

## **THE COUNCIL**

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*Minutes of the Proceedings for the*  
**STATED MEETING**  
*of*  
Monday, December 7, 2015, 1:34 p.m.

The Public Advocate (Ms. James)  
*Acting President Pro Tempore and Presiding Officer*

### Council Members

Melissa Mark-Viverito, Speaker

Inez D. Barron	Vanessa L. Gibson	Rosie Mendez
Joseph C. Borelli	David G. Greenfield	I. Daneek Miller
Fernando Cabrera	Barry S. Grodenchik	Annabel Palma
Margaret S. Chin	Corey D. Johnson	Antonio Reynoso
Andrew Cohen	Ben Kallos	Donovan J. Richards
Costa G. Constantinides	Andy L. King	Ydanis A. Rodriguez
Robert E. Cornegy, Jr.	Peter A. Koo	Deborah L. Rose
Elizabeth S. Crowley	Karen Koslowitz	Helen K. Rosenthal
Laurie A. Cumbo	Rory I. Lancman	Ritchie J. Torres
Chaim M. Deutsch	Bradford S. Lander	Mark Treyger
Daniel Dromm	Stephen T. Levin	Eric A. Ulrich
Rafael L. Espinal, Jr.	Mark Levine	James Vacca
Mathieu Eugene	Alan N. Maisel	Paul A. Vallone
Julissa Ferreras-Copeland	Steven Matteo	James G. Van Bramer
Daniel R. Garodnick	Carlos Menchaca	Ruben Wills
Vincent J. Gentile		

Absent: Council Members Arroyo, Mealy, and Williams.

Medical Leave: Council Member Dickens.

December 7, 2015

4162

The Public Advocate (Ms. James) assumed the Chair as the Acting President Pro Tempore and Presiding Officer.

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Public Advocate (Ms. James).

*There were 47 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, New York, N.Y.*

### INVOCATION

The Invocation was delivered by Rev. Barbara Y. Williams-Harris, Pastor, Onward Ministries, Inc., 385 Broadway, Brooklyn, N.Y. 11211.

God, we thank you for this time of coming together,  
we thank you that in this season of giving and receiving,  
that not only do we remember one another  
but we remember those who have lost loved ones,  
those who are grieving during this period.  
We remember those on Pearl Harbor Day, today December 7th ,  
in all that they've done and all that they've been through for us.  
And I ask you to bless every Council Member,  
and every person under the sound of our voice;  
and that you will bless us in this season,  
And we pray for peace, honor, and good will toward men  
And that we will share the love and give the love  
and receive the love, one to another.  
In Your Name we pray.

And by special request:  
*(breaks into song).*

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

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Mark-Viverito) asked for a Moment of Silence in memory of the 14 individuals who were killed in the December 2, 2015 mass shooting attack in San Bernardino, California. She described the violence as senseless and expressed heartbreak and devastation upon hearing the news of such reoccurring incidents. The Speaker (Council Member Mark-Viverito) offered her thoughts and prayers to the victims and their families.

Also during the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Mark-Viverito) acknowledged the 74th anniversary of the December 7, 1941 attack on Pearl Harbor in which over 2,400 Americans lost their lives and led to major U.S. involvement in World War II. She asked that we reflect on the lives and the sacrifices of those Americans who served then as well as those who serve presently. She thanked them all for their commitment.

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#### **ADOPTION OF MINUTES**

Council Member Miller moved that the Minutes of the Stated Meeting of November 10, 2015 be adopted as printed.

#### **PETITIONS & COMMUNICATIONS**

M-353

##### **Designation of Minority Whip**

Designation of Minority Whip

Pursuant to Rule 4.10 of the Council of the City of New York and Paragraph 5 of the Bylaws of the Minority Delegation of the same, I hereby designate and appoint Joseph C. Borelli as Minority Whip of the Council of the City of New York, effective December 7, 2015.

Signed:

Steven Matteo  
Minority Leader

Received, Ordered, Printed and Filed.

## **REPORTS OF THE STANDING COMMITTEES**

### **Report of the Committee on Economic Development**

Report for Int. No. 128

**Report of the Committee on Economic Development in favor of approving and adopting a Local Law to amend the New York city charter, in relation to requiring that community planning boards receive an annual report submitted to the mayor with regard to projected and actual jobs created and retained in connection with projects undertaken by a certain contracted entity for the purpose of the creation or retention of jobs.**

The Committee on Economic Development, to which the annexed proposed local law was referred on March 12, 2014 (Minutes, page 618), respectfully

### **REPORTS:**

#### **I. INTRODUCTION**

The Committee on Economic Development, chaired by Council Member Daniel Garodnick, voted in favor of Int. No. 0128, a local law to amend the New York city charter, in relation to requiring that community planning boards receive an annual report submitted to the mayor with regard to projected and actual jobs created and retained in connection with projects undertaken by a certain contracted entity for the purpose of the creation or retention of jobs. The bill was approved by the Committee on December 2, 2015 with five votes in the affirmative, zero votes in the negative and zero abstentions.

The Committee previously considered Int. No. 0128 at a hearing held on October 22, 2015, and received testimony from the Economic Development Corporation (“EDC”), the Department of Small Business Services (“SBS”), as well as from a number of advocates representing the city’s community planning boards.

#### **II. BACKGROUND**

Under the New York City Charter, SBS is tasked with including certain requirements in contracts with local development corporations or not-for-profit corporations that have the majority of their members appointed by the mayor and that are engaged in providing or administering economic development benefits on behalf

of the City.<sup>1</sup> One requirement is that such entities must submit an annual report of projected and actual jobs created and retained in connection with projects they have undertaken. This report must be submitted to the Mayor, City Council, City Comptroller, the Public Advocate and the Borough Presidents.<sup>2</sup> Int. No. 0128 would require that these reports also be sent to community planning boards.

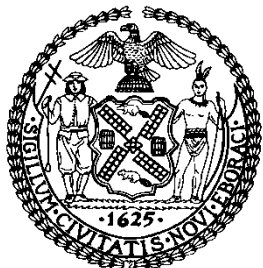
### **III. ANALYSIS OF INT. NO. 0128**

Int. No. 0128 would require SBS to existing submit job creation reports to community planning boards.

Bill section one would amend paragraph b of subdivision 1 of section 1301 of the New York city charter by including community planning boards as recipients of an annual report sent by the SBS to various city offices and entities indicating job creation data resulting from economic development projects undertaken through contract with a local development corporation or not-for-profit corporation engaged in providing or administering economic development benefits on behalf of the City. Currently that entity is the New York City Economic Development Corporation.

Section two of Int. No. 0128 contains the enactment clause and states that the local law shall take effect immediately upon enactment.

**(The following is the text of the Fiscal Impact Statement for Int. No. 128:)**



**THE COUNCIL OF THE CITY  
OF NEW YORK  
FINANCE DIVISION**

LATONIA MCKINNEY,  
DIRECTOR

**FISCAL IMPACT STATEMENT**

**INTRO. NO: 128**

**COMMITTEE:** Economic  
Development

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**TITLE:** A local law to amend the New York City charter in relation to requiring that community planning boards receive an annual report submitted to the mayor with regard to projected and actual jobs created and retained in connection with projects undertaken by a certain contracted entity for the purpose of the creation or retention of

**SPONSOR(S):** Council Members  
Cabrera, Barron, Dickens,  
Gentile, King, Koo, Miller, Palma,  
Rose, and Rosenthal

<sup>1</sup> See N.Y. CITY CHARTER §1301(1)(a) (This entity is currently the New York City Economic Development Corporation).

<sup>2</sup> See *id.*

jobs.

**SUMMARY OF LEGISLATION:** Currently under the New York City Charter, the Economic Development Corporation (“EDC”) is required to submit an annual job creation and retention report to the Mayor, the City Council, the City Comptroller, the Public Advocate, and the Borough Presidents. This legislation would require that these reports also be sent to each of the City’s community planning boards.

**EFFECTIVE DATE:** This local law would take effect immediately after its enactment into law.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2017

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**FISCAL IMPACT STATEMENT:**

	<b>Effective FY16</b>	<b>FY Succeeding Effective FY17</b>	<b>Full Fiscal Impact FY17</b>
<b>Revenues</b>	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** It is anticipated that there would be no impact on revenue resulting from this legislation.

**IMPACT ON EXPENDITURES:** It is anticipated that there would be no impact on expenditures resulting from this legislation because sending the reports to an additional entity can be accomplished using existing resources at EDC.

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

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

**ESTIMATE PREPARED BY:** Kendall Stephenson, Legislative Financial Analyst, Finance Division

**ESTIMATE REVIEWED BY:** Emre Edev, Assistant Director, Finance Division  
Rebecca Chasan, Assistant Counsel, Finance Division  
Tanisha Edwards, Chief Counsel, Finance Division

**LEGISLATIVE HISTORY:** Intro. No. 128 was introduced to the Council on March 12, 2014, and was referred to the Committee on Economic Development. This legislation was considered at a hearing of the Committee on Economic Development on October 22, 2015 and the bill was laid over. The Committee will vote on Intro. No. 128 on December 2, 2015. Upon successful vote by the Committee, Intro. No. 128 will be submitted to the full Council for a vote on December 7, 2015.

**DATE PREPARED:** November 30, 2015

*Accordingly, this Committee recommends its adoption.*

**(The following is the text of Int. No. 128:)**

Int. No. 128

By Council Members Cabrera, Barron, Dickens, Gentile, King, Koo, Miller, Palma, Rose, Rosenthal, Arroyo, Vallone, Constantinides and Wills.

**A Local Law to amend the New York city charter, in relation to requiring that community planning boards receive an annual report submitted to the mayor with regard to projected and actual jobs created and retained in connection with projects undertaken by a certain contracted entity for the purpose of the creation or retention of jobs.**

*Be it enacted by the Council as follows:*

Section 1. Paragraph b of subdivision 1 of section 1301 of the New York city charter, as amended by local law number 102 for the year 2013, 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 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 contracted entity submit to the mayor, the council, the city comptroller, the public advocate, [and] the borough presidents *and community planning boards* 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 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 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. 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 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 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 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 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 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 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 contracted entity, can be reasonably derived from available sources, and can be reasonably obtained from the business entity to which assistance was provided.

§2. This law shall take effect immediately upon enactment.

DANIEL R. GARODNICK, *Chairperson*; VINCENT J. GENTILE, JULISSA FERRERAS-COPELAND, RUBEN WILLS, I. DANEEK MILLER; Committee on Economic Development, December 2, 2015.

On motion of the Speaker (Council Member Mark-Viverito), 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 Environmental Protection**

Report for Int. No. 609-A

**Report of the Committee on Environmental Protection 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 geothermal systems.**

The Committee on Environmental Protection, to which the annexed amended proposed local law was referred on January 7, 2015 (Minutes, page 116), respectfully

**REPORTS:**

## **Introduction**

On December 7, 2015, the City Council will vote on Proposed Int. No. 609-A, A Local Law to amend the Administrative Code of the city of New York, in relation to the use of geothermal energy in New York City. The Committee on Environmental Protection previously held a hearing on this bill on September 22, 2015, and passed this bill by a vote of 3-0 on December 4, 2015.

## **Background**

On December 14, 2014, Mayor Bill de Blasio signed legislation enacting Local Law 66 of 2014, which requires New York City to reduce its citywide greenhouse gas (GHG) emissions by 80%, relative to 2005 levels, by calendar year 2050. Buildings, through the use of heating fuel, natural gas, electricity, steam and biofuel, are responsible for over 70% of citywide emissions. Given this, and the fact that the vast majority of existing buildings are expected to remain well beyond 2050, the city's stock of one million buildings represents the greatest potential source of citywide GHG emissions reductions and it is necessary for the city to reduce emissions from the buildings sector in order to comply with Local Law 66.

Of total emissions from the buildings sector, residential buildings account for 48%, commercial buildings 29%, and industrial and institutional buildings account for the remainder.<sup>1</sup> Of total emissions generated by buildings, about 55% are due to on-site combustion of natural gas and liquefied fuels to produce hot water, heat, and to cook. The remaining 45% of emissions from buildings are due to electricity use.<sup>2</sup>

## **Renewable Energy and Reducing Emissions from Buildings**

In general, there are two ways renewable energy sources could be utilized to reduce GHG emissions from the city's buildings. First, large-scale renewable energy resources such as solar, hydropower (e.g. Canadian hydroelectric power), wind (e.g. Atlantic offshore wind), geothermal and distributed generation projects could be integrated into the electrical grid, effectively 'cleaning' the source of electricity and power used by the city and buildings.<sup>3</sup> However, there are significant technological, regulatory, and economic challenges that impede such large-scale integration of renewable energy into the city's power supply.<sup>4</sup>

The second way renewables could be utilized to reduce emissions from buildings is by increasing reliance on renewable energy technologies on-site, within buildings, to supplant the current role fossil fuels play in heating, cooling, hot water and cooking. Examples of renewable energy technologies commonly used on-site, in building applications, include solar thermal systems (which convert solar radiation into heat), photovoltaic solar panels (which convert solar radiation into electricity), geothermal heat pump systems, and wind turbines. Increasing use of these renewable sources of energy and technologies in buildings has the potential to reduce citywide emissions by substantial amounts; a study issued by the Mayor's Office of Long-

Term Planning and Sustainability in 2013 concluded that the use of solar hot water heating systems has the potential to reduce citywide emissions by 2.8% (relative to the 2005 base-year level) by 2050, air source heat pumps have the potential to reduce citywide emissions 4.8%, and geothermal heat pumps have the potential to reduce citywide emissions 2.6%.<sup>5</sup> Reducing the city's reliance on fossil-fuel based energy sources in favor of renewable energy sources, particularly in buildings, is critical to achieving the city's goal to reduce GHG emissions 80% by 2050.<sup>6</sup>

### **Geothermal [Ground-Source] Heating and Cooling Systems**

Geothermal energy is the constant internal heat found beneath the Earth's surface. This renewable energy source can be tapped into and utilized in a range of ways, from large utility-scale geothermal power plants to small scale geothermal heating and cooling systems installed in individual buildings or building complexes.<sup>7</sup> Most of the large geothermal power plants in the United States are located in western states that have volcanic and seismically active regions where elevated subterranean temperatures and superheated underground water can be accessed. For example, California has 25 geothermal resource areas, 14 of which have underground temperatures of 300 degrees Fahrenheit or greater.<sup>8</sup> Currently, 80% of the country's total geothermal generation capacity is located in California and there are nine states that produce electricity with geothermal power plants.<sup>9</sup> In New York City, lower subterranean temperatures make utility-scale geothermal power plants less feasible. In the metropolitan area, average below-ground temperatures are a moderate and stable 50-65 degrees Fahrenheit.<sup>10</sup> However, the city can take advantage of geothermal energy through smaller-scale applications such as using geothermal space conditioning, heating and cooling systems within individual buildings or groups of buildings.<sup>11</sup>

While geothermal heating and cooling systems may be designed or configured in a variety of ways to transfer heat between the underground where this stable temperature occurs and buildings above ground, in general, most systems only have a few common components. Geothermal heating and cooling systems generally consist of (1) a "ground coupling," which is installed outside of a building in the ground and which consists of an array of looping pipes containing heat-transferring fluids, including water, (2) a "geothermal heat pump" or compressor which is installed inside of a building and which is a central heating and cooling system that transfers heat energy to and from the ground coupling, and (3) air ducts that circulate heated or cooled air throughout a building.

**Figure 1: Basic Layout of a Geothermal [ground-source] heating and cooling system.**

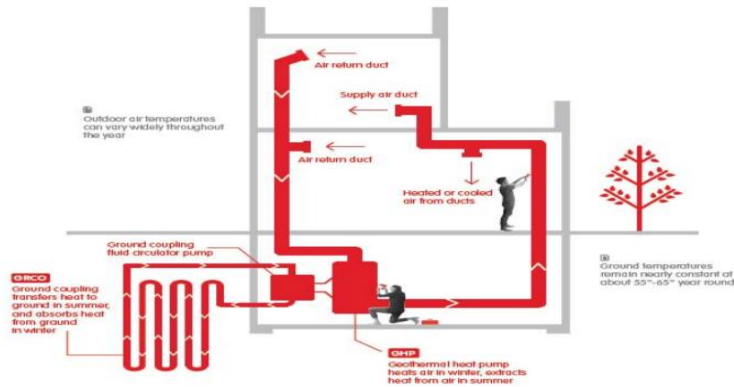
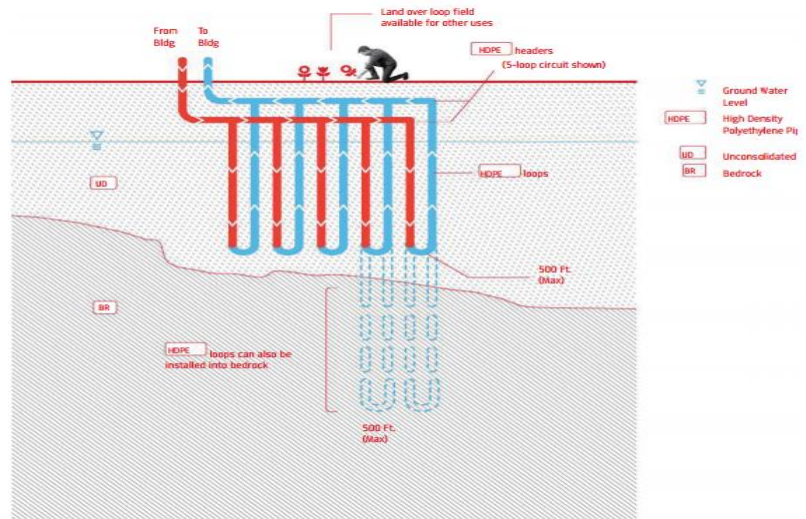


Figure 1 depicts the basic parts of a geothermal heating and cooling system. Source: New York City Mayor’s Office of Sustainability, February 2015 report, “Geothermal Systems and their Application in New York City.”

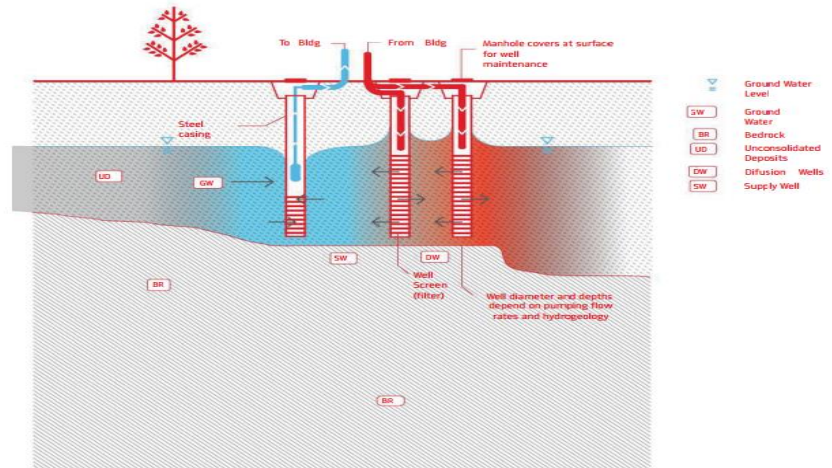
Geothermal heat pumps function similarly to air conditioners and refrigerators, except that they transfer heat to and from the ground rather than the air. In the winter, the geothermal heating and cooling system can be operated to circulate the heat-transferring fluid through the ground coupling to absorb heat, which connects to the heat pump inside a building, which extracts the heat from the fluid and then circulates and distributes it in the building. In essence, in cold months, geothermal systems transfer heat from the ground into a building. In the summer, the geothermal system is reversed to remove heat from a building and transfer it into the ground.<sup>12</sup>

As mentioned above, geothermal heating and cooling systems can be designed and configured in a variety of ways based on project-site conditions including local geology, subterranean infrastructure, property size and other factors. In New York City, three types of ground coupling applications are most suitable: *open loop systems*, *closed loop systems* and *standing column wells*. Closed loop systems circulate a heat-transferring fluid in a network of closed piping installed in the ground; open loop systems use groundwater pumped from a supply well to transfer heat and return water back into the ground through diffusion wells; and standing column wells use groundwater which is accessed through a deep well to exchange heat with surrounding bedrock.<sup>13</sup> According to a report by the city’s Department of Design and Construction, closed loop systems operate independent of hydraulic conditions beneath a project site and are potentially feasible throughout the city where unobstructed outdoor space is available (space enough to allow for drilling and installation).<sup>14</sup>

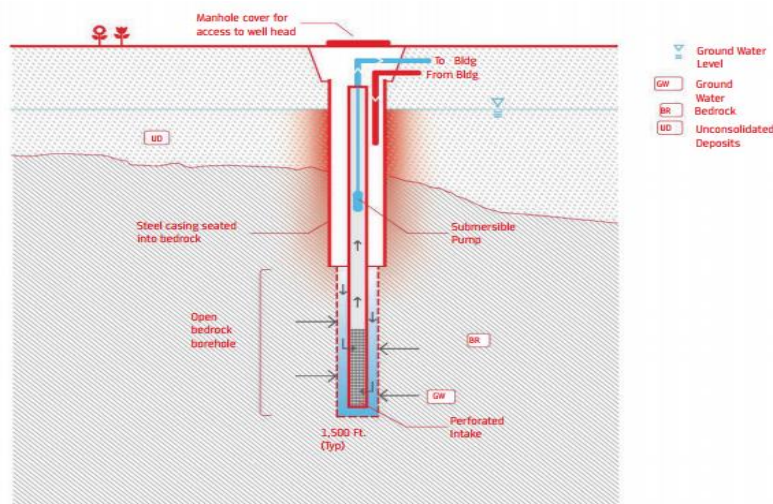


**Figure 2 (above): Geothermal heating and cooling – Closed Loop System<sup>15</sup>**

**Figure 3 (below): Geothermal heating and cooling – Open Loop System<sup>16</sup>**



**Figure 4 (below): Geothermal heating and cooling– Standing Column Well System<sup>17</sup>**



Increasing use and reliance on geothermal ground-source heating and cooling systems may offer buildings and the city a variety of benefits. A study by the United States Environmental Protection Agency (EPA) found that geothermal heat pumps are the most energy efficient, environmentally clean and cost effective space-conditioning systems available, with the lowest carbon dioxide emissions.<sup>18</sup> Benefits of using geothermal systems include that they may require fewer operating permits from government authorities and fewer annual inspections compared to conventional heating, ventilation, and air conditioning (HVAC) systems because geothermal systems have comparatively fewer operating components (conventional HVAC systems rely on separate mechanical equipment for heating and cooling whereas a geothermal system serves both functions) and these components are less exposed to outdoor weather conditions that cause equipment degradation;<sup>19</sup> they require little equipment and the equipment they do require is mostly protected from above ground conditions, the warranty for underground piping ranges from 25 to 50 years and systems generally have a lifespan of 20 or more years;<sup>20</sup> they eliminate or reduce on-site emissions by reducing or eliminating the need for fuel-fired boilers, and they can eliminate the need for cooling towers and eliminate related microbiological health concerns.<sup>21</sup> Another significant benefit of geothermal heating and cooling systems is that they reduce greenhouse gas emissions. The EPA found that ground source heat pumps can reduce energy consumption and corresponding emissions by over 44% compared to air source heat pumps and by 72% compared to electric resistance heating with standard air conditioning equipment.<sup>22</sup> Geothermal systems might also reduce their user's exposure to fluctuating natural gas, oil and electricity prices, and increase reliability of the electrical grid through peak load reduction and implementation of utility demand response programs.<sup>23</sup>

The technical and economic feasibility of installing a geothermal ground source heating and cooling system at a given building or location is dependent on a number of site-specific factors. Key factors include the site's underlying geology, land availability, underground infrastructure, and the energy demand load of the building or buildings being considered for geothermal system installation (i.e. the size and design of the geothermal system must be sufficient to meet the energy needs of the overlying building, and in the case of the city the buildings may be very large).<sup>24</sup>

In 2013, the Council passed, and then-Mayor Michael Bloomberg subsequently signed, Local Law 32 of 2013,<sup>25</sup> which required the city to produce a study on the feasibility of developing geothermal energy resources in the city. The resulting study is available online.<sup>26</sup> It concludes that there are potential opportunities to increase the use of geothermal systems throughout the city, but there are geological, cost and other obstacles that may limit widespread installation of geothermal across the city.<sup>27</sup> For example, geothermal systems must be designed with a sufficient number of wells (or loops of piping) to meet the heating and cooling needs of a given project. In general, as the heating and cooling needs of a project increases, the number of wells needed increases. The wells must be sufficiently spaced apart from one another to maintain thermal and hydraulic gradients. If sufficient distance is not provided, wells will interfere with each other during operation. In high density areas of Manhattan where there are many buildings with large heating and cooling needs, land availability for the widespread development of geothermal wells might be an obstacle.<sup>28</sup> The report also touches on the multiple potential benefits associated with geothermal systems, including energy cost savings, reduced greenhouse gas emissions, reduced operations and maintenance costs, increased overall electric reliability and reduced exposure to fluctuations in energy market prices. Previously, in 2002, the city's Department of Design and Construction also produced a "Geothermal Heat Pump Manual" designed for project managers and consulting engineers who are considering the use of geothermal systems to reduce energy costs on their building projects.<sup>29</sup> Examples of buildings in the city that currently use geothermal systems include Queens Botanical Garden, Brooklyn Children's Museum, the Bronx Zoo Lion House, Weeksville Heritage Center and Staten Island Museum at Snug Harbor.

#### **Summary of Proposed Int. No. 609-A**

This bill would require the Administration to:

- Develop, and make publicly available online, a screening tool that can be used to determine whether installation of a geothermal system would be cost-effective for a particular building. (This would be required by February 1, 2017.)
- Starting February 1, 2017, use this screening tool whenever the City newly constructs or retrofits a City-owned building. If the tool determines that a geothermal system may be cost-effective, then a more thorough engineering analysis must be done to balance the real cost such systems versus other alternatives, taking into account not only the costs of installation, but also



expected utility bill savings and “social costs” such as the benefits of reduced greenhouse gas emissions. The analysis must also consider the option of utilizing a photovoltaic system coupled with a geothermal system. If this engineering analysis shows that a geothermal system is the most cost-effective option, it must be installed. The bill also requires that the Administration report on the implementation of this law after each fiscal year.

- Within 18 months after enactment, send to the Council recommendations for (i) standards for the installation of geothermal systems; (ii) qualifications for system installers; (iii) maintaining a public registry of qualified installers; (iv) informing property owners and geothermal system installers of the benefits of coupling such systems with solar power systems; and (v) the feasibility of installing geothermal systems on the waterfront by suspending coils in surface waters.

#### **Changes to Proposed Int. No. 609-A**

In addition to various technical edits, Proposed Int. No. 609-A has been amended in the following manner:

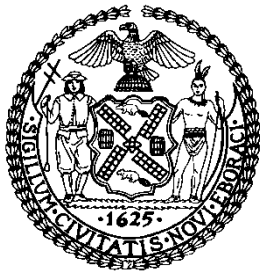
- An office or agency designated by the Mayor will be required to develop and make publicly available online a screening tool that can be used to determine whether installation of a geothermal system would be cost-effective for a particular building (as discussed above), rather than requiring DEP to post online certain information relating to geothermal energy systems.
- When the screening tool determines that a geothermal system may be cost-effective, the City will be required to conduct a more thorough engineering analysis must to balance the cost of such system versus other alternatives (as discussed above), and where that analysis shows that a geothermal system is the most cost-effective option, then such system must be installed.
- The Administration will be required to report on the implementation of this law after each fiscal year, rather than requiring DEP to report more generally on installation of geothermal systems citywide.
- An office or agency designated by the Mayor , in consultation with relevant agencies, will be required to develop and submit to the Council recommendations relating to standards for the installation of geothermal systems; qualifications for system installers; maintaining a public registry of qualified installers; informing property owners and geothermal system installers of the benefits of coupling such systems with solar power systems; and the feasibility of installing geothermal systems on the waterfront by suspending coils in surface waters, rather than requiring DEP to adopt these standards by rule.



<sup>27</sup> Id. Page 20

<sup>28</sup> New York City Department of Design and Construction, “Geothermal Heat Pump Manual – A Design and Installation Guide for New York City,” 2002, available at <http://www.nyc.gov/html/ddc/downloads/pdf/GeothermalHeatPumpManual.pdf>

(The following is the text of the Fiscal Impact Statement for Int. No. 609-A:)



**THE COUNCIL OF THE CITY OF  
NEW YORK**

**FINANCE DIVISION**

LATONIA MCKINNEY, DIRECTOR

**FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO. 609-A**

**COMMITTEE:**

ENVIRONMENTAL PROTECTION

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to geothermal systems

**SPONSORS:** Council Members Constantinides, Cornegy, Espinal, Johnson, Richards, Rose, Kallos, Rosenthal, Lancman, Deutsch, Mealy, Cabrera, Vacca, Levine, Treyger, Cohen, Williams, Vallone, Koo, Gentile, Mendez, Dickens, Koslowitz, Arroyo, Barron, Miller, Rodriguez, Torres, Van Bramer, Crowley, Garodnick, King, Dromm, Ferreras-Copeland, Greenfield and Wills

**SUMMARY OF LEGISLATION:** Proposed Intro. No. 609-A would require the mayor to designate an office or agency no later than February 1, 2017, in consultation with the Department of Buildings (“DOB”), the Department of Design and Construction (“DDC”), and other relevant agencies, to develop a public screening tool determine whether installation of a geothermal system may be cost-effective for a property. It would further require that the screening tool be used in the planning process for the new construction of City-owned buildings and certain retrofits of existing City-owned buildings. In cases where the screening tool indicates that a geothermal system may be cost-effective for a City-owned building, a further analysis must be conducted to evaluate the use of such system as compared to other heating/cooling systems. Further, if such analysis demonstrates that a geothermal system is the most cost-effective, the legislation would also require that such

December 7, 2015

4180

geothermal system be implemented, and analysis of utilizing a photovoltaic system with a geothermal system to be conducted.

The legislation would also require that, no later than six months after the end of each fiscal year, an agency or office designated by the mayor submit a report to the Speaker, and make such report publicly available, providing information regarding each City project for which the screening tool was used. Lastly, the legislation would require an agency or office designated by the mayor to provide the Council with recommendations regarding installation and maintenance of geothermal systems within 18 months.

**EFFECTIVE DATE:** This local law would take effect immediately.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2017

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**FISCAL IMPACT STATEMENT:**

	<b>Effective FY16</b>	<b>FY Succeeding Effective FY17</b>	<b>Full Fiscal Impact FY17</b>
<b>Revenues (+)</b>	\$0	\$0	\$0
<b>Expenditures (-)</b>	\$0	\$350,000	\$350,000
<b>Net</b>	\$0	\$0	\$0

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

**IMPACT ON EXPENDITURES:** It estimated that a one-time Other Than Personal Services (“OTPS”) expenditure of \$350,000 would be required to implement this legislation. This includes \$150,000 for the work DDC is doing with the United States Geological Survey (“USGS”) to catalogue the hydrogeological conditions throughout the five boroughs and place this information into an online mapping tool; \$100,000 for a public screening tool to screen projects for geothermal, including the hydrogeological data, energy data, and building data; \$50,000 to convert the screening tool into an online tool, and \$50,000 for a water loop study.

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

**SOURCES OF INFORMATION:** New York City Council Finance Division  
Mayor’s Office of Legislative Affairs

**ESTIMATE PREPARED BY:** Jonathan K. Seltzer, Legislative Financial Analyst

**ESTIMATE REVIEWED BY:** Rebecca Chasan, Assistant Counsel, Finance Division  
 Tanisha Edwards, Chief Counsel, Finance Division  
 Crilhien Francisco, Unit Head, Finance Division

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council as Intro. No. 609 on January 7, 2015 and referred to the Committee on Environmental Protection. The Committee considered the legislation at a hearing on September 22, 2015 and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 609-A, will be considered by the Committee on December 4, 2015. Upon a successful vote by the Committee, Proposed Intro. No. 609-A will be submitted to the full Council for a vote on December 7, 2015.

**DATE PREPARED:** December 2, 2015

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

**(The following is the text of Int. No. 609-A:)**

Int. No. 609-A

By Council Members Constantinides, Cornegy, Espinal, Johnson, Richards, Rose, Kallos, Rosenthal, Lancman, Deutsch, Mealy, Cabrera, Vacca, Levine, Treyger, Cohen, Williams, Vallone, Koo, Gentile, Mendez, Dickens, Koslowitz, Arroyo, Barron, Miller, Rodriguez, Torres, Van Bramer, Crowley, Garodnick, King, Dromm, Ferreras-Copeland, Greenfield, Wills, Menchaca, Cumbo, Lander, Levin and Gibson.

**A Local Law to amend the administrative code of the city of New York, in relation to geothermal systems.**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 2 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-125 to read as follows:

*§ 3-125 Geothermal systems. a. As used in this section:*

*Criteria air pollutant. The term “criteria air pollutant” means a pollutant for which the United States environmental protection agency has set national ambient air quality standards pursuant to part 50 of title 40 of the code of federal regulations.*

*Geothermal system. The term “geothermal system” means a geothermal system as defined in section one of local law number 32 for the year 2013.*

*Peak demand reduction. The term “peak demand reduction” means a reduced demand for electricity that occurs between 2 p.m. and 6 p.m., Monday through Friday from June 1 through September 30.*

*b. No later than February 1, 2017, an office or agency designated by the mayor shall, in consultation with the department of buildings, the department of design and construction and other relevant agencies, develop and make publicly available online a screening tool that can be used to determine whether installation of a geothermal system may be cost-effective for a property.*

*c. Such screening tool shall be used in the planning process for the new construction of a city-owned building and the retrofitting of an existing city-owned building’s heating and cooling system where the planning process commences on or after February 1, 2017.*

*d. 1. Where the use of such screening tool required pursuant to subdivision c of this section indicates that installation of a geothermal system may be cost-effective, an engineering and multi-criteria analysis of the use of a geothermal system, including, where appropriate, an analysis of the option of utilizing a photovoltaic system coupled with a geothermal system, shall be conducted. As part of such engineering and multi-criteria analysis, at a minimum, the following criteria shall be used to evaluate geothermal systems and compare such systems with other heating/cooling alternatives:*

*(a) Comparison of greenhouse gas emissions as a result of fuel and electricity consumption;*

*(b) Comparison of impacts on criteria air pollutant concentrations;*

*(c) Comparison of annual electricity consumption and impacts on peak demand reduction;*

*(d) Where applicable, comparison of a potential revenue stream generated from the peak demand reduction using a dollar metric;*

*(e) Comparison of fuel and power costs; and*

*(f) Comparison of the net present value of all alternatives considered, where such net present value shall:*

*(1) Be based on a 20-year life expectancy for each proposed option, unless a particular technology has a different life expectancy as documented by the manufacturer; and*

*(2) Include capital costs, operations and maintenance, fuel costs, available federal, state and other non-city governmental funding assistance, and the social cost of carbon value as provided in paragraph 3 or pursuant to paragraph 4; provided that a site- or project-specific social cost of carbon value may be developed and used in lieu of the social cost of carbon value provided in paragraph 3 or pursuant to paragraph 4 if such site- or project-specific social cost of carbon value is higher than the social cost of carbon value provided in paragraph 3 or pursuant to paragraph 4.*

*2. If the geothermal system has the lowest net present value of all alternatives considered it shall be selected for implementation.*

*3. The social cost of carbon value shall be as follows:*

<i>Year</i>	<i>Dollar value per metric ton of carbon dioxide equivalent</i>
<i>2017</i>	<i>128</i>
<i>2018</i>	<i>132</i>
<i>2019</i>	<i>136</i>
<i>2020</i>	<i>140</i>
<i>2021</i>	<i>142</i>

*4. An office or agency designated by the mayor may by rule increase the social cost of carbon values provided in paragraph 3, and may promulgate rules establishing the social cost of carbon values for years after 2021, provided that any social cost of carbon value established by rule for years after 2021 may not be less than the social cost of carbon value for the year 2021 as provided in paragraph 3 and that any such rule shall disclose the social cost of carbon value, if any, determined by the United States environmental protection agency, for the year for which such rule establishes a social cost of carbon value.*

*e. By no later than six months after the end of each fiscal year, an office or agency designated by the mayor shall submit to the speaker of the council and make publicly available online a report containing the following information for each project described in subdivision c of this section that is completed during such fiscal year:*

- 1. A brief description of such project;*
- 2. The street address of such project and the community district and council district in which such project is located;*
- 3. Whether installation of a geothermal system for such project was determined to be cost-effective based on the use of the screening tool described in subdivision b of this section;*
- 4. Whether installation of a geothermal system was selected for the project based on the detailed engineering and multi-criteria analysis pursuant to subdivision d of this section; and*
- 5. Whether a geothermal system was installed for such project and, if not, the type of system installed.*

*f. No later than 18 months after the effective date of the local law that added this subdivision, an office or agency designated by the mayor shall, in consultation with the relevant agencies, develop and submit to the mayor and the speaker of the council recommendations relating to:*

- 1. Standards for the installation and maintenance of geothermal systems, including standards relating to assessing subsurface conditions and the design, commissioning, distribution and performance monitoring of such systems;*
- 2. Required qualifications for persons who will design or install such systems;*
- 3. Maintaining a publicly available registry of such persons;*
- 4. Informing property owners and installers of geothermal systems regarding the potential benefits of coupling a photovoltaic system installation with a geothermal system for buildings within the city; and*

December 7, 2015

4184

*5. The technical and regulatory feasibility of implementing a geothermal system for waterfront properties within the city by suspending closed loop coils or other heat exchange devices in the marine surface waters around the city.*

§ 2. This local law takes effect immediately.

COSTA G. CONSTANTINIDES, *Chairperson*; STEPHEN T. LEVIN, RORY I. LANCMAN; Committee on Environmental Protection, December 4, 2015.

On motion of the Speaker (Council Member Mark-Viverito), 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 Mark-Viverito) 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. 308

**Report of the Committee on Finance in favor of approving Gottsegan House, Block 1347, Lot 52; Manhattan, Community District No. 6, Council District No. 5.**

The Committee on Finance to which the annexed preconsidered communication was referred on December 7, 2015, and was coupled with the resolution shown below, respectfully

### **REPORTS:**

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

December 7, 2015

TO: Hon. Julissa Ferreras-Copeland  
Chair, Finance Committee  
Members of the Finance Committee



FROM: Rebecca Chasan, Assistant Counsel, Finance Division

RE: Finance Committee Agenda of December 7, 2015 - Resolution approving a tax exemption for two Land Use Items (Council Districts 2 and 5)

### **Item 1: The Mascot Flats**

Mascot Flats consists of 1 building with 19 units of rental housing for low- to middle-income individuals and families. The Mascot Flats Housing Development Fund Corporation (“HDFC”) acquired the property in 1993 and received tax benefits pursuant to Real Property Tax Law Section 489 (“J-51 Benefits”). Due to the phase-out of J-51 Benefits, the HDFC was not able to pay real property taxes since 2006. Accordingly, on September 24, 2013, the Council granted the property a retroactive full exemption from real property taxation pursuant to Private Housing Finance Law Section 577 between July 1, 2006 and June 30, 2013. Thereafter, the Council granted a prospective partial exemption from real property taxation between July 1, 2013 and June 30, 2046, for a total real property tax exemption period of 40 years.

The real property tax exemption was conditioned upon the HDFC and the City’s Department of Housing and Preservation Development (“HPD”) entering into a regulatory agreement within 90 days of the Council’s approval of the exemption. However, HPD and the HDFC did not enter into the regulatory agreement within the 90-day period.

On December 8, 2014, upon request of HPD, the Council again granted a real property tax exemption on the same terms, with the condition that HPD and the HDFC would enter into a regulatory agreement by February 28, 2015. However, again HPD and the HDFC did not enter into the regulatory agreement within the stated timeframe.

HPD is now requesting that the Council amend the prior exemption to extend the timeframe for HPD and the HDFC to enter into a regulatory agreement until November 1, 2016. The regulatory agreement will require that the housing units be rented to individuals and families whose incomes do not exceed 120% of the Area Median Income (“AMI”). In 2015, 120% of AMI was as follows:

AMI	Family of Four	Family of Three	Family of Two	Individual
120% of AMI	\$103,560	\$93,240	\$82,920	\$72,600

Summary:

- Borough – Manhattan
- Block/Lot – 375/30
- Council District – 2
- Council Member – Mendez
- Council Member approval – Yes
- Number of Buildings – 1
- Number of Units – 19
- Article XI Tax Exemption – 40 years: full between 2006-2013 and partial between 2013-2046
- Population – Rentals for low- to middle-income individuals and families
- Sponsor/Developer – The Mascot Flats HDFC
- Cost to the City – \$847,553
- Open violations or other known problems with the City – None
- Income Limitation – units will be leased to households earning up to 120% of AMI

**Item 2: Gottsegen House**

Gottsegen House consists of 1 building with 8 units of rental housing for low-income households. In 2005, the property's prior owner entered into a regulatory agreement with HPD establishing certain controls on the operation of the exemption area. The property was acquired by Citywide Supportive HDFC on January 15, 2015 and the HDFC assumed the prior owner's obligations under the regulatory agreement. The Regulatory Agreement establishes certain controls upon the operation of the Exemption Area.

The property currently receives an exemption from and/or abatement of real property taxation pursuant to Section 489 of the Real Property Tax Law ("J-51 Benefits"). However, in order to ensure the continued affordability of the property, pursuant to Section 577 of the Private Housing Finance Law, HPD is requesting that the Council grant the property a full 40-year exemption from real property taxation which will be reduced by an amount equal to any concurrent J-51 Benefits. HPD and the HDFC will enter into a new regulatory agreement that will be coterminous with the property tax exemption and which will require that the housing units be rented to households whose incomes do not exceed 80% of AMI. In 2015, 80% of AMI is as follows:

AMI	Family of Four	Family of Three	Family of Two	Individual
80% of AMI	\$69,040	\$62,160	\$55,280	\$48,400

Summary:

- Borough – Manhattan
- Block/Lot – 1347/2
- Council District – 5
- Council Member – Kallos
- Council Member approval – Yes
- Number of Buildings – 1
- Number of Units – 8
- Article XI Tax Exemption – full, 40 years
- Population – Rentals for low-income individuals and families
- Sponsor/Developer – Citywide Supportive HDFC
- Cost to the City – \$2,823,490
- Open violations or other known problems with the City – None
- Income Limitations – units will be leased to households earning up to 80% of AMI

**(For text of the coupled resolution for LU No. 309, please see the Report of the Committee on Finance for LU No. 309 & Res No. 925 printed in these Minutes; for text of the coupled resolution for LU No. 308, please see Res No. 924 below)**

*Accordingly, this Committee recommends the adoption of LU Nos. 308 and 309.*

In connection herewith, Council Member Ferreras-Copeland offered the following resolution:

Res. No. 924

**Resolution approving an exemption from real property taxes for property located at (Block 1347, Lot 52) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 308).**

By Council Member Ferreras-Copeland.

**WHEREAS**, the New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council its request dated October 16, 2015 that the Council take the following action regarding a housing project located at (Block 1347, Lot 52) 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 January 15, 2015.
  - (b) “Exemption” shall mean the exemption from real property taxation for the Exemption Area provided hereunder.
  - (c) “Exemption Area” shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1347, Lot 52 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 Citywide Supportive Housing Development Fund Corporation.
  - (f) “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.

- (g) “J-51 Benefits” shall mean any tax benefits pursuant to Section 489 of the Real Property Tax Law which are in effect on the Effective Date.
  - (h) “Owner” shall mean the HDFC or any future owner of the Exemption Area that is a housing development fund company.
  - (i) “Regulatory Agreement” shall mean the Amended and Restated Lower Income Housing Plan Written Agreement between HPD and Milan Development LLC dated September 30, 2005.
2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
3. Notwithstanding any provision hereof to the contrary:
- (a) The Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) the Exemption Area is conveyed to a new owner without the prior written approval of HPD, 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 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 apply to all land in the Exemption Area, but shall only apply to a building on the Exemption Area that exists 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 the Effective Date.

4. In consideration of the Exemption, the HDFC, 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. Notwithstanding the foregoing, the J-51 Benefits shall remain in effect, but the Exemption shall be reduced by the amount of such J-51 Benefits.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES VAN BRAMER, VANESSA L. GIBSON, LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, December 7, 2015. *Other Council Members Attending: Council Member Rosie Mendez.*

On motion of the Speaker (Council Member Mark-Viverito), 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 Mark-Viverito) 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. 309

**Report of the Committee on Finance in favor of approving The Mascot Flats, Block 375, Lot 30; Manhattan, Community District No. 3, Council District No. 2.**

The Committee on Finance to which the annexed preconsidered communication was referred on December 7, 2015, and was coupled with the resolution shown below, respectfully

**REPORTS:**

**(For text of the Finance Memo, please see the Report of the Committee on Finance for LU No. 308 printed in these Minutes)**

*Accordingly, this Committee recommends its adoption.*

In connection herewith, Council Member Ferreras-Copeland offered the following resolution:

Res. No. 925

**Resolution approving an amendment to a previously approved exemption from real property taxes for property located at (Block 375, Lot 30) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 309).**

By Council Member Ferreras-Copeland.

**WHEREAS**, the New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council its request dated October 16, 2015 that the Council amend a previously approved tax exemption for property located at (Block 375, Lot 30) Manhattan (“Exemption Area”);

**WHEREAS**, HPD’s request for amendment is related to a previously approved Council Resolution adopted on December 8, 2014 (Res. 512-2014) (the “Prior Resolution”) granting the Exemption Area an exemption from real property taxation pursuant to Section 577 of the Private Housing Finance Law;

**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 approves the amendment to the Prior Resolution requested by HPD for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

Paragraph 5(a) of the Prior Resolution is deleted and replaced with the following new paragraph 5(a):

5. (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 owner of the Exemption Area has failed to execute the Regulatory Agreement by November 1, 2016, (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, (v) the Exemption Area is conveyed to a new owner without the prior

written approval of HPD, or (vi) 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.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES VAN BRAMER, VANESSA L. GIBSON, LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, December 7, 2015. *Other Council Members Attending: Council Member Rosie Mendez.*

On motion of the Speaker (Council Member Mark-Viverito), 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 Public Safety**

Report for Int. No. 65-A

**Report of the Committee on Public Safety 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 a program to reimburse nonpublic schools for the cost of security guard services.**

The Committee on Public Safety, to which the annexed amended proposed local law was referred on February 26, 2014 (Minutes, page 420), respectfully

### **REPORTS:**

#### **I. INTRODUCTION**

Today, the Committee on Public Safety, chaired by Council Member Vanessa Gibson, will vote on Proposed Introductory Bill Number 65-A (“Intro. 65-A”), a local law to amend the administrative code of the city of New York, in relation to a program to reimburse nonpublic schools for the cost of security guard services. An earlier version of this bill was previously considered at a joint hearing on April 14, 2015, conducted by the Committees on Public Safety, Education and the Subcommittee on Non-Public Schools. The committees received testimony from the Departments of Education (“DOE”), the Mayor’s Office on Criminal Justice, the New York City Police Department (“NYPD”) and other interested parties.



## **II. BACKGROUND**

### ***Security in Public Schools***

In 1995, New York City Mayor Rudolph Giuliani convened an investigatory commission which concluded that the New York City Board of Education's ("BOE," now the DOE) Division of School Safety was poorly managed and did not effectively maintain school security.<sup>1</sup> In 1998, the BOE transferred the responsibility of managing school security from its Division of School Safety to the NYPD.<sup>2</sup> School Safety Agents ("SSAs") were transferred to the NYPD, which was charged with the responsibility of training, recruiting and managing such agents.<sup>3</sup> Under the jurisdiction of the NYPD, the SSAs retained the power of arrest and gained additional responsibilities, which included: monitoring school entrances, exits and hallways; operating ID scanners, cameras, and metal detectors; verifying staff and student identification; and coordinating with precinct officers when appropriate.<sup>4</sup> Today there are SSAs in public schools at all times the schools are open.

### ***Security in Nonpublic Schools***

Despite the fact that nonpublic and public school children face the same security concerns, nonpublic schools remain responsible for managing their own school safety issues. In school year 2012-2013, close to 20% of the kindergarten to 12<sup>th</sup> grade student population in New York City attended nonpublic schools.<sup>5</sup> Many of these schools rely on locked doors, occasional patrolling by faculty members and intercom systems to provide school security.<sup>6</sup> While some nonpublic schools hire security guards, the majority lack the funding to pay for live security personnel.<sup>7</sup> The bill being voted on today is designed to address this gap in nonpublic school security.

In addition to the risk of ordinary crimes such as theft, violence and unauthorized entry in schools, within the last several years, there have been a number of school shootings both nationally and internationally. Since 2013, there have been at least 161 school shootings in America – an average of nearly one a week.<sup>8</sup> In addition, in recent months, there has been an increase of terrorist attacks on "soft" targets<sup>9</sup> which potentially could involve schools. Parents and officials of nonpublic schools, as well as the sponsors of this bill believe that together, these risks leave nonpublic students vulnerable and create a great need for live security guards in these schools.

## **III. ANALYSIS OF INTRO NO.65-A**

Intro. 65-A would authorize the reimbursement to nonpublic schools for expenses related to hiring unarmed security guards. The bill would apply to "Qualifying nonpublic schools" which are defined as any nonprofit elementary or secondary school that provides instruction in accordance to the education law and is not a New York City public school. "Allowable costs" are defined as security guard wages and reasonable costs (established by rules promulgated by the administering

agency) paid to security guard companies. The bill also defines “administering agency,” “allowable costs,” “city,” “prevailing wage and supplements,” “qualified provider list,” “security guard,” “security guard company,” and “security services.”

The bill would require the Mayor to designate an agency to administer the program which would establish a qualified provider list. Upon the request of a qualifying nonpublic school, the administering agency would reimburse the allowable costs of the security guard to provide services during school hours, school-related after school programs and athletic events. The administering agency would provide reimbursement for allowable costs of security guards based on the number of students. Nonpublic schools that enroll 300-499 students would be reimbursed the cost of one security guard. Nonpublic schools with at least 500 students would be reimbursed the cost of two security guards, and the cost of any additional security guard would be reimbursed per 500 students. Nonpublic schools would only receive reimbursements of allowable costs for State licensed security guards from the qualified provider list that are paid the prevailing wage and supplements as determined by the Comptroller pursuant to the State Labor Law, provide only security services, and report criminal and public safety related incidents to law enforcement or applicable agencies. Nothing would prohibit a school from paying a security guard in excess of the prevailing wage but the City would only reimburse the prevailing wage. In addition, nonpublic schools would be required to apply for the reimbursement and agree to provide documentation to support any reimbursement request. The total amount of reimbursement authorized by the bill is a maximum of \$19,800,000 dollars per school year. The bill allows for this maximum amount to increase annually to account for growth in the number of eligible schools and the prevailing wage.

This bill would go into effect April 1, 2016, provided necessary rulemaking and funding is made available.

#### **IV. CHANGES TO INTRO 65-A**

Since an earlier version of Intro 65-A was heard on April 14<sup>th</sup>, the bill has undergone revisions. Among these are the following changes. In the previous version of the bill, the NYPD was required to assign school safety agents to public and nonpublic schools, upon the request of such schools. The NYPD was required to assign no less than one school safety agent to a school within ten business days of the school’s request, or as many school safety agents above one agent as the NYPD deemed necessary. The current version of the bill does not require the placement of school safety agents, but instead authorizes reimbursement to nonpublic schools relating to hiring unarmed security personnel. In addition, only nonpublic schools with 300 or more students would be eligible for the reimbursement.

<sup>1</sup> New York Civil Liberties Union, “Criminalizing the Classroom, The Over-Policing of New York City Schools,” p.3 (March 2007), *available at* [http://www.nyclu.org/pdfs/criminalizing\\_the\\_classroom\\_report.pdf](http://www.nyclu.org/pdfs/criminalizing_the_classroom_report.pdf).

<sup>2</sup> Lynette Holloway, “Board Votes to Give Police Control Over School Security,” *The New York Times* (Sept. 17, 1998).

<sup>3</sup> *See Id.*; New York Civil Liberties Union, “Criminalizing the Classroom, The Over-Policing of New York City Schools,” p.8 (March 2007), *available at*

[http://www.nyclu.org/pdfs/criminalizing\\_the\\_classroom\\_report.pdf](http://www.nyclu.org/pdfs/criminalizing_the_classroom_report.pdf).

<sup>4</sup> New York Civil Liberties Union, "Criminalizing the Classroom, The Over-Policing of New York City Schools," p.8 (March 2007), *available at*

[http://www.nyclu.org/pdfs/criminalizing\\_the\\_classroom\\_report.pdf](http://www.nyclu.org/pdfs/criminalizing_the_classroom_report.pdf).

<sup>5</sup> <http://www.ibo.nyc.ny.us/iboreports/printnycbtn27.pdf>

<sup>6</sup> See Hearing Transcript from City Council Hearing on April 14, 2015 "Oversight-Exploring School Climate and School Discipline Codes" available at

<file:///C:/Users/dambekar/Downloads/Hearing%20Transcript%2041415.pdf>

<sup>7</sup> See Hearing Testimony from City Council hearing on April 14, 2015 "Oversight – Exploring School Climate and School Discipline Codes" available at

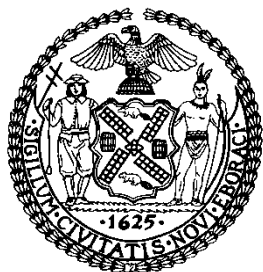
<file:///C:/Users/dambekar/Downloads/Hearing%20Testimony%2041415.PDF>; The Department of Homeland Security, however, does provide some grants to nonpublic school for security infrastructure, such as reinforced doors or windows.

<sup>8</sup> <http://everytownresearch.org/school-shootings/>

<sup>9</sup> <http://www.bbc.com/news/world-europe-34818994>;

<http://www.theguardian.com/world/2015/nov/20/mali-attack-highlights-global-spread-extremist-violence>

**(The following is the text of the Fiscal Impact Statement for Int. No. 65-A:)**



**THE COUNCIL OF THE CITY  
OF NEW YORK  
FINANCE DIVISION**

LATONIA MCKINNEY,  
DIRECTOR

**FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO:** 65-A  
**COMMITTEE:** Public Safety

**TITLE:** To amend the administrative code of the city of New York, in relation to a program to reimburse nonpublic schools for the cost of security guard services.

**SPONSORS:** Greenfield, Eugene, Koo, Lancman, Levine, Palma, Rose, Vallone, Rodriguez, Deutsch, Maisel, Richards, Cohen, Levin, Treyger, Garodnick, Cabrera, Chin, Constantinides, Cornegy, Crowley, Cumbo, Dickens, Espinal, Ferreras--Copeland, Gentile, Johnson, Kallos, King, Koslowitz, Lander, Mealy, Miller, Reynoso, Torres, Vacca, Van Bramer, Williams, Wills, Menchaca, Gibson, Matteo, Ulrich, Borelli, and The Public Advocate (Ms. James)

**SUMMARY OF LEGISLATION:** Proposed Intro. 65-A would permit the Mayor to authorize a program to reimburse certain nonpublic schools for expenses related to

hiring unarmed security guards. Qualifying nonpublic schools would include nonpublic schools in New York City (“the City”) with 300 or more students enrolled, providing instruction in accordance with the education law and serving students in any combination of grades pre-kindergarten through twelve.

Schools would be reimbursed quarterly for the cost of wages for security services performed during school hours, including school-related after school programs and athletic events, plus reasonable costs paid by the schools to the security guard companies. The number of security guards provided to each school would be based on the number of students; schools with 300 to 499 students would qualify for one security guard, while schools with at least 500 students would qualify for two security guards plus an additional guard for each additional 500 students. The total amount of reimbursements would be limited to \$19.8 million annually. However, if the agency appointed by the Mayor to administer the program believes this cap would be reached in a subsequent year, the agency may adjust the cap, subject to appropriations, to reflect changes in prevailing wages, enrollment in eligible schools, or the number of qualifying schools.

To obtain reimbursement, the security guards hired must be authorized by the State to perform security services, and paid a prevailing wage and supplements. Nothing would prohibit a school from paying a security guard in excess of the prevailing wage but the City would only reimburse the prevailing wage plus overtime. Overtime would be capped at 15 percent of regular wages. Nonpublic schools would be required to apply for the reimbursement and to agree to provide documentation to support any reimbursement request.

**EFFECTIVE DATE:** This local law would take effect on April 1, 2016, provided, however, that the Mayor and the administering agency may take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date, and provided further that a pro-rated amount of \$19,800,000 shall be available for reimbursement should the program be authorized for the 2015-2016 school year.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2017

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**FISCAL IMPACT STATEMENT:**

	<b>Effective FY16</b>	<b>FY Succeeding Effective FY17</b>	<b>Full Fiscal Impact FY17</b>
<b>Revenues</b>	\$0	\$0	\$0
<b>Expenditures</b>	\$4,532,918	\$18,131,672	\$18,131,672
<b>Net</b>	\$4,532,918	\$18,131,672	\$18,131,672

**IMPACT ON REVENUES:** It is anticipated that there would be no impact on revenues as a result of this legislation.

**IMPACT ON EXPENDITURES:** It is estimated that that this legislation would impact expenditures in the amount of at least \$18,131,672 per year. Costs would stem from two main areas: 1) the reimbursement of security guard costs, and 2) the cost to the City to administer the program. For the latter, it is estimated that in addition to utilizing existing resources, the administering agency would require two additional staff to help with analytical, administrative, and billing duties. Including fringe costs, these additional personnel would cost approximately \$165,000 annually.

With respect to the actual reimbursements, based on nonpublic school student enrollment for the 2014-2015 school year, it is expected that 299 schools in New York City would be eligible for this program. If all eligible schools participate and use security services for all covered school hours they would be eligible for reimbursement costs for 514 guards in total. However, it is expected that not all eligible private schools would choose to participate in the security guard reimbursement program initially. Further some participating schools may choose to use reimbursable security services for only some portion of the covered school hours. Since eligible schools have not stated their plans to participate in the proposed program, this fiscal estimate assumes an 80 percent participation rate.

Proposed Intro. 65-A would allow for the reimbursement of reasonable costs to hire the guards which would include prevailing wage rates plus administrative and insurance costs for the security companies. The average prevailing wage and supplemental rate for unarmed security guards with one year of experience is \$19.64 per hour. The fee charged by security firms is estimated to be approximately 25 percent of the wages. Based on these assumptions, the cost of reimbursing all participating eligible schools for a complete school year would be \$17,966,672 annually.

December 7, 2015

4198

The impact on expenditures for the first fiscal year, Fiscal 2016, is pro-rated to reflect that only one quarter of the 2015-2016 school year and fiscal year would be remaining at the point the law takes effect.

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

**SOURCE OF INFORMATION:** New York City Council Finance Division  
New York State Education Department  
New York City Comptroller  
Service Employees International Union, Local 32BJ

**ESTIMATE PREPARED BY:** Emre Edev, Assistant Director  
Ellen Eng, Senior Legislative Financial Analyst

**ESTIMATE REVIEWED BY:** Regina Poreda Ryan, Deputy Director  
Tanisha Edwards, Chief Counsel  
Rebecca Chasan, Assistant Counsel

**LEGISLATIVE HISTORY:** Intro. No. 65 was introduced to the Council on February 26, 2014 and referred to the Committee on Public Safety. The legislation was considered at a joint hearing of the Committees on Public Safety and Education and the Subcommittee on Non-Public Schools on April 14, 2015 and laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 65-A, will be voted on by the Committee on Public Safety on December 4, 2015. Upon successful vote by the Committee, Proposed Intro. No. 65-A will be submitted to the full Council for a vote on December 7, 2015.

**DATE PREPARED:** December 3, 2015

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

**(The following is the text of Int. No. 65-A:)**

Int. No. 65-A

By Council Members Greenfield, Eugene, Koo, Lancman, Levine, Palma, Rose, Vallone, Rodriguez, Deutsch, Maisel, Richards, Cohen, Levin, Treyger, Garodnick, Cabrera, Chin, Constantinides, Cornegy, Crowley, Cumbo, Dickens, Espinal, Ferreras-Copeland, Gentile, Kallos, King, Koslowitz, Lander, Mealy, Miller, Reynoso, Torres, Vacca, Van Bramer, Williams, Wills, Menchaca, Gibson, Grodenchik, Matteo, Ulrich, Borelli, and The Public Advocate (Ms. James).

**A Local Law to amend the administrative code of the city of New York, in relation to a program to reimburse nonpublic schools for the cost of security guard services.**

*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 10-172 to read as follows:

*§10-172. Security guards in nonpublic schools.*

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

*“Administering agency” means one or more agencies designated by the mayor to administer the program or components thereof established by this section. The department of education, with its concurrence, may be designated as an administering agency. The city and such department may enter into an agreement in furtherance of the implementation of this section.*

*“Allowable costs” means (i) security guard wages equal to the prevailing wage and supplements, subject to provisions of this section governing the reimbursement of such costs, and (ii) reasonable costs, as established by rules promulgated by the administering agency, paid by qualifying nonpublic schools to security guard companies. “Allowable costs” shall include the cost of training that may be required pursuant to this section, but only to the extent that such training is not otherwise required by article 7-A of the general business law or any other federal, state, or local law or regulation, and shall not include any costs for overtime that are greater than fifteen percent of the non-overtime security wages reimbursed to a qualifying nonpublic school.*

*“City” means the city of New York.*

*“Prevailing wage and supplements” means the rate of wage and supplemental benefits per hour paid in the city to unarmed security guards as determined by the comptroller in accordance with section 234 of the labor law.*

*“Qualifying nonpublic school” means any nonprofit elementary or secondary school in the city, other than a public school, which is providing instruction in accordance with the education law, has been assigned a Basic Educational Data System (BEDS) code by the New York state department of education, or a similar successor identifier, and is serving students in any combination of grades pre-kindergarten through twelve.*

*“Qualified provider list” means a list of security guard companies that meet standards established by the administering agency to provide security services to nonpublic schools, which may include, but shall not be limited to, performance, training and other qualification standards.*

*“Security guard” means an unarmed individual with a current and valid registration card issued in accordance with article 7-A of the general business law, authorizing such individual to perform security services in New York.*

*“Security guard company” means a company licensed to provide security guards under contract to other entities pursuant to article 7 of the general business law.*

*“Security services” means the unarmed protection of individuals and/or property from harm or other unlawful activity, as well as, prevention, deterrence, observation, detection and/or reporting to government agencies of unlawful activity or conditions that present a risk to the safety of students, staff or the public.*

*b. Nonpublic school security guard reimbursement program. The mayor may authorize a program to reimburse qualifying nonpublic schools for the cost of security services as set forth in this section upon determining that such program would enhance public safety, in which case the remaining provisions of this section shall be applicable.*

*c. The mayor shall designate an administering agency to administer the program.*

*d. The administering agency shall establish a qualified provider list. Such list may be developed based upon standards to be promulgated by rule, or may be developed through a procurement to be conducted by such agency.*

*e. Upon request of a qualifying nonpublic school, the administering agency shall reimburse such qualifying nonpublic school for the allowable costs of a security guard to provide security services at such school at all times that such school is open for school-related instruction or school-related events, including, but not limited to, school-related after school programs and athletic events.*

*f. Except as set forth in subdivision g of this section, the administering agency shall provide reimbursement of the allowable costs for:*

*1. one security guard at a qualifying nonpublic school that enrolls from 300 to 499 students;*

*2. two security guards at a qualifying nonpublic school that enrolls at least 500 students; and*

*3. an additional security guard at a qualifying nonpublic school for each additional 500 students enrolled.*

*For purposes of this subdivision, students with respect to whom the city separately provides assistance that includes funding for security shall not be included in the reimbursement determination, and reimbursement for the services of one security guard during periods of school-related instruction or school-related events may include the costs of different individuals providing security services at different times. Further, the term “student” shall be deemed to refer to the full-time equivalent thereof, based upon a six hour and twenty-minute school day for a student.*

*g. Notwithstanding the provisions of subdivisions e and f, a qualifying nonpublic school shall not be eligible to receive reimbursement from the administering agency unless:*



1. *such request is made in a form and manner prescribed by the administering agency;*
2. *each such security guard is employed by a security guard company on the qualified provider list, provided that if such list has not been established by the administering agency or the list contains fewer than three security guard companies, then each such security guard must be employed by a security guard company;*
3. *each such security guard is paid no less than the prevailing wage and supplements;*
4. *each such security guard provides security services and no other services;*
5. *each such security guard and security guard company has been employed or retained in compliance with applicable labor and employment laws;*
6. *the nonpublic school, acting in coordination with the security guard or security guard company, reports criminal and other significant public safety-related incidents to the police department or other appropriate government agency promptly after such incidents occur and in annual summary reports, in accordance with rules promulgated by the administering agency; and*
7. *the nonpublic school complies with rules promulgated by the administering agency.*
- h. *The administering agency shall provide reimbursement of allowable costs on a quarterly basis after receiving satisfactory proof from the qualified nonpublic school of compliance with the requirements for reimbursement set forth in this section.*
- i. *The reimbursement authorized by this section shall not interfere with any rights a security guard has pursuant to any collective bargaining agreement.*
- j. *Notwithstanding any provision to the contrary in this local law, the total annual amount of reimbursements authorized by this section shall be a maximum of \$19,800,000 dollars per school year, which shall be adjusted annually by the administering agency, if such agency anticipates that such maximum will be reached in the subsequent one-year period, to reflect changes in the prevailing wage and supplements, the number of students attending qualifying nonpublic schools, or the number of qualifying nonpublic schools, provided that such reimbursements shall in no event exceed the amounts appropriated for implementation of this section. To the extent the administering agency anticipates that the amount requested for reimbursement will exceed the funds available, the administering agency shall reimburse for allowable costs on an equitable basis until such funds are exhausted.*
- k. *Nothing in this section shall prohibit a qualifying nonpublic school from paying a wage to a security guard greater than that for which it receives reimbursement pursuant to this section.*
- l. *The provision of reimbursement to a qualifying nonpublic school for allowable costs of a security guard pursuant to this section shall not make the city of New York or any administering agency the employer of such security guard, and such school shall be solely responsible for withholding and payment of any taxes and other government required payments. Further, nothing in this section shall be construed to relieve any qualifying nonpublic school of responsibility for all other elements of*

*security that may be required or appropriate and are not funded pursuant to this section.*

*m. The administering agency may promulgate any rules as may be necessary for the purposes of carrying out the provisions of this section, including, but not limited to, rules (i) relating to the training of security guards, (ii) ensuring that security guards and security guard companies are appropriately qualified to provide security services to qualifying nonpublic schools, and (iii) providing for prompt reporting of criminal and other significant public safety-related incidents to the police department or other appropriate government agency as well as annual summary reports of such incidents.*

§ 2. This local law shall take effect on April 1, 2016, provided, however, that the mayor and the administering agency may take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date; and provided further that a pro-rated amount of \$19,800,000 shall be available for reimbursement should the program be authorized for the 2015-2016 school year.

VANESSA L. GIBSON, *Chairperson*; VINCENT J. GENTILE, JULISSA FERRERAS-COPELAND, JUMAANE D. WILLIAMS, ROBERT E. CORNEGY, Jr., CHAIM M. DEUTSCH, RAFAEL ESPINAL, Jr., RORY I. LANCMAN, RITCHIE J. TORRES, STEVEN MATTEO; Committee on Public Safety, December 4, 2015. *Other Council Members Attending: Council Member David G. Greenfield.*

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

**Report of the Committee on Rules, Privileges and Elections**

At this point the Speaker (Council Member Mark-Viverito) announced that the following items had been **preconsidered** by the Committee on Rules, Privileges and Elections and had been favorably reported for adoption.

Report for Res. No. 926

**Report of the Committee on Rules, Privileges and Elections in favor of approving a Resolution approving Membership changes to certain Standing Committees and an allowance for an Officer of the Council.**

The Committee on Rules, Privileges and Elections, to which the annexed preconsidered resolution was referred on December 7, 2015, respectfully

**REPORTS:****PRECONSIDERED RESOLUTION NO. 926**

**SUBJECT: Resolution Approving Changes in Membership to Certain Standing Committees and an Allowance for an Officer of the Council.**

**ANALYSIS:** Before the Committee for its consideration are proposed changes to the Membership of various Committees and an allowance for an Officer of the Council. See the Resolution for each of the specific changes.

*Accordingly, this Committee recommends its adoption.*

**(The following is the text of Res. No. 926:)**

December 7, 2015

4204

Res. No. 926

**Resolution Approving Membership Changes to Certain Standing Committees  
and an Allowance for an Officer of the Council.**

By Council Member Lander:

**RESOLVED**, That pursuant to Rules 4.10, 7.00, and 7.20 of the Rules of the Council, and Section 26(b) of the New York City Charter, the Council does hereby consent to the following Membership changes to certain Standing Committees and an allowance for an Officer of the Council:

**STANDING COMMITTEES**

**COURTS AND LEGAL SERVICES**

Cohen

Grodenschik

**ECONOMIC DEVELOPMENT**

Borelli

**GENERAL WELFARE**

Grodenschik

[Richards]

**GOVERNMENTAL OPERATIONS**

Borelli

[Matteo]

**HEALTH**

Vacca

**HOUSING AND BUILDINGS**

Grodenschik

[Koslowitz]

**JUVENILE JUSTICE**

Grodenschik

[Vacca]

**MENTAL HEALTH, DEVELOPMENTAL DISABILITY,  
ALCOHOLISM, SUBSTANCE ABUSE AND DISABILITY SERVICES**

Borelli

Grodenschik

**TECHNOLOGY**

Borelli

Grodenschik

[Matteo]

**VETERANS**

Borelli

[Cohen]

**WATERFRONTS**

Borelli

[Vallone]

**OFFICER**

**MINORITY WHIP**

Borelli     \$5,000

BRADFORD S. LANDER, *Chairperson*; DANIEL R. GARODNICK, YDANIS A. RODRIGUEZ, MARGARET S. CHIN, RAFAEL L. ESPINAL, Jr., MARK LEVINE, STEVEN MATTEO, MELISSA MARK-VIVERITO; Committee on Rules, Privileges and Elections, December 7, 2015.

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

**Special Supplement to the Rules Report section:****STANDING COMMITTEES OF THE COUNCIL**  
**December 7, 2015**

<b>AGING</b>	<b>CIVIL RIGHTS</b>	<b>CIVIL SERVICE &amp; LABOR</b>	<b>COMMUNITY DEVELOPMENT</b>
<b>CHIN, CHAIR</b> ARROYO KOSLOWITZ ROSE DEUTSCH TREYGER VALLONE	<b>MEALY, CHAIR</b> EUGENE DROMM ROSE KING	<b>MILLER, CHAIR</b> CROWLEY DROMM CONSTANTINIDES CORNEGY	<b>ARROYO, CHAIR</b> PALMA CROWLEY KING GIBSON MAISEL ROSENTHAL
<b>CONSUMER AFFAIRS</b>	<b>CONTRACTS</b>	<b>COURTS AND LEGAL SERVICES</b>	<b>CULTURAL AFFAIRS, LIBRARIES &amp; INTERNATIONAL INTERGROUP RELATIONS</b>
<b>ESPINAL, CHAIR</b> GENTILE FERRERAS-COPELAND KOSLOWITZ LANCMAN	<b>ROSENTHAL, CHAIR</b> KOO WILLS CONSTANTINIDES DEUTSCH JOHNSON MILLER	<b>LANCMAN, CHAIR</b> GIBSON COHEN KALLOS MENCHACA VALLONE GRODENCHIK	<b>VAN BRAMER, CHAIR</b> CROWLEY FERRERAS-COPELAND KOO LEVIN KING CONSTANTINIDES CUMBO ROSENTHAL
<b>ECONOMIC DEVELOPMENT</b>	<b>EDUCATION</b>	<b>ENVIRONMENTAL PROTECTION</b>	<b>FINANCE</b>
<b>GARODNICK, CHAIR</b> GENTILE FERRERAS-COPELAND KOSLOWITZ WILLS RICHARDS BARRON MILLER BORELLI	<b>DROMM, CHAIR</b> GENTILE GARODNICK CHIN LEVIN ROSE WILLIAMS KING BARRON DEUTSCH LEVINE MAISEL REYNOSO TREYGER KALLOS	<b>CONSTANTINIDES, CHAIR</b> RICHARDS LEVIN LANCMAN ULRICH	<b>FERRERAS-COPELAND, CHAIR</b> RODRIGUEZ VAN BRAMER GIBSON CORNEGY CUMBO JOHNSON LEVINE MILLER ROSENTHAL MATTEO
<b>FIRE &amp; CRIMINAL JUSTICE SERVICES</b>	<b>GENERAL WELFARE</b>	<b>GOVERNMENTAL OPERATIONS</b>	<b>HEALTH</b>
<b>CROWLEY, CHAIR</b> EUGENE CABRERA LANCMAN VALLONE	<b>LEVIN, CHAIR</b> PALMA CABRERA WILLS GIBSON JOHNSON MENCHACA TORRES GRODENCHIK	<b>KALLOS, CHAIR</b> GREENFIELD LEVINE TORRES BORELLI	<b>JOHNSON, CHAIR</b> ARROYO MENDEZ VACCA EUGENE KOO VAN BRAMER BARRON CORNEGY ESPINAL
<b>HIGHER EDUCATION</b>	<b>HOUSING &amp; BUILDINGS</b>	<b>IMMIGRATION</b>	<b>JUVENILE JUSTICE</b>
<b>BARRON, CHAIR</b> VACCA RODRIGUEZ CABRERA WILLIAMS GIBSON CUMBO	<b>WILLIAMS, CHAIR</b> MENDEZ RODRIGUEZ CORNEGY ESPINAL LEVINE REYNOSO ROSENTHAL TORRES GRODENCHIK ULRICH	<b>MENCHACA, CHAIR</b> EUGENE DROMM KOO ESPINAL	<b>CABRERA, CHAIR</b> ARROYO BARRON LANCMAN GRODENCHIK

<b>LAND USE</b>	<b>MENTAL HEALTH, DEVELOPMENTAL DISABILITY, ALCOHOLISM, SUBSTANCE ABUSE &amp; DISABILITY SERVICES</b>	<b>OVERSIGHT &amp; INVESTIGATIONS</b>	<b>PARKS &amp; RECREATION</b>
<b>GREENFIELD, CHAIR</b> GENTILE PALMA ARROYO DICKENS GARODNICK MEALY MENDEZ RODRIGUEZ KOO LANDER LEVIN WILLIAMS WILLS RICHARDS BARRON COHEN KALLOS REYNOSO TORRES TREYGER	<b>COHEN, CHAIR</b> CROWLEY WILLS JOHNSON VALLONE GRODENCHIK BORELLI	<b>GENTILE, CHAIR</b> DICKENS DROMM CONSTANTINIDES DEUTSCH LANCMAN ROSENTHAL	<b>LEVINE, CHAIR</b> MEALY CABRERA VAN BRAMER COHEN MAISEL TREYGER
<b>PUBLIC HOUSING</b>	<b>PUBLIC SAFETY</b>	<b>RECOVERY AND RESILIENCY</b>	<b>RULES, PRIVILEGES &amp; ELECTIONS</b>
<b>TORRES, CHAIR</b> MENDEZ VAN BRAMER RICHARDS CUMBO	<b>GIBSON, CHAIR</b> GENTILE VACCA FERRERAS-COPELAND WILLIAMS CORNEGY DEUTSCH ESPINAL LANCMAN TORRES MATTEO	<b>TREYGER, CHAIR</b> MENDEZ CHIN RICHARDS MENCHACA ULRICH MATTEO	<b>LANDER, CHAIR</b> DICKENS GARODNICK RODRIGUEZ CHIN ROSE WILLIAMS ESPINAL LEVIN MARK-VIVERITO MATTEO
<b>SANITATION &amp; SOLID WASTE MANAGEMENT</b>	<b>SMALL BUSINESS</b>	<b>STANDARDS &amp; ETHICS</b>	<b>STATE &amp; FEDERAL LEGISLATION</b>
<b>REYNOSO, CHAIR</b> KING GIBSON CONSTANTINIDES MATTEO	<b>CORNEGY, CHAIR</b> DICKENS EUGENE KOO KOSLOWITZ WILLS MENCHACA VALLONE ULRICH	<b>MAISEL, CHAIR</b> FERRERAS-COPELAND LANDER MENCHACA MATTEO	<b>KOSLOWITZ, CHAIR</b> DICKENS LANDER ESPINAL KALLOS MAISEL REYNOSO
<b>TECHNOLOGY</b>	<b>TRANSPORTATION</b>	<b>VETERANS</b>	<b>WATERFRONTS</b>
<b>VACCA, CHAIR</b> PALMA GREENFIELD GRODENCHIK BORELLI	<b>RODRIGUEZ, CHAIR</b> GARODNICK VACCA CHIN LEVIN ROSE VAN BRAMER GREENFIELD CONSTANTINIDES MENCHACA MILLER REYNOSO RICHARDS	<b>ULRICH, CHAIR</b> CABRERA MAISEL VALLONE BORELLI	<b>ROSE, CHAIR</b> GARODNICK DEUTSCH JOHNSON BORELLI

WOMEN'S ISSUES	YOUTH SERVICES		
<b>CUMBO, CHAIR</b> MEALY CROWLEY KOSLOWITZ KALLOS	<b>EUGENE, CHAIR</b> PALMA MEALY CHIN GREENFIELD KING CUMBO		

**LAND USE  
SUBCOMMITTEES**

LANDMARKS, PUBLIC SITING & MARITIME USES	PLANNING, DISPOSITION & CONCESSIONS	ZONING & FRANCHISES
<b>KOO, CHAIR</b> PALMA ARROYO MENDEZ LEVIN BARRON KALLOS	<b>DICKENS, CHAIR</b> MEALY RODRIGUEZ COHEN TREYGER	<b>RICHARDS, CHAIR</b> GENTILE GARODNICK WILLIAMS WILLS REYNOSO TORRES

**SUBCOMMITTEES**

SENIOR CENTERS (Aging)	LIBRARIES (Cultural Affairs, Libraries And International Intergroup Relations)
<b>VALLONE, CHAIR</b>	<b>KING, CHAIR</b>
NON-PUBLIC SCHOOLS (Education)	
<b>DEUTSCH, CHAIR</b>	

**TASK FORCES**

AFFORDABLE HOUSING PRESERVATION	MITCHELL-LAMA HOUSING
<b>MARK-VIVERITO, SPEAKER</b> <b>LEVINE, CO-CHAIR</b> <b>WILLIAMS, CO-CHAIR</b> RODRIGUEZ COHEN TORRES CONSTANTINIDES REYNOSO CORNEGY ESPINAL MENCHACA MEALY GREENFIELD, EX OFFICIO – COMMITTEE ON LAND USE FERRERAS-COPELAND, EX OFFICIO – COMMITTEE ON FINANCE	<b>MENDEZ, CHAIR</b>



**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>
Xiulian Li	31-90 140th Street #1A Flushing, N.Y. 11354	20
Sarah Taylor	320 Beach 100th Street #8E Rockaway Park, N.Y. 11694	32
Sian Lawrence	410 Saint Marks Avenue #4B Brooklyn, N.Y. 11238	35
Daniel Smith	9406 Ridge Blvd Brooklyn, N.Y. 11209	43

*Approved New Applicants and Reapplicants*

<u>Name</u>	<u>Address</u>	<u>District #</u>
Elba Feliciano	55 Rutgers Street #7B New York, N.Y. 10002	1
Joseph Guidetti	90 Beekman Street #6K New York, N.Y. 10038	1
Luis Soler	336 East 4th Street #4B New York, N.Y. 10009	2
Luis Castro	250 East 39th Street New York, N.Y. 10016	4
Martin J. Barrett	440 East 57th Street #6C New York, N.Y. 10022	5
Kelly Francis Callahan	315 East 70th Street #3J New York, N.Y. 10021	5
Rosa G. Diaz	1951 Park Avenue #N607	9

December 7, 2015

4210

	New York, N.Y. 10037	
Daisy DeJesus	3452 Corlear Avenue Bronx, N.Y. 10463	11
Bettie Haigler	753 East 224th Street #3 Bronx, N.Y. 10466	12
Norma Cruz-Meletich	2580 Stedman Place Bronx, N.Y. 10469	13
Julia Robles	1312 Balcom Avenue #1 Bronx, N.Y. 10461	13
Jean Michelle Rodriguez	11 West 172nd Street #1E Bronx, N.Y. 10452	14
Crystal Rivera	50 East 168th Street #510 Bronx, N.Y. 10452	16
Aida Cruel	747 St. Aims Avenue #D Bronx, N.Y. 10456	17
Donna Taylor-Sanders	814 Ritter Place Bronx, N.Y. 10459	17
Laura M. Yangas	744 East Tremont Avenue #4 Bronx, N.Y. 10457	17
Lorraine A. Toto	14-07 116th Street Queens, N.Y. 11356	19
Pilar Hernandez	18-33 26th Avenue Queens, N.Y. 11102	22
Athena Kiamos	67-21 Springfield Blvd Queens, N.Y. 11364	23
Barbara S. Nigro	88-58 Sabre Street Bellerose Manor, N.Y. 11427	23
Kunta Rawat	87-46 Chelsea Street #2E Jamaica, N.Y. 11432	24
Antowin T. Kenner	89-50 56th Avenue #7B Queens, N.Y. 11373	25
Wendy Irizarry-Lopez	73-40 52nd Drive Maspeth, N.Y. 11378	30
Lorraine Cruz	100-20 89th Avenue Queens, N.Y. 11418	32
Russell Pecunies	156-23 78th Street Howard Beach, N.Y. 11414	32
Kathy Elmaghrabi	115 Oak Street Brooklyn, N.Y. 11222	33
Lisa A. Ennis	215 Adams Street #16H Brooklyn, N.Y. 11201	33

4211

December 7, 2015

Francis Taveras	390 Central Avenue Brooklyn, N.Y. 11221	34
Charlene S. Lamar	55 North Elliot Place #10G Brooklyn, N.Y. 11205	35
Rhonda Livingston	521 St. Marks Avenue #2E Brooklyn, N.Y. 11238	35
Jacquelyn Safi	55 North Elliot Place #12H Brooklyn, N.Y. 11205	35
Joyce Washington	212 South Oxford Street #4I Brooklyn, N.Y. 11217	35
Annell Hudson	374 Madison Street Brooklyn, N.Y. 11221	36
Stacey Williams	784 Prospect Place #A Brooklyn, N.Y. 11216	36
Carol P. Cennamo	40 Tehama Street #2C Brooklyn, N.Y. 11218	39
Shandelle Solny	3813 13th Avenue #3 Brooklyn, N.Y. 11218	39
Betty L. Ferguson	2204 Dean Street Brooklyn, N.Y. 11233	41
Barbara Jean Barnes	1325 Pennsylvania Avenue #17B Brooklyn, N.Y. 11239	42
Jennifer Headley	617 Hinsdale Street Brooklyn, N.Y. 11207	42
Joy A. Barbagallo	1029 70th Street Brooklyn, N.Y. 11228	43
Donna Ceglecki	302 Bay 11th Street Brooklyn, N.Y. 11228	43
Anna Trufanova	2036 Cropsey Avenue #3B Brooklyn, N.Y. 11214	43
Rita Smith	124 Bay 24th Street Brooklyn, N.Y. 11214	43
Laura Longhofer(R. Sanchez)	1609 Ocean Avenue #5B Brooklyn, N.Y. 11230	45
Marilyn E. Thomas-Dow	3021 Avenue I #B9 Brooklyn, N.Y. 11210	45
Rosa Fallon	2064 East 34th Street Brooklyn, N.Y. 11234	46
Natalia Gulik	2626 Homecrest Avenue #6M Brooklyn, N.Y. 11235	48
Eugene R. Bleimann	317 Taylor Street	49

December 7, 2015	4212	
	Staten Island, N.Y. 10310	
Anthony Costa	265 Clawson Street	50
	Staten Island, N.Y. 10306	
Jack Elias	131 McKinley Avenue	50
	Staten Island, N.Y. 10306	
Donna M. Saccone	203 Mill Road	50
	Staten Island, N.Y. 10306	
Tara Braccia	166 Spratt Avenue	51
	Staten Island, N.Y. 10306	
Gail E. Brennan	300 Mosely Avenue	51
	Staten Island, N.Y. 10312	
Gina N. Diaz	1152 Arden Avenue	51
	Staten Island, N.Y. 10312	
Melanie J. Gallego	39 Lorrain Avenue	51
	Staten Island, N.Y. 10312	
James H. Marsh	146 Brighton Street	51
	Staten Island, N.Y. 10307	
Alan D. Tognan	138 William Avenue	51
	Staten Island, N.Y. 10308	

On motion of the Speaker (Council Member Mark-Viverito), 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)**

- |            |                                 |   |
|------------|---------------------------------|---|
| <b>(1)</b> | <b>Int 65-A -</b>               | Security guard services.  |
| <b>(2)</b> | <b>Int 128 -</b>                | Annual report of the creation or retention of jobs.   |
| <b>(3)</b> | <b>Int 609-A -</b>              | Geothermal systems  |
| <b>(4)</b> | <b>Res 926 -</b>                | Approving Membership changes to certain Standing Committees and an allowance for an Officer of the Council. |
| <b>(5)</b> | <b>L.U. 308 &amp; Res 924 -</b> | Gottsegan House, Manhattan, Community District No. 6, Council District No. 5.                               |
| <b>(6)</b> | <b>L.U. 309 &amp; Res 925 -</b> | The Mascot Flats, Manhattan, Community District No. 3, Council District No. 2.                              |

**(7) Resolution approving various persons Commissioners of Deeds.**

The Public Advocate (Ms. James) 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, Borelli, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Mendez, Miller, Palma, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Wills, Matteo, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **47**.

**The General Order vote recorded for this Stated Meeting was 47-0-0 as shown above with the exception of the votes for the following legislative items:**

The following was the vote recorded for **Int No. 65-A**:

**Affirmative** – Borelli, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Menchaca, Miller, Palma, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Wills, Matteo, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **43**.

**Negative** – Barron, Dromm, Johnson, and Mendez – **4**.

*The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 65-A, 128, and 609-A.*

**INTRODUCTION AND READING OF BILLS**

Int. No. 1012

By The Speaker (Council Member Mark-Viverito) and Council Members Chin, Johnson, Koo, Koslowitz, Lander, Richards and Rose.

**A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to repealing and replacing title 8 of the administrative code of the city of New York and making related improvements to clarify and strengthen the human rights law.**

*Be it enacted by the Council as follows:*

Section 1. It is the intent of the council in adopting this local law (i) to amend the New York city charter to reflect certain powers of the corporation counsel with respect to enforcement of the New York city human rights law and further to reflect amendments that have been made to certain provisions of the administrative code of the city of New York but have not been made to duplicative provisions of the New York city charter; (ii) to re-designate, without making any substantive change, chapters 8 through 11 of title 8 of the administrative code of the city of New York to other titles of such code where the placement of each re-designated chapter is more appropriate with respect to its subject matter; and (iii) to repeal title 8 of the administrative code of the city of New York and recodify such title to provide clearer organization of the New York city human rights law. No movement of or technical change to a provision augments or diminishes any right or authority possessed by a person or agency immediately before the effective date of this local law.

§ 2. Section 394 of the New York city charter is amended by adding a new subdivision d to read as follows:

*d. Except as otherwise provided in this chapter or other law, the corporation counsel may institute an action in a court of competent jurisdiction alleging that a person or group of persons has engaged in a pattern or practice that results in the denial to any person of the full enjoyment of any right secured by subchapter 1 of chapter 2 of title 8 of the administrative code. The corporation counsel may initiate any investigation to ascertain such facts as may be necessary for the commencement of such an action, and in connection therewith the corporation counsel has the power to issue subpoenas to compel the attendance of witnesses and the production of documents, to administer oaths and to examine such persons as are deemed necessary. Except as otherwise provided in this chapter or other law, the corporation counsel may institute an action on behalf of the city, in a court of competent jurisdiction, for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured by the constitution or laws of the United States, the constitution or laws of this state, or a local law of the city against interference or attempted interference motivated in*

*whole or in part by the victim's actual or perceived defined protected status, as defined in section 8-1003 of the administrative code, or whether children are, may be or would be residing with such victim.*

§ 3. Sections 900, 901, 902, 903, 904, 905 and 906 of the New York city charter, as added by a vote of the electors on November 6, 2001, are amended to read as follows:

§ 900. Declaration of intent. It is [hereby declared as ]the public policy of the city [of New York ]to promote equal opportunity and freedom from unlawful discrimination [through the provisions of the city's human rights law, chapter 1 of title 8 of the administrative code of the city of New York]*this chapter and title 8 of the administrative code.*

§ 901. *Enforcement by executive order.* The mayor may issue such executive orders as [he or she]*the mayor* deems appropriate to provide for city agencies and contractors to act in accordance with the policy set forth in this chapter.

§ 902. *Commission on human rights.* a. The New York city commission on human rights is hereby established and continued.

b. The commission [shall have]*has* the power to eliminate and prevent unlawful discrimination by enforcing[ the provisions of] the New York city human rights law, and [shall have]*it has* general jurisdiction and power for such purposes. It may, in addition, take such other actions as may be provided by law against prejudice, intolerance, bigotry and unlawful discrimination.

§ 903. *Commission membership; chairperson; appointment; vacancy.* The commission shall consist of [fifteen]*15* members, to be appointed by the mayor, one of whom shall be designated by the mayor as its chairperson and shall serve as such at the pleasure of the mayor. The chairperson shall devote his or her entire time to the chairperson's duties and shall not engage in any other occupation, profession or employment. Members other than the chairperson shall serve without compensation for a term of three years. In the event of the death or resignation of any member, his or her successor shall be appointed to serve for the *unexpired portion of the* term for which such member had been appointed.

§ 904. Functions. The functions of the commission [shall be]*are*:

a. [to]*To* foster mutual understanding and respect among all persons in the city[ of New York];

b. [to]*To* encourage equality of treatment for, and prevent discrimination against, any group or its members;

c. [to]*To* cooperate with governmental and non-governmental agencies and organizations having like or kindred functions; and

d. [to]*To* make such investigations and studies in the field of human relations as in the judgment of the commission will aid in effectuating its general purposes.

§ 905. Powers and duties. The powers and duties of the commission [shall be]*are*:

[9. to]*a. Rules.* To adopt rules to carry out[ the provisions of] this chapter and the policies and procedures of the commission in connection therewith[.];

[6. to]*b. Appointments.* To appoint such employees and agents as it deems to be necessary to carry out its functions, powers and duties[: provided, however,] *and to*

*assign to such persons any of such functions, powers and duties, except that the commission shall not delegate its power to adopt rules, and [provided further,]also except that the commission's power to order that records be preserved or made and kept and the commission's power to determine that a respondent has engaged in an unlawful discriminatory practice and to issue an order for such relief as is necessary and proper shall be delegated only to members of the commission. The expenses for the carrying on of the commission's activities shall be paid out of the funds in the city treasury. The commission's appointment and assignment powers as set forth in this subdivision may be exercised by the chairperson of the commission;*

*[d. (1) to]c. Investigations and complaints. 1. To receive, investigate and pass upon complaints and to initiate its own investigation of[:] (i) [group-tensions,]group tensions, prejudice, intolerance, bigotry and disorder occasioned thereby[,] and (ii) unlawful discrimination against any person or group of persons, [provided, however,]except that with respect to discrimination alleged to [be]have been committed by city officials or city agencies, such investigation shall be commenced after consultation with the mayor[.];*

*2. Upon its own motion, to make, sign and file complaints alleging violations of the city's human rights law; and*

*[(2) in]3. In the event that any such investigation discloses information that any person or group of persons may be engaged in a pattern or practice that results in the denial to any person or group of persons of the full enjoyment of any right secured by the city's human rights law, in addition to making, signing and filing a complaint upon its own motion pursuant to paragraph [a]2 of this subdivision, to refer such information to the corporation counsel for the purpose of commencing a civil action pursuant to [chapter four of]section 394 of this charter and title [eight]8 of the administrative code;*

*[e.]d. Hearings and evidence. 1. [to]To issue subpoenas in the manner provided for in the civil practice law and rules compelling the attendance of witnesses and requiring the production of any evidence relating to any matter under investigation or any question before the commission, and to take proof with respect thereto;*

*2. [to]To hold hearings, administer oaths and take testimony of any person under oath; [and]*

*3. To require, in accordance with applicable law,[ to require] the production of any names of persons necessary for the investigation of any institution, club or other place or provider of accommodation[.]; and*

*4. To require, in accordance with applicable law,[ to require] any person or persons who are the subject of an investigation by the commission to preserve such records as are in the possession of such person or persons and to continue to make and keep the type of records that have been made and kept by such person or persons in the ordinary course of business [within]during the previous year, [which]when such records are relevant to the determination whether such person or persons have committed unlawful discriminatory practices and other unlawful practices under title 8 of the administrative code with respect to activities in the city;*

*[8. to]e. Reporting. 1. To submit an annual report to the mayor and the council, as provided in section 8-3003 of the administrative code, which report shall be published in The City Record; and*



[4. The chairperson shall]2. *To report to the secretary of state of New York all violations of [this chapter]article 1 of subchapter 2 of chapter 2 of title 8 of the administrative code by real estate brokers and salespersons[.];*

[a. to]f. *Public education. 1. To work together with federal, state and city agencies in developing courses of instruction, for presentation to city employees and in public and private schools, public libraries, museums and other suitable places, on techniques for achieving harmonious [inter-group ]intergroup relations within the city[ of New York,] and on types of bias-related harassment and repeated hostile behavior including conduct or verbal threats, taunting, intimidation, abuse and cyberbullying and to engage in other anti-discrimination activities;*

*2. To develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employment agencies and job applicants about their rights and responsibilities under articles 1 and 2 of subchapter 1 of chapter 2 of the administrative code as such articles apply to discrimination on the basis of unemployment; and*

*3. To develop courses of instruction and conduct ongoing public education efforts as necessary to inform four-plus employers as defined in section 8-1003 of the administrative code, employees, employment agencies and job applicants about their rights and responsibilities under section 8-2055 of the administrative code;*

[b. to]g. *Cooperation with groups and organizations. To enlist the cooperation of various groups and organizations[,] in mediation efforts, programs and campaigns devoted to eliminating group prejudice, intolerance, hate crimes, bigotry and discrimination;*

[c. to]h. *Studies. To study the problems of prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby in all or any fields of human relationship;*

[5. to]i. *Publications and research. To issue publications and reports of investigation and research designed to promote good will and minimize or eliminate prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby; and*

[7. to]j. *Recommendations. To recommend to the mayor and to the council legislation to aid in carrying out the purposes of this chapter[.];*

§ 906. Relations with city departments and agencies. So far as practicable and subject to the approval of the mayor, the services of all other city departments and agencies shall be made available by their respective [head]heads to the commission for the carrying out of the functions [herein] stated *in this chapter*. The head of any department or agency shall furnish information in the possession of such department or agency when the commission so requests. The corporation counsel, upon request of the chairperson, may assign counsel to assist the commission in the conduct of its investigative or prosecutorial functions.

§ 4. Section 1-112 of the administrative code of the city of New York is amended by adding a new subdivision 22 to read as follows:

22. *The term "national origin" includes ancestry.*

§ 5. Section 4-116 of the administrative code of the city of New York is amended to read as follows:

§ 4-116 Discrimination in housing. Every deed, lease or instrument made or entered into by the city, or any agency thereof, for the conveyance, lease or disposal of real property or any interest therein for the purpose of housing construction pursuant to the provisions of article fifteen of the general municipal law and laws supplemental thereto and amendatory thereof shall provide that no person seeking dwelling accommodations in any structure erected or to be erected on such real property shall be discriminated against because of race, color, religion, *or* national origin[ or ancestry].

§ 6. Chapter 8 of title 8 of the administrative code of the city of New York is redesignated as a new chapter 9 of title 10 of the administrative code of the city of New York and amended to read as follows:

[§ 8-801]§ 10-901 Short title. This [local law]chapter shall be known *and may be cited* as the “access to reproductive health care facilities [act.]law”.

[§ 8-802]§ 10-902 Definitions. [For the purposes of]As used in this chapter, *the following terms have the following meanings*: [a. “Reproductive health care facility” shall mean any building, structure or place, or any portion thereof, at which licensed, certified, or otherwise legally authorized persons provide health care services or health care counseling relating to the human reproductive system.]

[b. “Person” shall mean]Person. *The term “person” means* an individual, corporation, not-for-profit organization, partnership, association, group or any other entity.

[c. “Premises of a reproductive health care facility” shall mean]Premises of a reproductive health care facility. *The term “premises of a reproductive health care facility” means* the driveway, entrance, entryway, or exit of a reproductive health care facility and the building in which such facility is located and any parking lot in which the facility has an ownership or leasehold interest.

*Reproductive health care facility. The term “reproductive health care facility” means any building, structure or place, or any portion thereof, at which licensed, certified, or otherwise legally authorized persons provide health care services or health care counseling relating to the human reproductive system.*

[§ 8-803.]§ 10-903 Prohibition of activities to prevent access to reproductive health care facilities. a. *Unlawful conduct.* It [shall be]is unlawful for any person:

[(1) to]1. *To* knowingly physically obstruct or block another person from entering into or exiting from the premises of a reproductive health care facility by physically striking, shoving, restraining, grabbing, or otherwise subjecting a person to unwanted physical contact, or attempting to do the same;

[(2) to]2. *To* knowingly obstruct or block the premises of a reproductive health care facility, so as to impede access to or from the facility, or *to* attempt to do the same;

[(3) to]3. *To* follow and harass another person within 15 feet of the premises of a reproductive health care facility;

[(4) to]4. *To* engage in a course of conduct or repeatedly commit acts within 15 feet of the premises of a reproductive health care facility when such behavior places another person in reasonable fear of physical harm, or *to* attempt to do the same;

[(5) to]5. To physically damage a reproductive health care facility so as to interfere with its operation, or to attempt to do the same; or

[(6) to]6. To knowingly interfere with the operation of a reproductive health care facility, or attempt to do the same, by activities [including]that include, but are not limited to, interfering with, or attempting to interfere with (i) medical procedures being performed at such facility or (ii) the delivery of goods to such facility.

b. [Violations.]Penalties. Any person who [shall violate]violates any provision of subdivision a of this section [shall be]is guilty of a misdemeanor punishable by a fine not to exceed [one thousand dollars]\$1,000 or imprisonment not to exceed six months, or both, for a first conviction under this section. For a second and each subsequent conviction under this section, the penalty shall be a fine not to exceed [five thousand dollars]\$5,000 or imprisonment not to exceed one year, or both.

[§ 8-804]§ 10-904 Civil cause of action. Where there has been a violation of subdivision a of section [8-803]10-903, any person whose ability to access a reproductive health care facility has been interfered with, and any owner or operator of a reproductive health care facility or owner of a building in which such a facility is located, may bring a civil action in any court of competent jurisdiction for any or all of the following relief:

[1. injunctive]a. Injunctive relief;

[2. treble]b. Treble the amount of actual damages suffered as a result of such violation, including, where applicable, damages for pain and suffering and emotional distress, or damages in the amount of [five thousand dollars]\$5,000, whichever is greater; and

[3. attorneys']c. Attorney's fees and costs.

[§ 8-805.]§ 10-905 Civil action by city [of New York ]to enjoin interference with access to reproductive health care facilities. The corporation counsel may bring a civil action on behalf of the city in any court of competent jurisdiction for injunctive and other appropriate equitable relief in order to prevent or cure a violation of subdivision a of section [8-803]10-903.

[§ 8-806]§ 10-906 Joint and several liability. If it is found, in any action brought pursuant to the provisions of this chapter, that two or more of the named defendants acted in concert pursuant to a common plan or design to violate any provision of subdivision a of section [8-803]10-903, such defendants shall be held jointly and severally liable for any fines or penalties imposed or any damages awarded.

[§ 8-807]§ 10-907 Construction. a. [No provision of this chapter shall be construed or interpreted so as to]This chapter does not limit the right of any person or entity to seek other available criminal penalties or civil remedies. The penalties and remedies provided under this chapter [shall be]are cumulative and are not exclusive.

b. [No provision of this chapter shall be construed or interpreted so as to]This chapter does not prohibit expression protected by the [First Amendment]first amendment of the [Constitution]constitution of the United States or section [eight]8 of article [one]1 of the [Constitution]constitution of the [State]state of New York.

c. [No provision of this chapter shall be construed or interpreted so as to]This chapter does not limit the lawful exercise of any authority vested in the owner or

operator of [the] *a* reproductive health care facility, the owner of the premises in which such *a* facility is located, or a law enforcement officer of [New York City] *the city, the state of* New York [State] or the United States acting within the scope of his or her official duties.

§ 5. Chapter 9 of title 8 of the administrative code of the city of New York is redesignated as a new chapter 10 of title 10 of the administrative code of the city of New York and amended to read as follows:

[§ 8-901]§ 10-1001 Short [Title]*title*. This [local law]*chapter* shall be known and may be cited as the “Victims of Gender-Motivated Violence Protection [Act.]*Law*”.

[§ 8-902]§ 10-1002 Declaration of [Legislative Findings and Intent]*legislative findings and intent*. Gender-motivated violence inflicts serious physical, psychological, emotional and economic harm on its victims. Congressional findings have documented that gender-motivated violence is widespread throughout the United States, representing the leading cause of injuries to women ages 15 to 44. Further statistics have shown that three out of four women will be the victim of a violent crime sometime during their lives, and as many as [four million]*4,000,000* women [a]*per* year are victims of domestic violence. Senate hearings, various task forces and the United States [Department]*department* of [Justice]*justice* have concluded that victims of gender-motivated violence frequently face a climate of condescension, indifference and hostility in the court system and have documented the legal system’s hostility towards sexual assault and domestic violence claims. Recognizing this widespread problem, [Congress]*congress* in 1994 provided victims of gender-motivated violence with a cause of action in federal court through the [Violence Against Women Act]*violence against women act* (VAWA) ([42 USC §]*section 13981 of title 42 of the United States code*). In a May 15, 2000, decision, the United States [Supreme Court]*supreme court* held that the [Constitution]*constitution* provided no basis for a federal cause of action by victims of gender-motivated violence against [their]*perpetrators of offenses committed against them* either under the [Commerce Clause or the Equal Protection Clause of the Fourteenth Amendment] *commerce clause or the equal protection clause of the fourteenth amendment*. In so ruling, the [Court]*court* held that it could “think of no better example of the police power, which the Founders denied the National Government and reposed in the States, than the suppression of violent crime and vindication of its victims.”

In light of the void left by the [Supreme Court’s]*supreme court’s* decision, this [Council]*council* finds that victims of gender-motivated violence should have a private right of action against [their] *perpetrators of offenses committed against them* under the [Administrative Code]*code*. This private right of action aims to resolve the difficulty that victims face in seeking court remedies by providing an officially sanctioned and legitimate cause of action for seeking redress for injuries resulting from gender-motivated violence.

[§ 8-903]§ 10-1003 Definitions. [For the purposes of]*As used in* this chapter, *the following terms have the following meanings:*

[a. “Crime of violence”]*Crime of violence*. *The term “crime of violence” means an act or series of acts that would constitute a misdemeanor or felony against the*

person as defined in state or federal law or that would constitute a misdemeanor or felony against property as defined in state or federal law if the conduct presents a serious risk of physical injury to another, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction.

[b. “Crime of violence motivated by gender”] *Crime of violence motivated by gender. The term “crime of violence motivated by gender” means a crime of violence committed because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim’s gender.*

[§ 8-904]§ 10-1004 Civil [Cause of Action]*cause of action.* Except as otherwise provided by law, any person claiming to be injured by an individual who commits a crime of violence motivated by gender [as defined in section 8-903 of this chapter, shall have ]*has* a cause of action against such individual in any court of competent jurisdiction for any or all of the following relief:

- [1. compensatory]*a. Compensatory* and punitive damages;
- [2. Injunctive]*b. Injunctive* and declaratory relief;
- [3. attorneys’]*c. Attorney’s* fees and costs; *and*
- [4. such]*d. Such* other relief as a court may deem appropriate.

[§ 8-905]§ 10-1005 Limitations. a. A civil action under this chapter [must]*shall* be commenced within seven years after the alleged crime of violence motivated by gender [as defined in section 8-903 of this chapter ]occurred. If, however, due to injury or disability resulting from an act or acts giving rise to a cause of action under this chapter, or due to infancy as defined in the civil procedure law and rules, a person entitled to commence an action under this chapter is unable to do so at the time such cause of action accrues, then the time within which the action must be commenced shall be extended to seven years after the inability to commence the action ceases.

b. Except as otherwise permitted by law, nothing in this chapter entitles a person to a cause of action for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by preponderance of the evidence, to be *a crime of violence* motivated by gender[ as defined in section 8-903].

c. Nothing in this section requires a prior criminal complaint, prosecution or conviction to establish the elements of a cause of action under this chapter.

[§ 8-906]§ 10-1006 Burden of [Proof]*proof.* Conviction of a crime arising out of the same transaction, occurrence or event giving rise to a cause of action under this chapter [shall be considered]*is* conclusive proof of the underlying facts of that crime for purposes of an action brought under this chapter. That such crime was a crime of violence motivated by gender must be proved by a preponderance of the evidence.

[§ 8-907]§ 10-1007 Severability. If any section, subsection, sentence, clause, phrase or other portion of this [local law]*chapter* is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 6. Chapter 10 of title 8 of the administrative code of the city of New York is re-designated as a new chapter 10 of title 21 of the administrative code of the city of New York and amended to read as follows:

[§ 8-1001]§ 21-1001 Short title. This chapter shall be known and may be cited as the “Equal Access to Human Services [Act]Law of 2003[.]”.

[§ 8-1002]§ 21-1002 Definitions. For purposes of this chapter, the following terms have the following meanings:

[a. “Agency”]Agency. *Notwithstanding subdivision 1 of section 1-112, the term “agency” means the human resources administration/department of social services, including any part, subdivision, field office or satellite facility thereof.*[b. Agency office. “Agency office” means a job center, food stamp office, medical assistance program office, or other part, subdivision, field office or satellite facility of the agency or agency contractor office that performs a covered function.]

[c. “Agency]Agency contractor. *The term “agency contractor” means any contractor that enters into a covered contract with the agency.*

*Agency office. The term “agency office” means a job center, food stamp office, medical assistance program office, or other part, subdivision, field office or satellite facility of the agency or agency contractor office that performs a covered function.*

[d. “Agency]Agency personnel. *The term “agency personnel” means bilingual personnel or interpreter personnel who are employees of the agency.*

[e. “Bilingual]Bilingual personnel. *The term “bilingual personnel” means agency, agency contractor, or other contractor employees, not including work experience program participants, who provide language assistance services in addition to other duties.*

[f. “Contract”]Contract. *The term “contract” means any written agreement, purchase order or instrument whereby the city is committed to expend or does expend funds in return for work, labor or services.*

[g. “Contractor”]Contractor. *The term “contractor” means any individual, sole proprietorship, partnership, joint venture or corporation or other form of doing business that enters into a contract.*

[h. “Covered]Covered contract. *The term “covered contract” means a contract between the agency and a contractor to perform a covered function.*

[i. “Covered]Covered function. *The term “covered function” means any of the following functions:*

1. Benefits or services offered or provided at agency offices;
2. Benefits or services provided by agency contractors to provide employment services in connection with participation of individuals engaged in activities required by sections 335 through 336-c of the social services law;
3. Home care services; and
4. Determinations regarding eligibility for subsidized child care.

[j. “Covered]Covered language. *The term “covered language” means Arabic, Chinese, Haitian Creole, Korean, Russian or Spanish.*

[k. “Document”]Document. *The term “document” means the following forms and notices developed by the agency:*

- [i.]1. Application forms and corresponding instructional materials;
- [ii.]2. Notices that require a response from the participant;
- [iii.]3. Notices that concern the denial, termination, reduction, increase or issuance of a benefit or service;
- [iv.]4. Notices regarding the rights of participants to a conference and fair hearing; and
- [v.]5. Notices describing regulation changes that affect benefits.

[l. "Interpretation"]*Interpretation services. The term "interpretation services"* means oral, contemporaneous interpretation of oral communications.

[m. "Interpreter"]*Interpreter personnel. The term "interpreter personnel"* means agency, agency contractor, or other contractor employees, not including work experience program participants, whose sole responsibility is to provide language assistance services.

[n. "Language"]*Language assistance services. The term "language assistance services"* means interpretation services [and/or] translation services provided by bilingual personnel or interpreter personnel to a limited English proficient individual in [his/her] *his or her* primary language to ensure [their] *his or her* ability to communicate effectively with agency or agency contractor personnel.

[o.]*Limited English proficient individual. The term "[Limited English proficient individual]"* means an individual who identifies as being, or is evidently, unable to communicate meaningfully with agency or agency contractor personnel because English is not his[ ] *or her* primary language.

[p.]*Other covered agency. The term "[Other covered agency]"* means the administration for children's services[;], the department of homeless services[;], the department of health and mental hygiene[;], and all functions served by the agency that are not covered functions, including any part, subdivision, field office or satellite facility thereof.

[q. "Primary"]*Primary language. The term "primary language"* means the language in which a limited English proficient individual chooses to communicate with others.

[r. "Translation"]*Translation services. The term "translation services"* means oral explanation or written translation of documents.

[§ 8-1003]§ 21-1003 Language assistance services. a. The agency and all agency contractors shall provide free language assistance services as required by this chapter to limited English proficient individuals.

b. When a limited English proficient individual seeks or receives benefits or services from an agency office or agency contractor, the agency office or agency contractor shall provide prompt language assistance services in all interactions with that individual, whether the interaction is by telephone or in person. The agency office or agency contractor shall meet its obligation to provide prompt language assistance services for purposes of this subdivision by ensuring that limited English proficient individuals do not have to wait unreasonably longer to receive assistance than individuals who do not require language assistance services.

c. Where an application or form requires completion in English by a limited English proficient individual for submission to a state or federal authority, the agency

or agency contractor shall provide oral translation of such application or form as well as certification by the limited English proficient individual that the form was translated and completed by an interpreter.

d. The agency shall make all reasonable efforts to provide language assistance services in person by bilingual personnel.

[§ 8-1004]§ 21-1004 Translation of documents. The agency shall translate all documents into every covered language as of [the first day of the sixtieth month after the effective date of the local law that added this chapter]February 1, 2008.

[§ 8-1005]§ 21-1005 Notices. a. Upon initial contact, whether by telephone or in person, with an individual seeking benefits [and/or]or services offered by the agency or an agency contractor, the agency or agency contractor or any other covered agency shall determine the primary language of such individual. If it is determined that such individual's primary language is not English, the agency or agency contractor or other covered agency shall inform the individual in [his/her]his or her primary language of the right to free language assistance services.

b. The agency shall provide in all application and recertification packages an [8 1/2 x]eight and one-half inch by 11 inch or larger notice advising participants that free language assistance services are available at its offices and where to go if they would like an interpreter. This notice shall appear in all covered languages.

c. The agency and each agency contractor shall post conspicuous signs in every covered language at all agency offices and agency contractor offices informing limited English proficient individuals of the availability of free language assistance services.

[d. Other covered agencies. Upon initial contact, whether by telephone or in person, with an individual seeking benefits and/or services offered by another covered agency, the other covered agency shall determine the primary language of such individual. If it is determined that such individual's primary language is not English, the other covered agency shall inform the individual in his/her primary language of available language assistance services.]

[§ 8-1006]§ 21-1006 Screening and training. The agency and each agency contractor shall screen bilingual personnel and interpreter personnel for their ability to provide language assistance services. The agency and each agency contractor shall provide annual training for bilingual personnel and interpreter personnel and ensure that they are providing appropriate language assistance services.

[§ 8-1007]§ 21-1007 Recordkeeping. a. Agency and agency contractors. No later than [the first day of the sixtieth month after the effective date of the local law that added this chapter]February 1, 2008, the agency and each agency contractor shall maintain records of the primary language of every individual who seeks or receives benefits or services from the agency or agency contractor. At a minimum, the agency and each agency contractor shall maintain specific records of the following:

1. The number of limited English proficient individuals served, disaggregated by agency, agency contractor or contractor, agency office, type of language assistance required and primary language;



2. The number of bilingual personnel and the number of interpreter personnel employed by the agency, disaggregated by language translated or interpreted by such personnel;

3. Whether primary language determinations are recorded properly; and

4. Whether documents are translated accurately and disseminated properly.

b. Other covered agencies. No later than [the first day of the sixtieth month after the effective date of the local law that added this chapter]*February 1, 2008*, every other covered agency shall maintain records of the primary language of every individual who seeks or receives ongoing benefits or services. At a minimum, the other covered agency shall maintain specific records of the following:

1. The number of limited English proficient individuals served, disaggregated by type of language assistance required and primary language;

2. The number of bilingual personnel and the number of interpreter personnel employed by the other covered agency, disaggregated by language translated by such personnel;

3. Whether primary language determinations are recorded properly; and

4. Whether documents are translated accurately and disseminated properly.

[§ 8-1008]§ 21-1008 Implementation. a. *Agency*. The agency shall phase in language assistance services for covered functions as follows:

1. As of [the first day of the twenty-fourth month after the effective date of the local law that added this chapter]*February 1, 2005*, no less than 20[%] *percent* of covered functions provided by agency offices[.];

2. As of [the first day of the forty-eighth month after the effective date of the local law that added this chapter]*February 1, 2007*, no less than 40[%] *percent* of covered functions provided by agency offices[.]; *and*

3. As of [the first day of the sixtieth month after the effective date of the local law that added this chapter]*February 1, 2008*, 100[%] *percent* of covered functions provided by agency offices.

b. [Contractors]*Agency contractors*.

1. In all covered contracts entered into or renewed after January 1, 2005, the contractor shall certify that it shall make available language assistance services and maintain and provide access to records as required by this chapter.

2. Every covered contract must contain a provision in which the contractor acknowledges that the following responsibilities constitute material terms of the contract:

(a) [to]*To* provide language assistance services as required by this chapter;

(b) [to]*To* comply with the recordkeeping requirements set forth in this chapter;

(c) [to]*To* provide the city access to its records for the purpose of audits or investigations to ascertain compliance with the provisions of this section, to the extent permitted by law; and

(d) [to]*To* provide evidence to the city that the contractor is in compliance with the provisions of this section, upon request.

3. If an agency contractor enters into a subcontract agreement to provide any benefits or services under a covered contract, that subcontract will be considered a

covered contract for purposes of this section and the provisions of this section will bind the subcontractor. Each contractor is required to include the contract provision set forth in paragraph 2 of this subdivision in any such subcontract agreement.

c. Implementation plans. [Within eight months of the effective date of the local law that added this chapter] *On or before October 1, 2003*, the agency and each other covered agency shall develop an implementation plan that describes how and when the agency or other covered agency will meet the requirements imposed by this chapter. The agency and each other covered agency shall publish a copy of its implementation plan.

d. Implementation updates and annual reports. No later than 90 days after the end of each calendar year after the publication of the implementation plan and before implementation is complete, the agency and each other covered agency shall publish an implementation update. The implementation update shall describe steps taken over the prior year to implement the requirements of this chapter and shall describe any changes in the agency or other covered agency's plan for implementing the remaining requirements of the local law that added this chapter before the date set forth in subdivision a of this section. The implementation update for every year after 2004 shall include a report on the number of limited English proficient people served, disaggregated by language and by agency office or other covered agency office. Not later than 90 days after the end of each calendar year beginning with 2008, the agency and each other covered agency shall publish an annual report on language assistance services. At a minimum, this annual report of the agency, each agency contractor and each other covered agency shall set forth the information required to be maintained by this chapter.

[§ 8-1009]§ 21-1009 Rules. The agency and each other covered agency shall promulgate such rules as are necessary for the purposes of implementing and carrying out the provisions of this chapter.

[§ 8-1010]§ 21-1010 Miscellaneous. a. Nothing in this chapter precludes the agency or an agency contractor from providing language assistance services beyond those required by this chapter.

b. Nothing in this chapter precludes a limited English proficient individual from having an adult volunteer, relative, spouse or domestic partner accompany [him/her] *him or her* to provide language assistance services with the agency office or agency contractor, provided that the agency office or agency contractor informs a limited English proficient individual of the availability of free language assistance services and the agency remains responsible for ensuring effective communication.

c. This chapter does not apply to any contract with an agency contractor entered into or renewed [prior to] *before* January 1, 2005.

[§ 8-1011]§ 21-1011 Severability. If any section, subsection, sentence, clause, phrase or other portion of [this local law] *local law 73 for the year 2003* is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of [this] *such* law, which shall continue in full force and effect.

§ 7. Sections 21-950 through 21-959 of chapters 1 through 6 of title 21-A of the administrative code of the city of New York are renumbered as follows:

- a. Section 21-950 of chapter 1 of title 21-A of the administrative code of the city of New York is renumbered section 21-5101.
- b. Section 21-951 of chapter 2 of such title is renumbered section 21-5201.
- c. Section 21-952 of chapter 3 of such title is renumbered section 21-5301.
- d. Section 21-954 of chapter 4 of such title is renumbered section 21-5401.
- e. Section 21-955 of chapter 5 of such title is renumbered section 21-5501.
- f. Section 21-956 of chapter 6 of such title is renumbered section 21-5601.
- g. Section 21-957 of such chapter is renumbered section 21-5602.
- h. Section 21-958 of such chapter is renumbered section 21-5603.
- i. Section 21-959 of such chapter is renumbered section 21-5604.

§ 8. Chapter 11 of title 8 of the administrative code of the city of New York is re-designated as a new chapter 7 of title 21-A of the administrative code of the city of New York and is amended to read as follows:

[§8-1101. Definition; confidentiality requirements. a. ]§ 21-5701 *Definitions*. For purposes of this chapter, the term “chancellor” [shall mean] *means* the chancellor of the city school district of the city[ of New York], or the chancellor’s designee.

[b.]§ 21-5702 *Confidentiality requirements*. In no event shall any report submitted pursuant to this chapter release, or provide access to, any personally identifiable information contained in education records in violation of [20 U.S.C. §] *section 1232g of title 20 of the United States code* or information in violation of any other applicable confidentiality requirement in federal or state law.

[§8-1102.]§ 21-5703 *Annual report on student discipline*. The chancellor shall submit to the city council by October [31st] *31* of each year an annual report, based on data from the preceding school year, on the discipline of students.

a. The data in this report shall be disaggregated by school and shall show the total number of students in each school who have been:

1. [subjected] *Subjected* to a superintendent’s suspension; or
2. [subjected] *Subjected* to a principal’s suspension.

b. The data provided pursuant to each of paragraphs [one] *1* and [two] *2* of subdivision a shall be disaggregated by race/ethnicity, gender, grade level at the time of imposition of discipline, age of the student as of December [31st] *31* of the school year during which discipline is imposed, whether the student is receiving special education services or whether the student is an English [Language Learner] *language learner*, disciplinary code infraction and length of suspension. If a category contains between [0] *zero* and [9] *nine* students, the number shall be replaced with a symbol.

c. The report shall also include the citywide total number of transfers that occurred in connection with a suspension, disaggregated by involuntary and voluntary transfers.

[§8-1103.]§ 21-5704 *Biannual citywide report on suspensions*. The chancellor shall submit to the council by October [31st] *31* and March [31st] *31* of each year a

report on the discipline of students citywide, based on data from the first six months of the current calendar year and the second six months of the preceding calendar year respectively. Such report shall include the number of suspensions citywide for each month, disaggregated by superintendent's and principal's suspensions.

§ 9. Title 8 of the administrative code of the city of New York is REPEALED.

§ 10. The administrative code of the city of New York is amended by adding a new title 8 to read as follows:

*TITLE 8  
CIVIL RIGHTS*

*Chapter 1 General Provisions.*

*Chapter 2 Unlawful Practices.*

*Chapter 3 Investigation and Enforcement.*

*Chapter 4 Damages, Penalties and Other Relief.*

*CHAPTER 1  
GENERAL PROVISIONS*

*Subchapter 1 Policy and Rules of Construction.*

*Subchapter 2 Additional Declarations of Policy for Certain Provisions Recodified in 2016.*

*Subchapter 1  
Policy and Rules of Construction*

§ 8-1001 *Short title. This title and chapter 40 of the charter collectively shall be known as and may be cited as the "New York city human rights law."*

§ 8-1002 *Policy. In the city of New York, with its great cosmopolitan population, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of their actual or perceived differences. The council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination, bias-related harassment or violence and disorder occasioned thereby threaten the rights and proper privileges of the city's inhabitants and menace the institutions and foundation of a free democratic state. A commission on human rights, a private right of action and additional means of judicial enforcement are hereby created and continued, with power to eliminate and prevent discrimination from playing any role in actions relating to employment, public accommodations, housing and other real estate, and other spheres of activity; to remedy such discrimination as has occurred; and to take other actions against prejudice, intolerance, bigotry, discrimination and bias-related violence or harassment as provided in this title and in chapter 40 of the charter. The commission is hereby given general jurisdiction and power for such purposes.*

§ 8-1003 *Definitions. Unless otherwise expressly provided, the following terms have the following meanings whenever used in this title:*

*Acts or threats of violence. The term “acts or threats of violence” includes acts that would constitute violations of the penal law.*

*Alienage or citizenship status. The term “alienage or citizenship status” means (i) the citizenship of any person or (ii) the immigration status of any person who is not a citizen or national of the United States.*

*Block, neighborhood or area. The term “block, neighborhood or area” means any 40 square blocks within the city.*

*Boarder, roomer or lodger. The term “boarder, roomer or lodger” means a person living within a household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein.*

*Chairperson. The term “chairperson” means the chairperson of the commission.*

*Commercial space. The term “commercial space” means any space in a building, structure, or portion thereof that is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property; and any space that is used or occupied, or is intended, arranged or designed to be used or occupied as a business or professional unit or office in any building, structure or portion thereof.*

*Commission. The term “commission,” unless a different meaning clearly appears from the text, means the city commission on human rights.*

*Consumer credit history. 1. The term “consumer credit history” means an individual’s credit worthiness, credit standing, credit capacity, or payment history, as indicated by:*

*(a) A consumer credit report;*

*(b) A credit score; or*

*(c) Information an employer obtains directly from the individual regarding details about credit accounts, including the individual’s number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limit, or prior credit report inquiries, or regarding bankruptcies, judgments or liens.*

*2. A consumer credit report includes any written or other communication of any information by a consumer reporting agency that bears on a consumer’s creditworthiness, credit standing, credit capacity or credit history.*

*Covered entity. The term “covered entity” means a person required to comply with any provision of subchapter 1 of chapter 2 of this title.*

*Cyberbullying. The term “cyberbullying” means willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices that is intended to frighten, harass, cause harm to, extort, or otherwise target another.*

*Defined protected status. The term “defined protected status” means age, alienage or citizenship status, color, creed, disability, gender, marital status, national origin, partnership status, race or sexual orientation.*

*Disability. 1. The term “disability” means any physical, medical, mental or psychological impairment, or a history or record of such impairment.*

2. For purposes of this definition, the term “physical, medical, mental, or psychological impairment” means:

(a) an impairment of any system of the body, including, the neurological system; the musculoskeletal system; the special sense organs and respiratory organs, including speech organs; the cardiovascular system; the reproductive system; the digestive and genito-urinary systems; the hemic and lymphatic systems; the immunological systems; the skin; and the endocrine system; or

(b) a mental or psychological impairment.

3. In the case of alcoholism, drug addiction or other substance abuse, the term “disability” only applies to a person who is recovering or has recovered and currently is free of such abuse. Such term does not include a person who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

*Dwelling or real property.* The term “dwelling or real property” means one-, two-, three- or four-family residences and any vacant land that is offered for sale or lease for the construction or location thereon of any such residence.

*Educational institution.* The term “educational institution” includes kindergartens, primary and secondary schools, academies, colleges, universities, professional schools, extension courses, and all other educational facilities.

*Employee.* For purposes of subchapter 1 of chapter 2 of this title, the term “employee” includes interns.

*Employer.* The term “employer” means any employer, including a four-plus employer.

*Employment agency.* The term “employment agency” includes any person undertaking to procure employees or opportunities to work.

*Family.* The term “family,” as used in paragraph 2 of subdivision b of section 8-2202, means either:

1. A person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers; or

2. Two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers.

*Four-plus employer.* 1. The term “four-plus employer” means any employer with four or more persons in his or her employ. For purposes of this definition and the definition of employer, natural persons employed as independent contractors to carry out work in furtherance of an employer’s business enterprise who are not themselves employers shall be counted as persons in the employ of such employer.

2. Where an employer employs his or her parents, spouse, domestic partner, or children, such family members shall be counted as persons employed by a four-plus employer for the purposes of paragraph 1 of this definition.

*Gender.* The term “gender” includes actual or perceived sex and a person’s gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth.

*Hate crime.* The term “hate crime” means a crime that manifests evidence of prejudice based on age, alienage or citizenship status, disability, ethnicity, gender, national origin, race, religion or sexual orientation.

*Housing accommodation.* The term “housing accommodation” includes any building, structure, or portion thereof that is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings. Except as otherwise specifically provided, such term includes a publicly assisted housing accommodation.

*Include.* The term “include” or a variant of such term, when used in reference to a definition or list, indicates that the definition or list is partial and not exclusive. Such term shall be construed as if the phrase “but not limited to” were also set forth.

*Intelligence information.* The term “intelligence information” means records and data compiled for the purpose of criminal investigation or counterterrorism, including records and data relating to the order or security of a correctional facility, reports of informants, investigators or other persons, or from any type of surveillance associated with an identifiable individual, or investigation or analysis of potential terrorist threats.

*Intern.* 1. The term “intern” means an individual who performs work for an employer on a temporary basis whose work:

(a) Provides training or supplements training given in an educational environment such that the employability of the individual performing the work may be enhanced;

(b) Provides experience for the benefit of the individual performing the work; and

(c) Is performed under the close supervision of existing staff.

2. Such term includes such individuals without regard to whether the employer pays them a salary or wage.

*Lawful source of income.* The term “lawful source of income” includes income derived from social security, or any form of federal, state or local public assistance or housing assistance, including housing choice vouchers authorized under section 1437f of title 42 of the United States code.

*Labor organization.* The term “labor organization” includes any organization that exists and is constituted for the purpose, in whole or in part, of:

1. Collective bargaining;

2. Dealing with employers concerning grievances and terms and conditions of employment; or

3. Other mutual aid or protection in connection with employment.

*National origin.* For purposes of subchapter 1 of chapter 2 of this title, the term “national origin” includes ancestry.

*National security information.* The term “national security information” means any knowledge relating to the national defense or foreign relations of the United States, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States government and is defined as such by the United States government and its agencies and departments.

*Occupation.* The term “occupation” means any lawful vocation, trade, profession or field of specialization.

*Partnership status.* The term “partnership status” means the status of being in a domestic partnership, as defined by subdivision a of section 3-240.

*Person.* The term “person” includes one or more natural persons, proprietorships, partnerships, associations, group associations, organizations, governmental bodies or agencies, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

*Place or provider of public accommodation.* 1. The term “place or provider of public accommodation” includes providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind, and includes places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold, or otherwise made available.

2. Such term does not include any club that is in its nature distinctly private. A club is not in its nature distinctly private if it has more than 400 members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of non-members for the furtherance of trade or business. For the purposes of this definition, a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state, or a religious corporation incorporated under the education law or the religious corporation law is in its nature distinctly private. No club that sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York state championship contest or uses the words “New York state” in its announcements is a private exhibition within the meaning of this definition.

*Protected status.* The term “protected status” means a status protected by this title, including a defined protected status.

*Publicly assisted housing accommodations.* The term “publicly assisted housing accommodations” includes:

1. Publicly owned or operated housing accommodations.

2. Housing accommodations operated by housing companies under the supervision of the state commissioner of housing and community renewal or the department of housing preservation and development.

3. Housing accommodations constructed after July 1, 1950, and housing accommodations sold after July 1, 1991:

(a) That are exempt in whole or in part from taxes levied by the state or any of its political subdivisions;

(b) That are constructed on land sold below cost by the state or any of its political subdivisions or any agency thereof, pursuant to the federal housing act of 1949;

(c) That are constructed in whole or in part on property acquired or assembled by the state or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction; or



*(d) For the acquisition, construction, repair or maintenance of which the state or any of its political subdivisions or any agency thereof supplies funds or other financial assistance.*

*4. Housing accommodations, the acquisition, construction, rehabilitation, repair or maintenance of which is, after July 1, 1955, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof.*

*Real estate broker. 1. For purposes of this title except article 1 of subchapter 2 of chapter 2 and sections 8-3752 and 8-4052:*

*(a) The term "real estate broker" means any person who, for another and for a fee, commission or other valuable consideration:*

*(1) Lists for sale, sells, at auction or otherwise, exchanges, buys or rents, or offers or attempts to negotiate a sale at auction or otherwise, the exchange, purchase or rental of an estate or interest in real estate;*

*(2) Collects or offers or attempts to collect rent for the use of real estate; or*

*(3) Negotiates, or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate.*

*(b) In the sale of lots pursuant to article 9-A of the real property law, the term "real estate broker" also includes any person employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who sells or exchanges, or offers or attempts or agrees to negotiate the sale or exchange of any such lot or parcel of real estate.*

*2. For purposes of article 1 of subchapter 2 of chapter 2 of this title and sections 8-3752 and 8-4052, such term means a real estate broker as defined in article 12-A of the real property law.*

*Real estate dealer. The term "real estate dealer" means any firm, partnership, association, corporation or person that or who has within the preceding 12 months sold, traded or exchanged two or more dwellings other than, in the case of a natural person, such natural person's own residence.*

*Real estate office. The term "real estate office" means an office or other place of business that is primarily engaged in the business of selling, buying, leasing, or renting real property; listing real property for sale, purchase, lease or rental; or providing brokerage services in connection with such selling, buying, leasing, renting, or listing.*

*Real estate salesperson. The term "real estate salesperson" means a person:*

*1. Employed by or authorized by a licensed real estate broker to (i) list for sale, (ii) sell, (iii) offer for sale at auction or otherwise, (iv) buy, (v) offer to buy, (vi) negotiate the purchase or sale or exchange of, (vii) negotiate a loan on, (viii) lease, (ix) rent, (x) offer to lease, (xi) offer to rent, or (xii) offer to place for rent any real estate; or*

*2. Who collects or offers or attempts to collect rents for the use of real estate for or on behalf of such real estate broker.*

*Reasonable accommodation.* The term “reasonable accommodation” means such accommodation that can be made that does not cause undue hardship in the conduct of the covered entity’s business.

*Sexual orientation.* The term “sexual orientation” means heterosexuality, homosexuality, or bisexuality.

*Solicitation.* The term “solicitation” means requesting, inviting, or inducing by any means, including:

1. Going in or upon the property of the person to be solicited, except when invited by such person;
2. Communicating with the person to be solicited by mail, telephone, telegraph or messenger service, except when requested by such person;
3. Canvassing in streets or other public places;
4. Distributing handbills, circulars, cards or other advertising matter;
5. Using loudspeakers, sound trucks, or other voice-amplifying equipment; or
6. Displaying signs, posters, billboards, or other advertising devices other than signs placed upon a real estate office for the purpose of identifying the occupants and services provided therein, except that the term “solicitation” does not include advertising in newspapers of general circulation, magazines, radio, television, or telephone directories.

*Trade secrets.* 1. The term “trade secrets” means information that:

(a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use;

(b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and

(c) can reasonably be said to be the end product of significant innovation.

2. The term “trade secrets” does not include general proprietary company information such as handbooks and policies.

*Undue hardship.* The term “undue hardship,” as used in relation to a claim for religious accommodation under section 8-2057, means an accommodation requiring significant expense or difficulty, including a significant interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system.

*Unemployed.* The term “unemployed” means not having a job, being available for work, and seeking employment.

*Unemployment.* The term “unemployment” means the status of being unemployed.

*Unlawful discriminatory practice.* The term “unlawful discriminatory practice” includes only those practices specified in subchapter 1 of chapter 2 of this title.

*Victim of domestic violence.* The term “victim of domestic violence” means a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social

*relationship of a romantic or intimate nature with the victim, or by a person who is or has continually or at regular intervals lived in the same household as the victim.*

*Victim of sex offenses or stalking. The term “victim of sex offenses or stalking” means a victim of acts that would constitute violations of article 130 of the penal law or a victim of acts that would constitute violations of sections 120.45, 120.50, 120.55, or 120.60 of the penal law.*

*§ 8-1004 Construction. The provisions of this title shall be construed liberally for the accomplishment of the uniquely broad and remedial purposes thereof, regardless of whether federal or New York state civil and human rights laws, including those laws with provisions worded comparably to provisions of this title, have been so construed.*

*§ 8-1005 Explanation of structure and order of provisions. Within this title, sections are subdivided in descending order and designated as follows:*

*a. Subdivision*

*1. Paragraph*

*(a) Subparagraph*

*(1) Clause*

*(A) Item*

*§ 8-1006 Effect of 2016 recodification. This title, as added by local law number XXXX for the year 2016, is a recodification of title 8 of the code as it existed immediately before the effective date of such local law.*

## *Subchapter 2*

### *Additional Declarations of Policy for Certain Provisions Recodified in 2016*

*§ 8-1051 General principles. The declarations of policy contained in this subchapter are hereby continued. Such declarations apply with the same force and to the same extent as on <<N.b.: Insert date preceding recodification>>, even though the provisions to which they applied on such date have been renumbered and restated.*

*§ 8-1052 Declaration of policy; certain unlawful real estate practices. It is hereby declared to be the policy of the city and the purpose of this chapter<sup>1</sup> to promote fair dealing in real estate transactions, to maintain community stability and security, and to foster racial and social harmony.*

*§ 8-1053<sup>2</sup> Declaration of policy; civil rights demonstration protection. It is hereby found that the letter and spirit of the constitution of the United States are being violated in some jurisdictions under color of law with the result that persons from this city and state, as well as from other states, are being subjected to discriminatory treatment in the exercise of their constitutional rights because of race or because they seek the removal of unconstitutional barriers to equal rights. Such persons, sometimes referred to as freedom riders and sit-ins, intent upon peaceful resistance to discrimination, segregation and the achievement of the constitutional*

*rights of all persons in all jurisdictions of the United States, have suffered the stigma of criminal proceedings. It is hereby declared to be the policy of the city to remove or to neutralize, by affording to such residents appropriate relief to the fullest extent possible, the effect upon residents of this city of such criminal proceedings, resulting from the attempted use of public transportation facilities and other places of public accommodation.*

*§ 8-1054<sup>3</sup> Declaration of policy; systemic discrimination. The council finds that certain forms of unlawful discrimination are systemic in nature rooted in the operating conditions or policies of a business or industry. The council finds that the existence of systemic discrimination poses a substantial threat to, and inflicts significant injury upon, the city that is economic, social and moral in character, and is distinct from the injury sustained by individuals as an incident of such discrimination. The council finds that the potential for systemic discrimination exists in all areas of public life and that employment, housing and public accommodations are among the areas in which the economic effects of systemic discrimination are exemplified. The existence of systemic discrimination impedes the optimal efficiency of the labor market by, among other things, causing decisions to employ, promote or discharge persons to be based upon reasons other than qualifications and competence. Such discrimination impedes the optimal efficiency of the housing market and retards private investments in certain neighborhoods by causing decisions to lease or sell housing accommodations to be based upon discriminatory factors and not upon ability and willingness to lease or purchase property. The council finds that the reduction in the efficiency of the labor, housing and commercial markets has a detrimental effect on the city's economy, thereby reducing revenues and increasing costs to the city. The council finds that such economic injury to the city severely diminishes its capacity to meet the needs of those persons living and working in, and visiting, the city. The council finds further that the social and moral consequences of systemic discrimination are similarly injurious to the city in that systemic discrimination polarizes the city's communities, demoralizes its inhabitants and creates disrespect for the law, thereby frustrating the city's efforts to foster mutual respect and tolerance among its inhabitants and to promote a safe and secure environment. The council finds that the potential consequences to the city of this form of discrimination requires that the corporation counsel be expressly given the authority to institute a civil action to enforce the city's human rights law so as to supplement administrative means to prevent or remedy injury to the city.*

*§ 8-1055<sup>4</sup> Declaration of policy; discriminatory boycotts and blacklists. Boycotts or blacklists that are based on a person's race, color, creed, age, national origin, alienage or citizenship status, marital status, partnership status, gender, sexual orientation, or disability pose a menace to the city's foundation and institutions. In contrast to protests that are in reaction to an unlawful discriminatory practice, connected with a labor dispute or associated with other speech or activities that are protected by the first amendment, discriminatory boycotts cause havoc, divide the citizenry and do not serve a legitimate purpose. The council declares that discriminatory boycotts are a dangerously insidious form of prejudice and hereby establishes a procedure for expeditiously investigating allegations of this type of prejudice, ensuring that the council and mayor are duly alerted to the existence of such activity and combating discriminatory boycotts or blacklists.*

CHAPTER 2  
UNLAWFUL PRACTICES

*Subchapter 1 Unlawful Discriminatory Practices.*

*Subchapter 2 Other Unlawful Practices.*

*Subchapter 1  
Unlawful Discriminatory Practices*

*Article 1 General Principles.*

*Article 2 Generally Applicable Unlawful Discriminatory Practices.*

*Article 3 Employment and Related Matters.*

*Article 4 Public Accommodations.*

*Article 5 Housing, Real Estate and Financing.*

*Article 6 Licenses, Registrations and Permits.*

*Article 7 Commercial Activity.*

*Article 1  
General Principles*

*§ 8-2001 Alienage or citizenship status; limitation. Notwithstanding any other provision of this subchapter, it is not an unlawful discriminatory practice for any person (i) to discriminate on the ground of alienage or citizenship status, (ii) to make any inquiry as to a person's alienage or citizenship status, or (iii) to give preference to a person who is a citizen or a national of the United States over an equally qualified person who is an alien, when such discrimination is required or when such preference is expressly permitted by any law or regulation of the United States, the state of New York or the city, and when such law or regulation does not provide that state or local law may be more protective of aliens. This provision does not prohibit inquiries or determinations based on alienage or citizenship status when such actions are necessary to obtain the benefits of a federal program.*

*§ 8-2002 Religious principles; limitation. This subchapter does not prohibit any religious or denominational institution or organization or any organization operated for charitable or educational purposes that is operated, supervised or controlled by or in connection with a religious organization from limiting employment or sales or rentals of housing accommodations or admission to or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.*

*§ 8-2003 Sexual orientation; limitation. This subchapter does not:*

*a. Restrict an employer's right to insist that an employee meet bona fide job-related qualifications of employment;*

*b. Authorize or require employers to establish affirmative action quotas based on sexual orientation or to make inquiries regarding the sexual orientation of current or prospective employees;*

*c. Limit or override the present exemptions in the New York city human rights law, including those relating to owner-occupied dwellings, as provided in paragraph 1 of subdivision b of section 8-2202 and paragraph 1 of subdivision b of section 8-2203; or any religious or denominational institution or organization, or any organization operated for charitable or educational purposes that is operated, supervised or controlled by or in connection with a religious organization, as provided in section 8-2002; or any prohibition or requirement that only applies to four-plus employers;*

*d. Make lawful any act that violates the penal law of the state of New York; or*

*e. Endorse any particular behavior or way of life.*

*§ 8-2004 Employer liability for discriminatory conduct by employee, agent or independent contractor. a. An employer is liable for an unlawful discriminatory practice based on the conduct of an employee or agent that is in violation of any provision of this subchapter other than article 3 of this subchapter, except that this subdivision governs the provisions of article 3 relating to religious observance in employment and discrimination on the basis of unemployment, consumer credit history, criminal conviction, arrest or criminal accusation, pregnancy, childbirth, or a related medical condition, or actual or perceived status as a victim of domestic violence or a victim of sex offenses or stalking.*

*b. Except as provided in subdivision a of this section, an employer is liable for an unlawful discriminatory practice based on the conduct of an employee or agent that is in violation of article 3 of this subchapter only where:*

*1. The employee or agent exercised managerial or supervisory responsibility;*

*2. The employer should have known of the employee's or agent's discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory conduct; or*

*3. The employer knew of the employee's or agent's discriminatory conduct, and acquiesced in such conduct or failed to take immediate and appropriate corrective action. An employer shall be deemed to have knowledge of an employee's or agent's discriminatory conduct where that conduct was known by another employee or agent who exercised managerial or supervisory responsibility.*

*c. An employer is liable for an unlawful discriminatory practice committed by a person employed as an independent contractor, other than an agent of such employer, to carry out work in furtherance of the employer's business enterprise only where such discriminatory conduct was committed in the course of such employment and the employer had actual knowledge of and acquiesced in such conduct.*

*d. Where liability of an employer has been established pursuant to this section and is based solely on the conduct of an employee, agent, or independent contractor, the employer may plead and prove that before the discriminatory conduct for which it was found liable it had:*

1. *Established and complied with policies, programs and procedures for the prevention and detection of unlawful discriminatory practices by employees, agents and persons employed as independent contractors, including:*

(a) *A meaningful and responsive procedure for investigating complaints of discriminatory practices by employees, agents and persons employed as independent contractors and for taking appropriate action against those persons who are found to have engaged in such practices;*

(b) *A firm policy against such practices that is effectively communicated to employees, agents and persons employed as independent contractors;*

(c) *A program to educate employees and agents about discriminatory practices that are unlawful under local, state, and federal law;*

(d) *Procedures for the supervision of employees and agents and for the oversight of persons employed as independent contractors specifically directed at the prevention and detection of such practices; and*

2. *A record of no, or relatively few, prior incidents of discriminatory conduct by such employee, agent or person employed as an independent contractor or other employees, agents or persons employed as independent contractors.*

*e. The demonstration of any or all of the factors listed in subdivision d of this section in addition to any other relevant factors shall be considered in determining an employer's liability under paragraph 2 of subdivision b of this section.*

§ 8-2005 *Disparate impact; liability. a. An unlawful discriminatory practice based on disparate impact is established when:*

1. *The commission or a person who may bring an action under subchapters 2 or 3 of chapter 3 of this title demonstrates that a policy or practice of a covered entity or a group of policies or practices of a covered entity results in a disparate impact to the detriment of any group protected by this subchapter; and*

2. *The covered entity fails to plead and prove as an affirmative defense either:*

(a) *That each such policy or practice does not contribute to the disparate impact, or*

(b) *One of the following:*

(1) *For disparate impact claims based on discrimination other than on the basis of unemployment, that each such policy or practice bears a significant relationship to a significant business objective of the covered entity, including successful performance of the job, or*

(2) *For disparate impact claims based on discrimination on the basis of unemployment, that each such policy or practice has as its basis a substantially job-related qualification such as, without limitation, a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.*

*b. For purposes of paragraph 2 of subdivision a of this section, if the commission or such person who may bring an action demonstrates that a group of policies or practices results in a disparate impact, the commission or such person shall not be required to demonstrate which specific policies or practices within the group result in such disparate impact. In addition, a policy or practice or group of*

*policies or practices demonstrated to result in a disparate impact is unlawful where the commission or such person who may bring an action produces substantial evidence that an alternative policy or practice with less disparate impact is available to such entity and such entity fails to prove that such alternative policy or practice would not serve such entity as well.*

*c. The mere existence of a statistical imbalance between a covered entity's challenged demographic composition and the general population is not alone sufficient to establish a prima facie case of disparate impact violation unless the general population is shown to be the relevant pool for comparison, the imbalance is shown to be statistically significant and there is an identifiable policy or practice or group of policies or practices that allegedly causes the imbalance.*

*d. This section does not mandate or endorse the use of quotas; provided, however, that this section does not limit the scope of the commission's authority pursuant to sections 8-3158, 8-3162 and 8-4001 or affect court-ordered remedies or settlements that are otherwise in accordance with law.*

*§ 8-2006 Domestic violence, sex offenses and stalking; acts of perpetrator. In this subchapter, practices "based on," "because of," "on account of," "as to," "on the basis of," or "motivated by" an individual's "status as a victim of domestic violence," or "status as a victim of sex offenses or stalking" include those based solely on the actions of a person who has perpetrated acts or threats of violence against the individual.*

*§ 8-2007 Persons with disabilities; use of drugs or alcohol. This subchapter does not prohibit a covered entity from:*

*a. Prohibiting the illegal use of drugs or the use of alcohol at the workplace or on-duty impairment from the illegal use of drugs or from the use of alcohol; or*

*b. Conducting drug testing that is otherwise lawful.*

*§ 8-2008 Reasonable accommodation; burden of proof and affirmative defense.*

*a. Undue hardship; burden of proof. In any case where undue hardship is placed in issue, the covered entity has the burden of proving undue hardship.*

*1. In making a determination of undue hardship with respect to claims for reasonable accommodation relating to activity covered by article 3 of this subchapter, other than claims based on an employee's or prospective employee's religious observance, the factors to be considered include:*

*(a) The nature and cost of the accommodation;*

*(b) The overall financial resources of the facility or the facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;*

*(c) The overall financial resources of the covered entity and the overall size of the business of a covered entity with respect to the number of its employees and the number, type, and location of its facilities; and*

*(d) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity, and the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.*



2. In making a determination of undue hardship with respect to claims for reasonable accommodation to an employee's or prospective employee's religious observance, factors to be considered in determining whether an accommodation constitutes an undue economic hardship include:

(a) The identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the four-plus employer;

(b) The number of individuals who will need the particular accommodation to a sincerely held religious observance or practice; and

(c) For a four-plus employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

b. *Effective accommodation affirmative defense.* In any case where the need for reasonable accommodation is placed in issue, it is an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with reasonable accommodation, satisfy the essential requisites of the job or enjoy the right or rights in question.

## Article 2

### Generally Applicable Unlawful Discriminatory Practices

§ 8-2051 *Aiding and abetting.* a. *Unlawful discriminatory practice.* It is an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this subchapter, or to attempt to do so.

b. *Other requirements.* 1. (Open.)

§ 8-2052 *Retaliation.* a. *Unlawful discriminatory practice.* It is an unlawful discriminatory practice for any person engaged in any activity to which this subchapter applies to retaliate or discriminate in any manner against any person because such person has:

1. *Opposed any practice forbidden under this subchapter;*

2. *Filed a complaint, testified or assisted in any proceeding under this subchapter;*

3. *Commenced a civil action alleging an unlawful discriminatory practice;*

4. *Assisted the commission or the corporation counsel in an investigation commenced pursuant to this title; or*

5. *Provided any information to the commission pursuant to the terms of a conciliation agreement made pursuant to section 8-3162.*

b. *Other requirements.* 1. *Adverse change; deterrence.* The retaliation or discrimination complained of under this section need not result in an ultimate action with respect to employment, housing or a public accommodation or in a materially adverse change in the terms and conditions of employment, housing, or a public accommodation, provided, however, that the retaliatory or discriminatory act or acts complained of must be reasonably likely to deter a person from engaging in protected activity.

§ 8-2053 *Interference with protected rights.* a. *Unlawful discriminatory practice.* It is an unlawful discriminatory practice for any person to coerce, intimidate,

*threaten or interfere with, or attempt to coerce, intimidate, threaten or interfere with, any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this subchapter.*

*b. Other requirements. 1. (Open.)*

*§ 8-2054 Failure to provide reasonable accommodations to a person with disabilities; any covered person. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any person prohibited by this subchapter from discriminating on the basis of disability not to provide a reasonable accommodation to enable a person with a disability to satisfy the essential requisites of a job or enjoy the right or rights in question as long as the disability was known or should have been known by the covered entity.*

*b. Other requirements.*

*1. (Open.)*

*§ 8-2055 Failure to provide reasonable accommodations for pregnancy, childbirth, or a related medical condition; employment.*

*a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for a four-plus employer to refuse to provide a reasonable accommodation to the needs of an employee for her pregnancy, childbirth, or related medical condition that allows the employee to perform the essential requisites of the job, so long as such employee's pregnancy, childbirth, or related medical condition was known or should have been known by the four-plus employer.*

*b. Other requirements. 1. Notice of rights. A four-plus employer shall provide written notice in a form and manner to be determined by the commission of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions pursuant to this section to (i) new employees at the commencement of employment and (ii) existing employees by May 30, 2014. Such notice may also be conspicuously posted at a four-plus employer's place of business in an area accessible to employees.*

*2. Effect of section. This section does not affect any other provision of law relating to discrimination on the basis of gender or pregnancy, or in any way diminish the coverage of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth under any other provision of this subchapter.*

*§ 8-2056 Failure to provide reasonable accommodations for victims of domestic violence, sex offenses or stalking; employment. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any person prohibited by this subchapter from discriminating on the basis of actual or perceived status as a victim of domestic violence or a victim of sex offenses or stalking not to provide a reasonable accommodation to enable a person who is a victim of domestic violence or a victim of sex offenses or stalking to satisfy the essential requisites of a job so long as the status as a victim of domestic violence or a victim of sex offenses or stalking was known or should have been known by the covered entity.*

*b. Other requirements. 1. Documentation of status. Any person required by subdivision a of this section to make a reasonable accommodation may require a person requesting a reasonable accommodation pursuant to that subdivision to*

*provide certification that the person is a victim of domestic violence, or a victim of sex offenses or stalking.*

*(a) A person requesting a reasonable accommodation pursuant to subdivision a of this section shall provide a copy of such certification to the covered entity within a reasonable period after the request is made.*

*(b) A person may satisfy the certification requirement of this paragraph by providing documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider, from whom the individual seeking a reasonable accommodation or from whom that individual's family or household member has sought assistance in addressing domestic violence, sex offenses or stalking and the effects of the violence or stalking; a police or court record; or other corroborating evidence.*

*(c) All information provided to the covered entity pursuant to this paragraph, including a statement of the person requesting a reasonable accommodation or any other documentation, record, or corroborating evidence, and the fact that the individual has requested or obtained a reasonable accommodation pursuant to this section, shall be retained in the strictest confidence by the covered entity, except to the extent that disclosure is requested or consented to in writing by the person requesting the reasonable accommodation or otherwise is required by applicable federal, state or local law.*

*§ 8-2057 Failure to provide reasonable accommodations for employees' religious observance. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for a four-plus employer not to provide a reasonable accommodation to the religious needs of a person seeking to obtain or retain employment with that four-plus employer, so long as such employee's desire for a religious accommodation is known or should have been known by the four-plus employer. Without in any way limiting the foregoing, no person shall be required to remain at his or her place of employment during any day or days or portion thereof that, as a requirement of such person's religion, he or she observes as a sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his or her place of employment and his or her home, except that any such absence from work shall, wherever practicable in the judgment of the four-plus employer, be made up by an equivalent amount of time at some other mutually convenient time.*

*b. Other requirements. 1. (Open.)*

*§ 8-2058 Relationship or association; liability. The provisions of this subchapter set forth as unlawful discriminatory practices also prohibit such discrimination against a person because of the actual or perceived age, alienage or citizenship status, color, creed, disability, gender, marital status, national origin, partnership status, race, or sexual orientation of a person with whom such person has a known relationship or association.*

*§ 8-2059 Violation of conciliation agreement. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any party to a conciliation agreement made pursuant to section 8-3162 to violate the terms of such agreement.*

*b. Other requirements. 1. (Open.)*

Article 3

Employment and Related Matters

Part 1 – General Provisions

§ 8-2101 Applicability. (Open.)

Part 2 – Unlawful Discriminatory Practices in Employment

§ 8-2105 Discrimination by a four-plus employer or employee or agent thereof; certain adverse actions. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for a four-plus employer or an employee or agent thereof because of the actual or perceived defined protected status of any person, to refuse to hire or employ or to bar or to discharge from employment such person or to discriminate against such person in compensation or in terms, conditions or privileges of employment.

b. Other requirements. 1. Limitations; benefit plans, insurance and retirement plans and systems. The provisions of this section:

(a) As they apply to employee benefit plans, do not prohibit a four-plus employer from observing the provisions of any employee benefit plan covered by the federal employment retirement income security act of 1974 that is in compliance with applicable federal anti-discrimination laws where the application of this section to such plan would be preempted by such act;

(b) Do not prohibit the varying of insurance coverages according to an employee's age;

(c) Do not affect any retirement policy or system that is permitted pursuant to paragraphs (e) and (f) of subdivision 3-a of section 296 of the executive law;

(d) Do not affect the retirement policy or system of a four-plus employer where such policy or system is not a subterfuge to evade the purposes of this subchapter.

2. Limitation; family members. This section does not govern the employment by a four-plus employer of his or her parents, spouse, domestic partner, or children.

§ 8-2106 Discrimination by a four-plus employer or employee or agent thereof; religious practice. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for a four-plus employer or an employee or agent thereof to impose upon a person as a condition of obtaining or retaining employment any terms or conditions, compliance with which would require such person to violate, or forgo a practice of, his or her creed or religion, including the observance of any particular day or days or any portion thereof as a sabbath or holy day or the observance of any religious custom or usage. Without in any way limiting the foregoing, no person shall be required to remain at his or her place of employment during any day or days or portion thereof that, as a requirement of such person's religion, he or she observes as a sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between his or her place of employment and his or her home, except that any such absence from work shall, wherever practicable in the judgment of the four-plus employer, be made up by an equivalent amount of time at some other mutually convenient time.

b. Other requirements. 1. (Open.)

§ 8-2107 *Discrimination by an employer or agent thereof; domestic violence, sex offenses, or stalking.* a. *Unlawful discriminatory practice.* It is an unlawful discriminatory practice for an employer or an employee or agent thereof to refuse to hire or employ, to bar or to discharge from employment, or to discriminate against an individual in compensation or other terms, conditions, or privileges of employment because of the actual or perceived status of that individual as a victim of domestic violence or as a victim of sex offenses or stalking.

b. *Other requirements.* 1. (Open.)

§ 8-2108 *Discrimination by a four-plus employer or agent thereof; unemployment.* a. *Unlawful discriminatory practice.* It is an unlawful discriminatory practice for a four-plus employer or an employee or agent thereof to base an employment decision with regard to hiring, compensation or the terms, conditions or privileges of employment on an applicant's unemployment.

b. *Other requirements.*

1. *Limitation; consideration and inquiry permitted.* This section does not prohibit an employer or employee or agent thereof from (i) considering an applicant's unemployment where there is a substantially job-related reason for doing so or (ii) inquiring into the circumstances surrounding an applicant's separation from prior employment.

2. *Limitation, substantially job-related qualifications.* This section does not prohibit an employer or employee or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from considering any substantially job-related qualifications, including a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.

3. *Current employment and compensation.* This section does not prohibit an employer or employee or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from determining that only applicants who are currently employed by the employer will be considered for employment or given priority for employment or with respect to compensation or terms, conditions or privileges of employment. In addition, this section does not prohibit an employer from setting compensation or terms or conditions of employment for a person based on that person's actual amount of experience. For the purposes of this paragraph, all persons whose salary or wages are paid from the city treasury, and all persons who are employed by public agencies or entities headed by officers or boards including one or more individuals appointed or recommended by officials of the city, shall be deemed to have the same employer.

4. *Applicability.* This section:

(a) *Applies to individual hiring decisions made by an agency or entity with respect to positions for which appointments are not required to be made from an eligible list resulting from a competitive examination.*

(b) *Does not apply to actions taken by the department of citywide administrative services in furtherance of its responsibility for city personnel matters pursuant to chapter 35 of the charter or as a municipal civil service commission administering*

*the civil service law and other applicable laws, or by the mayor in furtherance of the mayor's duties relating to city personnel matters pursuant to chapter 35 of the charter, including the administration of competitive examinations, the establishment and administration of eligible lists, and the establishment and implementation of minimum qualifications for appointment to positions.*

*(c) Does not apply to actions taken by officers or employees of other public agencies or entities charged with performing functions comparable to those performed by the department of citywide administrative services or the mayor as described in subparagraph (b) of this paragraph.*

*(d) Does not apply to agency appointments to competitive positions from eligible lists pursuant to subdivision 1 of section 61 of the civil service law.*

*(e) Does not apply to the exercise of any right of an employer or employee pursuant to a collective bargaining agreement.*

*5. Limitation: advertising job-related qualifications. This section does not prohibit an employer, employment agency, or employee or agent thereof from publishing, in print or in any other medium, an advertisement for any job vacancy in this city that contains any provision setting forth any substantially job-related qualifications, including a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.*

*§ 8-2109 Discrimination by an employer or agent thereof; consumer credit history. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for an employer or an employee or agent thereof to request or to use for employment purposes the consumer credit history of an applicant for employment or of an employee or otherwise to discriminate against an applicant or employee with regard to hiring, compensation, or the terms, conditions or privileges of employment based on the consumer credit history of the applicant or employee.*

*b. Other requirements. 1. Government agencies and city employees. Subdivision a of this section does not affect the obligations of persons required by section 12-110 or by mayoral executive order relating to disclosures by city employees to the conflicts of interest board to report information regarding their creditors or debts, or the use of such information by government agencies for the purposes for which such information is collected.*

*2. Legal process. Subdivision a of this section does not prohibit an employer from requesting or receiving consumer credit history information pursuant to a lawful subpoena, court order or law enforcement investigation.*

*3. Applicability. Subdivision a of this section does not apply to:*

*(a) An employer or an employee or agent thereof that is required by state or federal law or regulations or by a self-regulatory organization as defined in paragraph (26) of subsection (a) of section 3 of the securities exchange act of 1934, as amended, to use an individual's consumer credit history for employment purposes;*

*(b) Persons applying for positions as or employed:*

*(1) As police officers or peace officers, as those terms are defined in subdivisions 33 and 34 of section 1.20 of the criminal procedure law, respectively, or*

*in a position with a law enforcement or investigative function at the department of investigation;*

*(2) In a position that is subject to background investigation by the department of investigation, except that the appointing agency may not use consumer credit history information for employment purposes unless the position is an appointed position in which a high degree of public trust, as defined by the commission in rules, has been reposed;*

*(3) In a position in which an employee is required to be bonded under city, state or federal law;*

*(4) In a position in which an employee is required to possess security clearance under federal law or the law of any state;*

*(5) In a non-clerical position having regular access to intelligence information, national security information, or trade secrets, except that regular access to trade secrets does not include access to or the use of client, customer or mailing lists;*

*(6) In a position (i) having signatory authority over third party funds or assets valued at \$10,000 or more or (ii) that involves a fiduciary responsibility to the employer with the authority to enter financial agreements valued at \$10,000 or more on behalf of the employer; or*

*(7) In a position with regular duties that allow the employee to modify digital security systems established to prevent the unauthorized use of the employer's or client's networks or databases.*

*§ 8-2110 Discrimination by an employer or agent thereof; criminal conviction, arrest or criminal accusation. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any employer or employee or agent thereof to deny employment to any person or to take adverse action against any employee because such person or employee was convicted of one or more criminal offenses or because of a finding of a lack of "good moral character" that is based on such person or employee having been convicted of one or more criminal offenses, when such denial or adverse action violates article 23-a of the correction law. For purposes of this section, "employment" does not include membership in any law enforcement agency.*

*b. Other requirements. 1. (Open.)*

*§ 8-2111 Discrimination by a four-plus employer or agent thereof; arrest and conviction records; four-plus employer inquiries. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any four-plus employer or employee or agent thereof to make any inquiry or statement related to the pending arrest or criminal conviction record of any person who is in the process of applying for employment with such four-plus employer or agent thereof until after such four-plus employer or agent thereof has extended a conditional offer of employment to the applicant.*

*b. Other requirements. 1. Definitions and usages.*

*(a) For purposes of this section, with respect to an applicant for temporary employment at a temporary help firm as such term is defined by subdivision 5 of section 916 of the labor law, an offer to be placed in the temporary help firm's general candidate pool shall constitute a conditional offer of employment.*

*(b) For purposes of the phrase “any inquiry or statement” in this section, “any inquiry” means any question communicated to an applicant in writing or otherwise, or any searches of publicly available records or consumer reports that are conducted for the purpose of obtaining an applicant’s criminal background information, and “any statement” means a statement communicated in writing or otherwise to the applicant to obtain an applicant’s criminal background information regarding (i) an arrest record; (ii) a conviction record; or (iii) a criminal background check.*

*2. Limitation; consideration after a conditional offer of employment. After extending an applicant a conditional offer of employment, a four-plus employer or agent thereof may inquire about the applicant’s arrest or conviction record if, before taking any adverse employment action based on such inquiry, the four-plus employer or agent thereof:*

*(a) Provides a written copy of the inquiry to the applicant in a manner to be determined by the commission;*

*(b) Performs an analysis of the applicant under article 23-a of the correction law and provides a written copy of such analysis to the applicant in a manner to be determined by the commission, which shall include supporting documents that formed the basis for any adverse action based on such analysis and the four-plus employer’s reasons for taking any adverse action against such applicant; and*

*(c) After giving the applicant the inquiry and analysis in writing pursuant to subparagraphs (a) and (b) of this paragraph, allows the applicant a reasonable time to respond, which shall be no fewer than three business days, and during this time holds the position open for the applicant.*

*3. Limitation; other reasons. Nothing in this section prohibits a four-plus employer or agent thereof from taking any adverse action against any employee or denying employment to any applicant for reasons other than such employee or applicant’s arrest or criminal conviction record.*

*4. Improper inquiries. An applicant shall not be required to respond to any inquiry or statement that violates subdivision a of this section, and any refusal to respond to such inquiry or statement shall not disqualify an applicant from the prospective employment.*

*5. Limitation; applicability. (a) This section does not apply to any actions taken by a four-plus employer or agent thereof pursuant to any state, federal or local law that requires criminal background checks for employment purposes or bars employment based on criminal history. For purposes of this section, federal law includes rules or regulations promulgated by a self-regulatory organization as defined in paragraph (26) of subsection (a) of section 3 of the securities exchange act of 1934, as amended.*

*(b) This section does not apply to any actions taken by a four-plus employer or agent thereof with regard to an applicant for employment:*

*(1) As a police officer or peace officer, as those terms are defined in subdivisions 33 and 34 of section 1.20 of the criminal procedure law, respectively, or at a law enforcement agency as that term is used in article 23-a of the correction law, including the police department, the fire department, the department of correction, the department of investigation, the department of probation, the division*



*of youth and family services, the business integrity commission, and the district attorneys' offices; or*

*(2) Listed in the determinations of personnel published as a commissioner's calendar item and listed on the website of the department of citywide administrative services upon a determination by the commissioner of citywide administrative services that the position involves law enforcement, is susceptible to bribery or other corruption, or entails the provision of services to or safeguarding of persons who, because of age, disability, infirmity or other condition, are vulnerable to abuse. If the department takes adverse action against any applicant based on the applicant's arrest or criminal conviction record, it shall provide a written copy of such analysis performed under article 23-a of the correction law to the applicant in a form and manner to be determined by the department.*

*§ 8-2112 Discrimination by an employer or agent thereof; discrimination by any person; arrest record; employment. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice, unless specifically required or permitted by any other law, for any person to:*

*1. Deny employment to any applicant or act adversely upon any employee by reason of an arrest or criminal accusation of such applicant or employee when such denial or adverse action violates subdivision 16 of section 296 of the executive law; or*

*2. Make any inquiry in writing or otherwise about any arrest or criminal accusation of an applicant or employee when such inquiry violates subdivision 16 of section 296 of the executive law.*

*b. Other requirements. 1. (Open.)*

*Part 3 – Employment Related Unlawful Discriminatory Practices*

*§ 8-2125 Apprentice training programs. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for a four-plus employer, a labor organization, an employment agency or any joint labor-management committee controlling apprentice training programs or an employee or agent thereof:*

*1. To select persons for an apprentice training program registered with the state of New York on any basis other than their qualifications, as determined by objective criteria that permit review.*

*2. To deny to or withhold from any person because of his or her actual or perceived defined protected status or status as a victim of domestic violence or as a victim of sex offenses or stalking the right to be admitted to or participate in a guidance program, an apprentice training program, an on-the-job training program, or other occupational training or retraining program.*

*3. To discriminate against any person in his or her pursuit of a guidance program, apprentice training program, on-the-job training program, or other occupational training or retraining program or to discriminate against such a person in the terms, conditions or privileges of such program because of such person's actual or perceived defined protected status or status as a victim of domestic violence or as a victim of sex offenses or stalking.*

*b. Other requirements. 1. Limitations; benefit plans, insurance and retirement plans and systems. The provisions of this section:*

*(a) As they apply to employee benefit plans, do not prohibit a four-plus employer from observing the provisions of any employee benefit plan covered by the federal employment retirement income security act of 1974 that is in compliance with applicable federal anti-discrimination laws where the application of this section to such plan would be preempted by such act;*

*(b) Do not prohibit the varying of insurance coverages according to an employee's age;*

*(c) Do not affect any retirement policy or system that is permitted pursuant to paragraphs (e) and (f) of subdivision 3-a of section 296 of the executive law;*

*(d) Do not affect the retirement policy or system of a four-plus employer where such policy or system is not a subterfuge to evade the purposes of this subchapter.*

*§ 8-2126 Employment and apprentice training program advertising. a. Generally. 1. Unlawful discriminatory practice. It is an unlawful discriminatory practice for a four-plus employer, a labor organization, an employment agency or an employee or agent thereof to express, directly or indirectly, any limitation, specification or discrimination as to defined protected status or status as a victim of domestic violence or as a victim of sex offenses or stalking or any intent to make any such limitation, specification or discrimination, when:*

*(a) Declaring, printing, or circulating or causing to be declared, printed or circulated any statement, advertisement or publication;*

*(b) Using any form of application for employment or for an apprentice training program; or*

*(c) Making any inquiry in connection with prospective employment or with a guidance program, an apprentice training program, on-the-job training program, or other occupational training or retraining program.*

*2. Other requirements. (a) Limitations; benefit plans, insurance and retirement plans and systems. The provisions of this subdivision and subdivision b of this section:*

*(1) As they apply to employee benefit plans, do not prohibit a four-plus employer from observing the provisions of any employee benefit plan covered by the federal employment retirement income security act of 1974 that is in compliance with applicable federal anti-discrimination laws where the application of this subdivision to such plan would be preempted by such act;*

*(2) Do not prohibit the varying of insurance coverages according to an employee's age;*

*(3) Do not affect any retirement policy or system that is permitted pursuant to paragraphs (e) and (f) of subdivision 3-a of section 296 of the executive law;*

*(4) Do not affect the retirement policy or system of a four-plus employer where such policy or system is not a subterfuge to evade the purposes of this subchapter.*

*(b) Limitation; family members. This subdivision as it applies to employment does not govern the employment by a four-plus employer of his or her parents, spouse, domestic partner, or children.*

*b. Advertising by joint labor-management committees and apprentice training programs. 1. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any joint labor-management committee controlling apprentice training*

programs or an employee or agent thereof to engage in conduct prohibited by subdivision a of this section as it pertains to an apprentice training program.

2. Other requirements. (Open.)

c. Employment advertising relating to arrest or criminal conviction. 1. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any four-plus employer, employment agency or employee or agent thereof to declare, print or circulate or cause to be declared, printed or circulated, any solicitation, advertisement or publication that expresses, directly or indirectly, any limitation or specification in employment based on a person's arrest or criminal conviction.

2. Other principles. (a) Limitation; other reasons. This subdivision does not prohibit a four-plus employer, employment agency or agent thereof from taking any adverse action against any employee or denying employment to any applicant for reasons other than such employee or applicant's arrest or criminal conviction record.

(b) Limitation; improper inquiries. An applicant shall not be required to respond to any inquiry or statement that violates paragraph 1 of this subdivision, and any refusal to respond to such inquiry or statement shall not disqualify an applicant from the prospective employment.

(c) Limitation; applicability. (1) This subdivision does not apply to any actions taken by a four-plus employer or agent thereof pursuant to any state, federal or local law that requires criminal background checks for employment purposes or bars employment based on criminal history. For purposes of this subparagraph, federal law includes rules or regulations promulgated by a self-regulatory organization as defined in paragraph (26) of subsection (a) of section 3 of the securities exchange act of 1934, as amended.

(2) This subdivision does not apply to any actions taken by a four-plus employer or agent thereof with regard to an applicant for employment:

(A) As a police officer or peace officer, as those terms are defined in subdivisions 33 and 34 of section 1.20 of the criminal procedure law, respectively, or at a law enforcement agency as that term is used in article 23-a of the correction law, including the police department, the fire department, the department of correction, the department of investigation, the department of probation, the division of youth and family services, the business integrity commission, and the district attorneys' offices; or

(B) Listed in the determinations of personnel published as a commissioner's calendar item and listed on the website of the department of citywide administrative services upon a determination by the commissioner of citywide administrative services that the position involves law enforcement, is susceptible to bribery or other corruption, or entails the provision of services to or safeguarding of persons who, because of age, disability, infirmity or other condition, are vulnerable to abuse. If the department takes adverse action against any applicant based on the applicant's arrest or criminal conviction record, it shall provide a written copy of such analysis performed under article 23-a of the correction law to the applicant in a form and manner to be determined by the department.

d. Employment advertising relating to employment status. 1. Unlawful discriminatory practice. It is an unlawful discriminatory practice, unless otherwise

*permitted by city, state or federal law, for any employer, employment agency, or employee or agent thereof to publish, in print or in any other medium, an advertisement for any job vacancy in the city that contains one or more of the following:*

*(a) Any provision stating or indicating that being currently employed is a requirement or qualification for the job;*

*(b) Any provision stating or indicating that an employer, employment agency, or employee or agent thereof will not consider individuals for employment based on their unemployment.*

*2. Other requirements. (a) Effect of subdivision. This subdivision does not prohibit an employer, employment agency, or employee or agent thereof from publishing, in print or in any other medium, an advertisement for any job vacancy in this city that contains any provision setting forth any substantially job-related qualifications, including a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.*

*(b) Limitation; consideration and inquiry permitted. (1) Limitation; consideration and inquiry permitted. Paragraph 1 of this subdivision does not prohibit an employer, employment agency, or employee or agent thereof from (i) considering an applicant's unemployment, where there is a substantially job-related reason for doing so or (ii) inquiring into the circumstances surrounding an applicant's separation from prior employment.*

*(2) Limitation, substantially job-related qualifications. This subdivision does not prohibit an employer, employment agency, or employee or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from considering any substantially job-related qualifications, including a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.*

*(3) Current employment and compensation. This subdivision does not prohibit an employer, employment agency, or employee or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from determining that only applicants who are currently employed by the employer will be considered for employment or given priority for employment or with respect to compensation or terms, conditions or privileges of employment. In addition, this subdivision does not prohibit an employer from setting compensation or terms or conditions of employment for a person based on that person's actual amount of experience. For the purposes of this clause, all persons whose salary or wages are paid from the city treasury, and all persons who are employed by public agencies or entities headed by officers or boards including one or more individuals appointed or recommended by officials of the city, shall be deemed to have the same employer.*

*(4) Applicability. This subdivision:*

(A) Applies to individual hiring decisions made by an agency or entity with respect to positions for which appointments are not required to be made from an eligible list resulting from a competitive examination.

(B) Does not apply to actions taken by the department of citywide administrative services in furtherance of its responsibility for city personnel matters pursuant to chapter 35 of the charter or as a municipal civil service commission administering the civil service law and other applicable laws, or by the mayor in furtherance of the mayor's duties relating to city personnel matters pursuant to chapter 35 of the charter, including the administration of competitive examinations, the establishment and administration of eligible lists, and the establishment and implementation of minimum qualifications for appointment to positions;

(C) Does not apply to actions taken by officers or employees of other public agencies or entities charged with performing functions comparable to those performed by the department of citywide administrative services or the mayor as described in item (B) of this clause (4);

(D) Does not apply to agency appointments to competitive positions from eligible lists pursuant to subdivision 1 of section 61 of the civil service law; or

(E) Does not apply to the exercise of any right of an employer or employee pursuant to a collective bargaining agreement.

§ 8-2127 Employment agencies. a. Applications for services. 1. Unlawful discriminatory practice. It is an unlawful discriminatory practice for an employment agency or an employee or agent thereof to discriminate against any person because of such person's actual or perceived defined protected status in receiving, classifying, disposing or otherwise acting upon applications for its services or in referring an applicant or applicants for its services to an employer or employers.

2. Other requirements. (a) Limitations; benefit plans, insurance and retirement plans and systems. The provisions of this subdivision:

(1) As they apply to employee benefit plans, do not prohibit a four-plus employer from observing the provisions of any employee benefit plan covered by the federal employment retirement income security act of 1974 that is in compliance with applicable federal anti-discrimination laws where the application of this subdivision to such plan would be preempted by such act;

(2) Do not prohibit the varying of insurance coverages according to an employee's age;

(3) Do not affect any retirement policy or system that is permitted pursuant to paragraphs (e) and (f) of subdivision 3-a of section 296 of the executive law;

(4) Do not affect the retirement policy or system of a four-plus employer where such policy or system is not a subterfuge to evade the purposes of this subchapter.

(b) Limitation; family members. This subdivision does not govern the employment by a four-plus employer of his or her parents, spouse, domestic partner, or children.

b. Unemployment. 1. Unlawful discriminatory practice. It is an unlawful discriminatory practice for an employment agency or employee or agent thereof to base an employment decision with regard to hiring, compensation or the terms, conditions or privileges of employment on an applicant's unemployment.

2. *Other requirements. (a) Limitation; consideration and inquiry permitted. This subdivision does not prohibit an employment agency or employee or agent thereof from (i) considering an applicant's unemployment, where there is a substantially job-related reason for doing so; or (ii) inquiring into the circumstances surrounding an applicant's separation from prior employment.*

*(b) Limitation, substantially job-related qualifications. This subdivision does not prohibit an employment agency or employee or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from considering any substantially job-related qualifications, including a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.*

*(c) Current employment and compensation. This subdivision does not prohibit an employment agency or employee or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from determining that only applicants who are currently employed by the employer will be considered for employment or given priority for employment or with respect to compensation or terms, conditions or privileges of employment. In addition, this subdivision does not prohibit an employer from setting compensation or terms or conditions of employment for a person based on that person's actual amount of experience. For the purposes of this subparagraph, all persons whose salary or wages are paid from the city treasury, and all persons who are employed by public agencies or entities headed by officers or boards including one or more individuals appointed or recommended by officials of the city, shall be deemed to have the same employer.*

*(d) Applicability. This subdivision:*

*(1) Applies to individual hiring decisions made by an agency or entity with respect to positions for which appointments are not required to be made from an eligible list resulting from a competitive examination.*

*(2) Does not apply to actions taken by the department of citywide administrative services in furtherance of its responsibility for city personnel matters pursuant to chapter 35 of the charter or as a municipal civil service commission administering the civil service law and other applicable laws, or by the mayor in furtherance of the mayor's duties relating to city personnel matters pursuant to chapter 35 of the charter, including the administration of competitive examinations, the establishment and administration of eligible lists, and the establishment and implementation of minimum qualifications for appointment to positions;*

*(3) Does not apply to actions taken by officers or employees of other public agencies or entities charged with performing functions comparable to those performed by the department of citywide administrative services or the mayor as described in clause (2) of this subparagraph (d);*

*(4) Does not apply to agency appointments to competitive positions from eligible lists pursuant to subdivision 1 of section 61 of the civil service law; or*

*(5) Does not apply to the exercise of any right of an employer or employee pursuant to a collective bargaining agreement.*

3. *Limitation: advertising job-related qualifications. This subdivision does not prohibit an employment agency or employee or agent thereof from publishing, in print or in any other medium, an advertisement for any job vacancy in this city that contains any provision setting forth any substantially job-related qualifications, including a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.*

c. *Consumer credit history. 1. Unlawful discriminatory practice. It is an unlawful discriminatory practice for an employment agency or an employee or agent thereof to request or to use for employment purposes the consumer credit history of an applicant for employment or of an employee, or otherwise to discriminate against an applicant or employee with regard to hiring, compensation, or the terms, conditions or privileges of employment, based on the consumer credit history of the applicant or employee.*

2. *Other requirements. (a) Limitation; applicability; certain positions, city employees and government agencies. (1) Paragraph 1 of this subdivision does not affect the obligations of persons required by section 12-110 or by mayoral executive order relating to disclosures by city employees to the conflicts of interest board to report information regarding their creditors or debts, or the use of such information by government agencies for the purposes for which such information is collected.*

*(2) Paragraph 1 of this subdivision does not apply to an employer or an employee or agent thereof that is required by state or federal law or regulations or by a self-regulatory organization as defined in paragraph (26) of subsection (a) of section 3 of the securities exchange act of 1934, as amended, to use an individual's consumer credit history for employment purposes;*

*(3) Paragraph 1 of this subdivision does not apply to persons applying for positions as or employed:*

*(A) As police officers or peace officers, as those terms are defined in subdivisions 33 and 34 of section 1.20 of the criminal procedure law, respectively, or in a position with a law enforcement or investigative function at the department of investigation;*

*(B) In a position that is subject to background investigation by the department of investigation, except that the appointing agency may not use consumer credit history information for employment purposes unless the position is an appointed position in which a high degree of public trust, as defined by the commission in rules, has been reposed;*

*(C) In a position in which an employee is required to be bonded under city, state or federal law;*

*(D) In a position in which an employee is required to possess security clearance under federal law or the law of any state;*

*(E) In a non-clerical position having regular access to intelligence information, national security information, or trade secrets, except that regular access to trade secrets does not include access to or the use of client, customer or mailing lists;*

*(F) In a position (i) having signatory authority over third party funds or assets valued at \$10,000 or more or (ii) that involves a fiduciary responsibility to the*

employer with the authority to enter financial agreements valued at \$10,000 or more on behalf of the employer; or

(G) In a position with regular duties that allow the employee to modify digital security systems established to prevent the unauthorized use of the employer's or client's networks or databases.

(b) *Limitation; Legal process.* This subdivision does not prohibit an employer from requesting or receiving consumer credit history information pursuant to a lawful subpoena, court order or law enforcement investigation.

d. *Criminal conviction, arrest or criminal accusation.* 1. *Unlawful discriminatory practice.* It is an unlawful discriminatory practice for any employment agency or employee or agent thereof to deny employment to any person or to take adverse action against any employee because such person or employee was convicted of one or more criminal offenses or because of a finding of a lack of "good moral character" that is based on such person or employee having been convicted of one or more criminal offenses, when such denial or adverse action violates the provisions of article 23-a of the correction law. For purposes of this subdivision, "employment" does not include membership in any law enforcement agency.

2. *Other requirements.* (a) (Open.)

e. *Arrest and conviction records; employment agency inquiries.* 1. *Unlawful discriminatory practice.* It is an unlawful discriminatory practice for any employment agency or employee or agent thereof to make any inquiry or statement related to the pending arrest or criminal conviction record of any person who is in the process of applying for employment with such employer or agent thereof until after such employer or agent thereof has extended a conditional offer of employment to the applicant.

2. *Other requirements.* (a) *Definitions and usages.* (1) For purposes of this subdivision, with respect to an applicant for temporary employment at a temporary help firm as such term is defined by subdivision 5 of section 916 of the labor law, an offer to be placed in the temporary help firm's general candidate pool constitutes a conditional offer of employment.

(2) For purposes of the phrase "any inquiry or statement" in this subdivision "any inquiry" means any question communicated to an applicant in writing or otherwise, or any searches of publicly available records or consumer reports that are conducted for the purpose of obtaining an applicant's criminal background information, and "any statement" means a statement communicated in writing or otherwise to the applicant to obtain an applicant's criminal background information regarding (i) an arrest record; (ii) a conviction record; or (iii) a criminal background check.

(c) *Limitation; other reasons.* Nothing in this subdivision prohibits an employment agency or agent thereof from taking any adverse action against any employee or denying employment to any applicant for reasons other than such employee or applicant's arrest or criminal conviction record.

(d) *Improper inquiries.* An applicant shall not be required to respond to any inquiry or statement that violates paragraph 1 of this subdivision and any refusal to



respond to such inquiry or statement shall not disqualify an applicant from the prospective employment.

§ 8-2128 Labor organizations. a. Generally. 1. Unlawful discriminatory practices. It is an unlawful discriminatory practice for a labor organization or an employee or agent thereof, because of the actual or perceived defined protected status of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any four-plus employer or any person employed by a four-plus employer.

2. Other requirements. (a) Limitations; benefit plans, insurance and retirement plans and systems. The provisions of this section:

(1) As they apply to employee benefit plans, do not prohibit a four-plus employer from observing the provisions of any employee benefit plan covered by the federal employment retirement income security act of 1974 that is in compliance with applicable federal anti-discrimination laws where the application of this section to such plan would be preempted by such act;

(2) Do not prohibit the varying of insurance coverages according to an employee's age;

(3) Do not affect any retirement policy or system that is permitted pursuant to paragraphs (e) and (f) of subdivision 3-a of section 296 of the executive law;

(4) Do not affect the retirement policy or system of a four-plus employer where such policy or system is not a subterfuge to evade the purposes of this subchapter.

(b) Limitation; family members. This section does not govern the employment by a four-plus employer of his or her parents, spouse, domestic partner, or children.

b. Consumer credit history. 1. Unlawful discriminatory practices. It is an unlawful discriminatory practice for a labor organization or an employee or agent thereof to request or to use for employment purposes the consumer credit history of an applicant for employment or of an employee, or otherwise to discriminate against an applicant or employee with regard to hiring, compensation, or the terms, conditions or privileges of employment, based on the consumer credit history of the applicant or employee.

2. Other requirements. (a) Limitation; certain employees, city employees, and government agencies. Paragraph 1 of this subdivision does not affect the obligations of persons required by section 12-110 or by mayoral executive order relating to disclosures by city employees to the conflicts of interest board to report information regarding their creditors or debts, or the use of such information by government agencies for the purposes for which such information is collected.

(b) Paragraph 1 of this subdivision does not apply to persons applying for positions as or employed:

(1) As police officers or peace officers, as those terms are defined in subdivisions 33 and 34 of section 1.20 of the criminal procedure law, respectively, or in a position with a law enforcement or investigative function at the department of investigation;

(2) In a position that is subject to background investigation by the department of investigation, except that the appointing agency may not use consumer credit history information for employment purposes unless the position is an appointed position in

*which a high degree of public trust, as defined by the commission in rules, has been reposed;*

*(3) In a position in which an employee is required to be bonded under city, state or federal law;*

*(4) In a position in which an employee is required to possess security clearance under federal law or the law of any state;*

*(5) In a non-clerical position having regular access to intelligence information, national security information, or trade secrets, except that regular access to trade secrets does not include access to or the use of client, customer or mailing lists;*

*(6) In a position (i) having signatory authority over third party funds or assets valued at \$10,000 or more or (ii) that involves a fiduciary responsibility to the employer with the authority to enter financial agreements valued at \$10,000 or more on behalf of the employer; or*

*(7) In a position with regular duties that allow the employee to modify digital security systems established to prevent the unauthorized use of the employer's or client's networks or databases. (c) Legal process. This subdivision does not prohibit an employer from requesting or receiving consumer credit history information pursuant to a lawful subpoena, court order or law enforcement investigation.*

#### Article 4

##### Public Accommodations

*§ 8-2151 Applicability. a. This article does not apply, with respect to age or gender, to places or providers of public accommodation where the commission grants an exemption based on bona fide considerations of public policy.*

*b. The provisions of this article relating to discrimination on the basis of gender do not prohibit any educational institution subject to this article from making gender distinctions that would be permitted:*

*1. For educational institutions that are subject to section 3201-a of the education law or any rules or regulations promulgated by the state commissioner of education relating to gender; or*

*2. Under sections 86.32, 86.33 and 86.34 of title 45 of the code of federal regulations for educational institutions covered under such sections.*

*c. This article does not prohibit an educational institution, other than a publicly operated educational institution, that establishes or maintains a policy of educating persons of one gender exclusively from limiting admissions to students of that gender.*

*d. The provisions of this subchapter relating to disparate impact do not apply under this article to the use of standardized tests as defined by section 340 of the education law by an educational institution subject to this article, provided that such test is used in the manner and for the purpose prescribed by the test agency that designed the test.*

*e. The provisions of this article as they relate to unlawful discriminatory practices by educational institutions do not apply to matters that are strictly educational or pedagogic in nature.*

§ 8-2152 *Public accommodations. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation, because of the actual or perceived defined protected status of any person to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, directly or indirectly.*

*b. Other requirements. 1. Burden of proof; private clubs. In any case where it is placed in issue, a club claiming that it is in its nature distinctly private bears the burden of proof on that issue.*

§ 8-2153 *Advertising public accommodations. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation, directly or indirectly to make any declaration, publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that:*

*1. Any of the accommodations, advantages, facilities and privileges of any such place or provider will be refused, withheld from or denied to any person on account of defined protected status; or*

*2. The patronage or custom of any person belonging to, purporting to be, or perceived to be, of any particular defined protected status is unwelcome, objectionable or not acceptable, desired or solicited.*

*b. Other requirements. 1. (Open.)*

## Article 5

### *Housing, Real Estate and Financing*

#### § 8-2201 *Applicability.*

*a. Housing accommodations, land and commercial space; persons under 18 years of age. The provisions of this article, as they relate to unlawful discriminatory practices in housing accommodations, land and commercial space or an interest therein and lending practices on the basis of age, do not apply to unemancipated persons under the age of 18 years.*

*b. Residential housing; discrimination on the basis of occupation. Where a housing accommodation or an interest therein is sought or occupied exclusively for residential purposes, this article prohibits discrimination in the sale, rental, or leasing of such housing accommodation or interest therein and in the terms, conditions and privileges of the sale, rental or leasing of such housing accommodation or interest therein and in the furnishing of facilities or services in connection therewith, on account of a person's occupation.*

*c. Limitation; dormitory residence operated by educational institution. The provisions of this article relating to discrimination on the basis of gender in housing accommodations do not prohibit any educational institution from making gender distinctions in dormitory residences that would be permitted under sections 86.32 and 86.33 of title 45 of the code of federal regulations for educational institutions covered thereunder.*

*d. Limitation; dormitory-type housing accommodations; gender and persons living with children. The provisions of this article that prohibit discrimination on the basis of gender and whether children are, may be or would be residing with a person do not apply to dormitory-type housing accommodations, including shelters for the homeless where such distinctions are intended to recognize generally accepted values of personal modesty and privacy or to protect the health, safety or welfare of families with children.*

*e. Limitation; housing accommodations; lawful source of income. The provisions of this article, as they relate to unlawful discriminatory practices on the basis of lawful source of income, do not apply to housing accommodations that contain five or fewer housing units, except that they do apply:*

*1. To tenants subject to rent control laws who reside in housing accommodations that contained a total of five or fewer units as of March 26, 2008; and*

*2. To all housing accommodations, regardless of the number of units contained in each, of any person who has the right to sell, rent or lease or approve the sale, rental or lease of at least one housing accommodation within the city that contains six or more housing units, constructed or to be constructed, or an interest therein.*

*f. Limitation; discrimination against persons with children; housing for older persons. The provisions of this article with respect to discrimination against persons with whom children are, may be or would be residing do not apply to housing for older persons as defined in paragraphs 2 and 3 of subsection (b) of section 3607 of title 42 of the United States code and any regulations promulgated under such paragraphs.*

*g. Limitation; housing accommodations; persons 55 years of age and older. The provisions of this article with respect to discrimination on the basis of age do not apply to the restriction of the sale, rental or lease of any housing accommodation, land or commercial space or an interest therein exclusively to persons 55 years of age or older. This subdivision does not permit discrimination against such persons 55 years of age or older on the basis of whether children are, may be or would be residing in such housing accommodation or land or an interest therein unless such discrimination is otherwise permitted pursuant to subdivision f of this section.*

*h. Exemption for special needs of particular age group in publicly assisted housing accommodations. This article does not restrict the consideration of age in the rental of publicly assisted housing accommodations if the state division of human rights grants an exemption pursuant to section 296 of the executive law based on bona fide considerations of public policy for the purpose of providing for the special needs of a particular age group without the intent of prejudicing other age groups, except that that this subdivision does not permit discrimination on the basis of whether children are, may be or would be residing in such housing accommodations unless such discrimination is otherwise permitted pursuant to subdivision f of this section.*

*i. Use of criteria or qualifications in publicly assisted housing accommodations. This article does not prohibit the use of criteria or qualifications of eligibility for the sale, rental, leasing or occupancy of publicly assisted housing accommodations where such criteria or qualifications are required to comply with federal or state law, or are necessary to obtain the benefits of a federal or state program, or to*

*prohibit the use of statements, advertisements, publications, applications or inquiries to the extent that they state such criteria or qualifications or request information necessary to determine or verify the eligibility of an applicant, tenant, purchaser, lessee or occupant.*

*§ 8-2202 Housing accommodations. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be constructed, or an interest therein, or any agent or employee thereof, because of any person's or group of persons' actual or perceived defined protected status, or because of any lawful source of income of any person or persons, or because children are, may be or would be residing with any person or persons:*

*1. To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or withhold from any such person or group of persons such a housing accommodation or an interest therein; or*

*2. To discriminate against any such person in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith.*

*b. Other requirements. 1. Limitation; rooms, accommodation size and family and owner-occupants. Subdivision a of this section does not apply:*

*(a) To the rental of a housing accommodation, other than a publicly assisted housing accommodation, in a building that contains housing accommodations for not more than two families living independently of each other, if the owner or members of the owner's family reside in one of such housing accommodations, and if the available housing accommodation has not been publicly advertised, listed, or otherwise offered to the general public; or*

*(b) To the rental of a room or rooms in a housing accommodation, other than a publicly assisted housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.*

*§ 8-2203 Advertising housing accommodations. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be constructed, or an interest therein, or any agent or employee thereof to express, directly or indirectly, any limitation, specification or discrimination as to defined protected status, any lawful source of income, or whether children are, may be, or would be residing with a person or any intent to make such limitation, specification or discrimination when:(i) declaring, printing or circulating or causing to be declared, printed or circulated any statement, advertisement or publication relating to,*

*(ii) using any form of application for , or*

*(iii) making any record or inquiry in conjunction with the prospective purchase, rental or lease of such a housing accommodation or an interest therein.*

*b. Other requirements. 1. Limitation; rooms, accommodation size and family and owner-occupants. Subdivision a of this section does not apply:*

*(a) To the rental of a housing accommodation, other than a publicly assisted housing accommodation, in a building that contains housing accommodations for not more than two families living independently of each other, if the owner or members of the owner's family reside in one of such housing accommodations, and if the available housing accommodation has not been publicly advertised, listed, or otherwise offered to the general public; or*

*(b) To the rental of a room or rooms in a housing accommodation, other than a publicly assisted housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.*

*§ 8-2204 Land and commercial space. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, or lease, or approve the sale, rental or lease of land or commercial space or an interest therein, or any agency or employee thereof, because of a person's or group of persons' actual or perceived defined protected status, or because children are, may be or would be residing with a person or persons:*

*1. To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny or withhold from any such person or group of persons land or commercial space or an interest therein; or*

*2. To discriminate against any person in the terms, conditions or privileges of the sale, rental or lease of any such land or commercial space or an interest therein or in the furnishing of facilities or services in connection therewith.*

*b. Other requirements.*

*1. (Open.)*

*§ 8-2205 Advertising land and commercial space. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, or managing agent of, or other person having the right of ownership or possession of or the right to sell, rent, or lease, or approve the sale, rental or lease of land or commercial space or an interest therein, or any agency or employee thereof to express, directly or indirectly, any limitation, specification or discrimination as to defined protected status or as to whether children are, may be, or would be residing with a person or any intent to make such limitation, specification or discrimination when (i) declaring, printing or circulating or causing to be declared, printed or circulated any statement, advertisement or publication relating to,*

*(ii) using any form of application for, or*

*(iii) making any record or inquiry in connection with, the prospective purchase, rental or lease of such land or commercial space or an interest therein.*

*b. Other requirements.*

*1. (Open.)*

*§ 8-2206 Real estate brokers. a. Unlawful discriminatory practice. 1. Related to sale and other real estate actions. It is an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof, because of any person's or group of persons' actual or perceived defined protected status, or*

*because of any lawful source of income of any person or persons, or because children are, may be or would be residing with any person or persons:*

*(a) To refuse to sell, rent or lease any housing accommodation, land or commercial space or an interest therein to any such person or group of persons or to refuse to negotiate for the sale, rental or lease, of any housing accommodation, land or commercial space or an interest therein to any such person or group of persons;*

*(b) To represent that any housing accommodation, land or commercial space or an interest therein is not available for inspection, sale, rental or lease when in fact it is so available; or*

*(c) Otherwise to deny or withhold any housing accommodation, land or commercial space or an interest therein or any facilities of any housing accommodation, land or commercial space or an interest therein from any such person or group of persons.*

*2. Inducement based on representations regarding the entry of persons. It is an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof to induce or attempt to induce any person to sell or rent any housing accommodation, land or commercial space or an interest therein by representations, explicit or implicit, regarding the entry or prospective entry into the neighborhood or area of a person or persons of a defined protected status, or a person or persons with any lawful source of income, or a person or persons with whom children are, may be or would be residing.*

*b. Other requirements. 1. (Open.)*

*§ 8-2207 Advertising by real estate brokers. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any real estate broker, real estate salesperson or employee or agent thereof to express, directly or indirectly, any limitation, specification or discrimination as to defined protected status, any lawful source of income, or whether children are, may be, or would be residing with a person or any intent to make such limitation, specification or discrimination when:(i) declaring, printing or circulating or causing to be declared, printed or circulated any statement, advertisement or publication relating to,*

*(ii) using any form of application for , or*

*(iii) making any record or inquiry in connection with the actual or prospective purchase, rental or lease of any housing accommodation, land or commercial space or an interest therein.*

*b. Other requirements. 1. (Open.)*

*§ 8-2208 Multiple listing and other real estate services. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice to deny a person access to, membership in, or participation in a multiple listing service, real estate brokers' organization, or other service because of such person's actual or perceived defined protected status or because children are, may be or would be residing with such person.*

*b. Other requirements. 1. (Open.)*

*§ 8-2209 Real estate appraisal. a. Unlawful discriminatory practice. 1. Generally. It is an unlawful discriminatory practice for any person whose business includes the appraisal of housing accommodations, land or commercial space or*

*interest therein or an employee or agent thereof to discriminate against any other person on the basis of the actual or perceived defined protected status, or because children are, may be or would be residing with such person in making available or in the terms or conditions of such appraisal.*

*b. Other requirements. 1. (Open.)*

*§ 8-2210 Lending practices. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for any person, bank, trust company, private banker, savings bank, industrial bank, savings and loan association, credit union, investment company, mortgage company, insurance company, or other financial institution or lender, doing business in the city and regardless of whether or where incorporated, or any officer, agent or employee thereof to whom application is made for a loan, mortgage or other form of financial assistance for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, land or commercial space or an interest therein:*

*1. To discriminate against such applicant or applicants because of the actual or perceived defined protected status of such applicant or applicants, of any member, stockholder, director, officer or employee of such applicant or applicants, or of the occupants or tenants or prospective occupants or tenants of such housing accommodation, land or commercial space, or because children are, may be or would be residing with such applicant or other person, in granting, withholding, extending or renewing or in fixing the rates, terms or conditions of any such financial assistance or in appraising any housing accommodation, land or commercial space or an interest therein; or*

*2. To use any form of application for a loan, mortgage, or other form of financial assistance, or to make any record or inquiry in connection with applications for such financial assistance or with the appraisal of any housing accommodation, land or commercial space or an interest therein, that expresses, directly or indirectly, any limitation, specification or discrimination as to defined protected status or as to whether children are, may be, or would be residing with a person.*

*b. Other requirements.*

*1. (Open.)*

## Article 6

### Licenses, Registrations and Permits

*§ 8-2251 Applicability; authorization to work. a. An applicant for a license or permit issued by the city may be required to be authorized to work in the United States whenever by law or regulation there is a limit on the number of such licenses or permits that may be issued.*

*b. Limitation; other laws. Nothing in this article prohibits an agency authorized to issue a license, registration or permit from using age, disability, criminal conviction or arrest record as a criterion for determining eligibility or continuing fitness for a license, registration or permit when specifically required to do so by any other provision of law.*

*§ 8-2252 Licenses, registrations and permits; in general. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice, for an agency*



authorized to issue a license, registration or permit or an employee thereof to discriminate against an applicant for a license, registration or permit because of the actual or perceived defined protected status of such applicant.

*b. Other requirements. 1. (Open.)*

§ 8-2253 Licenses, registrations and permits; consumer credit history. *a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for an agency to request or use for licensing, registration or permitting purposes information contained in the consumer credit history of an applicant, licensee, registrant or permittee.*

*b. Other requirements. 1. Limitation; other laws. Subdivision a of this section does not apply to an agency required by state or federal law or regulations to use an individual's consumer credit history for licensing, registration or permitting purposes.*

*2. Limitation; taxes, fines, etc. Subdivision a of this section does not affect the ability of an agency to consider an applicant's, licensee's, registrant's or permittee's failure to pay any tax, fine, penalty, or fee for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction, or any tax for which a government agency has issued a warrant, or a lien or levy on property.*

*3. Limitation; legal process. This section does not prohibit a licensing agency from requesting, receiving, or using consumer credit history information obtained pursuant to a lawful subpoena, court order or law enforcement investigation.*

§ 8-2254 Licenses, registrations and permits; criminal conviction, arrest or charge. *a. Unlawful discriminatory practices. It is an unlawful discriminatory practice for any person:*

*1. To deny any license, registration or permit to any applicant or to act adversely upon any holder of a license, registration or permit because the applicant or holder was convicted of one or more criminal offenses or because of a finding of a lack of "good moral character" that is based on his or her having been convicted of one or more criminal offenses, when such denial or adverse action violates the provisions of article 23-a of the correction law.*

*2. To deny any license, registration or permit to any applicant or to act adversely upon any holder of a license, registration or permit because he or she was arrested or accused of committing a crime when such denial or adverse action violates subdivision 16 of section 296 of the executive law.*

*3. To make any inquiry, in writing or otherwise, regarding any arrest or criminal accusation of an applicant for any license, registration or permit when such inquiry violates subdivision 16 of section 296 of the executive law.*

*b. Other requirements. 1. Limitation; deadly weapons. The prohibition relating to inquiries, denials or other adverse action related to a person's record of arrests or convictions does not apply to licensing activities in relation to the regulation of explosives, pistols, handguns, rifles, shotguns, or other firearms and deadly weapons.*

§ 8-2255 Licenses, registrations and permits relating to advertising. *a. Unlawful discriminatory practice. It is an unlawful discriminatory practice for an agency*

*authorized to issue a license, registration or permit or an employee thereof to express, directly or indirectly, any limitation, specification or discrimination as to defined protected status or any intent to make any such limitation, specification or discrimination when:*

- 1. Declaring, printing or circulating or causing to be declared, printed or circulated any statement, advertisement or publication;*
  - 2. Using any form of application for a license, registration or permit; or*
  - 3. Making any inquiry in connection with any such application.*
- b. Other requirements. 1. (Open.)*

*Article 7*

*Commercial Activity*

*§ 8-2301 Applicability. (Open.)*

*§ 8-2302 Unlawful boycott or blacklist. a. Unlawful discriminatory practice. It is an unlawful discriminatory practice (i) for any person to discriminate against, boycott or blacklist or to refuse to buy from, sell to or trade with, any person because of such person's actual or perceived defined protected status or because of such person's partners, members, stockholders, directors, officers, managers, superintendents, agents, employees, business associates, suppliers or customers, or (ii) for any person willfully to do any act or refrain from doing any act that enables any such person to take such action.*

*b. Other requirements. 1. Limitation; certain protests and protected expression. This section does not apply to:*

- (a) Boycotts connected with labor disputes;*
- (b) Boycotts to protest unlawful discriminatory practices; or*
- (c) Any form of expression that is protected by the First Amendment.*

*§ 8-2303 Advertising. (Open.)*

*§ 8-2304 Providing credit; arrest record. a. Unlawful discriminatory practice. For purposes of issuing credit, it is an unlawful discriminatory practice, unless specifically required or permitted by any other law, to:*

- 1. Deny or act adversely upon any person seeking credit by reason of an arrest or criminal accusation of such person when such denial or adverse action violates subdivision 16 of section 296 of the executive law; or*
- 2. Make any inquiry in writing or otherwise, regarding any arrest or criminal accusation of a person seeking credit when such inquiry violates subdivision 16 of section 296 of the executive law.*

*b. Other requirements. 1. (Open.)*

*Subchapter 2*

*Other Unlawful Practices*

*Article 1 Unlawful Real Estate Practices.*

*Article 2 Discriminatory Harassment and Violence.*

*Article 3 Civil Rights Protests.**Article 1  
Unlawful Real Estate Practices*

§ 8-2701 *Aiding and abetting.* It is unlawful for any person, firm, partnership, association, or corporation, to knowingly aid, abet, or coerce the commission of any act made unlawful by section 8-2702.

§ 8-2702 *Real estate brokers and dealers.* a. It is unlawful for any real estate broker or dealer or any agent or employee thereof, except in honest reply to an unprompted question by a prospective buyer or seller:

1. To represent, for the purpose of inducing or discouraging the purchase, sale, or rental, or the listing for purchase, sale, or rental, of any real property, that a change has occurred or will or may occur in the racial or religious composition of any block, neighborhood or area; or

2. To represent, implicitly or explicitly, for the purpose of inducing or discouraging the purchase, sale, or rental or the listing for purchase, sale, or rental of any real property, that the presence of persons of any particular race, religion or ethnic background in an area will or may result in:

(a) A lowering of property values in the area;

(b) A change in the racial, religious or ethnic composition of the area;

(c) An increase in criminal or anti-social behavior in the area; or

(d) A change in the racial, religious or ethnic composition of schools or other public facilities or services in the area.

b. It is unlawful for any real estate broker or dealer or any agent or employee thereof:

1. To make any misrepresentation in connection with the purchase, sale, or rental of any real property, that there will or may be physical deterioration of dwellings in any block, neighborhood or area; or

2. To refer to race, color, religion or ethnic background in any advertisement offering or seeking real property for purchase, sale or rental.

§ 8-2703 *Real estate non-solicitation areas.* It is unlawful for any real estate broker or dealer or any agent or employee of a real estate broker or dealer to solicit, directly or indirectly, the sale, purchase, or rental of any dwelling located within a non-solicitation area designated in accordance with section 8-3103.

*Article 2**Discriminatory Harassment and Violence*

§ 8-2751 *Discriminatory harassment or violence.* No person shall interfere by threats, intimidation or coercion or attempt to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city when such interference or attempted interference is motivated in

*whole or in part by the victim's actual or perceived defined protected status or whether children are, may or would be residing with such victim.*

*§ 8-2752 Discriminatory harassment. a. No person shall by force or threat of force knowingly injure, intimidate, interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city when such injury, intimidation, interference, oppression or threat is motivated in whole or in part by the victim's actual or perceived defined protected status.*

*b. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city when such defacement, damage or destruction of real or personal property is motivated in whole or in part by the victim's actual or perceived defined protected status or whether children are, may be, or would be residing with such victim.*

### Article 3

#### Civil Rights Protests

*§ 8-2801 Removal of disability or disqualification. Notwithstanding any provision of the code to the contrary, no person shall be denied any license, right, benefit or privilege extended by the code, or suffer any other disability or disqualification thereunder, or be denied the right of employment by the city, solely because of any arrest, apprehension, detention, indictment or other accusation, arraignment, trial, conviction or any other aspect of conviction or adjudication of a crime had under the jurisdiction of the courts of any state or of the United States, which is founded on an act or acts arising out of any peaceful demonstration or other peaceful activity, the object of which is to resist discriminatory treatment in or by any place or provider of public accommodation, or to achieve equal rights for all persons.*

### CHAPTER 3

#### INVESTIGATION AND ENFORCEMENT

*Subchapter 1 Human Rights Commission.*

*Subchapter 2 Civil Action by Corporation Counsel.*

*Subchapter 3 Private Right of Action.*

#### Subchapter 1

##### Human Rights Commission

*Article 1 General Provisions.*

*Article 2 Rulemaking by Commission.*

*Article 3 Investigations and Findings.*

*Article 4 Commission Proceedings.*

*Article 5 Court Proceedings.*

### *Article 1*

#### *General Provisions*

*§ 8-3001 Jurisdiction of commission. a. The commission does not have jurisdiction over a complaint filed pursuant to section 3-3151:*

*1. That has been filed more than one year after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 occurred;*

*2. If the complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 with respect to the same grievance that is the subject of the complaint under this subchapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice;*

*3. If the complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 with respect to the same grievance that is the subject of the complaint under this subchapter; or*

*4. If the complainant has previously filed a complaint with the state division of human rights alleging an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 with respect to the same grievance that is the subject of the complaint under this subchapter and a final determination has been made thereon.*

*b. The provisions of this subchapter that subject acts of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 to the jurisdiction of the commission do not apply to acts committed by members of the police department in the course of performing their official duties as police officers, whether the police officer is on or off duty.*

*§ 8-3002 Commencement of actions or proceedings. Where this chapter authorizes an application to be made, or an action or proceeding to be commenced on behalf of the commission in a court, such application may be made or such action or proceeding may be commenced only by the corporation counsel, such attorneys employed by the commission as are designated by the corporation counsel or other persons designated by the corporation counsel.*

*§ 8-3003 Reporting. a. The commission shall submit an annual report by March 1 to the mayor and the council that shall be published in The City Record. Such annual report shall include information for the preceding calendar year regarding:*

- 1. Inquiries received by the commission from the public;*
- 2. Complaints filed with the commission; and*

*3. Education and outreach efforts made by the commission.*

*b. The information regarding inquiries received by the commission from the public shall include:*

*1. The total number of inquiries;*

*2. The number of inquiries made by limited English proficient persons, disaggregated by language;*

*3. The subject matter of inquiries, disaggregated by the alleged category of unlawful discriminatory practice and the protected status of the person; and*

*4. The number of inquiries resolved by pre-complaint intervention.*

*c. The information regarding complaints filed with the commission shall include, but need not be limited to, the number of complaints filed with the commission and shall be disaggregated by:*

*1. The category of unlawful discriminatory practice alleged;*

*2. The basis of the alleged discriminatory practice based on the defined protected status or other protected status of the complainant;*

*3. Whether the complaint was resolved by mediation and conciliation, as set forth in section 8-3162; a determination of no probable cause, as set forth in section 8-3155; or a hearing, as set forth in subdivisions a through f of section 8-3156;*

*4. The number of days the complaint was outstanding at the time such resolution occurred; and*

*5. Whether a fine, penalty, or cash award was imposed and, if so, the dollar amount of such fine, penalty or cash award.*

*d. The information regarding the commission's education and outreach efforts as required by subdivisions a and b of section 905 of the charter shall include, but need not be limited to:*

*1. The types of outreach initiated;*

*2. The number of people with whom the commission made contact as a result of outreach;*

*3. The number of limited English proficient persons served; and*

*4. The languages in which such outreach was conducted.*

## *Article 2*

### *Rulemaking by the Commission*

*§ 8-3051 Rules of procedure. The commission shall adopt rules providing for hearing and pre-hearing procedures. These rules shall include rules providing that the commission, by its prosecutorial bureau, shall be a party to all complaints and that a complainant shall be a party if the complainant has intervened in the manner set forth in the rules of the commission. These rules shall also include rules governing discovery, motion practice and the issuance of subpoenas.*

*§ 8-3052 Establishment of policies, programs, procedures. a. The commission may establish by rule policies, programs and procedures that may be implemented by employers for the prevention and detection of unlawful discriminatory practices by employees, agents and persons employed as independent contractors.*

*b. Notwithstanding any other provision of law to the contrary, an employer found to be liable for an unlawful discriminatory practice based solely on the conduct of an employee, agent or person employed as an independent contractor who pleads and proves that policies, programs and procedures established by the commission pursuant to subdivision a of this section had been implemented and complied with at the time of the unlawful conduct is not subject to any civil penalties or punitive damages that otherwise might have been imposed pursuant to chapter 3 of this title for such unlawful discriminatory practice.*

*§ 8-3053 Rules regarding unlawful real estate practices. The commission may from time to time make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of section-3103 and article 1 of subchapter 2 of chapter 2 of this title.*

### Article 3

#### Investigations and Findings

*§ 8-3101 Investigations and investigative record keeping. a. The commission may at any time issue subpoenas requiring attendance and testimony by witnesses and the production of books, papers, documents and other evidence relating to any matter under investigation or any question before the commission. The issuance of such subpoenas is governed by the civil practice law and rules.*

*b. The commission may conduct investigations and studies concerning practices and activities governed by article 1 of subchapter 2 of chapter 2 of this title.*

*c. 1. Where the commission has initiated its own investigation or has conducted an investigation in connection with the filing of a complaint pursuant to this subchapter, the commission may demand that any person or persons who are the subject of such investigation (i) preserve those records in the possession of such person or persons that are relevant to the determination of whether such person or persons have committed unlawful discriminatory practices or other unlawful practices with respect to activities in the city, and (ii) continue to make and keep the type of records made and kept by such person or persons in the ordinary course of business within the year preceding such demand that are relevant to the determination of whether such person or persons have committed unlawful discriminatory practices or other unlawful practices with respect to activities in the city.*

*2. A demand made pursuant to this subdivision is effective immediately upon its service on the subject of an investigation and remains in effect until the termination of all proceedings relating to any complaint filed pursuant to this subchapter or civil action commenced pursuant to section 8-3552 or if no complaint or civil action is filed or commenced expires two years after the date of such service. The commission's demand shall require that such records be made available for inspection by the commission or be filed with the commission.*

*d. Any person upon whom a demand has been made pursuant to subdivision c of this section may, pursuant to procedures established by rule of the commission, assert an objection to such demand. Unless the commission orders otherwise, the assertion of an objection does not stay compliance with the demand. The commission shall make a determination on an objection to a demand within 30 days after such an*

*objection is filed with the commission, unless the party filing the objection consents to an extension of time. Upon the expiration of the time set pursuant to such rules for making an objection to such demand, or upon a determination that an objection to the demand is not sustained, the commission shall order compliance with the demand.*

*e. Upon a determination that an objection to a demand is sustained, the commission shall order that the demand be vacated or modified.*

*§ 8-3102 Investigative reporting requirements for discriminatory boycott or blacklist. The following requirements apply to all complaints alleging that a discriminatory boycott or blacklist under section 8-2302 is occurring:*

*a. The commission shall begin an investigation within 24 hours of the filing of a complaint that alleges that a discriminatory boycott or blacklist is occurring.*

*b. Within three days after initiating such an investigation, the commission shall file a written report with the mayor. The report shall state:*

*1. The allegations contained in the complaint;*

*2. Whether the commission has reason to believe a discriminatory boycott or blacklist is occurring; and*

*3. Steps the commission has taken to resolve the dispute.*

*c. If it is stated within the report described in subdivision b of this section that the commission has reason to believe that a discriminatory boycott or blacklist has occurred, within 30 days after filing such report the commission shall file a second report with the mayor and the council. This second report shall contain:*

*1. A brief description of the allegations contained in the complaint;*

*2. A determination of whether probable cause exists to believe a discriminatory boycott or blacklist is occurring;*

*3. A recitation of the facts that form the basis of the commission's determination of probable cause; and,*

*4. If the boycott or blacklist is continuing at the date of the report, a description of all actions the commission or other city agency has taken or will undertake to resolve the dispute.*

*d. If a finding of probable cause is not contained in the report required by subdivision c of this section and the boycott or blacklist continues for more than 20 days after the report's release, then, upon demand of the mayor or council the commission shall update such report. Report updates shall detail:*

*1. Whether or not the commission presently has probable cause to believe a discriminatory boycott or blacklist is occurring; and*

*2. All new activity the commission or other city agency has taken or will undertake to resolve the dispute.*

*e. If the commission determines that the disclosure of any information in a report required by this section might interfere with or compromise a pending investigation or efforts to resolve the dispute by mediation or conciliation, it shall file the report without such information and state in the report the reasons for omitting such information.*



§ 8-3103 Findings and designation of non-solicitation areas. *a. Designation.* The commission may designate an area as a non-solicitation area for a period of up to one year upon making written findings based on substantial evidence introduced at a public hearing that:

1. Consistently occurring within the area are practices made unlawful by sections 8-2701 and 8-2702, the inducement or encouragement by brokers or dealers of the use of fraudulent mortgage applications for the purchase of dwellings, or the direction based on race, creed, color or national origin by brokers or dealers of prospective purchasers or applicants to dwellings, or an unusually great incidence of solicitation, and that

2. Such practices are causing, or are likely to cause, residents within the area to believe that:

(a) Property values in the area are declining, or are about to decline rapidly;

(b) The area is experiencing, or is about to experience:

(1) A declining level of maintenance of its housing stock;

(2) An increase in criminal behavior; or

(3) A change in the racial, religious or ethnic composition of the schools in the area; or

(c) The area is experiencing, or is about to experience, a material change in its racial, religious or ethnic composition; and

3. The temporary prohibition in the area of the real estate activities described in section 8-2703 therefore is necessary to prevent a material change in the area's racial, religious or ethnic composition.

*b. Extension.* The commission may extend one or more times the designation of a non-solicitation area made pursuant to subdivision a of this section for a period of up to one year upon making written findings, based on substantial evidence introduced at a public hearing, that such extension is necessary to achieve the designation's purpose, as described in paragraph 3 of subdivision a of this section, except that no extension may be granted that, together with the original designation and all previous extensions, will maintain a non-solicitation area for a continuous period greater than two years. The public hearing on any extension shall be held not more than 30 days before the day on which the designation or earlier extension is scheduled to expire.

*c. Notice.* 1. The commission shall promptly announce by legal notice each designation made pursuant to subdivision a of this section and each extension made pursuant to subdivision b of this section, describing the area to which it applies by references to named streets and landmarks. Any designation shall take effect upon the completion of the publication required for legal notice. Any extension shall take effect at the time at which the designation or earlier extension would otherwise expire. Legal notice for purposes of this paragraph shall be given by (i) daily publication for one week in a newspaper of general circulation within the city and (ii) written notice to all real estate brokers in the area.

2. The commission shall maintain, and make available to all interested persons, a current listing of designated non-solicitation areas.

*d. Termination. The commission may, at any time, terminate the designation of a non-solicitation area made pursuant to subdivision a of this section or the extension of a designation made pursuant to subdivision b of this section upon making findings, based on substantial evidence introduced at a public hearing, that the continuation of the designation or its extension is no longer necessary to achieve the designation's purpose, as described in this section.*

#### Article 4

##### Commission Proceedings

*§ 8-3151 Complaint. a. General commission duties. 1. In relation to complaints, the commission shall:*

- (a) Commence proceedings with respect to the complaint;*
- (b) Complete a thorough investigation of the allegations of the complaint; and*
- (c) Make a final disposition of the complaint promptly and within the time periods to be prescribed by rule of the commission.*

*2. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so.*

*b. Initiating complaints. 1. Complaint by person aggrieved. Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 may, by himself or herself or such person's attorney, make, sign and file with the commission a verified complaint in writing that shall (i) state the name of the person alleged to have committed the unlawful discriminatory practice or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence; and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.*

*2. Complaint by employer. Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of subchapter 1 of chapter 2 of this title may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.*

*3. Commission-initiated complaints. The commission may make, sign and file a verified complaint alleging that a person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752.*

*c. Service of complaint. The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his or her procedural rights and obligations as set forth herein.*

*d. Amendment of complaint. Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such*

*amended complaint with the commission and serving a copy thereof upon all parties to the proceeding.*

*e. Confidentiality regarding lending practice complaints. Whenever a complaint is filed pursuant to section 8-2210, no member of the commission and no member of the commission's staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; except that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order or decision by the commission.*

*§ 8-3152 Answer. a. Verified answer. 1. Within 30 days after a copy of the complaint is served upon the respondent by the commission, the respondent shall file a written, verified answer thereto with the commission, and the commission shall cause a copy of such answer to be served upon the complainant and any necessary party.*

*2. Any necessary party may file with the commission a written, verified answer to the complaint, and the commission shall cause a copy of such answer to be served upon the complainant, the respondent and any other necessary party.*

*b. Specificity of Answer. 1. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge or information sufficient to form a belief, in which case the respondent shall so state, and such statement shall operate as a denial.*

*2. Any allegation in the complaint not specifically denied or explained shall be deemed admitted and shall be so found by the commission unless good cause to the contrary is shown.*

*c. Affirmative defenses. All affirmative defenses shall be stated separately in the answer.*

*d. Extension. Upon request of the respondent and for good cause shown, the period within which an answer is required to be filed may be extended in accordance with the rules of the commission.*

*e. Amendments. Any answer filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended answer with the commission and serving a copy thereof upon the complainant and any necessary party to the proceeding.*

*§ 8-3153 Withdrawal of complaints. a. A complaint filed pursuant to section 8-3151 may be withdrawn by the complainant in accordance with rules of the commission at any time prior to the service of a notice that the complaint has been referred to an administrative law judge. Such a withdrawal shall be in writing and signed by the complainant.*

*b. A complaint may be withdrawn after the service of such notice at the discretion of the commission.*

*c. Unless such complaint is withdrawn pursuant to a conciliation agreement, the withdrawal of a complaint shall be without prejudice:*

*1. To the continued prosecution of the complaint by the commission in accordance with rules of the commission;*

*2. To the initiation of a complaint by the commission based in whole or in part upon the same facts; and*

*3. To the commencement of a civil action by the corporation counsel based upon the same facts pursuant to section 8-3552.*

*§ 8-3154 Dismissal of complaint. a. Administrative convenience.*

*1. The commission may dismiss a complaint for administrative convenience at any time before the taking of testimony at a hearing. Administrative convenience includes, but is not limited to, the following circumstances:*

*(a) Commission personnel have been unable to locate the complainant after diligent efforts to do so;*

*(b) The complainant has repeatedly failed to appear at mutually agreed upon appointments with commission personnel or is unwilling to meet with commission personnel, to provide requested documentation, or to attend a hearing;*

*(c) The complainant has repeatedly engaged in conduct that is disruptive to the orderly functioning of the commission;*

*(d) The complainant is unwilling to accept a reasonable proposed conciliation agreement;*

*(e) Prosecution of the complaint will not serve the public interest; and*

*(f) (1) The complainant requests such dismissal;*

*(2) 180 days have elapsed since the filing of the complaint with the commission; and*

*(3) the commission finds (i) that the complaint has not been actively investigated and (ii) that the respondent will not be unduly prejudiced thereby.*

*2. The commission shall dismiss a complaint for administrative convenience at any time prior to the filing of an answer by the respondent, if the complainant requests such dismissal, unless the commission has conducted an investigation of the complaint or has engaged the parties in conciliation after the filing of the complaint.*

*b. Lack of jurisdiction. In accordance with the rules of the commission, the commission shall dismiss a complaint if the complaint is not within the jurisdiction of the commission.*

*c. Lack of probable cause. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752, the commission shall dismiss the complaint as to such respondent.*

*d. Notice. The commission shall promptly serve notice upon the complainant, respondent and any necessary party of any dismissal pursuant to this section.*

*e. Review. The complainant or respondent may, within 30 days of service under subdivision d of this section, and in accordance with the rules of the commission, apply to the chairperson for review of any dismissal pursuant to this section. Upon*

*such application, the chairperson shall review such action and issue an order affirming, reversing or modifying such determination or remanding the matter for further investigation and action. A copy of such order shall be served upon the complainant, respondent and any necessary party.*

*§ 8-3155 Determination of probable cause. a. Except in connection with commission-initiated complaints, which do not require a determination of probable cause, where the commission determines that probable cause exists to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752, the commission shall issue a written notice to the complainant and respondent so stating. A determination of probable cause is not a final order of the commission and is not administratively or judicially reviewable.*

*b. 1. If there is a determination of probable cause pursuant to subdivision a of this section in relation to a complaint alleging discrimination in housing accommodations, land or commercial space or an interest therein, or if a commission-initiated complaint relating to discrimination in housing accommodations, land or commercial space or an interest therein has been filed, and the property owner or the owner's duly authorized agent will not agree voluntarily to withhold from the market the subject housing accommodations, land or commercial space or an interest therein for a period of 10 days from the date of such request, the commission may cause to be posted for a period of 10 days from the date of such request, in a conspicuous place on the land or on the door of such housing accommodations or commercial space, a notice stating that such accommodations, land or commercial space are the subject of a complaint before the commission and that prospective transferees will take such accommodations, land or commercial space at their peril.*

*2. Any destruction, defacement, alteration or removal of such notice by the owner or the owner's agents or employees is a misdemeanor punishable on conviction thereof by a fine of not more than \$1,000 or by imprisonment for not more than one year or both.*

*c. If a determination is made pursuant to subdivision a of this section that probable cause exists, or if a commission-initiated complaint has been filed, the commission shall refer the complaint to an administrative law judge and shall serve a notice upon the complainant, the respondent and any necessary party that the complaint has been so referred.*

*§ 8-3156 Hearing. a. A hearing on a complaint shall be held before an administrative law judge designated by the commission.*

*1. The place of any such hearing shall be the office of the commission or such other place as may be designated by the commission.*

*2. Notice of the date, time and place of such hearing shall be served upon the complainant, respondent and any necessary party.*

*3. The testimony taken at the hearing shall be under oath and shall be transcribed.*

*b. The case in support of the complaint shall be presented before the commission by the commission's prosecutorial bureau. The complainant may present additional*

*testimony and cross-examine witnesses, in person or by counsel, if the complainant has intervened pursuant to rules established by the commission.*

*c. If the respondent fails to answer the complaint within the time period prescribed in section 8-3152, the administrative law judge may enter a default and the hearing shall proceed to determine the evidence in support of the complaint. Upon application by the defaulting respondent, the administrative law judge may, for good cause shown and upon equitable terms and conditions, open a default in answering, which may include the taking of an oral answer.*

*d. Except as otherwise provided in subdivision a of section 8-3160, the commission by its prosecutorial bureau, a respondent who has filed an answer or whose default in answering has been set aside for good cause shown, a necessary party, and a complainant or other person who has intervened pursuant to the rules of the commission may appear at such hearing in person or otherwise, with or without counsel, cross-examine witnesses, present testimony and offer evidence.*

*e. 1. The commission is not bound by the strict rules of evidence prevailing in courts of the state of New York.*

*2. Evidence relating to endeavors at mediation or conciliation by, between or among the commission, the complainant and the respondent is not admissible.*

*f. The commission may conduct hearings concerning certain unlawful real estate practices and activities governed by article 1 of subchapter 2 of chapter 2 of this title.*

*1. In conducting such hearings, the commission may subpoena witnesses, compel their attendance, administer oaths, examine witnesses under oath, and require the production of documents.*

*2. A written record shall be made of every hearing conducted under this subdivision.*

*§ 8-3157 Intervention and joinder of parties. The administrative law judge may permit any person who has a substantial interest in the complaint to intervene as a party and may require the joinder of necessary parties.*

*§ 8-3158 Decision and order. a. If, upon all the evidence at a hearing, and upon the findings of fact, conclusions of law and relief recommended by an administrative law judge, the commission finds that a respondent has engaged in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on such respondent an order providing for the relief prescribed in section 8-4001.*

*b. If, upon all the evidence at a hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission finds that a respondent has not engaged in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant, respondent, and any necessary party and on any complainant who has not intervened an order dismissing the complaint as to such respondent.*

§ 8-3159 *Discovery orders.* Wherever necessary, the commission shall issue orders compelling discovery. In accordance with the commission's discovery rules, any party from whom discovery is sought may object to such discovery based on a claim of privilege or other defense and the commission shall rule on such objection.

§ 8-3160 *Noncompliance with discovery order or with order relating to records.*

a. Whenever a party fails to comply with an order of the commission pursuant to section 8-3159 compelling discovery or an order pursuant to section 8-3101 relating to records, the commission may, on its own motion or at the request of any party and after notice and opportunity for all parties to be heard in opposition or support, make such orders or take such action as may be just for the purpose of permitting the resolution of relevant issues or disposition of the complaint without unnecessary delay, including:

1. An order:

(a) That the matter concerning which the order compelling discovery or relating to records was issued be established adversely to the claim of the noncomplying party;

(b) Prohibiting the noncomplying party from introducing evidence or testimony, cross-examining witnesses or otherwise supporting or opposing designated claims or defenses;

(c) Striking out pleadings or parts thereof;

(d) That the noncomplying party may not object to the introduction and use of secondary evidence to show what the withheld testimony, documents, other evidence or required records would have shown; and

2. Inferring that the material or testimony is withheld or records not preserved, made, kept, produced or made available for inspection because such material, testimony or records would prove to be unfavorable to the noncomplying party and use such inference to establish facts in support of a final determination pursuant to section 8-3158.

b. In addition to any other penalties or sanctions that may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the commission pursuant to this chapter is liable for a civil penalty of not more than \$10,000.

§ 8-3161 *Reopening of proceeding by commission.* The commission may reopen any commission proceeding, or vacate or modify any order or determination of the commission, whenever justice so requires, in accordance with the rules of the commission.

§ 8-3162 *Mediation and conciliation.* a. If in the judgment of the commission circumstances so warrant, it may at any time after the filing of a complaint endeavor to resolve the complaint by any method of dispute resolution prescribed by rule of the commission, including mediation and conciliation.

b. The terms of a conciliation agreement may contain such provisions as may be agreed upon by the commission, the complainant and the respondent, including a

*provision for the entry in court of a consent decree embodying the terms of the conciliation agreement.*

*c. The members of the commission and its staff may not publicly disclose what transpired in the course of mediation and conciliation efforts.*

*d. If a conciliation agreement is entered into, the commission shall embody such agreement in an order and serve a copy of such order upon all parties to the conciliation agreement. Violation of such an order may result in civil penalties under section 8-4101. Every conciliation agreement shall be made public unless the complainant and respondent agree otherwise and the commission determines that disclosure is not required to further the purposes of subchapter 1 of chapter 2 or subchapter 1 of chapter 3 of this title.*

*§ 8-3163 Enforcement by commission; criminal conviction history. Pursuant to section 755 of the correction law, the provisions of section 8-2110, section 8-2111, subdivision c of section 8-2126, and subdivisions d and e of section 8-2127, are enforceable against private employers by the commission through the administrative procedure provided for in this article. For purposes of this section only, the term "private employer" has the meaning given such term in section 750 of the correction law.*

#### Article 5

##### Court Proceedings

*§ 8-3201 Injunction and temporary restraining order. a. At any time after the filing of a complaint alleging an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752, if the commission has reason to believe that the respondent or other person acting in concert with the respondent is doing or procuring to be done any act or acts, tending to render ineffectual relief that could be ordered by the commission after a hearing as provided by sections 8-3158 and 8-4001, a special proceeding may be commenced in accordance with article 63 of the civil practice law and rules on behalf of the commission in the supreme court for an order to show cause why the respondent and such other persons who are believed to be acting in concert with respondent should not be enjoined from doing or procuring to be done such acts.*

*b. The special proceeding may be commenced in any county within the city:*

*1. Where the alleged unlawful discriminatory practice or act of discriminatory harassment or violence was committed;*

*2. Where the commission maintains its principal office for the transaction of business;*

*3. Where any respondent resides or maintains an office for the transaction of business;*

*4. Where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides; or,*

*5. If the complaint alleges an unlawful discriminatory practice under section 8-2202, 8-2203, 8-2204, 8-2205, 8-2206 or 8-2207, where the housing accommodation, land or commercial space specified in the complaint is located.*



*c. An order to show cause pursuant to this section may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved, the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.*

*§ 8-3202 Judicial review. a. A complainant, respondent or other person aggrieved by a final order of the commission issued pursuant to section 8-3158, paragraphs 1 and 2 of subdivision b of section 8-4001, subdivision b of section 8-3160 or an order of the chairperson issued pursuant to subdivision f of section 8-3154 affirming the dismissal of a complaint may obtain judicial review thereof in a proceeding as provided in this section.*

*b. Such a proceeding shall be brought in the supreme court of the state within any county in the city where the unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 that is the subject of the commission's order occurs or where any person required in the order to cease and desist from an unlawful discriminatory practice or act of discriminatory harassment or violence or to take other affirmative action resides or transacts business.*

*c. Such a proceeding shall be initiated by the filing of a petition in such court, together with a written transcript of the record upon the hearing, before the commission, and the issuance and service of a notice of motion returnable before such court. Thereupon the court shall have jurisdiction of the proceeding and of the questions determined therein, and shall have power to grant such relief as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript an order annulling, confirming or modifying the order of the commission in whole or in part. No objection that has not been urged before the commission shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.*

*d. Any party may move the court to remit the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, provided such party shows reasonable grounds for the failure to adduce such evidence before the commission.*

*e. The findings of the commission as to the facts shall be conclusive if supported by substantial evidence on the record considered as a whole.*

*f. All such proceedings shall be heard and determined by the supreme court and by any appropriate appellate court as expeditiously as possible and with lawful precedence over other matters. The jurisdiction of the supreme court is exclusive and its judgment and order are final, subject to review by the appellate division of the supreme court and the court of appeals in the same manner and form and with the same effect as provided for appeals from a judgment in a special proceeding.*

*g. The commission's copy of the testimony shall be available at all reasonable times to all parties for examination without cost and for the purposes of judicial review of the order of the commission. An appeal under this section shall be heard on the record without requirement of printing.*

*h. A proceeding under this section must be instituted within 30 days after the service of the order of the commission.*

*§ 8-3203 Enforcement of commission order. a. 1. Any action or proceeding that may be appropriate or necessary for the enforcement of any order issued by the commission pursuant to this subchapter, including actions to secure permanent injunctions enjoining any acts or practices that constitute a violation of any such order, mandating compliance with the provisions of any such order, imposing penalties pursuant to section 8-4101, or for such other relief as may be appropriate, may be initiated in any court of competent jurisdiction on behalf of the commission.*

*2. In any such action or proceeding, application may be made for a temporary restraining order or preliminary injunction, enforcing and restraining all persons from violating any provisions of any such order, or for such other relief as may be just and proper, until hearing and determination of such action or proceeding and the entry of final judgment or order thereon. The court to which such application is made may make any or all of the orders specified, as may be required in such application, with or without notice, and may make such other or further orders or directions as may be necessary to render the same effectual.*

*b. In any action or proceeding brought pursuant to subdivision a of this section, no person may contest the terms of the order sought to be enforced unless that person has timely commenced a proceeding for review of the order pursuant to subdivision b of section 8-3202.*

*c. A proceeding may be brought on behalf of the commission in any court of competent jurisdiction seeking an order to compel compliance with an order issued pursuant to subdivision d of section 8-3101.*

## *Subchapter 2*

### *Civil Action by Corporation Counsel*

*Article 1 General Provisions.*

*Article 2 Right to Bring Suit.*

#### *Article 1*

##### *General Provisions*

*§ 8-3501 Time limitation on filing. A civil action commenced under section 8-3551 or section 8-3552 shall be commenced within three years after the alleged discriminatory practice occurred.*

*§ 8-3502 Investigation. The corporation counsel may initiate any investigation to ascertain such facts as may be necessary for the commencement of a civil action pursuant to sections 8-3551 and 8-3552, and in connection therewith may issue subpoenas to compel the attendance of witnesses and the production of documents, administer oaths and examine such persons as are deemed necessary.*

#### *Article 2*

##### *Right to Bring Suit*

§ 8-3551 *Authority to bring pattern and practice suit. A civil action brought under section 8-3552 may be instituted only by the corporation counsel, such attorneys employed by the commission as are designated by the corporation counsel, or other persons designated by the corporation counsel.*

§ 8-3552 *Civil action to eliminate unlawful discriminatory practices; pattern and practice. a. Whenever there is reasonable cause to believe that a person or group of persons is engaged in a pattern or practice that results in the denial to any person of the full enjoyment of any right secured by subchapter 1 of chapter 2 of this title, a civil action on behalf of the commission or the city may be commenced in a court of competent jurisdiction by filing a complaint setting forth facts pertaining to such pattern or practice and requesting such relief as provided in section 8-4002 as may be deemed necessary to ensure the full enjoyment of those rights.*

*b. This section does not prohibit (i) an aggrieved person from filing a complaint pursuant to section 8-3151 or from commencing a civil action pursuant to subdivisions a through c of section 8-3751 based on the same facts pertaining to such a pattern or practice as are alleged in the civil action, or (ii) the commission from filing a commission-initiated complaint pursuant to section 8-3151 alleging a pattern or practice of discrimination, provided that a civil action pursuant to this section has not previously been commenced.*

§ 8-3553 *Civil action to enjoin discriminatory harassment or violence. a. Whenever a person engages in an act of discriminatory harassment or violence as set forth in section 8-2751, the corporation counsel, at the request of the commission or on the corporation counsel's own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.*

*b. An action pursuant to subdivision a of this section may be brought in any court of competent jurisdiction.*

### *Subchapter 3 Private Right of Action*

*Article 1 General Provisions.*

*Article 2 Right to Bring Suit.*

#### *Article 1 General Provisions*

§ 8-3701 *Time limitation for commencement of action. a. A civil action commenced under section 8-3751 must be commenced within three years after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 occurred. Upon the filing of a complaint with the commission or the state division of human rights and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three year limitations period shall be tolled.*

*b. Notwithstanding any inconsistent provision of this section or section 8-3751, where a complaint filed with the commission or state division of human rights is*

*dismissed for administrative convenience and such dismissal is due to the complainant's malfeasance, misfeasance or recalcitrance, the three year limitation period on commencing a civil action pursuant to this section or section 8-3751, is not tolled. Unwillingness to accept a reasonable proposed conciliation agreement is not malfeasance, misfeasance or recalcitrance.*

## Article 2

### Right to Bring Suit

*§ 8-3751 Civil action by persons aggrieved; generally. a. 1. Except as otherwise provided by law, any person claiming to be aggrieved by an unlawful discriminatory practice or by an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 has a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the commission or with the state division of human rights with respect to such alleged unlawful discriminatory practice or act of discriminatory harassment or violence.*

*2. For purposes of this subdivision, the filing of a complaint with a federal agency pursuant to applicable federal law prohibiting discrimination that is subsequently referred to the commission or to the state division of human rights pursuant to such law does not constitute the filing of a complaint under this subdivision.*

*3. The provisions of this subchapter that provide a cause of action to persons claiming to be aggrieved by an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 do not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty. This paragraph does not affect rights or causes of action created by section 14-151.*

*b. Notwithstanding any inconsistent provision of subdivision a of this section, where a complaint filed with the commission or the state division on human rights is dismissed by the commission pursuant to subdivisions a or b of section 8-3154, or by the state division of human rights pursuant to subdivision 9 of section 297 of the executive law either for administrative convenience or on the ground that such person's election of an administrative remedy is annulled, an aggrieved person retains all rights to commence a civil action pursuant to this subchapter as if no such complaint had been filed.*

*c. The commission and the corporation counsel shall each designate a representative authorized to receive copies of complaints in actions commenced in whole or in part pursuant to subdivision a of this section. Within 10 days after having commenced a civil action pursuant to subdivision a of this section, the plaintiff shall serve a copy of the complaint upon such authorized representatives.*

*d. Pursuant to section 755 of the correction law, the provisions of section 8-2110, section 8-2111, subdivision c of section 8-2126, and subdivisions d and e of section 8-2127 are enforceable against (i) public agencies by a proceeding brought pursuant to article 78 of the civil practice law and rules, and (ii) private employers as provided in subdivisions a through c of section 8-3751. For purposes of this*

*subdivision only, the terms “public agency” and “private employer” have the meaning given such terms in section 750 of the correction law.*

*§ 8-3752 Civil action by persons aggrieved by certain unlawful real estate practices. a. Any owner of real property who is induced to sell his or her property through or to a real estate broker or real estate dealer by acts committed by such broker or dealer in violation of sections 8-2701, 8-2702 and 8-2703 may institute a civil action against such broker or dealer.*

*b. Any buyer, through or from a real estate broker or real estate dealer, of real property the last owner of which, excluding such broker or dealer, was induced to sell, exchange or transfer his or her property by acts committed by such broker or dealer in violation of sections 8-2701, 8-2702 and 8-2703 may institute a civil action against such broker or dealer.*

#### *CHAPTER 4 DAMAGES, PENALTIES AND OTHER RELIEF*

*Subchapter 1 Remedies for Violations of Chapter 2.*

*Subchapter 2 Remedies for Violations of Chapter 3.*

##### *Subchapter 1 Remedies for Violations of Chapter 2*

*Article 1 Remedies Relating to Unlawful Discriminatory Practices.*

*Article 2 Remedies Relating to Other Unlawful Acts.*

##### *Article 1 Remedies Relating to Unlawful Discriminatory Practices*

*§ 8-4001 Remedies in administrative proceedings. a. Injunctive relief; damages. An order issued by the commission pursuant to section 8-3158 at the conclusion of an administrative proceeding shall require the respondent to cease and desist from the unlawful discriminatory practice. Such order shall require the respondent to take such affirmative action as, in the judgment of the commission, will effectuate the purposes of subchapter 1 of chapter 2 of this title, subchapter 1 of chapter 3 of this title, and sections 8-2751 and 8-2752, as applicable, including:*

- 1. Hiring, reinstatement or upgrading of employees;*
- 2. Admission to membership in any respondent labor organization;*
- 3. Admission to or participation in a program, apprentice training program, on-the-job training program or other occupational training or retraining program;*
- 4. Extension of full, equal and unsegregated accommodations, advantages, facilities and privileges;*
- 5. Evaluating applications for membership in a club that is not distinctly private without discrimination based on defined protected status;*

6. *Selling, renting or leasing, or approving the sale, rental or lease of housing accommodations, land or commercial space or an interest therein, or the provision of credit with respect thereto, without unlawful discrimination;*

7. *Submission of reports with respect to the manner of compliance;*

8. *The award of back pay and front pay; and*

9. *Payment of compensatory damages to the person aggrieved by such practice or act.*

*b. Civil penalties. 1. Except as otherwise provided in sections 8-2004 and 8-4004, in addition to any of the remedies and penalties set forth in subdivision a of this section, where the commission finds that a person has engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than \$125,000. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act, the commission may, to vindicate the public interest, impose a civil penalty of not more than \$250,000.*

*2. A respondent found liable for an unlawful discriminatory practice may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to paragraph 1 of subdivision b of this section, plead and prove any relevant mitigating factor.*

*3. Any civil penalties recovered pursuant to this subdivision shall be paid into the general fund of the city.*

*c. Fees and costs. In any civil action commenced pursuant to subchapter 3 of chapter 3 of this title, the court may award costs and reasonable attorney's fees to the prevailing party. For the purposes of this subdivision, a prevailing party includes a plaintiff whose commencement of litigation has acted as a catalyst to effect policy change on the part of the defendant, regardless of whether that change has been implemented voluntarily, as a result of a settlement or as a result of a judgment in such plaintiff's favor.*

*§ 8-4002 Remedies in civil action by corporation counsel. a. Injunctive relief; damages. In a civil action by the corporation counsel on behalf of the commission or the city alleging or by the city pursuant to section 8-3552 that a person or group of persons is engaging in a pattern or practice that results in the denial to any person of the full enjoyment of any right secured by subchapter 1 of chapter 2 and subchapter 1 of chapter 3 of this title, the plaintiff may seek such relief as may be deemed necessary to ensure the full enjoyment of the rights described therein, including:*

*1. Injunctive relief;*

*2. Damages, including punitive damages; and*

*3. Such other types of relief as are specified in subdivision a of section 8-4001.*

*b. Civil penalties. In a civil action specified in subdivision a of this section, the trier of fact may, to vindicate the public interest, impose upon any person who is found to have engaged in such a discriminatory pattern or practice a civil penalty of not more than \$250,000. In relation to determining the appropriate amount of civil penalties to be imposed pursuant to this section a liable party may plead and prove any relevant mitigating factor. Any civil penalties so recovered pursuant to this*

*section shall be paid into the general fund of the city. This subdivision does not preclude the city from recovering damages, including punitive damages, and other relief pursuant to subdivision a of this section in addition to civil penalties.*

*§ 8-4003 Remedies in private action. a. Injunctive relief; damages. Except as otherwise provided by law, any person bringing a claim pursuant to subchapter 3 of chapter 3 of this title for an unlawful discriminatory practice may obtain or recover in any court of competent jurisdiction damages, including punitive damages, injunctive relief and such other remedies as may be appropriate.*

*b. (Open.)*

*§ 8-4004 Mitigation. The demonstration of any or all of the factors listed in subdivision d of section 8-2004, in addition to any other relevant factors, shall be considered in mitigation of the amount of civil penalties to be imposed by the commission pursuant to subchapter 1 of chapter 3 of this title or in mitigation of civil penalties or punitive damages that may be imposed pursuant to subchapters 2 and 3 of chapter 3 of this title.*

## *Article 2*

### *Remedies Relating to Other Unlawful Acts*

*§ 8-4051 Remedies for discriminatory harassment and violence. a. In administrative action. 1. An order issued by the commission pursuant to section 8-3158 relating to acts of discriminatory harassment and violence as set forth in sections 8-2751 and 8-2752 shall require the respondent to cease and desist from the acts of discriminatory harassment or violence and require affirmative action as set forth in subdivision a of section 8-4001.*

*2. Where the commission finds that an act of discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 has occurred, the commission may, to vindicate the public interest, impose a civil penalty of not more than \$250,000.*

*3. A respondent found liable for such an act of discriminatory harassment or violence may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to this subdivision, plead and prove any relevant mitigating factor.*

*4. Any civil penalties recovered pursuant to this subdivision shall be paid into the general fund of the city.*

*b. In civil action by corporation counsel. 1. In any action brought by the corporation counsel pursuant to section 8-3553, the corporation counsel may seek injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.*

*2. A violation of an order issued pursuant to paragraph 1 of subdivision b of this section may be punished by a proceeding for contempt brought pursuant to article 19 of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding \$10,000 for each day that the violation continues.*

*3. Any person who violates section 8-2752 is liable for a civil penalty of not more than \$100,000 for each violation, which may be recovered by the corporation counsel in an action or proceeding in any court of competent jurisdiction.*

4. Any civil penalties recovered by the corporation counsel pursuant to this subdivision shall be paid into the general fund of the city.

c. In private action. 1. Except as otherwise provided by law, any person bringing a claim pursuant to subchapter 3 of chapter 3 of this title for discriminatory harassment or violence as set forth in sections 8-2751 and 8-2752 may obtain or recover damages, including punitive damages, injunctive relief and such other remedies as may be appropriate.

2. The court, in its discretion, may award costs and reasonable attorney's fees in such a claim pursuant to subdivision b of section 8-4003.

§ 8-4052 Remedies for certain unlawful real estate practices. a. Civil damages. 1. If, in an action instituted pursuant to subdivision a of section 8-3752, judgment is rendered in favor of the plaintiff, such plaintiff shall be awarded as damages:

(a) The amount of any gains, whether in the form of profits, commission, or otherwise, realized by the defendant as the result of the first subsequent arm's length sale, exchange, or transfer of the property, or, if the defendant acted as a broker, the amount of any commissions received by the defendant through the sale, exchange, or transfer of the plaintiff's property, such gains in all cases to be calculated without regard to any expenses incurred by the defendant; or

(b) If the defendant has not realized any gains as defined in this subdivision, an amount equal to the difference between the price for which plaintiff sold his or her property and the fair market value at the time of the sale, or the fair market value of the property at the time the action is commenced, whichever difference is greater.

2. If, in an action instituted pursuant to subdivision b of section 8-3752, judgment is rendered in favor of the plaintiff, the plaintiff shall be awarded as damages the amount of any gains, whether in the form of profits, commission, or otherwise, realized by defendant as the result of such plaintiff's purchase of the property, such gains in all cases to be calculated without regard to any expenses incurred by the defendant.

3. If, in an action under subdivision a or b of section 8-3752, judgment is rendered in favor of the plaintiff, the plaintiff may in addition to any other damages be awarded reasonable attorney's fees and court costs.

4. With respect to the sale, exchange or transfer of any property, the liability of a real estate broker or real estate dealer created by subdivision b of section 8-3752 and paragraphs 2 and 3 of this subdivision is independent of and additional to the liability of such broker or dealer created by subdivision a of section 3752 and paragraph 1 of this subdivision.

b. Criminal penalties. 1. The chairperson or his or her designated representative may enforce the provisions of article 1 of subchapter 2 of chapter 2 of this title by signing criminal complaints against any person, firm, partnership, association, or corporation for violation of this chapter.

2. Any person, firm, partnership, association, or corporation that violates article 1 of subchapter 2 of chapter 2 of this title is guilty of a class A misdemeanor.



*§ 8-4101 Civil penalties for violating commission orders. Any person who fails to comply with an order issued by the commission pursuant to section 8-3158 or section 8-3162 is liable for a civil penalty of not more than \$50,000 and an additional civil penalty of not more than \$100 per day for each day that the violation continues.*

*§ 8-4102 Disposition of civil penalties. Any civil penalties recovered pursuant to this subchapter shall be paid into the general fund of the city.*

*§ 8-4103 Civil enforcement of commission orders. a. Commission orders may be enforced as set forth in section 8-3203.*

*b. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the commission for the recovery of the civil penalties provided for in paragraphs 1 and 2 of subdivision b of section 8-4001.*

*c. Notwithstanding paragraph 2 of subdivision b of section 8-4001, where an action or proceeding is commenced against a city agency for the enforcement of a final order issued by the commission pursuant to section 8-3158 after a finding that such agency has engaged in an unlawful discriminatory practice and in such action or proceeding civil penalties are sought for violation of such order, any civil penalties that are imposed by the court against such agency shall be budgeted in a separate account. Such account shall be used solely to support city agencies' anti-bias education programs, to support activities sponsored by city agencies that are designed to eradicate discrimination or to fund remedial programs that are necessary to address the city's liability for discriminatory acts or practices. Funds in such account shall not be used to support or benefit the commission. The disposition of such funds shall be under the direction of the mayor.*

*§ 8-4104 Criminal penalty for willfully violating commission order. In addition to any other penalties or sanctions that may be imposed pursuant to this chapter or any other law, any person who willfully resists, obstructs, impedes or otherwise interferes with the commission or any of its members or representatives in the performance of any duty under subchapter 1 of chapter 2 and subchapter 1 of chapter 3 of this title, or willfully violates an order of the commission issued pursuant to section 8-3158 or section 8-3162 is guilty of a misdemeanor and is punishable by imprisonment for not more than one year, or by a fine of not more than \$10,000, or by both; but the procedure for the review of the order is not deemed to be such willful conduct.*

§ 11. Subdivision k of section 11-243 of the administrative code of the city of New York is amended to read as follows:

k. No owner of a dwelling to which the benefits of this section shall be applied, nor any agent, employee, manager or officer of such owner shall directly or indirectly deny to any person because of race, color, creed, national origin, gender, sexual orientation, disability, marital status, age, religion, alienage or citizenship status, or the use of, participation in, or being eligible for a governmentally funded housing assistance program, including, but not limited to, the section 8 housing voucher program and the section 8 housing certificate program, 42 U.S.C. 1437 et seq., or the senior citizen rent increase exemption program, pursuant to either chapter [seven]7 of title [twenty-six]26 of [this]the code or section 26-509[ of such code], any of the dwelling accommodations in such property or any of the privileges or services

incident to occupancy therein. The term “disability” as used in this subdivision [shall have] *has the same meaning [set forth] ascribed to such term* in section [8-102 of the code] *8-1003*. Nothing in this subdivision shall restrict such consideration in the development of housing accommodations for the purpose of providing for the special needs of a particular group.

§ 12. Paragraph 3 of subdivision a of section 14-151 of the administrative code of the city of New York is amended to read as follows:

3. The terms “national origin,” “gender,” “disability,” “sexual orientation,” and “alienage or citizenship status” [shall ] have the same [meaning] *meanings ascribed to such terms* in section [8-102 of the administrative code] *8-1003*.

§ 13. Paragraph (6) of subdivision c of section 19-504.4 of the administrative code of the city of New York is amended to read as follows:

(6) the holder of an authorization or a license or any of its officers, principals, directors, employees, or stockholders owning more than [ten] *10* percent of the outstanding stock of the corporation has been found to have violated any of the provisions of [section 8-107 of the code] *subchapter 1 of chapter 2 of title 8 of the code* concerning unlawful discriminatory practices in public accommodations in the operation of a commuter van service or a commuter van.

§ 14. Subdivision q of section 19-505 of the administrative code of the city of New York is amended to read as follows:

q. [Not more than one hundred eighty days following the enactment of this subdivision,] *No later than December 19, 2012*, the commission shall develop and commence a program to notify drivers of all vehicles licensed by the commission that facilitating sex trafficking with a vehicle is illegal. Such program shall inform such drivers of the specific laws defining and proscribing such facilitation, including the provisions of this section and section 19-507[ of this chapter], and of article 230 of the penal law, and shall inform such drivers of the civil and criminal penalties associated with such facilitation, including but not limited to monetary penalties, license revocation and incarceration. Such program shall also provide information to such drivers about the resources available to assist victims of sex trafficking. Such program shall also inform such drivers that they may not refuse fares solely based on the appearance of an individual and that it is unlawful to refuse a fare based upon an individual’s actual or perceived sexual orientation or gender, whether or not an individual’s gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to an individual at birth, as set forth in [chapter one of] title eight of [this] *the* code. Such program may be presented through live instruction, video or an interactive computer course, and shall be updated regularly to reflect changes in law or other relevant circumstances. Completion of such program shall be a requirement for initial licensure and subsequent license renewal for such drivers, except that any driver who has completed such program at least once may subsequently satisfy the requirements of this subdivision, at the discretion of the commission, by reviewing written materials, to be developed by the commission, that contain the information in such program. All drivers licensed by the commission shall be required to certify that they have completed such program or received and reviewed such written materials.

§ 15. Section 19-709 of the administrative code of the city of New York, as added by local law number 68 for the year 2005, is amended to read as follows:

§ 19-709 Enforcement. The commission on human rights shall enforce the provisions of this chapter pursuant to the adjudication and mediation provisions [as ]set forth in *subchapter 1* of chapter [1]3 of title 8 of the[ administrative] code[ of the city of New York].

§ 16. Paragraph 7 of subdivision a of section 21-128 of the administrative code of the city of New York is amended to read as follows:

7. “Medically appropriate transitional and permanent housing” shall mean housing which is suitable for persons with severely compromised immune systems, and if necessary, accessible to persons with disabilities as defined in section [8-102 of this code]8-1003. Such housing shall include, but not be limited to, individual refrigerated food and medicine storage and adequate bathroom facilities which shall, at a minimum, provide an effective locking mechanism and any other such measures as are necessary to ensure privacy;

§ 17. This local law takes effect 180 days after it becomes law.

<sup>1</sup> Chapter 2 of title 8 of the code, as such chapter existed on <<N.b.: Date preceding recodification.>>

<sup>2</sup> Applicable to provisions previously contained in chapter 3 of title 8 of the code, as such chapter existed on <<N.b.: Date preceding recodification.>>

<sup>3</sup> Applicable to provisions previously contained in chapter 4 of title 8 of the code, as such chapter existed on <<N.b.: Date preceding recodification.>>

Referred to the Committee on Civil Rights.

Res. No. 919

**Resolution proclaiming the month of November as Hip-Hop Month in the City of New York and urging the New York State Legislature and Governor to declare the month of November as Hip-Hop Appreciation Month in the State of New York.**

By Council Members Cabrera, King and Koo.

**Whereas**, Hip-Hop is a musical style and cultural art form, which was created in the early 1970s in The Bronx, and has become a global phenomenon; and

**Whereas**, Hip-Hop originated as a cultural movement in response to the social and economic disparities in communities throughout New York City, particularly, in the South Bronx; and

**Whereas**, Afrika Baambata, founder of the Universal Zulu Nation, and one of the legendary Hip-Hop pioneers who is credited for first using the term “Hip-Hop”, stated that when Hip-Hop was created, the intention was for “peace, love, unity and having fun so that people could get away from the negativity that was plaguing our streets”; and

**Whereas**, Early Hip-Hop culture was comprised of four main elements: DJing, rapping, breakdancing and graffiti; and

**Whereas**, Clive Campbell, also known as DJ Kool Herc, is credited with creating Hip-Hop music, and is often referred to as the Father of Hip-Hop; and

**Whereas**, DJ Kool Herc is recognized for his innovative mixing style by experimenting with the instrumental breaks (rhythmic drum beats) of funk, soul, and R&B records, which formed the basis of Hip-Hop music; and

**Whereas**, DJ Kool Herc, a Jamaican-born immigrant, incorporated mixing techniques from his Jamaican culture, which contributed to the development of Hip-Hop music, such as “dubbing” (the removal of vocals on a record), and “chanting” or “toasting” (using spoken lyrics while mixing records), which later became known as “MCing” or “rapping”; and

**Whereas**, He also named the dancers who performed to his instrumental breaks as “breakers”, “b-boys” or “b-girls”, commonly known as “breakdancers”; and

**Whereas**, In 1979, the Sugar Hill Gang produced Hip-Hop’s first commercially successful hit, “Rapper’s Delight”; and

**Whereas**, Over the past forty years, Hip-Hop has made a significant impact worldwide, and has become a multi-billion dollar industry that has influences in various areas, including fashion, television and film, automotive design, collegiate and professional sports, mass media marketing and advertising, according to a study at the University of California, Los Angeles (UCLA); and

**Whereas**, On May 16, 2001, more than 300 people gathered at the United Nations in New York City for the signing of the “Hip-Hop Declaration of Peace,” a document acknowledging Hip-Hop as a certified international culture of peace and prosperity; and

**Whereas**, According to the Universal Zulu Nation, the oldest and largest grass roots Hip-Hop organization, the official birthday of Hip-Hop is November 12, 1974; and

**Whereas**, During the month of November, Hip-Hop music enthusiasts celebrate Hip-Hop History Month; and

**Whereas**, Although Hip-Hop History Month has been celebrated by the Hip-Hop community for more than 34 years, it is not yet recognized by mainstream society; and

**Whereas**, Lehman College, at the City University of New York, held its first annual Hip-Hop History Month Celebration in November 2013; and

**Whereas**, In the month of November, Hip-Hop should be officially recognized and celebrated for its rich culture and universal influence; now, therefore, be it

**Resolved**, That the Council of the City of New York proclaims the month of November as Hip-Hop Month in the City of New York and urges the New York State Legislature and Governor to declare the month of November as Hip-Hop Appreciation Month in the State of New York.

Referred to the Committee on Cultural Affairs, Libraries and International Intergroup Relations.

## Res. No. 920

**Resolution urging the United States Congress and the State of New York to support a woman's right to abortion and to oppose sex-selective abortion bans that perpetuate racial stereotypes and undermine access to care.**

By Council Members Chin, Cumbo, Crowley, Johnson, Koslowitz, Lander, Mendez, Richards, Rose, Dromm and Rodriguez.

**Whereas**, In 2013 and 2014, sex-selective abortion bans were the second-most proposed abortion ban in the United States; having been introduced in 21 states to date, and passed in 8 states, including Illinois, Pennsylvania, Oklahoma, Kansas, North Carolina, North Dakota, Arizona, and South Dakota; and

**Whereas**, A sex-selective abortion ban prohibits abortions performed on the basis of sex and doctors who perform such a procedure may face the threat of jail time, fines or lawsuits from a patient or the patient's spouse, parent, sibling or guardian; and

**Whereas**, A sex-selective abortion ban is a restriction that scrutinizes a woman's reasons for making the decision to terminate a pregnancy, thus opening the door to more abortion bans based on a woman's personal choice; and

**Whereas**, Lawmakers who advocate for sex-selective abortion bans perpetuate false and harmful racial stereotypes that such laws are necessary, for example, to stop Asian immigrants from spreading the practice of sex selection and that Asian American and Pacific Islander (AAPI) communities do not value the lives of women; and

**Whereas**, Sex-selective abortion bans can lead some medical professionals to question a woman's motives based on their ethnicity, and thus such bans interfere with the doctor-patient relationship, potentially leading to arbitrary delay or denial of reproductive health services; and

**Whereas**, In 2008, 2009, 2011, 2013 and 2015, The Prenatal Nondiscrimination Act, a sex-selective abortion ban, was proposed in the United States Congress; and

**Whereas**, Currently introduced as S.48, this bill specifically highlights India and China as places where individuals seek out sex-selective abortions, thus implying that law enforcement would target and more closely scrutinize these communities in the United States; and

**Whereas**, Additionally, New York State Assembly Member Marcos Crespo introduced, A.6545, a bill that would criminalize the performance of or an attempt to perform a sex-selective abortion in New York State; and

**Whereas**, New York City is home to the largest AAPI community in the country and they, along with reproductive health and justice advocates, have called for an end to these bans; and

**Whereas**, Over 78 percent of all AAPIs in New York City are foreign-born, 49 percent of AAPIs have limited English proficiency, and 20 percent are uninsured; AAPI women do not need more barriers to reproductive health care; and

December 7, 2015

4294

**Whereas,** The ability to access safe abortions is necessary to ensure that women can plan their lives and families without risking their health in the way that makes most sense for themselves and their families; now, therefore be it

**Resolved,** That the Council of the City of New York urges the United States Congress and the State of New York to support a woman's right to abortion and to oppose sex-selective abortion bans that perpetuate racial stereotypes and undermine access to care.

Referred to the Committee on Women's Issues.

Res. No. 921

**Resolution calling upon the New Jersey State Legislature to pass and the New Jersey Governor to sign S.2052/A.3183, which relates to the preservation of the Palisades.**

By Council Members Cohen, Johnson, Lander and Rodriguez.

**Whereas,** The Palisades are cliffs located along the western shoreline of the Hudson River that stretches approximately from Weehawken, New Jersey to Nyack, New York; and

**Whereas,** The Palisades were designated as a national historic landmark in 1965, as a national natural landmark in 1983, and as a natural treasure for historic preservation in 2014 because of their natural beauty, geological significance, and history; and

**Whereas,** According to the National Trust for Historic Preservation, the effort to protect the Palisades from degradation in the early 1890s was one of the earliest conservation efforts in the United States; and

**Whereas,** The efforts to preserve the Palisades resulted in the establishment of the Palisades Interstate Park Commission (Interstate Park Commission) by New York and New Jersey Governors, Theodore Roosevelt and Foster Voorhees, and John D. Rockefeller purchased and donated the current parkland to the Interstate Park Commission in the 1930s; and

**Whereas,** A portion of the parkland is located in the town of Englewood Cliffs, New Jersey, which previously had zoning laws that prevented building structures over 35 feet without a variance; and

**Whereas,** In February 2012, the LG Corporation obtained a variance to build an eight-story tower that would be 143 feet high and would represent the first breach of the viewscape north of the George Washington Bridge in over 100 years; and

**Whereas,** The town of Englewood Cliffs amended their zoning law on October 2012 so that no variance would be needed to build structures over 35 feet tall; and

**Whereas,** The New York Times has stated that after months of negotiations with residents, environmentalists and politicians, on June 2015, the LG Corporation agreed to build a building approximately 69 feet tall which would merely peek above the tree line but preserve the views of the Palisades; and

**Whereas,** Although the agreement between the LG Corporation and the stakeholders was a great achievement, the conflict was a reminder that tall buildings could still be constructed in the Palisades; and

**Whereas,** S.2052/A.3183, currently pending in the New Jersey State Legislature, sponsored by State Senator Bob Smith, State Senator Christopher Batemen, Assembly Member John Mckeon, Assembly Member Patrick Diegnan and Assembly Member Upendra Chivukula, would create a preservation zone in the Palisades that would prohibit the construction of a building that exceeds 35 feet in height; and

**Whereas,** The preservation zone would preserve the spectacular views and protect a long-cherished natural area located in one of the most densely populated places in the United States; now, therefore, be it

**Resolved,** That the Council of the City of New York calls upon the New Jersey State Legislature to pass and the New Jersey Governor to sign S.2052/A.3183, which relates to the preservation of the Palisades.

Referred to the Committee on Environmental Protection.

Res. No. 922

**Resolution calling on the Metropolitan Transportation Authority, the Governor, and the State Legislature to prohibit advertisements for alcoholic beverages on subways, buses, and other New York City Transit property.**

By Council Members Dromm, Cabrera, Chin, Cohen, Constantinides, Cornegy, Koo, Koslowitz, Mendez, Rose, Vacca and Rodriguez.

**Whereas,** The facilities of the Metropolitan Transportation Authority (MTA) are a public accommodation, essentially rendering transit riders a captive audience to advertisements accepted by the MTA; and

**Whereas,** Within New York City, the MTA provides transportation service to more than 670,000 students of New York City's public and private schools, thereby exposing children and youth involuntarily to advertising accepted by the MTA; and

**Whereas,** Thousands of other New York City children and youth travel to recreational and educational activities on public transit trips subsidized by the Department of Youth and Community Development through its Complimentary Subway Transportation Program; and

**Whereas,** The sale of alcoholic beverages to individuals under age 21 is illegal in New York, and the New York City Police Department has pledged to partner with the New York City Department of Health and Mental Hygiene (DOHMH) to prevent underage drinking by focusing resources on the enforcement of relevant liquor laws; and

**Whereas,** An undercover investigation by the New York State Liquor Authority—funded by a grant from DOHMH—found that 58% of alcohol retailers throughout the five boroughs illegally sold alcohol to underage decoys; and

**Whereas**, According to the Centers for Disease Control and Prevention, underage drinking is a major threat to the health and well-being of New York City children and youth, contributing to the largest causes of death among that age group (unintentional injury, homicide, and suicide) as well as unplanned pregnancies, academic failure, and many other health and social problems; and

**Whereas**, Neurological research from a host of academic and scientific institutions has found that underage binge drinking can cause structural abnormalities in the adolescent brain, leading to long-term memory problems and other cognitive deficits extending into adulthood; and

**Whereas**, According to DOHMH, the costs related to underage drinking (healthcare, law enforcement, social services, etc.) are estimated to exceed \$1 billion per year in New York State; and

**Whereas**, According to DOHMH, more than one quarter of New York City high school students report drinking in the last 30 days; and

**Whereas**, In 2011, according to DOHMH, there were nearly 7,000 alcohol-related emergency department visits among New Yorkers under age 21; and

**Whereas**, The American Academy of Pediatrics has declared that “the more young people are exposed to alcohol advertising and marketing, the more likely they are to drink, and if they are already drinking, this exposure leads them to drink more”; and

**Whereas**, The World Health Organization has recommended alcohol advertising restrictions as the most cost-effective means of reducing alcohol problems among youth; and

**Whereas**, The American Public Health Association and the American Medical Association have called for the removal of all alcohol advertising from mass transit systems in order to protect the health and safety of young people; and

**Whereas**, The Center on Alcohol Marketing and Youth at the Johns Hopkins Bloomberg School of Public Health has reported that youth of color are disproportionately exposed to alcohol advertising across a variety of media; and

**Whereas**, Most urban public transit systems in the United States – including those in Washington, Boston, Philadelphia, Baltimore, Seattle, San Francisco, and Los Angeles – do not allow alcohol advertising because of the reasons listed above; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon the Metropolitan Transportation Authority, the Governor, and the State Legislature to prohibit advertisements for alcoholic beverages on subways, buses, and other New York City Transit property.

Referred to the Committee on Transportation.



Int. No. 1013

By Council Members Johnson, Crowley, Levin, Cohen, Chin and Koo.

**A Local Law to amend the administrative code of the city of New York, in relation to discharge planning for inmates in city correctional facilities, and to repeal section 3 of local law number 54 for the year 2004.**

*Be it enacted by the Council as follows:*

Section 1. Section 3 of local law number 54 for the year 2004 is REPEALED.

§ 2. Subdivision a of Section 9-127 of the administrative code of the city of New York is amended to read as follows:

a. The department of correction and the department of homeless services shall develop a process for identifying individuals who repeatedly are admitted to city correctional institutions and who, in addition, either immediately before their admission to or after their release from such institutions, are housed in shelter provided by the department of homeless services. *Both departments shall make every effort to secure placement for such individuals into appropriate programs and services, including but not limited to licensed drug treatment, health, and mental health programs, upon their release from correctional institutions. Both departments shall make every effort to ensure that appropriate programs and services are available immediately upon such individuals' release from correctional institutions.*

§ 3. This local law takes effect 90 days after it becomes law.

Referred to the Committee on Fire and Criminal Justice Services.

Int. No. 1014

By Council Members Johnson, Crowley, Levin, Cohen, Cabrera, Koo, Mendez, Rose and Rodriguez.

**A Local Law to amend the New York city charter, in relation to requiring the office of criminal justice to post on the office's website an annual report regarding discharge planning for mentally ill inmates and recidivism.**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 1 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-117 to read as follows:

*3-117 Annual reporting on discharge planning for mentally ill inmates and recidivism.*

a. *Definitions. For the purposes of this section, the following terms have the following meanings:*

*Arrest.* The term “arrest” means a custodial arrest for any crime, and does not include the issuance of a summons or the arrest for any non-criminal offense.

*Department.* The term “department” means the department of correction.

*Eligible inmate.* The term “eligible inmate” means any inmate in the custody of the department for whom a comprehensive treatment and discharge plan was created prior to their release for their most recent period of incarceration, or that was created prior to any release from custody but before any subsequent arrest, conviction, or period of incarceration. The term “eligible inmate” also means any individual who had been in the custody of the department and visited a service planning and assistance office after being released for their most recent period of incarceration, or who visited a service planning and assistance office after being released from the custody of the department but before a subsequent arrest, conviction, or period of incarceration.

*Release period.* The term “release period” means the reporting period and the calendar year preceding the reporting period.

b. Within 60 days of the beginning of each calendar year, the office of criminal justice shall post on its website a report regarding discharge planning for mentally ill inmates and recidivism for the preceding calendar year. Such report shall contain the following information, for the preceding calendar year or for the most recent calendar year for which such information is available, to the extent such information is available:

1. The number of inmates released by the department, the number of eligible inmates released by the department, and the percentage of inmates released by the department who were eligible.

2. The number and percentage of inmates released by the department during the release period who were arrested during the release period, and the number and percentage of eligible inmates released by the department during the release period who were arrested during the release period. For all such inmates, the mean and median time that elapsed between the time at which they were released and the time at which they were arrested.

3. The number and percentage of inmates released by the department during the release period who were convicted of any crime during the release period, disaggregated by whether such conviction was for a misdemeanor or felony, and the number and percentage of eligible inmates released by the department during the release period who were convicted of any crime during the release period, disaggregated by whether such conviction was for a misdemeanor or felony.

4. The number and percentage of inmates released by the department during the release period who were incarcerated at any point during the release period, and the number and percentage of eligible inmates released by the department during the release period who were incarcerated during the reporting period. For all such inmates, the mean and median number of days of any such incarceration.

§ 3. This local law takes effect on July 1, 2016.

Referred to the Committee on Fire and Criminal Justice Services.

Int. No. 1015

By Council Members Kallos, Williams, Mendez, Rose and Rodriguez (by request of the Manhattan Borough President).

**A Local Law to amend the administrative code of the city of New York, in relation to establishing a housing portal.**

*Be it enacted by the Council as follows:*

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 12 to read as follows:

*CHAPTER 12  
HOUSING PORTAL*

*§ 26-1201 Definitions.*

*§ 26-1202 Covered programs.*

*§ 26-1203 Conflict with federal or state laws, rules, grants or contracts.*

*§ 26-1204 Required posting.*

*§ 26-1205 Applications.*

*§ 26-1206 Required occupancy of qualifying units.*

*§ 26-1207 Waivers.*

*§ 26-1208 Retaliation.*

*§ 26-1201 Definitions. As used in this chapter:*

*Affordable housing program. The term “affordable housing program” means a city program, or a federal or state program administered by the city, in which financial assistance, or any additional use or bulk, as such terms are defined in section 12-10 of the New York city zoning resolution, is conditioned upon the provision of affordable units.*

*Affordable unit. The term “affordable unit” means a dwelling unit for which the rent, sale price or resale price, as applicable, is restricted to make such unit affordable for occupants thereof; provided that such term does not include a dwelling unit that is reserved for occupancy by the superintendent of the building containing such unit.*

*Covered program. The term “covered program” means an affordable housing program identified as a covered program under section 26-1202.*

*Department. The term “department” means the department of housing preservation and development and any successor thereto.*

*Dwelling unit. The term “dwelling unit” means a dwelling unit as defined in the housing maintenance code.*

*Fair market rent.* The term “fair market rent” means the fair market rent established by the United States department of housing and urban development.

*Financial assistance.* The term “financial assistance” means assistance that is paid for by the city, allocated by the city, or allocated by another individual or entity on the city’s behalf. Financial assistance includes, but is not limited to, cash payments or grants; bond financing; tax abatements or exemptions, including, but not limited to, abatements or exemptions from real property, mortgage recording, or sales and use taxes, and the difference between any payments in lieu of taxes and the amount of real property or other taxes that would have been due if the property were not exempted from the payment of such taxes; tax increment financing; filing fee waivers; energy cost reductions; environmental remediation costs; and write-downs in the market value of building, land, or leases, or the cost of capital improvements undertaken for the benefit of building or land.

*Housing portal.* The term “housing portal” means the publicly available online listing of dwelling units created under section 26-1203.

*Listed unit.* The term “listed unit” means a dwelling unit listed on the housing portal.

*Qualifying unit.* The term “qualifying unit” means an affordable unit used to satisfy an affordable housing program’s requirements for affordable units.

*Rent-regulated unit.* The term “rent-regulated unit” means a dwelling unit for which the rent is regulated by law or rule or pursuant to an affordable housing program, other than such a unit that is reserved for occupancy by the superintendent of the building containing such unit.

§ 26-1202 Covered programs. a. By no later than three months after the effective date of the local law that added this section, and within every year thereafter, the department shall, with the cooperation of all relevant agencies, provide the speaker of the council and the mayor, and make publicly available online, a report with the following:

1. A list of each affordable housing program for which an affordable unit used to satisfy the conditions of issuance of financial assistance under such program may, whether through waivers or exceptions to such conditions or otherwise, be occupied by a household of any income; and

2. A list of each affordable housing program not listed under paragraph one of this section.

b. Three months after the first report filed under subdivision a of this section, the affordable housing programs listed under paragraph one of such subdivision on such report shall be considered the covered programs. Immediately upon provision of each subsequent report, the affordable housing programs listed under paragraph one of such subdivision on such subsequent report shall be considered the covered programs.

c. If a covered program, as a result of changes to a provision of such program, or to a law or rule governing such program, ceases to satisfy the requirements for listing under paragraph one of subdivision a of this section, such program shall immediately cease to be a covered program.

§ 26-1203 Housing portal. *a. The department shall, with the cooperation of all other relevant agencies, create and thereafter maintain a website that any owner of a dwelling unit or owner of a building that contains one or more dwelling units may use to post, at a minimum, the following information for such unit:*

- 1. Street address, including unit or apartment number;*
- 2. Square footage and number of bedrooms;*
- 3. The name, address, telephone number and electronic mail address, if any, of the owner and such information for a property manager or superintendent responsible for such unit;*
- 4. A statement as to whether the building containing such unit contains any qualifying units or rent-regulated units, and a listing of each affordable housing program for which at least one dwelling unit in such building is serving as a qualifying unit, if any;*
- 5. A statement as to whether such unit is occupied; unoccupied and being offered for rent; unoccupied and being offered for sale; unoccupied and being offered for rent or sale; or unoccupied and not being offered for rent or sale;*
- 6. If such unit is unoccupied and being offered for rent, for sale, or for rent or sale, the following additional information:*
  - (a) If such unit is being offered for rent, the proposed monthly rent;*
  - (b) If such unit is being offered for sale:*
    - (1) The proposed sale price;*
    - (2) The estimated annual property taxes; and*
    - (3) All monthly fees or charges;*
  - (c) The average monthly utility costs for the previous calendar year and a statement as to whether the occupant of such unit will be responsible for the payment of monthly utility costs for such unit;*
  - (d) The department may promulgate rules to limit or prevent the information described in subparagraphs (a), (b) or (c) of this paragraph from being posted on the housing portal where (A) such unit is contained within a building that contains at least one dwelling unit serving as a qualifying unit but does not contain at least one dwelling unit serving as a qualifying unit for a covered program; (B) such information will vary based, in whole or in part, on the occupant's income and (C) the department determines in accordance with paragraph (b) of subdivision 2 of section 87 of the public officers law that disclosure of such information would constitute an unwarranted invasion of personal privacy;*
  - (e) A listing of the amenities within such unit;*
  - (f) A listing of the amenities within the building containing such unit and available for use by the occupants of such unit, excluding amenities listed under subparagraph (e) of this paragraph;*
  - (g) A statement as to whether such unit is an accessible unit as defined in the New York city building code;*
  - (h) A unit floor plan and pictures of the unit;*
  - (i) A listing of the qualifications required to obtain occupancy of such unit, including, but not limited to, any qualifications concerning occupant age, income,*

*disability status, veteran status, previous housing status and family size; provided that the department may promulgate rules to limit or prevent such information from being posted on the housing portal where:*

*(1) Such unit is contained within a building that contains at least one dwelling unit serving as a qualifying unit but does not contain at least one dwelling unit serving as a qualifying unit for a covered program; and*

*(2) The department determines in accordance with paragraph (b) of subdivision 2 of section 87 of the public officers law that disclosure of such information would constitute an unwarranted invasion of personal privacy;*

*(j) A description of the application process for such unit, including a statement as to whether prospective occupants may apply:*

*(1) For occupancy of such unit specifically; or*

*(2) For occupancy within the building or group of buildings containing such unit; and*

*(k) If prospective occupants may apply for occupancy of such unit specifically, a statement as to whether:*

*(1) No applications have been received for occupancy of such unit;*

*(2) One or more applications have been received for occupancy of such unit, but no such applications have been accepted for review;*

*(3) One or more applications have been received for occupancy of such unit and one or more such applications have been accepted for review; or*

*(4) One or more applications concerning such unit have been approved and an offer of occupancy for such unit has or will be made.*

*b. The housing portal shall, at a minimum, allow users to view:*

*1. All listed units, provided that the department shall replace each unit or apartment number with a unique identifier;*

*2. A selection of listed units based on search criteria entered by the user;*

*3. A selection of listed units for which the user would appear to qualify for occupancy based upon information posted on the housing portal and information entered by the user; and*

*4. For each listed unit, a listing of each change in the information posted for such unit since initial posting, including a description of such change and the date of such change.*

*c. By no later than six months after the effective date of the local law that added this chapter, the housing portal shall, at a minimum, satisfy the following requirements:*

*1. Such portal shall allow a user to create and maintain a password-protected profile containing information concerning the user, including, but not limited to, the user's name, contact information and relevant qualifications for occupancy of listed units.*

*2. Such portal shall allow a user to apply for occupancy of each listed unit, or for occupancy within the building or group of buildings containing such unit, for which the user would appear to qualify for occupancy based upon information posted on the housing portal and information entered by the user.*

3. For a user who submits at least one application for occupancy of a listed unit, or for occupancy within a building or group of buildings containing a listed unit, such portal shall automatically populate subsequent applications initiated by the user with applicable information from previous applications submitted by the user.

4. Such portal shall allow a user who initiates an application for occupancy of a listed unit, or for occupancy within a building or group of buildings containing a listed unit, to save his or her progress on such application and resume such application at a later time.

5. Such portal shall allow a user to receive notifications, by electronic mail and text message, when:

(a) A new listed unit is posted that matches criteria specified by such user; and

(b) Posted information changes for a listed unit specified by such user.

6. Where a user has submitted an application for occupancy of a listed unit that is a qualifying unit or rent-regulated unit, or for occupancy within a building or group of buildings containing such a unit, such portal shall:

(a) Notify the owner of such unit, or the property manager responsible for such unit, of such submission through the housing portal and any electronic mail address provided by the owner for such purpose;

(b) Allow the user to view the status of such application;

(c) Notify the user when such application has been accepted, or notify the user if additional information is required before such application can be accepted, through the housing portal and any electronic mail address provided by the user for such purpose;

(d) Allow the user to view a listing of the following information for each application submitted by other applicants for occupancy of such unit, or for occupancy within the building or group of buildings containing such unit, whether such applications were submitted through the housing portal or otherwise, in the order that such applications will be considered for occupancy:

(1) The date that such application was filed;

(2) The status of such application;

(3) A unique identifier for such application, with no public disclosure of applicant identity; and

(4) If such application has been preferred for any reason or will otherwise be considered before any other application submitted earlier in time, a notice that the application has been preferred, without specifying the reason for such preference, and a general list of current preference categories applicable to applications for such unit.

7. Such portal shall allow an occupant of a listed unit to request a copy of the rent history for such unit, as reported by the owner to the portal, provided that such rent history shall be sent by mail to the unit address.

8. Such portal shall utilize a web application programming interface that permits application programs to request and receive publicly available data directly from such portal.

*d. Upon completing the housing portal, the department shall provide notice that such portal is completed to the mayor and speaker of the council and shall make such notice publicly available on the department's website.*

*§ 26-1204 Required posting. a. For each qualifying unit that is in existence on the date which the notice of completion under subdivision d of section 26-1203 is provided, and for each rent-regulated unit that is in existence on such date, the owner thereof and the owner of the building containing such unit, where such information is known to such building owner, shall, in addition to any other advertising for such unit, post on the housing portal the information set forth in subdivision a of section 26-1203, other than the information set forth in subparagraph (h) of paragraph a of such subdivision, for such unit by no later than (A) six months after such date, if such unit is located within a building containing 20 or more dwelling units, (B) one year after such date, if such unit is located within a multiple dwelling, as defined in the housing maintenance code, containing fewer than 20 dwelling units or (C) two years after such date if such unit is located within a building that is not a multiple dwelling, and shall amend such posting upon any change in such information; provided that such information need not be posted for a dwelling unit that is demolished or converted to a use other than residential use on or before the date by which compliance with this subdivision is required or which ceases to be a qualifying unit or rent-regulated unit before such date.*

*b. For each qualifying unit created after the date by which compliance with subdivision a of this section is required, and for each rent-regulated unit created after such date, the owner thereof shall post on the housing portal the information required by subdivision a of this section for such unit by no later than 30 days after such unit becomes a qualifying unit or rent-regulated unit, as applicable, and shall amend such posting upon any change in such information.*

*c. Where any of the information required by subdivision a of this section changes, after initial posting, for a listed unit that is a qualifying unit or rent-regulated unit, the owner thereof and the owner of the building containing such unit, where such information is known to such building owner, shall amend the posting on the housing portal for such unit accordingly no later than seven days after such change.*

*d. An owner who fails to post information in the time and manner required by subdivision a, b or c of this section shall be subject to a civil penalty for each month as follows until such information is posted as required:*

- 1. For the first six-month period, 100 dollars per month;*
- 2. For the second six-month period, 250 dollars per month;*
- 3. For the third six-month period, 1,000 dollars per month; and*
- 4. For the fourth six-month period, and for each month thereafter, 2,000 dollars per month.*

*e. Civil penalties under this section may be recovered by the department in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose civil penalties provided for in this section.*

*f. The civil penalties set forth in subdivision d of this section shall be indexed to inflation in a manner to be determined by department rules.*



*g. Any individual who has submitted an application for occupancy of a listed unit, or for occupancy within the building or group of buildings containing such unit, shall have a cause of action against any owner who failed to post information in the time and manner required by subdivision a, b or c of this section and who had not yet corrected such failure at the time such application was submitted, in any court of competent jurisdiction for damages in an amount not to exceed the amounts set forth for civil penalties under subdivision d of this section and for attorneys' fees and costs, provided such relief is sought within six months after the application's submission. This subdivision shall not limit the department in recovering civil penalties under subdivision e of this section.*

*§ 26-1205 Applications. a. The owner of a qualifying unit or rent-regulated unit that is available for rent, sale or both on or after the date for which compliance with subdivision a or b of section 26-1204 is required for such unit shall, in addition to any other application process, comply with the following requirements for each application for occupancy of such unit, or for occupancy within the building or group of buildings containing such unit, submitted through the housing portal:*

*1. Acknowledge, by means of the housing portal, such application within five business days after receiving notice of such submission; and*

*2. Accept, by means of the housing portal, such application within three weeks after receiving notice of such submission or, within the same time period, notify, by means of the housing portal, the applicant of any additional information required before such application can be accepted.*

*b. An owner who fails to acknowledge, accept or provide notice with respect to an application, as required by subdivision a of this section, shall be subject to a civil penalty as provided under subdivision d of section 26-1204 for each month until such application is acknowledged or accepted or notice is provided with respect to such application, whichever is applicable.*

*c. The department shall implement measures to periodically determine whether owners are complying with subdivision a of this section including, but not limited to, submitting test applications.*

*d. Civil penalties under this section may be recovered by the department in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose civil penalties provided for in this section.*

*e. Any individual who has submitted an application for occupancy of a listed unit, or for occupancy within the building or group of buildings containing such unit, shall have a cause of action against any owner of such unit, or owner of the building or group of buildings containing such unit, who failed to acknowledge, accept or provide notice with respect to such application, as required by subdivision a of this section, in any court of competent jurisdiction for damages in an amount not to exceed the amounts set forth for civil penalties under subdivision d of this section and for attorneys' fees and costs. This subdivision shall not limit the department in recovering civil penalties under subdivision d of this section.*

*§ 26-1206 Required occupancy of qualifying units. a. The owner of a qualifying unit used to satisfy the requirements of an affordable housing program through which such owner was conferred financial assistance under an agreement*

*executed on or after the effective date of the local law that added this chapter shall on and after the date for which compliance with section subdivision a of 26-1204 is required for such unit:*

*1. Promptly make such unit available for rent, sale or both unless such unit is undergoing repair or improvement or is otherwise allowed to be unavailable in accordance with department rules;*

*2. Review such application as soon as practicable upon accepting an application for occupancy of such unit, or for occupancy of the building or group of buildings containing such unit; provided that this paragraph shall not require such owner to review such application before other applications submitted for such unit, or for occupancy of the building or group of buildings containing such unit, where such other applications have a higher preference status for review and a law, rule or the provisions of such affordable housing program allow such owner to prefer certain applications; and*

*3. Offer such unit to such applicant upon finding that such application satisfies all qualifications and other requirements established by law, rule or the provisions of such affordable housing program, or established by such owner, where law, rule or the provisions of such affordable housing program allow the owner to establish such requirements.*

*b. Upon receipt of a complaint alleging that an owner has violated any provision of subdivision a of this section with respect to a qualifying unit, the department shall investigate and, upon verifying such allegation in a manner to be determined by department rules, such owner shall be subject to a civil penalty as follows:*

*1. For the first three complaints received by the department within a five year period with respect to such unit, and verified, the civil penalty shall be equal to one-half the fair market rent applicable for dwelling units located in the geographic area containing such unit and having the same number of bedrooms as such unit;*

*2. For the fourth through eighth complaints received by the department within a five year period with respect to such unit, and verified, the civil penalty shall be equal to such fair market rent; and*

*3. For the ninth complaint and each subsequent complaint received by the department within a five year period with respect to such unit, and verified, the civil penalty shall be equal to double such fair market rent.*

*c. Civil penalties under this section may be recovered by the department in an action in any court of appropriate jurisdiction or in a proceeding before the environmental control board. Such board shall have the power to impose civil penalties provided for in this section.*

*d. Any individual who has submitted an application for occupancy of a listed unit that is a qualifying unit shall have a cause of action against any owner who has violated any provision of subdivision a of this section, in any court of competent jurisdiction for damages in an amount not to exceed the amounts set forth for civil penalties under paragraph (1) of subdivision b of this section and for attorneys' fees and costs, provided such relief is sought within six months after the application's submission. This subdivision shall not limit the department in recovering civil penalties under subdivision c of this section.*

§ 26-1207 Waivers. *a. Upon a showing by an owner of a qualifying unit required to comply with any provision of this chapter that the application of such provision to such unit would violate a federal or state law or rule relating to the affordable housing program for which such unit serves as a qualifying unit, or would be inconsistent with the terms or conditions of a federal or state grant or contract, the department shall waive such provision for such unit to the minimum extent necessary to remedy such violation or inconsistency.*

§ 26-1208 Retaliation. *a. Terms used in this section shall have the meanings set forth in section 704 of the labor law.*

*b. An employer shall not take retaliatory personnel action against an employee because such employee discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of this chapter, or a rule promulgated under this chapter. This protection shall not apply to an employee who makes such disclosure to a public body unless the employee has brought the activity, policy or practice in violation of this chapter, or a rule promulgated under this chapter, to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice.*

*c. An employee who has been the subject of a retaliatory personnel action in violation of this section may institute a civil action in a court of appropriate jurisdiction for relief as set forth in subdivision five of section 704 of the labor law within one year after the alleged retaliatory personnel action was taken.*

§ 2. This local law takes effect one year after it becomes law, except that the commissioner of housing preservation and development may take such actions as are necessary for the implementation of this local law, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Housing and Buildings.

Int. No. 1016

By Council Members Lander, Chin, Johnson, Richards, Rose and Rodriguez.

**A Local Law to amend the administrative code of the city of New York, in relation to clarifying the protections for part-time, temporary, leased and seasonal workers and independent contractors under the human rights law and to that end repealing subdivision 23 of section 8-107 of such code.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision 5 of section 8-102 of the administrative code of the city of New York, as amended by local law number 63 for the year 2015, is amended to read as follows:

5. For purposes of subdivisions one, two, three, eleven-a, twenty-two, subparagraph one of paragraph a of subdivision twenty-one, and paragraph e of subdivision twenty-one of section 8-107 of this chapter, the term "employer" does not

include any employer with fewer than four persons in his or her employ[. For purposes of this subdivision, natural], *and a person for purposes of that calculation includes:*

*a. Natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers[ shall be counted as persons in the employ of such employer.]; and*

*b. The employer's parent, spouse, domestic partner, or child if he or she is employed by the employer.*

§ 2. Section 8-102 of the administrative code of the city of New York is amended by adding a new subdivision 30 to read as follows:

*30. The term "employee" includes:*

*a. Interns;*

*b. Part-time, temporary, leased or seasonal workers; and*

*c. Natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers.*

§ 3. Subdivision 23 of section 8-107 of the administrative code of the city of New York, as added by local law number 9 for the year 2014, is REPEALED.

§ 4. Paragraph f of subdivision 1 of section 8-107 of the administrative code of the city of New York, as amended by local law number 27 for the year 1998, is amended to read as follows:

(f) The provisions of this subdivision shall not govern the employment by an employer of his or her parents, spouse, domestic partner, or children[; provided, however, that such family members shall be counted as persons employed by an employer for the purposes of subdivision five of section 8-102 of this chapter].

§ 5. This local law takes effect one year after it becomes law.

Referred to the Committee on Civil Rights.

Int. No. 1017

By Council Members Lander, Levin, Johnson, Cumbo, Espinal, Chin, Mendez, Ferreras-Copeland, Constantinides, Richards, Rose, Torres, Kallos, Reynoso and Rodriguez.

**A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to establishing protections for freelance workers.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision e of section 2203 of the Charter, as amended by local law number 7 for the year 2014, is amended to read as follows:

(e) The commissioner shall have all powers as set forth in *subchapter 19 of chapter 5 and chapter 8* of title 20 of the administrative code relating to the receipt, investigation, and resolution of complaints thereunder regarding *freelance workers*

and earned sick time, and the power to conduct investigations regarding violations of such [chapter]provisions upon his or her own initiative.

§ 2. Paragraph 1 of subdivision h of section 2203 of the Charter, as amended by local law number 46 for the year 2013, is amended to read as follows:

(h) (1) Notwithstanding any inconsistent provision of law, the department shall be authorized, upon due notice and hearing, to impose civil penalties for the violation of any laws or rules the enforcement of which is within the jurisdiction of the department pursuant to this charter, the administrative code or any other general, special or local law. The department shall have the power to render decisions and orders and to impose civil penalties for all such violations, and to order equitable relief for and payment of monetary damages in connection with enforcement of *subchapter 19 of chapter 5 and of chapter 8* of title 20 of the administrative code. Except to the extent that dollar limits are otherwise specifically provided, such civil penalties shall not exceed five hundred dollars for each violation. All proceedings authorized pursuant to this subdivision shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this subdivision shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

§ 3. Subdivision i of section 2203 of the Charter, as added by local law number 7 for the year 2014, is amended to read as follows:

(i) Notwithstanding any inconsistent provision of law, the mayor may designate an agency other than the department to enforce the provisions of *subchapter 19 of chapter 5 and chapter 8* of title 20 of the administrative code[ of the city of New York]. Upon such designation, such agency shall be deemed to have all powers of the commissioner as set forth in this section in connection with the enforcement of such [chapter]provisions.

§ 4. Chapter 5 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 19, as follows:

*SUBCHAPTER 19*  
*Freelance Workers*

*§ 20-825 Definitions. For purposes of this section, the following terms have the following meanings.*

*Freelance worker. The term "freelance worker" means any sole proprietor who is hired or retained as an independent contractor by a hiring party to provide services in exchange for compensation in an amount equal to or greater than \$200. That term does not include:*

- 1. Any person who, pursuant to the contract at issue, is a sales representative as defined in section 191-a of the labor law;*
- 2. Any person who engages in the practice of law pursuant to the contract at issue and who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth or the District of Columbia and who is*

*not under any order of any court suspending, enjoining, restraining, disbaring or otherwise restricting him or her in the practice of law;*

*3. Any person for whom the provisions of this subchapter, in relation to the contract at issue, would conflict with other state, federal or local law or an ethical or professional obligation. The department may by rule designate persons or groups of persons excluded pursuant to this paragraph.*

*Hiring party. The term "hiring party" means any person who retains a freelance worker to provide any service, other than (i) the United States government, (ii) the state of New York, including any office, department, agency, authority or other body of the state including the legislature and the judiciary, or (iii) the City or any local government, municipality or county.*

*§ 20-826 Contract required. a. Any hiring party retaining the services of a freelance worker shall execute a written contract with such freelance worker before the contracted-for work begins. The contract shall be in plain language and in a language understood by both parties. Each party to the contract shall retain a copy thereof.*

*b. The written contract shall include at a minimum the following:*

*1. Itemization of all services to be provided by the freelance worker and the rate and method of compensation;*

*2. The date on which the hiring party must pay the above-referenced compensation or the mechanism by which such due date will be determined; and*

*3. Any other terms that the department may by rule designate.*

*§ 20-827 Unlawful payment practices. a. Except as otherwise provided by law, all compensation earned by the freelance worker shall be paid or provided no later than 30 days after the later of completion of the freelance worker's services under the contract or the date such payment is due under the express terms of the contract.*

*b. Once a freelance worker has commenced performance under the contract, no hiring party may require as a condition of payment consistent with the requirements of this subchapter that a freelance worker accept less than the specified contract price. This provision does not preclude the settlement of a good faith dispute regarding performance under the contract or preclude a modification of a contract in accordance with other applicable law.*

*§ 20-828 Retaliation. a. No person engaged in any activity to which this subchapter applies may retaliate against any person because such person has:*

*1. Opposed any practice prohibited by this subchapter;*

*2. Filed a complaint, testified or assisted in any proceeding under this subchapter;*

*3. Commenced a civil action alleging a violation of this subchapter;*

*4. Assisted the department in an investigation commenced pursuant to this subchapter; or*

*5. Provided any information to the department pursuant to the terms of a mediation or conciliation agreement under this subchapter.*

*b. For purposes of this section, retaliation is any act reasonably likely to deter a person from engaging in activity protected by subdivision a of this section.*

*§ 20-829 Agency enforcement. a. Complaints. Any person aggrieved by a violation of this subchapter, or such person's authorized representative, may file a complaint with the department.*

*b. Jurisdiction. The department does not have jurisdiction over a complaint if:*

*1. The complaint is filed more than two years after the acts alleged to violate this subchapter occurred;*

*2. Either party to the agreement previously has initiated a civil action in a court of competent jurisdiction alleging a violation of this subchapter, a breach of contract or any similar claim at law or equity arising out of the same transaction or series of transactions that is the subject of the complaint under this subchapter, unless such civil action has been dismissed without prejudice to future claims; or*

*3. Either party to the agreement previously has filed a claim or complaint before any administrative agency under any local, state or federal law alleging a breach of contract or any similar claim arising out of the same transaction or series of transactions that is the subject of the complaint under this subchapter, and such complaint has not been withdrawn or dismissed without prejudice to future claims.*

*c. Investigation. Upon receiving a complaint alleging a violation of this subchapter, the department shall notify the respondent in writing and investigate such complaint in a timely manner. Within 30 days of receiving such written notification, the person or entity identified in the complaint shall provide the department with a written response and such other information as the department may request. The department shall notify each complainant in writing, not less than every 60 days after the complaint is filed, of the status of the complaint and any resultant investigation.*

*§ 20-830 Mediation and conciliation. a. The department may, at any time after the filing of a complaint, attempt to resolve the complaint by any method of dispute resolution, including mediation and conciliation.*

*b. If a conciliation agreement is entered into, the department shall embody such agreement in an order and serve a copy of such order upon all parties to the conciliation agreement. The terms of any conciliation agreement may contain such provisions as may be agreed upon by the department, the complainant and the respondent.*

*§ 20-831 Enforcement; administrative process. a. Notice of violation. If, as a result of an investigation of a complaint or an investigation conducted upon its own initiative, the department finds cause to believe that a violation of this subchapter has occurred, it may issue to the offending person or entity a notice of violation. The commissioner shall prescribe the form and wording of such a notice of violation. The notice of violation shall be returnable to the administrative tribunal of the department.*

*b. Remedies. The department may impose penalties provided for in this title and may grant a prevailing complainant all appropriate relief. Such relief shall include double damages, any appropriate equitable relief and attorney's fees and costs. The department also may impose civil penalties as provided in this section.*

*c. Civil penalties. 1. Any person found to have violated this subchapter or any rule or regulation promulgated thereunder is liable for a civil penalty of not more than \$5,000.*

2. *Violation of order.* Any person found to have violated an order pursuant to this subchapter is liable for a civil penalty not to exceed \$5,000 and an additional civil penalty of not more than \$100 for each day that the violation continues.

§ 20-832 *Enforcement; civil action.* a. Except as otherwise provided by law, the city or any person claiming to be aggrieved by a violation of this subchapter has a cause of action in any court of competent jurisdiction for double damages, injunctive relief and such other remedies as may be appropriate. Such action may be brought by the aggrieved person or such person's authorized representative. A prevailing plaintiff in any such action shall be entitled to an award of reasonable attorney's fees, court costs and disbursements. Any claim alleging a violation of section 20-826 shall be brought within two years of the date the person knew or should have known of the alleged violation.

b. Notwithstanding subdivision a of this section, no person claiming to be aggrieved by a violation of this subchapter may bring an action in court alleging such violation if that person, or that person's designated representative, has filed a complaint with the department pursuant to section 20-829 based upon the same conduct, unless that complaint has been terminated without prejudice to a subsequent civil action.

c. The commissioner and the corporation counsel each shall designate a representative authorized to receive copies of civil complaints in actions commenced in whole or in part pursuant to subdivision a of this section. Within 10 days after having commenced a civil action pursuant to subdivision a of this section, any plaintiff other than the city shall serve a copy of the complaint upon such authorized representatives. Failure to so serve a complaint shall not bar or adversely affect any plaintiff's cause of action.

§ 20-833 *Criminal penalty.* Any person who knowingly and willfully violates the provisions of section 20-827 shall be guilty of a misdemeanor punishable by a fine of not more than \$500, or by imprisonment for not more than three months or by both.

§ 20-834 *Application; waiver; effect on other laws.* a. Except as otherwise provided by law, any provision of any contract or agreement purporting to waive rights under this subchapter is void as against public policy.

b. The provisions of this section supplement, but do not otherwise affect or replace, any other basis of liability or requirement established by statute or common law.

c. Failure to comply with the provisions of this subchapter does not render any agreement or contract between a hiring party and a freelance worker void or voidable, or otherwise impair any obligation, claim or right related to such agreement or contract or constitute a defense to any action or proceeding to enforce, or for breach of, such agreement or contract.

d. This subchapter applies only to contracts or agreements entered into on or after the effective date of the local law that added this subchapter.

§ 20-835 *One year after the local law that added this section becomes effective, and every fifth year thereafter, the commissioner shall submit a report to the speaker of the council regarding the effectiveness of these provisions at improving freelance contracting and payment practices. That report shall include, at a minimum, how many complaints the department has received pursuant to this subchapter, how many*



*of such complaints were settled by mediation or conciliation, how many investigations of alleged violations of this subchapter the department initiated, and how many notices of violation of this subchapter the department issued.*

§ 5. This local law takes effect one year after it becomes law.

Referred to the Committee on Consumer Affairs.

Int. No. 1018

By Council Members Levine, Chin, Constantinides, Mendez, Richards and Rodriguez.

**A Local Law to amend the administrative code of the city of New York, in relation to bulletproof vests used by the New York city police department.**

*Be it enacted by the Council as follows:*

Section 1. Chapter 1 of title 10 of the administrative code of the city of New York is amended by adding a new section 10-172 to read as follows:

*§ 10-172 Bulletproof vests. The department shall only utilize bulletproof vests that are:*

- a. Covered by their manufacturer's warranty;*
- b. Have not been in use for more than five years;*
- c. Have not been struck by any projectile from a firearm, or any similar projectile;*
- d. Fit their user properly in such a manner that they provide the protection for which they were designed;*
- e. Meet the standard for ballistic resistance classification IIIA as determined by the national institute of justice or any successor national institute of justice standard; and*
- f. Are not damaged in any other way that would substantially affect performance;*

§2. This local law takes effect 6 months after it becomes law.

Referred to the Committee on Public Safety.

Int. No. 1019

By Council Members Rosenthal, Chin, Johnson, Koo, Mendez, Rose, Wills and Rodriguez.

**A Local Law to amend the administrative code of the city of New York, in relation to amending reporting requirements related to M/WBE participation.**

*Be it enacted by the Council as follows:*

Section 1. Subparagraph a of paragraph 1 of subdivision l of section 6-129 of the administrative code of the city of New York, as amended by local law number 1 for the year 2013, is amended to read as follows:

(a) the number and total dollar value of contracts awarded, disaggregated by industry classification [and], size of contract[,], *and status as MBE, WBE, EBE, or non-certified firm, and further disaggregated by minority and gender group, and the number and dollar value of such contracts that were awarded to firms that are certified both as MBEs and WBEs*, including but not limited to, contracts valued at or below twenty thousand dollars, contracts valued above twenty thousand dollars and at or below one hundred thousand dollars, contracts valued above one hundred thousand dollars and at or below one million dollars, contracts valued above one million dollars and at or below five million dollars, contracts valued above five million dollars and at or below twenty five million dollars, and contracts valued above twenty five million dollars;

§ 2. Subparagraph b of paragraph 1 of subdivision l of section 6-129 of the administrative code of the city of New York, as amended by local law number 1 for the year 2013, is amended to read as follows:

(b) for those contracts for which an agency set participation goals in accordance with subdivision i of this section:

[(i) The number and total dollar amount of such contracts disaggregated by industry classification, size of contract and status as MBE, WBE, EBE, or non-certified firm, and further disaggregated by minority and gender group, and the number and dollar value of such contracts that were awarded to firms that are certified both as MBEs and WBEs;]

[(ii)] (i) the number and total dollar value of such contracts that were awarded to qualified joint ventures and the total dollar amount attributed to the MBE, WBE or EBE joint venture partners, disaggregated by minority and gender group, size of contract and industry classification, and the number and dollar value of such contracts that were awarded to firms that are certified both as MBEs and WBEs;

[(iii)] (ii) The number and total dollar value of subcontracts approved during the reporting period that were entered into pursuant to contracts for which participation requirements under this section have been established (including both contracts awarded during the current reporting period and those awarded in earlier reporting periods that remain open during the current reporting period), and the number and total dollar amount of such subcontracts awarded to MBEs, WBEs and EBEs, disaggregated by minority and gender group, size of subcontract and industry classification, and the number and dollar value of such subcontracts that were awarded to firms that are certified both as MBEs and WBEs;

[(iv)] (iii) a list of the requests for full or partial waivers of participation requirements for such contracts made pursuant to paragraph 11 of subdivision i of this section and the determinations made with respect to such requests, and the number and dollar amount of those contracts for which such waivers were granted, disaggregated by industry classification; and

[(v)] (iv) a list of the requests for modification of participation requirements for such contracts made pursuant to paragraph 12 of subdivision i of this section and the determinations made with respect to such requests, and the number and dollar amount of those contracts for which such modifications were granted, disaggregated by industry classification;

§ 3. This local law takes effect immediately.

Referred to the Committee on Contracts.

Int. No. 1020

By Council Members Rosenthal, Chin, Johnson, Koo, Mendez, Rose, Wills and Rodriguez.

**A Local Law to amend the administrative code of the city of New York, in relation to amending reporting requirements and agency goals related to M/WBE participation.**

*Be it enacted by the Council as follows:*

Section 1. Clause iv of subparagraph b of paragraph 1 of subdivision l of section 6-129 of the administrative code of the city of New York, as amended by local law number 1 for the year 2013, is amended to read as follows:

(iv) [a list of the] *the number of* requests for full or partial waivers of participation requirements for such contracts made pursuant to paragraph 11 of subdivision i of this section [and the determinations made with respect to such requests, and the number and dollar amount of those contracts for which such waivers were granted, disaggregated by industry classification]; and

§ 2. Subparagraph h of paragraph 1 of subdivision l of section 6-129 of the administrative code of the city of New York, as amended by local law number 1 for the year 2013, is amended to read as follows:

(h) [a list of all] *the number of* solicitations submitted to the city chief procurement officer pursuant to subparagraph e of paragraph 2 of subdivision h of this section [and a summary of the determination made regarding each such submission]; and

§ 3. Paragraphs 1 and 5 of subdivision g of section 6-129 of the administrative code of the city of New York, as amended by local law number 1 for the year 2013, are amended to read as follows:

(1) Beginning May 15, 2006, and on [April 1] *July 1* of each year thereafter, each agency which, during the fiscal year which ended on June 30 of the preceding year, has made procurements in excess of five million dollars, without counting procurements that are exempt pursuant to paragraph two of subdivision q of this section, shall submit an agency utilization plan for the fiscal year commencing in July of the year when such plan is to be submitted to the commissioner. Upon approval by the commissioner such plan shall be submitted to the speaker of the council. Each such plan shall, at a minimum, include the following:

(5) The commissioner, in consultation with the city chief procurement officer, shall, no later than [July 31] *April 1* of each year, publish on the division's website a plan and schedule for each agency detailing the anticipated contracting actions for the upcoming fiscal year that form the basis for the agency utilization plan of each such agency. The plan and schedule shall include information specific to each prospective invitation for bids, request for proposal, or other solicitation, including, but not limited to, the specific type and scale of the services and/or goods to be procured, the term of the proposed contract, the method of solicitation the agency intends to utilize, and the anticipated fiscal year quarter of the planned solicitation.

§ 4. Paragraph 2 of subdivision g of section 6-129 of the administrative code of the city of New York, as amended by local law number 1 for the year 2013, is amended to read as follows:

(2) An agency utilization plan shall set forth specific participation goals for MBEs, WBEs and/or EBEs for purchases of professional services, standard services, construction and goods [valued at or below twenty thousand dollars, and for purchases of professional services, standard services, construction and goods valued at or below one hundred thousand dollars]. When setting its goals for such purchases, in addition to the factors set forth in paragraph (1) of this subdivision, each agency shall specifically consider the potential for such purchases to provide opportunities for MBEs, WBEs and EBEs to develop greater capacity, thereby increasing competition for city procurements.

§ 5. Paragraph 3 of subdivision l of section 6-129 of the administrative code of the city of New York, as amended by local law number 1 for the year 2013, is amended to read as follows:

(3) If an agency that has submitted an agency utilization plan pursuant to subdivision g of this section fails to achieve its utilization goal, the agency head shall prepare and submit to the director, the commissioner, the city chief procurement officer, and the speaker of the council by [October first] *January 31* a performance improvement plan which shall describe in detail the efforts such agency intends to undertake to increase M/WBE participation.

§ 6. This local law takes effect immediately.

Referred to the Committee on Contracts.

Int. No. 1021

By Council Members Rosenthal, Cornegy and Crowley.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring a minority and women-owned business enterprise consultant for city projects with budgets in excess of ten million dollars.**

*Be it enacted by the Council as follows:*

Section 1. Paragraph 2 of subdivision h of section 6-129 of the administrative code of the city of New York is amended to add new subparagraph g to read as follows:

*(g) For each agency project with a contract budget in excess of ten million dollars and for which minority and women-owned business participation goals have been established pursuant to this section, the contracting agency shall hire an independent consultant with expertise in minority and women-owned business procurement to perform the following functions: (i) assisting the prime contractor in recruiting minority and women-owned businesses for procurement opportunities on such project; (ii) monitoring the prime contractor's compliance with minority and women-owned business participation goals; and (iii) reporting to the contracting agency on the prime contractor's performance in meeting minority and women-owned business participation goals.*

§2. This local law shall take effect 120 days after its enactment into law.

Referred to the Committee on Contracts.

Int. No. 1022

By Council Members Rosenthal, Cornegy, Crowley, Johnson, Koo, Mendez and Rose.

**A Local Law to amend the New York city charter, in relation to establishing auditing requirements for minority and women-owned business enterprise procurement.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision c of section 93 of chapter 5 of the New York city charter is amended to read as follows:

c. The comptroller shall have power to audit all agencies, as defined in subdivision two of section eleven hundred fifty, and all agencies, the majority of whose members are appointed by city officials. The comptroller shall be entitled to obtain access to agency records required by law to be kept confidential, other than records which are protected by the privileges for attorney-client communications, attorney work products, or material prepared for litigation, upon a representation by the comptroller that necessary and appropriate steps will be taken to protect the confidentiality of such records. The comptroller shall establish a regular auditing cycle to ensure that one or more of the programs or activities of each city agency, or one or more aspects of each agency's operations, is audited at least once every four years, *except that the comptroller shall audit each relevant agency's minority and women-owned business enterprise utilization plan and related activities at least once every year.* The audits conducted by the comptroller shall comply with generally accepted government auditing standards. In accordance with such standards, and before any draft or final audit or audit report, or portion thereof, may be made public, the comptroller shall send a copy of the draft audit or audit report to the head of the audited agency and provide the agency, in writing, with a reasonable deadline for its

review and response. The comptroller shall include copies of any such agency response in any draft or final audit or audit report, or portion thereof, which is made public. The comptroller shall send copies of all final audits and audit reports to the council, the mayor, and the audit committee.

*The comptroller may appoint a qualified person to oversee minority and women-owned business enterprise audits conducted pursuant to this subdivision.*

§2. This local law shall take effect immediately.

Referred to the Committee on Contracts.

Res. No. 923

**Resolution adopting the rule amendment of the Procurement Policy Board to raise the micropurchase limit for the procurement and award of construction contracts to \$35,000.**

By Council Members Rosenthal, Chin, Johnson, Mendez and Wills.

**Whereas**, It has been two years since the micropurchase limit has been increased for the City of New York; and

**Whereas**, On October 21, 2015, the Procurement Policy Board ("PPB") adopted a rule amendment raising the micropurchase limit for procurements of construction under Section 3-08 of the PPB Rules, for which no competition is required, from twenty thousand dollars (\$20,000) to thirty-five thousand dollars (\$35,000); and

**Whereas**, Raising the micropurchase limit for procurements of construction will significantly reduce processing time for relatively small procurements and allow agencies to process these procurements in a more efficient and flexible manner; and

**Whereas**, As indicated by the PPB, raising the micropurchase limit for procurements of construction will also increase the ability of New York City agencies to meet the goals set under the Minority and Women Owned Enterprise ("MWBE") Program for the proportion of City contracts that are awarded to certified MWBE firms; and

**Whereas**, Section 314 of the New York City Charter requires concurrent action by the Council of the City of New York and the PPB to establish dollar limits for such small purchases; and

**Whereas**, A copy of the adopted PPB rule amendment is attached hereto and incorporated herein; now, therefore, be it

**Resolved**, That the Council of the City of New York adopts the rule amendment of the Procurement Policy Board to raise the micropurchase limit for procurements of construction to \$35,000.

**Section 1. Subdivisions (c) and (d) of section 3-08 of Chapter 3 of Title 9 of the Rules of the City of New York is amended as follows:**

§3-08 Small Purchases

(c) Scope.

(1) Competition Objective.

(i) Public notice of solicitation and award, presolicitation review report, Recommendation for Award, vendor protests, written notice to the low bidder or offeror of non-responsiveness, VENDEX Questionnaire (unless the aggregate value of purchases, franchises, and concessions awarded to that vendor including this one during the immediately preceding twelve-month period equals or exceeds \$100,000), and public hearing shall not be required for small purchases awarded pursuant to this section.

(ii) *Micropurchases.* For procurements *of goods and all services except construction* the value of which is \$20,000 or less, *and for procurements of construction the value of which is \$35,000 or less*, no competition is required except that in making purchases below this limit, Contracting Officers shall ensure that the noncompetitive price is reasonable and that purchases are distributed appropriately among responsible vendors, *including M/WBE vendors*. Documentation of such purchases shall identify the vendor the item was purchased from, the item purchased, and the amount paid.

(iii) *Small Purchases.* For procurements *of goods and all services except construction* [in] valued over \$20,000 *or procurements of construction valued over \$35,000* through the small purchase limits, at least five vendors shall be solicited at random from the appropriate citywide small purchases bidders list established by the CCPO for the particular goods, services, construction, or construction-related services being purchased, except where the bidders list consists of fewer than five vendors, in which case all vendors on the list shall be solicited. Agencies may additionally employ any small purchase technique sanctioned by DSBS that is not otherwise in violation of these Rules. The agency may solicit additional vendors but only with the approval of the CCPO. Responsive bids or offers shall be obtained from at least two vendors. For purposes of this section, a response of "no bid" is not a responsive bid. If only one responsive bid or offer is received in response to a solicitation, an award may be made to that vendor if the Contracting Officer determines that the price submitted is fair and reasonable and that other vendors had reasonable opportunity to respond.

(2) Solicitation Methods and Use.

For small purchases *of particular goods and all services except construction* valued at more than \$20,000 *and small purchases of construction valued at more than \$35,000*, agencies shall use a written solicitation describing the requirements, which shall contain, at a minimum:

- (i) a description of the item *or service* requested;
- (ii) time, date, place, and form of requested response;

December 7, 2015

4320

- (iii) basis for award; and
- (iv) name and telephone number of the Contracting Officer to whom inquiries may be directed.

(d) Award. Small purchases *for goods and all services except construction* valued at over \$20,000 *or small purchases for construction valued at over \$35,000* shall be awarded to the lowest responsive and responsible bidder or to the responsive and responsible offeror that has made the most advantageous offer. After such determination has been made and all necessary approvals have been obtained, the Contracting Officer shall issue a purchase order or contract, as appropriate, to the successful bidder or offeror.

Referred to the Committee on Contracts.

Int. No. 1023

By Council Members Van Bramer, Greenfield, Chin, Constantinides, Johnson, Rose and Rodriguez.

**A Local Law to amend the administrative code of the city of New York, in relation to the removal of snow and ice from bicycle paths and greenways.**

*Be it enacted by the Council as follows:*

Section 1. Subdivision c of section 30-103 of the administrative code of the city of New York, as amended by local law 26 for the year 2011, is amended to read as follows:

c. No later than November fifteenth two thousand twelve and every November fifteenth thereafter, the report required pursuant to subdivision b of this section shall include:

1. an inventory of all city-owned snow management equipment and resources that were used during any snow event;
2. an inventory of privately-owned snow management equipment and resources used by the city during any snow event, an assessment of how such equipment and resources were deployed and overseen by city agencies or offices and strategies, contracts or agreements used to ensure that such snow management equipment and resources were available to the city; [and]
3. the number of individuals who registered with the city to work during any snow event, and assessment on how such individuals were deployed and overseen by city agencies or offices and strategies, contracts or agreements used to ensure that such individuals were available to the city[.]; *and*
4. *a list of bicycle paths and greenways for which the city is responsible for removal of snow or ice, and a plan for the removal of snow and ice from such bicycle paths and greenways, including resources to be used for such removal.*

§2. This local law takes effect 90 days after it becomes law.



Referred to the Committee on Sanitation and Solid Waste Management.

Preconsidered L.U. No. 308

By Council Member Ferreras-Copeland:

**Gottsegan House, Block 1347, Lot 52; Manhattan, Community District No. 6, Council District No. 5.**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered L.U. No. 309

By Council Member Ferreras-Copeland:

**The Mascot Flats, Block 375, Lot 30; Manhattan, Community District No. 3, Council District No. 2.**

Adopted by the Council (preconsidered and approved by the Committee on Finance).

At this point the Speaker (Council Member Mark-Viverito) made the following announcements:

**ANNOUNCEMENTS:**

**Tuesday, December 8, 2015**

**★ Addition**

Committee on **PUBLIC SAFETY** ..... **10:00 A.M.**

Oversight - NYPD Oversight of School Crossing Guards

Int 983 - By Council Members Gibson, Lander, Chin, Constantinides, Eugene and Gentile - A Local Law to amend the administrative code of the city of New York, in relation to an advisory board on crossing guard deployment.

Int 992 - By Council Members Lander, Gibson, Chin, Eugene, Lancman, Rose and Wills - A Local Law to amend the administrative code of the city of New York, in relation to reporting on crossing guard deployment.

Council Chambers – City Hall..... Vanessa L. Gibson, Chairperson

December 7, 2015

4322

**Wednesday, December 9, 2015**

Committee on **GENERAL WELFARE**..... **10:00 A.M.**  
Oversight - Addressing the Homelessness Crisis  
Council Chambers – City Hall .....Stephen Levin, Chairperson

Committee on **HEALTH**..... **10:00 A.M.**  
Proposed Int 973-A - By Council Members Johnson, Chin, Constantinides, Cumbo, Espinal, Levin, Levine, Rose, Arroyo, Eugene, Gentile, Mendez, Palma and Richards – A Local Law to amend the New York city charter, in relation to establishing an office of comprehensive community health planning and an interagency coordinating council on health.  
Int 974 - By Council Members Johnson, Chin, Constantinides, Cumbo, Espinal, Levin, Levine, Miller, Rose, Arroyo, Eugene, Gentile, Mendez, Palma, Richards and Wills - A Local Law to amend the administrative code of the city of New York, in relation to the creation of a health facilities map  
Committee Room – 250 Broadway, 16<sup>th</sup> Floor .....Corey Johnson, Chairperson

Committee on **CIVIL RIGHTS**.....**1:00 P.M.**  
Int 814 - By Council Members Lander, Johnson, Rosenthal and Lancman - A Local Law to amend the administrative code of the city of New York, in relation to construction of the New York city human rights law.  
Int 818 - By Council Members Mealy, Lander, Johnson, King, Mendez, Rosenthal and Menchaca - A Local Law to amend the administrative code of the city of New York, in relation to the provision of attorney’s fees under the city human rights law.  
Int 819 - By Council Members Mendez, Lander, Chin, Johnson and Rosenthal - A Local Law to amend the administrative code of the city of New York, in relation to the repeal of subdivision 16 of section 8-107 of such code relating to the applicability of provisions of the human rights law regarding sexual orientation.  
Int 1012 - By The Speaker (Council Member Mark-Viverito) – A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to repealing and replacing title 8 of the administrative code of the city of New York and making related improvements to clarify and strengthen the human rights law  
Committee Room – 250 Broadway, 14<sup>th</sup> Floor .....Darlene Mealy, Chairperson

Committee on **FINANCE** jointly with the  
Committee on **AGING** .....**1:00 P.M.**  
Oversight - Update on the City’s efforts to conduct outreach and increase enrollment for the Rent Freeze Program  
Proposed Int 798-A - By Council Members Cornegy, Chin, Constantinides, Cumbo, Eugene, Gentile, Gibson, Johnson, King, Koo, Koslowitz, Mendez, Rose, Rosenthal, Vallone, Cohen, Menchaca, Dromm, Cabrera, Levin, Miller, Arroyo, Kallos and Lancman - A Local Law to amend the administrative code of the city of New York,

in relation to requiring notice to certain applicants for the senior citizen rent increase exemption and disability rent increase exemption program.

Committee Room – City Hall ..... Julissa Ferreras-Copeland, Chairperson  
..... Margaret Chin, Chairperson

Committee on **IMMIGRATION**.....**1:00 P.M.**  
Oversight - Resources Available in New York City for Unaccompanied Minors  
Council Chambers – City Hall..... Carlos Menchaca, Chairperson

*★ Deferred*

~~Committee on **WATERFRONTS** .....**1:00 P.M.**  
Int 507 – By Council Members Kallos, Rose, Chin, Koo and Vallone – A Local Law  
to amend the New York city charter, in relation to expanding the role of the  
waterfront management advisory board.  
Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Deborah Rose, Chairperson~~

**Thursday, December 10, 2015**

Committee on **HOUSING AND BUILDINGS** ..... **10:00 A.M.**  
Proposed Int 794-A - By Council Members Williams, Cumbo, Koo, Koslowitz,  
Mendez, Rose, Gentile, Menchaca and Rosenthal - A Local Law to amend the  
administrative code of the city of New York, in relation to the creation of a task force  
to assess safety risks at construction sites.  
Int 939 - By Council Members Reynoso, Chin, Espinal, Johnson, Kallos, Levin,  
Levine, Menchaca, Mendez, Rosenthal, Gentile, King, Koslowitz, Rose, Lander and  
Rodriguez - A Local Law to amend the administrative code of the city of New York,  
in relation to increasing the penalties for work without a permit.  
Int 940 - By Council Members Reynoso, Chin, Espinal, Johnson, Kallos, Levin,  
Levine, Menchaca, Mendez, Rosenthal, Gentile, Koslowitz, Rose, Lander, Lancman  
and Rodriguez - A Local Law to amend the administrative code of the city of New  
York, in relation to increasing the penalties for a violation of a stop work  
order.Council Chambers – City Hall ..... Jumaane D. Williams, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS**  
& **CONCESSIONS** ..... **10:30 A.M.**  
See Land Use Calendar  
Committee Room – City Hall ..... Inez Dickens, Chairperson

Committee on **LAND USE**.....**11:00 A.M.**  
 All items reported out of the Subcommittees  
**AND SUCH OTHER BUSINESS AS MAY BE NECESSARY**  
 Committee Room – City Hall ..... David G. Greenfield, Chairperson

*★ Deferred*

~~Committee on **ECONOMIC DEVELOPMENT** .....**1:00 P.M.**  
 Agenda to be announced  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Daniel Garodnick, Chairperson~~

Committee on **CIVIL SERVICE AND LABOR** jointly with the  
 Committee on **HIGHER EDUCATION**.....**1:00 P.M.**  
 Oversight - Establishing the Murphy Institute as a new CUNY School of Labor and  
 Urban Studies  
 Committee Room – City Hall ..... I. Daneek Miller, Chairperson  
 ..... Inez Barron, Chairperson

**Monday, December 14, 2015**

Subcommittee on **ZONING & FRANCHISES** ..... **9:30 A.M.**  
 See Land Use Calendar  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Donovan Richards, Chairperson

*★ Deferred*

~~Committee on **SMALL BUSINESS** ..... **10:00 A.M.**  
 Agenda to be announced  
 Committee Room – City Hall ..... Robert Cornegy, Chairperson~~

Committee on **RECOVERY AND RESILIENCY** jointly with the  
 Committee on **ENVIRONMENTAL PROTECTION** ..... **10:00 A.M.**  
 Oversight - OneNYC – Review of the City’s Resiliency and Sustainability Plans  
 Council Chambers – City Hall ..... Mark Treyger, Chairperson  
 ..... Costa Constantinides, Chairperson

Subcommittee on **LANDMARKS, PUBLIC SITING  
 & MARITIME USES** ..... **11:00 A.M.**  
 See Land Use Calendar  
 Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Peter Koo, Chairperson

★ *Addition*

Committee on **VETERANS** ..... **11:00 A.M.**  
 Preconsidered Res \_\_\_\_ - By Council Member Van Bramer and the Speaker  
 (Council Member Mark-Viverito) - Resolution calling upon Congress to pass and the  
 President to sign S. 1766 and H.R. 3068, the Restore Honor to Service Members  
 Act  
 Preconsidered Res \_\_\_\_ - By Council Member Van Bramer and the Speaker  
 (Council Member Mark-Viverito) - Resolution calling on the State Legislature to  
 pass and the Governor to sign S.6087, the New York Restoration of Honor  
 Act  
 Committee Room – 250 Broadway, 14<sup>th</sup> Floor .....Eric Ulrich, Chairperson

Committee on **CONTRACTS** jointly with the  
 Committee on **SMALL BUSINESS** and  
 Committee on **WOMEN'S ISSUES**..... **1:00 P.M.**

Oversight - Implementation of the City's Minority and Women-Owned Business  
 Enterprise Program

Int 923 - By Council Members Cumbo, Cornegy, Rosenthal, Chin, Eugene, Gentile,  
 Koo, Rose, Williams and Dickens - A Local Law in relation to requiring the  
 department of small business services to submit an annual report regarding the  
 satisfaction of MWBE requirements by recipients of economic development benefits  
 who contract with the economic development corporation.

Int 976 - By The Public Advocate (Ms. James) and Council Members Chin, Gentile,  
 King, Mendez, Palma, Richards, Rose and Dickens - A Local Law to amend the  
 administrative code of the city of New York, in relation to requiring training for  
 agency chief contracting officers and agency M/WBE officers and posting related  
 information on the city's website.

Proposed Int 981-A - By Council Members Cumbo, the Public Advocate (Ms.  
 James), Rosenthal, Crowley, Cornegy, Arroyo, Chin, Dickens, Eugene, Gibson, Koo,  
 Rose and Wills - A Local Law in relation to the creation of an advisory board to  
 enhance procurement opportunities for minority and women-owned businesses.

Int 1005 - By Council Members Crowley, Mealy, Cumbo, Rosenthal, Cornegy, Chin,  
 Gentile, King, Koslowitz, Rose and Wills - A Local Law to amend the administrative  
 code of the city of New York, in relation to requiring agency minority and women-  
 owned business enterprise utilization plans to be published online. Int 1019 - By  
 Council Member Rosenthal A Local Law to amend the administrative code of the  
 city of New York, in relation to amending reporting requirements related to M/WBE  
 participation.

Int 1020 - By Council Member Rosenthal - A Local Law to amend the administrative  
 code of the city of New York, in relation to amending reporting requirements and  
 agency goals related to M/WBE participation.

Int 1021 - By Council Members Rosenthal, Cornegy and Crowley - A Local Law to  
 amend the administrative code of the city of New York, in relation to requiring a  
 minority and women-owned business enterprise consultant for city projects with  
 budgets in excess of ten million dollars.

December 7, 2015

4326

Int 1022 - By Council Members Rosenthal, Cornegy and Crowley - A Local Law to amend the New York city charter, in relation to establishing auditing requirements for minority and women-owned business enterprise procurement.

Res 923 - By Council Member Rosenthal - Resolution adopting the rule amendment of the Procurement Policy Board to raise the micropurchase limit for the procurement and award of construction contracts to \$35,000.

Council Chambers – City Hall ..... Laurie Cumbo, Chairperson  
..... Helen Rosenthal, Chairperson  
..... Robert Cornegy, Chairperson

★ *Note Topic Additions*

Committee on **GOVERNMENTAL OPERATIONS** .....**1:00 P.M.**

Oversight - Evaluating the Structure and Content of the Mayor’s Management Report

Int 302 - By Council Members Lander, Johnson, Chin, Cohen, Cornegy, Levine, Reynoso and Vacca - A Local Law to amend the New York city charter, in relation to additional reporting by the board of elections to the council regarding performance.

Int 711 - By Council Members Johnson, Gentile, Koo, Rodriguez, Rose, Constantinides, Cabrera, Levin, Dromm, Lander, Levine, Koslowitz, Vacca, Vallone, Chin, Espinal, Rosenthal, Cohen, Palma, Deutsch, Cornegy, Greenfield, Reynoso, Richards, Maisel, Menchaca, Garodnick, Treyger, Cumbo, Arroyo, Van Bramer, Miller, Torres and Ulrich - A Local Law to amend the New York city charter, in relation to mandating that the Mayor's Management Report include citizen satisfaction survey responses.

Committee Room – 250 Broadway, 14<sup>th</sup> Floor ..... Ben Kallos, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS**

**& CONCESSIONS** .....**1:00 P.M.**

See Land Use Calendar

Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Inez Dickens, Chairperson

**Tuesday, December 15, 2015**

Committee on **CULTURAL AFFAIRS, LIBRARIES**

**& INTERNATIONAL INTERGROUP RELATIONS** jointly with the

Committee on **IMMIGRATION** ..... **10:00 A.M.**

Oversight - IDNYC and the Cultural Institutions Group

Council Chambers - City Hall ..... James Van Bramer, Chairperson

..... Carlos Menchaca, Chairperson

★ *Addition*

Committee on **PUBLIC HOUSING** ..... **10:00 A.M.**  
Oversight – Examining NYCHA’s Compliance with HUD’s Admissions Regulations and New Permanent Exclusion Policy.  
Committee Room – 250 Broadway, 16<sup>th</sup> Floor ..... Ritchie Torres, Chairperson

Committee on **LAND USE** ..... **11:00 A.M.**  
All items reported out of the Subcommittees  
**AND SUCH OTHER BUSINESS AS MAY BE NECESSARY**  
Committee Room – City Hall ..... David G. Greenfield, Chairperson

★ *Addition*

Committee on **FIRE AND CRIMINAL JUSTICE SERVICES** ..... **1:00 P.M.**  
Oversight - Examining The Unique Issues Facing Women in City Jails  
Int 899 - By Council Members Gibson, Cumbo, Crowley, Barron, Gentile, Johnson, Koslowitz, Mealy, Mendez, Richards, Cohen and Rosenthal - A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of correction to report on the Rikers Island nursery program.  
Council Chambers – City Hall ..... Elizabeth Crowley, Chairperson

**Wednesday, December 16, 2015**

*Stated Council Meeting*..... *Ceremonial Tributes – 1:00 p.m.*  
..... *Agenda – 1:30 p.m.*

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Mark-Viverito) directed everyone's attention to two computer monitors in the front dais area. The monitors were displaying a new test website called Council Labs. She commented that the site will explore new ways for sharing information with the public and producing feedback on how better to serve constituent needs. She noted that Council Labs grew out of the Council 2.0 public technology plan which was announced in the spring of 2015. The Speaker (Council Member Mark-Viverito) recognized the Council's Digital Strategy Team for their work on this project.

Also during the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Mark-Viverito) congratulated Council Member Richards and his wife Tamika on the birth of their son Donovan Richards III as those assembled in the Chambers applauded. In addition during this segment of the Meeting, she wished everyone a joyous and festive Hanukkah.

Whereupon on motion of the Speaker (Council Member Mark-Viverito), the Public Advocate (Ms. James) adjourned these proceedings to meet again for the Stated Meeting on Wednesday, December 16, 2015.

MICHAEL M. McSWEENEY, City Clerk  
Clerk of the Council

*Editor's Local Law Note: Int Nos. 743-A and 783-A, both adopted by the Council at the November 10, 2015 Stated Meeting, and Int Nos. 890-A, 898-A, 900-A, 914-A, 915-A, 956-A, and 982-A, adopted by the Council at the November 24, 2015 Stated Meeting, were signed into law by the Mayor on November 30, 2015 as, respectively, Local Laws Nos. 104, 105, 106, 107, 108, 109, 110, 111, and 112 of 2015.*