Net Revenues	**$0**	**$0**	**$0**

IMPACT ON REVENUES: There is no projected impact on revenue from this legislation.

IMPACT ON EXPENDITURES: There is no projected impact on expenditures from this legislation.

SOURCE OF INFORMATION: Committee on Housing and Buildings and the City Council Finance division.

Estimate Prepared By: Nathaniel Toth, Deputy Director

HISTORY: Introduced by City Council and referred to Housing and Buildings Committee as Int. No. 340 on September 29, 2010. Hearing held by Committee on October 20, 2010, and the bill was laid over. This legislation will be voted by the Committee on April 30, 2012 as Proposed Int. No. 340-A.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 340-A:)

Int. No. 340-A

By Council Members Dilan, Brewer, Cabrera, Chin, Comrie, Fidler, Garodnick, Gonzalez, James, Koppell, Koslowitz, Lander, Mark-Viverito, Palma, Vann, Williams, Rodriguez, Van Bramer, Jackson, Dromm, Gennaro, Barron, Eugene, Levin and Halloran.

A Local Law to amend the New York city building code, in relation to sun control devices.

Be it enacted by the Council as follows:

Section 1. Statement of findings and purpose. Sun control devices help combat heat gain and prevent glare, decreasing the energy needed to cool a building. Presently, the New York city building code permits these shading devices to project a maximum of 10 inches beyond the street line of a building, thus limiting their effectiveness. This bill would increase the maximum allowable projection of a sun control device beyond the street line of a building to 2 feet 6 inches, in alignment with proposed revisions to the zoning resolution of the city of New York, in order to expand the effectiveness of such sun control device.

§ 2. Section BC 202 of the New York city building code, as amended by local law number 47 for the year 2010, is amended by adding a new definition to be placed in alphabetical order to read as follows:

SUN CONTROL DEVICE. *An architectural projection that provides protection against solar radiation entering a building through glazed areas and is supported by the building to which it is attached. Sun control device includes, but is not limited to, a fixed, retractable or rotating sun control device. A fixed sun control device has no moving parts and is typically composed of horizontal overhangs or vertical fins. A retractable sun control device extends or retracts, and in the extended position casts a shadow on designated portions of the building. A rotating sun control device may be of fixed or adjustable length and pivots at its base. Sun control device shall not include awnings and canopies.*

§ 3. Section BC 1607.11.2.4 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

1607.11.2.4 Awnings [and], canopies, *and sun control devices*. Awnings [and], canopies, *and sun control devices* shall be designed for a uniform live load of 5 psf (0.240 kN/m^2) as well as for snow loads and wind loads as specified in Sections 1608 and 1609.

§ 4. Section BC 3101.1 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

3101.1 Scope. The provisions of this chapter shall govern special building construction including membrane structures, temporary structures, pedestrian walkways and tunnels, awnings [and], canopies, *sun control devices*, marquees, signs, telecommunications towers and antennas, swimming pools and enclosures, sidewalk cafés, and fences.

§ 5. The title of section BC 3105 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

SECTION BC 3105
AWNINGS [AND], CANOPIES *AND SUN CONTROL DEVICES*

§ 6. Section BC 3105.1 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

3105.1 General. Awnings [and], canopies, *and sun control devices* shall comply with the requirements of this section, the requirements of Chapter 32 for projections over public ways, and other applicable sections of this code.

Exception: Canopies projecting over public rights-of-way governed by Title 19 of the Administrative Code and rules of the New York City Department of Transportation.

§ 7. Section BC 3105.3 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

3105.3 Design and construction. Awnings [and], canopies, *and sun control devices* shall be designed and constructed to withstand wind or other lateral loads and live loads as required by Chapter 16 with due allowance for shape, open construction and similar features that relieve the pressures or loads. Structural members shall be protected to prevent deterioration. Awnings shall have frames of noncombustible material, covered with flame-resistant fabric in accordance with NFPA 701, plastic in accordance with Section 2605, sheet metal, or other equivalent material, and shall be either fixed, retractable, folding or collapsible. *Sun control devices shall be constructed of noncombustible materials.*

§ 8. Section BC 3202.2.1 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

3202.2.1 Encroachments subject to the area limitations. Encroachments that are subject to area limitations are those elements listed in Sections 3202.2.1.1 through [3202.2.1.8] *3202.2.1.9*, generally of an architectural character, that form an integral part of the building façade. The aggregate area of all such elements constructed to extend beyond the street line shall not exceed 10 square feet (0.93 m^2) within any 100 square feet ([9.1]*9.3* m^2) of wall area, except that a veneer may be applied to the entire façade of a building erected before December 6, 1968, if such veneer does not project more than 4 inches (102 mm) beyond the street line. The area of any such projection shall be measured at that vertical plane, parallel to the wall, in which the area of the projection is greatest. This plane of measurement may be at the street line, the line of maximum projection or any point in between.

§ 9. Sections BC 3202.2.1.2 and BC 3202.2.1.3 of the New York city building code, as added by local law number 33 for the year 2007, are amended to read as follows:

3202.2.1.2 Architectural details. Details such as cornices, eaves, bases, sills, headers, band course, opening frames, [sun control devices,] rustications, applied ornament or sculpture, grilles, windows when fully open, air conditioning units, and other similar elements may be constructed:

1. To project not more than 4 inches (102 mm) beyond the street line when less than 10 feet (3048 mm) above the around or sidewalk level.

2. To project not more than 10 inches (254 mm) beyond the street line when more than 10 feet (3048 mm) above the around or sidewalk level.

Exception: Architectural details that are more than 10 feet (3048 mm) above the sidewalk and that project more than 10 inches (254 mm) may be permitted subject to the approval of the Commissioner of the Department of Transportation.

3202.2.1.3 Balconies. Balconies, including railings and supporting brackets, no parts of which are less than 10 feet (3048mm) above the ground or sidewalk level, may be constructed to project not more than [22 inches] *2 feet 6 inches* ([559] *762* mm) beyond the street line. When permitted by the provisions of this code, fire escapes that are part of a required exit may be constructed to project not more than 4 feet 6 inches (1372 mm) beyond the street line provided no part, including any movable ladder or stair, is lower than 10 feet (3048 mm) above the ground or sidewalk level when not in use.

§ 10. Section BC 3202 of the New York city building code, as added by local law number 33 for the year 2007, is amended by adding a new section BC 3202.2.1.9 to read as follows:

3202.2.1.9 Sun control devices. *Sun control devices constructed in accordance with Section 3105 and supported entirely from the building may project beyond the street line not more than 2 feet 6 inches (762 mm), provided that no part of the sun control device is less than 8 feet (2438 mm) above the ground or sidewalk level. Any portion of a sun control device that is located over a sidewalk vault and is more than 10 inches (254 mm) beyond the street line and less than 40 feet above the ground or sidewalk shall be removable or retractable to less than 10 inches (254 mm) beyond the street line.*

§ 11. This local law shall take effect on July 1, 2012.

ERIK MARTIN DILAN Chairperson; JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, LETITIA JAMES, MELISSSA MARK-VIVERITO, ROSIE MENDEZ, ELIZABETH

CROWLEY, BRADFORD S. LANDER, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, April 30, 2012.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Land Use

Report for L.U. No. 600

Report of the Committee on Land Use in favor of approving Application no. N 110223 ZRQ by the JetBlue Airways Corporation, pursuant to Sections 197-c and 201 of the New York City Charter for the Zoning Resolution of the City of New York, relating to Article XI, Chapter 7 to modify sign regulations within the Queens Plaza Sub district of the Special Long Island City Mixed Use District, in Community Districts l and 2, Borough of Queens, Council District 26.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 18, 2012 (Minutes, page 1225), respectfully

REPORTS:

SUBJECT

QUEENS CBs 1 and 2 N 110223 ZRQ

City Planning Commission decision approving an application submitted by the JetBlue Airways Corporation pursuant to Section 197-c and 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to Article XI, Chapter 7 to modify sign regulations within the Queens Plaza Subdistrict of the Special Long Island City Mixed Use District, in Community Districts 1and 2, Borough of Queens.

INTENT

To allow accessory business signs on rooftops of non-residential buildings in the Queens Plaza Subdistrict within the Special Long Island City Mixed Use District.

PUBLIC HEARING

DATE: April 24, 2012

Witnesses in Favor: Two **Witnesses Against:** None

SUBCOMMITTEE RECOMMENDATION

DATE: April 24, 2012

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:	**Against:**	**Abstain:**
Weprin	None	None
Rivera		
Reyna		
Jackson		
Seabrook		
Vann		
Lappin		
Ignizio		

COMMITTEE ACTION

DATE: April 26, 2012

The Committee recommends that the Council approve the attached resolution.

In Favor:	**Against:**	**Abstain:**
Comrie	None	Barron
Rivera		
Reyna		
Jackson		
Sanders, Jr.		
Seabrook		
Gonzalez		
Palma		
Arroyo		
Dickens		
Garodnick		
Lappin		
Vacca		

Cont'd

Koo		
Lander		
Levin		
Weprin		
Williams		
Ignizio		
Halloran		

In connection herewith, Council Members Comrie and Weprin offered the following resolution:

Res. No. 1322

Resolution approving the decision of the City Planning Commission on Application No. N 110223 ZRQ, for an amendment of the Zoning Resolution of the City of New York, relating to Article XI, Chapter 7, to modify sign regulations within the Queens Plaza Subdistrict of the Special Long Island City Mixed Use District in Community Districts 1 and 2 (L.U. No. 600).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on April 2, 2012 its decision dated March 28, 2012 (the "Decision"), pursuant to Sections 197-c and 201 of the New York City Charter, regarding an application submitted by JetBlue Airways Corporation, for an amendment of the text of the Zoning Resolution of the City of New York, relating to Article XI, Chapter 7, to modify sign regulations within the Queens Plaza Subdistrict of the Special Long Island City Mixed Use District, in Community Districts 1and 2 which would allow accessory business signs on rooftops of non-residential buildings with a roof height between 70 and 150 feet if, in addition to other criteria, the building has frontage along Queens Plaza North, Queens Plaza East, Queens Boulevard, and Queens Plaza South (Application No. N 110223 ZRQ), Borough of Queens (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 24, 2012;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration, issued on December 12, 2011 (CEQR No. 10DCP034Q);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, N 110223 ZRQ, incorporated by reference herein, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter Underlined is new, to be added;
Matter in ~~Strikeout~~ is old, to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicate where unchanged text appears in the Zoning Resolution

Article XI – Special Purpose Districts

Chapter 7
Special Long Island Mixed Use District

117-51

Queens Plaza Subdistrict Special Use Regulations

The special #use# provisions of Sections 123-20 through 123-50, inclusive, of the #Special Mixed Use District# shall apply in the Queens Plaza Subdistrict except where modified by the provisions of this Section and shall supplement or supersede the provisions of the designated #Residence# or M1 District, as applicable.

* * *

117-514
Special Sign Regulations

Within the Queens Plaza Subdistrict, the #sign# regulations of Section 123-40 shall apply, except that such #sign# regulations may be modified to permit a non-#flashing sign# on the rooftop of a #non-residential building#, provided that such #sign# directs attention to a business conducted within such #building#, where such business occupies at least 20 percent of the #floor area# within such #building#, or a minimum of 50,000 square feet of #floor area# within such #building#, whichever is less. In addition, the following rules shall apply:

(a) such #sign# shall be located on the rooftop of a #building# with frontage on Queens Plaza South, Queens Boulevard, Queens Plaza East or Queens Plaza North, and the height of the rooftop on which the #sign# is affixed shall be at least 70 feet but not more than 150 feet above #curb level#:

(b) there shall be no more than one such #sign# on a #zoning lot#, and no more than one such #sign# per establishment on any #sign# structure:

(c) such #signs# shall be affixed to an open frame structure with maximum dimensions that shall not exceed 45 feet in height, as measured from the surface of the roof to its uppermost point, and 150 feet in width, as measured along its widest dimension;

(d) all writing, pictorial representations, emblems, flags, symbols or any other figure or character comprising the design of such #sign# shall be separate elements, individually cut and separately affixed to the open frame structure. No perimeter or background surfaces shall be applied or affixed to the open frame structure in addition to such separate elements. No portion of such separate elements shall extend beyond the maximum dimensions allowed for an open frame structure. The area of such separate elements of a rooftop #sign# shall not count towards the maximum #surface area# of a #sign# permitted in Section 32-644 (Illuminated or flashing signs in C4, C5-4, C6 or C7 Districts); and

(e) any illumination from a rooftop #sign# located within 100 feet of any #building# containing #residences#, where such #residences# legally existed at the time of the application for a permit for such #sign#, shall not project into or reflect onto any #residential# portion of such #building#.

* * *

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, ROBERT JACKSON, JAMES SANDERS, Jr., LARRY B. SEABROOK, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO, DANIEL J. HALLORAN III, PETER A. KOO; Committee on Land Use, April 26, 2012.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 601

Report of the Committee on Land Use in favor of approving Application no. N 120132 ZRY by the Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter for the Zoning Resolution of the City of New York that would remove Zoning impediments to green building features that will help promote energy efficient building envelopes; renewable energy, stormwater detention, reduction of carbon emissions and provide for a healthier New York City. To incorporate these goals, various Sections of the Zoning Resolution will be amended.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 18, 2012 (Minutes, page 1225), respectfully

REPORTS:

SUBJECT

CITYWIDE **N 120132 ZRY**

City Planning Commission decision approving an application submitted the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York that would remove zoning impediments to green building features that will help promote energy efficient building envelopes; renewable energy, stormwater detention, reduction of carbon emissions and provide for a healthier New York City. To incorporate these goals, various sections of the Zoning Resolution will be amended.

INTENT

To facilitate the retrofitting of existing buildings and construction of new buildings with "green building features."

PUBLIC HEARING

DATE: April 24, 2012

Witnesses in Favor: Eleven **Witnesses Against:** Three

SUBCOMMITTEE RECOMMENDATION

DATE: April 24, 2012

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor:	**Against:**	**Abstain:**
Weprin	None	None
Rivera		
Reyna		
Jackson		
Seabrook		
Vann		
Lappin		
Ignizio		

COMMITTEE ACTION

DATE: April 26, 2012

The Committee recommends that the Council approve the attached resolution.

In Favor:	**Against:**	**Abstain:**
Comrie	None	None
Rivera		
Reyna		
Barron		
Jackson		
Sanders, Jr.		
Seabrook		
Gonzalez		
Palma		
Arroyo		
Dickens		
Garodnick		

Lappin
Vacca

Cont'd
Koo
Lander
Levin
Weprin
Williams
Ignizio
Halloran

In connection herewith, Council Members Comrie and Weprin offered the following resolution:

Res. No. 1323

Resolution approving the decision of the City Planning Commission on Application No. N 120132 ZRY, for an amendment of the Zoning Resolution of the City of New York, to remove zoning impediments to the construction and retrofitting of green buildings (L.U. No. 601).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on April 2, 2012 its decision dated March 28, 2012 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning, for an amendment of the text of the Zoning Resolution of the City of New York, that would remove zoning impediments to green building features that will help promote energy efficient building envelopes; renewable energy, stormwater detention, reduction of carbon emissions and provide for a healthier New York City (Application No. N 120132 ZRY), All Community Districts, Citywide (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on April 24, 2012;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration, issued on December 12, 2011 (CEQR No. 12DCP068Y);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, N 120132 ZRY, incorporated by reference herein, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter with # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

Article I
General Provisions

* * *

11-13
Public Parks

District designations indicated on #zoning maps# do not apply to #public parks#, except as set forth in Section 105-91 (Special District Designation on Public Parks). In the event that a #public park# or portion thereof is sold, transferred, exchanged, or in any other manner relinquished from the control of the Commissioner of Parks and Recreation, no building permit shall be issued, nor shall any #use# be permitted on such former #public park# or portion thereof, until a zoning amendment designating a zoning district therefore has been adopted by the City Planning Commission and has become effective after submission to the City Council in accordance with the provisions of Section ~~75-00~~ 71-10 (PROCEDURE FOR AMENDMENTS).

* * *

Chapter 2
Construction of Language and Definitions

* * *

12-10 Definitions

* * *

Accessory use, or accessory (8/27/98)

* * *

An #accessory use# includes:

* * *

(19) An ambulance outpost operated by or under contract with a government agency or a public benefit corporation and located either on the same #zoning lot# as, or on a #zoning lot# adjacent to, a #zoning lot# occupied by a fire or police station~~.~~;

(20) Electric vehicle charging in connection with parking facilities;

(21) Solar energy systems.

* * *

Floor area (2/2/11)

"Floor area" is the sum of the gross areas of the several floors of a #building# or #buildings#,

measured from the exterior faces of exterior walls or from the center lines of walls separating

two #buildings#. In particular, #floor area# includes:

* * *

(n) floor space in exterior balconies if more than 67 percent of the perimeter of such balcony is enclosed and provided that a parapet not higher than 3 feet, 8 inches, or a railing not less than 50 percent open and not higher than 4 feet, 6 inches, shall not constitute an enclosure. A sun control device that is accessible for purposes other than for maintenance shall be considered a balcony.

(o) any other floor space not specifically excluded.

However, the #floor area# of a #building# shall not include:

* * *

(10) floor space in exterior balconies provided that not more than 67 percent of the perimeter of such balcony is enclosed and provided that a parapet not higher than 3 feet, 8 inches, or a railing not less than 50 percent open and not higher than 4 feet, 6 inches, shall not constitute an enclosure. A sun control device that is accessible for purposes other than for maintenance shall be considered a balcony.

* * *

(12) exterior wall thickness, up to 8 inches:

(i) Where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch; or

(ii) Where such wall thickness is part of an exterior wall constructed after (date of adoption), equal to the number of inches by which the wall's total thickness exceeds 8 inches, provided the above-grade exterior walls of the #building# envelope are more energy efficient than required by the New York City Energy Conservation Code (NYCECC) as determined below:

(1) The area-weighted average U-factor of all opaque above-grade wall assemblies shall be no greater than 80 percent of the area-weighted average U-factor determined by using the prescribed requirements of the NYCECC, and

(2) The area-weighted average U-factor of all above-grade exterior wall assemblies, including vertical fenestrations, shall be no more than 90 percent of the area-weighted

average U-factor determined by using the prescribed requirements of the NYCECC. For the purposes of calculating the area-weighted average U-factor, the amount of fenestration shall equal the amount of fenestration provided in such exterior walls, or an amount equal to the maximum fenestration area referenced in the NYCECC for the calculation of the baseline energy code requirement, whichever is less.

For the purposes of calculating compliance with this paragraph (ii), the term "above-grade" shall only include those portions of walls located above the grade adjoining such wall. Compliance with this paragraph (ii) shall be demonstrated to the Department of Buildings at the time of issuance of the building permit for such exterior walls. The total area of wall thickness excluded from the calculation of #floor area# shall be reflected on the next issued temporary or final Certificate of Occupancy for the building, as well as all subsequent Certificates of Occupancy.

(13) floor space in a rooftop greenhouse permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses).

(14) floor space on a sun control device, where such space is inaccessible other than for maintenance.

* * *

23-12
Permitted Obstructions in Open Space

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, the following obstructions shall be permitted in any #open space# required on a #zoning lot#:

(a) Air conditioning condensation units, #accessory#, for #single-# or #two-family residences#, provided that such units, if located between a #street wall#, or prolongation thereof, and a #street line#, are not more than 18 inches from a #street wall#, fully screened from the #street# by vegetation;

(b) Awnings and other sun control devices. However, when located at a level higher than a first #story#, excluding a #basement#, all such devices:

(1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and

(2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;

(~~a~~c) Balconies, unenclosed, subject to the provisions of Section 23-13;

(~~b~~d) Breezeways;

(~~c~~e) Driveways, private streets, open #accessory# off-street parking spaces, unenclosed #accessory# bicycle parking spaces or open #accessory# off-street loading berths, provided that the total area occupied by all these items does not exceed the percentages set forth in Section 25-64 (Restrictions on Use of Open Space for Parking);

(~~d~~f) Eaves, gutters or downspouts, projecting into such #open space# not more than 16 inches or 20 percent of the width of such #open space#, whichever is the lesser distance;

(g) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #open space# width, up to a maximum thickness of 8 inches.

(~~e~~h) Parking spaces, off-street, enclosed, #accessory#, not to exceed one space per #dwelling unit#, when #accessory# to a #single-family#, #two-family# or three-#family residence#, provided that the total area occupied by a #building# used for such purposes does not exceed 20 percent of the total required #open space# on the #zoning lot. However, two such spaces for a #single-family residence# may be permitted in #lower density growth management areas# and in R1-2A Districts;

(i) Solar energy systems:

(1) on the roof of an #accessory building#, limited to 18 inches in height as measured perpendicular to the roof surface; or

(2) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

(~~f~~j) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#;

(~~g~~k) Terraces, unenclosed, fire escapes~~,~~ or planting boxes ~~or air conditioning units~~, provided that no such items project more than six feet into or over such #open space#.

* * *

23-44
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Residence Districts#, the following obstructions shall be permitted within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

(1) Air conditioning condensation units, #accessory#, for #single-# or #two-family residences#, provided that such units, if located between a #street wall#, or prolongation thereof, and a #street line#, are not more than 18 inches from a #street wall#, fully screened from the #street# by vegetation;

(2) Arbors or trellises;

(3) Awnings ~~or canopies;~~ and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

(i) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and

(ii) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;

(4) Balconies, unenclosed, of a #building# containing #residences# subject to the applicable provisions of Section 23-13. Such balconies are not permitted in required #side yards#;

(5) Canopies

(6) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;

(7) Eaves, gutters or downspouts projecting into such #yard# or #rear yard equivalent# not more than 16 inches or 20 percent of the width of such #yard# or #rear yard equivalent#, whichever is the lesser distance;

(8) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #yard# width, up to a maximum thickness of 8 inches. When an open area is provided along a common #lot line#, then such exterior wall thickness is limited to 1 inch for every foot of existing open area on the #zoning lot#.

Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #yards# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #yard#.

(9) Fences, not exceeding four feet in height above adjoining grade in any #front yard#, except that for #corner lots#, a fence may be up to six feet in height within that portion of one #front yard# that is between a #side lot line# and the prolongation of the side wall of the #residence# facing such #side lot line#;

(10) Fire escapes, projecting into a #front yard#, only in such cases where the fire escape is required for the #conversion# of a #building# in existence before December 15, 1961;

(11) Flagpoles;

(12) Overhanging portions of a #building# in R4 and R5 Districts, except R4A, R4-1, R4B, R5A, R5B or R5D Districts, which are above the first #story# including the #basement# and which project not more than three feet into the required 18 foot #front yard#. In no case shall the lowest level of the projected portion be less than seven feet above the level of the #front yard# at the face of the #building#. Supports for the projected portion of any #building# are permitted obstructions within the required #front yard#, provided that the total area occupied by such supports does not exceed 15 percent of the area underneath the projected portion. No support may extend beyond the three-foot projection;

(13) Parking spaces for automobiles or bicycles, off-street, open, #accessory#, within a #side# or #rear yard#;

(14) Parking spaces, off-street, open, within a #front yard#, that are #accessory# to a #building# containing #residences#, provided that:

(~~1~~i) in R1, R2, R3A, R3X, R3-1, R4A, R4-1 and R5A Districts, except in #lower density growth management areas#, such spaces meet all the requirements of paragraph (a) of Section 25-621 (Location of parking spaces in certain districts);

(~~2~~ii) in R3-2 Districts, R4 Districts other than R4A, R4-1 and R4B Districts, and R5 Districts other than R5A, R5B and R5D Districts, such spaces meet all the requirements of paragraph (b) of Section 25-621;

(~~3~~iii) in #lower density growth management areas#, such spaces are non-required and are located in a driveway that accesses parking spaces that are located behind the #street wall# of the #building# or prolongation thereof.

However, no parking spaces of any kind shall be permitted in any #front yard# in

an R4B, R5B or R5D District. Furthermore, no parking spaces of any kind shall be permitted in any #front yard# on a #zoning lot# containing an #attached# or #semi-detached building# in an R1, R2, R3A, R3X, R4A or R5A District, or in any #front yard# on a #zoning lot# containing an #attached building# in an R3-1 or R4-1 District.

(15) Ramps for persons with physical disabilities;

(16) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

(17) Steps, provided that such steps access only the lowest #story# or #cellar# of a #building# fronting on a #street#, which may include a #story# located directly above a #basement#;

(18) Swimming pools, #accessory#, above-grade structures limited to a height not exceeding eight feet above the level of the #rear yard# or #rear yard equivalent#. #Accessory# swimming pools are not permitted obstructions in any #front yard#;

(19) Terraces or porches open;

(20) Walls, not exceeding eight feet in height above adjoining grade and not roofed or part of a #building#, and not exceeding four feet in height in any #front yard#, except that for #corner lots#, a wall may be up to six feet in height within that portion of one #front yard# that is between a #side lot line# and the prolongation of the side wall of the #residence# facing such #side lot line#.

(b) In any #rear yard# or #rear yard equivalent#:

~~Air conditioning condensation units, #accessory#, for #single-# or #two-family residences#, provided that such units are located not less than eight feet from any #lot line#;~~

(1) Balconies, unenclosed, subject to the provisions of Section 23-13;

(2) Breezeways;

(3) Fire escapes;

(4) Greenhouses, non-commercial, #accessory#, limited to one #story# or 14 feet in height above adjoining grade, whichever is less, and limited to an area not exceeding 25 percent of a required #rear yard#;

(5) Parking spaces, off-street, #accessory#, for automobiles or bicycles, provided that:

(~~1~~i) if #accessory# to a #single-# or #two-family residence#, the height of a #building# containing such parking spaces shall not exceed one #story# ten feet in height above the adjoining grade and such #building# shall be #detached# from such #residence#.~~, and f~~Furthermore, if located in an R1 District, such #building# may not be nearer than five feet to a #rear lot line# or #side lot line#. In R2A Districts, detached garages shall be included in #lot coverage#. In addition, solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface shall be permitted upon the roof of such #accessory building# within the #rear yard#;

(~~2~~ii) if #accessory# to any other kind of #building# containing #residences#, the height of a #building#, or portion thereof, containing such parking spaces within the #rear yard#, shall not exceed ten feet above adjoining grade, including the apex of a pitched roof in R3, R4 or R5 Districts, or fourteen feet above #curb level# or #base plane#, as applicable, in R6, R7, R8, R9 or R10 Districts. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs, and weirs, as set forth in Section 23-62 (Permitted Obstructions), and solar energy systems, limited to 18 inches in height, as measured perpendicular to the roof surface, shall be permitted upon the roof of such #accessory building# within the #rear yard#;

(~~3~~iii) enclosed #accessory# parking spaces for bicycles shall be #accessory# to a #residence# other than a #single-# or #two-family residence#, attached to a #building#, and the area dedicated to such spaces shall not exceed the area of bicycle parking spaces permitted to be excluded from #floor area# pursuant to Section 25-85 (Floor Area Exemption).

(6) Recreational or drying yard equipment;

(7) Sheds, tool rooms or other similar #accessory buildings or other structures# for domestic or agricultural storage, with a height not exceeding 10 feet above the level of the #rear yard# or #rear yard equivalent#;

(8) Water-conserving devices required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than eight feet from any #lot line#.

However, no portion of a #rear yard equivalent# which is also a required #front yard# or required #side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

* * *

23-461
Side yards for single- or two-family residences

* * *

R3-1 R3-2 R4 R4-1 R4B R5

* * *

(c) Additional regulations

* * *

(3) Permitted obstructions in open areas between #buildings#

Only air conditioning condensation units, chimneys, downspouts, eaves, exterior wall thickness, gutters, ~~downspouts,~~ open #accessory# off-street parking spaces, ~~steps, and~~ ramps for access by people with disabilities, and steps as set forth in paragraph (a) of Section 23-44 shall be permitted obstructions in open areas required pursuant to paragraphs (c)(1) and (c)(2) of this Section, ~~and~~ provided such obstructions, not including #accessory# off-street parking spaces, may not reduce the minimum width of the open area by more than three feet. ~~Open #accessory# off-street parking spaces shall be permitted in such open areas.~~

* * *

23-462
Side yards for all other buildings containing residences

* * *

R4B R5B R5D

(b) In the districts indicated, no #side yards# are required; however, where a #building# containing #residences# on an adjacent #zoning lot# has a #side yard#, an open area with a minimum width of eight feet and parallel to the #side lot line# is required along the common #side lot line# between such #buildings#. Obstructions permitted pursuant to paragraph (c)(3) of Section 23-461 (Side yards for single- or two-family residences), shall be permitted in such open areas.

R6 R7 R8 R9 R10

(c) In the districts indicated, no #side yards# are required. However, if any open area extending along a #side lot line# is provided at any level, it shall measure at least eight feet wide for the entire length of the #side lot line#. Obstructions permitted pursuant to paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

*** * ***

23-62
Permitted Obstructions

In all #Residence Districts#, except as provided in Section 23-621 (Permitted obstructions in certain districts), the obstructions listed in paragraphs (a) through (~~h~~s) in this Section shall be permitted to penetrate a maximum height limit or #sky exposure plane# set forth in Sections 23-63 (Maximum Height of Walls and Required Setbacks), 23-64 (Alternate Front Setbacks) or 23-69 (Special Height Limitations):

(a) Awnings and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

(1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;

(2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and

(3) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted in accordance with Section 23-62 (Permitted Obstructions).

When located on the first #story# above a setback, awnings and other sun control devices shall be

limited to a projection of 50 percent of the depth of the required setback, and shall be limited, in

total, to 50 percent of the width of the #building# wall from which they project.

(~~a~~b) Balconies, unenclosed subject to the provisions of Section 23-13;

(~~b~~c) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 23-63, 23-64, or 23-65 (Tower Regulations);

(~~c~~d) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any level;

(e) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(~~d~~f) Dormers having an #aggregate width of street walls# equal to not more than 50 percent of the width of the #street wall# of a #detached# or #semi-detached single-# or #two-family residence#;

(eg) ~~Elevators or stair bulkhead, roof water tanks (including enclosures), each having an #aggregate width of street walls# equal to not more than 30 feet. However, the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (d), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#. Portions of elevator shafts and associated vestibules that provide access to a roof pursuant to paragraph (e) of this Section shall not be included in the limitations on width or surface area of this paragraph, (d);~~

Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:

(1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet from a #narrow street line# or more than 20 feet from a #wide street line#. However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to 4 feet times the width, in feet, of the #street wall# of the #building# facing such frontage.

(2) all mechanical equipment shall be screened on all sides.

(3) such obstructions and screening are contained within a volume that complies with one of the following:

(i) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, shall not exceed an area equal to 8 feet times the width, in feet, of the #street wall# of the #building# facing such frontage; or

(ii) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and where the maximum permitted height of a #building# is less than 120 feet, are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, are limited to a maximum height of 40 feet.

For the purposes of this paragraph, (g), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.

(~~f~~) ~~Elevator shafts, portions of which provide an elevator stop with access to a roof, and associated vestibules providing access to such roof, provided that such vestibules include no more than 60 square feet of #floor area#;~~

(h) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.

(~~g~~i) Flagpoles or aerials;

(~~h~~j) Parapet walls, not more than four feet ~~high~~ in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a

parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

(k) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;

(l) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;

(m) Solar energy systems:

(1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;

(2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:

(i) in R1 through R5 Districts, a height of 6 feet;

(ii) in R6 through R10 Districts, a height of 15 feet; and

(iii) when located on a bulkhead or other obstruction pursuant to paragraph (g) of this Section, a height of 6 feet;

(3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(n) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(o) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(p) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:

(1) the highest point of the wind turbine assembly does not exceed 55 feet;

(2) no portion of the wind turbine assembly is closer than 10 feet to any #lot line#; and

(3) the diameter of the swept area of the rotor does not exceed 15 feet;

(q) Window washing equipment mounted on a roof;

(~~ir~~) Wire, chain link or other transparent fences.

23-621
Permitted obstructions in certain districts

R2A R3 R4 R4A R4-1 R5A

(a) In the districts indicated, permitted obstructions are limited to chimneys, exterior wall thickness, flag poles or aerials, parapet walls, roof thickness, skylights, solar energy systems and vegetated roofs pursuant to ~~those listed in paragraphs (c), (f) and (h) of~~ Section 23-62 (Permitted Obstructions).

R2X

(b) In the district indicated, permitted obstructions are limited to chimneys, exterior wall thickness, flag poles or aerials, parapet walls, roof thickness, skylights, solar energy systems and vegetated roofs pursuant to ~~those listed in paragraphs (c), (f) and (h) of~~ Section 23-62 (Permitted Obstructions). Dormers may be considered permitted obstructions if:

* * *

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(c) In the districts indicated, and for #Quality Housing buildings# in other R6, R7, R8, R9 and R10 Districts, the permitted obstructions set forth in Section 23-62 shall apply to any #building or other structure#, except that ~~In addition, a dormer may be allowed as a permitted obstruction~~ within a required front setback distance above a maximum base height, the following rules shall apply:~~.~~

(1) ~~Such~~ ~~d~~Dormers ~~may~~ shall be allowed as a permitted obstruction, ~~exceed a maximum base height specified for such district~~ provided that on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 60 percent of the width of the #street wall# of the highest #story# entirely below the maximum base height. For each foot ~~of height~~ above the maximum base height, the aggregate width of all dormers shall be decreased by one percent of the #street wall# width of the highest #story# entirely below the maximum base height.

(2) Solar energy systems on a roof shall be limited to 4 feet or less in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher. However, on a roof with a slope greater than 20 degrees, such systems shall be limited to 18 inches in height as measured perpendicular to the roof surface.

(3) Wind energy systems shall not be allowed as permitted obstructions.

(4) Window washing equipment shall not be allowed as permitted obstructions.

~~R5D~~

~~(d) In R5D Districts, permitted obstructions shall be as set forth in Section 23-62, except that elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may exceed a maximum height limit provided that the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (d), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.~~

* * *

23-66
Required Side and Rear Setbacks

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, side and rear setbacks shall be provided as specified in this Section. Unenclosed balconies, subject to the provisions of Section 23-13 (Balconies), are permitted to project into or over any open areas required by the provisions of this Section. In addition, awnings and other sun control devices, decks, exterior wall thickness, parapet walls, roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs are permitted as set forth in Section 23-62 (Permitted Obstructions).

* * *

23-711
Standard minimum distance between buildings

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

(e) portions of #buildings# above 125 feet that exceed, in aggregate, a #lot coverage# of 40 percent, shall be spaced at least 80 feet apart; ~~and~~

(f) in R1, R2, R3, R4A and R4-1 Districts within #lower density growth management areas#, the provisions of this paragraph, (f), shall apply to any #zoning lot# with two or more #buildings# where at least 75 percent of the #floor area# of one #building# is located beyond 50 feet of a #street line# and the #private road# provisions do not apply. For the purposes of this paragraph, any #building# containing #residences# with no #building# containing #residences# located between it and the #street line# so that lines drawn perpendicular to the #street line# do not intersect any other #building# containing #residences# shall be considered a "front building," and any #building# containing #residences# with at least 75 percent of its #floor area# located beyond the #rear wall line#, or prolongation thereof, of a "front building" shall be considered a "rear building." The minimum distances set forth in the table in this Section shall apply, except that a minimum distance of 45 feet shall be provided between any such front and rear #buildings#~~.~~; and

(g) For #buildings# existing on (date of adoption), the minimum distances set forth in the table in this Section, and any non-complying distance greater than 8 feet, may be reduced by up to 8 inches of exterior wall thickness, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. A non-complying distance of 8 feet or less shall be limited to a total reduction of 1 inch of wall thickness for each foot of such existing distance between buildings.

* * *

23-80
COURT REGULATIONS, MINIMUM DISTANCE BETWEEN WINDOWS AND WALLS OR LOT LINES AND OPEN AREA REQUIREMENTS

* * *

23-861
General provisions

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

* * *

In R3, R4 and R5 Districts, the minimum dimension between a #legally required window# and a #side lot line# shall be 15 feet. Such 15 foot dimension shall be measured in a horizontal plane perpendicular to the #side lot line# or vertical projection thereof. Furthermore, such area with a 15 foot dimension shall be open to the sky from ground level up for the entire length of the #side lot line#. Only air conditioning condensation units, chimneys, downspouts, eaves, exterior wall thickness, gutters, ~~downspouts,~~ open #accessory# off-street parking spaces, ~~steps, and~~ ramps for access by the handicapped, and steps shall be permitted obstructions in such open area, subject to the conditions set forth in paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), and provided such obstructions ~~may~~ will not reduce the minimum width of the open area by more than three feet.

23-862
Minimum distance between legally required windows and lot lines on small corner lots in
R9 or R10 Districts

R9 R10

In the districts indicated, on a #corner lot# less than 10,000 square feet in #lot area#, a #legally required window# may open on a #yard# bounded on one side by a #front lot line# and having a minimum width of 20 feet, provided that the provisions of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall not apply to such #yard#. However, awnings and other sun control devices, exterior wall thickness and solar energy systems on walls, as set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted within such minimum distance.

* * *

23-87
Permitted Obstructions in Courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following obstructions shall be permitted within the minimum area and dimensions needed to satisfy the requirements for a #court#:

(a) Arbors or trellises;

(b) Awnings and other sun control devices. However, when located at a level higher than a first #story#, excluding a #basement#, all such devices:

(1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and

(2) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;

(c) Eaves, gutters, downspouts, window sills, or similar projections extending into such #court# not more than four inches;

(d) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #court# width, up to a maximum thickness of 8 inches.

Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #courts# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #court#.

(e) Fences;

(f) Fire escapes in #outer courts#;

Fire escapes in #outer court recesses# not more than five feet in depth;

Fire escapes in #inner courts# where such fire escapes are required as a result of alterations in #buildings# existing before December 15, 1961;

Fire escapes in #outer court recesses# more than five feet in depth where such fire escapes are required as a result of alterations in #buildings# existing before December 15, 1961;

(g) Flag poles;

(h) Open terraces, porches, or steps;

(i) Recreational or drying yard equipment.;

(j) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

In addition, for #courts# at a level higher than the first #story#, decks, skylights, parapet walls,
roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs as set forth in
Section 23-62 (Permitted Obstructions) shall be permitted.

* * *

23-891
In R1 through R5 Districts

R1 R2 R3 R4 R5

In the districts indicated, except R4B and R5B Districts, the provisions of this Section shall apply to all #zoning lots# with two or more #buildings# or #building segments# containing #residences#. All such #buildings# or #building segments# shall provide open areas ~~as follows:~~ in accordance with this Section. Only those obstructions set forth in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) shall be allowed, except that parking spaces, whether enclosed or unenclosed, and driveways, shall not be permitted within such open areas.

(a) An open area shall be provided adjacent to the rear wall of each such #building# or #building segment#. For the purposes of this Section, the "rear wall" shall be the wall opposite the wall of each #building# or #building segment# that faces a #street# or #private road#. The width of such open area shall be equal to the width of each #building# or #building segment#, and the depth of such open area shall be at least 30 feet when

measured perpendicular to each rear wall. No such open areas shall serve more than one #building# or #building segment#. ~~Only those obstructions set forth in Section 23-44 shall be allowed, except that parking spaces, whether enclosed or unenclosed, and driveways shall not be permitted within such open areas.~~

* * *

24-33
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Residence Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

(1) Arbors or trellises;

(2) Awnings ~~or canopies;~~ and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

(i) shall be limited to a maximum projection of 2 feet, 6 inches into such required #yard#; and

(ii) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;

(3) Canopies

(4) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;

(5) Eaves, gutters or downspouts, projecting into such #yard# or #rear yard equivalent# not more than 16 inches or 20 percent of the width of such #yard# or #rear yard equivalent#, whichever is the lesser distance;

(6) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #yard# width, up to a maximum thickness of 8 inches. When an open area is provided along a common #lot line#, then such exterior wall thickness is limited to 1 inch for every foot of existing open area on the #zoning lot#.

Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #yards# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #yard#.

(7) Fences;

(8) Flagpoles;

(9) Parking spaces for automobiles or bicycles, off-street, open, #accessory;

(10) Solar energy systems, on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

(11) Steps, and ramps for people with disabilities;

(12) Terraces or porches, open;

(13) Walls, not exceeding eight feet in height and not roofed or part of a #building#;

(b) In any #rear yard# or #rear yard equivalent#:

(1) Balconies, unenclosed, subject to the provisions of Section 24-165;

(2) Breezeways;

(3) Any #building# or portion of a #building# used for #community facility uses#, including #accessory# parking spaces for bicycles within such #building#, provided that the height of such #building# shall not exceed one #story#, nor in any event 23 feet above #curb level#, and further provided that the area within such #building# dedicated to #accessory# parking spaces for bicycles shall not exceed the area permitted to be excluded from #floor area#, pursuant to Section 25-85 (Floor Area Exemption). In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs pursuant to Section 24-51(Permitted Obstructions), shall be permitted above such an #accessory building#, or portion thereof. However, the following shall not be permitted obstructions:

(~~1~~i) in all #~~r~~Residence ~~d~~Districts#, any portion of a #building# containing rooms used for living or sleeping purposes, other than a room in a hospital used for the care or treatment of patients;

(~~2~~ii) in R1, R2, R3A, R3X, R3-1, R4A, R4B or R4-1 Districts, any portion of a #building# used for any #community facility use#;

(~~3~~iii) in all #~~r~~Residence ~~d~~Districts#, not listed in paragraph (b)(2) of this Section, beyond one hundred feet of a #wide street#, any portion of a #building# used for a #community facility use# other than a #school#, house of worship, college or university, or hospital and related facilities;

(4) Fire escapes;

(5) Greenhouses, #accessory#, non-commercial, limited to one #story# or 14 feet in height above natural grade level, whichever is less, and limited to an area not exceeding 25 percent of a required #rear yard# or #rear yard equivalent# on a #zoning lot#;

(6) Parking spaces, off-street, #accessory# to a #community facility use#, provided that the height of an #accessory building#, or portion of a #building# used for such purposes, shall not exceed 14 feet above #curb level#. However, such #accessory building# or portion of a #building# shall not be a permitted obstruction in R1, R2, R3A, R3X, R3-1, R4A, R4B or R4-1 Districts;

(7) Recreation or drying yard equipment;

(8) Sheds, tool rooms or other similar #accessory buildings or other structures# for domestic or agricultural storage, with a height not exceeding 10 feet above the level of the #rear yard# or #rear yard equivalent#;

(9) Solar energy systems on the roof of a #building# permitted as an obstruction to such #yard#, up to 4 feet in height as measured perpendicular to the roof surface when located above a permitted #community facility use# or attached parking structure; however, limited to 18 inches in height as measured perpendicular to the roof surface when located above a shed or detached parking structure, or on any roof with a slope greater than 20 degrees;

(10) Water-conserving devices required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than eight feet from any #lot line#.

However, no portion of a #rear yard equivalent# which is also a required #front yard# or required #side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

* * *

24-35
Minimum Required Side Yards

* * *

R6 R7 R8 R9 R10

(b) In the districts indicated, no #side yards# are required. However, if any open area extending along a #side lot line# is provided at any level, it shall be at least eight feet wide. Permitted obstructions pursuant to paragraph (a) of Section 24-33 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

* * *

24-51
Permitted Obstructions

In all #Residence Districts#, the following obstructions shall be permitted and may thus penetrate a maximum height limit or #sky exposure plane# set forth in Sections 24-52 (Maximum Height of Walls and Required Setbacks), 24-53 (Alternate Front Setbacks) or 24-591 (Limited Height Districts):

(a) Awnings and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

(1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;

(2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and

(3) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted in accordance with Section 23-62 (Permitted Obstructions).

When located on the first #story# above a setback, awnings and other sun control devices shall be limited to a projection of 50 percent of the depth of the required setback, and shall be limited, in total, to 50 percent of the width of the #building# wall from which they project.

(~~a~~b) Balconies, unenclosed, subject to the provisions of Section 24-165;

(~~b~~c) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 24-52, 24-53 or 24-54 (Tower Regulations);

(~~c~~d) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any level;

(e) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(~~d~~f) ~~Elevators or stair bulkhead, roof water tanks or cooling towers (including enclosures), each having an #aggregate width of street walls# equal to not more than 30 feet. However, the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (c), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#;~~

Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:

(1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet from a #narrow street line# or more than 20 feet from a #wide street line#. However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to 4 feet times the width, in feet, of the #street wall# of the #building# facing such frontage.

(2) all mechanical equipment shall be screened on all sides.

(3) such obstructions and screening are contained within a volume that complies with one of the following:

(i) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, shall not exceed an area equal to 8 feet times the width, in feet, of the #street wall# of the #building# facing such frontage; or

(ii) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and where the maximum permitted height of a #building# is less than 120 feet, are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, are limited to a maximum height of 40 feet.

For the purposes of this paragraph, (f), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.

(g) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.

(~~e~~h) Flagpoles or aerials;

(~~f~~i) House of worship towers, ornamental, having no #floor area# in portion of tower penetrating such height limit or #sky exposure plane#;

(~~g~~j) Parapet walls, not more than four feet ~~high~~ in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

(k) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;

(l) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);

(m) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;

(n) Solar energy systems:

(1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;

(2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:

(i) in R1 through R5 Districts, a height of 6 feet;

(ii) in R6 through R10 Districts, a height of 15 feet; and

(iii) when located on a bulkhead or other obstruction pursuant to paragraph (f) of this Section, a height of 6 feet;

(3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(~~h~~o) Spires or belfries;

(p) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(q) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(r) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:

(1) the highest point of the wind turbine assembly does not exceed 55 feet;

(2) no portion of the wind turbine assembly is closer than 10 feet to any #lot line#; and

(3) the diameter of the swept area of the rotor does not exceed 15 feet;

(s) Window washing equipment mounted on a roof;

(~~i~~t) Wire, chain link or other transparent fences.

* * *

24-55
Required Side and Rear Setbacks

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, side and rear setbacks shall be provided as specified in this Section. Unenclosed balconies, subject to the provisions of Section 24-165 (Balconies); and awnings and other sun control devices, decks, exterior wall thickness, parapet walls, roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs as set forth in Section 24-51 (Permitted Obstructions), are permitted to project into or over any open areas required by the provisions of this Section.

* * *

24-65
Minimum Distance between Required Windows and Walls or Lot Lines

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the minimum distance between required windows and walls or #lot lines# shall be as set forth in this Section, except that this Section shall not apply to required windows in #buildings# of three #stories# or less. For #buildings# existing on (date of adoption), the minimum distances set forth in this Section, and any non-complying distance greater than 8 feet, may be reduced by up to 8 inches of exterior wall thickness from each #building# wall, provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. A non-complying distance of 8 feet or less shall be limited to a total reduction of 1 inch of wall thickness for each foot of such existing distance between buildings.

* * *

24-68
Permitted Obstruction in Courts

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following shall not be considered obstructions when located within a #court#:

(a) Arbors or trellises;

(b) Awnings and other sun control devices. However, when located at a level higher than a first #story#, excluding a #basement#, all such devices:

(1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and

(2) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;

(c) Eaves, gutters, downspouts, window sills or similar projections, extending into such #court# not more than four inches;

(d) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #court# width, up to a maximum thickness of 8 inches.

Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #courts# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #court#.

(e) Fences;

(f) Fire escapes in #inner courts#, where such fire escapes are required as a result of alterations in #buildings# existing before December 15, 1961;

Fire escapes in #outer courts#;

Fire escapes in #outer court recesses#, not more than five feet in depth;

Fire escapes in #outer court recesses#, more than five feet in depth, where such fire escapes are required as a result of alterations in #buildings# existing before December 15, 1961;

(g) Flagpoles;

(h) Recreational or yard drying equipment;

(i) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

(j) Terraces, open, porches or steps.

In addition, for #courts# at a level higher than the first #story#, decks, skylights, parapet walls, roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs as set forth in Section 24-51 (Permitted Obstructions) shall be permitted.

* * *

25-62
Size and Location of Spaces

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for all #accessory# off-street parking spaces, open or enclosed, each 300 square feet of unobstructed standing or maneuvering area shall be considered one parking space. However, an area of less than 300 square feet, but in no event less than 200 square feet, may be considered as one space, where the layout and design of the parking area are adequate to permit convenient access and maneuvering in accordance with regulations promulgated by the Commissioner of Buildings, or where the developer or applicant for a building permit or certificate of occupancy certifies that such spaces will be fully attended.

Driveways used to access required parking spaces must be unobstructed for a width of at least 8

feet and a height of 8 feet above grade and if connecting to a #street#, such driveway may only

be accessed by a curb cut.

In any case where a reduction of the required area per parking space is permitted on the basis of the developer's certification that such spaces will be fully attended, it shall be set forth in the certificate of occupancy that paid attendants employed by the owners or operators of such spaces shall be available to handle the parking and moving of automobiles at all times when such spaces are in use.

* * *

26-42
Planting Strips

In accordance with applicability requirements of underlying district regulations, the owner of the #development#, #enlargement# or #converted building# shall provide and maintain a planting strip. #Street# trees required pursuant to Section 26-41 shall be planted within such planting strip. In addition to such #street# trees, such strip shall be fully planted with grass or groundcover, except as provided in Section 26-421. Such planting strip shall be located adjacent to, and extend along, the entire length of the curb of the #street#. However, in the event that both adjoining properties have planting strips adjacent to the #front lot line#, such planting strip may be located along the #front lot line#. The width of such planting strip shall be the greatest width feasible given the required minimum paved width of the sidewalk on #street# segments upon which the #building# fronts, except that no planting strip less than six inches in width shall be required. ~~Driveways are permitted to traverse such planting strip, and utilities are permitted to be located within such planting strip~~.

26-421
Modifications of planting strip requirements

Driveways are permitted to traverse planting strips. Planting strips may be interrupted by utilities

and paved areas required for bus stops.

On #zoning lots# containing #schools#, permeable pavers or permeable pavement may be substituted for grass or ground cover, provided that, beneath such permeable pavers or pavement, there is structural soil or aggregate containing at least 25 percent pore space, or other kind of engineered system that absorbs stormwater, as acceptable to the Department of Transportation. Any area improved with permeable pavers or pavement pursuant to this paragraph shall be no less than 3 feet in width except where necessary for compliance with the Americans with Disabilities Act.

* * *

32-15
Use Group 6

* * *

D. Public Service Establishments*****

* * *

Telephone exchanges or other communications equipment structures. In all districts the height above #curb level# of such structures not existing on December 15, 1961, shall not exceed that attributable to #commercial buildings# of equivalent #lot coverage#, having an average floor to floor height of 14 feet above the lobby floor which may be as much as 25 feet in height. For the purpose of making this height computation, the gross area of all floors of the #building# including accessory mechanical equipment space except the #cellar# shall be included as #floor area#.

Solar energy systems

Such height computation for the structure shall not preclude the ability to utilize unused #floor area# anywhere on the #zoning lot# or by special permit, subject to the normal provisions of the Resolution.

* * *

32-16
Use Group 7

* * *

D. Auto Service Establishments

Automobile glass and mirror shops [PRC-B1]

Automobile seat cover or convertible top establishments, selling or installation
[PRC-B1]

Electric vehicle charging stations and automotive battery swapping facilities
[PRC-B1]

Tire sales establishments, including installation services [PRC-B1]

E. #Accessory Uses#

* In a C6-1A District, #uses# in Use Group 7 are not permitted

* * *

33-23
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Commercial Districts#, the following obstructions shall be permitted when located within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

(1) Arbors or trellises;

(2) Awnings ~~or canopies;~~ and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

(i) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and

(ii) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;

(3) Canopies

(4) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;

(5) Eaves, gutters or downspouts, projecting into such #yard# or #rear yard equivalent# not more than 16 inches or 20 percent of the width of such #yard# or #rear yard equivalent#, whichever is the lesser distance;

(6) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #yard# width, up to a maximum thickness of 8 inches. When an open area is provided along a common #lot line#, then such exterior wall thickness is limited to 1 inch for every foot of existing open area on the #zoning lot#.

Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #yards# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #yard#.

(7) Fences;

(8) Flagpoles;

(9) Parking spaces for automobiles or bicycles, off-street, open, #accessory#;

(10) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

(11) Steps, and ramps for people with disabilities;

(12) Terraces or porches, open;

(13) Walls, not exceeding eight feet in height and not roofed or part of a #building#;

(b) In any #rear yard# or #rear yard equivalent#:

(1) Balconies, unenclosed, subject to the provisions of Section 24-165;

(2) Breezeways;

(3) Any #building# or portion of a #building# used for any permitted #use# other than #residences#, except that any portion of a #building# containing rooms used for living or sleeping purposes (other than a room in a hospital used for the care or treatment of patients) shall not be a permitted obstruction, and provided that the height of such #building# shall not exceed one #story#, excluding #basement#, nor in any event 23 feet above #curb level#. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs pursuant to Section 33-42 (Permitted Obstructions), shall be permitted above such a #building#, or portion thereof.

(4) Fire escapes;

(5) Parking spaces for automobiles or bicycles, off-street, #accessory#, provided that the height of an #accessory building# used for such purposes and located in a required #rear yard# or #rear yard equivalent# shall not exceed 23 feet above #curb level#. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs, as set forth in Section 33-42, shall be permitted above such an #accessory building#, or portion thereof;

(6) Solar energy systems:

(i) on the roof of a #building# permitted as an obstruction to such #yard#, up to 4 feet in height as measured perpendicular to the roof surface when located above a permitted #commercial or community facility use# or attached parking structure;

(ii) on the roof of a #building# permitted as an obstruction to such #yard#, shall be limited to 18 inches in height as measured perpendicular to the roof surface when located above a shed or detached parking structure, or on any roof with a slope greater than 20 degrees;

(iii) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

(7) Water-conserving devices required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than 8 feet from any #lot line#.

However, no portion of a #rear yard equivalent# that is also a required #front yard# or required #side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

* * *

33-25
Minimum Required Side Yards

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, no #side yards# are required. However, if an open area extending along a #side lot line# is provided at any level, it shall be either:

(a) at least eight feet wide at every point; or

(b) at least five feet wide at every point, with an average width of eight feet, such average being the mean of the width of the open area at its narrowest point and its width at its widest point, provided that:

(1) such widest point shall be on a #street line#;

(2) no portion of a #building# shall project beyond a straight line connecting such two points; and

(3) in the case of a #zoning lot# bounded by a #side lot line# extending from #street# to #street#, such average shall be computed and such open area shall be provided as though each half of such #side lot line# bounded a separate #zoning lot#.

Permitted obstructions pursuant to paragraph (a) of Section 33-23(Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

* * *

33-42
Permitted Obstructions

In all #Commercial Districts#, the following obstructions shall be permitted and may thus penetrate a maximum height limit or #sky exposure planes#, as set forth in Sections 33-43 (Maximum Height of Walls and Required Setbacks), 33-44 (Alternate Front Setbacks) or 33-491 (Limited Height Districts):

(a) Awnings and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

(1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;

(2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and

(3) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted in accordance with Section 33-42 (Permitted Obstructions).

When located on the first #story# above a setback, awnings and other sun control devices shall be

limited to a projection of 50 percent of the depth of the required setback, and shall be limited, in

total, to 50 percent of the width of the #building# wall from which they project.

(b) Balconies, unenclosed, subject to the provisions of Section 24-165;

(~~b~~c) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 33-43, 33-44 or 33-45 (Tower Regulations);

(~~c~~d) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any given level;

(e) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(~~d~~f) ~~Elevators or stair bulkhead, roof water tanks or cooling towers (including enclosures), each having an #aggregate width of street walls# equal to not more than 30 feet. However, the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (c), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#;~~

Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and

#accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:

(1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet from a #narrow street line# or more than 20 feet from a #wide street line#. However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to 4 feet times the width, in feet, of the #street wall# of the #building# facing such frontage.

(2) all mechanical equipment shall be screened on all sides.

(3) such obstructions and screening are contained within a volume that complies with one of the following:

(i) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, shall not exceed an area equal to 8 feet times the width, in feet, of the #street wall# of the #building# facing such frontage; or

(ii) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and where the maximum permitted height of a #building# is less than 120 feet, are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, are limited to a maximum height of 40 feet.

For the purposes of this paragraph, (f), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.

(g) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.

(e~~h~~) Flagpoles or aerials;

(f~~i~~) House of worship towers, ornamental, having no #floor area# in portion of tower penetrating such height limit or #sky exposure plane#;

(g~~j~~) Parapet walls, not more than four feet ~~high~~ in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

(k) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;

(l) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);

(m) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;

(n) Solar energy systems:

(1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;

(2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:

(i) in #Commercial Districts# mapped within #Residence Districts#, and in C3 and C4-1 Districts, a height of 6 feet;

(ii) in all other #Commercial Districts#, a height of 15 feet; and

(iii) when located on a bulkhead or other obstruction pursuant to paragraph (f) of this Section, a height of 6 feet.

(3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(h~~o~~) Spires or belfries;

(p) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(q) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(r) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:

(1) the highest point of the wind turbine assembly does not exceed 55 feet;

(2) no portion of the wind turbine assembly is closer than 10 feet from any #lot line#; and

(3) in districts where new #residences# or new #joint living work quarters for artists# are allowed as-of-right or by special permit or authorization, or within 100 feet of such districts, the diameter of the swept area of the rotor does not exceed 15 feet;

(s) Window washing equipment mounted on a roof;

(i~~t~~) Wire, chain link or other transparent fences.

* * *

34-232
Modification of side yard requirements

C1 C2 C3 C4 C5 C6

In the districts indicated, except as otherwise provided in Section 34-233 (Special provisions applying along district boundaries), no #side yard# shall be required for any #residential building#. However, if any open area extending along a #side lot line# is provided, such open area shall have a width of not less than eight feet. Permitted obstructions pursuant to paragraph (a) of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

* * *

35-24
Special Street Wall Location and Height and Setback Regulations in Certain Districts

C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X

* * *

(a) Permitted obstructions

C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X

In the districts indicated, and in other C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, and for #Quality Housing buildings# in other #Commercial Districts#, the provisions of Section 33-42 shall apply to any #building or other structure#. In addition, a dormer may be allowed as a permitted obstruction pursuant to paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts), ~~and an elevator shaft and associated vestibule may be allowed as a permitted obstruction, pursuant to paragraph (f) of Section 23-62.~~

* * *

35-52
Modification of Side Yard Requirements

C1 C2 C3 C4 C5 C6

In the districts indicated, except as otherwise provided in Section 35-54 (Special Provisions Applying Adjacent to R1 through R6B Districts), no #side yard# shall be required although, if any open area extending along a #side lot line# is provided at any level, it shall have a width of not less than eight feet. Permitted obstructions pursuant to paragraph (a) of Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), shall be permitted in such open areas.

However, in C3A Districts, #side yards# shall be provided in accordance with the regulations for R3A Districts as set forth in Section 23-461 (Side yards for single- or two-family residences).

35-53
Modification of Rear Yard Requirements

C1 C2 C3 C4 C5 C6

In the districts indicated, for a #residential# portion of a #mixed building#, the required #residential rear yard# shall be provided at the floor level of the lowest #story# used for #dwelling units# or #rooming units#, where any window of such #dwelling units# or #rooming units# faces onto such #rear yard#. If the level of such #yard# is at or higher than the first #story#, decks, parapet walls, roof thickness, solar energy systems up to 4 feet high, vegetated roofs and weirs shall be permitted pursuant to Section 23-62 (Permitted Obstructions).

* * *

36-521
Size of spaces

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, for all #accessory# off-street parking spaces, open or enclosed, each 300 square feet of unobstructed standing or maneuvering area shall be considered one parking space. However, an area of less than 300 square feet, but in no event less than 200 square feet, may be considered as one space, where the layout and design of the parking area are adequate to permit convenient access and maneuvering in accordance with regulations promulgated by the Commissioner of Buildings, or where the developer or applicant for a building permit or certificate of occupancy certifies that such spaces will be fully attended.

Driveways used to access required parking spaces must be unobstructed for a width of at least 8 feet and a height of 8 feet above grade and if connecting to a #street#, such driveway may only be accessed by a curb cut.

In any case where a reduction of the required area per parking space is permitted on the basis of the developer's certification that such spaces will be fully attended, it shall be set forth in the certificate of occupancy that paid attendants employed by the owners or operators of such spaces shall be available to handle the parking and moving of automobiles at all times when such spaces are in use.

* * *

37-53
Design Standards for Pedestrian Circulation Spaces

(a) Arcade

* * *

(3) Permitted obstructions

Except for #building# columns, and exterior wall thickness pursuant to Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), an arcade shall be free from obstructions of any kind.

* * *

(b) #B~~b~~uilding# entrance recess area

A #building# entrance recess area is a space that adjoins and is open to a sidewalk or sidewalk widening for its entire length and provides unobstructed access to the #building's# lobby entrance or to the entrance to a ground floor #use#.

* * *

(2) Permitted obstructions

Any portion of a #building# entrance recess area under an overhanging portion of the #building# shall have a minimum clear height of 15 feet. It shall be free of obstructions except for exterior wall thickness as set forth in Section 33-23, and #building# columns, between any two of which there shall be a clear space of at least 15 feet measured parallel to the #street line#. Between a #building# column and a wall of the #building#, there shall be a clear path at least five feet in width.

* * *

(c) Corner arcade

* * *

(2) Permitted obstructions

Except for #building# columns, and exterior wall thickness pursuant to Section 33-23, a corner arcade shall be free from obstructions of any kind.

* * *

(d) Corner circulation space

* * *

(2) Permitted obstructions

A corner circulation space shall be completely open to the sky from its lowest level, except for temporary elements of weather protection, such as awnings or canopies, provided that the total area of such elements does not exceed 20 percent of the area of the corner circulation space and that such elements and any attachments thereto are at least eight feet above #curb level#. A corner circulation space shall be clear of all other obstructions including, without limitation, door swings, #building# columns, #street# trees, planters, vehicle storage, parking or trash storage. However, exterior wall thickness may be added as pursuant to Section 33-23. No gratings, except for drainage, shall be permitted.

* * *

(f) Sidewalk widening

* * *

(3) Permitted obstructions

A sidewalk widening shall be unobstructed from its lowest level to the sky except for those obstructions permitted under paragraph (f)(2) of this Section, for exterior wall thickness pursuant to Section 33-23, and for temporary elements of weather protection, such as awnings or canopies, provided that the total area of such elements, measured on the plan, does not exceed 20 percent of the sidewalk widening area, and that such elements and any attachments thereto are at least eight feet above #curb level#.

* * *

(h) Through #block# connection

* * *

(2) Design standards for a through #block# connection

(i) A through #block# connection shall provide a straight, continuous, unobstructed path at least 15 feet wide. If covered, the clear, unobstructed height of a through #block# connection shall not be less than 15 feet. Exterior wall thickness as set forth in Section 33-23 shall be a permitted obstruction to such path.

* * *

37-721
Sidewalk frontage

* * *

(b) In the remaining 50 percent of such area, only those obstructions listed in Section 37-726 (Permitted obstructions) shall be allowed, provided such obstructions are not higher than two feet above the level of the public sidewalk fronting the #public plaza#, except for light stanchions, public space signage, railings for steps, exterior wall thickness pursuant to Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), trash receptacles, trees and fixed or moveable seating and tables. Furthermore, planting walls or trellises, water features and artwork may exceed a height of two feet when located within three feet of a wall bounding the #public plaza#.

For #corner public plazas#, the requirements of this Section shall apply separately to each #street# frontage, and the area within 15 feet of the intersection of any two or more #streets# on which the #public plaza# fronts shall be at the same elevation as the adjoining public sidewalk and shall be free of obstructions.

* * *

37-726
Permitted obstructions

(a) #Public plazas# shall be open to the sky and unobstructed except for the following features, equipment and appurtenances normally found in #public parks# and playgrounds: water features, including fountains, reflecting pools, and waterfalls; sculptures and other works of art; seating, including benches, seats and moveable chairs; trees, planters, planting beds, lawns and other landscape features; arbors or trellises; litter receptacles; bicycle racks; tables and other outdoor furniture; lights and lighting stanchions; public telephones; public restrooms; permitted temporary exhibitions; permitted awnings, canopies or marquees; permitted freestanding signs; play equipment; exterior wall thickness added pursuant to Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents); permitted kiosks and open-air cafes; stages; subway station entrances, which may include escalators; and drinking fountains.

However, an area occupied in aggregate by such permitted obstruction shall not exceed the maximum percentage cited in paragraph (b) of this Section. In addition, certain of the obstructions listed in this paragraph, (a), shall not be permitted within the sidewalk frontage of a #public plaza#, as described in Section 37-721 (Sidewalk frontage).

(b) Permitted obstructions may occupy a maximum percentage of the area of a #public plaza#, as follows:

For #public plazas# less than 10,000 square feet in area: 40 percent

For #public plazas# less than 10,000 square feet in area with a permitted open air cafe: 50 percent

For #public plazas# 10,000 square feet or more in area: 50 percent

For #public plazas# 10,000 square feet or more in area with a permitted open-air cafe: 60 percent.

The area of permitted obstructions shall be measured by outside dimensions. Obstructions that are non-permanent or moveable, such as moveable chairs, open air cafes, or temporary exhibitions shall be confined within gross areas designated on the site plan, and not measured as individual pieces of furniture.

Trees planted flush-to-grade in accordance with the provisions of Section 37-742 (Planting and trees) and tree canopies do not count as obstructions for the purpose of calculating total area occupied by permitted obstructions. Planting beds and their retaining walls for trees count as obstructions, except that lawn, turf or grass areas intended for public access and seating shall not count as obstructions, provided such lawns do not differ in elevation from the adjoining #public plaza# elevation by more than 6 inches. Exterior wall thickness added pursuant to Section 33-23 (Permitted Obstructions in Required Yards or Rear Yard Equivalents) in any #publicly accessible open area# or #public plaza# built prior to the (date of adoption) shall not count as obstructions for the purpose of calculating total area occupied by permitted obstructions.

* * *

(c) Canopies, awnings, ~~and~~ marquees and sun control devices

(1) Entrances to #buildings# located within a #public plaza# may have a maximum of one canopy, awning or marquee, provided that such canopy, awning or marquee:

~~(1)~~(i) has a maximum area of 250 square feet;

~~(2)~~(ii) does not project into the #public plaza# more than 15 feet when measured perpendicular to the #building# facade;

~~(3)~~(iii) is located a minimum of 15 feet above the level of the #public plaza# adjacent to the #building# entrance; and

~~(4)~~(iv) does not contain vertical supports.

Such canopies, awnings, and marquees shall be designed to provide maximum visibility into the #public plaza# from adjoining #streets# and the adjacent #building#. However, canopies, awnings, and marquees associated with entrances to #buildings# containing #residences# located within a #public plaza# may project more than 15 feet into the #public plaza# and contain vertical supports if they are located entirely within 10 feet of the edge of the #public plaza#.

(2) Sun control devices may be located within a #public plaza#, provided that all such devices:

(i) shall be located above the level of the first #story# ceiling;

(ii) shall be limited to a maximum projection of 2 feet, 6 inches;

(iii) shall have solid surfaces that in aggregate, cover an area no more than 20 percent of the area of the #building# wall (as viewed in elevation) from which they project; and

(iv) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted within Section 33-42 (Permitted Obstructions);

* * *

43-23
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Manufacturing Districts#, the following obstructions shall be permitted within a required

#yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

(1) Arbors or trellises;

(2) Awnings ~~or canopies;~~ and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

(i) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches; and

(ii) shall have solid surfaces that in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project;

(3) Canopies

(4) Chimneys, projecting not more than three feet into, and not exceeding two percent of the area of, the required #yard# or #rear yard equivalent#;

(5) Eaves, gutters or downspouts, projecting into such #yard# or #rear yard equivalent# not more than 16 inches or 20 percent of the width of such #yard# or #rear yard equivalent#, whichever is the lesser distance;

(6) Exterior wall thickness, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch, and is limited to 1 inch of thickness for every foot of existing #yard# width, up to a maximum thickness of 8 inches. When an open area is provided along a common #lot line#, then such exterior wall thickness is limited to 1 inch for every foot of existing open area on the #zoning lot#.

Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly encroach upon required #yards# in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no encroachment of #floor area# into a required #yard#.

(7) Fences;

(8) Flagpoles;

(9) Parking spaces for automobiles or bicycles, off-street, open, #accessory#;

(10) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

(11) Steps, and ramps for persons with physical disabilities;

(12) Terraces or porches, open;

(13) Walls, not exceeding eight feet in height and not roofed or part of a #building#;

(b) In any #rear yard# or #rear yard equivalent#:

(1) Any #building# or portion of a #building# used for any permitted #use#, except that any portion of a #building# containing rooms used for living or sleeping purposes (other than a room in a hospital used for the care and treatment of patients, or #joint living-work quarters for artists#) shall not be a permitted obstruction, and provided that the height of such #building# shall not exceed one #story#, excluding #basement#, nor in any event 23 feet above #curb level#. In addition, decks, parapet walls, roof thickness, skylights, vegetated roofs and weirs shall be permitted upon such #building#, or portion thereof, as listed within Section 43-42 (Permitted Obstructions);

(2) Breezeways;

(3) Fire escapes;

(4) Parking spaces for automobiles or bicycles, off-street, #accessory#, provided that the height of an #accessory building# used for such purposes and located in a required #rear yard# or #rear yard equivalent# shall not exceed 23 feet above #curb level#;

(5) Solar energy systems on the roof of a #building# permitted as an obstruction to such #yard#:

(i) up to 4 feet in height as measured perpendicular to the roof surface when located above a permitted #commercial or community facility use# or attached parking structure; however

(ii) shall be limited to 18 inches in height as measured perpendicular to the roof surface when located above a shed or detached parking structure, or on any roof with a slope greater than 20 degrees;

(6) Water-conserving devices, required in connection with air conditioning or refrigeration systems in #buildings# existing prior to May 20, 1966, if located not less than eight feet from any #lot line#.

However, no portion of a #rear yard equivalent# which is also a required #front yard# or required

#side yard# may contain any obstructions not permitted in such #front yard# or #side yard#.

* * *

43-42
Permitted Obstructions

In all #Manufacturing Districts#, the following obstructions shall be permitted to penetrate a maximum height limit or a #sky exposure plane# set forth in Sections 43-43 (Maximum Height of Front Wall and Required Front Setbacks), 43-44 (Alternate Front Setbacks) or 43-49 (Limited Height Districts).

(a) Awnings and other sun control devices, provided that when located at a level higher than a first #story#, excluding a #basement#, all such awnings and other sun control devices:

(1) shall be limited to a maximum projection from a #building# wall of 2 feet, 6 inches, except when located on the first #story# above a setback;

(2) shall have solid surfaces that, in aggregate, cover an area no more than 30 percent of the area of the #building# wall (as viewed in elevation) from which they project; and

(3) may rise above the permitted #building# height, up to the height of a parapet wall or guardrail permitted in accordance with Section 43-42 (Permitted Obstructions).

When located on the first #story# above a setback, awnings and other sun control devices shall be limited to a projection of 50 percent of the depth of the required setback, and shall be limited, in total, to 50 percent of the width of the #building# wall from which they project.

(~~a~~b) #Building# columns, having an aggregate width equal to not more than 20 percent of the #aggregate width of street walls# of a #building#, to a depth not exceeding 12 inches, in an #initial setback distance#, optional front open area, or any other required setback distance or open area set forth in Sections 43-43, 43-44 or 43-45 (Tower Regulations);

(~~b~~c) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any given level;

(d) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(e~~e~~) ~~Elevators or stair bulkhead, roof water tanks or cooling towers (including enclosures), each having an #aggregate width of street walls# equal to not more than 30 feet. However, the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to four times the width, in feet, of the #street wall# of the #building# facing such frontage. For the purposes of this paragraph, (b), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#;~~

Elevator or stair bulkheads (including shafts; and vestibules not larger than 60 square feet in area providing access to a roof), roof water tanks and #accessory# mechanical equipment (including enclosures), other than solar or wind energy systems, provided that:

(1) such obstructions shall be located not less than 10 feet from the #street wall# of a #building#, except that such obstructions need not be set back more than 25 feet from a #narrow street line# or more than 20 feet from a #wide street line#. However, such restrictions on location shall not apply to elevator or stair bulkheads (including shafts or vestibules), provided the #aggregate width of street walls# of such bulkheads within 10 feet of a #street wall#, facing each #street# frontage, times their average height, in feet, does not exceed an area equal to 4 feet times the width, in feet, of the #street wall# of the #building# facing such frontage.

(2) all mechanical equipment shall be screened on all sides.

(3) such obstructions and screening are contained within a volume that complies with one of the following:

(i) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, shall not exceed an area equal to 8 feet times the width, in feet, of the #street wall# of the #building# facing such frontage; or

(ii) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and where the maximum permitted height of a #building# is less than 120 feet, are limited to a maximum height of 25 feet, and where the maximum permitted height of a #building# is 120 feet or greater, are limited to a maximum height of 40 feet.

For the purposes of this paragraph, (e), #abutting buildings# on a single #zoning lot# may be considered to be a single #building#.

(f) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.

(d~~g~~) Flagpoles or aerials;

(e~~h~~) House of worship towers, ornamental, having no #floor area# in portion of tower penetrating such height limit or #sky exposure plane#;

(f~~i~~) Parapet walls, not more than four feet high in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

(j) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;

(k) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);

(l) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;

(m) Solar energy systems:

(1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;

(2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:

(i) a height of 15 feet;

(ii) when located on a bulkhead or other obstruction pursuant to paragraph (e) of this Section, a height of 6 feet;

(3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(g~~n~~) Spires or belfries;

(o) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(p) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(q) Wind energy systems on portions of #buildings# with a height of 100 feet or greater, provided:

(1) the highest point of the wind turbine assembly does not exceed 55 feet;

(2) no portion of the wind turbine assembly is closer than 10 feet from any #lot line#; and

(3) in districts where #residences# new #joint living work quarters for artists# are permitted as-of-right, by special permit or authorization, or within 100 feet of such districts, the diameter of the swept area of the rotor does not exceed 15 feet;

(r) Window washing equipment mounted on a roof;

(h~~s~~) Wire, chain link or other transparent fences.

* * *

44-42
Size and Identification of Spaces

M1 M2 M3

(a) Size of spaces

In all districts, as indicated, for all #accessory# off-street parking spaces, open or enclosed, each 300 square feet of unobstructed standing or maneuvering area shall be considered one parking space. However, an area of less than 300 square feet, but in no event less than 200 square feet, may

be considered as one space, where the layout and design of the parking area are adequate to permit convenient access and maneuvering in accordance with regulations promulgated by the Commissioner of Buildings, or where the applicant for a building permit or certificate of occupancy certifies that such spaces will be fully attended.

Driveways used to access required parking spaces must be unobstructed for a width of at least 8 feet and a height of 8 feet above grade and if connecting to a #street#, such driveway may only be accessed by a curb cut.

In any case where a reduction of the required area per parking space is permitted on the basis of the applicant's certification that such spaces will be fully attended, it shall be set forth in the certificate of occupancy that paid attendants employed by the owners or operators of such spaces shall be available to handle the parking and moving of automobiles at all times when such spaces are in use.

In no event shall the dimensions of any parking stall be less than 18 feet long and 8 feet, 6 inches wide.

* * *

54-313

Single- or two-family residences with non-complying front yards or side yards

* * *

(b) In all districts, for an existing #single-# or #two-family residence# with a #noncomplying side yard#, an #enlargement# involving a vertical extension of existing #building# walls facing such #non-complying side yard# is permitted, provided the following conditions are met:

(1) the portion of the #building# which is being vertically extended complies with the height and setback regulations applicable to an R3-2 District;

(2) the #non-complying side yard# where the #building# wall is being vertically extended is at least three feet in width and the minimum distance between such #building# wall and the nearest #building# wall or vertical prolongation thereof on an adjoining #zoning lot# across the common #side lot line# is eight feet;

(3) the #enlarged building# does not contain more than two #dwelling units#;

(4) that there is no encroachment on the existing #non-complying side yard# except as set forth in this Section; and

(5) the #enlargement# does not otherwise result in the creation of a new #noncompliance# or in an increase in the degree of #non-compliance#.

Notwithstanding the provisions set forth in paragraphs (a)(1) and (b)(1) of this Section, when an existing #building# has added exterior wall thickness pursuant to Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), such vertical extensions may align with the location of the finished exterior #building# wall of the existing #building#.

* * *

62-341

Developments on land and platforms

All #developments# on portions of a #zoning lot# landward of the #shoreline# or on #platforms# shall be subject to the height and setback provisions of this Section. However, when the seaward view from all points along the #shoreline# of a #zoning lot# is entirely obstructed by existing elevated roads, bridges or similar structures which are less than 50 feet above mean high water and within 200 feet of the #shoreline#, #developments# shall be exempt from the requirements of this Section. Height and setback regulations for #developments# on #piers# and #floating structures# are set forth in Sections 62-342 and 62-343.

(a) For the purposes of applying the height and setback regulations of this Section, the following provisions shall apply:

* * *

(4) Permitted obstructions

The obstructions permitted pursuant to Sections 23-62, 24-51, 33-42 or 43-42 shall apply. In addition, the following regulations regarding permitted obstructions shall ~~be permitted~~ apply:

(i) Within an #initial setback distance#, a dormer may exceed a maximum base height specified in Table A of this Section or penetrate a required setback area above a maximum base height specified in Table C of this Section, provided that on any #street# frontage the aggregate width of all dormers at the maximum base height does not exceed 60 percent of the width of the #street wall# of the highest #story# entirely below the maximum base height. At any level above the maximum base height, the width of a #street wall# of a dormer shall be decreased by one percent for every foot that such level of dormer exceeds the maximum base height. (See Illustration of Dormer)

* * *

(iii) Wind energy systems

Regulations governing wind energy systems are modified pursuant to this paragraph:

In R6 through R10 Districts, Commercial Districts other than C1 or C2 Districts mapped within R1 through R5 Districts and C4-1, C7, C8-1, and Manufacturing Districts other than M1-1 Districts, wind energy systems located on a roof of a #building# shall not exceed a height equivalent to 50 percent of the height of such portion of the #building# or 55 feet, whichever is less, as measured from the roof to the highest point of the wind turbine assembly.

In C4-1, C7, C8-1 and M1-1 Districts, for #buildings# containing #commercial# or #community facility uses#, wind energy systems shall not exceed a height of 55 feet when located above a roof of the #building# as measured to the highest point of the wind turbine assembly.

In all districts, no portion of a wind energy system may be closer than 10 feet to a #waterfront public access area# boundary or a #zoning lot line#.

(b) Lower density districts

R1 R2 R3 R4 R5 C3 C4-1 C7 C8-1 M1-1

In the districts indicated, and in C1 and C2 Districts mapped within such #Residence Districts#, the underlying district height and setback regulations are applicable or modified as follows:

* * *

(4) Other structures

All structures other than #buildings# shall be limited to a height of 35 feet, except that in C4-1, C7, C8-1 and M1-1 Districts, freestanding wind energy systems shall be permitted to a height of 85 feet, as measured from the base plane to the highest point of the wind turbine assembly.

(c) Medium and high density non-contextual districts

* * *

Table A
HEIGHT AND SETBACK FOR ALL BUILDINGS AND OTHER STRUCTURES IN
MEDIUM AND HIGH DENSITY NON-CONTEXTUAL DISTRICTS*

* * *

(d) Medium and high density contextual districts

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9X R10A

C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-4A

In the districts indicated, and in C1 and C2 Districts mapped within such #Residence Districts#, the height and setback regulations of Sections 23-60, 24-50 and 35-24 shall not apply. In lieu thereof, the height and setback regulations set forth in this Section ~~following regulations~~ shall apply:

* * *

62-342
Developments on piers

* * *

(a) Height and setback regulations on #piers#

The height of a #building or other structure# on a #pier# shall not exceed 30 feet. However, where a setback at least 15 feet deep is provided, the maximum height of a #building or other structure# shall be 40 feet. Such required setback shall be provided at a minimum height of 25 feet and a maximum height of 30 feet, and may be reduced to ten feet in depth along any portion of the #building or other structure# fronting on an open area of the #pier# having a dimension of at least 40 feet measured perpendicular to such fronting portion. In addition, wind energy systems shall be allowed, provided such a system does not exceed a height of 85 feet, as measured from the base plane to the highest point of the wind turbine assembly or, when located above a roof of the #building#, a height of 55 feet, as measured to the highest point of the wind turbine assembly, whichever is higher.

(b) #B~~b~~uilding# width and spacing regulations on #piers#

* * *

Article VII
Administration

Chapter 1
Enforcement~~,~~ ~~and~~ Administration and Amendments

71-00
ENFORCEMENT AND ADMINISTRATION

* * *

71-10
PROCEDURE FOR AMENDMENTS

The City Planning Commission shall adopt resolutions to amend the text of this Resolution or the #zoning maps# incorporated therein, and the City Council shall act upon such amendments, in
accordance with the provisions of the New York City Charter.

* * *

~~**Chapter 5**~~
~~**Amendments**~~

~~**75-00**~~
~~**PROCEDURE FOR AMENDMENTS**~~

~~The City Planning Commission shall adopt resolutions to amend the text of this Resolution or the #zoning maps# incorporated therein, and the City Council shall act upon such amendments, in~~
~~accordance with the provisions of the New York City Charter.~~

* * *

Chapter 5
Certifications

75-00
CERTIFICATIONS

75-01
Certification for Rooftop Greenhouses

A rooftop greenhouse shall be excluded from the definition of #floor area# and may exceed #building# height limits, upon certification by the Chairperson of the City Planning Commission that such rooftop greenhouse:

(a) is located on the roof of a #building# that does not contain #residences# or other #uses# with sleeping accommodations;

(b) will only be used for cultivation of plants, or primarily for cultivation of plants when #accessory# to a #community facility use#;

(c) is no more than 25 feet in height:

(d) has roofs and walls consisting of at least 70 percent transparent materials, except as permitted pursuant to paragraph (f)(3) of this Section;

(e) where exceeding #building# height limits, is set back from the perimeter wall of the #story# immediately below by at least 6 feet on all sides; and

(f) has been represented in plans showing:

(1) the area and dimensions of the proposed greenhouse, the location of the existing or proposed #building# upon which the greenhouse will be located, and access to and from the #building# to the greenhouse;

(2) that the design of the greenhouse incorporates a rainwater collection and reuse system; and

(3) any portions of the greenhouse dedicated to office or storage space #accessory# to the greenhouse, which shall be limited to 20 percent of the floor space of the greenhouse, and shall be exempt from the transparency requirement in paragraph (d) of this Section.

Plans submitted shall include sections and elevations, as necessary to demonstrate compliance with the provisions of paragraphs (a) through (f) of this Section, as applicable. A copy of the proposed rooftop greenhouse plan shall be delivered to the affected Community Board, which may review such proposal and submit comments to the Chairperson of the City Planning Commission. The certification of a rooftop greenhouse shall not be complete until the earlier of the date that the affected Community Board submits comments regarding such proposal to City Planning or informs City Planning that such Community Board has no comments; or 45 days from the date that such proposal was submitted to the affected Community Board.

No building permits or certificates of occupancy related to the addition of #residences# or other #uses# with sleeping accommodations within the #building# may be issued by the Department of Buildings, unless and until such rooftop greenhouse has been fully dismantled. A Notice of Restrictions shall be recorded for the #zoning lot# providing notice of the certification pursuant to this Section. The form and contents of the legal instrument shall be satisfactory to the Chairperson of the City Planning Commission, and the filing and recording of such instrument shall be a precondition to the use of such rooftop greenhouse. The recording information for the rooftop greenhouse certification shall be referenced on the first Certificate of Occupancy to be issued after such notice is recorded, as well as all subsequent Certificates of Occupancy, for as long as the rooftop greenhouse remains intact.

* * *

81-252
Permitted obstructions

~~With the exception of unenclosed balconies conforming to the provisions of Section 23-13 (Balconies), the~~ Except as set forth in this Section, structures which under the provisions of Sections 33-42 or 43-42 (Permitted Obstructions) or 34-11 or 35-11 (General Provisions)~~,~~ are permitted to penetrate a maximum height limit or a #sky exposure plane# shall not be permitted as exceptions to the height limitations, setback requirements or rules for the measurement of #encroachments# or #compensating recesses# set forth in Section 81-26 (Height and Setback Regulations), nor shall they be excluded in determining daylight blockage pursuant to the provisions of Section 81-27 (Alternate Height and Setback Regulations).

The following shall be permitted as exceptions to the height regulations, setback requirements or rules for the measurement of #encroachments# or #compensating recesses# set forth in Section 81-26 (Height and Setback Regulations) and shall be excluded in determining daylight blockage pursuant to the provisions of Section 81-27 (Alternate Height and Setback Regulations).

(a) Unenclosed balconies conforming to the provisions of Section 23-13 (Balconies); and

(b) Exterior wall thickness, up to 8 inches, where such wall thickness is added to the exterior face of a #building# wall existing on (date of adoption), provided the added wall thickness has a thermal resistance (R-value) of at least 1.5 per inch. Where #buildings# that have added exterior wall thickness pursuant to this Section are #enlarged#, such #enlarged# portion may similarly penetrate a maximum height limit in order to align with the exterior walls of the existing #building#, provided such #enlargement# contains less #floor area# than the existing #building#, and there is no penetration of #floor area# above a maximum height limit.

* * *

84-135
Limited height of buildings

For the purposes of this Section, the term "#buildings#" shall include #buildings or other structures#. No portion of any #building# may be built to a height greater than 85 feet above #curb level#, except that:

* * *

(e) Sections 23-62 (Permitted Obstructions) and 33-42 (Permitted Obstructions) are hereby made inapplicable. Any portion of a #building# that exceeds an established height limit shall be subject to the following provisions:

(1) The following shall not be considered obstructions and may thus penetrate a maximum height limit:

(i) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# of a #building# at any level

(ii) Elevator or stair bulkheads, roof water tanks, cooling towers and ~~or other~~ #accessory# mechanical equipment (including enclosure walls),~~ provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage at #curb level#, or the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building# and the height of all such obstructions does not exceed 40 feet~~ pursuant to Section 33-42 (Permitted Obstructions)

(iii) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(iv) External wall thickness, pursuant to Section 33-42 (Permitted Obstructions)

(v) Flagpoles and aerials

(vi) Heliostats and wind ~~turbines~~ energy systems

(vii) Parapet walls, not more than four feet ~~high~~ in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

(viii) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;

(ix) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);

(x) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;

(xi) Solar energy systems:

(1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;

(2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed a height of 15 feet, or when located on a bulkhead or other obstruction pursuant to paragraph (f) of Section 33-42, do not exceed a height of 6 feet.

(3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(xii) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(xiii) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(xiv) Wire, chain link or other transparent fences;

(2) The maximum permitted size of enclosure walls surrounding elevator or stair bulkheads, roof water tanks, cooling towers and ~~or other~~ #accessory# mechanical equipment may be increased by authorization of the City Planning Commission, provided the Commission finds that:

(i) the width of such additional enclosure wall at each #building# face does not exceed 80 percent of the width of the enclosure wall as allowed in paragraph (e)(1) of this Section;

(ii) the additional area of the enclosure wall at each #building# face is not more than 50 percent of the area permitted as-of-right; and

(iii) the enclosure wall is compatible with the #building# and the urban design goals of the Special District and complements the design by providing a decorative top; and

(f) in #special height locations# in Appendices 2.2 and 3.2 of this Chapter, no portion of a #building#, including permitted obstructions, shall exceed a height of 450 feet above #curb level#.

* * *

84-333
Limited height of buildings

The maximum height of any #building or other structure#, or portion thereof, shall not exceed 400 feet on any portion of subzone C-1 shown as a #special height location# in Appendix 3.2 of this Chapter, except that permitted obstructions pursuant to Section 33-42 shall be allowed to penetrate a maximum height limit.

The maximum height of any #building or other structure#, or any portion thereof, located within subzone C-2 shall not exceed 180 feet above #curb level#, except that:

(a) the maximum height of any #building or other structure#, or portion thereof, shown as a #special height location# shall not exceed the height set forth in Appendix 3.2; and

(b) Sections 23-62 and 33-42 (Permitted Obstructions) are hereby made inapplicable. Any portion of a #building or other structure# that exceeds an established height limit shall be subject to the following provisions:

(1) The following shall not be considered obstructions and may this penetrate a maximum height limit:

(i) Chimneys or flues, with a total width not exceeding 10 percent of the #aggregate width of street walls# or a #building# at any level;

(ii) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(iii) Elevator or stair bulkheads, roof water tanks, cooling towers or other accessory mechanical equipment (including enclosure walls),~~ provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #buildings# facing such frontage at #curb level#, or the #lot coverage# of all such obstructions, does not exceed 20 percent of the #lot coverage# of the #building# and the height of all such obstructions does not exceed 40 feet~~ pursuant to Section 33-42 (Permitted Obstructions);

(iv) Fences, wire, chain link or other transparent type;

(v) Flagpoles and aerials;

(vi) Parapet walls, not more than four feet ~~high~~ in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

(vii) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;

(viii) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);

(ix) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;

(x) Solar energy systems:

(a) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;

(b) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed a height of 15 feet, or when located on a bulkhead or other obstruction pursuant to paragraph (f) of Section 33-42, do not exceed a height of 6 feet.

(c) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(xi) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(xii) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(2) The maximum permitted size of enclosure walls surrounding elevator or stair bulkheads, roof water tanks, cooling towers and ~~or other~~ #accessory# mechanical equipment may be increased by authorization of the City Planning Commission, provided the Commission finds that:

(i) the width of such additional enclosure wall at each #building# face does not exceed 80 percent of the width of the enclosure wall as allowed in paragraph (b)(1) of this Section;

(ii) the additional area of the enclosure wall at each #building# face is not more than 50 percent of the area permitted as-of-right; and

(iii) the enclosure wall is compatible with the #building# and the urban design goals of the Special District and complements the design by providing a decorative top.

(c) ~~Notwithstanding the above, i~~In no event, shall the height of any #building#, including permitted obstructions, exceed 800 feet above #curb level#.

* * *

87-31
Permitted Obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings#., ~~except that elevator or stair bulkheads, roof water tanks, cooling towers~~

~~or other mechanical equipment (including enclosures), may penetrate a maximum height limit, provided that either:~~

~~(a) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~

~~(b) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

93-41
Rooftop Regulations

(a) ~~Permitted obstructions~~

~~(1)~~ Subdistricts A, B, C, D and E

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within Subdistricts A through E, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

(b) ~~(2)~~ Subdistrict F

In Subdistrict F, the provisions of paragraph (~~d~~f) of Section 33-42 (Permitted Obstructions) shall ~~not~~ apply, except that~~. In lieu thereof, the following shall apply:~~

~~(i) #Building# bases and transition heights~~

~~For all #building# bases and transition heights, rooftop mechanical structures,~~

~~including, but not limited to, elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment, and their required enclosures may penetrate a maximum height limit, provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

~~(ii) Towers~~

~~For all towers, rooftop mechanical equipment, including, but not limited to, elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment, and their required enclosures, may penetrate a maximum height limit.~~ ~~F~~For towers above a height of 350 feet, ~~such~~ rooftop mechanical structures shall comply with the tower top articulation provisions set forth in Section 93-569 (Tower top articulation).

~~(b) Screening requirements for mechanical equipment~~

~~For all #developments# and #enlargements#, all mechanical equipment located on any roof of a #building or other structure# shall be fully enclosed, except that openings in such enclosure shall be permitted only to the extent necessary for ventilation and exhaust.~~

* * *

93-55
Special Height and Setback Regulations in the South of Port Authority Subdistrict E

(a) #Zoning lots# with Eighth Avenue frontage

* * *

(2) permitted obstructions, as listed in paragraph (a) of Section 93-41, may penetrate the #sky exposure plane#. In addition, a dormer, as listed in paragraph (c)(1) of Section 23-621, may penetrate the #sky exposure plane#.

* * *

93-77
Design Criteria for Public Access Areas in Subdistrict F

Public access areas in Subdistrict F shall be comprised of publicly accessible open spaces, private streets and pedestrian ways.

(a) Design criteria

* * *

(12) Canopies, awnings, ~~and~~ marquees and sun control devices

Where #buildings# front onto publicly accessible open spaces, private streets and pedestrian ways, canopies, awnings, and marquees and sun control devices shall be permitted pursuant to the standards set forth in paragraph (c) of Section 37-726 (Permitted obstructions).

* * *

94-072
Special plaza provisions

In Areas A, C and E, all #developments# which are located on a #zoning lot# with frontage along Emmons Avenue, except for a #zoning lot# of less than 8,000 square feet which was in existence as of November 1, 1972, shall provide and maintain a plaza for public use which complies with the following requirements:

* * *

(c) The size of the plaza shall be at least 4,000 square feet in one location and shall not at any point be more than two feet below or five feet above #street# level, with a minimum dimension of 35 feet. At least 15 percent of the plaza area shall be landscaped and planted with trees, except when a #zoning lot# abutting both Dooley Street and Emmons Avenue is #developed#, ~~then~~ such landscaping shall be at least 75 percent of the total plaza area provided with such #development#.

* * *

(f) A plaza may include as permitted obstructions, sculptures, kiosks, or open cafes occupying in the aggregate no more than 30 percent of the total plaza area. Ice skating rinks are also allowed as permitted obstructions within such plazas only for the months from October through March, provided the minimum area of such plaza is 7,500 square feet. Exterior wall thickness, awnings and other sun control devices pursuant to Section 37-726 (Permitted Obstructions) shall also be allowed as permitted obstructions.

* * *

97-441
Permitted obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the Special District, except that ~~the provisions of paragraph (d) shall not apply. In lieu thereof, the following regulations shall apply:~~

~~Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit or #sky exposure plane# provided that either:~~

~~(a) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~

~~(b) for #buildings# at least 120 feet in height, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

~~In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of

paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

98-422
Special rooftop regulations

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings or other structures# within the #Special West Chelsea District#, except that ~~as modified as follows:~~

~~(a) Permitted Obstructions~~

~~(1) Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a #sky exposure plane# or a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

~~(2) D~~dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts). However, dormers may not exceed the maximum #building# height in Subareas C, F and G where the maximum base height and maximum #building# height are the same.

~~(b) Ventilation and mechanical equipment~~

All mechanical equipment located within 15 feet of the level of the #High Line bed# that is within 25 feet of the #High Line#, measured horizontally, or within the #High Line frontage#, as applicable, shall be screened and buffered with no intake or exhaust fans or vents facing directly onto the #High Line#.

* * *

101-221
Permitted Obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the #Special Downtown Brooklyn District#, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other #accessory# mechanical equipment (including enclosures) may penetrate a maximum height limit, provided the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building# and the height of all such obstructions does not exceed 40 feet. In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

104-322
Permitted Obstructions

* * *

(a) Chimneys, flues, intake and exhaust vents limited to a #lot coverage# of 900 square feet with neither length nor width of any single such obstruction, nor the total length or width of all such obstructions, greater than 30 feet;

(b) Decks, and other surfaces for recreational activities, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(d) Elevator and stair bulkheads to a maximum height of 15 feet above the permitted maximum height of mechanical equipment;

(e) Flagpoles or aerials;

(f) House of worship towers, ornamental, having no #floor area# in portion of tower penetrating such #sky exposure plane#;

(g) Parapet walls, not more than four feet ~~high~~ in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. A guardrail with a surface at least 70 percent open or with an opacity no more than 30 percent (as viewed in elevation), shall be permitted above a parapet wall or within 2 feet of a parapet wall, provided such guardrail is not more than 4 feet above the accessible level of a roof. Such restriction on guardrail height shall not apply when located beyond 2 feet from a parapet wall;

(h) Pipes and supporting structures;

(i) Railings;

(j) Roof thickness, up to 8 inches, to accommodate the addition of insulation, for #buildings# or portions of #buildings# constructed prior to (date of adoption). For a #building# that has added roof thickness pursuant to this paragraph, an #enlargement# may align with the finished roof surface of such #building#, provided the #enlarged# portion does not exceed the maximum height limit height by more than 8 inches;

(k) Rooftop greenhouses, permitted pursuant to Section 75-01 (Certification for Rooftop Greenhouses);

(l) Skylights, clerestories or other day lighting devices, not more than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher. Such devices shall be limited to a #lot coverage# not greater than 10 percent of the #lot coverage# of the roof and be located at least 8 feet from the #street wall# edge. However, such devices shall not be permitted obstructions above a roof with a slope greater than 20 degrees;

(m) Solar energy systems:

(1) on the roof of a #building#, up to 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher;

(2) on the roof of a #building#, greater than 4 feet in height, as measured from the maximum height limit, or the finished level of the roof, whichever is higher, provided that all such portions above 4 feet are set back at least 6 feet from a #street wall#, limited to a #lot coverage# not greater than 25 percent of the #lot coverage# of the roof and do not exceed:

(i) a height of 15 feet; and

(iii) when located on a bulkhead or other obstruction pursuant to paragraph (d) of this Section, a height of 6 feet;

(3) on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects.

However, any installation on a roof with a slope greater than 20 degrees shall be limited to 18 inches in height, as measured perpendicular to the roof surface.

(n) Spires or belfries;

(o) Vegetated roofs, not more than 3 feet, 6 inches in height excluding vegetation, as measured from the maximum height limit, or the finished

level of the roof as it existed on (date of adoption), whichever is higher. On roofs with slopes greater than 20 degrees, vegetated roofs shall be limited to a height of 12 inches measured perpendicular to such roof surface;

(p) Weirs, check dams and other equipment for stormwater management, not more than 3 feet, 6 inches in height, as measured from the maximum height limit, or the finished level of the roof as it existed on (date of adoption), whichever is higher;

(q) Window washing equipment mounted on the roof;

(r) Wire, chain link or other transparent fences.

* * *

107-223
Permitted obstruction in designated open space

The following shall not be considered as obstructions when located in #designated open space#:

(a) Awnings and other sun control devices pursuant to Section 23-44 (Permitted Obstructions)

(b) Balconies, unenclosed, subject to the provisions of Section 23-13; or

(~~b~~c) Eaves, gutters or downspouts projecting into such #designated open space# not more than 16 inches; or

(~~c~~d) Fences or walls, conditioned upon certification by the City Planning Commission that:

(1) such fences or walls will not obstruct or preclude public access or circulation of pedestrians, cyclists or horseback riders through the public easement within #designated open space#; and

(2) the location, size, design and materials of such fences or walls are appropriate to the character of the #designated open space#.

(e) Exterior wall thickness, pursuant to Section 23-44 (Permitted Obstructions)

(f) Solar energy systems on walls existing on (date of adoption), projecting no more than 10 inches and occupying no more than 20 percent of the surface area of the #building# wall (as viewed in elevation) from which it projects;

No #accessory# off-street parking facilities shall be permitted in #designated open space#. No #building or other structure# shall be erected in #designated open space# except as permitted by the provisions of Section 107-221 (Active recreational activities). Any existing #building or other structure# located within the #designated open space# on September 11, 1975, and not complying with the provisions of this Section or the other Sections specified in the preceding paragraph, shall not be #enlarged# but may be continued as a #non-conforming use# or #noncomplying building# subject to the applicable provisions of Article V (Non-Conforming Uses and Non-Complying Buildings) in accordance with the underlying district regulations.

* * *

111-20
SPECIAL BULK PROVISIONS FOR AREAS A1 THROUGH A7

* * *

(d) Area A4, A5, A6 and A7

Except as set forth herein, the bulk regulations of the underlying district shall apply.

* * *

(2) The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings#, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

114-121
Special rooftop regulations

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings or other structures# in R6A, R6B, R7A, R7B, C4-2A and C8-2 Districts in the #Special Bay Ridge District#, except that ~~the provisions of paragraph (d) of Section 33-42 shall not apply. In lieu thereof, the following regulations shall apply:~~

~~Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may exceed a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 20 feet. In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

115-231
Permitted obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the #Special Downtown Jamaica District#, except that ~~the provisions of paragraph (d) of Section 33-42 shall not apply. In lieu thereof, the following regulations shall apply:~~

~~Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may penetrate a maximum height limit or #sky exposure plane#, provided that either:~~

~~(a) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~

~~(b) for #buildings# at least 120 feet in height, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.~~

~~In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of

paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

116-231
Special rooftop regulations

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings or other

structures# in the #Special Stapleton Waterfront District#, except that ~~the provisions of~~

~~paragraph (d) of Section 33-42 shall not apply. In lieu thereof, the following regulations shall~~

~~apply:~~

~~Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures) may exceed a maximum height limit provided that either:~~

~~(a) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~

~~(b) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 20 feet.~~

~~In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of
paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

* * *

121-32
Height of Street Walls and Maximum Building Height

* * *

(b) Maximum #building# height

* * *

(2) permitted obstructions, as listed in paragraph (a) of Section 93-41, may penetrate the #sky exposure plane# and the height limit of 250 feet. In addition, a dormer, as listed in paragraph (c)(1) of Section 23-621, may penetrate the #sky exposure plane#.

* * *

125-31
Rooftop Regulations

~~(a) Permitted obstructions~~

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the #Special Southern Hunters Point District#, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit, provided that either:~~

~~(1) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~

~~(2) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

~~(b) Screening requirements for mechanical equipment~~

~~For all #developments# and #enlargements#, all mechanical equipment located on any roof of a #building or other structure# shall be fully enclosed, except that openings in such enclosure shall be permitted only to the extent necessary for ventilation and exhaust.~~

* * *

128-31
Rooftop Regulations

~~The provisions of this Section shall apply to all #buildings# in C4-2 Districts within the Upland~~
~~and Waterfront Subdistricts.~~

~~(a) Permitted obstructions~~

The provisions of Section 33-42 ~~(Permitted Obstructions)~~ shall apply to all #buildings# in C4-2 Districts within the Upland and Waterfront Subdistricts, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit, provided that either:~~

~~(1) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or~~

~~(2) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

~~(b) Screening requirements for mechanical equipment~~

~~For all #developments# and #enlargements#, and #conversions# of #non-residential buildings# to #residences#, all mechanical equipment located on any roof of a #building or other structure# shall be fully enclosed, except that openings in such enclosure shall be permitted only to the extent necessary for ventilation and exhaust.~~

* * *

131-40
HEIGHT AND SETBACK REGULATIONS

131-41
Rooftop Regulations

~~(a) Permitted obstructions~~

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings# within the #Special Coney Island District#, except that ~~elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition,~~ dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts) only in the Mermaid Avenue Subdistrict.

~~(b) Screening requirements for mechanical equipment~~

~~For all #developments# and #enlargements#, all mechanical equipment located on any roof of a #building or other structure# shall be fully enclosed, except that openings in such enclosure shall be permitted only to the extent necessary for ventilation and exhaust.~~

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, JAMES SANDERS, Jr., LARRY B. SEABROOK, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO, DANIEL J. HALLORAN III, PETER A. KOO; Committee on Land Use, April 26, 2012.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Rules, Privileges and Elections

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Rules, Privileges and Elections and had been favorably reported for adoption.

Report for M-802

Report of the Committee on Rules, Privileges and Elections approving the re-appointment of MICHAEL M. MCSWEENEY as City Clerk and Clerk of the Council.

The Committee on Rules, Privileges and Elections, to which the annexed resolution was referred on April 30, 2012, respectfully

REPORTS:

Topic: ***New York City Clerk – (Council candidate for re-appointment)***

- **Michael M. McSweeney [Preconsidered-M 802]**

New York City Charter ("Charter") § 48 states that the Council appoints a Clerk who shall be the City Clerk and Clerk of the Council. The Clerk shall hold office for six years and until such Clerk's successor shall be appointed and has qualified. The City Clerk may be removed on charges by a two-thirds vote of all the Council members, subject, however, to judicial review. [*New York City Charter* §48(a).] The City Clerk's current salary is $ 200, 853.

According to the *Charter*, the City Clerk shall keep the record of the proceedings of the Council and shall also keep a separate record of all the local laws of the City in a book to be provided for that purpose, with proper indices, which book shall be deemed a public record of such local laws, and each local law shall be attested by said Clerk. [*New York City Charter* §48(a).]

The *Charter* also states that it shall be the duty of the City Clerk to keep open for inspection at all reasonable times the records and minutes of the proceedings of the Council. The City Clerk shall keep the seal of the City, and his or her signature shall be necessary to all grants and other documents, except as otherwise provided by law. In the absence of the Clerk by sickness or otherwise, the First Deputy Clerk shall be vested and possessed of all the rights and charged with all the duties by law imposed on said Clerk. [*New York City Charter* §48(b).]

Also, every lobbyist shall annually file with the City Clerk, on forms prescribed by the City Clerk, a statement of registration for each calendar year; provided, however, that the filing of such statement of registration shall not be required of any lobbyist who in any year does not expend, incur or receive an amount in excess of two thousand dollars of reportable compensation and expenses. Such statements of registration shall be kept in electronic form in the office of the City Clerk and shall be available for public inspection.[1] [*New York City Administrative Code* § 3-213(a)(1).] The City Clerk shall have the power to subpoena witnesses and records, issue advisory opinions to those under its jurisdiction, conduct any investigation necessary to carryout the provisions of the lobbying regulation subchapter, prepare uniform forms for the statements and reports. [*New York City Administrative Code* § 3-212(a).] The City Clerk is charged with the duty of reviewing all statements and reports for violations, and it shall be his duty, if he deems such to be willful, to report such determination to the Department of Investigation. Where the City Clerk receives a report or otherwise suspects that a criminal violation of law, other than a violation of the lobbying regulation subchapter, has been or may have been committed, the City Clerk shall report any information relating thereto to the Department of Investigation. [*New York City Administrative Code* § 3-223(g).]

Some of the other functions of the City Clerk include: attesting to leases and deeds of city property, agreements, bonds, tax notes and other forms of obligations of the City; being in charge of all papers and documents of the City except as otherwise provided by law, including executive and administrative orders of the Mayor, oaths of office of all City employees, City Marshal bonds, referendum petitions; qualifying all Commissioners of Deeds; serving as administrator of the Marriage License Bureau; certifying marriage records; serving as registrar of clergymen and officials authorized to solemnize marriages within the City; and maintaining domestic partnership records.[2]

It should also be noted that the Clerk is responsible for maintaining registries of businesses and inhabitants during officially declared public health emergencies. [*New York City Administrative Code* § 17-105.]

If re-appointed, Mr. McSweeney, a resident of Queens, and a registered member of the Democratic Party, will be eligible to serve a six-year term that will begin on May 13, 2012 and expires on May 12, 2018. A copy of Mr. McSweeney's résumé and report/resolution is annexed to this briefing paper.

(After interviewing the candidate and reviewing the relevant material, this Committee decided to re-appoint the nominee, the Honorable Michael M. McSweeney, as the City Clerk and Clerk of the Council)

[1] In addition, the Office of the City Clerk maintains a lobbyist search database which is accessible on-line at: www.nyc.gov/lobbyistsearch/. The database provides detailed information about lobbyist registered with the City of New York, and their clients. Updates are scheduled at least four times a year on the twenty-fifth business day following the deadline of the annual registration and quarterly filing periods. Such deadlines are April 15 for the first quarter, June 15 for the second quarter, October 15 for the third quarter, and January 15 for the annual registration and the previous year's fourth quarter.

[2] The City Clerk's duties are summarized on the City Clerk's website and are outlined in various sections of the *New York City Charter* and *New York City Administrative Code*. [http://www.cityclerk.nyc.gov/html/about/about.shtml]

The Committee on Rules, Privileges and Elections which was referred to on April 30, 2012, respectfully reports:

Pursuant to § 48 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the re-appointment by the Council of Michael M. McSweeney as City Clerk and Clerk of the Council to serve for a six-year term that will begin on May 13, 2012 and expires on May 12, 2018.

In connection herewith, Council Member Rivera offered the following resolution:

Res. No. 1324

Resolution approving the re-appointment by the Council of Michael M. McSweeney as City Clerk and Clerk of the Council

By Council Member Rivera

RESOLVED, that pursuant to § 48 of the *New York City Charter*, the Council does hereby approve the re-appointment of Michael M. McSweeney as City Clerk and Clerk of the Council to serve for a six-year term that will begin on May 13, 2012 and expires on May 12, 2018.

JOEL RIVERA, Chairperson; LEROY G. COMRIE, Jr., ERIK MARTIN-DILAN, LEWIS A. FIDLER, ROBERT JACKSON, ALBERT VANN, VINCENT J. GENTILE, INEZ E. DICKENS, JAMES VACCA, ELIZABETH CROWLEY, KAREN KOSLOWITZ, JAMES S. ODDO, CHRISTINE C. QUINN; Committee on Rules, Privileges and Elections, April 30 2012.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

GENERAL ORDER CALENDAR

Report for Int. No. 658-A

Report of the Committee on Civil Service and Labor in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the waiver of public employee organizations' rights when submitting grievances to arbitration under the New York city collective bargaining law.

The Committee on Civil Service and Labor, to which the annexed amended proposed local law was referred on August 17, 2011 (Minutes, page 3451), which was then laid over by the Council on April 18, 2012 (Minutes, page 1089), respectfully

REPORTS:

SUMMARY

On April 17, 2012, the Committee on Civil Service and Labor, chaired by Council Member James Sanders Jr., will vote on Proposed Int. No. 658-A, a local to amend the administrative code of the city of New York, in relation to the waiver of public employee organizations' rights when submitting grievances to arbitration under the New York City Collective Bargaining Law.

The Committee held a hearing regarding this proposed legislation on February 28, 2012. Four witnesses offered testimony at the hearing: Commissioner of the Mayor's Office of Labor Relations James Hanley, Deputy Commissioner and General Counsel to the independent Office of Collective Bargaining Steven DeCosta, General Counsel to the Municipal Labor Committee Robert J. Burzichelli and General Counsel to District Counsel 37 Mary J. O'Connell. Amendments were subsequently made to the bill.

This bill modifies a provision in the New York City Collective Bargaining Law ("CBL") regarding the waiver of contract claims. A recent court case found that when union members file mandatory waivers in order to enter into binding arbitration, they waive not only contractual claims, but also claims that would normally be brought in court, such as statutory, constitutional and common law claims.[1] This bill modifies the CBL so that such waivers would only apply to the contractual claims submitted to arbitration, and thus would allow non-contractual claims to be brought in court.

BACKGROUND AND ANALYSIS

This bill modifies the waiver requirement when workers file a grievance under collective bargaining contracts. The relevant section of the CBL is 12-312(d) of the Administrative Code of the City of New York (the "Code"), which states:

> As a condition to the right of a municipal employee organization to invoke impartial arbitration under such provisions, the grievant or grievants and such organization shall be required to file with the director a written waiver of the right, if any, of said grievant or grievants and said organization to submit the underlying dispute to any other administrative or judicial tribunal except for the purpose of enforcing the arbitrator's award.

Since at least 2004, the independent New York City Office of Collective Bargaining ("OCB"), which administers the CBL, has interpreted this provision to mean that when a worker submits a contractual claim to arbitration and signs the mandatory waiver, all contractual claims related to the underlying dispute could not be later brought in court.[2] However workers were free to take related non-contractual statutory, constitutional or common law claims not heard by the arbitrator to court, so long as none of the waived contractual claims heard were reargued.[3] The OCB's Board of Collective Bargaining issued an opinion in 2004 confirming that this provision does *not* waive statutory, constitutional or common law claims not heard by arbitrators in such cases:

> We hold that the scope of the OCB waiver is limited to contractual claims under the collective bargaining agreement. In other words, the "underlying dispute" referred to in the OCB waiver does not encompass all statutory, constitutional, or common law claims arising from the same factual circumstances.[4]

The OCB cited a 1998 U.S. Supreme Court case where a union member sued under the Americans with Disabilities Act after signing a waiver under a collective bargaining agreement. The Supreme Court allowed the case to proceed because it was not "clear and unmistakable" that statutory claims were waived.[5] The OCB found that the waiver in Code section 12-132 did not clearly or unmistakably waive non-contractual claims.[6] The unanimous decision, by a five member panel of board members, included appointments by the Mayor.[7]

In January 2009, a case was filed in State Supreme Court that was ultimately dismissed because the court found that a Code section 12-132 waiver filed in a related arbitration waived the parties' non-contractual claims.[8] In that case, employees of the New York City Housing Authority ("NYCHA") represented by their union District Council 37 ("Petitioners") attempted to challenge the Bloomberg Administration's decision to terminate 232 NYCHA employees.[9] The Petitioners sent letters to the OCB's Board of Collective Bargaining, NYCHA and other City entities seeking arbitration under the terms of the members' collective bargaining agreement.[10] In February 2009, the Petitioners signed a waiver of the underlying claims pursuant to section 12-312 of the Code.[11]

Later in February, the Petitioners brought an Article 78 special proceeding in New York Supreme Court with five causes of action against the City under Local Law 35[12] and the New York State Constitution.[13] Although related to the same layoffs of NYCHA employees, none of the claims in the lawsuit arose from the terms of the collective bargaining contract.[14] Nevertheless, the court found that the section 12-312 waiver filed by the Petitioners waived all claims of the underlying dispute, including those falling under local laws and the State Constitution, and dismissed the case without hearing the merits of the claims.[15] The Petitioners appealed the case to the Appellate Division, which affirmed the decision[16] and the Court of Appeals declined to hear the case, letting the decision stand.[17]

As the law stands now, it appears that union members with disputes have two choices: they can file a grievance under their contract, waive any non-contractual claims and go to arbitration; or they can go to court and bring statutory, constitutional and common law claims, but be barred from bringing any contractual claims, because arbitration of such claims is mandatory. Thus, such union members can arguably pursue contractual claims or statutory, constitutional or common law, but not both.[18]

Proposed Int. No. 658-A

Proposed Int. No. 658-A would amend section 12-312 of the Administrative Code of the City of New York to provide that non-contractual claims related to a contract dispute under a collective bargaining agreement are not waived when contractual disputes are submitted to mandatory arbitration. Under the proposed local law, section 12-312 would read:

> As a condition to the right of a municipal employee organization to invoke impartial arbitration under such provisions, the grievant or grievants and such organization shall be required to file with the director a written waiver of the right, if any, of said grievant or grievants and said organization to submit the [underlying dispute] contractual dispute being alleged under a collective bargaining agreement to any other administrative or judicial tribunal except for the purpose of enforcing the arbitrator's award. This subdivision shall not be construed to limit the rights of any public employee or public employee organization to submit any statutory or other claims to the appropriate administrative or judicial tribunal.

Proposed Int. No. 658-A would take effect immediately upon enactment.

[1] *Roberts v. Bloomberg*, 26 Misc.3d 1006, 896 N.Y.S.2d 596 (N.Y. Sup. Ct. 2009)

[2] *City of New York v. Uniformed Firefighters Ass'n, Local 94, IAFF, AFL-CIO*, 73 OCB 3A (BCB 2004).

[3] *Id.*

[4] *Id*. *See also*, *International Brotherhood of Teamsters, Local 237*, 75 BCB 21, at 10 (BCB 2005), *DC 37, Local 376*, 1 OCB2d 36, at 11-12 (BCB 2008*); DC 37, Locals 768 and 371*, 3 OCB2d 7, at 17-18 (BCB 2010).

[5] *Wright v.Universal Maritime Service Corp*., 525 U.S. 70, 76-77 (1998).

[6] *Id.*

[7] *City of New York v. Uniformed Firefighters Ass'n, Local 94, IAFF, AFL-CIO*, 73 OCB 3A (BCB 2004).

[8] *Roberts v. Bloomberg*, 26 Misc.3d 1006, 896 N.Y.S.2d 596 (N.Y. Sup. Ct. 2009).

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] Local Law 35of 1994 requires agencies to conduct cost studies before approving, extending or renewing most contacts with the City, particularly to determine whether the work can be done more cost efficiently with existing City resources.

[13] *Roberts*, *supra.*

[14] *Id.*

[15] *Id.*

[16] *Roberts v. Bloomberg*, 83 A.D.3d 457, 921 N.Y.S.2d 214 (N.Y. App. Div 2011)

[17] *Roberts v. Bloomberg*, 2011 WL 2567856 (N.Y. 2011).

[18] It should be noted that the U.S. Supreme Court has found that, "a substantive waiver of federally protected civil rights will not be upheld." *14 Penn Plaza LLC v. Pyett*, 556 U.S. 247, 250 (2009). Thus, Code section 12-312 would not prevent union members from filing a case under Title VII or Section 1983 of the federal code.

(The following is the text of the Fiscal Impact Statement for Int. No. 658-A:)

THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
PRESTON NIBLACK, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 658-A

COMMITTEE: Civil Service and Labor

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the waiver of public employee organizations' rights when submitting grievances to arbitration under the New York city collective bargaining law.

SPONSORS: By Council Members Sanders, James, Williams and Ulrich

SUMMARY OF LEGISLATION: Proposed Int. 658-A modifies a provision in chapter 3 of the administrative code the New York City Collective Bargaining Law ("CBL") regarding the waiver of contract claims. A recent court case found that when union members file mandatory waivers in order to enter into binding arbitration, they waive not only contractual claims, but also claims that would normally be brought in court, such as statutory, constitutional and common law claims. This bill modifies the CBL so that such waivers would only apply to the contractual claims submitted to arbitration, and thus would allow non-contractual claims to be brought in court.

EFFECTIVE DATE: This local law would take effect immediately

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: N/A

FISCAL IMPACT STATEMENT:

	Effective FY12	FY Succeeding Effective FY13	Full Fiscal Impact FY12
Revenues	**$0**	**$0**	**$0**
Expenditures	$0	**$0**	**$0**
Net	**$0**	**$0**	**$0**

IMPACT ON REVENUES: There would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is estimated that there would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

ESTIMATE PREPARED BY: John Lisyanskiy, Legislative Financial Analyst
Regina Poreda Ryan, Assistant Director

HISTORY: Hearing held on Int 658 by the Committee on February 28, 2012 and the legislation was laid over by the Committee. Subsequent to this hearing Int 658 was

amended, and the amended legislation, Proposed Int. 658-A is scheduled to be voted on by the Committee on April 17, 2012 and the Full Council on April 18, 2012.

DATE SUBMITTED TO COUNCIL: AUGUST 17, 2011

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 658-A:)

Int. No. 658-A

By Council Members Sanders, James, Williams, Lappin, Seabrook, Gennaro, Barron, Jackson, Eugene, Lander, Levin, Mealy and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to the waiver of public employee organizations' rights when submitting grievances to arbitration under the New York city collective bargaining law.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council hereby finds that recent litigation has resulted in a judicial decision which holds that, when a public employee organization files a waiver to submit a grievance to arbitration pursuant to a collective bargaining agreement which the organization has with a public employer, the public employee organization waives its right to bring other administrative or judicial actions to address alleged violations of other statutes or rights not contained in the collective bargaining agreement. The Council finds that such a result is contrary to the New York City Office of Collective Bargaining's longstanding interpretation of the local law. The Council further finds that such a result unfairly prejudices the City's public employee organizations and the members they represent and that no similar waiver requirement exists in the New York State Taylor Law. Legislation is therefore necessary to rectify this disparity, in order to clarify that a public employee organization waives only its right to submit an alleged contractual dispute under the collective bargaining agreement and no other right when it submits a grievance to arbitration at the New York City Office of Collective Bargaining.

§ 2. Subdivision d of section 12-312 of the administrative code of the city of New York is amended to read as follows:

d. As a condition to the right of a municipal employee organization to invoke impartial arbitration under such provisions, the grievant or grievants and such organization shall be required to file with the director a written waiver of the right, if any, of said grievant or grievants and said organization to submit the [underlying dispute] *contractual dispute being alleged under a collective bargaining agreement* to any other administrative or judicial tribunal except for the purpose of enforcing the arbitrator's award. *This subdivision shall not be construed to limit the rights of any public employee or public employee organization to submit any statutory or other claims to the appropriate administrative or judicial tribunal.*

§ 3. This local law shall take effect immediately.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Resolution approving various persons Commissioners of Deeds

By the Presiding Officer –

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

Approved New Applicant's Report

Name	Address	District #
Lisa J. Padilla	240 West 65th Street New York, N.Y. 10023	6
Enea Gjoza	8-19 115th Street College Point, N.Y. 11356	19
Sharon Joseph	1287 Park Place Brooklyn, N.Y. 11213	36
Sheri Zlatnik	525 East 5th Street #2F Brooklyn, N.Y. 11218	39
Shimmell L. Simmons	75 Hawthorne Street Brooklyn, N.Y. 11225	40
Mendell McClary	9218 Kaufman Place Brooklyn, N.Y. 11236	46
Shanira L. Taylor-Boucaud	673 East 77th Street Brooklyn, N.Y. 11236	46
Juliana Vincenti	2814 Quentin Road Brooklyn, N.Y. 11229	46
Milla Brodsky	1814 East 19th Street #2B Brooklyn, N.Y. 11229	48

Approved New Applicants and Reapplicants

Name	Address	District #
Suzette Uricola	400 Chambers Street #8Y New York, N.Y. 10282	1
Alfonso Ariel Reyes	455 FDR Drive #B1103 New York, N.Y. 10002	2
Herbert Cruz	321 West 24th Street #1B New York, N.Y. 10001	3
Renee Horowitz	365 West 25th Street #10C New York, N.Y. 10001	3
Carmen L. Delgado	1763 2nd Avenue #14G New York, N.Y. 10128	5
Ruth Brown-McGill	567 West 149th Street #27 New York, N.Y. 10031	7
Rachel Rawlings	16 East 116th Street #5B New York, N.Y. 10029	8
Stephen Dickerson	2170 Madison Avenue #4D New York, N.Y. 10037	9
Rosaline Moody	28 West 119th Street #2 New York, N.Y. 10026	9
Betty Murray	1428 5th Avenue #407 New York, N.Y. 10035	9
Waqar R. Rizvi	304 West 260th Street Bronx, N.Y. 10471	11
Marie M. Beaudouin	140 Alcott Place #20 Bronx, N.Y. 10475	12
Nydia M. Roman	900 Coop City Blvd #14A Bronx, N.Y. 10475	12
Shirley J. Saunders	120-20 Benchley Place Bronx, N.Y. 10475	12
Cynthia V. Foster	280 Longstreet Avenue Bronx, N.Y. 10465	13
Shirelle Williams	2545 Sedgwick Avenue #6K Bronx, N.Y. 10468	14
Erica Dillard	2666 Valentine Avenue#3A Bronx, N.Y. 10458	15
Ismael Correa Jr.	530 East 159th Street #24 Bronx, N.Y. 10451	17
Geisle T. Herring	507 East 161st Street #3E Bronx, N.Y. 10451	17
Margaret Antiaris	C/O Diaz 109 Sunset Blvd Bronx, N.Y. 10473	18
Linda E. Best	800 Soundview Avenue #8D Bronx, N.Y. 10473	18
Gregory Fruchtman	138-49 Barclay Avenue #1A Queens, N.Y. 11355	20
Alexandra P. Coronel	25-08 83rd Street East Elmhurst. N.Y. 11370	21
Dory L. Quiroz	40-70 Hampton Street #2Q Queens, N.Y. 11373	21
Radames Montalvo	94-26 214th Street Queens, N.Y. 11428	23
Cecilia Rodriguez	234-14 Seward Avenue Queens Village, N.Y. 11427	23
Jackie E. Bonner	90-10 149th Street #5L Jamaica, N.Y. 11435	24
Elaine Young	97-30 57th Avenue #5J Queens, N.Y. 11368	25
Janice Balderas	39-50 60th Street #B30 Woodside, N.Y. 11377	26
Carolyn O'Connell	35-07 32nd Street Queens, N.Y.	26

	11106	
Tracey Whisnant	21-09 35th Avenue #1 Long Island City, N.Y. 11106	26
Simone Smith	116-19 168th Street Queens, N.Y. 11434	27
Ednita Torres	104-42 129th Street Richmond Hill, N.Y. 11419	28
Marlene McGee	131-65 225th Street Queens, N.Y. 11413	31
Jacob S. Moseson 7	69 Empire Avenue Queens, N.Y. 11691	31
Aron Moseson	769 Empire Avenue Queens, N.Y. 11691	31
Latasha Clanton	102-00 Shore Front Parkway #9B Queens, N.Y. 11694	32
James Carriel III	365 Jay Street #4A Brooklyn, N.Y. 11201	33
Carlton N. Lee	530 2"d Street #F6 Brooklyn, N.Y. 11215	33
Maritza C. Loqui	354 South 4th Street Brooklyn, N.Y. 11211	34
Jose A. Oliveras	13 McKibbin Court Brooklyn, N.Y. 11206	34
Willie J. Armstrong	822 St. Johns Place Brooklyn, N.Y. 11216	35
Jose L. Muniz	739 Park Avenue #1 Brooklyn, N.Y. 11206	36
Sophina Go	974 54th Street #2RR Brooklyn, N.Y. 11219	38
Wilvina Canal	1745 Caton Avenue #4F Brooklyn, N.Y. 11226	40
Blanche Marie Riddick	210 East 96th Street 32F Brooklyn, N.Y. 11212	41
Beverly Wilson	938 Troy Avenue #2 Brooklyn, N.Y. 11203	45
Shirell Davis	1357 East 104th Street Brooklyn, N.Y. 11236	46
Benjamin An Wilbur	2014 New York Avenue Brooklyn, N.Y. 11210	46
David Finkelshteyn	444 Neptune Avenue #5L Brooklyn, N.Y. 11224	47
Annmarie Edkins	136 Maple Parkway Staten Island, N.Y. 10303	49
Lauren Iacearino	140 Greaves Avenue Staten Island, N.Y. 10308	49
Miriam Roman	343 Mosel Avenue Staten Island, N.Y. 10306	49
Roberta Lipner	1160 Richmond Road #7K Staten Island, N.Y. 10304	50

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

ROLL CALL ON GENERAL ORDERS FOR THE DAY

(Items Coupled on General Order Calendar)

(1)	**M 802 & Res 1324 --**	**Michael M. McSweeney** – Re-appointment by the Council as City Clerk and Clerk of the Council.
(2)	**Int 251-A --**	Requiring the payment of a living wage to employees employed on property developed by recipients of financial assistance for economic development.
(3)	**Int 340-A --**	Sun control devices.
(4)	**Int 658-A --**	In relation to the waiver of public employee organizations' rights when submitting grievances to arbitration under the New York city collective bargaining law.
(5)	**L.U. 600 & Res 1322 --**	App. **N 110223**, Queens Plaza Sub district of the Special Long Island City Mixed Use District, in Community Districts l and 2, Borough of Queens, Council District 26.
(6)	**L.U. 601 & Res 1323 --**	App. **N 120132 ZRY,** Zoning Resolution of the City of New York that would remove Zoning impediments to green building features that will help promote energy efficient building envelopes; renewable energy, stormwater detention, reduction of carbon emissions and provide for a healthier New York City.

(7) Resolution approving various persons Commissioners of Deeds.

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Halloran, Ignizio, James, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Recchia, Reyna, Rodriguez, Rose, Sanders, Seabrook, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn) – **50**.

The General Order vote recorded for this Stated Meeting was 50-0-0 as shown above with the exception of the votes for the following legislative items:

The following was the vote recorded for **Int No. 251-A**:

Affirmative – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, James, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Recchia, Reyna, Rodriguez, Rose, Sanders, Seabrook, Vacca, Van Bramer, Vann, Weprin, Williams, Wills, Rivera, and the Speaker (Council Member Quinn) – **45**.

Negative – Halloran, Ignizio, Oddo, Ulrich, Vallone, Jr. **– 5.**

The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 251-A, 340-A, and 658-A.

INTRODUCTION AND READING OF BILLS

Int. No. 842

By Council Members Brewer, Barron, Dromm, Eugene, James, Koppell, Lander, Levin, Mendez, Palma, Recchia, Rose, Sanders, Williams, Wills and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to requiring that all hotels in the city of New York provide their housekeeping staff with silent alarms for their protection.

Be it enacted by the Council as follows:

Section 1. Section 10-101 of the administrative code of the city of New York is amended by lettering the existing paragraph as subdivision a and by adding a new subdivision b to read as follows:

a. The owners and proprietors of all manufactories, hotels, tenement houses, apartment houses, office buildings, boarding and lodging-houses, warehouses, stores and offices, theatres and music halls, and the authorities or persons having charge of all hospitals and asylums, and of the public schools and other public buildings, churches and other places where large numbers of persons are congregated for purposes of worship, instruction or amusement, and all piers, bulkheads, wharves, pier sheds, bulkhead sheds or other waterfront structures, shall provide such means of communicating alarms of accident or danger to the police department, as the police commissioner may prescribe.

b. The owners and proprietors of all hotels shall provide their housekeeping staff with silent alarms for their personal protection as the police commissioner may prescribe.

§2. This local law shall take effect ninety days after it shall have been enacted into law.

Referred to the Committee on Public Safety.

Int. No. 843

By Council Members Brewer, Dromm, Gonzalez, James, Koppell, Lander, Levin, Palma, Rose and Williams.

A Local Law to amend the administrative code of the city of New York, in relation to regulating sidewalk electric vehicle charging stands as revocable consents.

Be it enacted by the Council as follows:

Section 1. Section 19-104 of title 19 of the administrative code of the city of New York is amended to read as follows:

§ 19-104 Revocable consents. *a.* The issuance of revocable consents by the commissioner pursuant to this subchapter shall be subject to the provisions of chapter fourteen of the charter and the rules adopted by the commissioner pursuant thereto.

b. The department shall include electric vehicle charging stands as an improvement eligible for a revocable consent.

§2. Chapter one of title 19 of the administrative code of the city of New York is amended by adding a new section 19-104.1 to read as follows:

§ 19-104.1 Electric vehicle charging stands as revocable consents. a. For the purposes of this section, the following term shall be defined as follows:

"Electric vehicle charging stand" shall mean a location with an electrical source that has the capability to recharge a fully depleted vehicle battery in eight hours or less.

b. On and after the effective date of the local law that added this section, it shall be unlawful to install or maintain one or more electric vehicle charging stands on any public sidewalk or curb without obtaining a revocable consent from the commissioner and unless such electric vehicle charging stands are in compliance with the provisions of this section and any rules promulgated hereunder.

c. Electric vehicle charging stand requirements. The commissioner shall promulgate rules to carry out the provisions of this section and the policies and procedures of the department in connection therewith. Such rules may include, but shall not be limited to:

1. Requirements related to the size, shape, appearance, materials, placement, construction, and maintenance of an electric vehicle charging stand.

2. Insurance and indemnification requirements.

§3. This local law shall take effect ninety days after its enactment into law.

Referred to the Committee on Transportation.

Int. No. 844

By Council Members Brewer, Dromm, James, Koppell, Koslowitz, Lander, Levin, Mendez, Palma, Recchia, Vann, Williams, Wills and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to an electric vehicle charging stand pilot program.

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-101.3 to read as follows:

§19-101.3 Electric vehicle charging stand pilot program. a. For the purposes of this section,

"Electric vehicle charging stand" shall mean a location with an electrical source which has the capability of recharging fully depleted vehicle batteries in less than eight hours.

b. The department shall establish an electric vehicle charging stand pilot program. As part of such program, the department shall install no fewer than ten electric vehicle charging stands throughout the city of New York no later than one year following the effective date of this section.

c. Within one year of the effective date of this section, and every year thereafter for the duration of the program, the department shall submit to the council and the mayor a written report analyzing the electric vehicle charging stand pilot program which shall include, but not be limited to, a detailed assessment of all facets of the program, recommendations for improvements to such program, availability of new technology that may be employed by the department for use in such program and any additional locations in the city that may warrant expansion of such program.

d. This pilot program shall expire four years after the effective date of this section.

§2. This local law shall take effect ninety days after its enactment into law.

Referred to the Committee on Transportation.

Res. No. 1311

Resolution calling upon the New York State Legislature to enact and the Governor to sign A. 7707A-2011 and S. 6431-2011, which would prohibit the possession, sale, offer for sale, trade, or distribution of shark fins.

By Council Members Chin, Brewer, Comrie, James, Koo, Koppell, Lander, Palma, Vann, Williams, Wills and Dromm.

Whereas, Shark fin soup is considered a delicacy in parts of the world and is often served at weddings and other celebrations; and

Whereas, Approximately 73 million sharks are harvested every year for their fins, many of which are caught, have their fins removed, and are returned dead or dying back into the water, in a practice known as "finning"; and

Whereas, Experts and advocates believe that such harvesting has a major impact on the decline of shark populations, to the extent that the International Union for Conservation of Nature, a highly-respected organization that tracks the conservation status of species around globe, recently determined that or 32% of all pelagic (open ocean) shark and ray species are threatened, while another 24% are near threatened, in part due to harvesting for shark fin soup; and

Whereas, Sharks are often apex predators, existing at the top of the food chain, and healthy populations of apex predators help maintain the overall health of ecosystems, whereas threatened or endangered apex predator populations can indicate unhealthy or failing ecosystems; and

Whereas, The Shark Finning Prohibition Act (SFPA) of 2000 banned finning in United States waters by vessels registered in the United States, and, after a federal appeals court ruled that SFPA did not prohibit the at-sea transfer of shark fins, in 2010 the Shark Conservation Act was passed to close that loophole; and

Whereas, Four states, California, Hawaii, Oregon, and Washington, have restriced the trade of shark fins; and

Whereas, According to media reports, the consumption of shark fin soup, especially in younger demographics, is declining, and there are replacement ingredients available; and

Whereas, A ban on the trade and sale of shark fins in New York would help conserve sharks and would help educate the broader public about the need to conserve these critical members of our ocean habitats; and

Whereas, A. 7707A-2011 and S. 6431-2011, if enacted, would ban "finning" in the waters of the State's marine and coastal zone; ban selling, possessing, offering for sale, trading or distributing shark fins, except for permitted scientific purposes; and give the New York State Department of Environmental Conservation the authority to regulate shark fisheries in a broad array of areas; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to enact and the Governor to sign A. 7707A-2011 and S. 6431-2011, which would prohibit the possession, sale, offer for sale, trade, or distribution of shark fins.

Referred to the Committee on Environmental Protection.

Int. No. 845

By Council Members Comrie, Dickens, Ferreras, James, Koo, Williams, Wills, Rodriguez and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to allowing owners of landmarked properties to use the same or similar materials in maintenance of their property .

Be it enacted by the Council as follows:

Section 1. Section 25-311 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

e. Notwithstanding the provisions of sections 25-305, 25-306, 25-307 and 25-310, any improvement requiring ordinary repairs and maintenance, minor work or approval under sections 25-306, 25-307, 25-308 and 25-309, designated by the commission as a landmark or interior landmark or located within an historic district may be performed with in kind materials for features as reflected at the time of designation. For purposes of this subdivision, "in kind materials" shall mean the same or similar materials as present in the improvement at the time of designation, used in the same or similar manner and location.

§2. This local law shall take effect immediately.

Referred to the Committee on Land Use.

Int. No. 846

By Council Members Comrie, Dickens, Koo, Williams, Wills, Rodriguez and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to additional guidelines and procedures to the designation process for a landmark, interior landmark, scenic landmark and historic district.

Be it enacted by the Council as follows:

Section 1. Section 25-303 of the administrative code of the city of New York is amended by adding new subdivisions c. and d. and re-lettering subdivision g.as subdivision i. and amending it as follows and re-lettering other subdivisions to read as follows:

a. For the purpose of effecting and furthering the protection, preservation, enhancement, perpetuation and use of landmarks, interior landmarks, scenic landmarks and historic districts, the commission shall have power, after a public hearing:

(1) to designate and, as herein provided in subdivision [j] *l*, in order to effectuate the purposes of this chapter, to make supplemental designations as additions to, a list of landmarks which are identified by a description setting forth the general characteristics and location thereof;

(2) to designate and, in order to effectuate the purposes of this chapter, to make supplemental designations as additions to, a list of interior landmarks, not including interiors utilized as places of religious worship, which are identified by a description setting forth the general characteristics and location thereof;

(3) to designate and, in order to effectuate the purposes of this chapter, to make supplemental designations as additions to a list of scenic landmarks, located on property owned by the city, which are identified by a description setting forth the general characteristics and location thereof; and

(4) to designate historic districts and the location and boundaries thereof, and, in order to effectuate the purposes of this chapter, to designate changes in such locations and boundaries and designate additional historic districts and the location and boundaries thereof.

b. It shall be the duty of the commission, after a public hearing, to designate a landmark site for each landmark and to designate the location and boundaries of such site.

c.In order to consider a landmark, interior landmark, scenic landmark or historic district the commission by majority vote must first approve a motion to place it on the public calendar and notice the public hearing At the time of such calendaring, the commission shall make available to the public a draft designation report that sets forth with reasonable specificity the special character or special historical or aesthetic interest or value of such proposed landmark, interior landmark, scenic landmark, or historic district, and, in the case of a historic district, that also identifies each building or structure within the historic district and, at a minimum, its proposed style designation, significant alterations, and the extent to which it exhibits the special character or special historical or aesthetic interest or value of the proposed historic district and that describes the rationale for the proposed boundaries of such historic district.

d.The commission shall promulgate rules governing the regulation of construction, reconstruction, alterations and demolition pursuant to section 25-305 of this code in any designated historic district within ninety days after any designation.

[c.] *e.* The commission shall have power, after a public hearing, to amend any designation made pursuant to the provisions of subdivisions a and b of this section.

[d.] *f.* The commission may, after a public hearing, whether at the time it designates a scenic landmark or at any time thereafter, specify the nature of any construction, reconstruction, alteration or demolition of any landscape feature which may be performed on such scenic landmark without prior issuance of a report pursuant to subdivision c of section 25-318. The commission shall have the power, after a public hearing, to amend any specification made pursuant to the provisions of this subdivision.

[e.] *g.* Subject to the provisions of subdivisions [g] *i* and [h] *j* of this section, any designation or amendment of a designation made by the commission pursuant to the provisions of subdivisions a, b and [c] *e* of this section shall be in full force and effect from and after the date of the adoption thereof by the commission.

[f.] *h.* Within ten days after making any such designation or amendment thereof, the commission shall file a copy of same with the council, the department of buildings, the city planning commission, the board of standards and appeals, the fire department and the department of health and mental hygiene.

[g.] *i.* (1) Within sixty days after such filing, the city planning commission shall (a) hold a public hearing on any such designation of a *landmark, interior landmark* or historic district and (b) shall submit to the council a report with respect to the relation of such designation, whether of a historic district or a landmark, interior landmark, scenic landmark, or landmark site, or amendment of such designation to the zoning resolution, projected public improvements, and any plans for the development, growth, improvement or renewal of the area involved. *Such report of the relation of the proposed designation to the zoning resolution shall include an analysis of the impact of such designation on the development, growth, improvement, renewal, or economic development of the area involved, including both public and private development, and on the public health, safety, and general welfare, and shall specifically consider the relationship between the development potential of all properties affected by the proposed designation, both public and private, and the existing development on such properties at the time of designation.* The city planning commission shall include with any such report its recommendation, if any, for council action with respect to any such designation of a historic district.

(2) The council may modify or disapprove by majority vote any designation of the commission or amendment thereof within one hundred twenty days after a copy thereof is filed with the council provided that the city planning commission has submitted the report required by this subdivision or that sixty days have elapsed since the filing of the designation or amendment with the council. *Such modification or disapproval by the council may be made on the basis of the special character or special historical or aesthetic interest or value of the proposed landmark, interior landmark, scenic landmark, or historic district, of facts regarding buildings or structure within the historic district, of the relation of such designation to the zoning resolution, projected public improvements, any plans for the development, growth, improvement or renewal of the area involved, or the economic development, including both public and private development, of the area involved, and of the public health, safety, and general welfare and shall specifically consider the relationship between the development potential of all properties affected by the proposed designation, both public and private, and the existing development on such properties at the time of designation.* All votes of the council pursuant to this subdivision shall be filed by the council with the mayor and shall be final unless disapproved by the mayor within five days of such filing. Any such disapproval by the mayor shall be filed by the mayor with the council and shall be subject to override by a two-thirds vote of the council within ten days of such filing. If the council shall disapprove such designation or amendment, such designation or amendment shall continue in full force and effect until the time for disapproval by the mayor has expired; provided, however, that if the mayor disapproves such council disapproval, it shall continue in full force and effect unless the council overrides the mayor's disapproval. If the council shall modify such designation or amendment, such designation or amendment as adopted by the commission shall continue in full force and effect until the time for disapproval by the mayor has expired, and after such time such modification shall be in effect; provided, however, that if the mayor disapproves such council modification, the designation or amendment as adopted by the commission shall continue in full force and effect unless the council overrides the mayor's disapproval, and in the event of override the modification shall take effect on and after the date of such override

[h.] *j.* (1) The commission shall have power, after a public hearing, to adopt a resolution proposing rescission, in whole or in part, of any designation or amendment or modification thereof mentioned in the preceding subdivisions of this section. Within ten days after adopting any such resolution, the commission shall file a copy thereof with the council and the city planning commission.

(2) Within sixty days after such filing, the city planning commission shall submit to the council a report with respect to the relation of such proposed rescission of any such designation, whether of a historic district or a landmark, interior landmark, scenic landmark or landmark site, or amendment or modification thereof, to the zoning resolution, projected public improvements and any plans for the development, growth, improvement, or renewal of the area involved.

(3) The council may approve, disapprove or modify such proposed rescission within one hundred twenty days after a copy of the resolution proposing same is filed with the council, provided that the city planning commission has submitted the report required by this subdivision or that sixty days have elapsed since the filing of such resolution. Failure to take action on such proposed rescission within such one hundred twenty-day period shall be deemed a vote to disapprove such proposed rescission. All votes of the council pursuant to this subdivision shall be filed by the council with the mayor and shall be final unless disapproved by the mayor within five days of such filing. Any such mayoral disapproval shall be filed by the mayor with the council and shall be subject to override by a two-thirds vote of the council within ten days of such filing. If such proposed rescission is approved or modified by the council, such rescission or modification thereof shall not take effect until the time for disapproval by the mayor has expired; provided, however, that if the mayor disapproves such rescission or modification, it shall not take effect unless the council overrides the mayor's disapproval. If such proposed rescission is disapproved by the council, it shall not take effect unless the mayor disapproves such council disapproval and the council fails to override the mayor's disapproval.

[i.] *k.* The commission may at any time make recommendations to the city planning commission with respect to amendments of the provisions of the zoning resolution applicable to improvements in historic districts.

[j.] *l.* All designations and supplemental designations of landmarks, landmark sites, interior landmarks, scenic landmarks and historic districts made pursuant to subdivision a shall be made pursuant to notices of public hearings given, as provided in section 25-313. In addition to such notice, the commission shall give notice to the city planning commission, all affected community boards and the office of the borough president in whose borough the property or district is located in advance of any public hearing relating to such designations.

[k.] *m.* Upon its designation of any improvement parcel as a landmark and of any landmark site, interior landmark, scenic landmark or historic district or any amendment of any such designation or rescission thereof, the commission shall cause to be recorded in the office of the register of the city of New York in the county in which such landmark, interior landmark, scenic landmark or district lies, or in the case of landmarks, interior landmarks, scenic landmarks and districts in the county of Richmond in the office of the clerk of said county of Richmond, a notice of such designation, amendment or rescission describing the party affected by, in the case of the county of Richmond, its land map block number or numbers, and its tax map, block and lot number or numbers, and in the case of all other counties, by its land map block and lot number or numbers.

§2. Subdivision b of section 25-313 of the administrative code of the city of New

York is amended to read as follows:

b. At any such public hearing, the commission shall afford a reasonable opportunity for the presentation of facts and the expression of views by those desiring to be heard, and may, in its discretion, take the testimony of witnesses and receive evidence; provided, however, that the commission, in determining any matter as to which any such hearing is held, shall not be confined to consideration of the facts, views, testimony or evidence submitted at such hearing. *At any public hearing for a designation pursuant to section 25-303, such presentation of facts and the expression of views by those desiring to be heard may include testimony and evidence related to the economic impact of the proposed designation or any other issues related to the city planning commission or council review as set forth in subdivisions 25-303(g)(1) and (2) and this testimony or evidence shall be part of the record considered by the city planning commission and the council pursuant to subdivisions 25-303(g)(1)and (2).*

§3. This local law shall take effect immediately.

Referred to the Committee on Land Use.

Int. No. 847

By Council Members Crowley, Fidler, James, Koppell, Levin, Palma, Rose, Sanders, Williams and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to report incidents of assaults on municipal employees on the department's website.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 14 of the administrative code of the city of New York is amended by adding a new section 14-154 to read as follows:

§ 14-154 Online reporting of assaults on municipal employees. a. Definitions. For purposes of this section, the following terms shall have the following meanings:

(i) "Assault" shall have the meaning ascribed to it by article 120 of the New York state penal law.

(ii) "Municipal agency" shall mean an administration, department, division, bureau, office, board, or commission, or other agency of the city established under the charter or any other law, the head of which has appointive powers, and whose employees are paid in whole or in part from the city treasury.

(iii) "Municipal employees" shall mean persons employed by municipal agencies whose salary is paid in whole or in part from the city treasury.

b. Within sixty days after the end of each quarter of the calendar year, the department shall post a report on its website containing the total number of crime complaints that have been filed in the preceding quarter with each patrol precinct, housing police service area, transit district and narcotics division alleging assaults on municipal employees that have occurred in the course of such municipal employees' official duty, categorized by the municipal agencies by which the municipal employees are employed, including but not limited to, children's services, fire, police, sanitation, social services, and transit.

c. The report required by subdivision b of this section shall be made available to the public on the police department's website except where disclosure of such material could compromise the safety of the public or police officers and could otherwise compromise law enforcement operations. Where necessary, the department may use preliminary data to prepare the required reports and may include an acknowledgment that such preliminary data is non-final and subject to change.

§ 2. This local law shall take effect sixty days after its enactment.

Referred to the Committee on Public Safety.

Int. No. 848

By Council Members Crowley, Vacca, Lander, Brewer, Dromm, James, Koo, Koppell, Koslowitz, Levin, Palma, Williams, Rodriguez and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to a transfer of jurisdiction over Hart Island from the department of corrections to the department of parks and recreation.

Be it enacted by the Council as follows:

Section 1. Section 9-103 of the administrative code of the city of New York is REPEALED.

§2. Section 21-110 of the administrative code of the city of New York is amended to read as follows:

§21-110 Potter's field. The commissioner shall have charge of the Potter's Fields, and when the necessity therefor shall arise, shall have power to lay out additional Potter's Fields or other public burial places for the poor and strangers and from time to time enclose and extend the same to make enclosures therein and to build vaults therein, and to provide all necessary labor and for interments therein. The Potter's Field on [Hart's] *Hart* island, however, shall [remain] *be* under the control of the department of [correction] *parks and recreation*, and the burial of deceased paupers therein shall [continue] *occur* under rules and regulations established by the joint action of the departments of social services, [and] correction[,] *and parks and recreation* or in case of disagreement between such departments, under such regulations as may be established by the mayor.

§3. This local law shall take effect one hundred eighty days after its enactment.

Referred to the Committee on Fire and Criminal Justice Services.

Res. No. 1312

Resolution calling upon the New York State Legislature to introduce, and the Governor to sign, legislation which would amend the Real Property Tax Law to allow owners of not-for-profit organizations to submit documentation other than the application prepared and mailed to such owner by the Department of Finance to prove such organizations are entitled to a property tax exemption.

By Council Members Dickens, Brewer, Cabrera, Comrie, Eugene, Fidler, James, Recchia, Rose, Williams and Wills.

Whereas, Many types of not-for-profit organizations are eligible for a full or partial property tax exemption; and

Whereas, To be eligible, the property must be used for acceptable exemption purposes, such as educational, medical, or religious reasons; and

Whereas, The applicant must be organized in one of the exemptible categories outlined in sections 420-a, 420-b, 446, and 462 of the New York State Real Property Tax Law ("RPTL"); and

Whereas, The above sections of law provide property tax exemptions to charitable
organizations, educational organizations, religious organizations, hospitals, and organizations organized for the moral or mental health of men, women or children; bar associations, benevolent associations, bible associations, enforcement of law relating to children or animals associations, historical associations, infirmary associations, library associations, medical societies, missionary associations, patriotic associations, public playgrounds; scientific associations, supervised youth sportsmanship or tract associations, cemeteries; and parsonages and manses, respectively; and

Whereas, For properties receiving property tax exemptions pursuant to sections 420-b, 446, and 462 of the RPTL, the Department of Finance ("DOF") may grant an exemption, both initial and renewal, only upon application made by the owner of the property on a form prescribed by DOF; and

Whereas, However, for properties receiving a property tax exemption pursuant to section 420-a of the RPTL, DOF has the discretion to grant exemptions to not-for-profit organizations, provided that DOF has on file a statement certified by a DOF assessor that he or she has examined the property and that all of the requirements of section 420-a have been satisfied; and

Whereas, While DOF has the discretion to grant exemptions without a renewal application for certain not-for-profit organizations, DOF has recently began to require all not-for- profit organizations to submit an application for the property tax exemption; and

Whereas, This new policy was implemented without providing prior notice to the affected organizations, thereby subjecting such organizations to interest on the unpaid real property taxes now due because the property is now subject to taxation; and

Whereas, Further, in addition to requiring an application as a condition precedent to receiving a property tax exemption, DOF does not make the renewal application available on-line or at any of its business centers; and

Whereas, Such applications are only received by the property owner once DOF mails the application to such owner, which creates a delay in the exemption approval process; and

Whereas, While the New York City Administrative Code provides that DOF cannot reduce the interest rate charged for the non-payment of real property taxes, DOF has discretion not to enforce the collection of such interest; and

Whereas, Amending the RPTL to allow not-for-profit organizations to submit documentation other than the application prepared and sent by DOF to prove such owners are entitled to a property tax exemption will expedite the renewal process and ensure interest for unpaid taxes are not collected by DOF unnecessarily; and

Whereas, Further, in the interest of public policy, until the RPTL is so amended, DOF should impose a moratorium on the collection of interest on not-for-profit organizations that fail to submit a renewal application; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to introduce, and the Governor to sign, legislation which would amend the Real Property Tax Law to allow owners of not-for-profit organizations to submit documentation other than the application prepared and mailed to such owner by the Department of Finance to prove such organizations are entitled to a property tax exemption.

Referred to the Committee on Finance.

Int. No. 849

By Council Members Lander, Comrie, Gentile, James, Williams, Wills and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the landmarks preservation commission to allow denied requests for evaluation to be nominated to the landmarks preservation commission entire body for a vote.

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-324 to read as follows:

§25-324 Appeals. a. Where a request for evaluation is determined "not accepted for study at this time", a completed application may be nominated by a landmarks commissioner or a motion in favor of designation may be made by the relevant community board or borough board for consideration by the entire body of the commission. If such application is nominated or such motion is approved, the commission must vote in favor or in opposition to calendaring the submission for consideration. Any determination by the commission in opposition is a final action.

b. The commission shall promulgate rules that define the criteria for a completed application.

§2. This local law shall take effect immediately.

Referred to the Committee on Land Use.

Int. No. 850

By Council Members Lander, Barron, Comrie, Gentile, James, Koppell, Williams, Wills, Rodriguez and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the landmarks preservation commission to create a timeline for the designation process.

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-323 to read as follows:

§ 25-323 Timelines. a. The commission shall determine the eligibility of a request for evaluation that has been accepted for further study within an eight month period for individual landmarks, including interior landmarks, and within eighteen months for historic districts and scenic landmarks. The commission or an authorized committee of the commission can, by affirmative vote, extend the study period by four months for an individual landmark and six months for a historic district.

b. The commission shall have six months from the postmarked date of mailing of notice by registered mail to an owner to calendar a hearing to designate a landmark, whether an individual landmark or historic district. After calendaring an application, the commission shall have two months to hold a hearing. If more than one hearing is required, the commission or an authorized committee of the commission may, by affirmative vote, extend the consideration period for three months.

c. If no action is taken within the timeline prescribed in subdivision b of this section, the department of buildings shall act on all permit applications for properties that are indicated within a landmark application.

d. For all applications that are undecided on the effective date of the local law that added this section and that have had a two year lapse between an initial public hearing and final action being taken, the commission must take final action on the request for evaluation by July 1, 2013, if a request is made in writing by the owner of the property in question.

§2. This local law shall take effect immediately.

Referred to the Committee on Land Use.

Int. No. 851

By Council Members Lander, Barron, Brewer, Chin, Comrie, Dromm, Eugene, Fidler, James, Koo, Levin, Mendez, Palma, Recchia, Rose, Sanders, Vann, Wills, Rodriguez, Foster, Halloran and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to waiving parks permit fees for schools and child day care centers and providing an online system for school permit applications.

Be it enacted by the Council as follows:

Section 1. Chapter one of title 18 of the administrative code of the city of New York is amended by adding a new section 18-140 to read as follows:

§18-140 Permit fee waiver for groups of children. a. Any school that provides educational instruction at or below the twelfth grade level or any child day care center that applies for a permit for the use of any park services under the jurisdiction of the commissioner shall not be required to pay any fee for such permit.

b. The commissioner shall provide for free permit applications for such schools and day care centers to be available on the department's website.

§2. This local law shall take effect ninety days after its enactment.

Referred to the Committee on Parks and Recreation.

Res. No. 1313

Resolution calling upon the New York City Department of Education's Office of School Food to increase the health of food options in school lunches and breakfasts by implementing the recommendations of the Brooklyn Food Coalition's "Roadmap for Healthy, Sustainable School Food."

By Council Members Lander, Brewer, Barron, Comrie, Eugene, Ferreras, James, Koo, Levin, Mendez, Palma, Vann, Williams, Wills and Rodriguez.

Whereas, The New York City Department of Education (DOE) is the largest public school system in the United States serving approximately 1.1 million students; and

Whereas, DOE's Office of School Food, known as "SchoolFood," is the largest school food service provider in the United States, providing over 860,000 total meals each day to students in over 1,600 locations including City public elementary, middle, special education, high schools, charter and some non-public schools; and

Whereas, In recent years, SchoolFood has taken a number of steps to improve the health and nutrition of school meals and to expand access to more students; and

Whereas, SchoolFood serves breakfast free of charge to all students and has instituted breakfast-in-the-classroom programs in 271 schools; and

Whereas, In 2004, SchoolFood hired an executive chef to introduce new recipes and to reformulate popular menu items to make them healthier and more enticing to students; and

Whereas, DOE has also made significant investments in kitchen and cafeteria infrastructure in recent years, including the installation of more than 600 salad bars in schools throughout the City; and

Whereas, Additionally, SchoolFood has piloted several programs, such as the State-funded Fresh Fruit and Vegetable Program, in a small number of City schools; and

Whereas, Another initiative, "Garden to Café" was started by SchoolFood and the New York State Department of Agriculture and Markets in collaboration with Cornell Cooperative Extension, GreenThumb, and more than 20 community-based organizations; and

Whereas, The goals of "Garden to Café" are to promote vegetarian options, connect students to local food and farming, increase awareness of school gardening, and provide opportunities to integrate school gardening and school lunch; and

Whereas, According to the DOE, SchoolFood has also reduced sodium, fat and cholesterol content in meals served; and

Whereas, In addition, SchoolFood has replaced white flour pasta with whole grain pasta, replaced whole milk with fat free and low fat milk varieties and has included more fresh fruits and vegetables in school meals; and

Whereas, Despite these improvements, critics note that school meals still contain too many "processed" food items, such as breaded chicken nuggets, as well as foods that contain less healthy ingredients, including high fructose corn syrup, artificial coloring and saturated fats, such as peanut butter and jelly sandwiches; and,

Whereas, In December 2010, a new federal law, the Healthy Hunger-Free Kids Act of 2010 ("the Act"), was passed which would improve the nutrition of school meals; and

Whereas, Among other things, the Act provides additional funding to schools that meet updated nutritional standards for federally-subsidized lunches, helps communities establish local farm to school networks and builds on efforts by the United States Department of Agriculture (USDA) to improve the nutritional quality of commodity foods that schools receive from USDA and use in their breakfast and lunch programs; and

Whereas, A number of the Act's provisions, such as the development of new nutritional standards and the increase in federal meal reimbursement, will not go into effect before the 2012-2013 school year at the earliest; and

Whereas, New York City's 1.1 million public school students should not have to wait for those federal changes to take effect before having access to healthier food options in school meals; and

Whereas, The Brooklyn Food Coalition recently issued its "Roadmap for Healthy, Sustainable School Food;" and

Whereas, The Roadmap calls for progressive measures to increase the local sourcing of school food, such as purchasing 10 percent of food locally, expansion of the "Garden to Café" program, and increasing access to fresh fruits and vegetables for snacks; and

Whereas, The Roadmap calls for improving the wholesomeness of foods served by improving access to salad bars, offering at least one fresh fruit daily, ensuring that vegetables served are fresh and that 60 percent of meals offered are from unprocessed ingredients, offering only whole grain products, ensuring access to pure water and eliminating sweetened milk, and adopting meatless meals at least once a week; and

Whereas, The Roadmap calls for integrating this food program into school curricula and building on the work of existing school wellness committees to help guide this initiative and make it work in each participating school; and

Whereas, The Roadmap also calls for reducing the food and packaging waste stream through more effective recycling, composting, and by working towards the elimination of polystyrene foam trays; and

Whereas, The Roadmap calls for mandating public access to ingredient lists and items purchased; and

Whereas, The Roadmap calls for removing vending machines and all "competitive" foods in elementary and middle schools, and for providing only healthy choices in any vending machines in high schools; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education's Office of School Food to increase the health of food options in school lunches and breakfasts by implementing the recommendations of the Brooklyn Food Coalition's "Roadmap for Healthy, Sustainable School Food."

Referred to the Committee on Education

Res. No. 1314

Resolution calling upon the United States Congress to enact and the President to sign S.1872/H.R.3423, the Achieving a Better Life Experience (ABLE) Act of 2011, which amends the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

By Council Members Koppell, Brewer, Chin, Comrie, Fidler, Gonzalez, Mendez, Palma, Rose, Vann, Williams, Rodriguez and Halloran.

Whereas, The Achieving a Better Life Experience (ABLE) Act was introduced in Congress on November 15, 2011, and would establish ABLE Accounts, into which contributions could be made to pay for qualified disability expenses of the account's beneficiary; and

Whereas, Under the proposed legislation, eligibility would extend to any individual who is receiving supplemental security income benefits or disability benefits under Title II of the Social Security Act, who "has a medically determinable physical or mental impairment, which results in marked and severe functional limitations" or who is blind; and

Whereas, According to the National Disability Institute (NDI), the proposed ABLE legislation is designed to encourage and assist individuals with disabilities and their families to set funds aside in a tax-advantaged savings account that allows the funds to be withdrawn to cover costs of health care, housing, transportation, and the purchase of technology and lifelong education; and

Whereas, Because the funds would supplement benefits provided through Medicaid, Social Security and private insurance, family members of those with significant disabilities would have a means to provide for extra costs associated with every day activities and community participation; and

Whereas, Dr. Johnette Hartnett, NDI's Director of Strategic Partnerships, has said that "in these challenging economic times, the ABLE Act is modernizing disability policy and is the right response to the extra costs of living a life with a disability, related to education, health care and independent living", and

Whereas, According to a 2006 Harvard School of Public Health (HSPH) study, "it can cost about $3.2 million to take care of an autistic person over his or her lifetime" and "providing care for adults with autism is often far more expensive than for children, yet there are fewer resources", and

Whereas, The HSPH further informs that "…as more and more of our children with autism age to adulthood, our hands remain tied in planning for their future…[and] the need for new resources to provide them with necessary care and services is imperative", and

Whereas, The Muscular Dystrophy Association also supports the ABLE Act of 2011 because it would help pay for the costs of education, housing, transportation, employment support, health and wellness, assistive technology, personal care attendant support, miscellaneous expenses, and other approved expenses; and

Whereas, According to Down Syndrome Daily, "the ABLE Act provides individuals with disabilities the same types of flexible savings tools that all other Americans have through college savings accounts, health savings accounts, and individual retirement accounts. The legislation also contains Medicaid fraud protection against abuse and a Medicaid pay-back provision when the beneficiary passes away. It will eliminate barriers to work and saving by preventing dollars saved through ABLE accounts from counting against an individual's eligibility for any federal benefits program"; and

Whereas, Other supporters of the ABLE Act include The American Association of People with Disabilities, Autism Self-Advocacy Network, Autism Speaks, Easter Seals, Epilepsy Foundation, Muscular Dystrophy Association, National Association of State Directors of Developmental Disability Services, National Down Syndrome Society, National Fragile X Foundation, National Multiple Sclerosis Society, The Disability Opportunity Fund, The National Center for Learning Disabilities, The National Council on Independent Living, United Cerebral Palsy, United Spinal Association, World Institute on Disability and the Cerebral Palsy Associations of New York State, to name but some of many, and;

Whereas, According to a Center for Independence of the Disabled-New York report entitled "Disability Matters" (June 2011), nearly 900,000 people in New York City have a disability related to their cognition or their ability to hear, see, walk, or live independently, many of whom would likely qualify to establish an ABLE Act Account; and

Whereas, Passage of the ABLE Act of 2011 would ensure that more individuals with disabilities, including those in New York City, can access necessary care and services; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to enact and the President to sign S.1872/H.R.3423, the Achieving a Better Life Experience (ABLE) Act of 2011, which amends the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

Referred to the Committee on Mental Health, Mental Retardation, Alcoholism, Drug Abuse & Disability Services.

Int. No. 852

By Council Members Mark-Viverito, Brewer, Chin, Dromm, Ferreras, James, Koppell, Koslowitz, Lander, Lappin, Levin, Recchia, Van Bramer, Williams, Barron, Sanders and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to licensing car washes.

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 33 to read as follows:

Subchapter 33

CAR WASHES

§ 20-539 ***Short Title.*** *This local law shall be known as the car wash accountability act of 2012.*

§ 20-540 ***Definitions.*** *a. "Car wash" means any individual, partnership, corporation, limited liability company, joint venture, association, or other business entity that engages in cleaning, detailing, drying, polishing, vacuuming, washing, or otherwise providing cosmetic care to vehicles, including waterless or dry wash systems.*

1. For purposes of this subchapter, "car wash" does not include:

i. Any business entity that is engaged in selling, leasing, renting or repairing motor vehicles and that conducts car washing and polishing ancillary to its primary business of selling, leasing, renting or repairing vehicles;

ii. Any charitable, service, sports, veteran, or youth association, club or group that conducts car washing and polishing on an intermittent basis to raise funds for charitable, educational, or religious purposes.

b. "Applicant" means any individual, partnership, corporation, limited liability company, joint venture, association or other business entity that seeks a license to engage in the operation of a car wash.

c. "Licensee" refers to any individual, partnership, corporation, limited liability company, joint venture, association or other business entity that is currently licensed by the commissioner to operate a car wash.

§ 20-541 ***License.*** *a. It shall be unlawful for any car wash to operate without a license.*

b. All licenses issued pursuant to this subchapter shall be valid for one year unless sooner suspended or revoked.

c. Each applicant applying for a car wash license or renewal thereof shall file an application in such form and detail as the commissioner may prescribe and shall pay a fee of three hundred dollars for each location where a car wash shall be in operation.

d. In addition to any other information as the commissioner may require, an applicant for a car wash license or renewal shall furnish as part of his, her, or its application the following information:

1. The name and home address of the applicant;

2. The name of the business entity and, if applicable, the entity's fictitious or "doing business as" name;

3. The form of the business entity and, if a corporation, all of the following:

i. The date of incorporation;

ii. The state of incorporation;

iii. If a foreign corporation, the date that an application for authority to do business in New York state was filed and approved by the New York secretary of state;

iv. Whether the corporation is in good standing with the New York secretary of state;

4. The federal employer identification number and the state employer identification number of the business;

5. The address and telephone number of the principal place of business and, if applicable, the addresses and telephone numbers of any branch locations;

6. Whether the application is for a new or renewal license and, if the application is for a renewal, the prior license number;

7. The names, residential addresses, telephone numbers, photo identification, and social security numbers of the following individuals:

i. All corporate officers, if the business entity is a corporation;

ii. All individuals exercising management responsibility in the applicant's office, regardless of form of business entity;

iii. All individuals who have a financial interest of ten percent or more in the business, regardless of the form of business entity, and the actual percent owned by each of those persons.

8. Written proof of compliance with all applicable laws, regulations and rules, including:

i. Verification that the applicant has received all necessary permits from the New York city department of environment protection for groundwater wastewater discharge pursuant to the clean water act and 40 C.F.R. § 403.3(v) and 40 C.F.R. § 403.8(f)(1)(iii) or any successor law or regulation, and 15 R.C.N.Y. §§ 19-02(f) and 19-05 or any successor rules, or verification that the applicant is exempt from said permits; and

ii. Verification that the applicant has received all necessary permits from the New York city department of health and mental hygiene to use non-potable ground water pursuant to 24 R.C.N.Y. § 141.17(b)(2), or verification that the applicant is exempt from said permits.

9. Written proof of compliance with the surety bond requirement as described in section 20-542 of this subchapter;

10. Signed certification by applicant that there are no outstanding judgments or warrants against applicant, as defined in section 20-543(a) of this subchapter;

11. Certificates of insurance for workers' compensation, unemployment insurance and disability insurance coverage;

12. Original or true copies of liability insurance policies or certificates of insurance for liability insurance carried by the applicant.

e. The commissioner shall refuse to issue a license to an applicant who lacks good character, honesty and integrity. For purposes of determining good character, honesty and integrity, the term "applicant" as used herein shall be deemed to apply to all agents of an applicant for a license. In making such determination, the commissioner may consider, but is not limited to considering:

1. Failure by such applicant to provide truthful information or documentation in connection with the application;

2. A finding of liability in a civil or administrative action that bears a direct relationship to the fitness of the applicant to conduct the business for which the license is sought. Examples of actions that bear a direct relationship to a fitness to conduct business include, but are not limited to:

i. Back taxes and related penalties;

ii. Violations of federal, state, and city environmental, health, and other applicable regulations;

iii. Unpaid back wages and related penalties;

iv. Judgments for liability in tort;

v. Judgments for breach of contract.

3. A prior revocation by the commissioner of a car wash license held by the applicant;

4. A finding that the applicant is a successor, as such term is described in section 20-543 (b) of this subchapter, to a previous car wash business for which the commissioner, pursuant to the provisions of this subchapter, denied the issuance or renewal of a license or revoked a license;

5. A finding that the applicant is a successor, as such term is described in section 20-543 (b) of this subchapter, to a previous car wash business for which the commissioner, pursuant to the provisions of this subchapter, would have been authorized either to deny the issuance or renewal of a license or to revoke a license.

f. Licensees shall keep a comprehensive log documenting complaints of damage to vehicles. Each such log entry shall include a detailed description of the damage and the manner and amount, if any, that the customer was compensated for the damage. Such records shall be kept for a period of at least three years and must be immediately provided to the department upon request.

§ 20-542 ***Surety bonds.*** *a. Prior to issuance of a car wash license, each applicant shall obtain a surety bond from a duly authorized surety company approved by the commissioner.*

b. The principal sum of the bond shall not be less than three hundred thousand dollars.

c. Such bond shall be payable to the people of the city, and shall be conditioned upon compliance with the provisions of this subchapter, and upon the further condition that the licensee will pay to the city any fine, penalty or other obligation within thirty days of being ordered to do so. Such bond shall also be conditioned upon satisfaction of any final legal judgment recovered by any individual who had a claim against such car wash, or provided goods and services to, the licensee and was damaged or had statutory rights violated thereby.

§ 20-543 ***Payment of judgments.*** *a. No license shall be issued or renewed pursuant to this subchapter, and every license already issued shall be subject to suspension or revocation, upon the failure of applicant/licensee to pay or satisfy any judgment secured against him or her or it, provided that such judgment was secured in a court of competent jurisdiction against the applicant/licensee for acts of commission or omission with regard to the business maintained, operated or conducted by him, her, or it pursuant to the license issued hereunder.*

b. This requirement shall be applicable to any applicant/licensee who is a successor to any individual or business entity which in operating a car wash has failed to pay or satisfy any judgment secured against him or her or it according to the terms listed in subdivision a of this section. An applicant shall be considered a successor if he, she, or it satisfies any of the following criteria:

1. Uses substantially the same facility, facilities or workforce to offer substantially the same services as the predecessor employer;

2. Shares in the ownership, management, control of the labor relations, or interrelations of business operations with the predecessor employer;

3. Employs in a managerial capacity any person who directly or indirectly controlled the wages, hours, or working conditions of the affected employees of the predecessor employer; or

4. Is an immediate family member of any owner, partner, officer, or director of the predecessor employer of any person who had a financial interest in the predecessor employer.

§ 20-544 ***Enforcement.*** *a. The commissioner shall enforce this local law pursuant to the commissioner's powers established in chapter one of this title, provided, however, that in the event of a conflict between the provisions of such chapter and the provisions of this subchapter, the provisions of this subchapter shall prevail.*

b. Any license issued pursuant to the provisions of this subchapter may be suspended or revoked by the commissioner upon notice and hearing for any of the following causes:

1. Fraud, misrepresentation, or false statements contained in the application for the license;

2. Violation of any of the provisions of chapter one of this title, provided, however, that in the event of a conflict between the provisions of such chapter and the provisions of this subchapter, the provisions of this subchapter shall prevail;

3. Violation of any of the provisions of this subchapter;

4. Fraud, misrepresentation, or false statements made in the course of maintaining, operating, or conducting business pursuant to the license issued under the provisions of this subchapter;

5. Failure to answer a summons or notice of violation, appear for a hearing, or pay a fine or civil penalty imposed pursuant to the operation of the car wash for which the license was issued.

c. Any individual or business entity operating a car wash without a valid license issued by the commissioner shall be liable for a civil penalty of two hundred dollars per day for every calendar day during which the unlicensed business operated, up to a maximum of fifteen thousand dollars.

d. Any applicant who knowingly or willingly submits false information to the commissioner as part of an application for license under section 20-541 of this subchapter shall be liable for a civil penalty of five thousand dollars in addition to any other civil or criminal penalties otherwise applicable under the law.

§ 2. This local law shall take effect 180 days after enactment, except that prior to such date, the commissioner may take such actions, including the promulgating of rules and the processing of applications as provided in section 20-541 of subchapter 33 of chapter 2 of title 20 of the administrative code of the city of New York, as necessary to implement the provisions of this local law.

Referred to the Committee on Civil Service and Labor.

Res. No. 1315

Resolution calling upon the New York State Legislature to pass and the Governor to sign A.9664/S.6493, legislation to ease the burden on licensed home care service agencies, certified home health agencies and consumer directed personal assisted programs.

By Council Members Palma, Brewer, Comrie, Dromm, Eugene, Ferreras, James, Koo, Koppell, Lander, Rose, Vann, Rodriguez and Foster.

Whereas, In New York State, personal care providers (PCPs), certified home health agencies (CHHAs) and consumer directed personal assistance programs (CDPAPs), provide direct care to elderly and frail New Yorkers; and

Whereas, Over the past several years, these organizations were affected by a multitude of policy changes on both the City and State level; and

Whereas, Notably, there were recent multi-year delays in Medicaid rate change approvals and overpayments; and

Whereas, As a result of these changes and overpayments, PCPs, CHHAs and CDPAPs were eventually subjected to significant recoupment of funds, punitive

penalties and interest fees; and

Whereas, Because of this, these organizations are potentially exposed to cash flow problems which can endanger the sustainability of the organizations and their work force; and

Whereas, As a result, rapid recoupment of funds can also directly threaten the integrity of the home care workforce and detrimentally impact patients, who rely on these services; and

Whereas, Senator Kemp Hannon (R-Nassau) and Assembly Member Anthony Brindisi (D-Utica) introduced S.6493/A.9664; and

Whereas, This legislation provides that on and after April 1, 2009, any recoupments or reductions in medical assistance payments for licensed home care service agencies, certified home health agencies and consumer directed personal assistance programs shall not be subject to interest; and

Whereas, Further, pursuant to the proposed legislation, on and after January 1, 2009, any recoupments or reductions in medical assistance payments would be made payable in 24 equal monthly payments; and

Whereas, The purpose of this legislation is to ease the burden on home care agencies and CDPAPs, imposed as a result of the Department of Health's new Medicaid recoupment rate policy; and

Whereas, While acknowledging the need to ensure that payment accuracy is achieved, the sponsors of the legislation note that the negative impact of the existing recoupment policy must be mitigated to ensure the survival of the home care system; and

Whereas, Supporters such as the United Neighborhood Houses indicate that the legislation would have no adverse fiscal impact on the State, and further, that it will relieve a significant and untimely financial burden on home care providers; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A.9664/S.6493, legislation to ease the burden on licensed home care service agencies, certified home health agencies and consumer directed personal assisted programs.

Referred to the Committee on Health.

Res. No. 1316

Resolution calling on the State Senate and State Assembly to pass and the Governor to sign S.4098/A.6275, which would provide that persons living with clinical/symptomatic HIV or AIDS who are receiving shelter assistance or an emergency shelter allowance shall not be required to pay more than 30% of household income towards shelter costs, including rent and utilities.

By Council Members Palma, Chin, Comrie, Dromm, Eugene, Ferreras, Gonzalez, James, Koppell, Koslowitz, Lander, Levin, Mendez, Rose, Van Bramer, Vann, Williams, Wills and Rodriguez.

Whereas, The HIV/AIDS Services Administration ("HASA") is an agency within the New York City Human Resources Administration that provides assistance to low-income people living with HIV/AIDS; and

Whereas, Such services may include rental assistance, which allows HASA clients to live in private housing, or referrals to public housing and supportive housing; and

Whereas, According to testimony provided by Shubert Botein Policy Associates at a February 8, 2012 hearing of the New York City Council Committee on General Welfare, "rental assistance is historically the most significant type of housing assistance provided for poor New Yorkers living with HIV/AIDS. Over 80% of the HASA clients who currently rely on public assistance for permanent housing support live independently with the help of rental assistance"; and

Whereas, HASA clients receiving rental assistance are required by The New York State Office of Temporary and Disability Assistance to contribute between 50% and 75% of their income from disability benefits towards their rent, often leaving less than $12 per day to meet other expenses; and

Whereas, According to advocates, over 40% of New Yorkers living with HIV/AIDS report not having had enough money for food, utilities, or non-reimbursable medical and health care at least sometime in the past six months; and

Whereas, All other state and federal disability housing programs, including most HIV/AIDS supportive housing, Section 8, and public housing cap a tenant's rent contribution at 30% of income; and

Whereas, The National Association to End Homelessness states that, "people living with HIV/AIDS are at a higher risk of homelessness than the general population and studies indicate as many as half of individuals with HIV/AIDS are at risk of homelessness due to unaffordable housing costs and the high cost of medical care"; and

Whereas, The Community Health Advisory & Information Network ("CHAIN") Project, found that homelessness or unstable housing in New York City is associated with barriers to medical care for people living with HIV/AIDS; and

Whereas, The high percentage of disability payments required by HASA for rental assistance acts as an incentive for HASA clients to stay in supportive housing; and

Whereas, Moreover, requiring HASA clients to pay such a high percentage of their income from disability benefits toward rental assistance leads to high rates of rental arrears, evictions and homelessness for disabled New Yorkers living with HIV/AIDS; and

Whereas, S.4098/A.6275 would provide that persons living with HIV/AIDS and receiving renal assistance shall not be required to pay more than 30% of their income towards rent; and

Whereas, According to the New York City Bar Association, preventing such rent arrears and evictions would produce a savings that offsets the cost of implementing a 30% rent cap because it would shift spending from crisis services, such as emergency housing costs, to providing stable housing; and

Whereas, A fiscal analysis conducted by Shubert Botein Policy Associates found that if 10% of HASA clients are unable to pay their rent and are evicted each year, emergency housing would cost the city $21 million whereas the annual cost of maintaining their permanent housing would be $9 million, which would leave the City with a savings of $12 million a year; and

Whereas, Therefore, capping the required payments at 30% will help create stable housing, reduce homelessness and provide annual savings to the City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Senate and State Assembly to pass and the Governor to sign S.4098/A.6275, which would provide that persons living with clinical/symptomatic HIV or AIDS who are receiving shelter assistance or an emergency shelter allowance shall not be required to pay more than 30% of household income towards shelter costs, including rent and utilities.

Referred to the Committee on General Welfare.

Int. No. 853

By Council Members Vallone Jr., Comrie, Koo, Rose, Williams and Wills.

A Local Law to amend the administrative code of the city of New York, in relation to the reuse or recycling of discarded carpeting from commercial units or buildings.

Be it enacted by the Council as follows:

Section 1. Title 16 of the administrative code of the city of New York is amended by adding a new chapter 4-C to read as follows:

CHAPTER 4-C

16-470 Definitions

16-471 Disposal ban
16-472 Source separation
16-473 Collection
16-474 Delivery
16-475 List of carpet recycling companies
16-476 Certificate of recycling
16-477 Carpet recycling company obligations
16-478 Enforcement

§16-470 Definitions. When used in this chapter the following terms shall have the following meanings:

a. "Conforming project" shall mean a construction, alteration, demolition or other such project within the city in which carpeting covering a floor space equal to ten thousand or more square feet within the same commercial building or unit is to be removed as part of the same project.

b. "Covered carpeting" shall mean carpeting that has been or will be removed from a commercial unit or building as part of a conforming project.

c. "Responsible party" shall mean the owner, tenant, carpet retailer, carpet installer, general contractor, subcontractor, or any other party who is responsible for ensuring the proper disposal of the refuse generated by a conforming project.

d. "Recycle" shall have the same meaning as in section 16-303 of this title.

e. "Reuse" shall mean use of carpeting in a manner that retains the original purpose and performance characteristics of the carpeting.

f. "Carpet recycling company" shall mean an individual, company or other entity that (i) refurbishes or otherwise processes carpeting for reuse or resale, or (ii) removes, separates, or otherwise extracts components or commodities from carpeting either by manual or mechanical separation or by changing the physical or chemical composition of such carpeting for the purpose of reusing or recycling such components or commodities.

g. "Licensed carter" shall mean the holder of a valid license issued pursuant to section 16-505 of this title.

h. "Source separation" shall have the same meaning as in section 16-303 of this title.

§ 16-471 Disposal ban. On and after January 1, 2013, no person shall dispose of covered carpeting within the city as solid waste.

§ 16-472 Source separation. On and after January 1, 2013, a responsible party shall ensure that all covered carpeting is separated and kept separate from all solid waste produced as a result of a conforming project.

§ 16-473 Collection. a. On and after January 1, 2013, a responsible party shall arrange for the collection and transportation for reuse or recycling of all covered carpeting pursuant to the terms of this chapter through a licensed carter or a carpet

recycling company.

b. No carpet recycling company may collect covered carpeting within the city unless it is licensed in accordance with section 16-505 of this chapter.

§ 16-474 Delivery. Any licensed carter that collects source separated covered carpeting shall deliver such carpeting to a carpet recycling company.

§ 16-475 List of carpet recycling companies. On and after December 1, 2012, the department shall maintain and regularly update a non-exclusive list of carpet recycling companies. Such list shall include the name, address and contact information for each carpet recycling company, shall be maintained on the department website and, upon request, a printed copy shall be distributed by mail to a responsible party.

§ 16-476 Certificate of recycling. a. On and after January 1, 2013, within thirty days of collection of the covered carpeting by a licensed carter or carpet recycling company, a responsible party shall submit to the commissioner a certificate for each conforming project for which it is responsible which shall include:

1. the location of the conforming project;

2. the amount of carpeting, calculated either by weight or area, collected at the conforming project;

3. the name of the licensed carter or carpet recycling company that collected and was to deliver the covered carpeting;

4. the name of the carpet recycling company to which the covered carpeting was delivered, if known;

5. any other information required by department rules; and

6. a sworn affidavit by a qualified representative of the responsible party attesting that:

i. the responsible party adhered to the source separation and collection requirements of this chapter; and

ii. the information provided by the responsible party is accurate.

b. On and after January 1, 2013, a licensed carter or carpet recycling company that collects covered carpeting from within the city pursuant to this chapter shall submit to the commissioner a certificate for each conforming project from which it collects covered carpeting which shall include:

1. the location of the conforming project from which the covered carpeting was collected;

2. the name of the responsible party;

3. the amount of carpeting, calculated either by weight or area, collected at the conforming project;

4. the name of the carpet recycling company where the covered carpeting was delivered, if different than the entity that collected the carpeting;

5. any other information required by department rules;

6. an affirmation by a qualified representative of the licensed carter or carpet recycling company averring that:

i. the licensed carter or carpet recycling company adhered to the collection and delivery requirements of this chapter; and

ii. the information provided by the licensed carter or carpet recycling company is an honest reporting.

§ 16-477 Carpet recycling company obligations. Any carpet recycling company receiving covered carpeting shall (1) recycle, reuse, or sell for reuse, or cause to be recycled, reused or sold for reuse all source separated covered carpeting received by such operators that have been separated as required by section 16-472 of this chapter; or (2) at a minimum, maintain the separation of such covered carpeting before their transfer to another location; and (3) not bring source separated covered carpeting for disposal, or cause such materials to be brought for disposal, to any solid waste disposal facility, whether or not such facility is operated by the department, in an amount that should have been detected through reasonable inspection efforts by such operators.

§ 16-478 Enforcement. a. Any notice of violation alleging a violation of any provision of this chapter shall be returnable to the environmental control board, which shall have the power to impose civil penalties as provided herein.

b. On and after January 1, 2013, any person or entity who violates the provisions of sections 16-471, 16-472 or 16-473 of this chapter shall be liable for a civil penalty of five thousand dollars for each conforming project for which such person or entity improperly disposes of covered carpeting, fails to source separate such covered carpeting, or fails to observe the collection requirements of this chapter.

c. On and after January 1, 2013, any person or entity who violates the provisions of subdivision a of section 16-474 of this chapter shall be liable for a civil penalty of five thousand dollars for each conforming project for which such person or entity fails to properly deliver covered carpeting pursuant to the requirements of this chapter.

d. On and after January 1, 2013, any person or entity who violates the provisions of subdivision b of section 16-474 of this chapter shall be liable for a civil penalty of five hundred dollars for each conforming project for which such person or entity fails to properly mark, tag, segregate or otherwise identify covered carpeting as revised by such subdivision.

e. On and after January 1, 2013, any person or entity who fails to submit a certificate of recycling pursuant to section 16-476 of this chapter shall be liable for a civil penalty of ten thousand dollars for each conforming project for which the person or entity fails to submit a certificate.

f. On and after January 1, 2013, any person or entity who knowingly submits a certificate of recycling as required by section 16-476 of this chapter that contains a false or misleading statement as to a material fact or omits to state any material fact shall be liable for a civil penalty of five thousand dollars for each such statement or omission. It shall be an affirmative defense that a person or entity neither knew nor should have known that a statement of material fact was false or misleading, or that an omission of a material fact was inadvertent.

g. Any carpet recycling company which fails to comply with the provisions of section 16-477 shall be liable for a civil penalty of twenty thousand dollars for each such violation.

§2. This local law shall take effect six months after its enactment except that the commissioner of sanitation shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Sanitation and Solid Waste Management.

Res. No. 1317

Resolution calling upon the New York State Legislature to pass and the Governor to sign legislation that would require the New York Public Library, the Brooklyn Public Library, and the Queens Borough Public Library to install surveillance cameras in all designated children's sections.

By Council Members Vallone, Cabrera, Eugene, Gonzalez, Koo, Mendez, Rose, Vacca, Wills, Foster, Oddo and Ulrich.

Whereas, New York City's public library system is composed of three independent nonprofit corporations, the New York Public Library, the Brooklyn Public Library, and the Queens Borough Public Library, each of which serve to support the education, growth and development of the City's youth; and

Whereas, Promoting and protecting the healthy development of children so they can achieve their full potential has long been recognized as a top priority for the government; and

Whereas, It is widely accepted that children need a safe environment in which to learn and develop effectively; and

Whereas, According to the National School Climate Center, not feeling safe under any circumstances undermines learning and healthy development; and

Whereas, The American Library Association describes the purpose of public libraries as to enhance the learning process and to ensure open access to information; and

Whereas, The International Federation of Library Associations and Institutions (IFLA) asserts that public libraries have a "special responsibility to support the process of learning to read, and to promote books and other media for children;" and

Whereas, Under the Guidelines for Children's Libraries Services as published by IFLA, "Children of all ages should find the library an open, inviting, attractive challenging and non-threatening place to visit;" and

Whereas, In August 2011, a seven-year-old girl was reading in the children's section of the Queens library in Astoria when she was "petrified" by a strange man who grabbed her feet and "[s]niffed them, rubbed them against his beard, and kissed them," according to an article on CBS New York; and

Whereas, In response to this incident, potential funding sources have been identified for security cameras to be installed at the library in Astoria; and

Whereas, While a video surveillance system will not prevent all incidents, its potential deterrent effect and its use as a means of identifying and prosecuting offenders indicate that it is a worthwhile endeavor to promote a safe and secure environment in public libraries for the children of New York City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign legislation that would require the New York Public Library, the Brooklyn Public Library, and the Queens Borough Public Library to install surveillance cameras in all designated children's sections.

Referred to the Committee on Cultural Affairs, Libraries & International Intergroup Relations.

Res. No. 1318

Resolution in support of S.2000, which would amend the Criminal Procedure Law in order to limit plea bargains for individuals charged with a sex offense felony or a specified felony offense, and calling on the Assembly to pass a companion bill, and on the Governor to sign such legislation.

By Council Members Vallone Jr., Koo, Vacca, Oddo and Ulrich.

Whereas, The New York State Sex Offender Registration Act specifies that if an individual is convicted of a crime classified as a sex offense, or an attempt to commit a sex offense, he or she must register as a sex offender with the Division of Criminal Justice Services (DCJS); and

Whereas, Pursuant to the Sex Offender Registration Act, DCJS maintains a Sex Offender Registry, which is available online; and

Whereas, Sex offenders are classified according to their risk of re-offending: a Level 1 means low risk, a Level 2 means moderate risk and a Level 3 means high risk; and

Whereas, The website, however, provides information only on those offenders classified as Level 2 or Level 3; and

Whereas, The Sex Offender Registration Act was enacted because it has been proven that sex offenders are more likely to repeat their crimes than any other offenders; and

Whereas, It is, therefore, necessary to allow community members the opportunity to be forewarned of the presence of sex offenders in their area and online sex offender registries provide community members with a fast and easy method of doing so; and

Whereas, Despite these benefits to the community, not all defendants who are charged with a sex offense will be convicted as sex offenders; and

Whereas, In fact, as part of the criminal justice system, whenever the indictment charges two or more separate counts, a defendant may accept a plea to any charge in full satisfaction of all charges; and

Whereas, For example, an individual may be charged with burglary and rape, the latter being a sex offense, however, the defendant may be presented with the option to plead guilty to the burglary charge with the incentive that the rape charge would be dropped; and

Whereas, Under this example, since the sex offense charge was dropped, that individual would not become registered as a sex offender because the individual was not convicted of a sex offense; and

Whereas, New York State needs to limit plea bargains for those individuals who are charged with at least one offense that is classified as a sex offense; and

Whereas, Senator Dean Skelos introduced S.2000, which would amend the Criminal Procedure Law by limiting plea bargains for individuals charged with a sex offense; and

Whereas, S. 2000 would amend plea bargain laws relating to cases in which a defendant is charged with a sex offense felony or a specified felony, to require that any plea of guilty in those cases include a plea of guilty to a sex offense, which would trigger the defendant's classification as a sex offender; and

Whereas, S.2000 would allow the district attorney the option to review the case and to determine whether such charge is appropriate, and if the district attorney deems it is not, he or she may allow a disposition by plea of guilty to another charge; and

Whereas, The New York State Legislature should act swiftly on this bill in order to ensure that those charged with a sex offense do not avoid becoming classified as a sex offender by simply accepting a plea bargain that essentially hides their alleged sex offense behind another crime; and

Whereas, By passing this legislation the New York State Legislature would require that all sex offense convictions be properly resolved so that the legislative intent of the Sex Offender Registration Act remains intact; now, therefore, be it

Resolved, That the Council of the City of New York supports S.2000, which would amend the Criminal Procedure Law in order to limit plea bargains for individuals charged with a sex offense felony or a specified felony offense, and calls on the Assembly to pass a companion bill, and on the Governor to sign such legislation.

Referred to the Committee on Public Safety.

Res. No. 1325

Resolution calling upon the New York State Assembly to pass and the Governor to sign into law S.5260-C/A.7251-C, which would amend the Penal Law to establish the offense of fraudulent prescription, dispensing and procurement of non-controlled substance prescription medications and devices, and the offense of unlawful possession of non-controlled substance prescription medications and devices.

By Council Members Vallone Jr., Fidler, Gentile, Koo, Rose, Vacca and Oddo.

Whereas, There is a rapidly expanding underground market in non-controlled prescription medications; and

Whereas, Unlike psychotropic drugs and opioid pain relievers, which are considered "controlled" prescription drugs under state law and can be abused and lead to addiction, non-controlled prescription drugs are generally not used recreationally; and

Whereas, Non-controlled prescription drugs are used to treat those suffering from chronic medical conditions such as AIDS, asthma, high blood pressure, diabetes, bacterial infections and certain psychoses; and

Whereas, In order to pay for the exorbitant price of these non-controlled prescription medications, some individuals use Medicaid to cover these costs; and

Whereas, While most individuals obtain these drugs in a lawful manner and use them for legitimate purposes, news reports show that some individuals are selling their non-controlled prescription drugs in the underground market, a scheme known as "diversion"; and

Whereas, When diversion occurs, non-controlled prescription drugs are often repackaged by the original recipient and sold to unscrupulous pharmacies, overseas distributors, and online distributors for personal financial gain; and

Whereas, Non-controlled prescription drug diversion has many consequences, ranging from financial impacts on society to severe public health risks; and

Whereas, The New York City Human Resources Administration approximates that more than $35 million in identified Medicaid fraud results from false prescriptions and prescription drug diversion schemes; and

Whereas, There is potential for detrimental health impacts on patients who unwittingly purchase diverted non-controlled prescription drugs because these drugs can be stored without quality control measures and could be sold well past their expiration dates; and

Whereas, Non-controlled prescription drug diversion is a new form of drug dealing and it did not exist when the New York State Prescription Drug Diversion laws were in enacted in 1995; and

Whereas, Accordingly, article 178 of the Penal Law, which criminalizes drug diversion, applies only to the sale of prescription narcotics and not the possession; and

Whereas, Under the current law, an individual who is caught in the act of illegally buying one or two bottles of non-controlled prescription drugs can be charged, at most, with the misdemeanor crime of Attempted Criminal Diversion of Prescription Medications and Prescriptions in the Fourth Degree; and

Whereas, In contrast, it is a class C felony for someone to sell a prescription for a controlled substance; this disparity in penalties creates an incentive to for drug dealers to deal exclusively in non-controlled prescription drugs because there is little or no risk of criminal sanctions if caught; and

Whereas, In order to curb this practice, Senator Kemp Hannon and Assembly Member Daniel O'Donnell introduced legislation, S.5260-C and A.7251-C, respectively, which would address the large-scale underground market for non-controlled prescription drugs; and

Whereas, Some key components of S.5260-C/A.7251-C include punishing those individuals who commit criminal diversion acts on multiple occasions within a given period of time, penalizing pharmacists and physicians for providing a fraudulent prescription to someone who does not medically need it, and punishing those who possess large quantities of non-controlled substance prescription medication without a valid prescription; and

Whereas, S.5260-C/A.7251-C would amend the definition of criminal diversion of prescription medications and prescriptions in order to punish those individuals who do not have a medical need for a non-controlled medication and who repeatedly purchase non-controlled substance prescription medication; and

Whereas, S.5260-C/A.7251-C would also criminalize the purchasing or dispensing of medications by pharmacists who have obtained the medication through the underground market; and

Whereas, S.5260-C/A.7251-C would amend the Penal Law by adding articles 179 and 219, entitled "fraudulent prescription, dispensing and procurement of non-controlled substance prescription medications and devices" and "unlawful possession of non-controlled substance prescription medications and devices," respectively; and

Whereas, S.5260-C/A.7251-C would criminalize the writing of fraudulent prescriptions by physicians for patients with no medical need for the medication and pharmacists who dispense medication to those who do not need it; and

Whereas, S.5260-C/A.7251-C would criminalize possession of large quantities of non-controlled substance prescription medications by someone with no lawful basis for such possession; and

Whereas, Additionally, S.5260-C/A.7251-C would establish penalties for those convicted of unlawful possession of non-controlled substance prescription medications and devices, which range from a class A misdemeanor to a class B felony as determined by factors such as quantity and aggregate value; and

Whereas, The New York State Senate passed S.5260-C and delivered it to the New York State Assembly for consideration on February 13, 2012; and

Whereas, By passing this legislation the New York State Legislature would ensure that individuals who repeatedly purchase drugs in the underground market, pharmacists and physicians who provide prescriptions to individuals who do not need them, and those who illegally possess large quantities of prescription drugs are properly punished; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Assembly to pass and the Governor to sign into law S.5260-C/A.7251-C, which would amend the Penal Law to establish the offense of fraudulent prescription, dispensing and procurement of non-controlled substance prescription medications and devices, and the offense of unlawful possession of non-controlled substance prescription medications and devices.

Referred to the Committee on Public Safety (preconsidered but laid over by the Committee on Public Safety).

Res. No. 1319

Resolution in support of A9148, sponsored by the Speaker of the New York State Assembly, which would raise the state minimum wage, and calling upon the New York State Legislature to pass and the Governor to sign this legislation.

By Council Members Williams, The Speaker (Council Member Quinn), Seabrook, Palma, Rodriquez, Lappin, Chin, Mark-Viverito, Brewer, Comrie, Dromm, Eugene, Ferreras, Fidler, Gonzalez, James, Koppell, Koslowitz, Lander, Levin, Mendez, Rose, Sanders, Van Bramer, Vann and Halloran.

Whereas, Pursuant to the Fair Labor Standards Act (FLSA), the federal minimum wage for covered nonexempt employees is $7.25 per hour, effective July 24, 2009; and

Whereas, The New York State minimum wage is currently $7.25 and is superceded by the federal minimum wage rate if the latter is higher than the New York State rate; and

Whereas, Various minimum wage exceptions apply under specific circumstances to workers with disabilities, full-time students, youth under age 20 in their first 90 consecutive calendar days of employment, tipped employees and student-learners; and

Whereas, On January 30, 2012, New York State Assembly Speaker Sheldon Silver introduced A9148, an act which would raise New York State's minimum wage to $8.50 an hour and provide for additional increases to the minimum wage that are tied to future increases in inflation; and

Whereas, A number of states, including Alaska, Arizona, California, Colorado, Connecticut, Florida, Illinois, Maine, Massachusetts, Michigan, Montana, New Mexico, Nevada, Ohio, Rhode Island, Vermont, Washington, and the District of Columbia, all have minimum wages higher than the federal government rate; and

Whereas, Arizona, Colorado, Montana, Ohio, Oregon, Vermont, Florida and Washington all increased their minimum wages in 2012 and have cost of living adjustments written into their state laws; and

Whereas, The Economic Policy Institute reports that the increase in spending that would result from the recently raised minimum-wage increases in each of those eight states alone will lead to an additional $366 million in economic output and create 3,000 jobs; and

Whereas, According to a recent New York Times article, New Jersey is considering increasing its minimum wage to $8.50 this year; and

Whereas, Before taxes, a full time minimum wage worker in New York, working 40 hours a week, 52 weeks a year, will earn $58 per day, $290 per week, or $15,080 per year; and

Whereas, The national poverty line for a family unit consisting of two people is $14,570 per year; and

Whereas, According to the Fiscal Policy Institute, over 1.6 million New York workers or 18 percent of the workforce earn less than $10 an hour; and

Whereas, New York City residents in minimum wage jobs should be provided with an increased wage to better support their families and provide them with food and shelter; now, therefore, be it

Resolved, That the Council of the City of New York supports A9148, sponsored by the Speaker of the New York State Assembly, which would raise the state minimum wage, and calls upon the New York State Legislature to pass and the Governor to sign this legislation.

Referred to the Committee on Civil Service and Labor.

Res. No. 1320

Resolution calling upon the New York State Senate and the New York State Assembly to pass and the Governor to sign A.4672B and S.641B, which would enhance the criminal penalties for assaulting an employee of a local social services district or juvenile detention agency while such employee is in the performance of his or her duties.

By Council Members Wills, Palma, Crowley, Cabrera, Comrie, Ferreras, Fidler, Gonzalez, Levin, Rose, Vacca, Rodriguez, Foster, Halloran and Ulrich.

Whereas, Employees of local social services districts are often on the front lines in high risk situations such as working in clients' homes, working with clients who may be mentally ill and not taking their prescribed medication, and reporting and removing children in cases of child abuse and neglect; and

Whereas, According to the United States Department of Labor, Occupational Safety & Health Administration ("OSHA"), health care and social service workers face an increased risk of work-related assaults for several reasons including, but not limited to, the prevalence of handguns and other weapons among clients, the presence of drug or alcohol abusers among clients, distraught family members, and a lack of staff training in recognizing and managing hostile behavior; and

Whereas, Also according to OSHA, social service and health care workers face more assaults (48%) than any other industry; and

Whereas, In 2000, data from the Bureau of Labor Statistics showed that the rate of injuries resulting from assaults and violent acts (measured by the number of events per 10,000 full-time workers) for social service workers was 15 compared to an overall private sector injury rate of 2; and

Whereas, According to a February 14, 2008 New York Times article, "Working in Mental Health, the Prospect of Violence Is a Part of the Job," a 2003 national survey of therapeutic workers nationwide found that 58% of respondents said they encounter violence; and

Whereas, According to the New York Times article, a survey conducted in 2001 in Georgia found that out of 1,132 licensed therapists who responded 14 had been shot, 6 attacked with a knife, 209 pushed or shoved, 112 slapped and 87 hit by objects thrown at them; and

Whereas, Specific examples of violence in New York State include, but are not limited to, an instance in 2008 where a therapist was slashed to death in her office, a 2009 case where a youth counselor was beaten to death by two youth residents, and a 2011 case where a social worker was murdered in a group home by a young man she counseled; and

Whereas, Data from the New York State Office of Children and Family Services ("OCFS") shows that assaults on staff in juvenile detention facilities increased to 138 in 2010, up from 133 in 2009; and

Whereas, Additionally, a report titled, "Employee Safety in the New York State Juvenile Justice System" found that employees in limited secure residential programs throughout New York State report that violence towards staff has increased in recent years; and

Whereas, The Public Employees Federation, which represents social workers, counselors, teachers and other professional staff members at OCFS facilities, and the Civil Service Employees Association ("CSEA"), which represents youth aides, administrative and operational staff members at OCFS, indicate that there is an increase in workers' compensation incidents due to an increase in violence in facilities; and

Whereas, Also according to the CSEA, 18 out of 33 youth division aides at one juvenile detention facility are out of work due to severe injuries suffered at the hands of the facility's youth residents; and

Whereas, Current law does not provide sufficient criminal assault penalties to protect employees of a local social services district or juvenile detention agency; and

Whereas, A.4672B and S.641B would elevate any assault committed against an employee of a local services district or juvenile detention agency to a felony offense; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Senate and the New York State Assembly to pass and the Governor to sign A.4672B and S.641B, which would enhance the criminal penalties for assaulting an employee of a local social services district or juvenile detention agency while such employee is in the performance of his or her duties.

Referred to the Committee on General Welfare.

Res. No. 1321

Resolution calling on the New York State Legislature and the Governor to amend the New York State Penal Law by increasing penalties for the unintentional discharge of a firearm resulting in an injury to an individual.

By Council Members Wills, Comrie, Levin, Palma, Williams and Rodriguez.

Whereas, According to the Centers for Disease Control and Prevention, in 2009, there were 31,347 deaths in the United States related to firearms, which included 554 deaths attributed to the accidental discharge of firearms; and

Whereas, According to the Harvard Injury Control Research Center, accidental deaths attributed to guns were seven times higher in the four states with the most guns compared to the four states with the fewest guns; and

Whereas, Frequently, across the country, individuals accidently shoot another person because they are not mindful and are unaware that the firearm is loaded; and

Whereas, An illustration of this occurred on June 12, 2010 when a 15-year-old boy from Flatlands, Brooklyn accidently shot his friend in the stomach while flaunting a gun belonging to his mother; and

Whereas, New York State has enacted some of the strictest, most comprehensive gun laws in the country; however, there are specific areas of the law where the state lacks appropriate punishment for crimes involving a firearm; and

Whereas, Section 265.35 of the New York State Penal Law ("Penal Law") defines the prohibited use of weapons in New York State; and

Whereas, Under section 265.35 of the Penal Law, any person who maims or injures another individual by unintentionally discharging a firearm is guilty of a Class A misdemeanor; and

Whereas, The penalty for a Class A misdemeanor carries a fine not to exceed $1,000 and the possibility of up to one year in jail; and

Whereas, This current penalty for the unintentional discharge of a firearm resulting in injury to an individual is an insufficient deterrent and should be increased to a felony so that individuals recognize the complete dangers that firearms present; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature and the Governor to amend the New York State Penal Law by increasing penalties for the unintentional discharge of a firearm resulting in an injury to an individual.

Referred to the Committee on Public Safety.

L.U. No. 603

By Council Member Comrie:

Application no. 20125338 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Vida Café Inc. d.b.a. Mamajuana Cafe, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 247 Dyckman Street, Borough of Manhattan, Council District 7. This application is subject to

review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 604

By Council Member Comrie:

Application no. N 120176 ZRM submitted by ERY Tenant LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 3 (Special Hudson Yards District), Council District 3.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 605

By Council Member Comrie:

Application no. N 120171 ZRM submitted by the New York City Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 3 (Special Hudson Yards District), Council District 3.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 606

By Council Member Comrie:

Application no. N 120166 ZRM submitted by Laight Street Project Owner, LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to the extension of a variance approved by the Board of Standards and Appeals concerning the modification of bulk regulations in the Special Tribeca Mixed Use District, Council District 1.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 607

By Council Member Comrie:

Application no. 20125571 PNM, pursuant to § 1301 (2) (f) of the New York City Charter concerning the proposed maritime lease of a portion of the ground floor of the Battery Maritime Building between the Department of Small Business Services and the Governors Island Corporation a.k.a. The Trust for Governors Island, Council District 1.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

L.U. No. 608

By Council Member Comrie:

Application no. C 120164 HAX, application submitted by the Department of Housing Preservation and Development, an Urban Development Action Area Designation and Project located at 500/539 Union Avenue (Block 2582, lots 47,64 and 65) and the disposition of city owned property, Borough of the Bronx ,Community Board 1, Council District no. 17. This matter is subject to Council Review and action pursuant to §197-c and §197-d of the New York City Charter and Article 16 of the General Municipal Law.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 609

By Council Member Comrie:

Application no. C 120165 ZMX submitted by NYC Department of Housing, Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 6c, changing from an R7-2 District to an R8X District property bounded by East 149th Street, Prospect Avenue, Southern Boulevard, East 147th Street, and Union Avenue and its southerly centerline prolongation, Borough of the Bronx, Council District 17.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 610

By Council Member Comrie:

Application no. 20125592 HAM submitted by the New York City Department of Housing Preservation and Development pursuant Article 16 of the General Municipal Law, an Urban Development Action Area Project located at 63-65 w. 137th Street, 119, 123, 125, 132 W. 133rd Street, 235-237 W. 116th Street, 229, 231 W. 121st Street (Block 1735, Lot 8, Block 1917, Lot 45, Block 1918, Lots 20, 21, 23, Block 1922, Lot 13, Block 1927, Lots 15, 16) in the Borough of the Bronx, Community Board 10, Council District no. 9.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

Tuesday, May 1, 2012

Committee on **MENTAL HEALTH, MENTAL RETARDATION, ALCOHOLISM, DRUG ABUSE AND DISABILITY SERVICES** jointly with the Committee on **EDUCATION.....10:00 A.M.**
Oversight – School-Based Mental Health Services
Committee Room – 250 Broadway, 16th Floor ..... Oliver Koppell, Chairperson
..... Robert Jackson, Chairperson

Wednesday, May 2, 2012

★ *Note Topic Additions*
Committee on **HOUSING AND BUILDINGS** jointly with the
Committee on **LAND USE.....10:00 A.M.**

Int. 20 - By Council Members Mendez, Brewer, James, Koppell, Lander, Lappin, Mark-Viverito, Palma, Williams, Gentile, Arroyo, Vacca, Dromm, Mealy, Koslowitz, Crowley, Sanders Jr., Rose, Fidler, Garodnick, Chin and Oddo - A Local Law to amend the administrative code of the city of New York, in relation to work permits previously issued by the department of buildings when a property is designated as a landmark.

Int. 80 - By Council Members Koppell, Brewer, Gentile, James and Nelson - A Local Law to amend the administrative code of the city of New York, in relation to regulating construction operations occurring near landmarks.

Int. 220 - By Council Members Lappin, Comrie, Mendez, Nelson and Vann - A Local Law to amend the administrative code of the city of New York in relation to establishing a survey division within the Landmarks Preservation Commission.

Proposed Int. 222-A - By Council Members Lappin, Lander, Brewer, Chin, Comrie, Mendez, Van Bramer and Williams – A Local Law to amend the administrative code of the city of New York, in relation to timely consideration of requests for evaluation by the Landmarks Preservation Commission.

Int. 357 - By The Public Advocate (Mr. De Blasio) and Council Members James, Lander, Palma, Sanders Jr., Seabrook, Williams, Rodriguez, Mendez and Van Bramer - A Local Law to amend the administrative code of the city of New York, in relation to the use of green technologies in landmarked buildings.

Proposed Int. 532-A - By Council Member Garodnick – A Local Law to amend the administrative code of the city of New York, in relation to requiring the landmarks preservation commission to maintain a publicly available database for requests for evaluation.

★Int. 845 - By Council Member Comrie – A Local Law to amend the administrative code of the city of New York, in relation to allowing owners of landmarked properties to use the same or similar materials in maintenance of their property.

★ Int. 846 - By Council Member Comrie – A Local Law to amend the administrative code of the city of New York, in relation to additional guidelines and procedures to the designation process for a landmark, interior landmark, scenic landmark and historic district.

Int. 849 - By Council Member Lander – A Local Law to amend the administrative code of the city of New York, in relation to requiring the landmarks preservation commission to allow denied requests for evaluation to be nominated to the landmarks preservation commission entire body for a vote.

Int. 850 - By Council Member Lander – A Local Law to amend the administrative code of the city of New York, in relation to requiring the landmarks preservation commission to create a timeline for the designation process.

Committee Room – 250 Broadway, 14th Floor

.....Erik Martin-Dilan, Chairperson

..... Leroy Comrie, Chairperson

Committee on **CIVIL SERVICE AND LABOR .....1:00 P.M.**

Oversight - Business Practices of the City's Carwashes: Labor, Consumer & Environmental Issues

Committee Room – 250 Broadway, 16th Floor ..... James Sanders, Chairperson

Committee on **GENERAL WELFARE .....1:00 P.M.**

Tour: Department of Homeless Services Prevention Assistance and Temporary Housing (PATH) Office

Location: 151 East 151st Street

Bronx, NY 10451

Details Attached.....Annabel Palma, Chairperson

Thursday, May 3, 2012

★ *Deferred*

~~Committee on **IMMIGRATION .....12:00 P.M.**~~

~~Tour: Harlem YMCA~~

~~Location: 180 West 135th Street (Between Lenox and 7th Ave)~~

~~New York, NY 10030~~

~~Details Attached.....Daniel Dromm, Chairperson~~

Friday, May 4, 2012

Committee on **SMALL BUSINESS** jointly with the

Committee on **ECONOMIC DEVELOPMENT .....10:00 A.M.**

Tour: Maspeth Industrial Business Zone

Location: 55-30 58th Street

Maspeth, New York 11378

Details Attached.....Diana Reyna, Chairperson

..... Karen Koslowitz, Chairperson

Tuesday, May 8, 2012

Subcommittee on **ZONING & FRANCHISES.....9:30 A.M.**

See Land Use Calendar Available Thursday, May 3, 2012

Committee Room – 250 Broadway, 16th Floor ..... Mark Weprin, Chairperson

Subcommittee on **LANDMARKS, PUBLIC SITING**

& MARITIME USES .....11:00 A.M.

See Land Use Calendar Available Thursday, May 3, 2012

Committee Room– 250 Broadway, 16th Floor ..... Brad Lander, Chairperson

Committee on **IMMIGRATION ..... 12:00 P.M.**

Tour: Harlem YMCA

Location: 180 West 135th Street (Between Lenox and 7th Ave)

New York, NY 10030

Details Attached.....Daniel Dromm, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS.. 1:00 P.M.**

See Land Use Calendar Available Thursday, May 3, 2012

Committee Room – 250 Broadway, 16th Floor ..... Stephen Levin, Chairperson

Wednesday, May 9, 2012

Committee on **CONTRACTS..... 1:00 P.M.**

Agenda to be announced

Committee Room – 250 Broadway, 14th Floor .....Darlene Mealy, Chairperson

Committee on **HIGHER EDUCATION ..... 1:00 P.M.**

Agenda to be announced

Committee Room – 250 Broadway, 16th Floor

..... Ydanis Rodriguez, Chairperson

Thursday, May, 10, 2012

Committee on **CIVIL SERVICE AND LABOR .....10:00 A.M.**

Res. 1319 - By Council Members Williams, The Speaker (Council Member Quinn), Seabrook, Palma, Rodriquez, Lappin, Chin and Mark Viverito - Resolution in support of A9148, sponsored by the Speaker of the New York State Assembly, which would raise the state minimum wage, and calling upon the New York State Legislature to pass and the Governor to sign this legislation.

Committee Room – 250 Broadway, 16th Floor ..... James Sanders, Chairperson

Committee on **LAND USE.....10:00 A.M.**

All items reported out of the subcommittees

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

Committee Room – 250 Broadway, 16th Floor ..... Leroy Comrie, Chairperson

Thursday, May, 10, 2012

Committee on **WATERFRONTS ..... 1:00 P.M.**

Agenda to be announced

Committee Room – 250 Broadway, 14th Floor ..... Michael Nelson, Chairperson

Committee on **VETERANS .....1:00 P.M.**

Oversight - How the City prepares for Fleet Week

Committee Room– 250 Broadway, 16th Floor

..... Mathieu Eugene, Chairperson

Tuesday, May, 15, 2012

Stated Council Meeting.....*Ceremonial Tributes – 1:00 p.m.*

..... *Agenda – 1:30 p.m.*

Location.....*~ Council Chambers ~ City Hall*

M E M O R A N D U M

Tuesday, April 24, 2012

TO: ALL COUNCIL MEMBERS

RE: Tour by the Committee on **General Welfare**

Please be advised that all Council Members are invited to attend a tour to:

Department of Homeless Services Prevention Assistance and Temporary Housing (PATH) Office
151 East 151st Street
Bronx, NY 10451

The tour will be on **Wednesday, May 2, 2012 beginning at 1:00 p.m.** A van will be leaving City Hall at **12:15 p.m. sharp.**

Council Members interested in riding in the van should call Elizabeth Hoffman at 212-788- 6911.

Annabel Palma, Chairperson
Committee on General Welfare

Christine C. Quinn
Speaker of the Council

M E M O R A N D U M

Thursday, April 26, 2012

TO: ALL COUNCIL MEMBERS

RE: TOUR BY THE COMMITTEES ON **IMMIGRATION**

Please be advised that all Council Members are invited to attend a tour:

Harlem YMCA
Location: 180 West 135th Street (Between Lenox and 7th Ave)
New York, NY 10030

The tour will be on **Tuesday, May 8, 2012 beginning at 12:00 p.m.** A van will be leaving City Hall at **11:15 a.m. sharp.**

Council Members interested in riding in the van should call Julene Beckford at 212-788-7020.

Daniel Dromm, Chairperson
Committee on Immigration

Christine C. Quinn
Speaker of the Council

M E M O R A N D U M

April 20, 2012

TO: ALL COUNCIL MEMBERS

RE: TOUR BY THE **COMMITTEE ON SMALL BUSINESS JOINTLY WITH THE COMMITTEE ON ECONOMIC DEVELOPMENT**

Please be advised that all Council Members are invited to attend a tour:

Maspeth Industrial Business Zone
55-30 58th Street
Maspeth, New York 11378

The tour will be on **Friday, May 4, 2012 beginning at 10:00 a.m.** A van will be leaving City Hall at **9:15 a.m.**

Please Contact Faith Corbett, at **212-788-2802,** if you have any questions.

Diana Reyna, Chairperson
Committee on Small Business

Karen Koslowitz, Chairperson
Committee on Economic Development

Christine C. Quinn
Speaker of the Council

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Rivera) adjourned these proceedings to meet again for the Stated Meeting on Tuesday, May 15, 2012.

ALISA FUENTES, Deputy City Clerk
Acting Clerk of the Council