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Manhattan Community Board 11 Statement of Due Process Procedures

(As approved by the Executive Committee of Manhattan Community Board 11 on February 22, 2018)

Article I.B.1.b of the Bylaws (the “**Bylaws**”) of Manhattan Community Board 11 (“**CB11**”) set forth the process by which a member of CB11 may be removed from CB11. The Bylaws also provide that the Executive Committee shall set forth due process procedures by which a member of CB11 may be removed.

The process for removing a member for cause (such cause being the failure of a member to comply with Article I.B.1.a of the Bylaws) shall depend upon if the action for removal begins (A) as a result of the recommendations of the Executive Committee (or a group appointed by the Executive Committee pursuant to Article I.B.1.b.iv) or (B) as a result of a motion made, at a meeting of the full Community Board, by a member of CB11.

Upon a recommendation for removal made as a result of a recommendation made by the Executive Committee (or a group appointed by the Executive Committee), the following process shall, at a minimum, be employed:

(1) Upon the determination that a member has not complied with the requirements of the Bylaws, a member shall be notified, in writing (including, for the avoidance of doubt, via e-mail) and be given an opportunity to respond in writing. Such member shall have no less than seven (7) business days to provide such response from the date of notification. The Executive Committee (or a group appointed by the Executive Committee) may also (a) set a deadline by which such written response may be received by and (b) may allow members to appear in person or telephonically in lieu of submitting such written response.

(2) In connection with the submission of a written response, a member may request, by providing written notice (including, for the avoidance of doubt, via e-mail) to the Chair of CB11, the Secretary of CB11 and the District Manager of CB11, a due process hearing before the Executive Committee (or a group appointed by the Executive Committee and, in either case, any sub-group thereof) that shall be conducted in person. At such due process hearing, the member shall be allowed to:

- a. Be represented by an attorney;
- b. Provide testimony, evidence, witnesses and any other information, materials or presentations that the member may wish to provide; and
- c. Be entitled to at least ten (10) minutes for such testimony or presentation (it being understood that the member is under no obligation to utilize the full ten (10) minutes).

Such due process hearing shall be scheduled no later than seven (7) business days’ following such member’s request. To ensure the member has an opportunity to appear, the Executive Committee (or a group appointed by the Executive Committee) must afford the member at least one

scheduled time for the hearing that is during business hours on a day that the Board office is open for business. For the avoidance of doubt, such hearing may be scheduled after seven (7) business days by mutual agreement.

(3) Upon being allotted the opportunity to provide information in writing and being afforded an opportunity to appear before the Executive Committee (or a group appointed by the Executive Committee), the Executive Committee (or a group appointed by the Executive Committee) shall prepare and deliver to the Chair of CB11 and the District Manager a recommendation for the removal of such member and any such recommendation shall also be delivered to the full board membership at least seventy-two (72) hours in advance of the relevant full Board meeting. Any recommendation for removal shall be presented to the full board of CB11 at the next meeting of the full board of CB11 and shall include a detailed statement outlining the basis of such recommendation as well as a summary of any information or mitigating facts received from the member. Such presentation shall be conducted in executive session and shall last no longer than five (5) minutes.

(4) A vote on such recommendation, if duly motioned and seconded, shall be taken by roll-call vote and in compliance with the Bylaws. The member who is the subject of such recommendation for removal shall be entitled to vote in such matter.

(5) Upon removal of a member, the District Manager shall send notice of such decision, in writing and by certified mail, to the address of the member so-removed. Such notification shall (a) include details regarding the nature of the action taken and the cause for doing so and (b) inform such member that the member may seek judicial review of the decision made by CB11.

Pursuant to the Bylaws, removal proceedings may also be commenced pursuant to a duly-made and seconded motion that passes by majority vote at a meeting of the full board. Upon such a vote, the following process shall, at a minimum, be employed:

(1) At the next meeting of the Executive Committee, the Executive Committee shall review the recommendation made by the full Board and shall confirm that the member who is the subject of any removal proceedings is, in fact, not in compliance with the Bylaws. In conducting such review, the Executive Committee may request information be provided to it at the meeting or to the full Board at the next meeting.

(2) The Executive Committee shall instruct the District Manager to notify the member who is the subject of the removal proceeding of the date of the next full Board meeting at which such removal proceeding may take place and any additional information that the Executive Committee wishes the member to provide to the full Board. Such notice shall be sent both by e-mail and via regular mail. Such notice shall also inform the member that the member may, at the full board meeting:

- a. Be represented by an attorney;
- b. Provide testimony, evidence, witnesses and any other information, materials or presentations that the member may wish to provide; and
- c. Be entitled to no more than five (5) minutes for such testimony or presentation (it being understood that the member is under no obligation to utilize the full five (5) minutes).

In addition, the member shall be provided with a copy of the due process procedures and shall be allowed an opportunity to submit, in writing, any information such member wishes to provide to the membership.

(3) At the following meeting of the full Board, the Executive Committee shall report upon its review of the recommendation. The member who is the subject of the removal proceeding shall be entitled to the rights described in (2) above. Upon the conclusion of any such presentations, the Board may take a vote on such recommendation. Such vote, if duly motioned and seconded, shall be taken by roll-call vote and in compliance with the Bylaws. The member who is the subject of such recommendation for removal shall be entitled to vote in such matter.

(4) Upon removal of a member, the District Manager shall send notice of such decision, in writing and by certified mail, to the address of the member so-removed. Such notification shall (a) include details regarding the nature of the action taken and the cause for doing so and (b) inform such member that the member may seek judicial review of the decision made by CB11.

In all instances, the following shall also apply:

(1) In any proceeding for removal of a member, the Board may, instead, refer the matter to the New York City Office of Administrative Trials and Hearings (OATH) to conduct and adjudicate the hearing and recommend a disposition to the full Board. If it does so, the Board may designate one or more of its members or, at its discretion and within budgetary appropriations, retain an attorney to present the case for removal to the presiding OATH judge. If the reasons for the proposed removal of the member relate to any interaction between that member and any other Board member or members, the matter must be referred to OATH to conduct and adjudicate the hearing and shall not be referred to a panel of Board members. In arriving at his or her recommendation, the presiding OATH judge shall consider, among other things, the written response to the removal resolution, if any, presented by the member. The full Board, at its next regular meeting or at a meeting specially called for that purpose, shall vote as provided in section 2801 of the New York City Charter to accept or reject the recommendation of the presiding OATH judge.

(2) Any vote and the Board's deliberations preceding such vote shall be confidential to the extent permitted by law.

(3) Any provision of these due process procedures that are deemed to be incompatible with the Bylaws shall be void and not applied to the extent incompatible. Any provision of these due process procedures shall also be subject, at all times, to any procedures, rules, or regulations established by the Office of the Manhattan Borough President or any New York City rule, regulation or relevant interpretation.