

SUPPLEMENT TO

# THE CITY RECORD

THE COUNCIL —STATED MEETING OF  
WEDNESDAY, OCTOBER 30, 2013

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**THE COUNCIL**

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*Minutes of the Proceedings for the  
STATED MEETING  
of*

Wednesday, October 30, 2013, 4:45 p.m.

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

Council Members

Christine C. Quinn, Speaker

|                      |                        |                         |
|----------------------|------------------------|-------------------------|
| Charles Barron       | Daniel J. Halloran III | James S. Oddo           |
| Gale A. Brewer       | Vincent M. Ignizio     | Domenic M. Recchia, Jr. |
| Fernando Cabrera     | Robert Jackson         | Donovan J. Richards     |
| Margaret S. Chin     | Letitia James          | Joel Rivera             |
| Leroy G. Comrie, Jr. | Andy L. 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             |
| Daniel R. Garodnick  | Stephen T. Levin       | James G. Van Bramer     |
| James F. Gennaro     | Melissa Mark-Viverito  | Mark S. Weprin          |
| Vincent J. Gentile   | Darlene Mealy          | Jumaane D. Williams     |
| Sara M. Gonzalez     | Rosie Mendez           | Ruben Wills             |
| David G. Greenfield  | Michael C. Nelson      |                         |

Excused: Council Members Arroyo, Ferreras, Fidler, Palma, and Reyna.

*There is one vacancy presently in the Council (16th Council District, The Bronx) pending the swearing-in of the certified winner of the November 5, 2013 General Election for this seat.*

The Majority Leader (Council Member Rivera) 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 Rivera).

*There were 45 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, New York, N.Y. 10007.*

**INVOCATION**

The Invocation was delivered by Imam Souleiman Konate, Masjid Aqsa, 2136 Frederick Douglass Blvd., New York, NY 10026.

In the name of Allah almighty  
the most gracious, the most merciful.  
By the time man is in loss  
verily man is in loss  
except to those who believe in Almighty.  
Then they do righteous.  
They commend one another to the truths.  
They commend one another with patience.  
Oh Almighty bless you,  
Your bounty, your blessing on us  
and accept our service Amen.

Council Member Dickens 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 individual:

Former U.S. Congress Member Major Owens from Brooklyn, passed away on October 21, 2013 at the age of 77 due to complications from renal and heart failure. Congress Member Owens served twelve terms in Congress from 1983 to 2006. He was a strong supporter of education and the labor and immigration movements. Congress Member Owens was a House floor manager for the passage of the Americans with Disabilities Act of 1990 and was a contributor and author of many other important pieces of legislation. He is survived by his wife, three brothers and a sister, his children and his grandchildren. The floor was yielded to Council Member Vann who spoke in respectful memory of his colleague, Congress Member Major Owens.

\* \* \*

During the Meeting, The Speaker (Council Member Quinn) recognized Patricia Lewsley and her family in the Chambers. Ms. Lewsley is Northern Ireland Commissioner for Children and Young People and was a past Grand Marshal of Sunnyside's St. Patrick's Day for All Parade. The Speaker (Council Member Quinn) also thanked Council Member Dromm and Brendan Fay for hosting the Lewsley family. In addition, the Speaker (Council Member Quinn) noted that environmental advocate Council Member Gennaro appeared that month on the cover of the national magazine *Oil and Energy*.

Also during the Meeting, the President Pro Tempore (Council Member Rivera) and the Speaker (Council Member Quinn) both recognized the presence of the following Democratic Party Council candidate Primary winners in the Chambers: Assembly Members Inez D. Barron, Assembly Member Rafael L. Espinal, Jr., Assembly Member Vanessa L. Gibson, Andrew Cohen, and Carlos Menchaca.

**ADOPTION OF MINUTES**

Council Member Jackson moved that the Minutes of the Stated Meeting of September 24, 2013 be adopted as printed.

## LAND USE CALL UPS

M-1303

By Council Member Gentile:

**Pursuant to Rule 11.20(b) of the Council Rules 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 no. C 130266 PPK shall be subject to Council review.**

Coupled on Call – Up Vote.

M-1304

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

**Pursuant to Rule 11.20(c) of the Council Rules 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 no. C 070250 MMK shall be subject to Council review. These items are related to Application nos. C 080322 ZMK and N 110179 ZRK which are subject to Council review pursuant to Section 197-d of the New York City Charter.**

Coupled on Call – Up Vote.

## LAND USE CALL UP VOTE

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

**Affirmative** – Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Halloran, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Recchia, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, Rivera and the Speaker (Council Member Quinn) – 45.

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

## REPORTS OF THE STANDING COMMITTEES

## Report of the Committee on Economic Development

Report for Int. No. 1166-A

**Report of the Committee on Economic Development in favor of approving and adopting, as amended, a Local Law to amend the New York city charter, the administrative code of the city of New York and section 13 of local law number 61 for the year 1991, in relation to reporting by certain entities under contract with the department of small business services.**

The Committee on Economic Development, to which the annexed amended proposed local law was referred on October 9, 2013 (Minutes, page 4158), respectfully

## REPORTS:

## INTRODUCTION

The Committee on Economic Development, chaired by Council Member Karen Koslowitz, held an oversight hearing on October 17, 2013 where testimony was received and considered concerning Int. No. 1166, a Local Law to amend the New York City Charter, in relation to certain entities under contract with the Department of Small Business Services (SBS). The Committee, following this hearing and after due deliberation, has amended the legislation and now has Proposed Int. No. 1166-A before it for disposition.

## BACKGROUND

The New York City Economic Development Corporation is a not-for-profit

corporation<sup>1</sup>, serving the public objective<sup>2</sup> of facilitating and administering certain economic development operations of the City of New York.

EDC carries out its economic development responsibilities through the development and financing of commercial, industrial, cultural and residential projects designed to increase employment, economic activity and tax revenue within the city.<sup>3</sup> EDC accomplishes these objectives by conveying capital funding, tax benefits, city real estate and other assets to private entities to incentivize businesses to expand or relocate within the city.<sup>4</sup> Before EDC may convey capital funds or city real estate to private entities, authorization by the City Council and other public bodies must occur.<sup>5</sup>

Over the last two decades, EDC has initiated more than 600 economic development projects conferring tax benefits<sup>6</sup> and interests in city-owned land.<sup>7</sup> In fiscal year 2012, EDC provided private businesses more than \$66 million in tax benefits, and conveyed more than \$28 million in city-owned land.<sup>8</sup>

EDC operates pursuant to contracts with the SBS under which EDC is empowered to sell or lease city-owned land<sup>9</sup> and use tax benefits to incentivize economic development projects.<sup>10</sup> There are two annually renewed contracts<sup>11</sup> through which EDC operates: the Master Contract and the Maritime Contract.<sup>12</sup> Among the terms of the Master contract are requirements that EDC (1) devise and oversee projects for commercial and industrial development; (2) stabilize and improve industrial areas within the city; and (3) manage and maintain city-owned properties.<sup>13</sup> The Maritime contract requires EDC to manage and promote the operations of the city's maritime business and waterfront properties which include promoting the city as a center of freight transport, marketing and managing maritime related properties and assets, and the negotiation of agreements for permits, franchises and concessions related to maritime commercial opportunities.<sup>14</sup>

EDC'S Corporate Restructuring

Until November 2012, EDC's not-for-profit corporate status was distinguished by an additional corporate classification as a "special"<sup>15</sup> not-for-profit corporation known as a Local Development Corporation (LDC).<sup>16</sup> LDC's are not-for-profit corporations endowed with 'special' powers not available to other not-for-profit corporations. One such power is the ability of an LDC to purchase or lease city-owned real property without first obtaining an appraisal or conducting public bidding for such city-owned property.<sup>17</sup> Concurrent with unique powers, LDC's have a unique restriction under state law which prohibits them from engaging in activity to "influence legislation by propaganda or otherwise".<sup>18</sup> Instead, LDC's are only permitted to communicate with federal, state and local government representatives concerning development projects where the LDC can only disseminate information, furnish advice and technical assistance.<sup>19</sup>

Lobbying Activity

for the Lower Ma\_\_\_\_\_

<sup>1</sup> Originally incorporated in June 27, 1966 as the New York City Public Development Corporation and subsequently merged with the Financial Services Corporation of New York City 1991 to carry out economic development services for the city. See: Bylaws of New York City Economic Development Corporation (effective November 1, 2012) and Audit Report of the Financial and Operating Practices of the New York City Economic Development Corporation and Compliance with its Master and Maritime Contracts, July 1, 2005 – June 30, 2008, FN09-104A, April 27, 2010.

<sup>2</sup> See generally, Not-for-Profit Corporation Law, Section 102(5).

<sup>3</sup> New York City Economic Development Corporation, Annual Investments Project Report, 2011.

<sup>4</sup> Economic Development Corporation, website, <http://www.nyc.gov/edc>.

<sup>5</sup> New York City Charter Section 254 requires adoption of the capital and expense budget by the City Council and Charter Section 197-c and d, referring to the role of the various public bodies, including the Council, city planning commission, borough president, borough board and the community board related to the uniform land use review procedure (ULURP).

<sup>6</sup> The tax benefits conferred by EDC are those authorized by the New York City Industrial Development Authority (NYCIDA), a state entity authorized to grant tax benefits, and include tax-exempt bonds, sales tax waivers, mortgage reporting tax waivers, real property tax exemptions and Payments-In-Lieu-Of-Taxes (PILOTS) – See General Municipal Law, Sections 850-888 and Section 917\*2.

<sup>7</sup> Economic Development Corporation, website, <http://www.nyc.gov/edc>.

<sup>8</sup> New York City Economic Development Corporation, Annual Investment Projects Report Pursuant to Local Law 62 – FY 2012, January 31, 2013, [http://www.nyc.gov/sites/default/files/filemanager/About\\_NYCEDC/Financial\\_and\\_Public\\_Documents/Landing\\_page/LL62/LL62\\_Volume\\_I\\_FY2012\\_horiz.pdf](http://www.nyc.gov/sites/default/files/filemanager/About_NYCEDC/Financial_and_Public_Documents/Landing_page/LL62/LL62_Volume_I_FY2012_horiz.pdf).

<sup>9</sup> This land is often sold to EDC by the City pursuant to Section 384 of the New York City Charter.

<sup>10</sup> Master Contract, City of New York

<sup>11</sup> New York City Comptroller, April 27, 2010, Audit Report of the Financial and Operating Practices of the New York City Economic Development Corporation and Compliance with Its Master and Maritime Contracts, FN09-104A, July 1, 2005 – June 30, 2008.

<sup>12</sup> Economic Development Corporation, website, <http://www.nyc.gov/html/edc/>.

<sup>13</sup> Amended and Restated Contract between the City of New York and New York City Economic Development Corporation, Relating to New York City Economic Development Corporation's performing certain economic development services for The City of New York, dated as of June 30, 2010 – see also New York City Comptroller, April 27, 2010, Audit Report of the Financial and Operating Practices of the New York City Economic Development Corporation and Compliance with Its Master and Maritime Contracts, FN09-104A, July 1, 2005 – June 30, 2008.

<sup>14</sup> Amended and Restated Maritime Contract between the City of New York and New York City Economic Development Corporation, Dated as of June 30, 2010 – see also New York City Comptroller, April 27, 2010, Audit Report of the Financial and Operating Practices of the New York City Economic Development Corporation and Compliance with Its Master and Maritime Contracts, FN09-104A, July 1, 2005 – June 30, 2008.

<sup>15</sup> A local development corporation is a "special" not-for-profit corporation organized under Section 1411 of the Not for Profit Corporation Laws of New York State.

<sup>16</sup> Not-For-Profit Corporation Law, Section 1411.

<sup>17</sup> Not-For-Profit Corporation Law, 1411(d).

<sup>18</sup> Ibid.

<sup>19</sup> Not-For-Profit Corporation Law, Section 1411(c).

Attempts to influence legislation by propaganda or otherwise are generally regarded as lobbying.<sup>20</sup> The New York City Administrative Code recognizes the act of lobbying to include any attempt to influence the passage or defeat of any local law or resolution by the City Council and any determination of a board or commission.<sup>21</sup> This includes budget negotiations and the city's land review process.

The City's lobbying law requires all lobbyists incurring or receiving more than \$2,000 a year in compensation or expenses to file publicly accessible financial and activity reports.<sup>22</sup> These reports include contact information for the lobbyist and client (and sometimes spouses), descriptions about matters upon which lobbying activity is conducted and which city official or agency was lobbied.<sup>23</sup>

The disclosure of lobbying activities is intended to strengthen the transparency and integrity of governmental action and identify those who attempt to influence such action. Currently, certain actors, such as employees of city agencies and EDC, do not register as lobbyist or report on lobbying related activity. Recent events demonstrate the need for more information about certain lobbying efforts taken in furtherance of City economic development projects led by EDC.

#### ATTORNEY GENERAL'S INVESTIGATION

On July 3, 2012, the New York State Attorney General announced the findings of a three-year investigation that found EDC, along with two other LDCs, lobbied the New York City Council contrary to the state law's prohibition on LDC lobbying [See Attachment A].<sup>24</sup>

The investigation began from complaints that EDC, in connection with a large-scale commercial and residential development project in the Willets Point section of Queens (Willets Point Project), engaged in lobbying activities with an LDC called Flushing-Willets Point-Corona Local Development Corporation (FWPC).<sup>25</sup> The investigation also reviewed EDC actions with a development project for the Coney Island area in Brooklyn which involved the Coney Island Development Corporation (CIDC).<sup>26</sup>

The Attorney General characterized EDC's activities related to these projects as flouting "the law by lobbying elected officials, both directly and through third parties, to win approval of their favored projects" as EDC "played a behind-the-scenes role in the lobbying activities of the other LDCs."<sup>27</sup> EDC acknowledged the AG findings and agreed to a settlement of the investigation. EDC, along with the other LDCs agreed to the following terms:

- Each LDC will not "attempt to influence legislation by propaganda or otherwise, as prohibited in section 1411(c) of the Not-for-Profit Corporation Law.
- Each LDC will not direct or encourage any other entity or person to influence legislation by propaganda or otherwise including employing lobbyists or government relations firms, coach, draft or develop testimony of third parties before the Council, draft letters, op-eds, speeches or other communications to be signed or delivered to third parties, provide transportation to Council hearings or organize petition drives or canvass for signatures.
- Each LDC will develop training materials to educate directors, officers and employees how to comply with section 1411 of the Not-for-Profit Corporation Law.

EDC, separate and apart from the other LDCs, also agreed that:

- Neither EDC nor its successor organization will direct or encourage any LDC to violate section 1411 of the Not-for-Profit Corporation Law.
- EDC and affiliated entities will register with the Office of Attorney General's Charities Bureau.
- EDC and affiliated entities will disclose via website the identity of any LDC to which it provides funding, together with the dates and amount of such funding and the name and title/position of any director, officer or employee who simultaneously holds a position with an LDC and the identity of such LDC.

#### EDC'S RESTRUCTURING AND MERGER

In response to the AG's investigation, EDC restructured its corporate form, relinquishing its LDC status and created a second entity, the New York City Land Development Corporation (NYCLDC), a not-for-profit Local Development Corporation.<sup>28</sup> The NYCLDC was created to purchase and lease city-owned real

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<sup>20</sup> See Administrative Code of the City of New York, Section 3-211; State Lobbying Act, Section 1-c(a)(c) and the Internal Revenue Service, "Attempting to Influence Legislation", Part 7, Rulings and Agreements, 7.25.3.17.1., last accessed October 23, 2012: [http://www.irs.gov/irm/part7/irm\\_07-025-003-cont03.html#d0e5223](http://www.irs.gov/irm/part7/irm_07-025-003-cont03.html#d0e5223). In New York State, lobbying activity with municipalities having a population of more than 50,000 is subject to the reporting requirements of the state's Lobbying Act.

<sup>21</sup> New York City Administrative Code, Section 3-211(c).

<sup>22</sup> New York City Administrative Code, Section 3-213.

<sup>23</sup> New York City Administrative Code, Section 3-213.

<sup>24</sup> Assurance of Discontinuance, 12-068, Investigation of New York City Economic Development Corporation et al, executed July 12, 2012 and Press Release, Office of the Attorney General of the State of New York, July 2, 2012, "A.G. Schneiderman Ends Illegal Lobbying Of NYC Officials By Three Local Development Corporations" (on file with the Committee).

<sup>25</sup> Press Release, Office of the Attorney General of the State of New York, July 2, 2012, "A.G. Schneiderman Ends Illegal Lobbying Of NYC Officials By Three Local Development Corporations".

<sup>26</sup> Id.

<sup>27</sup> Id.

<sup>28</sup> New York Department of State Website listing for NYCLDC.

property for the benefit of EDC, since EDC (no longer an LDC) is not authorized to make such transactions. This corporate arrangement allows EDC to continue its economic development activities and engage in lobbying activities. In discussing the reasons for this restructuring, EDC's former president said:

*"It is our belief that in order to be most effective in accomplishing our mission we need to be able to have open conversations with the public and elected officials about these projects, conversations in which we are free to advocate in furtherance of these projects, even when legislation is involved. Accordingly, we believe that, while NYCEDC should remain a not-for-profit corporation, it would be most effective for us to be organized as a not-for-profit corporation that is not also a local development corporation."*<sup>29</sup>

EDC's new corporate status<sup>30</sup> creates peculiar dynamics for good government and transparency. One such dynamic allows EDC to support city-funded projects and transactions<sup>31</sup> which benefit private parties by lobbying the City Council<sup>32</sup> for the approval of such projects<sup>33</sup> and transactions by utilizing lobbying activities,<sup>34</sup> including the use of third parties,<sup>35</sup> to persuade public opinion or influence legislation. The other peculiar dynamic is EDC's status as a not-for-profit entity in contract with SBS. The majority of EDC's board is appointed by the Mayor<sup>36</sup> and coupled with its contractual authority to convey city property and funds presents questions as to whether EDC's new legal status<sup>37</sup> would subject it to the City's existing lobbying law<sup>38</sup> which requires the disclosure of lobbying, lobbying activities and certain expenditures related to such activities. EDC's newfound freedom to conduct lobbying activities before the City Council and other public bodies, in conjunction with the uncertainty that the entity would be subject to the disclosure and reporting requirements of the City's lobbying law requires a legislative response aimed to provide transparency, integrity and accountability.

Proposed Int. No. 1166-A is intended to address the issues presented by EDC's restructuring and opportunity to engage in lobbying activity without disclosure.

#### PROPOSED INTRODUCTION NO. 1166-A

Proposed Int. No. 1166-A makes certain technical changes to the City Charter and section 13 of Local Law number 61 of 1991 to reflect the restructuring of EDC (the principal entity utilized by the City for economic development initiatives). The bill also amends the Administrative Code to require that certain entities under contract with the Department of Small Business Services (to provide and administer economic development benefits on behalf of the City, currently EDC) submit to the Council quarterly reports detailing certain lobbying activities, expenditures and expenses in connection with such contracted services.

#### Changes to Int. 1166

Bill Title. Technical changes were made to note the changes made to the Administrative Code as well as the Charter and section 13 of local law 61 of 1991

Bill section one includes technical changes. The lobbying reporting provisions were moved to another bill section.

No changes were made to bill section two.

Bill section three now amends the Administrative Code of the City of New York, by adding a new chapter eight. New chapter 8 of title 22 would be titled "Reporting by Entities Contracted to Provide Economic Development Benefits on Behalf of the City".

Section 22-801 of the new chapter would include definitions for the terms "Lobbying", "Lobbying activities" and "Person or organization".

Section 22-802, of the new chapter 8 is titled "Reporting of lobbying activities" and would contain four subdivisions, a, b, c and d.

Subdivision a of section 22-802 identifies the entity subject to the requirement of submitting quarterly reports on lobbying activity to the Council and requires the entity to identify the retention or designation of a person or organization

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<sup>29</sup> EDC Letter from Chairman Ganzi and President Pinsky to Members and Directors, July 3, 2012.

<sup>30</sup> As a type c, not-for-profit corporation, without the distinction of a "special" LDC with a prohibition of engaging in lobbying activities.

<sup>31</sup> City funded by the conveyance of city-owned real property or the abatement or exemption of city tax revenue

<sup>32</sup> Or other public bodies, or influencing public opinion at public hearings and otherwise.

<sup>33</sup> Land dispositions requiring ULURP review and approval are conducted by the City Council.

<sup>34</sup> Concealing the origin of correspondence addressed to Council Members, ghost-writing op-eds, preparing testimony for community members appearing before the Council, coordinating with other economic development entities organized for the benefit of EDC projects – See page 4 of the Assurance of Discontinuance, 12-068, Investigation of New York City Economic Development Corporation et al, executed July 12, 2012.

<sup>35</sup> Other not-for-profit LDC's facilitating economic development initiatives, such as the Flushing-Willets Point-Corona Local Development Corporation and the Coney Island Development Corporation were found by the AG to have joined EDC to "foster" misleading appearances before the Council.

<sup>36</sup> Economic Development Corporation, website, <http://www.nyc.gov/edc>

<sup>37</sup> Administrative Code of the City of New York, Section 3-211(a) "The term "lobbyist" shall not include any officer or employee of the city of New York, the State of New York, any political subdivision of the State, or any *public corporation, agency* or commission (emphasis added).

<sup>38</sup> Administrative Code of the City of New York, Regulation of Lobbying, Section 3-211 et. seq.

to engage in lobbying or lobbying activities. The bill no longer requires the identification of those employed by the entity who engages in such activity.

Paragraph 2 of subdivision a would require the contracted entity to report on the making or incurring of an expenditure to, or on behalf of, a person or organization to engage in lobbying before the Council and other noted public bodies.

Subdivision b of new section 22-802 would exclude from reporting any officer or employee of the city of New York or of the contracted entity. Subdivision b also excludes from the reporting requirement “any person or organization retained or designated by the contracted entity to provide advice and analysis directly applying any urban planning, urban design, engineering, scientific or similar technical discipline, or any legal, accounting or other similar professional discipline”.

Subdivision c new section 22-802 sets forth the details which must be included in these quarterly reports including the name, address and telephone number of each person/organization retained or designated; a description of the subject lobbied on; the person and body lobbied and the dates that this activity occurred; and the compensation paid for such lobbying. Technical changes were made on the list of details to be provided for the purposes of clarity.

Subdivision d of new section 22-802 was revised to reflect that the first report must include activity from November 1, 2012 through November 1, 2013, be submitted by December 31, 2013 and simultaneously made available in a commonly available non-proprietary database format on the website of the contracted entity or the city’s website. The bill also provides that all reports must be filed within 30 days after the end of each quarter. The original bill captured November 1, 2012 through September 30, 2013 for the first required report which was due October 31, 2013.

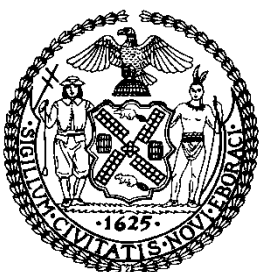
Bill section four now amends section 13 of local law number 61 for the year 1991, updating the reference to the entity with which SBS contracts (EDC) and the text remains unchanged.

Bill section five provides the bill’s enactment clause and the text remains unchanged.

**UPDATE**

The Committee voted out this matter with the vote count 9 in favor, none opposed.

(The following is the text of the Fiscal Impact Statement for Int. No. 1166-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: 1166-A  
COMMITTEE:  
Committee on  
Economic  
Development**

**TITLE:** To amend the New York city charter, the administrative code of the city of New York and section 13 of local law number 61 for the year 1991, in relation to reporting by certain entities under contract with the department of small business services.

**SPONSOR(S):** Council Members Koslowitz, Chin, Comrie, James, Koo and Rose

**SUMMARY OF LEGISLATION:** This bill would make certain technical changes to the City Charter and section 13 of Local Law number 61 of 1991 to reflect the restructuring of the New York City Economic Development Corporation, the principal entity utilized by the City for economic development initiatives. The bill would also require that certain entities under contract with the Department of Small Business Services that provide and administer economic development benefits, submit to the Council quarterly reports detailing certain lobbying activities, expenditures and expenses in connection with such contracted services.

**EFFECTIVE DATE:** Proposed Intro. No. 1166-A would take effect immediately.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:**  
N/A

**FISCAL IMPACT STATEMENT:**

|                     | Effective<br>FY14 | FY<br>Succeeding<br>Effective<br>FY15 | Full Fiscal<br>Impact FY15 |
|---------------------|-------------------|---------------------------------------|----------------------------|
| <b>Revenues</b>     | \$0               | \$0                                   | \$0                        |
| <b>Expenditures</b> | \$0               | \$0                                   | \$0                        |
| <b>Net</b>          | \$0               | \$0                                   | \$0                        |

**IMPACT ON REVENUES:** N/A

**IMPACT ON EXPENDITURES:** Implementation of the provisions of this legislation will be funded from within existing agency resources.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** NYC Council Finance Division

**ESTIMATE PREPARED BY:** Nathan Toth, Deputy Director

**ESTIMATED REVIEWED BY:** Tanisha Edwards, Finance Counsel

**LEGISLATIVE HISTORY:** Introduced by the Committee on October 17<sup>th</sup>, 2013 as Intro. 1166. An amended version of the bill, proposed Intro. 1166-A, will be voted on by the Committee on October 30<sup>th</sup>, 2013 and upon a successful vote, will be submitted to the full Council for a vote on October 30<sup>th</sup>, 2013.

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

(The following is the text of Int. No. 1166-A:)

Int. No. 1166-A

By Council Members Koslowitz, Chin, Comrie, James, Koo, Rose, Barron and Williams.

**A Local Law to amend the New York city charter, the administrative code of the city of New York and section 13 of local law number 61 for the year 1991, in relation to reporting by certain entities under contract with the department of small business services.**

*Be it enacted by the Council as follows:*

Paragraph b of subdivision 1 of section 1301 of the New York city charter, as amended by local law number 37 for the year 2012, is amended to read as follows:

b. to serve as liaison for the city with local development corporations, other not-for-profit corporations and all other entities involved in economic development within the city. In furtherance of this function, the department shall include in any contract with a local development corporation *or not-for-profit corporation of which a majority of its members are appointed by the mayor* under which such [local development corporation]contracted entity is engaged in providing or administering economic development benefits on behalf of the city and expending city capital appropriations in connection therewith, a requirement that such [local development corporation]contracted entity submit to the mayor, the council, the city comptroller, the public advocate and the borough presidents by January 31 of each year, a report for the prior fiscal year in the form prescribed hereunder with regard to projected and actual jobs created and retained in connection with any project undertaken by such [local development corporation]contracted entity for the purpose of the creation or retention of jobs, whether or not such project involves the expenditure of city capital appropriations, if in connection with such project assistance to a business entity was provided by such [local development corporation]contracted entity in the form of a loan, grant or tax benefit in excess of one hundred fifty thousand dollars, or a sale or lease of city-owned land where the project is estimated to retain or create not less than twenty-five jobs. The report shall be for the period commencing on the date that the project agreement and any other documents applicable to such project have been executed through the final year that such entity receives assistance for such project, except that, as to projects consisting of a lease or sale of city-owned land, each annual report shall include only (1) a list of each existing lease, regardless of when such lease commenced, and a list of each sale of city-owned land that closed on or

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

report to such [local development corporation]*contracted entity* at the time that the project agreement and any other documents applicable to such project were executed need not be contained in the report.

The report shall be submitted by the statutory due date and shall bear the actual date that the report was submitted. Such report shall include a statement explaining any delay in its submission past the statutory due date. Upon its submission, the report shall simultaneously be made available in electronic form on the website of the [local development corporation]*contracted entity* or, if no such website is maintained, on the website of the city of New York, provided that reports submitted in 2012 or after shall simultaneously be made available in a commonly available non-proprietary database format on the website of the [local development corporation]*contracted entity* or, if no such website is maintained, on the website of the city of New York, except that any terms and restrictions on the use or resale of city-owned land need not be included in such non-proprietary database format, and provided further that with respect to the report submitted in 2012 in the commonly available non-proprietary database format, the [local development corporation]*contracted entity* shall include, in such format, the data included in the reports for the period from July 1, 2005 to June 30, 2010. Reports with regard to projects for which assistance was rendered prior to July 1, 2005, need only contain such information required by this subdivision as is available to the [local development corporation]*contracted entity*, can be reasonably derived from available sources, and can be reasonably obtained from the business entity to which assistance was provided.

§ 2. Paragraph b-1 of subdivision 1 of section 1301 of the New York city charter, as added by local law number 48 for the year 2005, is amended to read as follows:

b-1. By March 1, 2007, and by March 1 every two years thereafter, the [local development corporation]*entity under contract with the department to provide or administer economic development benefits on behalf of the city*, in consultation with the speaker of the city council and other persons selected jointly by the mayor and the speaker of the city council, who have extensive experience and knowledge in the fields of finance, economics, and public policy analysis, shall evaluate the methodology employed for making the determinations required for this report and generate recommendations, where appropriate, on the methodology by which projects receiving economic development subsidies are evaluated. The department shall present to the [major]*mayor* and the speaker no later than October 1 of every year in which such evaluation is required, a report containing such recommendations as are presented as a result of this review.

§ 3. Title 22 of the administrative code of the city of New York is amended by adding a new chapter 8 to read as follows:

#### CHAPTER 8

#### REPORTING BY ENTITIES CONTRACTED TO PROVIDE ECONOMIC DEVELOPMENT BENEFITS ON BEHALF OF THE CITY

##### § 22-801 Definitions.

"Lobbying" or "Lobbying activities" shall mean "lobbying" or "lobbying activities" as defined in section 3-211 of this code.

"Person or organization" shall be construed not to include the not-for-profit corporation under contract with the city to provide or administer economic development benefits on behalf of the city.

##### § 22-802 Reporting of lobbying activities.

a. A not-for-profit corporation of which a majority of its members are appointed by the mayor that is under contract with the city to provide or administer economic development benefits on behalf of the city shall be required to submit to the council quarterly reports identifying:

1. the *contracted entity's* retention or designation of a person or organization to engage in lobbying or lobbying activities before the council or any member thereof, the city planning commission, a borough president, a borough board or a community board and

2. the *contracted entity's* making or incurring an expenditure to, or on behalf of, a person or organization to engage in lobbying or lobbying activities before the council or any member thereof, the city planning commission, a borough president, a borough board or a community board.

b. Such reports need not identify:

1. any officer or employee of the city of New York or of such *contracted entity* and

2. any person or organization retained or designated by the *contracted entity* to provide advice and analysis directly applying any urban planning, urban design, engineering, scientific or similar technical discipline, or any legal, accounting, or other similar professional discipline.

c. Each report shall set forth:

1. the name, address and telephone number of each person or organization so retained or designated;

2. a description of the subject or subjects on which the person or organization lobbied, including identification of the local law, resolution, real property or other matter on which the person or organization lobbied;

3. the person, and where applicable, the body before which the person or organization lobbied and the dates on which such lobbying occurred; and

4. the compensation paid or owed by the *contracted entity* to a person or organization for the purpose of engaging in lobbying or lobbying activities before the council or any member thereof, the city planning commission, a borough president, a borough board or a community board and any expenses expended, received or incurred by the person or organization for the purpose of lobbying

before such bodies.

d. The first such submission shall be provided no later than December 31, 2013 and shall cover the period from November 1, 2012 through November 30, 2013. All reports shall be filed thereafter within thirty days after the end of each quarter and simultaneously made available in a commonly available non-proprietary database format on the website of the contracted entity or, if no such website is maintained, on the website of the city of New York.

§ 4. Section 13 of local law number 61 for the year 1991 is amended to read as follows:

§ 13. Notwithstanding any provision of the charter to the contrary, the commissioner of small business services shall, no later than sixty days prior to entering into any contract with a local development corporation or not-for-profit corporation of which the majority of its members are appointed by the mayor for the provision of services to assist the department in performing any of the functions set forth in subdivision 2 of section 1301 of the charter where such functions were previously performed by the former department of ports and trade, provide the council with a copy of such proposed contract, together with a statement explaining the reasons which justify contracting for such purposes. The commissioner shall be authorized to enter into such contract unless, within such sixty day period, the council enacts a local law prohibiting the commissioner from contracting for such purposes.

§ 5. This local law shall take effect immediately.

KAREN KOSLOWITZ Chairperson; DIANA REYNA, ALBERT VANN, LETITIA JAMES, MATHIEU EUGENE, STEPHEN T. LEVIN, MARK S. WEPRIN, RUBEN WILLS; DONOVAN J. RICHARDS; Committee on Economic Development, October 30, 2013.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1166-A:)

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

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

**A LOCAL LAW**

To amend the New York city charter, the administrative code of the city of New York and section 13 of local law number 61 for the year 1991, in relation to reporting by certain entities under contract with the department of small business services.

Given under my hand and seal this 30<sup>th</sup> day of October, 2013 at City Hall in the City of New York.

\_\_\_\_\_  
Michael R. Bloomberg  
Mayor

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**

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. 1993

**Report of the Committee on Finance in favor of approving a Resolution concerning the establishment of the Hudson Yards Business Improvement District in the Borough of Manhattan and setting the date, time and place for the public hearing to hear all persons interested in the establishment of such district.**

The Committee on Finance, to which the annexed resolution was referred on October 30, 2013, respectfully

**REPORTS:**

**BACKGROUND**

Pursuant to the authority granted by chapter 4 of title 25 of the Administrative Code of the City of New York (the "Law"), the Mayor and the Council are authorized to establish Business Improvement Districts (BIDs) in New York City. BIDs, which are specifically established areas, use the City's property tax collection mechanism to approve a special tax assessment with which to fund additional services that would enhance the area and improve local business. The additional services are normally in the areas of security, sanitation, physical/capital improvements (lighting, landscaping, sidewalks, etc.), seasonal activities (Christmas lighting) and related business services (marketing and advertising). The Steering Committee of a BID demarcates the areas in which services will be enhanced and also establishes the mechanism for the assessment needed to generate the required budget.

The proposed Hudson Yards Business Improvement District (hereinafter the "District") is located in the borough of Manhattan and is generally bounded by West 42<sup>nd</sup> street to the north, eleventh avenue to the west, ninth avenue to the east, and West 30<sup>th</sup> street to the south. The District is largely within the Hudson Yards Special District, which was created in 2005 to foster a mix of uses and densities, provide new publicly accessible open space, extend the Midtown central business district by providing opportunities for substantial new office and hotel development, reinforce existing residential neighborhoods and encourage new housing on Manhattan's Far West Side.

The District represents portions of 26 blocks and has 1,164 tax lots. The District is located in Community Board 4. There are approximately 150 ground level retail tenants, approximately 300 upper floor commercial tenants, and 6,336 residential units of which 836 are individual residential condos. The District also contains 5 buildings with 975 hotel rooms.

The District will be managed by the Hudson Yards District Management Association, Inc. Services to be provided in the District include: maintenance for Hudson Park (as agreed upon with the Parks Department) for public safety, traffic safety, creation of more open green space, marketing and promotion, administrative expenses, and a reserve (\$1.8 million).

|  |           |
|--|-----------|
| Maintenance for Hudson Park (as agreed upon with Parks department ) for public safety                                    | \$445,000 |
| District Wide services (traffic safety, creation of more green space, Ads and informational docs about local businesses) | \$430,000 |
| Administration   | \$325,000 |
| Future Year Reserves   | \$1.8 M   |

The budget for the first year of operation is \$1.2 million; with the maximum annual thereafter to operate the BID is \$3 million. The maximum cost for capital improvements for the entire existence of the proposed District shall be \$7 million.

Not for profits and individuals residential condominiums pay \$1.00, government buildings located within the proposed District are exempt. 226 tax lots of the 1,164 (19%) will pay the assessment, which averages to \$5,259. Assessment payments would vary with the highest totaling approximately \$178,000 for an 866,000 square foot mixed use property with an assessed value of \$83 million, and the lowest payment totaling approximately \$94 for a 550 square foot property with an assessed value of \$28,000.

**PRECONSIDERED RESOLUTION**

This Preconsidered Resolution is required by Section 25-407(b) (2) of the Administrative Code, which requires, in relevant part, that a further hearing shall be called by Resolution if the City Council finds that notice of the initial hearing on the proposed District was incorrectly or insufficiently given to property owners within a proposed district.

The main purpose of this Resolution is to set the public hearing date, time and place for the review of the local law which would establish the Hudson Yards Business Improvement District.

The hearing on the local law and the Plan will be held on November 14, 2013 at 10:00 a.m. in the Committee Room at City Hall in New York, New York to hear all persons interested in the establishment of the District.

This Resolution also directs SBS and the Hudson Yards BID Steering Committee, respectively to, not less than ten nor more than thirty days before the date of the public hearing, mail a copy of this Resolution or a summary thereof to each owner of real property within the proposed District at the address shown on the latest City assessment roll, to such other persons as are registered with the City to receive tax bills concerning real property within the proposed District, and to the tenants of each building within the proposed District. The Resolution also directs SBS to arrange for the publication of a copy of this Resolution or a summary thereof at least once in the City Record or a newspaper in general circulation in the City, the first publication to be not less than ten nor more than thirty days before the date of the public hearing.

(For text of the B.I.D. Plan, please refer to the Office of the City Clerk at 141 Worth Street, Executive Offices, 1st Floor, New York, N.Y. 10013)

Accordingly, this Committee recommends its adoption.

(For text of the resolution, please see the Introduction and Reading of Bills section printed in these Minutes)

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., ROBERT JACKSON, ALBERT VANN, DARLENE MEALY, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, October 30, 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. 949

**Report of the Committee on Finance in favor of approving Renewal Housing Development Fund Company, Block 3174, Lot 24, Block 3276, Lot 36, Block 3283, Lot 37, Block 3293, Lot 135, Block 3300, Lots 27, 23, & 11, Bronx, Community District No. 7, Council Districts No. 14 & 15.**

The Committee on Finance, to which the annexed resolution was referred on October 30, 2013, respectfully

#### REPORTS:

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

October 30, 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 October 30, 2013 - Resolution approving tax exemptions for two Preconsidered Land Use Items (Council Districts 8, 14 and 15)

Renewal HDFC (Block 3174, Lot 24; Block 3276, Lot 36; Block 3283, Lot 37; Block 3293, Lot 135; Block 3300, Lots 27, 23 & 11) in the Bronx consists of seven buildings with 132 residential units and four commercial units. The project will provide rental housing for low income families. Under the proposed project, Renewal Housing Development Fund Company, Inc. ("Owner"), the owner and operator of the Exemption Area, will finance the rehabilitation of the Exemption Area with a loan from 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.

This project has the approval of Councilmember Cabrera and Councilmember Rivera.

Tweemill House (Block 1775, Lot 20) in Manhattan consists of one building with 40 units of rental housing for low income seniors. Milltwee Housing Development Fund Company, Inc. ("HDFC") developed the project 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 a tax exemption from the City. On April 3, 1986 (Cal. No. 6), the Board of Estimate approved a tax exemption pursuant to Section 577 of the Private Housing Tax Law for the Exemption Area for a forty year period ("Prior Exemption").

Due to an increase in operating expenses, the HDFC was unable to pay real property taxes starting in 1997. In order to facilitate the project, the HDFC has requested that the Prior Exemption be terminated and a retroactive exemption be granted for the period commencing January 1, 1997 through June 30, 2013.

Thereafter, the HDFC has requested a prospective exemption from real property taxation pursuant to Private Housing Finance Law Section 577 for a total real property tax exemption period of thirty (30) years from January 1, 1997. The HDFC will enter into a regulatory agreement establishing certain controls upon the Operation of the Exemption Area. Eligible tenants will continue to receive Section 8 rental assistance.

This project has the approval of Councilmember Mark-Viverito.

(For text of the coupled resolution for LU No. 950, please see the Report of the Committee on Finance For LU No. 950 printed in these Minutes; for text of the coupled resolution for LU No. 949, please see below:)

Accordingly, this Committee recommends the adoption of LU Nos. 949 and 950.

(The following is the text of Res No. 1996:)

Res. No. 1996

**Resolution approving an exemption from real property taxes for property located at (Block 3174, Lot 24; Block 3276, Lot 36; Block 3283, Lot 37; Block 3293, Lot 135; Block 3300, Lots 27, 23 & 11) the Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 949).**

By Council Member Recchia.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated August 26, 2013 that the Council take the following action regarding a housing project to be located at (Block 3174, Lot 24; Block 3276, Lot 36; Block 3283, Lot 37; Block 3293, Lot 135; Block 3300, Lots 27, 23 & 11) 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 HDFC, and (ii) the date that HPD and the Owner enter into the Regulatory Agreement.

(b) "Exemption" shall mean the exemption from real property taxation provided hereunder.

(c) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 3174, Lot 24; Block 3276, Lot 36; Block 3283, Lot 37; Block 3293, Lot 135; and Block 3300, Lots 27, 23 and 11 on the Tax Map of the City of New York.

(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) "HDFC" shall mean Renewal Housing Development Fund Company, Inc.

(h) HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

(i) Owner" shall mean the HDFC or any future owner of the Exemption Area that is a housing development fund company.

(j) "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.

(k) Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), less the cost of providing to such occupants electricity, gas, heat and other utilities.

(l) Shelter Rent Tax" shall mean an amount equal to ten percent (10%) of Shelter Rent, but in no event less than eight-one thousand five hundred dollars (\$81,500) per annum.

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. 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 the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule or regulation.

4. 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 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 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.

6. 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., ROBERT JACKSON, ALBERT VANN, DARLENE MEALY, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, October 30, 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. 950

**Report of the Committee on Finance in favor of approving Tweemill House, Block 1775, Lot 20, Manhattan, Community District No. 11, Council District No. 8**

The Committee on Finance, to which the annexed resolution was referred on October 30, 2013, respectfully

**REPORTS:**

**(For text of report, please see the Report of the Committee on Land Use for LU No. 949 printed in these Minutes)**

*Accordingly, this Committee recommends its adoption.*

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

Res. No. 1997

**Resolution approving an exemption from real property taxes for property located at (Block 1775, Lot 20) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 950).**

By Council Member Recchia.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated September 20, 2013 that the Council take the following action regarding a housing project to be located at (Block 1775, Lot 20) Manhattan ("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 HDFC, and (ii) the date that HPD and the Owner enter into the Regulatory Agreement.

(b) "Exemption" shall mean the exemption from real property taxation provided hereunder.

(c) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 3174, Lot 24; Block 3276, Lot 36; Block 3283, Lot 37; Block 3293, Lot 135; and Block 3300, Lots 27, 23 and 11 on the Tax Map of the City of New York.

(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) "HDFC" shall mean Renewal Housing Development Fund Company, Inc.

(h) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

(i) "Owner" shall mean the HDFC or any future owner of the Exemption Area that is a housing development fund company.

(j) "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.

(k) "Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), less the cost of providing to such occupants electricity, gas, heat and other utilities.

(l) "Shelter Rent Tax" shall mean an amount equal to ten percent (10%) of Shelter Rent, but in no event less than eight-one thousand five hundred dollars (\$81,500) per annum.



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. 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 the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule or regulation.

4. 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 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 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.

6. 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., ROBERT JACKSON, ALBERT VANN, DARLENE MEALY, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, October 30, 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 of the Committee on Governmental Operations

Report for Int. No. 951-A

**Report of the Committee on Governmental Operations in favor of approving and adopting, as amended, a Local Law to amend the New York city charter, in relation to public notice of final rules.**

The Committee on Governmental Operations, to which the annexed amended proposed local law was referred on October 11, 2012 (Minutes, page 4027), respectfully

#### REPORTS:

#### INTRODUCTION

Today, the Committee on Governmental Operations, chaired by Council Member Gale Brewer, will vote on Int. 951-A. This bill was previously heard in this committee on April 3, 2013.

#### BACKGROUND

Under the City Administrative Procedure Act (CAPA), certain notice requirements exist prior to a public hearing on a proposed rule.<sup>1</sup> In contrast, adoption of a final rule does not require that notice be given, though notice must be given prior to a rule going into effect.<sup>2</sup> CAPA does not require that commissioners or board members, for those agencies that have them, be given a copy of a final rule prior to voting on it. In other words, the commissioners of the Taxi and Limousine Commission, for example, could be unaware of the content of a complex final rule which was the subject of intense negotiation until moments before they are required to cast a vote supporting or opposing the rule.

The intent of Proposed Int. No. 951-A is to ensure that commissioners and board members have sufficient time to review the contents of a rule prior to voting on it.

#### ANALYSIS OF PROPOSED INT. NO. 951-A

##### *Section 1*

Section 1 of the bill requires that all final rules initiated by agencies that are boards or commissions, and which go through the CAPA process, be posted on the agency's website and e-mailed to all members of such board or commission at least three days, not counting Sundays, before such rule is voted on. An exception exists in the bill for changes made to a rule within the window after such notice has been properly given but before a final vote on the rule, if such change or changes are approved by all the members of the applicable board or commission by unanimous consent. The requirements of this section will not create a private right of action to enforce its provisions, and the inadvertent failure of an agency to comply with its provisions will not be grounds for invalidating any rule.

Among the agencies anticipated to be covered by this law are, at a minimum, the Board of Standards and Appeals, the Procurement Policy Board, the Environmental Control Board, the Loft Board, the Rent Guidelines Board, the Civilian Complaint Review Board, the Board of Correction, the Campaign Finance Board, the Conflicts of Interest Board, the Business Integrity Commission, the Tax Commission, the Taxi and Limousine Commission, the Commission on Human Rights, the Design Commission, the City Planning Commission, and Landmarks Preservation Commission.

##### *Section 2*

Section 2 of the bill requires pilot programs that are approved by the Taxi and Limousine Commission to be posted on the agency's website and e-mailed to all members of the commission at least three days, not counting Sundays, before such pilot program is voted on. Pilot programs by the Taxi and Limousine Commission are required by rule to be voted on by a resolution of approval, and these notice requirements would tie into that process.

##### *Section 3*

This law goes into effect thirty days after its enactment.

#### CHANGES SINCE PREVIOUS HEARING

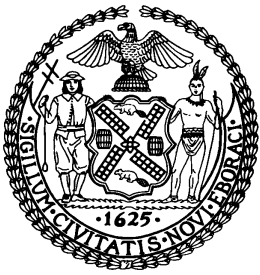
Since the April 3, 2013 hearing on Proposed Int. No. 951-A, the bill has been amended in the following ways:

- 1) the amendment to CAPA was narrowed to include only votes on final rules, not votes on "any other policy change," which was deemed to be insufficiently clear and outside the scope of CAPA; instead, language was added covering pilot programs at the Taxi and Limousine Commission only, as this is the agency at which issues have been reported;
- 2) the time between when a proposed final rule is transmitted to the members of a board or commission and when such proposed rule may be voted on was shortened from seven days to three days to reduce potential delays to the rulemaking process; and
- 3) the ability of boards and commissions to change language within the three day window between notice and voting with unanimous consent was added to allow non-controversial changes to be made to rules without unnecessarily delaying passage.

<sup>1</sup> See §1043(b) of the New York City Charter. These requirements include publication in the City Record and posting online.

<sup>2</sup> §1043(f) of the New York City Charter.

**(The following is the text of the Fiscal Impact Statement for Int. No. 951-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: 951-A  
COMMITTEE:  
Governmental Operations

**TITLE:** Local Law to amend the New York city charter, in relation to public notice of final rules.  
**SPONSORS:** By Council Members Vacca, James, Koo, Koslowitz, Palma, Rose, Chin, Gennaro and Halloran

**SUMMARY OF LEGISLATION:** The bill requires that all final rules requiring a public vote initiated by agencies that are boards or commissions must be posted on the agency’s website and e-mailed to the members of the board or commission at least three days before the vote. The bill also requires that the Taxi and Limousine Commission follow similar notice procedures when approving pilot programs.

**EFFECTIVE DATE:** This law would go into effect thirty days following its enactment.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** N/A

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:** There would be no impact on City revenues resulting from the enactment of this legislation.

**IMPACT ON EXPENDITURES:** This legislation would have no impact on expenditures since existing resources would be used to comply with this local law.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** John Russell, Principal Legislative Financial Analyst

**ESTIMATE REVIEWED BY:** Latonia Mckinney, Deputy Director, and Tanisha Edwards, Finance Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on October 11, 2012 as Int. 951 and referred to the Committee on Governmental Operations. On April 3, 2013, the Committee held a hearing regarding this legislation, an amendment was proposed and the bill was laid over. The Committee on Governmental Operations will consider the amended bill on October 29, 2013, and upon successful vote of the Committee, Proposed Intro. 951-A will be submitted to the Full Council for a vote.

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

**(The following is the text of Int. No. 951-A:)**

Int. No. 951-A

By Council Member Vacca, James, Koo, Koslowitz, Palma, Rose, Chin, Gennaro, Brewer, Van Bramer, Rodriguez, Barron, Gentile, Jackson and Halloran.

**A Local Law to amend the New York city charter, in relation to public notice of final rules.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision e of section 1043 of chapter 45 of the New York city charter is amended to read as follows:

e. Opportunity for and consideration of agency and public comment. The agency shall provide the public an opportunity to comment on the proposed rule (i) through outreach to the discrete regulated community or communities, if one exists, provided that this clause shall not be construed to create a private right of action to enforce this requirement; (ii) through submission of written data, views, or arguments, and (iii) at a public hearing unless it is determined by the agency in writing, which shall be published in the notice of proposed rulemaking in the City Record, that such a public hearing on a proposed rule would serve no public purpose. All written comments and a summary of oral comments concerning a proposed rule received from the public or any agency shall be placed in a public record and be made readily available to the public as soon as practicable and in any event within a reasonable time, not to be delayed because of the continued pendency of consideration of the proposed rule. After consideration of the relevant comments presented, the agency may adopt a final rule pursuant to subdivision f of this section, *except that, other than a rule adopted pursuant to subdivision i of this section, no final rule shall be adopted by such board or commission unless its final language is posted in a prominent location on such agency’s website and electronically transmitted to each member of such board or commission at least three calendar days, exclusive of Sundays, prior to such rule’s adoption; provided, however, that revisions may be made to a final rule posted online and sent electronically in conformity with this subdivision at any time prior to the vote on such rule if such revisions are approved by all members of such board or commission by unanimous consent.* Such final rule may include revisions of the proposed rule, and such adoption of revisions based on the consideration of relevant agency or public comments shall not require further notice and comment pursuant to this section. *This paragraph shall not be construed to create a private right of action to enforce its provisions. Inadvertent failure to comply with this paragraph shall not result in the invalidation of any rule.*

§ 2. Section 2303 of the New York city charter is amended by adding a new subdivision d to read as follows:

d. *No resolution of approval of a pilot program shall be approved by the commission unless such resolution is posted in a prominent location on the commission’s website and electronically transmitted to each member of the commission at least three calendar days, exclusive of Sundays, prior to the commission’s vote to approve or reject such resolution of approval; provided, however, that revisions may be made to a resolution of approval for a pilot program posted online and sent electronically in conformity with this subdivision at any time prior to a vote on such resolution if such revisions are approved by all members of the commission by unanimous consent.*

§ 3. This local law shall take effect thirty days after enactment.

GALE A. BREWER, Chairperson; PETER F. VALLONE, Jr., INEZ E. DICKENS; Committee on Governmental Operations, October 29, 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 Health**

Report for Int. No. 250-A

**Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to raising the sales age from eighteen to twenty-one years for cigarettes and tobacco products and establishing a sales age of twenty-one years for electronic cigarettes.**

The Committee on Health, to which the annexed amended proposed local law was referred on May 25, 2010 (Minutes, page 1895), respectfully

**REPORTS:**

**I. INTRODUCTION**

On Tuesday, October 29, 2013 the New York City Council Committee on Health, chaired by Council Member Maria del Carmen Arroyo, will consider Proposed Int. Nos. 250-A and 1021-A. The Committee heard earlier versions of these bills on May 2, 2013.

**II. BACKGROUND**

On May 2, 2013, the Committee on Health, chaired by Council Member Maria del Carmen Arroyo, held a hearing on Proposed Int. No. 250-A, a local law to amend the Administrative Code of the City of New York (the Code), in relation to

raising the legal tobacco products sales age to twenty-one years, and Int. No. 1021, a local law to amend the Code, in relation to the sale of cigarettes and tobacco products, the regulation of retail dealers and wholesale dealers of cigarettes, and repealing subdivision c of section 17-176, relating to an exemption from such section, and repealing section 17-707, relating to requiring public health messages where tobacco advertisements appear. Amendments were made to both of these bills subsequent to that hearing.

A. Smoking and Tobacco Use: Health and Economic Impact

B.

Tobacco use is the leading cause of preventable, premature death in the United States and New York City.<sup>1</sup> In the United States, smoking is responsible for about one in five deaths annually or about 443,000 deaths per year.<sup>2</sup> In New York City, smoking claims the lives of approximately 7,000 New Yorkers ages 30 years and older and approximately 2,200 premature deaths each year.<sup>3</sup> According to the Centers for Disease Control and Prevention (CDC), tobacco use causes more deaths each year than the total number of deaths combined from the human immunodeficiency virus (HIV), illegal drug use, alcohol use, motor vehicle injuries, suicides and murders.<sup>4</sup> As the American Cancer Society underscores, because “cigarette smoking and tobacco use are acquired behaviors—activities that people choose to do—smoking is the most preventable cause of death in our society.”<sup>5</sup>

Smoking causes the overwhelming majority of lung cancer deaths—an estimated 90% of all lung cancer deaths in men and 80% of all lung cancer deaths in women<sup>6</sup>—and causes many other types of cancer, including cancers of the throat, mouth, nasal cavity, esophagus, stomach, pancreas, kidney, bladder, and cervix, and acute myeloid leukemia.<sup>7</sup> Smoking also increases the risk of other diseases, including coronary heart disease, stroke and lung disease.<sup>8</sup>

Smoking claims more than just lives; it causes substantial economic impact. The American Cancer Society reports that smoking causes more than \$193 billion in health-related costs each year, including both medical costs and the cost of lost productivity due to smoking.<sup>9</sup> Between 2000 and 2004, productivity losses due to smoking among workers cost the US economy an average of almost \$97 billion per year.<sup>10</sup> Smoking-related illnesses cost New Yorker state residents billions of dollars annually in health care costs and lost productivity.<sup>11</sup>

B. Recent Initiatives to Combat Smoking & Tobacco Use

Over the past decade, New York City has taken significant steps to combat smoking and tobacco use, from initiatives aimed at reducing tobacco use among adults to those designed to prevent youth from starting to use cigarettes and tobacco products. Such initiatives have included (1) the imposition of high cigarette excise taxes<sup>12</sup>; (2) educational media campaigns on the risks of tobacco use<sup>13</sup>; (3) cessation programs designed to help people quit<sup>14</sup>; and (4) restrictions and regulations on the sale and use of tobacco products.<sup>15</sup>

Between 2002 and 2010, the prevalence of adult smoking in the City decreased from 21.5% in 2002 to 15.5% in 2012, a 28% reduction.<sup>16</sup> The prevalence of smoking among youth has also declined dramatically, from 17.6% in 2001 to 8.5% in 2007.<sup>17</sup> However, despite the significant drop in smoking among youth, youth smoking rates have plateaued since 2007, and remain at 8.5 percent as of 2011.<sup>18</sup>

C. Smoking Among Young Persons: Prevalence, Transition to Life-Long Smoking and Availability of Tobacco Products through Social Means

Currently, hundreds of thousands of New Yorkers smoke, including approximately 981,000 adults.<sup>19</sup> However, the problem of youth smoking is acute. Of young persons between eighteen and twenty-four years of age, approximately 100,000 currently smoke.<sup>20</sup> Additionally, an estimated 19,000 New York City public high school students smoke.<sup>21</sup>

There is overwhelming scientific evidence that life-long smokers start young. In the City, 80% of smokers started smoking before they turned twenty-one.<sup>22</sup> Nationally, the percentage of smokers who start young are similar: according to the United States Surgeon General, approximately 90% of current smokers started by the age of 18, and 99% started by age 26.<sup>23</sup> The Surgeon General has found that almost no one starts smoking after age 25.<sup>24</sup> Moreover, the transition from experimental to regular smoking typically occurs around twenty years old.<sup>25</sup>

Evidence also suggests that young persons are more susceptible to becoming addicted to smoking. According to the American Lung Association, people who begin smoking at an early age are more likely to develop a severe addiction to nicotine than those who start at a later age.<sup>26</sup> Another study concludes that the onset of tobacco addiction among youth is rapid, noting that “a young cigarette smoker can begin to feel powerful desires for nicotine within two days of first inhaling . . . and about half of children who become addicted report symptoms of dependence by the time they are smoking only seven cigarettes a month.”<sup>27</sup> These findings contradict previously held conceptions that people have to smoke at least five cigarettes a day over a long period of time before they become addicted to nicotine.<sup>28</sup> The consequences of starting smoking young are profound: roughly one third of all youth who become regular smokers before adulthood will eventually die from smoking.<sup>29</sup>

Currently, it is illegal for persons under 18 to purchase cigarettes or other tobacco products in New York State.<sup>30</sup> Nevertheless, studies suggest that friends are a common source of tobacco among underage youth.<sup>31</sup> According to data from DOHMH, while the proportion of public high school students buying their own cigarettes from stores dropped between 1997 and 2011, the percentage of those who obtained cigarettes from someone else jumped from 40% to 52%.<sup>32</sup> Often, the social sources of cigarettes for underage smokers are individuals who are just over the legal

age: one study found that 90% of people purchasing cigarettes for minors were between 18 and 20 years of age.<sup>33</sup> Another study evaluating the potential efficacy of raising the legal purchase age of tobacco products to 21 found that high school students are less likely to come into contact with 21-year olds than 18-year olds in their social circles, which reduces the opportunity to access tobacco from legal buyers.<sup>34</sup>

C. Taxes and Enforcement: Contraband Cigarettes & Illegal Sales of Cigarettes

Cigarette trafficking and illegal sales of cigarettes are a major problem in New York City. Cigarette trafficking costs New York City and State hundreds of millions of dollars annually in foregone tax revenue.<sup>35</sup> Criminal actors take advantage of the disparities in cigarette prices among states along the East Coast by trafficking cigarettes from low-tax jurisdictions like Virginia to high-tax jurisdictions like New York City, violating numerous laws in the process.<sup>36</sup> For example, the state excise tax on a pack of cigarettes in Virginia is \$0.30; in New York City, the combined excise tax is \$5.85, including the \$4.35 State tax and the \$1.50 City tax.<sup>37</sup> A trafficker smuggling 10,000 packs of cigarettes purchased legally in Virginia could make a profit of approximately \$55,500 by reselling them in New York City, earning more than double the initial outlay.<sup>38</sup> Several studies suggest the widespread availability of trafficked cigarettes. In a 2011 study of littered cigarette packs in New York City, only 39% of littered packs bore the proper New York City tax stamp; and among packs with out-of-state stamps, 71.4% were from Virginia.<sup>39</sup>

Targeted investigations of 877 licensed retailers in 2012 by the New York City Department of Finance’s Sheriff’s Office found that 52% of the retailers possessed cigarettes without the required New York City tax stamp.<sup>40</sup> In a 2010 survey, approximately 11% of New York City smokers reported purchasing their last pack of cigarettes from another person or on the street, presumably without payment of the City excise tax.<sup>41</sup>

On a broader level, New York State’s Department of Health estimated that cigarette excise tax evasion deprived the State of \$500 million in 2009.<sup>42</sup> New York City’s cigarette tax revenue losses amount to a substantial portion of New York State’s losses. Available evidence suggests the extent of cigarette tax revenue losses has likely increased since 2009.<sup>43</sup>

Illegal sales to underage youth also remain a substantial problem. In NYC, 25% of public high school students under 18 who smoke reported purchasing cigarettes in stores.<sup>44</sup>

### III. EFFORTS TO COMBAT TOBACCO USE

“Tobacco 19” & “Tobacco 21” Laws

In an effort to combat youth smoking, several states and localities around the country have passed laws raising the legal tobacco products sales age to 19—which are sometimes known as “Tobacco 19” laws. Alabama,<sup>45</sup> Alaska,<sup>46</sup> New Jersey<sup>47</sup> and Utah<sup>48</sup> are among the states that have raised the legal tobacco products sales age to 19. In New York State, Nassau,<sup>49</sup> Onondaga<sup>50</sup> and Suffolk<sup>51</sup> counties all have also raised the legal sales age to 19. Among other goals, these laws aim to combat youth smoking and to limit the indirect sale of tobacco products to underage smokers who obtain the products from their older peers.<sup>52</sup>

Currently no state in the country has a “Tobacco 21” law, although several towns in New England have passed such laws.<sup>53</sup> In 2005, the Town of Needham, Massachusetts increased the legal sales age from eighteen to twenty-one.<sup>54</sup> Needham’s experience suggests the measure worked in reducing the prevalence of young smokers. Between 2006 and 2012, high school students in Needham who reported smoking declined from 13% to 5.5%, a decrease of over 50%.<sup>55</sup> Other jurisdictions that have raised the minimum sales age have also experienced drops in youth smoking. In 2007, England raised the minimum sales age from 16 to 18, and within two years, there was a 30% decline in smoking among youth between the ages of sixteen and seventeen.<sup>56</sup> Also, younger students—those between eleven and fifteen—were one-third less likely to be regular smokers than they had been previously.<sup>57</sup> Finally, a computer simulated study predicted that raising the legal sales age to 21 would reduce the smoking prevalence of adults by 30% and 82% among 14-17 year olds over a 50-year period.<sup>58</sup>

Some critics have argued that studies demonstrating the efficacy of raising the minimum purchase age in reducing youth smoking are inconclusive.<sup>59</sup> In addition, opponents of laws that raise the minimum sales age also cite lost profits and ineffectiveness as reasons against these laws. A representative of the National Association of Convenience Stores stated that a higher minimum tobacco purchase age could cut into sales that make up 40% of gross revenues for the average convenience store.<sup>60</sup> Furthermore, this representative argued, the law’s effectiveness might be undercut by younger smokers who travel outside the City to lower-age jurisdictions to purchase tobacco products.<sup>61</sup>

In April 2013, New York State Senator Diane Savino and Assemblywoman Linda Rosenthal announced the introduction of a bill that would raise the legal age to purchase tobacco products to 21 across New York State.<sup>62</sup>

Finally, this bill would raise the legal sales age of electronic cigarettes (e-cigarettes) from 18 to 21 years of age. Under current New York State law, the minimum legal sales age for e-cigarettes is 18.<sup>63</sup> Electronic cigarettes have emerged as an alternative to cigarettes. Sales of electronic cigarettes doubled from nearly \$300 million in 2011 to \$600 million in 2012.<sup>64</sup> According to data released by the CDC, the percentage of middle and high school students in the United States who

have used e-cigarettes more than doubled from 2011 to 2012.<sup>65</sup> Among high school students, the percentage who reported ever using an e-cigarette increased from 4.7 percent in 2011 to 10.0 percent in 2012.<sup>66</sup> More than 1.78 million middle and high school students nationwide tried e-cigarettes in 2012.<sup>67</sup> Electronic cigarettes are not regulated by the Food and Drug Administration (FDA) and contain nicotine, a potent and highly addictive substance, as well as potentially harmful chemicals.<sup>68</sup> Although the long-term effects of electronic cigarette use require further study, the FDA has expressed concerns about their safety.<sup>69</sup> Adolescents are more susceptible to the addictive properties of nicotine.<sup>70</sup> Compared with adults, adolescents appear to display evidence of nicotine dependence at much lower levels of consumption.<sup>71</sup>

#### Price Floors and Coupon Bans

In recent years, legislatures have sought to combat the sale of cigarettes and marketing to youth through regulations that limit the use of discounts in the sale of tobacco products. According to a recent *New York Times* article, a Federal Trade Commission report issued in 2012 indicates that the tobacco industry spent \$6.5 billion on discounts in 2010.<sup>72</sup> Experts have argued that discounts on cigarettes are one of the major ways cigarette makers “encourage price-conscious customers like teenagers and low-income smokers to buy.”<sup>73</sup> Based on numerous studies, high tobacco prices reduce tobacco consumption among both youth, who are especially price-sensitive, as well as adults.<sup>74</sup> According to the Campaign for Tobacco Free Kids, the “general consensus is that every 10 percent increase in the real price of cigarettes reduces overall cigarette consumption by approximately three to five percent, reduces the number of young-adult smokers by 3.5 percent, and reduces the number of kids who smoke by six or seven percent.”<sup>75</sup> Cheap tobacco products may also be a barrier to quitting: In a 2011 study of New York City smokers attempting to quit, 25% reported using a coupon or other discount on their last purchase, saving an average \$1.25 per package of cigarettes.<sup>76</sup>

A recent ordinance in Providence, Rhode Island bars retailers from accepting coupons for tobacco products or selling such items at a discount, for example, through multi-pack deals.<sup>77</sup> One of the goals of the law was to combat youth smoking by prohibiting discounts that make cigarettes cheap.<sup>78</sup> This law went into effect in January 2013. Members of the tobacco industry challenged this law, but a federal district judge ruled in favor of Providence, defending the city’s right to regulate sales and prices.<sup>79</sup> More recently, the United State Court of Appeals for the First Circuit also upheld this ordinance, holding that it did not violate the First Amendment.<sup>80</sup>

Requiring price increases on packs of cigarettes is not new around the country; about half of all states, including New York, require wholesalers and retailers to increase the price of cigarettes by a certain percentage.<sup>81</sup> These laws are generally intended to protect small retailers of tobacco products from competition by large chains which sell cigarettes below cost—a tactic referred to as “loss leading,” whereby a business sells a product at low price in order to draw in more business and stimulate demand of other products.<sup>82</sup> Proposed Int. No. 1021-A, however, is distinguished from such “price formula” measures in both function and purpose: First, it would specify a minimum price (\$10.50) for all packs of cigarettes—rather than creating a formula that raises the cost of the pack by a certain percentage; and, second, it is designed to hinder sales to “low-income and minority smokers,” as opposed to protecting small business.<sup>83</sup>

Finally, the increase in the price of cigarettes has arguably caused youth and young adults to migrate to cheaper tobacco products. Little cigars, for example, appear virtually identical to cigarettes and cost substantially less. Manufactured cigarillos, cigars and smokeless tobacco are also less expensive alternatives. These products are not subject to New York City excise taxes and are often sold individually for one to two dollars. Despite well-documented risks, smokers of all ages – especially youth and young adults in low-income urban areas – erroneously perceive cigars as less harmful than cigarettes, and increasingly opt for inexpensive cigars.<sup>84</sup> New York City Department of Health and Mental Hygiene Commissioner, Thomas Farley, testified at the May 2 hearing that there has been a shift towards cigar use in New York City.<sup>85</sup> According to the Commissioner, the proportion of youth smokers who smoke cigars exclusively nearly tripled from 2001 to 2009.<sup>86</sup>

## **IV. ANALYSIS**

### **A. Proposed Int. No. 250-A**

#### Summary of Amendments to the Bill Since May 2 Hearing

Since the May 2 hearing, the bill has been amended in several ways: Changes were made to the legislative findings in bill section 1. In addition, a new bill section was added which contains the definition of “Electronic cigarette,” and “Electronic cigarettes” were added to the group of products for which the minimum legal sales age is 21. Finally, there are now three subdivisions to §17-706. Under the version of this bill heard in May, there was a single provision containing both the age requirement for the sale of certain products and a requirement to post a sign relating to such age requirements. The bill was amended to set forth three separate provisions:

Subdivision a would include a prohibition on the sale of certain products below the age of 21;

Subdivision b would include a prohibition on the sale of certain products below the age of 18; and

Subdivision c would include a requirement to post a sign in accordance with the rules developed by DOHMH;

#### Bill Analysis

Section one of Proposed Int. No. 250-A explains the intent of the bill, including findings on the human costs associated with tobacco use, the prevalence of youth smoking despite steps taken in New York City over the past decade to reduce adult tobacco use and prevent youth from starting to use tobacco, statistics on when youth start smoking, the susceptibility of youth to nicotine addiction, and the effectiveness of laws in other jurisdictions that have raised the legal sales age. It also discusses the growing prevalence of electronic cigarette use among youth, and the dangers of nicotine addiction. The bill finds that increasing the legal sales age for cigarettes, tobacco products and electronic cigarettes to twenty-one years will reduce smoking, tobacco use and electronic cigarette use among youth and young adults, decrease the likelihood that this age group will become smokers later in life, reduce high school students’ ability to access cigarettes, tobacco products and electronic cigarettes from current legal buyers, and improve the general health of all New Yorkers.

Section 2 of this bill would amend section 17-702 of the Administrative Code by adding a new subdivision bb. This subdivision defines the term “electronic cigarette” to mean a battery operated device that contains nicotine and delivers vapor for inhalation. It also includes in the definition of electronic cigarette any refill, cartridge, and any other component of an electronic cigarette.

Section 3 of this bill would make several changes to section 17-706. It would create a new subdivision a which would raise the legal sales age of cigarettes and tobacco products from 18 years of age to 21 years of age and establish a new legal sales age of 21 for electronic cigarettes. Additionally, this subdivision would raise the age—from twenty-five to thirty years of age—at which an individual is not required to show identification in order to purchase cigarettes, tobacco products or electronic cigarettes, if the individual reasonably appears to be at least that age. It would create a new subdivision b, which would set the legal sales age for non-tobacco shisha, pipes, and rolling papers to age 18 or older. Under this subdivision, an individual would not be required to show identification in order to purchase non-tobacco shisha, pipes, and rolling papers if the individual reasonably appears to be at least 25 years of age. New subdivision c, this section would maintain the requirement that businesses post a sign pertaining to the minimum age requirements on the sale of cigarettes, tobacco products, electronic cigarettes, non-tobacco shisha, pipes and rolling papers, but would require that the business posts a sign in accordance with the rules of DOHMH. Under this bill the minimum legal sales age for herbal cigarettes would remain 18 pursuant to §17-714 of the Code.

Proposed Int. No. 250-A would take effect 180 days after its enactment, provided that the Commissioner of DOHMH shall take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

### **B. Proposed Int. No. 1021-A**

#### Summary of Amendments to the Bill Since May 2 Hearing

Since the May 2 hearing, the bill has been amended in several ways: Changes were made to the legislative findings in bill section 1. In addition, the definition of tobacco product was amended to remove the term “made or derived from” tobacco when describing what a tobacco product means, so that a tobacco product now would mean “any product which contains tobacco.” Also, the list of products which are included in the definition of tobacco product was expanded to include “tobacco-containing shisha.” Bill section 5 is also amended to include a revised definition of tobacco product. The definition of tobacco product is consistent throughout this bill. The bill was also amended to clarify that the sealing of premises is limited to those locations where all such acts under §11-4023 occurred and to increase the period of time from two to three years for the purpose of calculating violations which would lead to sealing. Section 17-703.1 (requiring the posting of a sign that cigarettes sold must bear a valid tax stamp, as created by bill section 10) was removed as a basis for sealing, and while violations of the minimum sales age remain a basis for sealing, a violation of the sign requirement would not be a basis for sealing. Finally, the amended version clarifies that any devices, items or goods removed pursuant to this section would only be devices, items or goods used in connection with the acts that gives rise to a violation under this section.

The proposed legislation was also amended to delete the requirement that the “Listed price” be displayed for any cigarettes or tobacco products which are on display, to remove the civil penalty for such a violation, and to clarify that a retail dealer’s license that is suspended or revoked shall be a suspension or revocation of the license issued to the retail dealer for the place of business where such violation occurred. Further, the legislation was amended so that the definitions of “Cigarette,” “Cigar” and “Little cigar” are included in §17-702 itself, and do not refer to §17-176.1 for definition (the definitions of these products in §17-176.1 do not change in the amended version of this bill). The amended version also adds definitions for the terms “Shisha” and “Herbal cigarette.” The requirement that employees or agents of retail dealers who handle the sale of cigarettes or tobacco products have photo identification has been deleted. Amendments to §17-706 of Code were deleted.

The amended version adds §17-703 to the sections which shall be enforced by the Department of Consumer Affairs.

Additionally, the amended version adds the term “and license revocation” in reference to the consequences for violations of subchapter 1 of chapter 7 of title 17 of the Code and deletes reference to violations of the rule promulgated pursuant to this subchapter. This amended version increases the maximum civil penalty in a single day for a violation of §17-703.1 (requiring the posting of a sign that cigarettes sold must bear a valid tax stamp) from \$250 to \$500. Penalties for violations of the minimum sales age would remain the same, but penalties for a violation of the sign requirement relating to the minimum sales age were decreased to not more than \$500 in any single day. The bill was also amended to remove §17-703.1 (requiring the posting of a sign that cigarettes sold must bear a valid tax stamp, as created by bill section 10) as a basis for revocation or suspension of a retail dealer license under both §§17-710 and 20-202 of the Code, and while it would keep violations of the minimum sales age as a basis for revocation or suspension, it would remove a violation of the sign requirement relating to the minimum sales age as a basis for revocation or suspension. The bill also is amended to include the title “§ 20-207 Violations,” and to increase the period of time from two to three years for the purpose of calculating violations which would lead to sealing. While the bill would keep violations of the minimum sales age as a basis for sealing, it would remove a violation of the sign requirement relating to the minimum sales age as a basis for sealing. Finally, the proposed legislation was amended to such that bill section 25 would not take effect until 180 days after its enactment.

#### *Bill Analysis*

Section one of Proposed Int. No. 1021-A explains the findings and intent of the bill, including findings on the prevalence of adult and youth smoking, the human and economic costs associated with tobacco use, the steps taken in New York City over the past decade to reduce adult tobacco use and prevent youth from starting to use tobacco, and the need for additional measures to combat tobacco use among youth and adults, among which is the need to increase the prices of tobacco products in order to lower the demand for such products. The bill’s findings note that low-priced tobacco products remain widely available throughout the City through a number of sources, including through the sale of contraband cigarettes, the use of coupons and other price discounts on the sale of cigarettes and tobacco products, and the increasing migration from cigarettes to cheaper tobacco products. The bill’s intent is to reduce the persistent availability of low-priced cigarettes and tobacco products by (1) reducing the illegal evasion of cigarette excise taxes; (2) banning the redemption of coupons and other price reduction instruments in the sale of cigarettes and tobacco products; (3) creating a price floor for a package of cigarettes and little cigars; and (4) requiring inexpensive cigars to be sold in packages of four.

Section two of Int. No. 1021 would amend §11-1301 of the Code to change the threshold at which an individual is presumed to be a retail dealer. This bill section lowers such threshold from the possession or transportation at one time of 5,000 or more cigarettes to the possession or transportation at one time of 400 or more cigarettes.

Section 3 would amend section 11-1304 of the Code by adding a new subdivision d. New subdivision d would make it illegal for any person to sell, offer for sale, possess or transport any affixed or unaffixed false, altered or counterfeit cigarette tax stamps, imprints or impressions (hereinafter “illegal tax stamps”), but would not apply to (1) a person, other than a retail dealer, in possession of twenty or fewer affixed stamps, (2) public officers or employees in performance of their official duties requiring possession of illegal tax stamps, or (3) any person authorized by the Commissioner of DOF or the Commissioner of the New York State Department of Taxation and Finance to perform law enforcement functions.

Section 4 would amend chapter 40 of title 11 of the Code by adding new sections 11-4023 and 11-4024.

- Section 11-4023 would grant the Commissioner of DOF authority to seal the premises of any person determined to have committed certain violations, and to remove, seal or make inoperable devices, items or good used in connection with such acts. Such sealing would be limited to those places of business where the acts occurred. Specifically, the bases for sealing consist of:
  - the violation of §11-1303(a) or (b) of the Code (relating to relating to licensure of wholesale and retail dealers), §17-703 of the Code (relating to license required for any person engaging in acts of a wholesale or retail dealer, and as amended by bill section 9) or §20-202 of Code (relating to licensure of retail dealers, and as amended by bill section 26), on at least two occasions within a three-year period; or
  - the violation of any provision of chapter 13 of title 11 of the Code or any of sections §17-703 of the Code (relating to license required for any person engaging in acts of a wholesale or retail dealer, and as amended by bill section 9), §17-703.2 of the Code (containing provisions relating to tax stamps, as created by bill section 11), §17-704 of the Code (relating to the prohibition on out-of-package sales, and as amended by bill section 12), §17-705 of the Code (relating to age requirements of individuals handling the sale of tobacco products, and as amended by bill section 13), or subdivision a or b of §17-706 of the Code (pertaining to the

minimum sales age requirements for certain products), §17-715 of the Code (relating to prohibiting the sale of flavored tobacco products to minors, and as amended by bill section 20) or §20-202 of the Code (relating to licensure of retail dealers, and as amended by bill section 25) on at least three occasions within a three-year period. Note that §17-706 of the Code is amended by Proposed Int. No. 250-A to add subdivisions a and b.

- This section also provides for the procedures for sealing premises, including: the requirement that a sealing order be posted, a description of the authorities empowered to enforce such an order and when they are authorized to act, the storage of items removed from a sealed premises and costs for removal or storage payable prior to the release of such removed items; the process for reclaiming such removed items and the provisions for a public sale of such removed items; the provisions for having a sealing order removed; the adjudicative procedure for challenging a sealing order; and the criminal penalty for removing a seal.
- Section 11-4024 relates to the seizure and forfeiture of taxed and lawfully stamped cigarettes sold or possessed by unlicensed retail or wholesale dealers and flavored tobacco products. This section empowers authorities to seize such products together with any vending machine or receptacle in which such products are held for sale. Additionally, this section describes the procedures for such seizure, the forfeiture of certain seized products, legal review of such seizure by an aggrieved party, a public sale of any vending machine or receptacles seized or their redemption by the owner, and the destruction of seized cigarettes or flavored tobacco products.

Section 5 of the legislation would amend §17-176 of the Code, which prohibits the distribution of tobacco products for commercial purposes at less than the basic cost of such products to members of the general public in public places or at public events. It would also delete the existing subdivision c which contains an exemption that permits the serving of free samples of smoking tobacco or smokeless tobacco to persons of legal age in stores that sell tobacco products to the general public, and also exempts the distribution of tobacco products at less than basic cost by retailers, manufacturers or distributors to any employees of such companies. It would also amend the definition of tobacco product in paragraph 6 of subdivision a by expanding the current definition of tobacco product to include any product which tobacco that is intended for human consumption, including any component, part or accessory of such product as well as any “cigar,” “little cigar,” “chewing tobacco,” “pipe tobacco,” “roll-your-own tobacco,” “snus,” “bidi,” “snuff,” “tobacco-containing shisha” or “dissolvable tobacco product.” The definition excludes cigarettes or any product that has been approved by the United States Food and Drug Administration (FDA) for sale as a tobacco cessation product or for other medical purposes and that is being marketed and sold solely for such purpose.

Section 6 adds a new section 17-176.1 to the Code, pertaining to the prohibition on the sale of discounted cigarettes and tobacco products. This section

- Adds the following definitions:
  - “Cigar” means any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco, with or without a tip or mouthpiece. Cigar does not include a little cigar as defined in this section.
  - “Cigarette” means any roll for smoking made wholly or in part of tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco.
  - “Cigarette price floor” means the minimum price, including all applicable taxes, for which one package of twenty cigarettes or more may be sold by a retail dealer.
  - “Listed price” means the price listed for cigarettes or tobacco products on their packages or on any related shelving, posting, advertising or display at the place where the cigarettes or tobacco products are sold or offered for sale, including all applicable taxes.
  - “Little cigar” means any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco and that weighs no more than four pounds per thousand or has a cellulose acetate or other integrated filter.
  - “Little cigar price floor” means the minimum price, including all applicable taxes, for which one package of twenty little cigars or more may be sold by a retail dealer.
  - “Person” means any natural person, corporation, partnership, firm, organization or other legal entity.
  - “Price reduction instrument” means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.
  - “Retail dealer” means retail dealer as defined in section 11-1301 of the Code, and any employee or other agent of such retail dealer.
  - “Tobacco Product”: this definition defines tobacco product in the same way as would be defined in bill section 5, which amends §17-176(a)(6) of the Code.

- Prohibits the sale of cigarettes or tobacco products for less than the listed price, and prohibits: honoring or accepting a price reduction instrument in any transaction related to the sale of cigarettes or tobacco products to a consumer; the sale, offer for sale of cigarettes or tobacco products through a multi-package discount or otherwise provide cigarettes or tobacco products for less than the listed price; the sale, offer for sale or the provision of any product other than cigarettes or tobacco products for less than the listed price in exchange for the purchase of cigarettes; the sale, offer for sale or otherwise providing cigarettes or tobacco products for less than the listed price.
- Creates a price floor for cigarettes and little cigars of \$10.50 and prohibits the sale of cigarettes or little cigars for less than the price floor. The cigarette and little cigar price floors may be modified to account for the consumer price index, inflation and changes in taxes.
- Provides that DOHMH shall promulgate rules as may be necessary for the purpose of carrying out the new provisions contained in this bill section.
- Provides that any person who violates the provisions relating to the prohibition on the sale of cigarettes or tobacco products for the less than the listed price or the prohibition on the sale of cigarettes or little cigars for less than the price floor, or any rule promulgated pursuant to such provisions, shall be liable for a civil penalty in the following amounts:
  - \$1,000.00 for the first violation within a 5-year period;
  - \$2,000.00 for the second violation within a 5-year period; and
  - \$5,000.00 for the third violation within a 5-year period;
- Provides that no person shall be liable for more than one violation during a single day of the provisions relating to the prohibition on the sale of cigarettes or tobacco products for less than the listed price or the prohibition on sale of cigarettes or little cigars for less than the listed price.
- Provides that a violation of the provisions relating to the prohibition on the sale of cigarettes or tobacco products for less than the listed price or the prohibition on sale of cigarettes or little cigars for less than the listed price shall constitute a basis, pursuant to §20-206 of the Code (relating to the revocation and suspension of a retail dealer's license), for the suspension or revocation of the license issued to the retail dealer's place of business where the violation occurred.
- Provides that DOHMH, DCA and DOF shall enforce the provisions of this new section.

Section 7 of the legislation would amend subdivision r of §17-702 of the Code, to redefine the term "tobacco product." The changes to the definition of tobacco product to define it in the same as it is defined in Section 5 of the legislation.

Section 8 would amend §17-702 of the Code by adding new subdivisions w, x, y, z and aa. It would add the terms "Cigarette," "Cigar," and "Little cigar," which would be given the same definitions as those provided in Section 6 of the legislation. It would also define the term "Shisha" to mean any product made primarily of tobacco or other leaf, or any combination thereof, smoked or intended to be smoked in a hookah or water pipe. Finally, it would define the term "Herbal cigarette" to mean a product that is meant to be smoked like a cigarette but is composed of one or more herbs and does not contain tobacco.

Section 9 would amend §17-703 of the Code by broadening what would be required for licensure as a wholesale dealer or retail dealer. Section 9 would make it illegal to engage in "any act" as a wholesale dealer without licensure pursuant to §11-1303 of the Code or as a retail dealer without licensure pursuant to §20-202 of the Code.

Section 10 would add a new §17-703.1 to the Code, which would require retail dealers to post a sign in a conspicuous place at the point of sale of cigarettes or where cigarettes are displayed or offered for sale stating that the cigarettes sold in New York City must be in packages bearing valid tax stamps.

Section 11 would add a new §17-703.2 to the Code, which would require:

- That any package containing cigarettes sold or offered for sale by a retail dealer shall bear a valid tax stamp as is required by §11-1302 of the Code.
- No retail dealer shall engage in a sale or purchase prohibited by §11-1303(e) or §20-205. Section 20-205 prohibits agents or dealers from selling cigarettes to an unlicensed dealer, or to a dealer whose license has been suspended or revoked, and prohibits dealers from purchasing cigarettes from any person other than a manufacturer or licensed wholesale dealer. Section 11-303(e) prohibits agents or dealers from selling cigarettes to an unlicensed wholesale or retail dealer, or to a wholesale or retail dealer whose license has been suspended or revoked, and prohibits dealers from purchasing cigarettes from any person other than a manufacturer or licensed wholesale dealer.
- No retail dealer shall sell, offer for sale, possess or transport any illegal tax stamps.
- No retail dealer shall engage in any act to hide or conceal
  - any cigarettes in unstamped or unlawfully stamped packages;
  - any illegal tax stamps; or
  - any cigarettes that are outside of a package in violation of the provision of the bill that would require that any package containing

cigarettes sold or offered for sale by a retail dealer bear a valid tax stamp.

Section 12 would amend §17-704 of the Code pertaining to the prohibition of "out-of-package" sales by:

- Adding the term "cigarettes and" before the term "tobacco products" in §17-704(a) which prohibits such products from being sold out of the packages provided by the manufacturer, importer or packager.
- Adding a new subdivision b, which requires that cigars be sold in packages of four, unless the listed price of the individual cigar is greater than \$3.00.
- Adding a new subdivision c, which prohibits the sale of little cigars unless the little cigar is sold in a package of at least 20.

Section 13 would amend §17-705 of the Code pertaining to the age restriction on handling the sale of tobacco products by adding the term "cigarettes or" before the term "a tobacco product" in §17-705, which would require that an employee or agent of a retail dealer must be at least 18 years of age or must be under the direct supervision of someone 18 or older in order to handle the sale of cigarettes or a tobacco product.

Section 14 would repeal §17-707 of the Code, which relates to requiring public health messages to appear alongside tobacco advertisements.

Section 15 would amend §17-709 of the Code, which pertains to enforcement of subchapter 1 of chapter 7 of title 17. This section of the bill would remove DCA from enforcement of this subchapter, and substitute DOF. This section would also add that DCA shall enforce the following sections of the Code as amended by

- §17-703, relating to license required for any person engaging in acts of a wholesale or retail dealer;
- §17-703.1, requiring the posting of a sign that cigarettes sold must bear a valid tax stamp;
- §17-704, relating to the prohibition on out-of-package sales;
- §17-705, requiring that a retail dealer's employee or agents must be 18 years or older or under the direct supervision of someone 18 years or older in order to handle the sale of cigarettes or a tobacco product; and
- §17-706, pertaining to minimum legal sales age for various products.

Finally, this section would empower designated enforcement employees of authorizing agencies that have the power to enforce the provisions of this chapter to enforce such provisions.

Section 16 would add a new §17-709.1 to the Code, which would provide that the Commissioner of DOHMH and the Commissioner of DOF shall promulgate any rules necessary for the purposes of carrying out the provisions of subchapter 1 of chapter 7 of title 17 of the Code.

Section 17 would amend §§17-710(a)-(c) & (e) of the Code:

- Subdivision a amends the civil penalties and license revocation for a violation of the provisions of this subchapter by:
  - Adding the following penalties for any person found to be in violation of the requirement contained in section 9 of the bill (§17-703 of the Code, relating to license required for any person engaging in acts of a wholesale or retail dealer):
    - Not more than \$5,000.00 for the first violation;
    - Not more than \$5,000.00 for each additional violation found on that day; and
    - Not more than \$10,000.00 for the second violation and each subsequent violation by that person.
  - Adding a penalty of not more than \$500.00 in any single day for a violation of the requirement contained in section 10 of the bill (§17-703.1 of the Code, requiring the posting of a sign that cigarettes sold must bear a valid tax stamp).
  - In addition to penalty that may be imposed pursuant to §11-1317 of the Code (relating to penalties and interest of any person failing to pay a tax), adding the following penalties for any person found to be in violation of the requirements contained in section 11 of the bill (§17-703.2 of the Code, containing provisions relating to tax stamps):
    - Not more than \$2,000.00 for the first violation;
    - Not more than \$2,000.00 for each additional violation found on that day; and
    - Not more than \$5,000.00 for the second violation and each subsequent violation at the same place of business within a three-year period.
  - Increasing the time period from two to three years for which persons who commit violations contained in bill sections 12 and 13 are subject to increased fines for subsequent violations, and increasing the time period from two to three years for which

persons who commit violations contained in and §17-706(a) and (b) of the Code, relating to the prohibition on sales below the minimum legal sales age for various products are subject to increased fines for violations. Section 17-706 of the Code would be amended by Proposed Int. No. 250-A to create new subdivisions a, b and c of §17-706.

- Establishing a civil penalty of not more than \$500 in any single day for a person found to be in violation of subdivision c of section 17-706 of Code, relating to the sign required to be posted with respect to the minimum legal sales age for certain products. New subdivision c would be created by Proposed Int. No. 250-A.
  - Amending which violations can result in the revocation or suspension of a dealer's license, extending from two to three years the time period within which such subsequent violations are counted towards revocation or suspension of a dealer's license, and which violations by a license holder shall be included in determining the total number of violations of that license holder or any subsequent license holder at the same place of business.
  - Deletes provisions pertaining to violations and penalties for knowingly making any false statements pursuant to §17-707 of the Code, which would be repealed by section 14 of the bill.
- Amending §17-710(b) to provide for administrative and adjudication procedures pertaining to violations of the provisions contained in sections 9, 10, 11, 12, and 13 of the bill, and subdivisions a and b of §17-706 of the Code, relating to the prohibition on sales below the minimum legal sales age for various products.
  - Amending §17-710(c) to provide that the penalties provided in §17-710(a), as amended by this section 17 of the bill, shall be in addition to any other provision of law or rule promulgated.
  - Amending §17-710(e) which relates to arm's length transactions in the sale or transfer of businesses. This amendment would add a transaction conducted while violations are pending against the licensed dealer to the types of transactions that are presumed not to be at arm's length.

Section 18 would amend §17-710 of the Code by adding new subdivision g. This new subdivision would provide for the procedures relating to the suspension of a retail dealer's license for failure to pay civil penalties under chapter 13 of title 11 of the Code (relating to taxes on cigarettes), or any penalties imposed under any provision of chapter 7 of title 17 of the Code, §17-176.1 of the Code (prohibition on the sale of discounted cigarettes or tobacco products), or §17-177 of the Code (relating to penalties for distribution of tobacco products through vending machines).

Section 19 would amend subdivisions a and j of §17-713 of the Code by amending the definition of "cigarette" so that it matches the definition contained in section 6 of the bill, and by amending the definition of "tobacco products" so that it matches the definition contained in section 5 of the bill.

Section 20 would amend §17-715 of the Code. This section would make it illegal to "possess with the intent to sell or offer for sale" any flavored tobacco product, except in a tobacco bar. This bill section would also add a new subdivision b which would provide a presumption that a retail dealer in possession of four or more flavored tobacco products possesses such products with the intent to sell.

Section 21 would amend §17-716 of the Code, and would raise the penalty from not less than \$250.00 to not less than \$500.00 for a violation of §17-714 of the Code (prohibiting the sale of herbal cigarettes to minors). This section would also raise the penalties as follows for violations of §17-715 of the Code (relating to prohibiting the sale of flavored tobacco products to minors):

- From not more than \$500.00 to not more than \$1,000.00 for the first violation;
- From not more than \$500.00 to not more than \$1,000.00 for each additional violation found on that day;
- From not more than \$1,000.00 to not more than \$2,000.00 for the second violation at the same place of business within a three-year period;
- From not more than \$1,000.00 to not more than \$2,000.00 for each additional violation at the same place of business found on that day;
- From not more \$2,000.00 to not more than \$5,000.00 for the third and all subsequent violations at the same place of business within a three-year period.

For the purpose of calculating penalties for subsequent violations under §17-715 of the Code, this section would increase the time period from two to three years, and would also increase the time period from two to three years for the purpose of calculating violations which would lead to the mandatory suspension of the dealer's license.

Section 22 of the bill would amend §17-717 of the Code by adding DOF to enforcement of provisions under subchapter 2 of chapter 7 of title 17, and adding DOF to the administrative and adjudication procedures pertaining to violations of the provisions contained in sections 20 and 21 of the bill.

Section 23 would amend §17-718 of the Code by adding DOF to the agencies authorized to promulgate rules for carrying out the provisions under subchapter 2 of chapter 7 of title 17.

Section 24 would amend subdivision f of §20-201 of the Code to change the basis on which an individual shall be presumed to be a retail dealer in the same manner as provided in section 2 of the bill.

Section 25 would amend subdivision d of §20-202 of the Code. This section would remove the Commissioner of DCA's discretion in determining whether a retailer whose license has been revoked may be issued a new license within a two-year period following such revocation. This section would also add the provisions in sections 9 and 11 of the bill as a basis for the revocation or suspension of a dealer's license pursuant to the provisions contained in bill section 21. It would add §17-706 of the Code as a basis for a violation such that a violation of the minimum sales age prohibition, pursuant to subdivisions a and b of §17-706 (as amended by Proposed Int. No. 250-A), would serve as a basis of revocation or suspension, but it would remove a violation of the minimum sales age sign requirement pursuant to subdivision c of §17-706 (as amended by Proposed Int. No. 250-A) from serving as a basis for revocation or suspension. This section would also amend the provisions relating to arm's length transactions in the sale or transfer of businesses, adding a transaction conducted while violations are pending against the licensed dealer to the types of transactions that are presumed not to be at arm's length.

Section 26 would amend §20-207 of the Code. This section would amend §20-207(a) by adding that civil penalties issued for violations of §20-202(a) of the Code (relating to the license required of retail dealers), shall be in lieu of penalties imposed under the provision contained in section 9 of the bill, and that civil penalties imposed for violations of §20-205 (prohibiting certain transactions with unlicensed dealer or non-wholesale dealers or manufacturers), shall be in lieu of penalties imposed under the provision contained in section 11 of the bill). Finally, this section would authorize the Commissioner of DCA to order the sealing of any premises where any person has been found:

- to have engaged in unlicensed activity in violation of subchapter 2 of chapter 7 of title 17 on at least two occasions within a three-year period;
- to have violated the provisions contained in bill sections 12, 13, 20 or subdivisions a or b of §17-706 of the Code (as amended by Proposed Int. No. 250-A), on at least three occasions within a three-year period.

Int. No. 1021 would take effect immediately, except that sections 2, 7, 8, 9, 11, 17, 18, 19, 20, 21, 24 and 26 of the legislation would take effect 60 days after its enactment, that sections 5, 6, 10, 12 and 13 would take effect 120 days after its enactment, that section 25 would take effect 180 days after its enactment. In addition, the commissioners of DOF, DCA and DOHMH may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective dates.

<sup>1</sup> New York City Department of Health and Mental Hygiene. *Preventing Non-Communicable Diseases and Injuries*:

*Innovative Solutions from New York City*. New York, New York City Department of Health and Mental Hygiene, 2011. See also Goodarz Danaei, Eric L. Ding, Dariush Mozaffarian, Ben Taylor, Jürgen Rehm, Christopher J. L. Murray, and Majid Ezzati I, *The preventable causes of death in the United States: comparative risk assessment of dietary, lifestyle, and metabolic risk factors*, PLoS Med 2009;6(4): e1000058.

<sup>2</sup> Centers for Disease Control and Prevention, *Smoking & Tobacco Use*, [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/fast\\_facts/](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/) (last accessed Oct. 29, 2013).

<sup>3</sup> New York City Department of Health and Mental Hygiene. *Preventing Non-Communicable Diseases and Injuries*:

*Innovative Solutions from New York City*. New York, New York City Department of Health and Mental Hygiene, 2011.

<sup>4</sup> Centers for Disease Control and Prevention, *Health Effects of Cigarette Smoking*, [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/effects\\_cig\\_smoking/](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/) (last accessed Oct. 29, 2013).

<sup>5</sup> American Cancer Society, *Cigarette Smoking*, <http://www.cancer.org/cancer/cancercauses/tobaccocancer/cigarettesmoking/cigarette-smoking-who-and-how-affects-health> (last accessed Oct. 29, 2013).

<sup>6</sup> Centers for Disease Control and Prevention, *Health Effects of Cigarette Smoking*, [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/effects\\_cig\\_smoking/](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/) (last accessed Oct. 29, 2013).

<sup>7</sup> National Cancer Institute, *Tobacco Facts*, <http://www.cancer.gov/cancertopics/tobacco/statisticsnapshot#1> (last accessed Oct. 29, 2013).

<sup>8</sup> Centers for Disease Control and Prevention, *Health Effects of Cigarette Smoking*, [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/effects\\_cig\\_smoking/](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/) (last accessed Oct. 29, 2013).

<sup>9</sup> American Cancer Society, *How Does Tobacco Use Affect the Economy?*, <http://www.cancer.org/cancer/cancercauses/tobaccocancer/questionsaboutsmokingtobaccoandhealth/questions-about-smoking-tobacco-and-health-tob-and-economy> (last accessed Oct. 29, 2013).

<sup>10</sup> *Id.*

<sup>11</sup> NYS Dept. of Health Tobacco Control Program, *The costs of tobacco on NY State*, <http://www.nysmokefree.com/EMP/EMPsubpage.aspx?p=60&p1=6020>, (last accessed Oct. 29, 2013).

<sup>12</sup> New York City has the highest combined excise tax on cigarettes. New York State has a tax of \$4.35 per pack, and New York City imposes a local excise tax of \$1.50 per pack, bringing the combined tax rate in New York City to \$5.85. Campaign for Tobacco-Free Kids, *Top Combined State-Local Cigarette Tax Rates*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0267.pdf>, (last accessed Oct. 29, 2013).

<sup>13</sup> New York City Dept. of Health and Mental Hygiene, *Health Department Launches New Smoking Cessation Campaign, Suffering Every Minute, Which Depicts the Health Consequences of Smoking: City Announces Free Nicotine Patch and Gum Giveaway through September 20<sup>th</sup>*, <http://www.nyc.gov/html/doh/html/pr2012/pr023-12.shtml>, (last accessed Oct. 29, 2013).

<sup>14</sup> *Id.*

<sup>15</sup> In 2002, New York City passed the Smoke-Free Air Act to prohibit smoking in virtually all workplaces and indoor recreational venues. In 2009, the act was expanded to prohibit smoking within 15 feet of entrances, exits and grounds of New York City's hospitals. See Local Law 50 of 2009. In 2011, the Act was expanded again to include City parks, beaches, boardwalks, public golf courses, sports stadiums and pedestrian plazas. See Local Law 11 of 2011. The City also restricted the sale of flavored non-cigarette tobacco products in 2009. See Local Law 69 of 2009.

<sup>16</sup> New York City Dept. of Health and Mental Hygiene, *Community Health Survey, 2002-2012*.

<sup>17</sup> New York City Dept. of Health and Mental Hygiene, *Youth Risk Behavior Survey 2007, 2011*.

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

<sup>19</sup> New York City Dept. of Health and Mental Hygiene, Community Health Survey, 2012.

<sup>20</sup> New York City Dept. of Health and Mental Hygiene, Community Health Survey, 2011.

<sup>21</sup> New York City Dept. of Health and Mental Hygiene, Youth Risk Behavior Survey, 2011.

<sup>22</sup> New York City Dept. of Health and Mental Hygiene, New York City Community Health Survey 2004-2007.

<sup>23</sup> United State Department of Health and Human Services, United States Surgeon General, *Preventing Tobacco Use Among Youth and Young Adults Fact Sheet*, <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/factsheet.html> (last accessed Oct. 29, 2013).

<sup>24</sup> *Id.*

<sup>25</sup> Hammond D. (2005). Smoking behavior among young adults: Beyond youth prevention. *Tob Ctrl* 14:181-185.

<sup>26</sup> American Lung Association, *Children and Teens*, <http://www.lung.org/stop-smoking/about-smoking/facts-figures/children-teens-and-tobacco.html> (last accessed Oct. 29, 2013).

<sup>27</sup> Nicholas Bakalar, *Nicotine Addiction Is Quick in Youths, Research Finds*, N.Y. TIMES (July 21, 2007) (reporting on a study published in *The Archives of Pediatrics and Adolescent Medicine*).

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

<sup>29</sup> Campaign for Tobacco Free Kids, *The Path to Tobacco Addiction Starts at Very Young Ages*, available at <http://www.tobaccofreekids.org/research/factsheets/pdf/0127.pdf> (last accessed Oct. 29, 2013).

<sup>30</sup> N.Y.S. Pub. Health L. §1399-cc.; N.Y.C. Admin. Code § 17-706.

<sup>31</sup> See, e.g., DiFranza J, and Coleman M (2001). Sources of tobacco for youths in communities with strong enforcement of youth access laws. *Tob Ctrl* 2001;10:323-328.

<sup>32</sup> New York City Dept. of Health and Mental Hygiene, Epiquery: NYC Interactive Health Data System -New York City Youth Risk Behavior Survey 1997-2011, <http://nyc.gov/health/epiquery> (last accessed Oct. 29, 2013).

<sup>33</sup> DiFranza J, and Coleman M (2001). Sources of tobacco for youths in communities with strong enforcement of youth access laws. *Tob Ctrl* 2001;10:323-328.

<sup>34</sup> Ahmad, S. (2005). Closing the youth access gap: The projected health benefits and cost savings of a national policy to raise the legal smoking age to 21 in the United States. *Health Policy* 75:74-84.

<sup>35</sup> Brett Loomis, et al., *Implications of the June 2008 \$1.25 Cigarette Tax Increase*, NYS Dept. of Health, Nov. 2010, [http://www.health.ny.gov/prevention/tobacco\\_control/docs/2010-11-12\\_tax\\_increase\\_topical\\_report.pdf](http://www.health.ny.gov/prevention/tobacco_control/docs/2010-11-12_tax_increase_topical_report.pdf).

<sup>36</sup> Joseph Henchman, Scott Drenkard, *Cigarette Taxes and Cigarette Smuggling by State*, The Tax Foundation, <http://taxfoundation.org/article/cigarette-taxes-and-cigarette-smuggling-state>.

<sup>37</sup> Campaign for Tobacco-Free Kids, *Top Combined State-Local Cigarette Tax Rates*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0267.pdf>.

<sup>38</sup> U.S. Government Accountability Office, *Report to Congressional Committees, Illicit Tobacco: Various Schemes Are Used to Evade Taxes and Fees*, GAO-11-313 at 14. (Mar. 2011)

<sup>39</sup> David Merriman and Howard Chernick, *Using Littered Pack Data to Estimate Cigarette Tax Avoidance in NYC*, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2192169](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2192169).

<sup>40</sup> DOF inspects more than 8,000 retailers annually. Information provided by the New York City Department of Finance.

<sup>41</sup> New York City Dept. of Health and Mental Hygiene, Community Health Survey, 2010.

<sup>42</sup> Brett Loomis, et al., *Implications of the June 2008 \$1.25 Cigarette Tax Increase*, NYS Dept. of Health, Nov. 2010, [http://www.health.ny.gov/prevention/tobacco\\_control/docs/2010-11-12\\_tax\\_increase\\_topical\\_report.pdf](http://www.health.ny.gov/prevention/tobacco_control/docs/2010-11-12_tax_increase_topical_report.pdf).

<sup>43</sup> David Merriman and Howard Chernick, *Using Littered Pack Data to Estimate Cigarette Tax Avoidance in NYC*, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2192169](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2192169); Marin K Kurti, Klaus von Lampe, Douglas E Thompkins. *The illegal cigarette market in a socioeconomically deprived inner-city area: the case of the South Bronx*. *Tobacco Control*, 2013.

<sup>44</sup> New York City Dept. of Health and Mental Hygiene, Youth Risk Behavior Survey, 2011.

<sup>45</sup> Ala. Code § 28-11-13 (2011).

<sup>46</sup> Alaska Stat. §§ 11.76.100 & 11.76.105 (2011).

<sup>47</sup> N.J. Stat. Ann. § 2A:170-51.4 (2011).

<sup>48</sup> Utah Code Ann. §§ 76-10-104 et seq. & 76-10-105 (2011).

<sup>49</sup> Nassau County, N.Y., Local Law No. 5-2006 (Apr. 26, 2006).

<sup>50</sup> Onondaga County, N.Y., Local Law No. 2-2009 (Jan. 12, 2009).

<sup>51</sup> Suffolk County, N.Y., Regulatory Local Laws ch. 792.

<sup>52</sup> See, e.g., Press Release, Nassau County Legislature, *Abrahams and Majority Legislators Approve Law Raising Legal Age to 19 to Purchase Tobacco*, <http://www.nassaucountyny.gov/agencies/Legis/LD/01/NewsRelease/2006/042606tobacco19ka.html> (last accessed on Oct. 29, 2013).

<sup>53</sup> See, e.g., CSP Daily News, *Canton, Mass., Raises Tobacco, E-Cig Purchase Age to 21*, available at <http://www.cspnet.com/category-management-news-data/tobacco-news-data/articles/canton-mass-raises-tobacco-e-cig-purchase> (last accessed Oct. 28, 2013); Benjamin Paulin, *Age Limit for Tobacco Sales to Increase in Sharon This Month, The Sharon Patch*, available at <http://sharon.patch.com/groups/politics-and-elections/p/age-limit-for-tobacco-sales-to-increase-in-sharon-this-month> (last accessed Oct. 28, 2013).

<sup>54</sup> Campaign for Tobacco Free Kids, *Increasing the Minimum Legal Sale Age for Tobacco Products to 21*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0376.pdf> (last accessed Oct. 29, 2013).

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

<sup>56</sup> Millett C, Lee JT, Gibbons DC, Glantz SA. Increasing the age for the legal purchase of tobacco in England: impacts on socio-economic disparities in youth smoking. *Thorax* 2011;66(10):862-865.

<sup>57</sup> *Id.*

<sup>58</sup> Ahmad, S. (2005). Closing the youth access gap: The projected health benefits and cost savings of a national policy to raise the legal smoking age to 21 in the United States. *Health Policy* 75:74-84.

<sup>59</sup> Nicholas Bakalar, *Debating Age Limits on Tobacco*, N.Y. TIMES (April 29, 2013) available at <http://well.blogs.nytimes.com/2013/04/29/debating-age-limits-on-tobacco/>.

<sup>60</sup> Associated Press, *NYC Proposes Raising Age For Cigarette Purchases*, available at <http://www.npr.org/templates/story/story.php?storyId=178413124> (last accessed April 29, 2013).

<sup>61</sup> *Id.*

<sup>62</sup> See Senate Bill S.4863, 2013 Regular Session (NY 2013); Assembly Bill A-7105, 2013 Regular Session (NY 2013).

<sup>63</sup> N.Y.S. Pub. Health L. §1399-cc.

<sup>64</sup> CBSNews.Com, *Booming E-cigarette Industry Raises Questions on Safety, Reregulation*, July 22, 2013. Last accessed October 29, 2013. Available at: [http://www.cbsnews.com/2102-505263\\_162-57594842.html](http://www.cbsnews.com/2102-505263_162-57594842.html)

<sup>65</sup> Centers for Disease Control and Prevention, *Notes from the Field: Electronic Cigarette Use Among Middle and High School Students — United States, 2011–2012, Morbidity and Mortality Weekly Report* (Sept. 6, 2013).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> U.S. Food and Drug Administration. FDA Warns of Health Risks Posed by E-Cigarettes. Last accessed October 29, 2013. Available at: <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm173401.htm>.

<sup>69</sup> U.S. Food and Drug Administration. FDA Warns of Health Risks Posed by E-Cigarettes. Last accessed October 29, 2013. Available at: <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm173401.htm>

<sup>70</sup> Proposed Int. No. 250-A, Int. No. 1020, and Int. No. 1021: Hearing Before the N.Y. City Council Committee on Health (May 2, 2013) (statement of testimony of Danny McGoldrick, Campaign for Tobacco Free Kids).

<sup>71</sup> *Id.*

<sup>72</sup> Vivian Lee, *Bloomberg Seeks End to Cheap Cigarettes*, N.Y. TIMES (March 26, 2013).

<sup>73</sup> *Id.*

<sup>74</sup> Campaign for Tobacco-Free Kids, *Raising Cigarette Taxes Reduces Smoking, Especially Among Kids (and the Cigarette Companies Know It)*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0146.pdf>. (last accessed Oct. 29, 2013).

<sup>75</sup> *Id.*

<sup>76</sup> Survey of 2011 Nicotine Patch and Gum Program Participants, NYC Retail Advertising Tobacco Survey, 2011.

<sup>77</sup> See *Nat'l Ass'n of Tobacco Outlets, Inc. v. City of Providence*, 2012 WL 6128707 (D.R.I. Dec. 10, 2012).

<sup>78</sup> City of Providence, Rhode Island, *Providence Highlighted as a National Leader in Youth Tobacco Control*, <http://www.providenceri.com/mayor/providence-highlighted-as-a-national-leader-in>.

<sup>79</sup> *Id.*

<sup>80</sup> National Association of Tobacco Outlets Inc. v. City of Providence, R.I., No. 13-1053 (1st Cir. Sept. 30, 2013).

<sup>81</sup> Vivian Lee, *Bloomberg Seeks End to Cheap Cigarettes*, N.Y. TIMES (March 26, 2013).

<sup>82</sup> *Id.*

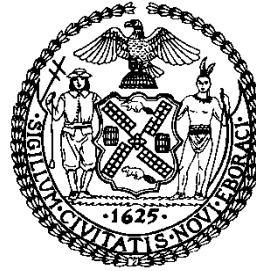
<sup>83</sup> *Id.*

<sup>84</sup> See Nyman AL, Taylor TM, Biener L., *Trends in cigar smoking and perceptions of health risks among Massachusetts adults*, *Tobacco Control*, June 2002; Fabian LA, Canlas LL, Potts J, Pickworth WB, *Ad lib smoking of Black & Mild cigarillos and cigarettes*, *Nicotine & Tobacco Research*, March 2012; Jolly DH, *Exploring the use of little cigars by students at a historically black university*, *Preventing Chronic Disease*, July 2008; Richter PA, Pederson LL, O'Hegarty MM, *Young adult smoker risk perceptions of traditional cigarettes and nontraditional tobacco products*, *American Journal of Health Behavior*, May-Jun. 2006; Malone RE, Yeger V, Pearson C., *Cigar risk perceptions in focus groups of urban African American youth*, *Journal of Substance Abuse*, 2001.

<sup>85</sup> Proposed Int. No. 250-A, Int. No. 1020, Int. No. 1021: Hearing Before the N.Y. City Council Committee on Health (May 2, 2013) (statement of testimony of Dr. Thomas Farley, Commissioner of New York City Department of Health and Mental Hygiene).

<sup>86</sup> *Id.*

(The following is the text of the Fiscal Impact Statement for Int. No. 250-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: 250-A  
COMMITTEE:  
Health

**TITLE:** To amend the administrative code of the city of New York, in relation to raising the sales age from eighteen to twenty-one years for cigarettes and tobacco products and establishing a sales age of twenty-one years for electronic cigarettes.

**SPONSOR(S):** Gennaro, Chin, Palma, Van Bramer, The Speaker (Council Member Quinn), Rodríguez, Rivera, Dromm, Vacca, Brewer, Dickens, Crowley, Eugene and King.

**SUMMARY OF LEGISLATION:**

Proposed Intro. 250-A, or Tobacco 21, would amend section 17-706 of the Administrative Code to raise the legal sales age of cigarettes and tobacco products from 18 years of age to 21 years of age, and substitute all references in this section from 18 years of age to 21 years of age. Additionally, this section is amended to include electronic cigarettes in the 21 sales age.

Additionally, this bill would raise the age—from 25 to 30 years of age—at which an individual is not required to show identification in order to purchase cigarettes, tobacco products and electronic cigarettes if the individual reasonably appears to be at least that age.

This bill would maintain the requirement that businesses post a sign advising persons about the minimum sales age requirements, but would require that the business post such a sign in accordance with the rules of the Department of Health and Mental Hygiene.

**EFFECTIVE DATE:** This legislation would take effect 180 days after its enactment.

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

**FISCAL IMPACT STATEMENT:**



|              | Effective<br>FY15 | FY Succeeding<br>Effective FY<br>16 | Full Fiscal<br>Impact FY15 |
|--------------|-------------------|-------------------------------------|----------------------------|
| Revenues     | \$1,400,000       | \$1,100,000                         | \$1,400,000                |
| Expenditures | \$2,000,000       | \$1,660,000                         | \$2,000,000                |
| Net          | \$600,000         | \$560,000                           | \$600,000                  |

**IMPACT ON REVENUES:** According to the Administration's data, this legislation would generate approximately \$1.4 million in revenue from fines collected from violations, assuming a low compliance level and a target of 10,000 inspections in the first full fiscal year of enactment. This amount is projected to decrease to \$1.1 million in the outyears, assuming that compliance increases.

**IMPACT ON EXPENDITURES:** According to the Administration's estimation, this legislation would require an additional \$2 million in Fiscal Year 2015 for one-time start-up costs and for DOHMH to hire the necessary staff to fully implement the provisions of this bill. This estimate assumes the addition of a New Tobacco Age Enforcement Unit with 8 inspectors and 10 support staff. Expenditures are expected to decrease to \$1.66 million in the outyears.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** Department of Consumer Affairs

**ESTIMATE PREPARED BY:** Crilhien R. Francisco, Legislative Financial Analyst

**ESTIMATED REVIEWED BY:** Latonia McKinney, Deputy Director

Tanisha Edwards, Finance Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on May 25, 2010 as Int.250 and referred to the Committee on Health. On May 2, 2013, the Committee on Health held a hearing on an amended version of this legislation and the bill was laid over. A further amended version of the legislation, Proposed Int. No.250-A, will be considered by the Committee on Health on October 29, 2013 and upon successful vote, the bill will be submitted to the full Council for a vote at the Stated meeting held on October 30, 2013.

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

**(For Fiscal Impact Statement and text of the bill of Int No. 1021-A, please see the Report of the Committee on Health for Int No. 1021-A printed in these Minutes; for text of Int No. 250-A, please see below)**

*Accordingly, this Committee recommends the adoption of Int No. 250-A and 1021-A printed in these Minutes.*

**(The following is the text of Int. No. 250-A:)**

Int. No. 250-A

By Council Members Gennaro, Chin, Palma, Van Bramer, The Speaker (Council Member Quinn), Rodriguez, Rivera, Dromm, Vacca, Brewer, Dickens, Crowley, Eugene and King.

**A Local Law to amend the administrative code of the city of New York, in relation to raising the sales age from eighteen to twenty-one years for cigarettes and tobacco products and establishing a sales age of twenty-one years for electronic cigarettes.**

*Be it enacted by the Council as follows:*

Section 1. Legislative intent. Tobacco use remains a leading cause of preventable premature death in New York City, killing thousands of New Yorkers every year and increasing the risks of lung cancer, heart disease, stroke, asthma, emphysema, pre-term delivery, low birth weight, and many other types of cancer. Furthermore, cigarettes are the only consumer products that, when used exactly as intended, kill up to one-third of regular users.

In 2002, the City launched a comprehensive program to reduce and prevent tobacco use. By implementing multiple strategies-including legislation restricting the use and sale of cigarettes and tobacco products, public education media campaigns, and the promotion of smoking cessation-and rigorously evaluating those efforts, the City has succeeded in reducing the prevalence of adult smoking by 28 percent, from 21.5 percent in 2002 to 15.5 percent in 2012. The prevalence of youth smoking has also declined substantially, from 17.6 percent in 2001 to 8.5 percent in 2007. Youth

smoking rates, however, have plateaued since 2007, and remain at 8.5 percent as of 2011. Almost 100,000 persons between eighteen and twenty-four years of age, as well as 19,000 New York City public high school students, currently smoke.

Most smokers start using tobacco as youth or young adults. In New York City, 80 percent of smokers started smoking before they turned twenty-one years old. Furthermore, there is strong evidence that people who begin smoking at an early age are more likely to develop a severe addiction to nicotine than those who start at a later age. The transition from experimental to regular smoking typically occurs around twenty years old. Most people who are not smokers by twenty-one years of age do not start smoking later in their lives.

Raising the legal sales age for cigarettes and tobacco products will reduce access to both products in stores among young adults, between eighteen and twenty years old, and among youth who are younger than eighteen. According to one study, raising the minimum sales age to twenty-one could reduce the smoking rate over time among eighteen to twenty year olds by 55 percent and among fourteen to seventeen year olds by two-thirds. Raising the sales age will reduce access to cigarettes and tobacco products by youth because youth often acquire such products from older friends: 90 percent of people purchasing cigarettes for minors are between eighteen and twenty years old.

Other jurisdictions that have increased the minimum sales age for cigarettes and tobacco products have seen decreases in tobacco use among youth. In 2005, Needham, Massachusetts increased the legal sales age from eighteen to twenty-one years. Between 2006 and 2012, the percentage of high school students in Needham who reported smoking declined from 12.9 percent to 5.5 percent, a decrease of over 50 percent. In 2007, England increased the minimum sales age from sixteen to eighteen years. By 2009, there was a 30 percent decline in smoking among youth between the ages of sixteen and seventeen, and younger students between the ages of eleven and fifteen were one-third less likely to be regular smokers than they had been previously.

Electronic cigarettes have emerged as an alternative to cigarettes. Sales of electronic cigarettes doubled from nearly \$300 million in 2011 to \$600 million in 2012. According to data released by the Centers for Disease Control and Prevention, the percentage of middle and high school students in the United States who have used electronic cigarettes more than doubled from 2011 to 2012. Among high school students, the percentage who reported ever using an electronic cigarette increased from 4.7 percent in 2011 to 10.0 percent in 2012. More than 1.78 million middle and high school students nationwide tried electronic cigarettes in 2012. Electronic cigarettes are not regulated by the Food and Drug Administration (FDA) and contain nicotine, a potent and highly addictive substance, as well as potentially harmful chemicals. Although the long-term effects of electronic cigarette use require further study, the FDA has expressed concerns about their safety. Adolescents are more susceptible to the addictive properties of nicotine. Compared with adults, adolescents appear to display evidence of nicotine dependence at much lower levels of consumption. Thus, exposure to nicotine during adolescence may lead to a lifetime of nicotine addiction. Establishing a legal sales age of twenty-one years for electronic cigarettes will reduce electronic cigarette use among youth and prevent the emergence of a new generation that is addicted to nicotine.

The Council therefore finds that establishing a minimum sales age of twenty-one for cigarettes, tobacco products, and electronic cigarettes will reduce smoking, tobacco, and electronic cigarette use among youth and young adults, and decrease the likelihood that members of this cohort will become smokers or electronic cigarette users later in life. This increase in the minimum sales age will also reduce high school students' opportunities to access tobacco or electronic cigarettes from legal buyers. Moreover, this proposal will simplify enforcement for retailers selling cigarettes, tobacco products, or electronic cigarettes because New York State driver's licenses conspicuously indicate when a licensee is under twenty-one years of age. Finally, raising the minimum sales age will augment existing tobacco prevention and control programs and improve the general health of all New Yorkers.

§ 2. Section 17-702 of the administrative code of the city of New York is amended by adding a new subdivision bb to read as follows:

*bb. "Electronic cigarette" means a battery-operated device that contains nicotine and delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette.*

§ 3. Section 17-706 of the administrative code of the city of New York, as renumbered and amended by local law number 69 for the year 2009, is hereby amended to read as follows:

§ 17-706 Sale of *cigarettes*, tobacco products, or *electronic cigarettes* to minors and young adults prohibited.

*a.* Any person operating a place of business wherein *cigarettes*, tobacco products, or *electronic cigarettes* are sold or offered for sale [must be licensed as required by section 17-703 of this code and] is prohibited from selling such *cigarettes*, tobacco products, or *electronic cigarettes* to individuals under [eighteen] *twenty-one* years of age[, and shall post in a conspicuous place a sign upon which there shall be imprinted the following statement, "SALE OF CIGARETTES, CIGARS, CHEWING TOBACCO, POWDERED TOBACCO, OR OTHER TOBACCO PRODUCTS, ROLLING PAPER OR PIPES, TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW." Such sign shall be printed on a white card in red letters at least one-half inch in height]. Sale of *cigarettes*, tobacco products, or *electronic cigarettes* in such places[, other than by a vending machine,] shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least [eighteen] *twenty-one* years of age. Such identification need not be required of any individual who reasonably appears to be at least [twenty-five] *thirty* years of age, provided, however,

that such appearance shall not constitute a defense in any proceeding alleging the sale of [a tobacco product] *cigarettes, tobacco products, or electronic cigarettes* to an individual under [eighteen] *twenty-one* years of age.

b. *Any person operating a place of business wherein non-tobacco shisha, pipes, or rolling papers are sold or offered for sale is prohibited from selling such non-tobacco shisha, pipes, or rolling papers to individuals under eighteen years of age. Sale of non-tobacco shisha, pipes, or rolling papers in such places shall be made only to an individual who demonstrates, through a driver's license or other photographic identification card issued by a government entity or educational institution, that the individual is at least eighteen years of age. Such identification need not be required of any individual who reasonably appears to be at least twenty-five years of age, provided, however, that such appearance shall not constitute a defense in any proceeding alleging the sale of non-tobacco shisha, pipes, or rolling papers to an individual under eighteen years of age.*

c. *Any person operating a place of business wherein cigarettes, tobacco products, electronic cigarettes, herbal cigarettes, non-tobacco shisha, pipes, or rolling papers are sold or offered for sale shall post in a conspicuous place a sign, in accordance with the rules of the department, advising persons about the minimum age requirements for the purchase of such items.*

§ 4. This local law shall take effect one hundred eighty days after it shall have been enacted into law, provided that the commissioner of the department of health and mental hygiene may take such actions as are necessary for the implementation of this local law, including promulgation of rules, on and after the date of enactment.

MARIA del CARMEN ARROYO, Chairperson; PETER F. VALLONE, Jr., ALBERT VANN, INEZ E. DICKENS, ROSIE MENDEZ, MATTHIEU EUGENE, DEBORAH L. ROSE, JAMES G. VAN BRAMER; Committee on Health, October 29, 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 Int. No. 1021-A

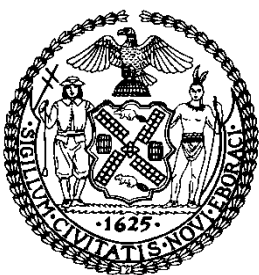
**Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the sale of cigarettes and tobacco products, and the regulation of retail dealers and wholesale dealers of cigarettes, and repealing section 17-707 of the administrative code of the city of New York, relating to requiring public health messages where tobacco advertisements appear.**

The Committee on Health, to which the annexed amended proposed local law was referred on March 30, 2013 (Minutes, page 913), respectfully

**REPORTS:**

(For text of report, please see the Report of the Committee on Health for Int No. 250-A printed in these Minutes)

(The following is the text of the Fiscal Impact Statement for Int. No. 1021-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: 1021-A  
COMMITTEE:  
Health**

**TITLE:** To amend the administrative code of the city of New York, in relation to the sale of cigarettes and tobacco products, and the regulation of retail dealers and wholesale dealers of cigarettes, and repealing section 17-707 of the administrative code of the city of New York, relating to requiring public health messages

**SPONSOR(S):** Arroyo, Cabrera, Chin, Comrie, Dromm, Fidler, King, Lander, Lappin, Rodriguez, Levin, Vann, Vacca, Palma, Gennaro, Koslowitz, Van Bramer, Koo, Crowley, Eugene, and Recchia, Jr. (by request of the Mayor)

where tobacco advertisements appear.

**SUMMARY OF LEGISLATION:**

Proposed Intro. 1021-A, or the Sensible Tobacco Enforcement bill, aims to curtail illegal and discounted tobacco products, which can increase tobacco use among youth and decrease the public health benefits of NYC's tobacco control efforts. This legislation would reduce the availability of low-priced cigarettes and tobacco products in several ways, including by:

- (1) reducing the illegal evasion of cigarette excise taxes and increasing fines for illegal and untaxed sales of tobacco products;
- (2) banning the redemption of coupons and other price reduction instruments in the sale of cigarettes and tobacco products;
- (3) creating a price floor (\$10.50) for a package of cigarettes and little cigars; and
- (4) requiring inexpensive (\$3 or less) cigars to be sold in packages of four and little cigars to be sold in packs of 20.

**EFFECTIVE DATE:** This legislation shall take effect immediately; however, some components of the law would take effect in sixty days, one hundred twenty days, or one hundred eighty days as outlined in the legislation.

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

**FISCAL IMPACT STATEMENT:**

|                          | <b>Effective<br/>FY15</b> | <b>FY<br/>Succeeding<br/>Effective<br/>FY 16</b> | <b>Full<br/>Fiscal<br/>Impact<br/>FY15</b> |
|--------------------------|---------------------------|--|--|
| <b>Revenue<br/>s</b>     | \$8,500,000               | \$17,000,000                                     | \$8,500,000                                |
| <b>Expendit<br/>ures</b> | \$0                       | \$0  | \$0  |
| <b>Net</b>               | \$8,500,000               | \$17,000,000                                     | \$8,500,000                                |

**IMPACT ON REVENUES:** When fully implemented, the Administration anticipates approximately \$8.5 million in recaptured revenue from cigarettes that were previously sold in NYC without proper excise tax paid, assuming a 40 percent decrease in untaxed cigarette sales in the first full fiscal year of enactment. This amount is projected to double to \$17 million in the outyears.

**IMPACT ON EXPENDITURES:** When fully implemented, the Administration does not anticipate an impact on expenditures as this legislation will merely improve the tax enforcement efforts already taking place.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** Department of Health and Mental Hygiene Department of Finance

**ESTIMATE PREPARED BY:** Crilhen R. Francisco, Legislative Financial Analyst

**ESTIMATED REVIEWED BY:** Latonia McKinney, Deputy Director

Tanisha Edwards, Finance Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on March 20, 2013 as Int. 1021-A and referred to the Committee on Health. On May 2, 2013, the Committee on Health held a hearing on this legislation and the bill was laid over. An amended version of the legislation, Proposed Intro. No. 1021-A, will be considered by the Committee on Health on October 29, 2013 and upon successful vote, the bill will be submitted to the full Council for a vote at the Stated meeting held on October 30, 2013.

**DATE SUBMITTED TO COUNCIL:** March 20, 2013

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

**(The following is the text of Int. No. 1021-A:)**

Int. No. 1021-A

By Council Members Arroyo, Cabrera, Chin, Comrie, Jr., Dromm, Fidler, King, Lander, Lappin, Rodriguez, Levin, Vann, Vacca, Palma, Gennaro, Koslowitz, Van Bramer, Koo, Crowley, Eugene and Recchia (by request of the Mayor).

**A Local Law to amend the administrative code of the city of New York, in relation to the sale of cigarettes and tobacco products, and the regulation of retail dealers and wholesale dealers of cigarettes, and repealing section 17-707 of the administrative code of the city of New York, relating to requiring public health messages where tobacco advertisements appear.**

*Be it enacted by the Council as follows:*

Section 1. Legislative findings. The Council hereby finds that tobacco use is a leading cause of preventable premature death in the United States and the City of New York, and cigarette trafficking costs New York City and State hundreds of millions of dollars annually in foregone tax revenue. Cigarettes are the only consumer products that, when used exactly as intended, kill up to one-third of regular users. Currently, 981,000 adults smoke in New York City. In 2011, 28,000 New York City public high school students under the age of eighteen experimented with smoking for the first time; of those, more than one-third (35%) currently smoke. In total, approximately 19,000 New York City public high school students under the age of eighteen smoke. Smoking-related illnesses cost New Yorkers billions of dollars annually in health care costs and lost productivity.

Given the substantial human and economic costs associated with tobacco use, New York City has taken numerous steps to reduce tobacco use among adults and to stop youth (persons under the age of eighteen) from starting to use cigarettes and tobacco products. In 2002, New York City employed a comprehensive, multifaceted tobacco control program incorporating the following components: (1) high cigarette excise taxes; (2) educational media campaigns on the risks of tobacco use; (3) a cessation program that helps people to quit; and (4) laws imposing restrictions and regulations on the sale and use of cigarettes and tobacco products. The City has succeeded in reducing the prevalence of adult tobacco use from 21.5% in 2002 to 15.5% in 2012, a 28% reduction. Prevalence among youth also declined substantially from 17.6% in 2001 to 8.5% in 2007. Youth smoking rates, however, have plateaued since, and remain at 8.5% as of 2011.

Because tobacco use persists among youth and adults, the City must take further action. Preventing youth and young adults from taking up smoking is critical because, in New York City, 80% of adults who become daily smokers start smoking before reaching the age of twenty-one, and nationwide, 99% of smokers start by age twenty-six. The City employs a strong retail inspection program to prevent illegal sales to youth, conducting more than 9,000 retail inspections annually, only 10% of which result in violations. Nevertheless, more than a quarter of underage New York City public high school students who smoke buy their cigarettes from retail stores.

The Council further finds, based on numerous studies, that high tobacco prices reduce tobacco consumption among both youth, who are especially price-sensitive, and adults. A 10% increase in cigarette prices reduces demand among adult smokers by 3-5% and among youth by 7%. High prices reduce the prevalence of tobacco use, the probability of trying tobacco for the first time, the average number of cigarettes consumed per smoker, initiation of daily smoking, and initiation of daily heavy smoking. In addition, reductions in smoking prevalence indirectly lead to even greater reductions by minimizing peer and parental influences and by helping addicted smokers to succeed in quitting.

Just as high tobacco prices decrease demand, the availability of low-priced cigarettes and tobacco products increases demand and contributes to continued tobacco use. Low-priced cigarettes and tobacco products are widely available in New York City through a number of sources.

First, contraband cigarettes are widely available at low effective prices that are only possible through tax evasion, thereby undermining the public health purpose of New York City's high cigarette taxes. Criminal actors take advantage of the disparities in state cigarette excise taxes along the East Coast by trafficking cigarettes from low-tax jurisdictions to high-tax jurisdictions, violating numerous laws in the process. For example, Virginia's excise tax on cigarettes is \$0.30 per pack; in New York City, the combined excise tax is \$5.85 per pack, including the \$4.35 State tax and the \$1.50 City tax. A trafficker purchasing 10,000 packs of cigarettes in Virginia could profit tens of thousands of dollars reselling them in New York City.

Several studies show the widespread availability of trafficked cigarettes. In a 2011 study of littered cigarette packs in New York City, only 39% of littered packs bore the proper New York City tax stamp; and among packs with out-of-state stamps, 71.4% were from Virginia. Out of 1,071 targeted investigations of licensed retailers in 2012 by the New York City Department of Finance's Sheriff's Office, 55% of the retailers possessed cigarettes without the required New York City tax stamp.

Cigarette tax evasion puts law-abiding retailers at a competitive disadvantage relative to retailers and street sellers selling untaxed cigarettes. Cigarette tax evasion also hurts the government and taxpayers. New York State's Department of Health estimated that cigarette excise tax evasion deprived the State of \$500 million in 2009. New York City's cigarette tax revenue losses amount to a substantial fraction of New York State's losses. Available evidence suggests the extent of cigarette tax revenue losses has likely increased since 2009.

Second, the use of coupons, multipackage discounts and other price reduction instruments, all of which are widely available in New York City, reduce retail prices for tobacco products. In a 2011 study of New York City smokers attempting to quit, 25% reported using a coupon or other discount on their last purchase, saving an average \$1.25 per package of cigarettes. Discounts entice consumers, including price-sensitive youth, to purchase deadly and highly addictive products.

Third, as cigarette prices have increased, smokers, particularly youth and young adults, have migrated to cheaper tobacco products. Little cigars, for example, appear virtually identical to cigarettes and cost substantially less. Manufactured cigarillos, cigars and smokeless tobacco are also less expensive alternatives. These

products are not subject to New York City excise taxes or other fees specific to cigarettes and are often sold individually for one to two dollars. Despite well-documented risks, smokers of all ages - especially youth and young adults in low-income urban areas - erroneously perceive cigars as less harmful than cigarettes.

The Council hereby declares that enactment of this law is necessary to address the persistent availability of low-priced cigarettes and tobacco products in New York City. This law will (1) reduce the illegal evasion of cigarette excise taxes; (2) ban the redemption of coupons and other price reduction instruments in the sale of cigarettes and tobacco products to consumers; (3) create a price floor for a package of cigarettes and little cigars; and (4) require inexpensive cigars to be sold in packages of no fewer than four. Such actions are necessary to maximize the public health impact of high tobacco prices, prevent traffickers from profiting from illegal cigarette sales and New York City and State from losing billions of dollars in tax revenue, and protect law-abiding retailers who are at a competitive disadvantage relative to retailers who illegally evade excise taxes.

§ 2. Subdivision 7 of section 11-1301 of the administrative code of the city of New York is amended to read as follows:

7. "Retail dealer." Any person other than a wholesale dealer engaged in selling cigarettes. For the purposes of this chapter, the possession or transportation at any one time of [five thousand or] more than four hundred cigarettes by any person other than a manufacturer, an agent, a licensed wholesale dealer or a person delivering cigarettes in the regular course of business for a manufacturer, an agent or a licensed wholesale or retail dealer, shall be presumptive evidence that such person is a retail dealer.

§ 3. Section 11-1304 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

d. (1) Except as provided in this subdivision, it shall be unlawful for any person to sell, offer for sale, possess or transport any affixed or unaffixed false, altered or counterfeit cigarette tax stamps, imprints or impressions.

(2) Paragraph one of this subdivision shall not apply to:

(A) a person, other than a retail dealer, in possession of twenty or fewer affixed tax stamps;

(B) public officers or employees in the performance of their official duties requiring possession or control of affixed or unaffixed false, altered or counterfeit cigarette tax stamps, imprints or impressions; or

(C) any person authorized by the commissioner of finance or the commissioner of the department of taxation and finance of the state of New York to perform law enforcement functions.

§ 4. Chapter 40 of title 11 of the administrative code of the city of New York is amended by adding new sections 11-4023 and 11-4024 to read as follows:

§ 11-4023 Authority to seal premises.

(a) If any person has been finally determined to have engaged in the acts described in subdivision b of this section, the commissioner of finance shall be authorized to order:

(1) the sealing of any premises operated by such person where such acts occurred; and

(2) the removal, sealing or making inoperable of any devices, items or goods used in connection with any of such acts.

(b) The following acts shall serve as the basis for a sealing order pursuant to this section:

(1) the violation of subdivisions a or b of section 11-1303 of this title or section 17-703 or 20-202 of the code on at least two occasions within a three-year period; or

(2) the violation of any provision of chapter thirteen of this title or any of sections 17-703, 17-703.2, 17-704, 17-705, subdivision a or b of section 17-706, 17-715 or 20-202 of the code on at least three occasions within a three-year period.

(c) Orders of the commissioner to seal premises.

(1) Orders of the commissioner issued pursuant to this section shall be posted at the premises at which the acts described in subdivision b of this section have occurred.

(2) Ten days after the date of such posting, and upon the written directive of the commissioner, police officers designated in section 1.20 of the criminal procedure law and peace officers employed by the department of finance, including but not limited to the sheriff, undersheriff and deputy sheriffs of the city of New York designated as peace officers in subdivision two of section 2.10 of the criminal procedure law, are authorized to act upon and enforce such orders.

(3) Any devices, items or goods removed pursuant to this section, shall be stored in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such devices, items or goods may be charged with reasonable costs for removal and storage payable prior to the release of such devices, items or goods to such owner or such other person.

(4) The owner or other person lawfully entitled to reclaim the devices, items or goods described in paragraph three of this subdivision shall reclaim such devices, items or goods. If such owner or such other person does not reclaim such devices, items or goods within ninety days of their removal, such devices, items or goods shall be subject to forfeiture upon notice and judicial determination in accordance with provisions of law. Upon forfeiture the department shall, upon a public notice of at least five days, sell such forfeited devices, items or goods at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the city.

(d) Unsealing of premises. The commissioner shall order that any premises which are sealed pursuant to this section shall be unsealed and that any devices, items or goods removed, sealed or otherwise made inoperable pursuant to this section shall be released, unsealed or made operable upon:

(1) payment of all outstanding cigarette taxes and civil penalties and all reasonable costs for removal and storage; and

(2) the expiration of a period of time from the date of enforcement of the order to be determined by the commissioner not to exceed sixty days.

(e) Any person aggrieved by an order issued pursuant to this section may seek judicial review of such order through a proceeding pursuant to article seventy-eight of the civil practice law and rules.

(f) Removal of seal. Any person who removes the seal on any premises or removes the seal on or makes operable any devices, items or goods sealed or otherwise made inoperable in accordance with an order of the commissioner shall be guilty of a misdemeanor.

§11-4024 Seizure and forfeiture of taxed and lawfully stamped cigarettes sold or possessed by unlicensed retail or wholesale dealers and flavored tobacco products.

(a) Whenever a police officer designated in section 1.20 of the criminal procedure law or a peace officer employed by the department of finance, including but not limited to the sheriff, undersheriff or deputy sheriffs of the city of New York designated as peace officers in subdivision two of section 2.10 of the criminal procedure law, shall discover (1) any cigarettes subject to any tax provided by chapter thirteen of this title, and upon which the tax has been paid and the stamps affixed as required by such chapter, but such cigarettes are sold, offered for sale or possessed by a person in violation of section 11-1303, 17-703 or 20-202 of this code, or (2) any flavored tobacco product that is sold, offered for sale or possessed with intent to sell in violation of section 17-715 of this code, he or she is hereby authorized and empowered forthwith to seize and take possession of such cigarettes or flavored tobacco product, together with any vending machine or receptacle in which such cigarettes or flavored tobacco product are held for sale. Such cigarettes or flavored tobacco product, vending machine or receptacle seized by such police officer or such peace officer shall be turned over to the commissioner of finance.

(b) The seized cigarettes or flavored tobacco product and any vending machine or receptacle seized therewith, but not the money contained in such vending machine or receptacle, shall thereupon be forfeited to the city, unless the person from whom the seizure is made, or the owner of such seized cigarettes, flavored tobacco product, vending machine or receptacle, or any other person having an interest in such property, shall within ten days of such seizure, apply to the commissioner of finance for a hearing to determine the propriety of the seizure, or unless the commissioner of finance shall on his own motion release the seized cigarettes, flavored tobacco product, vending machine or receptacle. After such hearing the commissioner of finance shall give notice of his decision to the petitioner. The decision of the commissioner shall be reviewable for error, illegality, unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules.

(c) The commissioner of finance may, within a reasonable time after the forfeiture to the city of such vending machine or receptacle under this section, upon publication of a notice to such effect for at least five successive days, in a newspaper published or circulated in the city, sell such forfeited vending machine or receptacle at public sale and pay the proceeds into the general fund of the city. Such seized vending machine or receptacle may be sold prior to forfeiture if the owner of the seized property consents to the sale. Cigarettes or flavored tobacco product forfeited to the city under this section shall be destroyed or used for law enforcement purposes, except that cigarettes that violate, or are suspected of violating, federal trademark laws or import laws shall not be used for law enforcement purposes. If the commissioner determines the cigarettes forfeited under this section may not be used for law enforcement purposes, the commissioner of finance must, within a reasonable time after the forfeiture to the city of such cigarettes, upon publication of a notice to such effect for at least five successive days, prior to destruction, in a newspaper published or circulated in the city, destroy such forfeited cigarettes.

(d) In the alternative, the commissioner of finance, on reasonable notice by mail or otherwise, may permit the person from whom a seizure of cigarettes or flavored tobacco product under this section was made, to redeem any vending machine or receptacle seized with such cigarettes or flavored tobacco product, or may permit the owner of any such vending machine or receptacle to redeem the same, upon the payment of any civil penalty imposed pursuant to chapter seven of title seventeen or subchapter one of chapter two of title twenty of this code and the costs incurred in such proceeding.

§ 5. Section 17-176 of the administrative code of the city of New York, as added by local law number 27 for the year 1990, is amended to read as follows:

§ 17-176 Prohibitions on the distribution of tobacco products.

a. Definitions. For purposes of this section:

(1) "Distribute" means to give, sell, deliver, offer to give, sell or deliver, or cause or hire any person to give, sell, deliver or offer to give, sell or deliver.

(2) "Less than basic cost" means free of charge, a nominal or discount price, or any other price less than the distributor's cost, to which shall be added the full value of any stamps or taxes which may be required by law.

(3) "Person" means any natural person, corporation, partnership, firm, organization or other legal entity.

(4) "Public event" means any event to which the general public is invited or permitted, including but not limited to musical concerts or performances, athletic competitions, public fairs, carnivals, flea markets, bazaars and artistic or cultural performances or exhibitions. A private function such as a wedding, party, testimonial dinner or other similar gathering in which the seating arrangements are under the control of the organizer or sponsor of the event, and not the person who owns, manages, operates or otherwise controls the use of the place in which the function is held, is not a public event within the meaning of this paragraph.

(5) "Public place" means any area to which the general public is invited or permitted, including but not limited to parks, streets, sidewalks or pedestrian concourses, sports arenas, pavilions, gymnasiums, public malls and property owned, occupied or operated by the city of New York or an agency thereof.

(6) "Tobacco product" means any [substance which contains tobacco, including but not limited to cigarettes, cigars, smoking tobacco and smokeless tobacco] product which contains tobacco that is intended for human consumption, including any component, part, or accessory of such product. Tobacco product shall include, but not be limited to, any cigar, little cigar, chewing tobacco, pipe tobacco, roll-your-own tobacco, snus, bidi, snuff, tobacco-containing shisha, or dissolvable tobacco product. Tobacco product shall not include cigarettes or any product that has been approved by the United States food and drug administration for sale as a tobacco use cessation product or for other medical purposes and that is being marketed and sold solely for such purposes.

b. Distribution of tobacco products to the general public at less than basic cost prohibited in public places and at public events. No persons shall distribute a tobacco product for commercial purposes at less than the basic cost of such product to members of the general public in public places or at public events.

[c. Exemptions. The provisions of subdivision b shall not apply to (i) the serving of free samples of smoking tobacco or smokeless tobacco to persons of legal age in stores that sell tobacco products to the general public; or

(ii) the distribution of tobacco products at less than basic cost by retailers, manufacturers or distributors of such products to any employees of such companies who are of legal age.]

d. Penalties. (1) Any person found to be in violation of this section shall be guilty of a misdemeanor and liable for a civil penalty of not more than five hundred dollars for the first violation and not more than one thousand dollars for the second and each subsequent violation.

(2) A proceeding to recover any civil penalty authorized pursuant to the provisions of this section shall be commenced by the service of a notice of violation which shall be returnable to the administrative tribunal established by the board of health or to any body succeeding the administrative tribunal. Such tribunal or its successor shall have the power to impose the civil penalties prescribed by this section.

(3) The corporation counsel may make an application to the supreme court for an order restraining the continued violation of this section or enjoining the future commission of such practice.

§ 6. Title 17 of the administrative code of the city of New York is amended by adding a new section 17-176.1 to read as follows:

§ 17-176.1 Prohibition on the sale of discounted cigarettes and tobacco products.

a. Definitions. For purposes of this section:

"Cigar" means any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco, with or without a tip or mouthpiece. Cigar does not include a little cigar as defined in this section.

"Cigarette" means any roll for smoking made wholly or in part of tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco.

"Cigarette price floor" means the minimum price, including all applicable taxes, for which one package of twenty cigarettes or more may be sold by a retail dealer.

"Listed price" means the price listed for cigarettes or tobacco products on their packages or on any related shelving, posting, advertising or display at the place where the cigarettes or tobacco products are sold or offered for sale, including all applicable taxes.

"Little cigar" means any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco and that weighs no more than four pounds per thousand or has a cellulose acetate or other integrated filter.

"Little cigar price floor" means the minimum price, including all applicable taxes, for which one package of twenty little cigars or more may be sold by a retail dealer.

"Person" means any natural person, corporation, partnership, firm, organization or other legal entity.

"Price reduction instrument" means any coupon, voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or any other form, used for commercial purposes to receive an article, product, service, or accommodation without charge or at a discounted price.

"Retail dealer" means retail dealer as defined in section 11-1301 of the code, and any employee or other agent of such retail dealer.

"Tobacco product" means any product which contains tobacco that is intended for human consumption, including any component, part, or accessory of such product. Tobacco product shall include, but not be limited to, any cigar, little cigar, chewing tobacco, pipe tobacco, roll-your-own tobacco, snus, bidi, snuff, tobacco-containing shisha, or dissolvable tobacco product. Tobacco product shall not include cigarettes or any product that has been approved by the United States food and drug administration for sale as a tobacco use cessation product or for other medical purposes and that is being marketed and sold solely for such purposes.

b. Prohibition on the sale of cigarettes for less than the listed price. No person shall:

(1) honor or accept a price reduction instrument in any transaction related to the sale of cigarettes to a consumer;

(2) sell or offer for sale cigarettes to a consumer through any multi-package discount or otherwise provide to a consumer any cigarettes for less than the listed price in exchange for the purchase of any other cigarettes by the consumer;

(3) sell, offer for sale, or otherwise provide any product other than cigarettes to a consumer for less than the listed price in exchange for the purchase of cigarettes by the consumer; or

(4) sell, offer for sale, or otherwise provide cigarettes to a consumer for less than the listed price.

c. Prohibition on the sale of tobacco products for less than the listed price. No person shall:

(1) honor or accept a price reduction instrument in any transaction related to the sale of tobacco products to a consumer;

(2) sell or offer for sale tobacco products to a consumer through any multi-package discount or otherwise provide to a consumer any tobacco product for less than the listed price in exchange for the purchase of any other tobacco product by the consumer;

(3) sell, offer for sale, or otherwise provide any product other than a tobacco product to a consumer for less than the listed price in exchange for the purchase of a tobacco product by the consumer; or

(4) sell, offer for sale, or otherwise provide tobacco products to a consumer for less than the listed price.

d. Price floor for cigarettes and little cigars. (1) Prohibition on the sale of cigarettes below the cigarette price floor. No person shall sell or offer for sale a package of cigarettes to a consumer for a price less than the cigarette price floor. The cigarette price floor shall be \$10.50 per package of cigarettes, provided that the cigarette price floor may be modified pursuant to paragraph three of this subdivision.

(2) Prohibition on the sale of little cigars below the little cigar price floor. No person shall sell or offer for sale a package of little cigars for a price less than the little cigar price floor. The little cigar price floor shall be equal to the cigarette price floor.

(3) The department may modify by rule the cigarette price floor and little cigar price floor to account for changes in the New York - northern New Jersey - Long Island consumer price index, adjusted for inflation, or changes in taxes for cigarettes or little cigars.

e. The department shall promulgate any rules as may be necessary for the purpose of carrying out this section.

f. Penalties. (1) Any person who violates subdivision b, c, or d of this section or any rule promulgated pursuant to any of such subdivisions shall be liable for a civil penalty in the following amounts:

(i) one thousand dollars for a first violation within a five-year period;

(ii) two thousand dollars for a second violation within a five-year period;

and,

(iii) five thousand dollars for a third violation within a five-year period.

(2) No person shall be liable under this section for more than one violation of any of subdivisions b, c, or d during a single day.

(3) A violation of subdivision b, c, or d of this section by a retail dealer shall constitute a basis, pursuant to section 20-206 of the code, for the suspension or revocation of the license issued to such retail dealer for the place of business where such violation occurred.

g. Enforcement. The department, the department of consumer affairs, and the department of finance shall enforce the provisions of this section at the tribunals that are authorized to hear violations issued by such departments.

§ 7. Subdivision r of section 17-702 of the administrative code of the city of New York, as added by local law number 83 for the year 1992, and renumbered by local law number 69 for the year 2009, is amended to read as follows:

r. "Tobacco product" means any [substance which contains tobacco, including but not limited to cigarettes, cigars, pipe tobacco and chewing tobacco] product which contains tobacco that is intended for human consumption, including any component, part, or accessory of such product. Tobacco product shall include, but not be limited to, any cigar, little cigar, chewing tobacco, pipe tobacco, roll-your-own tobacco, snus, bidi, snuff, tobacco-containing shisha, or dissolvable tobacco product. Tobacco product shall not include cigarettes or any product that has been approved by the United States food and drug administration for sale as a tobacco use cessation product or for other medical purposes and that is being marketed and sold solely for such purposes.

§ 8. Section 17-702 of the administrative code of the city of New York is amended by adding new subdivisions w, x, y, z, and aa to read as follows:

w. "Cigarette" means any roll for smoking made wholly or in part of tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco.

x. "Cigar" means any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco, with or without a tip or mouthpiece. Cigar does not include a little cigar as defined in this section.

y. "Little cigar" means any roll of tobacco for smoking that is wrapped in leaf tobacco or in any substance containing tobacco and that weighs no more than four pounds per thousand or has a cellulose acetate or other integrated filter.

z. "Shisha" means any product made primarily of tobacco or other leaf, or any combination thereof, smoked or intended to be smoked in a hookah or water pipe.

aa. "Herbal cigarette" means a product that is meant to be smoked like a cigarette but is composed of one or more herbs and does not contain tobacco.

§ 9. Section 17-703 of the administrative code of the city of New York, as added by local law number 2 for the year 2000, and renumbered by local law number 69 for the year 2009, is amended to read as follows:

§ 17-703 License Required. It shall be unlawful for a person to engage in [business] any act as a wholesale dealer without a license as prescribed in section 11-1303 of the code, or engage in any act as a retail dealer without a license as prescribed in section 20-202 of the code.

§ 10. Title 17 of the administrative code of the city of New York is amended to add a new section 17-703.1 to read as follows:

§ 17-703.1 Sign required. A retail dealer shall post a sign in a conspicuous place at the point of sale of cigarettes or at the place where cigarettes are displayed or offered for sale stating that cigarettes sold in the city of New York must be in packages bearing valid tax stamps.

§ 11. Title 17 of the administrative code of the city of New York is amended to add a new section 17-703.2 to read as follows:

§ 17-703.2 Requirements for retail dealers concerning cigarette tax. a. Any package containing cigarettes sold or offered for sale by a retail dealer shall bear a valid tax stamp as required by section 11-1302 of the code. Except as provided in subdivision b of section 11-1305 of the code, any cigarettes possessed or transported in the city by a retail dealer shall be in a package bearing a valid tax stamp.

b. No retail dealer shall engage in a sale or purchase prohibited by subdivision e of section 11-1303 or section 20-205 of the code.

c. No retail dealer shall sell, offer for sale, possess or transport any affixed or unaffixed false, altered or counterfeit cigarette tax stamp, imprint or impression.

d. No retail dealer shall engage in any act to hide or conceal:

(1) any cigarettes in unstamped or unlawfully stamped packages;

(2) any affixed or unaffixed false, altered or counterfeit cigarette tax stamp, imprint or impression; or

(3) any cigarettes that are outside of a package in violation of subdivision a of this section.

§ 12. Section 17-704 of the administrative code of the city of New York, as added by local law number 83 for the year 1992, and renumbered by local law number 69 for the year 2009, is amended to read as follows:

§ 17-704 Out-of-package sales prohibited. a. All cigarettes and tobacco products sold or offered for sale by a retail dealer shall be sold or offered for sale in the package, box, carton or other container provided by the manufacturer, importer or packager which bears a health warning required by federal statute.

b. No retail dealer shall sell or offer for sale a cigar unless the cigar is sold in a package of at least four cigars, provided that this subdivision shall not apply to the sale or distribution of an individual cigar whose listed price, as defined in section 17-176.1 of this code, is greater than three dollars.

c. No retail dealer shall sell or offer for sale a little cigar unless the little cigar is sold in a package of at least twenty little cigars.

§ 13. Section 17-705 of the administrative code of the city of New York, as added by local law number 83 for the year 1992, and renumbered by local law number 69 for the year 2009, is amended to read as follows:

§ 17-705 Age restriction on handling. It shall be unlawful for a retail dealer to permit an employee or other agent of the retail dealer to sell, dispense or otherwise handle cigarettes or a tobacco product unless such employee or other agent is (1) at least eighteen years of age; or (2) under the direct supervision of the retail dealer or an employee or other agent of the retail dealer who is at least eighteen years of age, and who is present on the premises.

§ 14. Section 17-707 of the administrative code of the city of New York is REPEALED.

§ 15. Section 17-709 of the administrative code of the city of New York, as amended by local law number 69 for the year 2009, is amended to read as follows:

§ 17-709 Enforcement. The department of health and mental hygiene and the [department of consumer affairs] department of finance shall enforce the provisions of this subchapter. The department of consumer affairs shall enforce sections 17-703, 17-703.1, 17-704, 17-705 and 17-706 of this subchapter. In addition, designated enforcement employees of any authorizing agency [and the department of finance] shall have the power to enforce the provisions of this subchapter.

§ 16. Subchapter 1 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-709.1 to read as follows:

§ 17-709.1 Rules. The commissioner of the department and the commissioner of finance shall promulgate any rules as may be necessary for the purposes of carrying out the provisions of this subchapter.

§ 17. Subdivisions a, b, c and e of section 17-710 of the administrative code of the city of New York, as amended by local law number 69 for the year 2009, are amended to read as follows:

a. Civil penalties and license revocation for a person found to be in violation of the provisions of this subchapter shall be as follows:

(1) Any person found to be in violation of section 17-703 shall be liable for a civil penalty of not more than five thousand dollars for the first violation, and not more than five thousand dollars for each additional violation found on that day; and not more than ten thousand dollars for the second violation and each subsequent violation by that person.

(2) Any person found to be in violation of section 17-703.1 shall be liable for a civil penalty of not more than five hundred dollars in any single day.

(3) In addition to any penalty that may be imposed pursuant to subdivision b of section 11-1317 of the code, any person found to be in violation of section 17-703.2 of the code shall be liable for a civil penalty of not more than two thousand dollars for the first violation, and not more than two thousand dollars for each

additional violation found on that day, and not more than five thousand dollars for the second violation and each subsequent violation at the same place of business within a three-year period.

(4) Any person found to be in violation of section 17-704, 17-705 or subdivision a or b of section 17-706 shall be liable for a civil penalty of not more than one thousand dollars for the first violation, and not more than one thousand dollars for each additional violation found on that day; and not more than two thousand dollars for the second violation and each subsequent violation at the same place of business within a [two-year] three-year period. Any person found to be in violation of subdivision c of section 17-706 shall be liable for a civil penalty of not more than five hundred dollars in any single day.

(5) In addition, for a second violation of any of sections 17-703, 17-703.2, 17-704, 17-705 or subdivision a or b of section 17-706 occurring on a different day and [all] any subsequent violations occurring on different days at the same place of business within a [two-year] three-year period, any person who engages in business as a retail dealer shall be subject to the mandatory revocation of his or her cigarette license for such place of business. [For purposes of this section, any] Any violation of section 17-703, 17-703.2, 17-704, 17-705 or subdivision a or b of section 17-706 by any license holder at a place of business shall be included in determining the number of violations by such license holder and by any subsequent license holder at the same place of business unless the subsequent license holder provides [the commissioner of consumer affairs] the commissioner of the department that has commenced the proceeding to recover a civil penalty pursuant to subdivision b of this section with adequate documentation demonstrating that the subsequent license holder acquired the premises or business through an arm's length transaction as defined in subdivision e of this section and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises. A cigarette license shall be revoked at the same hearing at which a retail dealer is found liable for a second violation or subsequent violations at the same place of business within a [two-year] three-year period. [Any person who shall knowingly make a false statement or who shall falsify or allow to be falsified any record or report required by section 17-707, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than five hundred dollars nor more than one thousand five hundred dollars, or by imprisonment not to exceed six months, or both. Any person who shall make a false statement or who shall falsify or allow to be falsified any record or report required by section 17-707, or who shall fail to maintain any record or submit any report required by section 17-707, shall be liable for a civil penalty of not less than three hundred dollars nor more than one thousand five hundred dollars.]

(6) Any person who violates section 17-708 shall be liable for a civil penalty of not more than fifty dollars for each violation.

b. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section 17-703, 17-703.1, 17-703.2, 17-704, 17-705 or 17-706 of this subchapter shall be commenced by the service of a notice of violation which shall be returnable to the [administrative tribunal established by the board of health] health tribunal at the office of administrative trials and hearings where the department of health and mental hygiene issues such notice [or], the adjudication division of the department of consumer affairs where that department or a designated employee of any authorizing agency [or the department of finance] issues such notice, or an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance where the department of finance issues such notice. Such notice shall contain a statement that any hearing for a second violation or subsequent [violations] violation of [section 17-704, 17-705 or 17-706] any of such sections at the same place of business within a [two-year] three-year period shall also constitute a hearing for the revocation of a retail dealer's cigarette license where the retail dealer is found to be in violation of any such sections. [Where the department of health and mental hygiene finds a retail dealer to be liable for a violation of section 17-704, 17-705 or 17-706 that department shall notify the department of consumer affairs within thirty days of such finding. Where the department of consumer affairs finds a retail dealer to be liable for a violation of section 17-704, 17-705 or 17-706, that department shall notify the department of health within thirty days of such finding. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section 17-707 or authorized pursuant to subdivision h of section 17-707 shall be returnable to the administrative tribunal established by the board of health.] The department of health and mental hygiene, the department of consumer affairs and the department of finance shall notify each other within thirty days of a final determination that a retail dealer has been found to be in violation of section 17-703, 17-703.1, 17-703.2, 17-704, 17-705 or 17-706 of this subchapter. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section 17-708 shall be returnable to the [administrative tribunal established by the board of health] health tribunal at the office of administrative trials and hearings. Such tribunal shall have the power to impose the civil penalties prescribed by subdivision a of this section [or subdivision h of section 17-707 of this subchapter]. The adjudication division of the department of consumer affairs, the health tribunal at the office of administrative trials and hearings and an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance shall have the power to impose the civil penalties prescribed by subdivision a of this section for a violation of section 17-703, 17-703.1, 17-703.2, 17-704, 17-705 or 17-706 of this subchapter.

c. The penalties provided by subdivision a of this section [and subdivision h of section 17-707 of this subchapter] shall be in addition to any other penalty imposed by any other provision of law or rule promulgated thereunder.

e. For purposes of this section, "arm's length transaction" means a sale of a fee or all undivided interests in real property, or lease of any part thereof, or a sale of

a business, in good faith and for valuable consideration, that reflects the fair market value of such real property or lease, or business, in the open market, between two informed and willing parties, where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale or lease was made for the purpose of permitting the original licensee to avoid the effect of violations on the premises. The following sales or leases shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises:

(1) a sale between relatives; or

(2) a sale between related companies or partners in a business; or

(3) a sale or lease affected by other facts or circumstances that would indicate that the sale or lease is entered into for the primary purpose of permitting the original licensee to avoid the effect of violations on the premises, such as a sale or lease entered into while there are violations pending against the original licensee that could result in revocation or suspension of the license.

§ 18. Section 17-710 of the administrative code of the city of New York is amended by adding a new subdivision g to read as follows:

g. Any retail dealer who fails to pay (1) any civil penalty imposed under chapter thirteen of title eleven of the code for the violation of any provision thereunder, or (2) any civil penalty imposed under this chapter for any violation thereof or under section 17-176.1 or section 17-177 of this title for any violation of such sections, shall be subject to suspension of his or her retail dealer license for the place of business where the violation occurred until such retail dealer pays all such civil penalties. Such retail dealer license shall not be renewed until such retail dealer pays all such civil penalties. A proceeding to suspend a retail dealer license pursuant to this subdivision may be commenced by the department to which payment of the penalty is due, in the same manner as a proceeding pursuant to subdivision b of this section to recover a civil penalty. The adjudication division of the department of consumer affairs, the health tribunal at the office of administrative trials and hearings and an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance shall have the power to suspend a retail dealer's license pursuant to this subdivision.

§ 19. Subdivisions a and j of section 17-713 of the administrative code of the city of New York, as added by local law number 69 for the year 2009, are amended to read as follows:

a. "Cigarette" means [(1) any roll made or used for smoking made wholly or in part of tobacco or any other substance wrapped in paper or in any other substance not containing tobacco, and (2) any roll made or used for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1) of this subdivision; provided, however, that no roll shall be considered to be a cigarette for purposes of paragraph (2) of this subdivision if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on August first, two thousand nine] any roll for smoking made wholly or in part of tobacco or any other substance, irrespective of size or shape and whether or not such tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material but is not made in whole or in part of tobacco.

j. "Tobacco product" means [any substance which contains tobacco, including, but not limited to, cigars and chewing tobacco; provided, however, that such term shall not include cigarettes] any product which contains tobacco that is intended for human consumption, including any component, part, or accessory of such product. Tobacco product shall include, but not be limited to, any cigar, little cigar, chewing tobacco, pipe tobacco, roll-your-own tobacco, snus, bidi, snuff, tobacco-containing shisha, or dissolvable tobacco product. Tobacco product shall not include cigarettes or any product that has been approved by the United States food and drug administration for sale as a tobacco use cessation product or for other medical purposes and that is being marketed and sold solely for such purposes.

§ 20. Section 17-715 of the administrative code of the city of New York, as amended by local law number 69 for the year 2009, is amended to read as follows:

§ 17-715 Sale of flavored tobacco products prohibited.

a. It shall be unlawful for any person to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored tobacco product except in a tobacco bar.

b. There shall be a presumption that a retail dealer in possession of four or more flavored tobacco products, which shall include individual tobacco products, packages of tobacco products, or any combination thereof, possesses such tobacco products with intent to sell or offer for sale.

§ 21. Section 17-716 of the administrative code of the city of New York, as amended by local law number 69 for the year 2009, is amended to read as follows:

§ 17-716 Violations and penalties. a. Any person who violates section 17-714 of this subchapter or any rules promulgated hereunder shall be liable for a civil penalty of not less than [two hundred and fifty] five hundred dollars, nor more than two thousand dollars for each violation.

b. Any person who violates section 17-715 of this subchapter shall be liable for a civil penalty of not more than [five hundred] one thousand dollars for the first violation, and not more than [five hundred] one thousand dollars for each additional violation found on that day; and not more than [one] two thousand dollars for the second violation at the same place of business within a [two-year] three-year period, and not more than [one] two thousand dollars for each additional violation found on that day; and not more than [two] five thousand dollars for the third and all

subsequent violations at the same place of business within a [two-year] *three-year* period. In addition, for a third violation occurring on a different day and all subsequent violations occurring on different days at the same place of business within a [two-year] *three-year* period, any person who engages in business as a retail dealer, as such term is defined in section 20-201 of the code, shall be subject to the mandatory suspension of his or her cigarette license, issued pursuant to section 20-202 of the code, for such place of business, for a period not to exceed one year. A cigarette license shall be suspended at the same hearing at which a retail dealer is found liable for a third violation or subsequent violations at the same place of business within a [two-year] *three-year* period.

§ 22. Section 17-717 of the administrative code of the city of New York, as added by local law number 69 for the year 2009, is amended to read as follows:

§ 17-717 Enforcement. The department [and], the department of consumer affairs *and the department of finance* shall enforce the provisions of this subchapter. A proceeding to recover any civil penalty authorized pursuant to section 17-716 of this subchapter shall be commenced by the service of a notice of violation returnable to the [administrative tribunal established by the board of health] *health tribunal at the office of administrative trials and hearings* where the department issues such a notice or to the adjudication division of the department of consumer affairs where such department issues such a notice *or to an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance where the department of finance issues such notice*. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged. Such notice shall contain a statement that any hearing for a third violation or subsequent violation of section 17-715 of this subchapter at the same place of business within a [two-year] *three-year* period shall also constitute a hearing for the suspension of a retail dealer's cigarette license where the retail dealer is found to be in violation of such section. The [administrative tribunal of the board of health and] *health tribunal at the office of administrative trials and hearings*, the adjudication division of the department of consumer affairs *and an adjudication division of the department of finance or the administrative tribunal selected by the commissioner of finance* shall have the power to render decisions and to impose the remedies and penalties provided for in section 17-716 of this subchapter, 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. The department [and], the department of consumer affairs *and the department of finance* shall notify each other within thirty days of finding that a retail dealer has been found liable for any section of this subchapter.

§ 23. Section 17-718 of the administrative code of the city of New York, as added by local law number 69 for the year 2009, is amended to read as follows:

§ 17-718 Rules. The commissioner of the department [and], the commissioner of [the department of] consumer affairs *and the commissioner of finance* shall promulgate any rules as may be necessary for the purposes of carrying out the provisions of this [section] *subchapter*.

§ 24. Subdivision f of section 20-201 of the administrative code of the city of New York, as added by local law number 2 for the year 2000, is amended to read as follows:

f. "Retail dealer" shall mean any person other than a wholesale dealer engaged in selling cigarettes. For the purposes of this chapter, the possession or transportation at any one time of [five thousand or] more *than four hundred* cigarettes by any person other than a manufacturer, an agent, a licensed wholesale dealer or a person delivering cigarettes in the regular course of business for a manufacturer, an agent or a licensed wholesale or retail dealer, shall be presumptive evidence that such person is a retail dealer.

§ 25. Subdivision d of section 20-202 of the administrative code of the city of New York, subparagraph C of paragraph 1 of subdivision d as amended by local law number 22 for the year 2002 and paragraph 4 of subdivision d as amended by local law number 69 for the year 2009, is amended to read as follows:

d. Issuance of license.

1. A license shall be issued to a person to conduct the business of a retail dealer for each place of business where such person engages in selling cigarettes in the city only where:

(A) an applicant for a license or renewal thereof meets all the requirements prescribed herein and any criteria in addition thereto established by the commissioner by rule as he or she deems necessary to effectuate the purposes of this subchapter;

(B) an applicant satisfies the commissioner that such person is fit and able to conduct the business of a retail dealer; and

(C) the commissioner has not received notification from the commissioner of finance or the commissioner of the department of health and mental hygiene that such applicant is not in full compliance with any provisions of chapter thirteen of title eleven of this code, or chapter forty of title eleven of this code relating to the sale of cigarettes, or chapter seven of title seventeen of this code, [or chapter eight of title seventeen of this code,] or any rules promulgated by the commissioner of finance or the commissioner of the department of health and mental hygiene to effectuate the purposes of such chapters.

2. A retail dealer license shall not be assignable and shall be valid only for the persons in whose names it is issued and for the transaction of business in the place designated therein and shall at all times be conspicuously displayed at the place for which it is issued.

3. Where a license for any place of business licensed pursuant to this subchapter has been revoked, the commissioner [in his or her discretion may] *shall* refuse to issue a license required under this subchapter, for a period of two years after such revocation, for such place of business or for any part of the building that had contained such place of business and was connected therewith, unless the applicant for such license demonstrates with documentary proof, to the satisfaction of the

commissioner, that the applicant acquired the premises or business through an arm's length transaction.

4. For purposes of revocation of retail dealer licenses pursuant to section 17-710 of the code, any violation of section 17-703, 17-703.2, 17-704, 17-705 or *subdivision a or b of section 17-706*, or for purposes of [revocation] *suspension* of retail dealer licenses pursuant to section 17-716 of the code, any violation of section 17-715, by any license holder at a place of business shall be included in determining the number of violations by any subsequent license holder at the same place of business unless the subsequent license holder provides the commissioner with adequate documentation demonstrating that the subsequent license holder acquired the premises or business through an arm's length transaction and that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises.

5. For purposes of paragraphs 3 and 4 of section 20-202, "arm's length transaction" means a sale of a fee or all undivided interests in real property, or lease of any part thereof, or a sale of a business, in good faith and for valuable consideration, that reflects the fair market value of such real property or lease, or business, in the open market, between two informed and willing parties, where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale or lease was made for the purpose of permitting the original licensee to avoid the effect of violations on the premises. The following sales or leases shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of violations on the premises:

(1) a sale between relatives; or

(2) a sale between related companies or partners in a business; or

(3) a sale or lease affected by other facts or circumstances that would indicate that the sale or lease is entered into for the primary purpose of permitting the original licensee to avoid the effect of violations on the premises, or revocation of a license, *such as a sale or lease entered into while there are violations pending against the original licensee that could result in revocation or suspension of the license*.

§ 26. Section 20-207 of the administrative code of the city of New York, as added by local law number 2 for the year 2000, is amended, and a new subdivision c is added, to read as follows:

§ 20-207 Violations.

a. The civil penalties imposed pursuant to this section shall be in addition to any other sanctions and orders which may be imposed by the commissioner pursuant to this title including, but not limited to, such sanctions and orders which may be imposed pursuant to section 20-105 or to title 11 or title 17 of this code or pursuant to such other law the commissioner is authorized to enforce under this code. *The civil penalties imposed pursuant to this section for a violation of subdivision a of section 20-202 shall be in lieu of the civil penalties imposed pursuant to section 17-703 of this code, and the civil penalties imposed pursuant to this section for a violation of section 20-205 shall be in lieu of the civil penalties imposed pursuant to subdivision b of section 17-703.2 of this code.*

b. Notwithstanding the provisions of subdivision a and b of section 20-106 of this code, any person who violates any provision of this subchapter or any rules promulgated thereunder shall be subject to a civil penalty of not less than two hundred and fifty dollars but not more than two thousand dollars for each violation, to be recovered in a civil action or in an administrative tribunal with jurisdiction.

c. *The commissioner, after notice and hearing, shall be authorized to order the sealing of any premises where any person has been found:*

1. *to have engaged in unlicensed activities in violation of this subchapter on at least two occasions within a three-year period; or*

2. *to have violated any of sections 17-704, 17-705, subdivision a or b of section 17-706 or 17-715 on at least three occasions within a three-year period.*

§ 27. This local law shall take effect immediately, provided that:

(i) sections two, seven, eight, nine, eleven, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-four and twenty-six shall take effect sixty days after its enactment;

(ii) sections five, six, ten, twelve and thirteen shall take effect one hundred twenty days after its enactment;

(iii) section twenty-five shall take effect one hundred eighty days after its enactment; and

(iv) the commissioners of finance, consumer affairs and health and mental hygiene may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective dates.

MARIA del CARMEN ARROYO, Chairperson; PETER F. VALLONE, Jr., ALBERT VANN, INEZ E. DICKENS, ROSIE MENDEZ, MATTHIEU EUGENE, DEBORAH L. ROSE, JAMES G. VAN BRAMER; Committee on Health, October 29, 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 Int. No. 983-A

**Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the New York city building code, in relation to flood-resistant construction requirements for health facilities.**

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on December 18, 2012 (Minutes, page 4725), respectfully

**REPORTS:**

**Introduction and Procedural History**

On October 30, 2013, the Committee on Housing and Buildings, chaired by Council Member Erik Martin Dilan, will conduct a hearing on Proposed Int. 983-A, Proposed Int. 990-A, Proposed Int. 1085-A, Proposed Int. 1089-A, Proposed Int. 1096-A, and Proposed Int. No. 1099-A.

On June 27, 2013, the Committee held a hearing on these bills and received testimony from the New York City Office of Long Term Planning and Sustainability; the Urban Green Council; the International Code Council; Gilsanz, Murray, Steficek; the American Institute of Architects; Riverkeeper; the National Resources Defense Council; and the Plumbing Foundation. The Committee also received feedback from additional stakeholders after the hearing. In light of the received feedback and testimony, the bills have been amended as described below.

**Hurricane Sandy and the Building Resiliency Task Force**

On October 29, 2012, Hurricane Sandy struck New York City causing record storm surges and flooding throughout Lower Manhattan, Brooklyn, Staten Island, Coney Island, and the Rockaways.<sup>1</sup> Forty-three New Yorkers lost their lives; many more were injured; and tens of thousands were temporarily or permanently displaced.<sup>2</sup> In addition, Sandy caused roughly \$19 billion in “infrastructure and property damage and economic loss” to the city.<sup>3</sup>

In November 2012, Mayor Bloomberg and Council Speaker Christine Quinn announced the formation of the Building Resiliency Task Force (“BRTF”)<sup>4</sup> BRTF, overseen by the Urban Green Council, is a collection of “more than 200 dedicated volunteers who are leading experts in their fields” including “real estate owners, property managers, architects, engineers, contractors, utility representatives, subject matter specialists, city officials, code consultants, cost estimators and attorneys.”<sup>5</sup> In June 2013, BRTF issued a report with 33 proposals for improving building resiliency in the city for both new and existing buildings.<sup>6</sup> Those BRTF proposals formed the basis for several of the bills now under consideration.

**Flood-Prone Areas and Flood Construction Requirements**

Generally, new or substantially improved buildings located in flood-prone areas within the city must comply with special flood construction requirements – for example, such buildings typically must have their lowest floors and utilities elevated above expected flood levels or be otherwise protected from floodwaters.<sup>7</sup> The city’s flood-prone areas are delineated on “flood insurance rate maps” (“FIRMs”) that are issued by the Federal Emergency Management Agency (“FEMA”).<sup>8</sup> The last substantial update to the city’s FIRMs was in 1983 – 30 years ago.<sup>9</sup>

FEMA is currently in the process of updating the city’s FIRMs.<sup>10</sup> The agency released “preliminary work maps” in June 2013 and plans to release “preliminary FIRMs” sometime in the fall of 2013.<sup>11</sup> After a period of public comment and an appeal period, the City will adopt “final” FIRMs, which would become the city’s flood map and the official basis for identifying flood-prone areas.<sup>12</sup> The City and FEMA expect final FIRMs to take effect in early 2015.<sup>13</sup>

**Proposed Int. No. 983-A**

Proposed Int. No. 983-A would take effect immediately and would require that certain patient care areas and sleeping areas be elevated above expected flood levels for new or substantially improved non-residential buildings located in flood-prone areas.<sup>14</sup>

Bill section one would amend section BC 202 of the Building Code to add a new definition of “PATIENT CARE AREA (FOR FLOOD ZONE PURPOSES),” which refers to section G201.2 of Appendix G for the definition of such term.

Bill section two would amend section G106.4 of Appendix G of the Building Code to require that the certificate of occupancy for a building with “patient care areas (for flood zone purposes) or spaces intended to be used by persons for sleeping purposes” must contain the notations required by section G304.1.2, Item 2.2.5. That item requires that a restrictive declaration noting that certain information shall be filed with the City Register or County Clerk, and the page number and liber number shall be identified in the permit application and on the certificate of occupancy.

Bill section three would amend section G201.2 of Appendix G of the Building Code to add a new definition of “PATIENT CARE AREA (FOR FLOOD ZONE PURPOSES).” This term would be defined as a space that is (1) “located within a building or structure, or portion thereof, that is classified in Group I-2”<sup>15</sup> and (2) “primarily used for the provision of medical services to persons, including, but not limited to, consultation, evaluation, monitoring and treatment services.” The definition contains an exception providing that “emergency rooms or departments” and spaces primarily used for the provision of special medical services<sup>16</sup> are not to be considered “patient care areas (for flood zone purposes).”

Bill section four would amend item 2.2 of section G304.1.2 of Appendix G of the Building Code to require that patient care areas (for flood zone purposes) and “spaces intended to be used by persons for sleeping purposes” be elevated to or above the applicable design flood elevation.

Bill section five contains the enactment clause and provides that this local law would take effect immediately upon enactment.

**Amendments to Int. No. 983**

The bill has been amended so that in health facilities in flood-prone areas only certain patient care areas and sleeping areas in such facilities would be required to be elevated rather than all areas within such facilities.

**Proposed Int. No. 990-A**

Proposed Int. No. 990-A would take effect thirty days after FEMA releases preliminary FIRMs and would adopt such preliminary FIRMs as the city’s flood maps until FEMA issues and the City’s Department of Buildings (“DOB”) adopts new final FIRMs by rule.

Bill section one would amend section 28-104.7.6 of the Administrative Code to require that elevations noted in construction documents be specified in reference to the North American Vertical Datum of 1988 (“NAVD”) rather than the National Geodetic Vertical Datum of 1929 (“NGVD”). The amendments would further provide that neither NGVD nor any of the borough-specific elevation data are to be used in construction documents except to the extent necessary to demonstrate conversion to appropriate NAVD.

Bill section two would amend section BC 202 of the Building Code to add a new definition of “NORTH AMERICAN VERTICAL DATUM (NAVD),” which refers to section G201.2 of Appendix G for the definition of such term.

Bill section three would add new sections G102.2.1, G102.2.2, G102.3.1.1, and G102.3.2.1 to Appendix G of the Building Code.

New section G102.2.1 would adopt FEMA’s preliminary FIRMs and preliminary flood insurance study until DOB adopts new final FIRMs by rule.

New section G102.2.2 would provide that all elevations referenced in Appendix G shall refer to the greater of (i) the elevations identified on the current FIRMs or (ii) the elevations identified on the preliminary FIRMs. This section also provides that references to “areas of special flood hazard” in Appendix G shall refer to such areas as delineated on the current FIRMs or the preliminary FIRMs, whichever shows a more restrictive special flood hazard area.

New section G102.3.1.1 would provide that, until DOB adopts new final FIRMs, no “letter of map amendment” (“LOMA”) issued by FEMA shall serve to remove a structure from the area of special flood hazard unless the elevations specified in that LOMA equal or exceed the elevations shown on the preliminary FIRM.

New section G102.3.2.1 would provide that, until DOB adopts new final FIRMs, no “letter of map revision based on fill” (“LOMR-F”) issued by FEMA shall serve to remove a structure from the area of special flood hazard unless the elevations specified in that LOMR-F equal or exceed the elevations shown on the preliminary FIRM.

Bill section three would amend section G201.2 of Appendix G of the Building Code to amend the definitions of “BASE FLOOD ELEVATION,” make a technical edit to the definition of “FLOOD INSURANCE RATE MAP (FIRM),” and add a new definition for “NORTH AMERICAN VERTICAL DATUM (NAVD).”

The amendment to the definition of “BASE FLOOD ELEVATION” would provide that, in areas designated as Zone AO, “the base flood elevation shall be the highest existing grade of the building’s perimeter plus the depth number (in feet) specified on the flood hazard map.”

The new definition of “NORTH AMERICAN VERTICAL DATUM (NAVD)” provides that such term shall mean “[t]he national vertical datum standard established in 1988, used as a reference for establishing elevations within a flood plain.”

Bill section four would amend section BC G402 of Appendix G of the Building Code to add the preliminary FIRMs and FEMA’s preliminary flood insurance study to the list of reference standards for Appendix G.

Bill section five contains the enactment clause and provides that this local law would take effect 30 days after FEMA releases the next preliminary FIRMs and preliminary flood insurance study for the city.

**Amendments to Int. No. 990**

The bill has been amended to provide that, prior to FEMA’s issuance and the City’s adoption of final FIRMs, the city’s flood map will be the preliminary



FIRMs rather than the advisory base flood elevation maps released by FEMA shortly after Hurricane Sandy. The enactment clause has been amended so that this local law would take effect 30 days after FEMA releases preliminary FIRMs rather than immediately upon enactment.

**Proposed Int. No. 1085-A**

Proposed Int. No. 1085-A would require that the City compile recommendations for how residential and commercial property owners can prepare for emergencies and communicate emergency-related information to tenants. The bill would also require residential building owners to provide certain emergency-related information to tenants.

Bill section one would add a new section 30-113 to the Administrative Code requiring that the Office of Emergency Management (“OEM”), in coordination with DOB, the Department of Housing Preservation and Development and the Fire Department, compile recommendations for how residential and commercial property owners may prepare for and communicate certain information to the tenants of such buildings in the event of a weather emergency, a natural disaster or a utility outage expected to last more than twenty-four hours. At a minimum, such recommendations shall include (1) information on determining the property’s flood zone and evacuation zone; (2) the protective measures the building owner may provide or install to protect against flooding or other damage; (3) general advice on securing items appended to the building, such as window air conditioning units, patio furniture, flower boxes, windows, doors and other loose items, during a weather emergency or natural disaster; (4) general advice for buildings in flood zones on the use of electrical and mechanical equipment when there is a flood risk; (5) the types of options available to the property owner to rent equipment after a weather emergency, a natural disaster or pending the restoration of utility services; (6) the methods that the property owner may use to communicate with tenants during and after a weather emergency, a natural disaster or a utility outage which is expected to last for more than twenty-four hours and suggestions for communicating to tenants about relevant building contacts for emergencies; and (7) the contact information for relevant City agencies to determine evacuation guidelines or learn other suggestions for protecting persons and property during a weather emergency, a natural disaster or a utility outage expected to last more than twenty-four hours.

Bill section two would add a new section 27-2051.1 to the Administrative Code. Section 27-2051.1 would require the owner of a residential dwelling to temporarily post certain emergency information in common areas prior to the expected arrival of a weather emergency, a natural disaster or after being informed about a utility outage expected to last more than twenty-four hours. Such posting must include (1) whether the building is located in a hurricane evacuation zone as defined by the OEM and, if applicable, which zone the building is located in; (2) the address of the nearest designated evacuation center; (3) when a person should contact 911 and 311 during a weather emergency, a natural disaster or the utility outage; (4) whether services such as potable water, corridor, egress, and common area lighting, fire safety and fire protection, elevators, charging locations for cellular telephones, domestic hot water, or heating and cooling will be provided during the utility outage; (5) contact information for building personnel in the event of an emergency, including email addresses, phone numbers and other methods of communication; (6) instructions on removing furniture from rooftops and balconies during high wind events; and (7) for buildings that utilize pumps, instructions on reducing water consumption during the utility outage. Such posting shall be updated by the owner of the residential building as needed and must be removed after the passage of the weather emergency, the natural disaster or the restoration of utility services. This section would also require that the Department of Housing Preservation and Development determine the form of such signs including publishing a template that may be used by residential buildings.

Bill section three contains the enactment clause and provides that this local law would take effect 180 days after its enactment, provided however, that the Department of Housing Preservation and Development shall take all necessary action, including the promulgation of rules, prior to such effective date.

**Amendments to Int. No. 1085**

The bill has been amended in the following manner:

- Technical changes were made throughout the bill for the purposes of clarity and to revise organization of the text.
- Bill section one was amended to require OEM to in addition to other agencies coordinate with the Fire Department when compiling recommendations for how residential and commercial property owners may prepare for and communicate certain information to the tenants of such buildings in the event of a weather emergency, a natural disaster or a utility outage expected to last more than twenty-four hours.
- Bill section two was amended (1) to require that the owner of a residential dwelling temporarily post the contact information for relevant city agencies to determine evacuation guidelines or learn other suggestions on how to protect persons and property during a weather emergency, a natural disaster or utility outage which is expected to last for more than twenty-four hours; (2) to remove the requirement that owners post guidelines for tenants sheltering in place, including tenants aged sixty-two and older and tenants with disabilities; (3) to require that temporary postings be updated by the owner of the residential building as needed and removed after the passage of

the weather emergency, the natural disaster or the restoration of utility services; and (4) to require that the Department of Housing Preservation and Development determine the form of such temporary postings including publishing a template that may be used by residential buildings.

- The enactment clause of the bill was amended so that this local law would take effect 180 days, rather than 90 days, after enactment, provided however, that the Department of Housing Preservation and Development shall take all necessary action, including the promulgation of rules, prior to such effective date.

**Proposed Int. No. 1089-A**

Proposed Int. No. 1089-A would extend the permissible length of certain optical fiber cabling in buildings located in flood-prone areas. The bill would also allow buildings in flood-prone areas to store additional fuel-oil on the lowest story having its floor above expected flood levels.

Bill section one would amend section 27-3003.1 of the Administrative Code to provide that electrical work performed on structures located in areas of special flood hazard or shaded X-Zones, as such terms are defined in section G201.2 of Appendix G of the Building Code, shall comply with such appendix in addition to the Electrical Code. The amendments to this section further provide that, in the event of a conflict between Appendix G and the Electrical Code, the more restrictive of the two shall govern.

Bill section two would amend section 27-3025 of the Administrative Code to add new amendments to subsection 770.48(A) of the National Electrical Code. The new amendments would add two exceptions to such subsection. The first exception would provide that, in areas of special flood hazard, the length of “unlisted conductive and nonconductive outside plant optical fiber cables” within buildings may exceed 50 feet “to the extent necessary to provide direct delivery to a level of 5 feet above the design flood elevation specified in Section 7.1 (Table 7-1) of Section G501.1 of Appendix G” provided that (1) such cabling does not extend more than 10 feet “beyond the lowest story having its floor above the design flood elevation” and (2) such cabling is not installed in ducts used for environmental air or in plenums used for environmental air. The second exception would provide that, in shaded X-Zones, the length of “unlisted conductive and nonconductive outside plant optical fiber cables” within buildings may exceed 50 feet “to the extent necessary to provide direct delivery to a level of 5 feet above the 500-year flood elevation” provided that (1) such cabling does not extend more than 10 feet “beyond the lowest story having its floor above the design flood elevation” and (2) such cabling is not installed in ducts used for environmental air or in plenums used for environmental air.

Bill section three would amend section 27-3025 of the Administrative Code to add new amendments to subsection 800.48 of the National Electrical Code, which concerns certain communication cabling. The new amendments would add two exceptions to such subsection, and the exceptions would be identical to those set forth in bill section two discussed above.

Bill section four would amend section BC 202 of the Building Code to add new definitions for “500-YEAR FLOOD ELEVATION” and “SHADED X-ZONE,” which refer to section G201.2 of Appendix G for the definitions of such terms.

Bill section five would amend section G102.1 of Appendix G of the Building Code to provide that Appendix G also applies to certain development located in shaded X-Zones.

Bill section six would add a new section G103.3.1 to Appendix G of the Building Code. The new section would provide that, where 500-year flood elevations are not specified on the city’s FIRMs, such elevations “shall be determined by a registered design professional using modeling based on generally accepted engineering methods or a review of available data from city, state and federal agencies.”

Bill section seven would amend section G201.2 of Appendix G of the Building Code to add new definitions of “500-YEAR FLOOD ELEVATION” and “SHADED X-ZONE.”

The new definition of “500-YEAR FLOOD ELEVATION” would be “[t]he elevation of the flood having a 0.2-percent chance of being equaled or exceeded in any given year” as specified on the FIRMs or FEMA’s flood insurance study.

The new definition of “SHADED X-ZONE” would be “[t]he land in the floodplain delineated as subject to a 0.2-percent or greater chance of flooding, but less than one percent chance of flooding, in any given year. Such areas are designated on the Flood Insurance Rate Map (FIRM) as shaded X-Zones.”

Bill section eight would add new sections G307.4, G307.4.1, G307.4.1.1, and G307.4.1.2 to Appendix G of the Building Code. New section G307.4 would allow fuel-oil storage of up to 3,000 gallons on the lowest story having its floor above either the applicable design flood elevation (in areas of special flood hazard) or the 500-year flood elevation (in shaded X-Zones). The section further requires that no individual storage tank may exceed “the lesser of 1,500 gallons (5678 L) or the quantity of fuel-oil needed to operate the emergency or standby generators(s) served by such tank for 24 hours.”

New section 307.4.1 would require that, where fuel-oil storage exceeds the limits set forth in section 1305.11.1.3 of the Mechanical Code,<sup>17</sup> such fuel-oil storage must comply with sections G307.4.1.1 and G307.4.1.2 in addition to section 1305 of the Mechanical Code. Section G307.4.1.1 requires that fuel-oil storage tanks be enclosed in a vault that (1) has walls, a floor, and a top with fire resistance rating of not less than 3 hours; (2) has walls bonded to the floor of the vault; (3) has top and walls independent of the building structure; and (4) is “located in a dedicated room or

area of the building that is separated vertically and horizontally from other areas of the building by construction having a fire resistance rating of not less than 2 hours.” Section G307.4.1.1 further provides that an exterior building wall having a fire resistance rating of not less than 3 hours may serve as a vault wall. Section G307.4.1.2 requires that fuel-oil storage be protected with an alternative automatic fire-extinguishing system in accordance with section 904 of the Building Code.

Bill section nine would amend section 1305.11.1.3 of the Mechanical Code to add a new exception which provides that fuel-oil storage in areas of special flood hazard and shaded X-Zones must comply with section G307.4 of the Building Code.

Bill section ten contains the enactment clause and provides that this local law would take effect immediately upon enactment.

#### ***Amendments to Int. No. 1089***

The bill has been amended in the following substantive manner:

- Certain optical fiber cables and certain communications cables utilizing an extended length under the bill would be allowed to extend no more than 3 feet beyond the lowest story having its floor above the design flood elevation (in areas of special flood hazard) or the 500-year flood elevation (in shaded X-Zones). Such cabling must not be installed in ducts used for environmental air or in plenums used for environmental air.
- The term “500-year flood elevation” has been substituted for “moderate flood elevation,” and the term “shaded X-Zone” has been substituted for “area of moderate flood hazard.”
- The vaulting and alternative extinguishing system requirements now apply only to fuel-oil storage that exceeds the capacity limits of section 1305.11.1.3, rather than to all fuel-oil storage in areas of special flood hazard and shaded X-Zones.

#### **Proposed Int. No. 1096-A**

Proposed Int. No. 1096-A would require that new or substantially improved buildings in flood-prone areas elevate certain building systems, including certain fire protection systems and equipment, fire alarm system components, fuel-oil piping system components, and plumbing system components. The bill would also require that new or substantially improved hospitals in the 500-year flood plain (i.e. shaded X-Zones) comply with flood construction requirements. This local law would take effect on the same date that Int. No. 1056, a local law relating to bringing the city’s Construction Codes up to date with international codes, takes effect.

Bill section one would add new items 5.1, 5.2, 5.3, and 5.4 to section G304.1.1 of Appendix G of the Building Code, which sets forth flood construction requirements for new or substantially improved residential buildings located in areas of special flood hazard.

New item 5.1 would require that the following fire protection systems and equipment be located at or above the applicable design flood elevation except where such systems or equipment serves only spaces that are located below the design flood elevation: (1) sprinkler control valves that are not outside stem and yoke valves; (2) fire standpipe control valves that are not outside stem and yoke valves; (3) sprinkler booster pumps and fire pumps; (4) dry pipe valve-related electrically operated alarm appurtenances; (5) alarm control panels for water and non-water fire extinguishing systems; (6) alarm control panels for sprinkler systems, pre-action sprinkler systems, deluge sprinkler systems, and combined dry pipe and pre-action sprinkler systems; (7) electrically operated waterflow detection devices serving sprinkler systems; and (8) air compressors serving sprinklers systems and pre-action sprinkler systems.

New item 5.2 would require that, where a zoning indicator panel is provided at the main building entrance in accordance with section 907.6.3.1 of the Building Code and such panel is located at or below 5 feet above the applicable design flood elevation, then at least one secondary zoning indicator panel must be provided. The secondary panel, associated controls, power supplies, and means of transferring control must be at least 5 feet above the applicable design flood elevation and in a location that is accessible to Fire Department personnel and approved by DOB and the Fire Department. Where the secondary panel or associated controls are only operable upon transfer of control from another zoning indicator panel, such transfer must be by means approved by the Fire Department.

New item 5.3 would require that fill piping, normal vent piping, and emergency vent piping for fuel-oil systems terminate at least 3 feet above the applicable design flood elevation; provided that fill piping may instead terminate in a watertight terminal approved by DOB.

New item 5.4 would require that (1) relief vents and fresh air intakes serving building traps be carried above grade and terminate in a screened outlet located outside of the building and at or above the applicable design flood elevation and (2) reduced pressure principle backflow preventers and backflow preventers with intermediate atmospheric vents be located at or above the applicable design flood elevation.

Bill section two would add a new item 2.3.1 to section G304.1.2 of Appendix G of the Building Code, which sets forth flood construction requirements for new or substantially improved nonresidential buildings in areas of special flood hazard. The new item would require that such structures comply with items 5.1 through 5.4 of section G304.1.1.

Bill section three would add a new item 5.1 to section G304.2 of Appendix G of the Building Code, which sets forth flood construction requirements for new or

substantially improved buildings in V-Zones. The new item would require that such structures comply with items 5.1 through 5.4 of section G304.1.1.

Bill section four would add a new section G304.4 to Appendix G of the Building Code requiring that new or substantially improved hospitals located in shaded X-Zones comply with the flood construction requirements for hospitals located in A-Zones.<sup>18</sup>

Bill section five would add a new section G307.5 to Appendix G of the Building Code requiring that the following tanks or containers must be located at or above the applicable design flood elevation, or the higher of such design flood elevation or the 500-year flood elevation where such tanks/containers serve a hospital: (1) medical and compressed gas storage tanks, oxygen tanks, and other cryogenic system storage tanks; (2) hazardous material storage tanks; (3) stationary compressed gas containers; (4) stationary cryogenic containers; and (5) stationary flammable gas storage containers. Such tanks/containers must also comply with section 9.6 of ASCE 24 “Flood Resistant Design and Construction” standard and be designed to maintain service during flood conditions.

Bill section six would amend tables 2-1, 4-1, 5-1, 6-1, and 7-1 of ASCE 24, as modified by section G501.1 of Appendix G of the Building Code, which set forth applicable design flood elevations. The amendments to the tables would add a footnote to each providing that, for hospitals, the design flood elevation shall be the greater of (i) the design flood elevation found by reference to the applicable table or (ii) the 500-year flood elevation.

Bill section seven would amend section G501.1 of Appendix G of the Building Code, which sets forth amendments to ASCE 24, a reference standard incorporated into the Building Code. This bill section would add an amendment to section 7.2.4 of ASCE 24 to require that all electrical service disconnecting means be located at or above and be accessible from the applicable design flood elevation. The amendment would also require that either electrical switches, all service disconnecting means, and circuit breakers be located no more than 6 feet 8 inches above the floor or that a platform be installed to provide access.

Bill section eight would amend the modification to section 23.2.2.4(c) of NFPA 13, “Standard for the Installation of Sprinkler Systems,” set forth in section Q102.1 of Appendix Q of the Building Code to require that sprinkler booster pumps be enclosed.

Bill section nine would amend the modification to section 9.1.5(2)(f) of NFPA 14, “Standard for the Installation of Standpipe and Hose Systems,” set forth in section Q105.1 of Appendix Q of the Building Code to require that fire pumps be located in a 2-hour fire-rated enclosure.

Bill section ten would amend section 301.13 of the Mechanical Code to provide that, for hospitals located in shaded X-Zones, mechanical systems, equipment, and appliances must comply with Appendix G of the Building Code.

Bill section eleven would amend section 904.3.6 to require that non-water fire extinguishing system control panels in areas of special flood hazard or on the premises of hospitals located in shaded X-Zones must be located at or above the applicable design flood elevation specified in Appendix G of the Building Code.

Bill section twelve would amend section 2703.2 of the Fire Code to make a technical edit and add a new section 2703.2.4.3 requiring that hazardous material storage tanks located in areas of special flood hazard or on the premises of hospitals located in shaded X-Zones must comply with section G307.5 of Appendix G of the Building Code.

Bill section thirteen would amend section 3003.3.1 of the Fire Code to require that stationary compressed gas containers located in areas of special flood hazard or on the premises of hospitals located in shaded X-Zones must comply with section G307.5 of Appendix G of the Building Code.

Bill section fourteen would amend section 3203.1.2 of the Fire Code to require that stationary cryogenic containers located in areas of special flood hazard or on the premises of hospitals located in shaded X-Zones must comply with section G307.5 of Appendix G of the Building Code.

Bill section fifteen would amend section 3501.5 of the Fire Code to require that stationary flammable gas containers located in areas of special flood hazard or on the premises of hospitals located in shaded X-Zones must comply with section G307.5 of Appendix G of the Building Code.

Bill section sixteen contains the enactment clause and provides that this local law would take effect on the same date that Int. No. 1056, a local law relating to bringing the city’s Construction Codes up to date with international codes, takes effect.

#### ***Amendments to Int. No. 1096***

The bill has been amended in the following manner:

- Technical changes were made throughout the bill for the purposes of clarity and to revise organization of the text.
- The term “500-year flood elevation” has been substituted for “moderate flood elevation,” and the term “shaded X-Zone” has been substituted for “area of moderate flood hazard.”
- Fire protection systems and equipment, or portions thereof, serving only areas below the applicable design flood elevation may be located below such design flood elevation.

- In buildings where all occupied floors are less than 300 feet above the lowest level of Fire Department access, sprinkler booster pumps and fire pumps serving areas above the applicable design flood elevation would be required to be elevated above such design flood elevation unless only serving areas located below such design flood elevation.
- Fill piping for fuel-oil systems may either be elevated to or above the applicable design flood elevation or shall terminate in a watertight enclosure approved by DOB. Further, this requirement would apply only in areas of special flood hazard and to hospitals in shaded X-Zones rather than to all buildings in such areas.

**Proposed Int. No. 1099-A**

Proposed Int. No. 1099-A would require certain buildings located in areas of the city subject to high velocity wind speeds to utilize certain materials if they provide enclosed places of assembly for 300 or more people or provide louvers or garage doors. Exterior louvers for building ventilation and exhaust systems must also protect against wind-driven rain penetration.

Bill section one would require certain buildings located in areas of the city subject to high velocity wind speeds to use a certain impact-resistant covering or glazing if they provide enclosed places of assembly for 300 or more people or provide louvers or garage doors.

Bill section two would require that exterior louvers for building ventilation systems must protect against wind-driven rain penetration.

Bill section three would require that exterior louvers for building exhaust systems must protect against wind-driven rain penetration.

Bill section four would add new reference standards ASTM E 1886, ASTM E 1996, and ANSI/DASMA 115 to the Building Code.

Bill section five would add new reference standard AMCA 550 to the Mechanical Code.

Bill section six contains the enactment clause and provides that this local law would take effect on the same date that Int. No. 1056, a local law relating to bringing the city's Construction Codes up to date with international codes, takes effect.

**Amendments to Int. No. 1099**

The bill has been amended in the following substantive manner:

- The bill was amended to remove language which would have provided that the installation and alteration of curtain wall systems, windows, doors, attachments, fixtures, building mounted equipment, and equipment enclosures must meet certain wind resistance requirements.
- The bill was amended to remove a requirement that curtain wall systems, windows, doors, fixtures and building mounted equipment be designed to remain intact and firmly attached to buildings or other structures when subjected to certain minimum wind loads, and that the design of such systems and fixtures be verified by engineering calculations or manufacturer certification.

**Update**

On Wednesday, October 30, 2013, the Committee adopted this legislation. Accordingly, the Committee recommends its adoption.

<sup>1</sup> Hurricane Sandy Advisory Archive, National Oceanic and Atmospheric Administration Hurricane Center, available online at <http://www.nhc.noaa.gov/archive/2012/SANDY.shtml>; Hurricane Sandy After Action Plan (May 2013), pg. 4, available online at [http://www.nyc.gov/html/recovery/downloads/pdf/sandy\\_aar\\_5.2.13.pdf](http://www.nyc.gov/html/recovery/downloads/pdf/sandy_aar_5.2.13.pdf); Special Initiative for Rebuilding and Resiliency report, pgs. 11-18, available online at: [http://nytelecom.vo.llnwd.net/o15/agencies/sirr/SIRR\\_spreads\\_Lo\\_Res.pdf](http://nytelecom.vo.llnwd.net/o15/agencies/sirr/SIRR_spreads_Lo_Res.pdf).

<sup>2</sup> SIRR report, pg. 5; After Action Plan, pg. 1.

<sup>3</sup> SIRR report, pg. 34.

<sup>4</sup> Mireya Navarro, "After Storm, Dry Floors Prove Value of Exceeding City Code," New York Times (Nov. 23, 2012), available online at [http://www.nytimes.com/2012/11/24/science/earth/new-york-reassessing-building-code-to-limit-storm-damage.html?\\_r=0](http://www.nytimes.com/2012/11/24/science/earth/new-york-reassessing-building-code-to-limit-storm-damage.html?_r=0).

<sup>5</sup> BRTF report, pg. 4, available online at <http://www.urbangreencouncil.org/BuildingResiliency>.

<sup>6</sup> BRTF report, pg. 5.

<sup>7</sup> See BC §§ G102.1 and G304.

<sup>8</sup> See 2008 Building Code ("BC") § G201.2.

<sup>9</sup> SIRR website, "FEMA Flood Map Update," available online at [http://www.nyc.gov/html/sirr/html/map/flood\\_map\\_update.shtml](http://www.nyc.gov/html/sirr/html/map/flood_map_update.shtml).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> See *id.* and FEMA, "Adoption of Flood Insurance Rate Maps by Participating Communities," available online at [http://www.fema.gov/media-library-data/20130726-1903-25045-4716/fema\\_495.pdf](http://www.fema.gov/media-library-data/20130726-1903-25045-4716/fema_495.pdf).

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

<sup>14</sup> Such areas are already required to be elevated for new or substantially improved residential buildings located in flood-prone areas. See BC 304.1.1.

<sup>15</sup> Occupancy Group I-2 spaces are "used for medical, surgical, psychiatric, nursing or personal care on a 24-hour basis or overnight of more than two children under the age of 2, or more than three persons who are not capable of self-preservation and not capable of responding to an emergency situation without physical assistance from staff." BC 308.3. The group includes adult homes (where occupants are not capable of self-preservation), community residences or intermediate care facilities (where occupants are not capable of self-preservation), enriched housing (where occupants are not

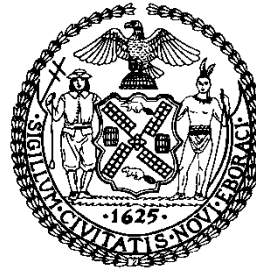
capable of self-preservation), hospitals, nursing homes, mental hospitals where patients are not under restraint, and detoxification facilities. *Id.*

<sup>16</sup> These services are identified by reference to 10 NYCRR § 703.6(c)(2)(i) as "services that require specialized equipment such as radiographic equipment, computerized axial tomography, magnetic resonance imaging or that [are] required for renal dialysis."

<sup>17</sup> Section 1305.11.1.3 of the Mechanical Code provides that fuel-oil stored above the "lowest floor inside of a building shall be limited to 330 gallons (1249 L) per story."

<sup>18</sup> A-Zones are areas of special flood hazard without high velocity wave action. BC § G201.2.

(The following is the text of the Fiscal Impact Statement for Int. No. 983-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: 983-A

COMMITTEE:  
Housing and  
Buildings

**TITLE:** A Local Law to amend the New York city building code, in relation to flood-resistant construction requirements for health facilities.

**SPONSOR(S):** Arroyo, Brewer, Cabrera, Chin, Comrie, Dickens, Eugene, Ferraras, Fidler, Gentile, González, Jackson, James, King, Koppell, Mark-Viverito, Mendez, Nelson, Palma, Reyna, Williams, Wills, Lappin, Rodriguez and Gennaro

**SUMMARY OF LEGISLATION:**

Proposed Intro. 983-A would amend the building code by 1) creating a new definition of "patient care area (for flood zone purposes)," meaning a space that is (a) "located within a building or portion of a building used for medical, surgical, psychiatric, nursing or personal care on a 24-hour basis or overnight of more than two children under the age of 2, or more than three persons who are not capable of self-preservation and not capable of responding to an emergency situation without physical assistance from staff" and (b) "primarily used for the provision of medical services to persons, including, but not limited to, consultation, evaluation, monitoring and treatment services." The definition contains an exception providing that "emergency rooms or departments" and spaces primarily used for the provision of special medical services are not to be considered "patient care areas (for flood zone purposes)."

The proposed legislation also require that the certificate of occupancy for a building with "patient care area (for flood zone purposes) or spaces intended to be used by persons for sleeping purposes" must be filed with the City Register or County Clerk, and the page number and liber number will be identified in the permit application and on the certificate of occupancy.

Finally, the proposed legislation requires that patient care areas (for flood zone purposes) and "spaces intended to be used by persons for sleeping purposes" be elevated to at or above the applicable design flood elevation.

**EFFECTIVE DATE:** This legislation shall take effect immediately.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2014

**FISCAL IMPACT STATEMENT:**

|              | Effective<br>FY14 | FY Succeeding<br>Effective<br>FY15 | Full Fiscal<br>Impact FY15 |
|--------------|-------------------|------------------------------------|----------------------------|
| Revenues     | \$0               | \$0                                | \$0                        |
| Expenditures | \$0               | \$0                                | \$0                        |
| Net          | \$0               | \$0                                | \$0                        |

**IMPACT ON REVENUES:** The legislation would have no impact on revenues.

**IMPACT ON EXPENDITURES:** The legislation would have no impact on expenditures.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Amy Stokes, Legislative Financial Analyst

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

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on December 18, 2012 as Proposed Intro. 983 and was referred to the Committees on Housing and Buildings. A joint hearing was held by the Committees on Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts on June 27, 2013 and the bill was laid over. The legislation was amended, and the amended version, Proposed Intro. 983-A will be heard by the Committee on Housing and Buildings on October 30, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 983-A on October 30, 2013.

**(For text of the bills and Fiscal Impact Statements for Int Nos. 990-A, 1085-A, 1089-A, 1096-A, and 1099-A, please see, respectively, the Reports of the Committee on Housing and Buildings for Int Nos. 990-A, 1085-A, 1089-A, 1096-A and 1099-A printed in these Minutes; for text of Int No. 983-A, please see below:)**

*Accordingly, this Committee recommends the adoption of Int Nos. 983-A, 990-A, 1085-A, 1089-A, 1096-A and 1099-A.*

**(The following is the text of Int. No. 983-A:)**

Int. No. 983-A

By Council Members Arroyo, Brewer, Cabrera, Chin, Comrie, Dickens, Eugene, Ferreras, Fidler, Gentile, González, Jackson, James, King, Koppell, Mark-Viverito, Mendez, Nelson, Palma, Reyna, Williams, Wills, Lappin, Rodriguez, Gennaro, Van Bramer and Barron.

**A Local Law to amend the New York city building code, in relation to flood-resistant construction requirements for health facilities.**

*Be it enacted by the Council as follows:*

Section 1. Section BC 202 of the New York city building code is amended by adding a new definition of "PATIENT CARE AREA (FOR FLOOD ZONE PURPOSES)" in appropriate alphabetical order to read as follows:

**PATIENT CARE AREA (FOR FLOOD ZONE PURPOSES).** *See Section G201.2.*

§2. Section G106.4 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

**G106.4 Dry floodproofed spaces.** The certificate of occupancy shall describe any dry floodproofed spaces as ["dry floodproofed."] "*dry floodproofed.*" For such buildings containing dwelling units, *patient care areas (for flood zone purposes) or spaces intended to be used by persons for sleeping purposes*, the certificate of occupancy shall also provide the notations required by Section G304.1.2, Item 2.2.5. Where flood shields or other flood control devices are installed, the certificate of occupancy shall also provide notations describing these features.

§3. Section G201.2 of the New York city building code is amended by adding a new definition of "PATIENT CARE AREA (FOR FLOOD ZONE PURPOSES)" in appropriate alphabetical order to read as follows:

**PATIENT CARE AREA (FOR FLOOD ZONE PURPOSES).** *Any space meeting the following conditions:*

1. *The space is located within a building or structure, or portion thereof, that is classified in Group I-2; and*

2. *The space is primarily used for the provision of medical services to persons, including, but not limited to, consultation, evaluation, monitoring and treatment services.*

**Exceptions:** *The following spaces shall not be considered patient care areas (for flood zone purposes):*

1. *"Emergency rooms or departments" as defined in 10 NYCRR 700.2(a)(2) and*

2. *Spaces primarily used for the provision of medical services identified in 10 NYCRR 703.6(c)(2)(i).*

§4. Item 2.2 of section G304.1.2 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

**2.2 Dwelling units, patient care areas (for flood zone purposes) and sleeping spaces.** Where dwelling units, *patient care areas (for flood zone purposes) or spaces intended to be used by persons for sleeping purposes* are located in a building utilizing the dry floodproofing option, the following additional requirements shall be met:

2.2.1. All rooms and spaces within dwelling units, *patient care areas (for flood zone purposes) and all spaces intended to be used by persons for sleeping purposes* shall be located at or above the design flood elevation;

2.2.2. [No] *For buildings containing dwelling units, no more than one toilet and one sink shall be located below the design flood elevation. Any such toilet room shall not be located within a dwelling unit and shall be no larger than required by Chapter 11; and no roughing therein shall be permitted to accommodate additional fixtures;*

2.2.3. [No] *For buildings containing dwelling units, no more than one two-compartment laundry tray shall be permitted below the design flood elevation;*

2.2.4. [No] *For buildings containing dwelling units, no kitchens or kitchenettes shall be permitted below the design flood elevation;*

2.2.5. A restrictive declaration noting the above restrictions shall be filed with the City Register or County Clerk, and the page number and liber number shall be identified in the permit application and on the certificate of occupancy.

§5. This local law shall take effect immediately.

ERIK MARTIN DILAN Chairperson; JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, Jr., ROBERT JACKSON, LETITIA JAMES, ROSIE MENDEZ, ELIZABETH S. CROWLEY, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, October 30, 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 Int. No. 990-A

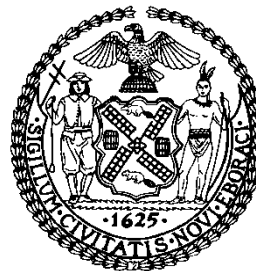
**Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to the adoption of best available flood maps.**

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on December 18, 2012 (Minutes, page 4753), respectfully

**REPORTS:**

**(For text of report, please see the Report of the Committee on Housing and Buildings for Int No. 983-A printed in these Minutes)**

*The following is the text of the Fiscal Impact Statement for Int. No. 990-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: 990-A  
COMMITTEE:  
Housing and  
Buildings

**TITLE:** A Local Law to amend the administrative code of the city of New York  
**SPONSOR(S):** Ulrich, Oddo, Arroyo, Cabrera, Comrie, Gentile, González,

York and the New York city building James, Nelson, Vallone, Wills, code, in relation to the adoption of Rodriguez, Lappin, Gennaro and best available flood maps. Halloran

**SUMMARY OF LEGISLATION:** Proposed Intro. 990-A will amend the administrative code to require that elevations noted in construction documents be specified in reference to the North American Vertical Datum of 1988 (“NAVD”) rather than the National Geodetic Vertical Datum of 1929 (“NGVD”). The amendments would further provide that neither NGVD nor any of the borough-specific elevation data are to be used in construction documents except to the extent necessary to show demonstrate conversion to appropriate NAVD.

The proposed legislation will also amend the building code with regards to preliminary flood insurance study and rate maps (“PFIRMs”), the effect of preliminary flood insurance study and rate maps, letters of map amendment (“LOMAs”) during PFIRMs, letters of map revision based on fill (“LOMR-Fs”) during pendency of PFIRMs and definitions of “Base Flood Elevation” and “Flood Insurance Rate Map (FIRM)” and “North American Vertical Datum (NAVD).”

**EFFECTIVE DATE:** This legislation shall take effect 30 days after FEMA releases the next preliminary FIRMs and preliminary flood insurance study for the City.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2014

**FISCAL IMPACT STATEMENT:**

|              | Effective FY14 | FY Succeeding Effective FY15 | Full Fiscal Impact FY15 |
|--------------|----------------|------------------------------|-------------------------|
| Revenues     | \$0            | \$0                          | \$0                     |
| Expenditures | \$0            | \$0                          | \$0                     |
| Net          | \$0            | \$0                          | \$0                     |

**IMPACT ON REVENUES:** The legislation would have no impact on revenues.

**IMPACT ON EXPENDITURES:** The legislation would have no impact on expenditures.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Amy Stokes, Legislative Financial Analyst

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

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on December 18, 2012 as Proposed Intro. 990 and was referred to the Committees on Housing and Buildings. A joint hearing was held by the Committees on Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts on June 27, 2013 and the bill was laid over. The legislation was amended, and the amended version, Proposed Intro. 990-A will be heard by the Committee on Housing and Buildings on October 30, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 990-A on October 30, 2013.

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

**(The following is the text of Int. No. 990-A:)**

Int. No. 990-A

By Council Members Ulrich, Oddo, Arroyo, Cabrera, Comrie, Gentile, González, James, Nelson, Vallone, Jr., Wills, Rodriguez, Lappin, Gennaro, Van Bramer, Recchia, Chin, Barron, Jackson, Williams and Halloran.

**A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to the adoption of best available flood maps.**

*Be it enacted by the Council as follows:*

Section 1. Section 28-104.7.6 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

**§28-104.7.6 City datum.** All elevations noted in the construction documents shall be referred to and clearly identified as the [United States coast and geodetic survey mean sea level datum of 1929 (national geodetic vertical datum, “NGVD”)] *North American vertical datum of 1988 (“NAVD”) as established and maintained by National Geodetic Survey of the National Ocean Service, National Oceanic and Atmospheric Administration or successor agency, which is hereby established as the city datum. Neither the United States coast and geodetic survey mean sea level datum of 1929 (national geodetic vertical datum, “NGVD”) nor any of the five borough data as established by the former Board of Estimate and Apportionment shall be referred to in construction documents except as may be required for the purpose of demonstrating conversion to the NAVD. Conversions to NAVD shall be performed by registered design professionals or surveyors. [By way of examples,] Conversion to and from borough data and NGVD shall be performed using tables 104.7.6.1 through 104.7.6.5 [shall be used to convert borough elevations to their corresponding equivalent NGVD elevations].*

§2. Section BC 202 of the New York city building code is amended by adding a new definition of “NORTH AMERICAN VERTICAL DATUM (NAVD)” in appropriate alphabetical order to read as follows:

**NORTH AMERICAN VERTICAL DATUM (NAVD).** *See Section G201.2.*

§3. Appendix G of the New York city building code is amended by adding new sections G102.2.1, G102.2.2, G102.3.1.1 and G102.3.2.1 to read as follows:

**G102.2.1 Preliminary flood insurance study and rate maps.** *Until such time that the department by rule adopts revised FEMA FIS 360497 and FEMA FIRMs 360497 with a final effective date later than May 1, 2014, the following flood hazard maps and supporting data are also adopted as a referenced standard and declared a part of this appendix.*

1. FEMA PFIS 360497.
2. FEMA PFIRMs 360497.

**G102.2.2 Effect of preliminary flood insurance study and rate maps.** *Notwithstanding any other provision in this appendix to the contrary:*

1. *All references in this appendix to elevations in FEMA FIS 360497 and FEMA FIRMs 360497 shall be deemed to refer to the greater of (i) the elevations identified in the FEMA FIS 360497/FEMA FIRMs 360497 or (ii) the elevations identified in the FEMA PFIS 360497/FEMA PFIRMs 360497. In comparing elevations, the elevations identified in FEMA FIS 360497 and FEMA FIRMs 360497 that are expressed in relation to the National Geodetic Vertical Datum (NGVD) shall be converted to the North American Vertical Datum (NAVD).*

2. *All references in this appendix to areas of special flood hazard as delineated on FEMA FIRMs 360497 shall be deemed to refer to the area of special flood hazard as delineated on FEMA PFIRMs 360497 except that, where a structure is located in an area of special flood hazard as delineated on FEMA PFIRMs 360497 and in a more restrictive area of special flood hazard as delineated on FEMA FIRMs 360497, such structure shall be deemed to be located in the more restrictive area of special flood hazard as delineated on FEMA FIRMs 360497.*

**G102.3.1.1 Letters of map amendment (LOMAs) during pendency of PFIRMs.** *Until such time that the department by rule adopts revised FEMA FIS 360497 and FEMA FIRMs 360497 with a final effective date later than May 1, 2014, the commissioner shall not deem issuance of a LOMA by FEMA as removing such structure or tax lot from the area of special flood hazard unless the elevations specified in the LOMA equal or exceed the applicable corresponding elevations on the FEMA PFIS 360497/FEMA PFIRMs 360497.*

**G102.3.2.1 Letters of map revision based on fill (LOMR-Fs) during pendency of PFIRMs.** *Until such time that the department by rule adopts revised FEMA FIS 360497 and FEMA FIRMs 360497 with a final effective date later than May 1, 2014, the commissioner shall not deem issuance of a LOMR-F as removing such structure or tax lot from the area of special flood hazard unless the elevations specified in the LOMR-F equal or exceed the applicable corresponding elevations on the FEMA PFIS 360497/FEMA PFIRMs 360497.*

§4. Section G201.2 of the New York city building code is amended by amending the definitions of “BASE FLOOD ELEVATION” and “Flood Insurance Rate Map (FIRM),” as added by local law number 33 for the year 2007, and by adding a new definition for “NORTH AMERICAN VERTICAL DATUM (NAVD)” in appropriate alphabetical order, to read as follows:

**BASE FLOOD ELEVATION.** The elevation of the base flood, including wave height, as specified on FEMA FIRMs 360497 or as determined in accordance with Section G103.3[, relative to the National Geodetic Vertical Datum (NGVD)]. *In areas designated as Zone AO, the base flood elevation shall be the elevation of the highest existing grade of the building’s perimeter plus the depth number (in feet) specified on the*

flood hazard map.

**FLOOD INSURANCE RATE MAP (FIRM).** The official flood map on which the Federal Emergency Management Agency (FEMA) has delineated areas of special flood hazard, base flood elevations, and the flood boundary and floodways.

**NORTH AMERICAN VERTICAL DATUM (NAVD).** The national vertical datum standard established in 1988, used as a reference for establishing elevations within a flood plain.

§5. Section BC G402 of the New York city building code, as amended by local law 8 for the year 2008, is amended to read as follows:

**SECTION BC G402 STANDARDS**

|                         |   |  |  |
|-------------------------|---|--|--|
| ASCE 7-02               | Minimum Design Loads for Buildings and Other Structures   | G104.5.2, G304.2   | G201.2,  |
| ASCE 24-05*             | Flood Resistant Design and Construction   | G103.1, G104.5.1, G105.2, G201.2, G303.2, G303.4, G304.1.1, G304.2, G307.1, G307.3, G308.1, G308.3 | G104.3, G104.5.2, G105.3.1, G301.1, G303.3, G303.7, G304.1.2, G305.1, G307.2, G308.3 |
| FEMA FIS 360497         | Flood Insurance Study, Community Number 360497, Revised September 5, 2007; Federal Emergency Management Agency                                  | G102.2   |  |
| FEMA PFIS 360497        | Preliminary Flood Insurance Study, Community Number 360497, Federal Emergency Management Agency   | G102.2.1, G102.2.2, G102.3.1.1, G102.3.2.2   |  |
| FEMA FIRMs 360497       | Flood Insurance Rate Map, Community Number 360497, Panel Numbers 1 through 0457, Revised September 5, 2007; Federal Emergency Management Agency | G102.2, G102.3.1, G103.3, G201.2   | G102.3, G102.3.2,  |
| FEMA PFIRMs 360497      | Preliminary Flood Insurance Rate Map, Community Number 360497, Federal Emergency Management Agency  | G102.2.1, G102.2.2, G102.3.1.1, G102.3.2.1   |  |
| FEMA FORM 81-31         | Elevation Certificate; Federal Emergency Management Agency  | G105.3   |  |
| FEMA FORM 81-65         | Floodproofing Certification; Federal Emergency Management Agency  | G105.3   |  |
| HUD 24 CFR Part 3280-94 | Manufactured Home Construction Safety Standards, 1994   | G201.2   |  |

\* As modified in Chapter G5.

§6. This local law shall take effect thirty days after the Federal Emergency Management Agency issues the next Preliminary Flood Insurance Study, Community Number 360497, and Preliminary Flood Insurance Rate Map, Community Number 360497, following enactment of this local law.

ERIK MARTIN DILAN Chairperson; JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, Jr., ROBERT JACKSON, LETITIA JAMES, ROSIE MENDEZ, ELIZABETH S. CROWLEY, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, October 30, 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 Int. No. 1085-A

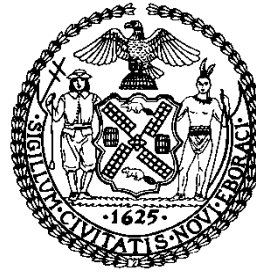
**Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law amend the administrative code of the city of New York, in relation to emergency preparedness recommendations for owners of residential and commercial buildings and the posting of emergency information in certain residential buildings.**

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2071), respectfully

**REPORTS:**

(For text of report, please see the Report of the Committee on Housing and Buildings for Int No. 983-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1085-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: 1085-A

COMMITTEE:  
Housing and Buildings

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to emergency preparedness recommendations for owners of residential and commercial buildings and the posting of emergency information in certain residential buildings.

**SPONSOR(S):** Chin, Brewer, González, James, Koo, Koppell, Lander, Mendez, Richards, Rose, Rodriguez, Arroyo and Barron

**SUMMARY OF LEGISLATION:** Proposed Int. No. 1085-A would require that the City compile recommendations for how residential and commercial property owners can prepare for emergencies and communicate emergency-related information to tenants. The bill would also require residential building owners to give certain emergency-related information to tenants.

The administrative code would be amended to require that that Office of Emergency Management (“OEM”), in coordination with the Department of Buildings (“DOB”), the Department of Housing Preservation and Development (“HPD”) and the Fire Department (“FDNY”), compile recommendations for how residential and commercial property owners prepare for and communicate certain information to the tenants of such buildings in the event of a weather emergency, a natural disaster event or a utility outage expected to last more than twenty-four hours.

New sections of the administrative code would also be added, requiring the owner of a residential dwelling to temporarily post certain emergency information in common areas prior to the expected arrival of a weather emergency, a natural disaster event or after being informed about a utility outage expected to last more than twenty-four hours. This would also require that the HPD determine the form of such signs including publishing a template that may be used by residential buildings.

Finally, the proposed legislation would require owners of residential dwellings where at least one dwelling unit is not occupied by the such owner to post information in common areas prior to a natural disaster, regarding the whether the building is located in a hurricane evacuation zone, which evacuation zone, nearest evacuation center, contact person and utility outage, and reducing water consumption.

**EFFECTIVE DATE:** This legislation shall take effect 80 days after its enactment, provided, however, that the Department of Housing Preservation and Development shall take all necessary action, including the promulgation of rules, prior to such effective date.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2014

**FISCAL IMPACT STATEMENT:**

|              | Effective FY14 | FY Succeeding Effective FY15 | Full Fiscal Impact FY15 |
|--------------|----------------|------------------------------|-------------------------|
| Revenues     | \$0            | \$0                          | \$0                     |
| Expenditures | \$0            | \$0                          | \$0                     |
| Net          | \$0            | \$0                          | \$0                     |

**IMPACT ON REVENUES:** The legislation would have no impact on revenues.

**IMPACT ON EXPENDITURES:** The legislation would have no impact on expenditures to the City. Any expense impact due to the recommendations and postings will be incurred by the residential property owner.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Finance Division  
Department of Housing Preservation and Development

**ESTIMATE PREPARED BY:** Amy Stokes, Legislative Financial Analyst

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

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on June 24, 2013 as Proposed Intro. 1085 and was referred to the Committees on Housing and Buildings. A joint hearing was held by the Committees on Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts on June 27, 2013 and the bill was laid over. The legislation was amended, and the amended version, Proposed Intro. 1085-A will be heard by the Committee on Housing and Buildings on October 30, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1085-A on October 30, 2013.

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

**(The following is the text of Int. No. 1085-A:)**

Int. No. 1085-A

By Council Members Chin, Brewer, Gonzalez, James, Koo, Koppell, Lander, Mendez, Richards, Rose, Rodriguez, Arroyo, Mark-Viverito, Barron, Van Bramer and Williams.

**A Local Law to amend the administrative code of the city of New York, in relation to emergency preparedness recommendations for owners of residential and commercial buildings and the posting of emergency information in certain residential buildings.**

*Be it enacted by the Council as follows:*

Section 1. Chapter 1 of title 30 of the administrative code of the city of New York is amended by adding a new section 30-113 to read as follows:

§30-113 *Weather emergencies and prolonged utility outage preparedness recommendations for residential and commercial buildings. a. Coordinating with relevant agencies including the department of buildings, the department of housing preservation and development, and the fire department, the commissioner shall compile recommendations for how residential and commercial property owners may prepare for and communicate certain information to the tenants of such buildings in the event of a weather emergency, a natural disaster event or a utility outage which is expected to last for more than twenty-four hours. Such recommendations shall include, but not be limited to:*

1. *Information on determining the property's flood zone and evacuation zone;*
2. *The protective measures the building owner may provide or install to protect against flooding or other damage;*
3. *General advice on securing items appended to the building, such as window air conditioning units, patio furniture flower boxes, windows, doors and other loose items, during a weather emergency or natural disaster event;*
4. *General advice for buildings in flood zones on the use of electrical and mechanical equipment when there is a flood risk;*
5. *The types of options available to the property owner to rent equipment after a weather emergency, a natural disaster event or pending the restoration of utility services;*
6. *The methods that the property owner may use to communicate with tenants during and after a weather emergency, a natural disaster event or a utility outage which is expected to last for more than twenty-four hours and suggestions for communicating to tenants relevant building contacts for emergencies; and*
7. *The contact information for relevant city agencies to determine evacuation guidelines or learn other suggestions on how to protect persons and property during a weather emergency, a natural disaster event or a utility outage which is expected to last for more than twenty-four hours.*

§2. Article 12 of subchapter 2 of chapter 2 of title 27 of the administrative

code of the city of New York is amended by adding a new section 27-2051.1 to read as follows:

§27-2051.1 *Temporary posting of emergency information. Prior to the expectant arrival of a weather emergency, a natural disaster event or after being informed about a utility outage which is expected to last for more than twenty-four hours, the owner of a residential dwelling where at least one dwelling unit is not occupied by such owner shall post the following information in common areas of the residential dwelling on signs of sufficient size to be seen: (i) whether the building is located in a hurricane evacuation zone as defined by the office of emergency management and if applicable, which zone the building is located in; (ii) the address of the nearest designated evacuation center; (iii) when a person should contact 911 and 311 during a weather emergency, a natural disaster event or the utility outage; (iv) whether during the utility outage, services such as potable water, corridor, egress, and common area lighting, fire safety and fire protection, elevators, charging locations for cellular telephones, domestic hot water, or heating and cooling will be provided; (v) contact information for building personnel in the event of an emergency, including email addresses, phone numbers and other methods of communication; (vi) instructions on removing furniture from rooftops and balconies during high wind events and; (vii) for buildings that utilize pumps, instructions on reducing water consumption during the utility outage. Such signs shall be updated by the owner of the residential building as needed and must be removed after the passage of the weather emergency, the natural disaster event or the restoration of utility services. The department shall determine the form of such signs including publishing a template that may be used by residential buildings for the purposes of this section.*

§3. This local law shall take effect one hundred eighty days after its enactment, except that the department of housing preservation and development shall take all necessary action, including the promulgation of rules, prior to such effective date.

ERIK MARTIN DILAN Chairperson; JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, Jr., ROBERT JACKSON, LETITIA JAMES, ROSIE MENDEZ, ELIZABETH S. CROWLEY, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, October 30, 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 Int. No. 1089-A

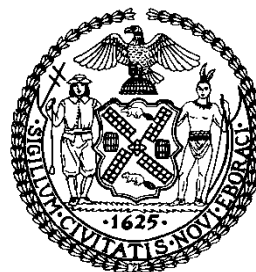
**Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, the New York city building code and the New York city mechanical code, in relation to cabling for certain building systems and fuel-oil storage in flood-prone areas.**

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2075), respectfully

**REPORTS:**

**(For text of report, please see the Report of the Committee on Housing and Buildings for Int No. 983-A printed in these Minutes)**

*The following is the text of the Fiscal Impact Statement for Int. No. 1089-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: 1089-A  
COMMITTEE:  
Housing and  
Buildings**

**TITLE:** A Local Law to amend the administrative code of the city of New York, the New York city building code and the New York city mechanical code, in relation to cabling for certain building systems and fuel-oil storage in flood-prone

**SPONSOR(S):** González, Chin, Comrie, James, Koo, Lander, Mendez, Richards, Rose and Gennaro

areas.

**SUMMARY OF LEGISLATION:**

Proposed Int. No. 1089-A would extend the permissible length of certain optical fiber cabling in buildings located in flood-prone areas. The bill would also allow buildings in flood-prone areas to store additional fuel-oil on the lowest story having its floor above expected flood levels.

The proposed legislation would amend the administrative code by adding sections regarding areas of special flood hazard and shaded X-Zones and new city-specific amendments to the National Electrical Code pertaining to conductive and nonconductive cables and two exceptions for cabling in special flood hazard zones and X-Zones.

The proposed legislation would also amend the building code regarding definitions for “500-Year Flood Elevation” and “Shaded X-Zones,” minimum requirements for developments located in special flood hazard and shaded X-Zones, determination of 500-year flood elevations, additional fuel storage capacity additional requirements when fuel-oil storage capacity exceeds the maximum quantity and conformance of the mechanical code with the building code.

**EFFECTIVE DATE:** This legislation shall take effect immediately upon enactment.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2014

**FISCAL IMPACT STATEMENT:**

|                     | <b>Effective<br/>FY14</b> | <b>FY<br/>Succeeding<br/>Effective<br/>FY15</b> | <b>Full<br/>Fiscal<br/>Impact<br/>FY15</b> |
|---------------------|---------------------------|---|--|
| <b>Revenues</b>     | \$0                       | \$0   | \$0  |
| <b>Expenditures</b> | \$0                       | \$0   | \$0  |
| <b>Net</b>          | \$0                       | \$0   | \$0  |

**IMPACT ON REVENUES:** The legislation would have no impact on revenues.

**IMPACT ON EXPENDITURES:** The legislation would have no impact on expenditures for the City. If any expenses are incurred due to the proposed building requirements they will be born on the building owner.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Amy Stokes, Legislative Financial Analyst

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

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on June 24, 2013 as Proposed Intro. 1089 and was referred to the Committees on Housing and Buildings. A joint hearing was held by the Committees on Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts on June 27, 2013 and the bill was laid over. The legislation was amended, and the amended version, Proposed Intro. 1089-A will be heard by the Committee on Housing and Buildings on October 30, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1089-A on October 30, 2013.

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

**(The following is the text of Int. No. 1089-A:)**

Int. No. 1089-A

By Council Members González, Chin, Comrie, James, Koo, Lander, Mendez, Richards, Rose, Gennaro, Van Bramer, Recchia, Rodriguez, Barron, Jackson and Williams.

**A Local Law to amend the administrative code of the city of New York, the New York city building code and the New York city mechanical code, in relation to cabling for certain building systems and fuel-oil storage in flood-prone areas.**

*Be it enacted by the Council as follows:*

Section 1. The administrative code of the city of New York is amended by adding a new section 27-3003.1 to read as follows:

**§ 27-3003.1 Areas of special flood hazard and shaded X-Zones.** *Electrical work performed on structures located in areas of special flood hazard and shaded X-Zones, as defined in section G201.2 of the New York city building code, shall also comply with the provisions of appendix G of the New York city building code. Where, in any specific case, the provisions of this code conflict with the provisions of appendix G of the New York city building code, the more restrictive shall govern.*

§2. The New York city amendments to subsection 770.48(A) of the National Electrical Code as set forth in section 27-3025 of the administrative code of the city of New York are REPEALED and new amendments are added to read as follows:

*Subsection 770.48(A) - Revise subsection 770.48(A) to read as follows:*

**(A) Conductive and Nonconductive Cables.** *Unlisted conductive and nonconductive outside plant optical fiber cables shall be permitted to be installed in locations as described in 770.154(C), where the length of the cable within the building, measured from its point of entrance does not exceed 15 m (50 ft) and the cable enters the building from the outside and is terminated in an enclosure. All other cables shall be considered to be within the building.*

*Exception No. 1: In areas of special flood hazard, as defined in Section G201.2 of Appendix G of the New York City Building Code, the length of such cabling may exceed 15 m (50 ft) to the extent necessary to provide direct delivery to a level 1.52 m (5 ft) above the design flood elevation specified in Section 7.1 (Table 7-1) of Section G501.1 of Appendix G of the New York City Building Code, provided that:*

*(1) Such cabling shall not extend more than 3 m (10 ft) beyond the lowest story having its floor above the design flood elevation; and*

*(2) Such cabling shall not be installed in ducts used for environmental air or in plenums used for environmental air.*

*Exception No. 2: In areas designated within a shaded X-Zone, as defined in Section G201.2 of Appendix G of the New York City Building Code, the length of such cabling may exceed 15 m (50 ft) to the extent necessary to provide direct delivery to a level 1.52 m (5 ft) above the 500-year flood elevation, as defined in Section G201.2 of Appendix G of the New York City Building Code, provided that:*

*(1) Such cabling shall not extend more than 3 m (10 ft) beyond the lowest story having its floor above the design flood elevation; and*

*(2) Such cabling shall not be installed in ducts used for environmental air or in plenums used for environmental air.*

*FPN No. 1: Splice cases or terminal boxes, both metallic and plastic types, typically are used as enclosures for splicing or terminating optical fiber cables.*

*FPN No. 2: See 770.2 for the definition of Point of Entrance.*

§3. Section 27-3025 of the administrative code of the city of New York is amended by adding a new New York city amendment to section 800.48 of the National Electrical Code to read as follows:

**SECTION 800.48**

*Section 800.48 - Add two exceptions to the end of section 800.48 to read as follows:*

*Exception No. 1: In areas of special flood hazard, as defined in Section G201.2 of Appendix G of the New York City Building Code, the length of such cabling may exceed 15 m (50 ft) to the extent necessary to provide direct delivery to a level 1.52 m (5 ft) above the design flood elevation specified in Section 7.1 (Table 7-1) of Section G501.1 of Appendix G of the New York City Building Code, provided that:*

*(1) Such cabling shall not extend more than 3 m (10 ft) beyond the lowest story having its floor above the design flood elevation; and*



(2) Such cabling shall not be installed in ducts used for environmental air or in plenums used for environmental air.

*Exception No. 2: In areas designated within a shaded X-Zone, as defined in Section G201.2 of Appendix G of the New York City Building Code, the length of such cabling may exceed 15 m (50 ft) to the extent necessary to provide direct delivery to a level 1.52 m (5 ft) above the 500-year flood elevation, as defined in Section G201.2 of Appendix G of the New York City Building Code, provided that:*

(1) Such cabling shall not extend more than 3 m (10 ft) beyond the lowest story having its floor above the design flood elevation; and

(2) Such cabling shall not be installed in ducts used for environmental air or in plenums used for environmental air.

§4. Section BC 202 of the New York city building code is amended by adding new definitions of “500-YEAR FLOOD ELEVATION” and “SHADED X-ZONE” in appropriate alphabetical order to read as follows:

**500-YEAR FLOOD ELEVATION.** See Section G201.2.

**SHADED X-ZONE.** See Section G201.2.

§5. Section G102.1 of the New York city building code, as added by local law number 33 of the year 2007, is amended to read as follows:

**G102.1 General.** This appendix, in conjunction with the *New York City Construction Codes*, provides minimum requirements for development located, in whole or in part, in areas of special flood hazard and shaded X-Zones within the jurisdiction of New York City, including:

§6. Appendix G of the New York city building code is amended by adding a new section G103.3.1 to read as follows:

**G103.3.1 Determination of 500-year flood elevations.** Where 500-year flood elevations are not specified in the FEMA FIRMs 360497 or FEMA FIS 360497, such elevations shall be determined by a registered design professional using modeling based on generally accepted engineering methods or a review of available data from city, state and federal agencies.

§7. Section G201.2 of the New York city building code is amended by adding new definitions of “500-YEAR FLOOD ELEVATION” and “SHADED X-ZONE” in appropriate alphabetical order to read as follows:

**500-YEAR FLOOD ELEVATION.** The elevation of the flood having a 0.2-percent chance of being equaled or exceeded in any given year, as specified on FEMA FIRM 360497 or FEMA FIS 360497.

**SHADED X-ZONE.** The land in the floodplain delineated as subject to a 0.2-percent or greater chance of flooding, but less than one percent chance of flooding, in any given year. Such areas are designated on the Flood Insurance Rate Map (FIRM) as shaded X-Zones.

§8. Appendix G of the New York city building code is amended by adding a new section G307.4 to read as follows:

**G307.4 Additional fuel-oil storage capacity.** Fuel-oil storage capacity in areas of special flood hazard and shaded X-Zones shall comply with the following:

1. In areas of special flood hazard, fuel oil on the lowest story having its floor above the applicable design flood elevation shall be limited to 3,000 gallons (11 356 L) and no storage tank may exceed the lesser of 1,500 gallons (5678 L) or the quantity of fuel-oil needed to operate the emergency or standby generator(s) served by such tank for 24 hours and

2. In shaded X-Zones, fuel oil on the lowest story having its floor above the 500-year flood elevation shall be limited to 3,000 gallons (11 356 L) and no storage tank may exceed the lesser of 1,500 gallons (5678 L) or the quantity of fuel-oil needed to operate the emergency or standby generator(s) served by such tank for 24 hours.

**G307.4.1 Additional requirements.** Where fuel-oil storage capacity exceeds the quantity set forth in Section 1305.11.1.3 of the New York City Mechanical Code, the fuel-oil storage shall comply with Sections G307.4.1.1 and G307.4.1.2 in addition to Section 1305 of the New York City Mechanical Code.

**G307.4.1.1 Vault.** Each fuel-oil storage tank shall be separately enclosed in a vault complying with the following requirements:

1. The walls, floor, and top of such vault shall have a fire resistance rating of not less than 3 hours;

2. The walls of such vault shall be bonded to the floor of such vault;

3. The top and walls of such vault shall be independent of the building structure;

4. An exterior building wall having a fire resistance rating of not less than 3 hours shall be permitted to serve as a wall of such vault and

5. The vault shall be located in a dedicated room or area of the building that is separated vertically and horizontally from other areas of the building by construction having a fire resistance rating of not less than 2 hours.

**G307.4.1.2 Extinguishing system.** Fuel-oil storage shall be protected with an alternative automatic fire-extinguishing system complying with Section 904.

§9. Section 1305.11.1.3 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

**1305.11.1.3 Inside of buildings; above the lower floor.** Fuel-oil above the lowest floor inside of a building shall be limited to 330 gallons (1249 L) per story. The maximum quantity shall include oversized piping as described in 1305.9.12. Piping installations shall comply with the requirements of Section 1305.9.

**Exception:** Fuel-oil storage capacity in areas of special flood hazard and shaded X-Zones, as defined in Section G201.2 of Appendix G of the New York City Building Code, shall comply with Section G307.4 of Appendix G of the New York City Building Code.

§10. This local law shall take effect immediately.

ERIK MARTIN DILAN Chairperson; JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, Jr., ROBERT JACKSON, LETITIA JAMES, ROSIE MENDEZ, ELIZABETH S. CROWLEY, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, October 30, 2013.

**(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1089-A:)**

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

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

**A LOCAL LAW**

To amend the administrative code of the city of New York, the New York city building code and the New York city mechanical code, in relation to cabling for certain building systems and fuel-oil storage in flood-prone areas.

Given under my hand and seal this 30<sup>th</sup> day of October, 2013 at City Hall in the City of New York.

\_\_\_\_\_  
Michael R. Bloomberg  
Mayor

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 Int. No. 1096-A

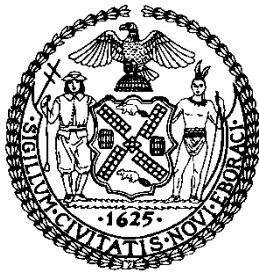
**Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the New York city building code, the New York city mechanical code and the New York city fire code, in relation to relocating and protecting building systems in flood-prone areas.**

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2089), respectfully

**REPORTS:**

(For text of report, please see the Report of the Committee on Housing and Buildings for Int No. 983-A printed in these Minutes)

*The following is the text of the Fiscal Impact Statement for Int. No. 1096-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:  
1096-A  
COMMITTEE: Housing and  
Buildings**

**TITLE:** A Local Law to amend the New York city building code, the New York city mechanical code and the New York city fire code, in relation to relocating and protecting building systems in flood-prone areas.

**SPONSOR(S):** Oddo, Chin, Comrie, Dickens, Fidler, James, Koo, Lander, Mendez, Recchia, Richards, Rose and Gennaro

**SUMMARY OF LEGISLATION:** Proposed Int. No. 1096-A would require that new or substantially improved buildings in flood-prone areas elevate certain building systems, including certain fire protection systems and equipment, fire alarm system components, fuel-oil piping system components, and plumbing system components.

The bill would also require that new or substantially improved hospitals in 500-year flood plain (i.e. shaded X-Zones) comply with flood construction requirements. This local law would take effect on the same date that Int. No. 1056, a local law relating to bringing the city's Construction Codes up to date with international codes, takes effect.

**EFFECTIVE DATE:** This legislation shall take effect on the same date that a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in introduction number 1056, takes effect.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2014

**FISCAL IMPACT STATEMENT:**

|                     | <b>Effective<br/>FY14</b> | <b>FY<br/>Succeeding<br/>Effective<br/>FY15</b> | <b>Full<br/>Fiscal<br/>Impact<br/>FY15</b> |
|---------------------|---------------------------|---|--|
| <b>Revenues</b>     | \$0*                      | \$0*  | \$0*                                       |
| <b>Expenditures</b> | \$0*                      | \$0*  | \$0*                                       |
| <b>Net</b>          | \$0*                      | \$0*  | \$0*                                       |

**IMPACT ON REVENUES:** The legislation would have no impact on revenues.

**IMPACT ON EXPENDITURES:** The legislation would have no impact on expenditures for the City. If any expenses are incurred due to the proposed requirements they will be borne by the building owner. At the time of this fiscal impact statement any expenditures that might be incurred by City-owned hospitals has not been accessed by these entities so the impact is unknown.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Amy Stokes, Legislative Financial Analyst

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

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on June 24, 2013 as Proposed Intro. 1096 and was referred to the Committees on Housing and Buildings. A joint hearing was held by the Committees on Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts on June 27, 2013 and the bill was laid over. The legislation was amended, and the amended version, Proposed Intro. 1096-A will be heard by the Committee on Housing and Buildings on October 30, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1096-A on October 30, 2013.

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

**(The following is the text of Int. No. 1096-A:)**

Int. No. 1096-A

By Council Members Oddo, Chin, Comrie, Dickens, Fidler, James, Koo, Lander, Mendez, Recchia, Richards, Rose, Gennaro, Van Bramer, Lappin, Rodriguez, Barron, Jackson and Williams.

**A Local Law to amend the New York city building code, the New York city mechanical code and the New York city fire code, in relation to relocating and protecting building systems in flood-prone areas.**

*Be it enacted by the Council as follows:*

Section 1. Section G304.1.1 of the New York city building code is amended by adding new items 5.1, 5.2, 5.3 and 5.4 to read as follows:

*5.1 Fire protection systems and equipment. The following fire protection systems and equipment shall be located at or above the design flood elevation specified in ASCE 24, Table 7-1, except that where the system or equipment or portion thereof serves only spaces located below such design flood elevation, the system or equipment or portion thereof may be located at or above such design flood elevation:*

*5.1.1. Sprinkler control valves that are not outside stem and yoke valves;*

*5.1.2. Fire standpipe control valves that are not outside stem and yoke valves;*

*5.1.3. Sprinkler booster pumps and fire pumps;*

*5.1.4. Dry pipe valve-related electrically operated alarm appurtenances;*

*5.1.5. Alarm control panels for water and non-water fire extinguishing systems;*

*5.1.6. Alarm control panels for sprinkler systems, pre-action sprinkler systems, deluge sprinkler systems, and combined dry pipe and pre-action sprinkler systems;*

*5.1.7. Electrically operated waterflow detection devices serving sprinkler systems and*

*5.1.8. Air compressors serving sprinkler systems and pre-action sprinkler systems.*

*5.2 Fire alarm systems and components. Where a zoning indicator panel is provided at the main building entrance in accordance with Section 907.6.3.1 and*

such panel is located at or below 5 feet (1524 mm) above the design flood elevation specified in ASCE 24, Table 7-1, at least one secondary zoning indicator panel complying with the following requirements shall be provided:

5.2.1. The secondary zoning indicator panel, associated controls, power supplies and means of transferring control shall be provided at least 5 feet (1524 mm) above the design flood elevation specified in ASCE 24, Table 7-1, in a location accessible to responding Fire Department personnel and approved by the department and the Fire Department and

5.2.2. Where the secondary zoning indicator panel or associated controls are only operable upon transfer of control from another zoning indicator panel, such transfer shall be by a means that is approved by the Fire Department.

5.3 Fuel-oil piping systems. The following requirements shall apply to fuel-oil piping systems, as defined by Section 202 of the New York City Mechanical Code:

5.3.1 Fill piping that does not terminate in a watertight terminal approved by the department shall terminate at least 3 feet (914 mm) above the design flood elevation specified in ASCE 24, Table 7-1 and

5.3.2 Normal vent piping and emergency vent piping shall terminate at least 3 feet (914 mm) above the design flood elevation specified in ASCE 24, Table 7-1.

5.4 Plumbing systems and components. The structure shall comply with the following requirements:

5.4.1 Relief vents and fresh air intakes. Relief vents and fresh air intakes serving building traps in accordance with Section 1002.6 of the New York City Plumbing Code shall be carried above grade and shall terminate in a screened outlet that is located outside of the building and at or above the design flood elevation specified in ASCE 24, Table 7-1 and

5.4.2 Reduced pressure zone backflow preventers. Reduced pressure principle backflow preventers complying with Section 608.13.2 of the New York City Plumbing Code and backflow preventers with intermediate atmospheric vents complying with Section 608.13.3 of the New York City Plumbing Code shall be located at or above the design flood elevation specified in ASCE 24, Table 7-1.

§2. Section G304.1.2 of the New York city building code is amended by adding a new item 2.3.1 to read as follows:

2.3.1 Additional requirements. The structure shall comply with Items 5.1 through 5.4 of Section G304.1.1.

§3. Section G304.2 of the New York city building code is amended by adding a new item 5.1 to read as follows:

5.1 Additional requirements. The structure shall comply with Items 5.1 through 5.4 of Section G304.1.1.

§4. Appendix G of the New York city building code is amended by adding a new section G304.4 to read as follows:

**G304.4 Construction standards for shaded X-Zones.** In shaded X-Zones, buildings that include I-2 occupancies that are hospitals shall comply with the requirements of this chapter and the applicable provisions of ASCE 24 for A-Zone construction.

§5. Appendix G of the New York city building code is amended by adding a new section G307.5 to read as follows:

**G307.5 Elevation of certain tanks and containers serving critical facilities.** The following tanks and containers shall be located at or above the design flood elevation specified in ASCE 24, Table 7-1, unless such tanks and containers serve buildings that include I-2 occupancies that are hospitals, in which case such tanks and containers shall be located at or above the greater of (i) the design flood elevation specified in ASCE 24, Table 7-1, or (ii) the 500-year flood elevation. Such tanks and containers must be designed to maintain service to such structure during flood conditions and shall comply with section 9.6 of ASCE 24:

1. Medical and compressed gas storage tanks, oxygen tanks, and other cryogenic system storage tanks;

2. Hazardous material storage tanks;

3. Stationary compressed gas containers;

4. Stationary cryogenic containers and

5. Stationary flammable gas storage containers.

§6. Table 2-1 of Section 2.3, Table 4-1 of Section 4.4, Table 5-1 of Section 5.1, Table 6-1 of Section 6.2 and Table 7-1 of Section 7.1 of ASCE 24 as modified

by section G501.1 of the New York city building code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in introduction number 1056, are amended to read as follows:

**TABLE 2-1  
MINIMUM ELEVATION OF THE TOP OF LOWEST FLOOR  
RELATIVE TO DESIGN FLOOD ELEVATION (DFE)-A-ZONES<sup>a</sup>**

| STRUCTURAL OCCUPANCY CATEGORY <sup>b</sup> | MINIMUM ELEVATION OF LOWEST FLOOR |
|--|-----------------------------------|
| I  | DFE=BFE                           |
| II (1- and 2-family dwellings)             | DFE=BFE+ 2 ft                     |
| II <sup>c, d</sup> (all others)            | DFE=BFE+ 1 ft                     |
| III <sup>c, d</sup>                        | DFE=BFE+ 1 ft                     |
| IV <sup>c, d</sup>                         | DFE=BFE+ 2 ft                     |

- a. Minimum elevations shown in Table 2-1 do not apply to V Zones (see Table 4-1). Minimum elevations shown in Table 2-1 apply to A-Zones unless specific elevation requirements are given in Section 3 of this standard.
- b. See Table 1-1 or Table 1604.5 of the *New York City Building Code*, for structural occupancy category descriptions.
- c. For nonresidential buildings and nonresidential portions of mixed-use buildings, the lowest floor shall be allowed below the minimum elevation if the structure meets the floodproofing requirements of Section 6.
- d. Buildings that include I-2 occupancies that are hospitals shall use the greater of (i) the DFE for the applicable structural occupancy category as indicated in this table or (ii) the 500-year flood elevation.

**TABLE 4-1  
MINIMUM ELEVATION OF BOTTOM OF LOWEST SUPPORTING  
HORIZONTAL STRUCTURAL MEMBER OF LOWEST FLOOR  
RELATIVE TO DESIGN FLOOD ELEVATION (DFE)-V-ZONES AND  
COASTAL A-ZONES**

| STRUCTURAL OCCUPANCY CATEGORY <sup>a</sup> | MEMBER ORIENTATION RELATIVE TO THE DIRECTION OF WAVE APPROACH |                            |
|--|---|----------------------------|
|  | Parallel <sup>b</sup>   | Perpendicular <sup>b</sup> |
| I  | DFE=BFE   | DFE=BFE                    |
| II (1-and 2- family dwellings)             | DFE=BFE[ ]+ 2 ft  | DFE=BFE[ ]+ 2 ft           |
| II <sup>c</sup> (all others)               | DFE=BFE   | DFE=BFE+ 1 ft              |
| III <sup>c</sup>                           | DFE=BFE+ 1 ft   | DFE=BFE+ 2 ft              |
| IV <sup>c</sup>                            | DFE=BFE+ 1 ft   | DFE=BFE+ 2 ft              |

- a. See Table 1-1, or Table 1604.5 of the *New York City Building Code*, for structural occupancy category descriptions.
- b. Orientation of lowest horizontal structural member relative to the general direction of wave approach; parallel shall mean less than or equal to +20 degrees from the direction of approach; perpendicular shall mean greater than +20 degrees from the direction of approach.
- c. Buildings that include I-2 occupancies that are hospitals shall use the greater of (i) the DFE for the applicable structural occupancy category as indicated in this table or (ii) the 500-year flood elevation.

**TABLE 5-1  
MINIMUM ELEVATION, RELATIVE TO DESIGN FLOOD  
ELEVATION (DFE), BELOW WHICH FLOOD-DAMAGE-RESISTANT  
MATERIALS SHALL BE USED**

| STRUCTURAL OCCUPANCY CATEGORY <sup>a</sup> | A-ZONE        | Coastal High Hazard Areas and Coastal A-Zones |  |
|--|---------------|---|--|
|  |               | Orientation Parallel <sup>b</sup>             | Orientation Perpendicular <sup>b</sup> |
| I  | DFE=BFE       | DFE=BFE                                       | DFE=BFE                                |
| II (1-and 2- family dwellings)             | DFE=BFE+ 2 ft | DFE=BFE+ 2 ft                                 | DFE=BFE+ 2 ft                          |
| II <sup>c</sup> (all others)               | DFE=BFE+ 1 ft | DFE=BFE+ 1 ft                                 | DFE=BFE+ 2 ft                          |
| III <sup>c</sup>                           | DFE=BFE+ 1 ft | DFE=BFE+ 2 ft                                 | DFE=BFE+ 3 ft                          |
| IV <sup>c</sup>                            | DFE=BFE+ 2 ft | DFE=BFE+ 2 ft                                 | DFE=BFE+ 3 ft                          |

- a. See Table 1-1, or Table 1604.5 of the *New York City Building Code*, for structural occupancy category descriptions.
- b. Orientation of lowest horizontal structural member relative to the general direction of wave approach; parallel shall mean less than or equal to +20 degrees from the direction of approach; perpendicular shall mean greater than +20 degrees from the direction of

approach.

- c. Buildings that include I-2 occupancies that are hospitals shall use the greater of (i) the DFE for the applicable structural occupancy category as indicated in this table or (ii) the 500-year flood elevation.

**TABLE 6-1  
MINIMUM ELEVATION OF FLOODPROOFING, RELATIVE TO  
DESIGN FLOOD ELEVATION (DFE)-A-ZONES**

| STRUCTURAL OCCUPANCY CATEGORY <sup>a</sup> | MINIMUM ELEVATION OF FLOODPROOFING <sup>b</sup> |
|--|---|
| I  | DFE=BFE+ 1 ft                                   |
| II <sup>c, d</sup>                         | DFE=BFE+ 1 ft                                   |
| III <sup>d</sup>                           | DFE=BFE+ 1 ft                                   |
| IV <sup>d</sup>                            | DFE=BFE+ 2 ft                                   |

- a. See Table 1-1, or Table 1604.5 of the *New York City Building Code*, for structural occupancy category descriptions.
- b. Wet or dry floodproofing shall extend to the same level.
- c. Dry floodproofing of residential buildings and residential portions of mixed use buildings shall not be permitted.
- d. Buildings that include I-2 occupancies that are hospitals shall use the greater of (i) the DFE for the applicable structural occupancy category as indicated in this table or (ii) the 500-year flood elevation.

**TABLE 7-1  
MINIMUM ELEVATION OF UTILITIES AND ATTENDANT EQUIPMENT  
RELATIVE TO DESIGN FLOOD ELEVATION (DFE)**

| STRUCTURAL OCCUPANCY CATEGORY <sup>a</sup> | LOCATE UTILITIES AND ATTENDANT EQUIPMENT ABOVE <sup>b</sup> |  |  |
|--|---|--|--|
|  | A-Zones   | Coastal High Hazard Area and Coastal A-Zones |  |
|  |   | Orientation Parallel <sup>c</sup>            | Orientation Perpendicular <sup>c</sup> |
| I  | DFE=BFE   | DFE=BFE                                      | DFE=BFE                                |
| II (1-and 2- family dwellings)             | DFE=BFE+ 2 ft   | DFE=BFE+ 2 ft                                | DFE=BFE+ 2 ft                          |
| II <sup>c, d</sup> (all others)            | DFE=BFE+ 1 ft   | DFE=BFE+ 1 ft                                | DFE=BFE+ 2 ft                          |
| III <sup>d</sup>                           | DFE=BFE+ 1 ft   | DFE=BFE+ 2 ft                                | DFE=BFE+ 3 ft                          |
| IV <sup>d</sup>                            | DFE=BFE+ 2 ft   | DFE=BFE+ 2 ft                                | DFE=BFE+ 3 ft                          |

- a. See Table 1-1, or Table 1604.5 of the *New York City Building Code*, for structural occupancy category descriptions.
- b. Locate utilities and attendant equipment above elevations shown unless otherwise provided in the text.
- c. Orientation of lowest horizontal structural member relative to the general direction of wave approach; parallel shall mean less than or equal to +20 degrees from the direction of approach; perpendicular shall mean greater than +20 degrees from the direction of approach.
- d. Buildings that include I-2 occupancies that are hospitals shall use the greater of (i) the DFE for the applicable structural occupancy category as indicated in this table or (ii) the 500-year flood elevation.

§7. Section G501.1 of the New York city building code is amended by adding a new modification to section 7.2.4 of ASCE 24 to read as follows:

**Section 7.2.4.** Section 7.2.4 (*Disconnect Switches and Circuit Breakers*) is amended to read as follows:

*7.2.4 Disconnect Switches and Circuit Breakers. The main disconnect switch, all service disconnecting means, and all circuit breakers shall be located above and be accessible from the elevation specified in Table 7-1. Switches, all service disconnecting means, and circuit breakers shall be located no more than 6 feet 7 inches (2 m) above the floor, or a platform shall be installed to provide access.*

§8. The modification to section 23.2.2.4(c) of NFPA 13 set forth in section Q102.1 of Appendix Q of the New York city building code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in introduction number 1056, is amended to read as follows:

(c) Such pumps shall also comply with the applicable provisions of this Referenced Standard and the *New York City Building Code* pertaining to Fire Pumps, except that only one water supply [and no enclosure] shall be required.

§9. The modification to section 9.1.5(2)(f) of NFPA 14 set forth in section Q105.1 of Appendix Q of the New York city building code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in introduction number 1056, is amended to read as follows:

(f) Fire pumps shall be placed on concrete pads at least 12 in. (305mm) above the pump room floor with a clearance of at least 3 ft. (914 mm) maintained on all sides from walls or from other equipment in the pump room. In the event of the use of a vertical shaft centrifugal fire pump, the 12 in. (305 mm) high concrete pad may be omitted, provided the bottom of the electric driving motor and all electrical appurtenances are raised at least 12 in. (305 mm) above the pump room floor. *Fire pumps shall be located in a 2-hour fire-rated enclosure.*

§10. Section 301.13 of the New York city mechanical code, as added by local law number 33 for the year 2007, is amended to read as follows:

**301.13 Flood hazard.** For structures located in areas of special flood hazard, and buildings that include I-2 occupancies that are hospitals located in shaded X-Zones, mechanical systems, equipment and appliances shall comply with Appendix G of the *New York City Building Code*.

§11. The New York city fire code is amended by adding a new section 904.3.6 to read as follows:

**904.3.6 Flood hazard.** *Non-water fire extinguishing system control panels located in areas of special flood hazard or on the premises of Group I-2 occupancies that are hospitals located in shaded X-Zones (as defined in Section G201.2 of Appendix G of the Building Code) shall be located at or above the design flood elevation in accordance with Appendix G of the Building Code.*

§12. Section 2703.2.4 of chapter 27 the New York city fire code, as added by local law number 26 for the year 2008, is amended to read as follows:

**2703.2.4 Installation of tanks.** Installation of tanks shall be in accordance with Sections 2703.2.4.1 through [2703.2.4.2.1] 2703.2.4.3 and with the regulations of the New York State Department of Environmental Conservation as set forth in 6 NYCRR Sections 599.6, 614.7 and 614.13.

**2703.2.4.1 Underground tanks.** Underground tanks used for the storage of liquid hazardous materials shall be provided with secondary containment.

**2703.2.4.2 Aboveground tanks.** Aboveground stationary tanks used for the storage of liquid hazardous materials shall be located and protected in compliance with the requirements for outdoor storage of the particular material involved.

**2703.2.4.2.1 Marking.** Aboveground stationary tanks shall be marked as required by Section 2703.5.

**2703.2.4.3 Flood hazard.** *Hazardous material storage tanks located in areas of special flood hazard or on the premises of Group I-2 occupancies that are hospitals located in shaded X-Zones (as defined in Section G201.2 of the Building Code) shall comply with Section G307.5 of Appendix G of the Building Code.*

§13. Section 3003.3.1 of chapter 33 of the New York city fire code, as added by local law number 26 for the year 2008, is amended to read as follows:

**3003.3.1 [Reserved.] Flood hazard.** *Stationary compressed gas containers located in areas of special flood hazard or on the premises of Group I-2 occupancies that are hospitals located in shaded X-Zones (as defined in Section G201.2 of Appendix G of the Building Code) shall comply with Section G307.5 of the Building Code.*

§14. Section 3203.1.2 of chapter 32 of the New York city fire code, as added by local law number 26 for the year 2008, is amended to read as follows:

**3203.1.2 [Reserved.] Flood hazard.** *Stationary cryogenic containers located in areas of special flood hazard or on the premises of Group I-2 occupancies that are hospitals located in shaded X-Zones (as defined in Section G201.2 of Appendix G of the Building Code) shall comply with Section G307.5 of the Building Code.*

§15. The New York city fire code is amended by adding a new section 3501.5 to read as follows:

**3501.5 Flood hazard.** *Stationary flammable gas containers located in areas of special flood hazard or on the premises of Group I-2 occupancies that are hospitals located in shaded X-Zones (as defined in Section G201.2 of Appendix G of the Building Code) shall comply with Section G307.5 of the Building Code.*

§16. This local law shall take effect on the same date that a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in introduction number 1056,

takes effect.

ERIK MARTIN DILAN Chairperson; JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, Jr., ROBERT JACKSON, LETITIA JAMES, ROSIE MENDEZ, ELIZABETH S. CROWLEY, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, October 30, 2013.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1096-A:)

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

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the New York city building code, the New York city mechanical code and the New York city fire code, in relation to relocating and protecting building systems in flood-prone areas.

Given under my hand and seal this 30<sup>th</sup> day of October, 2013 at City Hall in the City of New York.

Michael R. Bloomberg  
Mayor

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 Int. No. 1099-A

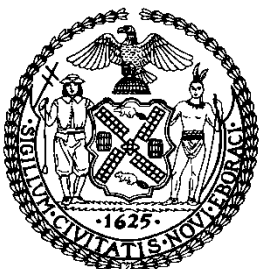
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the New York city building code and the New York city mechanical code, in relation to preventing wind damage to certain buildings and systems.

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2102), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int No. 983-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1099-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: 1099-A  
COMMITTEE:  
Housing and  
Buildings

TITLE: To amend the New York city building code and the New York city mechanical code, in relation to preventing wind damage to certain

SPONSOR(S): Richards, Chin, James, Koo, Lander, Mendez, Recchia, Rose, Barron, and Van Bramer

buildings and systems.

SUMMARY OF LEGISLATION: Proposed Int. No. 1099-A would require certain buildings located in areas of the city subject to high velocity wind speeds to utilize certain materials if they provide enclosed places of assembly for 300 or more people or provide louvers or garage doors. Exterior louvers for building ventilation and exhaust systems must also protect against wind-driven rain penetration.

EFFECTIVE DATE: This local law shall take effect on the same date as a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, takes effect.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2014

FISCAL IMPACT STATEMENT:

|                  | Effective<br>FY14 | FY<br>Succeeding<br>Effective<br>FY15 | Full<br>Fiscal<br>Impact<br>FY15 |
|------------------|-------------------|---------------------------------------|----------------------------------|
| Revenue<br>s     | \$0               | \$0                                   | \$0                              |
| Expendit<br>ures | \$0               | \$0                                   | \$0                              |
| Net              | \$0               | \$0                                   | \$0                              |

IMPACT ON REVENUES: The legislation would have no impact on revenues.

IMPACT ON EXPENDITURES: The legislation would have no impact on expenditures for the City. If any expenses are incurred due to the proposed requirements they will be borne by the building owner.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Amy Stokes, Legislative Financial Analyst

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

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on June 24, 2013 as Proposed Intro. 1099 and was referred to the Committees on Housing and Buildings. A joint hearing was held by the Committees on Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts on June 27, 2013 and the bill was laid over. The legislation was amended, and the amended version, Proposed Intro. 1099-A will be heard by the Committee on Housing and Buildings on October 30, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1099-A on October 30, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1099-A:)

Int. No. 1099-A

By Council Members Richards, Chin, James, Koo, Lander, Mendez, Recchia, Rose, Barron, Van Bramer, Gennaro, Rodriguez, Jackson and Williams.

A Local Law to amend the New York city building code and the New York city mechanical code, in relation to preventing wind damage to certain buildings and systems.

Be it enacted by the Council as follows:

Section 1. Section 1609.1.2 of the New York city building code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to read as follows:

**1609.1.2 [Reserved.] Protection from wind borne debris.** *The following buildings shall be protected with an impact-resistant covering or glazing in accordance with the Missile Levels and Wind Zones specified in ASTM E1886 and ASTM E1996 or other approved test methods and performance criteria:*

1. *Buildings in Structural Occupancy Category IV, as defined in Table 1604.5, located in Exposure C or D, as defined in Section 1609.4;*

2. *Buildings in Structural Occupancy Category III, as defined in Table 1604.5, located in Exposure D, as defined in Section 1609.4, where the glazing of such building encloses places of assembly for 300 or more persons or areas of in-place shelter.*

**Exception:** *Glazing protection in accordance with Section 1609.1.2 shall not be required if the glazing is located more than 60 feet (18 288 mm) above the ground and more than 30 feet (9144 mm) above aggregate-surfaced roofs, including roofs with gravel or stone ballast located within 1,500 feet (457.2 m) of the building.*

**1609.1.2.1 Louvers.** *Louvers protecting intake and exhaust ventilation ducts not assumed to be open that are located within 30 feet (9144 mm) of grade shall meet the requirements of an approved impact-resisting standard or the large missile test of ASTM E 1996.*

**1609.1.2.2 Garage doors.** *Garage door glazed opening protection for wind-borne debris shall meet the requirements of an approved impact-resisting standard or ANSI/DASMA 115.*

§ 2. Chapter 4 of the New York city mechanical code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended by adding a new section 401.6.1 to read as follows:

**401.6.1 Wind-driven rain rating.** *All exterior louvers for building ventilation systems shall either:*

1. *Receive an A rating according to AMCA Standard 550 for wind-driven rain penetration for a 50 mile per hour (80.4 km/h) wind velocity with a rainfall rate of eight inches (203 mm) per hour; or*

2. *Be installed on a plenum configured to intercept any wind-driven rain penetrating the louver and to prevent the rain from entering the building ductwork system. Such plenum shall be waterproofed and equipped with a drainage system to convey water penetrating the louver to storm or sanitary drains.*

§ 3. Chapter 5 of the New York city mechanical code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended by adding a new section 501.2.2.1 to read as follows:

**501.2.2.1 Wind-driven rain rating.** *All exterior louvers for building exhaust systems shall either:*

1. *Receive an A rating according to AMCA Standard 550 for wind-driven rain penetration for a 50 mile per hour (80.4 km/h) wind velocity with a rainfall rate of eight inches (203 mm) per hour; or*

2. *Be installed on a plenum configured to intercept any wind-driven rain penetrating the louver and to prevent the rain from entering the building ductwork system. Such plenum shall be waterproofed and equipped with a drainage system to convey water penetrating the louver to storm or sanitary drains.*

§ 4. Chapter 35 of the New York city building code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended by adding new reference standards ASTM E 1886, ASTM E 1996, and ANSI/DASMA 115 to read as follows:

**ASTM**                      *ASTM International 100 Barr Harbor Drive West  
Conshohocken, PA 19428-2959*

| <i>Standard Reference Number</i> | <i>Title</i> | <i>Referenced in code section number</i> |
|----------------------------------|--------------|--|
|----------------------------------|--------------|--|

|                  |  |                 |
|------------------|--|-----------------|
| <i>E 1886-06</i> | <i>Standard Test Method for Performance of Exterior Windows, Curtain Walls, Doors, and Impact Protective Systems Impacted by Missile(s) and Exposed to Cyclic Pressure Differentials</i> | <i>1609.1.2</i> |
|------------------|--|-----------------|

|                  |  |                  |
|------------------|--|------------------|
| <i>E 1996-09</i> | <i>Standard Specification for Performance of</i> | <i>1609.1.2,</i> |
|------------------|--|------------------|

*Exterior Windows, Curtain Walls, Doors, 1609.1.2.1 and Impact Protective Systems Impacted by Windborne Debris in Hurricanes*

**DASMA**                      *Door and Access Systems Manufacturers Association  
International 1300 Summer Avenue Cleveland, OH 44115-2851*

| <i>Standard reference number</i> | <i>Title</i> | <i>Referenced in code section number</i> |
|----------------------------------|--------------|--|
|----------------------------------|--------------|--|

|               |  |                   |
|---------------|--|-------------------|
| <i>115-05</i> | <i>Standard Method for Testing Sectional Garage Doors and Rolling Doors: Determination of Structural Performance Under Missile Impact and Cyclic Wind Pressure</i> | <i>1609.1.2.2</i> |
|---------------|--|-------------------|

§ 5. Chapter 15 of the New York city mechanical code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended by adding new reference standard AMCA 550 as follows:

**AMCA**                      *Air Movement and Control Association International 30 West  
University Drive Arlington Heights, IL 60004*

| <i>Standard Reference Number</i> | <i>Title</i> | <i>Referenced in code section number</i> |
|----------------------------------|--------------|--|
|----------------------------------|--------------|--|

|               |   |                               |
|---------------|---|-------------------------------|
| <i>550-09</i> | <i>Test Method for High Velocity Wind Driven Rain Resistant Louvers</i> | <i>401.6.1,<br/>501.2.2.1</i> |
|---------------|---|-------------------------------|

§ 6. This local law shall take effect on the same date as a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, takes effect.

ERIK MARTIN DILAN Chairperson; JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, Jr., ROBERT JACKSON, LETITIA JAMES, ROSIE MENDEZ, ELIZABETH S. CROWLEY, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, October 30, 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 of the Committee on Land Use**

Report for L.U. No. 918

**Report of the Committee on Land Use in favor of approving Application No. 20145020 HKM (N 140005 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation by the Landmarks Preservation Commission of the West End - Collegiate Historic District Extension (Designation List 465, LP-2462), Borough of Manhattan, Community Board 7, Council District 6, as a historic district.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 12, 2013 (Minutes, page 3472), respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 7                      20145020 HKM (N 140005 HKM)**

Designation by the Landmarks Preservation Commission (List No. 465/LP-2462), pursuant to Section 3020 of the New York City Charter, of the landmark designation of the West End-Collegiate Historic District Extension, as an historic district.

**PUBLIC HEARING****DATE:** September 16, 2013**Witnesses in Favor:** Twenty-three**Witnesses Against:** Six**SUBCOMMITTEE RECOMMENDATION****DATE:** October 22, 2013

The Subcommittee recommends that the Land Use Committee affirm the designation with modifications.

**In Favor:** Lander, Palma, Arroyo, Mendez, Williams**Against:** *None*      **Abstain:** *None***COMMITTEE ACTION****DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio**Against:** *None*      **Abstain:** *None*

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

Res. No. 1998

**Resolution modifying the designation by the Landmarks Preservation Commission of the West End-Collegiate Historic District Extension, Borough of Manhattan, Designation List No. 465, LP-2462 (L.U. No. 918; 20145020 HKM; N 140005 HKM).**

By Council Members Comrie and Lander.

**WHEREAS**, the Landmarks Preservation Commission filed with the Council on July 3, 2013 a copy of its designation dated June 25, 2013 (the "Designation"), of the West End-Collegiate Historic District Extension, Community District 7, Borough of Manhattan.

The West End-Collegiate Historic District Extension consists: **Area I** of the West End-Collegiate Historic District Extension consists of the property bounded by a line beginning at the southeast corner of West 77th Street and Riverside Drive, easterly along the southern curblines of West 77th Street to a point on a line extending southerly from the eastern property line of 323-327 West 77th Street, northerly along said line and the eastern property line of 323-327 West 77th Street, westerly along part of the northern property line of 323-327 West 77th Street, northerly along the eastern property line of 53-54 Riverside Drive (aka 324-340 West 78th Street) to the southern curblines of West 78th Street, easterly along the southern curblines of West 78th Street to a point on a line extending southerly from the eastern property line of 317-331 West 78th Street, northerly along said line and the eastern property line of 317-331 West 78th Street, easterly along the southern property lines of 302-306 West 79th Street and 391-393 West End Avenue (aka 300 West 79th Street) to the western curblines of West End Avenue, southerly along the western curblines of West End Avenue, easterly along the southern curblines of West 77th Street to a point on a line extending northerly from the eastern property line of 262 West 77th Street, northerly along said line to the northern curblines of West 77th Street, easterly along the northern curblines of West 77th Street, northerly along the western curblines of Broadway, westerly along the northern curblines of West 79th to a point on a line extending southerly from the western property line of 307 West 79th Street (aka 307-313 West 79th Street), southerly along said line to the southern curblines of West 79th Street, westerly along the southern curblines of West 79th Street, and southerly along the eastern curblines of Riverside Drive, to the point of beginning.

**Area II** of the West End-Collegiate Historic District Extension consists of the property bounded by a line beginning at the northeast corner of Riverside Drive and West 74th Street, extending southerly along the eastern curblines of Riverside Drive to the southern curblines of West 72nd Street, westerly along the southern curblines of West 72nd Street to a point on a line extending northerly from the western property line of 344 West 72nd Street (aka 353-357 West 71st Street), southerly along said line and the western property lines of 344 West 72nd Street (aka 353-357 West 71st Street) and 350-352 West 71st Street, easterly along the southern property lines of 350-352 West 71st Street through 342-344 West 71st Street, northerly along the eastern property line of 342-344 West 71st Street to the northern curblines of West 71st Street, westerly along the northern curblines of West 71st Street

to a point on a line extending southerly from part of the eastern property line of 344 West 72nd Street (aka 353-357 West 71st Street), northerly along said line and part of the eastern property line of 344 West 72nd Street (aka 353-357 West 71st Street), easterly along part of the southern property line of 340-342 West 72nd Street and the southern property lines of 338 through 310-318 West 72nd Street, southerly along part of the western property lines of 251-255 West End Avenue through 241-247 West End Avenue (aka 301-303 West 71st Street) to the northern curblines of West 71st Street, westerly along the northern curblines of West 71st Street to a point on a line extending northerly from the western property line of 229-235 West End Avenue (aka 300-308 West 71st Street), southerly along said line and the western property line of 229-235 West End Avenue (aka 300-308 West 71st Street), easterly along part of the southern property line of 229-235 West End Avenue (aka 300-308 West 71st Street), southerly along the western property line of 301-303 West 70th Street (aka 221-227 West End Avenue) to the northern curblines of West 70th Street, easterly along the northern curblines of West 70th Street to a point on a line extending southerly from the eastern property line of 211 West 70th Street, northerly along said line and the eastern property line of 211 West 70th Street, westerly along part of the northern property line of 211 West 70th Street, northerly along the eastern property line of 212 West 71st Street to the northern curblines of West 71st Street, easterly along the northern curblines of West 71st Street to a point on a line extending southerly from part of the eastern property line of 213 West 71st Street, northerly along said line and northerly, westerly, and northerly along the eastern property line of 213 West 71st Street, westerly along the northern property lines of 213 through part of 217 West 71st Street, northerly along the eastern property line of 214 West 72nd Street to the southern curblines of West 72nd Street, westerly along the southern curblines of West 72nd Street to a point on a line extending southerly from the eastern property line of 233 West 72nd Street, northerly along said line and the eastern property line of 233 West 72nd Street, easterly along part of the southern property line of Lot 43, northerly and easterly along part of the eastern property line of Lot 43, easterly along the southern property line of 236 West 73rd Street, northerly along the eastern property line of 236 West 73rd Street to the southern curblines of West 73rd Street, westerly along the southern curblines of West 73rd Street to a line extending southerly from the eastern property line of 251 West 73rd Street, northerly along said line and the eastern property lines of 251 West 73rd Street and 232 West 74th Street to the northern curblines of West 74th Street, easterly along the northern curblines of West 74th Street to a point on a line extending southerly from the eastern property line of 231 West 74th Street, northerly along said line and the eastern property lines of 231 West 74th Street and 228 West 75th Street to the northern curblines of West 75th Street, easterly along the northern curblines of West 75th Street, northerly along the western curblines of Broadway to point on a line extending easterly from the northern property line of 2169 Broadway (aka 235-241 West 76th Street), westerly along said line and the northern property line of 2169 Broadway (aka 235-241 West 76th Street), southerly along the western property line of 2169 Broadway (aka 235-241 West 76th Street) to the northern curblines of West 76th Street, westerly along the northern curblines of West 76th Street, southerly along the western curblines of West End Avenue, westerly along the northern curblines of West 75th Street to point on a line extending northerly from the western property line of 302-304 West 75th Street, southerly along said line and the western property line of 302-304 West 75th Street, easterly along the southern property line of 302-304 West 75th Street, southerly along part of the western property line of 301-311 West End Avenue (aka 301 West 74th Street) to the northern curblines of West 74th Street, and westerly along the northern curblines of West 74th Street, to the point of beginning.

**WHEREAS**, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

**WHEREAS**, the City Planning Commission submitted to the Council on August 23, 2013, its report on the Designation dated August 21, 2013 (the "Report");

**WHEREAS**, upon due notice, the Council held a public hearing on the Designation on September 16, 2013; and

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

**RESOLVED:**

Pursuant to Section 3020 of the City Charter, and on the basis of the record and information and materials contained in the Designation and the Report, the Council modifies the Designation to exclude the following two (2) properties from boundaries of the West-End Collegiate Historic District Extension:

**Parcel I**

214 West 72nd Street

Manhattan, Tax Block 1163, Tax Lot 42, as more particularly described as follows:

BEGINNING at a point on the southerly side of 72nd Street distant 119 feet 11 inches westwardly from the southwest corner of 72nd Street and Broadway, formerly Boulevard; running

THENCE southerly parallel with West End Avenue and part of the distance through a party wall 102 feet 2 inches; running

THENCE westwardly parallel with 72<sup>nd</sup> Street 25 feet;

THENCE northwardly again parallel with West End Avenue 102 feet 2 inches to the southerly side of 72<sup>nd</sup> Street;

THENCE eastwardly along said southerly side of 72<sup>nd</sup> Street 25 feet to the point or place of BEGINNING.

Parcel II

236 West 73<sup>rd</sup> Street,  
Manhattan, Tax Block 1164, Tax Lot 42, Church House owned by Rutgers Presbyterian Church, as more particularly described as follows:

BEGINNING at a point 61 feet and 5 inches westerly on the southerly side of 73<sup>rd</sup> Street from the intersection of the westerly side of Broadway and the southerly side of 73<sup>rd</sup> Street; running

THENCE southerly 79 feet and zero inches; running

THENCE westerly and perpendicular 22 feet and 6 inches; running

THENCE northerly 79 feet and zero inches; running

THENCE easterly and perpendicular 22 feet and 6 inches to the point or place of BEGINNING.

ROBERT JACKSON, Chairperson; CHARLES BARRON, ALBERT VANN, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, FERNANDO CABRERA, MARGARET S. CHIN, DANIEL DROMM, KAREN KOSLOWITZ, STEPHEN T. LEVIN, DEBORAH L. ROSE, MARK S. WEPRIN, VINCENT M. IGNIZIO, ERIC A. ULRICH; Committee on Education, October 30, 2013.

Approved with Modifications and Coupled on the General Order Calendar.

Report for L.U. No. 922

**Report of the Committee on Land Use in favor of approving Application No. N 120213 NPY submitted by the Department of City Planning pursuant to Section 197-a of the New York City Charter concerning revisions to the New York City Waterfront Revitalization Program's coastal policies and Coastal Zone maps throughout New York City.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 24, 2013 (Minutes, page 3752), respectfully

**REPORTS:**

**SUBJECT**

**CITYWIDE**

**N 120213 NPY**

City Planning Commission decision approving the plan concerning revisions to the New York City Waterfront Revitalization Program, submitted by the New York City Department of City Planning, for consideration pursuant to Section 197-a of the New York City Charter. The plan is called "The Revised New York City Waterfront Revitalization Program."

**INTENT**

To update and revise the City's policies for development and use of the waterfront and to provide a mechanism to evaluate local, state and federal discretionary actions in the Coastal Zone for consistency with these policies.

**PUBLIC HEARING**

**DATE:** September 30, 2013

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

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 30, 2013

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

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

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

**COMMITTEE ACTION**

**DATE:** October 30, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Barron, Jackson, Vann, Gonzalez, Garodnick, Lappin, Mendez, 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. 1999

**Resolution approving the decision of the City Planning Commission on Non-ULURP No. N 120213 NPY, for a plan concerning revisions to the New York City Waterfront Revitalization Program which is called "The Revised New York City Waterfront Revitalization Program," Citywide (L.U. No. 922).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the New York City Department of City Planning, pursuant to Section 197-a of the New York City Charter, regarding a plan concerning revisions to the New York City Waterfront Revitalization Program (the "Plan"). The Plan which is called "The Revised New York City Waterfront Revitalization Program" is being updated to advance the goals and priorities of *Vision 2020: New York City Comprehensive Waterfront Plan*, released by DCP in March 2011, which is intended to establish the City's policies for development and use of the waterfront and provides a mechanism to evaluate local, state and federal discretionary actions in the Coastal Zone for consistency with these policies (Non-ULURP No. N 120213 NPY), City Wide (the "Application");

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-a of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on September 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. 12DCP123Y) issued on March 26, 2012 (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 Section 197-a 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 120213 NPY, incorporated by reference herein, the Council approves the Decision and Plan, a copy of which is attached hereto.

ROBERT JACKSON, Chairperson; CHARLES BARRON, ALBERT VANN, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, FERNANDO CABRERA, MARGARET S. CHIN, DANIEL DROMM, KAREN KOSLOWITZ, STEPHEN T. LEVIN, DEBORAH L. ROSE, MARK S. WEPRIN, VINCENT M. IGNIZIO, ERIC A. ULRICH; Committee on Education, October 30, 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. 923

**Report of the Committee on Land Use in favor of approving Application No. N 130316 ZRR submitted by the New York City Economic Development Corporation, New York Wheel LLC and St. George Outlet Development LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution, Article XII, Chapter 8, and related sections, concerning the expansion of the Special St. George District in the Borough of Staten Island, Community District 1, Council District 49.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 24, 2013 (Minutes, page 3753), respectfully

**REPORTS:**

**SUBJECT**

**STATEN ISLAND CB - 1**

**N 130316 ZRR**

City Planning Commission decision approving an application submitted by the New York City Economic Development Corporation, New York Wheel LLC and St. George Outlet Development 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 Article XII, Chapter 8, and related sections, concerning the expansion of the Special St. George District.

**INTENT**

This amendment to the Zoning Resolution, along with the other related actions would facilitate the redevelopment of the two city-owned commuter parking lots at the St. George Ferry Terminal for a 625-ft. tall, 1,440-passenger observation wheel with an accessory terminal building including approximately 18,500 square feet (sq. ft.) of accessory retail; a 950-space, 170,000 sq. ft. covered public parking facility; a 340,000 sq. ft. a retail outlet mall with a 130,000 sq. ft. (approximately 200-room) hotel; and 20,000 sq. ft. catering facility. It will also provide for a deck that will be built over the existing railroad right of way that abuts Richmond Terrace to permit pedestrian and vehicular connections between Richmond Terrace and the site.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Thirty-two  
Sixteen

**Witnesses Against:**

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 30, 2013

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

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

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

**COMMITTEE ACTION**

**DATE:** October 30, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Barron, Jackson, Vann, Gonzalez, Garodnick, Lappin, Mendez, 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. 2000

**Resolution approving the decision of the City Planning Commission on Application No. N 130316 ZRR, for an amendment of the Zoning Resolution of the City of New York, modifying Article XII, Chapter 8, and related sections, concerning the expansion of the Special St. George District, Community District 1, Borough of Staten Island (L.U. No. 923).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 16, 2013 its decision dated September 11, 2013 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Economic Development Corporation, New York Wheel LLC and St. George Outlet Development LLC, to facilitate the redevelopment of the two city-owned commuter parking lots at the St. George Ferry Terminal for a 625-ft. tall, 1,440-passenger observation wheel with an accessory terminal building including approximately 18,500 square feet (sq. ft.) of accessory retail; a 950-space, 170,000 sq. ft. covered public parking facility; and a 340,000 sq. ft. a retail outlet mall with a 130,000 sq. ft. (approximately 200-room) hotel; and 20,000 sq. ft. catering facility and a deck that will be built over the existing railroad right of way that abuts Richmond Terrace to permit pedestrian and vehicular connections between Richmond Terrace and the site, (Application No. N 130316 ZRR), Community District 1, Borough of Staten Island (the "Application");

**WHEREAS**, the Application is related to applications C 130315 ZMR (L.U. No. 924), a zoning map amendment to extend the boundaries of the existing Special St. George District to include all of the project area; C 130317 ZSR (L.U. No. 925), a special permit pursuant to Section 128-61 to permit the development of an observation wheel and accessory terminal building; the development of a public parking garage for 950 cars and 12 buses; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; C 130318 ZSR (L.U. No. 926), a special permit pursuant to Section 128-61 to permit the development of a retail outlet mall with approximately 100 stores, hotel, and catering facility; the development of a 1,250-space public parking garage; offsite interim public parking lots with more than 150 spaces; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; C 130319 PPR (L.U. No. 927), disposition of Parcel 1 (Block 2, part of Lot 20), a City-owned property (via application of the NYC Dept. of Small Business Services); and C 130320 PPR (L.U. No. 928), disposition of Parcel 2 (Block 2, parts of Lots 1, 5, 10 and 20), a City-owned property (via application of the NYC Dept. of Small Business Services);

**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 October 2, 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 August 29, 2013 (CEQR No. 13SBS001R);

**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 to be approved 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 September 11, 2013, from the New York City Economic Development Corporation, the St. George Outlet Development LLC, and the New York Wheel LLC, 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 130316 ZRR, 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 VI – Special Regulations Applicable to Certain Areas

### Chapter 2

#### Special Regulations Applying in the Waterfront Area

\* \* \*

#### 62-13

##### Applicability of District Regulations

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.

In the event a Special Purpose District imposes a restriction on the height of a #building or other structure# that is lower than the height limit set forth in this Chapter, the lower height shall control. However, all heights shall be measured from the #base plane#.

The provisions of this Chapter shall not apply to the following Special Purpose Districts unless expressly stated otherwise in the special district provisions:

#Special Battery Park City istrict#

#Special Governors Island District#

#Special Southern Roosevelt Island District#

#Special Stapleton Waterfront District#.

The regulation of this Chapter shall not apply in the #Special Sheepshead Bay District# ~~shall be applicable~~, except that Section 94-061 (Uses permitted by right) shall be modified to permit all WD #uses# listed in Section 62-211 from Use Groups 6, 7, 9 and 14 in accordance with the underlying district regulations.

The regulations of this Chapter shall apply in the #Special St. George District#, except as specifically modified within the North Waterfront Subdistrict.

\* \* \*

## Article XII - Special Purpose Districts

### Chapter 8

#### Special St. George District

\* \* \*

#### 128-02

##### General Provisions

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special St. George District#, the regulations of this Chapter shall apply within the #Special St. George 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.

However, the regulations of this Chapter shall not apply to any property that is the subject of a site selection for a court house and #public parking garage# pursuant

to application C080379 PSR. Such property shall be governed by the underlying regulations of this Resolution.

Furthermore, any property that is the subject of a site selection and acquisition for the use of a lot for open parking pursuant to application C080378 PCR may be governed by the regulations of this Chapter or the underlying regulations of this Resolution for a period of two years after October 23, 2008. After October 23, 2010, such property shall be subject to the regulations of this Chapter.

In the North Waterfront Subdistrict, “publicly accessible waterfront open space” shall include on-site and off-site areas, as applicable, as set forth in the approved Proposed Plans pursuant to Section 128-61 (Special Permit for North Waterfront Sites).

#### 128-03

##### District Plan and Maps

The regulations of this Chapter are designed to implement the #Special St. George District# Plan. The District Plan includes the following ~~four~~ five maps:

Map 1 Special St. George District and Subdistricts

Map 2 Commercial Streets

Map3 Minimum and Maximum Base Heights

Map 4 Tower Restriction Areas

Map5 Visual Corridors

The maps are located in the Appendix to this Chapter and are hereby incorporated and made a part of this Resolution. They are incorporated for the purpose of specifying locations where special regulations and requirements set forth in this Chapter apply.

#### 128-04 Subdistricts

In order to carry out the purposes and provisions of this Chapter, the #Special St. George District# shall include ~~two~~ three subdistricts: the Upland Subdistrict, the North Waterfront Subdistrict and the South Waterfront Subdistrict, as shown on Map 1 (Special St. George District and Subdistricts) in the Appendix to this Chapter.

#### 128-05

##### Applicability of District Regulations

\* \* \*

#### 128-054

##### Applicability of Article VI, Chapter 2

The provisions of Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area), shall apply in the North Waterfront Subdistrict of the #Special St. George District#, as modified in this Chapter. In such Subdistrict, such provisions shall not apply to improvements to the publicly accessible waterfront open space, or to #developments#, #enlargements#, alterations and changes of #use# permitted pursuant to Section 128-61 (Special Permit for North Waterfront Sites). However, the regulations of Section 62-31 (Bulk Computations on Waterfront Zoning Lots) shall apply to such #developments#, #enlargements#, alterations and changes of #use#, as modified pursuant to such special permit. In addition, the special requirements for #visual corridors# set forth in Section 128-43 (Visual Corridors in the North Waterfront Subdistrict) shall apply.

#### 128-055

##### Applicability of Article VII, Chapter 4

Within the North Waterfront Subdistrict of the #Special St. George District#, the following special permits shall not apply:

Section 74-512 (In other districts)

Section 74-68 (Development Within or Over a Right-of-way or Yards)

Section 74-922 (Certain Large Retail Establishments).

In addition, the provisions of the following special permits, as applicable, shall be deemed to be modified when an application pursuant to Section 128-61 (Special Permit for North Waterfront Sites) for Parcel 1 or Parcel 2, as shown on Map 1 in the Appendix to this Chapter, under application numbers C 130317 ZSR or C 130318 ZSR, as applicable, has been approved :

- C 000012 ZSR
- C 000013 ZSR
- C 000014 ZSR
- C 000016(A) ZSR

**128-10  
USE REGULATIONS**

\* \* \*

**128-12  
Transparency Requirements**

Any #street wall# of a #building developed# or #enlarged# after October 23, 2008, where the ground-floor level of such #development# or #enlarged# portion of the #building# contains #commercial# or #community facility uses#, excluding #schools#, shall be glazed with transparent materials which may include #show windows#, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 50 percent of the area of each such ground floor #street wall# measured to a height of 10 feet above the level of the adjoining sidewalk or public access area.

For the purposes of this Section, Bank Street shall be considered a #street#. However, this Section shall not apply to a stadium #use# within the North Waterfront Subdistrict.

\* \* \*

**128-30  
HEIGHT AND SETBACK REGULATIONS**

The provisions of this Section, inclusive, shall apply to all #buildings or other structures# within the Upland Subdistrict.

In C1-2 Districts mapped within R3-2 Districts, all #buildings or other structures# shall comply with the height and setback regulations of R4 Districts, except that the maximum perimeter wall height shall be 26 feet, and the #street wall# location provisions of Section 128-32 (Street Wall Location) shall apply.

The underlying height and setback regulations of C4-2 Districts within the Upland Subdistrict shall not apply. In lieu thereof, the height and setback regulations of this Section, inclusive, shall apply.

In the South and North Waterfront Subdistricts, the underlying height and setback regulations of Section 62-34 (Height and Setback Regulations on Waterfront Blocks) shall apply, except that:

(a) in the South Waterfront Subdistrict, roof top regulations are as modified in Section 128-31 (Rooftop Regulations); and

(b) in the North Waterfront Subdistrict, #developments#, #enlargements#, alterations and changes of #use# permitted pursuant to Section 128-61 (Special Permit for North Waterfront Sites) shall instead be subject to the Proposed Plans, as set forth in Section 128-61, as approved pursuant to such special permit.

All heights shall be measured from the #base plane#, except that wherever a minimum or maximum base height is specified for #zoning lots# with multiple #street frontages#, such heights shall be determined separately for each #street# frontage, with each height measured from the final grade of the sidewalk fronting such #street wall#.

\* \* \*

**128-43  
Visual Corridors in the North Waterfront Subdistrict**

The designated locations for #visual corridors#, as defined in Article VI, Chapter 2, are shown on Map 5 in the Appendix to this Chapter. Such #visual corridors# shall be provided in accordance with the standards of Sections 62-512 (Dimensions of visual corridors) and 62-513 (Permitted obstructions in visual corridors), except that:

(a) lighting fixtures in #visual corridors# shall be considered permitted obstructions; and

(b) within the #visual corridor# provided through Parcel 2 to the pierhead line within the flexible location zone indicated on Map 5, a portion of a #building# shall be a permitted obstruction provided that such obstruction is located no more than 14 feet above the reference plane of the #visual corridor#, and that such obstruction occupies no more than 185,000 cubic feet in total above the reference plane of the #visual corridor#.

\* \* \*

**128-60  
SPECIAL APPROVALS**

The special permit for North Waterfront sites set forth in Section 128-61 is established in order to guide and encourage appropriate #use# and #development# in a unique location within the #Special St. George District# that serves as a gateway between Staten Island and Manhattan for both visitors and daily commuters. Redevelopment of the North Waterfront sites pursuant to this special permit provides an appropriate means to address the special characteristics of these sites, while accommodating their continuing transportation function, as part of their transformation into a regional destination that will contribute to the revitalization of the #Special St. George District# and surrounding area.

**128-61  
Special Permit for North Waterfront Sites**

In the North Waterfront Subdistrict, for Parcels 1 and 2, and for improvements to the publicly accessible waterfront open space, provided in connection with the #development# of such parcels, as applicable, the City Planning Commission may approve, by special permit, a development plan for each such parcel and an improvement plan for the publicly accessible waterfront open space. For any application for such special permit, the applicant shall provide plans to the Commission, including but not limited to a site plan, interim parking plan, signage plan, lighting plan and an improvement plan for the publicly accessible waterfront open space (the "Proposed Plans"). Such Proposed Plans shall be subject to the conditions set forth in paragraph (a) through (e) and the findings set forth in paragraph (f) of this Section.

Pursuant to such Proposed Plans, the Commission may:

(a) permit the following #uses#:

(1) #commercial uses# as set forth in Section 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) with no limitation on #floor area# per establishment;

(2) #uses# specified in Section 32-24 (Use Group 15);

(3) #public parking garages# with more than 150 spaces;

(4) temporary #public parking lots# or #public parking garages# with more than 150 spaces, supplied in connection with an interim parking plan, provided that the applicable findings of Section 74-51 (Public Parking Garages or Public Parking Lots outside High Density Central Areas) are met by each such temporary public parking facility. In addition:

(i) such temporary #public parking lots# or #public parking garages# with more than 150 spaces, may be located off-site or beyond the

boundaries of the #Special St. George District# as set forth in the interim parking plan. Any change in the location of such temporary #public parking# facility with more than 150 spaces, or any increase in the number of spaces in a temporary #public parking# facility to more than 150 spaces, or any addition of a #public parking# facility with more than 150 spaces provided in connection with such interim parking plan, shall be subject to further approval by the City Planning Commission and referred to the applicable Community Board(s) for review; and

(ii) the permit to operate such #public parking lots# or #public parking garages# shall expire 30 days after the Department of Buildings issues a certificate of occupancy for all permanent public parking facilities on Parcel 2;

(b) where such #development# is located partially or entirely within a railroad or transit right-of-way or yard or in #railroad or transit air space#:

(1) permit that portion of the railroad or transit right-of-way or yard which will be completely covered over by a permanent platform to be included in the calculations of #lot area# for such #development#; and

(2) establish, in lieu of #base plane#, an appropriate level or levels as the reference plane for the entire #zoning lot# for the applicable regulations pertaining to, but not limited to, height and setback, #floor area#, and #yards#;

(c) permit #signs# pursuant to a signage plan, subject to the following conditions:

(1) the #sign# regulations of a C4 District, as set forth in Section 32-60, shall apply except as specifically modified by the conditions set forth in paragraphs (c) (2) through (c) (7), inclusive, of this Section;

(2) #flashing signs# shall not be permitted;

(3) the height of #signs# shall be measured from the #base plane#;

(4) flags, banners or pennants, other than those that are #advertising signs#, are permitted without limitation;

(5) on Parcel 1:

(i) the total #surface area# of a #sign# affixed to a #building# frontage facing the #shoreline# or affixed to the base of a structure facing the #shoreline# shall not exceed 1,120 square feet, provided that for a #sign# with a #surface area# larger than 500 square feet, all writing, pictorial representations, emblems, flags, symbols or any other figure or character comprising the design of such #sign#, shall be separate elements, individually cut and separately affixed to the structure. No perimeter or background surfaces shall be applied or affixed to the structure in addition to such separate elements. No portion of such separate elements shall extend beyond the maximum dimensions allowed for the structure; and

(ii) #signs# shall be permitted to be located on the deck of the railroad right-of-way, provided that the #surface area# of such #signs# shall be included in the calculations of total #surface area# of #signs#;

(6) on Parcel 2:

(i) open pedestrian pathways of at least 20 feet in width shall be considered #streets# for the purposes of #sign# regulations;

(ii) #signs# shall not extend to a height greater than 60 feet above the #base plane#; and

(iii) the total #surface area# of #signs# on the #building# frontage facing Richmond Terrace, the prolongation of Wall Street, or on the #building# frontage or other structure facing the access route into the Ferry Terminal for buses, may exceed the limitations for total #surface area# for #signs# permitted in a C4 District pursuant to an approved signage plan; and

(7) the total #surface area# of all #signs# on Parcel 2 facing the #shoreline#, or that are within 15 degrees of being parallel to the #shoreline#, shall not exceed:

(i) 500 square feet for #signs# located above the level of the first #story# ceiling of #buildings#; or

(ii) 250 square feet for #signs# located below the level of the first #story# ceiling of #buildings#;

(d) through approval of the Proposed Plans, establish appropriate requirements in lieu of the following #Special St. George District# regulations:

(1) Section 128-12 (Transparency Requirements);

(2) Section 128-42 (Planting Areas);

(3) Section 128-54 (Location of Accessory Off-Street Parking Spaces) to the extent necessary to accommodate demand for parking within the North Waterfront Subdistrict; and

(4) Section 128-55 (Special Requirements for Roofs of Parking Facilities); and

(e) through approval of the Proposed Plans:

(1) establish appropriate requirements for the height and setback of #buildings# or other structures#, permitted obstructions in #yards#, off-street parking and loading; and

(2) permit #floor area# to be distributed within the North Waterfront Subdistrict without regard for #zoning lot lines#, provided that if distribution is made to a #zoning lot#, subject to a special permit granted under this Section, from a #zoning lot# not subject to such special permit, Notices of Restriction in a form acceptable to the Department of City Planning shall be filed against such #zoning lots# setting forth the increase and decrease in the #floor area# on such #zoning lots#, respectively.

(f) The Commission shall find that the Proposed Plans:

(1) include #uses# that are appropriate, considering the unique location of the site in relation to the Staten Island Ferry Terminal, the Staten Island Rail Road, and the land #uses# in and around the #Special St. George District#;

(2) provide a distribution of #floor area#, locations and heights of #buildings# or other structures#, primary business entrances and open areas that will result in a superior site plan, providing a well-designed relationship between #buildings# and other structures# and open areas on the #zoning lot#; and shall also provide a well-designed relationship between the site and adjacent #streets#, surrounding #buildings#, adjacent off-site open areas and #shorelines# and will thus benefit the users of the site, the neighborhood and the City as a whole;

(3) provide a distribution of #floor area# and locations and heights of #buildings# or other structures# that will not unduly increase the #bulk# of #buildings# or other structures# in the North Waterfront Subdistrict or unduly obstruct access of light and air to the detriment of the users of the site or nearby #blocks# or of people using the public #streets#, and that will provide waterfront vistas from nearby #streets# and properties on nearby #blocks#;

(4) provide useful and attractive publicly accessible open space, with sufficient public amenities, including but not limited to seating, landscaping and lighting, that results in a superior relationship with surrounding neighborhood destinations, #streets#, #buildings#, open areas, public facilities and the waterfront;

(5) improve public access to the waterfront;

(6) improve, as applicable, the publicly accessible waterfront open space sufficiently to ensure that emergency vehicles will have adequate access to the waterfront and adjacent #developments#;

(7) in connection with the improvement of the applicable portions of the publicly accessible waterfront open space, restore planted areas, trees and lighting in a way that is attractive and compatible with the design of the Waterfront Esplanade existing on (date of adoption);

(8) provide adequate parking and loading to meet the demand for all users during peak utilization;

(9) provide adequate parking for commuters at locations convenient and accessible to the Staten Island Ferry Terminal at all times and during all phases of construction;

(10) provide signage and lighting that are compatible with the scenic and historic character of the harbor and that will not adversely affect the character of the surrounding neighborhood;

(11) for a #public parking garage# with more than 150 parking spaces, will ensure that:

(i) entrances are proposed in locations and with design features that minimize traffic congestion and conflicts with pedestrians;

(ii) adequate reservoir space has been provided at the vehicular entrances; and

(iii) the #streets# providing access to such #use# will be adequate to handle the traffic generated thereby; and

(12) for a #development# located partially or entirely within a railroad or transit right-of-way or yard and/or in #railroad or transit air space#, that:

(i) the distribution of #floor area# does not adversely affect the character of the surrounding area by being unduly concentrated in any portion of such #development#, including any portion of the #development# located beyond the boundaries of such railroad or transit right-of-way or yard; and

(ii) if such railroad or transit right-of-way or yard is deemed appropriate for future transportation #use#, the site plan and structural design of the #development# do not preclude future use of, or improvements to, the right-of-way for such transportation #use#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area. In addition, for a #development# located partially or entirely within a railroad or transit right of-way or yard, or in #railroad or transit air space#, the Commission may require that the structural design of such #development# makes due allowance for changes within the layout of tracks or other structures within any #railroad or transit air space# or railroad or transit right-of-way or yard which may be deemed necessary in connection with future development or improvement of the transportation system.

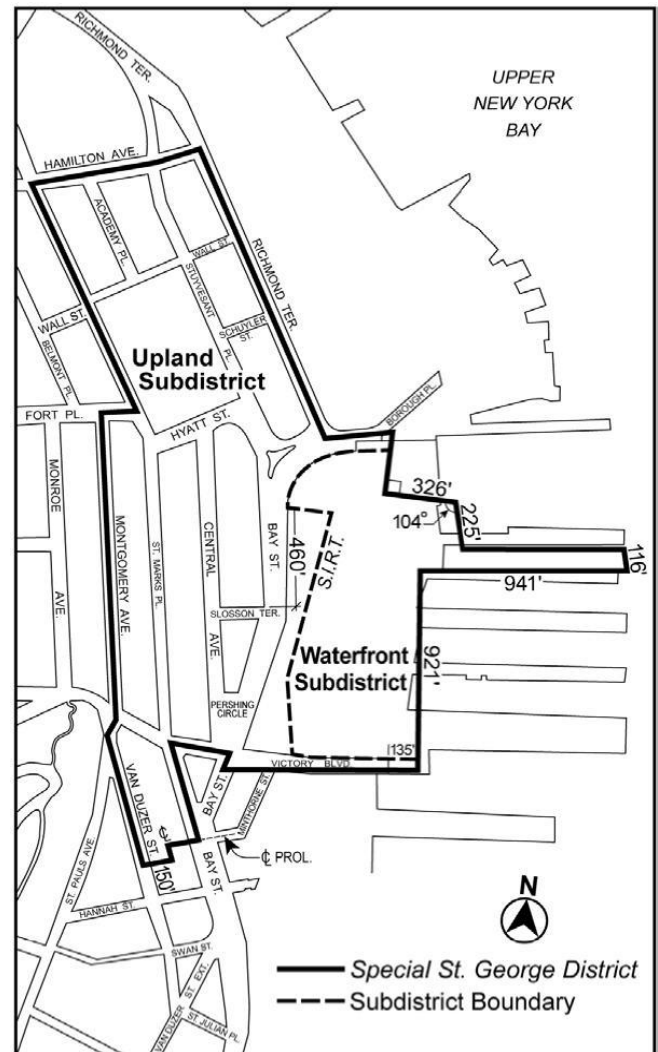
Prior to granting a special permit, the City Planning Commission shall request the Metropolitan Transportation Authority to indicate whether said agency has any plan to use that portion of any #railroad or transit air space# or railroad or transit right-of-way or yard where the railroad or transit #use# has been discontinued.

The execution and recordation of a restrictive declaration acceptable to the Commission, binding the owners, successors and assigns to maintain such #developments#, #enlargements#, alterations, changes of #use#, and any temporary parking facilities, in accordance with the approved Proposed Plans, and in a manner consistent with any additional conditions and safeguards prescribed by the Commission, shall be a condition to exercise of the special permit. Such restrictive declaration shall be recorded in the Office of the County Clerk. A copy of such declaration shall be provided to the Department of Buildings upon application for any building permit related to a #development#, #enlargement# or change of #use#.

Appendix  
Special St. George District Plan

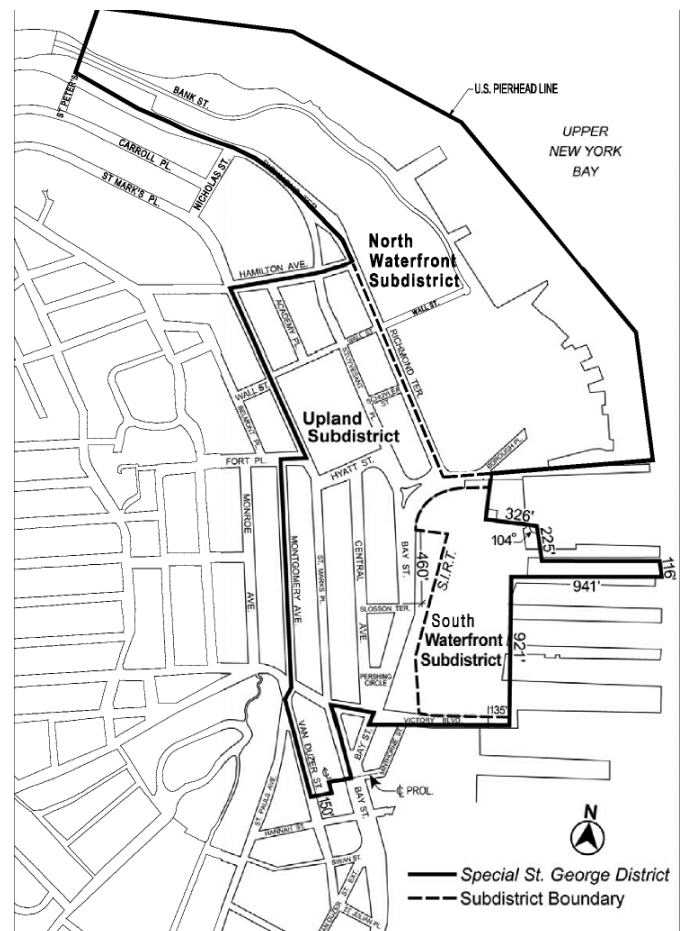
Map 1 - Special St. George District and Subdistricts Map

(Existing map to be deleted)

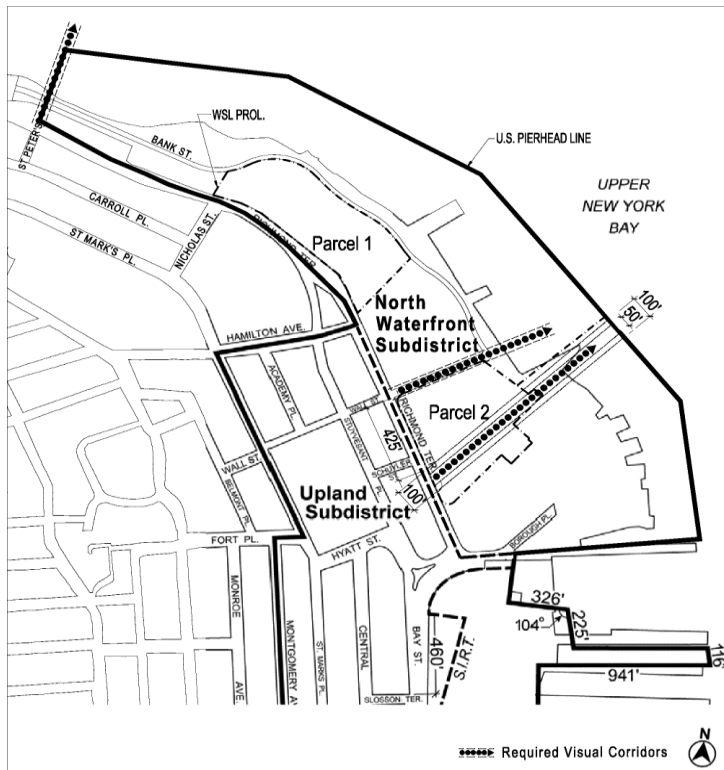


New Map to Replace Map 1:

Map 1 - Special St. George District and Subdistricts



Parcels - Information to be added to Map 1  
Map 5 - Visual Corridors (New to be added)



ROBERT JACKSON, Chairperson; CHARLES BARRON, ALBERT VANN, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, FERNANDO CABRERA, MARGARET S. CHIN, DANIEL DROMM, KAREN KOSLOWITZ, STEPHEN T. LEVIN, DEBORAH L. ROSE, MARK S. WEPRIN, VINCENT M. IGNIZIO, ERIC A. ULRICH; Committee on Education, October 30, 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. 924

**Report of the Committee on Land Use in favor of approving Application No. C 130315 ZMR submitted by the New York City Economic Development Corporation, New York Wheel LLC and St. George Outlet Development LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 21c, to extend the boundaries of the existing Special St. George District in the Borough of Staten Island, Community District 1, Council District 49.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 24, 2013 (Minutes, page 3753), respectfully

#### REPORTS:

#### SUBJECT

STATEN ISLAND CB - 1

C 130315 ZMR

City Planning Commission decision approving an application submitted by the NYC Economic Development Corporation, New York Wheel LLC and St. George Outlet Development LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 21c, by establishing a Special St. George District bounded by Richmond Terrace, the northerly prolongation of the westerly street line of St. Peter's Place, the U.S. Pierhead Line, and the northerly street line of Borough Place and its easterly and westerly prolongations, Borough of Staten Island, Community Board 1, as shown on a diagram (for illustrative purposes only) dated May 20, 2013.

#### INTENT

This amendment to the Zoning Map, along with the other related actions would facilitate the redevelopment of the two city-owned commuter parking lots at the St. George Ferry Terminal for a 625-ft. tall, 1,440-passenger observation wheel with an accessory terminal building including approximately 18,500 square feet (sq. ft.) of accessory retail; a 950-space, 170,000 sq. ft. covered public parking facility; a 340,000 sq. ft. a retail outlet mall with a 130,000 sq. ft. (approximately 200-room) hotel; and 20,000 sq. ft. catering facility. It will also provide for a deck that will be built over the existing railroad right of way that abuts Richmond Terrace to permit pedestrian and vehicular connections between Richmond Terrace and the site.

#### PUBLIC HEARING

DATE: October 2, 2013

Witnesses in Favor: Thirty-two

Witnesses Against: Sixteen

#### SUBCOMMITTEE RECOMMENDATION

DATE: October 30, 2013

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

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

Against: None

Abstain: None

#### COMMITTEE ACTION

DATE: October 30, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Rivera, Barron, Jackson, Vann, Gonzalez, Garodnick, Lappin, Mendez, 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. 2001

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130315 ZMR, a Zoning Map amendment (L.U. No. 924).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 16, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the NYC Economic Development Corporation, New York Wheel LLC and St. George Outlet Development LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, to extend the boundaries of the Special St. George District, which along with its related actions, would facilitate the redevelopment of the two city-owned commuter parking lots at the St. George Ferry Terminal for a 625-ft. tall, 1,440-passenger observation wheel with an accessory terminal building including approximately 18,500 square feet (sq. ft.) of accessory retail; a 950-space, 170,000 sq. ft. covered public parking facility; a 340,000 sq. ft. a retail outlet mall with a 130,000 sq. ft. (approximately 200-room) hotel; and 20,000 sq. ft. catering facility. It will also provide for a deck that will be built over the existing railroad right of way that abuts Richmond Terrace to permit pedestrian and vehicular connections between Richmond Terrace and the site, Community District 1, (ULURP No. C 130315 ZMR), Borough of Staten Island (the "Application");

**WHEREAS**, the Application is related to applications N 130316 ZRR (L.U. No. 923), a zoning text amendment to establish the North Waterfront Subdistrict within the existing Special St. George District and a new special permit in Section 128-61 to permit development on designated parcels pursuant to a development plan; C 130317 ZSR (L.U. No. 925), a special permit pursuant to Section 128-61 to permit the development of an observation wheel and accessory terminal building; the development of a public parking garage for 950 cars and 12 buses; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; C 130318 ZSR (L.U. No. 926), a special permit pursuant to Section 128-61 to permit the development of a retail outlet mall with approximately 100 stores, hotel, and catering facility; the development of a 1,250-space public parking garage; offsite interim public parking lots with more than 150 spaces; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; C 130319 PPR (L.U. No.

927), disposition of Parcel 1 (Block 2, part of Lot 20), a City-owned property (via application of the NYC Dept. of Small Business Services); and C 130320 PPR (L.U. No. 928), disposition of Parcel 2 (Block 2, parts of Lots 1, 5, 10 and 20), a City-owned property (via application of the NYC Dept. of Small Business Services);

**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 October 2, 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 August 29, 2013 (CEQR No. 13SBS001R);

**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 to be approved 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 September 11, 2013, from the New York City Economic Development Corporation, the St. George Outlet Development LLC, and the New York Wheel LLC, 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 130315 ZMR, 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 No. 21c, by establishing a Special St. George District bounded by Richmond Terrace, the northerly prolongation of the westerly street line of St. Peters Place, the U.S. Pierhead Line, and the northerly street line of Borough Place and its easterly and westerly prolongations, as shown on a diagram (for illustrative purposes only) dated May 20, 2013, Community District 1, Borough of Staten Island.

ROBERT JACKSON, Chairperson; CHARLES BARRON, ALBERT VANN, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, FERNANDO CABRERA, MARGARET S. CHIN, DANIEL DROMM, KAREN KOSLOWITZ, STEPHEN T. LEVIN, DEBORAH L. ROSE, MARK S. WEPRIN, VINCENT M. IGNIZIO, ERIC A. ULRICH; Committee on Education, October 30, 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. 925

**Report of the Committee on Land Use in favor of approving Application No. C 130317 ZSR submitted by the New York City Economic Development Corporation and New York Wheel LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 128-61 of the Zoning Resolution to allow a development plan for an Observation Wheel and accessory terminal building, and a public parking garage of approximately 950 spaces and an improvement plan for a Waterfront Esplanade, on property located on Parcel 1 in the North Waterfront Subdistrict and on the Waterfront Esplanade, in an M1-1 District, within the Special St. George District, in the Borough of Staten Island, Community District 1, Council District 49. 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 September 24, 2013 (Minutes, page 3753), respectfully

**REPORTS:**

**SUBJECT**

**STATEN ISLAND CB - 1**

**C 130317 ZSR**

City Planning Commission decision approving an application submitted by the NYC Economic Development Corporation and New York Wheel LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant Section 128-61 of the Zoning Resolution to allow a development plan for an Observation Wheel and accessory terminal building, and a public parking garage with a maximum of 950 spaces, and an improvement plan for a Waterfront Esplanade, on property located on Parcel 1 in the North Waterfront Subdistrict (Block 2, p/o Lot 20) and on the Waterfront Esplanade, in an M1-1 District, within the Special St. George District.

**INTENT**

This special permit, along with the other related actions would facilitate the redevelopment of the two city-owned commuter parking lots at the St. George Ferry Terminal for a 625-ft. tall, 1,440-passenger observation wheel with an accessory terminal building including approximately 18,500 square feet (sq. ft.) of accessory retail; a 950-space, 170,000 sq. ft. covered public parking facility; a 340,000 sq. ft. a retail outlet mall with a 130,000 sq. ft. (approximately 200-room) hotel; and 20,000 sq. ft. catering facility. It will also provide for a deck that will be built over the existing railroad right of way that abuts Richmond Terrace to permit pedestrian and vehicular connections between Richmond Terrace and the site.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Thirty-two

**Witnesses Against:** Sixteen

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 30, 2013

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

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

**Against:** None

**Abstain:** None

**COMMITTEE ACTION**

**DATE:** October 30, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Barron, Jackson, Vann, Gonzalez, Garodnick, Lappin, Mendez, 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. 2002

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130217 ZSR (L.U. No. 925), for the grant of a special permit pursuant Section 128-61 of the Zoning Resolution to allow a development plan for an Observation Wheel and accessory terminal building, and a public parking garage with a maximum of 950 spaces, and an improvement plan for a Waterfront Esplanade, on property located on Parcel 1 in the North Waterfront Subdistrict (Block 2, p/o Lot 20) and on the Waterfront Esplanade, in an M1-1 District within the Special St. George District, in Community District 1, Borough of Staten Island.**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 16, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the NYC Economic Development Corporation and New York Wheel LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 128-61 of the Zoning Resolution to allow a development plan for an Observation Wheel and accessory terminal building, and a public parking garage with a maximum of 950 spaces, and an improvement plan for a Waterfront Esplanade, on property located on Parcel 1 in the North Waterfront Subdistrict (Block 2, p/o Lot 20) and on the Waterfront Esplanade, in an M1-1 District within the Special St. George District (ULURP No. C 130317 ZSR), Community District 1, Borough of Staten Island (the "Application");

**WHEREAS**, the Application is related to applications N 130316 ZRR (L.U. No. 923), a zoning text amendment to establish the North Waterfront Subdistrict within the existing Special St. George District and a new special permit in Section 128-61 to permit development on designated parcels pursuant to a development plan; C 130315 ZMR (L.U. No. 924), a zoning map amendment to extend the boundaries of the existing Special St. George District to include all of the project area; C 130318 ZSR (L.U. No. 926), a special permit pursuant to Section 128-61 to permit the development of a retail outlet mall with approximately 100 stores, hotel, and catering facility; the development of a 1,250-space public parking garage; offsite interim public parking lots with more than 150 spaces; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; C 130319 PPR (L.U. No. 927), disposition of Parcel 1 (Block 2, part of Lot 20), a City-owned property (via application of the NYC Dept. of Small Business Services); and C 130320 PPR (L.U. No. 928), disposition of Parcel 2 (Block 2, parts of Lots 1, 5, 10 and 20), a City-owned property (via application of the NYC Dept. of Small Business Services);

**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 128-61(f) 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 October 2, 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 August 29, 2013 (CEQR No. 13SBS001R);

**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 to be approved 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 September 11, 2013, from the New York City Economic Development Corporation, the St. George Outlet Development LLC, and the New York Wheel LLC, 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 130317 ZSR, incorporated by reference herein, the Council approves the Decision, subject to the following conditions:

1. The property that is the subject of this application (C130317ZSR) shall be developed in size and arrangement in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Perkins Eastman Architects and M. Paul Friedberg and Partners, filed with this application and incorporated in this resolution:

| <u>Dwg. No.</u> | <u>Title</u>                              | <u>Last Revised</u> | <u>Date</u> |
|-----------------|---|---------------------|-------------|
| -               | Zoning Lots Site Plan                     | 09/09/2013          |             |
| Z-0.0           | Cover Sheet                               | 09/09/2013          |             |
| Z-1.0           | Site Plan                                 | 09/09/2013          |             |
| Z-2.0           | Sections                                  | 09/09/2013          |             |
| Z-3.1           | Sub Cellar/Bank Street Level Plan         | 09/09/2013          |             |
| Z-3.2           | Cellar Level Plan                         | 09/09/2013          |             |
| Z-3.3           | Ground/Richmond Terrace Level Plan        | 09/09/2013          |             |
| Z-3.4           | Second Level Plan                         | 09/09/2013          |             |
| Z-4.0           | Elevations                                | 09/09/2013          |             |
| Z-5.1           | Sub Cellar/Bank Street Level Garage Plan  | 09/09/2013          |             |
| Z-5.2           | Cellar Level Garage Plan                  | 09/09/2013          |             |
| Z-5.3           | Ground/Richmond Terrace Level Garage Plan | 09/09/2013          |             |
| Z-6.1           | Temporary Parking Phase 1                 | 09/09/2013          |             |
| Z-6.2           | Temporary Parking Phase 2                 | 09/09/2013          |             |
| Z-6.2           | Temporary Parking Phase 3                 | 09/09/2013          |             |
| Z-6.4           | Temporary Parking Phase 4                 | 09/09/2013          |             |
| Z-7.0           | Signage and Transparency Elevations       | 09/09/2013          |             |
| Z-8.0           | Wheel Lighting Elevation                  | 09/09/2013          |             |
| ZL-01           | Landscape Cover Sheet                     | 09/09/2013          |             |
| ZL-100          | Public Space/Key Plan                     | 09/09/2013          |             |
| ZL-101          | Enlarged Plan                             | 09/09/2013          |             |
| ZL-102          | Enlarged Plan                             | 09/09/2013          |             |
| ZL-103          | Richmond Terrace Playground Plan          | 09/09/2013          |             |
| ZL-200          | Grading Plan                              | 09/09/2013          |             |
| ZL-201          | Grading Plan                              | 09/09/2013          |             |
| ZL-202          | Slope Diagram                             | 09/09/2013          |             |
| ZL-300          | Tree Plan                                 | 09/09/2013          |             |
| ZL-301          | Planting Plan                             | 09/09/2013          |             |
| ZL-400          | Material Plan                             | 09/09/2013          |             |
| ZL-401          | Amenities Plan                            | 09/09/2013          |             |
| ZL-500          | Sections                                  | 09/09/2013          |             |
| ZL-501          | Sections                                  | 09/09/2013          |             |
| ZL-502          | Sections                                  | 09/09/2013          |             |
| ZL-600          | Landscape Details                         | 09/09/2013          |             |
| ZL-601          | Planting Details                          | 09/09/2013          |             |
| ZL-602          | Landscape Details                         | 09/09/2013          |             |
| ZL-603          | Fence Details                             | 09/09/2013          |             |
| ZL-604          | Bench Details                             | 09/09/2013          |             |
| ZL-700          | Material Details                          | 09/09/2013          |             |
| ZL-701          | Deck Details                              | 09/09/2013          |             |
| ZL-702          | Guardrail Details                         | 09/09/2013          |             |
| ZL-703          | Bench Details                             | 09/09/2013          |             |
| ZL-800          | Site Way-Finding Signage Key Plan         | 09/09/2013          |             |
| ZL-900          | Photometric Plan                          | 09/09/2013          |             |
| ZL-901          | Photometric Plan                          | 09/09/2013          |             |
| ZL-             | Esplanade Improvement Plan                | 09/09/2013          |             |



|      |                               |            |
|------|-------------------------------|------------|
| 1000 |                               |            |
| ZL-  | Esplanade Improvement Plan    | 09/09/2013 |
| 1001 |                               |            |
| ZL-  | Esplanade Improvement Plan    | 09/09/2013 |
| 1002 |                               |            |
| ZL-  | Esplanade Improvement Plan    | 09/09/2013 |
| 1003 |                               |            |
| ZL-  | Esplanade Improvement Plan    | 09/09/2013 |
| 1004 |                               |            |
| ZL-  | Esplanade Improvement Details | 09/09/2013 |
| 1005 |                               |            |

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for as shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. Development pursuant to this resolution shall be allowed only after the restrictive declaration, attached as Exhibit A to the City Planning Commission Decision (C130317 ZSR), with such administrative and technical changes as are acceptable to Counsel to the City Planning Commission, has been executed and recorded by New York Wheel LLC in the Office of the Richmond County Clerk . Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the restrictive declaration.
7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

ROBERT JACKSON, Chairperson; CHARLES BARRON, ALBERT VANN, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, FERNANDO CABRERA, MARGARET S. CHIN, DANIEL DROMM, KAREN KOSLOWITZ, STEPHEN T. LEVIN, DEBORAH L. ROSE, MARK S. WEPRIN, VINCENT M. IGNIZIO, ERIC A. ULRICH; Committee on Education, October 30, 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. 926

**Report of the Committee on Land Use in favor of approving Application No. C 130318 ZSR submitted by the New York City Economic Development Corporation and St. George Outlet Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 128-61 of the Zoning Resolution to allow a development plan for a retail outlet mall, catering facility, hotel and a public parking garage with a maximum of 1,250 spaces, and an improvement plan for a Waterfront Esplanade, on property located on Parcel 2 in the North Waterfront Subdistrict and on the Waterfront**

**Esplanade, in an M1-1 District, within the Special St. George District in the Borough of Staten Island, Community District 1, Council District 49. 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 September 24, 2013 (Minutes, page 3754), respectfully

**REPORTS:**

**SUBJECT**

**STATEN ISLAND CB - 1**

**C 130318 ZSR**

City Planning Commission decision approving an application submitted by the NYC Economic Development Corporation and St. George Outlet Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 128-61 of the Zoning Resolution to allow a development plan for a retail outlet mall, catering facility, hotel and a public parking garage with a maximum of 1,250 spaces, and an improvement plan for a Waterfront Esplanade, on property located on Parcel 2 in the North Waterfront Subdistrict (Block 2, p/o Lots 1, 5, 10 and 20) and on the Waterfront Esplanade, in an M1-1 District, within the Special St. George District.

**INTENT**

This special permit, along with the other related actions would facilitate the redevelopment of the two city-owned commuter parking lots at the St. George Ferry Terminal for a 625-ft. tall, 1,440-passenger observation wheel with an accessory terminal building including approximately 18,500 square feet (sq. ft.) of accessory retail; a 950-space, 170,000 sq. ft. covered public parking facility; a 340,000 sq. ft. a retail outlet mall with a 130,000 sq. ft. (approximately 200-room) hotel; and 20,000 sq. ft. catering facility. It will also provide for a deck that will be built over the existing railroad right of way that abuts Richmond Terrace to permit pedestrian and vehicular connections between Richmond Terrace and the site.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Thirty-two

**Witnesses Against:** Sixteen

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 30, 2013

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

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

**Against:** None

**Abstain:** None

**COMMITTEE ACTION**

**DATE:** October 30, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Barron, Jackson, Vann, Gonzalez, Garodnick, Lappin, Mendez, 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. 2003

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130218 ZSR (L.U. No. 926), for the grant of a special permit pursuant Section 128-61 of the Zoning Resolution to allow a development plan for a retail outlet mall, catering facility, hotel and a public parking garage with a maximum of 1250 spaces, and an improvement plan for a Waterfront Esplanade, on property located on Parcel 2 in the North Waterfront Subdistrict (Block 2, p/o Lots 1, 5, 10 and 20) and on the Waterfront**

**Esplanade, in an M1-1 District, within the Special St. George District in Community District 1, Borough of Staten Island.**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 16, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the NYC Economic Development Corporation and St. George Outlet Development LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 128-61 of the Zoning Resolution to allow a development plan for a retail outlet mall, catering facility, hotel and a public parking garage with a maximum of 1250 spaces, and an improvement plan for a Waterfront Esplanade, on property located on Parcel 2 in the North Waterfront Subdistrict (Block 2, p/o Lots 1, 5, 10 and 20) and on the Waterfront Esplanade, in an M1-1 District, within the Special St. George District (ULURP No. C 130318 ZSR), Community District 1, Borough of Staten Island (the "Application");

**WHEREAS**, the Application is related to applications N 130316 ZRR (L.U. No. 923), a zoning text amendment to establish the North Waterfront Subdistrict within the existing Special St. George District and a new special permit in Section 128-61 to permit development on designated parcels pursuant to a development plan; C 130315 ZMR (L.U. No. 924), a zoning map amendment to extend the boundaries of the existing Special St. George District to include all of the project area; C 130317 ZSR (L.U. No. 925), a special permit pursuant to Section 128-61 to permit the development of an observation wheel and accessory terminal building; the development of a public parking garage for 950 cars and 12 buses; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; C 130319 PPR (L.U. No. 927), disposition of Parcel 1 (Block 2, part of Lot 20), a City-owned property (via application of the NYC Dept. of Small Business Services); and C 130320 PPR (L.U. No. 928), disposition of Parcel 2 (Block 2, parts of Lots 1, 5, 10 and 20), a City-owned property (via application of the NYC Dept. of Small Business Services);

**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 Sections 128-61(f) and 128-61(a)(4) 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 October 2, 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 August 29, 2013 (CEQR No. 13SBS001R);

**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 to be approved 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 September 11, 2013, from the New York City Economic Development Corporation, the St. George Outlet Development LLC, and the New York Wheel LLC, 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 130318 ZSR, incorporated by reference herein, the Council approves the Decision, subject to the following conditions:

1. The property that is the subject of this application (C130318ZSR) shall be developed in size and arrangement in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Perkins Eastman Architects and SHoP Architects, P.C. filed with this application and incorporated in this resolution:

| <u>Dwg. No.</u> | <u>Title</u>  | <u>Last Revised</u> | <u>Date</u> |
|-----------------|---|---------------------|-------------|
| -               | Zoning Lots Site Plan                               | 09/09/2013          |             |
| Z-001           | Index   | 09/09/2013          |             |
| Z-100           | Zoning Site Plan                                    | 09/09/2013          |             |
| Z-101           | Site Plan   | 09/09/2013          |             |
| Z-102           | Site Sections                                       | 09/09/2013          |             |
| Z-103           | Site Sections                                       | 09/09/2013          |             |
| Z-112           | Floor Plans   | 09/09/2013          |             |
| Z-113           | Upper Floor Plans                                   | 09/09/2013          |             |
| Z-117           | Elevations  | 09/09/2013          |             |
| Z-118           | Elevations  | 09/09/2013          |             |
| Z-121           | Level 1 Plan - Parking Level 1 (P1)                 | 09/09/2013          |             |
| Z-122           | Level 1 Plan - Parking Level 2 (P2)                 | 09/09/2013          |             |
| Z-123           | Level 2 Plan - Parking Level 3 (P3)                 | 09/09/2013          |             |
| Z-124           | Interim Parking Phasing Plan                        | 09/09/2013          |             |
| Z-125           | Interim Parking Phasing Plan                        | 09/09/2013          |             |
| Z-126           | Interim Parking Phasing Plan                        | 09/09/2013          |             |
| Z-127           | Interim Parking Phasing Plan                        | 09/09/2013          |             |
| Z-128           | Wall Street Modification Plan                       | 09/09/2013          |             |
| Z-131           | Public Open Space Signage Plans                     | 09/09/2013          |             |
| Z-132           | Public Open Space Signage & Transparency Elevations | 09/09/2013          |             |
| Z-133           | Public Open Space Signage & Transparency Elevations | 09/09/2013          |             |
| Z-135           | Public Space/Landscape Plan                         | 09/09/2013          |             |
| Z-136           | Open Space Landscape Part Plans                     | 09/09/2013          |             |
| Z-137           | Perimeter Landscape Part Plans                      | 09/09/2013          |             |
| Z-138           | Landscape Details                                   | 09/09/2013          |             |
| Z-139           | Amenities & Furnishings Plan                        | 09/09/2013          |             |
| Z-140           | Site Detail Zoning Drawings                         | 09/09/2013          |             |
| Z-141           | Esplanade Improvements Part Plan                    | 09/09/2013          |             |
| Z-145           | Lighting Photometric Plan                           | 09/09/2013          |             |
| Z-146           | Lighting Plan                                       | 09/09/2013          |             |

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for as shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.
3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.
4. Development pursuant to this resolution shall be allowed only after the restrictive declaration, attached as Exhibit A to the City Planning Commission Decision (C 130318 ZSR), with such administrative and technical changes as are acceptable to Counsel to the City Planning Commission, has been executed and recorded by St. George Outlets LLC in the Office of the Richmond County Clerk, Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.
5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.

6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the restrictive declaration.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

ROBERT JACKSON, Chairperson; CHARLES BARRON, ALBERT VANN, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, FERNANDO CABRERA, MARGARET S. CHIN, DANIEL DROMM, KAREN KOSLOWITZ, STEPHEN T. LEVIN, DEBORAH L. ROSE, MARK S. WEPRIN, VINCENT M. IGNIZIO, ERIC A. ULRICH; Committee on Education, October 30, 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. 927

**Report of the Committee on Land Use in favor of approving Application No. C 130319 PPR submitted by the NYC Department of Small Business Services, pursuant to Section 197-c of the New York City Charter, for the disposition of one city-owned property located on Block 2, part of Lot 20, restricted to the development authorized by the special permit granted under Zoning Resolution Section 128-61, located in the North Waterfront Subdistrict within the Special St. George District, in the Borough of Staten Island, Community District 1, Council District 49. 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 September 24, 2013 (Minutes, page 3754), respectfully

**REPORTS:**

**SUBJECT**

**STATEN ISLAND CB - 1**

**C 130319 PPR**

City Planning Commission decision approving an application submitted by the NYC Department of Small Business Services (SBS), pursuant to Section 197-c of the New York City Charter, for the disposition of one (1) city-owned property located on Block 2, p/o Lot 20 restricted to the development authorized by the special permit granted under the NYC Zoning Resolution (ZR) Section 128-61.

**INTENT**

This disposition of city-owned property, along with the other related actions, would facilitate the redevelopment of the two city-owned commuter parking lots at the St. George Ferry Terminal for a 625-ft. tall, 1,440-passenger observation wheel with an accessory terminal building including approximately 18,500 square feet (sq. ft.) of accessory retail; a 950-space, 170,000 sq. ft. covered public parking facility; a 340,000 sq. ft. a retail outlet mall with a 130,000 sq. ft. (approximately 200-room) hotel; and 20,000 sq. ft. catering facility. It will also provide for a deck that will be built over the existing railroad right of way that abuts Richmond Terrace to permit pedestrian and vehicular connections between Richmond Terrace and the site.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Thirty-two

**Witnesses Against:** Sixteen

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 30, 2013

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

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

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

**COMMITTEE ACTION**

**DATE:** October 30, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Barron, Jackson, Vann, Gonzalez, Garodnick, Lappin, Mendez, 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. 2004

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130319 PPR, for the disposition of one (1) city-owned property located on Block 2, p/o Lot 20 restricted to the development authorized by the special permit granted under the NYC Zoning Resolution (ZR) Section 128-61, in Community District 1, Borough of Staten Island (L.U. No. 927).**

By Council Members Comrie and Weprin.

**WHEREAS,** the City Planning Commission filed with the Council on September 16, 2013 its decision dated September 11, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the NYC Department of Small Business Services (SBS), for the disposition of one (1) city-owned property located on Block 2, p/o Lot 20 restricted to the development authorized by the special permit granted under the NYC Zoning Resolution (ZR) Section 128-61 (Application No. C 130319 PPR), Community District 1, Borough of Staten Island (the "Application");

**WHEREAS,** the Application is related to applications N 130316 ZRR (L.U. No. 923), a zoning text amendment to establish the North Waterfront Subdistrict within the existing Special St. George District and a new special permit in Section 128-61 to permit development on designated parcels pursuant to a development plan; C 130315 ZMR (L.U. No. 924), a zoning map amendment to extend the boundaries of the existing Special St. George District to include all of the project area; C 130317 ZSR (L.U. No. 925), a special permit pursuant to Section 128-61 to permit the development of an observation wheel and accessory terminal building; the development of a public parking garage for 950 cars and 12 buses; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; C 130318 ZSR (L.U. No. 926), a special permit pursuant to Section 128-61 to permit the development of a retail outlet mall with approximately 100 stores, hotel, and catering facility; the development of a 1,250-space public parking garage; offsite interim public parking lots with more than 150

spaces; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; and C 130320 PPR (L.U. No. 928), disposition of Parcel 2 (Block 2, parts of Lots 1, 5, 10 and 20), a City-owned property (via application of the NYC Dept. of Small Business Services);

**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 October 2, 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 August 29, 2013 (CEQR No. 13SBS001R);

**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 to be approved 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 September 11, 2013, from the New York City Economic Development Corporation, the St. George Outlet Development LLC, and the New York Wheel LLC, 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 130319 PPR, incorporated by reference herein, the Council approves the Decision for disposition of one (1) city-owned property located on Block 2, p/o Lot 20 on condition that such property is restricted to the development authorized by the special permit granted under the NYC Zoning Resolution Section 128-61.

ROBERT JACKSON, Chairperson; CHARLES BARRON, ALBERT VANN, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, FERNANDO CABRERA, MARGARET S. CHIN, DANIEL DROMM, KAREN KOSLOWITZ, STEPHEN T. LEVIN, DEBORAH L. ROSE, MARK S. WEPRIN, VINCENT M. IGNIZIO, ERIC A. ULRICH; Committee on Education, October 30, 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. 928

**Report of the Committee on Land Use in favor of approving Application No. C 130320 PPR submitted by the NYC Department of Small Business Services, pursuant to Section 197-c of the New York City Charter, for the disposition of four city-owned properties located on Block 2, Lots 1, 5, 10 and 20 restricted to the development authorized by the special permit granted under Zoning Resolution Section 128-61, located in the North Waterfront Subdistrict within the Special St. George District, in the Borough of Staten Island, Community District 1, Council District 49. 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 September 24, 2013 (Minutes, page 3755), respectfully

**REPORTS:****SUBJECT****STATEN ISLAND CB - 1****C 130320 PPR**

City Planning Commission decision approving an application submitted by the NYC Department of Small Business Services (SBS), pursuant to Section 197-c of the New York City Charter, for the disposition of four (4) city-owned properties located on Block 2, p/o Lot 1, p/o Lot 5, p/o Lot 10 and p/o Lot 20 restricted to the development authorized by the special permit granted under the NYC Zoning Resolution (ZR) Section 128-61.

**INTENT**

This disposition of city-owned property, along with the other related actions, would facilitate the redevelopment of the two city-owned commuter parking lots at the St. George Ferry Terminal for a 625-ft. tall, 1,440-passenger observation wheel with an accessory terminal building including approximately 18,500 square feet (sq. ft.) of accessory retail; a 950-space, 170,000 sq. ft. covered public parking facility; a 340,000 sq. ft. a retail outlet mall with a 130,000 sq. ft. (approximately 200-room) hotel; and 20,000 sq. ft. catering facility. It will also provide for a deck that will be built over the existing railroad right of way that abuts Richmond Terrace to permit pedestrian and vehicular connections between Richmond Terrace and the site.

**PUBLIC HEARING****DATE:** October 2, 2013**Witnesses in Favor:** Thirty-two**Witnesses Against:** Sixteen**SUBCOMMITTEE RECOMMENDATION****DATE:** October 30, 2013

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

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

**Against:** *None***Abstain:** *None***COMMITTEE ACTION****DATE:** October 30, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Comrie, Rivera, Barron, Jackson, Vann, Gonzalez, Garodnick, Lappin, Mendez, 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. 2005

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130320 PPR, for the disposition of four (4) city-owned properties located on Block 2, p/o Lot 1, p/o Lot 5, p/o Lot 10 and p/o Lot 20 restricted to the development authorized by the special permit granted under the NYC Zoning Resolution (ZR) Section 128-61, in Community District 1, Borough of Staten Island (L.U. No. 928).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 16, 2013 its decision dated September 11, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the NYC Department of Small Business Services (SBS), for the disposition of four (4) city-owned properties located on Block 2, p/o Lot 1, p/o Lot 5, p/o Lot 10 and p/o Lot 20 restricted to the development authorized by the special permit granted under the NYC Zoning Resolution (ZR) Section 128-61 (Application No. C 130320 PPR), Community District 1, Borough of Staten Island (the "Application");

**WHEREAS**, the Application is related to applications N 130316 ZRR (L.U. No. 923), a zoning text amendment to establish the North Waterfront Subdistrict within the existing Special St. George District and a new special permit in Section 128-61 to permit development on designated parcels pursuant to a development plan; C 130315 ZMR (L.U. No. 924), a zoning map amendment to extend the boundaries of the existing Special St. George District to include all of the project area; C 130317 ZSR (L.U. No. 925), a special permit pursuant to Section 128-61 to permit the development of an observation wheel and accessory terminal building; the development of a public parking garage for 950 cars and 12 buses; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; C 130318 ZSR (L.U. No. 826), a special permit pursuant to Section 128-61 to permit the development of a retail outlet mall with approximately 100 stores, hotel, and catering facility; the development of a 1,250-

space public parking garage; offsite interim public parking lots with more than 150 spaces; the decking over of a railroad right-of-way; and establishing in lieu of base plane an appropriate level or levels as the reference plane; and C 130319 PPR (L.U. No. 927), disposition of Parcel 1 (Block 2, part of Lot 20), a City-owned property (via application of the NYC Dept. of Small Business Services);

**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 October 2, 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 August 29, 2013 (CEQR No. 13SBS001R);

**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 to be approved 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 September 11, 2013, from the New York City Economic Development Corporation, the St. George Outlet Development LLC, and the New York Wheel LLC, 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 130320 PPR, incorporated by reference herein, the Council approves the Decision for the disposition of four (4) city-owned properties located on Block 2, p/o Lot 1, p/o Lot 5, p/o 10 and p/o 20 on condition that such property is restricted to the development authorized by the special permit granted under the NYC Zoning Resolution Section 128-61.

ROBERT JACKSON, Chairperson; CHARLES BARRON, ALBERT VANN, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, FERNANDO CABRERA, MARGARET S. CHIN, DANIEL DROMM, KAREN KOSLOWITZ, STEPHEN T. LEVIN, DEBORAH L. ROSE, MARK S. WEPRIN, VINCENT M. IGNIZIO, ERIC A. ULRICH; Committee on Education, October 30, 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. 929

**Report of the Committee on Land Use in favor of approving Application No. C 130279 ZMR submitted by the New York City Economic Development Corporation and Bricktown Pass, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 32d, changing from an M1-1 District to a C4-1 and an R3-2 District, property generally bounded by Bricktown Way, Veterans Road West, Arthur Kill Road and Englewood Avenue, to facilitate phased mixed-use development, in the Borough of Staten Island, Community District 3, Council District 51.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 24, 2013 (Minutes, page 3755), respectfully

**REPORTS:**

**SUBJECT**

**STATEN ISLAND CB - 3**

**C 130279 ZMR**

City Planning Commission decision approving an application submitted by the New York City Economic Development Corporation and Bricktown Pass, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 32d:

1. changing from an M1-1 District to an R3-2 District property bounded by Englewood Avenue, the easterly, northerly and westerly boundary lines of a Park and its northerly prolongation, and Cosmen Street;
2. changing from an M1-1 District within to a C4-1 District property bounded by Arthur Kill Road, the westerly prolongation of a northerly boundary line of a Park, a westerly boundary line of a Park and its southerly prolongation, a line 480 feet northerly of Veterans Road West, Waunner Street and its northerly centerline prolongation, and Veterans Road West; and
3. changing from an M1-1 District to a C4-1 District property bounded by a southerly boundary line of a Park, the southerly prolongation of an easterly boundary line of a Park, Bricktown Way, and an easterly boundary line of a Park and its southerly prolongation;

as shown on a diagram (for illustrative purpose only), dated May 6, 2013.

**INTENT**

This zoning map amendment in conjunction with the other related actions would facilitate a phased mixed-use development including approximately 279,000 square feet (SF) of retail space, a 15,000SF New York Public Library, 162 units of senior housing, a 750-seat public school and 43 acres of parkland in Community District 3 of Staten Island.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Four

**Witnesses Against:** One

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 22, 2013

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

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

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

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio

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

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

Res. No. 2006

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130279 ZMR, a Zoning Map amendment (L.U. No. 929).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the New York City Economic Development Corporation and Bricktown Pass, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 32d, which in conjunction with its related actions would facilitate a phased mixed-use development including approximately 279,000 square feet (SF) of retail space, a 15,000SF New York Public Library, 162 units of senior housing, a 750-seat public school and 43 acres of parkland, Community District 3 (ULURP No. C 130279 ZMR), Borough of Staten Island (the "Application");

**WHEREAS**, the application is related to Applications C 130229 MMR (L.U. No. 930), a city map change to establish Bricktown Way, Tyrellan Avenue, Englewood Avenue, Fairview Park and Conservation Area; and extinguish 10 unbuilt record streets; C 130288 PQR (L.U. No. 931), an acquisition of property for use as a public school; C 130289 PSR (L.U. No. 932), a site selection of property for use as a public library; and C 130290 PQR (L.U. No. 933), an acquisition of property easement to facilitate pedestrian, vehicular and bicycle access;

**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 October 2, 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 August 30, 2013 (CEQR No. 13DME001R);

**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, provided that in the event that the action cannot be realized with respect to improvement of Englewood Avenue from Kent Avenue to Veterans Road West, either the "Shortened Englewood Avenue Alternative" or the "40-Foot Wide Englewood Avenue Alternative" may be pursued; 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 environmental commitment letters, each dated September 10, 2013, from the New York City Economic Development Corporation and the New York City Department of Parks and Recreation, and acknowledged and accepted by the Office of the Deputy Mayor for Economic Development, those project components related to the environment and mitigation measures that were identified as practicable.
- (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 130279 ZMR, 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 No. 32d:

1. changing from an M1-1 District to an R3-2 District property bounded by Englewood Avenue, the easterly, northerly and westerly boundary lines of a Park and its northerly prolongation, and Cosmen Street;
2. changing from an M1-1 District within to a C4-1 District property bounded by Arthur Kill Road, the westerly prolongation of a northerly boundary line of a Park, a westerly boundary line of a Park and its southerly prolongation, a line 480 feet northerly of Veterans Road West, Waunner Street and its northerly centerline prolongation, and Veterans Road West; and

3. changing from an M1-1 District to a C4-1 District property bounded by a southerly boundary line of a Park, the southerly prolongation of an easterly boundary line of a Park, Bricktown Way, and an easterly boundary line of a Park and its southerly prolongation;

as shown on a diagram (for illustrative purpose only), dated May 6, 2013, Community District 3, Borough of Staten Island.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 930

**Report of the Committee on Land Use in favor of approving Application no. C 130229 MMR submitted by the New York City Department of Transportation and the Department of Parks and Recreation pursuant to Sections 197-c and 199 of the New York City Charter for an amendment to the City Map to establish Bricktown Way, Tyrellan Avenue, Englewood Avenue, and Fairview Park and Conservation Area, and extinguish 10 unbuilt record streets, including authorization for related acquisitions and dispositions, in the Borough of Staten Island, Community District 3, Council District 51. 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 September 24, 2013 (Minutes, page 3756), respectfully

**REPORTS:**

**SUBJECT**

**STATEN ISLAND CB - 3**

**C 130229 MMR**

City Planning Commission decision approving an application submitted by the New York City Department of Transportation and the Department of Parks and Recreation pursuant to Sections 197-c and 199 of the New York City Charter for an amendment to the City Map involving:

- the establishment of Englewood Avenue between Arthur Kill Road and Kent Street;
- the establishment of Bricktown Way northwest of Veterans Road West;
- the establishment of Tyrellan Avenue from Veterans Road West to Bricktown Way;
- the establishment of Fairview Park;
- the extinguishment of several record streets;
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in accordance with Map No. 4234 dated May 6, 2013 and signed by the Borough President.

**INTENT**

This city map change in conjunction with the other related actions would facilitate a phased mixed-use development including approximately 279,000 square feet (SF) of retail space, a 15,000SF New York Public Library, 162 units of senior housing, a 750-seat public school and 43 acres of parkland in Community District 3 of Staten Island.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Four

**Witnesses Against:** One

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 22, 2013

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

**In Favor:** Weprin, Reyna, Jackson, Garodnick, Lappin, Wills, Ignizio  
**Against:** *None*      **Abstain:** *None*

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio  
**Against:** *None*      **Abstain:** *None*

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

Res. No. 2007

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130229 MMR, an amendment to the City Map (L.U. No. 930).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the New York City Department of Transportation and the Department of Parks and Recreation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving:

- the establishment of Englewood Avenue between Arthur Kill Road and Kent Street;
- the establishment of Bricktown Way northwest of Veterans Road West;
- the establishment of Tyrellan Avenue from Veterans Road West to Bricktown Way;
- the establishment of Fairview Park;
- the extinguishment of several record streets;
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in accordance with Map No. 4234 dated May 6, 2013 and signed by the Borough President, (ULURP No. C 130229 MMR), Community District 3, Borough of Staten Island (the "Application");

**WHEREAS**, the application is related to Applications C130279 ZMR (L.U. No. 929), a zoning map amendment from M1-1 District to a C4-1 and R3-2 Districts; C 130288 PQR (L.U. No. 931), an acquisition of property for use as a public school; C 130289 PSR (L.U. No. 932), a site selection of property for use as a public library; and C 130290 PQR (L.U. No. 933), an acquisition of property easement to facilitate pedestrian, vehicular and bicycle access;

**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 October 2, 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 August 30, 2013 (CEQR No. 13DME001R);

**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, provided that in the event that the action cannot be realized with respect to improvement of Englewood Avenue from Kent Avenue to Veterans Road West, either the "Shortened Englewood Avenue Alternative" or the "40-Foot Wide Englewood Avenue Alternative" may be pursued; 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 environmental commitment letters, each dated September 10, 2013, from the New York City Economic Development Corporation and the New York City Department of Parks and Recreation, and acknowledged and accepted by the Office of the Deputy Mayor for Economic Development, those project components related to the environment and mitigation measures that were identified as practicable.
- (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 130229 MMR, incorporated by reference herein, the Council approves the Decision for an amendment to the City Map involving:

- the establishment of Englewood Avenue between Arthur Kill Road and Kent Street;
- the establishment of Bricktown Way northwest of Veterans Road West;
- the establishment of Tyrellan Avenue from Veterans Road West to Bricktown Way;
- the establishment of Fairview Park;
- the extinguishment of several record streets;
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, Borough of Staten Island, Community District 3, in accordance with Map No. 4234 dated May 6, 2013 and signed by the Borough President, is approved, subject to the following condition:

- (a) The subject amendment to the City map shall take effect on the day following the day on which certified counterparts of Map No. 4234, dated May 6, 2013, is filed with the appropriate agencies in accordance with Section 198 subsection c of the New York City Charter.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 931

**Report of the Committee on Land Use in favor of approving Application no. C 130288 PQR submitted by Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the acquisition of property generally bounded by Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7375, lot 7) to facilitate the construction of a public school in the Borough of Staten Island, Community District 3, Council District 51. 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 September 24, 2013 (Minutes, page 3756), respectfully

**REPORTS:****SUBJECT****STATEN ISLAND CB - 3****C 130288 PQR**

City Planning Commission decision approving an application submitted by the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the acquisition of property generally bounded by Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7375, Lot 7) to facilitate the construction of a public school.

**INTENT**

This acquisition of property in conjunction with the other related actions would facilitate a phased mixed use development including approximately 279,000 square feet (SF) of retail space, a 15,000SF New York Public Library, 162 units of senior housing, a 750-seat public school and 43 acres of parkland in Community District 3 of Staten Island.

**PUBLIC HEARING****DATE:** October 2, 2013**Witnesses in Favor:** Four**Witnesses Against:** One**SUBCOMMITTEE RECOMMENDATION****DATE:** October 22, 2013

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

**In Favor:** Weprin, Reyna, Jackson, Garodnick, Lappin, Wills, Ignizio**Against:** None **Abstain:** None**COMMITTEE ACTION****DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio**Against:** None **Abstain:** None

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

Res. No. 2008

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130288 PQR (L.U. No. 931), for the acquisition of property generally bounded by Englewood Avenue, Arthur Kill Road and Veterans Road West (Block 7375, Lot 7) in Community District 3, to facilitate the construction of a public school, Borough of Staten Island.**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the Department of Citywide Administrative Services (DCAS), for the acquisition of property generally bounded by Englewood Avenue, Arthur Kill Road and Veterans Road West (Block 7375, Lot 7) (the "Site"), Community District 3, (ULURP No. C 130288 PQR), Borough of Staten Island, to facilitate the construction of a public school (the "Application");

**WHEREAS**, the application is related to Applications C130279 ZMR (L.U. No. 929), a zoning map amendment from M1-1 District to a C4-1 and R3-2 Districts; C 130229 MMR (L.U. No. 930), a city map change to establish Bricktown Way, Tyrellan Avenue, Englewood Avenue, Fairview Park and Conservation Area; and

extinguish 10 unbuilt record streets; C 130289 PSR (L.U. No. 932), a site selection of property for use as a public library; and C 130290 PQR (L.U. No. 933), an acquisition of property easement to facilitate pedestrian, vehicular and bicycle access;

**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 October 2, 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 August 30, 2013 (CEQR No. 13DME001R);

**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, provided that in the event that the action cannot be realized with respect to improvement of Englewood Avenue from Kent Avenue to Veterans Road West, either the "Shortened Englewood Avenue Alternative" or the "40-Foot Wide Englewood Avenue Alternative" may be pursued; 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 environmental commitment letters, each dated September 10, 2013, from the New York City Economic Development Corporation and the New York City Department of Parks and Recreation, and acknowledged and accepted by the Office of the Deputy Mayor for Economic Development, those project components related to the environment and mitigation measures that were identified as practicable.

(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 Section 197-d 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 130288 PQR, incorporated by reference herein, the Council approves the Decision.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 932

**Report of the Committee on Land Use in favor of approving Application no. C 130289 PSR submitted by the New York Public Library and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the site selection of property generally bounded by Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7459, p/o lot 50; Block 7454, p/o lot 5; Block 7452, p/o lot 75; Block 7487, p/o lot 100 and p/o Bayne Avenue record street) for use as a**



**public library, in the Borough of Staten Island, Community District 3, Council District 51. 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 September 24, 2013 (Minutes, page 3756), respectfully

**REPORTS:**

**SUBJECT**

**STATEN ISLAND CB – 3                      C 130289 PSR**

City Planning Commission decision approving an application submitted by the New York Public Library and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the site selection of property generally bounded by Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7459, p/o Lot 50; Block 7454, p/o Lot 5; Block 7452, p/o Lot 75; Block 7487, p/o Lot 100; and p/o Bayne Avenue record street) for use as a public library.

**INTENT**

This site selection of property in conjunction with the other related actions would facilitate a phased mixed-use development including approximately 279,000 square feet (SF) of retail space, a 15,000SF New York Public Library, 162 units of senior housing, a 750-seat public school and 43 acres of parkland in Community District 3 of Staten Island.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Four                      **Witnesses Against:** One

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 22, 2013

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

**In Favor:** Weprin, Reyna, Jackson, Garodnick, Lappin, Wills, Ignizio  
**Against:** *None*                      **Abstain:** *None*

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio  
**Against:** *None*                      **Abstain:** *None*

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

Res. No. 2009

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130289 PSR (L.U. No. 932), for the site selection of property generally bounded by Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7459, p/o Lot 50; Block 7454, p/o Lot 5; Block 7452, p/o Lot 75; Block 7487, p/o Lot 100; and p/o Bayne Avenue record street) for use as a public library in Community District 3, Borough of Staten Island.**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the New York Public Library and the Department of Citywide Administrative Services

(DCAS), for the site selection of property generally bounded by Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7459, p/o Lot 50; Block 7454, p/o Lot 5; Block 7452, p/o Lot 75; Block 7487, p/o Lot 100; and p/o Bayne Avenue record street) for use as a public library (the "Site"), Community District 3, (ULURP No. C 130289 PSR), Borough of Staten Island (the "Application");

**WHEREAS**, the application is related to Applications C130279 ZMR (L.U. No. 929), a zoning map amendment from M1-1 District to a C4-1 and R3-2 Districts; C 130229 MMR (L.U. No. 930), a city map change to establish Bricktown Way, Tyrellan Avenue, Englewood Avenue, Fairview Park and Conservation Area; and extinguish 10 unbuilt record streets; C 130288 PQR (L.U. No. 931), an acquisition of property for use as a public school; and C 130290 PQR (L.U. No. 933), an acquisition of property easement to facilitate pedestrian, vehicular and bicycle access;

**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 October 2, 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 August 30, 2013 (CEQR No. 13DME001R);

**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, provided that in the event that the action cannot be realized with respect to improvement of Englewood Avenue from Kent Avenue to Veterans Road West, either the "Shortened Englewood Avenue Alternative" or the "40-Foot Wide Englewood Avenue Alternative" may be pursued; 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 environmental commitment letters, each dated September 10, 2013, from the New York City Economic Development Corporation and the New York City Department of Parks and Recreation, and acknowledged and accepted by the Office of the Deputy Mayor for Economic Development, those project components related to the environment and mitigation measures that were identified as practicable.

(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 Section 197-d 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 130289 PSR, incorporated by reference herein, the Council approves the Decision.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 933

**Report of the Committee on Land Use in favor of approving Application no. C 130290 PQR submitted by Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the acquisition**

of an easement for public access over and along the mapped dimensions of Bricktown Way and Tyrellan Avenue, including p/o Block 7446, lot 75; p/o Block 7481, lot 1; and p/o Block 7469, lot 200, in the Borough of Staten Island, Community District 3, Council District 51. 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 September 24, 2013 (Minutes, page 3757), respectfully

**REPORTS:**

**SUBJECT**

**STATEN ISLAND CB - 3**

**C 130290 PQR**

City Planning Commission decision approving an application submitted by the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the acquisition of an easement for public unrestricted vehicular, pedestrian, and bicycle access over and along the mapped dimensions of Bricktown Way and Tyrellan Avenue, including p/o Block 7446, Lot 75; p/o Block 7481, Lot 1 and p/o Block 7469, Lot 200.

**INTENT**

This site selection of property in conjunction with the other related actions would facilitate a phased mixed-use development including approximately 279,000 square feet (SF) of retail space, a 15,000SF New York Public Library, 162 units of senior housing, a 750-seat public school and 43 acres of parkland in Community District 3 of Staten Island.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Four

**Witnesses Against:** One

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 22, 2013

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

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

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

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio

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

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

Res. No. 2010

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130290 PQR (L.U. No. 933), for the acquisition of an easement for public unrestricted vehicular, pedestrian, and bicycle access over and along the mapped dimensions of Bricktown Way and Tyrellan Avenue, including p/o Block 7446, Lot 75; p/o Block 7481, Lot 1 and p/o Block 7469, Lot 200, in Community District 3, Borough of Staten Island.**

By Council Members Comrie and Weprin.

**WHEREAS,** the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the

Department of Citywide Administrative Services (DCAS), for the acquisition of an easement for public unrestricted vehicular, pedestrian, and bicycle access over and along the mapped dimensions of Bricktown Way and Tyrellan Avenue, including p/o Block 7446, Lot 75; p/o Block 7481, Lot 1 and p/o Block 7469, Lot 200 (the "Site"), in Community District 3, (ULURP No. C 130290 PQR), Borough of Staten Island (the "Application");

**WHEREAS,** the application is related to Applications C130279 ZMR (L.U. No. 929), a zoning map amendment from M1-1 District to a C4-1 and R3-2 Districts; C 130229 MMR (L.U. No. 930), a city map change to establish Bricktown Way, Tyrellan Avenue, Englewood Avenue, Fairview Park and Conservation Area; and extinguish 10 unbuilt record streets; C 130288 PQR (L.U. No. 931), an acquisition of property for use as a public school; and C 130289 PSR (L.U. No. 932), a site selection of property for use as a public library;

**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 October 2, 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 August 30, 2013 (CEQR No. 13DME001R);

**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, provided that in the event that the action cannot be realized with respect to improvement of Englewood Avenue from Kent Avenue to Veterans Road West, either the "Shortened Englewood Avenue Alternative" or the "40-Foot Wide Englewood Avenue Alternative" may be pursued; 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 environmental commitment letters, each dated September 10, 2013, from the New York City Economic Development Corporation and the New York City Department of Parks and Recreation, and acknowledged and accepted by the Office of the Deputy Mayor for Economic Development, those project components related to the environment and mitigation measures that were identified as practicable.

(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 Section 197-d 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 130290 PQR, incorporated by reference herein, the Council approves the Decision.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 936

**Report of the Committee on Land Use in favor of approving Application No. C 130236 HAM submitted by the NYC Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law of New York State for the designation of property located at 335 East 27th**

Street (Block 933, Lots 10 and p/o 25) as an Urban Development Action Area and Project for such area, and pursuant to Section 197-c of the New York City Charter for the approval of the disposition of such property, to facilitate development of a mixed use building with approximately 55 dwelling units in the Borough of Manhattan, Community District 6, Council District 2.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 24, 2013 (Minutes, page 3758), respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 6**

**C 130236 HAM**

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development (HPD):

- 1.) pursuant to Article 16 of the General Municipal Law of New York State for:
  - a) the designation of property located at 335 East 27<sup>th</sup> Street (Block 933, Lots 10 and part of 25) as an Urban Development Action Area; and
  - b) an Urban Development Action Area Project for such area; and
- 2.) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by HPD;

to facilitate development of a mixed use building with approximately 55 dwelling units.

**INTENT**

The action along with the related action would facilitate the development of a mixed-use building with a total of approximately 55 dwelling units, including affordable housing, to be developed as “micro-units” and 678 square feet of commercial space.

**PUBLIC HEARING**

**DATE:** October 2, 2013

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

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 22, 2013

**The Subcommittee recommends that the Land Use Committee approve HPD’s application, which includes the Revised Project Summary dated October 22, 2013, and the decision of the City Planning Commission.**

**In Favor:** Weprin, Reyna, Jackson, Garodnick, Lappin, Wills, Ignizio  
**Against:** None                      **Abstain:** None

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio  
**Against:** None                      **Abstain:** None

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

Res. No. 2011

**Resolution approving the application submitted by the NYC Department of Housing Preservation and Development (“HPD”) and the decision of the City Planning Commission, ULURP No. C 130236 HAM, approving the designation of property located at 335 East 27<sup>th</sup> Street (Block 933, Lots 10 and part of 25), Borough of Manhattan, as an Urban Development Action Area, approving the project for the area as an Urban Development Action Area Project, and approving the disposition of such property to a developer selected by HPD (L.U. No. 936; C 130236 HAM).**

By Council Members Comrie and Levin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 197-c of the New York City Charter and Article 16 of the General Municipal Law of New York State regarding:

- a) the designation of property located at 335 East 27<sup>th</sup> Street (Block 933, Lots 10 and part of 25), as an Urban Development Action Area (the "Area");
- b) an Urban Development Action Area Project for such area (the "Project"); and

pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by the New York City Department of Housing Preservation and Development to facilitate the development of a mixed-use building with approximately 55 dwelling units (the "Disposition"), Community District 6, Borough of Manhattan (ULURP No. C 130236 HAM) (the "Application");

**WHEREAS**, the Application is related to Application C 130235 ZMM (L.U. No. 937), an amendment to the Zoning Map to extend an existing C2-5 commercial overlay across the development site from First Avenue to Mt. Carmel Place;

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

**WHEREAS**, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

**WHEREAS**, by letter dated September 25, 2013 and submitted September 30, 2013, the New York City Department of Housing Preservation and Development (HPD) submitted its requests respecting the Application;

**WHEREAS**, upon due notice, the Council held a public hearing on the Application and Decision on October 2, 2013;

**WHEREAS**, by letter dated October 22, 2013, HPD submitted a revised project summary for the Application;

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

**WHEREAS**, the Council has considered the relevant environmental issues and the negative declaration (CEQR No. 13HPD058M) issued on April 8, 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 Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report (C 130236 HAM) and incorporated by reference herein, the Council approves the Decision of the City Planning Commission.

The Council finds that the present status of the Project Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Project Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law and subject to the

terms and conditions of the Revised Project Summary, a copy of which is attached hereto and made a part hereof.

The Project shall be developed in a manner consistent with revised project summary submitted by HPD, a copy of which is attached hereto.

The Council approves the disposition of such property to a developer selected by the Department of Housing Preservation and Development.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 937

**Report of the Committee on Land Use in favor of approving Application No. C 130235 ZMM submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8d, establishing within an existing R8 District, a C2-5 District bounded by a line midway between East 28th Street and Pedestrian Way, a line 100 feet westerly of First Avenue, Pedestrian Way, and Mount Carmel Place, in the Borough of Manhattan, Community District 6, Council District 2.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 24, 2013 (Minutes, page 3758), respectfully

#### REPORTS:

#### SUBJECT

MANHATTAN CB - 6

C 130235 ZMM

City Planning Commission decision approving an application submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 8d, and by establishing within an existing R8 District, a C2-5 District bounded by a line midway between East 28th Street and Pedestrian Way, a line 100 feet westerly of First Avenue, Pedestrian Way, and Mount Carmel Place, as shown on a diagram (for illustrative purposes only) dated April 8, 2013.

#### INTENT

The zoning map amendment along with the related action facilitate the development of a mixed-use building with a total of approximately 55 dwelling units, including affordable housing, to be developed as "micro-units" and 678 square feet of commercial space.

#### PUBLIC HEARING

DATE: October 2, 2013

Witnesses in Favor: Ten

Witnesses Against: None

#### SUBCOMMITTEE RECOMMENDATION

DATE: October 22, 2013

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

In Favor: Weprin, Reyna, Jackson, Garodnick, Lappin, Wills, Ignizio

Against: None Abstain: None

#### COMMITTEE ACTION

DATE: October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio

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

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

Res. No. 2012

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130235 ZMM, a Zoning Map amendment (L.U. No. 937).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 8d, to facilitate the development of a mixed-use building with a total of approximately 55 dwelling units to be developed as "micro-units" and provide for 678 square feet of commercial space, Community District 6, (ULURP No. C 130235 ZMM), Borough of Manhattan (the "Application");

**WHEREAS**, the application is related to Application C 130236 HAM (L.U. No. 936), designation of an Urban Development Action Area and Project, and disposition of city-owned property;

**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 October 2, 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 negative declaration (CEQR No. 13HPD058M) issued on April 8, 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 Section 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 130235 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 No. 8d, by establishing within an existing R8 District, a C2-5 District bounded by a line midway between East 28th Street and Pedestrian Way, a line 100 feet westerly of First Avenue, Pedestrian Way, and Mount Carmel Place, as shown on a diagram (for illustrative purposes only) dated April 8, 2013, Community District 6, Borough of Manhattan.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 938

**Report of the Committee on Land Use in favor of approving Application No. C 130162 POK submitted by the Administration for Children’s Services, and the Department of Citywide Administrative Services, pursuant to Section 197-c of the Charter for acquisition of property located at 600 Hart Street, Borough of Brooklyn, Community Board 4, Council District 34. 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 September 24, 2013 (Minutes, page 3759), respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 4 C 130162 POK**

City Planning Commission decision approving an application submitted by the Administration for Children’s Services and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at 600 Hart Street (Block 3227, Lot 10), for continued use as a child care center.

**INTENT**

To facilitate the continued use of 600 Hart Street as a child care center in Community District 4, Borough of Brooklyn

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Two

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 24, 2013

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

**In Favor:** Lander, Palma, Arroyo, Mendez, Williams

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

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio

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

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

Res. No. 2013

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130162 POK (L.U. No. 938), for the acquisition of property located at 600 Hart Street (Block 3227, Lot 10), for continued use as a child care center in Community District 4, Borough of Brooklyn.**

By Council Members Comrie and Lander.

**WHEREAS,** the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the Administration for Children's Services (ACS) and the Department of Citywide Administrative Services (DCAS), for the acquisition of property located at 600 Hart Street (Block 3227, Lot 10) (the "Site"), Community District 4, (ULURP No. C

130162 POK), Borough of Brooklyn, for continued use as a child care center (the "Application");

**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 October 2, 2013;

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

**WHEREAS,** this application was determined to be a Type II action which requires no further environmental review;

**RESOLVED:**

The Council finds that the action described herein would have no significant impact on the environment since it was determined to be a Type II action.

Pursuant to Section 197-d 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 130162 POK, incorporated by reference herein, the Council approves the Decision.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 939

**Report of the Committee on Land Use in favor of approving Application No. C 130126 POK submitted by the Administration for Children’s Services, and the Department of Citywide Administrative Services, pursuant to Section 197-c of the Charter for acquisition of property located at 200 Central Avenue, Borough of Brooklyn, Community Board 4, Council District 34. 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 September 24, 2013 (Minutes, page 3759), respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 4**

**C 130126 POK**

City Planning Commission decision approving an application submitted by the Administration for Children’s Services and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at 200 Central Avenue (Block 3228, Lot 20), for continued use as a child care center.

**INTENT**

To facilitate the continued use of 200 Central Avenue as a child care center, in Community District 4 of the Borough of Brooklyn.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Two

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 24, 2013

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

**In Favor:** Lander, Palma, Arroyo, Mendez, Williams  
**Against:** *None*      **Abstain:** *None*

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio  
**Against:** *None*      **Abstain:** *None*

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

Res. No. 2014

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130126 POK (L.U. No. 939), for the acquisition of property located at 200 Central Avenue (Block 3228, Lot 20), for continued use as a child care center in Community District 4, Borough of Brooklyn.**

By Council Members Comrie and Lander.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the Administration for Children's Services (ACS) and the Department of Citywide Administrative Services (DCAS), for the acquisition of property located at 200 Central Avenue (Block 3228, Lot 20) (the "Site"), Community District 4, (ULURP No. C 130126 POK) Borough of Brooklyn, for continued use as a child care center (the "Application");

**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 October 2, 2013;

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

**WHEREAS**, this application was determined to be a Type II action which requires no further environmental review;

**RESOLVED:**

The Council finds that the action described herein would have no significant impact on the environment since it was determined to be a Type II action.

Pursuant to Section 197-d 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 130126 POK, incorporated by reference herein, the Council approves the Decision.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 940

**Report of the Committee on Land Use in favor of approving Application No. C 130375 HUK submitted by the NYC Department of Housing Preservation and Development pursuant to Section 505 of Article 15 of the General Municipal (Urban Renewal) Law of New York State and Section 197-c of the New York City Charter, for the third amendment to the East New York I Urban Renewal Plan for the East New York Urban Renewal Area in the Borough of Brooklyn, Community District 5, Council District 42.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 24, 2013 (Minutes, page 3760), respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 5**

**C 130375 HUK**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD) pursuant to Section 505 of Article 15 of the General Municipal (Urban Renewal) Law of New York State and Section 197-c of the New York City Charter, for the proposed Third Amended Urban Renewal Plan for the East New York I Urban Renewal Area.

**INTENT**

The third amendment to the Urban Renewal Plan for the East New York I Urban Renewal Area, along with the other related actions would facilitate the development of Livonia Commons, a mixed-use development to include affordable housing, commercial and community facility space in the East New York section of Brooklyn in Community District 5.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Two

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 22, 2013

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

**In Favor:** Levin, Barron, Gonzalez, Dickens, Koo  
**Against:** *None*      **Abstain:** *None*

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio  
**Against:** *None*      **Abstain:** *None*

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

Res. No. 2015

**Resolution approving the Third Amended East New York I Urban Renewal Plan for the East New York Urban Renewal Area and approving the decision of the City Planning Commission on ULURP No. C 130375 HUK (L.U. No. 940).**

By Council Members Comrie and Levin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision and report dated September 11, 2013 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development ("HPD"), pursuant to Section 505 of Article 15 of the General Municipal Law of New York State and Section 197-c of the New York City Charter, regarding the proposed Third Amended East New York I Urban

Renewal Plan (the "Plan") for the East New York Urban Renewal Area (the "Area") (ULURP No. C 130375 HUK), Community District 5, Borough of Brooklyn (the "Application");

**WHEREAS**, the applications are related to Applications C 130376 HAK (L.U. No. 941), designation of an Urban Development Action Area, project approval, and disposition of City-owned properties to a developer selected by the Department of Housing Preservation and Development; and C 130374 ZMK (L.U. No. 942), a zoning map amendment to change an existing R6, R6/C2-3 and M1-1 district to R7A/C2-4, and C4-4L;

**WHEREAS**, the City Planning Commission has certified that the Plan for the Area complies with the provisions of Section 502 of the General Municipal Law, conforms to the comprehensive community plan for the development of the municipality as a whole and is consistent with local objectives, and that the Plan is in conformity with the findings and designation of the Area;

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

**WHEREAS**, the Area Designation is subject to review and action by the Council pursuant to Section 504 of the General Municipal Law;

**WHEREAS**, the Plan is subject to review and action by the Council pursuant to Section 505 of the General Municipal Law;

**WHEREAS**, the New York City Department of Housing Preservation and Development submitted to the Council its recommendations regarding the Application on October 9, 2013;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and the Plan on October 2, 2013;

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

**WHEREAS**, the Council has considered the relevant environmental issues and the negative declaration (CEQR No. 13HPD074K) issued on June 14, 2013 (the "Negative Declaration");

**RESOLVED:**

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

Pursuant to Section 504 of the General Municipal Law, the Council approves the Designation of the Area.

Pursuant to Section 505(4) of the General Municipal Law, the Council finds that:

1. The Area is a substandard or insanitary area or is in danger of becoming a substandard or insanitary area and tends to impair or arrest the sound growth and development of the municipality;
2. The financial aid to be provided to the municipality is necessary to enable the project to be undertaken in accordance with the Plan;
3. The Plan affords maximum opportunity to private enterprise, consistent with the sound needs of the municipality as a whole, for the undertaking of an urban renewal program;
4. The Plan conforms to a comprehensive community plan for the development of the municipality as a whole;
5. There is a feasible method for the relocation of families and individuals displaced from the Area into decent, safe and sanitary dwellings, which are or will be provided in the Area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities, at rents or prices within the financial means of such families or individuals, and reasonably accessible to their places of employment; and
6. The undertaking and carrying out of the urban renewal activities in stages is in the best public interest and will not cause any additional or increased hardship to the residents of the Area.

Pursuant to Section 505 of the General Municipal Law, the Council approves the Third Amended East New York I Urban Renewal Plan for the East New York Urban Renewal Area, dated May 2013.

Pursuant to Section 197-d of the New York City Charter, and on the basis of the Decision and Application, the Council approves the Decision.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 941

**Report of the Committee on Land Use in favor of approving Application No. C 130376 HAK submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of Urban Development Action Areas and Projects for properties located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123) and pursuant to Section 197-c of the New York City Charter for the approval of disposition of such properties, in the Borough of Brooklyn, Community District 5, Council District 42. This matter is subject to Council review and action at the request of HPD and pursuant to Article 16 of the New York General Municipal Law.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 24, 2013 (Minutes, page 3760), respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 5**

**C 130376 HAK**

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development (HPD),

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
  - a. the designation of properties located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123) as an Urban Development Action Area; and
  - b. an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of such property, to a developer to be selected by HPD;

to facilitate the development of one community facility building and 4 mixed use buildings with a total of approximately 279 units.

**INTENT**

This action, along with the other related actions would facilitate the development of Livonia Commons, a mixed-use development to include affordable housing, commercial and community facility space in the East New York section of Brooklyn in Community District 5.

**PUBLIC HEARING**

**DATE:** October 2, 2013

**Witnesses in Favor:** Two

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 22, 2013

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

**In Favor:** Levin, Barron, Gonzalez, Dickens, Koo  
**Against:** *None*                      **Abstain:** *None*

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio  
**Against:** *None*                      **Abstain:** *None*

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

Res. No. 2016

**Resolution approving the decision of the City Planning Commission on an application submitted by the New York City Department of Housing Preservation and Development ("HPD"), ULURP No. C 130376 HAK, approving the designation of properties located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123), Borough of Brooklyn, as an Urban Development Action Area, approving the project for the area as an Urban Development Action Area Project, and approving the disposition of such property to a developer selected by HPD (L.U. No. 941; C 130376 HAK).**

By Council Members Comrie and Levin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 197-c of the New York City Charter and Article 16 of the General Municipal Law of New York State regarding:

a) the designation of properties located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123), as an Urban Development Action Area (the "Area");

b) an Urban Development Action Area Project for such area (the "Project"); and

pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by the New York City Department of Housing Preservation and Development to facilitate the development of one community facility building and 4 mixed use buildings with a total of approximately 279 units (the "Disposition"), Community District 5, Borough of Brooklyn (ULURP No. C 130376 HAK) (the "Application");

**WHEREAS**, the application is related to Applications C 130375 HUK (L.U. No. 940), a third amendment to the East New York I Urban Renewal Plan for the East New York Urban Renewal Area; and C 130374 ZMK (L.U. No. 942), a zoning map amendment to change an existing R6, R6/C2-3 and M1-1 district to R6, R7A/C2-4, and C4-4L;

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

**WHEREAS**, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

**WHEREAS**, by letter submitted September 27, 2013, the New York City Department of Housing Preservation and Development submitted its requests respecting the Application;

**WHEREAS**, upon due notice, the Council held a public hearing on the Application and Decision on October 2, 2013;

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

**WHEREAS**, the Council has considered the relevant environmental issues and the negative declaration (CEQR No. 13HPD074K) issued on June 14, 2013 (the "Negative Declaration");

**RESOLVED:**

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

Pursuant to Section 197-d of the New York City Charter, based on the environmental determination and the consideration described in the report (C 130376 HAK) and incorporated by reference herein, the Council approves the Decision of the City Planning Commission.

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Disposition Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Project shall be developed in a manner consistent with the two (2) Project summaries for that HPD has submitted to the Council for (i) Livonia Commons and (ii) Boys' Club of New York, copies of which are attached hereto.

The Council approves the disposition of such property to a developer selected by the Department of Housing Preservation and Development.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 942

**Report of the Committee on Land Use in favor of approving Application No. C 130374 ZMK submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17d, changing an existing R6, R6/C2-3, and M1-1 district to R6, R7A/C2-4, and C4-4L, in the Borough of Brooklyn, Community District 5, Council District 42.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 24, 2013 (Minutes, page 3760), respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 5**

**C 130374 ZMK**

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development, pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of Zoning Map, Section No. 17d.

**INTENT**

The zoning map amendment, along with the other related actions would facilitate the development of Livonia Commons, a mixed-use development to include affordable housing, commercial and community facility space in the East New York section of Brooklyn in Community District 5.



**PUBLIC HEARING****DATE:** October 2, 2013**Witnesses in Favor:** Two**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** October 22, 2013**The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.****In Favor:** Levin, Barron, Gonzalez, Dickens, Koo**Against:** *None***Abstain:** *None***COMMITTEE ACTION****DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio**Against:** *None***Abstain:** *None*

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

Res. No. 2017

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130374 ZMK, a Zoning Map amendment (L.U. No. 942).**

By Council Members Comrie and Levin.

**WHEREAS**, the City Planning Commission filed with the Council on September 13, 2013 its decision dated September 11, 2013 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 17d, to change from existing R6, R6/C2-3, and M1-1 districts to R7A, R7A/C2-4 and C4-4L districts on ten block fronts along Livonia Avenue, which in conjunction with the other related actions, will facilitate the development of Livonia Commons, a mixed-use development to include affordable housing, commercial and community facility space in Community District 5, East New York, Brooklyn, Community District 5 (ULURP No. C 130374 ZMK), Borough of Brooklyn (the "Application");

**WHEREAS**, the application is related to Applications C 130375 HUK (L.U. No. 940), a third amendment to the East New York I Urban Renewal Plan for the East New York Urban Renewal Area; and C 130376 HAK (L.U. No. 941), designation of an Urban Development Action Area, project approval, and disposition of City-owned properties to a developer selected by the Department of Housing Preservation and Development;

**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 October 2, 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 negative declaration (CEQR No. 13HPD074K) issued on June 14, 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 Section 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 130374 ZMK, 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 No. 17d:

1. eliminating from within an existing R6 District a C2-3 District bounded by:

a. a line 150 feet northerly of Livonia Avenue, Williams Avenue, Livonia Avenue, Alabama Avenue, a line 100 feet southerly of Livonia Avenue, Williams Avenue, a line 150 feet southerly of Livonia Avenue, Snediker Avenue, Livonia Avenue, and a line midway between Snediker Avenue and Van Sinderen Avenue;

b. Livonia Avenue, Sheffield Avenue, a line 100 feet southerly of Livonia Avenue, and Georgia Avenue; and

c. a line 150 feet northerly of Livonia Avenue, a line midway between Pennsylvania Avenue- Granville Payne Avenue and Sheffield Avenue, Livonia Avenue, and Sheffield Avenue;

2. changing from an R6 District to an R7A District property bounded by a line 100 feet northerly of Livonia Avenue, Williams Avenue, Livonia Avenue, Georgia Avenue, a line 100 feet northerly of Livonia Avenue, a line midway between Georgia Avenue and Sheffield Avenue, a line 140 feet northerly of Livonia Avenue, a line midway between Sheffield Avenue and Pennsylvania Avenue- Granville Payne Avenue, Livonia Avenue, Sheffield Avenue, a line 100 feet southerly of Livonia Avenue, and Snediker Avenue;

3. changing from an R6 District to a C4-4L District property bounded by a line 100 feet northerly of Livonia Avenue, Snediker Avenue, Livonia Avenue, and a line midway between Van Sinderen Avenue and Snediker Avenue;

4. changing from an M1-1 District to a C4-4L District property bounded by a line 100 feet northerly of Livonia Avenue, a line midway between Van Sinderen Avenue and Snediker Avenue, Livonia Avenue, and Van Sinderen Avenue; and

5. establishing within a proposed R7A District a C2-4 District bounded by a line 100 feet northerly of Livonia Avenue, Williams Avenue, Livonia Avenue, Georgia Avenue, a line 100 feet northerly of Livonia Avenue, a line midway between Sheffield Avenue and Pennsylvania Avenue- Granville Payne Avenue, Livonia Avenue, Sheffield Avenue, a line 100 feet southerly of Livonia Avenue, and Snediker Avenue;

as shown on a diagram (for illustrative purposes only) dated June 17, 2013, Community District 5, Borough of Brooklyn.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 944

**Report of the Committee on Land Use in favor of filing Application no. 20145048 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Rustic Table LLC, d/b/a The Quarter, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 522 Hudson Street, 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 September 24, 2013 (Minutes, page 3761), respectfully

**REPORTS:**

SUBJECT

MANHATTAN CB - 2

20145048 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Rustic Table, LLC, d/b/a The Quarter, for a revocable consent to modify, maintain and operate an unenclosed sidewalk café located at 522 Hudson Street.

A motion to file in accordance with Rule 7.90 of the Rules of the Council is required to remove L.U. 944 from the calendar.

SUBCOMMITTEE RECOMMENDATION

DATE: October 22, 2013

**The Subcommittee recommends that the Land Use Committee approve the motion to file pursuant to Rule 7.90 of the Rules of the City Council.**

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

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

COMMITTEE ACTION

DATE: October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio

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

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

Res. No. 2018

**Resolution approving a motion to file L.U. 944 concerning an application for a revocable consent for an unenclosed sidewalk café located at 522 Hudson Street, Borough of Manhattan (20145048 TCM; L.U. No. 944).**

By Council Members Comrie and Weprin.

**WHEREAS**, the Department of Consumer Affairs filed with the Council on September 17, 2013 its approval dated September 13, 2013 of the petition of Rustic Table, LLC, d/b/a The Quarter, for a revocable consent to modify, maintain and operate an unenclosed sidewalk café located at 522 Hudson Street, 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 application was called up and introduced as L.U. 944. However, since no action will be taken, this application for a revocable consent will be filed;

**WHEREAS**, L.U. 944 will be filed pursuant to a motion to file in accordance with Rule 7.90 of the Rules of the Council;

**RESOLVED:**

The Council approves the motion to file in accord with Rules 6.40a, 7.90 and 11.80 of the Rules of the Council.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 2013.

Coupled to be Filed.

Report for L.U. No. 947

**Report of the Committee on Land Use in favor of approving Application No. C 130344 ZMQ submitted by the NYC Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 9c, 9d, 10a, and 10b, to rezone all or portions of approximately 127 blocks in East Elmhurst, in the Borough of Queens, Community Districts 3 and 4, Council District 21.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 9, 2013 (Minutes, page 4184), respectfully

**REPORTS:**SUBJECT

QUEENS CB's - 3 and 4      C 130344 ZMQ

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 9c, 9d, 10a and 10b.

INTENT

To rezone all or portions of 127 blocks in East Elmhurst, Community District 3, and to change or add commercial overlays, on 14 block fronts located on the south side of Roosevelt Avenue between Elmhurst Avenue and 114<sup>th</sup> Street in Queens, Community District 4.

PUBLIC HEARING

DATE: October 22, 2013

**Witnesses in Favor:** Three**Witnesses Against:** NoneSUBCOMMITTEE RECOMMENDATION

DATE: October 22, 2013

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

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

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

COMMITTEE ACTION

DATE: October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio

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

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

Res. No. 2019

**Resolution approving the decision of the City Planning Commission on ULURP No. C 130344 ZMQ, a Zoning Map amendment (L.U. No. 947).**

By Council Members Comrie and Weprin.

**WHEREAS**, the City Planning Commission filed with the Council on September 27, 2013 its decision dated September 23, 2013 (the "Decision"), on the application submitted by the New York City Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section Nos. 9c, 9d, 10a, and 10b, to rezone all or portions of 127 blocks in East Elmhurst, Community District 3, and to change or add commercial overlays, on 14 block fronts located on the south side of Roosevelt Avenue between Elmhurst Avenue and 114<sup>th</sup> Street in Queens, Community District 4. This rezoning will also replace existing R3-2 and R4 districts with R2A, R3A, R3X, R3-1, R4-1, R4B, R4 and R6B zones and update certain commercial overlay districts which are intended to prevent out-of-character development, reinforce established building, and direct opportunities for moderate residential and commercial growth to locations

along Astoria Boulevard. The new commercial overlay districts on the south side of Roosevelt Avenue will reinforce the avenue as a major shopping thoroughfare in Community Districts 3 and 4 (ULURP No. C 130344 ZMQ), 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 October 22, 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. 13DCP138Q) issued on June 3, 2013 (the "Negative Declaration") which includes an "E" designation to avoid potential air quality, noise and hazardous materials impacts ("CEQR Designation E-314");

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration and subject to CEQR Declaration E-314.

Pursuant to Section 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 130344 ZMQ, 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. 9c, 9d, 10a and 10b:

**A. CB 3**

1. eliminating from within an existing R3-2 District a C1-2 District bounded by:

a. a line 150 feet northeasterly of Astoria Boulevard, 95<sup>th</sup> Street, Astoria Boulevard, 96<sup>th</sup> Street, a line 150 feet southwesterly of Astoria Boulevard, and 94<sup>th</sup> Street;

b. a line 150 feet northeasterly of Astoria Boulevard, 99<sup>th</sup> Street, Astoria Boulevard, 100<sup>th</sup> Street, a line 150 feet southwesterly of Astoria Boulevard, 98<sup>th</sup> Street, Astoria Boulevard, and 97<sup>th</sup> Street; and

c. a line 150 feet northeasterly of Astoria Boulevard, Gillmore Street, Astoria Boulevard, 105<sup>th</sup> Street, a line 150 feet southwesterly of Astoria Boulevard, 103<sup>rd</sup> Street, Astoria Boulevard, and 29<sup>th</sup> Avenue;

2. eliminating from within an existing R4 District a C1-2 District bounded by a line 150 feet northerly of 31<sup>st</sup> Avenue, 92<sup>nd</sup> Street, 31<sup>st</sup> Avenue, and 90<sup>th</sup> Street;

3. eliminating from within an existing R3-2 District a C2-2 District bounded by Astoria Boulevard, 88<sup>th</sup> Street, a line perpendicular to the easterly street line of 88<sup>th</sup> Street distant 140 feet northerly (as measured along the street line) from the easterly street line of 88<sup>th</sup> Street and the northeasterly street line of Astoria Boulevard, 89<sup>th</sup> Street, a line 100 feet northeasterly of Astoria Boulevard, a line 100 feet northerly of 25<sup>th</sup> Avenue, 90<sup>th</sup> Place, a line 150 feet northerly of 25<sup>th</sup> Avenue, 92<sup>nd</sup> Street, 25<sup>th</sup> Avenue, and 87<sup>th</sup> Street;

4. eliminating from within an existing R4 District a C2-2 District bounded by:

a. Astoria Boulevard, 24<sup>th</sup> Avenue, 85<sup>th</sup> Street, a line 150 feet southwesterly of Astoria Boulevard, and 82<sup>nd</sup> Street; and

b. 25<sup>th</sup> Avenue, 92<sup>nd</sup> Street, a line 125 feet southwesterly of Astoria Boulevard, 91<sup>st</sup> Street, a line 150 feet southwesterly of Astoria Boulevard, 90<sup>th</sup> Street, Astoria Boulevard, the westerly boundary line of a park and its northerly prolongation, a line 150 feet southerly of 25<sup>th</sup> Avenue, and 88<sup>th</sup> Street;

5. changing from an R4 District to an R2A District property bounded by:

a. 25<sup>th</sup> Avenue, 84<sup>th</sup> Street, 30<sup>th</sup> Avenue, and a line midway between 83<sup>rd</sup> Street and 84<sup>th</sup> Street; and

b. a line 100 feet southwesterly of Astoria Boulevard, a line midway between 90<sup>th</sup> Street and 91<sup>st</sup> Street, 30<sup>th</sup> Avenue, and a line midway between 89<sup>th</sup> Street and 90<sup>th</sup> Street;

6. changing from an R3-2 District to an R3A District property bounded by:

a. a line 100 feet southwesterly of Astoria Boulevard, a line midway between 94<sup>th</sup> Street and 95<sup>th</sup> Street, 30<sup>th</sup> Avenue, and 94<sup>th</sup> Street; and

b. Ditmars Boulevard, 102<sup>nd</sup> Street, Ericsson Street, a line 87 feet southeasterly of 24<sup>th</sup> Avenue, Curtis Street, a line 100 feet northwesterly of 25<sup>th</sup> Avenue, Humphreys Street, 100<sup>th</sup> Street, 24<sup>th</sup> Avenue, and 101<sup>st</sup> Street and its northwesterly centerline prolongation;

7. changing from an R4 District to an R3A District property bounded by:

a. a line 100 feet southwesterly of Astoria Boulevard, 94<sup>th</sup> Street, 30<sup>th</sup> Avenue, a line midway between 93<sup>rd</sup> Street and 94<sup>th</sup> Street, 31<sup>st</sup> Avenue, 93<sup>rd</sup> Street, 30<sup>th</sup> Avenue, 92<sup>nd</sup> Street, a line 100 feet northerly of 31<sup>st</sup> Avenue, and 91<sup>st</sup> Street; and

b. 31<sup>st</sup> Avenue, 92<sup>nd</sup> Street, 32<sup>nd</sup> Avenue, and a line midway between 91<sup>st</sup> Street and 92<sup>nd</sup> Street;

8. changing from an R3-2 District to an R3X District property bounded by:

a. Ditmars Boulevard, 100<sup>th</sup> Street, 23<sup>rd</sup> Avenue, a line midway between 99<sup>th</sup> Street and 100<sup>th</sup> Street, a line 100 feet northerly of 24<sup>th</sup> Avenue, 98<sup>th</sup> Street, 24<sup>th</sup> Avenue, a line 90 feet westerly of 95<sup>th</sup> Street, a line 400 feet northerly of 24<sup>th</sup> Avenue, 97<sup>th</sup> Street, 23<sup>rd</sup> Avenue, a line midway between 97<sup>th</sup> Street and 98<sup>th</sup> Street, a line 600 feet northerly of 23<sup>rd</sup> Avenue, and 97<sup>th</sup> Street and its northerly centerline prolongation;

b. a line 100 feet northerly of 25<sup>th</sup> Avenue, a line midway between 92<sup>nd</sup> Street and 93<sup>rd</sup> Street, a line 340 feet northerly of 25<sup>th</sup> Avenue, 93<sup>rd</sup> Street, a line 160 feet southerly of 24<sup>th</sup> Avenue, 95<sup>th</sup> Street, a line 100 feet southerly of 24<sup>th</sup> Avenue, a line midway between 96<sup>th</sup> Street and 97<sup>th</sup> Street, a line 100 feet northerly of 25<sup>th</sup> Avenue, 96<sup>th</sup> Street, a line 200 feet southerly of 25<sup>th</sup> Avenue, a line midway between 96<sup>th</sup> Street and 97<sup>th</sup> Street, a line 100 feet northeasterly of Astoria Boulevard, 94<sup>th</sup> Street, 25<sup>th</sup> Avenue, and 92<sup>nd</sup> Street; and

c. i 27<sup>th</sup> Avenue, Gillmore Street,

ii 25<sup>th</sup> Avenue,

iii Curtis Street,

iv a line perpendicular to the northeasterly street line of Curtis Street distant 88 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Curtis Street and the northwesterly street line of 25<sup>th</sup> Avenue,

v a line 95 feet northeasterly of Curtis Street,

vi a line connecting two points: the first point on Course v distant 35 feet southeasterly (as measured along such course) from its intersection with Course iv, and the second point on the southwesterly street line of Ditmars Boulevard distant 106 feet northwesterly (as measured along the street line from its point of intersection with the northwesterly street line of 25<sup>th</sup> Avenue,

vii Ditmars Boulevard,

viii a line 125 feet northwesterly of 25<sup>th</sup> Avenue,

ix Grand Central Parkway,

x 31<sup>st</sup> Drive and its northeasterly centerline prolongation,

xi Ditmars Boulevard,

xii Astoria Boulevard, and

xiii Kearney Street;

9. changing from an R4 District to an R3X District property bounded by 25<sup>th</sup> Avenue, 94<sup>th</sup> Street, a line 100 feet northeasterly of Astoria Boulevard, and 92<sup>nd</sup> Street;

10. changing from an R3-2 District to an R3-1 District property bounded by:

a. Ditmars Boulevard, 97<sup>th</sup> Street and its northerly centerline prolongation, a line 600 feet northerly of 23<sup>rd</sup> Avenue, a line midway between 97<sup>th</sup> Street and 98<sup>th</sup> Street, 23<sup>rd</sup> Avenue, a line 100 feet westerly of 92<sup>nd</sup> Street, a line connecting two points: the first point on the last named course distant 504 feet northerly (as measured on such course) from its intersection with the northerly street line of 23<sup>rd</sup> Avenue, and the second point on a line perpendicular to the westerly street line of 92<sup>nd</sup> Street distant 155 feet southerly (as measured along the street line)

from the point of intersection of the westerly street line of 92<sup>nd</sup> Street and the southerly street line of Ditmars Boulevard, and 92<sup>nd</sup> Street distant 74.5 feet westerly from its intersection with the westerly street line of 92<sup>nd</sup> Street; and

b. a line 100 feet northerly of 24<sup>th</sup> Avenue, a line midway between 99<sup>th</sup> Street and 100<sup>th</sup> Street, 23<sup>rd</sup> Avenue, 101<sup>st</sup> Street, 24<sup>th</sup> Avenue, 100<sup>th</sup> Street, Humphreys Street, a line 100 feet northwesterly of 25<sup>th</sup> Avenue, Curtis Street, 25<sup>th</sup> Avenue, Gillmore Street, 27<sup>th</sup> Avenue, a line midway between McIntosh Street and Humphreys Street, a line 425 feet northwesterly of 27<sup>th</sup> Avenue, McIntosh Street, 100<sup>th</sup> Street, a line 200 feet southerly of 25<sup>th</sup> Avenue, 99<sup>th</sup> Street, a line 100 feet southerly of 25<sup>th</sup> Avenue, and 98<sup>th</sup> Street;

11. changing from an R3-2 District to an R4 District property bounded by:

a. Astoria Boulevard, 87<sup>th</sup> Street, 25<sup>th</sup> Avenue, and 85<sup>th</sup> Street; and

b. a line 100 feet southwesterly of Astoria Boulevard, 100<sup>th</sup> Street, 31<sup>st</sup> Avenue, and a line midway between 94<sup>th</sup> Street and 95<sup>th</sup> Street;

12. changing from an R3-2 District to an R4B District property bounded by 30<sup>th</sup> Avenue, a line midway between 94<sup>th</sup> Street and 95<sup>th</sup> Street, 31<sup>st</sup> Avenue, a line midway between 95<sup>th</sup> Street and 96<sup>th</sup> Street, Jackson Mill Road, and 94<sup>th</sup> Street;

13. changing from an R4 District to an R4B District property bounded by a line 100 feet southwesterly of Astoria Boulevard, 85<sup>th</sup> Street, 25<sup>th</sup> Avenue, 86<sup>th</sup> Street, a line 100 feet northerly of 30<sup>th</sup> Avenue, 88<sup>th</sup> Street, 25<sup>th</sup> Avenue, a line midway between 88<sup>th</sup> Street and 89<sup>th</sup> Street, a line 100 feet southerly of 25<sup>th</sup> Avenue, a line 100 feet southwesterly of Astoria Boulevard, a line midway between 89<sup>th</sup> Street and 90<sup>th</sup> Street, 30<sup>th</sup> Avenue, a line midway between 90<sup>th</sup> Street and 91<sup>st</sup> Street, a line 100 feet southwesterly of Astoria Boulevard, 91<sup>st</sup> Street, a line 100 feet northerly of 31<sup>st</sup> Avenue, 92<sup>nd</sup> Street, 30<sup>th</sup> Avenue, 93<sup>rd</sup> Street, 31<sup>st</sup> Avenue, a line midway between 93<sup>rd</sup> Street and 94<sup>th</sup> Street, 30<sup>th</sup> Avenue, 94<sup>th</sup> Street, 32<sup>nd</sup> Avenue, 92<sup>nd</sup> Street, 31<sup>st</sup> Avenue, 86<sup>th</sup> Street, 30<sup>th</sup> Avenue, 84<sup>th</sup> Street, 25<sup>th</sup> Avenue, a line midway between 83<sup>rd</sup> Street and 84<sup>th</sup> Street, 30<sup>th</sup> Avenue, a line midway between 82<sup>nd</sup> Street and 83<sup>rd</sup> Street, 25<sup>th</sup> Avenue, and 82<sup>nd</sup> Street;

14. changing from an R3-2 District to an R4-1 District property bounded by 31<sup>st</sup> Avenue, 103<sup>rd</sup> Street, a line 100 feet southerly of 31<sup>st</sup> Avenue, a line 100 feet southwesterly of Astoria Boulevard, 108<sup>th</sup> Street, 32<sup>nd</sup> Avenue, 94<sup>th</sup> Street, Jackson Mill Road, and a line midway between 95<sup>th</sup> Street and 96<sup>th</sup> Street;

15. changing from an R3-2 District to an R6B District property bounded by:

a. a line 100 feet northerly of Astoria Boulevard, 99<sup>th</sup> Street, Astoria Boulevard, 108<sup>th</sup> Street, a line 100 feet southwesterly of Astoria Boulevard, a line 100 feet southerly of 31<sup>st</sup> Avenue, 103<sup>rd</sup> Street, 31<sup>st</sup> Avenue, 100<sup>th</sup> Street, a line 100 feet southwesterly of Astoria Boulevard, and 94<sup>th</sup> Street;

b. Astoria Boulevard, 88<sup>th</sup> Street, a line 100 feet northerly of Astoria Boulevard, a line 100 feet northerly of 25<sup>th</sup> Avenue, 92<sup>nd</sup> Street, 25<sup>th</sup> Avenue, and 87<sup>th</sup> Street;

16. changing from an R4 District to an R6B District property bounded by 25<sup>th</sup> Avenue, 92<sup>nd</sup> Street, a line 100 feet northerly of Astoria Boulevard, 94<sup>th</sup> Street, a line 100 feet southwesterly of Astoria Boulevard, a line 100 feet southerly of 25<sup>th</sup> Avenue, and a line midway between 88<sup>th</sup> Street and 89<sup>th</sup> Street;

17. establishing within an existing R3-2 District a C1-3 District bounded by:

a. 24<sup>th</sup> Avenue, a line midway between 85<sup>th</sup> Street and 86<sup>th</sup> Street, Astoria Boulevard, and 85<sup>th</sup> Street;

b. 23<sup>rd</sup> Avenue, 94<sup>th</sup> Street, a line 125 feet southerly of 23<sup>rd</sup> Avenue, and 93<sup>rd</sup> Street;

c. 23<sup>rd</sup> Avenue, 97<sup>th</sup> Street, a line 125 feet southerly of 23<sup>rd</sup> Avenue, and 96<sup>th</sup> Street; and

d. a line perpendicular to the southwesterly street line of Kearney Street distant 130 feet northwesterly (as measured along the street line) from the point of intersection of the southwesterly street line of Kearney Street and the northeasterly street line of Astoria Boulevard, Kearney Street, Astoria Boulevard, and 100<sup>th</sup> Street;

18. establishing within a proposed R4 District a C1-3 District bounded by 30<sup>th</sup> Avenue, 98<sup>th</sup> Street, 31<sup>st</sup> Avenue, and a line 125 feet westerly of 96<sup>th</sup> Street;

19. establishing within a proposed R4B District a C1-3 District bounded by:

a. a line 100 feet northerly of 31<sup>st</sup> Avenue, 89<sup>th</sup> Street, 31<sup>st</sup> Avenue, and a line midway between 88<sup>th</sup> Street and 89<sup>th</sup> Street; and

b. a line 100 feet northerly of 31<sup>st</sup> Avenue, 92<sup>nd</sup> Street, 31<sup>st</sup> Avenue, and 90<sup>th</sup> Street;

20. establishing within a proposed R6B District a C1-3 District bounded by Astoria Boulevard, 88<sup>th</sup> Street, a line 100 feet northerly of Astoria Boulevard, a line 100 feet northerly of 25<sup>th</sup> Avenue, 92<sup>nd</sup> Street, a line 100 feet northerly of Astoria Boulevard, 99<sup>th</sup> Street, Astoria Boulevard, 31<sup>st</sup> Avenue, 100<sup>th</sup> Street, a line 100 feet southwesterly of Astoria Boulevard, 98<sup>th</sup> Street, Astoria Boulevard, 96<sup>th</sup> Street, a line 100 feet southwesterly of Astoria Boulevard, a line 100 feet southerly of 25<sup>th</sup> Avenue, a line midway between 88<sup>th</sup> Street and 89<sup>th</sup> Street, 25<sup>th</sup> Avenue, and 87<sup>th</sup> Street;

21. establishing within an existing R4 District a C2-3 District bounded by Astoria Boulevard, a westerly boundary line of a park and its southerly prolongation, a northerly boundary line of a park and its easterly prolongation, 83<sup>rd</sup> Street, 24<sup>th</sup> Avenue, 85<sup>th</sup> Street, a line 100 feet southwesterly of Astoria Boulevard, and 82<sup>nd</sup> Street;

22. establishing within a proposed R6B District a C2-3 District bounded by Astoria Boulevard, 108<sup>th</sup> Street, a line 100 feet southwesterly of Astoria Boulevard, a line 100 feet southerly of 31<sup>st</sup> Avenue, 103<sup>rd</sup> Street, and 31<sup>st</sup> Avenue;

#### **B. CB 4**

1. eliminating from within an existing R6B District a C1-2 District bounded by:

a. Roosevelt Avenue, Junction Boulevard, 40<sup>th</sup> Road, and Warren Street; and

b. Roosevelt Avenue, 104<sup>th</sup> Street, 41<sup>st</sup> Avenue, and National Street;

2. eliminating from within an existing R6 District a C1-3 District bounded by Roosevelt Avenue, Aske Street, Whitney Avenue, a line 100 feet southerly of Roosevelt Avenue, a line perpendicular to the northeasterly street line of Case Street distant 175 feet southeasterly (as measured along the street line) from the point of intersection of the northeasterly street line of Case Street and the southeasterly street line of Elmhurst Avenue, Case Street, and Elmhurst Avenue;

3. eliminating from within an existing R6B District a C1-3 District bounded by Roosevelt Avenue, 98<sup>th</sup> Street, a line 100 feet southerly of Roosevelt Avenue, a line midway between Junction Boulevard and 97<sup>th</sup> Street, 40<sup>th</sup> Road, and Junction Boulevard;

4. eliminating from within an existing R5 District a C2-2 District bounded by Roosevelt Avenue, Warren Street, a line 100 feet southerly of Roosevelt Avenue, and 94<sup>th</sup> Street;

5. eliminating from within an existing R6 District a C2-2 District bounded by Roosevelt Avenue, 94<sup>th</sup> Street, a line 100 feet southerly of Roosevelt Avenue, and Aske Street;

6. eliminating from within an existing R6B District a C2-2 District bounded by:

a. Roosevelt Avenue, National Street, 41<sup>st</sup> Avenue, and a line 150 feet westerly of National Street; and

b. Roosevelt Avenue, 114<sup>th</sup> Street, a line midway between Roosevelt Avenue and 41<sup>st</sup> Avenue, and a line 100 feet southwesterly of 111<sup>th</sup> Street;

7. establishing within an existing R6B District a C1-4 District bounded by:

a. Roosevelt Avenue, 98<sup>th</sup> Street, a line 100 feet southerly of Roosevelt Avenue, a line midway between Junction Boulevard and 97<sup>th</sup> Street, 40<sup>th</sup> Avenue, Junction Boulevard, 40<sup>th</sup> Road, and Warren Street; and

b. Roosevelt Avenue, 111<sup>th</sup> Street, a line midway between Roosevelt Avenue and 41<sup>st</sup> Avenue, a line 100 feet northerly of 108<sup>th</sup> Street, 41<sup>st</sup> Avenue, 108<sup>th</sup> Street, a line midway between Roosevelt Avenue and 41<sup>st</sup> Avenue, a line 100 feet northerly of 104<sup>th</sup> Street, 41<sup>st</sup> Avenue, 104<sup>th</sup> Street, 41<sup>st</sup> Avenue, National Street, 41<sup>st</sup> Avenue, 102<sup>nd</sup> Street, a line 100 feet westerly of National Street, a line 100 feet southerly of Roosevelt Avenue, 102<sup>nd</sup> Street, Spruce Avenue, and 100<sup>th</sup> Street;

8. establishing within an existing R5 District a C2-4 District bounded by Roosevelt Avenue, Warren Street, a line 100 feet southerly of Roosevelt Avenue, and 94<sup>th</sup> Street;

9. establishing within an existing R6 District a C2-4 District bounded by Roosevelt Avenue, 94<sup>th</sup> Street, a line 100 feet southerly of Roosevelt Avenue, a line perpendicular to the northeasterly street line of Case Street distant 175 feet southeasterly (as measured along the street line) from the point of intersection of the northeasterly street line of Case Street and the southeasterly street line of Elmhurst Avenue, Case Street, and Elmhurst Avenue; and

10. establishing within an existing R6B District a C2-4 District bounded by Roosevelt Avenue, 114<sup>th</sup> Street, a line midway between Roosevelt Avenue and 41<sup>st</sup> Avenue, and 111<sup>th</sup> Street;

as shown on a diagram (for illustrative purposes only) dated June 3, 2013 and subject to the conditions of CEQR Declaration E-314, Community Districts 3 and 4, Borough of Queens.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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. 948

**Report of the Committee on Land Use in favor of approving Application No. 20145126 HAM submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of a tax exemption pursuant to Section 777 of the Private Housing Finance Law (PHFL) for property located at 304-306 East 8th Street, Borough of Manhattan, Community District 3, Council District 2. This matter is subject to Council review and action at the request of HPD and pursuant to Section 577 of the PHFL.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 9, 2013 (Minutes, page 4184), respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 3**

**20145126 HAM**

Application submitted by the New York City Department of Housing Preservation and Development (“HPD”), for an exemption of real property taxes pursuant to Section 577 of the Private Housing Finance Law for property located at 304-306 East 8<sup>th</sup> Street (Block 390, Lot 9), Borough of Manhattan, Council District 2.

**INTENT**

To approve an exemption from real property taxes pursuant to Section 577 of the Private Housing Finance Law for a multiple dwelling building that will provide housing for low-income families.

**PUBLIC HEARING**

**DATE:** October 22, 2013

**Witnesses in Favor:** Two

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 22, 2013

**The Subcommittee recommends that the Land Use Committee approve the tax exemption for the Exemption Area.**

**In Favor:** Levin, Barron, Gonzalez, Dickens, Koo

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

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio

**Against:** None

**Abstain:** None

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

Res. No. 2020

**Resolution approving a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law for an Exemption Area located at 304-306 East 8th Street (Block 390, Lot 9), Borough of Manhattan (L.U. No. 948; 20145126 HAM).**

By Council Members Comrie and Levin.

**WHEREAS**, the New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council on September 25, 2013 its request dated September 23, 2013 that the Council take the following actions regarding a tax exemption for real property located at 304-306 East 8th Street (Block 390, Lot 9), Community District 3, Borough of Manhattan (the “Exemption Area”):

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

**WHEREAS**, upon due notice, the Council held a public hearing on the Project on October 22, 2013; and

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

**RESOLVED:**

The Council approves the exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law as follows:

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

(a) “Commercial Property” shall mean those portions of the Exemption Area devoted to business or commercial use.

(b) “Effective Date” shall mean January 1, 2013.

(c) “Exemption” shall mean the exemption from real property taxes provided hereunder.

(d) “Exemption Area” shall mean the real property located in the Borough of Manhattan, City and State of New York, and identified as Block 390, Lot 9 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 (30) 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 304-306 East 8<sup>th</sup> Street Housing Development Fund Corporation.

(g) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.

(h) “Regulatory Agreement” shall mean the regulatory agreement between HPD and the HDFC establishing certain controls upon the operation of the Exemption Area on and after the date such Regulatory Agreement is executed.

(i) “Residential Property” shall mean all of the real property, other than the Commercial Property, included in the Exemption Area.

2. All of the value of the Residential Property 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, provided, however, that the HDFC shall make an annual real property tax payment on an assessed valuation equal to the lesser of (i) an amount equal to the full assessed valuation of the Residential Property, or (ii), an amount calculated by multiplying \$3,500 times the number of residential units included in the Exemption Area and

increasing such product by three and seven tenths percent (3.7%) on July 1, 2014 and on July 1 of each successive year. Notwithstanding the foregoing, the Commercial Property shall be subject to full taxation.

3. Notwithstanding the foregoing, the total annual real property tax payment by the HDFC shall not at any time exceed the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by an existing or future local, state, or federal law, rule or regulation.

4. Notwithstanding any provision hereof to the contrary:

a. The Exemption shall terminate if HPD determines 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 owner of the Exemption Area has failed to execute the Regulatory Agreement within one hundred twenty (120) days after the date of approval of the Exemption, (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 HDFC 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 which did not have a permanent certificate of occupancy on the Effective Date.

c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid by or on behalf of the HDFC or any other owner of the Exemption Area prior to Effective Date.

5. In consideration of the Exemption, the owner of the Exemption Area shall (i) execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, waive the benefits, if any, 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.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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 Land Use and had been favorably reported for adoption.

Report for L.U. No. 959

**Report of the Committee on Land Use in favor of filing, pursuant to a Letter of Withdrawal, Application No. 20145046 SCQ pursuant to Section 1732 of the New York City School Construction Authority Act, concerning the proposed site selection for a new, approximately 456-seat primary school facility, located on the north side of 48th Avenue between 210th and 211th Streets in Bayside (Block 7327, Lots 28, 38, 39, and 49), Borough of Queens, Community 11, Council District 19.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 30, 2013, respectfully

#### REPORTS:

##### SUBJECT

QUEENS CB - 11

20145046 SCQ

Application pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 456-

Seat Primary School Facility to be located at the north side of 48<sup>th</sup> Avenue between 210<sup>th</sup> and 211<sup>th</sup> Streets (Block 7327, Lots 28, 38, 39 and 49), in the Bayside section of Queens, Community School District No. 26.

WHEREAS, by submission dated October 21, 2013 and submitted to the Council on October 21, 2013, the New York City School Construction Authority withdrew its application;

#### SUBCOMMITTEE RECOMMENDATION

**DATE:** October 22, 2013

The Subcommittee recommends that the Land Use Committee approve the motion to file the application pursuant to withdrawal by the New York City School Construction Authority.

**In Favor:** Lander, Palma, Arroyo, Mendez, Williams,

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

#### COMMITTEE ACTION

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio

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

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

Res. No. 2021

**Resolution approving a motion to file pursuant to withdrawal of the site plan for a new, approximately 456-Seat Primary School Facility to be located at the north side of 48<sup>th</sup> Avenue between 210<sup>th</sup> and 211<sup>th</sup> Streets (Block 7327, Lots 28, 38, 39 and 49), in the Bayside section of Queens, Community School District 26, Borough of Queens (Non-ULURP No. 20145046 SCQ; Preconsidered L.U. No. 959).**

By Council Members Comrie and Lander.

**WHEREAS**, the New York City School Construction Authority submitted to the Council on October 11, 2013, a site plan pursuant to Section 1732 of the New York State Public Authorities Law for a new, approximately 456-Seat Primary School Facility to be located at the north side of 48<sup>th</sup> Avenue between 210<sup>th</sup> and 211<sup>th</sup> Streets (Block 7327, Lots 28, 38, 39 and 49), in the Bayside section of Queens, Community Board No. 11, Borough of Queens, Community School District No. 26 (the "Site Plan");

**WHEREAS**, the Site Plan is subject to review and action by the Council pursuant to Section 1732 of the New York State Public Authorities Law;

**WHEREAS**, by submission dated October 21, 2013 and submitted to the Council on October 21, 2013, the New York City School Construction Authority withdrew its application;

#### **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.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 2013.

Coupled to be Filed pursuant to a Letter of Withdrawal.

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

Report for L.U. No. 960

**Report of the Committee on Land Use in favor of approving Application No. 20145059 SCM pursuant to Section 1732 of the New York City School Construction Authority Act, concerning the proposed site selection for a new, approximately 1,000 seats public school facility, for use as a middle school and a District 75 special education located at 75 Morton Street (Block 603, Lots 49 and 53), Borough of Manhattan, Community Board 2, Council District 3.**

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 30, 2013, respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 2**

**20145059 SCM**

Application pursuant to Section 1732 of the New York City School Construction Authority Act, concerning the proposed site selection for a new, approximately 1,000 seat public school facility, for use as a middle school for Community School District 2 and for Community School District 75 special education students to be located at 75 Morton Street (Block 603, Lots 49 and 53), Borough of Manhattan.

**INTENT**

To convert an existing building to facilitate a new, approximately 1,000-Seat Public Middle School facility to accommodate 900 students from Community District 2 and 100 special education students from Community District 75, in the Borough of Manhattan.

**PUBLIC HEARING**

**DATE:** October 22, 2013

**Witnesses in Favor:** Seven

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** October 22, 2013

The Subcommittee recommends that the Land Use Committee approve the Site Plan.

**In Favor:** Lander, Palma, Arroyo, Mendez, Williams

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

**COMMITTEE ACTION**

**DATE:** October 24, 2013

The Committee recommends that the Council approve the attached resolution.

**In Favor:** Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Ignizio

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

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

Res. No. 2022

**Resolution approving the site plan for a new, approximately 1,000-Seat Public Middle School Facility to be located at 75 Morton Street (Block 603, Lots 49 and 53), Community School District 2 and Community School District 75, Borough of Manhattan (Non-ULURP No. 20145059 SCM; Preconsidered L.U. No. 960).**

By Council Members Comrie and Lander.

**WHEREAS**, the New York City School Construction Authority submitted to the Council on October 11, 2013, a site plan pursuant to Section 1732 of the New York State Public Authorities Law for a new, approximately 1,000-seat public school facility, for use as a middle school for Community School District 2 and for Community School District 75 special education students to be located at 75 Morton Street (Block 603, Lots 49 and 53), Community Board 2, Borough of Manhattan, Community School Districts No. 2 and 75 (the "Site Plan");

**WHEREAS**, the Site Plan is subject to review and action by the Council pursuant to Section 1732 of the New York State Public Authorities Law;

**WHEREAS**, upon due notice, the Council held a public hearing on the Site Plan on October 22, 2013;

**WHEREAS**, the Council has considered the relevant environmental issues and the Negative Declaration issued on October 9, 2013 (SEQR Project Number 14-002); and

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

**RESOLVED:**

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

Pursuant to Section 1732 of the Public Authorities Law, the Council approves the Site Plan.

INEZ E. DICKENS, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, October 24, 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**

**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> |
|--------------------|---|-------------------|
| Jose Gonzalez      | 111 Norfolk Street #1A<br>New York, N.Y. 10009              | 1                 |
| Fernando DeLeon    | 50 Avenue D<br>New York, N.Y. 10009                         | 2                 |
| Dianne Rosete      | 20-28 37 <sup>th</sup> Street<br>Astoria, N.Y. 11105        | 22                |
| James A. Schuyler  | 242-73 61 <sup>st</sup> Avenue<br>Douglaston, N.Y. 11362    | 23                |
| Nicoleta Xifia     | 72-01 267 <sup>th</sup> Street<br>Floral Park, N.Y. 11004   | 23                |
| Sandra Stevens     | 167-25 110 <sup>th</sup> Road<br>Queens, N.Y. 11433         | 27                |
| Jasmine Sanchez    | 149-27 Tahoe Street<br>Queens, N.Y. 11417                   | 32                |
| Deborah Alicea     | 151 East 4 <sup>th</sup> Street #9C<br>Brooklyn, N.Y. 11218 | 39                |
| Christopher Conway | 671 Decatur Street #3L                                      | 41                |

|                      |   |    |
|----------------------|---|----|
| Nicole Muccigrosso   | Brooklyn, N.Y. 11233<br>964 72 <sup>nd</sup> Street                 | 43 |
| Stephanie Applewhite | Brooklyn, N.Y. 11228<br>120 Birch Road<br>Staten Island, N.Y. 10303 | 49 |

*Approved New Applicants and Reapplicants*

| <u>Name</u>          | <u>Address</u>  | <u>District #</u> |
|----------------------|---|-------------------|
| Robert Castro        | 77 Columbia Street #9G<br>New York, N.Y. 10002                | 2                 |
| Peter Balaban        | 14 East 28 <sup>th</sup> Street #822<br>New York, N.Y. 10016  | 3                 |
| Arlene R. Tuff       | 1780 1 <sup>st</sup> Avenue #11G<br>New York, N.Y. 10128      | 4                 |
| Gennaro A. Trace     | 201 West 83 <sup>rd</sup> Street #2B<br>New York, N.Y. 10024  | 6                 |
| Betty Hammond        | 270 Convent Avenue<br>New York, N.Y. 10031                    | 7                 |
| Mildred Marcelino    | 853 Riverside Drive #3E<br>New York, N.Y. 10032               | 7                 |
| Curtis Tibbs         | 157-10 Riverside Drive West #3T<br>New York, N.Y. 10032       | 7                 |
| Remona Dickenson     | 335 East 111 <sup>th</sup> Street #5M<br>New York, N.Y. 10029 | 8                 |
| Sharon Jamison       | 2728 Henry Hudson Parkway East #C65<br>Bronx, N.Y. 10463      | 11                |
| George G. Bunis      | 140-22 Elgar Place #221<br>Bronx, N.Y. 10475                  | 12                |
| Patricia Cipollaro   | 2420-5 Hunter Avenue<br>Bronx, N.Y. 10475                     | 12                |
| Miriam Milan         | 632 East 226 <sup>th</sup> Street<br>Bronx, N.Y. 10466        | 12                |
| Colleen A. McCarthy  | 149C Edgewater Park<br>Bronx, N.Y. 10465                      | 13                |
| Renata Owens         | 2802 Philip Avenue<br>Bronx, N.Y. 10465                       | 13                |
| Anna Marie Wallace   | 1740 Mulford Avenue #5C<br>Bronx, N.Y. 10461                  | 13                |
| Ileana Freeman       | 1126 Sherman Avenue #2<br>Bronx, N.Y. 10456                   | 16                |
| Wanda Herndon        | 500 East 171 <sup>st</sup> Street #14E<br>Bronx, N.Y. 10457   | 16                |
| Frances A. Foye      | 1472 Watson Avenue #3N<br>Bronx, N.Y. 10472                   | 17                |
| Jacqueline Leon      | 955 Walton Avenue #6D<br>Bronx, N.Y. 10452                    | 17                |
| Sandra Ocasio        | 1230 Spofford Avenue #GB<br>Bronx, N.Y. 10474                 | 17                |
| Lizette Barcene      | 1686 Metropolitan Avenue #7D<br>Bronx, N.Y. 10472             | 18                |
| Nelly Del Valle      | 2123 Gleason Avenue<br>Bronx, N.Y. 10462                      | 18                |
| Kisha Murdaugh       | 1965 Lafayette Avenue #3J<br>Bronx, N.Y. 10473                | 18                |
| Jean h. Schwarwsin   | 203 Park Lane<br>Douglaston, N.Y. 11363                       | 19                |
| Dora S. Tenecela     | 37-60 88 <sup>th</sup> Street #5A<br>Queens, N.Y. 11372       | 21                |
| Eliana Domb          | 218-06 Peck Avenue<br>Hollis Hills, N.Y. 11427                | 23                |
| Carmit Korkos        | 85-54 211 <sup>th</sup> Street<br>Queens, N.Y. 11427          | 23                |
| Natella Aminoc       | 150-24 78 <sup>th</sup> Road<br>Flushing, N.Y. 11367          | 24                |
| Beatrice Constantine | 67-11 161 <sup>st</sup> Street #1D<br>Queens, N.Y. 11365      | 24                |
| Aviad Rave           | 85-35 Midland Parkway<br>Jamaica, N.Y. 11432                  | 24                |
| Stacy D. Thompson    | 155-20 Jewel Avenue<br>Queens, N.Y. 11367                     | 24                |

|                         |   |    |
|-------------------------|---|----|
| Albert Willingham       | 142-35 84 <sup>th</sup> Drive #5G<br>Briarwood, N.Y. 11435        | 24 |
| Olugbenga A. Ajala      | 115-74 Newburg Street<br>St. Albans, N.Y. 11412                   | 27 |
| April Hill              | 171-27 105 <sup>th</sup> Avenue<br>Jamaica, N.Y. 11433            | 27 |
| Fern J. Howell          | 116-18 166 <sup>th</sup> Street<br>Queens, N.Y. 11434             | 27 |
| Thelma Lynch            | 109-49 167 <sup>th</sup> Street<br>Jamaica, N.Y. 11433            | 27 |
| Janet Smith             | 118-17 Union Turnpike<br>Queens, N.Y. 11375                       | 29 |
| Joan Ingrid Daniels     | 184 Beach 62 <sup>nd</sup> Street #46<br>Far Rockaway, N.Y. 11692 | 31 |
| Patricia Butler         | 103 Beach 215 <sup>th</sup> Street<br>Rockaway Beach, N.Y. 11697  | 32 |
| Andrea R. Luft          | 217-17 Rockaway Point Blvd<br>Breezy Point, N.Y. 11697            | 32 |
| William Milian          | 3-34 Seaside Avenue,<br>Rockaway Parkway, N.Y. 11694              | 32 |
| Helen H. Sweeney        | 235 Beach 138 <sup>th</sup> Street<br>Queens, N.Y. 11694          | 32 |
| Joann Valentine         | 91-32 91 <sup>st</sup> Street<br>Queens, N.Y. 11421               | 32 |
| Geneva Butts            | 10 Clinton Street #9P<br>Brooklyn, N.Y. 11201                     | 33 |
| Jackson L. Quinones Jr. | 231 Maujer Street #2L<br>Brooklyn, N.Y. 11206                     | 34 |
| Perlese E. Steed        | 672 Empire Blvd #5A<br>Brooklyn, N.Y. 11213                       | 35 |
| Juan F. Nolasco         | 307 Grove Street #1R<br>Brooklyn, N.Y. 11237                      | 37 |
| Neil P. Johnson         | 141 Dahill Road<br>Brooklyn, N.Y. 11218                           | 39 |
| Narcissus Thomas        | 590 Flatbush Avenue #14L<br>Brooklyn, N.Y. 11225                  | 40 |
| Ivan Cherry             | 737 Miller Avenue #1R<br>Brooklyn, N.Y. 11207                     | 42 |
| Nelida Velazquez        | 675 86 <sup>th</sup> Street #132<br>Brooklyn, N.Y. 11228          | 43 |
| Tiffany J. Gordon       | 3301 Farragut Road #3H<br>Brooklyn, N.Y. 11210                    | 45 |
| Sasha Jenkins           | 520 East 37 <sup>th</sup> Street<br>Brooklyn, N.Y. 11203          | 45 |
| Alvin Pankin            | 1798 East 26 <sup>th</sup> Street<br>Brooklyn, N.Y. 11229         | 46 |
| Rita Goodman            | 2823 West 12 <sup>th</sup> Street #16H<br>Brooklyn, N.Y. 11224    | 47 |
| Charles L. Spivey Jr.   | 2833 West 32 <sup>nd</sup> Street<br>Brooklyn, N.Y. 11224         | 47 |
| Annette Wesley          | 2805 West 37 <sup>th</sup> Street<br>Brooklyn, N.Y. 11224         | 47 |
| Barbara Mastropietro    | 427 Ingram Avenue<br>Staten Island, N.Y. 10314                    | 49 |
| Lisa Anderson           | 320 Adams Avenue<br>Staten Island, N.Y. 10306                     | 50 |
| Charles C. DeStefano    | 1082 Victory Blvd<br>Staten Island, N.Y. 10301                    | 50 |
| Justin Greene           | 20 Cliff Street #7A<br>Staten Island, N.Y. 10305                  | 50 |
| Anthony Maddaluno       | 46 Hamden Avenue<br>Staten Island, N.Y. 10306                     | 50 |
| Barbara J. Pardi        | 982 Rockland Avenue<br>Staten Island, N.Y. 10314                  | 50 |
| Gail A. Cooney          | 649 Barlow Avenue<br>Staten Island, N.Y. 10312                    | 51 |
| Anthony S. Economou     | 316 Dewey Avenue<br>Staten Island, N.Y. 10308                     | 51 |
| Ann Pinckney            | 308 Merrymount Street #2<br>Staten Island, N.Y. 10314             | 51 |
| Jessica Schrader        | 9 Pleasant Plains Avenue<br>Staten Island, N.Y. 10309             | 51 |



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)

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| <p>(1) <b>Int 250-A</b> – In relation to raising the sales age from eighteen to twenty-one years for cigarettes and tobacco products and establishing a sales age of twenty-one years for electronic cigarettes.</p> <p>(2) <b>Int 951-A</b> - In relation to public notice of final rules.</p> <p>(3) <b>Int 983-A</b> – In relation to flood-resistant construction requirements for health facilities.</p> <p>(4) <b>Int 990-A</b> - In relation to the adoption of best available flood maps.</p> <p>(5) <b>Int 1021-A</b> - In relation to the sale of cigarettes and tobacco products, and the regulation of retail dealers and wholesale dealers of cigarettes, and repealing section 17-707 of the administrative code of the city of New York, relating to requiring public health messages where tobacco advertisements appear.</p> <p>(6) <b>Int 1085-A</b> - An Amended Local Law amend the administrative code of the city of New York, in relation to emergency preparedness recommendations for owners of residential and commercial buildings and the posting of emergency information in certain residential buildings.</p> <p>(7) <b>Int 1089-A</b> - In relation to cabling for certain building systems and fuel-oil storage in flood-prone areas <b>(with Message of Necessity from the Mayor requiring affirmative vote of at least two-thirds of the Council for passage)</b>.</p> <p>(8) <b>Int 1096-A</b> - In relation to relocating and protecting building systems in flood-prone areas <b>(with Message of Necessity from the Mayor requiring affirmative vote of at least two-thirds of the Council for passage)</b>.</p> <p>(9) <b>Int 1099-A</b> - In relation to preventing wind damage to certain buildings and systems.</p> <p>(10) <b>Int 1166-A</b> - In relation to reporting by certain entities under contract with the department of small business services <b>(with Message of Necessity from the Mayor requiring affirmative vote of at least two-thirds of the Council for passage)</b>.</p> <p>(11) <b>Res 1993</b> - Hudson Yards Business Improvement District Community District No. 11, Council District No. 8</p> <p>(12) <b>L.U. 918 &amp; Res 1998</b> - App. <b>20145020 HKM (N 140005 HKM)</b>, West End - Collegiate Historic District Extension (Designation List 465, LP-2462), Borough of Manhattan, Community Board 7, Council District 6, as a historic district <b>(Approved with Modifications and Coupled on the General Order Calendar)</b>.</p> <p>(13) <b>L.U. 922 &amp; Res 1999</b> - App. <b>N 120213 NPY</b>, revisions to the New York City Waterfront Revitalization Program's coastal policies and Coastal Zone maps throughout New York City.</p> <p>(14) <b>L.U. 923 &amp; Res 2000</b> - App. <b>N 130316 ZRR</b>, amendment of the Zoning Resolution, Article XII, Chapter 8, and related sections, concerning the expansion of the Special St. George District in the Borough of Staten Island, Community District 1, Council District 49.</p> <p>(15) <b>L.U. 924 &amp; Res 2001</b> - App. <b>C 130315 ZMR</b>, amendment to the Zoning Map, Section No. 21c, to extend the boundaries of the existing Special St. George District in the Borough of Staten</p> | <p>(16) <b>L.U. 925 &amp; Res 2002</b> - Island, Community District 1, Council District 49.</p> <p>(17) <b>L.U. 926 &amp; Res 2003</b> - App. <b>C 130317 ZSR</b>, Parcel 1 in the North Waterfront Subdistrict and on the Waterfront Esplanade, in an M1-1 District, within the Special St. George District, in the Borough of Staten Island, Community District 1, Council District 49.</p> <p>(18) <b>L.U. 927 &amp; Res 2004</b> - App. <b>C 130318 ZSR</b>, Zoning Resolution to allow a development plan for a retail outlet mall, catering facility, hotel and a public parking garage with a maximum of 1,250 spaces, and an improvement plan for a Waterfront Esplanade, on property located on Parcel 2 in the North Waterfront Subdistrict and on the Waterfront Esplanade, in an M1-1 District, within the Special St. George District in the Borough of Staten Island, Community District 1, Council District 49.</p> <p>(19) <b>L.U. 928 &amp; Res 2005</b> - App. <b>C 130319 PPR</b>, Block 2, part of Lot 20, restricted to the development authorized by the special permit granted under Zoning Resolution Section 128-61, located in the North Waterfront Subdistrict within the Special St. George District, in the Borough of Staten Island, Community District 1, Council District 49.</p> <p>(20) <b>L.U. 929 &amp; Res 2006</b> - App. <b>C 130320 PPR</b>, North Waterfront Subdistrict within the Special St. George District, in the Borough of Staten Island, Community District 1, Council District 49.</p> <p>(21) <b>L.U. 930 &amp; Res 2007</b> - App. <b>C 130279 ZMR</b>, amendment to the Zoning Map, Section No. 32d, changing from an M1-1 District to a C4-1 and an R3-2 District, property generally bounded by Bricktown Way, Veterans Road West, Arthur Kill Road and Englewood Avenue, to facilitate phased mixed-use development, in the Borough of Staten Island, Community District 3, Council</p> <p>(22) <b>L.U. 931 &amp; Res 2008</b> - App. <b>C 130229 MMR</b>, amendment to the City Map to establish Bricktown Way, Tyrellan Avenue, Englewood Avenue, and Fairview Park and Conservation Area, and extinguish 10 unbuilt record streets, including authorization for related acquisitions and dispositions, in the Borough of Staten Island, Community District 3, Council District 51.</p> <p>(23) <b>L.U. 932 &amp; Res 2009</b> - App. <b>C 130288 PQR</b>, Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7375, lot 7) to facilitate the construction of a public school in the Borough of Staten Island, Community District 3, Council District 51.</p> <p>(24) <b>L.U. 933 &amp; Res 2010</b> - App. <b>C 130289 PSR</b>, Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7459, p/o lot 50; Block 7454, p/o lot 5; Block 7452, p/o lot 75; Block 7487, p/o lot 100 and p/o Bayne Avenue record street) for use as a public library, in the Borough of Staten Island, Community District 3, Council District 51.</p> <p>Application no. <b>C 130290 PQR</b> submitted by Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the acquisition of an easement for public access over and along the mapped dimensions of Bricktown Way and Tyrellan Avenue, including p/o Block 7446, lot 75; p/o Block 7481, lot 1; and p/o Block 7469, lot 200, in the Borough of Staten Island, Community District 3, Council District 51. This application is subject to review and</p> |
|--|--|

- 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.
- (25) **L.U. 936 & Res 2011 -** App. **C 130236 HAM**, 335 East 27th Street (Block 933, Lots 10 and p/o 25) as an Urban Development Action Area and Project for such area, and pursuant to Section 197-c of the New York City Charter for the approval of the disposition of such property, to facilitate development of a mixed use building with approximately 55 dwelling units in the Borough of Manhattan, Community District 6, Council District 2.
- (26) **L.U. 937 & Res 2012 -** App. **C 130235 ZMM**, amendment of the Zoning Map, Section No. 8d, establishing within an existing R8 District, a C2-5 District bounded by a line midway between East 28th Street and Pedestrian Way, a line 100 feet westerly of First Avenue, Pedestrian Way, and Mount Carmel Place, in the Borough of Manhattan, Community District 6, Council District 2.
- (27) **L.U. 938 & Res 2013 -** App. **C 130162 POK** 600 Hart Street, Borough of Brooklyn, Community Board 4, Council District 34.
- (28) **L.U. 939 & Res 2014 -** App. **C 130126 POK**, 200 Central Avenue, Borough of Brooklyn, Community Board 4, Council District 34.
- (29) **L.U. 940 & Res 2015 -** App. **C 130375 HUK**, third amendment to the East New York I Urban Renewal Plan for the East New York Urban Renewal Area in the Borough of Brooklyn, Community District 5, Council District 42.
- (30) **L.U. 941 & Res 2016 -** App. **C 130376 HAK**, Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123) and pursuant to Section 197-c of the New York City Charter for the approval of disposition of such properties, in the Borough of Brooklyn, Community District 5, Council District 42.
- (31) **L.U. 942 & Res 2017 -** App. **C 130374 ZMK**, amendment of the Zoning Map, Section No. 17d, changing an existing R6, R6/C2-3, and M1-1 district to R6, R7A/C2-4, and C4-4L, in the Borough of Brooklyn, Community District 5, Council District 42.
- (32) **L.U. 944 & Res 2018 -** App. **20145048 TCM**, 522 Hudson Street, Borough of Manhattan, Community District 2, Council District 3 (**Coupled to be Filed**).
- (33) **L.U. 947 & Res 2019 -** App. **C 130344 ZMQ**, amendment of the Zoning Map, Section Nos. 9c, 9d, 10a, and 10b, to rezone all or portions of approximately 127 blocks in East Elmhurst, in the Borough of Queens, Community Districts 3 and 4, Council District 21.
- (34) **L.U. 948 & Res 2020 -** App. **20145126 HAM** 304-306 East 8th Street, Borough of Manhattan, Community District 3, Council District 2.
- (35) **L.U. 949 & Res 1996 -** Renewal Housing Development Fund Company, Block 3174, Lot 24, Block 3276, Lot 36, Block 3283, Lot 37, Block 3293, Lot 135, Block 3300, Lots 27, 23, & 11, Bronx, Community District No. 7, Council Districts No. 14 & 15.
- (36) **L.U. 950 & Res 1997 -** Tweemill House, Block 1775, Lot 20, Manhattan,
- (37) **L.U. 959 & Res 2021 -** App. **20145046 SCQ**, north side of 48th Avenue between 210th and 211th Streets in Bayside (Block 7327, Lots 28, 38, 39, and 49), Borough of Queens, Community 11, Council District 19 (**Coupled to be Filed pursuant to a Letter of Withdrawal**).

(38) **L.U. 960 & Res 2022 -** App. **20145059 SCM** 75 Morton Street (Block 603, Lots 49 and 53), Borough of Manhattan, Community Board 2, Council District 3.

(39) **Resolution approving various persons Commissioners of Deeds.**

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

**Affirmative** – Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Garodnick, Gennaro, Gentile, Gonzalez, Greenfield, Halloran, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Recchia, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn) – **45**.

**The General Order vote recorded for this Stated Meeting was 45-0-0 as shown above with the exception of the votes for the following legislative items:**

The following was the vote recorded for **Int No. 250-A**:

**Affirmative** – Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Garodnick, Gennaro, Gonzalez, Greenfield, Jackson, James, King, Koo, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Richards, Rodriguez, Rose, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Wills, Rivera, and the Speaker (Council Member Quinn). – **35**.

**Negative** – Barron, Gentile, Halloran, Ignizio, Koppell, Nelson, Recchia, Ulrich, Williams, and Oddo - **10**.

The following was the vote recorded for **Int No. 1021-A**:

**Affirmative** – Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Garodnick, Gennaro, Gonzalez, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mendez, Nelson, Recchia, Richards, Rodriguez, Rose, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Wills, Rivera, and the Speaker (Council Member Quinn). – **36**.

**Negative** – Gentile, Greenfield, Halloran, Ignizio, Jackson, Mealy, Ulrich, Williams and Oddo – **9**.

*The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 250-A, 951-A, 983-A, 990-A, 1085-A, 1089-A (passed under a Message of Necessity), 1096-A (passed under a Message of Necessity), 1099-A, 1021-A, 1166-A (passed under a Message of Necessity).*

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. 1768-A

**Report of the Committee on Education in favor of approving, as amended, a Resolution calling upon the New York State Legislature to pass and the Governor to sign, A.6059-A/S.5932, legislation that would protect student privacy by prohibiting the release of personally identifiable student information without consent**

The Committee on Education, to which the annexed amended resolution was referred on May 22, 2013 (Minutes, page 1651), respectfully

## REPORTS:

On Wednesday, October 30, 2013, the City Council's Committee on Education, chaired by Council Member Robert Jackson, will conduct a hearing to consider Proposed Res. No. 1768-A, which calls upon the New York State Legislature to pass and the Governor to sign, A.6059-A/S.5932, legislation that would protect student privacy by prohibiting the release of personally identifiable student information without consent. Assembly bill A.6059 was introduced by Assemblyman Daniel J. O'Donnell and Senate bill S.5932 was introduced by Senator Joseph E. Robach. A previous hearing was held on September 30, 2013.

**Background**

It is widely known that information technology is a rapidly advancing field and a necessary operational tool in many fields. As we advance digitally and seek to find ways to incorporate technology into private and governmental arenas, one particular concern is privacy, especially the privacy of children. Recently, New York State became one of several states to enter into an agreement with inBloom, Inc., a nonprofit provider of technology services<sup>1</sup>.

According to information on the New York State Education Department's website (NYSED), collaboration with inBloom, Inc. "began as a collaborative initiative with the Council of Chief State School Officers and several states to develop an open, non-proprietary system that will make it easy and cost-effective to get the right data to the tools and applications that districts authorize for use by teachers and families, while also enabling and enforcing federal and local data security and privacy policies."<sup>2</sup>

Several proposed bills have been introduced in New York State legislature that address some of the concerns raised regarding the privacy of students and the use of data as a result of inBloom's agreement with the NYSED. Today's hearing will discuss Proposed Resolution No. 1768-A, a resolution calling upon the New York State Legislature to pass and the Governor to sign, A.6059-A/S.5932, legislation that would protect student privacy by prohibiting the release of personally identifiable student information without consent.

**Proposed Res. No. 1768-A**

Proposed Resolution No. 1768-A would note that the New York State Education Department (NYSED) has partnered with inBloom, Inc., a nonprofit provider of technology services that allows states and public school districts to integrate student data and third-party applications. The Proposed Resolution would indicate that according to NYSED's website, the purpose of this partnership is to assist in creating an education data portal to provide educators, students and families with "high quality data tools and educational content to support our schools in delivering excellent instruction while transitioning to the Common Core."

The Proposed Resolution would state that the data is intended to be used to chart individualized progress made by students and also to be used by third parties such as commercial vendors, to solicit families based on a child's academic needs. Proposed Resolution No. 1768-A would note that some parents and advocates have expressed concern about using students' information in this manner, and in addition, numerous concerns have been raised about privacy and the system's ability to protect this data once it has been stored in cyberspace. Proposed Resolution No. 1768-A points out that it has been reported that inBloom, Inc. has stated it cannot guarantee the security of the information stored or that the information will not be intercepted when it is being transmitted. The Proposed Resolution would indicate that furthermore, it has been noted that many parents are not even aware of these plans.

Proposed Resolution No. 1768-A would note that due in part to these concerns, legislation has been introduced in both houses of the New York State Legislature. The Proposed Resolution would state that this legislation, A.6059-A/S.5932, would protect student privacy by prohibiting the re-disclosure of personally identifiable information about individual students to third parties unless there is parental consent, or a student who is 18 years of age or older consents, or unless certain exceptions apply.

The Proposed Resolution would indicate that while it is understandable that technology will continue to play a larger role in all aspects of education including administratively, it is imperative that families have a voice in how this is done. Proposed Resolution No. 1768-A would note that until more information is known about this process, the NYSED should refrain from moving forward with current plans with inBloom, Inc. The Proposed Resolution would further note that student information should be guarded fervently and shared sparingly and only when in the best interest of the student and his/her family. Finally the Proposed Resolution would note that the Council of the City of New York calls upon the State Legislature to pass and the Governor to sign, A.6059-A/S.5932, legislation that would protect student privacy by prohibiting the release of personally identifiable student information without consent.

<sup>1</sup> <https://www.inbloom.org/>

<sup>2</sup> <http://usny.nysed.gov/rttt/data/edp-privacy-parent-faq.html>

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

**(The following is the text of Res. No. 1768-A:)**

Res. No. 1768-A

**Resolution calling upon the New York State Legislature to pass and the Governor to sign, A.6059-A/S.5932, legislation that would protect student privacy by prohibiting the release of personally identifiable student information without consent.**

By Council Members Brewer, Jackson, Lander, Arroyo, Barron, Chin, Comrie, Dickens, Dromm, Eugene, Gentile, James, Mark-Viverito, Palma, Rose, Williams, Wills, Weprin, Gennaro, Van Bramer and Recchia.

**Whereas**, The New York State Education Department (NYSED) has partnered with inBloom Inc., a nonprofit provider of technology services that allows states and public school districts to integrate student data and third-party applications;

**Whereas**, According to NYSED's website, the purpose of this partnership is to assist in creating an education data portal to provide educators, students and families with "high quality data tools and educational content to support our schools in delivering excellent instruction while transitioning to the Common Core; "and

**Whereas**, The data is intended to be used to chart individualized progress made by students and also to be used by third parties such as commercial vendors, to solicit families based on a child's academic needs; and

**Whereas**, Some parents and advocates have expressed concern about using students' information in this manner; and

**Whereas**, In addition, numerous concerns have been raised about privacy and the system's ability to protect this data once stored in cyberspace; and

**Whereas**, It has been reported that inBloom, Inc. has stated that it cannot guarantee the security of the information stored or that the information will not be intercepted when it is being transmitted; and

**Whereas**, Furthermore, it has been noted that many parents are not even aware of these plans; and

**Whereas**, Due in part to these concerns, legislation has been introduced in both houses of the New York State Legislature; and

**Whereas**, This legislation, A.6059-A/S.5932, would protect student privacy by prohibiting the re-disclosure of personally identifiable information about individual students to third parties unless there is parental consent, or a student who is 18 years of age or older consents, or unless certain exceptions apply; and

**Whereas**, While it is understandable that technology will continue to play a larger role in all aspects of education including administratively, it is imperative that families have a voice in how this is done; and

**Whereas**, Until more information is known about this process, the NYSED should refrain from moving forward with current plans with inBloom, Inc.; and

**Whereas**, Student information should be guarded fervently and shared sparingly and only when in the best interest of the student and his/her family; 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.6059-A/S.5932, legislation that would protect student privacy by prohibiting the release of personally identifiable student information without consent.

ROBERT JACKSON, Chairperson; CHARLES BARRON, ALBERT VANN, DANIEL R. GARODNICK, JESSICA S. LAPPIN, JAMES VACCA, FERNANDO CABRERA, MARGARET S. CHIN, DANIEL DROMM, KAREN KOSLOWITZ, STEPHEN T. LEVIN, DEBORAH L. ROSE, MARK S. WEPRIN, VINCENT M. IGNIZIO, ERIC A. ULRICH; Committee on Education, October 30, 2013.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

**INTRODUCTION AND READING OF BILLS**

Int. No. 1172

By The Speaker (Council Member Quinn) and Council Members Brewer, Koo, Koslowitz and Halloran (in conjunction with the Mayor)

**A Local Law to amend the administrative code of the city of New York, in relation to the regulation of lobbying, and repealing section 3-214 of the**

**administrative code of the city of New York, relating to the monthly docket of statements of registration required to be compiled by the city clerk.**

*Be it enacted by the Council as follows:*

Section 1. Paragraph 1 of subdivision (c) of section 3-211 of the administrative code of the city of New York, as amended by local law number 67 for the year 1993, is amended to read as follows:

(1) The term “lobbying” or “lobbying activities” shall mean any attempt to influence:

(i) any determination made by the city council or any member thereof with respect to the introduction, passage [or], defeat, or substance of any local [law] legislation or resolution [by the city council],

(ii) [the approval or disapproval of any local law or resolution by the mayor] any determination made by the mayor to support, oppose, approve, or disapprove any local legislation or resolution, whether or not such legislation or resolution has been introduced in the city council,

(iii) any determination made by an elected city official or an officer or employee of the city with respect to the procurement of goods, services or construction, including the preparation of contract specifications, or the solicitation, award or administration of a contract, or with respect to the solicitation, award or administration of a grant, loan, or agreement involving the disbursement of public monies,

(iv) any determination made by the mayor, the city council, the city planning commission, a borough president, a borough board or a community board with respect to zoning or the use, development or improvement of real property subject to city regulation,

(v) any determination made by an elected city official or an officer or employee of the city with respect to the terms of the acquisition or disposition by the city of any interest in real property, with respect to a license or permit for the use of real property of or by the city, or with respect to a franchise, concession or revocable consent,

(vi) the proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law,

(vii) the decision to hold, timing or outcome of any rate making proceeding before an agency, [or]

(viii) the agenda or any determination of a board or commission[.],

(ix) any determination regarding the calendaring or scope of any city council oversight hearing,

(x) the issuance, repeal, modification or substance of a mayoral executive order, or

(xi) any determination made by an elected city official or an officer or employee of the city to support or oppose any state or federal legislation, rule or regulation, including any determination made to support or oppose that is contingent on any amendment of such legislation, rule or regulation, whether or not such legislation has been formally introduced and whether or not such rule or regulation has been formally proposed.

§ 2. Paragraph 3 of subdivision (c) of section 3-211 of the administrative code of the city of New York, as amended by local law number 67 for the year 1993, is amended to read as follows:

(3) The following persons and organizations shall be deemed not to be engaged in “lobbying activities”:

(i) persons engaged in advising clients, rendering opinions and drafting, in relation to proposed legislation, resolutions, rules, rates, or other proposed legislative, executive or administrative action, where such persons do not themselves engage in an attempt to influence such action;

(ii) newspapers and other periodicals and radio and television stations, and owners and employees thereof, provided that their activities are limited to the publication or broadcast of news items, editorials or other comment, or paid advertisements;

(iii) persons who participate as witnesses, attorneys or other representatives in public rule making or rate making proceedings of an agency, with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation;

(iv) persons who appear before an agency in an adjudicatory proceeding;

(v) persons who prepare or submit a response to a request for information or comments by the city council or one of its committees, the mayor, or other elected city official or an agency;

(vi) (A) contractors or prospective contractors who communicate with or appear before city contracting officers or employees in the regular course of procurement planning, contract development, the contractor selection process, the administration of a contract, or the audit of a contract, when such communications or appearances are made by such contractors or prospective contractors personally, or through;

1. such officers and employees of the contractor or prospective contractor who are charged with the performance of functions relating to contracts;

2. subcontractors or prospective subcontractors who are or will be engaged in the delivery of goods, services or construction pursuant to the contract of such officers and employees of the subcontractor or prospective subcontractor who are charged with the performance of functions relating to contracts; or

3. persons who provide technical or professional services, as defined in

clause (B) of this subparagraph, on behalf of such contractor, prospective contractor, subcontractor or prospective subcontractor.

(B) For the purposes of clause (A) of this subparagraph:

1. “technical services” shall be limited to advice and analysis directly applying any engineering, scientific, or other similar technical discipline;

2. “professional services” shall be limited to advice and analysis directly applying any legal, accounting or other similar professional discipline in connection with the following elements of the procurement process only: dispute resolution, vendor protests, responsiveness and responsibility determinations, determinations of prequalification, suspensions, debarments, objections to registration pursuant to section 328 of the charter, contract interpretation, negotiation of contract terms after the award of a contract, defaults, the termination of contracts and audit of contracts. Any person who provides professional services pursuant to this subparagraph in connection with elements of the procurement process not specified above in this item, whether prior to, in connection with or after the award of a contract, shall be deemed to be engaged in lobbying activities, unless such person is deemed not to be engaged in lobbying activities under another provision of this paragraph; and

3. “city contracting officers or employees” shall not include elected officials or deputies of elected officials or any person not duly authorized to enter into and administer contracts and make determinations with respect thereto; [and]

(vii) persons or organizations who advertise the availability of goods or services with fliers, leaflets or other advertising circulars;

(viii) architects and engineers who communicate with or appear before a community board with respect to any action of such board, provided that the proceeding before the final decision-making board or commission to which the action relates is an adjudicatory proceeding;

(ix) architects and engineers who perform design work and draft plans pursuant to their state-issued professional license, or work under the direct supervision of an architect or engineer who holds such a license, even if such work is preceded or followed by lobbying or lobbying activity as defined in paragraph one of this subdivision;

(x) (A) architects and engineers who communicate with or appear before boards or commissions with respect to:

1. an authorization by the city planning commission pursuant to the zoning resolution designated as minor by the city clerk; or

2. a decision related to real property by any other board or commission designated as minor by the city clerk.

(B) For the purposes of clause (A) of this subparagraph, the city clerk shall promulgate rules designating authorizations and decisions as “minor” based on the following factors:

1. the size and cost of the relevant project;

2. the size, class, and/or value of the property to which the relevant project relates; and

3. the size of the architecture or engineering firm typically involved in the type of project at issue.

(C) For the purposes of this subparagraph, “class” shall mean any of the classes of property defined in section 1802 of the real property tax law; and

(xi) architects and engineers, or their designees, who perform work, including communications with and appearances before boards or commissions, on capital projects under the direction of a city agency, provided that such work is performed pursuant to a contract, or subcontract of such contract, between such architects or engineers and the city agency directing such capital project.

§ 3. Subdivision f of section 3-211 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(f) The [term] terms “expenditure” or “expense” shall mean any expenditures or expenses, respectively, incurred by or reimbursed to the lobbyist for lobbying.

§ 4. Subdivision (c) of section 3-212 of the administrative code of the city of New York, as added by local law number 15 for the year 2006, is amended to read as follows:

(c) The city clerk shall prepare and post on the internet an annual report relating to the administration and enforcement of the provisions of this subchapter. Such report shall contain information regarding (i) the number of complaints received from the public and the disposition of such complaints; (ii) the number and amount of civil penalties imposed pursuant to subdivisions (a), (b), (c) and (d) of section 3-223 of this subchapter; (iii) the number and duration of orders issued pursuant to subdivision (a) of section 3-223 of this subchapter; (iv) the number of random audits conducted by the city clerk and outcomes thereof; (v) compliance programs developed and implemented for lobbyists and clients; [and] (vi) the types and number of requests for assistance related to the lobbying law received by the city clerk, and, as soon as practicable, the average response and resolution times of such requests; (vii) the number of lobbyists filing statements of registration pursuant to section 3-213 of this subchapter for the first time; (viii) the subject matter of lobbying activity most frequently reported by lobbyists; (ix) the lobbying targets most frequently reported by lobbyists; (x) the lobbyists that received the highest compensation; and (xi) such other information and analysis as the city clerk deems appropriate. Such report shall be posted on the internet no later than March first of each year and shall contain information relating to the preceding calendar year.

§ 5. Section 3-212 of the administrative code of the city of New York is amended by adding new subdivisions (e) and (f) to read as follows:

(e) (1) The city clerk shall develop a protocol to review sources of information that may assist the city clerk in identifying lobbyists required to file statements of registration pursuant to section 3-213 of this subchapter who have not

filed. Such review shall include, but need not be limited to, the following sources:

(i) statements of registration filed with the state joint commission on public ethics pursuant to section 1-e of the legislative law that contain information indicating that the lobbyist expects to engage in "lobbying" or "lobbying activities" as defined in paragraph one of subdivision c of section 3-211 of this subchapter;

(ii) notices of appearances compiled by city agencies, including, but not limited to, the landmarks preservation commission and the city planning commission, identifying the representative of an applicant; and

(iii) the "doing business database" as defined in subdivision 20 of section 3-702 of the code.

(2) The city clerk shall work with city agencies and the city council to develop notices and advertisements to be placed in print and electronic media intended to reach persons and organizations doing business with the city, which will inform them of the requirements of set forth in subchapter.

(f) The city clerk shall develop an online training program for lobbyists. Such program shall include information and training regarding conduct that may subject lobbyists and clients to the criminal and civil penalties set forth in this subchapter. As soon as practicable, the city clerk, in conjunction with the department of investigation, shall incorporate an anti-corruption component in such training.

§ 6. Subdivision (e) of the section 3-212 of the administrative code of the city of New York, as added by local law number 15 for the year 2006, is relettered subdivision (g) and amended to read as follows:

[(e) Twenty-four] (g) Between thirty-six and forty-eight months after the effective date of the [section of the] local law that [added] amended this subdivision, the mayor and the city council shall jointly appoint a commission to review and evaluate the activities and performance of the city clerk in implementing the provisions of this subchapter. Within six months of such appointment the commission shall report to the mayor and city council on its review and evaluation which report shall include any administrative and legislative recommendations on strengthening the administration and enforcement of this subchapter, as well as whether the commission would recommend raising the dollar threshold for the filing of a statement of registration. The commission shall be comprised of five members and the mayor and the city council shall jointly designate a chair from among the members.

§ 7. Subdivision (a) of section 3-213 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(a) (1) Every lobbyist shall annually file with the city clerk, on forms prescribed by the city clerk, a statement of registration for each calendar year, provided, however, that the filing of such statement of registration shall not be required of any lobbyist who in any year does not [expend,] earn or incur [or receive] an amount in excess of [two] five thousand dollars or, if the lobbyist is an architect or engineer, or an architecture or engineering firm, ten thousand dollars, of combined reportable compensation and expenses, as provided in paragraph five of subdivision (b) of section 3-216 of this subchapter, for the purposes of lobbying.

(2) Such filing shall be completed on or before January [first] fifteenth by those persons who have been retained, employed or designated as lobbyists on or before December [fifteenth] thirty-first of the previous calendar year who reasonably anticipate that in the coming year they will [expend,] earn or incur [or receive] combined reportable compensation and expenses in an amount in excess of [two] five thousand dollars or, if the lobbyist is an architect or engineer, or an architecture or engineering firm, ten thousand dollars. For those lobbyists retained, employed or designated after December [fifteenth] thirty-first, and for those lobbyists who, subsequent to their retainer, employment or designation, reasonably anticipate combined reportable compensation and expenses in excess of such amount, such filing must be completed within fifteen days thereafter[, but in no event later than ten days after the actual incurring or receiving of such reportable compensation and expenses].

(3) Before a lobbyist files a statement of registration pursuant to paragraph one of this subdivision, the lobbyist and its client shall enroll in the electronic filing system.

§ 8. Paragraph 6 of subdivision (c) of section 3-213 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(6) the [name] names of the [person or agency] persons and agencies before which the lobbyist [is lobbying] has lobbied or expects to lobby;

§ 9. Subdivision (c) of section 3-213 of the administrative code of the city of New York is amended by adding a new paragraph 8 to read as follows:

(8) if the lobbyist is retained, employed or designated by more than one client, a separate statement of registration shall be required for each such client.

§ 10. Paragraph 1 of subdivision (d) of section 3-213 of the administrative code of the city of New York, as amended by local law number 23 for the year 2007, is amended to read as follows:

(1) Whenever there is a change in the information filed by the lobbyist in the [original] statement of registration, other than a change to information submitted pursuant to paragraphs five and six of subdivision (c) of this section, an amended statement shall be submitted to the city clerk on forms prescribed by the city clerk within ten days after such change occurs, except as provided in paragraph two of this subdivision; however, this shall not require the lobbyist to amend the entire registration form].

§ 11. Section 3-214 of the administrative code of the city of New York is REPEALED.

§ 12. Section 3-215 of the administrative code of the city of New York, as

amended by local law number 15 for the year 2006, is amended to read as follows:

§3-215 Termination of retainer, employment or designation. Upon the termination of a lobbyist's retainer, employment or designation, such lobbyist and the client on whose behalf such service has been rendered shall both give written notice to the city clerk within thirty days after the lobbyist ceases the activity that required such lobbyist to file a statement of registration; however, such lobbyist shall nevertheless comply with the reporting requirements of section 3-216.1 of this subchapter and the reporting requirements for the last periodic reporting period up to the date such activity has ceased as required by this subchapter and both such parties shall each file the annual report required by section 3-217 of this subchapter. [The city clerk shall enter notice of such termination in the appropriate monthly registration docket required by section 3-214 of this subchapter.]

§ 13. Subdivision (a) of section 3-216 of the administrative code of the city of New York, as amended by local law number 23 for the year 2007, is amended to read as follows:

(a) (1) Any lobbyist, except a lobbyist described in paragraph two of this subdivision, required to file a statement of registration pursuant to section 3-213 of this subchapter who in any lobbying year [expends, receives] earns or incurs combined reportable compensation and expenses in an amount in excess of [two] five thousand dollars or, if the lobbyist is an architect or engineer, or an architecture or engineering firm, ten thousand dollars, as provided in paragraph five of subdivision (b) of this section, for the purpose of lobbying, shall file with the city clerk [a first] periodic written [report] reports, on forms prescribed by the city clerk, [which to the extent practicable shall be identical in form to the periodic reporting forms used by the New York Temporary State Commission on Lobbying, or any successor thereto,] by the fifteenth day next succeeding the end of the reporting period on which the cumulative total for such lobbying year equaled such sum. Such reporting periods shall be the period from January first [to March thirty-first, April first to May thirty-first, June first to September thirtieth, and October first to] through the last day of February, March first through April thirtieth, May first through June thirtieth, July first through August thirty-first, September first through October thirty-first, and November first through December thirty-first[, or such other dates as the city clerk shall designate by rule to conform the periodic reporting periods with the periodic reporting periods of the New York Temporary State Commission on Lobbying, or any successor thereto].

(2) Any lobbyist that is an organization required to file a statement of registration pursuant to section 3-213 of this subchapter that lobbies solely on its own behalf by utilizing the services of its employees and that, in any lobbying year, earns or incurs combined reportable compensation and expenses in an amount in excess of five thousand dollars, but equal to or less than ten thousand dollars, as provided in paragraph five of subdivision (b) of this section, for the purpose of lobbying, shall file with the city clerk periodic written reports, on forms prescribed by the city clerk, by the fifteenth day next succeeding the end of the reporting period on which the cumulative total for such lobbying year equaled such sum. Such reporting periods shall be the period from January first to June thirtieth, and July first to December thirty-first.

(3) Any lobbyist making a report pursuant to paragraph one or two of this subdivision shall thereafter file with the city clerk, on forms prescribed by the city clerk, a periodic report for each reporting period that such person [expends, receives] earns or incurs combined reportable compensation and expenses in an amount in excess of [five hundred] one thousand dollars for the purposes of lobbying during such reporting period. Such report shall be filed not later than the fifteenth day next succeeding the end of such reporting period and shall include the amounts so [expended, received] earned or incurred during such reporting period and the cumulative total during the lobbying year.

§ 14. Paragraph 4 of subdivision (b) of section 3-216 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(4) the [person or agency] names of the persons and agencies before which the lobbyist has lobbied;

§ 15. Subparagraph (i) of paragraph 5 of subdivision (b) of section 3-216 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(i) the compensation paid or owed to the lobbyist, and any expenses [expended, received or] incurred by the lobbyist for the purpose of lobbying.

§ 16. Paragraph 5 of subdivision (b) of section 3-216 of the administrative code of the city of New York is amended by adding a new subparagraph (vi) to read as follows:

(vi) the expenses reimbursed by the client.

§ 17. Subdivision (c) of section 3-216 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(c) Notwithstanding any inconsistent provision of this section, where a lobbyist required to file a statement of registration pursuant to section 3-213 of this subchapter is not required to file a periodic report pursuant to subdivision (a) or (b) of this section because [he or she] such lobbyist has not [expended, received] earned or incurred compensation and expenses as therein specified, [he or she] such lobbyist shall file a periodic report stating that [he or she] such lobbyist has not [expended, received] earned or incurred such compensation and expenses by the fifteenth day next succeeding the end of the reporting period.

§ 18. Subdivision (d) of section 3-216 of the administrative code of the city of New York is relettered subdivision (e).

§ 19. Section 3-216 of the administrative code of the city of New York is amended by adding a new subdivision (d) to read as follows:

(d) Whenever there is a change in the information filed by a lobbyist in a

report filed pursuant to this section, an amended report shall be submitted to the city clerk on forms prescribed by the city clerk.

§ 20. Subparagraph (i) of paragraph 3 of subdivision (b) of section 3-216.1 of the administrative code of the city of New York, as added by local law number 15 for the year 2006, is amended to read as follows:

(i) the compensation paid or owed to the lobbyist *and any expenses incurred by the lobbyist* for such fundraising and/or political consulting activities[.];

§ 21. Subdivision d of section 3-216.1 of the administrative code of the city of New York is relettered subdivision e.

§ 22. Section 3-216.1 of the administrative code of the city of New York is amended by adding a new subdivision (d) to read as follows:

(d) *Whenever there is a change in the information filed by a lobbyist in a report filed pursuant to this section, an amended report shall be submitted to the city clerk on forms prescribed by the city clerk.*

§ 23. Paragraph 2 of subdivision (a) of section 3-217 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(2) any client retaining, employing or designating a lobbyist or lobbyists, if during the year such client [expended, received or incurred] *owed* an amount in excess of [two] *five* thousand dollars *or, if the lobbyist is an architect or engineer, or an architecture or engineering firm, ten thousand dollars*, of combined reportable compensation [or] *and* expenses, as provided in paragraph five of subdivision (c) of this section, for the purposes of lobbying.

§ 24. Paragraph 4 of subdivision (c) of section 3-217 of the administrative code of the city of New York, as amended by local law number 15 for the year 2006, is amended to read as follows:

(4) the [person or agency] *names of the persons and agencies* before which such lobbyist has lobbied;

§ 25. Subparagraph (i) of paragraph 5 of subdivision (c) of section 3-217 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

(i) the compensation [paid or owed to] *earned* by each such lobbyist, and any other expenses paid or incurred by such client for the purpose of lobbying.

§ 26. Section 3-219 of the administrative code of the city of New York is amended by adding a new subdivision h to read as follows:

*h. To complete a training program on the requirements of this subchapter, developed as soon as practicable by the city clerk, as follows:*

(1) *Each lobbyist required to file a statement of registration pursuant to section 3-213 of this subchapter that (i) lists five or more officers or employees who engage in lobbying activities or who are employed in the division that engages in lobbying activities and (ii) identifies thirty or more clients on whose behalf such organization has been retained shall designate two officers or employees to complete the training program biennially. At least one such officer or employee shall have engaged in lobbying activities in the year prior to such training.*

(2) *All other lobbyists required to file a statement of registration pursuant to section 3-213 of this subchapter shall designate at least one officer or employee to complete the training program biennially.*

(3) *Any lobbyist filing a statement of registration pursuant to section 3-213 of this subchapter for the first time shall designate at least one officer or employee who shall register for such training program within fifteen days of the lobbyist's commencement of lobbying.*

§ 27. Section 3-220 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

§3-220 Retention of records. Every person to whom this subchapter is applicable shall keep for at least five years a detailed and exact account of:

[(1)] (a) all compensation of any amount or value whatsoever;

[(2)] (b) the name and address of every person paying or promising to pay compensation of fifty dollars or more and the date thereof;

[(3)] (c) all expenditures made by or on behalf of the client; and

[(4)] (d) the name and address of every person to whom any item of expenditure exceeding fifty dollars is made, the date thereof and receipted bill for [said] such expenditure.

§ 28. Section 3-221 of the administrative code of the city of New York, as amended by local law number 15 for the year 2006, is amended to read as follows:

§3-221 Filing of statements and reports. (a) Any statement or report required by this subchapter shall be filed by electronic transmission in a standard format as required by the city clerk. Statements, reports[, dockets] and any other information required to be kept on file in the office of the city clerk for public inspection pursuant to this subchapter shall be kept in a computerized database and shall be posted on the internet as soon as practicable.

(b) *The computerized database maintained pursuant to subdivision a of this section shall be searchable by, at a minimum, lobbyist name, client name, person or agency before which lobbying activities took place, and the local law number with year, bill number, resolution number, rule number, or other information sufficient to identify the matter on which lobbying has occurred.*

§ 29. Section 3-222 of the administrative code of the city of New York, as added by local law number 14 for the year 1986, is amended to read as follows:

§3-222 Certification. All statements and reports required under this subchapter shall contain the following declaration: "I certify that all statements made on this statement are true and correct to the best of my knowledge and belief and I understand that the [wilful] *willful* making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render such statement null and void."

§ 30. Subdivision (a) of section 3-223 of the administrative code of the city

of New York, as amended by local law number 15 for the year 2006, is amended to read as follows:

(a) Except as provided for in subdivision (b) of this section, any person or organization who knowingly and [wilfully] *willfully* violates any provision of this subchapter shall be guilty of a class A misdemeanor. In addition to such criminal penalties, [said] *such* person or organization shall be subject to a civil penalty, in an amount not to exceed thirty thousand dollars, to be assessed by the city clerk, or an order to cease all lobbying activities subject to the jurisdiction of the city clerk for a period of time as determined by [said] *such* clerk not to exceed sixty days, or both such civil penalty and order.

§ 31. Subdivision c of section 3-223 of the administrative code of the city of New York, as amended by local law number 23 for the year 2007, is amended to read as follows:

(c) [The city clerk shall designate by rule penalties for late filing of any statement or report required by this subchapter, which shall conform with the schedule established by the New York Temporary State Commission on Lobbying, or any successor thereto, for such charges.] (1) Following a failure to make and file any [such] statement or report *required by this subchapter*, the city clerk shall notify the person or organization of such fact by certified mail that such filing must be made within fourteen business days of the date of mailing of such notice. The failure to file any statement or report within such time shall constitute a class A misdemeanor. In addition to such criminal [and late] penalties, [said] *such* person or organization shall be subject to a civil penalty, in an amount not to exceed twenty thousand dollars, to be assessed by the city clerk. For the purposes of this subdivision, the chief administrative officer of any organization required to file a statement or report shall be the person responsible for making and filing such statement or report unless some other person prior to the due date thereof has been duly designated to make and file such statement or report.

(2) *Any lobbyist or client who has never previously filed a statement of registration or any other report required by this subchapter shall be charged a late filing penalty of ten dollars for each day a required statement or report is late. If more than one statement or report is late, the total late filing penalty shall be equal to the sum of ten dollars per day multiplied by the number of such late statements or reports. Any other lobbyist or client shall be charged a late filing penalty of twenty-five dollars for each day a required statement or report is late. If more than one statement or report is late, the total late filing penalty shall be equal to the sum of twenty-five dollars per day multiplied by the number of such late statements or reports. Late filing penalties may be waived or reduced at the discretion of the city clerk. A lobbyist or client seeking a waiver or reduction of late filing penalties shall submit documentation as required by the city clerk. A decision to grant such a waiver or reduction shall be made in writing by the city clerk. The city clerk shall take the following factors into account in determining whether a waiver or reduction is appropriate:*

(i) *whether and how often the lobbyist or client has filed late in the past;*

(ii) *the annual operating budget of the lobbyist or client;*

(iii) *whether the lobbyist lobbies solely on its own behalf;*

(iv) *for periodic reports, the number of lobbying matters, number of hours spent working on those matters, and amount of compensation and expenditures that were not reported during the relevant period; and*

(v) *the significance of the impediments to timely filing faced by the lobbyist or client.*

§ 32. Section 3-223 of the administrative code of the city of New York is amended by adding a new subdivision i to read as follows:

(i)(1) *The city clerk shall by rule establish an amnesty program for any lobbyist who was required to have filed, but has never filed, a statement of registration pursuant to section 3-213 of this subchapter at any time on or after December tenth, two thousand six.*

(2) *Any lobbyist intending to participate in the amnesty program may file a written notice of intent to participate with the city clerk on forms prescribed by the city clerk, stating his, her or its intention to participate in such program, at any time prior to the effective date of the amnesty program. The city clerk shall not assess any late filing penalties or any civil penalties authorized by this section that could be assessed against any such lobbyist for the period from December tenth, two thousand six to the date of the filing of such notice. Any lobbyist filing a notice pursuant to this paragraph shall comply with all applicable provisions of this subchapter beginning on the day of such filing.*

(3) *Any lobbyist intending to participate in the amnesty program, including any lobbyist who has filed a notice pursuant to paragraph two of this subdivision, shall file a written application on forms prescribed by the city clerk on or after the effective date of the amnesty program, but prior to the expiration of such program. Such amnesty program shall provide that upon the filing of such application and upon compliance with all applicable provisions of this subchapter, including disclosure of any previously unreported lobbying activities, fundraising activities or political consulting activities that occurred on or after January first, two thousand fourteen, the city clerk shall waive any late filing penalties and any civil penalties authorized by this section that could be assessed against any such lobbyist for the period from December tenth, two thousand six to the date of the filing of such application or, if the lobbyist made a valid filing pursuant paragraph two of this subdivision, to the date of such filing. In addition, any such lobbyist shall not be subject to any criminal penalties authorized by this section.*

(4) *The term of the amnesty program established pursuant to this subdivision by rule of the city clerk shall not exceed six months, after which no application for amnesty shall be accepted. Prior to the commencement of and during the term of the amnesty program, the city clerk shall publicize the amnesty program so as to maximize public awareness of and participation in such program. The city*

clerk shall consult with city agencies and the city council to develop notices and advertisements to be placed in print and electronic media that are intended to reach persons and organizations doing business with the city.

(5) Notwithstanding any provision of this subdivision to the contrary, any lobbyist who is the subject of any criminal investigation relating to any violation of this subchapter and any lobbyist who is a party to any criminal litigation in any court of this state or the United States relating to any violation of this subchapter shall be ineligible to file the notice pursuant to paragraph two of this subdivision or the application pursuant to paragraph three of this subdivision or to otherwise receive relief from late filing penalties, or civil or criminal penalties under the amnesty program established pursuant to this subdivision.

(6) The city clerk shall promulgate such rules, issue forms and instructions, and take any and all other actions necessary to implement the provisions of this subdivision.

§ 33. This local law shall take effect one hundred fifty days after its enactment, except that subdivision f of section 3-212 of the administrative code of the city of New York, as added by section five of this local law; paragraph two of subdivision a of section 3-216 of the administrative code of the city of New York, as amended by section thirteen of this local law; and subdivision b of section 3-221 of the administrative code of the city of New York, as added by section twenty-eight of this local law, shall each separately take effect only when the city clerk and the department of information technology and telecommunications have certified that the city clerk and department of information technology and telecommunications are capable of implementing such respective provision, and that subdivision h of section 3-219, as added by section twenty-four of this local law, shall take effect one year after its enactment.

Referred to the Committee on Governmental Operations.

Res. No. 1988

**Resolution calling on the New York State Assembly and New York State Senate to introduce and pass, and the Governor to sign, legislation requiring the Joint Committee on Public Ethics (JCOPE) to accept filings pursuant to the City's lobbyist registration laws from lobbyists who are required to file by the State Lobbying Act with JCOPE solely due to their lobbying of New York City officials.**

By The Speaker (Council Member Quinn) and Council Members Brewer, Chin, Koo, Koslowitz and Halloran (in conjunction with the Mayor).

**Whereas**, A lobbyist who lobbies in New York City is required to register under the City's lobbyist registration law (Lobbying Law) with the City Clerk and under the State Lobbying Act with the Joint Commission on Public Ethics; and

**Whereas**, Under the City's Lobbying Law, the lobbyist is generally required to file one statement of registration, six periodic reports and an annual report; and

**Whereas**, Under the City's Lobbying Law, clients are required to file a Client Annual Report; and

**Whereas**, Under the State Lobbying Act, lobbyists are required to file biennial registration statements and six bimonthly reports; and

**Whereas**, Under the State Lobbying Act, clients are required to file two semi-annual reports; and

**Whereas**, The 2006 amendments to the City's Lobbying Law specifically authorized the Clerk to conform the reporting periods of the City's periodic reports to the periods covered by the State's bi-monthly reports; and

**Whereas**, The City's Lobbying Law contain a more comprehensive list of activities which must be reported, including attempts to influence land use decisions which are not covered by the State Lobbying Act; and

**Whereas**, the State Lobbying Act requires lobbyists to register even if their lobbying is solely directed at municipal officials; and

**Whereas**, Testimony received by the joint Mayoral-Council New York City Lobbying Commission (Lobbying Commission), created pursuant to the 2006 reforms to the City's Lobbying Laws to review and make recommendations on strengthening the laws, indicates widespread agreement that a single system for lobbyist registration at both the City and State levels would simplify the registration process; and

**Whereas**, The Lobbying Commission in its final report urged the State to consider accepting City lobbyist filings from those lobbyists who are covered by the State Lobbying Act solely due to their lobbying of New York City officials; now, therefore, be it

**Resolved**, That the Council of the City of New York calls the New York State Assembly and New York State Senate to introduce and pass, and the Governor to sign, legislation requiring the Joint Committee on Public Ethics (JCOPE) to accept filings pursuant to the City's lobbyist registration laws from lobbyists who are required to file by the State Lobbying Act with JCOPE solely due to their lobbying of New York City officials.

Referred to the Committee on Governmental Operations.

Int. No. 1173

By Council Members Chin, Vallone, Jr., Koppell and Vann.

**A Local Law to amend the administrative code of the city of New York, in relation to amending the nuisance abatement law to include violations related to counterfeit trademarks.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision r of section 7-703 of the administrative code of the city of New York is amended and a new subdivision s is added to read as follows:

(r) Any building, erection or place, including one- or two-family dwellings, used for the creation, production, storage or sale of a false identification document, as defined in subsection (d) of section one thousand twenty-eight of title eighteen of the United States code, a forged instrument, as defined in subdivision seven of section 170.00 of the penal law, or a forgery device, as that term is used in section 170.40 of the penal law. It shall be presumptive evidence that the building, erection or place, including one- or two-family dwellings, is a public nuisance if there have occurred, within the one-year period preceding the commencement of an action under this chapter, two or more violations constituting separate occurrences on the part of the lessees, owners, operators or occupants of one or any combination of the following provisions: paragraph one, five or eight of subsection (a) of section one thousand twenty-eight of title eighteen of the United States code, section 170.05, 170.10, 170.15 or 170.40 of the penal law or, under circumstances evincing an intent to sell or distribute a forged instrument, section 170.20, 170.25 or 170.30 of the penal law[.];

(s) Any building, erection or place, including one- or two-family dwellings, used for the creation, production, storage, distribution, sale or offering for sale of a counterfeit trademark, as defined in subdivision two of section 165.70 of the penal law. It shall be presumptive evidence that the building, erection or place, including one- or two-family dwellings, is a public nuisance if there have occurred, within the one-year period preceding the commencement of an action under this chapter, two or more violations constituting separate occurrences on the part of the lessees, owners, operators or occupants of one or any combination of the following provisions: subsection (a) of section two thousand three hundred twenty of title eighteen of the United States code, section 165.71, 165.72 or 165.73 of the penal law or section 33.09 of the arts and cultural affairs law.

§2. Subdivision a of section 7-704 of the administrative code of the city of New York is amended to read as follows:

(a) The corporation counsel shall bring and maintain a civil proceeding in the name of the city in the supreme court of the county in which the building, erection or place is located to permanently enjoin the public nuisances, defined in subdivisions (a), (b), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), [and] (r), and (s) of section 7-703 of this chapter, in the manner provided in subchapter two of this chapter.

§3. Section 7-705 of the administrative code of the city of New York is amended to read as follows:

This subchapter shall be applicable to the public nuisances defined in subdivisions (a), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), [and] (r), and (s) of section 7-703 of this chapter.

§4. This local law shall take effect immediately.

Referred to the Committee on Public Safety.

*Editor's Int No. 1174 Note: The full text of Int No. 1174 is over 870 pages long. Due to the sheer length of this bill, an edited version is printed below for the purposes of these Minutes. For the full text of this bill, please refer to the New York City Council website at <http://council.nyc.gov>. The edited version below contains the first paragraph of Section 6 and the entire sections 1, 2, 3, 4, 5, 7, 8, and 9 of the bill. Chapters 1 to 45 as well as Appendices A and B presented in the remainder of Section 6 have not been printed in these Minutes— this unprinted material contains enhancements to emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, as well as amendments to certain provisions of the New York city charter, the New York city mechanical code and the New York city plumbing code consistent with amendments to the New York city fire code (for background, please see Section 1. Legislative Intent in the text of the bill below.*

Int. No. 1174

By Council Members Crowley, Koo, Koppell, Vann and Halloran (by request of the Mayor).

**A Local Law to amend the New York city fire code, in relation to the enhancement of emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, and to amend certain provisions of the New York city charter, the New York city mechanical code and the New York**

**city plumbing code consistent with amendments to the New York city fire code.**

*Be it enacted by the Council as follows:*

Section 1. Legislative intent. This local law arises from the mandate of section 29-104 of the administrative code, which requires the fire commissioner to review the latest edition of the international fire code and submit to the city council such proposed amendments to the New York city fire code as the fire commissioner determines should be made. Section 29-104 was enacted by local law 26 of 2008, which adopted a new fire code for New York city based on the international fire code, with amendments to reflect the unique New York City environment. This local law amends the New York city fire code to incorporate new fire safety standards and technologies adopted or reflected in the international fire code since the 2003 edition that was the basis for the 2008 New York city fire code. The fire code amendments enacted by this local law also reflect an evolution in thinking about the implementation of emergency preparedness requirements in a wide range of business, commercial and institutional occupancies. New emergency preparedness requirements address non-fire emergencies and coordinate plan, staffing and voice communication capabilities. These amendments will fulfill the goal of local law 26 of keeping the New York city fire code current and relevant to the fire safety challenges facing New York city.

§2. Paragraphs l, m, n and o of subdivision 2 of section 1301 of the New York city charter, as added by local law number 61 for the year 1991 and amended by local law number 26 for the year 2008, are amended to read as follows:

l. to manage and promote the economic development of all airports, airplane landing sites, seaplane bases, [and] heliports *and helistops* owned by the city, and to lease such property, subject to review and approval pursuant to sections one hundred ninety-seven-c and one hundred ninety-seven-d. No such lease may be authorized by the commissioner until a public hearing has been held with respect thereto after the publication of notice in the City Record at least thirty days in advance of such hearing;

m. except as provided in section 487, to have charge and control of the regulation for the health and safety of the general public of all airports, airplane landing sites, seaplane bases, heliports, *helistops*, marginal streets and parking facilities appurtenant thereto owned by the city;

n. except as provided in section 487, to establish, amend and enforce rules for the proper care and use of all public markets, wharf property, water front property and all airports, airplane landing sites, seaplane bases, [and] heliports *and helistops* owned by the city and placed in his or her charge or over which he or she shall have power of regulation, and to issue such orders as may be necessary for such enforcement. The violation of or the failure to comply with any such order or rule shall be triable in criminal court and punishable, upon conviction, by not more than thirty days imprisonment or by a fine of not less than one hundred dollars nor more than five thousand dollars, or both;

o. except as provided in section 487, to have the exclusive power to regulate all privately owned airports, airplane landing sites, seaplane bases, [and] heliports *and helistops* and the operation out of and into such bases as well as the control of ground effect craft and aircraft operations to or from other sites within the city not so designated as airports, heliports, *helistops*, airplane landing sites or seaplane bases;

§3. Subdivision g of section 487 of the New York city charter, as added by local law number 26 for the year 2008, is amended to read as follows:

g. The department shall have the power and authority to regulate helicopter landings and takeoffs at or from locations other than airports, heliports, *helistops*, *seaplane bases* or other facilities approved by the commissioner of small business services, helicopter external load lift operations, [seaplane landings and takeoffs at or from seaplane bases approved by the commissioner of small business services,] and hot air balloon operations. This subdivision shall not be construed to limit or impair the powers of any other agency established pursuant to this charter, except to the extent that the aforementioned powers granted to the department were previously exercised by the commissioner of small business services.

§4. Chapter 4 of the New York city plumbing code of chapter 6 of title 28 of the administrative code of the city of New York, as added by local law number 99 for the year 2005, amended by local law numbers 54 and 55 for the year 2010, and amended by local law number 41 for the year of 2012, is amended by adding a new section 429 to read as follows:

**SECTION PC 429**

**ROOFTOP GARDENS AND LANDSCAPING**

**429.1 Water supply.** *Where a connection to an approved water supply is required by Section 318.5 of the New York City Fire Code, an approved fixture shall be provided for connection to such water supply in accordance with this code.*

§5. Section 507.16 of the New York city mechanical code of chapter 8 of title 28 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

**507.16 Performance test.** A performance test shall be conducted upon completion of and [witnessed by a representative of the Fire Department] before final approval of the installation of a ventilation system serving commercial cooking appliances. The test shall verify the rate of exhaust airflow required by Section 507.13, makeup airflow required by Section 508, and proper operation as specified in this chapter. The permit holder shall furnish the necessary test equipment and devices required to perform the tests.

§6. The New York city fire code, chapter 2 of title 29 of the administrative code of the city of New York, as added by local law number 26 for the year 2008, amended by local law numbers 37, 39, 41 and 64 for the year 2009, and amended by local law 2 for the year 2013, is amended to read as follows:

*[Editor's Note: Chapters 1 to 45 as well as Appendices A and B presented in Section 6 of this bill are not printed in these Minutes; please see Editor's Int No. 1174 Note printed immediately above the text of this bill for further explanation]*

§7. All actions and proceedings, civil or criminal, commenced prior to the effective date of this local law in accordance with any provision repealed by this local law and pending immediately prior to the taking effect of such repeal may be prosecuted and defended to final effect in the same manner as they might if those provisions had not been repealed.

§8. Rules promulgated by the fire commissioner in accordance with the law in effect prior to the effective date of this local law shall remain in effect for the matters covered to the extent that such rules are not inconsistent with the New York city fire code, as added by this local law, unless and until such rules are amended or repealed by the fire commissioner.

§9. This local law shall take effect 90 days after the date of enactment, except that the fire commissioner may take prior to such date any administrative actions necessary for the timely implementation of this local law, including but not limited to the promulgation of rules.

Referred to the Committee on Fire and Criminal Justice Services.

Int. No. 1175

By Council Members Dilan, Koo, Koppell, Vann and Halloran (by request of the Mayor).

**A Local Law to amend the administrative code of the city of New York, the New York city building code and the New York city fire code, in relation to fire suppression.**

*Be it enacted by the Council as follows:*

Section 1. Item 5 of section 28-103.1 of the administrative code of the city of New York, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to read as follows:

5. The installation and testing of fire alarm systems, smoke-detecting and carbon monoxide detecting devices that are interconnected with a fire alarm system or monitored by a central station, [and] fire extinguishing systems for commercial cooking appliances *and alternative automatic fire extinguishing systems*;

§2. Section 28-104.2 of the administrative code of the city of New York, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to read as follows:

**§28-104.2 Application for approval of construction documents.** The department shall assign an application number to and docket all applications for approval of construction documents and any amendments thereto filed with it. The department shall examine the construction documents promptly after their submission. The examination shall be made under the direction of the commissioner for compliance with the provisions of this code and other applicable laws and rules. The personnel employed for the examination of construction documents shall be qualified registered design professionals, experienced in building construction and design.

**Exceptions:**

1. *The examination of construction documents filed with the department for the installation or alteration of alternative automatic fire extinguishing systems shall be made under the direction of the fire commissioner for compliance with this code, the fire code and other applicable laws and rules.*



2. *Applications for approval of construction documents for the installation or alteration of fire extinguishing systems for commercial cooking equipment and any amendments thereto shall be filed with the fire department.*

§3. Section 28-104.2.2 of the administrative code of the city of New York, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to read as follows:

**§28-104.2.2 Approval or acceptance to be indicated on construction documents.** All construction documents, when approved, shall be stamped or endorsed “approved” under the official method of the department, followed by a notation of the date except that construction documents accepted with less than full examination by the department shall be stamped or endorsed “accepted” instead of “approved”. One set of “approved” or “accepted” construction documents shall be retained by the department and another set shall be maintained at the project site until the work authorized by the permit is completed and signed-off by the department.

*Exception.* Construction documents for alternative automatic fire extinguishing systems shall be stamped or endorsed approved by the fire department in accordance with the official method of the fire department.

§4. Section 28-104.6 of the administrative code of the city of New York, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to read as follows:

**§28-104.6 Applicant.** The applicant for approval of construction documents shall be the registered design professional who prepared or supervised the preparation of the construction documents on behalf of the owner.

**Exception:** The applicant may be other than a registered design professional for:

1. Limited oil burner/boiler alterations, limited plumbing alterations, limited sprinkler alterations, and limited standpipe alterations, where the applicant is licensed to perform such work pursuant to this code;
2. Demolition applications other than those specified in section 3306.5 of the New York city building code, where the applicant is the demolition contractor performing such demolition. In such cases, the commissioner may require structural plans designed by a registered design professional to address any critical structural, sequencing or site safety items;
3. Elevator applications;
4. Applications for work falling within the practice of landscape architecture as defined by the New York state education law, including but not limited to landscaping and vegetation plans, tree protection plans, erosion and sedimentation plans, grading and drainage plans, curb cuts, pavement plans, and site plans for urban plazas and parking lots, where the applicant is a landscape architect. Landscape architects shall not file plans for stormwater management and plumbing systems;
5. [Other categories of work consistent with rules promulgated by the commissioner.] *Applications for pre-engineered fire extinguishing systems for commercial cooking equipment where the applicant is a licensed master fire suppression piping contractor;*
6. *Other categories of work consistent with rules promulgated by the commissioner.*

§5. Item 10 of section 28-105.2, of the administrative code of the city of New York, as renumbered and amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to read as follows:

**10. Fire protection and suppression system permits:** for the installation and alteration of fire protection and suppression systems, including [but not limited to] sprinkler systems[,] and standpipe systems[, non-water systems,

and fire suppression systems for commercial cooking equipment]. Such permits shall include permits for limited sprinkler alterations and limited standpipe alterations.

*Exception.* The installation and alteration of alternative automatic fire suppression systems and fire suppression systems for commercial cooking equipment shall be subject to the approval of the fire department. Notwithstanding any other provision of this code, approval of the installation or alteration of such systems by the fire department shall be deemed to be the issuance of a permit for such work pursuant to this code, and enforced as such by the fire department.

§6. Table 28-112.2 of article 112 of chapter 1 of title 28 of the administrative code of the city of New York, as amended by local law 8 for the year 2008, local law 45 for the year 2011 and by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended by adding the following fee under the section “Other”:

|  |   |  |  |
|--|---|--|--|
| <i>Filing of applications for approval of construction documents for alternative automatic fire suppression systems.</i> | <i>As provided by department rules.</i> |  |  |
|--|---|--|--|

§7. Section 107.9.2 of the New York city building code, as renumbered by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to read as follows:

**107.9.2 Alternative automatic fire-extinguishing systems.** [Alternative] *Notwithstanding any other provision of this code, construction documents filed with the department for the installation of alternative automatic fire-extinguishing systems [plans] shall be reviewed and approved by the Fire Department. Such construction documents shall comply with Section 904.1.1 and the New York City Fire Code.*

§8. Section 903.1.1 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

**903.1.1 Alternative protection.** Where [the discharge of water would be hazardous] *permitted by the New York City Fire Code, the Fire Department may approve the installation of alternative automatic fire-extinguishing systems complying with Section 904 and the New York City Fire Code [shall be permitted] in lieu of automatic sprinkler protection [where recognized by the applicable standard and approved by the commissioner].*

§9. Section 903.2.11.9 of the New York city building code, as renumbered by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to read as follows:

**903.2.11.9 Commercial cooking operations.** An automatic sprinkler system shall not be installed in a commercial kitchen exhaust hood and duct system. Fire-extinguishing systems shall be installed in commercial cooking systems in accordance with Section 904.11 *and the New York City Fire Code.*

§10. Section 903.3.1.1.1 of the New York city building code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to read as follows:

**903.3.1.1.1 Exempt locations protected by other means.** [Automatic] *When approved by the New York City Fire Department, automatic sprinklers shall not be required in [the following rooms or*

areas where such] rooms or areas [are] protected with an approved automatic fire detection system in accordance with Section 907.2 that will respond to visible or invisible particles of combustion, and an alternative *automatic fire-extinguishing* system in accordance with Section 904 *and the New York City Fire Code*. Sprinklers shall not be omitted from any room merely because it is [damp,] of fire-resistance-rated construction or contains electrical equipment.

[1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.

2. Any room or space where sprinklers are considered undesirable because of the nature of the contents, when approved by the commissioner.

3. Generator and] *Any generator or transformer [rooms]room in which an alternative automatic fire extinguishing system is approved shall be separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than 2 hours [where the generator is not using], and in such rooms, the generator shall not use high pressure flammable gas in excess of 15 psi (103.4 kPa).*

§11. Section 903.3.3 of the New York city building code, as added by local law number 33 for the year 2013, is amended to read as follows:

**903.3.3 Obstructed locations.** Automatic sprinklers shall be installed with due regard to obstructions that will delay activation or obstruct the water distribution pattern. Automatic sprinklers shall be installed in or under covered kiosks, displays, booths, concession stands, or equipment that exceeds 4 feet (1219 mm) in width. Not less than a 3-foot (914 mm) clearance shall be maintained between automatic sprinklers and the top of piles of combustible fibers.

**Exception:** Kitchen equipment under exhaust hoods protected with a fire-extinguishing system in accordance with Section 904 *and the New York City Fire Code*.

§12. Sections 904.2 and 904.2.1 of the New York city building code, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, are amended to read as follows:

**904.2 Where required.** Automatic fire-extinguishing systems installed as an alternative to the required automatic sprinkler systems of Section 903 shall be approved by the [commissioner] *Fire Department*. Automatic fire-extinguishing systems shall not be considered alternatives for the purposes of exceptions or reductions allowed by other requirements of this code.

**[Exception:** Automatic fire-extinguishing systems installed in Group H occupancies as an alternative to the required automatic sprinkler systems of Section 903 shall be approved by the fire commissioner.]

**904.2.1 Hood system suppression.** Each required commercial kitchen exhaust hood and duct system required by [the *New York City Fire Code* or] Chapter 5 of the *New York City Mechanical Code* to have a Type I hood shall be protected with an [approved] automatic fire-extinguishing system installed in accordance with this code *and the New York City Fire Code*.

§13. Section 904.2 of the New York city fire code, as added by local law number 26 for the year 2008, is amended to read as follows:

**904.2 Where required.** Where this code or the rules requires the installation of a fire extinguishing system, other than a sprinkler system, the commissioner shall approve the type of fire extinguishing system to be installed. Fire extinguishing systems installed as an alternative to sprinkler systems otherwise required by this code or the construction codes, including the Building Code, shall be approved by the commissioner. Such a system may be accepted by the commissioner where the nature of the fire hazard is such that water [is not effective] *would be ineffective or hazardous* as an extinguishing agent [and the system is acceptable to the Commissioner of Buildings], *or the need to preserve the historic, irreplaceable or special nature of the contents of the occupancy militates against the installation of a sprinkler system. Sprinklers shall not be omitted from any room or area merely because it is of fire-resistance-rated construction or contains electrical equipment.* If a system using a fixed amount of extinguishing agent is authorized to be installed in lieu of a required sprinkler system or any other fire extinguishing system otherwise required by law, a connected reserve of charged agent cylinders equal to the primary supply shall be provided. The commissioner may impose additional requirements on the installation of any fire extinguishing system to be installed in lieu of any required sprinkler system. Fire extinguishing systems shall not be considered alternatives for

the purposes of exceptions or reductions [permitted] *allowed* by other requirements of this code.

§14. Section 105.4.1 of the New York city fire code, as added by local law number 26 for the year 2008, is amended to read as follows:

**105.4.1 Submissions.** Design and installation documents shall be submitted in such number and in such form and detail as may be prescribed by the commissioner. The design and installation documents shall be prepared by a registered design professional. The commissioner may require that such submissions be made in an approved electronic format or medium.

**Exception:** *Design and installation documents for pre-engineered fire extinguishing systems for commercial cooking systems may be prepared by a licensed master fire suppression contractor.*

§15. This local law shall take effect on the same date as a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, takes effect.

Referred to the Committee on Housing and Buildings.

Int. No. 1176

By Council Members Dilan, Koo, Koppell, Vann, Rodriguez and Halloran (by request of the Mayor).

**A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to electric vehicle charging stations in open parking lots and parking garages.**

*Be it enacted by the Council as follows:*

Section 1. Legislative findings and intent. The Council finds that electric vehicles emit approximately 75% less carbon dioxide (CO<sub>2</sub>) than average vehicles. Pure battery electric vehicles do not emit tailpipe pollutants such as benzene and nitrogen oxide, which negatively impact city air quality and resident health. Providing for infrastructure to promote and support electric vehicle use will lead to improvement of the city's air quality and reduce the city's production of greenhouse gases.

Electric vehicles require chargers, or Electric Vehicle Supply Equipment (EVSEs). The vast majority of parking facilities are not currently being built to accommodate electric chargers. For many parking facilities built without EVSE-readiness, adding more than a handful of chargers will require expensive retrofits. Building parking facilities to be ready for electric vehicles incurs minimal additional costs while helping avoid expensive new wiring later. This legislation does not require installing EVSEs, but requires that the building have electrical capacity to add EVSEs to up to 20% of newly created parking stalls as needed.

§2. Section 28-101.4.3 of the administrative code of the city of New York, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to add a new exception 20, to read as follows:

**20. Parking garages and open parking lots.** *Where an alteration of a parking garage or an open parking lot includes an increase in the size of the electric service, such alteration shall include provisions for the installation of electric vehicle charging stations in accordance with section 406.2.11 or 406.7.11 of the New York city building code, as applicable.*

§3. Chapter 4 of the New York city building code is amended by adding new sections 406.2.11 and 406.7.11 to read as follows:

**406.2.11 Electric vehicle charging stations.** *Parking garages shall be capable of supporting electrical vehicle charging stations in accordance with this section. Electrical raceway to the electrical supply panel serving the garage shall be capable of providing a minimum of 3.1 kW of electrical capacity to at least 20 percent of the parking spaces of the garage. The electrical room supplying the garage must have the physical space for an electrical supply panel sufficient to provide 3.1 kw of electrical capacity to at least 20 percent of the parking spaces of the garage. Such raceway and all components and work appurtenant thereto shall be in accordance with the New York City Electrical Code.*

**Exceptions:**

*1. The provisions of this section shall not apply to parking garages for buildings of occupancy group M (Mercantile).*

2. The commissioner may waive compliance with this section if it is determined that the parking garage is a temporary facility that will be in service no longer than 3 years.

**406.7.11 Electric vehicle charging stations.** Open parking lots shall be capable of supporting electric vehicle charging stations in accordance with this section. A minimum of 20 percent of the parking spaces in an open parking lot shall be equipped with electrical raceway capable of providing a minimum supply of 11.5kVA to an EVSE from an electrical supply panel. The raceway shall be no smaller than 1 inch. The electrical supply panel serving these parking spaces must have at least 3.1 kW of available capacity for each stall connected to it with raceway. Such raceway and all components and work appurtenant thereto shall be in accordance with the New York City Electrical Code.

**Exceptions:**

1. The provisions of this section shall not apply to parking lots for buildings of occupancy group M (Mercantile).
2. The commissioner may waive compliance with this section if it is determined that the open parking lot is a temporary facility that will be in service no longer than 3 years.

§4. This local law shall take effect on the same date that a local law of the city of New York for the year 2013, amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056 takes effect.

Referred to the Committee on Housing and Buildings.

Preconsidered Res. No. 1989

**Resolution urging the United States Department of Homeland Security to end the practice of placing immigrant detainees in solitary confinement, except in emergency situations.**

By Council Members Dromm, Chin, Koo, Koppell, Mendez and Vann.

**Whereas,** The United States Immigration and Customs Enforcement (“ICE”), a division of the United States Department of Homeland Security, is charged with overseeing and providing for the care, custody, and control of immigration detainees; and

**Whereas,** According to ICE, New York City’s only immigration detention facility, the Varick Federal Detention Facility, was closed in 2010; and

**Whereas,** Since the closure, advocates have stated that New York City immigrant detainees have been either moved to distant immigration detention centers or detained alongside criminals in state and local prisons; and

**Whereas,** While, according to ICE, immigration detention is supposed to be a civil, non-punitive measure to ensure detainees attend immigration court hearings and comply with court orders, disciplinary measures and segregation practices to which immigration detainees are subjected often emulate those used in criminal facilities, including the practice of placing individuals in solitary confinement; and

**Whereas,** According to ICE, there are 250 immigration detention facilities across the United States with a daily detainee population of approximately 33,000 immigrants; and

**Whereas,** According to the New York Times article “Immigrants Held in Solitary Cells, Often for Weeks” (“NYT Article”) published in March of 2013, solitary confinement is a form of punishment used by detention officers in which an individual is isolated in a small cell and deprived of human contact and other sensory and intellectual stimulation for long periods of time and during which privileges and activities generally extended to the detained population such as phone calls, access to medical care, visitations, and recreation are restricted, if not entirely suspended; and

**Whereas,** A report of the Heartland Alliance’s National Immigrant Justice Center and Physicians for Human Rights entitled *Invisible in Isolation: The Use of Segregation and Solitary Confinement in Immigration Detention* recorded instances in which detainees were placed in solitary confinement as a punitive response to trivial violations such as addressing a detention officer in a foreign language or possessing prohibited food items, to cover up discrimination and abuse within the detention facility, or to discourage complaints about detention conditions; and

**Whereas,** This report found that detainees who have been victims of assault, have mental health issues, or are lesbian, gay, bisexual, and transgender were disproportionately detained in solitary confinement because facilities cannot accommodate these populations and because officials claimed that solitary confinement offers protection unavailable in the general population of immigration detainees; and

**Whereas,** According to the NYT Article, approximately 300 immigrants are held in solitary confinement at the largest immigration facilities every day with almost half isolated for fifteen days or more and about thirty-five held in solitary confinement for 75 days or more; and

**Whereas,** These practices affect New York City immigrants and their families since, according to the 2010 United State Census, New York City is home to nearly three million immigrants, one of the largest immigrant populations in the

nation; and

**Whereas,** According to the NYT Article, there is a lack of effective oversight or even uniform guidelines dictating when and for how long a facility may place an immigrant detainee in solitary confinement and little opportunity for immigrants to appeal such a decision; and

**Whereas,** Though the 2011 version of ICE’s *Performance-Based National Detention Standards* recognizes and attempts to remedy deficiencies in the care of mentally ill immigration detainees, these individuals continue to be held in solitary confinement without an initial mental health evaluation and without regular quality mental health treatment; and

**Whereas,** According to the NYT Article immigrants placed in solitary confinement have little meaningful opportunity to appeal the placement since they, unlike criminal detainees, have no right to free, state-appointed legal counsel and have limited access to legal resources and lawyers generally encounter difficulties gaining access to detained immigrants, especially those in solitary confinement; and

**Whereas,** According to the NYT Article, experts say that individuals held in solitary confinement for fifteen days or more are at a heightened risk for serious mental health problems that may last long, if not permanently, after the individual is released from detention and that solitary confinement can cause severe psychological damage and may increase both violent behavior and suicide among detained immigrants; and **Whereas,** The NYT Article says that solitary confinement is especially harmful to immigration detainees because it can exacerbate mental health issues that arise from torture or abuse in their home countries, human trafficking, or the anxiety surrounding their immigration case; and

**Whereas,** Further the NYT Article states that studies have found extremely high rates of anxiety, depression, and post-traumatic stress disorder among immigration detainees seeking asylum, exacerbated by the threat of and actual employment of solitary confinement; and

**Whereas,** Mental health afflictions arising from prolonged solitary confinement could impair a released detainees’ social interaction, hampering their ability to successfully and safely reintegrate into New York City communities upon release from detention; and

**Whereas,** Immigrant detainees should not be placed in solitary confinement, except in emergency situations when someone has been physically harmed or threatened, and even then such confinement should only be for the shortest possible duration; now, therefore, be it

**Resolved,** That the Council of the City of New York urges the United States Department of Homeland Security to end the practice of placing immigrant detainees in solitary confinement, except for emergency situations.

Referred to the Committee on Immigration (preconsidered but laid over by the Committee on Immigration).

Int. No. 1177

By Council Members Garodnick, Chin, Koo, Koppell and Halloran (by request of the Mayor).

**A Local Law to amend the administrative code of the city of New York, in relation to recordkeeping requirements for second-hand dealers, scrap processors and pawnbrokers.**

*Be it enacted by the Council as follows:*

Section 1. Section 20-267 of the administrative code of the city of New York is amended to read as follows:

§ 20-267 Report to the police commissioner. [Every] *Subject to the provisions of section 20-273 of this subchapter, every* dealer in second-hand articles, upon being served with a written notice to do so by a member of the police department, shall report to the police commissioner, on blank forms to be furnished by such department, a copy of the records required to be kept under section 20-273 of this subchapter, of all goods or articles or any part thereof, purchased, received or sold in the course of his or her business, during the days specified in such notice.

§ 2. Section 20-273 of the administrative code of the city of New York is amended to read as follows:

§ 20-273 Record of purchase and sales. a. [Every] *Subject to the provisions of subdivisions b, c and d of this section, every* dealer in second-hand articles shall keep a book in which shall be legibly written in English, at the time of every purchase and at the time of every sale, a description of every article so purchased or sold, the number or numbers and any monograms, inscription or other marks of identification that may appear on such article, a description of the articles or pieces comprising old gold, silver, platinum, or other metals, and any monogram, inscription or marks of identification thereon, the name, residence and general description of the person from whom such purchase was made or to whom sold and the day and hour of the purchase or sale.

b. *Every dealer in second-hand articles who deals in the purchase or sale of any second-hand manufactured article composed wholly or in part of gold, silver, platinum or other precious metals, or deals in the purchase or sale of any old gold, silver, platinum or other precious metals, or deals in the purchase of articles or things comprised of gold, silver, platinum or other precious metals for the purpose of*

melting or refining, or deals in the purchase or sale of used electrical appliances excluding kitchen appliances, or deals in the purchase or sale of any used electronic equipment, computers or component parts of electronic equipment or computers, shall with respect to such transactions create an electronic record in English, in a manner to be specified by the police commissioner by rule. Such electronic record may include the real-time sharing or accessing of such records in an electronic format and/or through use of an internet website designated by the police commissioner. Such electronic record shall be retained for a minimum period of six years from the date of purchase or sale. Such electronic record may, in the discretion of the police commissioner and in furtherance of the purposes of this subchapter, include one or more digital photographs reasonably capturing the likeness of the article, provided in a format or in accordance with specifications as provided by rule of the police commissioner.

c. Every scrap processor who operates or maintains a scrap metal processing facility, as defined in section sixty-nine-e of the general business law, shall with respect to such transactions create an electronic record in English, in a manner to be specified by the police commissioner by rule. Such electronic record may include the real-time sharing or accessing of such records in an electronic format and/or through use of an internet website designated by the police commissioner. Such electronic record shall be retained for a minimum period of three years from the date of purchase or sale. Notwithstanding any inconsistent provision of this subdivision, such electronic record shall in any event contain the information specified in section sixty-nine-g of the general business law.

d. [In the case of a purchase or sale of a pawnbroker ticket or other evidence of a pledged article or a redemption or sale of a pledged article, there shall be written in such book at the time of such purchase, sale or redemption:] Every dealer in second-hand articles who deals in the purchase or sale of pawnbroker tickets or other evidence of pledged articles or the redemption or sale of pledged articles and who is not subject to the provisions of section 20-277 of this chapter shall with respect to such transactions create an electronic record in English, in a manner to be specified by the police commissioner by rule. Such electronic record may include the real-time sharing or accessing of such records in an electronic format and/or through use of an internet website designated by the police commissioner. Such electronic record shall be retained for a minimum period of six years from the date of purchase or sale. Such electronic record shall include:

1. The name and address of the person who issued such ticket or other evidence;
2. The pledge number of such pawn ticket or other evidence;
3. The name and address of the pledgor as it appears upon such pawn ticket or other evidence;
4. The amount loaned or advanced as it appears on such pawn ticket or other evidence;
5. The day and hour of such purchase, sale or redemption, as the case may be;
6. The name, residence and general description of the person from whom or to whom the redeemed article is purchased or sold, as the case may be;
7. The sum paid or received for such pawn ticket or other evidence, or the sum paid or received for the redeemed article or pledge; and
8. Such description of a pledged article as appears on such pawn ticket or other evidence and an accurate description of every redeemed pledged article, including, in the discretion of the police commissioner and in furtherance of the purposes of this subchapter, one or more digital photographs reasonably capturing the likeness of the article, provided in a format or in accordance with specifications as provided by rule of the police commissioner.

[c.] e. In the case of a sale or other disposal of a motor vehicle, motor cycle or motor thereof, the [licensee] dealer in second-hand articles shall, in addition to any other entry required, enter in a permanent record the vehicle identification number of said motor vehicle, motor cycle or motor, the manner in which said motor vehicle, motor cycle or motor was removed from the premises, giving the name, [and] address and date of birth of the person who removes it, [and] the driver's license number of such person and state of issuance if such person possessed a driver's license, the motor vehicle registration number of any vehicle used to tow, remove or transport such motor vehicle, motor cycle or motor, and the destination to which the motor vehicle, motor cycle or motor is being removed.

[d.] f. A dealer in second-hand articles subject to the provisions of subdivisions b, c or d of this section shall acquire and maintain in good working order the electronic equipment necessary to create and maintain the electronic records required by this section, including but not limited to a computer with internet connection and a digital camera utilizing a file format designated by the police commissioner, and, for a scrap processor, subject to the provisions of subdivision c of this section, an electronic signature pad.

[e. Such book, at all reasonable times,] g. The books and records required by this section, including any electronic records required by subdivisions b, c and d, shall be open to the inspection of any police officer, [to] the commissioner or any departmental inspector, [or] any judge of the criminal court, or any person duly authorized in writing for such purposes by the commissioner or by any judge of the criminal court, who shall exhibit such written authority to the dealer. Such records shall also be open to the inspection of any official or other person identified in, or duly authorized in writing pursuant to, any other applicable state or local law.

h. Nothing shall preclude a dealer in second-hand articles from creating an electronic record in English containing the information required by any provision of this section with respect to the purchase or sale of goods for which an electronic record is not required to be created by the provisions of this section. In the event that a dealer in second-hand articles creates such an electronic record, such electronic record shall satisfy the requirements of this section and of section 20-267

of this subchapter and be deemed to be the equivalent of the paper records thereunder required, provided that all required entries are made.

i. Nothing in this section shall be construed to affect or supersede any recordkeeping requirement imposed by or pursuant to any other applicable state or local law.

§ 3. Section 20-277 of the administrative code of the city of New York is amended to read as follows:

§ 20-277 [Reports] *Electronic reporting.* [The police commissioner, at such times as he or she may prescribe in a written notice served upon any pawnbroker by a member of the police department, may require such pawnbroker to report to such commissioner, upon blank forms to be furnished by the police department,] a. Every pawnbroker shall make available to the police commissioner the records required to be kept pursuant to this section, in a manner to be specified by the police commissioner by rule, which may include the real-time sharing or accessing of such records in an electronic format and/or through use of an internet website designated by the police commissioner.

b. Every pawnbroker shall create at the time of transaction an electronic record in English of every transaction in which goods, articles or things, or any part thereof, are pawned, pledged or redeemed in the course of business of such pawnbroker, including a description of all goods, articles or things, or any part thereof, pawned or pledged in the course of business of such pawnbroker [during the days specified in such notice], stating the numbers of the pawn tickets issued therefor, the amounts loaned thereon, [and] such identifying marks as may be on the goods pawned[. If such notice from the police commissioner so prescribes, such pawnbroker, until he or she is notified to discontinue so doing, shall keep and furnish on such forms], a general description as to sex, [color] race or ethnicity and apparent age of every person depositing such pledges and, in the discretion of the police commissioner and in furtherance of the purposes of this subchapter, one or more digital photographs reasonably capturing the likeness of the article pawned or pledged, provided in a format or in accordance with specifications as provided by rule of the police commissioner. Such electronic record shall be retained for a minimum period of six years from the date of the transaction. Notwithstanding any inconsistent provision of this subdivision, such electronic record shall in any event contain the information specified in section forty-three of the general business law.

c. The pawnbroker shall acquire and maintain in good working order the electronic equipment necessary to create and maintain the electronic records required by this section, including but not limited to a computer with internet connection and a digital camera utilizing a file format designated by the police commissioner.

d. The electronic records required by this section shall be open to the inspection of the state attorney general, the state comptroller, any police officer, the commissioner, any departmental inspector, any judge of the criminal court, any person duly authorized in writing for such purposes by the commissioner or by any judge of the criminal court, who shall exhibit such written authority to the pawnbroker, or any other governmental officer or employee authorized by state or local law. Such records shall also be open to the inspection of any official or other person identified in, or duly authorized in writing pursuant to, section forty-five of the general business law or any other applicable state or local law.

e. Nothing in this section shall be construed to affect or supersede any recordkeeping requirement imposed by or pursuant to any other applicable state or local law.

f. In addition to any other applicable penalty or sanction, any person who violates any of the provisions of this section or rules promulgated thereunder shall be subject to the penalties set forth in subdivision a of section 20-106 of this chapter.

§ 4. This local law shall take effect 90 days after it shall have become a law, provided, however, that the police commissioner, in consultation with 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.

Referred to the Committee on Consumer Affairs.

Int. No. 1178

By Council Members Gennaro, Chin, Koo, Koppell and Mendez.

**A Local Law to amend the administrative code of the city of New York, in relation to the allowable maximum heat loss through building walls.**

Be it enacted by the Council as follows:

Section 1. Statement of findings and purpose. The thermal performance of the exterior walls of a building has a significant impact on the energy use of the building over a long period of time. This is because the building envelope is replaced infrequently, unlike other energy systems, such as lighting or HVAC equipment, that have much shorter useful lives. Presently, the national model energy codes do not explicitly require the designer to account for certain common thermal bridges in buildings, including floor slabs, shelf angles and mechanical wall penetrations.

The proposed legislation mandates heightened thermal performance of exterior walls by requiring (1) inclusion of thermal bridging of exterior walls at floor slabs and mechanical equipment penetrations as part of the calculation of the U-factor of the opaque wall, and (2) minimization of air leakage at mechanical penetrations.

§ 2. Section 28-1001.2 of the administrative code of the city of New York is amended to read as follows:

Chapter 2 -- Definitions  
Section 202

Add a new definition of "Mechanical wall penetration" after the definition of "Manual," to read as follows:

**MECHANICAL WALL PENETRATION.** An opening in an exterior wall filled by a piece of heating, ventilating and/or air conditioning (HVAC) equipment.

Add a new definition of "Window wall" after the definition of "Ventilation air," to read as follows:

**WINDOW WALL.** Panelized cladding or fenestration products used to create an external nonload-bearing wall that is designed to separate the exterior and interior environments and that rests on the floor slab instead of hanging from it.

**Chapter 5 - Commercial Energy Efficiency**

**Table 502.1.2** Add after "Metal framed" the following symbol: <sup>b</sup>

Add after "Walls, Above Grade" the following symbol: <sup>c</sup>

Add after the table 502.1.2 footnotes to read as follows:

<sup>b</sup> The opaque elements of curtain walls and window walls, including spandrel panels, are included in this category. Horizontal framing members between opaque elements and vision glazing must be included in the fenestration calculation (See Section 502.3).

<sup>c</sup> Slab edges and shelf angles must be included in all above grade wall U-factor calculations. Exposed slab edges are to be considered mass walls with a horizontal dimension equal to the horizontal dimension of the thicker of the adjacent exterior walls.

**Table 502.2(1)** Add after "Metal framed" the following symbol: <sup>f</sup>

Add after "Walls, Above Grade" the following symbol: <sup>g</sup>

Add after the table 502.2(1) footnotes to read as follows:

<sup>f</sup> The opaque elements of curtain walls and window walls, including spandrel panels, are included in this category. Framing members for vision glazing and framing members between opaque elements and vision glazing are not included as part of the opaque assembly.

<sup>g</sup> In this table slab edges and shelf angles are considered to be part of the opaque assembly. Where continuous insulation is required, the c.i. must cover all exposed surfaces of the slab and must not be interrupted by a shelf angle, even if the slab edge is the only opaque wall element. Exposed slab edges are to be considered mass walls with a horizontal dimension equal to the horizontal dimension of the thicker of the adjacent exterior walls.

Add a new Section 502.2.3.1 to read as follows:

**502.2.3.1 Mechanical wall penetrations in above grade walls.** The U-factor and/or R-value of mechanical wall penetrations and other wall penetrations, including intake or exhaust louvers, HVAC equipment, and the through-the-wall sleeves built into the wall into which the equipment is inserted, must be included when calculating the U-factor or R-value of the total wall assembly of an above grade wall in determining compliance with either Table 502.2(1) or Table 502.1.2.

**502.2.3.1.1 Determination of U-factors and R-values for mechanical wall penetrations in above grade walls.** The U-factor of a mechanical wall penetration, including the HVAC equipment, louvers, and the through-the-wall sleeve built into the wall into which the equipment is inserted, shall be assumed to be 0.5 Btu/hr-ft<sup>2</sup>-°F (or an R-value of 2.0 hr-ft<sup>2</sup>-°F/Btu), or as certified by the manufacturer in accordance with standards established by rules of the department.

**502.4.3** Add a new item 5 to read as follows:

5. Through-the-wall penetrations for mechanical equipment and intake or exhaust louvers shall be sealed between the sleeve and the adjacent wall assembly to maintain the integrity of the continuous air barrier.

Add a new Section 502.4.8 to read as follows:

**502.4.8 HVAC assemblies in mechanical wall penetrations.** The air leakage of HVAC assemblies, comprising both the HVAC unit itself and the wall sleeve into which it is inserted, that are part of the building thermal envelope, shall not exceed 0.2 cfm/sq. ft. of penetration area at a pressure of at least 1.57 pounds per square foot (psf) (1.0 L/s/m<sup>2</sup> of penetration area). Installations are subject to inspection in accordance with the rules of the department.

**Appendix A - Modified Energy Standard**

**Chapter 3 - Definitions, Abbreviations, and Acronyms**

**3.2** Add a new definition "curtain wall" after "cooling design wet-bulb temperature" to read as follows:

**curtain wall:** fenestration products used to create an external nonload-bearing wall that is designed to separate the exterior and interior environments.

Add a new definition "mechanical wall penetration" after "mechanical cooling" to read as follows:

**mechanical wall penetration:** an opening in an exterior wall filled by a piece of heating, ventilating and/or air conditioning (HVAC) equipment.

Add a new definition "window wall" after "water heater" to read as follows:

**window wall:** panelized cladding or fenestration products used to create an external nonload-bearing wall that is designed to separate the exterior and interior environments and that rests on the floor slab instead of hanging from it.

**Chapter 5 - Building Envelope**

**5.4.3.1** Reletter item g as item h and add a new item g to read as follows:

g. mechanical wall penetrations

Add a new Section 5.4.3.5 to read as follows:

**5.4.3.5 HVAC Assemblies in Mechanical Wall Penetrations.** The air leakage of HVAC assemblies, comprising both the HVAC unit itself and the wall sleeve into which it is inserted, that are part of the building envelope, shall not exceed 0.2 cfm/sq. ft. of penetration area at a pressure of at least 1.57 pounds per square foot (psf) (1.0 L/s/m<sup>2</sup> of penetration area).

Add a new Section 5.5.3.7 to read as follows:

**5.5.3.7 Mechanical Wall Penetrations.** The U-factor of any mechanical wall penetration, including HVAC equipment and the through-the-wall sleeve built into the wall into which the equipment is inserted, must be included when calculating the U-factor of the total wall assembly of an above-grade wall in determining compliance with Table 5.5-4. Where thermal performance data are not available, the U-factor of the penetration, including the HVAC unit and the through-the-wall sleeve, shall be assumed to be 0.5 Btu/hr-ft<sup>2</sup>-°F (or an R-value of 2.0 hr-ft<sup>2</sup>-°F/Btu).

**Table 5.5-4** Add after "Walls, Above-Grade" the following symbol: <sup>e</sup>

Add after "Steel-Framed" the following symbols: <sup>f</sup> and <sup>g</sup>

Add after the table 5.5-4 footnotes to read as follows:

<sup>e</sup> Slab edges must be included in all above-grade wall U-factor calculations. Exposed slab edges are to be considered mass walls with a horizontal dimension equal to the horizontal dimension of the thicker of the adjacent exterior walls.

<sup>f</sup> Curtain wall and window wall opaque elements, including spandrel panels, are included in this category.

<sup>g</sup> In this table slab edges are considered to be part of the opaque assembly. Where continuous insulation is required, the c.i. must cover all exposed surfaces of the slab even if the slab edge is the only opaque wall element.

§ 3. This local law shall take effect on July 1, 2014 except that the commissioner of buildings shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Housing and Buildings.

Int. No. 1179

By Council Members Greenfield, Gentile, Koo, Koppell and Mendez.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring restaurants to disclose when gratuity is included in the total cost of services.**

Be it enacted by the Council as follows:

Section 1. Chapter five of title twenty of the administrative code of the city of New York is amended by adding a new subchapter nineteen to read as follows:

**SUBCHAPTER 19**

**DISCLOSURE OF INCLUDED GRATUITIES BY RESTAURANTS**

§ 20-824. Disclosure requirements.

§ 20-825. Penalties.

§ 20-826. Enforcement.

§ 20-824. Disclosure requirements. When the owner, operator or employee of a restaurant adds a gratuity to the amount a paying customer owes, such restaurant owner, operator or employee must disclose such added gratuity to the paying customer. Such disclosure must be made in writing in a size and style to be determined by the commissioner on the customer's final bill and on the customer's credit card receipt if a customer is paying with a credit card. The disclosure shall state clearly and conspicuously that a gratuity has been included in the total cost of services. For the purposes of this subchapter, "restaurants" shall include any "bar," "restaurant," or "restaurant bar" as defined in section 17-502 of title seventeen of the administrative code of the City of New York.

§ 20-825. Penalties. Where the owner, operator or employee of a restaurant violates section 20-824 of this code the person, firm, corporation or association that owns such restaurant shall be punished by a fine of not more than two hundred and fifty dollars.

§ 20-826. Enforcement. The department and other agencies designated by the commissioner are authorized to enforce the provisions of this subchapter.

§ 2. This local law shall take effect one hundred and 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.

Referred to the Committee on Consumer Affairs.

Int. No. 1180

By Council Members Ignizio, Oddo, Gentile, Koo, Koslowitz, Vann and Halloran.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to implement a brief**

period of silent meditation in all schools on September 11th to commemorate those who perished as a result of the attack on the World Trade Center which occurred on September 11, 2001.

Be it enacted by the Council as follows:

Section 1. The administrative code of the city of New York is amended by adding a new title 21-A to read as follows:

**Title 21-A. Education.**  
**Chapter 1. Definitions.**  
**Chapter 2. Silent meditation to commemorate**  
**those who perished on September 11, 2001.**

*Chapter 1. Definitions.*

§21-950 Definitions. Whenever used in this title, the following terms shall have the following meanings:

a. "Chancellor" shall mean the chancellor of the New York city department of education.

b. "Department" shall mean the New York city department of education.

c. "Student" shall mean any pupil under the age of twenty-one under the jurisdiction of the

New York city department of education.

*Chapter 2. Silent Meditation*

§21-951 Silent meditation. a. For the purposes of this section the following terms shall have the following meanings:

1. "Schools" shall mean any school under the jurisdiction of the department including, but not limited to, charter schools.

2. "Silent meditation" shall mean a period of silence during which students have an opportunity for individual reflection.

b. Each school shall implement a brief period of silent meditation annually on the morning of September 11th in order to commemorate the events that took place on September 11, 2001. Such silent meditation shall occur only on days during which September 11th falls on a calendar day in which such school is in session.

c. Pursuant to subdivision b of this section, the chancellor shall determine the actual time of day during which silent meditation will occur. The chancellor shall also determine a reasonable length of time during which students will participate in the silent meditation.

d. In accordance with state education law section 3029-a, silent meditation is not intended to be and shall not be conducted as a religious service or exercise.

§2. This local law shall take effect immediately after its enactment into law.

Referred to the Committee on Education.

Int. No. 1181

By Council Members Koslowitz, Koo and Vann.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring the base building systems of certain buildings to be operated by individuals with a certificate in building energy efficiency from an approved program.**

Be it enacted by the Council as follows:

Section 1. Section 28-308.5 of the administrative code of the city of New York, as added by local law number 87 for the year 2009, is amended to read as follows:

**§ 28-308.5 Contents of energy efficiency report.** Except as otherwise provided in section 28-308.7, the energy efficiency report shall include, in a format prescribed by the department, (i) the energy audit report or documentation substantiating that an exception as set forth in section 28-308.2 applies to such building, (ii) the names and qualifications of individuals holding certificates in building energy efficiency for the operation of the base building systems of the building, as required by article 316 of this chapter, and[(ii)](iii) the retro-commissioning report or documentation substantiating that an exception as set forth in section 28-308.3 applies to such building.

§ 2. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new article 316 to read as follows:

**ARTICLE 316**

**CERTIFICATE IN BUILDING ENERGY EFFICIENCY REQUIRED FOR OPERATION OF BASE BUILDING SYSTEMS OF CERTAIN BUILDINGS**

**§28-316.1 Definitions.** As used in this article, the following terms shall have the following meanings:

**BASE BUILDING SYSTEMS.** Shall have the same definition as set forth in section 28-308.1 of this code.

**CITY BUILDING.** Shall have the same definition as set forth in section 28-308.1 of this code.

**COMMERCIAL BUILDING.** A covered building other than those classified in occupancy groups R and I.

**COVERED BUILDING.** Shall have the same definition as set forth in section 28-308.1 of this code.

**SUPERVISION.** Responsible control exercised over individuals in the direct employ of the owner, or in the employ of the owner pursuant to the terms of a contract to provide services to operate a covered building, by the holder of an appropriate certificate from an approved program. Such certificate holder need not be present at all times while building systems are in operation.

**OPERATE.** To control the normal functioning of a building system with responsibility for its energy use and/or energy consumption.

**RESIDENTIAL BUILDING.** A covered building classified in occupancy groups R or I.

**SIMPLE BUILDING.** Shall have the same definition as set forth in section 28-308.1 of this code.

**§28-316.2 Certificate in building energy efficiency required to operate base building systems of covered buildings.** The building owner shall ensure that the base building systems of a covered building are operated by or under the supervision of an individual who holds a current valid certificate in building energy efficiency from a program that meets the requirements of the department for the type of building being operated. The owner shall provide the name of the individual, the name of the program issuing such certificate, the expiration date of such certificate and a number or code that uniquely identifies the individual holding such certificate. Such certificate must be kept valid and current in accordance with the renewal requirements of the applicable certification program. A copy of the certificate must be kept on file at the building and must be made available upon request to inspectors of the department. The building owner must certify compliance with this article at least once every three years in a manner set forth in the rules of the department.

**Exception:** For covered buildings that meet the requirements of section 28-308.2, exception 2, building operator certification in building energy efficiency shall not be required.

**§28-316.2.1 Residential building that is a simple building.** The certificate required for the operation of the base building systems of a residential building that is a simple building must be conferred by a program approved by the department that requires individuals to demonstrate competence, through written examination, in the areas of:

1. the building envelope;
2. heating systems;
3. ventilating systems;
4. local air conditioning systems; and,
5. at least one of the following:
  - 5.1. central air conditioning systems;
  - 5.2. conveying systems;
  - 5.3. domestic hot water systems;
  - 5.4. electrical and lighting systems;
  - 5.5. building automation systems;
  - 5.6. planned and preventative maintenance;
  - 5.7. energy management; or
  - 5.8. water use and conservation.

**Exception:** In residential buildings that are simple buildings where the building owner is not responsible for the maintenance of any local air conditioning systems, the certificate required by this section need not demonstrate competence in the area of local air conditioning systems.

**§28-316.2.2 Commercial buildings and residential buildings, other than residential buildings that are simple buildings.** The certificate required for the operation of the base building systems of a commercial building or for the operation of a residential building, other than a residential building that is a simple building, must be conferred by a program approved by the department that requires individuals to demonstrate competence, through written examination, in the areas of:

1. heating systems;
2. ventilating systems;
3. central air conditioning systems;
4. domestic hot water systems;
5. electrical and lighting systems; and,
6. in at least one of the following areas
  - 6.1. building envelope;
  - 6.2. conveying systems;
  - 6.3. local air conditioning systems;
  - 6.4. building automation systems;
  - 6.5. planned and preventative maintenance;
  - 6.6. energy management; or
  - 6.7. water use and conservation.

**§28-316.3 Approved programs.** The department may approve programs that meet the requirements of this section and any rules promulgated by the department. The program must require the applicant to demonstrate, by written examination, competency in the areas shown in this article. The program shall require credential maintenance of the certified individual by renewal of certification no less frequently than every three years, where such recertification consists of either an exam or by completion of a minimum of six hours of continuing education classes, without requiring that such classes be provided by the certification organization or any specific organization.

**§ 28-316.4. Compliance.** Compliance with the provisions of this article shall be required on or before January 1, 2017 for all covered buildings.

§ 3. This local law shall take effect on January 1, 2015 except that the commissioner of buildings may promulgate rules or take other administrative actions prior to such effective date.

Referred to the Committee on Housing and Buildings.

Int. No. 1182

By Council Members Levin, Chin and Koslowitz.

**A Local Law to amend the New York city building code, in relation to construction site lighting.**

*Be it enacted by the Council as follows:*

Section 1. Section 202 of the New York city building code is amended by adding a definition of “CONSTRUCTION LIGHTING,” to be placed in appropriate alphabetical order, to read as follows:

**CONSTRUCTION LIGHTING.** *See Section 3302.1.*

§ 2. Section 3302.1 the New York city building code is amended by adding a definition of “CONSTRUCTION LIGHTING,” to be placed in appropriate alphabetical order, to read as follows:

**CONSTRUCTION LIGHTING.** *Temporary lighting of construction sites.*

**General construction lighting.** *Temporary lighting of construction sites that is not safety construction lighting.*

**Safety construction lighting.** *Lighting of foot bridges, temporary walkways, sidewalk sheds, stairwells and other pathways through a construction site for the purposes of illuminating the means of egress.*

§ 3. Chapter 33 of the New York city building code is amended by adding a new section 3303.2.3.1 to read as follows:

**3303.2.3.1 Construction Lighting.** *Safety construction lighting and general construction lighting shall comply with the following items:*

1. *Constructed using high-efficacy lamps with a minimum efficacy of 60 lumens per watt for lamps over 40 watts, 50 lumens per watt for lamps over 15 watts to 40 watts, and 40 lumens per watt for lamps 15 watts or less.*
2. *Controlled by one or more master switches. The master switches shall be clearly labeled and shall be located in a common area within 20 feet of the primary access to the construction site. If it is not feasible to locate the master switches within 20 feet of the primary site access, they shall be as close to the primary site access as is reasonably practicable. The pathway to master switches shall be illuminated by safety construction lighting.*
3. *General construction lighting shall be separately circuited from safety construction lighting.*

§4. This local law shall take effect January 1, 2014, except that the commissioner of buildings may take such action as is necessary for its implementation, including the promulgation of rules, prior to such effective date. This local law shall not apply to construction sites permitted prior to the effective date of this local law.

Referred to the Committee on Housing and Buildings.

Res. No. 1990

**Resolution urging Congress to adopt H.R. 1726 to award a Congressional Gold Medal to the 65<sup>th</sup> Infantry Regiment, known as Borinqueneers.**

By Council Members Mark-Viverito, Arroyo and Chin.

**Whereas,** Today, there are 4.9 million United States (“U.S.”) citizens who are of Puerto Rican descent, of which 761,720 reside in New York City, according to the latest data reported by the U.S. Census Bureau; and

**Whereas,** Puerto Rico became a U.S. Territory after the signing of the 1898 Treaty of Paris which ended the Spanish-American War; and

**Whereas,** In 1899, Congress authorized the creation of a military troop comprised of Puerto Rican natives; and

**Whereas,** In 1917, Puerto Ricans were granted U.S. citizenship, and in that same year, the Puerto Rican military unit officially became part of the U.S. Army, and was then renamed the “65<sup>th</sup> Infantry Regiment” in 1920; and

**Whereas,** The 65<sup>th</sup> Infantry Regiment served as the military’s last segregated unit composed of Hispanic soldiers, mostly Puerto Rican; and

**Whereas,** The 65<sup>th</sup> Infantry Regiment served in World Wars I and II, and most notably the Korean War; and

**Whereas,** A total of 61,000 Puerto Ricans served in the U.S. military during the Korean War of which more than 700 men were killed and more than 100 are still missing in action; and

**Whereas,** During the Korean War, members of 65<sup>th</sup> Infantry Regiment informally called themselves “Borinqueneers,” a term derived from Puerto Rico’s indigenous Taino name, Borikén, meaning “land of the brave lord”; and

**Whereas,** The 65<sup>th</sup> Infantry Regiment were awarded 10 Distinguished Service Crosses, 256 Silver Stars, 606 Bronze Stars, and 2,771 Purple Hearts for their heroic acts during the Korean War; and

**Whereas,** The 65<sup>th</sup> Infantry Regiment has received other honors including a street co-naming in the Bronx, New York, called “La 65 de Infanteria Boulevard,” but has never received a Congressional Gold Medal; and

**Whereas,** Other military units have received the Congressional Gold Medal including the Native American Marines, known as the Navajo Wind Talkers, World War II Japanese American intelligence soldiers, known as the Nisei Soldiers, and the first African American military aviators, known as the Tuskegee Airmen; and

**Whereas,** Given the contributions of these American citizens to the U.S. military, Borinqueneers deserve to be Congressional Gold Medal recipients among the other distinguished soldiers; now, therefore, be it

**Resolved,** That the Council of the City of New York urges Congress to adopt H.R. 1726 to award a Congressional Gold Medal to the 65<sup>th</sup> Infantry Regiment, known as Borinqueneers.

Referred to the Committee on Cultural Affairs, Libraries & International Intergroup Relations.

Int. No. 1183

By Council Members Mendez, Brewer, Garodnick, Chin and Koo.

**A Local Law to amend the administrative code of the city of New York, in relation to after hours work authorization.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision c of section 24-220 of the administrative code of the city of New York is amended to read as follows:

(c) A copy of the plan shall be kept at the construction site and shall be [made available for inspection upon the request of persons authorized to enforce the provisions of this code] *posted in a conspicuous place at the work site, visible to the public for the duration of the work or the use and operation of the equipment.*

§ 2. Subdivision a of section 24-223 of the administrative code of the city of New York is amended to read as follows:

§24-223 After hours work authorization. (a) Notwithstanding section 24-222 of this subchapter, an agency authorized to issue permits for construction work may, along with such permit, issue an after hours work authorization for the work site. Such after hours authorization may permit construction work to be performed at the site before 7 a.m. or after 6 p.m. on weekdays and/or on Saturdays and/or Sundays subject to the conditions and restrictions set forth in this section, *provided, however, that permits issued pursuant to paragraph four of subdivision e of this section, shall not authorize construction work to be performed at the site before 7 a.m. or after 8 p.m. on weekdays, or before 11 a.m. or after 4 p.m. on Saturdays and, furthermore, shall not authorize any work on Sundays.*

§ 3. Paragraph 5 of subdivision e of section 24-223 of the administrative code of the city of New York is REPEALED.

§ 4. Section 24-223 of the administrative code of the city of New York is amended by adding a new subdivision f to read as follows:

(f) *The following procedures shall be followed when an entity seeks authorization pursuant to subdivision e of this section:*

(1) *An entity that is seeking an authorization for after hours construction work, pursuant to paragraphs one, two, or three of subdivision e of this section, shall submit, as part of its application, a detailed explanation of the material condition or conditions that exist that require such authorization. The authorizing agency shall issue a written decision detailing the rationale for granting or denying such authorization, and shall make each application and written decision available on the agency’s website not later than five business days after the decision is issued.*

(2) *An entity that is seeking an authorization for after hours construction work, pursuant to paragraph four of subdivision e of this section, shall submit, as part of its application, a detailed explanation of the material condition or conditions that exist that require such authorization. The authorizing agency shall make all such applications available on the agency’s website not less than five business days before authorizing after hours construction work at a work site, and shall allow members of the public to submit comments on such applications either electronically or by mail. The agency shall issue a written decision detailing the rationale for granting or denying such authorization not later than five business days after a grant or denial is issued, and shall make such decision available on the agency’s website. In determining whether to authorize after hours construction work, the agency shall take into account: (i) public comments on such applications, and (ii) whether other after hours construction work has been authorized within a five-block radius of the work site.*

(3) *The authorizing agency shall allow persons to subscribe to an email alert system that will provide information about any application filed pursuant to subdivision e of this section. The authorizing agency shall provide opportunities for city residents to provide an email address to the authorizing agency for this purpose and shall maintain a database of all such email addresses. The authorizing agency shall send email notifications regarding any application to interested parties who*

provide the authorizing agency with an email address for this purpose and who reside in the community board district where the after hours construction work is requested to occur. Each email notification shall consist of all pertinent information related to such application and include links to the authorizing agency's website to access relevant forms, materials and other additional information.

§ 5. Line 24-223 of table I of paragraph 5 of subdivision b of section 24-257 of the administrative code of the city of New York is amended to read as follows:

24-223 [3,500] 8,000 [875] 2,000 [7,000] 16,000 [1,750] 4,000 [10,500] 24,000 [2,625] 6,000

§ 6. This local law shall take effect ninety days after its enactment into law.

Referred to the Committee on Housing and Buildings.

Int. No. 1184

By Council Members Oddo, Gentile, Koo, Mendez and Halloran.

**A Local Law to amend the New York city building code, in relation to requiring the use of mold-resistant gypsum board and cement board in moisture-prone locations.**

Be it enacted by the Council as follows:

Section 1. Section 28-101.4.3 of the administrative code of the city of New York, as amended by a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, is amended to add a new exception 19, to read as follows:

19. *Mold protection. Alterations shall comply with Section 2506.3 of the New York city building code relating to areas subject to moisture or water damage.*

§ 2. Section 2501.1.1 of chapter 25 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

**2501.1.1 General.** Provisions of this chapter shall govern the materials, design, construction and quality of gypsum board, lath, gypsum plaster, [and] cement plaster, and cement board.

§ 3. Section 2502.1 of chapter 25 of the New York city building code, as added by local law number 33 for the year 2007, is amended by adding the following definition, to be placed in appropriate alphabetical order:

**CEMENT BOARD.** A fiberglass reinforced cementitious panel most commonly used under flooring or as a tile backing board.

§ 4. Chapter 25 of the New York City building code, as added by local law number 33 for the year 2007, is amended by adding a new section 2506.3 to read as follows:

**2506.3 Gypsum and cement board in areas subject to water or moisture damage.** Gypsum and cement board shall comply with Sections 2506.3.1 and 2506.3.2.

**2506.3.1 Cement board only.** The base for wall tile or wall panels in all shower and bath surrounds up to 70 inches (1778 mm) above the drain inlet shall be composed of cement board, fiber-cement or glass mat gypsum backers in compliance with ASTM C1178, C1288, or C1325 and installed in accordance with manufacturer recommendations. Gypsum board shall not be permitted in such locations.

**2506.3.2 Mold resistance.** In the uses shown below, any gypsum board or cement board shall be rated as mold resistant (rating of 10) in accordance with ASTM D3273. Water-resistant gypsum board ("greenboard") that does not meet this mold-resistance standard shall not be permitted. Such areas shall include, but not be limited to, the following:

1. walls of basements and other below grade rooms;
2. walls of mechanical rooms and closets housing air conditioning equipment;
3. rear walls of fan coil/unit ventilator type HVAC unit chases;
4. ceilings beneath cold water pipes;
5. ceilings beneath air handlers in ceiling plenums;
6. ceilings in bathrooms that do not contain a shower area;
7. walls of plumbing chases;
8. walls of laundry rooms;
9. walls beneath kitchen sinks and splash areas above sinks;
10. walls behind kitchen stoves;
11. walls of bathrooms that are not solely water closet compartments, other than walls specifically required to be cement board; and
12. walls and ceilings in maintenance rooms and service sink rooms.

§ 5. The list of ASTM referenced standards in chapter 35 of the New York city building code is amended by adding new reference standards "ASTM C1288 - 99(2010)", "ASTM C1325 - 08b" and "ASTM D3273 - 12" to read as follows:

19428-2959

| Standard reference title | Title  |
|--------------------------|--|
| C 1288 - 99(2010)        | Standard Specification for Discrete Non-Asbestos Fiber-Cement  |
| C 1325 - 08b             | Interior Substrate Sheets Standard Specification for Non-Asbestos  |
| 3273 - 12                | Fiber-Mat Reinforced Cementitious Backer Units Standard Test Method for Resistance to Growth of Mold on the Surface of Interior Coatings in an Environmental Chamber |

§ 6. This local law shall take effect on July 1, 2014, except that the commissioner of buildings shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Housing and Buildings.

Int. No. 1185

By Council Members Recchia and Koo (by request of the Mayor).

**A Local Law to amend the administrative code of the city of New York, in relation to authorizing an increase in the amount to be expended annually in seven business improvement districts and two special assessment districts.**

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 25-422.1 of the administrative code of the city of New York, as amended by local law number 5 for the year 2011, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Times Square business improvement district beginning on July 1, [2010] 2013, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [eleven million six hundred eighty-five thousand four hundred forty dollars (\$11,685,440)] *twelve million six hundred thirty-eight thousand nine hundred seventy-two dollars (\$12,638,972)*.

§ 2. Subdivision a of section 25-428.1 of the administrative code of the city of New York, as amended by local law number 93 for the year 2009, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Lower East Side business improvement district beginning on July 1, [2009] 2013, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [three hundred thirty-five thousand six hundred dollars (\$335,600)] *nine hundred seventy-four thousand six hundred dollars (\$974,600)*.

§ 3. Subdivision a of section 25-432.1 of the administrative code of the city of New York, as amended by local law number 5 for the year 2011, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Fashion Center business improvement district beginning on July 1, [2010] 2013, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [five million seven hundred fifty thousand dollars (\$5,750,000)] *seven million eight hundred thousand dollars (\$7,800,000)*.

§ 4. Subdivision a of section 25-436 of the administrative code of the city of New York, as amended by local law number 61 for the year 2007, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Grand Street business improvement district beginning on July 1, [2007] 2013, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [one hundred eighty-one thousand one hundred sixty-eight dollars (\$181,168)] *two hundred twenty-six thousand four hundred sixty dollars (\$226,460)*.

§ 5. Subdivision a of section 25-450.1 of the administrative code of the city of New York, as amended by local law number 60 for the year 2008, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Lincoln Square business improvement district beginning on July 1, [2008] 2013, and the council having



determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [two million dollars (\$2,000,000)] *two million five hundred thousand dollars (\$2,500,000)*.

§ 6. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-462.1 to read as follows:

§ 25-462.1 *Sutphin Boulevard business improvement district.*

a. *The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Sutphin Boulevard business improvement district beginning on July 1, 2013, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of two hundred fifty-two thousand dollars (\$252,000).*

b. *The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the Sutphin Boulevard business improvement district plan.*

§ 7. Subdivision a of section 25-469.1 of the administrative code of the city of New York, as added by local law number 93 for the year 2009, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the DUMBO business improvement district beginning on July 1, [2009] *2013*, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [five hundred thousand dollars (\$500,000)] *six hundred fifty thousand dollars (\$650,000)*.

§ 8. Subdivision a of section 25-601 of the administrative code of the city of New York, as amended by local law number 31 for the year 1994, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the one hundred sixty-fifth street mall special assessment district *beginning on July 1, 2013*, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [one hundred sixty-eight thousand seven hundred twenty-four dollars (\$168,724)] *two hundred thousand dollars (\$200,000)*.

§ 9. Subdivision a of section 25-602 of the administrative code of the city of New York, as amended by local law number 61 for the year 2007, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Fulton Mall special assessment district *beginning on July 1, 2013*, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [one million five hundred one thousand five hundred dollars (\$1,501,500)] *one million five hundred thirty-seven thousand five hundred dollars (\$1,537,500)*.

§ 10. This local law shall take effect immediately and shall be retroactive to and deemed to have been in full force and effect as of July 1, 2013.

Referred to the Committee on Finance.

Int. No. 1186

By Council Members Recchia and Koo (by request of the Mayor).

**A Local Law to amend the administrative code of the city of New York, in relation to the establishment of the Hudson Yards business improvement district.**

*Be it enacted by the Council as follows:*

Section 1. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-485 to read as follows:

§ 25-485 *Hudson Yards business improvement district.*

a. *The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Hudson Yards business improvement district. Such district is established in accordance with the district plan required to*

*be filed with the city clerk pursuant to subdivision b of this section.*

b. *Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Hudson Yards business improvement district is based.*

c. *The district plan shall not be amended except in accordance with chapter four of this title.*

§ 2. This local law shall take effect upon compliance with section 25-408 of chapter 4 of title 25 of the administrative code of the city of New York.

Referred to the Committee on Finance.

Res. No. 1991

**Resolution calling upon the United States Congress to pass, and the President to sign, legislation which permanently codifies parity between transit and parking pre-tax fringe benefits.**

By Council Members Recchia, Chin, Koo and Halloran.

**Whereas**, Under current federal law, employers are able to offer employees both transit and parking pre-tax and tax-free fringe benefits at a maximum of \$245 per month; and

**Whereas**, By taking advantage of these benefits, employees save money by using pre-tax dollars to cover their commuting expenses and they save their employers money by decreasing the employer's payroll tax burden; and

**Whereas**, Unless new legislation is enacted by the end of 2013, the maximum transit benefit will decrease to \$125 per month while the maximum parking benefit will remain unchanged; and

**Whereas**, Legislation has been introduced in both the House of Representatives (H.R. 2288) and the Senate (S. 1116) which would permanently codify parity between qualified, pre-tax and tax-free fringe transit and parking benefits; and

**Whereas**, Enacting such legislation would ensure that commuters who use public transportation have access to benefits equal to those available to commuters who drive; and

**Whereas**, In addition to maintaining fairness, commuters should be encouraged to use public transportation, which decreases road congestion and pollution; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon the United States Congress to pass, and the President to sign, legislation which permanently codifies parity between transit and parking pre-tax fringe benefits.

Referred to the Committee on Transportation.

Res. No. 1992

**Resolution concerning amendments to the District Plan of the Hudson Square Business Improvement District that provide for additional improvements and a change in the method of assessment upon which the district charge is based, and setting the date, time and place for the public hearing of the local law authorizing the additional improvements and a change in the method of assessment upon which the district charge in the Hudson Square Business Improvement District is based.**

By Council Member Recchia.

**Whereas**, Pursuant to chapter 4 of title 25 of the Administrative Code of the City of New York (the "BID Law"), the City established the Hudson Square Business Improvement District (the "District") in the City of New York; and

**Whereas**, Pursuant to section 25-410(b) of the BID Law, an amendment to the District Plan that provides for additional improvements or any change in the method of assessment upon which the district charge is based, may be adopted by local law, provided that the City Council determines, after a public hearing, that it is in the public interest to authorize such changes and that the tax and debt limits prescribed in Section 25-412 of the BID Law will not be exceeded by such changes; and

**Whereas**, The Hudson Square Business Improvement District wishes to amend the District Plan, in order to provide for additional improvements and to change the method of assessment upon which the district charge is based; and

**Whereas**, Pursuant to Section 25-410(b) of the BID Law, the City Council is required to give notice of the public hearing by publication of a notice in at least one newspaper having general circulation in the District specifying the time when and the place where the hearing will be held; now, therefore, be it

**Resolved**, That the Council of the City of New York, pursuant to Section 25-410(b) of the BID Law, hereby directs that:

- (i) November 26, 2013 is the date and the City Council Committee Room, 2nd floor, City Hall, is the place and 10AM is the time for a public hearing (the "Public Hearing") to hear all persons interested in the legislation that would authorize additional improvements and a change in the method of assessment upon which the district charge is based; and
- (ii) on behalf of the City Council and pursuant to Section 25-410(b) of the BID Law, the District Management Association of the Hudson Square Business Improvement District is hereby authorized to publish in a newspaper of general circulation in the District, not less than ten (10) days prior to the Public Hearing, a notice stating the time and place of the Public Hearing and stating the proposed amendments to the District Plan authorizing additional improvements and a change in the method of assessment upon which the district charge in the Hudson Square Business Improvement District is based.

Referred to the Committee on Finance.

Preconsidered Res. No. 1993

**Resolution concerning the establishment of the Hudson Yards Business Improvement District in the Borough of Manhattan and setting the date, time and place for the public hearing to hear all persons interested in the establishment of such district.**

By Council Members Recchia, The Speaker (Council Member Quinn) and Koo.

**Whereas**, Pursuant to the authority granted by chapter 4 of title 25 of the Administrative Code of the City of New York (the "Law"), the Mayor, by authorization dated July 15, 2013, provided for the preparation of a district plan (the "Plan") for the Hudson Yards Business Improvement District (the "District") in the Borough of Manhattan; and

**Whereas**, Pursuant to Local Law No. 82 for the year 1990, the City Council assumed responsibility for adopting legislation establishing Business Improvement Districts; and

**Whereas**, Pursuant to section 25-405 (c) of the Law, the New York City Department of Small Business Services ("SBS") submitted the Plan to the City Planning Commission (the "CPC") on July 19, 2013; and

**Whereas**, Pursuant to section 25-405 (c) of the Law, the CPC submitted the Plan to the City Council on July 22, 2013; and

**Whereas**, Pursuant to section 25-405 (c) of the Law, the CPC submitted the Plan to the Council Member representing the council district in which the proposed District is located on July 22, 2013; and

**Whereas**, Pursuant to section 25-405 (c) of the Law, the CPC submitted the Plan to the community board (Manhattan Community Board Number 4, hereinafter the "Community Board") for the community district in which the proposed District is located on July 19, 2013; and

**Whereas**, The CPC submitted the Plan to the Manhattan Borough President on July 22, 2013, pursuant to section 25-405 (c) of the Law; and

**Whereas**, Pursuant to section 25-405 (c) of the Law, the Community Board notified the public of the Plan in accordance with the requirements established by the CPC; and

**Whereas**, Pursuant to section 25-405 (c) of the Law, the Community Board voted to approve the establishment of the District on July 31, 2013; and

**Whereas**, Pursuant to section 25-405 (c) of the Law, the CPC reviewed the Plan, held a public hearing and prepared a report certifying its unqualified approval of the Plan; and

**Whereas**, Pursuant to section 25-405 (c) of the Law, the CPC submitted its report to the Mayor, to the City Council and to the Council Member representing the council district in which the proposed District is located; and

**Whereas**, Pursuant to section 25-405 (c) of the Law, a copy of the CPC's report, together with the original Plan, was transmitted for filing with the City Clerk on October 1, 2013; and

**Whereas**, Pursuant to section 25-406 (a) of the Law, a copy of the Plan and the CPC's report are annexed hereto and are made part of this Resolution; and

**Whereas**, Pursuant to section 25-406 (a) of the Law, the Plan is on file for public inspection in the Office of the City Clerk, 141 Worth Street, New York, New York; and

**Whereas**, Pursuant to Section 25-406 (b) of the Law, any owner of real property, deemed benefited and therefore within the District, objecting to the plan must file an objection at the Office of the City Clerk within thirty days of the conclusion of the hearing held by the City Council, notice of which is provided by this Resolution, on forms made available by the City Clerk; and

**Whereas**, Pursuant to Section 25-406 (b) of the Law, if owners of at least fifty-one percent of the assessed valuation of all the benefited real property situated within the boundaries of the District proposed for establishment, as shown upon the latest completed assessment roll of the City, or at least fifty-one percent of the owners of benefited real property within the area included in the District proposed for establishment, file objections to the Plan with the City Clerk within the thirty-day objection period, the District will not be established; now, therefore, be it

**Resolved**, That the Council of the City of New York, pursuant to Section 25-406 of the Law, hereby directs that:

(i) November 14, 2013 is the date and 10:00 a.m. is the time and the City Hall Committee Room is the place for a public hearing (the "Public Hearing") to hear all persons interested in the establishment of the District;

(ii) the Hudson Yards BID Steering Committee shall, not less than ten nor more than thirty days before the date of the Public Hearing, mail a copy of this Resolution or a summary thereof to each owner of real property within the proposed District at the address shown on the latest City assessment roll, to such other persons as are registered with the City to receive tax bills concerning real property within the proposed District, and to the tenants of each building within the proposed District;

(iii) the Department of Small Business Services shall arrange for the publication of a copy of this Resolution or a summary thereof at least once in the City Record or a newspaper in general circulation in the City, the first publication to be not less than ten nor more than thirty days before the date of the Public Hearing; and

(iv) in the event that the Hudson Yards BID Steering Committee mails, or the Department of Small Business Services arranges for the publication of, a summary of this Resolution, such summary shall include the information required by section 25-406 (c) of the Law.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Res. No. 1994

**Resolution concerning the increase in the annual expenditure for the Times Square, Lower East Side, Fashion Center, Grand Street, Lincoln Square, Sutphin Boulevard and DUMBO Business Improvement Districts, and the 165<sup>th</sup> Street Mall and the Fulton Mall Special Assessment Districts, and the setting of the date, time and place for the hearing of the local law increasing the annual expenditure for such districts.**

By Council Members Recchia and Koo.

**Whereas**, pursuant to Chapter 4 of Title 25 of the Administrative Code of the City of New York or the predecessor of such Chapter (the "BID Law"), the City established the Times Square, Lower East Side, Fashion Center, Grand Street, Lincoln Square, Sutphin Boulevard and DUMBO Business Improvement Districts, and the 165<sup>th</sup> Street Mall and Fulton Mall Special Assessment Districts in the City of New York; and

**Whereas**, pursuant to Local Law No. 82 for the year of 1990, the City Council assumed responsibility for adopting legislation relating to Business Improvement Districts; and

**Whereas**, pursuant to Section 25-410(b) of the BID Law, an increase in the amount to be expended annually may be adopted by local law, provided that the City Council determines, after a public hearing, that it is in the public interest to authorize the increase and that the tax and debt limits prescribed in Section 25-412 of the BID Law will not be exceeded; and

**Whereas**, the seven Business Improvement Districts and two Special Assessment Districts wish to increase the amount to be expended annually beginning on July 1, 2013 as follows: Times Square, \$12,638,972; Lower East Side, \$974,600; Fashion Center, \$7,800,000; Grand Street, \$226,460; Lincoln Square, \$2,500,000; Sutphin Boulevard, \$252,000; DUMBO, \$650,000; 165<sup>th</sup> Street Mall, \$200,000; and

Fulton Mall, \$1,537,500.

**Whereas**, pursuant to Section 25-410(b) of the BID Law, the City Council is required to give notice of the public hearing by publication of a notice in at least one newspaper having general circulation in the districts specifying the time when and the place where the hearing will be held and stating the proposed amount to be expended annually; now, therefore, be it

**RESOLVED**, that the Council of the City of New York, pursuant to Section 25-410(b) of the BID Law, hereby directs that:

(i) November 26, 2013 is the date and the City Council Committee Room, 2nd floor, City Hall, Manhattan is the place and 10 AM is the time for a public hearing (the "Public Hearing") to hear all persons interested in the legislation, which would increase the amount to be expended annually in the seven Business Improvement Districts and two Special Assessment Districts; and

(ii) On behalf of the City Council and pursuant to Section 25-410(b) of the BID Law, the District Management Associations of the Times Square, Lower East Side, Fashion Center, Grand Street, Lincoln Square, Sutphin Boulevard and DUMBO Business Improvement Districts, and the 165<sup>th</sup> Street Mall and the Fulton Mall Special Assessment Districts are hereby authorized to publish in a newspaper of general circulation in each district, not less than ten (10) days prior to the Public Hearing, a notice stating the time and place of the Public Hearing and setting forth the increase in the amount to be expended annually in each of the seven Business Improvement Districts and two Special Assessment Districts.

Referred to the Committee on Finance.

Int. No. 1187

By Council Members Vacca, Chin, Koo and Vann.

**A Local Law to amend the administrative code of the city of New York, in relation to banning smoking in the common areas of all multiple dwellings.**

*Be it enacted by the Council as follows:*

Section 1. Subdivisions m and p of section 17-502 of the administrative code of the city of New York are amended to read as follows:

m. "Place of employment" means any indoor area or portion thereof under the control of an employer which employees normally frequent during the course of employment and which is not generally accessible to the public, including, but not limited to, private offices, work areas, employee lounges and restrooms, conference and class rooms, employee cafeterias, employee gymnasiums, auditoriums, libraries, storage rooms, file rooms, mailrooms, employee medical facilities, rooms or areas containing photocopying or other office equipment used in common by employees, elevators, stairways and hallways. A private residence is not a "place of employment" within the meaning of this subdivision, except that areas in a private residence where a child day care center or health care facility is operated during the times when employees are working in such child day care center or health care facility areas and areas in a private residence which constitute common areas of a multiple dwelling [containing ten or more dwelling units,] are "places of employment" within the meaning of this subdivision.

p. "Public place" means any area to which individuals other than employees are invited or permitted, including, but not limited to, banks, educational facilities, health care facilities, child day care centers, children's institutions, shopping malls, property owned, occupied or operated by the city of New York or an agency thereof, public transportation facilities, reception areas, restaurants, catering halls, retail stores, theaters, sports arenas and recreational areas and waiting rooms. A private residence is not a "public place" within the meaning of this subdivision, except that areas in a private residence where a child day care center or health care facility is operated during the times of operation and areas in a private residence which constitute common areas of a multiple dwelling [containing ten or more dwelling units,] are "public places within the meaning of this subdivision.

§2. Paragraph 13 of section 17-503 of the administrative code of the city of New York is amended to read as follows:

13. Places of meeting or public assembly during such time as a meeting open to the public is being conducted for educational, religious, recreational, or political purposes, but not including meetings conducted in private residences, unless such meetings are conducted in an area in a private residence where a child day care center or health care facility is operated during the times of operation or in an area which constitutes a common area of a multiple dwelling [containing ten or more dwelling units].

§3. Subdivision b of section 17-505 of the administrative code of the city of New York is amended to read as follows:

b. Private residences, except any area of a private residence where a child day care center or health care facility is operated (i) during the times of operation or (ii) during the times when employees are working in such child day care center or

health care facility areas; provided, however, that a common area of a multiple dwelling [containing ten or more dwelling units] shall be subject to smoking restrictions.

§4. Subdivision c of section 17-507 of the administrative code of the city of New York is amended to read as follows:

c. With respect to a public place or place of employment, the operator or employer shall inform, or shall designate an agent who shall be responsible for informing, individuals smoking in restricted areas that they are in violation of this local law; provided, however, that the obligations under this subdivision with respect to an operator of a multiple dwelling [containing ten or more dwelling units] shall be limited to (i) those multiple dwellings where an agent is on duty and (ii) designating such agent to be responsible for informing individuals smoking in restricted common indoor areas where such agent is on duty, during the times such agent is on duty, that such individuals are in violation of this local law.

§5. Subdivision a of section 17-508 of the administrative code of the city of New York is amended to read as follows:

a. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of premises in which smoking is prohibited or restricted pursuant to this chapter, or the designated agent thereof, to (i) provide a room designated for smoking including, but not limited to, a separate smoking room or an enclosed room, which fails to comply with the provisions of this chapter; provided, however, that the obligations of an owner or building manager of a building (where such owner or building manager of a building in which a public place is located is not the operator or employer of such public place) with respect to such a room shall be limited to work authorized by any permits necessary to perform construction obtained by the owner or his agent; (ii) fail to post the signs required by section 17-506; (iii) fail to remove ashtrays as required by subdivision d of section 17-506; or (iv) fail to make a good faith effort to comply with subdivisions c, d and e of section 17-507. In actions brought for violations of this subdivision, the following shall be affirmative defenses: i) that during the relevant time period actual control of the premises was not exercised by the respondent or a person under the control of the respondent, but rather by a lessee, sublessee or any other person; provided, however, that after receiving the notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that he or she has not exercised actual control during the relevant time periods; (ii) that a person smoking in any area where smoking is prohibited pursuant to section 17-503 was informed by a person who owns, manages, operates or otherwise controls the use of such premises, or the designated agent thereof, that such person smoking is in violation of this local law and that such person who owns, manages, operates or otherwise controls the use of such premises has complied with all applicable provisions of this chapter during the relevant time period; provided, however, that after receiving notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that respondent informed the person smoking in any area where smoking is prohibited pursuant to section 17-503 that such person was in violation of this local law and that respondent has complied with all applicable provisions of this chapter during the relevant time period; or (iii) that a person smoking in any restricted common indoor area where smoking is prohibited pursuant to section 17-503 was not informed by the owner or building manager of the premises (where such owner or building manager of a building in which a public place or place of employment is located is not the operator or employer of such public place or place of employment) or by the operator of a multiple dwelling [containing ten or more dwelling units] that such person smoking is in violation of this local law because such owner, building manager or operator did not have a designated agent on duty when such person was smoking and that such owner or building manager has, where applicable, complied with the mailing of a notice required pursuant to subdivision e of section 17-507; provided, however, that after receiving notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that a person smoking in any restricted common indoor area where smoking is prohibited pursuant to section 17-503 was not informed by the respondent that such person smoking is in violation of this local law because the respondent did not have a designated agent on duty when such person was smoking and that the respondent has, where applicable, mailed the notice required pursuant to subdivision e of section 17-507.

§6. This local law shall take effect one hundred and eighty days after its enactment into law.

Referred to the Committee on Health.

Res. No. 1995

**Resolution calling on the New York State Legislature to pass, and the Governor to sign, A.1826-B and S.4099-A, an act to amend the tax law and the education law, in relation to enacting the "education investment tax credit act."**

By Council Members Vallone, Jr., Chin and Halloran.

**Whereas**, At a time when the state is considering ways of reducing the tax burden for New York State residents and educators are seeking an expansion of financial resources, charitable giving for educational purposes should be encouraged; and

**Whereas**, Permitting public education entities, such as school districts, individual public schools and not-for-profit organizations that promote the arts, civics, and pre-kindergarten instruction, to accept and receive voluntary cash contributions will lessen the need for additional tax revenue, thereby encouraging voluntary support for education without prejudice for or against any state-sponsored educational enterprise; and

**Whereas**, Currently, charitable donations to scholarship organizations and public schools are allowed a tax deduction, which reduces a taxpayer's taxable income, rather than a tax credit, which can directly reduce a taxpayer's tax liability; and

**Whereas**, On January 9, 2013, New York State Assembly member Michael Cusick (D-Staten Island), introduced A.1826-B, an act to amend the tax law and the education law, in relation to enacting the "education investment tax credit act"; and

**Whereas**, On March 8, 2013, New York State Senator Martin Golden (R-C-I, Brooklyn), introduced similar legislation, S.4099-A; and

**Whereas**, A.1826-B and S.4099-A (hereinafter collectively referred to as "the legislation") would provide incentives in the form of a tax credit against an individual's income and corporate franchise tax liability for donations to public education entities, local education funds, educational scholarship organizations, and home-based instructional materials; and

**Whereas**, The legislation also provides tax credits for certain expenses incurred by qualified educators who purchase materials and supplies for classroom use; and

**Whereas**, According to the legislation's Memo In Support, allowing a tax credit for charitable donations to scholarship organization and public schools, rather than a tax deduction, would increase private sector support for the education of children in all schools; and

**Whereas**, Additionally, by permitting school personnel to claim a credit for the purchase of classroom instructional materials and supplies, the legislation promotes the state's interest in providing the highest quality education to all children in the state, and will ensure a wider availability of such materials and supplies for all students; and

**Whereas**, According to the legislation's Memo In Support, the legislation has the potential to generate \$333 million in voluntary contributions to support kindergarten through twelfth grade education in New York State; 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.1826-B and S.4099-A, an act to amend the tax law and the education law, in relation to enacting the "education investment tax credit act."

Referred to the Committee on Finance.

Preconsidered L.U. No. 949

By Council Member Recchia:

**Renewal Housing Development Fund Company, Block 3174, Lot 24, Block 3276, Lot 36, Block 3283, Lot 37, Block 3293, Lot 135, Block 3300, Lots 27, 23, & 11, Bronx, Community District No. 7, Council Districts No. 14 & 15.**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered L.U. No. 950

By Council Member Recchia:

**Tweemill House, Block 1775, Lot 20, Manhattan, Community District No. 11, Council District No. 8**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 951

**Application No. C 080322 ZMK submitted by Forest Lots, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b, changing the zoning from M1-1 to R6A, R7A, R6A/C2-4 and R7A/C2-4 and from M3-1 to M1-2 and establishing C2-4 District with the proposed R6A and R7A districts, for approximately five and a half blocks in the Borough of Brooklyn, Community District 4, Council District 34.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 952

By Council Member Comrie:

**Application No. N 110179 ZRK submitted by Forrest Lots, LLC pursuant to Section 201 of the New York City Charter, for an amendment to the Zoning Resolution, concerning APPENDIX F (Inclusionary Housing Designated Areas), relating to the application of the Inclusionary Housing Program to proposed R6A and R7A Districts in the Borough of Brooklyn, Community District 4, Council District 34.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 953

By Council Member Comrie:

**Application no. C 070250 MMK submitted by Forrest Lots, LLC pursuant to Sections 197-c and 199 of the New York City Charter for an amendment to the City map to re-establish Stanwix Street between Montieth Street and Forest Street, and Noll Street between Stanwix Street and Evergreen Street, in the Borough of Brooklyn, Community District 4, Council District 34. 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.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 954

By Council Member Comrie:

**Application No. C 130272 HAM submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of an Urban Development Action Area Project for, and approval of the disposition of, property located at 2135-2139 Adam Clayton Powell Jr. Boulevard, Borough of Manhattan, Community District 10, Council District 9. This matter is subject to Council review and action at the request of HPD and pursuant to Article 16 of the New York General Municipal Law and 197-c of the New York City Charter.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 955

By Council Member Comrie:

**Application No. C 130271 ZMM submitted by the Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 6a, changing from an R7-2 District to and R8A District property bounded by West 127<sup>th</sup> Street, a line 100 feet easterly of Adam Clayton Powell Jr. Boulevard, West 126<sup>th</sup> Street, and Adam Clayton Powell Jr. Boulevard, in the Borough of Manhattan, Community District 10, Council District 9.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 956

By Council Member Comrie:

**Application No. C 130266 PPK submitted by the NYC Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the disposition of two city-owned properties located on Block 6037, Lot 102 and Block 6339, Lot 164, in the Borough of Brooklyn, Community District 10, Council District 43. 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.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 957

By Council Member Comrie:

**Application no. 20145153 HAX submitted by the New York City Department of Housing Preservation and Development for an exemption from real property taxation, termination of the prior exemption and voluntary dissolution of current owner for properties located on Block 3125, Lots 9, 12 & 14, Block 3128, Lots 9, 13, 29 & 32, Block 3129, Lot 29, Block 3133, Lot 13, Block 3134, Lot 1, in the Borough of the Bronx, Community District 6, Council District 15. This matter is subject to Council review and action at the request of HPD and pursuant to Sections 123(4), 125 and 577 of the Private Housing Finance Law.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 958

By Council Member Comrie:

**Application no. 20145154 HAX submitted by the New York City Department of Housing Preservation and Development for an exemption from real property taxation and termination of the prior exemption and voluntary dissolution of current owner for properties located on Block 2621, Lot 1 and Block 2632, Lot 1 in the Borough of the Bronx, Community District 2, Council District 16. This matter is subject to Council review and action at the request of HPD and pursuant to Sections 123(4), 125 and 577 of the Private Housing Finance Law.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

Preconsidered L.U. No. 959

By Council Member Comrie:

**Application No. 20145046 SCQ pursuant to Section 1732 of the New York City School Construction Authority Act, concerning the proposed site selection for a new, approximately 456-seat primary school facility, located on the north side of 48<sup>th</sup> Avenue between 210<sup>th</sup> and 211<sup>th</sup> Streets in Bayside (Block 7327, Lots 28, 38, 39, and 49), Borough of Queens, Community 11, Council District 19.**

Adopted by the Council (preconsidered and approved by the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses).

Preconsidered L.U. No. 960

By Council Member Comrie:

**Application No. 20145059 SCM pursuant to Section 1732 of the New York City School Construction Authority Act, concerning the proposed site selection for a new, approximately 1,000 seats public school facility, for use as a middle school and a District 75 special education located at 75 Morton Street (Block 603, Lots 49 and 53), Borough of Manhattan, Community Board 2, Council District 3.**

Adopted by the Council (preconsidered and approved by the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses).

At this point the Speaker (Council Member Quinn) made the following announcements:

**ANNOUNCEMENTS:**

Thursday, October 31, 2013

**★Deferred**

Committee on **GOVERNMENTAL OPERATIONS**.....**10:00 A.M.**

Agenda to be announced

Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Gale Brewer, Chairperson

**★Note Topic Deferral**

Committee on **TRANSPORTATION**.....**10:00 A.M.**

~~★Proposed Int. 414-A~~ By Council Members Gentile, Brewer, Fidler, James, Koslowitz, Mealy, Palma and Mendez — ~~A Local Law~~ to amend the administrative code of the city of New York, in relation to placing greater regulations and restraints on the creation of driveway curb cuts, and providing local community board notification.

**Int. 535** - By Council Members Greenfield, Cabrera, Chin, James, Koslowitz, Mealy, Palma, Vann, Levin, Mark-Viverito and Koo - **A Local Law** to amend the administrative code of the city of New York, in relation to a speed limit in residential areas on residential streets.

**Proposed Int. 635-A** - By Council Members Crowley, Fidler, Gentile, James, Koppell, Koslowitz, Mealy, Rose, Rivera, Vallone, Gonzalez, Nelson, Mark-Viverito, Rodriguez and Ulrich - **A Local Law** to amend the administrative code of the city of New York, in relation to requiring community board notification following the establishment of a commuter van route and online publication of such routes.

**Proposed Int. 904-A** - By Council Members Levin, Lappin, Lander, Chin, Comrie, Dromm, Eugene, Fidler, James, Koo, Koppell, Koslowitz, Rose, Williams and Halloran - **A Local Law** to amend the administrative code of the city of New York, in relation to periodic interagency roadway safety plans.

**Int. 1123** - By Council Members Vacca, Brewer, Chin, James, Mendez, Palma, Richards, Rose, Rodriguez, Koslowitz, Arroyo and Garodnick - **A Local Law** to amend the administrative code of the city of New York, in relation to requiring all HAIL vehicles be accessible to those with visual impairments.

Committee Room – 250 Broadway, 14<sup>th</sup> Floor .....James Vacca, Chairperson

**★Deferred**

Committee on **YOUTH SERVICES**.....**10:00 A.M.**

~~Oversight~~ How do the Human Trafficking Intervention Courts address the needs of New York City’s Runaway and Homeless Youth Population?

~~★Res. 1649~~ By Council Members Koppell, Chin, Ferreras, Gennaro, James, Koo, Rose, Wills and Rodriguez — **Resolution** recognizing October 11 as the “Day of the Girl Child” in New York City.

Council Chambers – City Hall ..... Lewis Fidler, Chairperson

**★Deferred**

Committee on **GENERAL WELFARE** ..... **1:00 P.M.**

Agenda to be announced

Committee Room – 250 Broadway, 14<sup>th</sup> Floor

..... Annabel Palma, Chairperson

**★Note Topic and Committee Addition**

Committee on **MENTAL HEALTH, DEVELOPMENT DISABILITY, ALCOHOLISM, DRUG ABUSE AND DISABILITY SERVICES**

**★Jointly with the Committee on HIGHER EDUCATION** ..... **1:00 P.M.**

**Oversight** - Are Colleges Offering Adequate Mental Health Services to Students?

Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Oliver Koppell, Chairperson

..... Ydanis Rodriguez, Chairperson

**★Note Topic Addition**

Committee on **CIVIL RIGHTS** ..... **1:00 P.M.**

**Oversight** - Recent Increase in Anti-Gay Hate Crimes in the City

Committee Room– 250 Broadway, 14<sup>th</sup> Floor .....Deborah Rose, Chairperson

**★Addition**

Committee on **CONTRACTS** ..... **1:00 P.M.**

**Oversight** – The Department of Homeless Services’ Use of Emergency Procurement Hearing Room – 250 Broadway, 16<sup>th</sup> Floor .....Darlene Mealy, Chairperson

Friday, November 1, 2013

★ *Note Location Update*

Committee on PUBLIC HOUSING ..... 2:00 P.M.
Tour: .....New York City Housing Authority Development
..... Red Hook Houses
Location: ..... 110 W 9th St.
Brooklyn, NY 11231
Details Attached.....Rosie Mendez, Chairperson

Tuesday, November 5, 2013

ELECTION DAY

Thursday, November 7, 2013

Committee on GOVERNMENTAL OPERATIONS ..... 10:00 A.M.
Int. 1172 - By The Speaker (Council Member Quinn) and Council Member Brewer
(in conjunction with the Mayor) – A Local Law to amend the administrative code of
the city of New York, in relation to the regulation of lobbying, and repealing section
3-214 of the administrative code of the city of New York, relating to the monthly
docket of statements of registration required to be compiled by the city clerk.
Res. 1988 - By The Speaker (Council Member Quinn) and Council Member Brewer
(in conjunction with the Mayor) - Resolution calling on the New York State
Assembly and New York State Senate to introduce and pass, and the Governor to
sign, legislation requiring the Joint Committee on Public Ethics (JCOPE) to accept
filings pursuant to the City’s lobbyist registration laws from lobbyists who are
required to file by the State Lobbying Act with JCOPE solely due to their lobbying of
New York City officials.
Committee Room – 250 Broadway, 14th Floor ..... Gale Brewer, Chairperson

Monday, November 11, 2013

VETERANS’ DAY OBSERVED

Tuesday, November 12, 2013

Subcommittee on ZONING & FRANCHISES ..... 9:30 A.M.
See Land Use Calendar Available Thursday, November 7, 2013
Committee Room – 250 Broadway, 16th Floor ..... Mark Weprin, Chairperson

Committee on TRANSPORTATION..... 10:00 A.M.
Agenda to be announced
Committee Room – 250 Broadway, 14th Floor ..... James Vacca, Chairperson

Subcommittee on LANDMARKS, PUBLIC SITING
& MARITIME USES ..... 11:00 A.M.
See Land Use Calendar Available Thursday, November 7, 2013
Committee Room– 250 Broadway, 16th Floor ..... Brad Lander, Chairperson

Subcommittee on PLANNING, DISPOSITIONS &
CONCESSIONS ..... 1:00 P.M.
See Land Use Calendar Available Thursday, November 7, 2013
Committee Room – 250 Broadway, 16th Floor ..... Stephen Levin, Chairperson

★ *Note Topic and Committee Addition*

Committee on WATERFRONTS jointly with the
★Committee on ECONOMIC DEVELOPMENT ..... 1:00 P.M.
★Oversight - Brooklyn Navy Yard: A Model to Encourage Economic Development
in Appropriate Areas of New York City
Committee Room – 250 Broadway, 14th Floor ..... Peter Koo, Chairperson
..... Karen Koslowitz, Chairperson

Committee on PARKS AND RECREATION ..... 1:00 P.M.
Agenda to be announced
Hearing Room – 250 Broadway, 16th Floor
..... Melissa Mark-Viverito, Chairperson

Wednesday, November 13, 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, 16th Floor ..... Leroy Comrie, Chairperson

Committee on SMALL BUSINESS..... 10:00 A.M.
Oversight - Restoring New York City’s Small Businesses One Year After Hurricane
Sandy
Committee Room – 250 Broadway, 14th Floor ..... Diana Reyna, Chairperson

Committee on HEALTH ..... 1:00 P.M.
Agenda to be announced
Committee Room – 250 Broadway, 14th Floor
..... Maria del Carmen Arroyo, Chairperson

Committee on LOWER MANHATTAN REDEVELOPMENT ..... 1:00 P.M.
Agenda to be announced
Committee Room – 250 Broadway, 16th Floor ..... Margaret Chin, Chairperson

Thursday, November 14, 2013

Committee on FINANCE..... 10:00 A.M.
Res 1992 - By Council Member Recchia - Resolution concerning amendments to the
District Plan of the Hudson Square Business Improvement District that provide for
additional improvements and a change in the method of assessment upon which the
district charge is based, and setting the date, time and place for the public hearing of
the local law authorizing the additional improvements and a change in the method of
assessment upon which the district charge in the Hudson Square Business
Improvement District is based
Res 1994 - By Council Member Recchia - Resolution concerning the increase in the
annual expenditure for the Times Square, Lower East Side, Fashion Center, Grand
Street, Lincoln Square, Sutphin Boulevard and DUMBO Business Improvement
Districts, and the 165th Street Mall and the Fulton Mall Special Assessment Districts,
and the setting of the date, time and place for the hearing of the local law increasing
the annual expenditure for such districts.
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
Committee Room – City Hall.....Domenic M. Recchia, Chairperson

Stated Council Meeting..... Ceremonial Tributes – 1:00 p.m.
..... Agenda – 1:30 p.m.
Location ..... ~ Council Chambers ~ City Hall

## MEMORANDUM

October 22, 2013

**TO:** ALL COUNCIL MEMBERS**RE:** TOUR BY THE COMMITTEE ON PUBLIC HOUSING**Please be advised that all Council Members are invited to attend a tour to:**

**New York City Housing Authority Development  
Red Hook Houses  
110 W 9th St.  
Brooklyn, NY 11231**

The tour will be on **Friday, November 1, 2013 beginning at 2:00 p.m.** A van will be leaving City Hall at **1:30 p.m.**

Council Members interested in attending should call Guillermo Patino at 212-788-9056.

Hon. Rosie Mendez, Chairperson  
Committee on Public Housing

Hon. Christine C. Quinn  
Speaker of the Council

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Rivera) adjourned these proceedings to meet again for the Stated Meeting on Thursday, November 14, 2013.

MICHAEL M. McSWEENEY, City Clerk  
Clerk of the Council

*Editor's Local Law Note: Int Nos. 1051-A and 1058-A, both adopted by the Council at the September 12, 2013 Stated Council Meeting, were returned unsigned by the Mayor on October 11, 2013. These bills became local law on October 13, 2013 pursuant to the City Charter due to Mayoral inaction within the Charter-prescribed thirty day time period and were assigned subsequently as Local Laws 85 and 86 of 2013, respectively.*

*Int No 598, adopted by the Council at the October 9, 2013 Stated Meeting, was signed into law by the Mayor on October 23, 2013 as Local Law No. 87 of 2013.*

