

SUPPLEMENT TO  
**THE CITY RECORD**

THE COUNCIL —STATED MEETING OF  
**WEDNESDAY, MAY 8, 2013**

**THE COUNCIL**

*Minutes of the Proceedings for the  
STATED MEETING  
of  
Wednesday, May 8, 2013, 3:23 p.m.*

The President Pro Tempore (Council Member Comrie)  
*Acting Presiding Officer*

Council Members

Christine C. Quinn, Speaker

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

Excused: Council Members Foster, Halloran and Mendez.

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

After being informed by the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the President Pro Tempore (Council Member Comrie).

*There were 48 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 Rev. Peter Heltzel, Micah Institute, New York Theological Seminary, 475 Riverside Drive, New York, NY 10115.

Let us pray.  
Good and gracious God.  
We thank you for the verdant green,  
hope of spring, for this is the day  
that the Lord has made,

let us rejoice and be glad in it.  
Guide and bless the members of our City Council.  
Send down upon them the spirit  
of wisdom, justice, and love.  
That with steadfast purpose  
they may honestly and faithfully  
fulfill their duties this day  
through democratic deliberations  
promoting the peace of all New Yorkers.  
May they heed the call of the prophet Jeremiah  
who said, seek the Shalom of the city  
and pray to the Lord for it.  
For in it's Shalom you will have Shalom.  
Make us prophets of your peace, oh Lord.  
Where there is hate, let us sow love.  
Where there is darkness, light,  
where there is sadness, joy.  
Grant our City Council courage and foresight  
as they provide for the needs of all New Yorkers.  
Renew the ties of mutual regard  
Between faith leaders and our Council Members.  
May we work together to eliminate poverty,  
prejudice and oppression.  
Wherever someone is hungry and hurting,  
may we stand up for love,  
may we stand up for justice,  
may we stand up for your Shalom, oh God,  
our refuge and hope.  
Let justice roll down like a river  
and righteousness like an ever flowing stream  
that peace may prevail this day and forevermore.  
In your holy name we pray. Amen.

Council Member Jackson 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:

Lynn Brooks, 82, wife of long-time radio broadcaster Stan Brooks, passed away on May 4, 2013 surrounded by her husband and family. In 1992, she founded the Big Apple Greeter organization which utilized volunteer New Yorkers to give unique tours around the city. Ms. Brooks was also a lifelong activist for civil rights, women's rights, and social justice. She is survived by her husband Stan, her sons Rick, George, and Bennett, three daughters in law, seven grandchildren, two great grandchildren, and six nephews and nieces.

Martin Stark, Governmental Programming Manager and Scheduler at NYC-TV, who recently died unexpectedly. He joined NYC-TV in 1997 and scheduled the filming of a vast range of events including the recordings of the City Council hearings. Mr. Stark is survived by his sister, Beverly, his brothers Gilbert and Tony and their families, and also Anne Marie Stark who was present in the Chambers.

Mary Thom, 68, a chronicler of the feminist movement and former Executive Editor of Ms. Magazine, died on April 26, 2013 in a motorcycle accident in Yonkers, N.Y. Ms. Thom, a resident of the Upper West Side who had been the current editor-in-chief at the Women's Media Center, was known as a women's rights and equal pay advocate. She is survived by a sister Susan and a nephew Tom. At this point, the floor was yielded to Council Member Brewer who spoke in respectful memory of her friend Mary Thom.

\* \* \*

MESSAGES & PAPERS FROM THE MAYOR

M-1144

Communication from the Mayor - Submitting the Expense Revenue Contract Budget, for Fiscal Year 2014, pursuant to Section 249 of the New York City Charter.

(For text of this Budget-related item, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-1145

Communication from the Mayor - Submitting the Executive Capital Budget for Fiscal Year 2014, pursuant to Section 249 of the New York City Charter.

(For text of this Budget-related item, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-1146

Communication from the Mayor - Submitting the Proposed City Fiscal Year 2014 Community Development Program, the Proposed CFY'13 Budget, the Proposed Reallocations-the CD XXXIX Funds, Proposed CD XL Statement of Objectives and Budget, dated May 2, 2013.

(For text of this Budget-related item, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-1147

Communication from the Mayor - Submitting the Executive Budget Supporting Schedules, for Fiscal Year 2014 pursuant to Section 250 of the New York City Charter.

(For text of this Budget-related item, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-1148

Communication from the Mayor - Submitting the Capital Commitment Plan, Executive Budget, Fiscal Year 2014, Volumes I, II and III, pursuant to Section 219(d) of the New York City Charter.

(For text of this Budget-related item, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-1149

Communication from the Mayor - Submitting the Executive Budget - Geographic Reports for Expense Budget for Fiscal Year 2014.

(For text of this Budget-related item, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-1150

Communication from the Mayor - Submitting the Executive Capital Budget Fiscal Year 2014, Capital Project Detail Data, Citywide Volumes 1 and 2 and Volumes for the Five Boroughs, dated May 2, 2013 pursuant to the provisions of Sections 213 (4) & 219 (D) of the New York City Charter.

(For text of this Budget-related item, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-1151

Communication from the Mayor - Submitting the Ten-Year Capital Strategy, Fiscal Year 2014-2023.

(For text of this Budget-related item, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-1152

Communication from the Mayor - Submitting the Budget Summary, Message of the Mayor and Summary of Reduction Program relative to the Executive Budget, Fiscal Year 2014, pursuant to Section 249 of the New York City Charter.

(For text of this Budget-related item, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-1153

Communication from the Mayor - Submitting certificate setting forth the maximum amount of debt and reserves which the City, and the NYC Municipal Water Finance Authority, may soundly incur for capital projects for Fiscal Year 2014 and the ensuing three fiscal years, and the maximum amount of appropriations and expenditures for capital projects which may soundly be made during each fiscal year, pursuant to Section 250 (16) of the New York City Charter.



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N. Y. 10007

May 2, 2013

Honorable Members of the Council

Honorable John C. Liu, Comptroller

Honorable Ruben Diaz, Jr., Bronx Borough President  
Honorable Marty Markowitz, Brooklyn Borough President  
Honorable Scott M. Stringer, Manhattan Borough President  
Honorable Helen M. Marshall, Queens Borough President  
Honorable James P. Molinaro, Staten Island Borough President

Honorable Members of the City Planning Commission

Ladies and Gentlemen:

I hereby certify that, as of this date, in my opinion, the City of New York (the "City"), the New York City Municipal Water Finance Authority and the New York City Transitional Finance Authority may soundly issue debt and expend reserves to finance total capital expenditures of the City for fiscal year 2014 and the ensuing three fiscal years, in maximum annual amounts as set forth below:

2014	\$7,734	Million
2015	7,129	Million
2016	6,427	Million
2017	5,754	Million

Certain capital expenditures are herein assumed to be financed from the proceeds of sale of bonds by the City and the New York City Transitional Finance Authority. Amounts of expenditures to be so financed have been included in the total amounts listed above and are estimated to be as follows in fiscal years 2014 - 2017:

2014	\$6,070	Million
2015	5,688	Million
2016	4,936	Million
2017	4,328	Million

Certain water and sewer capital expenditures are herein assumed to be financed from the proceeds of the sale of bonds by the New York City Municipal Water Finance Authority. Amounts of expenditures to be so financed have been included in the total amounts listed in the first paragraph hereof and are estimated to be as follows in fiscal years 2014 – 2017:

2014	\$1,664	Million
2015	1,441	Million
2016	1,491	Million
2017	1,426	Million

I further certify that, as of this date, in my opinion, the City may newly appropriate in the Capital Budget for fiscal year 2014, and may include in the capital program for the ensuing three fiscal years, amounts to be funded by City debt, New York City Transitional Finance Authority debt or, with respect to water and sewer projects, debt of the New York City Municipal Water Finance Authority, not to exceed the following:

2014	\$8,803	Million
2015	4,454	Million
2016	3,590	Million
2017	3,499	Million

Sincerely,



Michael R. Bloomberg  
Mayor

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Received, Ordered, Printed and Filed

**LAND USE CALL UPS**

M-1154

By the Chair of the Land Use Committee Council Member Comrie:

**Pursuant to Rule 11.20(c) of the Council and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure Application nos. C 130118 ZSK shall be subject to Council review. These items are related to Uniform Land Use Review Procedure Application numbers N 130117 ZRK and C 130116 ZMK which are subject to Council review pursuant to Section 197-d of the New York City Charter.**

Coupled on Call – Up Vote

M-1155

By The Speaker (Council Member Quinn):

**Pursuant to Rule 11.20b of the Council and §20-226 or §20-225 of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 18 Greenwich Ave., Community Board No. 2, Application no. 20135374 TCM shall be subject to review by the Council.**

Coupled on Call – Up Vote

M-1156

By The Speaker (Council Member Quinn):

**Pursuant to Rule 11.20b of the Council and §20-226 or §20-225 of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 46 Gansevoort Street, Community Board No. 2, Application no. 20135408 TCM shall be subject to review by the Council.**

Coupled on Call – Up Vote

**LAND USE CALL UP VOTE**

The President Pro Tempore (Council Member Comrie) 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, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Nelson, Palma, Recchia, Reyna, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, Rivera and the Speaker (Council Member Quinn) – **48**.

At this point, the President Pro Tempore (Council Member Comrie) 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 Civil Service and Labor**

Report for Int. No. 97-A

**Report of the Committee on Civil Service and Labor in favor of approving and adopting, as amended, a Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the provision of sick time earned by employees.**

The Committee on Civil Service and Labor, to which the annexed amended proposed local law was referred on March 25, 2010 (Minutes, page 930), respectfully

**REPORTS:**

**I. Introduction**

On May 6, 2013, the Committee on Civil Service and Labor, chaired by Council Member Michael Nelson, will hold a hearing on Proposed Int. No. 97-A, a Local Law to amend the Administrative Code of the City of New York in relation to the provision of sick time earned by employees. During the previous legislative session, the precursor to this legislation, former Int. No. 1059-2009, was heard by the Committee on November 17, 2009. Former Int. No. 1059-2009 was subsequently reintroduced in the current session as Int. No. 97, with various amendments (*see* section III. C.). The Committee held a hearing on Int. No. 97 on May 11, 2010. Consequently, significant revisions were made to the bill, which became an earlier version of Proposed Int. No. 97-A (*see* section III. D.).

The Committee held a hearing on Proposed Int. No. 97-A on March 22, 2013 and various interested parties testified providing diverse perspectives on this legislation, including workers, businesses, advocates and public policy institutions. Subsequent to the March 22, 2013 hearing, additional amendments were made to the bill (*see* section III. E.).

**II. Background**

**A. Paid Sick Time in the United States**

**1. Overview**

In March of 2013, the Healthy Families Act was reintroduced in the United States Congress. This law would require sick time for employers with 15 or more employees. This and similar legislation was introduced in recent congressional sessions without being voted out of committee. Currently, four cities and one state have paid sick leave laws: San Francisco, California; Washington, D.C.; Seattle, Washington; Portland, Oregon; and Connecticut. Recently, a paid sick leave bill was considered and passed by the Philadelphia City Council, but the bill was vetoed by Mayor Michael Nutter, and the Council fell short on trying to override the veto.<sup>1</sup> A sick time law was also passed by public referendum in Milwaukee, but it was blocked by a lawsuit and in May of 2012 the state passed legislation preempting local paid sick time laws in Wisconsin.<sup>2</sup> Other jurisdictions have pending sick time legislation at various stages.

**2. Federal**

The Healthy Families Act (S. 1152/ H.R. 2460),<sup>3</sup> was introduced in May 2009 by Senator Edward Kennedy and Representative Rosa DeLauro. It was reintroduced in the following Congress by Rep. DeLauro and Senator Tom Harkin (S. 984/H.R. 1876)<sup>4</sup> and again by those lawmakers this year on March 20<sup>th</sup> (S. 631/H.R. 1286).<sup>5</sup> The federal bill would require employers with 15 or more employees to accrue one hour of paid sick time for every 30 hours worked up to 56 hours or seven days. Employees would have been able to use such time to meet their own medical needs, care for the medical needs of certain family members or seek medical attention, or assist a related person. The previous version of the bill was referred to the Senate Committee on Health, Education, Labor and Pensions, and the House Committee on Education and the Workforce, but died in committee at the end of the session.<sup>6</sup>

Another bill, the Emergency Influenza Containment Act (Miller H.R. 3991 (no Senate counterpart)) was introduced in Congress in November 2009 in response to the H1N1 influenza virus scare of that year.<sup>7</sup> The bill provided for five paid sick days for workers sent home by their employers with a contagious illness for businesses with 15 or more employees. If passed, workers who follow their employers' directions to stay home because of contagious illness could not have

<sup>1</sup> NBC10 Philadelphia, "Paid Sick Leave Veto Override Falls 1 Vote Short," April 11, 2013, available at: <http://www.nbcphiladelphia.com/news/politics/Paid-Sick-Leave-Bill-Veto-Stands-202535031.html>.

<sup>2</sup> *Milwaukee Journal Sentinel*, "Walker signs law pre-empting sick day ordinance," May 5, 2011, available at: <http://www.jsonline.com/news/milwaukee/121332629.html>.

<sup>3</sup> See <http://www.govtrack.us/congress/bills/111/hr2460>.

<sup>4</sup> See <http://www.govtrack.us/congress/bills/112/s984>.

<sup>5</sup> See <http://www.govtrack.us/congress/bills/113/hr1286>.

<sup>6</sup> *Id.*

<sup>7</sup> See <http://www.govtrack.us/congress/bills/111/hr3991>.

been fired, disciplined or retaliated against for staying home; however, workers who stayed home on their own volition would not have been guaranteed paid sick days. The bill would have taken effect 15 days after being signed into law and expired after two years. The bill was referred to the House Committee on Education and Labor in November 2009 and to the Subcommittee on Workforce Protections in December, but it died at the end of the session<sup>8</sup> and no current version of this bill was introduced in the previous or current congress pending.

A third relevant bill introduced in November 2009 was the Pandemic Protection for Workers, Families, and Businesses Act (Dodd S.2790/DeLauro H.R.4092),<sup>9</sup> which was very similar to the Emergency Influenza Containment Act. This bill would have allowed employees to use up to seven sick days to tend to their own flu-like symptoms, obtain a medical diagnosis or preventive treatment, care for a sick child, or care for a child whose school or child care facility has been closed due to the spread of a contagious illness. Part-time employees would also have been entitled to paid leave on a pro-rated basis. In addition, the bill would have made it unlawful for an employer to take an adverse action or otherwise discriminate against employees that avail themselves of these leave benefits. If enacted, the terms of this bill would have taken effect within 15 days, and sunsetted after two years. Employers that already provide up to seven days of annual paid sick leave would not have been required to provide additional benefits. This bill was referred to the Senate Committee on Health, Education, Labor, and Pensions, and the House Subcommittee on Workforce Protections, but died at the end of the session<sup>10</sup> and no version of this bill is currently pending.

<sup>8</sup> See <http://www.opencongress.org/bill/111-h3991/show>.

<sup>9</sup> See <http://www.govtrack.us/congress/bills/111/s2790>.

<sup>10</sup> <http://www.opencongress.org/bill/111-s2790/show>.

The Obama Administration has also expressed support for paid sick leave.<sup>11</sup> The United States Department of Labor testified at a congressional hearing regarding H1N1 and paid sick days that more must be done to help protect the economic security of working families who often must choose between a paycheck and their health and the health of their families.<sup>12</sup> The Administration expressed support of efforts such as the Healthy Families Act and other proposals that advance workplace flexibility and protect the income and security of workers.<sup>13</sup>

### 3. San Francisco

San Francisco, California was the first municipality in the United States to pass a paid sick time law. Enacted it by public referendum in February 2007,<sup>14</sup> the San Francisco law provides the same number of sick days per year as the original Int. No. 97 (five paid sick days for small businesses and nine for larger businesses); however, the definition for small business is under ten employees, rather than twenty in the original Int. No. 97.<sup>15</sup> Under San Francisco's law, unused days carry over to the next year and there is no maximum number of days that can be used per year. Employees may use sick time for purposes similar to Proposed Intro. No. 97 A and also may use it to care for one "designated person," who is not related to the employee. In addition, the accrual of sick time starts after 90 days.

### 3. Washington D.C.

The District of Columbia passed a paid sick time law in March 2008.<sup>16</sup> Employees who worked at least 1,000 hours in the previous year receive benefits after a year of uninterrupted

<sup>11</sup> Testimony of Deputy Secretary of Labor Seth Harris, U.S. Senate Subcommittee on Children and Families Committee on Health, Education, Labor and Pensions Hearing: "The Cost of Being Sick: H1N1 and Paid Sick Days" November 10, 2009, available at [http://www.dol.gov/sec/media/congress/20091110\\_H1N1.htm](http://www.dol.gov/sec/media/congress/20091110_H1N1.htm).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> City and County of San Francisco Office of Labor Standards and Enforcement website <http://sfgsa.org/index.aspx?page=419>.

<sup>15</sup> Former Int. No. 1059-2009, the version of Int. No. 97 from the last session, had this same definition, but it was increased to fewer than 20 employees for the new bill.

<sup>16</sup> See Seattle Office of Human Rights website, <http://www.seattle.gov/civilrights/sickleave.htm>.

service. Sick time can be taken for similar purposes as Proposed Int. No. 97-A.<sup>17</sup> Under DC's law, large businesses (defined as 100 or more) must provide seven days, smaller businesses (25-99 employees) must provide five days and even smaller businesses must provide three days.<sup>18</sup> Among those exempted from the law are employees who derive most of their compensation from tips and full-time students who work for their school.<sup>19</sup> There is also a "hardship exemption" that was left undefined in the law and to be determined by regulation, but thus far, although they have been proposed, no rules have been promulgated on the topic.<sup>20</sup>

### 4. Seattle

Seattle, Washington passed a paid sick time law that went into effect on September 1, 2012.<sup>21</sup> Sick time can be taken for similar purposes as Proposed Int. No. 97-A, but, like the Washington, D.C. law. Under this law, employers with 250 or more workers must provide nine days of paid sick time. Businesses with 50 to 249 employees are required to provide seven paid sick days.<sup>22</sup> Businesses with five to 49 employees must provide five days. Businesses under 5 employees are exempt. New businesses up to 249 employees also receive a two-year exemption from the law.

### Portland

Earlier this year, Portland, Oregon became the latest municipality to enact a paid sick leave law, which will go into effect at the beginning of next year.<sup>23</sup> This law applies to people

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> D.C. Municipal Regulations and D.C. Register website

<http://www.dcregs.dc.gov/Gateway/RuleHome.aspx?RuleID=3520632>.

<sup>21</sup> *Washington Post*, "Many workers unaware of D.C. sick-leave law passed in 2008", Jan. 5, 2010 at 1.

<sup>22</sup> *Id.*

<sup>23</sup> Paul Shukovsky, "Portland Joins Small Group of Jurisdictions In Adopting Paid Sick Leave Ordinance," Bloomberg BNA, March 18, 2013, available at: <http://www.bna.com/portland-joins-small-n17179872839/>.

who work within the city for 240 hours in a year.<sup>24</sup> Employees accrue up to five paid sick days per year. Businesses under 6 employees are exempt.<sup>25</sup> As with Washington, D.C. and Seattle, in addition to the standard uses for sick time, *i.e.*, care for self or family when sick or injured.<sup>26</sup>

### 6. Connecticut

Connecticut is, thus far, the only state to pass mandatory paid sick time law, which covers private sector service workers and went into effect on January 1, 2012.<sup>27</sup> The law covers businesses with 50 or more employees<sup>28</sup> and exempts manufacturing<sup>29</sup> and "any nationally chartered organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code...that provides...[r]ecreation, child care and education"<sup>30</sup> (which currently only applies to the YM/WCA<sup>31</sup>). It provides for five paid sick days per year, which can be used after an employee works for 680 hours. Sick time can be used for the similar purposes as Proposed Int. No. 97-A.<sup>32</sup>

## B. Paid Sick Time Statistics

### 1. National Numbers

According to the U.S. Department of Labor Bureau of Labor Statistics (BLS) March 2010 report on paid sick leave, 61 percent of private industry workers

and 89 of state and local workers receive paid sick time as of March 2009.<sup>33</sup> The report found that after a year of service,

<sup>24</sup> Ryan Kost, "Portland City Council votes unanimously to approve sick leave policy," Oregon Live Powered by the Oregonian, Mar. 13, 2013, available at:

[http://www.oregonlive.com/portland/index.ssf/2013/03/portland\\_city\\_council\\_votes\\_un.html](http://www.oregonlive.com/portland/index.ssf/2013/03/portland_city_council_votes_un.html).

<sup>25</sup> Shukovsky, "Portland Joins Small Group of Jurisdictions In Adopting Paid Sick Leave Ordinance."

<sup>26</sup> *Id.*

<sup>27</sup> Connecticut Dept. of Labor website, "An Overview of the Paid Sick Time Law,"

("An Overview") at 16, available at <http://www.ctdol.state.ct.us/wgwkstnd/12-15%20PSLfinal2011.pdf>.

<sup>28</sup> *Id.* at 2.

<sup>29</sup> *Id.* at 4.

<sup>30</sup> *Id.*

<sup>31</sup> Connecticut Employment Law Blog, "Paid Sick Leave: The Basics Of What Employers Need to Know," June 7, 2011, available at

<http://www.ctemploymentlawblog.com/2011/06/articles/paidsickleaveemployers/>.

<sup>32</sup> An Overview at 31 and 33.

<sup>33</sup> U.S. Bureau of Labor Statistics, Program Perspectives, Vol. 2, Issue 2, Paid Sick Leave in the United States, March 2010 ("USBLA Program Perspectives").

private employers give an average of 8 paid sick days and public employees receive an average of 11 days per year.<sup>34</sup> The BLS's most recent report on paid sick time, issued in March 2012 continues to cite these 2009 numbers as the most up-to-date data.<sup>35</sup>

According to the Institute for Women's Policy Research ("IWPR"), on average, most employees with sick time benefits take 3.95 sick days per year (although this is estimated to be only 2.2 days in New York City<sup>36</sup>). Those without the benefit take about 3.35.<sup>37</sup>

The type of employment and size of the business often determines whether an employee receives paid sick days:

- 82 percent of managers and professionals receive sick days, but only 42 percent of service workers do.<sup>38</sup>
- Full-time employees are much more likely to receive sick days (73 percent) than part-time employees (26 percent).<sup>39</sup>
- High wage workers are also much more likely to receive sick days; 81 percent of workers in the top 25 percent income earners have sick days compared with 33 percent in the lowest 25 percent of income earners.<sup>40</sup>
- Most full-time state and local government employees receive sick days (98 percent) compared to 42 percent of such part-time workers.<sup>41</sup>
- 97 percent of State and local government workers covered by collective bargaining agreements receive sick days, compared with 83 percent of non-unionized employees.<sup>42</sup>
- Employers with 500 or more workers provide an average of 11 paid sick days.<sup>43</sup>
- Employers with less than a hundred employees provide an average of 6 days.<sup>44</sup>

<sup>34</sup> *Id.* at 2.

<sup>35</sup> Ross O. Barthold and Jason L. Ford, "Paid Sick Leave: Prevalence, Provision, and Usage among Full-Time Workers in Private Industry," U.S. Bureau of Labor Statistics, Feb. 29, 2012, available at: <http://www.bls.gov/opub/cwc/cm20120228ar01p1.htm>.

<sup>36</sup> See Sec. II(B)(2).

<sup>37</sup> Vicky Lovell, Ph.D., "Valuing Good Health: An Estimate of Costs and Savings for the Healthy Families Act," Institute for Women's Policy Research, April 2005.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

## 2. New York City Numbers

According to the IWPR, 1.6 million or 50 percent of New York City workers do not receive any paid sick days.<sup>45</sup> In addition 850,000 workers have no paid leave or vacation time of any kind.<sup>46</sup> Based on the version of Proposed Intro. No. 97-A heard at the hearing in March of this year, IWPR estimates that workers with paid sick time in the City will use an average of 2.2 sick days per year.<sup>47</sup>

## C. Costs

### 1. U.S. Bureau of Labor Statistics

The U.S. Bureau of Labor Statistics estimates that as of June 2009, private industry employer compensation costs nationwide averaged \$27.42 per hour worked.<sup>48</sup> Wages and salaries averaged \$19.39 per hour (70.7 percent), while benefits averaged \$8.02 (29.3 percent).<sup>49</sup> Employer costs for paid leave averaged \$1.85 per hour worked (6.8 percent), of which paid sick leave comprised 23¢ (0.8%) of total paid leave costs.<sup>50</sup> When that figure is broken down by type of business, the cost for management, professional and related occupations is 53¢ per hour, and the cost for service employees is only 8¢ per hour.<sup>51</sup>

<sup>45</sup> Kevin Miller, Ph.D. and Claudia Williams, "Paid Sick Days in New York City Would Lower Health Care Costs by Reducing Unnecessary Emergency Department Visits," Institute for Women's Policy Research, Feb. 2012 at 1, available at: <http://www.iwpr.org/publications/pubs/paid-sick-days-in-new-york-city-would-lower-health-care-costs-by-reducing-unnecessary-emergency-department-visits>.

<sup>46</sup> Kevin Miller, Ph.D. and Claudia Williams, "Valuing Good Health Health in New York City: The Costs and Benefits of Paid Sick Days," (Valuing Good Health), Institute for Women's Policy Research, Sept. 2009 at 1, available at: <http://www.iwpr.org/publications/pubs/valuing-good-health-in-new-york-city-the-costs-and-benefits-of-paid-sick-days-1>.

<sup>47</sup> Institute for Women's Policy Research, "Fact Sheet: Valuing Good Health in New York City: The Costs and Benefits of Earned Sick Days," at 1, March 2013, available [http://www.iwpr.org/publications/pubs/valuing-goodhealth-in-new-york-city-the-costs-and-benefits-of-earned-sick-days-1/at\\_download/file](http://www.iwpr.org/publications/pubs/valuing-goodhealth-in-new-york-city-the-costs-and-benefits-of-earned-sick-days-1/at_download/file).

<sup>48</sup> U.S. Dep't of Labor, Bureau of Labor Statistics: "Employer Costs for Employee Compensation" June 2009 available at <http://www.bls.gov/news.release/pdf/ecec.pdf>.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

### Institute for Women's Policy Research Study

According to the Institute for Women's Policy Research, based on the first version of Proposed Intro. No. 97-A, the cost of implementing this bill would be the equivalent of raising wages 18¢ per hour or \$6.31 per week. 52 53 IWPR estimates that workers will take an average of 2.2 days under this law.<sup>54</sup> Further, IWPR estimates that it will save approximately \$70 million annually in health care expenditures, of which \$56 million would be savings from public health insurance programs.<sup>55</sup>

### New York City Council Finance Division Analysis

Appendix A to the March 22, 2013 Committee Report as well as this Committee Report on the original Proposed Intro. No. 97-A, is an analysis of the economics of paid sick leave prepared by the New York City Council Finance Division, entitled "Some Simple Economics of Paid Sick Leave: Economic Analysis of Proposed Intro. No. 97-A." It should be noted that the economic research on paid sick leave is slim. However, there exists a good body of work on the economics of mandated benefits in general that can be applied to a mandated sick leave benefit. Presented here is a short summary of the discussion.

It is clear from the public discourse that there is an economic value to workers for paid sick leave. A number of companies provide it to their workers as part of their compensation. Proposed Intro. No. 97-A seeks to provide this value to workers who do not yet have it through a legislative mandate. However, as Lawrence Summers warns, "[t]here is no sense in which a benefit becomes 'free' just because government mandates employers to offer them to workers." Mandating paid sick leave does not just provide a benefit to workers, but it also imposes a cost.

<sup>52</sup> Fact Sheet: Valuing Good Health in New York City: The Costs and Benefits of Earned Sick Days, at 1.

<sup>53</sup> Changes have been made to the bill since this determination was made, including changing coverage from employers with five or more employees to employers with fifteen employees.

<sup>54</sup> Fact Sheet: Valuing Good Health in New York City: The Costs and Benefits of Earned Sick Days, at 1.

<sup>55</sup> *Id.*

Moreover, a good portion of this cost will eventually be borne by the workers themselves, in the form of wages that are lower than they would be without the mandate.

New York City Council Finance estimates the costs of such a mandate as proposed in this legislation to be between 1.1 to 1.8 percent of the payroll of the impacted workforce. Initially, firms will be forced to absorb some of these costs, but an economic adjustment process will reduce this burden as firms try to restore their profits.

Basic economic theory posits that this adjustment will be done by lowering wages paid to impacted workers and possibly by reducing the workforce. However, in the real world, wages tend to be sticky in the downward direction; it is hard to reduce an employee's wage. If firms are unable to reduce wages but remain under pressure from increased labor costs, reduced employment will result. The reduction in employment is a temporary phenomenon during the adjustment process to the new mandate.

One way to avoid this temporary unemployment is by introducing the mandate during a period of wage growth. When wages are growing, firms can pass some of the costs to workers through slower wage increases without having to reduce employment or reduce employees' wages. The timing of when paid sick leave is introduced does matter.

Currently about 74 percent of New York City's workers have access to paid sick leave. Workers who do not have paid sick leave tend to have lower wages and work for smaller firms. This is not accidental, and in fact this pattern is found with most fringe benefits including pensions, vacation days and health insurance. In part this is an unintended consequence of other policies, such as progressive taxation. However, most of it reflects the basic economic realities of small business and low income workers.

There are economies of scale to providing fringe benefits. Put simply, the bigger you are the cheaper it gets. The addendum explores one aspect of this that applies to paid sick leave;

small firms may find adapting to the mandate more difficult since their smaller workforce size makes it harder for them to manage the volatility that comes from workforce absences.

The type of firm impacted matters as well. Firms, such as those in warehousing, distribution, and wholesaling, will find it difficult to raise prices to compensate for the added costs because many of their competitors are not located in New York City and are not subject to the mandate.

It should not be blindly assumed that all firms will be similarly impacted by a paid sick leave mandate. If a firm's costs to offer the required benefit differ from the overall market, the firm will not be able to pass all of those cost on to workers or customers. While overall employment effects from the mandate could be small there could be "substantial employment reallocation across firms." Basically there is a risk that a mandated benefit like paid sick leave could have an impact on the structure of an industry, favoring larger firms that are better capable of handling it, over smaller ones.

One final consideration is that the value of the mandate is not just a sum of the value to all the workers who would receive paid sick leave. To a degree, firms and even society at large, would benefit from this mandate because it would help control the spread of infectious disease. A sick worker is not as productive as a healthy worker, which in turn means illness has a cost to a firm. By encouraging sick workers to remain home, paid sick leave may help reduce the potential for healthy workers to get sick. Expanding the argument, some epidemiological research has shown that measures that allow sick workers to avoid social contact, such as paid sick leave, can help reduce the spread of contagion and thus illness in society. This public health benefit should be part of the equation when discussing the relative costs and benefits of paid sick leave.

Policy makers should not solely ask whether paid sick leave should be extended to those who do not have it. It is important that they consider the questions of how, when, and to what extent the benefit should be expanded. Not doing so could have negative and completely avoidable consequences.

### III. Proposed Int. No. 97-A

#### A. Bill Text

Proposed Int. No. 97-A would allow employees to earn a minimum amount of paid sick time from their employees. Section one of this legislation would contain a statement of legislative intent which reads:

The City Council finds that nearly every worker at some time during each year will need time off from work to take care of his or her health needs or the health needs of family members.

Providing the right to earned sick time will therefore have a positive effect on the public health of the City and lessen the spread of and exposure to diseases. The Council further finds that supporting a healthy workforce will foster greater employee retention and productivity, and recognizes that responsible businesses that already have policies that allow time off that amounts to at least the minimum requirements under this law, and that can be taken for the same reasons and under the same conditions as enumerated in this legislation, will not be required to provide additional sick time. Providing sick time to workers at a time when the economy is improving, and ensuring that workers' jobs are protected when they need to take a sick day, strikes the right balance and will result in a more prosperous, safe and healthy City.

Bill section 2 would amend 2203 of the New York City Charter pertaining to the powers of the Commissioner of Consumer Affairs and the powers of the Department of Consumer Affairs concerning the Earned Sick Time Act created by this legislation, by adding a new subdivision e, relettering current subdivisions e through g as subdivisions f through h, and amending relettered subdivisions f and h(1) to read as follows:

(e) The commissioner shall have all powers as set forth in chapter 8 of title 20 of the administrative code relating to the receipt, investigation, and resolution of complaints thereunder regarding earned sick time.

(f) The commissioner, in the performance of said functions, including those functions pursuant to subdivision e of this section, shall be authorized to hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, and to receive, administer, pay over and distribute monies collected in and as a result of actions brought for violations of laws relating to deceptive or unconscionable trade practices, or of related laws, and to promulgate, amend and modify rules and regulations necessary to carry out the powers and duties of the department.

(h) (1) Notwithstanding any inconsistent provision of law, the department

shall be authorized, upon due notice and hearing, to impose civil penalties for the violation of any laws or rules the enforcement of which is within the jurisdiction of the department pursuant to this charter, the administrative code or any other general, special or local law. The department shall have the power to render decisions and orders and to impose civil penalties for all such violations, and to order equitable relief for and payment of monetary damages in connection with enforcement of chapter 8 of title 20 of the administrative code. Except to the extent that dollar limits are otherwise specifically provided, such civil penalties shall not exceed five hundred dollars for each violation. All proceedings authorized pursuant to this subdivision shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this subdivision shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

Bill section 3 would add a new Chapter 8 to Title 20 of the Administrative Code of the City of New York (the Code).

New section 20-911 of the Code would provide that this chapter would be known and cited as the "Earned Sick Time Act."

New section 20-912 of the Code is the definitional provision. This subdivision would provide definitions of the following terms used in this section:

a. "Calendar year" would mean a regular and consecutive twelve month period, as determined by an employer.

b. "Chain business" would mean any employer that is part of a group of establishments that share a common owner or principal who owns at least thirty percent of each establishment where such establishments (i) engage in the same business or (ii) operate pursuant to franchise agreements with the same franchisor as defined in general business law section 681; provided that the total number of employees of all such establishments in such group is at least fifteen.

#### Explanation:

This definition is intended to capture businesses in the same field that are owned by the same person or entity (at least 30 percent ownership of each establishment), but which might have distinct corporate structures, or are separately franchised establishments. Individually, some of these establishments may have less than 15 employees, but all related establishments should be used in counting the number of employees. The law is not intended to apply to a franchisor that owns only one franchise that employs less than 15 employees.

For example, if an individual owned at least 30 percent of three pizzerias in New York City that each employs seven employees, all three establishments would be counted together and be required to provide paid sick time. On the other hand, another individual who owned one Dunkin' Donuts franchise that employs 14 people would *not* be required to provide paid sick time. In addition, if someone owned at least 30 percent of a bodega, a liquor store and a Laundromat that each had less than fifteen employees, none of these establishments would be required to provide sick days, because the businesses are not engaged in a similar trade.

Additionally, the word "ownership" is intended to be interpreted broadly. For example, if pursuant to a franchise agreement or other contract, an employer owns at least thirty percent of a business but does not own the business' building or equipment, etc., that employer can be considered a chain business under this law.

c. "Child" would mean a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco parentis.

d. "Domestic partner" would mean any person who has a registered domestic partnership pursuant to section 3-240 of the code, a domestic partnership registered in accordance with Executive Order Number 123, dated August 7, 1989, or a domestic partnership registered in accordance with Executive Order Number 48, dated January 7, 1993.

e. "Domestic worker" would mean any "domestic worker" as defined in section 2(16) of the labor law who is employed for hire within the city of New York for more than eighty hours in a calendar year who performs work on a full-time or part-time basis.

f. "Employee" would mean any "employee" as defined in section 190(2) of the labor law who is employed for hire within the city of New York for more than eighty hours in a calendar year who performs work on a full-time or part-time basis, including work performed in a transitional jobs program pursuant to section 336-f of the social services law, but not including work performed as a participant in a work experience program pursuant to section 336-c of the social services law, and not including those who are employed by (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; or (iii) the city of New York or any local government, municipality or county or any entity governed by general municipal law section 92 or county law section 207.

#### Explanation:

The definition for "employee" used in this bill is from the State Labor Law section 190(2), which reads: "'Employee" means any person employed for hire by an employer in any employment." The choice of this broad definition was intentional. This bill is intended to cover all employees in the State of New York (except those specifically exempted in sections 20-912(f) of the bill). For instance, musicians and other performers who qualify for unemployment insurance coverage pursuant to the Unemployment Compensation Law<sup>56</sup> or covered by the New York Workers Compensation Law<sup>57</sup> are intended to be employees for purposes of this

local law.g.

“Employer” would mean any “employer” as defined in section 190(3) of the labor law, but not including (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; (iii) the city of New York or any local government, municipality or county or any entity governed by general municipal law section 92 or county law section 207; or (iv) any employer that is a business establishment classified in section 31, 32 or 33 of the North American Industry Classification System. In determining the number of employees performing work for an employer for compensation during a given week, all employees performing work for compensation on a full-time, part-time or temporary basis would be counted, provided that where the number of employees who work for an employer for

<sup>56</sup> New York Labor Law § 500 *et seq.*

compensation per week fluctuates, business size may be determined for the current calendar year based upon the average number of employees who worked for compensation per week during the preceding calendar year, and provided further that in determining the number of employees performing work for an employer that is a chain business, the total number of employees in that group of establishments would be counted.

<sup>57</sup> New York Workers Compensation Law § 200 *et seq.*

*Explanation:*

For a detailed description of what sections 31, 32 or 33 of the North American Industry Classification System cover, please see the U.S. Bureau of Labor Statistics website.<sup>58</sup>

h. “Family member” would mean an employee's child, spouse, domestic partner or parent, or the child or parent of an employee's spouse or domestic partner.

i. “Health care provider” would mean any person licensed under federal or New York State law to provide medical or emergency services, including, but not limited to, doctors, nurses and emergency room personnel.

j. “Hourly professional employee” would mean any individual (i) who is professionally licensed by the New York state education department, office of professions, under the direction of the New York state board of regents under education law sections 6732, 7902 or 8202, (ii) who calls in for work assignments at will determining his or her own work schedule with the ability to reject or accept any assignment referred to them and (iii) who is paid an average hourly wage which is at least four times the federal minimum wage for hours worked during the calendar year.

*Explanation:*

New York Education Law section 6732 covers physical therapists; Section 7902 covers occupational therapists; and section covers speech language pathologists.

k. “Paid sick time” would mean time that is provided by an employer to an employee that can be used for the purposes described in section 20-914 of this chapter and is compensated at the same rate as the employee earns from his or her employment at the time the employee uses such time, except that an employee who volunteers or agrees to work hours in addition to his or her normal schedule will not receive more in paid sick time compensation than his or her regular hourly wage if such employee is not able to work the hours for which he or she has volunteered or agreed even if the reason for such inability to work is one of the reasons in section 20-914 of this chapter. In no case shall an employer be required to pay more to an employee for paid sick time than the employee's regular rate of pay at the time the employee uses such paid sick time, except that in no case shall the paid sick time hourly rate be less than the hourly rate provided in section 652(1) of the labor law.

l. “Parent” would mean a biological, foster, step- or adoptive parent, or a legal guardian of an employee, or a person who stood in loco parentis when the employee was a minor child.

m. “Public disaster” would mean an event such as fire, explosion, terrorist attack, severe weather conditions or other catastrophe that is declared a public emergency or disaster by the president of the United States, the Governor of the State of New York or the Mayor of the City of New York.

n. “Public health emergency” would mean a declaration made by the commissioner of health and mental hygiene pursuant to section 3.01(d) of the New York city health code or by the mayor pursuant to section 24 of the executive law.

o. “Public service commission” would mean the public service commission established by section 4 of the public service law.

p. “Retaliation” would mean any threat, discipline, discharge, demotion, suspension, or reduction in employee hours, or any other adverse employment action against any employee for exercising or attempting to exercise any right guaranteed under this chapter.

q. “Sick time” would mean time that is provided by an employer to an employee that can be used for the purposes described in section 20-914 of this chapter, whether or not compensation for that time is required pursuant to this chapter.

r. “Spouse” shall mean a person to whom an employee is legally married under the laws of the state of New York.

New section 20-913 would provide for the right to and accrual of paid sick time. Subdivision a of such section would declare that all employers that employ

fifteen or more employees and all employers of one or more domestic workers would provide paid sick time to their employees in accordance with the provisions of this chapter and the schedule set forth in section 7 of this local law and all employees not entitled to paid sick time pursuant to this chapter would be entitled to unpaid sick time in accordance with the schedule set forth in section 7 of the local law which enacted this section. Additionally, all employers that employ fifteen to nineteen employees, and all employers of one or more domestic workers, would provide unpaid sick time in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section during any period in which, pursuant to the schedule set forth in section 7 of the local law which enacted this section, such employers would not be required to provide paid sick time but employers that employ twenty or more employees are required to provide paid sick time.

*Explanation:*

For example, assuming economic conditions do not worsen<sup>59</sup> and the bill goes into effect on April 1, 2014, the employees of any business with 20 or more employees would start accruing paid sick time and businesses under 20 employees would start accruing unpaid sick time. Eighteen months later, on October 1, 2015, employees of businesses with 15–19 employees, and domestic workers would begin accruing paid sick time. Subdivision b of such section would require that all employers provide a minimum of one hour of sick time for every thirty hours worked by an employee, other than a domestic worker who would accrue sick time pursuant to paragraph 2 of subdivision d of this section. Employers would not be required under this chapter to provide more than forty hours of sick time for an employee in a calendar year. For purposes of this subdivision, any paid days of rest to which a domestic worker is entitled pursuant to section 161(1) of the labor law shall count toward such forty hours. Nothing in this chapter would be construed to discourage or prohibit an employer from allowing the accrual of sick time at a faster rate or use of sick time at an earlier date than this chapter requires.

Subdivision c of such section would provide that an employer required to provide paid sick time pursuant to this chapter who provides an employee with an amount of paid leave, including paid time off, paid vacation, paid personal days or paid days of rest required to be compensated pursuant to section 161(1) of the labor law, sufficient to meet the requirements of this section and who allows such paid leave to be used for the same purposes and under the same conditions as sick time required pursuant to this chapter, would not be required to provide additional paid sick time for such employee whether or not such employee chooses to use such leave for the purposes included in subdivision a of section 20-914 of this chapter. It would also state that an employer required to provide unpaid sick time pursuant to this chapter who provides an employee with an amount of unpaid or paid leave, including unpaid or paid time off, unpaid or paid vacation, or unpaid or paid personal days, sufficient to meet the requirements of this section and who allows such leave to be used for the same purposes and under the same conditions as sick time required pursuant to this chapter, would not be required to provide additional unpaid sick time for such employee whether or not such employee chooses to use such leave for the purposes included in subdivision a of section 20-914 of this chapter.

*Explanation:*

Employers who provide at least five days of any kind of paid time off, (*i.e.*, personal days, vacation, sick leave, etc.), that may be used for the same purposes as elaborated in the bill, would not be required to provide additional paid sick days. Further, an employer that is required to provide unpaid sick time pursuant to this bill, who provides an employee with unpaid or paid leave, that is sufficient to meet the requirements of this bill and who allows such leave to be used for the same purposes as sick time required under this bill, is not required to provide additional unpaid sick time for such employee whether or not such employee chooses to use such leave for sick time purposes.

If an employer provides employees with five vacation days that can be used as sick days under the provisions of this law, the employer does not need to provide additional days. The employee has a choice to use these days as vacation days or sick days. If they choose to use them for vacation, the employer is not required to provide additional sick days.

For domestic workers, the three paid days of rest provided for under the State Labor Law can be used towards the employers' requirement to provide paid or unpaid sick time.

Subdivision d of such section would provide that for an employee other than a domestic worker, sick time as provided pursuant to this chapter would begin to accrue at the commencement of employment or on the effective date of this local law, whichever is later, and an employee would be entitled to begin using sick time on the one hundred twentieth calendar day following commencement of his or her employment or on the one hundred and twentieth day following the effective date of this local law, whichever is later. After the one hundred twentieth calendar day of employment or after the one hundred twentieth calendar day following the effective date of this local law, whichever is later, such employee would be able to use sick time as it is accrued. It would also provide that in addition to the paid day or days of rest to which a domestic worker is entitled pursuant to section 161(1) of the labor law, such domestic worker would also be entitled to two days of paid sick time as of the date that such domestic worker is entitled to such paid day or days of rest and annually thereafter, provided that notwithstanding any provision of this chapter to the contrary, such two days of paid sick time would be calculated in the same manner as the paid day or days of rest are calculated pursuant to the provisions of section 161(1) of the labor law.

*Explanation:*

For example, if under the State Labor Law a domestic worker is entitled to three five-hour days of rest, the proposed law would in no way interfere with these 3 days but would provide that they could accrue two additional days of sick time, which would accrue and be calculated in the same manner as the three days of rest are accrued and calculated under the State Labor Law. So, under the above scenario, a domestic worker would be entitled to two additional five-hour days of rest under this law.

Subdivision e of such section would provide that employees who are not covered by the overtime requirements of New York state law or regulations, including the wage orders promulgated by the New York commissioner of labor pursuant to article 19 or 19-A of the labor law, would be assumed to work forty hours in each work week for purposes of sick time accrual unless their regular work week is less than forty hours, in which case sick time accrues based upon that regular work week.

Subdivision f of such section would provide that the provisions of this chapter would not apply to work study programs under 42 U.S.C. section 2753, employees for the hours worked and compensated by or through qualified scholarships as defined in 26 U.S.C. section 117, independent contractors who do not meet the definition of employee under section 190(2) of the labor law, and hourly professional employees.

Subdivision g of such section would provide that employees would determine how much earned sick time they need to use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per day.

Subdivision h of such section would provide that except for domestic workers, unused sick time as provided pursuant to this chapter would be carried over to the following calendar year; provided that no employer would be required to allow the use of more than forty hours of sick time in a calendar year or carry over unused paid sick time if the employee is paid for any unused sick time at the end of the calendar year in which such time is accrued and the employer provides the employee with an amount of paid sick time that meets or exceeds the requirements of this chapter for such employee for the immediately subsequent calendar year on the first day of the immediately subsequent calendar year.

*Explanation:*

For example if an employer pays its workers for their unused sick time at the end of the business fiscal year, the employer would have to give the employee the amount of sick time the employee would have accrued during the year on the first day of the new year.

Subdivision i of such section would provide that that nothing in this section should be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued sick time that has not been used.

Subdivision j of such section would provide that if an employee was transferred to a separate division, entity or location in the city of New York, but remains employed by the same employer, such employee would be entitled to all sick time accrued at the prior division, entity or location and would be entitled to retain or use all sick time as provided pursuant to the provisions of this chapter. When there is a separation from employment and the employee was rehired within six months of separation by the same employer, previously accrued sick time that was not used would be reinstated and such employee would be entitled to use such accrued sick time at any time after such employee is rehired; provided that no employer would be required to reinstate such sick time to the extent the employee was paid for unused accrued sick time prior to separation and the employee agrees to accept such pay for such unused sick time.

New section 20-914 of the Code would be entitled "Use of sick time." This section would provide under paragraph one that an employee would be entitled to use paid sick time for absence from work due to the following situations:

1. An employee's mental or physical illness, injury or health condition or need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition or need for preventive medical care;
2. Care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or who needs preventive medical care; or

3. Closure of an employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or childcare provider has been closed by order of a public official due to a public health emergency.

Under subdivision b of such section, this bill would provide that an employer could require reasonable notice of the need to use sick time. Where such need was foreseeable, an employer could require reasonable advance notice of the intention to use such sick time, not to exceed seven days prior to the date such sick time is to begin. Where such need is not foreseeable, an employer could require an employee to provide notice of the need for the use of sick time as soon as practicable.

Subdivision c of such section would provide that for an absence of more than three consecutive work days, an employer could require reasonable documentation that the use of sick time was authorized by subdivision a of this section. For sick time used pursuant to paragraphs 1 and 2 of subdivision a of this

section, documentation signed by a licensed health care provider indicating the need for the amount of sick time taken would be considered reasonable documentation. An employer could not require that such documentation specify the nature of the employee's or the employee's family member's injury, illness or condition, except as required by law.

*Explanation:*

Absence from work means an absence from a day or period of hours an employee was scheduled to work.

Subdivision d of such section would provide that nothing in the local law would prevent an employer from requiring an employee to provide written confirmation that an employee used sick time pursuant to this section.

Subdivision e of such section would provide that an employer could not require an employee, as a condition of taking sick time, to search for or find a replacement worker to cover the hours during which such employee is utilizing sick time.

Subdivision f of such section would provide that nothing in this chapter would be construed to prohibit an employer from taking disciplinary action, up to and including termination, against a worker who uses sick time provided pursuant to this chapter for purposes other than those described in this section.

New section 20-915 of the code would be entitled "Changing schedule." Under this section, upon mutual consent of the employee and the employer, an employee who is absent for a reason listed in subdivision a of section 20-914 of this chapter could work additional hours during the immediately preceding seven days if the absence was foreseeable or within the immediately subsequent seven days from that absence without using sick time to make up for the original hours for which such employee was absent, provided that an adjunct professor who is an employee at an institute of higher education could work such additional hours at any time during the academic term. An employer could not require such employee to work additional hours to make up for the original hours for which such employee was absent or to search for or find a replacement employee to cover the hours during which the employee is absent pursuant to this section. If such employee worked additional hours, and such hours were fewer than the number of hours such employee was originally scheduled to work, then such employee would be able to use sick time provided pursuant to this chapter for the difference. Should the employee work additional hours, the employer would comply with any applicable federal, state or local labor laws.

New section 20-916 of the Code would be entitled "Collective bargaining agreements" and subdivision a of such section would provide that the provisions of this chapter would not apply to any employee covered by a valid collective bargaining agreement if (i) such provisions were expressly waived in such collective bargaining agreement and (ii) such agreement provides for a comparable benefit for the employees covered by such agreement in the form of paid days off; such paid days off shall be in the form of leave, compensation, other employee benefits, or some combination thereof. Comparable benefits shall include, but are not limited to, vacation time, personal time, sick time, and holiday and Sunday time pay at premium rates.

Subdivision b of such section would provide that notwithstanding subdivision a of this section, the provisions of this chapter would not apply to any employee in the construction or grocery industry covered by a valid collective bargaining agreement if such provisions were expressly waived in such collective bargaining agreement.

New section 20-917 of the Code would be entitled "Public disasters" and would provide that in the event of a public disaster, the mayor could, for the length of such disaster, suspend the provisions of this chapter for businesses, corporations or other entities regulated by the public service commission.

New section 20-918 of the Code would be entitled "Retaliation and interference prohibited" and would provide that no employer should engage in retaliation or threaten retaliation against an employee for exercising or attempting to exercise any right provided pursuant to this chapter, or interfere with any investigation, proceeding or hearing pursuant to this chapter. The protections of this chapter would apply to any person who mistakenly but in good faith alleges a violation of this chapter. Rights under this chapter would include, but not be limited to, the right to request and use sick time, file a complaint for alleged violations of this chapter with the department, communicate with any person about any violation of this chapter, participate in any administrative or judicial action regarding an alleged violation of this chapter, or inform any person of his or her potential rights under this chapter.

New section 20-919 of the Code would be entitled "Notice of rights." Pursuant to the provisions of subdivision a of this section, an employer must provide an employee at the commencement of employment with written notice of such employee's right to sick time pursuant to this chapter, including the accrual and use of sick time, the calendar year of the employer, and the right to be free from retaliation and to bring a complaint to the department. Such notice would be in English and the primary language spoken by that employee, provided that the department has made available a translation of such notice in such language pursuant to subdivision b of this section. Such notice could also be conspicuously posted at an employer's place of business in an area accessible to employees.

Subdivision b of such section would provide that the department would create and make available notices that contain the information required pursuant to subdivision a of this section and such notices would allow for the employer to fill in applicable dates for such employer's calendar year. Such notices would be posted in a downloadable format on the department's website in Chinese, English, French-Creole, Italian, Korean, Russian, Spanish and any other language deemed appropriate by the department.

Subdivision c of such section would provide that any person or entity that



willfully violated the notice requirements of this section would be subject to a civil fine in an amount not to exceed fifty dollars for each employee who was not given appropriate notice pursuant to this section.

New section 20-920 of the Code would be entitled “Employer records.” This section would provide that employers should retain records documenting such employer's compliance with the requirements of this chapter for a period of two years unless otherwise required pursuant to any other law, rule or regulation, and shall allow the department to access such records, with appropriate notice and at a mutually agreeable time, in furtherance of an investigation conducted pursuant to this chapter.

New section 20-921 would be entitled “Confidentiality and nondisclosure.” This section would provide that no person or entity could require the disclosure of details relating to an employee's or his or her family member's medical condition as a condition of providing sick time under this chapter. Health information about an employee or an employee's family member obtained solely for the purposes of utilizing sick time pursuant to this chapter would be treated as confidential and would not be disclosed except by the affected employee, with the permission of the affected employee or as required by law.

*Explanation:*

The prohibition of employers disclosing confidential information about an employee's medical condition is intended only to apply to confidential information obtained pursuant to this local law and is not intended to effect whether an employer whose employee is also requesting time off or other accommodations based on the American's with Disabilities Act, the Family and Medical Leave Act, or any other law, is required to disclose an employee's confidential medical information.

New section 20-922 of the Code would be entitled “Encouragement of more generous policies; with no effect on more generous policies.” Subdivision a of this section would provide that nothing in this chapter should be construed to discourage or prohibit the adoption or retention of a sick time policy more generous than that which is required herein.

Subdivision b of such section would provide that nothing in this chapter would be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time to an employee than required herein.

Subdivision c of such section would provide that nothing in this chapter should be construed as diminishing the rights of public employees regarding sick time as provided pursuant to federal, state or city law.

New section 20-923 of the Code would be entitled “other legal requirements.” Under subdivision a of this section would provide that this chapter provides minimum requirements pertaining to sick time and shall not be construed to preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees.

Under subdivision b of such section, nothing in this chapter should be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation, nor should anything in this chapter be construed to diminish or impair the rights of an employee or employer under any valid collective bargaining agreement.

New section 20-924 of the Code would be entitled “Enforcement and Penalties” and subdivision a of this section would provide that the department would enforce the provisions of this chapter. In effectuating such enforcement, the department would establish a system utilizing multiple means of communication to receive complaints regarding non-compliance with this chapter and investigate complaints received by the department in a timely manner.

*Explanation:*

The Department of Consumer Affairs administration of the bill is complaint driven.

Subdivision b of such section would provide that any person alleging a violation of this chapter would have the right to file a complaint with the department within 270 days of the date the person knew or should have known of the alleged violation. The department would maintain confidential the identity of any complainant unless disclosure of such complainant's identity is necessary for resolution of the investigation or otherwise required by law. The department would, to the extent practicable, notify such complainant that the department would be disclosing his or her identity prior to such disclosure.

Subdivision c of such section would provide that upon receiving a complaint alleging a violation of this chapter, the department would investigate such complaint and attempt to resolve it through mediation. The department would keep complainants reasonably notified regarding the status of their complaint and any resultant investigation. If the department believed that a violation had occurred, it would issue to the offending person or entity a notice of violation. The commissioner would have prescribed the form and wording of such notices of violation. The notice of violation would be returnable to the administrative tribunal authorized to adjudicate violations of this chapter.

Subdivision d of such section would provide that the department would have the power to impose penalties provided for in this chapter and to grant an employee or former employee all appropriate relief. Such relief include: (i) for each instance of sick time taken by an employee but unlawfully not compensated by the

employer: three times the wages that should have been paid under this chapter or two hundred fifty dollars, whichever is greater; (ii) for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding a replacement worker, or for each instance an employer requires an employee to work additional hours without the mutual consent of such employer and employee in violation of section 20 915 of this chapter to make up for the original hours during which such employee is absent pursuant to this chapter: five hundred dollars; (iii) for each instance of unlawful retaliation not including discharge from employment: full compensation including wages and benefits lost, five hundred dollars and equitable relief as appropriate; and (iv) for each instance of unlawful discharge from employment: full compensation including wages and benefits lost, two thousand five hundred dollars and equitable relief, including reinstatement, as appropriate.

Subdivision e of such section would provide that any entity or person found to be in violation of the provisions of sections 20-913, 20-914, 20-915 or 20-918 of this chapter would be liable for a civil penalty payable to the city not to exceed five hundred dollars for the first violation and, for subsequent violations that occur within two years of any previous violation, not to exceed seven hundred and fifty dollars for the second violation and not to exceed one thousand dollars for each succeeding violation

Subdivision f of such section would provide that the department would annually report on its website the number and nature of the complaints received pursuant to this chapter, the results of investigations undertaken pursuant to this chapter, including the number of complaints not substantiated and the number of notices of violations issued, the number and nature of adjudications pursuant to this chapter, and the average time for a complaint to be resolved pursuant to this chapter.

Bill section 4 would contain a severability clause. This provision would provide that if any section, subdivision, paragraph, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

Bill section 5 would provide that pursuant to section 260 of the New York City Charter, no later than thirty months after employers with twenty or more employees are required to provide sick time to employees pursuant to section 3 of this local law, the Independent Budget office (“IBO”) would report to the Mayor and the Council and post on its website a report presenting data and analysis related to the costs and benefits of the Earned Sick Time Act. Such report would include to the extent practicable given available data and analysis, and methodologies, but not be limited to, data regarding wage and employment rates; businesses, including small business start-up and failure rates, expenses and revenues; and infectious disease rates; and shall include to the extent possible a comparison of New York City with surrounding counties and large cities comparable to New York City that do not provide sick time. When reporting this data, the IBO director would ensure that IBO uses appropriate and professionally accepted methodologies for comparing similar data and identify such methodologies in the report, and shall clearly specify the extent to which the earned sick time act can properly be determined to have had an impact on any of the data analyzed. The report would be contingent on the availability to IBO of data the IBO director determines to be necessary to complete such report. The IBO director would be authorized to secure such information, data, estimates and statistics from the agencies of the City as the director determines to be necessary in the preparation of such report, and such agencies shall provide such information to the extent that it is available in a timely fashion.

Bill section 6 would provide that on December 16, 2013, the Independent Budget Office would submit to the Council a determination stating whether the most recent New York City Coincident Economic Index or similar successor index as published by the Federal Reserve Bank of New York (the “Index”) was at or above its January 2012 level. If such determination stated that the Index was below its January 2012 level, the IBO would make and submit a determination every June 16 and December 16 of each year thereafter, until it determines that the Index is at or above its January 2012 level.

Bill section 7 would provide that this local law would take effect pursuant to the following schedule:

(1) If the December 16, 2013 Independent Budget Office (“IBO”) determination shows that the most recent New York City Coincident Economic Index or similar successor index as published by the Federal Reserve Bank of New York (the “Index”) is at or above its January 2012 level, then:

(a) All employers that employ twenty or more employees must comply with the provisions of this local law on April 1, 2014;

(b) all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local law regarding paid sick time on October 1, 2015; and

(c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on April 1, 2014.

(2) If on December 16, 2013, the Index is not at or above its January 2012 level, but on June 16, 2014, the Index is at or above its January 2012 level as determined by the IBO, then:

(a) All employers that employ twenty or more employees must comply with the provisions of this local law on October 1, 2014;

(b) all employers that employ fifteen to nineteen employees or a

domestic worker must comply with the provisions of this local law regarding paid sick time on April 1, 2015; and

(c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on October 1, 2014.

(3) If on June 16, 2014, the Index is not at or above its January 2012 level, but on December 16, 2014, the Index is at or above its January 2012 level as determined by the IBO, then:

(a) All employers that employ twenty or more employees must comply with the provisions of this local law on April 1, 2015; all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local law on October 1, 2016; and

(b) all employers with employees not entitled to paid sick time pursuant to this chapter must comply with the provisions of this local law regarding paid sick time on April 1, 2015.

(c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on April 1, 2015.

(4) If on December 16, 2014 the Index is not at or above its January 2012 level, then the IBO shall make a determination every June 16<sup>th</sup> and December 16<sup>th</sup> of each year thereafter until such Index is at or above its January 2012 level, and the effective date of this local law for all employers shall be on the succeeding October 1 or April 1, respectively, after the first such determination that the Index is at or above its January 2012 level.

(5) Notwithstanding the preceding paragraphs (1) through (4), in the case of employees covered by a valid collective bargaining agreement in effect on the effective date prescribed by such preceding paragraphs, this local law shall take effect on the date of the termination of such agreement.

(6) This local law shall take effect pursuant to the preceding paragraphs and the commissioner shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

*Explanation:*

This bill would go into effect only if the economy stays the same or improves, according to a certain economic indicator.<sup>60</sup> The City’s Independent Budget Office will check the economic indicator on December 16<sup>th</sup> and if it is at the same level or better than it was in January 2012, it will go into effect. On April 1, 2014 employers with 20 or more employees will have to provide paid sick time and most other employers will have to provide unpaid sick time. Eighteen months later, on October 1, 2015, businesses with 15– 19 employees and employers of domestic workers would have to provide paid sick time instead of unpaid sick time.

If the economy is worse on December 16<sup>th</sup>, the law will be put on hold. The IBO will then check the economic indicator every six months and if the economy has returned to or surpassed the January 2012 level, the law will go into effect on the following April 1<sup>st</sup> or October 1<sup>st</sup>, whichever is sooner, following the same scheme, *i.e.*, it would first apply to businesses 20 or more employees for paid sick days and eighteen months later it would require sick days be given to employees of businesses of 15–19 employees.

<sup>60</sup> New York City Coincident Economic Index or similar successor index as published by the Federal Reserve Bank of New York

**C. Amendments made to former Int. No. 1059-2009**

The following brief descriptions highlight the changes from former Int. No. 1059-2009 which was introduced in the previous legislative session to the originally introduced version of Int. No. 97 (*i.e.* changes made after the first hearing on the bill on November 17, 2009):

Issue Area	Int. No. 1059-2009 Language	Amended Language for Int. No. 97
<b>Definition Issues</b>		
Coverage based on size of business	Small business defined as less than 10 employees, who get 5 paid sick days Employees of businesses with more than get 9 days	Small business definition increased to less than 20 employees; number of days remain 5 for small business and 9 for larger businesses
Seasonal employees	Sick time can be used after 90 days; time rolls over if an employee is rehired within twelve months	Rehired employees keep accrued time if less than 6 months have passed; otherwise accrual starts over
Relatives covered	Includes blood and affinity and third degree relation	Family member means an employee’s child, spouse, domestic partner, parent, grandchild, grandparent, mother-in-law, father-in-law or mother of domestic partner or father of domestic partner. Child means a biological, adopted or foster child, a stepchild, a legal ward, or a child of an employee standing in loco parentis
Public health emergency	No definition	Definition added to the bill
<b>Accrual Issues</b>		
Difficult to determine rate of pay for special shifts, <i>i.e.</i> , catering	All employees receive their pay at the rate they would earn during the time called out sick.	Special shift paid is no more than normal hourly wage
Commissioned workers	Commissioned workers paid at regular rate of pay.	Commission worker pay no more than normal base compensation and no less than minimum wage
Current PTO equivalent policies must continue	If current practices allow time off for the same purposes and amounts of time under this bill, no change is required	Language clarified that current equivalent policies satisfy the law

<b>Administrative Issues</b>		
Bookkeeping practices	Record keeping is required	Required city agency to put forms online and to the extent possible allow bookkeeping to mesh with current practices
Record retention	5 year retention requirement.	3 year retention requirement, unless otherwise required by law, rule or regulation
Documentation concerns to prevent abuse	Notice if foreseeable; for leave more than 3 days a doctor’s note may be required	No change to documentation requirement. Amendment: Inserted a provision stating the law is not meant to interfere with discipline procedures
<b>Collective Bargaining</b>		
“Equivalent” language in collective bargaining clause	Collective bargaining agreements are exempt if there is an express waiver and the benefits are “substantially equivalent.”	Future collective bargaining agreements (CBA) exempted if provisions are expressly waived and comparable benefit is in contract; building and construction industry exempted if expressly waived in CBA
<b>Other Issues</b>		
Rebuttable presumption of retaliation	If negative action is taken within 90 days of taking a sick day, there is a rebuttable presumption that such action is in retaliation against an employee for taking a sick day	Removed rebuttable presumption
Posting of rights in native language of employees	Rights must be posted or distributed to employees in English and in native language of 5% of employees	Requires city agency to create the notice, translate into appropriate languages and post on website; and employer to post in English and the native language of 5% of employees. If an employer does not have and maintain written personnel policies for employees, then must display posters with such rights in such languages. Minimum languages agency to translate posters into include English, Chinese, Korean, Russian and Spanish
Effective date, time for rulemaking, outreach and recession	90 days after enactment	180 days after enactment

**D. Amendments made to Proposed Int. No. 97**

The following brief descriptions highlight the changes from the originally introduced version of Int. No. 97 and Proposed Int. No. 97-A (*i.e.* changes made after the second hearing of the bill on May 11, 2010):

Issue Area	Int. No. 97	Amended Language for Proposed Int. No. 97-A (2010)
<b>Definition Issues</b>		
Coverage based on size of business	All businesses covered employees of employers with less than 20 employees (small business) get 5 days; employees of businesses with 20 employees or more (large business) get 9 days	Businesses with less than 5 employees, get unpaid sick days only; employees or employers with 5 or more employees get 5 days
Seasonal employees	Paid sick days can be used after 90 days	Paid sick days can be used after 120 days
Relative	Family member means an employee's child, spouse, domestic partner, parent, grandchild, grandparent, mother-in-law, father-in-law or mother of domestic partner or father of domestic partner. Child means a biological, adopted or foster child, a stepchild, a legal ward, or a child of an employee standing in loco parentis	Family member means employee's child, spouse, domestic partner, parent, mother-in-law, father-in-law, child of a domestic partner, mother of a domestic partner or father of a domestic partner. Child means a biological, adopted or foster child, a stepchild, a legal ward, a child of a domestic partner, or a child of an employee standing in loco parentis
Retaliation	Definition was "discharge, suspension or demotion by an employer of an employee or any other adverse employment action"	Definition expanded to include "for exercising any right guaranteed under this chapter," and including examples: "any threat, discipline, discharge, demotion, suspension, reduction of hours, or any other adverse action"; also applies to shift swapping and interfering with department's hearings or investigations
<b>Use</b>		
Unpaid Sick Days	No provision	Employees of businesses with less than 5 employees or new small businesses in the first year can take up to 40 hours of unpaid sick time without retribution

Issue Area	Proposed Int. No. 97-A (2010)	Amended Language for Proposed Int. No. 97-A (2013)
<b>Definition Issues</b>		
Coverage based on size of business	Employees of employers with 5 or more employees get 5 days Businesses with less than 5 employees, get unpaid sick days only;	Businesses with 20 or more employees and eighteen months later business with 15 or more employees, employees get 5 days Other business' workers get unpaid sick days only
Manufacturing	Not mentioned, and therefore included in definition of "employer"	Excluded from definition of "employer"
Chain businesses	Not defined	Definition added to ensure employers with multiple locations with a total of more than 15 employees are covered
Employees covered	Hourly professional employees and WEP workers included	Certain, hourly professional employees who are paid at a premium rate and WEP workers are not covered
Relatives covered	Family member means an employee's child, spouse, domestic partner, parent, grandchild, grandparent, mother-in-law, father-in-law or mother of domestic partner or father of domestic partner. Child means a biological, adopted or foster child, a stepchild, a legal ward, or a child of an employee standing in loco parentis	Family member means an employee's child, spouse, domestic partner, parent, mother-in-law, father-in-law or mother of domestic partner or father of domestic partner. Child means a biological, adopted or foster child, a stepchild, a legal ward, or a child of an employee standing in loco parentis
<b>Use</b>		
Shift Swapping	Shift employees may swap shifts within the same pay period instead of using sick time, however they cannot be required to do so	Shift employees may swap shifts within the current, previous or following week instead of using sick time, however they cannot be required to do so
<b>Administrative Issues</b>		
Administering Agency	Department of Health and Mental Hygiene	Department of Consumer Affairs
Placement in the Admin. Code	New Chapter to Title 17: Health	New Chapter to Title 20: Consumer Affairs

Shift swapping	Definition of "Paid Sick Time" states that if employees volunteer for extra shifts that make up missed shifts they cannot also receive paid sick time	New section states that shift employees may swap shifts within the current or following week instead of using sick time, however they cannot be required to do so
<b>Administrative Issues</b>		
Administering Agency	To be determined by the Mayor	Department of Health and Mental Hygiene
Placement in Admin. Code	New section in Chapter 22: Economic Affairs	New Chapter to Title 17: Health
1 Year exemption	None	New small businesses (under 20 employees) exempt for one year
Bookkeeping practices	Record keeping is required	City agency to put forms online and to the extent possible allow bookkeeping to mesh with current practices
Record retention	5 year retention requirement	Three year retention requirement, unless otherwise required by law, rule or regulation
Documentation concerns to prevent abuse	Notice if foreseeable; for leave more than 3 days a doctor's note may be required	Provision added stating the law is not meant to interfere with discipline procedures
Statute of limitations	3 years	18 months
<b>Other Issues</b>		
Placement in the Admin. Code	New Section to Chapter 15 of Title 22: Economic Affairs	New Chapter to Title 17: Health
Providing of rights in native language of employees	Requires city agency to create the notice, translate into appropriate languages and post on website; and employer to post in English and the native language of 5% of employees. If an employer does not have and maintain written personnel policies for employees, then must display posters with such rights in such languages. Minimum languages agency to translate posters into include English, Chinese, Korean, Russian and Spanish	Requires department to post notice in a downloadable format on the department's website in Chinese, English, French-Creole, Italian, Korean, Russian, Spanish and any other language deemed appropriate by the department.

<b>Other Issues</b>		
Right to sue in a private action	Allowed	Not allowed
Damages & Penalties	Damages for sick days taken but not compensated: no less than three times the wages that should have been paid under this chapter or \$500, whichever is greater  Damages for each instance of sick time requested by an employee but unlawfully denied and not taken by the employee: no less than \$1,000  Damages each instance of retaliation not including discharge from employment: full compensation including wages and benefits lost, but in no event less than \$1,000  Damages for each instance of discharge from employment in violation of this chapter: full compensation including, but not limited to, wages and benefits lost, but in no event less than \$5,000  Damages for each instance of unlawful disclosure of confidential information, no less than \$500  Fine for violating law: not less than \$1,000 for the first violation, \$2,000 for the second violation and \$3,000 for each succeeding violation	Damages for sick days taken but not compensated: three times the wages that should have been paid under this chapter or \$250, whichever is greater  Damages for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee: \$500  Damages for each instance of unlawful retaliation not including discharge from employment: full compensation including wages and benefits lost, \$500  Damages for each instance of unlawful discharge from employment: full compensation including wages and benefits lost, \$2,500  No damages  Fine for violating law: not less than \$500 for the first violation, \$750 for the second violation and \$1,000 for each succeeding violation
Effective date, time for rulemaking, outreach and the recession	180 days after enactment	Bill will go into effect 4/1/14 if certain economic indicators do not worsen and if they do, economic conditions will be reviewed semi-annually until they improve
Independent Budget Office (IBO) Study	Not in old version	A study by the (IBO) regarding the effects of the law will be done 30 months after the law goes into effect

**E. Additional amendments made to Proposed Int. No. 97-A**

The following brief descriptions highlight the changes from the amended bill Proposed Int. No. 97-A to a new A version of the legislation (i.e. changes made after the third hearing of the bill on March 22, 2013):

APPENDIX A

NEW YORK CITY COUNCIL FINANCE DIVISION

# Some Simple Economics of Paid Sick Leave

Economic Analysis of Proposed Intro. No. 97-A

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March 22, 2013  
 New York, NY

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**Introduction**

If enacted, Proposed Intro. No. 97-A would mandate paid sick leave for a large number of workers in New York City who do not yet have this benefit. Clearly a paid sick leave benefit is of economic value to these workers, but what may be less clear is the cost of this provision. As Lawrence Summers notes, "(t)here is no sense in which a benefit becomes 'free' just because government mandates employers to offer them to workers."<sup>1</sup> In the long run, a large portion of this cost will be borne by the workers themselves in the form of reduced wages or fewer employment opportunities. It is critical for policy makers to minimize this cost to the extent possible. In this respect, the timing of the imposition of a mandate is important, since choosing when to introduce it can avoid unnecessary costs.

Additionally, the costs are not the same for all firms, which is one of the reasons the market does not provide paid sick leave to everyone. Introducing paid sick leave in a 300 square mile city may be different from introducing it into a continental national economy. This section will demonstrate that the choices about how, when and where this benefit is instituted can be instrumental in minimizing the costs of this benefit to workers.

There is relatively little economic literature on paid sick leave, but there is a rich theoretical and empirical literature on other mandated benefits that can be applied to sick leave that we draw on here.

**Why Mandate Sick Leave?**

Proposed Intro. No. 97-A treats paid sick leave as a mandated benefit, though this is not the only way to provide this benefit. In many European countries paid sick leave is a part of the social insurance system, provided by the government and paid for by taxes. Currently, the market already provides paid sick leave to 74 percent of workers in New York City, especially to those who are better paid or work for larger firms. Therefore, adopting a European model would mean raising taxes to provide a subsidy to all firms – including those that would provide the benefit without the subsidy. In this and in other ways we will see below, mandated benefits can be the most efficient way to provide a benefit.

The response to the key question, does it make economic sense to provide the benefit if the market is unable to do so, will be postponed till the final section, after we have examined more of the economics of paid sick leave.

**A Simple Model of Mandated Benefits**

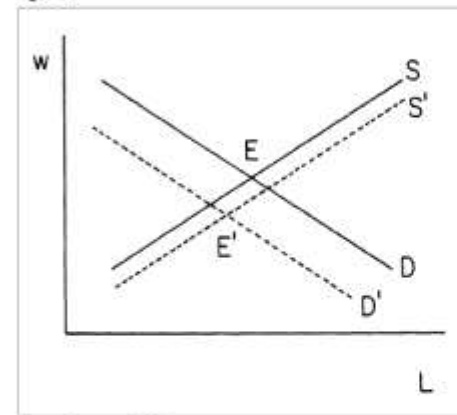
Lawrence Summers' aforementioned paper provides a simple model that can illustrate the impact of paid sick leave. As with many concepts in economics, one can think about it in terms of supply and demand: in this case, the supply of labor by workers, and the demand for labor – i.e., hiring – by businesses. The number of workers willing to work in a sector – the supply of labor – will depend on the wage paid (once accounting for other factors such as worker' preferences, the kind of work available, non-wage benefits and

<sup>1</sup> Summers, L.H. 1989. Some Simple Economics of Mandated Benefits, American Economic Review, Vol. 79(2): 177-183.

other opportunities, etc.). In other words, as the wage goes up, more people are willing to work. This is demonstrated by the labor supply curve S in Figure 1.

For firms, the willingness to hire – the demand for labor – will depend upon technology, their equipment, the price they are getting for their output and the cost of their inputs. This means the higher the wage, the fewer workers they are willing to hire, as shown by the labor demand curve D in Figure 1. The intersection of the two lines at point E gives us the initial equilibrium number of workers hired and the wage they are paid.

Figure 1



Source: Summers 1989

In a basic sense, the provision of a benefit such as paid sick leave has a value to workers and a cost to employers. Based upon paid sick leave benefits currently being provided in the New York City region, the New York City Council's Finance Division estimates paid sick leave benefits will cost the typical employer between 1.1% and 1.8% of total compensation costs.<sup>2</sup> The extra cost impacts an industry in the same way as a payroll tax; it increases the cost of hiring a worker.<sup>3</sup> This in turn reduces the willingness of the firm to hire workers at a given wage. This new demand for workers is shown by line D'.

For workers, paid sick leave has a value. This will make more workers willing to work at a given wage. This is shown by S'.

Putting the two together, wages and employment will move from where D crosses S at E, to where D' crosses S' at E'. There is something that is clear about the result and something that is ambiguous. It is clear

<sup>2</sup> Data source: U.S. Bureau of Labor Statistics, National Compensation Survey, March 2011. The data is for the NYC area which comprises a wide region around the City, including parts of Connecticut and Pennsylvania.  
<sup>3</sup> The model is much simplified assuming that all firms in the industry do not offer paid sick leave.

that as long as paid sick leave has a cost and is valued by workers, it will lower wages. On the other hand, the impact on employment is ambiguous as it depends upon what the benefit costs compared to how much workers value it. If the value to the workers is less than the cost to employers, employment falls. If the value to employees matches the cost it can have no effect. But if the value is high relative to the cost, it can increase employment.<sup>4</sup> In this last case, however, it is likely that the market would be providing the benefit already, making government action unnecessary.<sup>5</sup>

This is an attractive feature of mandated benefits, if you choose benefits whose value matches costs, you can have little or no effect on employment. That is not to say there is no downside. As Summers explains: "workers pay directly for the benefits they receive."<sup>6</sup> When fully adjusted in this model, paid sick leave is not redistribution from owners to workers. Rather, paid sick leave changes the composition of total compensation, not its amount.

**A New Mandate in a Weak Economy**

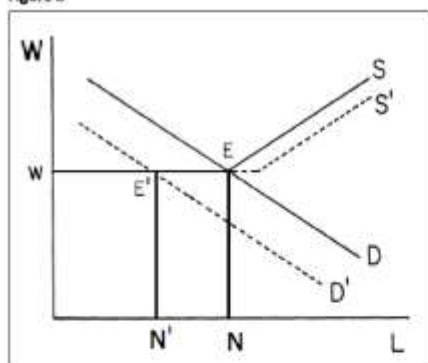
In the real world things are not so simple. We do not generally expect nominal wages to fall among currently employed workers.<sup>7</sup> In economists terms they are "sticky downward." Summers notes that if, "wages cannot fall to offset employers' cost of providing a mandated benefit ... it is likely to create unemployment." This can be a problem while a new mandate is first being put into place.

Benjamin Sommers developed a model of this situation where nominal wages are sticky.<sup>8</sup> This is represented by a kinked supply curve where workers will not accept wages below the current level (see Figure 2).<sup>9</sup>

The initial equilibrium is where the supply and demand curves meet at E. As in Lawrence Summers' model, introducing a benefit like sick leave causes an inward shift of the demand curve D' - employers hire fewer workers in aggregate -- and an outward shift in the supply curve S' - more workers are willing to work. But because workers will not accept a lower wage, the outward shift in the supply curve has no impact on wages or employment. However, the inward shift of the demand curve will have a negative impact on employment. In this situation introducing sick leave hurts both employment and the profitability of the firm.

<sup>4</sup> It is a bit more complicated than this: the supply and demand elasticity's of labor also matter. For a more formal model see Jonathan Gruber & Alan Krueger. 1991. The Incidence of Mandated Employer Provided Insurance: Lessons from Worker's Compensation Insurance, Tax Policy and the Economy, Vol. 5: 111-143.  
<sup>5</sup> There are cases where market failures necessitate mandates for the benefit to occur (Summers, 1989, p. 179).  
<sup>6</sup> Summers, 1989, p. 182.  
<sup>7</sup> Colla, C., Dow, W. & A. Dube. 2011. The Labor Market Impact of the Employer Health Benefit Mandates: Evidence from San Francisco's Health Care Security Ordinance, NBER Working Paper No. 17198, July 2011, p. 3.  
<sup>8</sup> Summers, B. 2005. Who Really Pays for Health Insurance? The Incidence of Employer-Provided Health Insurance with Sticky Nominal Wages, International Journal of Health Care Finance and Economics, Vol. 5: 89-118.  
<sup>9</sup> Summers' formal model assumes a cost to lowering wages rather than a fixed wage rate.

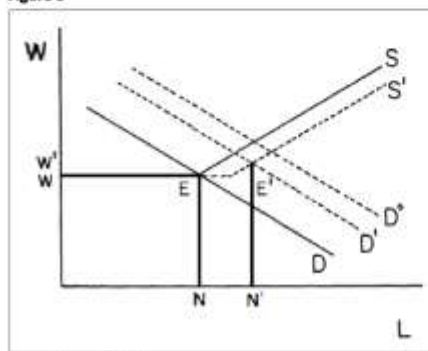
Figure 2



Source: Finance Division, adapted from Sommers 2005

Consider a somewhat different situation (Figure 3). Suppose we are in a world where labor demand is increasing. This could be because of an improving economy, or it could be because inflation is eating into wages causing the real value of the current nominal wage to fall. This is represented by an outward shift in the demand curve to D\*. Paid sick leave, by introducing a new cost pulls the demand curve back to the left in this case to D'. As before, because sick leave is valued by workers, it increases their willingness to work for a given wage. This increases the demand for labor, shifting the supply curve to S'. When all is said and done, wages remain around where they were before, but employment has actually grown. Note, however, that without the new mandate, wages would have gone up to where S and D\* cross. The new mandate has not caused wages to fall, but it has caused them to grow more slowly than they would have grown without the mandate.

Figure 3



Source: Finance Division.

Also note that for a mandate like paid sick leave, this slowdown happens once, during the initial adoption of the mandate. It does not continually slow the growth of wages.<sup>10</sup>

Weak labor markets slow nominal wage growth. We don't have direct evidence of the growth of wages for workers without paid sick leave. However, about three-quarters of workers without paid sick leave make less than \$15 an hour. This corresponds to skill levels 1-3 in the Bureau of Labor Statistics National Compensation survey. Between 2008 and 2010 (the most recent years available) the average wage growth rate of hourly mean wages for skill levels 1-3 was 0 percent. New York City's unemployment rate, which was 4.9 percent in 2007, was 9.9 percent in 2009 and averaged 9.2 in 2012. Though improving, New York City's labor market has been weak since the start of the recent recession, particularly for low-skilled workers.

San Francisco's effort in legislating paid sick leave is often held up as a model for others, such as New York City, to follow and there may be a lesson to learn here. San Francisco took advantage of a strong labor market when it implemented paid sick leave, which, as demonstrated above, makes it much easier for employers and workers to absorb the cost. San Francisco's living wage ordinance was implemented when its economy and labor market was benefiting from large housing and financial sector growth as well as from the strength of Silicon Valley's technology firms. We don't have National Compensation Survey data for 2006-2007 when San Francisco's paid sick leave ordinance was enacted. However, the unemployment rate in those years ranged from 4.4 percent in 2007 and 5.7 percent in 2008. The growth of average hourly mean wages for levels 1-3 workers in the San Francisco area workers in the first year we have data, 2008, was 5.8%.<sup>11</sup> In short, San Francisco was in a much more advantageous position in terms of adjusting to the imposition of a new mandated benefit on its employers.

**Who Pays for Mandated Benefits?**

For some firms and industries, another way of adjusting to paid sick leave may be by raising the price they charge their customers. Most workers without paid sick leave work for small and medium size firms. We do not generally think firms of these sizes as having a lot of control over the prices they charge. But many sectors without paid sick leave provide purely local services, and there is only so far that people will travel for such services. This effectively segments the market, which allows some possibility for price movements.<sup>12</sup> In effect, part of the cost of paid sick leave would be passed on to customers.<sup>13</sup>

<sup>10</sup> In Sommers (2005) a benefit like health insurance, whose cost grows from year to year at a faster rate than inflation or money wages, causes a repeated slowdown in wage growth and may induce part of the cost of premiums to be deducted by employers from worker's wages.

<sup>11</sup> San Francisco's wage growth numbers are influenced by its minimum wage law, which indexed the minimum wage to inflation. Since these rates of growth exceed that of inflation, it suggests that the strength of the labor market was such that the law was not the source of this growth.

<sup>12</sup> Colla, Dow & Dube 2011, p. 3, Sommers 2005, argues that it is reasonable to treat small service sector firms that use low skilled labor as monopolistic competitive in the product market and perfectly competitive in the goods market. P 91, n3. This is what is assumed in figures 2 & 3.

<sup>13</sup> Of course, one cannot assume such a change has no employment effect, as such prices are chosen to maximize profit, not employment.

Price impact becomes a larger issue in sectors exposed to regional, national, or international competition. Most of the sectors where the city competes nationally and globally, such as financial services, professional services, information, and education, generally already have paid sick leave. But some sectors with relatively low rates of paid sick leave, such as warehousing, distribution and wholesaling are exposed to competition from the rest of the region. The City is having a problem holding on to employment in these industries, despite significant effort made by the Economic Development Corporation. In these sectors, attempts to pass new costs on to consumers are likely to accelerate their decline.

How important are these various kinds of adjustments to paid sick leave?<sup>14</sup> There is no direct evidence on paid sick leave itself but there is a large literature on other mandated benefits. The most influential study of mandated benefits, by Jonathan Gruber on maternity benefit mandates, found that the full cost of the mandate was passed on to the wages of men and women in the 20 to 40 age bracket. Empirical studies of worker's compensation insurance mandates find a pass-through to wages of 83 to 100 percent, with pass-through to small firms sometimes exceeding 100 percent.<sup>15</sup> If the pass through to wages and prices is so complete, there is no reason to expect a large employment effect from mandated benefits

Carrie H. Colla, William H. Dow and Arindrajit Dube's 2011 study of the first 27 months of San Francisco's Health Care Security Ordinance provides a different view. It found about a 38 percent pass-through of costs to worker's wages. They were unable to look at prices for most sectors, with the exception of the restaurant sector where they found 51 percent of the additional costs were passed on to consumers. Employment effects were small and they could rule out impacts of more than one percent in most sectors. The exception was accommodation and food services where one version of their work indicated an employment effect of 2.4 percent.

**Why Do Only Some Workers Currently Have Paid Sick Leave?**

Sick leave is not just an expense to firms, it can have an upside. It is no accident that 74 percent of workers in the city have access to paid sick leave. The question is, why doesn't everyone have paid sick leave?

Certain illnesses reduce the productivity of workers and if the illness is infectious this effect can spread within the firm. How valuable this will depend in part on where these infections come from. Where infections come largely from outside the firm, say a firm where employees have extensive contact with the public, sick leave will be less valuable than for a firm where infections largely come from in house.<sup>16</sup>

There are other areas where sick leave is of value to the firm. Abay Asfaw and her colleagues find that paid sick leave policies in a workplace help businesses reduce the incidence of nonfatal occupational injuries.<sup>17</sup> This is good for workers and saves employers various costs including those related to workman's

<sup>14</sup> This section follows empirical literature survey found in Colla, Dow & Dube 2011, p. 5-7.

<sup>15</sup> Gruber and Krueger 1991, Viscusi and Moore (1987) cited in Colla, Dow & Dube 2011.

<sup>16</sup> Skatun, J.D. 2003. Take some days off, why don't you? Endogenous sick leave and pay. *Journal of Health Economics*, Vol. 22: 379-402

<sup>17</sup> Asfaw, A., Pana-Cryan, R. and R.Rosa. 2012. Paid Sick Leave and Nonfatal occupational Injuries. *American Journal of Public Health*, Vol. 102(9): e59-e64.

compensation claims. Clearly, the incidence of injury varies with occupation, with high-risk occupations benefiting the most from a paid sick leave provision.

Access to paid sick leave varies systematically by the size of firms. Small firms are less likely to offer it than larger firms. This is true of all of the benefits in the National Compensation Survey, except end-of-year bonuses.<sup>18</sup> Retirement plans, health insurance, and life insurance are among the benefits that vary in this way.

Table 1

Firm Size	Access to PSL
1 to 49 workers	62%
50 to 99 workers	71%
100 to 499 workers	81%
500 workers or more	88%

Source: National Compensation Survey, Bureau of Labor Statistics, U.S. Department of Labor, March 2011, New York-Newark-Bridgeport, NY-NJ-CT-PA metropolitan area, private industry workers.

A simple hypothesis found in the literature is that there are economies of scale in providing benefits. Roughly speaking, the bigger a company is, the cheaper it is to provide benefits. For many benefits, discussions of scale economies focus on administrative costs.<sup>19</sup> In small firms this requires valuable time from owners or key managers. In larger firms, specialists can do this without involving management time. Litigation and actions necessary to protect against litigation are also a cost. This may be a greater concern for small firms without in house lawyers and who don't have a law firm on retainer.

But there is a different kind of cost that may matter as well. When workers are absent, firms have to manage the flow of the services they are producing either without the full work team being available or by finding substitutes for absent workers. This may be harder for small firms. For the same average rate of absences per employee, a small firm is going to have more days with high absences and with no absences than a large firm. This means absences cause higher rates of volatility in workforce levels for smaller firm, impacting their ability to perform in the market place.

The New York City Council Finance Division has done a simple statistical simulation. It should be treated as illustrative rather than realistic. It suggests that businesses with fewer employees are more likely to experience a disruptive absence of employees. Here, a "disruptive absence" occurs if a business experiences the absence of more than 5 percent of its labor force over a five day period. Disruptive absences for reasons other than employees using this benefit are not considered.

As proposed in the bill, each employee is entitled to use up to five paid sick days in the event of an unpredictable emergency. It is assumed that an employee will use all five days randomly throughout the year- here assumed to be 240 work days. It is also assumed that sick days are used independently from

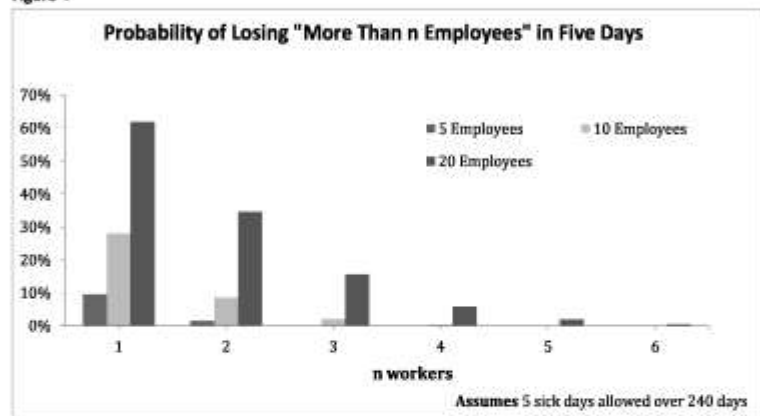
<sup>18</sup> Abraham, J.M., DeLeire, T., and A. B. Royalty. 2009. Access to Health Insurance at Small Establishments: What Can We Learn from Other Fringe Benefits? *Inquiry* Vol. 46: 253-273.

<sup>19</sup> *Ibid.*, p. 253.

other employees and are not accumulated.<sup>20</sup> Using probability theory<sup>21</sup>, an employer can then calculate the probability of having a disruptive absence.

Below is a graph of the probability that three businesses with five, ten and twenty employees respectively lose "more than n employees" in a five day period. For example, if n is taken to be 1, the probability a business of twenty employees loses more than one employee is roughly 60 percent. The same event is only 10 percent likely for a business of five employees. As can be seen, the probability that any of the three businesses loses more than six employees is negligible.

Figure 4

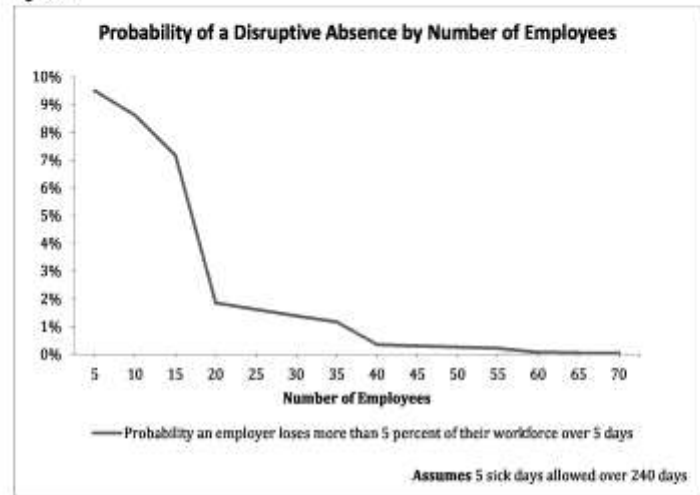


Thus, the larger business is far more likely to lose more than one employee over a five day period, as expected. However, the smaller business is more likely to lose a larger percentage of its workforce. To see this, note that if the business of five employees loses more than one employee then more than five percent of its workforce is absent. Looking at the graph above, this happens roughly 10 percent of the time. The business of 20 employees must have six or more employees not show up over a five day period to lose more than five percent of its workforce. This happens roughly 2 percent of the time. As a result, it is five times more likely a five employee business will have a disruptive absence due to paid sick leave than a twenty employee business. Equivalently, the five employee business will have a disruptive absence five times as often.

<sup>20</sup> Actual sick leave tends to be less than this, and by assumption we are ruling out infectious disease.  
<sup>21</sup> That is, according to the cumulative binomial distribution function.

The following graph shows the probability of a disruptive absence by the number of employees. To ensure that such an absence happens less than 5 percent of the time (one twentieth of the year), a business would need to have twenty or more employees.

Figure 5



In this case, life is a lot easier for the big firm.

Small firms tend to pay lower wages, and this may be a part of the explanation for the reduced access to sick leave in small firms, since access to paid sick leave, like many fringe benefits is more common among high wage workers than among low wage workers.<sup>22</sup>

The literature suggests at least two reasons why this might be the case. The first is the idea that paid sick leave may be a 'normal good'. Normal goods are those that we demand more of as income goes up, assuming price remains constant. While having the protection that paid sick leave offers may be valuable to low-income workers, meeting basic necessities may make getting more cash a larger priority. Since both economic theory and empirical evidence suggests that mandated benefits are paid for in whole or in part by workers, this is a real consideration.

<sup>22</sup> Abraham, J.M., DeLeire, T., and A. B. Royalty. 2009. Access to Health Insurance at Small Establishments: What Can We Learn from Other Fringe Benefits? *Inquiry* Vol. 46: 253-273. Cited in Elizabeth Hansen and William Gentry, "Taxes and Fringe Benefits Offered by Employers" Williams College working paper: 2011.

Table 2

Average Wage Quartiles	Access to PSL
Lowest 25 percent	40%
Second 25 percent	73%
Third 25 percent	87%
Highest 25 percent	86%

Source: National Compensation Survey, Bureau of Labor Statistics, U.S. Department of Labor, March 2011, New York-Newark-Bridgeport, NY-NJ-CT-PA metropolitan area, private industry workers.

The second reason involves taxes. Paid sick leave can be thought of as a kind of insurance. If paid sick leave lowers wages it also lowers the tax liabilities of workers. Consider a city resident at the top Federal, State and City tax brackets. For each extra dollar they earn, 48 cents goes to personal income tax. For someone in the lowest tax brackets, 16.9 cents of each extra dollar goes to taxes. Therefore, losing a dollar in wages to gain a desirable benefit is a lot easier for a high income worker because a big part of the dollar was going to taxes anyway.

**If Workers and Customers Pay the Costs, Why are Small Businesses Concerned about Paid Sick Leave?**

As we saw in the section on mandated benefits in a weak economy, the adjustment to paid sick leave is not instantaneous and there are reasons to believe it will be slower, with greater impact on employment, in a weak economy than in a strong economy. During the adjustment process paid sick leave is largely paid for by firms.

If the cost of managing paid sick leave is different among firms and if our analysis of the cost disadvantages of small firms is correct, there is another concern. The effects of the variations among mandated benefit costs among firms are explored theoretically and empirically by Patricia Anderson and Bruce Meyer.<sup>23</sup> If a firm's costs differ from the overall market it will not be able to pass those costs on to workers or customers. While overall employment effects will be small there could be "substantial employment reallocation across firms." Basically there is a risk that a mandated benefit like paid sick leave could have an impact on the structure of an industry, favoring larger firms that are better capable of handling it, over smaller ones.

Small firms are fragile; more than 30 percent of small businesses fail within four years.

The small business economy is improving but is still not doing as well as large firms. A recent analysis by the investment bank ING compared the National Federation of Independent Businesses' small business optimism index and the Institute of Supply Managers index which they use to track the performance of the larger corporate sector.<sup>24</sup> Normally small and large businesses perform more or less the same. But since the start of the recession they have been out of sync. The small business recovery has been significantly weaker than the large business recovery. Other data back this up. Between 2007 and 2010 the national

<sup>23</sup> Anderson, P. and B. Meyer. 1995. The Incidence of a Firm-Varying Payroll Tax: The Case of Unemployment Insurance. *NBER working paper* No. 5201 1995.

<sup>24</sup> ING Global Economic Daily March 13, 2013.

economy lost 288,000 small businesses with less than 50 employees. Over the same period it gained 175,000 businesses with more than 50 employees.<sup>25</sup>

**Infectious Disease, External Costs and Paid Sick Leave**

Mandates like Proposed Intro. No. 97-A face a basic challenge: workers and firms have reached agreement on wages and conditions based on the specific situation that they are in. While everyone may prefer a better deal, workers and firms find this is the best they can do at the moment. When agreements are uncoerced, and not products of guile or deception, and no one is worse off from undertaking them, they improve economic welfare. In technical language they are referred to as Pareto-improving transactions. Economists generally recommend that we trust the individuals who make these deals to know more about their own lives and situations than we do and therefore that we should leave these deals alone.

However, there are important exceptions. Summers in his article on mandated benefits discusses several of these exceptions and one, externalities, applies to paid sick leave.<sup>26</sup> Externalities are when there is a cost or a benefit to a transaction that is not captured by either party to the transaction. Going to work with a cold or flu may spread the disease to others. This is a cost to third parties, not involved with the transaction. This is not unique to labor transactions, going to the theater with a cold, or buying a loaf of bread with the flu also have this effect. There is evidence in the public health literature that paid sick leave can be a tool in reducing these costs.<sup>27</sup>

Several recent studies, mainly in health economics and public health fields, have investigated the empirical evidence behind sick leave provisions across different countries and in the U.S.

The key finding is that a provision of paid sick leave type of mandated benefit, in addition to obvious benefits to the receiving employee, significantly helps reducing a risk of mass infection and spread of wide scale contagion. In particular, applying to the 2009 H1N1 pandemic in the U.S., Kumar et al (2012) notes that in the U.S. “[t]he absence of certain workplace policies, such as paid sick leave, confers a population-attributable risk of 5 million additional cases of influenza-like illness in the general population...” Strictly speaking, the results of Kumar et al are not about sick leave as such. Their key variable is an index of work related features that allow for social distancing, which include paid sick leave, unpaid sick leave, and the ability to work from home and other arrangements that allow one to be out of work for seven to ten days. Although there are other ways of doing it, sick leave, by allowing people to stay away from other people, can reduce costs from epidemic disease.

<sup>25</sup> Council Finance calculations based on BLS Business Dynamic Statistics – net establishment entry

<sup>26</sup> The other two are evidence that parties are acting irrationally, or where there are market failures.

<sup>27</sup> In addition to the already mentioned publications, see for example the following: Asfaw, A., Pana-Cryan, R. and R.Rosa. 2012. Paid Sick Leave and Nonfatal occupational Injuries. *American Journal of Public Health*, Vol. 102(9): e59-e64. Kumar, S., Quinn Crouse, S., Kim, K.H., Daniel, L.H., and V. S. Freimuth. 2012. The Impact of Workplace Policies and Other Social Factors on Self-Reported Influenza-Like Illness Incidence During the 2009 H1N1 Pandemic. *American Journal of Public Health*, Vol. 102(1): 134-140; Heymann, S.J. and M. Gerecke. 2010. Paid Health and Family Leave: The Canadian Experience in the Global Context. *Canadian Journal of Public Health*, Vol. 101(1):S9-S15.

**Summary: Costs of Paid Sick Leave**

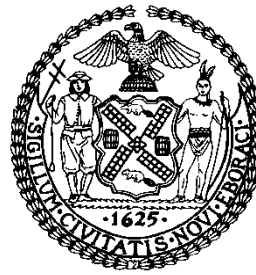
Most workers in New York City have access to paid sick leave. This reflects the fact that for most firms and workers paid sick leave pays. However, it doesn't pay for everyone and that is not accidental. As with most benefits it doesn't pay for many small firms and low income workers.

Like other mandated benefits both economic theory and evidence suggest that sick leave will be paid for primarily by workers and consumers. This process isn't instantaneous and is not always smooth. When it is not smooth the mandated benefit can be a burden on firms and can have negative employment effects. However, once fully adjusted there is no reason for paid sick leave to have a large employment effect.

But even if the aggregate employment effects are small, if small firms have a more difficult time providing sick leave they may not fully benefit from the adjustment process. They could face persistently lower profits, reduced employment. This could change the structure of employment in favor of larger firms.

The one clear upside to paid sick leave is that it may reduce the spread of infectious disease and in doing so offset some or all of the above costs.

(The following is the text of the Fiscal Impact Statement for Int. No. 97-A:)



THE COUNCIL OF THE CITY OF  
NEW YORK  
FINANCE DIVISION

PRESTON NIBLACK, DIRECTOR  
JEFFREY RODUS, FIRST DEPUTY  
DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 97-A  
COMMITTEE:  
Civil Service and  
Labor

**TITLE:** A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the provision of sick time earned by employees.

**SPONSOR(S):** Council Members Brewer, Lappin, Mendez, Palma, Gonzalez, Ferreras, Koppell, Recchia, Jr., Gentile, Mark-Viverito, Rodriguez, James, Williams, Levin, Rose, Jackson, Chin, Barron, Ulrich, Mealy, Nelson, Vann, Crowley, Foster, Lander, Van Bramer, Dromm, Garodnick, Rivera, Cabrera, Eugene, Koslowitz, Vacca, Weprin, Reyna, Arroyo, King, Richards, Wills, Gennaro, Dickens, Comrie, Jr., and the Public Advocate (Mr. de Blasio)

**SUMMARY OF LEGISLATION:** Proposed Intro 97-A is the “Earned Sick Time Act,” which would require employers to provide sick time – paid or unpaid depending on the size of the business – to employees. The legislation will take effect into two phases. For the initial period, which is assumed to start April 2014 (see below), the legislation would cover businesses with 20 or more employees. The second phase would begin eighteen months later and would cover businesses with 15 or more employees. The legislation would cover roughly 2.94 million employees for the first year and 3.1 million employees for the second and succeeding years<sup>1</sup>

The legislation would require businesses with 15 or more employees (when fully implemented) and all employers with one or more domestic workers to provide their employees paid sick time. Employees not entitled to paid sick time are entitled to unpaid sick time. Employees of businesses with 15 or more employees may earn up to 5 paid sick days (40 hours) per year. Smaller businesses must provide up to 5 unpaid sick days. Domestic workers get 2 days in addition to the 3 paid days of rest they receive under New York State law. This legislation applies to part-time and full time workers who are hired for work at least 80 hours a year and who meet the broad New York State definition of “employee”. It does not apply to:

- Federal/City/State employees; independent contractors; employees of manufacturers; seasonal workers (those who are not rehired within 6 months after a separation of employment); work study and fellowship jobs; certain premium rate professions who act like independent contractors (physical and occupational therapist, speech language pathologists); and WEP workers.

Employees can accrue 1 hour of sick time per 30 hours worked; accrual starts on the day of hire. Sick leave may be used after 120 days. For domestic workers, hours accrue are based on the New York State formula and may be used after 1 year of work with the same employer based on New York State law.

Sick time can be used for: employee’s physical/mental illness, injury, or medical care and for the same purposes when caring for a spouse, domestic partner, children, or parents. It can also be used for declared public health emergencies that result in closure of an employee’s place of business or of a school or childcare provider.

Employers who already have policies in place that allow employees to take time off for the same purposes and in the same amount as the bill do not need to give any additional days. This is true even if the worker does not use the days available for sick time. Working additional hours without using sick time to make up for the original missed hours (i.e. shift swapping) is allowed but cannot be mandatory. Employees must be given written notice of their rights under the bill. The notice must be in English or the primary language spoken by the employee. The notice may also be posted in areas accessible to employees. Employers may request advance written notice when the use of sick time is foreseeable or after 3 days of absence. Employers can also ask for an employee to confirm in writing that they were absent because of a sick day.

Employees with collective bargaining can opt out of the bill as long as there is an express waiver, and they received equivalent benefits. Employees with collective bargaining agreements in the construction and grocery industries can opt out of the bill as long as there is an express waiver. If a collective bargaining agreement is valid when the bill takes effect, the bill will not apply to that agreement until it expires.

Upon employee’s termination, resignation, retirement, or other separation, the employee will not receive financial or other reimbursement from unused sick leave. If

an employee is transferred to a separate division but is still employed by the same employer, his/her sick time is transferable. If he/she is rehired within six months from separation, he/she can use his/her sick time. This legislation would not require the need of the employees to find a replacement for the hours he/she would use as sick time. No person or entity may disclose an employee or his/her family member's medical condition when sick time is used. An employer can take disciplinary action including termination if the employee uses the sick time other than the purpose describe above. The employer must retain records showing employer's compliance to the legislation for 2 years and must allow the Department of Consumer Affairs (DCA) access to these records.

DCA will enforce the bill based on a complaint-driven system. DCA will investigate complaints, attempt mediation, and through an administrative tribunal may hold hearings and order damages and penalties/fines. DCA will make the sick time notice available in a downloadable format on the department's website in Chinese, English, French-Creole, Italian, Korean, Russian, Spanish and other languages deemed appropriate by DCA. A person can file a complaint with DCA within 270 days of the date the person knew or should have known the alleged violation. DCA will keep the person's identity confidential as long as possible. DCA will investigate the complaint and attempt to resolve it through mediation. If there is a violation, the DCA Commissioner will prescribe the form and wording of the violation. The violation notice will be returnable to the administrative tribunal authorized to adjudicate violations.

The legislation imposes damages and penalties for violations of the bill:

- Employers who did not give employees written notice: \$50.
- For sick days taken but not compensated: three times the wages that should have been paid or \$250, whichever is greater.
- For each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon finding a replacement worker, or for each instance an employer requires an employee to work additional hours without the mutual consent of the employee to make up for hours missed: \$500.
- For each instance of unlawful retaliation: full compensation including wages and benefits lost and \$500.
- For each instance of unlawful discharge from employment: full compensation including wages and benefits lost, \$2,500 and equitable relief; and
- Civil penalties/fines for violating law: not less than \$500 for the first violation, \$750 for the second violation and \$1,000 for each succeeding violation.

DCA will report annually regarding its enforcement of the legislation. DCA would annually report on its website the number and nature of the complaints received, the results of investigations, including the number of complaints not substantiated and the number of notices of violations issued, the number and nature of adjudications, and the average time for a complaint to be resolved.

In the event of a public disaster, the Mayor may suspend this legislation for the length of the disaster.

This law will go into effect if on December 16, 2013, the Independent Budget Office (IBO) certifies that the New York City Coincident Economic Index, which is published by the Federal Reserve Bank, is at or above its January 2012 level, based on the following schedule:

- On April 1, 2014, businesses that have 20 or more employees will have to provide paid sick time and businesses with less than 20 employees will have to provide unpaid sick time.
- On October 1, 2015, businesses that have 15-19 or more employees or employers who employ 1 or more domestic workers will have to provide paid sick time.
- If the Index is not met, every six months thereafter the IBO will review the Index and the bill will go into effect once it reaches the January 2012 benchmark.

Pursuant to section 260 of the City's Charter, IBO will do a report no later than 30 months after the effective date reviewing the costs and benefits of the Earned Sick Time Act. The report will be provided to the Mayor and City Council and will be posted on the IBO's website. The IBO report would include to the extent practicable given available data and methodologies, but not be limited to, data regarding wage and employment rates; businesses, including small business start-up and failure rates, expenses and revenues; and infectious disease rates; and would include to the extent practicable a comparison of New York City with surrounding counties and large cities comparable to New York City that do not provide sick time. When reporting this data, the IBO director would ensure that IBO uses appropriate and professionally accepted methodologies for comparing similar data and identify such methodologies in the report, and would clearly specify the extent to which the earned sick time act can properly be determined to have had an impact on any of the data analyzed. The report would be contingent on the availability to IBO of data the IBO director determines to be necessary to complete such report.

**EFFECTIVE DATE:** This law will go into effect if on December 16, 2013, IBO certifies that the New York City Coincident Economic Index, which is published by

the Federal Reserve Bank, is at or above its January 2012 level, based on the following schedule:

- On April 1, 2014, businesses that have 20 or more employees will have to provide paid sick time and businesses with less than 20 employees will have to provide unpaid sick time.
- On October 1, 2015, businesses that have 15-19 or more employees or employers who employ 1 or more domestic workers will have to provide paid sick time.
- If the Index is not met, every six months thereafter the IBO will review the Index and the bill will go into effect once it reaches the January 2012 benchmark.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2015

**FISCAL IMPACT STATEMENT:**

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY15
<b>Revenues</b>	De minimus	De minimus	De minimus
<b>Expenditures</b>	\$153,500	\$614,000	\$614,000
<b>Net</b>	\$153,500	\$614,000	\$614,000

**IMPACT ON REVENUES:** The revenues generated by the enactment of this legislation would be de minimus. The fines are meant to deter, not generate revenues.

**IMPACT ON EXPENDITURES:** The City Council Finance Division estimates that DCA will require 2 investigators, 1 supervisory investigator, 1 attorney, 1 secretary and 2 mediators to manage the Earned Sick Time Act. The total salary, fringe, and OTPS costs for these personnel are \$614,000 per year. But since the legislation will start on April 2014, the costs for these personnel for the first year are prorated at \$153,500. Total costs for the succeeding years will be \$614,000 per year.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** General Funds

**SOURCE OF INFORMATION:** San Francisco Office of Labor Standards Enforcement

New York City's Civilian Complaint Review

Board (CCRB)

New York City Council Finance Division

**ESTIMATE PREPARED BY:** Ralph P. Hernandez, Principal Legislative Financial Analyst

**ESTIMATED REVIEWED BY:** Nathan Toth, Deputy Director  
Tanisha Edwards, Finance Counsel

**LEGISLATIVE HISTORY:** Intro 97 was introduced by Council and referred to the Committee on Civil Service and Labor on March 25, 2010. The Committee held a hearing on Int. 97 on May 11, 2010 and laid the bill over. The Committee held another hearing on Int. 97 on March 22, 2013, and the Committee proposed an amendment to the bill and laid the bill over. Proposed Intro 97-A will be voted by the Committee on May 6, 2013. The Full Council will vote on Proposed Intro 97-A on May 8, 2013.

**DATE SUBMITTED TO COUNCIL:** March 25, 2010

<sup>1</sup> U.S. Census/County Business Patterns 2010.

*Accordingly, this Committee recommends its adoption, as amended.*

**(The following is the text of Int. No. 97-A:)**

Int. No. 97-A

By Council Members Brewer, Lappin, Mendez, Palma, Gonzalez, Ferreras, Koppell, Recchia, Gentile, Mark-Viverito, Rodriguez, James, Williams, Levin, Rose, Jackson, Chin, Barron, Ulrich, Mealy, Nelson, Vann, Crowley, Foster, Lander, Van Bramer, Dromm, Garodnick, Rivera, Cabrera, Eugene, Koslowitz, Vacca, Weprin, Reyna, Arroyo, King, Richards, Wills, Gennaro, Dickens, Comrie and the Public Advocate (Mr. de Blasio).



**A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the provision of sick time earned by employees.**

*Be it enacted by the Council as follows:*

Section 1. Legislative intent. The City Council finds that nearly every worker at some time during each year will need time off from work to take care of his or her health needs or the health needs of family members. Providing the right to earned sick time will therefore have a positive effect on the public health of the City and lessen the spread of and exposure to diseases. The Council further finds that supporting a healthy workforce will foster greater employee retention and productivity, and recognizes that responsible businesses that already have policies that allow time off that amounts to at least the minimum requirements under this law, and that can be taken for the same reasons and under the same conditions as enumerated in this legislation, will not be required to provide additional sick time. Providing sick time to workers at a time when the economy is improving, and ensuring that workers' jobs are protected when they need to take a sick day, strikes the right balance and will result in a more prosperous, safe and healthy City.

§ 2. Section 2203 of the New York city charter is hereby amended by adding a new subdivision e, relettering current subdivisions e through g as subdivisions f through h, and amending relettered subdivisions f and h to read as follows:

(e) *The commissioner shall have all powers as set forth in chapter 8 of title 20 of the administrative code relating to the receipt, investigation, and resolution of complaints thereunder regarding earned sick time.*

[e](f) The commissioner, in the performance of said functions, *including those functions pursuant to subdivision e of this section*, shall be authorized to hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, and to receive, administer, pay over and distribute monies collected in and as a result of actions brought for violations of laws relating to deceptive or unconscionable trade practices, or of related laws, and to promulgate, amend and modify rules and regulations necessary to carry out the powers and duties of the department.

[(f)] (g) The commissioner shall exercise the powers of a commissioner of public markets under the agriculture and markets law with respect to open air markets.

[(g)] (h) (1) Notwithstanding any inconsistent provision of law, the department shall be authorized, upon due notice and hearing, to impose civil penalties for the violation of any laws or rules the enforcement of which is within the jurisdiction of the department pursuant to this charter, the administrative code or any other general, special or local law. The department shall have the power to render decisions and orders and to impose civil penalties for all such violations, *and to order equitable relief for and payment of monetary damages in connection with enforcement of chapter 8 of title 20 of the administrative code.* Except to the extent that dollar limits are otherwise specifically provided, such civil penalties shall not exceed five hundred dollars for each violation. All proceedings authorized pursuant to this subdivision shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this subdivision shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

(2) All such proceedings shall be commenced by the service of a notice of violation. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

(3) For the purposes of this subdivision, no act or practice shall be deemed a deceptive trade practice unless it has been declared a deceptive trade practice and described with reasonable particularity in a local law or in a rule or regulation promulgated by the commissioner.

(4) Notwithstanding any other inconsistent provision of law, powers conferred upon the department by this subdivision may be exercised by the office of administrative trials and hearings consistent with orders of the mayor issued in accordance with subdivisions two and three of section one thousand forty-eight of this charter.

§ 3. Title 20 of the administrative code of the city of New York is amended by adding a new chapter 8 to read as follows:

**CHAPTER 8  
EARNED SICK TIME ACT**

§ 20-911 *Short title.*

§ 20-912 *Definitions.*

§ 20-913 *Right to sick time; accrual.*

§ 20-914 *Use of sick time.*

§ 20-915 *Changing schedule.*

§ 20-916 *Collective bargaining agreements.*

§ 20-917 *Public disasters.*

§ 20-918 *Retaliation and interference prohibited.*

§ 20-919 *Notice of rights.*

§ 20-920 *Employer records.*

§ 20-921 *Confidentiality and nondisclosure.*

§ 20-922 *Encouragement of more generous policies; no effect on more generous policies.*

§ 20-923 *Other legal requirements.*

§ 20-924 *Enforcement and penalties.*

§ 20-911 *Short title.* This chapter shall be known and may be cited as the

*“Earned Sick Time Act.”*

§ 20-912 *Definitions.* When used in this chapter, the following terms shall be defined as follows:

a. *“Calendar year” shall mean a regular and consecutive twelve month period, as determined by an employer.*

b. *“Chain business” shall mean any employer that is part of a group of establishments that share a common owner or principal who owns at least thirty percent of each establishment where such establishments (i) engage in the same business or (ii) operate pursuant to franchise agreements with the same franchisor as defined in general business law section 681; provided that the total number of employees of all such establishments in such group is at least fifteen.*

c. *“Child” shall mean a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco parentis.*

d. *“Domestic partner” shall mean any person who has a registered domestic partnership pursuant to section 3-240 of the code, a domestic partnership registered in accordance with executive order number 123, dated August 7, 1989, or a domestic partnership registered in accordance with executive order number 48, dated January 7, 1993.*

e. *“Domestic worker” shall mean any “domestic worker” as defined in section 2(16) of the labor law who is employed for hire within the city of New York for more than eighty hours in a calendar year who performs work on a full-time or part-time basis.*

f. *“Employee” shall mean any “employee” as defined in section 190(2) of the labor law who is employed for hire within the city of New York for more than eighty hours in a calendar year who performs work on a full-time or part-time basis, including work performed in a transitional jobs program pursuant to section 336-f of the social services law, but not including work performed as a participant in a work experience program pursuant to section 336-c of the social services law, and not including those who are employed by (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; or (iii) the city of New York or any local government, municipality or county or any entity governed by general municipal law section 92 or county law section 207.*

g. *“Employer” shall mean any “employer” as defined in section 190(3) of the labor law, but not including (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; (iii) the city of New York or any local government, municipality or county or any entity governed by general municipal law section 92 or county law section 207; or (iv) any employer that is a business establishment classified in section 31, 32 or 33 of the North American Industry Classification System. In determining the number of employees performing work for an employer for compensation during a given week, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted, provided that where the number of employees who work for an employer for compensation per week fluctuates, business size may be determined for the current calendar year based upon the average number of employees who worked for compensation per week during the preceding calendar year, and provided further that in determining the number of employees performing work for an employer that is a chain business, the total number of employees in that group of establishments shall be counted.*

h. *“Family member” shall mean an employee’s child, spouse, domestic partner or parent, or the child or parent of an employee’s spouse or domestic partner.*

i. *“Health care provider” shall mean any person licensed under federal or New York state law to provide medical or emergency services, including, but not limited to, doctors, nurses and emergency room personnel.*

j. *“Hourly professional employee” shall mean any individual (i) who is professionally licensed by the New York state education department, office of professions, under the direction of the New York state board of regents under education law sections 6732, 7902 or 8202, (ii) who calls in for work assignments at will determining his or her own work schedule with the ability to reject or accept any assignment referred to them and (iii) who is paid an average hourly wage which is at least four times the federal minimum wage for hours worked during the calendar year.*

k. *“Paid sick time” shall mean time that is provided by an employer to an employee that can be used for the purposes described in section 20-914 of this chapter and is compensated at the same rate as the employee earns from his or her employment at the time the employee uses such time, except that an employee who volunteers or agrees to work hours in addition to his or her normal schedule will not receive more in paid sick time compensation than his or her regular hourly wage if such employee is not able to work the hours for which he or she has volunteered or agreed even if the reason for such inability to work is one of the reasons in section 20-914 of this chapter. In no case shall an employer be required to pay more to an employee for paid sick time than the employee’s regular rate of pay at the time the employee uses such paid sick time, except that in no case shall the paid sick time hourly rate be less than the hourly rate provided in section 652(1) of the labor law.*

l. *“Parent” shall mean a biological, foster, step- or adoptive parent, or a legal guardian of an employee, or a person who stood in loco parentis when the employee was a minor child.*

m. *“Public disaster” shall mean an event such as fire, explosion, terrorist attack, severe weather conditions or other catastrophe that is declared a public emergency or disaster by the president of the United States, the governor of the state of New York or the mayor of the city of New York.*

n. *“Public health emergency” shall mean a declaration made by the commissioner of health and mental hygiene pursuant to section 3.01(d) of the New*

York city health code or by the mayor pursuant to section 24 of the executive law.

o. "Public service commission" shall mean the public service commission established by section 4 of the public service law.

p. "Retaliation" shall mean any threat, discipline, discharge, demotion, suspension, reduction in employee hours, or any other adverse employment action against any employee for exercising or attempting to exercise any right guaranteed under this chapter.

q. "Sick time" shall mean time that is provided by an employer to an employee that can be used for the purposes described in section 20-914 of this chapter, whether or not compensation for that time is required pursuant to this chapter.

r. "Spouse" shall mean a person to whom an employee is legally married under the laws of the state of New York.

§ 20-913 **Right to sick time; accrual.** a. All employees have the right to sick time pursuant to this chapter.

1. All employers that employ fifteen or more employees and all employers of one or more domestic workers shall provide paid sick time to their employees in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section.

2. All employees not entitled to paid sick time pursuant to this chapter shall be entitled to unpaid sick time in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section.

3. All employers that employ fifteen to nineteen employees, and all employers of one or more domestic workers, shall provide unpaid sick time in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section during any period in which, pursuant to the schedule set forth in section 7 of the local law which enacted this section, such employers are not required to provide paid sick time but employers that employ twenty or more employees are required to provide paid sick time.

b. All employers shall provide a minimum of one hour of sick time for every thirty hours worked by an employee, other than a domestic worker who shall accrue sick time pursuant to paragraph 2 of subdivision d of this section. Employers shall not be required under this chapter to provide more than forty hours of sick time for an employee in a calendar year. For purposes of this subdivision, any paid days of rest to which a domestic worker is entitled pursuant to section 161(1) of the labor law shall count toward such forty hours. Nothing in this chapter shall be construed to discourage or prohibit an employer from allowing the accrual of sick time at a faster rate or use of sick time at an earlier date than this chapter requires.

c. An employer required to provide paid sick time pursuant to this chapter who provides an employee with an amount of paid leave, including paid time off, paid vacation, paid personal days or paid days of rest required to be compensated pursuant to section 161(1) of the labor law, sufficient to meet the requirements of this section and who allows such paid leave to be used for the same purposes and under the same conditions as sick time required pursuant to this chapter, is not required to provide additional paid sick time for such employee whether or not such employee chooses to use such leave for the purposes included in subdivision a of section 20-914 of this chapter. An employer required to provide unpaid sick time pursuant to this chapter who provides an employee with an amount of unpaid or paid leave, including unpaid or paid time off, unpaid or paid vacation, or unpaid or paid personal days, sufficient to meet the requirements of this section and who allows such leave to be used for the same purposes and under the same conditions as sick time required pursuant to this chapter, is not required to provide additional unpaid sick time for such employee whether or not such employee chooses to use such leave for the purposes set forth in subdivision a of section 20-914 of this chapter.

d. 1. For an employee other than a domestic worker, sick time as provided pursuant to this chapter shall begin to accrue at the commencement of employment or on the effective date of this local law, whichever is later, and an employee shall be entitled to begin using sick time on the one hundred twentieth calendar day following commencement of his or her employment or on the one hundred twentieth calendar day following the effective date of this local law, whichever is later. After the one hundred twentieth calendar day of employment or after the one hundred twentieth calendar day following the effective date of this local law, whichever is later, such employee may use sick time as it is accrued.

2. In addition to the paid day or days of rest to which a domestic worker is entitled pursuant to section 161(1) of the labor law, such domestic worker shall also be entitled to two days of paid sick time as of the date that such domestic worker is entitled to such paid day or days of rest and annually thereafter, provided that notwithstanding any provision of this chapter to the contrary, such two days of paid sick time shall be calculated in the same manner as the paid day or days of rest are calculated pursuant to the provisions of section 161(1) of the labor law.

e. Employees who are not covered by the overtime requirements of New York state law or regulations, including the wage orders promulgated by the New York commissioner of labor pursuant to article 19 or 19-A of the labor law, shall be assumed to work forty hours in each work week for purposes of sick time accrual unless their regular work week is less than forty hours, in which case sick time accrues based upon that regular work week.

f. The provisions of this chapter do not apply to (i) work study programs under 42 U.S.C. section 2753, (ii) employees for the hours worked and compensated by or through qualified scholarships as defined in 26 U.S.C. section 117, (iii) independent contractors who do not meet the definition of employee under section 190(2) of the labor law, and (iv) hourly professional employees.

g. Employees shall determine how much earned sick time they need to use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per day.

h. Except for domestic workers, unused sick time as provided pursuant to this

chapter shall be carried over to the following calendar year; provided that no employer shall be required to (i) allow the use of more than forty hours of sick time in a calendar year or (ii) carry over unused paid sick time if the employee is paid for any unused sick time at the end of the calendar year in which such time is accrued and the employer provides the employee with an amount of paid sick time that meets or exceeds the requirements of this chapter for such employee for the immediately subsequent calendar year on the first day of the immediately subsequent calendar year.

i. Nothing in this chapter shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment for accrued sick time that has not been used.

j. If an employee is transferred to a separate division, entity or location in the city of New York, but remains employed by the same employer, such employee is entitled to all sick time accrued at the prior division, entity or location and is entitled to retain or use all sick time as provided pursuant to the provisions of this chapter. When there is a separation from employment and the employee is rehired within six months of separation by the same employer, previously accrued sick time that was not used shall be reinstated and such employee shall be entitled to use such accrued sick time at any time after such employee is rehired, provided that no employer shall be required to reinstate such sick time to the extent the employee was paid for unused accrued sick time prior to separation and the employee agreed to accept such pay for such unused sick time.

§ 20-914 **Use of sick time.** a. An employee shall be entitled to use sick time for absence from work due to:

1. such employee's mental or physical illness, injury or health condition or need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive medical care; or

2. care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or who needs preventive medical care; or

3. closure of such employee's place of business by order of a public official due to a public health emergency or such employee's need to care for a child whose school or childcare provider has been closed by order of a public official due to a public health emergency.

b. An employer may require reasonable notice of the need to use sick time. Where such need is foreseeable, an employer may require reasonable advance notice of the intention to use such sick time, not to exceed seven days prior to the date such sick time is to begin. Where such need is not foreseeable, an employer may require an employee to provide notice of the need for the use of sick time as soon as practicable.

c. For an absence of more than three consecutive work days, an employer may require reasonable documentation that the use of sick time was authorized by subdivision a of this section. For sick time used pursuant to paragraphs 1 and 2 of subdivision a of this section, documentation signed by a licensed health care provider indicating the need for the amount of sick time taken shall be considered reasonable documentation and an employer shall not require that such documentation specify the nature of the employee's or the employee's family member's injury, illness or condition, except as required by law.

d. Nothing herein shall prevent an employer from requiring an employee to provide written confirmation that an employee used sick time pursuant to this section.

e. An employer shall not require an employee, as a condition of taking sick time, to search for or find a replacement worker to cover the hours during which such employee is utilizing sick time.

f. Nothing in this chapter shall be construed to prohibit an employer from taking disciplinary action, up to and including termination, against a worker who uses sick time provided pursuant to this chapter for purposes other than those described in this section.

§ 20-915 **Changing schedule.** Upon mutual consent of the employee and the employer, an employee who is absent for a reason listed in subdivision a of section 20-914 of this chapter may work additional hours during the immediately preceding seven days if the absence was foreseeable or within the immediately subsequent seven days from that absence without using sick time to make up for the original hours for which such employee was absent, provided that an adjunct professor who is an employee at an institute of higher education may work such additional hours at any time during the academic term. An employer shall not require such employee to work additional hours to make up for the original hours for which such employee was absent or to search for or find a replacement employee to cover the hours during which the employee is absent pursuant to this section. If such employee works additional hours, and such hours are fewer than the number of hours such employee was originally scheduled to work, then such employee shall be able to use sick time provided pursuant to this chapter for the difference. Should the employee work additional hours, the employer shall comply with any applicable federal, state or local labor laws.

§ 20-916 **Collective bargaining agreements.** a. The provisions of this chapter shall not apply to any employee covered by a valid collective bargaining agreement if (i) such provisions are expressly waived in such collective bargaining agreement and (ii) such agreement provides for a comparable benefit for the employees covered by such agreement in the form of paid days off; such paid days off shall be in the form of leave, compensation, other employee benefits, or some combination thereof. Comparable benefits shall include, but are not limited to, vacation time, personal time, sick time, and holiday and Sunday time pay at premium rates.

b. Notwithstanding subdivision a of this section, the provisions of this chapter

shall not apply to any employee in the construction or grocery industry covered by a valid collective bargaining agreement if such provisions are expressly waived in such collective bargaining agreement.

§ 20-917 **Public disasters.** In the event of a public disaster, the mayor may, for the length of such disaster, suspend the provisions of this chapter for businesses, corporations or other entities regulated by the public service commission.

§ 20-918 **Retaliation and interference prohibited.** No employer shall engage in retaliation or threaten retaliation against an employee for exercising or attempting to exercise any right provided pursuant to this chapter, or interfere with any investigation, proceeding or hearing pursuant to this chapter. The protections of this chapter shall apply to any person who mistakenly but in good faith alleges a violation of this chapter. Rights under this chapter shall include, but not be limited to, the right to request and use sick time, file a complaint for alleged violations of this chapter with the department, communicate with any person about any violation of this chapter, participate in any administrative or judicial action regarding an alleged violation of this chapter, or inform any person of his or her potential rights under this chapter.

§ 20-919 **Notice of rights.** a. An employer shall provide an employee at the commencement of employment with written notice of such employee's right to sick time pursuant to this chapter, including the accrual and use of sick time, the calendar year of the employer, and the right to be free from retaliation and to bring a complaint to the department. Such notice shall be in English and the primary language spoken by that employee, provided that the department has made available a translation of such notice in such language pursuant to subdivision b of this section. Such notice may also be conspicuously posted at an employer's place of business in an area accessible to employees.

b. The department shall create and make available notices that contain the information required pursuant to subdivision a of this section and such notices shall allow for the employer to fill in applicable dates for such employer's calendar year. Such notices shall be posted in a downloadable format on the department's website in Chinese, English, French-Creole, Italian, Korean, Russian, Spanish and any other language deemed appropriate by the department.

c. Any person or entity that willfully violates the notice requirements of this section shall be subject to a civil fine in an amount not to exceed fifty dollars for each employee who was not given appropriate notice pursuant to this section.

§ 20-920 **Employer records.** Employers shall retain records documenting such employer's compliance with the requirements of this chapter for a period of two years unless otherwise required pursuant to any other law, rule or regulation, and shall allow the department to access such records, with appropriate notice and at a mutually agreeable time, in furtherance of an investigation conducted pursuant to this chapter.

§ 20-921 **Confidentiality and nondisclosure.** No person or entity may require the disclosure of details relating to an employee's or his or her family member's medical condition as a condition of providing sick time under this chapter. Health information about an employee or an employee's family member obtained solely for the purposes of utilizing sick time pursuant to this chapter shall be treated as confidential and shall not be disclosed except by the affected employee, with the permission of the affected employee or as required by law.

§ 20-922 **Encouragement of more generous policies; no effect on more generous policies.** a. Nothing in this chapter shall be construed to discourage or prohibit the adoption or retention of a sick time policy more generous than that which is required herein.

b. Nothing in this chapter shall be construed as diminishing the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time to an employee than required herein.

c. Nothing in this chapter shall be construed as diminishing the rights of public employees regarding sick time as provided pursuant to federal, state or city law.

§ 20-923 **Other legal requirements.** a. This chapter provides minimum requirements pertaining to sick time and shall not be construed to preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees.

b. Nothing in this chapter shall be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation, nor shall anything in this chapter be construed to diminish or impair the rights of an employee or employer under any valid collective bargaining agreement.

§ 20-924 **Enforcement and penalties.** a. The department shall enforce the provisions of this chapter. In effectuating such enforcement, the department shall establish a system utilizing multiple means of communication to receive complaints regarding non-compliance with this chapter and investigate complaints received by the department in a timely manner.

b. Any person alleging a violation of this chapter shall have the right to file a complaint with the department within 270 days of the date the person knew or should have known of the alleged violation. The department shall maintain confidential the identity of any complainant unless disclosure of such complainant's identity is necessary for resolution of the investigation or otherwise required by law. The department shall, to the extent practicable, notify such complainant that the department will be disclosing his or her identity prior to such disclosure.

c. Upon receiving a complaint alleging a violation of this chapter, the department shall investigate such complaint and attempt to resolve it through mediation. The department shall keep complainants reasonably notified regarding the status of their complaint and any resultant investigation. If the department believes that a violation has occurred, it shall issue to the offending person or entity

a notice of violation. The commissioner shall prescribe the form and wording of such notices of violation. The notice of violation shall be returnable to the administrative tribunal authorized to adjudicate violations of this chapter.

d. The department shall have the power to impose penalties provided for in this chapter and to grant an employee or former employee all appropriate relief. Such relief shall include: (i) for each instance of sick time taken by an employee but unlawfully not compensated by the employer: three times the wages that should have been paid under this chapter or two hundred fifty dollars, whichever is greater; (ii) for each instance of sick time requested by an employee but unlawfully denied by the employer and not taken by the employee or unlawfully conditioned upon searching for or finding a replacement worker, or for each instance an employer requires an employee to work additional hours without the mutual consent of such employer and employee in violation of section 20-915 of this chapter to make up for the original hours during which such employee is absent pursuant to this chapter: five hundred dollars; (iii) for each instance of unlawful retaliation not including discharge from employment: full compensation including wages and benefits lost, five hundred dollars and equitable relief as appropriate; and (iv) for each instance of unlawful discharge from employment: full compensation including wages and benefits lost, two thousand five hundred dollars and equitable relief, including reinstatement, as appropriate.

e. Any entity or person found to be in violation of the provisions of sections 20-913, 20-914, 20-915 or 20-918 of this chapter shall be liable for a civil penalty payable to the city not to exceed five hundred dollars for the first violation and, for subsequent violations that occur within two years of any previous violation, not to exceed seven hundred and fifty dollars for the second violation and not to exceed one thousand dollars for each succeeding violation.

f. The department shall annually report on its website the number and nature of the complaints received pursuant to this chapter, the results of investigations undertaken pursuant to this chapter, including the number of complaints not substantiated and the number of notices of violations issued, the number and nature of adjudications pursuant to this chapter, and the average time for a complaint to be resolved pursuant to this chapter.

§ 4. Effect of invalidity; severability. If any section, subdivision, paragraph, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§ 5. Independent Budget Office report. Pursuant to section 260 of the New York City Charter, no later than thirty months after employers with twenty or more employees are required to provide sick time to employees pursuant to section 3 of this local law, the Independent Budget office ("IBO") shall report to the Mayor and the Council and post on its website a report presenting data related to the costs and benefits of the Earned Sick Time Act. Such report shall include to the extent practicable given available data and methodologies, but not be limited to, data regarding wage and employment rates; businesses, including small business start-up and failure rates, expenses and revenues; and infectious disease rates; and shall include to the extent practicable a comparison of New York City with surrounding counties and large cities comparable to New York City that do not provide sick time. When reporting this data, the IBO director shall ensure that IBO uses appropriate and professionally accepted methodologies for comparing similar data and identify such methodologies in the report, and shall clearly specify the extent to which the earned sick time act can properly be determined to have had an impact on any of the data analyzed. The report shall be contingent on the availability to IBO of data the IBO director determines to be necessary to complete such report. The IBO director shall be authorized to secure such information, data, estimates and statistics from the agencies of the City as the director determines to be necessary in the preparation of such report, and such agencies shall provide such information to the extent that it is available in a timely fashion.

§ 6. Independent Budget Office review and determination. On December 16, 2013, the Independent Budget Office shall submit to the Council and the Mayor and post on its website a determination stating whether the most recent New York City Coincident Economic Index or similar successor index as published by the Federal Reserve Bank of New York (the "Index") is at or above its January 2012 level. If such determination states that the Index is below its January 2012 level, the IBO shall make and submit a determination every June 16 and December 16 of each year thereafter, until it determines that the Index is at or above its January 2012 level.

§ 7. This local law shall take effect pursuant to the following schedule:

- (1) If the December 16, 2013 Independent Budget Office ("IBO") determination shows that the most recent New York City Coincident Economic Index or similar successor index as published by the Federal Reserve Bank of New York (the "Index") is at or above its January 2012 level, then:
  - (a) All employers that employ twenty or more employees must comply with the provisions of this local law on April 1, 2014;
  - (b) all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local law regarding paid sick time on October 1, 2015; and
  - (c) all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on April 1, 2014.

- (2) If on December 16, 2013, the Index is not at or above its January 2012 level, but on June 16, 2014, the Index is at or above its January 2012 level as determined by the IBO, then:
- All employers that employ twenty or more employees must comply with the provisions of this local law on October 1, 2014;
  - all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local law regarding paid sick time on April 1, 2016; and
  - all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on October 1, 2014.
- (3) If on June 16, 2014, the Index is not at or above its January 2012 level, but on December 16, 2014, the Index is at or above its January 2012 level as determined by the IBO, then:
- All employers that employ twenty or more employees must comply with the provisions of this local law on April 1, 2015;
  - all employers that employ fifteen to nineteen employees or a domestic worker must comply with the provisions of this local law regarding paid sick time on October 1, 2016; and
  - all employers with employees not entitled to paid sick time pursuant to chapter 8 of title 20 of the administrative code as added by section 3 of this local law, including those employers covered by paragraph 3 of subdivision a of section 20-913 of such code as added by section 3 of this local law during the period specified therein, must comply with the provisions of this local law on April 1, 2015.
- (4) If on December 16, 2014 the Index is not at or above its January 2012 level, then the IBO shall make a determination every June 16<sup>th</sup> and December 16<sup>th</sup> of each year thereafter until such Index is at or above its January 2012 level, and the effective date of this local law for all employers shall be on the succeeding October 1 or April 1, respectively, after the first such determination that the Index is at or above its January 2012 level.
- (5) Notwithstanding the preceding paragraphs (1) through (4), in the case of employees covered by a valid collective bargaining agreement in effect on the effective date prescribed by such preceding paragraphs, this local law shall take effect on the date of the termination of such agreement.
- (6) This local law shall take effect pursuant to the preceding paragraphs, and the commissioner of consumer affairs shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

MICHAEL C. NELSON, Chairperson; JAMES F. GENNARO, DOMENIC M. RECCHIA, Jr., ERIC A. ULRICH; Committee on Civil Service and Labor, May 6, 2013.

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 Finance

Report for Res. No. 1740-A

**Report of the Committee on Finance in favor of approving, as amended, a Resolution approving the granting of an exemption for real property taxes pursuant to section 420-a of the Real Property Tax Law, for the 2003 through 2008 assessment rolls for the parcel owned by the Foundation for Sephardic Studies, Inc. in the City of New York, borough of Brooklyn, designated on the tax map as block 07089, lot 07 in such borough, and the cancellation of taxes, fines, penalties and interest remaining unpaid, and the making of appropriate correction of the subject assessment rolls, if, upon accepting and reviewing the application or renewal application for such exemption, the Department of Finance is satisfied that such corporation would otherwise be entitled to such exemption if it had filed such application for exemption by the appropriate taxable status date, in accordance with, and upon the effective date of, the chapter law represented by Assembly Bill A. 7153.**

The Committee on Finance, to which the annexed amended resolution was referred on April 25, 2013 (Minutes, page 1169), respectfully

#### REPORTS:

#### BACKGROUND

The Foundation for Sephardic Studies, Inc. is a not for profit corporation organized as a synagogue located at 718 Avenue S in the City of New York, borough

of Brooklyn, designated on the tax map as block 07089, lot 07 in such borough. Pursuant to section 420-a of the Real Property Tax Law, which allows property tax exemptions for corporations that operate exclusively for religious, charitable, hospital, educational, or moral or mental improvement purposes, such corporations are eligible to receive a real property tax exemption provided that the Commissioner of the Department of Finance (“DOF”) receives an exemption application from the owner of such property before the applicable taxable status date. In New York City, the taxable status date is January 5<sup>th</sup>.

An application for a real property tax exemption was not submitted to the DOF before the taxable status date in 2003, 2004, 2005, 2006, 2007, and 2008. The taxable status date for the 2003, 2004, 2005, 2006, 2007, and 2008 assessment rolls was January 5<sup>th</sup> of the respective years. Accordingly, the Foundation for Sephardic Studies, Inc. did not receive a real property tax exemption, and according to DOF, the amount of outstanding property taxes, including interest and penalties, is \$41,09150.

On May 2, 2013, the New York State Assembly introduced A.7153 (“State legislation”), which authorizes the DOF to accept an application or renewal application from the Foundation for Sephardic Studies, Inc. for an exemption from real property taxes for the 2003, 2004, 2005, 2006, 2007, and 2008 assessment rolls. The State legislation provides that if DOF accepts the application, it must review it as if it had been received on or before the taxable status date established for the relevant assessment rolls.

The State legislation further provides that if DOF is satisfied that the corporation would have otherwise been entitled to the exemption had it filed for exemption by the taxable status date, “the commissioner . . . , upon approval of the city council of the city of New York, may grant exemption from all taxation with respect to the subject tax rolls due and owing by such corporation on the effective date of this act, and cancel taxes, fines, penalties and interest remaining unpaid, and make appropriate correction of the subject assessment rolls.” It is important to note that on April 28, 2011, this Committee adopted a resolution authorizing, pursuant to Chapter 362 of the Laws of 2011, DOF to review the exemption application as if the exemption application has been received in 2008 for the 2008, 2009, and 2010 assessment rolls. However, such time period did not expand the full length of accrued taxes, which began in 2003.

#### PROPOSED RES. NO. 1740-A

Proposed Res. 1740-A constitutes the Council’s approval, pursuant to the State legislation, of the granting of a real property tax exemption to the Foundation for Sephardic Studies, Inc. for taxes owed for the 2003 through 2008 assessment rolls, if DOF accepts the application and, upon review, is satisfied that the corporation would have been entitled to the exemption had it filed the application by the appropriate taxable status date of such assessment rolls. The approval of the Council is conditioned upon the effective date of, the chapter law represented by Assembly Bill A. 7153.

*Accordingly, this Committee recommends its adoption, as amended.*

**(The following is the text of Res. No. 1740-A:)**

Res. No. 1740-A

**Resolution approving the granting of an exemption for real property taxes pursuant to section 420-a of the Real Property Tax Law, for the 2003 through 2008 assessment rolls for the parcel owned by the Foundation for Sephardic Studies, Inc. in the City of New York, borough of Brooklyn, designated on the tax map as block 07089, lot 07 in such borough, and the cancellation of taxes, fines, penalties and interest remaining unpaid, and the making of appropriate correction of the subject assessment rolls, if, upon accepting and reviewing the application or renewal application for such exemption, the Department of Finance is satisfied that such corporation would otherwise be entitled to such exemption if it had filed such application for exemption by the appropriate taxable status date, in accordance with, and upon the effective date of, the chapter law represented by Assembly Bill A. 7153.**

By Council Members Recchia and Comrie.

**Whereas**, The Foundation for Sephardic Studies, Inc. is a not for profit corporation organized as a synagogue located at 718 Avenue S in the City of New York, borough of Brooklyn, designated on the tax map as block 07089, lot 07 in such borough; and

**Whereas**, In accordance with Assembly Bill A.7153 (“State legislation”), the Commissioner of the Department of Finance (“DOF”) would be authorized to accept an application for exemption from real property taxes pursuant to section 420-a of the Real Property Tax Law for the 2003 through 2008 assessment rolls for the parcel owned by such corporation; and

**Whereas**, The State legislation provides that such application, if accepted, would be reviewed as if it had been received on or before the taxable status date established by such assessment rolls; and

**Whereas**, Such State legislation also provides that if such corporation would otherwise be entitled to such exemption had such corporation filed such application or renewal application for exemption by the appropriate taxable status date, then the Commissioner of DOF, upon approval by the Council of the City of New York, may

grant such exemption from all taxation with respect to the subject taxable assessment rolls due and owing on the effective date of such chapter law, and cancel taxes, fines, penalties and interest remaining unpaid, and make appropriate correction of the subject assessment rolls; now, therefore, be it

**Resolved**, That the Council of the City of New York hereby approves the granting of an exemption for real property taxes pursuant to section 420-a of the Real Property Tax Law, for the 2003 through 2008 assessment rolls for the parcel owned by the Foundation for Sephardic Studies, Inc. in the City of New York, borough of Brooklyn, designated on the tax map as block 07089, lot 07 in such borough, and the cancellation of taxes, fines, penalties and interest remaining unpaid, and the making of appropriate correction of the subject assessment rolls, if, upon accepting and reviewing the application or renewal application for such exemption, the Department of Finance is satisfied that such corporation would otherwise be entitled to such exemption if it had filed such application for exemption by the appropriate taxable status date, in accordance with, and upon the effective date of, the chapter law represented by Assembly Bill A. 7153.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, May 8, 2013.

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).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for Res. No. 1750

**Report of the Committee on Finance in favor of approving a Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.**

The Committee on Finance, to which the annexed resolution was referred on May 8, 2013, respectfully

**REPORTS:**

**Introduction.** The Council of the City of New York (the "Council") annually adopts the City's budget covering expenditures other than for capital projects (the "expense budget") pursuant to Section 254 of the Charter. On June 28, 2012, the Council adopted the expense budget for fiscal year 2013 with various programs and initiatives (the "Fiscal 2013 Expense Budget"). On June 29, 2011, the Council adopted the expense budget for fiscal year 2012 with various programs and initiatives (the "Fiscal 2012 Expense Budget").

**Analysis.** This Resolution, dated May 8, 2013, approves new designations and changes in the designation of certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2013 and Fiscal 2012 Expense Budgets, and approves the new designations and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in such budgets, and amends the description for the Description/Scope of Services of certain organizations receiving local, aging and youth discretionary funding in accordance with the Fiscal 2013 and Fiscal 2012 Expense Budgets.

In an effort to continue to make the budget process more transparent, the Council is providing a list setting forth new designations and/or changes in the designation of certain organizations receiving local, aging, and youth discretionary funding, as well as new designations and/or changes in the designation of certain organizations to receive funding pursuant to certain initiatives in the Fiscal 2013 and Fiscal 2012 Expense Budgets.

This resolution sets forth new designations and specific changes in the designation of certain organizations receiving local initiative funding pursuant to the Fiscal 2013 Expense Budget, as described in Chart 1; sets forth new designations and changes in the designation of aging discretionary funding pursuant to the Fiscal 2013 Expense Budget, as described in Chart 2; sets forth new designations and changes in the designation of youth discretionary funding pursuant to the Fiscal 2013 Expense Budget, as described in Chart 3; sets forth the new designations and changes in the designation of certain organizations that will receive funding pursuant to certain initiatives in the Fiscal 2013 Expense Budget, as described in Charts 4-10; sets forth new designations and specific changes in the designation of certain organizations receiving local initiative funding pursuant to the Fiscal 2012 Expense Budget, as described in Chart 11; sets forth new designations and changes in the designation of aging discretionary funding pursuant to the Fiscal 2012 Expense Budget, as described in Chart 12; and amends the description for the

Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding pursuant to the Fiscal 2013 Expense Budget as described in chart 13; and amends the description for the Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding pursuant to the Fiscal 2012 Expense Budget as described in chart 14.

The charts, attached to the Resolution, contain the following information: name of the council member(s) designating the organization to receive funding or name of the initiative, as set forth in Adjustments Summary/Schedule C/ Fiscal 2013 Expense Budget, dated June 28, 2012, and the Adjustments Summary/Schedule C/ Fiscal 2012 Expense Budget, dated June 29, 2011.

Specifically, Chart 1 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget.

Chart 2 sets forth the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2013 Expense Budget.

Chart 3 sets forth the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2013 Expense Budget.

Chart 4 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to the Medical Services in Adult Shelters Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 5 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Community Schools Planning Grant Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 6 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to Job Training and Placement for Day Care Workers Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 7 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Injection Drug Users Alliance (IDUHA) Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 8 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Anti-Gun Violence Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 9 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the DYCD Food Pantries Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 10 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the EarlyLearn/Child Care Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 11 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2012 Expense Budget.

Chart 12 sets forth the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2012 Expense Budget.

Chart 13 amends the description for the Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2013 Expense Budget.

Chart 14 amends the description for the Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2012 Expense Budget.

It is to be noted that organizations identified in the attached Charts with an asterisk (\*) have not yet completed or began the prequalification process conducted by the Mayor's Office of Contract Services (for organizations to receive more than \$10,000) by the Council (for organizations to receive \$10,000 or less total), or other government agency. Organizations identified without an asterisk have completed the appropriate prequalification review.

It should be further noted that funding for organizations in the attached Charts with a double asterisk (\*\*) will not take effect until the passage of a budget modification.

**Description of Above-captioned Resolution.** In the above-captioned Resolution, the Council would approve the new designation and changes in the

designation of certain organizations to receive funding in the Fiscal 2013 and 2012 Expense Budgets. Such Resolution would take effect as of the date of adoption.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1750:)

Res. No. 1750

**Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.**

By Council Members Recchia and Wills.

**Whereas,** On June 28, 2012 the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2013 with various programs and initiatives (the “Fiscal 2013 Expense Budget”); and

**Whereas,** The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving local, aging and youth discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

**Whereas,** The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

**Whereas,** On June 29, 2011 the Council adopted the expense budget for fiscal year 2012 with various programs and initiatives (the “Fiscal 2012 Expense Budget”); and

**Whereas,** The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2012 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 1; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 2; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 3; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Medical Services in Adult Shelters Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 4; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Community Schools Planning Grant Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 5; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to Job Training and Placement for Day Care Workers Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 6; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Injection Drug Users Health Alliance (IDUHA) Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 7; and be it further

**Resolved,** That the City Council approves the new designation of certain organizations receiving funding pursuant to the Anti-Gun Violence Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 8; and be it further

**Resolved,** That the City Council approves the new designation of certain organizations receiving funding pursuant to the DYCD Food Pantries Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 9; and be it further

**Resolved,** That the City Council approves the new designation of certain organizations receiving funding pursuant to the EarlyLearn/Child Care Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 10; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2012 Expense Budget, as set forth in Chart 11; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving aging discretionary funding in

accordance with the Fiscal 2012 Expense Budget, as set forth in Chart 12; and be it further

**Resolved,** That the City Council approves the new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 13; and be it further

**Resolved,** That the City Council approves the new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2012 Expense Budget, as set forth in Chart 14.

**ATTACHMENT:**

CHART 1: Local Initiatives - Fiscal 2013

Member	Organization	Bill Number	Agency	Amount	App #	USA	Fiscal Conduct/Spending Organization	Fiscal Conduct EIN *
Vicosa	Albion-Pelham-Tarrytown-Vocal Community Patrol	13-277164E	DYCD	\$1,500.00	260	000		
Vicosa	New York Regional Center	13-277164E	DYCD	\$5,000.00	260	000		
Vicosa	New York Regional Center	13-277164E	DYCD	\$5,000.00	260	000		
Vicosa	Scholarship Hill Civic Association **	06-118410Z	DYCD	\$5,000.00	026	000		
Vicosa	Stony Woods, Inc.	13-171904E	DYCD	\$2,500.00	115	000		
Vicosa	Stony Woods, Inc.	13-171904E	DYCD	\$2,500.00	115	000		
Williams	Stony Woods Health Services	13-171904E	DYCD	\$2,500.00	115	000		
Williams	Stony Woods Health Services	13-171904E	DYCD	\$2,500.00	115	000		
Williams	Yonkers Senior Center	23-715106Z	DYCD	\$2,500.00	018	121		
Winn	Green Gardens, Inc.	13-280118Z	OPR	\$5,000.00	046	000		
Winn	Green Gardens, Inc.	20-022145Z	OPR	\$5,000.00	046	000		
Levin	Church Of The Ascension	13-162298E	DHS	\$5,500.00	071	200		
Levin	Church Of The Ascension	13-162298E	DHS	\$5,500.00	071	200		
Corvite	Jamaica High School Parent Teacher Association **	06-180029E	DYCD	\$5,500.00	260	000		
Corvite	Jamaica High School **	13-444043A	DOE	\$5,500.00	040	054		
Jackson	Green Gardens, Inc.	13-280118Z	OPR	\$1,250.00	046	000		
Jackson	Palmdale Haven, Inc. **	06-022069E	HFD	\$12,000.00	000	000		
Palma	New York City AIDS Housing Network (NYCAHN)	13-429438E	DYCD	\$5,000.00	018	112		
Palma	Voices of Community Activists & Leaders (VOCAHAL)	13-429438E	DYCD	\$5,000.00	018	112		
Vivrette	New York City AIDS Housing Network (NYCAHN)	13-429438E	DYCD	\$5,000.00	260	312		
Vivrette	Voices of Community Activists & Leaders (VOCAHAL)	13-429438E	DYCD	\$5,000.00	260	312		
Moskowitz	Green Gardens, Inc.	13-280118Z	OPR	\$5,500.00	046	000		
Moskowitz	Marshall Lane Trust	78-071587Z	OPR	\$5,500.00	046	000		
Stewart	Wood Side Area Coalition Inc.	13-328659E	DYCD	\$5,500.00	260	000		
Stewart	Fund for the City of New York, Inc. - Afro Latin Jazz Orchestra	13-281200A	DYCD	\$3,000.00	260	000		
Stewart	Fund for the City of New York, Inc. - Afro Latin Jazz Orchestra	13-281200A	DYCD	\$3,000.00	260	000		
Stewart	Stude in a School Association, Inc. The	13-381321Z	DCLA	\$4,000.00	016	001		
Williams	Seneca Falls International, Inc.	11-282248E	DYCD	\$5,000.00	260	312		
Williams	Seneca Falls International, Inc.	11-282248E	DYCD	\$5,000.00	260	312		
Williams	Seneca Falls International, Inc.	11-282248E	DYCD	\$5,000.00	260	312		
Williams	Seneca Falls International, Inc.	11-282248E	DYCD	\$5,000.00	260	312		
Levin	Church Of The Ascension	13-162298E	DHS	\$5,500.00	071	200		
Levin	Church Of The Ascension	13-162298E	DHS	\$5,500.00	071	200		
Stewart	Prize Community Development Corporation	13-270766E	DYCD	\$15,000.00	260	000		13-270766E
Stewart	48th Precinct Community Council	06-044845E	DYCD	\$5,000.00	260	000		13-270766E
Stewart	48th Precinct Community Council	13-270766E	DYCD	\$5,000.00	260	000		13-270766E
Stewart	48th Precinct Community Council	06-044845E	DYCD	\$5,000.00	260	000		13-270766E
Stewart	48th Precinct Community Council	13-270766E	DYCD	\$5,000.00	260	000		13-270766E
Recchia	Action For Progress, Inc.	13-385371Z	ACS	\$4,000.00	008	004		
Recchia	Action For Progress, Inc.	13-385371Z	ACS	\$4,000.00	008	004		

\* Indicates pending completion of pre-qualification process  
 \*\* Requires a budget modification for the changes to take effect

CHART 2: Aging Initiatives - Fiscal 2013

Member	Organization	EIN Number	Agency	Amount	App #	USA	Fiscal Consultant/Sponsoring Organization	Fiscal Consultant EIN *
Combs	Ray Wilkins Senior Discharge	13-1802352	DPFA	\$5,000.00	125	003		
Combs	Ray Wilkins Senior Discharge	13-1802352	DPFA	\$5,000.00	126	003		
				\$10,000.00	125	003		
				\$10,000.00	126	003		

\* Indicates pending completion of pre-qualification review.

CHART 3: Youth Initiatives - Fiscal 2013

Member	Organization	EIN Number	Agency	Amount	App #	USA	Fiscal Consultant/Sponsoring Organization	Fiscal Consultant EIN *
Combs	Strom's Heart School	11-2250788	DVCD	\$5,000.00	260	312	Creston Regressed Youth Council, Inc.	11-2539141
Combs	Strom's Heart School	11-2250788	DVCD	\$5,000.00	260	312		
Combs	Strom's Heart School - Shared Heart Youth Program	11-2250788	DVCD	\$5,000.00	260	312	Creston Regressed Youth Council, Inc.	11-2539141
Combs	Strom's Heart School - Shared Heart Youth Program	11-2250788	DVCD	\$5,000.00	260	312		
Vann	Misc-Ed Mexican Educational Foundation Of New York Inc.	11-3840310	DVCD	\$5,000.00	260	312		
Vann	MASA-Wood, Inc.	11-3840310	DVCD	\$5,000.00	260	312		
Williams	Friends of Crown Heights Educational Centers, Inc.	11-2309541	DVCD	\$5,000.00	260	312		
Williams	Sesame Plays International, Inc.	11-2866465	DVCD	\$5,000.00	260	312		
Rodriguez	Fraternidad de Los Angeles, Inc.	88-2872102	DVCD	\$5,000.00	260	312	Washington Heights Inwood Coalition, Inc.	13-2887768
Rodriguez	Fraternidad de Los Angeles, Inc.	88-2872102	DVCD	\$5,000.00	260	312		
Rodriguez	Inter-Religious Foundation For Community Organization Inc.	13-2590548	DVCD	\$5,000.00	260	312	Washington Heights Inwood Coalition, Inc.	13-2887768
Rodriguez	Inter-Religious Foundation For Community Organization Inc.	13-2590548	DVCD	\$5,000.00	260	312		
Ready	B14 Precinct Community Council	11-2517188	DVCD	\$5,000.00	260	312		
Ready	71st Precinct Community Council, Inc.	04-3784543	DVCD	\$5,000.00	260	312		
Ready	K-John Bessard Association, Inc.	34-1980787	DVCD	\$10,000.00	260	312		
Ready	Ng Jiah Hooyn, Inc.	90-0907202	DVCD	\$5,000.00	260	312		
Ready	New Theatrical Production Company, Inc.	11-3427470	DVCD	\$5,000.00	260	312		
Ready	Hempory Music Makers, Inc.	20-2846984	DVCD	\$10,000.00	260	312		
Ready	New Theatrical Production Company, Inc.	11-3427470	DVCD	\$10,000.00	260	312		

\* Indicates pending completion of pre-qualification review.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, May 8, 2013.

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).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for L.U. No. 823

**Report of the Committee on Finance in favor of approving College Avenue Apartments, Block 2439, Lots 55,57,59, Bronx, Community District No. 4, Council District No. 16**

The Committee on Finance, to which the annexed resolution was referred on May 8, 2013, respectfully

**REPORTS:**

**(The following is the text of the Memo to the Finance Committee from the Finance Division of the New York City Council:)**

May 8, 2013

TO: Hon. Domenic M. Recchia, Jr.  
Chair, Finance Committee

Members of the Finance Committee

FROM: Amy Stokes, Finance Division

RE: Finance Committee Agenda of May 8, 2013 - Resolution approving tax exemptions for four preconsidered Land Use Items (Council District 15, Council District 16, Council District 11)

Creston Heights (Block 3293, Lot 39) in the Bronx consists of one building with 35 units of rental housing for low income families. Under the proposed project, Creston Heights Housing Development Fund Corporation ("HDFC") will acquire the Exemption Area and Creston Heights LLC ("Company"), a New York limited liability company controlled by the HDFC, will be the beneficial owner and will operate the Exemption Area. The HDFC and the Company (collectively, "Owner") will finance the acquisition and rehabilitation of the property with loans from the Department of Housing Preservation and Development ("HPD"), the New York City Housing Development Corporation ("HDC"), and low income housing tax credits. The Owner and HPD will enter into a regulatory agreement establishing certain controls upon the operation of the Exemption Area. HPD respectfully requests that the Council approve, pursuant to Section 577 of the Private Housing Finance Law, an exemption from real property taxation.

This item has the approval of Councilmember Rivera.

College Avenue Apartments (Block 2439, Lots 55, 57, 59) in the Bronx consists of three buildings with 63 units of rental housing for low income families. Under the proposed project, BK East 169<sup>th</sup> Street Housing Development Fund Company, Inc. ("HDFC"), the legal owner of the Exemption Area, and East 169<sup>th</sup> Street Associates LLC ("Company"), a New York limited liability company, the beneficial owner and operator of the Exemption Area, will finance the rehabilitation of the Exemption Area with loans from a private lender and the City of New York Department of Housing Preservation and Development ("HPD"). The HDFC and the Company (collectively, "Owner") will enter into a regulatory agreement with HPD establishing certain controls upon the operation of the Exemption Area. The Exemption Area currently does not receive any exemption from real property taxation. In order to facilitate the project, HPD respectfully requests that the Council approve, pursuant to Section 577 of the Private Housing Finance Law, an exemption from real property taxation.

This item has the approval of Councilmember Foster.

Riverwalk (Block 5933, Lot 230) in the Bronx consists of one building with 137 units of rental housing for low income seniors. The Exemption Area was developed by Hebrew Home Housing Development Fund Company, Inc. ("HDFC") under the Section 202 Supportive Housing Program for the Elderly, with financing and operating subsidies from the United States Department of Housing and Urban Development ("HUD") and tax exemption from the City. The HDFC refinanced its

original HUD mortgage in 2001 with private financing and has continued to provide supportive housing to the elderly. On March 8, 1979, the Board of Estimate approved a partial tax exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law ("Prior Exemption"). The Prior Exemption expired on December 20, 2002 when the HDFC refinanced the original HUD mortgage with private financing. In order to ensure that the project remains financially viable, HPD is requesting that the Council approve a new tax exemption for the Exemption Area pursuant to Article XI of the Private Housing Finance Law retroactive to the expiration of the Prior Exemption. HPD respectfully requests that the Council approve, pursuant to Section 577 of the Private Housing Finance Law, a retroactive exemption from real property taxation.

This item has the approval of Councilmember Koppell.

1479 Macombs Road (Block 2872, Lot 312) in the Bronx consists of one building with 72 units of rental housing for low income families. Under the proposed project, BPHP Housing Development Fund Company, Inc. ("HDFC") will acquire the Exemption Area and 1479 Macombs Road LLC ("Company"), a limited liability company, will be the beneficial owner and will operate the Exemption Area. The HDFC and the Company (collectively, "Owner") will finance the acquisition and rehabilitation of the Exemption Area with loans from a private lender and the City of New York Department of Housing Preservation and Development ("HPD"). The Owner and HPD will enter into a regulatory agreement establishing certain controls upon the operation of the Exemption Area. The Exemption Area currently does not receive any exemption from real property taxation. In order to facilitate the project, HPD respectfully requests that the Council approve, pursuant to Section 577 of the Private Housing Finance Law, an exemption from real property taxation.

This item has the approval of Councilmember Foster.

**(For the coupled resolution to LU No. 823, please see immediately below; for the coupled resolutions to the remaining LUs, please see, respectively, the Reports of the Committee on Finance for LU Nos. 824, 825, and 826)**

*Accordingly, this Committee recommends the adoption of LU Nos. 823, 824, 825, and 826.*

In connection herewith, Council Member Recchia offered the following resolution:

Res. No. 1752

**Resolution approving an exemption from real property taxes for property located at (Block 2439, Lots 55, 57, 59) the Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 823).**

By Council Member Recchia.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated April 5, 2013 that the Council take the following action regarding a housing project to be located at (Block 2439, Lots 55, 57, 59) the Bronx ("Exemption Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption");

**WHEREAS**, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

**WHEREAS**, the Council has considered the financial implications relating to the Tax Exemption;

**RESOLVED:**

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
  - a) "Company" shall mean East 169<sup>th</sup> Street Associates LLC.
  - b) "Effective Date" shall mean the date that the Owner executes the Restrictive Covenant.
  - c) "Exemption" shall mean the exemption from real property taxation provided hereunder.
  - d) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2439, Lots 55,

57 and 59 on the Tax Map of the City of New York.

- e) "Expiration Date" shall mean the earlier to occur of (i) a date which is six (6) months from the Effective Date, unless HPD and the Owner shall have entered into the Regulatory Agreement prior to such date, (ii) a date which is thirty-three (33) years from the Effective Date, (iii) the date of the expiration or termination of the Regulatory Agreement, or (iv) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
  - f) "HDFC" shall mean BK East 169<sup>th</sup> Street Housing Development Fund Company, Inc.
  - g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
  - h) "Owner" shall mean, collectively, the HDFC and the Company.
  - i) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area from the date of such agreement to the end of the term of the Exemption.
  - j) "Restrictive Covenant" shall mean a restrictive covenant executed by the Owner and recorded against the Exemption Area requiring that the Exemption Area be operated for persons of low income in accordance with the provisions of Article XI of the Private Housing Finance Law.
2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
  3. Notwithstanding any provision hereof to the contrary:
    - a. The Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Restrictive Covenant, (iii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iv) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (v) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the Owner and all mortgages of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.
    - b. The Exemption shall not apply to any building constructed on the Exemption Area that did not have a permanent certificate of occupancy or an equivalent document satisfactory to HPD recording the occupancy and configuration of the building on the Effective Date.
    - c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
  4. In consideration of the Exemption, the owner of the Exemption Area, for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state, or federal law, rule, or regulation.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, May 8, 2013.



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).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for L.U. No. 824

**Report of the Committee on Finance in favor of approving Third Party Transfer Program TBX904 (aka Creston Heights), 2600 Briggs Avenue, Block 3293, Lot 39; Bronx, Community District No.7, Council District No.15**

The Committee on Finance, to which the annexed resolution was referred on May 8, 2013, respectfully

**REPORTS:**

**(For text of the Memo, please see the Report of the Committee on Finance for LU No. 823 printed above in these Minutes)**

*Accordingly, this Committee recommends its adoption.*

In connection herewith, Council Member Recchia offered the following resolution:

Res. No. 1753

**Resolution approving an exemption from real property taxes for property located at (Block 3293, Lot 39) the Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 824).**

By Council Member Recchia.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated March 25, 2013 that the Council take the following action regarding a housing project to be located at (Block 3293, Lot 39) the Bronx ("Exemption Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption");

**WHEREAS**, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

**WHEREAS**, the Council has considered the financial implications relating to the Tax Exemption;

**RESOLVED:**

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
  - (a) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the Owner and (ii) the date that HPD and the Owner enter into Regulatory Agreement.
  - (b) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as:
 

Block 3293, Lot 39 on the Tax Map of the City of New York.
  - (c) "Exemption" shall mean the program of exemption from and abatement of real property taxation authorized pursuant to Section 577 of Article XI of the Private Housing Finance Law.
  - (d) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
  - (e) "HDC" shall mean the New York City Housing Development

Corporation.

- (f) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
  - (g) "HDFC" shall mean Creston Heights Housing Development Fund Corporation.
  - (h) "Company" shall mean Creston Heights LLC, a New York limited liability company controlled by the HDFC.
  - (i) "Regulatory Agreement" shall mean the regulatory agreement between the Owner and HPD establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.
  - (j) "Owner" shall mean, collectively, the HDFC and the Company or any future owner of the Exemption Area.
2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use) shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
  3. Notwithstanding any provision hereof to the contrary, the Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.
  4. The Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy or equivalent document satisfactory to HPD recording the occupancy and configuration of the building on the Effective Date.
  5. Nothing herein shall entitle the Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
  6. In consideration of the Exemption, the Owner, (i) shall execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation, except for an exemption and/or abatement of real property taxation pursuant to Section 489 of the Real Property Tax Law.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, May 8, 2013.

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).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for Preconsidered L.U. No. 825

**Report of the Committee on Finance in favor of approving 1479 Macombs Road, Block 2872, Lot 312, Bronx, Community District No. 4, Council District No. 16**

The Committee on Finance, to which the annexed resolution was referred on May 8, 2013, respectfully

**REPORTS:**

(For text of the Memo, please see the Report of the Committee on Finance for LU No. 823 printed above in these Minutes)

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Member Recchia offered the following resolution:

Res. No. 1754

**Resolution approving an exemption from real property taxes for property located at (Block 2872, Lot 312) the Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 825).**

By Council Member Recchia.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated April 22, 2013 that the Council take the following action regarding a housing project to be located at (Block 2872, Lot 312) the Bronx ("Exemption Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption");

**WHEREAS**, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

**WHEREAS**, the Council has considered the financial implications relating to the Tax Exemption;

**RESOLVED:**

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:

- (a) "Company" shall mean 1479 Macombs Road LLC.
- (b) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD and the Owner enter into the Regulatory Agreement.
- (c) "Exemption" shall mean the exemption from real property taxation provided hereunder.
- (d) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2872, Lot 312 on the Tax Map of the City of New York.
- (e) "Expiration Date" shall mean the earlier to occur of (i) a date which is thirty-two (32) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
- (f) "HDFC" shall mean BPHP Housing Development Fund Company, Inc.
- (g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
- (h) "Owner" shall mean, collectively, the HDFC and the Company.
- (i) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.

2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.

3. Notwithstanding any provision hereof to the contrary:

- a. The Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law,

(ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.

- b. The Exemption shall not apply to any building constructed on the Exemption Area that did not have a permanent certificate of occupancy or an equivalent document satisfactory to HPD recording the occupancy and configuration of the building on the Effective Date.
- c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
4. In consideration of the Exemption, the Owner, for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state, or federal law, rule, or regulation.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, May 8, 2013.

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).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for L.U. No. 826

**Report of the Committee on Finance in favor of approving Riverwalk Project, Block 5933, Lot 230, Bronx, Community District No. 8, Council District No.11**

The Committee on Finance, to which the annexed resolution was referred on May 8, 2013, respectfully

**REPORTS:**

(For text of the Memo, please see the Report of the Committee on Finance for LU No. 823 printed above in these Minutes)

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Member Recchia offered the following resolution:

Res. No. 1755

**Resolution approving an exemption from real property taxes for property located at (Block 5933, Lot 230) the Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 826).**

By Council Member Recchia.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated March 25, 2013 that the Council take the following action regarding a housing project to be located at (Block 5933, Lot 230) the Bronx ("Exemption Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption");

**WHEREAS**, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing

development fund company under Article XI of the Private Housing Finance Law;

**WHEREAS**, the Council has considered the financial implications relating to the Tax Exemption;

**RESOLVED:**

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
  - (a) "Effective Date" shall mean December 20, 2002.
  - (b) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 5933, Lot 230 on the Tax Map of the City of New York.
  - (c) "Expiration Date" shall mean June 30, 2011.
  - (d) "HDFC" shall mean Hebrew Home Housing Development Fund Company, Inc.
  - (e) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
  - (f) "HUD" shall mean the Department of Housing and Urban Development of the United States.
  - (g) "HUD Mortgage" shall mean the original loan made to the Owner by HUD in connection with the Section 202 Supportive Housing Program for the Elderly, which loan was secured by a mortgage on the Exemption Area.
  - (h) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
  - (i) "Owner" shall mean the HDFC or any future owner of the Exemption Area.
  - (j) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on March 8, 1979 (Cal. No. 171).
2. The Prior Exemption shall terminate upon the Effective Date.
3. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments in the sum of \$200,199.
5. Notwithstanding any provision hereof to the contrary:
  - a. The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iii) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.
  - b. The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy or an equivalent document satisfactory to HPD recording the occupancy and configuration of the building on the Effective Date.
  - c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date; however, any real

property taxes paid during the period from the Effective Date to the Expiration Date shall be credited against any amounts remaining due hereunder.

6. In consideration of the New Exemption, the owner of the Exemption Area, for so long as the New Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, May 8, 2013.

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. 790

**Report of the Committee on Land Use in favor of approving Application no. 20135372 TCK, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Café Argentino Inc., d/b/a Café Argentino, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 499 Grand Street, Borough of Brooklyn, Community District 1, Council District 34. 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(e) of the New York City Administrative Code.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1073), respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 1**

**20135372 TCK**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Café Argentino, Inc., d/b/a Café Argentino, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 499 Grand Street.

**INTENT**

To allow an eating or drinking place located on a property which abuts the street to continue to maintain and operate an unenclosed service area on the sidewalk of such street.

**PUBLIC HEARING**

**DATE:** April 30, 2013

**Witnesses in Favor:** One

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** April 30, 2013, recessed to May 2, 2013

**The Subcommittee recommends that the Land Use Committee approve the Petition.**

**In Favor:** Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

**Against:** None

**Abstain:** None

**COMMITTEE ACTION****DATE:** May 2, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** *None***Abstain:** *None*

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

Res. No. 1756

**Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 499 Grand Street, Borough of Brooklyn (20135372 TCM; L.U. No. 790).**

By Council Members Comrie and Weprin.

**WHEREAS**, the Department of Consumer Affairs filed with the Council on March 29, 2013 its approval dated March 29, 2013 of the petition of Café Argentino, Inc., d/b/a Café Argentino, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located 499 Grand Street, Community District 1, Borough of Brooklyn (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

**WHEREAS**, the Petition is subject to review by the Council pursuant to Section 20-226(e) of the Administrative Code;

**WHEREAS**, upon due notice, the Council held a public hearing on the Petition on April 30, 2013; and

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

**RESOLVED:**

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

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. 791

**Report of the Committee on Land Use in favor of approving Application no. 20135340 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of L Plus L Productions LLC, d/b/a Ofrenda, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 113 7th Avenue South, Borough of Manhattan, Community District 2, Council District 3. 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(e) of the New York City Administrative Code.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1073), respectfully

**REPORTS:****SUBJECT****MANHATTAN CB - 2****20135340 TCM**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of L Plus L Productions, LLC, d/b/a

Ofrenda, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 113 7th Avenue South.

**INTENT**

To allow an eating or drinking place located on a property which abuts the street to continue to maintain and operate an unenclosed service area on the sidewalk of such street.

**PUBLIC HEARING****DATE:** April 30, 2013**Witnesses in Favor:** One**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** April 30, 2013, recessed to May 2, 2013

**The Subcommittee recommends that the Land Use Committee approve the Petition.**

**In Favor:** Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Garodnick, Lappin, Wills, Ignizio

**Against:** *None***Abstain:** *None***COMMITTEE ACTION****DATE:** May 2, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** *None***Abstain:** *None*

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

Res. No. 1757

**Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 113 Seventh Avenue South, Borough of Manhattan (20135340 TCM; L.U. No. 791).**

By Council Members Comrie and Weprin.

**WHEREAS**, the Department of Consumer Affairs filed with the Council on March 29, 2013 its approval dated March 29, 2013 of the petition of L Plus L Productions, LLC, d/b/a Ofrenda, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located 113 Seventh Avenue South, Community District 2, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

**WHEREAS**, the Petition is subject to review by the Council pursuant to Section 20-226(e) of the Administrative Code;

**WHEREAS**, upon due notice, the Council held a public hearing on the Petition on April 30, 2013; and

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

**RESOLVED:**

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

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. 792

**Report of the Committee on Land Use in favor of approving Application no. 20135376 TCX, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Tin Marin Bar & Lounge Inc, d/b/a Tin Marin Restaurant & Lounge, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 3708 Riverdale Avenue, Borough of Bronx, Community District 8, Council District 11. 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(e) of the New York City Administrative**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1074), respectfully

#### REPORTS:

##### SUBJECT

**BRONX CB - 8**

**20135376 TCX**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Tin Marin Bar & Lounge, Inc., d/b/a Tin Marin Restaurant & Lounge, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 3708 Riverdale Avenue.

##### INTENT

To allow an eating or drinking place located on a property which abuts the street to establish, maintain and operate an unenclosed service area on the sidewalk of such street.

##### PUBLIC HEARING

**DATE:** April 30, 2013

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

##### SUBCOMMITTEE RECOMMENDATION

**DATE:** April 30, 2013, recessed to May 2, 2013

**The Subcommittee recommends that the Land Use Committee approve the Petition.**

**In Favor:** Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Garodnick, Lappin, Wills, Ignizio

**Against:** None

**Abstain:** None

##### COMMITTEE ACTION

**DATE:** May 2, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** None

**Abstain:** None

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

Res. No. 1758

**Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 3708 Riverdale Avenue, Borough of The Bronx (20135376 TCX; L.U. No. 792).**

By Council Members Comrie and Weprin.

**WHEREAS,** the Department of Consumer Affairs filed with the Council on March 29, 2013 its approval dated March 29, 2013 of the petition of Tin Marin Bar & Lounge, Inc., d/b/a Tin Marin Restaurant & Lounge, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located 3708 Riverdale Avenue, Community District 8, Borough of The Bronx (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

**WHEREAS,** the Petition is subject to review by the Council pursuant to Section 20-226(e) of the Administrative Code;

**WHEREAS,** upon due notice, the Council held a public hearing on the Petition on April 30, 2013; and

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

##### **RESOLVED:**

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

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. 793

**Report of the Committee on Land Use in favor of filing, pursuant to a letter of withdrawal, Application no. N 120200 ZRM submitted by MTM Associates, LLC, pursuant to Section 201 of the New York City Charter, for an amendment to Zoning Resolution Section 74-712, concerning special permits for developments in historic districts in M1-5A and M1-5B districts, Borough of Manhattan, Community District 2.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1074), respectfully

#### REPORTS:

##### SUBJECT

**MANHATTAN CB - 2**

**N 120200 ZRM**

City Planning Commission decision approving an application submitted by MTM Associates, LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Section 74-712, concerning a special permit for developments in historic districts in M1-5A and M1-5B districts.

##### INTENT

This amendment along with its related action would facilitate development of a new mixed residential/commercial building at 150 Wooster Street, in the SoHo Cast-Iron Historic District.

##### PUBLIC HEARING

**DATE:** April 30, 2013

**Witnesses in Favor:** Nine      **Witnesses Against:** Five

##### SUBCOMMITTEE RECOMMENDATION

**DATE:** April 30, 2013, recessed to May 2, 2013

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

**In Favor:** Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

**Against:** None

**Abstain:** None

#### COMMITTEE ACTION I

**DATE:** May 2, 2013

The Committee recommended that the Council approved a resolution disapproving the decision of the City Planning Commission.

**In Favor:** Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** None

**Abstain:** None

By letter dated May 6, 2013 and submitted to the City Council on May 6, 2013, the Applicant withdrew the application.

#### COMMITTEE ACTION II

**DATE:** May 8, 2013

Pursuant to the Applicant's May 6, 2013 letter of withdrawal, the Committee voted to reconsider its May 2, 2013 vote on the resolution to disapprove the application and subsequently voted to approve a motion to file pursuant to the Applicant's letter of withdrawal. The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Dickens, Garodnick, Lappin, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

**Against:** None

**Abstain:** None

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

Res. No. 1759

**Resolution approving a motion to file pursuant to withdrawal of the decision of the City Planning Commission on Application No. N 120200 ZRM, for an amendment of the Zoning Resolution of the City of New York, modifying Section 74-712, concerning a special permit for developments in historic districts in M1-5A and M1-5B districts, Borough of Manhattan (L.U. No. 793).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on March 22, 2013 its decision dated March 20, 2013 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding the application submitted by MTM Associates, LLC (the "applicant"), for an amendment of the text of the Zoning Resolution of the City of New York, modifying Section 74-712, concerning a special permit for developments in historic districts in M1-5A and M1-5B districts, which in conjunction with its related action would facilitate development of a new mixed residential/commercial building at 150 Wooster Street, which is located in the SoHo Cast-Iron Historic District (Application No. N 120200 ZRM), Community District 2, Borough of Manhattan (the "Application");

**WHEREAS**, the Application is related to Application C 120201 ZSM (L.U. No. 794), special permits pursuant to Sections 74-712(a) and 74-712(b) of the Zoning Resolution of the City of New York, as amended, to modify use and bulk regulations;

**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 30, 2013;

**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, the revised negative declaration (CEQR No. 12DCP111M) issued on March 20, 2013 (the "Revised Negative Declaration");

**WHEREAS**, on May 2, 2013, the Land Use Committee of the Council voted to approve a resolution disapproving the Decision;

**WHEREAS**, by letter dated May 6, 2013 and submitted to the City Council on May 6, 2013, the Applicant withdrew the application;

**WHEREAS**, on May 8, 2013, the Land Use Committee of the Council voted to (i) reconsider the resolution approved on May 2, 2013 disapproving the Decision and (ii) approve a motion to file pursuant to the Applicant's May 6, 2013 letter of withdrawal.

#### **RESOLVED:**

The Council approves the motion to file pursuant to withdrawal in accord with Rules 6.40a and 11.80 of the Rules of the Council.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

Coupled to be Filed pursuant to a Letter of Withdrawal.

Report for L.U. No. 794

**Report of the Committee on Land Use in favor of filing, pursuant to a letter of withdrawal, Application no. C 120201 ZSM submitted by MTM Associates, LLC pursuant to Section 197-c and 201 of the New York City Charter for a special permit pursuant to Section 74-712 of Zoning Resolution to modify use regulations (ZR Sections 42-00 and 42-14) and height and setback requirements (ZR Section 43-43) at 150 Wooster Street, Borough of Manhattan, Community District 2, Council District 1.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1074), respectfully

#### **REPORTS:**

#### SUBJECT

MANHATTAN CB - 2

C 120201 ZSM

City Planning Commission decision approving an application submitted by MTM Associates, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to the following sections of the Zoning Resolution:

1. Section 74-712(a) - to modify the use regulations of Section 42-00 (GENERAL PROVISIONS) and Section 42-14(D)(2)(a) to allow Use Group 2 uses (residential use); and
2. Section 74-712(b) - to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks);

to facilitate the development of an 8-story mixed use building, on property located 150 Wooster Street (Block 514, Lots 7 and 9), in an M1-5A District, within the SoHo Cast-Iron Historic District.

#### INTENT

This action, along with related zoning text amendment, would facilitate development of a new mixed residential/commercial building at 150 Wooster Street, in the SoHo Cast-Iron Historic District.

#### PUBLIC HEARING

**DATE:** April 30, 2012

**Witnesses in Favor:** Nine  
Five

**Witnesses Against:**

#### SUBCOMMITTEE RECOMMENDATION

**DATE:** April 30, 2013, recessed to May 2, 2013

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

**In Favor:** Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

**Against:** *None*

**Abstain:** *None*

**COMMITTEE ACTION I**

**DATE:** May 2, 2013

The Committee recommended that the Council approve a resolution disapproving the decision of the City Planning Commission.

**In Favor:** Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** *None*

**Abstain:** *None*

By letter dated May 6, 2013 and submitted to the City Council on May 6, 2013, the Applicant withdrew the application.

**COMMITTEE ACTION II**

**DATE:** May 8, 2013

Pursuant to the Applicant's May 6, 2013 letter of withdrawal, the Committee voted to reconsider its May 2, 2013 vote on the resolution to disapprove the application and subsequently voted to approve a motion to file pursuant to the Applicant's letter of withdrawal. The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Dickens, Garodnick, Lappin, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

**Against:** *None*

**Abstain:** *None*

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

Res. No. 1760

**Resolution approving a motion to file pursuant to withdrawal of the decision of the City Planning Commission on ULURP No. C 120201 ZSM (L.U. No. 794), for the grant of a special permit pursuant to Section 74-712(a) - to modify the use regulations of Section 42-00 (GENERAL PROVISIONS) and Section 42-14(D)(2)(a) to allow Use Group 2 uses (residential use); and Section 74-712(b) - to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks); to facilitate the development of an 8-story mixed use building, on property located 150 Wooster Street (Block 514, Lots 7 and 9), in an M1-5A District, within the SoHo Cast-Iron Historic District, Borough of Manhattan.**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on March 22, 2013 its decision dated March 20, 2013 (the "Decision"), on the application submitted by MTM Associates, LLC (the "Applicant"), pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to the following sections of the Zoning Resolution:

1. Section 74-712(a) - to modify the use regulations of Section 42-00 (GENERAL PROVISIONS) and Section 42-14(D)(2)(a) to allow Use Group 2 uses (residential use); and
2. Section 74-712(b) - to modify the height and setback requirements of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks);

to facilitate the development of an 8-story mixed use building, on property located 150 Wooster Street (Block 514, Lots 7 and 9), in an M1-5A District, within the SoHo Cast-Iron Historic District, (ULURP No. C 120201 ZSM), Community District 2, Borough of Manhattan (the "Application");

**WHEREAS**, the Application is related to Application N 120200 ZRM (L.U. No. 793), a zoning text amendment to modify Section 74-712 of the Zoning Resolution regarding lot coverage requirements for developments in M1-5A and M1-5B districts;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

**WHEREAS**, the City Planning Commission has made the findings required pursuant to Section 74-712 of the Zoning Resolution of the City of New York;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on April 30, 2013;

**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, the revised negative declaration (CEQR No. 12DCP111M) issued on March 20, 2013 (the "Revised Negative Declaration");

**WHEREAS**, on May 2, 2013, the Land Use Committee of the Council voted to approve a resolution disapproving the Decision;

**WHEREAS**, by letter dated May 6, 2013 and submitted to the City Council on May 6, 2013, the Applicant withdrew the application;

**WHEREAS**, on May 8, 2013, the Land Use Committee of the Council voted to (i) reconsider the resolution approved on May 2, 2013 disapproving the Decision and (ii) approve a motion to file pursuant to the Applicant's May 6, 2013 letter of withdrawal.

**RESOLVED:**

The Council approves the motion to file pursuant to withdrawal in accord with Rules 6.40a and 11.80 of the Rules of the Council.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

Coupled to be Filed pursuant to a Letter of Withdrawal.

Report for L.U. No. 795

**Report of the Committee on Land Use in favor of approving Application no. N 130105 ZRM submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, concerning Article I, Chapter 3 (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7, and 8 in the Borough of Manhattan and Portions of Community Districts 1 and 2 in the Borough of Queens), and various other Sections, modifying the regulations governing off-street parking and loading in Manhattan Community Districts 1 through 8.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1075), respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CBs - 1 to 8**

**N 130105 ZRM**

City Planning Commission decision approving an application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, concerning Article I, Chapter 3 (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and Portions of Community Districts 1 and 2 in the Borough of Queens), and various other Sections, modifying the regulations governing off-street parking and loading in Manhattan Community Districts 1 through 8.

**INTENT**

This amendment to the Zoning Resolution of the City of New York would update the regulations for off-street parking and loading in the Manhattan Core (Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and Portions of Community Districts 1 and 2 in the Borough of Queens).

#### PUBLIC HEARING

**DATE:** April 30, 2013

**Witnesses in Favor:** Six                      **Witnesses Against:** Five

#### SUBCOMMITTEE RECOMMENDATION

**DATE:** April 30, 2013, recessed to May 2, 2013

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

**In Favor:** Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Wills, Ignizio  
**Against:** None  
**Abstain:** Lappin

#### COMMITTEE ACTION

**DATE:** May 2, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Mendez, Koo, Weprin, Wills, Ignizio  
**Against:** None  
**Abstain:** Lappin

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

Res. No. 1761

**Resolution approving the decision of the City Planning Commission on Application No. N 130105 ZRM, for an amendment of the Zoning Resolution of the City of New York, concerning Article I, Chapter 3 (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and Portions of Community Districts 1 and 2 in the Borough of Queens), and various other Sections, modifying the regulations governing off-street parking and loading in Manhattan Community Districts 1 through 8, Borough of Manhattan (L.U. No. 795).**

By Council Members Comrie and Weprin.

**WHEREAS,** the City Planning Commission filed with the Council on March 22, 2013 its decision dated March 20, 2013 (the "Decision"), on the application submitted by the New York City Department of City Planning, pursuant to Section 201 of the New York City Charter, concerning Article I, Chapter 3 (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and Portions of Community Districts 1 and 2 in the Borough of Queens), and various other Sections, modifying the regulations governing off-street parking and loading in Manhattan Community Districts 1 through 8 (Application No. N 130105 ZRM), Community Districts 1 through 8, Manhattan and Community Districts 1 and 2, 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 30, 2013;

**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, the negative declaration (CEQR No. 13DCP041M) issued on March 5, 2013 (the "Negative Declaration");

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

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 130105 ZRM, 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**

\* \* \*

#### **Chapter 3**

#### **Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core**

~~**Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a Portion of Community Districts 1 and 2 in the Borough of Queens**~~

#### **13-00**

#### **GENERAL PURPOSES**

**(Sections 13-00 through 13-562 are to be deleted and re-written as new text, as follows. Long Island City regulations to be moved to Article I, Chapter 6)**

The provisions of this Chapter establish special comprehensive regulations for off-street parking in the #Manhattan Core#, as defined in Section 12-10 (DEFINITIONS).

These regulations reflect best practices to address sustainability goals, while accommodating the parking needs of residents and businesses in a more rational manner.

#### **13-01**

#### **General Provisions**

Except as modified by the express provisions of this Chapter, the regulations of the underlying zoning districts or special purpose districts shall remain in effect.

#### **13-02**

#### **Definitions**

#### **Access zone**

For the purposes of this Chapter, an "access zone" shall refer to the portion of an #accessory# off-street parking facility, #public parking garage# or an automobile rental establishment, occupied by:

- (a) vehicular ramps between parking levels, or between a parking level and a vehicular entrance or exit, provided that such ramps are not used as parking spaces or associated maneuvering space;
- (b) vehicular elevators;
- (c) required reservoir spaces;
- (d) portions of required accessible pedestrian egress routes, including any associated ramps or elevators; or
- (e) bicycle parking spaces.

Automated parking facility



For the purposes of this Chapter, an “automated parking facility” shall refer to an #accessory# off-street parking facility or #public parking garage# where vehicular storage and retrieval within such facility is accomplished entirely through a mechanical conveyance system. A parking facility with parking lift systems that require an attendant to maneuver a vehicle that is to be parked shall not be considered an #automated parking facility#.

#### Parking zone

For the purposes of this Chapter, a “parking zone” shall refer to the portion of an #accessory# off-street parking facility, #public parking garage# or an automobile rental establishment, occupied by permitted off-street parking spaces and associated maneuvering space, and any other portion of such parking facility not included in the #access zone#. In attended parking facilities with parking lift systems, the #parking zone# shall also include the lifted tray a vehicle is stored upon.

### **13-03**

#### **Maps**

Maps are located in Appendix A of this Chapter and are hereby incorporated and made an integral part of this Resolution. They are incorporated for the purpose of specifying locations where special regulations and requirements set forth in this Chapter apply.

Map 1 – Locations where #public parking lots# are not permitted in the Midtown #Manhattan Core#

Map 2 – Locations where #public parking lots# are not permitted in the Downtown #Manhattan Core#

### **13-04**

#### **Applicability**

#### **13-041**

#### **Applicability of parking regulations within the Manhattan Core**

The provisions of this Chapter shall apply to #accessory# off-street parking facilities, #public parking lots#, #public parking garages# and automobile rental establishments, as listed in Use Group 8, in the #Manhattan Core#, as follows:

- (a) for #accessory# off-street parking facilities, #public parking garages# and #public parking lots# constructed prior to (date of adoption), the number of parking spaces required or permitted shall be as set forth in Section 13-07 (Existing Buildings and Off-Street Parking Facilities in the Manhattan Core).
- (b) for #accessory# off-street parking facilities, automobile rental establishments and #public parking lots developed# or #enlarged# after (date of adoption), the as-of-right number of parking spaces permitted in a parking facility shall be as set forth in Section 13-10 (PERMITTED OFF-STREET PARKING IN THE MANHATTAN CORE).

Special rules shall apply to all such #accessory# off-street parking spaces, automobile rental establishments and #public parking lots#, as set forth in Section 13-20 (SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES).

- (c) Any increase in the number of off-street parking spaces in an #accessory# off-street parking facility or #public parking lot# resulting in a capacity not otherwise allowed under the applicable regulations of Section 13-10; or a new #public parking lot# in a location not permitted by Section 13-14 (Permitted Parking for Public Parking Lots), shall only be permitted by the City Planning Commission pursuant to the applicable special permit in Section 13-45 (Special Permits for Additional Parking Spaces).
- (d) #Public parking garages developed# or #enlarged# after (date of adoption) shall not be permitted as-of-right. Any #development# or #enlargement# of such #public parking garages# shall only be permitted in C1-5, C1-6, C1-7, C1-8, C1-9, C2, C4, C5, C6, C8, M1, M2 or M3 Districts by the City Planning Commission pursuant to the applicable special permit in Section 13-45. Commercial vehicles may occupy spaces in permitted #public parking garages# in accordance with the provisions of Section 13-16 (Permitted Parking for Car Sharing Vehicles and Commercial Vehicles).

### **13-042**

#### **Applicability of special permits within the Manhattan Core**

The following special permits shall not be applicable within the #Manhattan Core#:

- (a) Section 73-48 (Exceptions to Maximum Size of Accessory Group Parking Facilities);
- (b) Section 74-512 (In other Districts);
- (c) Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas), except as set forth in Section 13-06 (Previously Approved Special Permits and Authorizations); and
- (d) Section 74-53 (Accessory Group Parking Facilities for Uses in Large-Scale Residential Developments or Large-Scale Community Facility Developments or Large-Scale General Developments).

### **13-043**

#### **Applicability of loading regulations within the Manhattan Core**

The provisions of Section 13-30 (OFF-STREET LOADING REGULATIONS IN THE MANHATTAN CORE), inclusive, shall apply to all #accessory# off-street loading berths provided in #developments# and #enlargements# within the #Manhattan Core# after (date of adoption).

### **13-05**

#### **Exceptions**

The provisions of this Chapter shall not apply to Roosevelt Island, in Community District 8 in the Borough of Manhattan. In the #Hudson Yards parking regulations applicability area#, as defined in Section 93-81, the provisions of this Chapter shall apply as specified in Section 93-80 (OFF-STREET PARKING REGULATIONS).

Additional modifications to the provisions of this Chapter are found in the following Special Purpose Districts:

- (a) the #Special Midtown District#, as set forth in Section 81-30 (OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS), inclusive, Section 81-44 (Curb Cut Restrictions) and paragraph (c) of Section 81-84 (Mandatory Regulations and Prohibitions);
- (b) the #Special Lincoln Square District#, as set forth in Section 82-50 (OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS);
- (c) the #Special Battery Park City District#, as set forth in Section 84-14 (Parking Regulations and Curb Cuts), inclusive;
- (d) the #Special United Nations Development District#, as set forth in Section 85-03 (Modifications of Use Regulations);
- (e) the #Special Lower Manhattan District#, as set forth in Section 91-50 (OFF-STREET PARKING, LOADING AND CURB CUT REGULATIONS), inclusive;
- (f) the #Special Park Improvement District#, as set forth in Section 92-05 (Maximum Number of Accessory Off-Street Parking Spaces);
- (g) the #Special Transit Land Use District#, as set forth in Section 95-09 (Special Regulations for Accessory Off-Street Parking and Curb Cuts);
- (h) the #Special Clinton District#, as set forth in Section 96-111 (Off-Street Parking Regulations);
- (i) the #Special Madison Avenue Preservation District#, as set forth in Section 99-06 (Off-Street Parking Regulations); and
- (j) the #Special Little Italy District#, as set forth in Sections 109-16 (Parking Regulations); 109-351 (Parking regulations), 109-352 (Curb cut regulations) and 109-521 (Modification of accessory off-street parking facilities).

### **13-06**

**Previously Filed or Approved Special Permits or Authorizations**

If, before (date of adoption), an application for an authorization or special permit relating to parking regulations in the #Manhattan Core# has been certified or referred by the City Planning Commission or has been filed with the Board of Standards and Appeals, such application may continue pursuant to the regulations in effect at the time such authorization or special permit was certified or referred by the Commission or filed with the Board. Such authorizations or special permits, if granted by the Commission or Board, may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such authorization or special permits were certified or referred by the Commission or filed with the Board.

Any authorization or special permit relating to parking regulations in the #Manhattan Core# granted by the City Planning Commission or Board of Standards and Appeals prior to (date of adoption) may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such authorization or special permit was granted.

All such authorizations or special permits shall be subject to the provisions of Sections 11-42 (Lapse of Authorization of Special Permit Granted by the City Planning Commission) and 11-43 (Renewal of Authorization or Special Permit).

Notwithstanding the foregoing, any subsequent modifications to such authorizations or special permits that involve an increase in the number of off-street parking spaces provided shall only be as permitted by the applicable special permit provisions of Section 13-45 (Special Permits for Additional Parking Spaces).

**13-07****Existing Buildings and Off-Street Parking Facilities**

The provisions of this Section shall apply to existing required or permitted #accessory# off-street parking spaces, #public parking lots# and #public parking garages# established prior to (date of adoption) in the #Manhattan Core#, as applicable, and to existing #buildings developed# without the provision of parking.

Existing required or permitted #accessory# off-street parking spaces, #public parking lots# and #public parking garages# established prior to (date of adoption) shall continue to be subject to the applicable zoning district regulations in effect prior to (date of adoption), except that:

- (a) any reduction or elimination of existing #accessory# off-street parking spaces that were required under the applicable provisions in effect prior to April 29, 1982, or for public or publicly-assisted housing under the applicable provisions in effect prior to (date of adoption), shall be allowed only by authorization of the City Planning Commission pursuant to Section 13-443 (Reduction of the number of required existing parking spaces);
- (b) #enlargements#, #extensions# or any increase in the number of off-street parking spaces within such off-street parking facilities shall be allowed by the City Planning Commission as follows:
  - (1) where the proposed increase in off-street parking spaces occurs in a #building developed# without the provision of parking, the Commission may authorize up to 15 off-street parking spaces pursuant to the provisions of Section 13-442 (Limited increase in parking spaces for existing buildings without parking);
  - (2) where the proposed increase occurs in an existing off-street parking facility, the Commission may permit such an increase, pursuant to the applicable provisions of Section 13-45 (Special Permits for Additional Parking Spaces);
- (c) #conversions# shall be permitted to retain all spaces in existing parking facilities. Additional #accessory# off-street parking spaces shall be permitted by the City Planning Commission pursuant to the applicable special permit provisions of Section 13-45.
- (d) an #accessory# off-street parking facility in possession of a license issued by the Department of Consumer Affairs pursuant to Section 20-321 of the New York City Administrative Code to maintain, operate or conduct a garage or parking lot (as defined therein) prior to January 1, 2012 may make #accessory# parking spaces available for public use in accordance with the provisions of Section 13-21 (Public Use and Off-Site Parking), provided that a copy of such license is filed with the Department of Buildings. However, any increase in the number of spaces in such a

facility shall only be permitted in accordance with the applicable provisions of Section 13-45.

**13-10****PERMITTED OFF-STREET PARKING IN THE MANHATTAN CORE**

As-of-right off-street parking spaces located within #accessory# off-street parking facilities, automobile rental establishments and #public parking lots# in the #Manhattan Core# shall be permitted as set forth in this Section, inclusive.

**13-101****Calculating parking spaces in automated parking facilities**

For the purposes of this Resolution, with regard to #automated parking facilities#, the term 'tray' shall refer to the structural support for vehicle storage in both pallet and pallet-less vehicle storage systems.

For the purpose of calculating parking spaces in #automated parking facilities#, each tray upon which a vehicle is stored shall constitute one off-street parking space. However, auxiliary parking trays may be exempted from constituting a parking space where the Commissioner of Buildings determines that such auxiliary parking trays are necessary to store and retrieve vehicles for the efficient operation of such #automated parking facility#.

**13-11****Permitted Parking for Residences**

#Accessory# off-street parking spaces are permitted for #residences# in #developments# or #enlargements#, as follows:

- (a) for Community Districts 1, 2, 3, 4, 5, and 6, #accessory# off-street parking spaces may be provided for not more than 20 percent of the total number of new #dwelling units# contained in the #development# or #enlargement#, or 200 spaces, whichever is less.
- (b) for Community Districts 7 and 8, #accessory# off-street parking spaces may be provided for not more than 35 percent of the total number of new #dwelling units# contained in the #development# or #enlargement#, or 200 spaces, whichever is less.

**13-12****Permitted Parking for Non-Residential Uses**

#Accessory# off-street parking spaces are permitted for non-#residential uses# in #developments# or #enlargements#, as follows:

- (a) #Transient hotels#
 

For #transient hotel developments# or #enlargements#, a maximum of 225 #accessory# off-street parking spaces shall be permitted. In no event may the number of parking spaces exceed 15 percent of the number of new #transient hotel# rooms.
- (b) Hospitals
 

For hospital #developments# or #enlargements#, a maximum of 100 #accessory# off-street parking spaces are permitted.
- (c) Retail #uses#
 

For #developments# or #enlargements# comprising #commercial uses# listed in Use Groups 6A, 6C, or 10A, the maximum number of #accessory# off-street parking spaces permitted shall not exceed one space per 4,000 square feet of #floor area#, or 10 spaces, whichever is less.
- (d) Other #commercial#, #community facility# and #manufacturing uses#

For #developments# or #enlargements# comprising #community facility uses# other than hospitals, #commercial uses# other than those listed in paragraphs (a) and (c) of this Section, and #manufacturing uses#, the maximum number of #accessory# off-street parking spaces permitted shall not exceed one space per 4,000 square feet of such #community facility#, #commercial# or #manufacturing floor area#, or 100 spaces, whichever is less.

**13-13****Permitted Parking for Zoning Lots with Multiple Uses**

Where a #development# or #enlargement# contains a combination of #uses# for which parking regulations are set forth in Sections 13-11 (Permitted Parking for Residences), and 13-12 (Permitted Parking for Non-Residential Uses), the number of #accessory# off-street parking spaces for all such #uses# shall not exceed the number of spaces permitted for each #use# in accordance with the provisions of such Sections. However, in no event shall the maximum number exceed 225 #accessory# off-street parking spaces.

**13-14****Permitted Parking in Public Parking Lots**

#Public parking lots#, with a maximum capacity of 150 spaces, are permitted in C2, C4, C6, C8, M1-5, M1-6, M2 and M3 Districts, except that:

- (a) no #public parking lots# shall be permitted:
- (1) within the area designated on Map 1 (Locations where #public parking lots# are not permitted in the Midtown #Manhattan Core#) in Appendix A of this Chapter;
  - (2) within the area designated on Map 2 (Locations where #public parking lots# are not permitted in the Downtown #Manhattan Core#) in Appendix A of this Chapter; and
  - (3) within the Preservation Area of the #Special Clinton District, as shown on the map in Appendix A of Article IX, Chapter 6; and
- (b) for M1-5 Districts and M1-6 Districts, #public parking lots# shall only be permitted in the following locations:
- (1) in M1-5 and M1-6 Districts north of 42<sup>nd</sup> Street and west of 10<sup>th</sup> Avenue;
  - (2) in the M1-5 Districts west of Ninth Avenue between 17<sup>th</sup> Street and 30<sup>th</sup> Street; and
  - (3) in the M1-5 District south of Canal Street.

In such districts, the City Planning Commission may permit a #public parking lot# in a location not allowed by this Section pursuant to the applicable special permit in Section 13-45 (Special Permits for Additional Parking Spaces). Any such proposed #public parking lots# located in the Preservation Area of the #Special Clinton District# shall also be subject to the additional findings set forth in Section 96-111 (Off-street parking regulations).

**13-15****Permitted Parking for Automobile Rental Establishments**

Automobile rental establishments, as listed in Use Group 8, are permitted, provided that:

- (a) in C2 Districts, the number of automobiles that may be stored in such establishments shall not exceed 150 spaces;
- (b) in C4, C6, and C8, the number of automobiles that may be stored in such establishments shall not exceed 225 spaces; and
- (c) in M1, M2, and M3 Districts, the number of automobiles that may be stored in such establishments shall not exceed 300 spaces.

**13-16****Permitted Parking for Car Sharing Vehicles and Commercial Vehicles**

#Car sharing vehicles# and commercial vehicle parking for motor vehicles not exceeding a length of 20 feet shall be permitted within #accessory# off-street parking facilities, #public parking garages# and #public parking lots#, as follows:

- (a) #Accessory# off-street parking facilities
- #Car sharing vehicles# may occupy parking spaces in an #accessory# off-street parking facility, provided that such #car sharing vehicles# shall not exceed 20 percent of all parking spaces in such facility, or five spaces, whichever is greater.

- (b) #Public parking garages# and #public parking lots#

- (1) In C1-5, C1-6, C1-7, C1-8, C1-9, C2 and C4 Districts, vehicles stored by automobile rental establishments and #car sharing vehicles# shall be permitted, provided such vehicles do not exceed, in total, 40 percent of the total number of parking spaces permitted within the #public parking garage# or #public parking lot#.
- (2) In C5, C6, C8, M1, M2 and M3 Districts, vehicles stored by automobile rental establishments and #car sharing vehicles# shall be permitted, provided such vehicles do not exceed, in total, 40 percent of the total number of parking spaces permitted within the #public parking garage# or #public parking lot#. In addition, commercial vehicle parking for motor vehicles not exceeding a length of 20 feet shall be permitted, provided that the total amount of parking spaces occupied by commercial vehicles, including any #car sharing vehicles# and automobile rental establishment vehicles, shall not exceed, in total, 50 percent of the total number of parking spaces permitted within the #public parking garage# or #public parking lot#.

**13-20****SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES**

All #accessory# off-street parking facilities, automobile rental establishments, and #public parking lots developed, #enlarged# or #extended# in the #Manhattan Core# after (date of adoption) shall comply with the applicable provisions of this Section, inclusive.

**13-21****Public Use and Off-Site Parking**

All #accessory# off-street parking spaces may be made available for public use. However, any such space shall be made available to the occupant of a #residence# to which it is #accessory# within 30 days after written request therefor is made to the landlord.

No #accessory# off-street parking spaces shall be located on a #zoning lot# other than the same #zoning lot# as the #use# to which they are #accessory#.

**13-22****Applicability of Enclosure and Screening Requirements**

- (a) Screening

In addition to the screening provisions of paragraph (a)(1) of Section 13-221 (Enclosure and screening requirements), the ground floor #use# provisions of the following Sections shall apply:

- (1) Sections 32-431 (Ground floor use in C1-8A, C1-9A, C2-7A, C2-8A, C4-6A and C4-7A Districts) and 32-432 (Ground floor use in Community Board 7, Borough of Manhattan);
- (2) Section 37-35 (Retail Continuity);
- (3) Sections 81-42 (Retail Continuity along Designated Streets), and 81-531 (Special retail frontage requirements) in the #Special Midtown District#;
- (4) Section 82-21 (Restrictions on Street Level Uses) in the #Special Lincoln Square District#;
- (5) Section 91-12 (Uses on Designated Retail Streets) and the applicable Sections of 91-41 (Regulations for Designated Retail Streets), inclusive, in the #Special Lower Manhattan District#;
- (6) Section 95-08 (Special Use Regulations), inclusive, in the #Special Transit Land Use District;
- (7) paragraph (c) of Section 96-21 (Special Regulations for 42nd Street Perimeter Area) in the #Special Clinton District#;
- (8) Section 98-14 (Ground Floor Use and Transparency Requirements on Tenth Avenue) in the #Special West Chelsea District#;

- (9) Section 99-03 (Special Use Regulations), inclusive, in the #Special Madison Avenue Preservation District#; and
- (10) Sections 109-11 (Special Use Regulations), inclusive, and 109-21 (Use Regulations), inclusive in the #Special Little Italy District#; and
- (11) Section 132-20 (SPECIAL USE REGULATIONS), inclusive, in the #Special Enhanced Commercial District#.

(b) Transparency

The transparency provisions of paragraph (a)(2) of Section 13-221 shall not apply to portions of ground floor level #street walls# which are subject to the following Sections:

- (1) Section 37-37 (Street Wall Articulation);
- (2) Section 81-42 (Retail Continuity along Designated Streets) in the #Special Midtown District#;
- (3) Section 82-23 (Street Wall Transparency) in the #Special Lincoln Square District#;
- (4) Section 91-412 (Access and glazing of required retail space) in the #Special Lower Manhattan District#;
- (5) paragraph (c) of Section 96-21 (Special Regulations for 42nd Street Perimeter Area) in the #Special Clinton District#;
- (6) Section 98-14 (Ground Floor Use and Transparency Requirements on Tenth Avenue) in the #Special West Chelsea District#; and
- (7) Section 132-30 (SPECIAL TRANSPARENCY REGULATIONS), inclusive, in the #Special Enhanced Commercial District#.

**13-221**

**Enclosure and screening requirements**

(a) #Accessory# off-street parking facilities

All #accessory# off-street parking spaces shall be located within a #completely enclosed building#, with the exception of parking spaces #accessory# to a hospital, as listed in Use Group 4, and as provided in Section 13-45 (Special Permits for Additional Parking Spaces). In addition, such parking facilities shall comply with the following provisions:

(1) Screening

Any portion of an #accessory# off-street parking facility, except for entrances and exits, that is located above #curb level# shall be located behind permitted #commercial#, #community facility# or #residential floor area# so that no portion of such facility is visible from adjacent public sidewalks or #publicly accessible open areas#. Such #floor area# shall have a minimum dimension of 30 feet, as measured perpendicular to the #street wall# of the #building#.

Alternatively, for parking facilities or portions thereof, fronting upon a #narrow street# within a #Residence District#, off-street parking facilities may be screened by a densely-planted buffer strip, with a depth of at least 10 feet.

(2) Transparency

Portions of ground floor #commercial# and #community facility uses# screening the parking facility in accordance with the provisions of paragraph (a)(1) of this Section shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent materials may be provided anywhere on the portion of the ground floor level #street wall# occupied by such #uses#, except that:

- (i) the maximum width of a portion of the #ground floor level street wall# without transparency shall not exceed ten feet; and
- (ii) transparent materials shall occupy at least 50 percent of the surface area of such ground floor level #street wall# between a height of two feet and 12 feet, or the height of the ground floor ceiling, whichever is higher, as measured from the adjoining sidewalk. Transparent materials provided to satisfy such 50 percent requirement shall not begin higher than 2 feet, 6 inches, above the level of the adjoining sidewalk, with the exception of transom windows, or portions of windows separated by mullions or other structural dividers; and shall have a minimum width of two feet.

However, for #buildings# where the #base flood elevation# is higher than the level of the adjoining sidewalk, all such transparency requirements shall be measured from a height of one foot above the height of the #base flood elevation#, instead of the level of the adjoining sidewalk.

For #zoning lots# with multiple #street wall# frontages, the transparency provisions of this paragraph need not apply to #street walls# which are located entirely beyond 100 feet of any portion of the #accessory# parking facility, as measured in plan view, perpendicular to such parking facility.

(b) Automobile rental establishments

All off-street parking within an automobile rental establishment shall be located within a #completely enclosed building# and shall comply with the screening provisions of paragraph (a) of this Section. #Accessory# office space and customer waiting areas associated with such establishments shall constitute #commercial floor area# for the purposes of such screening requirement.

(c) #Public parking lots# and certain permitted #accessory# parking lots

#Public parking lots# and open parking spaces #accessory# to a hospital shall provide screening in accordance with the provisions of 37-921 (Perimeter landscaping).

**13-23**

**Floor Area**

The definition of #floor area# in Section 12-10 shall be modified as follows for purposes of this Chapter:

(a) Attended parking facilities with parking lift systems

For portions of an attended parking facility with parking lift systems, individual lifted trays upon which a vehicle is stored which, in operation, rise to a height in excess of 23 feet, as measured above #curb level#, shall be considered #floor area# in an amount of 153 square feet, or the size of such lifted tray, whichever is greater.

(b) #Automated parking facilities#

Floor space used for off-street parking spaces in an #accessory automated parking facility# up to a height of 40 feet above #curb level# shall be exempt from the definition of #floor area# upon certification of the Chairperson of the City Planning Commission, pursuant to the provisions of Section 13-432 (Floor area exemption for automated parking facilities).

For portions of an #automated parking facility#, each tray upon which a vehicle is stored at a height in excess of 40 feet in parking facilities certified pursuant to 13-432, or 23 feet in all other #automated parking facilities#, shall be considered #floor area# in an amount of 153 square feet, or the size of such lifted tray, whichever is greater.

**13-24**

**Curb Cut Restrictions**

In addition to the provisions of this Section, inclusive, additional restrictions on curb cuts in the #Manhattan Core# are found in the following Special Purpose Districts:

- (i) the #Special Midtown District#, as set forth in Sections 81-44 (Curb Cut Restrictions), and 81-624 (Curb cut restrictions and loading berth requirements);
- (ii) the #Special Lincoln Square District#, as set forth in paragraph (b) of Section 82-50 (OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS);
- (iii) the #Special Battery Park City District#, as set forth in Sections 84-144 (Location of curb cuts) and 84-343 (Curb cuts);
- (iv) the #Special Lower Manhattan District#, as set forth in Section 91-52 (Curb Cut Regulations);
- (v) the #Special Park Improvement District#, as set forth in Section 92-05 (Maximum Number of Accessory Off-Street Parking Spaces);
- (vi) the #Special Transit Land Use District#, as set forth in Section 95-09 (Special Regulations for Accessory Off-Street Parking and Curb Cuts);
- (vii) the #Special Clinton District#, as set forth in paragraph (f) of Section 96-21 (Special Regulations for 42nd Street Perimeter Area);
- (viii) the #Special Madison Avenue Preservation District#, as set forth in Section 99-06 (Off-street Parking Regulations); and
- (ix) the #Special Little Italy District#, as set forth in Section 109-352 (Curb cut regulations).

**13-241****Location of curb cuts**

For #accessory# off-street parking facilities, automobile rental establishments and #public parking lots#, curb cuts are required for entry and exit to such parking facilities. Such curb cuts:

- (a) shall not be permitted within 50 feet of the intersection of any two #street lines#, except where the Commissioner of Buildings certifies that such location is not hazardous to traffic safety, is not likely to create traffic congestion and will not unduly inhibit surface traffic or pedestrian flow. The Commissioner of Buildings may refer such matter to the Department of Transportation, or its successor, for a report;
- (b) shall not be located within two and one-half feet of any #side lot line# of the #zoning lot#, or prolongation thereof;
- (c) for #accessory# off-street parking facilities and automobile rental establishments, shall not be located on a #wide street#, except where authorized pursuant to Section 13-441 (Curb cuts); and
- (d) for #public parking lots#, shall not be permitted on the following #wide streets#, except where authorized pursuant to Section 13-441 (Curb cuts):
  - (1) Fifth Avenue;
  - (2) Avenue of the Americas, from 23<sup>rd</sup> Street to 32<sup>nd</sup> Street;
  - (3) Seventh Avenue, from 23<sup>rd</sup> Street to 32<sup>nd</sup> Street;
  - (4) 14<sup>th</sup> Street, from Seventh Avenue to Fourth Avenue;
  - (5) Delancey Street, from Clinton Street to the west side of Orchard Street;
  - (6) Church Street, from Park Place to Worth Street;
  - (7) Worth Street, from Centre Street to Church Street; and
  - (8) Canal Street, from the Bowery to West Broadway.

**13-242****Maximum width of curb cuts**

- (a) #Accessory# off-street parking facilities

For curb cuts accessing off-street parking spaces #accessory# to #residences# in the #Manhattan Core#, the provisions of Sections 25-631 (Location of curb cuts in certain districts), and 36-532 (Location and width of curb cuts accessing residential parking spaces in certain districts) shall apply, as applicable.

In addition, the maximum width of a curb cut shall be 22 feet for curb cuts accessing off-street parking spaces #accessory# to #residences# in R9 or R10 Districts, C1 and C2 Districts mapped within R9 and R10 Districts, and in all other #Commercial Districts# where, as set forth in the tables in Section 34-112 or 35-23, as applicable, the equivalent #Residential District# is R9 or R10. This maximum curb cut width of 22 feet shall also apply to curb cuts accessing off-street parking spaces #accessory# to #commercial# or #community facility uses#, and to curb cuts accessing off-street parking facilities with parking spaces #accessory# to a mix of #uses#.

- (b) Automobile rental establishments

For curb cuts accessing automobile rental establishments, the maximum width of a curb cut shall be 22 feet.

- (b) #Public parking lots#

For curb cuts accessing #public parking lots#, the curb cut provisions of paragraph (c) of Section 36-58 (Parking Lot Maneuverability and Curb Cut Regulations) shall apply.

**13-25****Reservoir Spaces**

For the purpose of determining required reservoir spaces, fractions equal to or greater than one-half resulting from the calculations in this Section shall be considered to be one reservoir space. In no event shall the dimensions of any reservoir space be less than 18 feet long and eight feet, six inches wide.

- (a) Attended parking facilities

For attended #accessory# off-street parking facilities or #public parking lots# with more than 25 off-street parking spaces, off-street reservoir space at the vehicular entrance shall be provided to accommodate:

- (1) five percent of the total number of parking spaces provided in parking facilities with more than 25 parking spaces and up to 50 parking spaces;
- (2) ten percent of the total number of parking spaces provided in parking facilities with more than 50 parking spaces and up to 100 parking spaces;
- (3) ten parking spaces in parking facilities with more than 100 off-street parking spaces and up to 200 parking spaces; and
- (4) five percent of the total number of parking spaces provided in parking facilities with more than 200 off-street parking spaces. However such number of reservoir spaces need not exceed 50.

- (b) #Automated parking facilities#

For #automated parking facilities#, off-street reservoir space at the vehicle entrance shall be provided at the rate set forth in paragraph (a) of this Section.

Each individual parking location where a driver is permitted to leave a vehicle for transfer to a mechanized automobile storage and retrieval unit shall constitute one reservoir space. Additional reservoir spaces may be located where drivers queue to access such locations for vehicle transfer.

In addition, the number of reservoir spaces required pursuant to this Section may be reduced where the Commissioner of Buildings determines that the operational characteristics of such #automated parking facility# warrant such a reduction.

- (c) Automobile rental establishments

For automobile rental establishments, off-street reservoir space at the vehicle entrance shall be provided at the rate set forth in paragraph (a) of this Section.

- (d) Self-parking facilities

For self-parking #accessory# off-street parking facilities and #public parking lots# where entering vehicles are required to stop before a mechanically-operated barrier before entering such parking facility, such barrier shall be placed a minimum of 20 feet beyond the #street line#.

**13-26****Pedestrian Safety and Access**

For all #accessory# off-street parking facilities, the following safety features shall be provided at all vehicular exit points:

- (a) a 'stop' sign which shall be clearly visible to drivers. Such signage shall comply with the standards set forth in the Manual of Uniform Traffic Control Devices (MUTCD) issued by the Federal Highway Administration (FHWA) for a conventional single lane road; and
- (b) a speed bump, which shall be located within the exit lane of the parking facility. Such speed bump shall:
  - (1) span the width of the vehicular travel lane;
  - (2) have a minimum height of two inches, as measured from the adjoining grade of the exit lane, and shall have a maximum depth of twelve inches; and
  - (3) shall be located a minimum of four feet beyond the #street line#, as measured perpendicular to the #street line#.

**13-27****Minimum and Maximum Size of Parking Facilities**

For all #accessory# off-street parking facilities and automobile rental establishments, the minimum and maximum size requirements for the #parking zone# for such parking facilities shall be set forth in this Section. The #access zone# of such parking facilities shall not have a minimum or maximum gross surface area.

For the purpose of calculating surface area in attended parking facilities with parking lift systems, the lifted tray upon which a vehicle is stored shall constitute surface area.

- (a) Attended parking facilities
  - (1) For attended parking facilities without parking lift systems, the minimum gross surface area, in square feet, of the #parking zone# shall be 180 times the number of off-street parking spaces provided, and the maximum gross surface area, in square feet, of the #parking zone# shall not exceed 200 times the number of off-street parking spaces provided.
  - (2) For attended parking facilities with parking lift systems, the minimum and maximum surface area of the portion of the #parking zone# allocated to non-elevated parking spaces shall be calculated at the rate set forth in paragraph (a)(1) of this Section; and the surface area, in square feet, of the portion of the #parking zone# allocated to elevated parking spaces shall be 153 times the number of elevated spaces able to be provided on lifted trays.
- (b) #Automated parking facilities#

No minimum or maximum surface area requirement shall be required in off-street parking facilities that the Commissioner of Buildings determines to be #automated parking facilities#.
- (c) Automobile rental establishments

The maximum gross surface area, in square feet, of the #parking zone# of an automobile rental establishment, shall be established at the rate set forth in paragraph (a) of this Section.
- (d) Self-park facilities

The gross surface area, in square feet, of the #parking zone# of a self-parking #accessory# off-street parking facility shall be a minimum of 300 times the number of off-street parking spaces provided, and a maximum of 350 times the number of off-street parking spaces provided. 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.

Such minimum and maximum #parking zone# requirements of this Section may be modified by the Chairperson of the City Planning Commission pursuant to the certification set forth in Section 13-431 (Reduction of minimum facility size).

**13-30****OFF-STREET LOADING REGULATIONS IN THE MANHATTAN CORE**

All #accessory# off-street loading facilities #developed# or #enlarged# in the #Manhattan Core# after (date of adoption) shall comply with the applicable provisions of this Section, inclusive.

In addition to the provisions of this Section, additional restrictions on loading berths in the #Manhattan Core# are found in the following Special Purpose Districts:

- (a) the #Special Midtown District#, as set forth in Sections 81-312 (Prohibitions of off-street parking or off-street loading facilities, 81-44 (Curb Cut Restrictions), 81-624 (Curb cut and loading berth requirements) and 81-84 (Mandatory Regulations and Prohibitions);
- (b) the #Special Lincoln Square District#, as set forth in Section 82-50 (OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS);
- (c) the #Special Battery Park City District#, as set forth in Sections 84-143 and 84-342 (Off-street loading); and
- (d) the #Special Lower Manhattan District#, as set forth in Section 91-52 (Curb Cut Regulations) and 91-53 (Waiver of Requirements for Accessory Off-Street Loading Berths)

**13-31****Modification of Minimum Size of Loading Berth**

For all permitted or required #accessory# loading berths, the minimum length requirements for hospitals and related facilities or prisons; hotels, offices or court houses; #commercial uses#; and wholesale, #manufacturing# or storage #uses#, set forth in Sections 36-681 (Size of required berths) and 44-581 (Size of required loading berths), shall be 37 feet.

**13-32****Floor Area Exemption**

In addition to the #floor area# exemption for #accessory# off-street loading berths set forth in Section 12-10 (DEFINITIONS), for #buildings# with a total #floor area# in excess of 100,000 square feet, up to 300 square feet of floor space may be exempted from the definition of #floor area# where such #buildings# allocate a permanent space for dumpster storage, and such storage space has a minimum dimension of 12 feet by 25 feet. Such dumpster storage space shall be adjacent to a #building's# loading berth.

**13-33****Modification of Provisions for a Zoning Lot with Uses Subject to Different Loading Requirements**

The provisions of Sections 36-63 and 44-53 (Special Provisions for a Single Zoning Lot with Uses Subject to Different Loading Requirements) shall not apply.

**13-34****Location of Access to the Street**

In addition to the provisions of Sections 25-75, 36-682 and 44-582 (Location of Access to the Street), no entrance or exit to an #accessory# off-street loading berth shall be located on a #street# with a roadbed width of less than 20 feet, as measured curb to curb.

**13-35****Modification of Loading Berth Requirements**

The provisions of Sections 25-75 (Location of Access to the Street), 36-65 and 44-55 (Waiver of Requirements for All Zoning Lots Where Access Would Be Forbidden) shall be modified to allow the Commissioner of Buildings to reduce or waive the applicable loading berth requirements, provided that:

- (a) the #zoning lot# only has frontage upon a #street#, or portion thereof, where curb cuts or entrances and exits to #accessory# off-street loading berths are not permitted;
- (b) the #zoning lot# has frontage along a #street# where curb cuts accessing a loading berth are otherwise permitted, but there is no access to such #zoning lot# from the #street# due to the presence of:
  - (1) a #building# existing on (date of adoption) containing #residences#;
  - (2) a #non-residential building# existing on (date of adoption) that is three or more #stories# in height; or
  - (3) a #building# designated as a landmark or considered a contributing #building# in an Historic District designated by the Landmarks Preservation Commission; or
- (c) there are subsurface conditions, ventilation requirements from below-grade infrastructure or other site planning constraints that would make accommodating such loading berths infeasible.

In the case of paragraph (c), as set forth in this Section, the Commissioner shall require a loading berth of not less than 33 feet in depth, if such a berth can be accommodated in consideration of the relevant site restraints. The Commissioner of Buildings may request reports from licensed engineers or registered architects in considering such reduction or waiver.

#### **13-40** **CERTIFICATIONS, AUTHORIZATIONS AND SPECIAL PERMITS IN THE MANHATTAN CORE**

##### **13-41** **General Provisions**

The City Planning Commission may grant certifications, authorizations and special permits in accordance with Section 13-40 (CERTIFICATIONS, AUTHORIZATIONS AND SPECIAL PERMITS IN THE MANHATTAN CORE), inclusive. All such special permits and authorizations, in addition to meeting the requirements, conditions and safeguards prescribed by the Commission as specified in this Section, shall conform to and comply with all of the applicable regulations, except as otherwise specified herein.

##### **13-42** **Requirements for Applications**

An application to the City Planning Commission for the grant of a certification, authorization or special permit under the provisions of Section 13-40 (CERTIFICATIONS, AUTHORIZATIONS AND SPECIAL PERMITS IN THE MANHATTAN CORE) shall include a site plan showing the location of all existing and proposed #buildings or other structures# on the #zoning lot#, the location of all vehicular entrances and exits and off-street parking spaces, and such other information as may be required by the Commission.

##### **13-43** **Certifications in the Manhattan Core**

##### **13-431** **Reduction of minimum facility size**

An off-street parking facility in the #Manhattan Core# may provide a gross unobstructed surface area less than the minimum size required by Section 13-27 (Minimum and maximum size of parking facilities) upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the proposed layout of such parking facility, including, but not limited to, the arrangement of parking spaces, travel aisles and reservoir spaces, where applicable, is sufficient to accommodate the requisite vehicular navigation and turning movements associated with such a facility. In order to make such a determination, the applicant shall provide the Chairperson with dimensioned

plan drawings which depict the proposed vehicular movement through the facility, including any relevant maneuverability or turning radius information.

Where the Chairperson certifies that an #accessory# off-street parking facility may be reduced in size because vehicles will be limited in length, such restriction shall be noted on the certificate of occupancy.

##### **13-432** **Floor area exemption for automated parking facilities**

Floor space used for off-street parking spaces in an #accessory automated parking facility#, up to a height of 40 feet above #curb level#, shall be exempt from the definition of #floor area# upon certification of the Chairperson of the City Planning Commission to the Commissioner of Buildings that:

- (a) the entire #automated parking facility# will be contained within a #completely enclosed building#;
- (b) the portion of the #street wall# of such #automated parking facility# below a height of 14 feet, as measured above #curb level#, complies with the screening provisions of Section 13-221 (Enclosure and screening requirements), and the portion of the #street wall# above a height of 14 feet, will be similar in composition to the portion of the #building's street wall# immediately above such #automated parking facility#, including but not limited to, the choice of building materials and arrangement and amount thereof; and
- (c) such #automated parking facility# is within a #building# with a #floor area ratio# of at least 2.0.

Any application for such certification shall include relevant plan, elevation and section drawings demonstrating compliance with the provisions of this Section.

A copy of an application for certification pursuant to this Section shall be sent by the Department of City Planning to the affected Community Board, which may review such proposal and submit comments to the Chairperson of the City Planning Commission. If the Community Board elects to comment on such application, it must be done within 30 days of receipt of such application. The Chairperson will not act on such application until the Community Board's comments have been received, or the 30 day comment period has expired, whichever is earlier.

##### **13-44** **Authorizations in the Manhattan Core**

##### **13-441** **Curb cuts**

The City Planning Commission may authorize, subject to the applicable zoning district regulations, curb cuts located on a #wide street#, provided the Commission finds that a curb cut at such a location:

- (a) is not hazardous to traffic safety;
- (b) will not create or contribute to serious traffic congestion, or unduly inhibit vehicular movement;
- (c) will not adversely affect pedestrian movement;
- (d) will not interfere with the efficient functioning of bus lanes, specially designated #streets# and public transit facilities; and
- (e) will not be inconsistent with the character of the existing streetscape.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

##### **13-442** **Limited increase in parking spaces for existing buildings without parking**

The City Planning Commission may, by authorization, allow an off-street parking facility in the #Manhattan Core# with a maximum capacity of 15 spaces in an existing #building developed# without the provision of parking, provided that the conditions of paragraph (a) and the findings of paragraph (b) are met.

- (a) Conditions

As a condition for approval, the parking facility shall comply with the applicable provisions of Section 13-20 (SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES), except that such parking facility need not comply with the provisions of Section 13-221 (Enclosure and screening requirements).

(b) Findings

The Commission shall find that:

- (1) the location of the vehicular entrances and exits to the parking facility will not unduly interrupt the flow of pedestrian traffic associated with #uses# or public facilities, including access points to mass transit facilities, in close proximity thereto or result in any undue conflict between pedestrian and vehicular movements, due to the entering and leaving movement of vehicles;
- (2) the location of the vehicular entrances and exits to such parking facility will not interfere with the efficient functioning of #streets#, including any lanes designated for specific types of users or vehicles, due to the entering and leaving movement of vehicles;
- (3) that such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow; and
- (4) such parking facility will not be inconsistent with the character of the existing streetscape.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

**13-443**

**Reduction of the number of required existing parking spaces**

For off-street parking facilities built prior to (date of adoption), the City Planning Commission may authorize a reduction of the number of required #accessory# off-street parking spaces where the Commission finds that such reduction will not have undue adverse effects on residents, businesses or community facilities in the surrounding area, as applicable.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

**13-45**

**Special Permits for Additional Parking Spaces**

In accordance with the special permit provisions of Sections 13-451 through 13-455, the City Planning Commission may permit the off-street parking facilities listed in paragraph (a) of this Section, provided that such parking facilities comply with the conditions of paragraph (b) and the findings of paragraphs (c) and (d) of this Section.

(a) Eligible parking facilities

The City Planning Commission may permit, subject to the otherwise applicable zoning district regulations, the following:

- (1) #accessory# off-street parking facilities on-site or off-site, open or enclosed, with any capacity, where such facilities:
  - (i) are proposed #developments# or #enlargements# with a capacity not otherwise allowed under the applicable regulations of Section 13-10 (PERMITTED OFF-STREET PARKING IN THE MANHATTAN CORE); or
  - (ii) are existing prior to (date of adoption), and increasing the number of parking spaces pursuant to the provisions of Section 13-07 (Existing Buildings and Off-Street Parking Facilities);
- (2) #public parking lots#, where such facilities:
  - (i) are proposed #developments# or #enlargements# with any capacity not otherwise allowed under the applicable regulations of Section 13-10;

(ii) are existing prior to (date of adoption), and increasing the number of parking spaces pursuant to the provisions of Section 13-07; or

(iii) are proposed #developments# or #enlargements# in locations not permitted by Section 13-14 (Permitted Parking for Public Parking Lots);

(3) #public parking garages#, where such facilities:

(i) are proposed #developments# or #enlargements# in the zoning districts permitted pursuant paragraph (d) of Section 13-041 (Applicability of parking regulations within the Manhattan Core); or

(ii) are existing prior to (date of adoption), and increasing the number of parking spaces pursuant to the provisions of Section 13-07.

The Commission may also permit floor space in such #public parking garages# used for off-street parking spaces in any #story# located not more than 23 feet above #curb level# to be exempt from the definition of #floor area# as set forth in Section 12-10.

(b) Conditions

The proposed parking facility shall comply with the applicable provisions of Section 13-20 (SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES). Proposed #public parking garages# shall utilize the applicable regulations for #accessory# off-street parking facilities. However, applications to increase the number of parking spaces in parking facilities existing prior to (date of adoption) need not comply with the provisions of Section 13-221 (Enclosure and screening requirements).

(c) Findings

The Commission shall find that:

- (1) the location of the vehicular entrances and exits to such parking facility will not unduly interrupt the flow of pedestrian traffic associated with #uses# or public facilities, including access points to mass transit facilities, in close proximity thereto or result in any undue conflict between pedestrian and vehicular movements, due to the entering and leaving movement of vehicles;
- (2) the location of the vehicular entrances and exits to such parking facility will not interfere with the efficient functioning of #streets#, including any lanes designated for specific types of users or vehicles, due to the entering and leaving movement of vehicles;
- (3) that such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
- (4) for #public parking garages#, that where any floor space is exempted from the definition of #floor area#, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion; and
- (5) such parking facility will not be inconsistent with the character of the existing streetscape.

(d) Additional findings

The Commission shall also find that each proposed off-street parking facility complies with the additional findings set forth in one of the following Sections, as applicable:

- (1) Section 13-451 (Additional parking spaces for residential growth) shall apply to any such parking facility serving the parking needs of a predominantly #residential development# or #enlargement# that has or will have an area of less than 1.5 acres;



- (2) Section 13-452 (Additional parking spaces for health care, arts or public assembly uses) shall apply to any such parking facility serving the parking needs of a any #use# listed in paragraph (a) of Section 13-452 that has or will have an area of less than 1.5 acres;
- (3) Section 13-453 (Additional parking spaces for economic development uses) shall apply to any such parking facility serving the parking needs of a non-#residential use# not otherwise listed in paragraph (a) of Section 13-452 that has or will have an area of less than 1.5 acres;
- (4) Section 13-454 (Additional parking spaces for large-scale developments) shall apply to any such parking facility serving the parking needs of a #development# or #enlargement# that has or will have an area of at least 1.5 acres; or
- (5) Section 13-455 (Additional parking spaces for existing accessory off-street parking facilities) shall apply to any such #accessory# parking facility existing prior to (date of adoption).

In determining the amount of additional parking spaces to grant pursuant to such additional findings, the Commission may take into account levels of vacancy in existing off-street parking facilities within the area of the proposed parking facility.

### **13-451**

#### **Additional parking spaces for residential growth**

The City Planning Commission may permit a parking facility listed in paragraph (a) of Section 13-45 (Special Permits for Additional Parking Spaces), where such parking facility serves the parking needs of a predominantly #residential development# or #enlargement#, provided that, in addition to the conditions and findings set forth in Section 13-45, the Commission shall find that either:

- (a) the number of off-street parking spaces in such proposed parking facility is reasonable and not excessive in relation to recent trends in close proximity to the proposed facility with regard to:
- (1) the increase in the number of #dwelling units#; and
- (2) the number of both public and #accessory# off-street parking spaces, taking into account both the construction, if any, of new off-street parking facilities and the reduction, if any, in the number of such spaces in existing parking facilities. In making this determination, the Commission may take into account off-street parking facilities for which building permits have been granted, or which have obtained City Planning Commission special permits pursuant to Section 13-45 (Special Permits for Additional Parking Spaces); or
- (b) the proposed ratio of parking spaces to #dwelling units# in the proposed #development# or #enlargement# does not exceed:
- (1) 20 percent of the total number of #dwelling units#, where such units are located within Community Districts 1, 2, 3, 4, 5 or 6; or
- (2) 35 percent of the total number of #dwelling units#, where such units are located within Community District 7 or 8.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

### **13-452**

#### **Additional parking spaces for health care, arts or public assembly uses**

The City Planning Commission may permit a parking facility listed in paragraph (a) of Section 13-45 (Special Permits for Additional Parking Spaces), where such parking facility would serve the parking needs of a health care, arts or public assembly #use#, provided that, in addition to the conditions and findings set forth in Section 13-45, the Commission shall find that:

- (a) the proposed parking facility is either in close proximity to or on the same #zoning lot# as one or more of the following #uses# being #developed#, #enlarged# or created within existing #buildings#:

- (1) a hospital or related facility, as listed in Use Group 4;
- (2) a museum, as listed in Use Group 3;
- (3) a theater, as listed in Use Group 8, or other performing arts venue; or
- (4) an arena, auditorium, trade exposition or stadium, as listed in Use Group 12 or, where permitted by special permit, pursuant to Section 74-41 or other government agency approvals.

- (b) an increased number of permitted off-street parking spaces in such proposed parking facility is essential to the operation of such health care, arts or public assembly #use#; and
- (c) reasonable measures to minimize parking demand have been identified. For existing or #enlarged# health care, arts or public assembly #uses#, such measures shall have been implemented, where feasible, prior to application, and a commitment by the applicant shall be made, in a form acceptable to the Commission, to continue, and where necessary, improve upon and supplement such measures. For new health care, arts or public assembly #uses#, such measures shall be committed to in a form acceptable to the Commission.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

### **13-453**

#### **Additional parking spaces for economic development uses**

The City Planning Commission may permit a parking facility listed in paragraph (a) of Section 13-45 (Special Permits for Additional Parking Spaces), where such parking facility serves the parking needs of a non-#residential use# not otherwise listed in paragraph (a) of Section 13-452, provided that, in addition to the conditions and findings set forth in Section 13-45, the Commission shall find that:

- (a) the proposed parking facility is in close proximity to or on the same #zoning lot# as a #commercial use#, #community facility use# or #manufacturing use# which is being #developed#, #enlarged# or created within an existing #building or other structures#, and such #use# is of significant importance to the economic well-being of the City of New York;
- (b) an increased number of permitted off-street parking spaces in such proposed parking facility is essential to the operation of such #use#; and
- (c) reasonable measures to minimize parking demand have been identified. For existing or #enlarged uses#, such measures shall have been implemented, where feasible, prior to application, and a commitment by the applicant shall be made, in a form acceptable to the Commission, to continue, and where necessary, improve upon and supplement such measures. For new #uses#, such measures shall be committed to in a form acceptable to the Commission.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

### **13-454**

#### **Additional parking spaces for large-scale developments**

The City Planning Commission may permit a parking facility listed in paragraph (a) of Section 13-45 (Special Permits for Additional Parking Spaces), where such parking facility serves the parking needs of a #development# or #enlargement# on a tract of land exceeding one and one-half acres, provided that, in addition to the conditions and findings set forth in Section 13-45, the Commission shall find that:

- (a) where an increased number of permitted off-street parking spaces in such proposed parking facility would serve the parking needs of a predominantly #residential# large-scale #development# or #enlargement#, either finding (a) or finding (b) of Section 13-451 (Additional parking spaces for residential growth) is met;
- (b) where such proposed parking facility would serve the parking needs of a predominantly non- #residential# large-scale #development# or #enlargement#, an increased number of permitted off-street parking spaces in such proposed parking facility is essential to the operation of the non-#residential uses# in such #development# or #enlargement#;

- (c) where a parking deficit is created by the relocation of parking users from off-street parking spaces that will be eliminated through the proposed #development# or #enlargement#, the availability of off-street parking in the vicinity of such proposed #development# or #enlargement# will be of insufficient capacity to accommodate such potential parking users;
- (d) reasonable measures to minimize parking demand have been identified. For existing or #enlarged uses#, such measures shall have been implemented, where feasible, prior to application, and a commitment by the applicant shall be made, in a form acceptable to the Commission, to continue, and where necessary, improve upon and supplement such measures. For new #uses#, such measures shall be committed to in a form acceptable to the Commission; and
- (e) where phased construction will occur in the large-scale #development#, a phased parking plan has been provided which demonstrates that a reasonable and not excessive amount of additional parking spaces is provided in the proposed parking facility in relation to the amount of completed construction in such large-scale #development#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

**13-455**

**Additional parking spaces for existing accessory off-street parking facilities**

The City Planning Commission may permit an increase in the number of spaces in an #accessory# off-street parking facility existing prior to (date of adoption), as listed in paragraph (a) of Section 13-45 (Special Permits for Additional Parking Spaces), provided that, in addition to the conditions and findings set forth in Section 13-45, the Commission shall find that:

- (a) where such increased number of permitted off-street parking spaces in such existing parking facility would serve the parking needs of a #zoning lot# or #zoning lots# comprised predominantly of #residential uses#, either:
  - (1) finding (a) of Section 13-451 (Additional parking spaces for residential growth) is met; or
  - (2) the sum of any existing off-street parking spaces, and the proposed increase, does not exceed:
    - (i) 20 percent of the total number of #dwelling units#, where such units are located within Community Districts 1, 2, 3, 4, 5 or 6; or
    - (ii) 35 percent of the total number of #dwelling units#, where such units are located within Community District 7 or 8; and
    - (iii) the number of parking spaces that would be permitted for existing conforming non-#residential uses#, if the ratio of parking spaces to #floor area# for the applicable #use#, as specified in Section 13-10 (PERMITTED OFF-STREET PARKING IN THE MANHATTAN CORE), were applied.

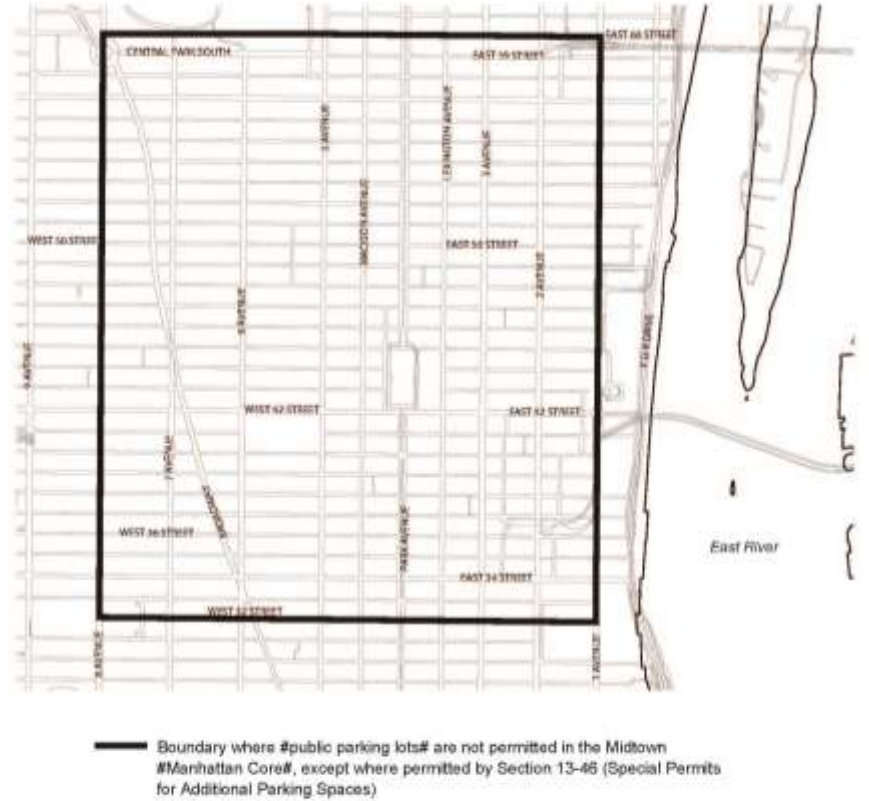
Any #dwelling units# on the #zoning lot# or #zoning lots# which are #non-complying# as to density shall not be included in such calculation pursuant to paragraphs (a)(2)(i) or (a)(2)(ii) of this Section, and any #non-complying floor area# on such #zoning lot# or #zoning lots# shall be excluded in applying such ratio in paragraph (a)(2)(iii) of this Section; or

- (b) where an increased number of permitted off-street parking spaces in such existing parking facility would serve the parking needs of a #zoning lot# or #zoning lots# comprised predominantly of conforming non-#residential uses#, the sum of any existing off-street parking spaces, and the proposed increase, does not exceed the number of parking spaces that would be permitted if the ratio of parking spaces to #floor area# for the applicable #use#, as specified in Section 13-10, were applied. Any #non-complying floor area# on such #zoning lot# or #zoning lots# shall be excluded in applying such ratio.

**Appendix A**

**Manhattan Core Parking Maps**

Map 1 – Locations where #public parking lots# are not permitted in the Midtown #Manhattan Core#



Map 2 – Locations where #public parking lots# are not permitted in the Downtown #Manhattan Core#



**13-00  
GENERAL PURPOSES**

The provisions of this Chapter establish special comprehensive regulations for off-street parking in Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 (with the exception of Roosevelt Island) and portions of Queens Community Districts 1 and 2. These regulations are a significant step forward towards bringing the Zoning Resolution into conformity with current environmental programs and safety standards concerning air pollution in the Borough of Manhattan, south of 110th Street. In Long Island City, Borough of Queens, these regulations will allow the city to plan for the

~~parking needs of residents and businesses in a more rational manner and help facilitate a mass transit, pedestrian-oriented Central Business District.~~

### ~~13-01~~

#### ~~Applicability~~

~~In Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8, and the portions of Queens Community Districts 1 and 2 bounded by Queens Plaza North, 21st Street, 41st Avenue, 29th Street, 40th Road, Northern Boulevard, 43rd Street, Skillman Avenue, 39th Street, 48th Avenue, 30th Street, 49th Avenue, Dutch Kills Canal, Newtown Creek, the East River, the westerly prolongation of 50th Avenue, Center Boulevard, 49th Avenue, Fifth Street, Anable Basin, the East River, and the prolongation of Queens Plaza North, as depicted by Areas A, B and C in the map in this Section, #accessory# off street parking spaces, #public parking lots# and #public parking garages# shall be #used#, #developed# or #enlarged# in accordance with the provisions of this Chapter, except as otherwise provided in Section 13-011 (Exceptions).~~

~~The provisions of the underlying district shall apply, except where modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and any other Chapter of this Resolution, the more restrictive provisions shall apply. For the purpose herein, the more restrictive provisions shall be considered those which permit the:~~

- ~~(a) — fewest number of parking spaces;~~
- ~~(b) — most exclusive use of parking spaces; and~~
- ~~(c) — most limited location of curb cuts.~~

~~Portions of Queens Community Districts 1 and 2  
Areas A, B, and C~~

~~(insert map)~~

### ~~13-011~~

#### ~~Exceptions~~

~~The provisions of this Chapter shall not apply to Sections 78-41 (Location of Accessory Parking Spaces) and 78-42 (Parking Regulations for Commercial and Community Facility Uses) concerning #large scale residential developments# and the #Special Battery Park City District#.~~

### ~~13-012~~

#### ~~Existing off-street parking facilities~~

- ~~(a) — Existing required or permitted #accessory# off street parking spaces, #public parking lots# and #public parking garages# established prior to April 29, 1982, in Manhattan, and October 25, 1995, in Queens, shall continue to be subject to the applicable zoning district regulations in effect prior to April 29, 1982, in Manhattan, and October 25, 1995, in Queens. However, #enlargements#, #extensions# or any increase in the number of off street parking spaces within such off street parking facilities shall be subject to the provisions of this Chapter.~~
- ~~(b) — Nothing herein contained shall be deemed to permit a reduction or elimination of existing #accessory# off street parking spaces that were required under the applicable provisions of the zoning district regulations in effect prior to April 29, 1982, in Manhattan, and October 25, 1995, in Queens.~~
- ~~(c) — #Car sharing vehicles# may occupy existing required or permitted #accessory# off street parking spaces established prior to April 29, 1982, in Manhattan, and October 25, 1995, in Queens; however, the number of spaces so occupied shall not exceed five spaces or 20 percent of all such #accessory# off street parking spaces, whichever is greater.~~
- ~~(d) — #Accessory residential# off street parking spaces shall be made available to the occupants of the #residences# to which they are #accessory# within 30 days after written request is made to the landlord.~~
- ~~(e) — #Car sharing vehicles# may occupy parking spaces in #public parking lots# and #public parking garages# established prior to April 29, 1982, in Manhattan, and October 25, 1995, in Queens; however, the number of spaces so occupied shall not exceed 40 percent of all parking spaces in such parking facilities.~~

### ~~13-013~~

#### ~~Previously approved special permits or authorizations~~

~~Whenever, under the applicable provisions of the Zoning Resolution in effect prior to April 29, 1982, in Manhattan, and October 25, 1995, in Queens, the City Planning Commission or the Board of Standards and Appeals has granted any special permit or authorization, the status of such approved special permit or authorization shall not be altered by the provisions of this Chapter. However, the provisions of this Chapter shall apply to the renewal of any special permit or authorization for a #public parking lot#.~~

### ~~13-014~~

#### ~~Commercial vehicle parking in public parking facilities~~

~~Notwithstanding the definition of #public parking garages# and #public parking lots# in Section 12-10 (DEFINITIONS), commercial and public utility motor vehicle parking shall be permitted within such facilities when located in C5-2, C5-2.5, C5-3, C5-5, C5-P, C6-4, C6-4.4, C6-5, C6-5.5, C6-6, C6-6.5, C6-7, C6-9 and M1-6 Districts, provided that:~~

- ~~(a) — such vehicles do not exceed 20 feet in length; and~~
- ~~(b) — the number of spaces provided for such vehicles is limited to not more than 10 spaces or 10 percent of the total number of spaces permitted within the #public parking garages# or #public parking lots#, whichever is less.~~

### ~~13-10~~

#### ~~PERMITTED ACCESSORY OFF-STREET PARKING SPACES~~

### ~~13-11~~

#### ~~General Provision~~

~~#Accessory# off street parking spaces are not permitted in Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 or in Areas A, B and C in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Applicability), except as set forth in this Chapter.~~

### ~~13-12~~

#### ~~Residential Development~~

~~#Accessory# off street parking spaces are permitted only for #developments# or #enlargements# containing #residential use#, as follows:~~

- ~~(a) — For the area south of 60th Street and its prolongations, the number of #accessory# off street parking spaces shall not exceed 20 percent of the number of new #dwelling units# contained in the #development# or #enlargement# or 200 spaces, whichever is less.~~
- ~~(b) — For the area north of 60th Street and its prolongations in Community Districts 7 and 8, the number of #accessory# off street parking spaces shall not exceed 35 percent of the number of new #dwelling units# contained in the #development# or #enlargement# or 200 spaces, whichever is less.~~
- ~~(c) — Within Area A in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Applicability), the number of #accessory# off street parking spaces shall not exceed 50 percent of the #dwelling units# contained in the #development# or #enlargement#, or 200 spaces, whichever is less.~~

~~Within Areas B and C, as shown on the map in Section 13-01, the number of #accessory# off street parking spaces shall not exceed 100 percent of the #dwelling units# contained in the #development# or #enlargement#.~~

~~All such #accessory# off street parking spaces shall be located within a #completely enclosed building# and shall be used exclusively by the occupants of the #residential development# or #enlargement#.~~

### ~~13-13~~

#### ~~Non-Residential Development~~

**13-131****Transient hotels**

~~For #transient hotel developments# or #enlargements#, a maximum of 150 #accessory# off street parking spaces are permitted if there is only one entrance to the #accessory group parking facility# and 225 #accessory# off street parking spaces are permitted if there are two or more entrances. In no event may the number of parking spaces exceed 15 percent of the number of #transient hotel# rooms in Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 or 50 percent of the number of #transient hotel# rooms in Areas A, B and C in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Applicability). All such parking spaces shall be located within a #completely enclosed building# and shall be used primarily for the personnel, guests and occupants of the #transient hotel#.~~

**13-132****Hospitals**

~~For hospital #developments# or #enlargements# in Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8, a maximum of 100 #accessory# off street parking spaces, open or enclosed, are permitted.~~

~~For hospital #developments# or #enlargements# in Area A in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Applicability), a maximum of 150 #accessory# off street parking spaces, open or enclosed, are permitted if there is only one entrance to the #accessory# group parking facility and 225 #accessory# off street parking spaces, open or enclosed, are permitted if there are two or more entrances.~~

~~Within Areas B and C, as shown on the map in Section 13-01, #accessory# off street parking may be provided in accordance with the underlying district regulations.~~

~~Such parking spaces are to be used exclusively by the hospital staff, patients and visitors.~~

**13-133****Community facility, commercial or manufacturing developments**

~~For #community facility#, #commercial# or #manufacturing developments# or #enlargements#, in Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8, and Area A in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Applicability), the maximum number of #accessory# off street parking spaces permitted for each #development# or #enlargement# shall not exceed one space per 4,000 square feet of #floor area# or 100 spaces, whichever is less. All such parking spaces shall be located within a #completely enclosed building# and shall be used exclusively by the tenants or employees of the #development# or #enlargement# and shall not be available to the public.~~

~~Within Areas B and C, as shown on the map in Section 13-01, the maximum number of #accessory# off street parking spaces permitted for each #development#, #enlargement#, or alteration shall not exceed one space per 4,000 square feet of #floor area# or 100 spaces, whichever is less. In the event that the permitted number of #accessory# off street spaces would be less than 15, an #accessory# parking facility of up to 15 spaces may be provided. All spaces shall be located within a #completely enclosed building#, except a maximum of 15 spaces which may be open, and shall be used exclusively by the tenants or employees of the #development# or #enlargement# and shall not be available to the public.~~

**13-134****Multiple use development**

~~Where a #development# or #enlargement# contains a combination of #uses# for which #accessory# parking space regulations are set forth in Sections 13-12 (Residential Developments), 13-131 (Transient hotels), 13-132 (Hospitals) and 13-133 (Community facility, commercial or manufacturing developments), the number of #accessory# off street parking spaces shall not exceed the number of spaces permitted for each #use# in accordance with the provisions of such Sections; however, in no event may the maximum number of #accessory# off street parking spaces exceed 225 spaces. All #accessory# off street parking spaces shall be located within a #completely enclosed building#. The exclusive or primary #use# provisions of Sections 13-12, 13-131, 13-132, and 13-133 shall be applicable to the number of spaces provided for each #use#.~~

**13-14****Additional Regulations for Permitted Accessory Off-Street Parking Spaces****13-141****Location of accessory off street parking spaces**

~~No #accessory# off street parking spaces shall be located on a #zoning lot# other than the same #zoning lot# as the #use# to which they are #accessory#.~~

**13-142****Location of access to the street**

~~(a) The entrances and exits to all permitted #accessory# off street parking spaces shall not be located within 50 feet of the intersection of any two #street lines#. However, curb cuts located within 50 feet of the intersection of two #street lines# may be permitted if the Commissioner of Buildings certifies that such location:~~

~~(1) is not hazardous to traffic safety;~~

~~(2) not likely to create traffic congestion; and~~

~~(3) will not unduly inhibit surface traffic or pedestrian flow.~~

~~The Commissioner may refer such matter to the Department of Transportation, or its successor, for a report and may base the determination on such report.~~

~~(b) In Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8, the entrances and exits to all permitted #accessory# off street parking spaces shall not be located on a #wide street# except by authorization of the City Planning Commission, pursuant to Sections 13-53 (Departmental Reports) and 13-553 (Curb cuts).~~

~~(c) In Areas A, B and C, in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Applicability), the entrances and exits to all permitted #accessory# off street parking spaces shall not be located on the following #wide streets# except by authorization of the City Planning Commission pursuant to Sections 13-53 and 13-553:~~

~~(1) Queens Boulevard;~~

~~(2) Queens Plaza;~~

~~(3) 21st Street;~~

~~(4) Skillman Avenue;~~

~~(5) 44th Drive;~~

~~(6) Thomson Avenue; and~~

~~(7) Jackson Avenue.~~

**13-143****Maximum size of permitted accessory group parking facilities**

~~The gross unobstructed surface area, in square feet, of a permitted #accessory group parking facility# including stalls, aisles, driveways and maneuvering areas shall not exceed 200 times the number of #accessory# off street parking spaces provided. This size limitation shall not be applicable to off street parking spaces permitted under the provisions of Section 13-133 (Community facility, commercial or manufacturing developments) where such spaces are exclusively #accessory#, no charge, self parking spaces in enclosed facilities with a capacity limited to 100 automobiles. In such facilities, the gross unobstructed surface area, in square feet, shall not exceed 300 times the number of #accessory# off street parking spaces provided.~~

**13-144****Car sharing vehicles**

~~Notwithstanding the provisions of Sections 13-12 and 13-13, inclusive, #car sharing vehicles# may occupy parking spaces in #accessory# off street parking facilities; however, the number of spaces so occupied shall not exceed five spaces or~~

20 percent of all parking spaces in such facilities, whichever is greater. #Accessory residential# off street parking spaces shall be made available to the occupants of the #residences# to which they are #accessory# within 30 days after written request is made to the landlord.

### **13-20 PERMITTED PUBLIC PARKING LOTS**

#### **13-21 General Provisions**

Except in the areas listed in Section 13-22, #public parking lots# with a maximum capacity of 150 spaces are permitted in C2, C4, C6, C8, M2 and M3 Districts subject to the regulations set forth in Section 13-23 (Additional Regulations for Permitted Public Parking Lots).

#### **13-22 Areas Where Public Parking Lots Are Not Permitted**

##### **13-221 Midtown Manhattan core**

No #public parking lots# are permitted in the area bounded by 60th Street and its prolongations, First Avenue, 32nd Street and Eighth Avenue, except as provided in Section 13-552 (Public parking lots).

##### **13-222 Downtown Manhattan core**

No #public parking lots# are permitted within the area bounded by Worth Street, Centre Street, Frankfort Street, South Street, Whitehall Street, State Street, Battery Place, West Street, Morris Street, Greenwich Street, Liberty Street, Church Street, Vesey Street, West Broadway, Park Place and Church Street, except as provided in Section 13-552 (Public parking lots).

##### **13-223 Special Clinton District**

No #public parking lots# are permitted in the area bounded by 42nd Street, Tenth Avenue, 59th Street and Eighth Avenue, except as provided in Section 96-111 (Off street parking regulations).

##### **13-224 Manufacturing Districts**

#Public parking lots# are not permitted in M1-5 and M1-6 Districts, except as provided in Section 13-552. However, within these districts, #public parking lots# are permitted on the frontage of the Avenue of the Americas, from 23rd Street to 32nd Street, to a depth of 100 feet; the M1-5 and M1-6 Districts north of 42nd Street and west of Tenth Avenue; the M1-5 District east of First Avenue between 34th Street and 41st Street; the M1-5 District west of Ninth Avenue between 17th Street and 30th Street, and the M1-5 District south of Canal Street.

##### **13-225 In portions of Queens Community Districts 1 and 2**

Within Areas A, B and C in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Applicability), no #public parking lots# are permitted, except as provided in Section 13-552.

##### **13-23 Additional Regulations for Permitted Public Parking Lots**

##### **13-231 Location of access to the street**

(a) The entrances and exits to all permitted #public parking lots# shall not be located within 50 feet of the intersection of any two #street lines#. However, curb cuts located within 50 feet of the intersection of two #street lines# may be permitted if the Commissioner of Buildings certifies that such location is not hazardous to traffic safety, not likely to create traffic congestion and will not unduly inhibit surface traffic or pedestrian flow.

The Commissioner may refer such matter to the Department of Transportation or its successor for a report and may base the determination on such report.

(b) The entrances and exits to a permitted #public parking lot# shall not be located on the following #wide streets# except by authorization of the City Planning Commission pursuant to Section 13-53 (Departmental Reports) and 13-553 (Curb cuts):

- (1) Fifth Avenue;
- (2) Avenue of the Americas, from 23rd Street to 32nd Street;
- (3) Seventh Avenue, from 23rd Street to 32nd Street;
- (4) 14th Street, from Seventh Avenue to Fourth Avenue;
- (5) Delancey Street, from Clinton Street to the west side of Orchard Street;
- (6) Church Street, from Park Place to Worth Street;
- (7) Worth Street, from Centre Street to Church Street; and
- (8) Canal Street, from the Bowery to West Broadway.

##### **13-232 Surfacing and screening**

The applicable regulations set forth in Sections 36-55 or 44-44 (Surfacing) and Sections 36-56 or 44-45 (Screening) shall be met.

##### **13-30**

#### **PERMITTED PUBLIC PARKING GARAGES WITHIN PORTIONS OF QUEENS COMMUNITY DISTRICTS 1 AND 2**

##### **13-31 General Provisions**

Within Area C in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Availability), notwithstanding any underlying district regulations, #public parking garages# with a maximum capacity of 150 spaces are permitted as of right within any zoning district subject to the regulations set forth in Section 13-32 (Additional Regulations for Permitted Public Parking Garages).

##### **13-32 Additional Regulations for Permitted Public Parking Garages**

##### **13-321 Location of access to the street**

(a) The entrances and exits to all permitted #public parking garages# shall not be located within 50 feet of the intersection of any two #street lines#. However, curb cuts located within 50 feet of the intersection of two #street lines# may be permitted if the Commissioner of Buildings certifies that such location is not hazardous to traffic safety, not likely to create traffic congestion and will not unduly inhibit surface traffic or pedestrian flow. The Commissioner may refer such matter to the Department of Transportation, or its successor, for a report and may base a determination on such report.

(b) The entrances and exits to a permitted #public parking garage# shall not be located on the following #wide streets# except by authorization of the City Planning Commission pursuant to Section 13-553 (Curb cuts):

- (1) Vernon Boulevard;
- (2) 44th Drive;
- (3) Jackson Avenue;
- (4) 21st Street;
- (5) Queens Plaza; and
- (6) Queens Boulevard.

**13-40  
REQUIRED ACCESSORY OFF-STREET PARKING SPACES**

**13-41  
General Provisions**

Except as otherwise set forth in this Section and Section 13-42 or by the provisions of Section 13-012 (Existing off street parking facilities), no #accessory# off street parking spaces are required for any #development# or #enlargement# in Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 or Areas A, B and C in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Availability).

**13-42  
Residential Development**

#Accessory# off street parking spaces are only required for public or publicly assisted housing #developments# or #enlargements# in Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8, only as set forth below:

(a) For public or publicly assisted housing, as such categories are defined in Section 25-25 (Modification of Requirements for Public or Publicly Assisted Housing or Non Profit Housing for the Elderly), the minimum number of #accessory# off street parking spaces required for new #dwelling units# provided in the #development# or #enlargement# as a percentage of such new #dwelling units# are as follows:

	South of 60th Street and its Prolongations (in percent)	North of 60th Street and its Prolongations (in percent)
Publicly assisted housing as defined in Section 25-25(a)	15.0	20.0
Public housing developments or dwelling units for low income tenants as defined in Section 25-25(b)	12.0	12.0
Federal rent subsidy program as defined in Section 25-25(c)	13.5	17.5

(b) The requirements of this Section shall not apply to #developments# or #enlargements# on #zoning lots# having a #lot area# of 10,000 square feet or less.

(c) Required parking shall be waived for #developments# or #enlargements# if the required number of #accessory# off street parking spaces resulting from the application of the table in paragraph (a) results in 15 spaces or less.

(d) All required #accessory# off street parking spaces may be located either on the same #zoning lot# as the #development# or #enlargement# or on another #zoning lot# in accordance with the applicable zoning district regulations and shall be subject to the restrictions on location and #use# of #accessory# off street parking spaces in Sections 25-51 through 25-55, inclusive, and the additional regulations for permitted or required #accessory# off street parking spaces set forth in Sections 25-61 through 25-66, inclusive, or Sections 36-51 through 36-57, inclusive. The waiver provisions of Sections 25-27 (Waiver of Requirements for All Zoning Lots Where Access Would Be Forbidden) or 36-24 (Waiver of Requirements) shall also be applicable.

(e) If a public or publicly assisted housing #development# or #enlargement#, as such categories are defined in Section 25-25 (Modification of Requirements for Public, Publicly Assisted and Government Assisted Housing or for Non-profit Residences for the Elderly), provides additional #accessory# off street parking spaces within the #group parking facility# that satisfies the

minimum number of spaces required by this Section, then the permitted #accessory# spaces are not subject to the regulations set forth in paragraph (e) of Section 13-12 (Residential Development), 13-141 (Location of accessory off street parking spaces) and 13-143 (Maximum size of permitted accessory group parking facilities).

(f) All such parking spaces shall be used exclusively by the occupants of the #residential development# or #enlargement# and occupants of nearby public or publicly assisted housing projects, except that #car sharing vehicles# may occupy #accessory# off street parking spaces; however, the number of spaces so occupied shall not exceed five spaces or 20 percent of all such parking spaces, whichever is greater. #Accessory residential# off street parking spaces shall be made available to the occupants of the #residences# to which they are #accessory# within 30 days after written request is made to the landlord.

(g) Parking is not required for #non profit residences for the elderly# or #dwelling units# for the elderly as defined in paragraph (c) of Section 25-25 (Modification of Requirements for Public, Publicly Assisted and Government Assisted Housing or for Non profit Residences for the Elderly).

**13-50  
SPECIAL PERMITS AND AUTHORIZATIONS**

**13-51  
General Provisions**

The City Planning Commission may grant special permits and authorizations, pursuant to Sections 13-55, inclusive, and 13-56, inclusive.

All such special permits and authorizations, in addition to meeting the requirements, conditions and safeguards prescribed by the Commission, shall conform to and comply with all of the applicable zoning district regulations of the Zoning Resolution, except as otherwise specified herein.

**13-52  
Requirements for Applications**

An application to the City Planning Commission for the grant of a special permit or authorization under the provisions of this Section shall include a site plan showing the location of all #buildings or other structures# on the site, the location of all vehicular entrances and exits and off street parking spaces, and such other information as may be required by the Commission.

**13-53  
Departmental Reports**

In Manhattan Community Districts 1, 2, 3, 4, 5, 6, 7 and 8, all applications for the grant of a special permit or authorization pursuant to this Section shall be referred to the Department of Transportation, or its successor, for its report with respect to the anticipated traffic impact resulting from such #use# at the proposed location and to the Department of Environmental Protection or its successor for its report on air quality at the proposed location. If such agencies shall report thereon within one month from the date of referral, the City Planning Commission shall, in its determination, give due consideration to such report and, further, shall have the power to substantiate the appropriate findings solely on the basis of the reports by such agencies with respect to the issues referred. If such agencies do not report within one month, the Commission may make a final determination without reference thereto. In no case shall a special permit or authorization be granted if the proposed #use# would cause a violation of ambient air quality standards or exacerbate an existing violation of such standards.

**13-54  
Relationship to Public Improvement Projects**

In all cases, the City Planning Commission shall deny a special permit application or authorization whenever the #use# will interfere with a public improvement project (including housing, highways, public #buildings# or facilities, redevelopment or renewal projects, or rights of way for sewers, transit, or other public facilities) which is approved by or pending before the City Council or the Commission, as determined from the Calendar of each agency issued prior to the date of the public meeting on the application for a special permit or authorization.

**13-55  
Authorizations**

**13-551**

**Accessory off-street parking spaces**

The City Planning Commission may, by authorization, subject to the otherwise applicable zoning district regulations, allow on site enclosed #accessory# off street parking facilities with a maximum capacity of 15 spaces in existing #buildings#, provided that the Commission finds that:

- (a) the #building# does not have #accessory# off street parking spaces;
- (b) such parking spaces are needed for and will be used exclusively by the occupants of the #use# to which they are #accessory#, except that #car sharing vehicles# may occupy #accessory# off street parking spaces; however, the number of spaces so occupied shall not exceed five spaces or 20 percent of all such parking spaces, whichever is greater. For the purposes of this paragraph, (b), such need shall exist where there are special circumstances and there are no reasonably viable alternatives to on site enclosed parking spaces;
- (c) the parking spaces will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic;
- (d) the parking spaces will not adversely affect pedestrian movement;
- (e) the parking spaces will not be incompatible with, or adversely affect, adjacent #uses# including #uses# within the #building#; and
- (f) the curb cut accessing such parking spaces will not be inconsistent with the character of the existing streetscape.

**13-552**

**Public parking lots**

The City Planning Commission may authorize #public parking lots# with a capacity of not more than 150 spaces in C2, C4, C6, C8 and M1 Districts or in Areas A, B or C in Queens Community Districts 1 and 2, as shown on the map in Section 13-01 (Availability), provided that the otherwise applicable regulations set forth in Sections 36-55 or 44-44 (Surfacing), and Sections 36-56 or 44-45 (Screening) are met.

As a condition for authorizing any such #public parking lots#, the Commission shall make the following findings:

- (a) such #use# will not be incompatible with, or adversely affect, the growth and development of #uses# comprising vital and essential functions in the general area within which such #use# is to be located;
- (b) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular and pedestrian movement;
- (c) such #use# is so located as to draw a minimum of vehicular traffic to and through local #residential streets#; and
- (d) the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs#, or requirements for shielding of floodlights and for locations of entrances and exits.

**13-553**

**Curb cuts**

The City Planning Commission may authorize, subject to the applicable zoning district regulations, curb cuts located on a #wide street# provided the Commission finds that a curb cut at such a location:

- (a) is not hazardous to traffic safety;
- (b) will not create or contribute to serious traffic congestion, or unduly inhibit vehicular movement;
- (c) will not adversely affect pedestrian movement;
- (d) will not interfere with the efficient functioning of bus lanes, specially designated #streets# and public transit facilities; and

- (e) will not be inconsistent with the character of the existing streetscape.

**13-56**

**Special Permits**

**13-561**

**Accessory off-street parking spaces**

The City Planning Commission may, by special permit, subject to the otherwise applicable zoning district regulations, allow on site or off site, open or enclosed, #accessory# off street parking facilities with any capacity not otherwise allowed under Section 13-10 (PERMITTED ACCESSORY OFF STREET PARKING SPACES), provided the Commission finds that:

- (a) such parking spaces are needed for, and will be used by, the occupants, visitors, customers or employees of the #use# to which they are #accessory#, except that #car sharing vehicles# may occupy #accessory# off street parking spaces; however, the number of spaces so occupied shall not exceed five spaces or 20 percent of all such parking spaces, whichever is greater;
- (b) within the vicinity of the site, there are insufficient parking spaces available;
- (c) the facility will not create or contribute to serious traffic congestion nor will unduly inhibit vehicular and pedestrian movement;
- (d) the facility is so located as to draw a minimum of vehicular traffic to and through local #residential streets#; and
- (e) adequate reservoir space is provided at the vehicular entrance to accommodate vehicles equivalent in number to 20 percent of the total number of parking spaces, up to 50 parking spaces, and five percent of any spaces in excess of 200 parking spaces, but in no event shall such reservoir spaces be required for more than 50 vehicles. However, in the case of a facility with a capacity of 10 vehicles or less, the Commission may waive this finding.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including traffic improvements, if necessary, and limitations on #signs# or requirements for shielding or floodlights or for locations of entrances and exits.

**13-562**

**Public parking garages and public parking lots**

The City Planning Commission may, by special permit, allow #public parking garages# and #public parking lots# not otherwise permitted, pursuant to the applicable provisions of Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas).

\* \* \*

**Chapter 6**

**Comprehensive Off-Street Parking Regulations in Long Island City**

The provisions of this Chapter establish special comprehensive regulations for off-street parking in #Long Island City#, as defined in Section 16-02 (Definitions).

These regulations will allow the city to plan for the parking needs of residents and businesses in a more rational manner and help facilitate a mass transit, pedestrian-oriented Central Business District.

**16-01**

**General Provisions**

Except as modified by the express provisions of this Chapter, the regulations of the underlying zoning districts or special purpose districts shall remain in effect.

**16-02**

**Definitions**

Long Island City

For the purpose of this Chapter, "Long Island City" shall refer to the portion of Queens Community Districts 1 and 2 within the boundaries shown on Map 1 (#Long Island City# and Subareas) in Appendix A of this Chapter.

### **16-03**

#### **Maps**

Maps are located in Appendix A of this Chapter and are hereby incorporated and made an integral part of this Resolution. They are incorporated for the purpose of specifying locations where special regulations and requirements set forth in this Chapter apply.

Map 1 - #Long Island City# and Subareas

Map 2 – Locations where curb cuts are prohibited

### **16-04**

#### **Subareas**

In order to carry out the purposes and provisions of this Chapter, three subareas, Subareas A, B and C, are established within #Long Island City#, the boundaries of which are shown on Map 1 (#Long Island City# and Subareas) in Appendix A of this Chapter.

### **16-05**

#### **Applicability**

### **16-051**

#### **Applicability of parking regulations within Long Island City**

The provisions of this Chapter shall apply to #accessory# off-street parking facilities, #public parking lots# and #public parking garages# in #Long Island City#, as follows:

- (a) for #accessory# off-street parking facilities, #public parking garages# and #public parking lots# constructed prior to October 25, 1995, the number of parking spaces required or permitted shall be set forth in Section 16-07 (Existing Buildings and Off-Street Parking Facilities in Long Island City).
- (b) for #accessory# off-street parking facilities, #public parking lots# and #public parking garages developed# or #enlarged# after October 25, 1995, the number of parking spaces permitted in a parking facility shall be as set forth in Section 16-10 (PERMITTED OFF-STREET PARKING IN LONG ISLAND CITY). Special rules shall apply to all such #accessory# off-street parking spaces, #public parking lots# and #public parking garages#, as set forth in Section 16-20 (SPECIAL RULES FOR LONG ISLAND CITY PARKING FACILITIES).
- (c) any increase in the number of off-street parking spaces in an #accessory# off-street parking facility, #public parking lot# or #public parking garage# resulting in a capacity not otherwise allowed under the applicable regulations of Section 16-10, shall only be permitted by the City Planning Commission pursuant to the applicable special permit in Section 16-35 (Special Permits), inclusive.

### **16-052**

#### **Applicability of parking regulations for large-scale residential developments within Long Island City**

The provisions of this Chapter shall not apply to #large-scale residential developments# utilizing the provisions of Sections 78-41 (Location of Accessory Parking Spaces) or 78-42 (Parking Regulations for Commercial and Community Facility Uses).

### **16-053**

#### **Applicability of Special Purpose Districts within Long Island City**

Additional modifications to the provisions of this Chapter are found in the following Special Purpose Districts:

- (a) the #Special Long Island City Mixed Use District#, as set forth in Section 117-54 (Off-Street Parking and Loading Regulations); and
- (b) the #Special Southern Hunters Point District#, as set forth in Section 125-50 (PARKING REGULATIONS), inclusive.

### **16-06**

#### **Previously Approved Special Permits or Authorizations**

Any authorization or special permit relating to parking regulations in #Long Island City# granted by the City Planning Commission or Board of Standards and Appeals prior to October 25, 1995, may be started or continued, in accordance with the terms thereof, or as such terms may be subsequently modified, pursuant to the regulations in effect at the time such authorization or special permit was granted. Such authorizations or special permits shall be subject to the provisions of Sections 11-42 (Lapse of Authorization of Special Permit Granted by the City Planning Commission) and 11-43 (Renewal of Authorization or Special Permit). However, the provisions of this Chapter shall apply to the renewal of any special permit or authorization for a #public parking lot#.

Any subsequent modifications to such authorizations or special permits that involve an increase in the number of off-street parking spaces provided shall only be permitted by the applicable special permit provisions of Section 16-35 (Special Permits).

### **16-07**

#### **Existing Buildings and Off-Street Parking Facilities**

Existing #buildings developed# without the provision of parking, and existing required or permitted #accessory# off-street parking spaces, #public parking lots# and #public parking garages# established prior to October 25, 1995 shall be subject to the applicable zoning district regulations in effect prior to October 25, 1995, except that:

- (a) any reduction or elimination of existing #accessory# off-street parking spaces that were required under the applicable provisions in effect prior to October 25, 1995 shall not be permitted;
- (b) #enlargements#, #extensions# or any increase in the number of off-street parking spaces within such off-street parking facilities shall be permitted by the City Planning Commission:
  - (1) where the proposed increase in off-street parking spaces occurs in a #building developed# without the provision of parking, the Commission may authorize up to 15 off-street parking spaces pursuant to the provisions of Section 16-341 (Limited increase in parking spaces for existing buildings without parking);
  - (2) where the proposed increase occurs in an existing off-street parking facility, and such proposed increase results in a capacity not otherwise allowed under the applicable regulations of Section 16-10 (PERMITTED OFF-STREET PARKING IN LONG ISLAND CITY), the Commission may permit such an increase, pursuant to the applicable provisions of Section 16-35 (Special Permits), inclusive;

### **16-10**

#### **PERMITTED OFF-STREET PARKING IN LONG ISLAND CITY**

Off-street parking spaces located within #accessory# off-street parking facilities, #public parking lots# and #public parking garages# in #Long Island City# shall be allowed as set forth in this Section, inclusive.

### **16-11**

#### **Permitted Parking for Residences**

#Accessory# off-street parking spaces are permitted for #residences# in #developments# or #enlargements#, as follows:

- (a) within Subarea A, #accessory# off-street parking spaces may be provided for not more than 50 percent of the total number of new #dwelling units# contained in the #development# or #enlargement#, or 200 spaces, whichever is less.
- (b) within Subareas B and C, #accessory# off-street parking spaces may be provided for not more than 100 percent of the total number of new #dwelling units# contained in the #development# or #enlargement#.

All such #accessory# off-street parking spaces shall be used exclusively by the occupants of the #residential development# or #enlargement#.

### **16-12**

#### **Permitted Parking for Non-Residential Uses**

#Accessory# off-street parking spaces are permitted for non-#residential uses# in #developments# or #enlargements#, as follows:

- (a) #Transient hotels#



For transient hotel developments or enlargements, a maximum of 150 accessory off-street parking spaces are permitted if there is only one entrance to the accessory group parking facility and a maximum of 225 accessory off-street parking spaces are permitted if there are two or more entrances. In no event may the number of parking spaces exceed 50 percent of the number of new transient hotel rooms. All such parking spaces shall be used primarily for the personnel, guests and occupants of the transient hotel.

(b) Hospitals

For hospital developments or enlargements in Subarea A, a maximum of 150 accessory off-street parking spaces, open or enclosed, are permitted if there is only one entrance to the accessory group parking facility and a maximum of 225 accessory off-street parking spaces, open or enclosed, are permitted if there are two or more entrances.

For hospital developments or enlargements within Subareas B and C, accessory off-street parking may be provided in accordance with the underlying district regulations.

All such parking spaces are to be used exclusively by the hospital staff, patients and visitors.

(c) Other commercial, community facility and manufacturing uses

For developments or enlargements in Subarea A comprising community facility uses other than hospitals, commercial uses other than transient hotels, and manufacturing uses, the maximum number of accessory off-street parking spaces permitted shall not exceed one space per 4,000 square feet of such community facility, commercial or manufacturing floor area, or 100 spaces, whichever is less. All such parking spaces shall be used exclusively by the tenants or employees of the development or enlargement and shall not be available to the public.

Within Subareas B and C, the maximum number of accessory off-street parking spaces permitted for each development, enlargement, or alteration shall not exceed one space per 4,000 square feet of floor area or 100 spaces, whichever is less. In the event that the permitted number of accessory off-street spaces would be less than 15, an accessory parking facility of up to 15 spaces may be provided. All spaces shall be used exclusively by the tenants or employees of the development or enlargement and shall not be available to the public.

**16-13**

**Permitted Parking for Zoning Lots with Multiple Uses**

Where a development or enlargement contains a combination of uses for which parking regulations are set forth in Sections 16-11 (Permitted Parking for Residences), and 16-12 (Permitted Parking for Non-Residential Uses), the number of accessory off-street parking spaces for all such uses shall not exceed the number of spaces permitted for each use in accordance with the provisions of such Sections. However, in no event shall the maximum number exceed 225 accessory off-street parking spaces. The exclusive or primary use provisions of Sections 16-11 and 16-12 shall be applicable to the number of spaces provided for each use.

**16-14**

**Permitted Parking in Public Parking Lots**

No public parking lots shall not be permitted within Long Island City, except where authorized by the City Planning Commission in accordance with the provisions of Section 16-342 (Public parking lots).

**16-15**

**Permitted Parking for Public Parking Garages**

Public parking garages may be developed or enlarged with Long Island City in accordance with the underlying district regulations. However, within Subarea C, notwithstanding any underlying district regulations, public parking garages with a maximum capacity of 150 spaces are permitted as-of-right within any zoning district.

**16-16**

**Permitted Parking for Car Sharing Vehicles and Commercial Vehicles**

Car sharing vehicles and commercial vehicle parking for motor vehicles not exceeding a length of 20 feet shall be permitted as follows:

(a) Accessory off-street parking facilities

Car sharing vehicles may occupy parking spaces in an accessory off-street parking facility, provided that such car sharing vehicles shall not exceed 20 percent of all parking spaces in such facility, or five spaces, whichever is greater. Accessory residential off-street parking spaces shall be made available to the occupant of a residence to which it is accessory within 30 days after written request therefore is made to the landlord.

(b) Public parking garages and public parking lots

(1) Car sharing vehicles shall be permitted within public parking garages and, where authorized pursuant to Section 16-342, public parking lots, provided such vehicles do not exceed, in total, 40 percent of the total number of parking spaces permitted.

(2) Commercial vehicle parking for motor vehicles not exceeding a length of 20 feet shall be permitted within public parking garages and, where authorized pursuant to Section 16-342 public parking lots, provided that the total amount of parking spaces occupied by commercial vehicles, shall not exceed 10 percent of the total number of parking spaces permitted, or 10 spaces, whichever is less.

**16-20**

**SPECIAL RULES FOR LONG ISLAND CITY PARKING FACILITIES**

All accessory off-street parking facilities, public parking lots and public parking garages developed or enlarged after October 25, 1995 in Long Island City shall comply with the applicable provisions of this Section, inclusive.

**16-21**

**Off-Site Parking**

No accessory off-street parking spaces shall be located on a zoning lot other than the same zoning lot as the use to which they are accessory.

**16-22**

**Enclosure, Surfacing and Screening Requirements**

All accessory off-street parking spaces shall be located within a completely enclosed building, with the exception of:

- (a) parking spaces accessory to a hospital, as listed in Use Group 4; and
- (b) up to 15 off-street parking spaces accessory to commercial uses other than a transient hotel, as listed in Use Group 5, community facility uses other than hospitals, or manufacturing use.

**16-23**

**Curb Cut Restrictions**

In addition to the provisions of this Section, inclusive, additional restrictions on curb cuts in Long Island City are found in the following Special Purpose Districts:

- (a) the Special Long Island City Mixed Use District, as set forth in paragraph (b) of Section 117-54 (Off-Street Parking and Loading Regulations); and
- (b) the Special Southern Hunters Point District, as set forth in Section 125-55 (Location of Curb Cuts).

**16-231**

**Location of curb cuts**

For accessory off-street parking facilities, public parking lots and public parking garages, curb cuts accessing entrances and exits to such parking facilities:

- (a) shall not be permitted within 50 feet of the intersection of any two street lines, except where the Commissioner of Buildings certifies that such location is not hazardous to traffic safety, is not likely to create traffic congestion and will not unduly inhibit surface traffic or pedestrian flow. The Commissioner of Buildings may refer such matter to the Department of Transportation, or its successor, for a report; and

- (b) for #accessory# off-street parking facilities and #parking garages#, such curbs shall not be located on a #wide streets# designated on Map 2 (Locations where curbs are prohibited) in Appendix A of this Chapter, except where authorized pursuant to Section 16-343 (Curbs).

**16-24****Minimum and Maximum Size of Parking Facilities**

The gross unobstructed surface area, in square feet, of a permitted #accessory group parking facility# including stalls, aisles, driveways and maneuvering areas shall not exceed 200 times the number of #accessory# off-street parking spaces permitted under the provisions of paragraph (c) of Section 16-12 (Permitted Parking for Non-Residential Uses) where such spaces are exclusively #accessory#, no-charge, self-parking spaces in enclosed facilities with a capacity limited to 100 automobiles. In such facilities, the gross unobstructed surface area, in square feet, shall not exceed 300 times the number of #accessory# off-street parking spaces provided.

**16-30****AUTHORIZATIONS AND SPECIAL PERMITS****16-31****General Provisions**

The City Planning Commission may grant authorizations and special permits, pursuant to Sections 16-34, inclusive, and 16-35, inclusive.

All such special permits and authorizations, in addition to meeting the requirements, conditions and safeguards prescribed by the Commission, shall conform to and comply with all of the applicable zoning district regulations of the Zoning Resolution, except as otherwise specified herein.

**16-32****Requirements for Applications**

An application to the City Planning Commission for the grant of a special permit or authorization under the provisions of this Section shall include a site plan showing the location of all #buildings or other structures# on the site, the location of all vehicular entrances and exits and off-street parking spaces, and such other information as may be required by the Commission.

**16-33****Relationship to Public Improvement Projects**

In all cases, the City Planning Commission shall deny a special permit application or authorization whenever the #use# will interfere with a public improvement project (including housing, highways, public #buildings# or facilities, redevelopment or renewal projects, or rights-of-way for sewers, transit, or other public facilities) which is approved by or pending before the City Council or the Commission, as determined from the Calendar of each agency issued prior to the date of the public meeting on the application for a special permit or authorization.

**16-34****Authorizations****16-341****Limited increase in parking spaces for existing buildings without parking**

The City Planning Commission may, by authorization, subject to the otherwise applicable zoning district regulations, allow onsite enclosed #accessory# off-street parking facilities with a maximum capacity of 15 spaces in existing #buildings#, provided that the Commission finds that:

- (a) the #building# does not have #accessory# off-street parking spaces;
- (b) such parking spaces are needed for and will be used exclusively by the occupants of the #use# to which they are #accessory#, except that #car sharing vehicles# may occupy #accessory# off-street parking spaces; however, the number of spaces so occupied shall not exceed five spaces or 20 percent of all such parking spaces, whichever is greater. For the purposes of this paragraph, (b), such need shall exist where there are special circumstances and there are no reasonably viable alternatives to on-site enclosed parking spaces;
- (c) the parking spaces will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic;

- (d) the parking spaces will not adversely affect pedestrian movement;
- (e) the parking spaces will not be incompatible with, or adversely affect, adjacent #uses# including #uses# within the #building#; and
- (f) the curb cut accessing such parking spaces will not be inconsistent with the character of the existing streetscape.

**16-342****Public parking lots**

The City Planning Commission may authorize #public parking lots# with a capacity of not more than 150 spaces in #Long Island City#, provided that the otherwise applicable regulations set forth in Sections 36-55 or 44-44 (Surfacing), and Sections 36-56 or 44-45 (Screening) are met.

As a condition for authorizing any such #public parking lots#, the Commission shall make the following findings:

- (a) such #use# will not be incompatible with, or adversely affect, the growth and development of #uses# comprising vital and essential functions in the general area within which such #use# is to be located;
- (b) such #use# will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular and pedestrian movement;
- (c) such #use# is so located as to draw a minimum of vehicular traffic to and through local #residential streets#; and
- (d) the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs#, or requirements for shielding of floodlights and for locations of entrances and exits.

**16-343****Curbs**

The City Planning Commission may authorize, subject to the applicable zoning district regulations, curbs located on a #wide street# provided the Commission finds that a curb cut at such a location:

- (a) is not hazardous to traffic safety;
- (b) will not create or contribute to serious traffic congestion, or unduly inhibit vehicular movement;
- (c) will not adversely affect pedestrian movement;
- (d) will not interfere with the efficient functioning of bus lanes, specially designated #streets# and public transit facilities; and
- (e) will not be inconsistent with the character of the existing streetscape.

**16-35****Special Permits****16-351****Accessory off-street parking spaces**

The City Planning Commission may, by special permit, subject to the otherwise applicable zoning district regulations, allow onsite or off-site, open or enclosed, #accessory# off-street parking facilities with any capacity not otherwise allowed under Section 16-10 (PERMITTED OFF-STREET PARKING IN LONG ISLAND CITY), provided the Commission finds that:

- (a) such parking spaces are needed for, and will be used by, the occupants, visitors, customers or employees of the #use# to which they are #accessory#, except that #car sharing vehicles# may occupy #accessory# off-street parking spaces; however, the number of spaces so occupied shall not exceed five spaces or 20 percent of all such parking spaces, whichever is greater;
- (b) within the vicinity of the site, there are insufficient parking spaces available;

- (c) the facility will not create or contribute to serious traffic congestion nor will unduly inhibit vehicular and pedestrian movement;
- (d) the facility is so located as to draw a minimum of vehicular traffic to and through local #residential streets#; and
- (e) adequate reservoir space is provided at the vehicular entrance to accommodate vehicles equivalent in number to 20 percent of the total number of parking spaces, up to 50 parking spaces, and five percent of any spaces in excess of 200 parking spaces, but in no event shall such reservoir spaces be required for more than 50 vehicles. However, in the case of a facility with a capacity of 10 vehicles or less, the Commission may waive this finding.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including traffic improvements, if necessary, and limitations on #signs# or requirements for shielding or floodlights or for locations of entrances and exits.

**16-352**

**Public parking garages and public parking lots**

The City Planning Commission may, by special permit, allow #public parking garages# and #public parking lots# not otherwise permitted, pursuant to the applicable provisions of Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas).

**Appendix A**

**Long Island City Parking Maps**

Map 1 - #Long Island City# and Subareas



Map 2 – Locations where curb cuts are prohibited



\* \* \*

**Article II: Residence District Regulations**

\* \* \*

**Chapter 3**

**Residential Bulk Regulations in Residence Districts**

\* \* \*

**23-635**

**Special bulk regulations for certain sites in Community District 4, Borough of Manhattan**

Within the boundaries of Community District 4 in the Borough of Manhattan, excluding the #Special Clinton District#, for #developments# or #enlargements# in R8 Districts without a letter suffix, on #zoning lots# larger than 1.5 acres that include #residences# for which #public funding#, as defined in Section 23-911 (General definitions) is committed to be provided, the City Planning Commission may authorize modifications of height and setback regulations and in conjunction therewith reduce the amount of required off-street parking, provided the Commission finds that such modifications will facilitate the provision of such #residences#, and such modifications will not unduly obstruct access of light and air to the detriment of the occupants or users of #buildings# on the #zoning lot# or nearby properties, #open space# or #streets# ~~and that the reduction in parking is consistent with the needs of the residents.~~ Prior to issuing a building permit for any #development# or #enlargement# utilizing modifications granted by this authorization, the Department of Buildings shall be furnished with written notice of a commitment from the appropriate funding agency for the provision of such #public funding#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

\* \* \*

**Chapter 5**

**Accessory Off-Street Parking and Loading Regulations**

\* \* \*

**25-023**

**Applicability of regulations in the Manhattan Core and Long Island City Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a Portion of Community Districts 1 and 2 in the Borough of Queens**

Special regulations governing ~~permitted or required~~ #accessory# off-street parking and loading in the #Manhattan Core# are set forth in Article 1, Chapter 3, and special regulations governing #accessory# off-street parking in #Long Island City#, as defined in Section 16-02 (Definitions), are set forth in Article 1, Chapter 6.

\* \* \*

Article III: Commercial District Regulations

\* \* \*

Chapter 2
Use Regulations

\* \* \*

32-17
Use Group 8
C2 C4 C6 C8

\* \* \*

C. Automotive Service Establishments

Automobile rental establishments, except that in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens, in #Long Island City#, as defined in Section 16-02 (Definitions), the number of automobiles that may be stored in such establishments in C2, C4 or C6 Districts shall not exceed 100 spaces and the maximum size in square feet of such storage area shall not exceed 200 times the number of parking spaces provided, exclusive of entrance/exit ramps

#Public parking garages# or #public parking lots# with capacity of 150 spaces or less, subject to the provisions set forth for #accessory# off-street parking spaces in Sections 36-53 (Width of Curb Cuts and Location of Access to the Street), 36-55 (Surfacing) and 36-56 (Screening), and provided that such #public parking lots# are not permitted as of right in C6-1A Districts and such #public parking garages# are not permitted as of right in C2-5, C2-6, C2-7, C2-8, C4-5, C4-5A, C4-5X, C4-6, C4-7, C6, C8-4, M1-4, M1-5, M1-6, M2-3, M2-4 or M3-2 Districts. #Public parking garages# may be open or enclosed, provided that no portion of such #use# shall be located on a roof other than a roof which is immediately above a #cellar# or #basement#.

In the #Manhattan Core# Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens, these #uses# are subject to the provisions of Article I, Chapter 3, and in #Long Island City#, as defined in Section 16-02 (Definitions), such #uses# are subject to the provisions of Article I, Chapter 6.

\* \* \*

32-21
Use Group 12
C4 C6 C7 C8

\* \* \*

D. Automotive Service Establishments

#Public parking garages# or #public parking lots# with capacity of 150 spaces or less, subject to the provisions set forth for #accessory# off-street parking spaces in Sections 36-53 (Width of Curb Cuts and Location of Access to the Street), 36-55 (Surfacing) and 36-56 (Screening), and provided that such #public parking lots# are not permitted as-of-right in C7 Districts and such #public parking garages# are not permitted as-of-right in C4-5, C4-6, C4-7, C6, C8-4, M1-4, M1-5, M1-6, M2-3, M2-4 or M3-2 Districts. #Public parking garages# may be open or enclosed, provided that no portion of such #use# shall be located on a roof other than a roof which is immediately above a #cellar# or #basement#.

In the #Manhattan Core#, Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens, these #uses# are subject to the provisions of Article I, Chapter 3, and in #Long Island City#, as defined in Section 16-02 (Definitions), such #uses# are subject to the provisions of Article I, Chapter 6.

\* \* \*

32-32

By the City Planning Commission

\* \* \*

#Public parking garages#:

C1
Limited in capacity to 100 spaces

C2-1 C2-2 C2-3 C2-4 C4-1 C4-2 C4-3 C4-4 C7 C8-1 C8-2 C8-3
With capacity of more than 150 spaces

C2-5 C2-6 C2-7 C2-8 C4-5 C4-6 C4-7 C5 C6 C7 C8-4
With any capacity

#Public parking lots#:

C1
Limited in capacity to 100 spaces

C2 C4 C6 C7 C8
With capacity of more than 150 spaces

C5 C7
With any capacity

\* \* \*

\* In the #Manhattan Core#, Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens, these #uses# are subject to the provisions of Article I, Chapter 3, and in #Long Island City#, as defined in Section 16-02 (Definitions), such #uses# are subject to the provisions of Article I, Chapter 6.

\* \* \*

Article III: Commercial District Regulations

\* \* \*

Chapter 6
Accessory Off-Street Parking and Loading Regulations

\* \* \*

36-024
Applicability of regulations in the Manhattan Core and Long Island City
Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a
portion of Community Districts 1 and 2 in the Borough of Queens

Special regulations governing permitted or required #accessory# off-street parking and loading in the #Manhattan Core# are set forth in Article I, Chapter 3, and special regulations governing #accessory# off-street parking in #Long Island City#, as defined in Section 16-02 (Definitions), are set forth in Article I, Chapter 6.

\* \* \*

Article IV: Manufacturing District Regulations

\* \* \*

Chapter 2
Use Regulations

\* \* \*

42-12
Use Groups 3A, 6A, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C,
11, 12A, 12C, 12D, 12E, 13, 14 and 16
M1 M2 M3

Use Group 3A shall be limited to Museums that are ancillary to existing Motion Picture Production Studios or Radio or Television Studios, provided they are located within 500 feet of such studios and do not exceed 75,000 square feet of #floor area#.

Use Groups 6A except that foodstores, including supermarkets, grocery stores or delicatessen stores, shall be limited to 10,000 square feet of #floor area# per establishment, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16 as set forth in Sections 32-15 to 32-23, inclusive, and

Section 32-25. However, in Community District 1, in the Borough of the Bronx, in M1-4 Districts, foodstores, including supermarkets, grocery stores or delicatessen stores, shall be limited to 30,000 square feet of #floor area# per establishment.

Use Group 10A shall be limited to depositories for storage of office records, microfilm or computer tapes, or for data processing; docks for ferries; office or business machine stores,

sales or rental; photographic or motion picture production studios; and radio or television studios.

In the #Manhattan Core# ~~Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens,~~ automobile rental establishments, #public parking garages# and #public parking lots# in Use Group 8C and 12D are subject to the provisions of Article I, Chapter 3-, and in #Long Island City#, as defined in Section 16-02 (Definitions), #public parking garages# and #public parking lots# in Use Group 8C and 12D are subject to the provisions of Article I, Chapter 6.

\* \* \*

**42-32  
By the City Planning Commission**

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4.

\* \* \*

M1-1 M1-2 M1-3 M2-1 M2-2 M3-1  
#Public parking garages#\*\* with capacity of more than 150 spaces

M1-4 M1-5 M1-6 M2-3 M2-4 M3-2  
#Public parking garages#\*\* with any capacity

M1 M2 M3  
#Public parking lots# with capacity of more than 150 spaces\*\*

\* \* \*

-----  
\*\* In the #Manhattan Core#, ~~Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens,~~ these #uses# are subject to the provisions of Article I, Chapter 3-, and in #Long Island City#, as defined in Section 16-02 (Definitions), such #uses# are subject to the provisions of Article I, Chapter 6.

\* \* \*

**Chapter 4  
Accessory Off-Street Parking and Loading Regulations**

\* \* \*

**44-022  
Applicability of regulations in the Manhattan Core and Long Island City Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens**

Special regulations governing ~~permitted or required~~ #accessory# off-street parking and loading in the #Manhattan Core# are set forth in Article I, Chapter 3-, and special regulations governing #accessory# off-street parking in #Long Island City#, as defined in Section 16-02 (Definitions), are set forth in Article I, Chapter 6.

\* \* \*

**Article V: Non-Conforming Uses and Non-Complying Buildings**

\* \* \*

**Chapter 2 - Non-Conforming Uses**

\* \* \*

**52-31  
General Provisions**

For the purposes of this Chapter, a change of #use# is a change to another #use# listed in the same or any other Use Group. However, a change in ownership or occupancy shall not, by itself, constitute a change of #use#.

A #non-conforming use# may be changed to any conforming #use#, and the applicable district #bulk# regulations and #accessory# off-street parking requirements shall not apply to such change of #use# or to alterations made in order to accommodate such conforming #use#, but shall apply to any #enlargement#.

In all zoning districts which mandate compliance with the Quality Housing Program, the provisions of Article II, Chapter 8, shall apply to such change of #use#.

However, notwithstanding the provisions above, in Manhattan Community Districts 1, 2, 3, 4, 5 and 6, Brooklyn Community Districts 1, 2, 6 and 8, and Queens Community Districts 1 and 2, the #conversion# of non-#residential floor area# to #residences# shall be subject to the provisions of Article I, Chapter 5 (Residential Conversion within Existing Buildings), unless such #conversions# meet the requirements for #residences# of Article II (Residence District Regulations).

A #non-conforming use# may be changed to another #non-conforming use# only in accordance with the provisions of this Chapter.

Any such change of #use# permitted by this Chapter shall conform to the applicable district regulations on #accessory# off-street loading berths as set forth in Section 52-41 (General Provisions) and on #accessory signs#, except that in #Residence Districts# such change shall conform to the regulations on #accessory signs# applicable in a C1 District.

In the #Manhattan Core#, ~~Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens,~~ a #non-conforming use# may be changed to an automobile rental establishment, #public parking garage# or #public parking lot# in Use Groups 8 and 12D only pursuant to the provisions of Article I, Chapter 3-, and in #Long Island City#, as defined in Section 16-02 (Definitions), a #non-conforming use# may be changed to a #public parking garage# or #public parking lot# in Use Groups 8 and 12D only pursuant to the provisions of Article I, Chapter 6.

In the case of a conflict between these provisions and retail continuity provisions that apply to the ground floor of #buildings#, a #non-conforming use# on the ground floor in such #building# may be changed only to a #conforming use#.

\* \* \*

**52-41  
General Provisions**

\* \* \*

For #non-conforming use# in #Residence Districts#, #accessory# off-street parking spaces or loading berths shall be subject to the provisions of Sections 25-66 or 25-77 (Screening).

In the #Manhattan Core#, ~~Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens,~~ #enlargements# or #extensions# of #nonconforming uses# which involve the provision of off-street parking are subject to the regulations set forth in Article I, Chapter 3-, and in #Long Island City#, as defined in Section 16-02 (Definitions), such #enlargements# or #extensions# are subject to the regulations set forth in Article I, Chapter 6.

In the case of a conflict between these provisions and retail continuity provisions that apply to the ground floor of #buildings#, a #non-conforming use# on the ground floor in such #building# may be changed only to a #conforming use#.

\* \* \*

**Article VII: Administration**

\* \* \*

**Chapter 3  
Special Permits by the Board of Standards and Appeals**

\* \* \*

**73-45  
Modification of Off-Site Parking Provisions**

In all districts, the Board of Standards and Appeals may modify the provisions regulating the location of #accessory# off-street parking spaces provided off the site, in accordance with the provisions of this Section which are applicable in the specified district. However, in no event shall #accessory# off-street parking spaces be permitted off-site in a #public parking garage#.

This Section shall not apply to ~~the #Manhattan Core# Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan~~ where the regulations set forth in Article I, Chapter 3, shall apply.

In all cases, the Board may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

\* \* \*

#### 73-47

##### Rental of Accessory Off-Street Parking Spaces to Non-Residents

In C1 or C5 Districts, for a term not to exceed five years, the Board of Standards and Appeals may permit off-street parking spaces #accessory# to #residences# or #non-profit hospital staff dwellings# to be rented for periods of less than one week, to persons who are not occupants of such #residences# or #non-profit hospital staff dwellings#, provided that such rental of spaces conforms to the provisions set forth in Section 36-46 (Restrictions on Use of Accessory Off-Street Parking Spaces) and that the following special findings are made:

- (a) that the number of spaces to be rented or the location of access, thereto, is such as to draw a minimum of vehicular traffic to and through #streets# having predominantly #residential# frontages;
- (b) that the total number of spaces to be rented to nonresidents does not exceed 100; and
- (c) that where the total number of spaces to be rented to nonresidents exceeds 20, reservoir space is provided at the vehicular entrance to accommodate 10 automobiles or 20 percent of the spaces so rented, whichever amount is less.

The Board may impose appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or requirements for the shielding of floodlights.

This Section shall not apply to ~~the #Manhattan Core# Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan~~ where the regulations set forth in Article I, Chapter 3, shall apply.

\* \* \*

#### 73-48

##### Exceptions to Maximum Size of Accessory Group Parking Facilities

The Board of Standards and Appeals may permit #accessory group parking facilities# with more than 150 spaces in #Commercial# or #Manufacturing Districts# or for hospital and related facilities in #Residence Districts# in accordance with the provisions of this Section provided that such provisions shall not apply to #accessory# off-street parking spaces provided in #public parking garages# in accordance with the provisions of Section 36-57 or 44-46 (Accessory Off-Street Parking Spaces in Public Parking Garages).

This Section shall not apply to ~~the #Manhattan Core# Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan~~ where the regulations set forth in Article I, Chapter 3, shall apply.

\* \* \*

#### 74-512

##### In other Districts

In C2-1, C2-2, C2-3, C2-4, C4-1, C4-2, C4-3, C4-4, C4-5D, C7, C8-1, C8-2, C8-3, M1-1, M1-2, M1-3, M2-1, M2-2 or M3-1 Districts, the City Planning Commission may permit #public parking garages# or #public parking lots# with more than 150 spaces, provided that the applicable regulations set forth in Sections 36-53 (Width of Curb Cuts and Location of Access to the Street) or 44-43 (Location of Access to the Street), Sections 36-55 or 44-44 (Surfacing) and Sections 36-56 or 44-45 (Screening) are met. The Commission may permit some of such spaces to be located on the roof of such #public parking garage#, or may permit floor space on one or more #stories# and up to a height of 23 feet above #curb level# to be exempted from the definition of #floor area# as set forth in Section 12-10 (DEFINITIONS). As a condition of permitting such #use#, the Commission shall make the following findings:

\* \* \*

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including limitations on #signs# or requirements for shielding of floodlights, for locations of entrances and exits, or for setback of any roof parking areas from #lot lines#.

This Section shall not apply to the #Manhattan Core# where the regulations set forth in Article I, Chapter 3, shall apply, except as provided in Section 13-06 (Previously Approved Special Permits or Authorizations).

#### 74-52

##### Parking Garages or Public Parking Lots in High Density Central Areas

In C1-5, C1-6, C1-7, C1-8 or C1-9 Districts, the City Planning Commission may permit #public parking garages# or #public parking lots# with a capacity of not more than 100 spaces, and in C2-5, C2-6, C2-7, C2-8, C4-5, C4-5A, C4-5X, C4-6, C4-7, C6, C8-4, M1-4, M1-5, M1-6, M2-3, M2-4 or M3-2 Districts, the Commission may permit #public parking garages# with any capacity or #public parking lots# with more than 150 spaces, and in C5 and C6-1A Districts, the Commission may permit #public parking garages# or #public parking lots# with any capacity, provided that the applicable regulations set forth in Sections 36-53 (Width of Curb Cuts and Location of Access to the Street) or 44-43 (Location of Access to the Street), Sections 36-55 or 44-44 (Surfacing) and Sections 36-56 or 44-45 (Screening) are met.

\* \* \*

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area including limitations on #signs#, or requirements for shielding of floodlights, for locations of entrances and exits, or for setback of any roof parking areas from #lot lines#.

This Section shall not apply to the #Manhattan Core# where the regulations set forth in Article I, Chapter 3, shall apply, except as provided in Section 13-06 (Previously Approved Special Permits or Authorizations).

#### 74-53

##### Accessory Group Parking Facilities for Uses in Large-Scale Residential Developments or Large-Scale Community Facility Developments or Large-Scale General Developments

The City Planning Commission may permit #group parking facilities accessory# to #uses# in #large-scale residential developments# or #large-scale community facility developments# or #large-scale general developments# with more than the prescribed maximum number of parking spaces set forth in Sections 25-12, 36-12 and 44-12 (Maximum Size of Accessory Group Parking Facilities) or may permit modifications of the applicable provisions of Sections 25-11, 36-11 and 44-11 (General Provisions) so as to permit off-street parking spaces #accessory# to such #uses# to be located on the roof of a #building#.

As a condition of permitting such exceptions or modifications, the Commission shall make the following findings:

- (a) that such #use# is so located as to draw a minimum of vehicular traffic to and through local #streets# in residential areas;
- (b) that such #use# has adequate reservoir space at the vehicular entrance to accommodate either 10 automobiles or five percent of the total parking spaces provided by the #use#, whichever amount is greater, but in no event shall such reservoir space be required for more than 50 automobiles;
- (c) that the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby; and
- (d) that where roof parking is permitted, such roof parking is so located as not to impair the essential character or future use or development.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area including requirements for shielding of floodlights, for locations of entrances and exits, or for setback of any roof parking areas from #lot lines#.

This Section shall not apply to the #Manhattan Core# Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens, where the regulations set forth in Article I,

Chapter 3, shall apply, or to the #Long Island City#, as defined in Section 16-02 (Definitions), where the regulations set forth in Article I, Chapter 6 shall apply.

\* \* \*

Article VIII: Special Purpose Districts

\* \* \*

Chapter 1
Special Midtown District

\* \* \*

81-30
OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS

81-31
General Provisions

The regulations of Article I, Chapter 3 (Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core Comprehensive Off Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens) and the applicable underlying district regulations of Article III, Chapter 6, or Article IV, Chapter 4, relating to Off-Street Loading Regulations, shall apply throughout the #Special Midtown District#, except as otherwise provided in this Section.

81-311
Applicability of more restrictive provisions

In the event of a conflict between the provisions in this Chapter and those contained in Article I, Chapter 3, the more restrictive provisions shall apply. For the purpose herein, the more restrictive provisions shall be considered those which permit:

- (a) fewer number of parking spaces;
(b) more exclusive use of parking spaces; and
(c) more limited location of curb cuts.

81-311
81-312
Prohibitions of off-street parking or off-street loading facilities

Notwithstanding the provisions of Article I, Chapter 3, prohibitions of off-street parking facilities or #accessory# off-street loading berths or restrictions as to their location or access, as provided in Sections 81-44 (Curb Cut Restrictions) or 81-84 (Mandatory Regulations and Prohibitions), may be waived only in accordance with the applicable provisions of Sections 81-44 or 81-84.

\* \* \*

81-40
MANDATORY DISTRICT PLAN ELEMENTS

\* \* \*

81-44
Curb Cut Restrictions

Along all avenues in Midtown and along 57th, 53rd, 42nd and 34th Streets, no driveway curb cuts for parking facilities or loading berths shall be permitted except for the following:

- (a) the Commissioner of Buildings may approve a curb cut where there are no alternative means of access to off-street loading berths from other #streets# bounding the #zoning lot#; or
(b) the City Planning Commission may authorize curb cuts where such curb cuts are needed for required loading berths. Such loading berths must be adjacent to a fully enclosed maneuvering area on the #zoning lot# at least equal in area to the area of the required loading berth and arranged

so as to permit head-in and head-out truck movements to and from the #zoning lot#. The City Planning Commission will refer such applications to the Department of Transportation for their comment.

In addition, for #zoning lots# with frontage along such avenues and #streets# in Midtown where curb cuts are prohibited, the Commissioner of Buildings may waive required off-street loading berths pursuant to the provisions set forth in Section 13-35 (Modification of Loading Berth Requirements).

Where a curb cut is permitted as indicated in this Section, the maximum width of such curb cut shall be 15 feet for one-way traffic and 25 feet for two-way traffic. These curb cut requirements shall be in addition to any other applicable City rules or regulations concerning driveway curb cuts.

The above exceptions do not apply to Fifth Avenue, or between 43rd and 50th Streets, to Seventh Avenue or Broadway and no curb cuts shall be permitted in these cases. Between 43rd and 50th Streets, access to #accessory# off-street loading berths or off-street parking facilities shall not be permitted on Seventh Avenue or Broadway or, except where the length of a #narrow street block# frontage between the #street lines# of Seventh Avenue and Broadway exceeds 75 feet but is less than 125 feet, within 50 feet of the Seventh Avenue or Broadway #street line#. #Interior lots# between 43rd and 50th Streets with a #street# frontage only on Seventh Avenue or Broadway shall not contain loading berths.

\* \* \*

81-70
SPECIAL REGULATIONS FOR THEATER SUBDISTRICT

\* \* \*

81-73
Special Sign and Frontage Regulations

81-731
Special regulations for signs, transparency, banners and canopies

Within that area of the Theater Subdistrict whose boundaries are described in Section 81-72 (Use Regulations Modified), the following provisions apply along #wide street# frontages. Within the Theater Subdistrict Core, the following provisions also apply along #narrow street# frontages.

- (a) At least 50 percent of the #street wall# of a #development# or ground floor #enlargement# shall be glazed at the ground floor level with clear, untinted, transparent material and not more than 50 percent of such transparent surface shall be painted or obstructed with #signs#.

For the purpose of the glazing requirements, the #street wall# surface at the ground floor level shall be measured from the floor to the height of the ceiling or 14 feet above grade, whichever is less, and shall exclude any area of #street wall# occupied by #accessory# off-street loading berths or entrances and exits to #accessory# off-street parking provided pursuant to the required under provisions of Section 81-30 (OFF-STREET PARKING AND OFFSTREET LOADING REGULATIONS). For the purposes of this Section, clear, unobstructed openings in the surface of a #street wall# provided for a stairway entrance into a subway relocated onto a #zoning lot# in accordance with the requirements of Section 81-46 (Off-Street Relocation or Renovation of a Subway Stair) or a through #block# connection provided in accordance with the requirements of paragraph (h) of Section 37-53 (Design Standards for Pedestrian Circulation Spaces) shall be treated as transparent glazed surfaces.

- (b) Canopies (as defined in the Building Code) and awnings shall not be permitted on the exterior of any #building#.

For the purposes of this Section, any #signs# which do not comply with the regulations of this Section may be continued for one year after May 13, 1982, provided that after the expiration of that period such #non-conforming sign# shall terminate; a #sign# which the Chairperson of the City Planning Commission certifies as an integral part of the #building# shall not be required to terminate.

\* \* \*

Chapter 2
Special Lincoln Square District

\* \* \*

82-50

**OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS**

The regulations of Article I, Chapter 3 (~~Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens~~) and the applicable underlying district regulations of Article III, Chapter 6, relating to Off-Street Loading Regulations, shall apply in the #Special Lincoln Square District# except as otherwise provided in this Section. In addition, the entrances and exits to all off-street loading berths shall not be located on a #wide street# except by authorization as set forth in this Section.

(a) #Accessory# off-street parking spaces

#Accessory# off-street parking spaces are permitted only by the applicable special permit of the City Planning Commission pursuant to Section 13-45 (Special Permits for Additional Parking Spaces), inclusive 13-561 (Accessory off street parking spaces).

(b) Curb cuts

The City Planning Commission may authorize curb cuts within 50 feet of the intersection of any two #street lines#, or on #wide streets# where such curb cuts are needed for off-street loading berths, provided the location of such curb cuts meets the findings in Section ~~13-553-13-441~~.

(c) Waiver of loading berth requirements

The City Planning Commission may authorize a waiver of the required off-street loading berths where the location of the required curb cuts would:

- (1) be hazardous to traffic safety;
- (2) create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement; or
- (3) interfere with the efficient functioning of bus lanes, specially designated streets or public transit facilities.

The Commission shall refer these applications to the Department of Transportation for its comments.

~~82-60  
PUBLIC PARKING GARAGES~~

~~In that portion of the #Special Lincoln Square District# located within a C4-7 District, the City Planning Commission may permit #public parking garages# with any capacity pursuant to Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas).~~

~~82-60  
82-70~~

**EXISTING PUBLICLY ACCESSIBLE OPEN AREAS OR OTHER PUBLIC AMENITIES**

\* \* \*

**Chapter 4  
Special Battery Park City District**

**84-00  
GENERAL PURPOSES**

\* \* \*

**84-031  
Special permit uses**

The following #uses# are permitted only by special permit of the City Planning Commission:

\* \* \*

~~In Zone A, #public parking garages# as provided for in C5 Districts, pursuant to Section 74-52.~~

As a condition precedent to the granting of such special permit, the Commission shall make a finding that such #use# is located so as to minimize adverse effects on existing or future development in nearby areas or on the use or enjoyment of the #Esplanade# or other public facilities.

\* \* \*

**84-10  
ZONE A GENERAL DISTRICT REGULATIONS**

\* \* \*

**84-14  
Parking Regulations and Curb Cuts**

**84-141  
Accessory off-street parking spaces**

Except as provided in Section 84-142 (Accessory off-street parking spaces for buildings containing hotel uses), #accessory# off-street parking spaces may be provided only for #residential uses# subject to the provisions of this Section. The ownership requirement for #accessory# off-street parking is satisfied by an interest commensurate with the interest of the principal #use#. Such #accessory# parking spaces shall be #completely enclosed#. No portion of any #accessory# parking facility may be constructed at a height of more than 23 feet above #curb level#. Except as otherwise provided in this Section, no #accessory# off-site parking shall be permitted.

~~Parking facilities #accessory# to #residential uses# on a #zoning lot# shall contain no more than 200 off street parking spaces or a number of spaces equal to 20 percent of the number of #dwelling units# on such #zoning lot#, whichever is less. The size in square feet of an #accessory# off street parking facility, exclusive of entrance and exit ramps, shall not exceed 200 times the number of parking spaces provided.~~

#Accessory# parking facilities shall be constructed so that no exhaust vents open onto any #street# or park or onto the #Esplanade# and so that no portion of the facility, other than entrances and exits, is visible from adjoining #zoning lots#, #streets# or parks or the #Esplanade#.

The City Planning Commission may, upon application, authorize permitted #accessory# off-street parking spaces to be located anywhere within Zone A without regard for #zoning lot lines#, provided that the Commission shall find that:

- (a) the #accessory# off-street parking spaces and required curb cuts are located within subzones A-1, A-2 or A-3 for #zoning lots# within subzones A-1, A-2 or A-3, or within subzones A-5 or A-6 for #zoning lots# in subzones A-5 or A-6, as indicated in Appendices 2 and 3; parking setbacks in Appendices 2.5 and 3.4; and curb cut locations in Appendices 2.6 and 3.5;
- (b) such #accessory# off-street parking spaces will be conveniently located in relation to the #buildings# containing #residences# to which such off-street spaces are #accessory#, and provided that all such spaces shall not be further than 600 feet from the nearest boundary of the #zoning lot# occupied by the #residences# to which they are #accessory#;
- (c) such location of #accessory# off-street parking spaces will permit better site planning;
- ~~(d) the #accessory# off street parking facility will not create or contribute to traffic congestion or unduly inhibit vehicular and pedestrian movement;~~
- ~~(e) the #accessory# off street parking facility is located so as to draw a minimum of additional vehicular traffic to and through local residential #streets#; and~~
- (d) such #accessory# off-street parking facility shall contain parking spaces #accessory# to #residential uses# only; and
- (e) such parking facility complies with the findings in paragraphs (c)(1), (c)(2), (c)(3) and (c)(5) of Section 13-45 (Special Permits for Additional Parking Spaces).

Whenever off-street parking spaces are authorized to be located without regard to #zoning lot lines# in accordance with the provisions of this Section, the number of spaces generated by each #building# shall be recorded in that building's certificate of occupancy (temporary and permanent). In addition, any certificate of occupancy for the #accessory# off-street parking facility shall state the number of parking spaces authorized to be relocated from each #zoning lot#.



**84-142**

**Accessory off-street parking spaces for buildings containing hotel uses**

For the #zoning lot# south of First Place and east of Battery Place, #accessory# off-street parking spaces for hotel #uses# may be provided at the rate established for #transient hotels# in Section 13-12 (Permitted Parking for Non-Residential Uses) or 13-13 (Permitted Parking for Zoning Lots with Multiple Uses), as applicable. only in accordance with this Section. Such #accessory# parking facilities shall contain no more than 15 percent of the number of #transient hotel# rooms or 225 spaces, whichever is less.

~~In the case of a #building# containing both #residential# and hotel #uses#, the number of #accessory# off-street parking spaces shall not exceed the number of spaces permitted for each #use# in accordance with this Section and Section 84-141 (Accessory off-street parking spaces); however, in no event may the maximum number of #accessory# off-street parking spaces exceed 225 spaces.~~

**84-143**

**Off-street loading**

Enclosed #accessory# off-street loading berths shall be provided in conformity with the requirements set forth in the following table and under rules and regulations promulgated by the Commissioner of Buildings for the #uses# listed in the table.

**REQUIRED OFF-STREET LOADING BERTHS**

Type of #Use#	For #Floor Area# (in square feet)	Required Berths
Supermarkets	First 8,000	None
	Next 17,000	1
	Next 15,000	1
	Each additional 15,000 or fraction thereof	1
Hotels	First 100,000	None
	Next 200,000	1
	Each additional 300,000 or fraction thereof	1

~~All required off-street loading berths shall have a minimum length of 33 feet, a minimum width of 12 feet and a minimum vertical clearance of 14 feet, except that required off-street loading berths for hotels, as permitted by Section 84-12 (Use Regulations), shall be allowed to have a minimum vertical clearance of 12 feet.~~

\* \* \*

**Article IX - Special Purpose Districts**

\* \* \*

**Chapter 1**

**Special Lower Manhattan District**

\* \* \*

**91-50**

**OFF-STREET PARKING, LOADING AND CURB CUT REGULATIONS**

The off-street parking regulations of Article 1, Chapter 3 (Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a Portion of Community Districts 1 and 2 in the Borough of Queens) and the loading regulations of the underlying districts apply to the #Special Lower Manhattan District#, except as supplemented or modified by the provisions of this Section.

\* \* \*

**91-511**

**Authorization for off-site parking facilities for converted buildings**

The City Planning Commission may authorize #accessory# residential off-site parking spaces for #non-residential buildings# erected prior to January 1, 1977, or portions thereof, that are #converted# to #residential use#, to be provided in a fully-enclosed #building# on a #zoning lot# within the #Special Lower Manhattan District# other than the #zoning lot# that contains the #residential use#, provided the Commission finds that:

- (a) such #accessory# off-site parking spaces are conveniently located in relation to the #residential use#, and in no case further than 600 feet from the #zoning lot# containing the #residential use#;
- (b) such location of the #accessory# off-site parking facility will permit better site planning for the #building converted# to #residential use#;
- ~~(c) the #accessory# off site parking facility will not create or contribute to traffic congestion or unduly inhibit vehicular and pedestrian movement;~~
- ~~(d) that the #accessory# off site parking facility is located so as to draw a minimum of additional vehicular traffic to and through local residential #streets#; and~~
- (c) that such #accessory# off-site parking facility shall contain parking spaces #accessory# only to #residential uses#; and
- (d) such parking facility complies with findings in paragraphs (c)(1), (c)(2), (c)(3) and (c)(5) of Section 13-45 (Special Permits for Additional Parking Spaces).

The number of #accessory# off-site parking spaces authorized in accordance with the provisions of this Section shall be recorded on the certificates of occupancy, temporary and permanent, for both the #residential use# and the #accessory# off-site parking facility.

**91-52**

**Curb Cut Regulations**

All curb cuts shall be prohibited on #streets# indicated on Map 5 in Appendix A, except that:

- (a) The Commissioner of Buildings may approve a curb cut where there are no alternative means of access to required off-street loading berths from other #streets# bounding the #zoning lot#.
- (b) The City Planning Commission may authorize curb cuts for loading berths, provided:
  - (1) such loading berths are adjacent to a fully enclosed maneuvering area on the #zoning lot#;
  - (2) such maneuvering area is at least equal in size to the area of the loading berth; and
  - (3) there is adequate space to permit head-in and head-out truck movements to and from the #zoning lot#.

The City Planning Commission may refer such applications to the Department of Transportation for comment.

- (c) The City Planning Commission may authorize curb cuts for #accessory# parking for #residences#, provided such curb cuts:
  - (1) will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement; and
  - (2) will not interfere with the efficient functioning of required pedestrian circulation spaces, or public transit facilities.

The City Planning Commission may refer such applications to the Department of Transportation for comment.

No curb cuts may be approved or authorized on Battery Place, Broad Street, Broadway, Liberty Street west of Broadway, Park Row South or Wall Street.

In addition, for #zoning lots# with frontage on #streets# where curb cuts are prohibited, the Commissioner of Buildings may waive required off-street loading berths pursuant to the provisions set forth in Section 13-35 (Modification of Loading Berth Requirements).

Where a curb cut is approved or authorized pursuant to this Section, the maximum width of a curb cut, including splays, shall be 15 feet for a #street# with one-way traffic and 25 feet for a #street# with two-way traffic.

\* \* \*

**Chapter 2  
Special Park Improvement District**

**92-00  
GENERAL PURPOSES**

\* \* \*

**92-05  
Maximum Number of Accessory Off-Street Parking Spaces**

Within the portion of the #Special Park Improvement District# located within the #Manhattan Core#, the provisions of Article I, Chapter 3 (Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core) shall apply, inclusive. For all other portions of the #Special Park Improvement District#, the provisions of this Section shall apply.

In no case shall the number of #accessory# off-street parking spaces for a #residential use# exceed 40 percent of the number of #dwelling units#. In no case shall curb cuts for vehicular access be located on Fifth Avenue or Park Avenue or on a #street# within 50 feet of its intersection with the #street line# of Fifth Avenue or Park Avenue. No off-site #accessory# off-street parking facilities for any #use# shall be permitted within the Special District. All parking spaces #accessory# to #residences# shall be designed and operated exclusively for the long term storage of the private passenger motor vehicles used by the occupants of such #residences#.

The parking requirements set forth in Sections 25-21, 25-31, 36-21 or 36-31 shall not apply to any #development# for which the Commissioner of Buildings has certified that there is no way to provide the required parking spaces with access to a #street# in conformity with the provisions of this Section.

~~The maximum number of permitted, and the minimum number of required #accessory# off street parking spaces, for #zoning lots# in the area of the Special District located within Manhattan~~

~~Community District 8, are set forth in Article I, Chapter 3.~~

\* \* \*

**Chapter 3  
Special Hudson Yards District**

**93-00  
GENERAL PURPOSES**

\* \* \*

**93-05  
Applicability of District Regulations**

\* \* \*

**93-052  
Applicability of Article I, Chapter 3**

#Public parking lots# authorized pursuant to ~~Section 13-552~~ prior to January 19, 2005, and #accessory# off-street parking facilities for which a special permit has been granted pursuant to ~~Section 13-561~~ prior to January 19, 2005, may be renewed subject to the terms of such authorization or special permit.

The provisions of Article I, Chapter 3, in their entirety shall be applied to Subdistrict F. The following provisions of Article I, Chapter 3 governing #automated parking facilities#, as defined in Section 13-02 (Definitions), automobile rental establishments, commercial vehicle parking, and off-street loading berths shall apply to Subdistricts A, B, C, D and E, as applicable:

- (a) for #automated parking facilities#, the provisions of Section 13-101 (Calculating parking spaces in automated parking facilities), paragraph (b) of Section 13-25 (Reservoir Spaces), and paragraph (b) of Section 13-27 (Minimum and Maximum Size of Parking Facilities);
- (b) for automobile rental establishments, the provisions of Section 13-15 (Permitted Parking for Automobile Rental Establishments, paragraph (b) of

Section 13-221 (Enclosure and screening requirements), Section 13-241 (Location of curb cuts), paragraph (b) of Section 13-242 (Maximum width of curb cuts), paragraph (c) Section 13-25, and paragraph (c) of Section 13-27;

- (c) for commercial vehicle parking, the provisions of Section 13-16 (Permitted Parking for Car Sharing Vehicles and Commercial Vehicles); and
- (d) for off-street loading berths, the provisions of Section 13-30 (OFF-STREET LOADING REGULATIONS IN THE MANHATTAN CORE), inclusive.

Additional provisions of Article I, Chapter 3, shall be applicable as specified in Section 93-80, inclusive.

\* \* \*

**93-80  
OFF-STREET PARKING REGULATIONS**

In Subdistricts A, B, C, D and E, the regulations governing permitted ~~and required~~ #accessory# off-street parking spaces of Article I, Chapter 3 (~~Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a Portion of Community Districts 1 and 2 in the Borough of Queens~~) and Article II, Chapter 5; Article III, Chapter 6; and Article IV, Chapter 4 (Accessory Off-Street Parking and Loading Regulations) shall not apply except as set forth in this Section. In lieu thereof, the provisions of this Section, inclusive, shall apply.

In Subdistrict F, the regulations of Article I, Chapter 3, shall apply.

\* \* \*

**93-821  
Permitted parking when the reservoir surplus is greater than or equal to zero**

When the #reservoir surplus# is greater than or equal to zero, off-street parking spaces may be provided only in accordance with the provisions of this Section.

- (a) For #residences#, #accessory# off-street parking spaces may be provided for not more than 30 percent of the total number of #dwelling units#, except that where such #dwelling units# are comprised of #low income floor area#, #moderate income floor area# or #middle income floor area#, as defined in Section 23-911, #accessory# off-street parking spaces may be provided for not more than eight percent of the total number of such #dwelling units#.
- (b) For Use Group 5 #transient hotels#, the applicable provisions of Section 13-12 (Permitted Parking for Non-Residential Uses) ~~13-131~~ shall apply with respect to the number of permitted #accessory# off-street parking spaces, provided that the number of such spaces does not exceed 0.16 for every 1,000 square feet of #floor area#.
- (c) For Use Group 6B offices, not more than 0.16 #accessory# off-street parking spaces may be provided for every 1,000 square feet of #floor area#.

\* \* \*

**93-822  
Permitted parking when a reservoir deficit exists**

When a #reservoir deficit# exists, additional off-street parking spaces may be provided in accordance with the provisions of this Section. However, this Section shall not apply in the Eastern Rail Yard Subarea A1.

- (a) The number of permitted #accessory# off-street parking spaces for Use Group 5 hotels may exceed 0.16 for every 1,000 square feet of #floor area#, up to the number permitted by the applicable provisions of Section 13-12 (Permitted Parking for Non-Residential Uses) ~~Section 13-131~~.
- (b) The number of permitted #accessory# off-street parking spaces for Use Group 6B offices may be increased by up to 33 percent of the number permitted pursuant to Section 93-821, paragraph (b).

\* \* \*

**93-823**

**Parking permitted by special permit**

When a #reservoir deficit# exists, the City Planning Commission may allow, by special permit, Use Group 6B offices to exceed the number of #accessory# off-street parking spaces permitted by Section 93-822, provided that: in accordance with the provisions of Section 13-561, except that finding (a) of Section 13-561 shall not apply.

- (a) within the vicinity of the site, there are insufficient parking spaces available;
- (b) the facility will not create or contribute to serious traffic congestion nor unduly inhibit vehicular and pedestrian movement;
- (c) the facility is so located as to draw a minimum of vehicular traffic to and through local #residential streets#; and
- (d) adequate reservoir space is provided at the vehicular entrance to accommodate vehicles equivalent in number to 20 percent of the total number of parking spaces, up to 50 parking spaces, and five percent of any spaces in excess of 200 parking spaces, but in no event shall such reservoir spaces be required for more than 50 vehicles. However, in the case of a facility with a capacity of 10 vehicles or less, the Commission may waive this finding.

In addition, the Commission shall find that the number of #accessory# off-street parking spaces in excess of the number permitted by Section 93-821, proposed to be added by the #development# or #enlargement# that is the subject of the application under review, does not exceed the #reservoir deficit#; and that such additional #accessory# off-street parking spaces, when added to the sum of the parking spaces specified in paragraphs (e)(2)(i), (e)(2)(ii) and (e)(2)(iii) of Section 93-821 does not exceed 5,905 spaces, except insofar as the limit of 5,905 spaces set forth in paragraph (e)(2) has been adjusted pursuant to the provisions of paragraph (e)(3) of Section 93-821. In making such finding, the Commission shall not consider any prior certification or any special permit that has lapsed in accordance with the provisions of this Resolution.

\* \* \*

**93-83  
Use and Location of Parking Facilities**

The provisions of this Section shall apply to all off-street parking spaces within the #Special Hudson Yards District#.

- (a) All off-street parking spaces #accessory# to #residences# shall be used exclusively by the occupants of such #residences#. Except in the Eastern Rail Yard Subarea A1, all off-street parking spaces #accessory# to Use Group 5 #transient hotels# and Use Group 6B offices may be made available for public use. No #accessory# off-street parking spaces shall be located on a #zoning lot# other than the same #zoning lot# as the #use# to which they are #accessory#. The provisions of Section 13-141 (Location of accessory off-street parking spaces), inclusive, shall apply.
- (b) All off-street parking spaces shall be located within facilities that, except for entrances and exits, are:
  - (1) entirely below the level of any #street# or publicly accessible open area upon which such facility, or portion thereof, fronts; or
  - (2) located, at every level above-grade, behind #commercial#, #community facility# or #residential floor area#, so that no portion of such parking facility is visible from adjoining #streets# or publicly accessible open areas.

\* \* \*

**Chapter 5  
Special Transit Land Use District**

\* \* \*

**95-00  
GENERAL PURPOSES**

\* \* \*

**95-09  
Special Regulations for Accessory Off-Street Parking and Curb Cuts**

Within the portion of the #Special Transit Land Use District# located within the #Manhattan Core#, the provisions of Article I, Chapter 3 (Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core) shall apply, inclusive. For

all other portions of the #Special Transit Land Use District#, the provisions of this Section shall apply.

On any #zoning lot# on which a transit easement volume is provided, the required #accessory# off-street parking requirements for #residential uses# of the applicable underlying districts shall be reduced to a maximum of 20 percent.

In no case within the Special District shall curb cuts for vehicular access be located on a #street# containing transit lines or on a #street# within 50 feet of its intersection with the #street lines# of such a #street#.

The #accessory# parking requirements shall not apply to any #development# or #enlargement# for which the Commissioner of Buildings has certified that there is no way to provide the required parking spaces with access to a #street# in conformity with the provisions of this Section.

\* \* \*

**Chapter 6  
Special Clinton District**

\* \* \*

**96-10  
PRESERVATION AREA**

\* \* \*

**96-111  
Off-street parking regulations**

#Accessory# off-street parking spaces, #public parking lots# or #public parking garages# are not permitted within the Preservation Area except by the applicable special permit as set forth in Section 13-45 (Special Permits for Additional Parking Spaces), inclusive Sections 13-561 (Accessory off-street parking spaces) and 13-562 (Public parking garages and public parking lots).

In addition, the Commission shall find that:

- (a) the property has been or will be vacated pursuant to the provisions of Section 96-108; and
- (b) the applicant has followed the relocation procedures set forth in Section 96-23.

\* \* \*

**96-21  
Special Regulations for 42nd Street Perimeter Area**

The provisions of this Section shall apply in all #Commercial Districts# within the area bounded by the following:

\* \* \*

- (f) Special curb cut and parking provisions requirements

No curb cuts shall be permitted on 42nd Street. The parking provisions requirements of the #Special Hudson Yards District# shall apply within the 42nd Street Perimeter Area, as set forth in Section 93-80 (OFF-STREET PARKING REGULATIONS), except that such parking provisions requirements shall not apply to any #development# or #enlargement# for which a special permit was granted prior to January 19, 2005.

Any #development# or #enlargement# for which a building permit has been lawfully issued prior to December 31, 2004 shall comply with either the parking regulations in effect at the time the permit was issued, or the provisions requirements of this paragraph, (f).

\* \* \*

Chapter 9  
Special Madison Avenue Preservation District

\* \* \*

99-00  
GENERAL PURPOSES

\* \* \*

99-06  
Off-Street Parking Regulations

Within the portion of the #Special Madison Avenue District# located within the #Manhattan Core#, the provisions of Article I, Chapter 3 (Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core) shall apply, inclusive. For all other portions of the #Special Madison Avenue District#, the provisions of this Section shall apply.

Where #accessory# off-street parking is provided, in no case shall curb cuts for vehicular access be located on Madison Avenue or on a #street# within 50 feet of its intersection with the #street line# of Madison Avenue. No off-site #accessory# off-street parking facilities for any #use# shall be permitted within the Special District.

The maximum number of permitted, and the minimum number of required, #accessory# off street parking spaces for #developments# or #enlargements# in the area of the Special District located within Community District 8 are set forth in Article I, Chapter 3.

\* \* \*

Article X - Special Purpose Districts

\* \* \*

Chapter 9 – Special Little Italy District

\* \* \*

109-10  
PRESERVATION AREA (Area A)

\* \* \*

109-16  
Parking Regulations

No #accessory# off-street parking is permitted or required for any #development# or #enlargement# in Area A, except as set forth herein.

The City Planning Commission, by special permit, may allow #accessory# off-street parking facilities for any #development# or #enlargement# on a #zoning lot# pursuant to the applicable authorization or special permit in Article I, Chapter 3 (Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core), provided that the following findings are made:

- (a) that such off street parking spaces be used solely as #accessory# parking facilities for #residential use# and that the number of such spaces shall not exceed 20 percent of the total number of new #dwelling units#;
- (b) that within the vicinity of the site there is insufficient parking space available; and
- (c) that such parking facilities will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular traffic or pedestrian flow.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for shielding, color and intensity of lighting, screening and signage, or for location of entrances and exits.

\* \* \*

109-30  
HOUSTON STREET CORRIDOR (Area B)

\* \* \*

109-35  
Parking and Curb Cuts

109-351  
Parking regulations

The parking regulations of the underlying district shall apply except that the City Planning Commission may permit additional #accessory# off-street parking facilities, or a reduction in the required amount of such facilities, provided the following findings are made:

- (a) that in the case of a reduction of such required facilities, there is sufficient parking available or, in the case of additional parking facilities, there is insufficient parking available within the vicinity of the site;
- (b) that such parking facilities will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular traffic or pedestrian flow.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area, including requirements for shielding, color and intensity of lighting, screening and signage or for location of entrances and exits.

109-351  
109-352  
Curb cut regulations

There shall be not more than one curb cut on each #street line# frontage of a #zoning lot#.

\* \* \*

Article XI - Special Purpose Districts

\* \* \*

Chapter 7  
Special Long Island City Mixed Use District

\* \* \*

117-02  
General Provisions

In harmony with the general purposes and content of this Resolution and the general purposes of the #Special Long Island City Mixed Use District#, the regulations of this Chapter shall apply within the #Special Long Island City Mixed Use District#. The regulations of all other Chapters of this Resolution are applicable, except as modified, supplemented or superseded by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

\* \* \*

- (c) Regulations relating to #accessory# parking facilities, #public parking lots# and #public parking garages# within the Hunters Point Subdistrict, the Court Square Subdistrict and the Queens Plaza Subdistrict are set forth in Article I, Chapter 6 (Comprehensive Off-Street Parking Regulations in Long Island City) Chapter 3 (Comprehensive Off Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and in Portions of Community Districts 1 and 2 in the Borough of Queens), and such provisions are further modified by Section 117-54 (Off-street Parking and Loading Regulations).

\* \* \*

117-54  
Off-street Parking and Loading Regulations

- (a) The off-street parking provisions of Article I, Chapter 6 Chapter 3, shall apply, except that:
  - (1) the prohibition of curb cuts accessing entrances and exits to #accessory# off-street parking facilities on certain #wide streets#.

as set forth in paragraph (b) of Section 16-231 (Location of curb cuts), provisions of paragraph (b) of Section 13-142 (Additional regulations for permitted accessory off-street parking spaces) shall also apply to Northern Boulevard, Crescent Street and 23rd Street; and

(2) the provisions of paragraph (c) of Section 16-12 (Permitted Parking for Non-Residential Uses) Section 13-133 (Community facility, commercial or manufacturing developments) shall be modified as follows: the maximum number of #accessory# off-street parking spaces permitted for a #development# or #enlargement# shall not exceed one space per 2,000 square feet of #floor area# or 250 spaces, whichever is less.

(b) Curb cuts shall not be permitted within 40 feet of a #zoning lot line# that abuts the Sunnyside Yard.

\* \* \*

Article XII - Special Purpose Districts

\* \* \*

Chapter 1 Special Garment Center District

\* \* \*

121-10 PRESERVATION AREA

\* \* \*

121-11 Special Use Regulations

\* \* \*

121-111 Use Group A

Changes of #use# to Use Group A #uses# are exempt from the #floor area# preservation requirements of Section 121-113. In Preservation Area P-1, in the case of a change of #use# of #floor area# to a Use Group 6B #use#, Use Group A #uses# may not be used to satisfy the preservation requirement. In Preservation Area P-2, in the case of a change of #use# of #floor area# to any #use# permitted by the underlying #use# regulations, Use Group A #uses# may not be used to satisfy the preservation requirement.

In Use Group 6A:

All #uses#

In Use Group 6C:

All #uses# except loan offices, telegraph offices and travel bureaus

In Use Group 6D:

All #uses#

In Use Group 9A:

Blueprinting or photostatting establishments

Musical instrument repair shops

Printing establishments, limited to 2,500 square feet of #floor area# per establishment for production

Typewriter or other small business machine sales, rentals or repairs

In Use Group 12B:

All #uses#

Additional #uses#:

#Accessory uses#

Automobile rental establishments

#Public parking lots# and #public parking garages#, pursuant to the provisions of Article I, Chapter 3 (Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan)

Wholesale establishments, with a minimum of 15 percent of #accessory# storage

Wholesale showrooms

\* \* \*

121-40 PARKING PROVISIONS FOR REQUIREMENTS IN PRESERVATION AREA P-2

Within Preservation Area P-2, as shown in Appendix A of this Chapter, the underlying parking requirements shall not apply. In lieu thereof, the parking provisions regulations of the Special Hudson Yards District, as set forth in Section 93-80 (OFF-STREET PARKING) shall apply.

\* \* \*

Chapter 3 Special Mixed Use District

\* \* \*

123-70 PARKING AND LOADING

For #Special Mixed Use Districts# located within the #Manhattan Core#, the provisions of Article I, Chapter 3 (Comprehensive Off-Street Parking and Loading Regulations in the Manhattan Core) shall apply, inclusive, and for #Special Mixed Use Districts# located within #Long Island City#, as defined in Section 16-02 (Definitions), the provisions of Article I, Chapter 6 (Comprehensive Off-Street Parking Regulations in Long Island City) shall apply, inclusive. For all other #Special Mixed Use Districts#, the provisions of this Section, inclusive, shall apply.

\* \* \*

Chapter 5 Special Southern Hunters Point District

\* \* \*

125-50 PARKING REGULATIONS

The regulations governing permitted and required #accessory# off-street parking spaces of Article I, Chapter 6 (Comprehensive Off-Street Parking Regulations in Long Island City) Chapter 3 (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a Portion of Community Districts 1 and 2 in the Borough of Queens) and Article II, Chapter 5; Article III, Chapter 6; and Article IV, Chapter 4 (Accessory Off-Street Parking and Loading Regulations) shall apply, except as set forth in this Section.

\* \* \*

125-53 Maximum Size of Permitted Accessory Group Parking Facilities

In the East River Subdistrict, Section 16-13 (Permitted Parking for Zoning Lots with Multiple Uses) 13-134 (Multiple use development) shall apply except that the maximum number of spaces shall be 780. Section 16-21 (Off-Site Parking) 13-141 (Location of accessory off-street parking spaces) shall not apply.

In the Newtown Creek Subdistrict, Section 16-13 13-134 shall apply except that the maximum number of spaces shall not exceed 40 percent of the number of #dwelling units# within the #development# or #enlargement#.

END

\* \* \*

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

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. 796

**Report of the Committee on Land Use in favor of approving Application no. C 130007 MMM submitted by Cornell University and New York City Economic Development Corporation pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving the establishment of certain streets and legal grades necessitated on Roosevelt Island, including authorization for any disposition or acquisition of real property related thereto, in the Borough of Manhattan, Community District 8, Council District 5. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1075), respectfully

#### REPORTS:

##### SUBJECT

MANHATTAN CB - 8

C 130007 MMM

City Planning Commission decision approving an application submitted by Cornell University and the New York City Economic Development Corporation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving:

- the establishment of East Main Street, West Main Street, North Loop Road, South Loop Road, East Loop Road and West Loop Road; and
- the establishment of legal grades necessitated thereby,

including authorization for any disposition or acquisition of real property related thereto, in accordance with Map No. 30241, dated October 11, 2012 and signed by the Borough President.

##### INTENT

This action, in conjunction with the other related actions, would facilitate the development of a 2.1 million square foot academic and commercial research campus on the southern part of Roosevelt Island. The program for the proposed development is expected to include classroom space as well as office, retail, residential, utility, and hotel use. The project would also allow for 2.5 acres of publicly-accessible open space.

##### PUBLIC HEARING

DATE: April 30, 2013

Witnesses in Favor: Sixteen

Witnesses Against: None

Witnesses In Favor With Conditions: Twenty-one

##### SUBCOMMITTEE RECOMMENDATION

DATE: April 30, 2013, recessed to May 2, 2013

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

**In Favor:** Weprin, Rivera, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

**Against:** Reyna

**Abstain:** None

##### COMMITTEE ACTION

DATE: May 2, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** Reyna, Barron

**Abstain:** None

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

Res. No. 1762

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130007 MMM, an amendment to the City Map (L.U. No. 796).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on March 22, 2013 its decision dated March 20, 2013 (the "Decision"), on the application submitted by Cornell University and the New York City Economic Development Corporation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving:

- the establishment of East Main Street, West Main Street, North Loop Road, South Loop Road, East Loop Road and West Loop Road; and
- the establishment of legal grades necessitated thereby,

including authorization for any disposition or acquisition of real property related thereto, in accordance with Map No. 30241, dated October 11, 2012 and signed by the Borough President,

(ULURP No. C 130007 MMM), Community District 8, Borough of Manhattan (the "Application");

**WHEREAS**, the Application is related to applications C 130076 ZMM (L.U. No. 797), a proposed amendment to the Zoning Map, Section Nos. 8d and 9b, changing the zoning district designation of certain property from an R7-2 District to a C4-5 District and establishing a Special Southern Roosevelt Island District; N 130077 ZRM (L.U. No. 798), a proposed amendment to the Zoning Resolution creating the Special Southern Roosevelt Island District; C 130078 PPM (L.U. No. 799), a disposition of city-owned property (Block 1373, Lot 20 and part of Lot 1) by the New York City Department of Citywide Administrative Services (DCAS) to the New York City Land Development Corporation (LDC);

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on April 30, 2013;

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

**WHEREAS**, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on March 8, 2013 (CEQR No. 12DME004M);

##### **RESOLVED:**

Having considered the FEIS with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

- (2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the action is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, in accordance with an environmental commitment letter, dated March 19, 2013, from Cornell and acknowledged and accepted by EDC, those project components related to the environment and mitigation measures that were identified as practicable; and
- (4) The Decision together with the FEIS constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 199 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, C 130007 MMM, incorporated by reference herein, the Council approves the Decision for an amendment to the City Map involving:

- the establishment of East Main Street, West Main Street, North Loop Road, South Loop Road, East Loop Road and West Loop Road; and
- the establishment of legal grades necessitated thereby,

including authorization for any disposition or acquisition of real property related thereto, in Community District 8, Borough of Manhattan, in accordance with Map No. 30241, dated October 11, 2012 and signed by the Borough President, subject to the following conditions:

- a. The subject amendment to the City Map shall take effect on the day following the day on which certified counterparts of Map No. 30241, dated October 11, 2012, are filed with the appropriate agencies in accordance with Section 198 subsection c of the New York City Charter;
- b. The subject amendment to the City Map shall not be filed with the appropriate agencies in accordance with condition "a" above until the applicant shall have executed a mapping agreement protecting the city's interest, approved as to form and sufficiency by the Corporation Counsel and accepted by the City Planning Commission (the "Mapping Agreement"). If such agreement is not accepted by the City Planning Commission within two years of the date of this resolution, the approved amendment to the City Map may be returned to the City Planning Commission for rescission.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

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. 797

**Report of the Committee on Land Use in favor of approving Application no. C 130076 ZMM submitted by Cornell University and New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section Nos. 8d and 9b, changing an R7-2 District to a C4-5 District and establishing a Special Southern Roosevelt Island District to facilitate development of an academic and commercial research campus on Roosevelt Island, Borough of Manhattan, Community District 8, Council District 5.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1075), respectfully

#### REPORTS:

#### SUBJECT

MANHATTAN CB - 8

C 130076 ZMM

City Planning Commission decision approving an application submitted by Cornell University and New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 8d and 9b.

#### INTENT

This action, in conjunction with the other related actions, would facilitate the development of a 2.1 million square foot academic and commercial research campus on the southern part of Roosevelt Island. The program for the proposed development is expected to include classroom space as well as office, retail, residential, utility, and hotel use. The project would also allow for 2.5 acres of publicly-accessible open space.

#### PUBLIC HEARING

**DATE:** April 30, 2013

**Witnesses in Favor:** Sixteen

**Witnesses Against:** None

**Witnesses In Favor With Conditions:** Twenty-one

#### SUBCOMMITTEE RECOMMENDATION

**DATE:** April 30, 2013, recessed to May 2, 2013

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

**In Favor:** Weprin, Rivera, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

**Against:** Reyna

**Abstain:** None

#### COMMITTEE ACTION

**DATE:** May 2, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** Reyna, Barron

**Abstain:** None

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

Res. No. 1763

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130076 ZMM, a Zoning Map amendment (L.U. No. 797).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on March 22, 2013 its decision dated March 20, 2013 (the "Decision"), on the application submitted by Cornell University and the New York City Economic Development Corporation, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, to facilitate the development of a 2.1 million square foot academic and commercial research campus on the southern part of Roosevelt Island. The program for the proposed development is expected to include classroom space as well as office, retail, residential, utility, and hotel use. The project would also allow for 2.5 acres of publicly-accessible open space, Community District 8, (ULURP No. C 130076 ZMM), Borough of Manhattan (the "Application");

**WHEREAS**, the Application is related to applications C 130007 MMM (L.U. No. 796), a proposed amendment to the City Map involving the establishment of a 50-foot right-of-way encircling the campus; N 130077 ZRM (L.U. No. 798), a proposed amendment to the Zoning Resolution creating the Special Southern Roosevelt Island District; and C 130078 PPM (L.U. No. 799), a disposition of city-owned property (Block 1373, Lot 20 and part of Lot 1) by the New York City Department of Citywide Administrative Services (DCAS) to the New York City Land Development Corporation (LDC);

**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 30, 2013;

**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 Final Environmental Impact Statement (“FEIS”) for which a Notice of Completion was issued on March 8, 2013 (CEQR No. 12DME004M);

**RESOLVED:**

Having considered the FEIS with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the action is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FGEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, in accordance with an environmental commitment letter, dated March 19, 2013, from Cornell and acknowledged and accepted by EDC, those project components related to the environment and mitigation measures that were identified as practicable; and
- (4) The Decision together with the FEIS constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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, C 130076 ZMM, 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 by changing the Zoning Map, Section Nos. 8d and 9b, by:

1. changing from and R7-2 District to a C4-5 District property bounded by North Loop Road\* and its northwesterly and southeasterly prolongations, the U.S. Pierhead and Bulkhead Line, a line 1380 feet southwesterly of the centerline of North Loop Road\* and its northwesterly and southeasterly prolongations, and the U.S. Pierhead and Bulkhead Line; and
2. establishing a Special Southern Roosevelt Island District (SRI) bounded by North Loop Road\* and its northwesterly and southeasterly prolongations, the U.S. Pierhead and Bulkhead Line, a line 1380 feet southwesterly of the centerline of North Loop Road\* and its northwesterly and southeasterly prolongations, and the U.S. Pierhead and Bulkhead Line; as shown on a diagram (for illustrative purposes only) dated October 15, 2012, Community District 8, Borough of Manhattan.

\* Note: North Loop Road is proposed to be mapped under a concurrent related application (C 130007 MMM) for a change in the City Map.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

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. 798

**Report of the Committee on Land Use in favor of approving Application no. N 130077 ZRM submitted by Cornell University and NYC Economic**

**Development Corporation, pursuant to Section 197-c and 201 of the New York City Charter, for an amendment to the Zoning Resolution of the City of New York, creating a new special district as Article XIII, Chapter 3 (Special Southern Roosevelt Island District) for the Cornell NYCTech proposal, Borough of Manhattan, Community District 8, Council District 5.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1076), respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 8**

**N 130077 ZRM**

City Planning Commission decision approving an application submitted by Cornell University and NYC Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, creating a new special district as Article XIII, Chapter 3 (Special Southern Roosevelt Island District) for the Cornell NYCTech proposal.

**INTENT**

This action, in conjunction with the other related actions, would facilitate the development of a 2.1 million square foot academic and commercial research campus on the southern part of Roosevelt Island. The program for the proposed development is expected to include classroom space as well as office, retail, residential, utility, and hotel use. The project would also allow for 2.5 acres of publicly-accessible open space.

**PUBLIC HEARING**

**DATE:** April 30, 2013

**Witnesses in Favor:** Sixteen

**Witnesses Against:** None

**Witnesses In Favor With Conditions:** Twenty-one

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** April 30, 2013, recessed to May 2, 2013

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

**In Favor:** Weprin, Rivera, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

**Against:** Reyna

**Abstain:** None

**COMMITTEE ACTION**

**DATE:** May 2, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** Reyna, Barron

**Abstain:** None

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

Res. No. 1764

**Resolution approving the decision of the City Planning Commission on Application No. N 130077 ZRM, for an amendment of the Zoning Resolution of the City of New York, creating a new special district as Article XIII, Chapter 3 (Special Southern Roosevelt Island District) for the Cornell NYCTech proposal in Community District 8, Borough of Manhattan (L.U. No. 798).**



By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 22, 2013 its decision dated March 20, 2013 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by Cornell University and the New York City Economic Development Corporation to create a new special district as Article XIII, Chapter 3 (Special Southern Roosevelt Island District) for the Cornell NYCTech proposal, to facilitate the development of a 2.1 million square foot academic and commercial research campus on the southern part of Roosevelt Island. The program for the proposed development is expected to include classroom space as well as office, retail, residential, utility, and hotel use. The project would also allow for 2.5 acres of publicly-accessible open space, (Application No. N 130077 ZRM), Community District 8, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to applications C 130007 MMM (L.U. No. 796), a proposed amendment to the City Map involving the establishment of a 50-foot right-of-way encircling the campus; C 130076 ZMM (L.U. No. 797), a proposed amendment to the Zoning Map, Section Nos. 8d and 9b, changing the zoning designation of certain property from an R7-2 District to a C4-5 District and establishing a Special Southern Roosevelt Island District; and C 130078 PPM (L.U. No. 799), a disposition of city-owned property (Block 1373, Lot 20 and part of Lot 1) by the New York City Department of Citywide Administrative Services (DCAS) to the New York City Land Development Corporation (LDC);

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 30, 2013;

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 Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on March 8, 2013 (CEQR No. 12DME004M);

RESOLVED:

Having considered the FEIS with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
(2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the action is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
(3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, in accordance with an environmental commitment letter, dated March 19, 2013, from Cornell and acknowledged and accepted by EDC, those project components related to the environment and mitigation measures that were identified as practicable; and
(4) The Decision together with the FEIS constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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 130077 ZRM, 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 old, to be deleted;
Matter in # # is defined in Section 12-10;
\* \* \* indicate where unchanged text appears in the Zoning Resolution

\* \* \*

11-12

Establishment of Districts

\* \* \*

Establishment of the Special Southern Hunters Point District

\* \* \*

Establishment of the Special Southern Roosevelt Island District

In order to carry out the special purposes of this Resolution as set forth in Article XIII, Chapter 3, the #Special Southern Roosevelt Island District# is hereby established.

\* \* \*

12-10
Definitions

\* \* \*

Establishment of the Special Southern Hunters Point District

\* \* \*

The "Special Southern Roosevelt Island District" is a Special Purpose District designated with the letters "SRI" in which regulations set forth in Article XIII, Chapter 3, apply. The #Special Southern Roosevelt Island District# appears on #zoning maps# superimposed on other districts and, where indicated, its regulations supplement, modify and supersede those of the districts on which it is superimposed.

\* \* \*

Article XIII – Special Purpose Districts

Chapter 3
Special Southern Roosevelt Island District

\* \* \*

133-00
GENERAL PURPOSES

The #Special Southern Roosevelt Island District# established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) providing opportunities for the development of an academic and research and development campus in a manner that benefits the surrounding community;
(b) allowing for a mix of residential, retail, and other commercial uses to support the academic and research and development facilities and complementing the urban fabric of Roosevelt Island;
(c) establishing a network of publicly accessible open areas that take advantage of the unique location of Roosevelt Island and that integrate the academic campus into the network of open spaces on Roosevelt Island and provide a community amenity;
(d) strengthening visual and physical connections between the eastern and western shores of Roosevelt Island by establishing publicly accessible connections through the Special District and above grade view corridors;
(e) encouraging alternative forms of transportation by eliminating required parking and placing a maximum cap on permitted parking;
(f) providing flexibility of architectural design within limits established to assure adequate access of light and air to the street and surrounding waterfront open areas, and thus to encourage more attractive and innovative building forms; and

- (g) promoting the most desirable use of land in this area and thus conserving the value of land and buildings, and thereby protect the City's tax revenues.

**133-01**  
**Definitions**

Definitions specifically applicable to this Chapter are set forth in this Section and may modify definitions set forth in Section 12-10 (DEFINITIONS). Where matter in italics is defined both in Section 12-10 and in this Chapter, the definitions in this Chapter shall govern.

**Base Plane**

The definition of "base plane" is hereby modified to mean elevation 19.0, which elevation reflects the measurement in feet above Belmont Island Datum, which is 2.265 feet below the mean sea level at Sandy Hook, NJ.

**Development Parcel**

The "Development Parcel" shall mean all of the property located within the boundaries of the #Loop Road#, as shown on Map 1 in Appendix A of this Chapter. The #Development Parcel# shall be deemed a single #zoning lot# for the purpose of applying all regulations of this Resolution.

**Loop Road**

The "Loop Road" shall be comprised of the East Loop Road, the North Loop Road, the South Loop Road, and the West Loop Road, as shown on Map 1 in Appendix A of this Chapter. All such roads shall be deemed separate #streets# for the purposes of applying all regulations of this Chapter and shall not generate #floor area#.

**133-02**  
**General Provisions**

The provisions of this Chapter shall apply within the #Special Southern Roosevelt Island District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

**133-03**  
**District Plan and Maps**

The regulations of this Chapter are designed to implement the #Special Southern Roosevelt Island# District Plan.

The District Plan includes the following maps:

Map 1 – Special Southern Roosevelt Island District, Development Parcel, and Loop Road

Map 2 – Public Access Areas

The Maps are located in Appendix A of this Chapter and are hereby incorporated and made part of this Resolution. The Maps are incorporated for the purpose of specifying locations where the special regulations and requirements set forth in the text of this Chapter apply.

**133-04**  
**Applicability of Article III, Chapter 6 (Accessory Off-Street Parking and Loading Regulations)**

The provisions of Article III, Chapter 6 (Accessory Off-Street Parking and Loading Regulations) shall not apply in the #Special Southern Roosevelt Island District#. In lieu thereof, a maximum of 500 #accessory# parking spaces shall be permitted, which may be made available for public use.

However, bicycle parking shall be provided in accordance with the provisions of Section 36-70 (BICYCLE PARKING).

**133-05**  
**Applicability of Special Regulations Applying in the Waterfront Area**

The provisions of Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area) shall not apply in the #Special Southern Roosevelt Island District#. In lieu thereof, the area between the shoreline and the western #street line# of the

#West Loop Road# and the area between the shoreline and the eastern #street line# of the #East Loop Road# shall be used exclusively for open recreational uses, and shall be accessible to the public at all times.

**133-10**  
**SPECIAL USE REGULATIONS**

**133-11**  
**Additional Uses**

Within the #Development Parcel#, the provisions of Section 32-10 (Uses Permitted As-Of-Right) are modified to permit Use Group 17B research, experimental or testing laboratories. Any Use Group 17B #uses# within the #Development Parcel# shall conform with the performance standards of Section 42-20 (Performance Standards), inclusive, applicable to such #use# as in an M1 zoning district.

**133-12**  
**Location within buildings**

Within the #Development Parcel#, the provisions of Section 32-422 (Location of floors occupied by commercial uses) shall not apply.

**133-20**  
**SPECIAL BULK REGULATIONS**

Within the #Development Parcel#, the special #bulk# regulations of this Section 133-20, inclusive, shall apply.

**133-21**  
**Floor Area Ratio**

The #floor area# provisions of Section 23-14 (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio), shall be modified to permit a maximum #residential floor area ratio# of 3.44 without regard to #height factor#. In addition, the maximum permitted #floor area ratio# for a Use Group 17B research, experimental or testing laboratory shall be 3.40.

**133-22**  
**Lot Coverage**

The #open space ratio# requirements of Section 23-14 (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio), and the #lot coverage# requirements of Sections 23-14 (Minimum Required Open Space, Open Space Ratio, Maximum Lot Coverage and Maximum Floor Area Ratio) and 24-11 (Maximum Floor Area Ratio and Percentage of Lot Coverage) shall not apply. In lieu thereof, the aggregate #lot coverage# for all #buildings# shall comply with the following:

- (a) The maximum #lot coverage# from the #base plane# to a height that is 20 feet above the #base plane# shall be 70 percent.
- (b) The maximum #lot coverage# from a height that is more than 20 feet above the #base plane# to a height that is 60 feet above the #base plane# shall be 60 percent.
- (c) The maximum #lot coverage# from a height that is more than 60 feet above the #base plane# to a height that is 180 feet above the #base plane# shall be 45 percent.
- (d) The maximum #lot coverage# above a height of 180 feet above the #base plane# shall be 25 percent.

The City Planning Commission may authorize an increase in the maximum #lot coverage# as set forth in paragraph (c) of this section to up to 55%, upon finding that such increase is necessary to achieve the programmatic requirements of the development, and will not unduly restrict access of light and air to publicly accessible areas and #streets#.

**133-23**  
**Height and Setback**

The height and setback regulations of Sections 23-60, 24-50, and 33-40 shall apply except as modified by this Section. All heights shall be measured from the #base plane#.

**133-231**  
**Modification of height and setback controls**

#Buildings or other structures# may exceed the underlying height and setback regulations for a percentage of the length of each #street line# of the #Loop Road# as follows:

- (a) North Loop Road#: 65 percent
- (b) East Loop Road#: 35 percent
- (c) West Loop Road#: 35 percent
- (d) South Loop Road#: 65 percent

Furthermore, the street line# length percentage limitations set forth in paragraphs (a) through (d) of this Section may be exceeded by one percentage point for every two percentage points that the lot coverage# within 50 feet of a street line# is less than the following percentage:

- (1) North Loop Road#: 50 percent
- (2) East Loop Road#: 30 percent
- (3) South Loop Road#: 50 percent
- (4) West Loop Road#: 30 percent

All portions of buildings or other structures# that exceed the underlying height and setback regulations in accordance with this Section shall comply with the height regulations of Section 133-232.

### **133-232**

#### **Height regulations**

For the portion of any building or other structure# exceeding the height and setback controls set forth in Section 133-231, the maximum height of such portion located within 500 feet of the North Loop Road# shall be 320 feet, exclusive of permitted obstructions allowed by the underlying height and setback regulations, and the maximum height for any such portion on the remainder of the Development Parcel# shall be 280 feet, exclusive of such permitted obstructions.

### **133-233**

#### **Maximum area of stories above a height of 180 feet**

The gross area of any story# located entirely above a height of 180 feet shall not exceed 15,000 square feet. Where a single building# has two or more portions located above 180 feet that are entirely separate from one another above such height, each such portion shall not exceed a gross area of 15,000 square feet for any story# located in whole or part above 180 feet.

### **133-234**

#### **Permitted Obstructions**

Sections 23-51 (Permitted Obstructions), 24-62 (Permitted Obstructions) and 33-42 (Permitted Obstructions) shall be modified to allow accessory# energy generating systems on the roof of a building#, or any other structures supporting such systems, as permitted obstructions, without limitations.

### **133-24**

#### **Distance Between Buildings**

The requirements of Sections 23-70 (Minimum Required Distance Between Two or More Buildings on a Single Zoning Lot) and 23-82 (Building Walls Regulated by Minimum Spacing Requirements) shall not apply, provided that if two or more buildings# or portions of buildings# are detached from one another at any level, such buildings#, or such detached portions of buildings# shall at no point be less than eight feet apart at or below a height of 180 feet, and shall at no point be less than 60 feet apart above a height of 180 feet.

### **133-25**

#### **Modification of Bulk Regulations**

Within the Special Southern Roosevelt Island District#, the City Planning Commission may, by special permit, allow a modification of the bulk# regulations of this Chapter and the underlying bulk# regulations, except floor area# regulations, provided the Commission finds that:

- (a) such modifications are necessary to achieve the programmatic requirements of the academic and research and development campus;
- (b) such distribution of bulk# will result in better site planning and will thus benefit both the residents, occupants or users of the Special Southern Roosevelt Island District# and the surrounding neighborhood;

(c) such distribution of bulk# will permit adequate access of light and air to surrounding public access areas, streets# and properties; and

(d) that such distribution of bulk# will not unduly increase the bulk# of buildings# in the Special Southern Roosevelt Island District#, to the detriment of the occupants or users of buildings# in the Special Southern Roosevelt Island District# or on nearby blocks#.

### **133-30**

#### **PUBLIC ACCESS AREAS**

At least 20 percent of the lot area# of the Development Parcel# shall be publicly accessible and shall include, but need not be limited to, a Central Open Area, a North-South Connection, and a Waterfront Connection Corridor, the size and location requirements for which are set forth in Section 133-31. Any supplemental public access areas provided in order to meet the minimum public access lot area# requirements of this Section shall comply with the requirements of paragraph (d) of Section 133-31. Design and operational standards for such public access areas are set forth in Section 133-32.

### **133-31**

#### **Size and Location of Public Access Areas**

(a) Central Open Area

A Central Open Area shall front upon the West Loop Road# for a minimum linear distance of 150 feet and be located at least 300 feet south of the North Loop Road#, and at least 300 feet north of the South Loop Road#. The Central Open Area shall be at least 30,000 square feet in area, with no portion having a dimension less than 20 feet in all directions counting towards such minimum area.

(b) North-South Connection

A continuous pedestrian connection shall be provided through the Development Parcel# from the North Loop Road#, or from the West Loop Road# or East Loop Road# within 200 feet of the North Loop Road#, to the South Loop Road#, or to the West Loop Road# or East Loop Road# within 200 feet of the South Loop Road#. Such North-South connection shall have a minimum width of 50 feet throughout its required length. The North-South Connection shall include at least one segment with a minimum length of 300 feet located more than 100 feet from both the West Loop Road# and East Loop Road#.

The North-South Connection shall connect to the Central Open Area either directly, or through a supplemental public access area having a minimum width of 30 feet. In the event that the North-South Connection traverses the Central Open Area, the area within the North-South Connection, as determined by its length and minimum required width shall not be included in the 30,000 square foot minimum area of the Central Open Area.

There shall be at least one publicly accessible connection from each of the East Loop Road# and the West Loop Road# to the North-South Connection. Such connections shall have a minimum width of 30 feet, and shall be located a minimum of 300 feet south of the North Loop Road# and a minimum of 300 feet north of the South Loop Road#. In addition, such connections may be coterminous with the Waterfront Connection Corridor required by paragraph (c) of this Section.

(c) Waterfront Connection Corridor

A Waterfront Connection Corridor shall be provided through the Development Parcel# allowing for pedestrian access between the western boundary of the East Loop Road# and either the eastern boundary of the West Loop Road# or the eastern boundary of the Central Open Area. Such corridor shall be located in its entirety in the area located 300 feet south of the North Loop Road# and 300 feet north of the South Loop Road#. The Waterfront Connection Corridor shall have a minimum width of 30 feet.

(d) Supplemental Public Access

Supplemental public access areas may be located anywhere within the Development Parcel#, provided such areas have a minimum dimension of 20 feet in all directions and connect directly to one or more of the Loop Roads#, the North-South Connection, the Central Open Space, and the Waterfront Connection Corridor.

### **133-32**

#### **Design Requirements for Public Access Areas**

(a) Level of public access areas and limits on coverage

At least 80 percent of publicly accessible areas shall be located at grade level, or within five feet of grade level, as such grade level may change over the #Development Parcel#, and shall be open to the sky. The remainder of such publicly accessible areas may be enclosed, covered by a structure, or located more than five feet above or below grade level, provided that such publicly accessible areas are directly accessible from public access areas that are at grade level or within five feet of grade level, and in all cases have a minimum clear height of 15 feet.

At least 50% of the linear #street# frontage for the Central Open Area required under Section 133-31(a) shall be located at the same elevation as the adjoining sidewalk of the #West Loop Road#. At least 80% of the area of the Central Open Area shall be open to the sky, and the remainder may be open to the sky or covered by a #building or other structure#. A minimum clear height of 30 feet shall be provided in any area of the Central Open Area covered by a #building or other structure#.

The northern and southern access points to the North-South Connection shall be located at the same elevation as the adjoining public sidewalk. The elevation of the North-South Connection may vary over the remainder of its length. At least 70 percent of the area of the North-South Connection shall be open to the sky, and the remainder may be open to the sky or covered by a #building or other structure#. A minimum clear height of 15 feet shall be provided in any area of the North-South Connection covered by a #building or other structure#.

Any portion of the Waterfront Connection Corridor that is covered by a #building# or located within a #building#, shall have a minimum clear height of 30 feet, provided that overhead walkways, structures and lighting occupying in the aggregate no more than 10 percent of the area of the Waterfront Connection Corridor, as determined by the minimum required width, shall be permitted within the required clear height.

(b) Clear paths

The North-South Connection and the Waterfront Connection Corridor shall each have a clear path of 12 feet throughout their entire required lengths, including those connections required between the North-South Connection and the #East# and #West Loop Roads#. All such clear paths shall be accessible to persons with disabilities.

(c) Permitted obstructions

Permitted obstructions allowed under paragraph (a) of Section 62-611 may be located within any required public access area, provided that no such permitted obstructions shall be located within a required clear path. Furthermore, kiosks may be up to 500 square feet in area, and open air cafes may occupy not more than five percent of any required public access area.

(d) Seating

A minimum of one linear foot of seating shall be provided for each 200 square feet of required public access areas. Required seating types may be moveable seating, fixed individual seats, fixed benches with or without backs, and design-feature seating such as seat walls, planter edges or steps. All required seating shall comply with the following standards:

- (1) Seating shall have a minimum depth of 18 inches. Seating with 36 inches or more in depth may count towards two seats, provided there is access to both sides. When required seating is provided on a planter ledge, such ledge must have a minimum depth of 22 inches.
- (2) Seating shall have a height not less than 16 inches nor greater than 20 inches above the level of the adjacent walking surface. However, as described in paragraph (5) of this Section, seating steps may have a height not to exceed 30 inches and seating walls may have a height not to exceed 24 inches.
- (3) At least 50 percent of the linear feet of fixed seating shall have backs at least 14 inches high and a maximum seat depth of 20 inches. Walls located adjacent to a seating surface shall not count as seat backs. All seat backs must either be contoured in form for comfort or shall be reclined from vertical between 10 to 15 degrees.
- (4) Moveable seating shall be credited as 24 inches of linear seating per chair. All moveable seats must have backs and a maximum seat depth of 20 inches. Moveable chairs shall not be chained, fixed, or otherwise secured while the public access area is open to the public.

- (5) Seating steps and seating walls may be used for required seating if such seating does not, in aggregate, represent more than 15 percent of the linear feet of all required seating. Seating steps shall not include any steps intended for circulation and must have a height not less than six inches nor greater than 30 inches and a depth not less than 18 inches. Seating walls shall have a height not greater than 18 inches; such seating walls, however, may have a height not to exceed 24 inches if they are located within 10 feet of an edge of a public access area.

Seating shall be provided in the Central Open Area in an amount equal to a minimum of one linear foot for every 100 square feet of the Central Open Area. Such seating shall include at least one moveable chair for every 500 square feet of the Central Open Area, and at least one other seating type. One table shall be provided for every four moveable chairs. At least 15 percent of the required seating shall be located within 20 feet of any #Loop Road#, and at least 10 percent of such required seating shall be located within 20 feet of the North-South Connection or any Supplemental Public Access Area that connects the Central Open Area to the North-South Connection.

Seating shall be provided in the North-South Connection in an amount equal to at least one linear foot for every 150 square feet of the North-South Connection. At least 20 linear feet of such seating shall be located within 20 feet of its northern entrance and an additional 20 linear feet of such seating shall be located within 20 feet of its southern entrance. There shall be at least two types of seating in the North-South Connection.

Seating for open air cafes may be used by members of the public regardless of whether such persons are patrons of a café when not being used for service.

(e) Planting

At least 20 percent of the required public access areas on the #Development Parcel# shall be comprised of planted areas, including planting beds and lawns.

At least 30 percent of the Central Open Area shall be planted with lawns, planting beds, or a combination thereof.

(f) Hours

All required public access areas shall be open daily from 6:00 am to 10:00 pm. Signs stating that the North-South Connection is publicly accessible shall be posted at its northern and southern entrances. Signs indicating that the Central Open Space is publicly accessible shall be posted at its entrance from the West Loop Road and the North-South Connection.

**133-40**

**BUILDING PERMITS**

The Department of Buildings shall not approve any application for a building permit for a #development# or an #enlargement# unless such application shows the location of the Central Open Area, the North-South Connection and the Waterfront Connection Corridor, and any Supplemental Public Access Areas, for the purposes of demonstrating that the required amount of public access area, as set forth in Sections 133-30 and 133-31, is able to be accommodated on the #Development Parcel#.

**133-50**

**PHASING**

The public access areas required pursuant to Section 133-30, inclusive, may be built out in phases on the #Development Parcel# in accordance with this Section.

No temporary or permanent certificate of occupancy from the Department of Buildings may be issued for more than 300,000 square feet of #floor area# #developed# or #enlarged# on the #Development Parcel#, until the Chairperson of the City Planning Commission certifies to the Commissioner of Buildings that at least 25,000 square feet of public access area is substantially complete and open to the public.

No temporary or permanent certificate of occupancy from the Department of Buildings may be issued for more than 500,000 square feet of #floor area# #developed# or #enlarged# on the #Development Parcel#, until the Chairperson of the City Planning Commission certifies to the Commissioner of Buildings that at least 40,000 square feet of public access area is substantially complete and open to the public. The Central Open Area shall be part of the public access area required to be substantially completed and open to the public under this paragraph.

No temporary or permanent certificate of occupancy from the Department of Buildings may be issued for each additional 200,000 square feet of #floor area# #developed# or #enlarged# on the #Development Parcel#, until the Chairperson of

the City Planning Commission certifies to the Commissioner of Buildings that an additional 12,000 square feet of public access area is substantially completed and open to the public. A portion of the North-South Connection connecting at least one of the #Loop Roads# and the Central Open Area shall be substantially completed and open to the public prior to obtaining a temporary or permanent certificate of occupancy for more than 750,000 square feet of #floor area# #developed# or #enlarged# on the #Development Parcel#. The Waterfront Connection shall be substantially completed and open to the public prior to obtaining a temporary or permanent certificate of occupancy for more than 900,000 square feet of #floor area# #developed# or #enlarged# on the #Development Parcel#.

Except as set forth above, the open space provided pursuant to this Section may include interim open space areas, provided that no temporary or permanent certificate of occupancy from the Department of Buildings may be issued for more than 1,700,000 square feet of #floor area# #developed# or #enlarged# on the #Development Parcel# until the Chairperson of the City Planning Commission certifies to the Commissioner of Buildings that all of the Central Open Area, the North-South Connection, and the Waterfront Connection are substantially complete and open to the public.

Not more than 20 percent of the #lot area# of the #Development Parcel# shall be required to be improved as public access areas, and the obligation to provide public access areas in accordance with paragraphs (a), (b), (c), and (d) of this Section shall terminate at such time as 20 percent of the #lot area# of the #Development Parcel# has been improved as public access areas and has been opened to the public.

**133-60  
MODIFICATION OF PUBLIC ACCESS AREAS**

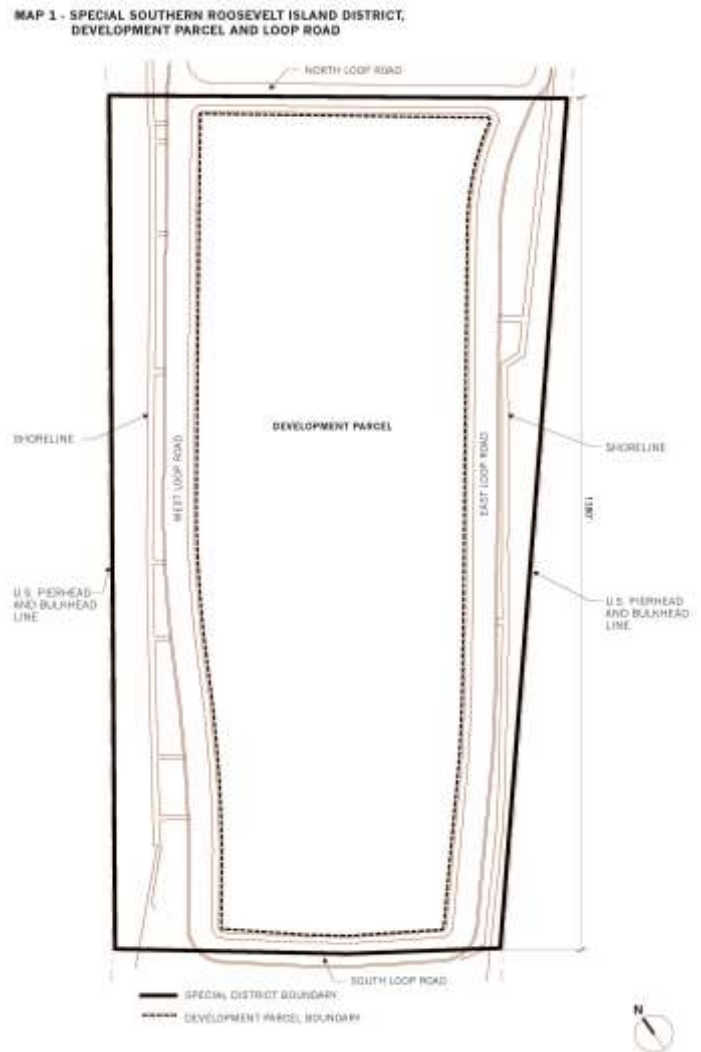
Any public access area may be modified, eliminated, or reconfigured over time, provided that such modification, elimination, or reconfiguration does not reduce the amount of public access area required under Section 133-40 (Phasing) for the amount of #floor area# located on the #Development Parcel# at the time of such activity. Any modified or reconfigured public access area shall comply with the applicable provisions of Section 133-30 (PUBLIC ACCESS AREAS), inclusive.

**133-70  
NO-BUILD VOLUME**

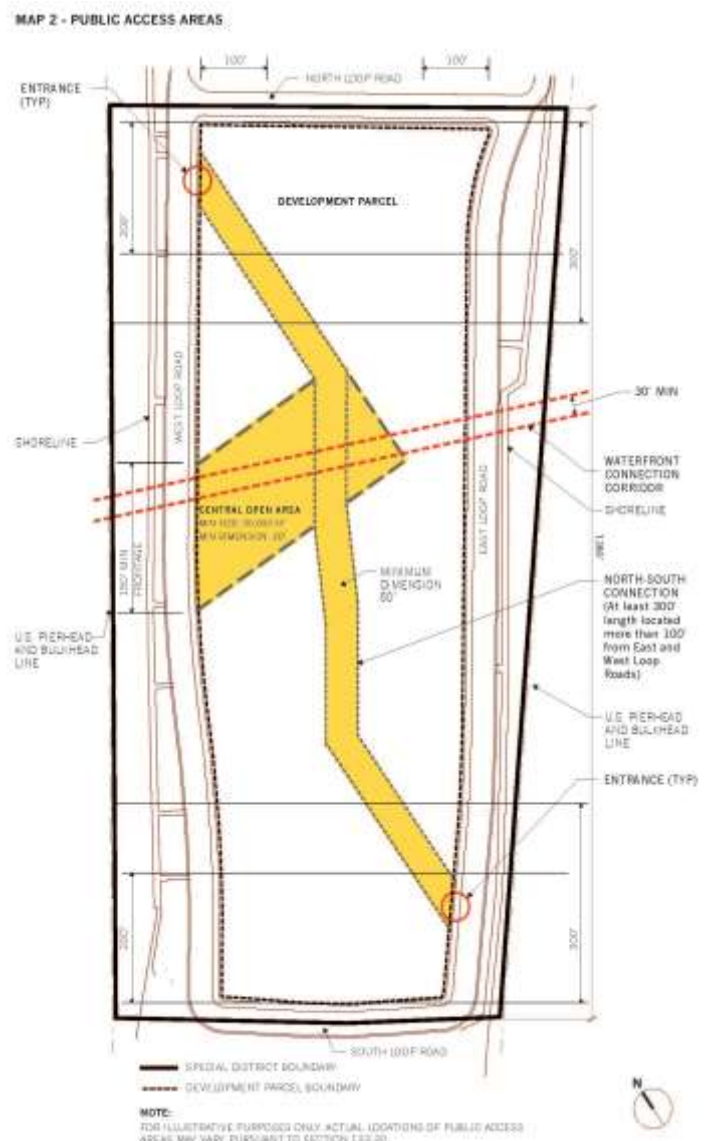
A volume shall be established on the #Development Parcel# between a line that is 300 feet south of the #North Loop Road# and a line that is 300 feet north of the #South Loop Road#. Such volume shall extend from the #East Loop Road# to the #West Loop Road# along a line that is within 30 degrees of the line connecting true east and true west. The minimum width of such volume shall be 50 feet, with its lowest level 60 feet above the #base plane#. Such volume shall be open to the sky. No obstructions of any kind shall be permitted within such volume.

**APPENDIX A  
#Special Southern Roosevelt Island District# Plan**

**Map 1 – Special Southern Roosevelt Island District, Development Parcel and Loop Road**



Map 2 – Public Access Areas



LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

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. 799

**Report of the Committee on Land Use in favor of approving Application no. C 130078 PPM submitted by the NYC Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the disposition to the New York City Land Development Corporation of city-owned property located on Block 1373, Lot 20 and p/o Lot 1, to facilitate development of an academic and commercial research campus on Roosevelt Island, Borough of Manhattan, Community District 8, Council District 5. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1076), respectfully

#### REPORTS:

##### SUBJECT

##### **MANHATTAN CB - 8 C 130078 PPM**

City Planning Commission decision approving an application submitted by the NYC Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for the disposition to the New York City Land Development Corporation (NYCLDC) of city-owned property located on Block 1373, Lot 20 and p/o Lot 1, pursuant to zoning.

##### INTENT

This action, in conjunction with the other related actions, would facilitate the development of a 2.1 million square foot academic and commercial research campus on the southern part of Roosevelt Island. The program for the proposed development is expected to include classroom space as well as office, retail, residential, utility, and hotel use. The project would also allow for 2.5 acres of publicly-accessible open space.

##### PUBLIC HEARING

**DATE:** April 30, 2013

**Witnesses in Favor:** Sixteen      **Witnesses Against:** None

**Witnesses In Favor With Conditions:** Twenty-one

##### SUBCOMMITTEE RECOMMENDATION

**DATE:** April 30, 2013, recessed to May 2, 2013

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

**In Favor:** Weprin, Rivera, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

**Against:** Reyna

**Abstain:** None

##### COMMITTEE ACTION

**DATE:** May 2, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** Reyna, Barron

**Abstain:** None

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

Res. No. 1765

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130078 PPM, for the disposition of city-owned property located at Block 1373, Lots 20 and p/o Lot 1, to the NYC Land Development Corporation which will dispose the property to New York City Economic Development Corporation or a successor local development corporation), Borough of Manhattan (L.U. No. 799).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on March 22, 2013 its decision dated March 20, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the New York City Department of Citywide Administrative Services (DCAS), for the disposition of city-owned property located at Block 1373, Lots 20 and p/o Lot 1, to the NYC Land Development Corporation which will dispose the property to New York City Economic Development Corporation or a successor local development corporation, proposed in an application by the New York City Department of Citywide Administrative Services and NYC Economic Development Corporation, pursuant to zoning (Application No. C 130078 PPM), Community District 8, Borough of Manhattan (the "Application");

**WHEREAS**, the Application is related to applications C 130007 MMM (L.U. No. 796), a proposed amendment to the City Map involving the establishment of a 50-foot right-of-way encircling the campus; C 130076 ZMM (L.U. No. 797), a proposed amendment to the Zoning Map, Section Nos. 8d and 9b, changing the zoning designation of certain property from an R7-2 District to a C4-5 District and establishing a Special Southern Roosevelt Island District; and N 130077 ZRM (L.U. No. 798), a proposed amendment to the Zoning Resolution creating the Special Southern Roosevelt Island District;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the New York City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on April 30, 2013;

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

**WHEREAS**, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on March 8, 2013 (CEQR No. 12DME004M);

##### **RESOLVED:**

Having considered the FEIS with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the action is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, in accordance with an environmental commitment letter, dated March 19, 2013, from Cornell and acknowledged and accepted by EDC, those project components related to the environment and mitigation measures that were identified as practicable; and
- (4) The Decision together with the FEIS constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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, C 130078 PPM, incorporated by reference herein, the Council approves the Decision for disposition of one (1) city-owned property generally bounded by East Main Street, West Main Street, North Loop Road and South Loop Road on Roosevelt Island (Block 1373, Lot 20 and part of Lot 1), is approved subject to the following restrictions:

Use of the Property shall be for use group 3 colleges and universities, including accessory uses ("Academic Uses"). Provided that the Property is used for Academic Uses, the following additional uses shall be permitted: (a) housing predominantly for students and employees (including faculty and staff) of Academic Uses; (b) space for technology-related profit and non-profit entities, including office space, instructional space, and research labs which benefit from proximity to Academic Uses; (c) Executive Education Conference Center, with hotel and conference facilities, accommodating meetings, conferences and other events related to, among others, Academic Uses or the uses described in (b) above; (d) commercial, retail, recreational and other uses relating to or serving Academic Uses and other uses set forth in (a) through (c); (e) community facility uses, other than Academic Uses, provided such uses are without sleeping accommodations, including community space for the benefit of Roosevelt Island residents; (f) utility buildings used for producing energy for the property and other infrastructure facilities supporting the property; and (g) any other academic-related use supportive of the campus.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

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. 801

**Report of the Committee on Land Use in favor of approving Application no. 20135361 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Sugar and Plumm (Upper West) LLC, d/b/a Sugar and Plumm, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 173 West 78th Street, Borough of Manhattan, Community District 7, Council District 6. 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(e) of the New York City Administrative Code.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on April 9, 2013 (Minutes, page 1076), respectfully

#### REPORTS:

##### SUBJECT

MANHATTAN CB - 7

20135361 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Sugar and Plumm (Upper West), LLC, d/b/a Sugar and Plumm, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 173 West 78th Street.

##### INTENT

To allow an eating or drinking place located on a property which abuts the street to establish, maintain and operate an unenclosed service area on the sidewalk of such street.

##### PUBLIC HEARING

DATE: April 30, 2013

Witnesses in Favor: Two          Witnesses Against: None

##### SUBCOMMITTEE RECOMMENDATION

DATE: April 30, 2013, recessed to May 2, 2013

The Subcommittee recommends that the Land Use Committee approve the Petition.

**In Favor:** Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Garodnick, Lappin, Wills, Ignizio

**Against:** None

**Abstain:** None

##### COMMITTEE ACTION

DATE: May 2, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Weprin, Wills, Ignizio

**Against:** None

**Abstain:** None

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

Res. No. 1766

**Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 173 West 78<sup>th</sup> Street, Borough of Manhattan (20135361 TCM; L.U. No. 801).**

By Council Members Comrie and Weprin.

**WHEREAS**, the Department of Consumer Affairs filed with the Council on March 29, 2013 its approval dated March 29, 2013 of the petition of Sugar and Plumm (Upper West), LLC, d/b/a Sugar and Plumm, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located 173 West 78<sup>th</sup> Street, Community District 7, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

**WHEREAS**, the Petition is subject to review by the Council pursuant to Section 20-226(e) of the Administrative Code;

**WHEREAS**, upon due notice, the Council held a public hearing on the Petition on April 30, 2013; and

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

##### **RESOLVED:**

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, May 2, 2013.

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

Override Report for Int. No. 434-A

**Report of the Committee on Consumer Affairs in favor of approving and adopting, as amended, notwithstanding the objection of the Mayor, a Local Law to amend the administrative code of the city of New York, in relation to reducing the maximum fine amount for violations of vending regulations and defining unrelated violations of vending rules and regulations as separate offenses.**

The Committee on Consumer Affairs, to which the annexed was referred on November 30, 2010 (Minutes, page 4937) and originally adopted by the Council on February 27, 2013 (Minutes, page 299) before being vetoed by the Mayor on March 21, 2013 and subsequently laid over by the Council on April 25, 2013 (Minutes, page 1104), respectfully

##### REPORTS:

## I. INTRODUCTION

On Thursday, April 18, 2013, the Committee on Consumer Affairs, chaired by Council Member Daniel R. Garodnick, will meet to vote on Introductory Bill Number 434-A (“Int. No. 434-A”), a Local Law to amend the administrative code of the city of New York, in relation to reducing the maximum fine amount for violation of vending regulations and defining unrelated violations of vending rules and regulations as separate offenses, and to file the veto message of Mayor Michael Bloomberg, M 1096.

The Committee held a hearing on the original introduction, Introductory Bill Number 434 (“Int. No. 434”), a Local Law to amend the administrative code of the city of New York, in relation to reducing the maximum fine amount for violations of vending regulations, on April 24, 2012. On February 26, 2013, the Committee passed a revised version of the bill, Proposed Introductory Bill Number 434-A (“Proposed Int. No. 434-A”), a Local Law to amend the administrative code of the city of New York, in relation to reducing the maximum fine amount for violations of vending regulations and defining unrelated violations of vending rules and regulations as separate offenses. The legislation was then passed by the Council on February 27, 2013 by a vote 44 in affirmative and three in the negative. On March 21, 2013, the Mayor issued a message of disapproval, vetoing the legislation. That veto message was formally accepted by the Council at its stated meeting held on April 9, 2013.

The question before the Committee is whether Int. No. 434-A should be repassed notwithstanding the objections of the Mayor.

## II. BACKGROUND: VENDORS IN NEW YORK CITY

### A. General Vendors

There are four types of authorized vendors in New York City – general vendors, food vendors, street artists and vendors of exclusively written material, and veteran vendors. General, food, and veteran vendors are subject to licensing requirements. Subchapter 27 of chapter two of title 20 of the New York City Administrative Code (“the Code”) sets forth licensing and operational requirements for general vendors throughout the City.<sup>1</sup> The Code defines a general vendor as any “person who hawks, peddles, sells, leases or offers to sell or lease, at retail, goods or services, including newspapers, periodicals, books, pamphlets or other similar written matter in a public space.”<sup>2</sup> Merchants who sell “only newspapers, periodicals, books, pamphlets or other similar written matter,” often referred to as “First Amendment vendors,” may vend without a license.<sup>3</sup> For all others, however, a license from the Department of Consumer Affairs (“DCA”) is required. The number of general vendor licenses was set at 853<sup>4</sup> in September of 1979 and has not increased since that time.<sup>5</sup>

General vendors must comply with specific operational requirements including wearing their licenses conspicuously whenever vending and permitting inspections by DCA or other City agencies.<sup>6</sup> The Code also restricts the placement of vendors’ vehicles, pushcarts, and stands, and prohibits vendors from selling in certain areas.<sup>7</sup> Licensed vendors who violate the requirements set forth in the Code may face fines of up to \$1,000.<sup>8</sup> They may also have their licenses suspended or revoked for certain fraudulent activity, or for committing four or more violations of vending laws pursuant to the Code in a two-year period.<sup>9</sup>

Unlicensed general vendors are subject to fines of up to \$1,000 and imprisonment, in addition to penalties for every day of unlicensed business activity.<sup>10</sup> Both licensed and unlicensed vendors may have their carts or goods seized for certain transgressions and face possible forfeiture of their possessions.<sup>11</sup> Authorized officers and employees of DCA and members of the New York City Police Department (“NYPD”) have the power to enforce the laws, rules, and regulations related to general vendors.<sup>12</sup>

Veteran vendors are subject to the same restrictions on the placement of vehicles, pushcarts and stands as general vendors.<sup>13</sup> Nevertheless, sections 32 and 35-a of the New York State General Business Law regulate certain veteran vendors, and section 35-a gives disabled veteran vendors special vending rights that permit them to vend in many areas of the City that are off limits to other general vendors.<sup>14</sup>

### B. Food Vendors

Food vending in the City is governed by Subchapter two of Chapter three of Title 17 of the Code.<sup>15</sup> The Code defines a food vendor as a “person who hawks, peddles, sells or offers food for sale at retail in any public space.”<sup>16</sup> All persons seeking to sell food in the City must first receive a license from the Department of Health and Mental Hygiene (“DOHMH”) for this purpose. In addition to obtaining a food vendor license, available to anyone who completes a food safety training

for the Lower Ma\_\_\_\_\_

<sup>1</sup> See N.Y.C. Admin. Code §§ 20-452 through 20-474.

<sup>2</sup> See NYC Admin Code § 20-452(b) (food vendors and newsstands are specifically exempt from the definition of “general vendor” and subsequent operational requirements); see also N.Y.C. Admin. Code § 17-306 (governs the licensing and regulation of food vendors); see also N.Y.C. Admin. Code § 20-229 (requires that newsstands be appropriately licensed).

<sup>3</sup> N.Y.C. Admin. Code § 20-453.

<sup>4</sup> This number does not include veteran vendors who received specialized general vendor licenses pursuant to State law.

<sup>5</sup> N.Y.C. Admin. Code § 20-459.

<sup>6</sup> N.Y.C. Admin. Code §§ 20-461(b), 20-463 and 20-464(a).

<sup>7</sup> N.Y.C. Admin. Code § 20-465.

<sup>8</sup> N.Y.C. Admin. Code § 20-467.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> N.Y.C. Admin. Code §§ 20-468 and 469.

<sup>12</sup> N.Y.C. Admin. Code § 20-468.

<sup>13</sup> N.Y. Gen. Bus. Law § 35-a(2).

<sup>14</sup> See N.Y. Gen. Bus. Law § 35-a.

<sup>15</sup> N.Y.C. Admin. Code §§ 17-306 through 17-325.1.

<sup>16</sup> N.Y.C. Admin. Code § 17-306.

program, a food vendor must also obtain a pushcart permit from DOHMH.<sup>17</sup> Although there is presently no limit on the number of food vendor licenses that may be issued, only 3,100 vehicle or pushcart permits are available at any time, not including the 1,000 additional fresh fruit and vegetable cart permits that became available following the passage of Local Law 9 of 2008.<sup>18</sup>

Like general vendors, licensed food vendors are required to comply with specific operational requirements including permitting inspections by DOHMH or other city agencies, providing the addresses and names of the owners of distributors from whom the licensee receives his or her food, and surrendering his or her license or permit to the commissioner upon revocation, suspension, termination, or expiration of his or her license or permit.<sup>19</sup> The Code also restricts the placement of vendors’ vehicles, pushcarts, and stands and prohibits vendors from selling in certain areas, not all of which correlate to the restrictions on the placement of general vending carts.<sup>20</sup>

Licensed food vendors who violate the requirements set forth in the Code may face fines of up to \$1,000, possible forfeiture of their possessions, and seizure of their carts or goods for certain transgressions.<sup>21</sup> They may also have their licenses suspended or revoked for certain fraudulent activity, or for three or more violations of the Code in a two-year period.<sup>22</sup> Unlicensed food vendors are subject to fines and may have their carts and goods seized.<sup>23</sup> Authorized officers and employees of DOHMH, and members of the NYPD, have the power to enforce the laws, rules, and regulations relating to food vendors.

## III. CONTINUING CONFLICT

Frustrations over vending in New York City continue to exist on all sides of the issue. Vendors criticize excessive penalties for minor infractions and arbitrary enforcement of vendor regulations, and believe they are unfairly and disproportionately targeted by City government. For example, a 2011 study by the Urban Justice Center’s Street Vendor Project found that of the 949 summonses issued to fruit and vegetable vendors in Forsyth Street market and adjudicated by the Environmental Control Board (“ECB”), 63% were written for two arguably trivial offenses—50% for not keeping items in or under the cart, and 13% for failing to display a food vendor license.<sup>24</sup> Many vendors are the sole income earners in their families, bringing in a median income of about \$7,500.<sup>25</sup> For vendors on the lower end of the income spectrum, the fines associated with these summonses, which can reach \$1,000 per offense,<sup>26</sup> can be ruinous. Moreover, according to the Urban Justice Center, because all fines owed must be paid prior to license renewal, high fines cause those vendors to leave the industry.<sup>27</sup> It is therefore unsurprising that the vast majority of the fines issued to street vendors go unpaid. According to a 2010 report by the New York City Independent Budget Office, of the \$15.8 million in fines that were issued to vendors during 2008 and 2009, \$14.9 million was never collected.<sup>28</sup>

Some argue that for many vendors, fines are incurred as a direct result of the confusing regulations that govern vending in New York City. Vendors in the City are currently regulated by DOHMH, DCA, and the NYPD, as well as the Departments of Sanitation, Environmental Protection, Finance, and Parks and Recreation.<sup>29</sup> A study commissioned by the Street Vendor Project in 2006 discovered that only 26% of vendors believed that they had an adequate understanding of the City’s vending laws.<sup>30</sup> According to the same report, there are over 20 different rules that dictate where vendors can conduct business, which differ depending on the wares being sold, the day of the week, and the time of day.<sup>31</sup> Confusion over vending regulations has resulted in unwelcomed attention from law enforcement and many vendors claim that police, in enforcing the regulations, unlawfully confiscate goods without returning them.<sup>32</sup>

Street vendors, however, are also the subject of complaints. For example, some hospitals are concerned about the safety issue posed by vending carts that obstruct the area surrounding hospital entrances, creating obstacles for emergency vehicles, patients entering the hospital from the street, and persons with limited physical mobility.<sup>33</sup> Additionally, in late 2011 a coalition of residents and businesspersons from the Columbus Circle area wrote letters to the City Council to

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<sup>17</sup> See N.Y.C. Admin. Code § 17-306 (f) (a pushcart is defined as any “wheeled vehicle or device used by a food vendor, other than a motor vehicle or trailer, which may be moved with or without the assistance of a motor and which does not require registration by the department of motor vehicles”).

<sup>18</sup> See N.Y.C. Admin. Code §§ 17-307(b)(2)(a) and 17-307(b)(3)(a).

<sup>19</sup> N.Y.C. Admin. Code § 17-314.

<sup>20</sup> N.Y.C. Admin. Code §§ 17-315 and 20-465(q).

<sup>21</sup> N.Y.C. Admin. Code § 17-325.

<sup>22</sup> N.Y.C. Admin. Code § 17-317(f).

<sup>23</sup> N.Y.C. Admin. Code §§ 17-321(c).

<sup>24</sup> Street Vendor Project of the Urban Justice Center, *Spoiled! How relentless enforcement and \$1,000 tickets are ruining Chinatown’s largest fruit and vegetable market*, 2011, at [http://www.urbanjustice.org/pdf/publications/svpforsyth\\_20july11.pdf](http://www.urbanjustice.org/pdf/publications/svpforsyth_20july11.pdf) (accessed April 16, 2012).

<sup>25</sup> Ruiz, A., “Fines Steal Vendors’ Dreams,” *Daily News*, October 12, 2006, at 4.

<sup>26</sup> N.Y.C. Admin. Code §§ 17-325 and 20-472.

<sup>27</sup> *Supra* note 30.

<sup>28</sup> N.Y.C. Indep. Budget Office, *Sidewalk Standoff: Street Vendor Regulations Costly, Confusing, and Leave Many Disgruntled*, November 2010, at <http://www.ibo.nyc.ny.us/iboreports/peddlingnovember2010.pdf>, (accessed April 16, 2012).

<sup>29</sup> Street Vendor Project of the Urban Justice Center, *Peddling Uphill: A report on the conditions of street vendors in New York City*, 2006.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Letter from Kenneth David, M.D./President & CEO of Mount Sinai to N.Y.C. Council of March 5, 2012 and Letter from Lee Godman, M.D./Executive Vice President for Health and Biomedical Sciences at Columbia University to N.Y.C. Council of April 16, 2012.



raise the threat posed to public safety by food vendors operating in taxi stands, and to express support for legislation that would prohibit such activity.<sup>34</sup>

**IV. APRIL 2012 VENDOR HEARING**

On April 24, 2012, the Committee on Consumer Affairs held a hearing on an earlier version of Int. No. 434-A and Introductory Bill Number 435 (“Int. No. 435”), a Local Law to amend the administrative code of the city of New York, in relation to defining unrelated violations of vending rules and regulations as separate offenses.

The previous version of Int. No. 434-A (“Int. No. 434”) would have reduced the maximum fine for vending violations from \$1,000 to \$250. Int. No. 435 would have prevented escalation of penalties associated with violations that are issued to vendors for subsequent offenses unless those subsequent violations were issued for the same offense. The Administration testified in opposition to the bills.<sup>35</sup> Int. No. 434 and Int. No. 435 were strongly supported by the Urban Justice Center Street Vendor Project, MFY Legal Services, Legal Aid, the Manhattan Borough President and many members of the mobile food vending industry. Supporters of these bills testified that \$1,000 fines are excessively high for non-health related violations, such as failing to keep all items in a pushcart or to conspicuously display a license, and are disproportionate to the low business volume and average income of street vendors. They also argued that, since the average vendor earns \$14,000 annually and cannot afford to pay excessive fines, many vendors let their licenses expire and therefore have no incentive to pay fines or follow vending laws. The Street Vendor Project supported this claim with a working paper by the Department of Urban and Regional Planning at the University of Wisconsin-Madison/Extension on the collection of fines from street vendors in New York City, which drew a correlation between the percentage of fines paid and the fine amount. The report concluded that higher fines are paid with less frequency and that decreasing the penalty might increase payment to the City. Upon reflection and further discussion with interested parties after the hearing, Int. 434-A was amended to increase maximum fine to \$500 and incorporate the elements of Int. No. 435 relating to the escalation of penalties.

**IV. INT. NO. 434-A**

Int. No. 434-A would amend the Code to reduce the maximum fine for violating vending laws. Currently, after violating any of the City’s vendor laws three times within a two year period, food and general vendors are subject to fines of up to \$1000 for each additional violation committed within two years of the first violation. Int. No. 434-A would cap the maximum fine for all City vending violations at \$500.

Int. No. 434-A would also affect the escalation of penalties associated with violations that are issued to vendors for subsequent offenses. Currently, vendors are subject to increased fine levels for all subsequent offenses, whether or not the subsequent offense relates to the same regulation as the prior offense. Int. 434-A would prevent such increases unless the subsequent violation is issued for the same offense, within a two year period.

Pursuant to the Code, licensed vendors who violate the City’s vending laws are guilty of an offense punishable by a fine of (i) no less than \$25 and no more than \$50 for the first offense; (ii) no less than \$50 and no more than \$100 for any second offense within a two year period; (iii) no less than \$100 and no more than \$250 for any third offense within a two year period; (iv) no less than \$250 and no more than \$1,000 for any subsequent offense committed within two years of the first offense by a food vendor; and (v) no less than \$200 and no more than \$1,000 for any subsequent offense committed within two years of the first offense by a general vendor. Vendors are subject to identical civil penalties that escalate in the same manner.

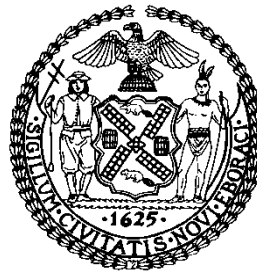
According to the ECB penalty schedules, all vendors are issued a fine of (i) \$50 for the first violation; (ii) \$100 for the second violation; (iii) \$250 for the third violation; (iv) \$500 for the fourth violation or \$1,000 for a default on the fourth violation; (v) \$750 for the fifth violation or \$1,000 for a default on the fifth violation; and \$1,000 for the sixth and all subsequent violations.<sup>36</sup> Int. No. 434-A would amend the Code to; (i) ensure that the penalty levels cited above increase only if subsequent violations are issued for the same offense within a two year period; and (ii) change the maximum fine to \$500. Therefore, a vendor would be subject to higher penalty levels only if he or she repeats the same offense, and no penalty for one offense would cost more than \$500.

Int. No. 434-A would also amend the administrative code to increase the maximum penalty for general vendors from no less than \$200 to no less than \$250. Int. No. 434-A would not amend the current penalties for vending without a license or permit, or for health code violations.

**(The following is the text of the Fiscal Impact Statement for Int. No. 434-A:)**

for the Lower Ma\_\_\_\_\_

<sup>34</sup> Letter from George Fontas to N.Y.C. Council of December 13, 2011.  
<sup>35</sup> The Mayor’s Office of Special Enforcement stated that they would not oppose a law that would assign the same penalty level to all violations committed on the same day, which is the current practice of the Environmental Control Board in adjudicating vendor violations.  
<sup>36</sup> See <http://www.nyc.gov/html/ecb/html/legal/fines.shtml> (accessed April 19, 2012).



THE COUNCIL OF THE CITY OF NEW YORK  
 FINANCE DIVISION  
 PRESTON NIBLACK, DIRECTOR  
 JEFFREY RODUS, FIRST DEPUTY DIRECTOR  
 FISCAL IMPACT STATEMENT

INTRO. NO: 434-A

COMMITTEE:  
 Consumer Affairs

**TITLE:** A Local Law to amend the administrative code of the City of New York (“Code”), in relation to reducing the maximum fine amount for violations of vending regulations and defining unregulated violations of vending rules and regulations as separate offenses.

**SPONSORS:** Council Members Levin, Mark-Viverito, James, Barron, Rodriguez, Arroyo, Cabrera, Eugene, Gonzalez, Koppell, Lander, Reyna, Williams, Greenfield, Foster, Mendez, Crowley, Dickens, Chin, Jackson, Mealy, Palma, Rivera, Rose, Brewer, Vann, Wills, Dilan, Koslowitz, Gennaro, Comrie, Nelson, Dromm, King, Ulrich and Halloran

**SUMMARY OF LEGISLATION:** Currently, after violating any of the City’s vendor laws three times within a two-year period, food and general vendors are subject to fines of up to \$1,000 for each additional violation committed within two years of the first violation. Additionally, vendors are subject to increased fine levels for all subsequent offenses, whether or not the subsequent offense relates to the same rule or regulation as the prior offense. This legislation would amend the Code to cap the maximum fine for all City vending violations at \$500 and ensures that the penalty levels increase only if only if subsequent violations are issued for the same offense within a two year period. This bill would not amend the current penalties for vending without a license or permit.

The amended Code would state that licensed vendors who violate the City’s vending laws will be subject to a fine of (i) no less than \$25 and no more than \$50 for the first offense; (ii) no less than \$50 and no more than \$100 for any second violation issued for the same offense within a two year period of the date of the first violation; (iii) no less than \$100 and no more than \$250 for any third violation issued for the same offense within a two year period of the date of the first violation; and (iv) no more than \$500 for any subsequent violations issued for the same offense within a two year period of the date of the first violation.

**EFFECTIVE DATE:** This law would take effect one hundred twenty days after it is enacted into law, provided that the commissioner may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, promulgating rules.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2014

**FISCAL IMPACT STATEMENT:**

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY14
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

**IMPACT ON REVENUES:** Fines are meant to ensure compliance with the duly enacted laws and not to generate revenue. Therefore, a reduction in fine amount imposed for a failure to comply with certain laws will not have an impact on revenues.

**IMPACT ON EXPENDITURES:** There will be no impact on expenditures by the enactment of this legislation.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** City Council Legislative Division, Department of Consumer Affairs

**ESTIMATE PREPARED BY:** AMY STOKES

**ESTIMATE REVIEWED BY:** NATHAN TOTH, DEPUTY DIRECTOR AND TANISHA EDWARDS, FINANCE COUNSEL

**HISTORY:** Introduced by the City Council and referred to the Committee on Consumer Affairs as Int. No. 434 on November 30, 2010. The Committee held a hearing on Int. 434 on April 24, 2012. On February 26, 2013, the Committee passed a revised version of the bill, Proposed Int. 434-A. The legislation was then passed by the Full Council on February 27, 2013 by a vote 44 in affirmative and three in the negative. On March 21, 2013, the Mayor issued a message of disapproval, vetoing the legislation. That veto message was formally accepted by the Council at its stated meeting held on April 9, 2013. The Committee repassed the legislation as Int. 434-A on April 18, 2013, and the Full Council will vote on the repassed legislation on April 25, 2013.

**DATE SUBMITTED TO COUNCIL:** November 30, 2010

*Notwithstanding the objection of the Mayor, this Committee recommends the re-adoption of Int No. 434-A.*

**(The following is the text of Int. No. 434-A:)**

Int. No. 434-A

By Council Members Levin, Mark-Viverito, James, Barron, Rodriguez, Arroyo, Cabrera, Eugene, Gonzalez, Koppell, Lander, Reyna, Williams, Greenfield, Foster, Mendez, Crowley, Dickens, Chin, Jackson, Mealy, Palma, Rivera, Rose, Brewer, Vann, Wills, Dilan, Koslowitz, Gennaro, Comrie, Nelson, Dromm, King, Ulrich, Halloran and Richards.

**A Local Law to amend the administrative code of the city of New York, in relation to reducing the maximum fine amount for violations of vending regulations and defining unrelated violations of vending rules and regulations as separate offenses.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision b of section 17-325 of the administrative code of the city of New York is amended to read as follows:

b. Except as provided in subdivision a of this section, a person who violates any provision of this subchapter or any of the rules or regulations promulgated hereunder shall be guilty of an offense punishable by the court as follows:

1. For the first violation, a fine of not less than twenty-five nor more than fifty dollars.

2. For the second violation *issued for the same offense* within a period of two years of the date of a first violation, a fine of not less than fifty dollars nor more than one hundred dollars.

3. For a third violation *issued for the same offense* within a period of two years of the date of a first violation, a fine of not less than one hundred dollars nor more than two hundred and fifty dollars, in addition to the remedy provided for in subdivision f of section 17-317 of this subchapter.

4. For any subsequent violations *issued for the same offense* within a period of two years of the date of a first violation, a fine of not [less] *more* than [two] *five* hundred [fifty] dollars [nor more than one thousand dollars].

§2. Paragraph two of subdivision c of section 17-325 of the administrative code of the city of New York is amended to read as follows:

2. In addition to the penalties prescribed by subdivision b of this section, any person who violates any of the provisions of this subchapter, other than subdivision a, b, or c of section 17-307 of this subchapter, or any of the rules and regulations promulgated hereunder shall be liable for a civil penalty as follows:

(a) For the first violation, a penalty of not less than twenty-five nor more than fifty dollars.

(b) For the second violation *issued for the same offense* within a period of two years of the date of a first violation, a penalty of not less than fifty dollars nor more than one hundred dollars.

(c) For the third violation *issued for the same offense* within a period of two years of the date of a first violation, a penalty of not less than one hundred dollars nor more than two hundred and fifty dollars, in addition to the remedy provided for in subdivision f of section 17-317 of this subchapter.

(d) For any subsequent violations *issued for the same offense* within a period of two years of the date of a first violation, a penalty of not [less] *more* than [two] *five* hundred [fifty] dollars [nor more than one thousand dollars].

§3. Subdivision b of section 20-472 of the administrative code of the city of New York is hereby amended to read as follows:

b. Except as provided in subdivision a of this section, a person who violates any provision of this subchapter or any of the rules or regulations promulgated hereunder shall be guilty of an offense punishable by the court as follows:

1. For the first violation, a fine of not less than twenty-five nor more than fifty dollars.

2. For the second violation *issued for the same offense* within a period of two years of the date of a first violation, a fine of not less than fifty dollars nor more than one hundred dollars.

3. For a third violation *issued for the same offense* within a period of two years of the date of a first violation, a fine of not less than one hundred dollars nor more than two hundred and fifty dollars.

4. For any subsequent violations *issued for the same offense* within a period of two years of the date of a first violation, a penalty of not [less] *more* than [two] *five* hundred [fifty] dollars [nor more than one thousand dollars].

§ 5. Paragraph two of subdivision c of section 20-472 of the administrative code of the city of New York is amended to read as follows:

2. In addition to the penalties prescribed by subdivision b of this section, any person who violates any of the provisions of this subchapter, other than section 20-453, or any of the rules and regulations promulgated hereunder shall be liable for a civil penalty as follows:

(a) For the first violation, a penalty of not less than twenty-five nor more than fifty dollars.

(b) For the second violation *issued for the same offense* within a period of two years of the date of a first violation, a penalty of not less than fifty dollars nor more than one hundred dollars.

(c) For the third violation *issued for the same offense* within a period of two years of the date of a first violation, a penalty of not less than one hundred dollars nor more than two hundred and fifty dollars.

(d) For any subsequent violations *issued for the same offense* within a period of two years of the date of a first violation, a penalty of not [less] *more* than [two] *five* hundred [fifty] dollars [nor more than one thousand dollars].

§ 6. This local law shall take effect one hundred twenty days after it shall have been enacted into law; provided that the commissioner may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, promulgating rules.

DANIEL R. GARODNICK, Chairperson; MICHAEL C. NELSON, CHARLES BARRON, LEROY G. COMRIE, Jr., G. OLIVER KOPPELL, JULISSA FERRERAS, KAREN KOSLOWITZ; Committee on Consumer Affairs, April 18, 2013.

Coupled for an Override Vote.

Report for M-1096

**Report of the Committee on Consumer Affairs in favor of filing a Communication from the Mayor regarding the Mayor's veto and disapproval message of Introductory Number 434-A, In relation to reducing the maximum fine amount for violations of vending regulations and defining unrelated violations of vending rules and regulations as separate offenses.**

The Committee on Consumer Affairs, to which the annexed communication was referred on April 9, 2013 (Minutes, page 941) and was subsequently laid over by the Council on April 25, 2013 (Minutes, page 1112), , respectfully

#### REPORTS:

**(For text of the report, please see the Report of the Committee on Consumer Affairs for Int No. 434-A printed above in this General Order Calendar section of these Minutes)**

*Accordingly, this Committee recommends the filing of M-1096.*

DANIEL R. GARODNICK, Chairperson; MICHAEL C. NELSON, CHARLES BARRON, LEROY G. COMRIE, Jr., G. OLIVER KOPPELL, JULISSA FERRERAS, KAREN KOSLOWITZ; Committee on Consumer Affairs, April 18, 2013.

Coupled to be Filed

**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*

<u>Name</u>	<u>Address</u>	<u>District #</u>
Karol Real	319 East 95 <sup>th</sup> Street #11 New York, N.Y. 10128	4
Zev Levavi	250 First Avenue #3A New York, N.Y. 10009	4
Joanne Torres	1669 Lafayette Avenue #A Bronx, N.Y. 10473	18
Andrew Guinan	39 Plaza Street West #3C Brooklyn, N.Y. 11217	33
Karen Allen	237 Nassau Street #4C	35

Cedieu Gouin	Brooklyn, N.Y. 11201 836 Montgomery Street #A19 Brooklyn, N.Y. 11213	35
Sophia Manuel	371 Eastern Parkway #4F Brooklyn, N.Y. 11216	35

Mary Anne Zoleo	Brooklyn, N.Y. 11204 8701 Shore Road \$324 Brooklyn, N.Y. 11209	43
Yitzchok Fishman	159 Parkville Avenue Brooklyn, N.Y. 11230	44
Fran Oliva	2150 71 <sup>st</sup> Street #3A Brooklyn, N.Y. 11204	44
Jean Herald Similien	3420 Avenue H #3C Brooklyn, N.Y. 11210	45
Carole Wilson	638 East 9 <sup>th</sup> Street Brooklyn, N.Y. 11234	45
Suzanne G. Rose	11 Kansas Place Brooklyn, N.Y. 11234	46
Marina Tkachuk	2432 East 28 <sup>th</sup> Street #2 Brooklyn, N.Y. 11235	46
Marcia Greenblatt	2765 West 5 <sup>th</sup> Street #20E Brooklyn, N.Y. 11224	47
Kelly Ilene Steier	1730 East 14 <sup>th</sup> Street #3A Brooklyn, N.Y. 11229	48
Renee Parham	78 Pleasant Valley Avenue Staten Island, N.Y. 10304	49
Anthony Costa	265 Clauson Street Staten Island, N.Y. 10306	50
Kathleen Deignan	96 Newberry Avenue Staten Island, N.Y. 10304	50
Dylene Schifando	260 Burgher Avenue Staten Island, N.Y. 10305	50
Sarita Troiano	252 Moreland Street Staten Island, N.Y. 10306	50
Dane Buchanan	377 Darlington Avenue Staten Island, N.Y. 10312	51
Gina-Marie Zupo	29 Luke Court Staten Island, N.Y. 10306	51

*Approved New Applicants and Reapplicants*

<u>Name</u>	<u>Address</u>	<u>District #</u>
Lauren Ruth Goldapper	141 East 3 <sup>rd</sup> Street #7E New York, N.Y. 10009	2
Marion L. MacQueen	230 Central Park South #5A New York, N.Y. 10019	4
Aida I. Menendez	1806 First Avenue #22II New York, N.Y. 10028	4
Robert W. Schaffer	3 Peter Cooper Road #11E New York, N.Y. 10010	4
Anita Sapirman	65 West 90 <sup>th</sup> Street #12C New York, N.Y. 10024	6
Margarita M. Schreiber	147 East 97 <sup>th</sup> Street #2W New York, N.Y. 10029	8
Walter L. Spencer	2110 1 <sup>st</sup> Avenue #1607 New York, N.Y. 10029	8
Anntoinette H. Peterson	320 Wadsworth Avenue Bsmt New York, N.Y. 10040	10
Samuel Cortorreal	1456 Townsend Avenue #4D Bronx, N.Y. 10452	14
Latoya Samspon	1712 Longfellow Avenue #3B Bronx, N.Y. 10460	15
Susan Nwosu	1730 Montgomery Avenue #4E Bronx, N.Y. 10453	16
Annette Santiago	730 Elton Avenue Bronx, N.Y. 10455	17
Edward Aviles	156 Newman Avenue Bronx, N.Y. 10473	18
Boris Geker	259-10 62 <sup>nd</sup> Avenue Queens, N.Y. 11362	23
Kofi Carter	35-35 21 <sup>st</sup> Street #2D Queens, N.Y. 11106	26
Antoinette Witherspoon	41-11 12 <sup>th</sup> Street #5D Queens, N.Y. 11101	26
Walter McNeil	89-00 170 <sup>th</sup> Street Jamaica, N.Y. 11432	27
Shadia Weston	194-25 114 <sup>th</sup> Road Queens, N.Y. 11412	27
Frederick Allen Lewis II	23-28 Camp Road #2 Far Rockaway, N.Y. 11691	31
Barbara Webber	54 Boerum Street #2J Brooklyn, N.Y. 11206	34
Margaret Felder	110 Van Buren Street Brooklyn, N.Y. 11221	36
John M. Frederick II	1400 Bergen Street #8H Brooklyn, N.Y. 11213	36
Linda Whitaker	1096 Park Place Brooklyn, N.Y. 11213	36
Miriam River	134 Dikeman Street #4R Brooklyn, N.Y. 11231	38
Sofia Zoulis	62 Louisa Street Brooklyn, N.Y. 11218	39
Joan Akers	2058 Union Street #3G Brooklyn, N.Y. 11212	41
Ruth Thomas	788 Hancock Street Brooklyn, N.Y. 11233	41
Gasper Burgos	350 Sheffield Avenue #3K Brooklyn, N.Y. 11207	42
Teresa M. Scantlebury	345 Hinsdale Street Brooklyn, N.Y. 11207	42
Ian A. Peterson	7312 Narrows Avenue Brooklyn, N.Y. 11209	43
Madalene D. Potter	1218 76 <sup>th</sup> Street Brooklyn, N.Y. 11228	43
Joann Randazzo	1930 72 <sup>nd</sup> Street	43

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 1096 -** Communication from the Mayor - Mayors veto and disapproval message of **Introductory Number 434-A**, In relation to reducing the maximum fine amount for violations of vending regulations and defining unrelated violations of vending rules and regulations as separate offenses **(Coupled to be Filed)**.
- (2) **Int 97-A -** In relation to the provision of sick time earned by employees.
- (3) **Int 434-A -** In relation to reducing the maximum fine amount for violations of vending regulations and defining unrelated violations of vending rules and regulations as separate offenses **(Coupled for Override vote requiring an affirmative vote of at least two-thirds of the Council for passage)**.
- (4) **Res 1740-A -** Granting exemption for real property taxes – Foundation For Sephardic Studies.
- (5) **Res 1750 -** Designation of funding in the Expense Budget **(Transparency Resolution)**.
- (6) **L.U. 790 & Res 1756 -** App. **20135372 TCK**, 499 Grand Street, Borough of Brooklyn, Community District 1, Council District 34.
- (7) **L.U. 791 & Res 1757 -** App. **20135340 TCM**, 113 7th Avenue South, Borough of Manhattan, Community District 2, Council District 3.
- (8) **L.U. 792 & Res 1758 -** App. **20135376 TCX**, 3708 Riverdale Avenue, Borough of Bronx, Community District 8, Council District 11.
- (9) **L.U. 793 & Res 1759 -** App. **N 120200 ZRM**, amendment to Zoning Resolution Section 74-712, concerning special permits for developments in historic districts in M1-5A and M1-5B districts, Borough of Manhattan, Community District 2 **(Coupled to be Filed pursuant to a Letter of Withdrawal)**.

- (10) **L.U. 794 & Res 1760 -** App. C **120201 ZSM**, special permit pursuant to Section 74-712 of Zoning Resolution to modify use regulations (ZR Sections 42-00 and 42-14) and height and setback requirements (ZR Section 43-43) at 150 Wooster Street, Borough of Manhattan, Community District 2, Council District 1 **(Coupled to be Filed pursuant to a Letter of Withdrawal)**.
- (11) **L.U. 795 & Res 1761 -** App. N **130105 ZRM**, (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7, and 8 in the Borough of Manhattan and Portions of Community Districts 1 and 2 in the Borough of Queens), and various other Sections, modifying the regulations governing off-street parking and loading in Manhattan Community Districts 1 through 8.
- (12) **L.U. 796 & Res 1762 -** App. C **130007 MMM**, submitted by Cornell University and New York City Economic Development, amendment to the City Map involving the establishment of certain streets and legal grades necessitated on Roosevelt Island, including authorization for any disposition or acquisition of real property related thereto, in the Borough of Manhattan, Community District 8, Council District 5.
- (13) **L.U. 797 & Res 1763 -** App. C **130076 ZMM** submitted by Cornell University and New York City Economic Development Corporation, amendment to the Zoning Map, Section Nos. 8d and 9b, changing an R7-2 District to a C4-5 District and establishing a Special Southern Roosevelt Island District to facilitate development of an academic and commercial research campus on Roosevelt Island, Borough of Manhattan, Community District 8, Council District 5.
- (14) **L.U. 798 & Res 1764 -** App. N **130077 ZRM**, submitted by Cornell University and NYC Economic Development Corporation, amendment to the Zoning Resolution of the City of New York, creating a new special district as Article XIII, Chapter 3 (Special Southern Roosevelt Island District) for the Cornell NYCTech proposal, Borough of Manhattan, Community District 8, Council District 5.
- (15) **L.U. 799 & Res 1765 -** App. C **130078 PPM**, Block 1373, Lot 20 and p/o Lot 1, to facilitate development of an academic and commercial research campus on Roosevelt Island, Borough of Manhattan, Community District 8, Council District 5.
- (16) **L.U. 801 & Res 1766 -** App. **20135361 TCM**, 173 West 78th Street, Borough of Manhattan, Community District 7, Council District 6.
- (17) **L.U. 823 & Res 1752 -** College Avenue Apartments, Block 2439, Lots 55,57,59, Bronx, Community District No. 4, Council District No. 16
- (18) **L.U. 824 & Res 1753 -** Third Party Transfer Program TBX904 (aka Creston Heights), 2600 Briggs Avenue, Block 3293, Lot 39; Bronx, Community District No.7, Council District No.15
- (19) **L.U. 825 & Res 1754 -** 1479 Macombs Road, Block 2872, Lot 312, Bronx, Community District No. 4, Council District No. 16
- (20) **L.U. 826 & Res 1755 -** Riverwalk Project, Block 5933, Lot 230, Bronx, Community District No. 8, Council District No.11
- (21) **Resolution approving various persons Commissioners of Deeds.**

The President Pro Tempore (Council Member Comrie) 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, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Nelson, Palma, Recchia, Reyna,

Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn) – **48**.

**The General Order vote recorded for this Stated Meeting was 48-0-0 as shown above with the exception of the votes for the following legislative items:**

The following was the vote recorded for **Int No. 97-A**:

**Affirmative** – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Nelson, Palma, Recchia, Reyna, Richards, Rodriguez, Rose, Ulrich, Vacca, Van Bramer, Vann, Weprin, Williams, Wills, Rivera, and the Speaker (Council Member Quinn) – **45**.

**Negative** – Ignizio, Vallone, Jr., and Oddo – **3**

The following was the override vote recorded for **Int No. 434-A**- in regard to this bill, the President Pro Tempore (Council Member Rivera) presented the question as being should the bill be passed, the objection of the Mayor notwithstanding? :

**Affirmative** – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gonzalez, Greenfield, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Palma, Recchia, Reyna, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Williams, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn). – **45**.

**Negative** – Gentile, Nelson, and Weprin – **3**.

**Notwithstanding the objection of the Mayor, Int No. 434-A was re-passed by at least two-thirds vote of the Council and was thereby enacted into law.**

The following was the vote recorded for **LU No. 795 & Res No. 1761**:

**Affirmative** – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Levin, Mark-Viverito, Mealy, Nelson, Palma, Recchia, Reyna, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn) – **47**.

**Abstention** – Lappin – **1**.

The following was the vote recorded for **LU No. 796 & Res No. 1762, LU No. 797 & Res No. 1763, LU No. 798 & Res No. 1764, LU No. 799 & Res No. 1765** :

**Affirmative** – Arroyo, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Nelson, Palma, Recchia, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn) – **46**.

**Negative** – Barron and Reyna – **2**.

*The following Introduction was sent to the Mayor for his consideration and approval: Int No. 97-A.*

For **Introduction and Reading of Bills**, see the material following the **Resolutions** section below:

#### RESOLUTIONS

*Presented for voice-vote*

**The following are the respective Committee Reports for each of the Resolutions referred to the Council for a voice-vote pursuant to Rule 8.50 of the Council:**

Report for voice-vote Res. No. 1735

**Report of the Committee on Veterans in favor of approving a Resolution calling upon the New York State Legislature to pass, and the Governor to sign, A.514/S.3872, legislation which would amend the Real Property Tax Law to**

**allow veterans in New York City to enjoy the full value of the Veterans' Property Tax Exemption.**

The Committee on Veterans, to which the annexed resolution was referred on April 25, 2013 (Minutes, page 1160), respectfully

**REPORTS:**

**INTRODUCTION**

On May 3, 2013, the Committee on Veterans, chaired by Council Member Mathieu Eugene, held a hearing on Res. No. 1735, a Resolution calling upon the New York State Legislature to pass, and the Governor to sign, A.514/S.3872, legislation which would amend the Real Property Tax Law to allow veterans in New York City to enjoy the full value of the Veterans' Property Tax Exemption. This was the first hearing on this legislation. At the hearing, the Committee voted 6-0 in favor of the resolution.

**BACKGROUND**

Veterans are afforded an array of benefits under federal, state, and local law in appreciation of their service to their country. One of these benefits offered by New York State is a property tax exemption which provides certain veterans with a savings in their annual tax bills. However in its current form, the Veterans' Property Tax Exemption produces an unpredictable and less valuable benefit in comparison to other State property tax exemptions.

All real property, including homes and office buildings, in New York State is assessed based on the property's market value.<sup>1</sup> Generally, property owners will pay a property tax based on the entire assessed value of the property, but the State grants certain classes of owners exemptions, meaning such owners only pay taxes on a portion of the assessment.<sup>2</sup> Veterans in New York City are eligible for the Veterans' Property Tax Exemption if they served during the Mexican Border Period conflict, World War I, World War II, the Korean War, the Vietnam War, or the Persian Gulf Conflict.<sup>3</sup> Veterans that served in a combat zone or are disabled are eligible

<sup>1</sup> N.Y. State Department of Taxation and Finance, Assessments, <http://www.tax.ny.gov/pit/property/learn/asmts.htm> (last accessed Apr. 26, 2013).

<sup>2</sup> N.Y. State Department of Taxation and Finance, Property tax exemptions, <http://www.tax.ny.gov/pit/property/exemption/index.htm> (last accessed Apr. 26, 2013).

<sup>3</sup> N.Y.C. Department of Finance, Veterans' Exemption, <http://www.nyc.gov/html/dof/html/property/veterans.shtml> (last accessed Apr. 29, 2013).

for increased benefits under the exemption.<sup>4</sup> Spouses of qualified veterans, surviving spouses that have not remarried, and parents of veterans who died during a conflict are also eligible to receive veterans' property tax exemptions.<sup>5</sup> A veteran, spouse, or parent seeking an exemption must use the property as their primary residence.<sup>6</sup>

The majority of property tax exemptions available in New York State are calculated so that the entire exempted portion of the assessment is excluded from the property tax, however, the Veterans' Property Tax Exemption requires that an eligible property owner pay the School Tax Rate on the exemption.<sup>7</sup> The School Tax Rate is the portion of the property tax that goes to fund a locality's schools.<sup>8</sup> As New York City has increased its annual spending on public schools, the value of the property tax exemption for veterans owning property in the City has decreased in recent years.<sup>9</sup> Further, as school spending fluctuates from year to year, so does the value of the Veterans' Property Tax Exemption.<sup>10</sup> In order to address these concerns with the Veterans' Property Tax Exemption, in early 2013, New York State Senator Andrew J. Lanza and Assemblyman Michael Cusick, both of Staten Island, introduced legislation that would bring the Veterans' Property Tax Exemption in line with other property tax benefits in the State by making the assessed value of property covered by the assessment fully non-taxable.<sup>11</sup> The legislation would increase the value of the Veterans' Property Tax Exemption and ensure that veterans are better able to predict their yearly tax liability.<sup>12</sup>

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> N.Y. State Department of Taxation and Finance, Veterans' exemption, <http://www.tax.ny.gov/pit/property/exemption/vetexempt.htm> (last accessed Apr. 29, 2013).

<sup>8</sup> N.Y. State Department of Taxation and Finance, Property taxes, <http://www.tax.ny.gov/pit/property/learn/proptax.htm> (last accessed Apr. 29, 2013).

<sup>9</sup> A.514/S.3872 (N.Y. 2013), Sponsor Memo.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

**ANALYSIS**

Res. No. 1735 summarizes the system of taxing real property in New York State

on behalf of localities for municipal or school district purposes. The resolution explains that New York City annually assesses real property to determine the amount that will be owed in property taxes. The resolution further notes that real property tax rates are set by City Council, with a limitation imposed by State law capping yearly increases to no more than five percent or the rate of inflation from the prior year, whichever is less.

The resolution explains that New York State law provides a number of real property tax exemptions that lower the assessed value of certain real property. The resolution states that under most real property tax exemptions, the value of the exemption is subtracted from the property's assessed value. The resolution makes clear that the Veterans' Property Tax Exemption is unique in comparison to other property tax exemptions available in New York as it only allows for the exempted value of a property to be partially non-taxable, as opposed to fully non-taxable, from the property tax.

The resolution states that property owners eligible for the Veterans' Property Tax Exemption must pay a share of the property tax that pays for local public schools, known as the School Tax Rate, on the exempted value of their property. The resolution sets forth the impact of this formulation, noting that increased spending on schools results in the School Tax Rate rising closer the actual property tax rate. The resolution notes that the School Tax Rate changes annually with school spending, which in turn causes the value of the Veterans' Property Tax Exemption to fluctuate each year. The resolution discusses the recent increases in New York City's School Tax Rate, the result of reduction in federal and state education aid. The resolution explains that changes in school spending have reduced the value of the Veterans' Property Tax Exemption and have caused veterans to be unable to plan for the amount they will owe in property taxes each year.

The resolution indicates that New York State Assemblyman Michael Cusick and Senator Andrew Lanza introduced A.514 and S.3872, respectively, legislation that would amend the State Real Property Tax Law so that the Veterans' Property Tax Exemption would no longer fluctuate with the City's spending on schools and instead would be reflective only of the assessed value of the property and the property tax. The resolution further states that this legislation would bring the Veterans' Property Tax Exemption in line with the formulations used by the other property tax exemptions in New York by exempting the assessed value of the property from the School Tax Rate and making it fully non-taxable. The resolution explains that the proposed amendments to State Real Property Tax Law would ensure that the value of the Veterans' Property Tax Exemption would rise consistent with increases in the assessed value of property or property tax rates.

The resolution calls upon the New York State Legislature to pass, and the Governor to sign, A.514/S.3872, legislation which would amend the Real Property Tax Law to allow veterans in New York City to enjoy the full value of the Veterans' Property Tax Exemption.

*Accordingly, this Committee recommends its adoption.*

**(The following is the text of Res. No. 1735:)**

Res. No. 1735

**Resolution calling upon the New York State Legislature to pass, and the Governor to sign, A.514/S.3872, legislation which would amend the Real Property Tax Law to allow veterans in New York City to enjoy the full value of the Veterans' Property Tax Exemption.**

By Council Members Eugene, the Speaker (Council Member Quinn), Recchia, Chin, Comrie, Dickens, Dromm, Fidler, Gentile, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Mendez, Richards, Rose, Vann, Williams, Wills, Palma, Arroyo, Van Bramer, Cabrera, Greenfield, Levin and Ulrich.

**Whereas**, A real property tax is a charge imposed upon real property by or on behalf of a county, city, town, village or school district for municipal or school district purposes; and

**Whereas**, In New York City, real property is assessed each year to determine its value and this assessment determines the amount of the Property Tax that will be charged upon the property; and

**Whereas**, In New York City, real property tax rates are set each year by the City Council, but such rates are limited by the real property tax cap, set by state law, which requires local governments and school districts to raise property taxes to no more than five percent or the rate of inflation from the prior year, whichever is less; and

**Whereas**, Under New York State law, there are several types of real property tax exemptions, which reduce the assessed value of a real property; and

**Whereas**, Most real property tax exemptions are full exemptions, meaning the value of the exemption is subtracted from the property's assessed value; and

**Whereas**, The Veterans' Property Tax Exemption is different from other property tax breaks available in New York, which fully exclude the exempted value from the Property Tax; and

**Whereas**, As the Veterans' Property Tax Exemption is currently defined, the exempted value is only partially non-taxable, as the property owner must still pay the School Tax Rate, the share of the Property Tax that pays for public schools, on the exempted value; and

**Whereas**, As a result, the more money the City spends on its public schools, the closer the School Tax Rate will be to the Property Tax rate; and

**Whereas**, The School Tax Rate varies from year to year, causing the value of the Veterans' Property Tax Exemption to fluctuate annually as well; and

**Whereas**, In recent years, New York City has been forced to increase the School Tax Rate due to reductions in state and federal education aid; and

**Whereas**, These fluctuations have steadily reduced the value of the Veterans' Property Tax Exemption and made those eligible for such exemptions unable to plan ahead for the amount they will owe each year; and

**Whereas**, On January 9, 2013 and February 26, 2013, New York State Assembly Member Michael Cusick and Senator Andrew Lanza, introduced A.514 and S.3872, respectively, legislation that would amend the State Real Property Tax Law so that the Veterans' Property Tax Exemption would be tied exclusively to the assessed value of the home and property taxes, rather than fluctuate according to how much the City spends on schools; and

**Whereas**, To eliminate these fluctuations in the exemptions value, this legislation would make the Veterans' Property Tax Exemption like other real property tax exemptions and exempt that value from the School Tax; and

**Whereas**, Following the proposed amendments to the State Real Property Tax Law, the Veterans' Property Tax Exemption will become fully non-taxable; and

**Whereas**, This change to state law would also ensure that the value of the exemption would rise consistent with increases in assessed value and/or the appropriate class property tax rate; 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.514/S.3872, legislation which would amend the Real Property Tax Law to allow veterans in New York City to enjoy the full value of the Veterans' Property Tax Exemption.

MATHIEU EUGENE, Chairperson; LEWIS A. FIDLER, VINCENT J. GENTILE, FERNANDO CABRERA, DANIEL DROMM, DAVID G. GREENFIELD; Committee on Veterans, May 3, 2013.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Comrie) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Comrie) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

#### INTRODUCTION AND READING OF BILLS

Int. No. 1042

By Council Members Greenfield, Gentile, Vacca, Arroyo, Barron, Cabrera, Eugene, Fidler, Gonzalez, James, King, Koo, Koppell, Palma, Recchia, Richards, Rose, Vallone, Jr., Williams and Wills.

**A Local Law to amend the administrative code of the city of New York, in relation to deactivating muni-meters when parking rules are not in effect or receipt paper is not available.**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 2 of chapter 1 of title 19 of the administrative code of the city of New York is amended to add a new section 19-175.4 to read as follows:

§19-175.4 *Deactivating muni-meters.* a. *For the purposes of this section, the term "muni-meter" shall mean an electronic parking meter that dispenses timed receipts that must be displayed in a conspicuous place on a vehicle's dashboard.*

b. *Notwithstanding any other law or rule, the department shall program each muni-meter to ensure that such muni-meter is unable to issue timed receipts from the latest time that meter rules are in effect for the block or parking field where such muni-meter is located until one hour prior to the time meter rules take effect at the location of such muni-meter. The department shall also program each muni-meter to ensure that such muni-meter is unable to accept payment when such muni-meter does not contain paper to print timed receipts. Muni-meters that are unable to be programmed as set forth in this section are exempt from the provisions in this section, provided that not more than two years following the enactment of this section, the department shall program all muni-meters in the city of New York to comply with the provisions 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. 1747

**Resolution calling on the United States Congress to pass and the President to sign S.172, also known as the Stop Abuse and Fraud in Electronic Lending Act of 2013.**

By Council Members Jackson, Chin, Eugene, Gonzalez, James, Koppell, Lander, Palma, Richards, Rose and Williams.

**Whereas**, The New York State Department of Financial Services defines a payday loan as "a relatively small, high-cost loan, typically due in two weeks and made with a borrower's post-dated check or access to the borrower's bank account as collateral"; and

**Whereas**, Because the loans are due in such a short amount of time, the fees associated with payday loans effectively create annual percentage rates that can exceed 400 percent; and

**Whereas**, Borrowers unable to repay their debt within the agreed-upon time are forced to either renew or extend their loan, or take out another loan to cover the debt; and

**Whereas**, Payday lenders will frequently request access to a borrower's bank account so they can make pre-authorized electronic withdrawals to cover the loan amount, but only withdraw amounts that ensure the loan remains unpaid and accrues interest; and

**Whereas**, Payday loans are generally viewed as predatory financial services because of their high fees and tendency to target low-income communities; and

**Whereas**, Payday loans are illegal in New York State, which has a civil usury cap of 16 percent and a criminal usury cap of 25 percent per year; and

**Whereas**, Despite the aggressive restrictions in New York State, many lenders circumvent the law by setting up online payday loan businesses in states, Indian reservations and countries with looser regulation; and

**Whereas**, According to a report by the Pew Charitable Trusts, approximately three million Americans took out a payday loan online in 2010; and

**Whereas**, In some cases, consumers don't reach the payday lender's website at all, but a rather a "lead generator," who auctions the consumer's loan application to real payday lenders and sells the consumer's personal information to other parties; and

**Whereas**, If passed, S. 172, also known as the Stopping Abuse and Fraud in Electronic (SAFE) Lending Act, would address this issue by closing loopholes that payday lenders exploit by offering their services online; and

**Whereas**, The SAFE Lending Act would give consumers more control over pre-authorized electronic withdrawals by requiring the consumer's written authorization designating a specific person to complete such transactions; and

**Whereas**, The SAFE Lending Act would also permit consumers to cancel withdrawals prior to the debit when they are associated with payday loans; and

**Whereas**, To prevent online payday lenders from exploiting the lax regulation of other states and countries and charging excessively high interest rates, the SAFE Lending Act would require payday lenders to abide by the laws of the state in which the consumer lives; and

**Whereas**, The SAFE Lending Act would also ban the use of lead generators, and prevent such businesses from collecting and distributing a consumer's private information; and

**Whereas**, Additionally, the SAFE Lending Act would grant the Consumer Financial Protection Bureau the authority to investigate and, when appropriate, shut down payday lenders that are operating in violation of the law; and

**Whereas**, Finally, the SAFE Lending Act would direct the United States Government Accountability Office to study the availability of capital on Indian reservations and the impact of payday loans on members of Indian tribes; and

**Whereas**, It is imperative that the government take whatever steps are necessary to prevent the continuing exploitation of low-income communities by payday lenders; now, therefore, be it

**Resolved**, That the Council of the City of New York calls on the United States Congress to pass S.172, also known as the Stop Abuse and Fraud in Electronic Lending Act of 2013.

Referred to the Committee on Consumer Affairs.

Res. No. 1748

**Resolution urging the New York City Housing Authority to withdraw from the Memorandum of Understanding with the New York City Police Department through which it funds law enforcement services for NYCHA residents and to invest the resulting savings into the capital needs of its developments.**

By Council Members Mendez, Chin, Mark-Viverito, Arroyo, Barron, Brewer, Dromm, Gonzalez, James, Lander, Palma, Rose, Van Bramer, Williams, Wills and Lappin.

**Whereas**, The New York City Housing Authority ("NYCHA") is the largest provider of public housing in the nation; and

**Whereas**, There are 334 NYCHA developments consisting of 2,596 NYCHA buildings with 178,914 public housing units; and

**Whereas**, Most of NYCHA's buildings were built in the 1940s or 1960s; and

**Whereas**, NYCHA residents make up approximately 5 percent of the City's population; and

**Whereas**, In 1952, NYCHA created the New York City Housing Authority Police Department ("HAPD") to serve its growing population; and

**Whereas**, By 1994, the HAPD had 2,700 uniformed police officers and was spending \$58 million a year on police services; and

**Whereas**, In the first 6 months of 1994, felonies were down almost 10 percent in the city at large, while they declined just 3.5 percent at NYCHA developments; and

**Whereas**, The Giuliani Administration sought to merge the HAPD into the New York City Police Department (“NYPD”) to enhance public safety at housing developments by allowing for more efficient decision-making processes, better tracking of criminal activity and to reduce duplicative police responses; and

**Whereas**, In October, 1994 NYCHA entered into a Memorandum of Understanding with the NYPD to merge the HAPD within the NYPD; and

**Whereas**, As a result of the merger, the NYPD Housing Bureau was created to provide law enforcement services solely to NYCHA developments; and

**Whereas**, Further, NYCHA agreed to provide a portion of its U.S. Housing and Urban Development (“HUD”) Public Housing Operating Subsidy to the NYPD on an annual basis for ongoing law enforcement services for NYCHA’s properties and residents; and

**Whereas**, NYCHA provided approximately \$58 million of its Public Housing Operating Subsidy to the NYPD in 1994 and arranged to have ongoing payments adjusted for inflation; and

**Whereas**, NYCHA is currently providing approximately \$73 million of its Public Housing Operating Subsidy to the NYPD; and

**Whereas**, Since 1994, NYCHA has paid the NYPD at least \$1.2 billion for law enforcement services; and

**Whereas**, Besides local taxes which NYCHA residents also pay, 95 percent of the City’s population is not subject to any additional fees for law enforcement services provided by the NYPD; and

**Whereas**, NYCHA is no longer in the financial position to afford such payments to the NYPD; and

**Whereas**, Sixty-six percent of NYCHA’s current revenue comes from federal funding, thirty percent comes from rent, and four percent comes from grants and local government funding; and

**Whereas**, NYCHA’s federal capital grants, which comprise the bulk of its capital funding, have declined substantially since 2001, falling from \$420 million annually to \$270 million annually; and

**Whereas**, As a result of the loss of governmental funding, NYCHA has encountered difficulty maintaining its infrastructure, resulting in unmet or delayed repairs and upgrades to brickwork, roofs, elevators, building systems and apartment interiors; and

**Whereas**, In 2006, NYCHA conducted a physical needs assessment where it identified that \$25 billion will be necessary over the next 15 years to keep NYCHA’s housing stock in a good state of repair; and

**Whereas**, In order to generate revenue and address the funding gap, NYCHA has begun to explore alternative revenue sources, including a proposal to lease land on the grounds of its housing developments to developers to build residential towers; and

**Whereas**, Withdrawing from the MOU with the NYPD would result in significant amount of immediate savings in NYCHA’s operating fund, estimated to be over \$70 million annually; and

**Whereas**, Although operating funds are intended for the operation and management of public housing, public housing agencies are able to transfer money from operating funds to capital funds to modernize or develop public housing with HUD approval; and

**Whereas**, NYCHA should withdraw from its MOU with the NYPD for law enforcement services which NYCHA residents are already entitled to as New Yorkers and subsequently transfer these savings in operating funds to capital funds to be used to address the capital needs of its developments;

**Whereas**, Further, under no circumstances should NYPD presence be reduced at public housing developments as a result of the withdrawal from the MOU; now, therefore, be it

**Resolved**, That the Council of the City of New York urges the New York City Housing Authority to withdraw from the Memorandum of Understanding with the New York City Police Department through which it funds law enforcement services for NYCHA residents and to invest the resulting savings into the capital needs of its developments.

Referred to the Committee on Public Housing.

Res. No. 1749

**Resolution calling upon the New York City Housing Authority to delay the release of any Requests for Proposals to lease land until residents have utilized Tenant Participation Activity funds to consult with legal and technical advisory staff to understand and respond to lease plans and resident feedback has been incorporated into these plans.**

By Council Members Mendez, Chin, Mark-Viverito, Arroyo, Barron, Brewer, Dromm, James, Koppell, Lander, Palma, Richards, Rose, Van Bramer, Williams, Wills and Lappin.

**Whereas**, The New York City Housing Authority (“NYCHA”) is the largest provider of public housing in the nation; and

**Whereas**, There are 334 NYCHA developments consisting of 2,596 NYCHA buildings with 178,914 public housing units; and

**Whereas**, Most of NYCHA’s buildings were built in the 1940s or 1960s; and

**Whereas**, Sixty-six percent of NYCHA’s current revenue comes from federal funding, thirty percent comes from rent, and four percent comes from grants and local government funding; and

**Whereas**, NYCHA’s federal capital grants, which comprise the bulk of its capital funding, have declined substantially since 2001, falling from \$420 million annually to \$270 million annually; and

**Whereas**, As a result of the loss of governmental funding, NYCHA has encountered difficulty maintaining its infrastructure, resulting in unmet or delayed repairs and upgrades to brickwork, roofs, elevators, building systems and apartment interiors; and

**Whereas**, In 2006, NYCHA conducted a physical needs assessment where it identified that \$25 billion will be necessary over the next 15 years to keep NYCHA’s housing stock in a good state of repair; and

**Whereas**, In order to generate revenue and address the funding gap, NYCHA intends to lease land on the grounds of its housing developments to developers who will be allowed to build residential towers; and

**Whereas**, NYCHA is considering such deals at all of its developments but has presently identified eight housing developments in Manhattan at which land including parks, playgrounds, parking lots and a community center will be leased for primarily residential development; and

**Whereas**, NYCHA will be issuing Requests for Proposals (“RFPs”) to solicit companies to lease and develop these selected sites; and

**Whereas**, From March to April 2013, NYCHA made a series of presentations on the proposed lease plans to residents at affected developments; and

**Whereas**, Despite these meetings, residents have not yet had the opportunity to consult with technical advisors in order to provide meaningful feedback on NYCHA’s proposals; and

**Whereas**, Land disposition is a complex issue, and technical advisors can help residents evaluate and opine on the land-use, zoning and legal issues related to the disposition of NYCHA land; and

**Whereas**, Residents should be able to access Tenant Participation Activity (“TPA”) funds provided by the U.S. Department of Housing and Urban Development (“HUD”) for the purposes of securing and consulting with necessary technical advisors; and

**Whereas**, HUD rules, set out in Part 964 of Title 24 of the Code of Federal Regulations, require each Public Housing Authority (“PHA”) to distribute TPA funds at its developments in order to promote public housing resident participation in the PHA’s operations; and

**Whereas**, TPA funds can be used by Resident Associations (“RAs”) to fund programs to promote community involvement, leadership development and educational as well as cultural enrichment programs; and

**Whereas**, Annually, HUD provides NYCHA with \$25 per public housing unit to be used for the purposes of resident participation in NYCHA operations; and

**Whereas**, Of those \$25 earmarks, \$15 per unit may be allocated to fund resident participation activities and \$10 per unit may be used to pay for the administration of such activities; and

**Whereas**, In 2012, NYCHA announced that there was \$15 million in unused TPA funds; and

**Whereas**, In order to access TPA funds, RAs have to submit proposals to their Citywide Council of Presidents (“CCOP”) district chair; and

**Whereas**, The CCOP chair then has ten days to notify NYCHA in writing of its approval or disapproval of the proposal; and

**Whereas**, If the CCOP chair does not make a decision on the proposal within the allotted time, NYCHA then reviews the proposal and makes a final decision; and

**Whereas**, In 2010 Community Voices Heard conducted a study titled, “Democracy (In)Action: How HUD, NYCHA and Official Structures Undermine Resident Participation in New York City Public Housing” (“the study”); and

**Whereas**, The study found that the current resident participation system leaves thousands of residents unrepresented, and that a majority of residents are unaware of the system and its processes; and

**Whereas**, Further, NYCHA does not publicize the availability and existence of TPA funds, and the study found that only a small percentage of residents even knew that HUD provides NYCHA with money to support resident participation; and

**Whereas**, NYCHA Chairman, John B. Rhea, has indicated at New York State Assembly and New York City Council hearings, his support for residents accessing and using TPA funds for the purposes of technical assistance on the proposed land lease plans; and

**Whereas**, NYCHA should effectively communicate with residents to ensure that they are aware of the resident participation system and its processes and streamline the application process to make TPA funds more readily accessible to residents; and

**Whereas**, The release of the RFP as currently proposed would not allow enough time for residents to access TPA funds to consult with independent technical advisory staff including legal, architectural, engineering, environmental, land-use and community organizing professionals and to utilize these resources to provide recommendations on any plans to lease public housing land; now, therefore, be it

**Resolved,** That the Council of the City of New York calls upon the New York City Housing Authority to delay the release of any Requests for Proposals to lease land until residents have utilized Tenant Participation Activity funds to consult with legal and technical advisory staff to understand and respond to lease plans and resident feedback has been incorporated into these plans.

Referred to the Committee on Public Housing.

Preconsidered Res. No. 1750

**Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.**

By Council Members Recchia and Wills.

**Whereas,** On June 28, 2012 the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2013 with various programs and initiatives (the “Fiscal 2013 Expense Budget”); and

**Whereas,** The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving local, aging and youth discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

**Whereas,** The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

**Whereas,** On June 29, 2011 the Council adopted the expense budget for fiscal year 2012 with various programs and initiatives (the “Fiscal 2012 Expense Budget”); and

**Whereas,** The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2012 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 1; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 2; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 3; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Medical Services in Adult Shelters Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 4; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Community Schools Planning Grant Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 5; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to Job Training and Placement for Day Care Workers Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 6; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Injection Drug Users Health Alliance (IDUHA) Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 7; and be it further

**Resolved,** That the City Council approves the new designation of certain organizations receiving funding pursuant to the Anti-Gun Violence Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 8; and be it further

**Resolved,** That the City Council approves the new designation of certain organizations receiving funding pursuant to the DYCD Food Pantries Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 9; and be it further

**Resolved,** That the City Council approves the new designation of certain organizations receiving funding pursuant to the EarlyLearn/Child Care Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 10; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2012 Expense Budget, as set forth in Chart 11; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2012 Expense Budget, as set forth in Chart 12; and be it further

**Resolved,** That the City Council approves the new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 13; and be it further

**Resolved,** That the City Council approves the new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2012 Expense Budget, as set forth in Chart 14.

Adopted by the Council (preconsidered and approved by the Committee on Finance; for text of the Exhibits, please see the attachment to the resolution following the Report of the Committee on Finance for Res 1750).

Int. No. 1043

By Council Members Rodriguez, James, Nelson, Rose, Williams and Wills.

**A Local Law in relation to renaming one thoroughfare in the Borough of Manhattan, Juan Rodriguez Way, and to amend the official map of the city of New York accordingly.**

*Be it enacted by the Council as follows:*

Section 1. The following street name, in the Borough of Manhattan, is hereby renamed as hereafter indicated.

New Name	Present Name	Limits
Juan Rodriguez Way	Broadway	Between 159 <sup>th</sup> Street and 179 <sup>th</sup> Street

§2. The official map of the city of New York shall be amended in accordance with the provisions of section one of this local law.

§3. This local law shall take effect immediately.

Referred to the Committee on Parks and Recreation.

Res. No. 1751

**Resolution calling on the Metropolitan Transit Authority (MTA) to amend its practice to use age rather than height in determining whether to permit children to ride for free on the New York City Transit system.**

By Council Members Rose, Arroyo, Barron, Chin, Dickens, Gonzalez, Greenfield, James, Palma, Williams and Wills.

**Whereas,** Currently the MTA allows children under 44 inches who are accompanied by an adult to ride for free on buses and trains; and

**Whereas,** In 2009, the Community Advisory Board at Bellevue Hospital adopted a resolution calling on the MTA to change its policy of linking children riding free on New York City Transit’s subways and buses to height; and

**Whereas,** The Community Advisory Board’s resolution pointed to studies by the National Center for Health Statistics that indicate that the 44 inch requirement corresponds to children who are 4 years old; and

**Whereas,** According to a study released by the MTA in 2011, and quoted in the New York Daily News, 43 percent of fare evasion can be attributed to children over 44 inches not paying the fare; and

**Whereas,** According to the Wall Street Journal, in 2011 the MTA launched a pilot program at the Bowling Green station to remind parents about the agency’s policy on height requirements; and

**Whereas,** According to a June 28, 2012, Wall Street Journal article in which a journalist was sent to the Bowling Green subway, many parents believe that the MTA bases its lack of fare for children on age and not on height; and

**Whereas,** The MTA utilizes age requirement for discounted and free fares for children on other public transportation systems that it operates, like Metro-North and the Long Island Railroad; and

**Whereas,** Other jurisdictions utilize age requirements in determining discounted or free transit fare for children; and

**Whereas,** In New York State, the Niagara Frontier Transportation Authority that services Buffalo utilizes an age requirement; and

**Whereas,** In Los Angeles and Washington, DC, two children up to the age of five and accompanied by an adult can ride for free; and

**Whereas,** In London, four children up to the age of five and accompanied by an adult can ride for free; and

**Whereas,** Also in London, children between the ages of five and ten and accompanied by an adult can ride for free if they have an “Oyster” smartcard, which is equivalent to the MetroCard; and



**Whereas**, By utilizing age instead of height to provide free rides to children, the MTA would reduce confusion and potentially increase fare revenue; now, therefore, be it

**Resolved**, That the Council of the City of New York calls on the Metropolitan Transit Authority (MTA) to amend its practice to use age rather than height in determining whether to permit children to ride for free on the New York City Transit system.

Referred to the Committee on Transportation.

Int. No. 1044

By Council Members Vacca, Mark-Viverito, Fidler, James, King, Koppell, Nelson and Ulrich.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring that the department of parks and recreation fingerprint all employees under their jurisdiction for the purposes of conducting background investigations.**

*Be it enacted by the Council as follows:*

Section 1. Chapter 1 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 Background investigations for department employees. a. The commissioner shall require that any candidate for employment at the department or any candidate for employment at an entity contracted by the department be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services.*

*b. All persons required to be fingerprinted pursuant to this section shall pay the processing fee required by the state division of criminal justice services.*

§2. This local law shall take effect ninety days after its enactment into law.

Referred to the Committee on Parks and Recreation.

Preconsidered L.U. No. 823

By Council Member Recchia:

**College Avenue Apartments, Block 2439, Lots 55,57,59, Bronx, Community District No. 4, Council District No. 16**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered L.U. No. 824

By Council Member Recchia:

**Third Party Transfer Program TBX904 (aka Creston Heights), 2600 Briggs Avenue, Block 3293, Lot 39; Bronx, Community District No.7, Council District No.15**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered L.U. No. 825

By Council Member Recchia:

**1479 Macombs Road, Block 2872, Lot 312, Bronx, Community District No. 4, Council District No. 16**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered L.U. No. 826

By Council Member Recchia:

**Riverwalk Project, Block 5933, Lot 230, Bronx, Community District No. 8, Council District No.11**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 827

By Council Member Comrie:

**Application no. 20135374 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of 18 Greenwich Avenue LLC, d/b/a Rosemary's, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 18 Greenwich Avenue, in the Borough of Manhattan, Community District 2, Council District 3. 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(e) of the New York City Administrative Code.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 828

By Council Member Comrie:

**Application no. 20135408 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Le Gans Restaurant, Inc., d/b/a RYU, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 46 Gansevoort Street, in the Borough of Manhattan, Community District 2, Council District 3. 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(e) of the New York City Administrative Code.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 829

By Council Member Comrie:

**Application No. C 130116 ZMK submitted by 22 Lafayette LLC and the NYC Economic Development Corporation, pursuant to Section 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 16c, changing a C6-1 District to a C6-2 District property bounded by Lafayette Avenue, Ashland Place, Hanson Place, and Flatbush Avenue, in the Borough of Brooklyn, Community District 2, Council District 35.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 830

By Council Member Comrie:

**Application No. N 130117 ZRK submitted by 22 Lafayette LLC and the NYC Economic Development Corporation, pursuant to Section 201 of the New York City Charter, for an amendment to the Zoning Resolution, relating to Article X, Chapter 1 (Special Downtown Brooklyn District), to allow special permits for use and bulk modifications for cultural uses in certain C6-2 districts, in the Borough of Brooklyn, Community District 2, Council District 35.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 831

By Council Member Comrie:

**Application no. C 130118 ZSK submitted by 22 Lafayette LLC and the NYC Economic Development Corporation, pursuant to Section 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 101-81 of the Zoning Resolution, in the Borough of Brooklyn, Community District 2, Council District 35.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 832

By Council Member Comrie:

**Application No. M 840631(B) ZMK submitted by Metro Storage NY, LLC for modification to Restrictive Declaration D-100 pursuant to Section 7.01 of**

the Restrictive Declaration, to cancel said Restrictive Declaration to facilitate the construction of an as-of-right 4-story self-storage facility (UG 16 use) with accessory parking, on property located at 2713-2735 Knapp Street, in the Borough of Brooklyn, Community District 15, Council District 46.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

At this point the Speaker (Council Member Quinn) made the following announcements:

**ANNOUNCEMENTS:**

**Thursday, May 9, 2013**

**NEW YORK CITY COUNCIL FISCAL YEAR 2014 EXECUTIVE BUDGET HEARINGS**

Please be advised of the following scheduled Council Agency Hearings relative to the *Proposed Executive Expense, Revenue, Capital & Contract Budgets & CD-XXXIX & CD-XL Programs for the Fiscal Year 2014* to be held in the Committee Room, 16<sup>th</sup> Floor, 250 Broadway (except where indicated), as follows:

Time	Agency Testifying	Finance Committee jointly with Council Committee
10:00 - 10:30	Transportation (Expense)	Transportation
10:30 - 11:30	Transportation (Capital)	Transportation
11:30 - 12:00	MTA NYC Transit (Capital)	Transportation
12:00 - 12:30	MTA NYC Transit (Expense)	Transportation
12:30 - 1:15	Taxi & Limousine Commission	Transportation
1:15 - 2:30	Environmental Protection (Capital)	Environmental Protection
2:30 - 3:45	Environmental Protection (Expense)	Environmental Protection

★ *Note Location Change*

Committee on **IMMIGRATION** jointly with the Committee on **GOVERNMENTAL OPERATIONS**..... **1:00 P.M.**  
 Int. 410 - By Council Members Dromm, Rodriguez, Brewer, Foster, James, Lander, Palma, Rose, Williams, Mendez, Ferreras, Mark-Viverito, Reyna, Jackson, Barron, Eugene, Vann, Gonzalez, Arroyo, Chin, Lappin, Koppell, Levin, Comrie, Garodnick, Van Bramer, Richards, Weprin, Wills and Cabrera - A Local Law to amend the New York city charter, in relation to allowing immigrants lawfully present in New York city to vote in municipal elections.

★ Council Chambers – City Hall ..... Daniel Dromm, Chairperson  
 ..... Gail Brewer, Chairperson

**Friday, May 10, 2013**

Time	Agency Testifying	Finance Committee jointly with Council Committee
10:00 - 11:30	City University of New York	Higher Education
11:30 - 1:00	Youth and Community Development	Youth Services & Community Development

**Monday, May 13, 2013**

Subcommittee on **ZONING & FRANCHISES**..... **9:30 A.M.**  
 See Land Use Calendar Available Wednesday, May 8, 2013  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Mark Weprin, Chairperson

Time	Agency Testifying	Finance Committee jointly with Council Committee
10:00 - 11:00	Citywide Administrative Services	Governmental Operations
11:00 - 12:00	Board of Elections	Governmental Operations
12:00 -	Office of Administrative Trials and	Governmental Operations

12:30	Hearings	
12:30 - 1:15	Law Department	Governmental Operations
1:15 - 1:45	Campaign Finance Board	Governmental Operations

Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES**..... **11:00 A.M.**  
 See Land Use Calendar Available Wednesday, May 8, 2013  
 Committee Room– 250 Broadway, 14<sup>th</sup> Floor ..... Brad Lander, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS**..... **1:00 P.M.**  
 See Land Use Calendar Available Wednesday, May 8, 2013  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Stephen Levin, Chairperson

**Tuesday, May 14, 2013**

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, 14<sup>th</sup> Floor ..... Leroy Comrie, Chairperson

★ *Note Time Changes*

Time	Agency Testifying	Finance jointly with Council Committee
★ 1:00 - 3:00	Fire / Emergency Medical Service	Fire & Criminal Justice Svcs.
★ 3:00 - 4:00	Correction	Fire & Criminal Justice Svcs.
★ 4:00 - 4:45	Criminal Justice Coordinator (Indigent Defense Services)	Fire & Criminal Justice Svcs.
★ 4:45 - 5:30	Legal Aid	Fire & Criminal Justice Svcs.

**Friday, May 17, 2013**

Time	Agency Testifying	Finance Committee jointly with Council Committee
10:00 - 11:00	Small Business Services	Economic Development and Small Business
11:00 - 12:30	Economic Development Corporation	Economic Development

**Monday, May 20, 2013**

★ *Note Deferrals*

Time	Agency Testifying	Finance Committee jointly with Council Committee
10:00 - 10:30	Housing Preservation & Development (Expense)	Housing & Buildings
10:30 - 12:00	Housing Preservation & Development (Capital)	Housing & Buildings
12:00 - 1:00	Buildings	Housing & Buildings
★ 1:00 - 2:00	<del>Consumer Affairs</del>	<del>Consumer Affairs</del>
★ 2:00 - 2:30	<del>Business Integrity Commission</del>	<del>Consumer Affairs</del>

**Tuesday, May 21, 2013**

Time	Agency Testifying	Finance Committee jointly with Council Committee
		★ Location: Council Chambers, City Hall
10:00 - 11:30	Human Resources Administration / Social Services	General Welfare

11:30 – 2:00	Administration for Children’s Services (Agency for Child Development and Juvenile Justice Issues)	General Welfare, Women’s Issues and Juvenile Justice
2:00 – 4:00	Homeless Services	General Welfare

**Wednesday, May 22, 2013**

★ Addition

Committee on **RULES, PRIVILEGES & ELECTIONS** .....**10:30 A.M.**  
 Preconsidered M \_\_ - Erika Larsen - Candidate for designation by the Council to the New York City Youth Board  
 AND SUCH OTHER BUSINESS AS MAY BE NECESSARY  
 Committee Room – City Hall..... Joel Rivera, Chairperson

Stated Council Meeting.....Ceremonial Tributes – 1:00 p.m.  
 ..... Agenda – 1:30 p.m.  
 Location..... ~ Council Chambers ~ City Hall

**EXECUTIVE BUDGET 2014**

**NEW YORK CITY COUNCIL FISCAL YEAR 2014 EXECUTIVE BUDGET HEARINGS**

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12:30 – 1:15	Taxi & Limousine Commission	Transportation
1:15 – 2:30	Environmental Protection (Capital)	Environmental Protection
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**Friday, May 10, 2013**

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11:30 – 1:00	Youth and Community Development	Youth Services & Community Development

**Monday, May 13, 2013**

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10:00 - 11:00	Citywide Administrative Services	Governmental Operations
11:00 - 12:00	Board of Elections	Governmental Operations
12:00 - 12:30	Office of Administrative Trials and Hearings	Governmental Operations
12:30 – 1:15	Law Department	Governmental Operations
1:15 - 1:45	Campaign Finance Board	Governmental Operations

**Tuesday, May 14, 2013**

★ Note Time Changes

Time	Agency Testifying	Finance Committee jointly with Council Committee
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★ 3:00 - 4:00	Correction	Fire & Criminal Justice Svcs.
★ 4:00 - 4:45	Criminal Justice Coordinator (Indigent Defense Services)	Fire & Criminal Justice Svcs.
★ 4:45 - 5:30	Legal Aid	Fire & Criminal Justice Svcs.

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**Monday, May 20, 2013**

★ Note Deferrals

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10:30 - 12:00	Housing Preservation & Development (Capital)	Housing & Buildings
12:00 - 1:00	Buildings	Housing & Buildings
★1:00 – 2:00	Consumer Affairs	Consumer Affairs
★2:00 – 2:30	Business Integrity Commission	Consumer Affairs

**Tuesday, May 21, 2013**

Time	Agency Testifying	Finance Committee jointly with Council Committee ★ Location: Council Chambers, City Hall
10:00 - 11:30	Human Resources Administration / Social Services	General Welfare
11:30 – 2:00	Administration for Children’s Services (Agency for Child Development and Juvenile Justice Issues)	General Welfare, Women’s Issues and Juvenile Justice
2:00 – 4:00	Homeless Services	General Welfare

**Thursday, May 23, 2013**

Time	Agency Testifying	Finance Committee jointly with Council Committee ★ Location: Council Chambers, City Hall
10:00 - 12:00	Police	Public Safety
12:00 - 2:00	District Attorney / Special Narcotics Prosecutor	Public Safety
2:00 - 2:45	Office of Emergency Management	Public Safety
2:45 - 3:15	Civilian Complaint Review Board	Public Safety

Tuesday, May 28, 2013

Time	Agency Testifying	Finance Committee jointly with Council Committee and Subcommittee
10:00 - 11:00	Medical Examiner	Health
11:00 - 12:30	Health and Hospitals Corporation	Health jointly with Mental Health, Developmental Disability, Alcoholism, Drug Abuse & Disability Services and Subcommittee on Drug Abuse
12:30 - 2:30	Health & Mental Hygiene	Health jointly with Mental Health, Developmental Disability, Alcoholism, Drug Abuse & Disability Services and Subcommittee on Drug Abuse

Wednesday, May 29, 2013

★ *Note Deferral* ★★ *Note Time Change*

Time	Agency Testifying	Finance Committee jointly with Council Committee and Subcommittee ★ Location: Council Chambers, City Hall
10:00 - 12:00	Aging	Aging and Subcommittee on Senior Centers
★12:00 - 2:00	<del>Education and School Construction Authority (Capital)</del>	<del>Education</del>
★12:00 - 1:00	Consumer Affairs	Consumer Affairs
★1:00 - 1:30	Business Integrity Commission	Consumer Affairs

Thursday, May 30, 2013

Time	Agency Testifying	Finance Committee jointly with Council Committee ★ Location: Council Chambers, City Hall
10:00 - 1:00	Education (Expense)	Education
1:00 - 2:30	Parks and Recreation	Parks and Recreation
2:30 - 4:30	Sanitation	Sanitation and Solid Waste Management

Monday, June 3, 2013

Time	Agency Testifying	Finance Committee jointly with Council Committee and Select Committee
10:00 - 11:30	Libraries	Cultural Affairs, Libraries & International Intergroup Relations jointly with Select Committee on Libraries
11:30 - 1:00	Cultural Affairs	Cultural Affairs, Libraries & International Intergroup Relations
1:00 - 1:30	Human Rights Commission	Civil Rights
1:30 - 2:00	Equal Employment Practice Commission	Civil Rights
2:00 - 4:00	NYCHA	Public Housing

Tuesday, June 4, 2013

Time	Agency Testifying	Finance Committee jointly with Council Committee
1:00 - 1:30	Investigation	Oversight and Investigation

1:30 - 2:00	Conflicts of Interest	Standards and Ethics
2:00 - 3:00	City Planning	Land Use
3:00 - 4:00	Landmarks	Land Use
4:00 - 5:00	Information and Technology and Telecommunication	Land Use and Technology

Wednesday, June 5, 2013

★ *Note Deferral and Time Changes*

Time	Agency Testifying	Finance Committee ★ Location: Council Chambers, City Hall
10:00 - 1:00	Office of Management & Budget – Overview of Budgets – Revenue, Expense, Capital & Miscellaneous Budgets, including Debt Service & Pension appropriations	Finance
1:00 - 2:30	Finance	Finance
★2:30 - 3:00	<del>Design &amp; Construction</del>	<del>Finance</del>
★2:30 - 3:00	Comptroller	Finance
★3:00 - 3:30	Independent Budget Office	Finance
★3:30	Public	

At the request of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Comrie) declared the Meeting in recess subject to call.

*(Editor's Note: The Stated Council Meeting of May 8, 2013 was deemed adjourned upon the opening of the Stated Council Meeting of May 22, 2013)*

**Editor's Local Law Note:** Int No. 434-A was adopted by the Council at the February 27, 2013 Stated Meeting before being re-adopted at this May 8, 2013 Stated Meeting and was thereby enacted into law by the Council's override of the Mayor's March 21, 2013 veto. Int Nos. 434-A was subsequently assigned, respectively, as Local Law 38 of 2013.