

THE COUNCIL

*Minutes of the Proceedings for the
STATED MEETING*

of

Thursday, July 29, 2021, 1:47 p.m.

*The Majority Leader (Council Member Cumbo)
presiding as the Acting President Pro Tempore*

Council Members

Corey D. Johnson, *Speaker*

Adrienne E. Adams	Barry S. Grodenchik	Ydanis A. Rodriguez
Alicka Ampry-Samuel	Robert F. Holden	Deborah L. Rose
Diana Ayala	Ben Kallos	Helen K. Rosenthal
Inez D. Barron	Peter A. Koo	Rafael Salamanca, Jr
Joseph C. Borelli	Karen Koslowitz	Mark Treyger
Justin L. Brannan	Bradford S. Lander	Eric A. Ulrich
Selvena N. Brooks-Powers	Stephen T. Levin	James G. Van Bramer
Margaret S. Chin	Mark D. Levine	Kalman Yeger
Laurie A. Cumbo	Alan N. Maisel	
Darma V. Diaz	Steven Matteo	
Ruben Diaz, Sr.	Carlos Menchaca	
Eric Dinowitz	I. Daneek Miller	
Daniel Dromm	Francisco P. Moya	
Mathieu Eugene	Bill Perkins	
Oswald Feliz	Keith Powers	
Vanessa L. Gibson	Kevin C. Riley	
Mark Gjonaj	Carlina Rivera	

Absent: Council Member Cabrera, Corney, Gennaro, Louis, and Reynoso.

Medical Leave: Council Member Vallone.

At the time of this Stated Meeting, there were two vacancies in the Council (22nd District, Queens and 48th District, Brooklyn) pending the swearing-in of the respective certified winners of the November 2, 2021 General Election.

The Majority Leader (Council Member Cumbo) assumed the chair as the Acting President Pro Tempore and Presiding Officer for these in-person proceedings. Following the gaveling-in of the Meeting and the recitation of the Pledge of Allegiance, the Roll Call for Attendance was called by the City Clerk and the Clerk of the Council (Mr. McSweeney).

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Majority Leader and the Acting President Pro Tempore (Council Member Cumbo).

There were 43 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 Pastor Ben Hur, Senior Pastor who serves as a spiritual leader at the Promise Church & Ministries International, located at 130-30 31st Ave, Flushing, N.Y. 11354.

Let us pray.

Father God,
the creator and the ruler of all the universe.
We thank you, that your name is a strong tower
where the righteous can run to you and are safe.
Thank you for giving New York City and the United States
resilience in the face of all the despair
of the past year and a half
with the unprecedented global corona pandemic catastrophe.
Father, within this unfinished battle with the pandemic
above all we pray for our courageous first responders
in the medical field who are working around the clock
for the health and safety of our communities
in hospitals, clinics, and emergency rooms.
Oh, Lord, we lift to you our concern for people
who have already been affected by this pandemic.
Please take away the fear, anxiety, and feelings
of isolation from people receiving
treatment in this time of uncertainty.
We pray for those who have been impacted
financially from this interruption,
regardless of race, color, religion,
as we realize that our current difficulties
are an open tunnel, not a closed cave.
Grant us the patience to endure a little more.
Finally, we pray for
New York City Council Members in this room.
New York City is the capital of the world,
so what is discussed and decided here
will have a global impact.
Therefore, please grant the Speaker, Corey Johnson,
and the City Council members
insight to accurately analyze reality,

foresight to precisely predict the future,
and the wisdom and courage
to seamlessly connect the two.
So through each agenda and resolution
to be handled in this chamber
may all New Yorkers experience
a safer and better quality of life;
and that New York City, which used to be
the epicenter of pandemic
could be the hyper center
that provides dreams and inspiration
to people all around the world again.
In the name of the Father, Son,
and the Holy Spirit we pray.
Amen.

Council Member Koo moved to spread the Invocation in full upon the record.

During the Communication from the Speaker segment of this meeting, the Speaker (Council Member Johnson) acknowledged that the number of coronavirus deaths in New York City had reached 33,519. He noted there had been a recent surge of COVID-19 cases in New York City primarily due to spread of the Delta variant. He reiterated that too many New Yorkers had died due to the virus and he urged more individuals to get vaccinated.

The Speaker (Council Member Johnson) acknowledged a recent COVID-19 death in the Council family; Dulcie Philips, grandmother of Council Member Vanessa Gibson, died of the virus in Trinidad while living at a nursing home. On behalf of the Council, the Speaker (Council Member Johnson) sent his thoughts and prayers to Council Member Gibson and her entire family during this time.

The Speaker (Council Member Johnson) acknowledged the death of Matthew Pecorino who served as budget director for Council Member Ulrich. Mr. Pecorino died unexpectedly on June 30, 2021 at the age of 40. On behalf of the Council, the Speaker (Council Member Johnson) sent his deep condolences to Mr. Pecorino's family and friends, to Council Member Ulrich and his entire office staff, and to those who personally knew him at the Council.

The Speaker (Council Member Johnson) acknowledged the death of retired FDNY Firefighter and first responder Wayne T. Goehring who passed away on July 19, 2021 from a 9/11-related illness.

The Speaker (Council Member Johnson) acknowledged the death of four individuals who recently lost their lives while on the job in New York City. Food delivery worker Federico Zaput Palax, 27, died on July 22, 2021 following a traffic crash in Brooklyn. Delivery worker Borkot Ullah, 24, was killed on July 8, 2021 when he was struck by a hit-and-run driver while riding his e-bike in Manhattan. Bronx grocery store worker Jose Carrero, 50, passed away on June 14, 2021 from injuries that he had suffered previously from being beaten by a customer. For-hire driver Mohammed Hossein, 47, died on June 13, 2021 after he was struck by an unlicensed driver in Queens. The Speaker (Council Member Johnson) noted that these tragic deaths were a reminder of the important work undertaken every day by delivery workers, drivers, and grocery store workers in order to keep the city thriving. On behalf of the Council, the Speaker (Council Member Johnson) offered his thoughts and prayers to their loved ones and families during this time.

The Speaker (Council Member Johnson) acknowledged the death of Harlem-born Bob Moses whom he described as one of this nation's most relentless civil rights activists. He passed away on July 25, 2021 at the

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age of 86. The Speaker (Council Member Johnson) noted that Mr. Moses had endured violence while organizing poor and rural black residents and registering black voters in 1960s Mississippi. The Speaker (Council Member Johnson) cited Bob Moses as an example of someone who understood the importance of fighting injustice no matter the obstacles were before him.

The Speaker (Council Member Johnson) acknowledged the anniversary of the tragic loss of Council Member James Davis who was killed in City Hall on July 23, 2003. He noted that his senseless death served as a stark reminder that gun violence can occur anywhere.

The Speaker (Council Member Johnson) asked for a Moment of Silence in memory of the deceased individuals mentioned above.

At this point, a Moment of Silence was observed in the Council Chambers.

* * *

ADOPTION OF MINUTES

Council Member Koo moved that the Minutes of the Stated Meeting of June 17, 2021 be adopted as printed.

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MESSAGES & PAPERS FROM THE MAYOR

Preconsidered M-322

Communication from the Mayor – Submitting the name of Georgia Pestana to the City Council for its advice and consent regarding her appointment as Corporation Counsel, pursuant to Sections 6 and 391 of the City Charter.

July 8, 2021

The Honorable Corey Johnson
Speaker
New York City Council
City Hall
New York, NY 10007

Dear Speaker Johnson:

Pursuant to Sections 6 and 391 of the New York City Charter, I am pleased to present the name of Georgia Pestana to the City Council for advice and consent regarding her appointment as Corporation Counsel.

I send my thanks to you and to the Council for reviewing this appointment.

Sincerely,

Bill de Blasio
Mayor
BDB:ml

cc: Georgia Pestana
Dean Fuleihan, First Deputy Mayor
Paul Antonio Ochoa, Director, Mayor's Office of City Legislative Affairs

Referred to the Committee on Rules, Privileges and Elections.

REPORT OF THE STANDING COMMITTEES

Report of the Committee on Civil and Human Rights

Report for Int. No. 339-B

Report of the Committee on Civil and Human Rights 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 protections for domestic workers under the human rights law.

The Committee on Civil and Human Rights, to which the annexed proposed amended local law was referred on January 31, 2018 (Minutes, page 517), respectfully

REPORTS:

I. INTRODUCTION

On July 29, 2021, the Committee on Civil and Human Rights, chaired by Council Member Mathieu Eugene, held a vote on Proposed Introductory Bill Number 339-B (Int. 339-B), in relation to expanding the definition of employer under the human rights law to provide protections for domestic workers. On November 18, 2019, the Committee heard a previous version of the bill (Int. 339-A) and received testimony from the New York City Commission on Human Rights, and various advocates, stakeholders and members of the public. This testimony informed changes to the bill. The bill passed with 5 votes in the affirmative, 0 votes in the negative, and no abstentions.

II. BACKGROUND

Nationally, there are an estimated 2.5 million domestic workers and the industry is considered one of the Country's fastest growing professions.¹ New York has approximately 328,000 domestic workers with approximately 71 percent in New York City.²

With an aging population and more women joining the workforce, the Bureau of Labor Statistics expects the number of home health care and personal care aides to increase three times as fast as other occupations.³ Despite the growing demand for these professionals, domestic workers often face poor working conditions and are vulnerable to abuse, including sexual harassment, assault, and various other forms of discrimination. The nature of domestic work often perpetuates the vulnerability of workers, as it is often intermittent, isolated or performed for very small employers such as an individual family.

Domestic work is highly gendered. According to data from the Census Bureau's American Community Survey (ACS), of the 328,000 domestic workers in New York State, 92 percent are women. A majority of this workforce was also comprised of women of color with 34 percent identifying as Hispanic, 28 percent identifying as Black and 13 percent identifying as Asian American Pacific Islanders, as well as 63 percent identifying as foreign born, according to the ACS data.⁴ The gender and racial composition of the domestic workforce makes this group of workers particularly vulnerable to labor abuses and discrimination. When workers experience poor working conditions, discrimination or sexual harassment, they are fearful of reporting such incidents. Statistics from the NDWA survey show that 91 percent of the workers surveyed who had experienced problems with their

¹ Jennifer Calfas. '*There is a real crisis': Domestic workers are in high demand, but the jobs have few protections and little pay*, Money, (April 4, 2019) Available at <http://money.com/money/longform/domestic-workers-crisis/>.

² Shamier Settle. *Domestic Workers Are Essential Workers: By the Numbers in New York*. Fiscal Policy Inst. (April 12, 2021) Available at https://fiscalpolicy.org/wp-content/uploads/2021/04/Domestic-Workers-in-New-York_By-the-Numbers.pdf, p. 1.

³ Id. at p. 2

⁴ Id. at p. 3-4.

working conditions did not complain because they were fearful that they would lose their job.⁵ Of those that were fired from their job, nearly a quarter were fired in retaliation for their complaints.⁶ Additionally, 85 percent of domestic workers who were surveyed who were also undocumented reported that they did not complain about their poor working conditions out of fear that their immigration status would be used against them.⁷ The NDWA survey also showed that, across the board, undocumented domestic workers face even worse conditions than their colleagues.⁸ As such, even though their employment conditions are often worse, their added vulnerability means that undocumented domestic workers are less likely to complain or quit their jobs.⁹

According to a report from NDWA and the Institute for Policy Studies (IPS), in 2016, domestic workers made up the largest sector of all labor trafficking cases reported to the National Human Trafficking resource Center.¹⁰ This is despite the fact that at least 70 percent of these workers come to the United States with employment-related visas.¹¹ The graphic below illustrates some of the findings related to the labor and civil rights abuses that this group of domestic workers reported experiencing. The graph demonstrated that domestic workers of all types regularly experience unfair labor practices, poor employment protections and a raft of abuses.

Summary of findings of trafficked domestic workers survey¹²

Human trafficking is also deeply connected to domestic work and the abuses suffered by domestic workers. A report by Polaris and the NDWA noted that while awareness of human trafficking has become more widespread, most educational campaigns focus on sex trafficking, leaving the labor trafficking that affects domestic workers unaddressed.¹³ The exclusion of domestic workers from many legal protections manifests in the poor working conditions that these workers face. An extensive survey of domestic workers conducted by NDWA and IPS revealed the information below.

⁵ Linda Burnham and Nick Theodore. *Home economics: The invisible and unregulated world of domestic work*, National Domestic Workers Alliance (NDWA) (2012) Available at https://idwfed.org/en/resources/home-economics-the-invisible-and-unregulated-world-of-domestic-work/@_display-file/attachment_1, p. xii.

⁶ Id.

⁷ Id.

⁸ Id. at p. 20.

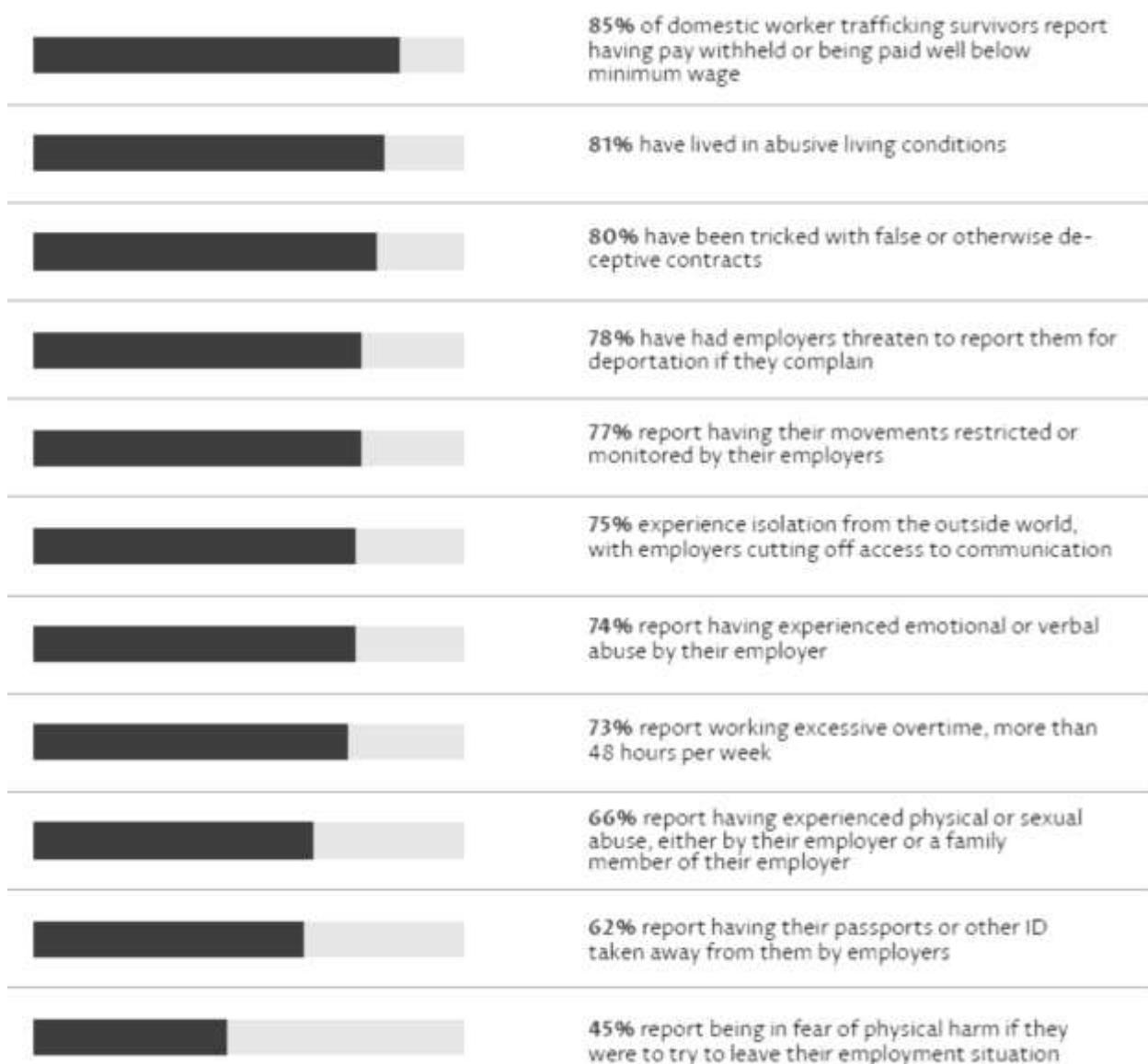
⁹ Id.

¹⁰ NDWA and IPS. *The human trafficking of domestic workers in the United States*, (2017) Available at https://www.domesticworkers.org/wp-content/uploads/2021/06-bs_report2017.pdf, p. 5.

¹¹ Id. at p. 21.

¹² Id. at p. 6.

¹³ *Human Trafficking at Home*. Polaris and NDWA. (Sept. 2019) Available at https://polarisproject.org/wp-content/uploads/2019/09/Human_Trafficking_at_Home_Labor_Trafficking_of_Domestic_Workers.pdf, p. 5, 10.



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Despite these rampant violations, there can be limited legal recourse for domestic workers. For example, Title VII of the Civil Rights Act of 1964, which prohibits discrimination against workers, exempts employers with fewer than 15 workers.

New York State was one of the first to pass legislation to protect domestic workers. In 2010, New York passed the “Domestic Worker Bill of Rights,” which extended several labor protections to domestic workers, including paid sick time, minimum wage requirements, overtime and standard work hours, among others.¹⁵ The New York State Human Rights Law (NYSHRL) was also amended in 2010 to protect domestic workers from sexual and discriminatory harassment.¹⁶ On August 12, 2019, Governor Cuomo signed S6577/A8421 into law, which removed the four employee requirement from the NYSHRL.¹⁷ However, domestic workers remain

¹⁴ NDWA and Institute for Policy Studies. *The human trafficking of domestic workers in the United States*, (2017) Available at https://www.domesticworkers.org/wp-content/uploads/2021/06/bs_report2017.pdf

¹⁵ 2009 NY A.B. 1470; N.Y. Labor Law § 170.

¹⁶ N.Y. Exec. Law § 296-b.

¹⁷ Press Release, Governor Andrew Cuomo, *Governor Cuomo Signs Legislation Enacting Sweeping New Workplace Harassment Protections* (Aug. 12, 2019), <https://www.governor.ny.gov/news/governor-cuomo-signs-legislation-enacting-sweeping-new-workplace-harassment-protections>

excluded from the definition of “employee” under the State’s human rights law, thereby limiting the extent of the NYSHRL’s application.¹⁸ Notably, legislation has passed in the New York State Senate and Assembly that would expand the definition of “employer” to include those who employ domestic workers.¹⁹

Employment-related protections offered pursuant to the City’s Human Rights Law (NYCHRL) only apply to employers with four or more employees. As such, domestic workers, who are often employed in private homes by those who have few employees, miss out on many of the City’s human rights protections. In 2018, the City Council passed Local Law 98, which removed the four-employee requirement for gender-based harassment claims.

The deeply personal nature of domestic work can pose some challenges for human rights laws. For example, a patient with mobility issues who requires assistance bathing or going to the toilet may only feel comfortable being in such a vulnerable position with a domestic worker of the same gender. Some courts have found such concerns to be legitimate, but have struck down general employer policies that automatically assigned homecare workers by gender.²⁰

Domestic Workers and the COVID-19 Pandemic

The COVID-19 pandemic has had, and continues to have, significant impacts on the lives of people across all demographics. While some have been fortunate enough to continue to work from home, both able to earn an income and stay safely distanced, others have not been able to do so. Previously left out of several workplace protections, domestic workers quickly found the existing issues of their jobs exacerbated by the pandemic.²¹

While some domestic workers were able to continue to work, many did so in enclosed spaces, at times without personal protective equipment (“PPE”) provided, despite their status as essential workers.²² A survey of domestic workers conducted by the IPS found that 73 percent of survey respondents said that their employer did not provide PPE.²³ Many domestic workers lost their jobs altogether during the pandemic. An October 2020 study released by the NDWA found that 90 percent of domestic workers had lost their jobs by late March.²⁴ By September, the unemployment rate amongst domestic workers was nearly four times that of its pre-pandemic rate of nine percent.²⁵ The NDWA report also found that the majority of domestic workers did not apply for unemployment insurance because they did not believe that they qualified, while more than half of workers struggled to pay their rent or mortgage for the first six months of the pandemic.²⁶ In an industry predominantly made up of immigrant employees, many domestic workers were afraid to seek out any sort of government aid due to their immigration status.²⁷

III. BILL ANALYSIS

Section one of Int. 339-B amends section 8-107 of the Administrative Code to extend employment protections to domestic workers regardless of staff size. Currently, the definition of employer excludes employers with less than four employees. The definition of domestic worker tracks the definition of section 2 of the Labor Law. According to the Labor Law, domestic workers include a person employed in a residence for the purpose of caring for a child, serving as a companion for a sick, convalescing or elderly person, housekeeping, or for any other domestic service purpose but does not include any individual (a) working on a casual basis, (b)

¹⁸ N.Y. Exec. Law § 292.

¹⁹ See Senate Bill S5064 and Assembly Bill A8007.

²⁰ See e.g. *Spragg vs. Shore Care*, 679 A. 2d 685 (N.J. App., 1996).

²¹ Mariah A. Lindsay. *Overworked, Overlooked, and Unprotected: Domestic Workers and COVID-19*. Harvard Law Petrie-Flom Center. (Dec. 3, 2020) Available at <https://blog.petrieflom.law.harvard.edu/2020/12/03/domestic-workers-covid19-pandemic/>

²² Id.

²³ Marc Bayard and Kimberly Freeman Brown. *Black Immigrant Domestic Workers in the Time of COVID-19*. IPS Available at <https://ips-dc.org/black-immigrant-domestic-workers-covid-19/> (accessed July 28, 2021).

²⁴ NDWA Labs. *6 Months in Crisis: The Impact of COVID-19 on Domestic Workers*. NDWA (Oct. 2020) Available at https://www.domesticworkers.org/wp-content/uploads/2021/06/6_Months_Crisis_Impact_COVID_19_Domestic_Workers_NDWA_Labs_1030.pdf

²⁵ Id.

²⁶ Id.

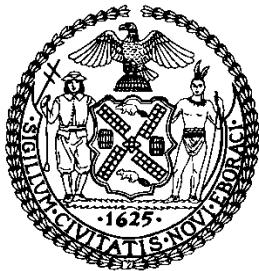
²⁷ *Supra* note 21.

who is employed by an employer or agency other than the family or household using his or her services, or (c) who is a relative through blood, marriage or adoption of: (1) the employer; or (2) the person for whom the worker is delivering services under a program funded or administered by federal, state or local government. Individuals working on a casual basis could be part-time babysitters or individuals who provide occasional household services for a limited amount of time, irregularly or during intermittent periods. The protections in this section include prohibitions against discrimination in employment, apprentice training programs, religious observance in the employment context, unemployment status, disparate impact discrimination in the employment context, and unlawful discrimination against victims of domestic violence, sex offenses or stalking. Employers with fewer than four domestic workers would not be obligated to comply with the City's requirement for a dedicated lactation room. However, domestic workers would also be entitled to reasonable accommodations for pregnancy, childbirth and related conditions such as lactation accommodations, upon request. Employers with fewer than four domestic workers would not be obligated to comply with the Fair Chance Act.

If passed, Int. 339-B would extend most of the NYCHRL's employee protections to domestic workers.

The bill would take effect 200 days after it becomes law.

(The following is the text of the Fiscal Impact Statement for Int. No. 339-B:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INT. No. 339-B
COMMITTEE: Civil and Human Rights**

TITLE: To amend the administrative code of the city of New York, in relation to protections for domestic workers under the human rights law.

Sponsors: Council Members Rose, Rosenthal, Ayala, Reynoso, Menchaca, Perkins, Rivera, Kallos, Powers, the Public Advocate (Mr. Williams), Van Bramer, Lander, Amprey-Samuel, Chin, Levine, Adams, Eugene, Moya, Barron, Cumbo, Cornegy, Treyger, Dromm, Brannan, Holden, Grodenchik, Gibson, Miller, Louis, Rodriguez, Koo, Salamanca, Maisel and Koslowitz.

SUMMARY OF LEGISLATION: Proposed Intro. No. 339-B would amend the New York City Human Rights Law to extend employment protections to all domestic workers regardless of staff size. Domestic workers include those employed at an employer's residence for the purpose of caring for a child, sick or elderly person, or for housekeeping or any other domestic service purpose. Domestic workers would also be entitled to reasonable accommodations for pregnancy, childbirth and related conditions such as lactation accommodations, upon request.

EFFECTIVE DATE: This local law would take effect 200 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2023

FISCAL IMPACT STATEMENT:

	Effective FY22	FY Succeeding Effective FY23	Full Fiscal Impact FY23
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$146,229	\$501,358	\$501,358
Net	(\$146,229)	(\$501,358)	(\$501,358)

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that Commission on Human Rights would require four additional full-time staff to comply with the requirements of Proposed Intro. No. 339-B. This includes two Associate Human Rights Specialists and two Executive Agency Counsels with applicable OTPS costs. The new positions would result in a prorated impact of \$96,000 in agency costs and \$51,000 in fringe and OTPS for three and a half months in Fiscal 2022, and a full impact of \$326,000 in agency costs and \$175,000 in fringe and OTPS in Fiscal 2023 and in the outyears.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: The New York City Commission on Human Rights,
New York City Office of Management and Budget

ESTIMATE PREPARED BY: Jack Kern, Financial Analyst

ESTIMATE REVIEWED BY: Noah Brick, Assistant Counsel
Regina Poreda Ryan, Deputy Director
Eisha Wright, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the Council on January 31, 2018 as Intro. No. 339 and was referred to the Committee Civil and Human Rights (Committee). The Committee held a hearing on November 18, 2019 and the bill was laid over. The legislation was subsequently amended twice, and the most-recently amended version, Proposed Intro. No. 339-B, will be considered by the Committee at a hearing on July 29, 2021. Upon successful vote by the Committee, Proposed Intro. No. 339-B will be submitted to the full Council for a vote on July 29, 2021.

DATE PREPARED: July 28, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 339-B:)

Int. No. 339-B

By Council Members Rose, Rosenthal, Ayala, Reynoso, Menchaca, Perkins, Rivera, Kallos, Powers, the Public Advocate (Mr. Williams), Van Bramer, Lander, Ampry-Samuel, Chin, Levine, Adams, Eugene, Moya, Barron, Cumbo, Cohen, Cornegy, Treyger, Dromm, Brannan, Holden, Grodenchik, Gibson, Miller, Louis, Rodriguez, Koo, Salamanca, Maisel, Koslowitz and Gennaro.

A Local Law to amend the administrative code of the city of New York, in relation to protections for domestic workers under the human rights law

Be it enacted by the Council as follows:

Section 1. Subdivision 23 of section 8-107 of the administrative code of the city of New York, as amended by local law number 172 for the year 2019, is amended to read as follows:

23. Additional provisions relating to employment; *interns, freelancers, independent contractors, and domestic workers*. The protections of this chapter relating to employees apply to interns, freelancers and independent contractors. *The protections of this chapter relating to employees also apply to a person's employment of one or more domestic workers as defined in subdivision 16 of section 2 of the labor law, without regard to the number of other employees such person has in their employ, provided however that subdivisions (10), (11-a) and paragraphs (b), (c) and (d) of subdivision (22) shall not apply.*

§ 2. This local law takes effect 200 days after it becomes law.

MATHIEU EUGENE, *Chairperson*; DANIEL DROMM, BRADFORD S. LANDER, INEZ D. BARRON, BILL PERKINS; Committee on Civil and Human Rights, July 29, 2021. *Other Council Members Attending: Council Members Koslowitz, Rose, Levin, Powers, and Ayala.*

On motion of the Speaker (Council Member Johnson), 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 Civil Service and Labor

Report for Int. No. 2252-A

Report of the Committee on Civil Service and Labor in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring city human services contractors to enter into labor peace agreements.

The Committee on Civil Service and Labor, to which the annexed proposed amended local law was referred on April 22, 2021 (Minutes, page 871), respectfully

REPORTS:

INTRODUCTION

On July 29, 2021, the Committee on Civil Service and Labor, chaired by Council Member I. Daneek Miller, held a vote on Proposed Introduction No. 2252-A, sponsored by Speaker Corey Johnson, which relates to requiring city human services contractors to enter into labor peace agreements. The Committee passed this legislation by a vote of five in the affirmative, zero in the negative, and zero abstentions.

The Committee previously held a hearing on the legislation on May 5, 2021. At the hearing, the Committee heard testimony from the Mayor's Office of Policy and Planning, the New York City Economic Develop Corporation, labor unions, human services organizations, city service contractors, and other interested stakeholders and parties.

BACKGROUND

The Need for Labor Peace Agreements

The COVID-19 pandemic and subsequent economic downturn has reinforced the importance of job and income security for workers. While unions and collective bargaining play essential roles in ensuring these rights for workers, union membership has been in steady decline since the 1970s, and has been exacerbated by the

pandemic.¹ 2020 marked the third year in a row that union membership fell in New York City to a rate of 22%.² Recent reports of union-busting and interfering with workers' attempts to organize present further obstacles to labor rights in the coming years.³

Over the past several decades, unions have increasingly turned to legislation in order to protect their ability to organize and empower workers.⁴ A key form of this legislation occurs in the form of mandatory labor peace agreements.⁵ Labor peace agreements can vary widely, but generally involve concessions made by both employers and labor organizers to reach a consensus wherein workers can unionize freely so long as they abide by certain guidelines.⁶ While the United States has no federally mandated labor peace agreements, multiple municipalities, including New York City, have some form of law or ordinance requiring labor peace agreements in a given industry or sector.⁷

Labor Peace Agreements

Generally speaking, a labor peace agreement (LPA) is an arrangement between a labor union and an employer in which both sides agree to waive certain rights under federal law with regard to union organizing and related activity.⁸ During such agreements, employers agree to "maintain a neutral posture" at union efforts to organize employee, meaning they agree to not hinder or disrupt the organizing process, while the union in turn agrees to not go on strike or otherwise stop work.⁹ LPAs can be helpful to workers and unions in the unionization process, but likewise can benefit employers by ensuring work will continue regardless of labor negotiations.¹⁰

Although many LPAs are negotiated voluntarily between unions and employers, often state and local governments will pass local ordinances to ensure LPAs as a condition of doing business at a facility or a project in which the government holds a "proprietary interest."¹¹ In other words, the government entity will require those doing business at a government location or those conducting business with the government while receiving financial assistance from it—including by receiving grants, loans, contracts, or as a part of a procurement policy—to sign an LPA with a union.¹²

Often, the local laws specifically address what concessions employers are to make to unions; this can include recognizing the union by card check instead of a secret ballot election, remaining neutral to unionization, giving outside union organizers access to the workplace, and providing workers' personal contact information to the union.¹³ These concessions are often actions that employers are not otherwise required to take or honor under the National Labor Relations Act (NLRA).¹⁴ In return for employers' agreement to allow the above, unions are required by LPAs to agree that they will not strike, picket, or otherwise disrupt the workplace.¹⁵ The overall

¹ *New York Times Data Points*, "The Shrinking American Union", Feb. 7, 2015, available at: <https://www.nytimes.com/2015/02/08/business/the-shrinking-american-labor-union.html>

² Madore James T., "Union Membership Falls In New York City For The Third Year," *Newsday*, Jan. 26, 2021, available at: <https://www.newsday.com/business/coronavirus/union-membership-labor-jobs-employment-1.50131887>

³ Streitfield, David, "How Amazon Crushes Unions," *NYTimes*, Mar. 16, 2021, Available at: <https://www.nytimes.com/2021/03/16/technology/amazon-unions-virginia.html>

⁴ *Labor Peace Agreements*, U.S. Chamber of Commerce, 2016, available at <https://www.uschamber.com/sites/default/files/documents/files/laborpeaceagreements.pdf>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ See David Wirtz, *Certain Large New York City Employers Must Enter Labor Peace Agreements*, SHRM, Aug. 15, 2015, available at <https://www.shrm.org/resourcesandtools/legal-and-compliance/state-and-local-updates/pages/nyc-labor-peace-agreements.aspx>.

¹⁰ See *Union Organizing in the Cannabis Industry: What Every Cannabis Employer Should Know about Labor Peace Agreements*, FisherPhillips, May 29, 2020, available at [https://www.fisherphillips.com/news-insights/union-organizing-in-the-cannabis-industry-what-every-cannabis-employer-should-know-about-labor-peace-agreements.html#:~:text=A%20labor%20peace%20agreement%20\(LPA,strike%20or%20otherwise%20stop%20work..](https://www.fisherphillips.com/news-insights/union-organizing-in-the-cannabis-industry-what-every-cannabis-employer-should-know-about-labor-peace-agreements.html#:~:text=A%20labor%20peace%20agreement%20(LPA,strike%20or%20otherwise%20stop%20work..)

¹¹ *Labor Peace Agreements*, U.S. Chamber of Commerce, 2016, available at <https://www.uschamber.com/sites/default/files/documents/files/laborpeaceagreements.pdf>.

¹² *Id.* at 6.

¹³ *Id.* at 3 and 4.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 5.

purpose of these labor peace ordinances is for the government to encourage employers to allow their workers to organize, while also ensuring that there will be minimal or no labor disruptions during that time.¹⁶

State and Local Labor Peace Ordinances

Such labor peace ordinances have been passed in multiple jurisdictions nationwide and typically involve hotels, restaurants, casinos, other hospitality facilities, and airports, although “any facility that receives public funding or some other assistance from a nonfederal government entity” can be the subject of such a law.¹⁷ San Francisco, for example, has had LPAs as far back as 1980, when the San Francisco Redevelopment Agency required the Marriott corporation to sign an LPA to develop property on city-owned land.¹⁸ The agreement included both a card check recognition and a neutrality provision.¹⁹

In 1998, San Francisco passed another labor peace ordinance, this one applicable to any hotel and restaurant project in which the city asserted a proprietary interest.²⁰ In this case, “proprietary interest” included any situation in which the city “received significant ongoing revenue (such as rent) under a lease . . . ongoing payments to cover debt service . . . or the city agreed to underwrite or guarantee the development of a hotel or restaurant project” and any covered hotel or restaurant project was required to sign a card check agreement with any union that requested one.²¹ San Francisco additionally has labor peace ordinances covering airports contacts.²² Labor peace ordinances can be found in jurisdictions all over the country; they have, for example, also been enacted in Washington D.C., Pittsburgh, Baltimore, Los Angeles, Las Vegas, Portland, Minneapolis, Seattle, and more.²³

Currently, New York, along with Maryland, is one of only two states that has a state-issued labor peace law.²⁴ New York State has its own labor peace law, which covers hotels and convention centers specifically.²⁵ The law applies to a hotel or convention center which employs more than 15 people and in which a state agency asserts a proprietary interest.²⁶ The law requires an LPA under which unions agree to “refrain from engaging in labor activity that will disrupt the hotel’s operations, including strikes, boycotts, work stoppages, corporate campaigns, picketing or other economic action against the covered project.”²⁷

Labor Peace Agreements in New York City

Much of the legal framework surrounding labor peace agreements in New York stems from legislation and executive orders issued at the state level. In addition to New York State’s labor peace law covering hotels and convention centers, the state also requires labor peace agreements as part of its 2021 legalization of recreational marijuana, and also had previously instated a requirement for medical marijuana establishments.²⁸

The most prominent City-specific action on labor peace agreements thus far is Executive Order No. 19 of 2016, which was issued by Mayor Bill de Blasio on July 24, 2016.²⁹ Executive Order No. 19, which required that certain developers of economic development projects receiving \$1 million or more in financial assistance from the City requires large retail and food service tenants to enter into labor peace agreements with labor

¹⁶ *Id.* at 5.

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 5.

¹⁹ *Id.* at 5.

²⁰ *Id.* at 5.

²¹ *Id.* at 4.

²² *Id.* at 14.

²³ *Id.* at 13-15.

²⁴ *Id.* at 13.

²⁵ *Id.* at 9.

²⁶ *Id.* at 9.

²⁷ *Id.* at 9.

²⁸ *New York’s Adult Use Cannabis Law: Embracing Labor Peace Agreements*, JD Supra, Apr. 29, 2021, available at <https://www.jdsupra.com/legalnews/new-york-s-adult-use-cannabis-law-1192749/>; Collins, Patrick M, *New York Legalizes Recreational Marijuana: Altered States for Employers*, National Law Review, Apr. 9, 2021, available at <https://www.natlawreview.com/article/new-york-legalizes-recreational-marijuana-altered-states-employers>.

²⁹ Executive Order No. 16, City of New York Office of the Mayor, Jul. 14, 2016, available at https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2016/eo_19.pdf/.

organizations seeking to represent employees working at these projects.³⁰ The agreement must contain a neutrality provision for the employer with respect to an employee's decision to join a union or not, as well as a commitment by the labor organization to refrain from picketing, work stoppages, boycotts, or other economic interference.³¹

ANALYSIS OF LEGISLATION

Analysis of Int. No. 2252-A

A Local Law to amend the administrative code of the city of New York, in relation to requiring city human services contractors to enter into labor peace agreements

This bill would require City human services contractors and certain subcontractors to enter into labor peace agreements with labor organizations seeking to represent their employees rendering services under City human services contracts. During such agreements, employers agree to maintain a neutral posture at union efforts to organize employee, meaning they agree to not hinder or disrupt the organizing process, while the union in turn agrees to not go on strike or otherwise stop work.

The human service contracts impacted would include but are not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs. The bill would exempt building service employees and subcontractors whose principal purpose is to provide supplies, or administrative services, technical support or other similar services that do not directly relate to the performance of human services.

No later than 90 days after the award or renewal of a human services contract, the contractor would be obligated to submit an attestation that 1) the employer has entered into one or more labor peace agreements with a labor organization, or 2) no labor organization has sought to represent their employees. Such attestation shall be updated annually.

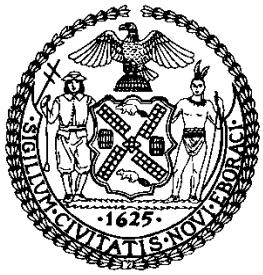
The bill would take effect 90 days after it becomes law.

From introduction, Int. No. 2252-A has been amended to remove the provision requiring LPAs of certain city economic development projects and to clarify which human service contractors this bill applies to and which groups are exempted from the requirement. The revised bill also clarifies the definition of subcontractor within the parameters of this legislation, provides additional guidance on the comptroller's powers to investigate violations and issue remedies and sanctions for those violations, and includes that city human services contractors must submit an attestation within 90 days of being awarded a city contracted even if they have not been approached by a labor organization seeking an LPA.

(The following is the text of the Fiscal Impact Statement for Int. No. 2252-A:)

³⁰ Executive Order No. 16, City of New York Office of the Mayor, Jul. 14, 2016, available at https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2016/eo_19.pdf/.

³¹ *Id.*



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO. 2252-A
COMMITTEE: Civil Service and Labor**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation city human services contractors to enter into labor peace agreements.

Sponsors: By the Speaker (Council Member Johnson) and Council Members Riley, Ayala, Ampry-Samuel, Rose, Moya, Gibson, Treyger, Kallos, Grodenchik, Brannan, Van Bramer, Levine, Brooks-Powers, Gennaro, Dinowitz, Cornegy, Reynoso, Chin, Rivera, Salamanca, Cumbo, Koslowitz, Louis, Rodriguez, Vallone, Powers and Miller.

SUMMARY OF LEGISLATION: Proposed Intro. No. 2252-A would require City human services contractors and certain subcontractors to enter into labor peace agreements with labor organizations seeking to represent their employees rendering services under City human services contracts. Human service contracts include but are not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs. The bill would exempt building service employees and subcontractors whose principal purpose is to provide supplies, or administrative services, technical support or other similar services that do not directly relate to the performance of human services. No later than 90 days after the award or renewal of a human services contract, the contractor would be obligated to submit an attestation that 1) the employer has entered into one or more labor peace agreements with a labor organization, or 2) no labor organization has sought to represent their employees. Such attestation would be required to be updated annually.

EFFECTIVE DATE: This local law would take effect 90 days after becoming law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2023

FISCAL IMPACT STATEMENT:

	Effective FY22	FY Succeeding Effective FY23	Full Fiscal Impact FY23
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office for City Legislative Affairs

2019

July 29, 2021

ESTIMATE PREPARED BY: Nevin Singh, Financial Analyst

ESTIMATE REVIEWED BY: John Russell, Unit Head
Stephanie Ruiz, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council on April 22, 2021 as Intro. No. 2252 and was referred to the Committee on Civil Service and Labor (Committee). The Committee heard the legislation on May 5, 2021 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 2252-A, will be considered by the Committee at a hearing on July 29, 2021. Upon successful vote by the Committee, Proposed Intro. No. 2252-A will be submitted to the full Council for a vote on July 29, 2021.

DATE PREPARED: July 26, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2252-A:)

Int. No. 2252-A

By The Speaker (Council Member Johnson) and Council Members Riley, Ayala, Ampry-Samuel, Rose, Moya, Gibson, Treyger, Kallos, Grodenchik, Brannan, Van Bramer, Levine, Brooks-Powers, Gennaro, Dinowitz, Cornegy, Reynoso, Chin, Rivera, Salamanca, Cumbo, Koslowitz, Rodriguez, Vallone, Powers, Miller, Rosenthal and Barron.

A Local Law to amend the administrative code of the city of New York, in relation to requiring city human services contractors to enter into labor peace agreements

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 6 of the administrative code of the city of New York is amended by adding a new section 6-145 to read as follows:

§ 6-145 Labor peace agreements for human services contracts. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Building service employee. The term “building service employee” means any person, the majority of whose employment consists of performing work in connection with the care or maintenance of a building or property, including but not limited to a watchperson, guard, doorman, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, or window cleaner.

City service contract. The term “city service contract” means any written agreement, except an emergency contract procured pursuant to the procedure set forth in section 315 of the charter, between any person and a contracting agency whereby:

- 1. a contracting agency is committed to expend or does expend funds;*
- 2. the principal purpose of such agreement is to provide human services; and*
- 3. the value of the agreement is greater than the city’s small purchase limit set pursuant to section 314 of the charter.*

City service contractor. The term “city service contractor” means any person that enters into a city service contract with a contracting agency. A person shall be deemed a city service contractor for the duration of the city service contract that such person enters into.

City service subcontractor. The term “city service subcontractor” means any person, including, but not limited to, a temporary services, staffing or employment agency or other similar entity, that pursuant to an agreement with a city service contractor, performs any of the services to be rendered pursuant to a city service contract, except that the term “city service subcontractor” shall not include any person who enters into a contract with a city service contractor the principle purpose of which is to provide supplies, or administrative

services, technical support services, or any other similar services to such city service contractor that do not directly relate to the performance the human services to be rendered pursuant to such city service contract. A person shall be deemed a city service subcontractor for the duration of the period during which such person performs subcontracted services under the city service contract.

Comptroller. The term “comptroller” means the comptroller of the city.

Contracting agency. The term “contracting agency” means the city, a city agency, the city council, a county, a borough, or other office, position, administration, department, division, bureau, board, commission, corporation, or an institution or agency of government, the expenses of which are paid in whole or in part from the city treasury, or the department of education.

Covered employer. The term “covered employer” means a city service contractor or a city service subcontractor.

Covered employee. The term “covered employee” means an employee of a covered employer who directly renders human services in performance of a city service contract, except that the term “covered employee” shall not include any building service employee.

Human services. The term “human services” means social services contracted for by an agency on behalf of third party clients including but not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs.

Labor organization. The term “labor organization” has the same meaning as set forth in subdivision (5) of section 152 of title 29 of the United States code.

Labor peace agreement. The term “labor peace agreement” means an agreement between a covered employer and a labor organization that seeks to represent employees who perform one or more classes of work to be performed pursuant to the city service contract, where such agreement:

1. requires that the covered employer and the labor organization and its members agree to the uninterrupted delivery of services to be rendered pursuant to the city service contract and to refrain from actions intended to or having the effect of interrupting such services; and

2. includes any other terms required by rules promulgated pursuant to paragraph 2 of subdivision d of this section.

b. (1) No later than 90 days after the award or renewal of a city service contract or approval of a city service subcontractor, such covered employer, shall either:

(a) submit an attestation to the applicable contracting agency, signed by one or more labor organizations, as applicable, stating that the covered employer has entered into one or more labor peace agreements with such labor organizations, and identify: (i) the classes of covered employees covered by the labor peace agreements, (ii) the classes of covered employees not currently represented by a labor organization and that no labor organization has sought to represent, and (iii) the classes of covered employees for which labor peace agreement negotiations have not yet concluded; or

(b) submit an attestation to the applicable contracting agency stating that the covered employer’s covered employees are not currently represented by a labor organization and that no labor organization has sought to represent such covered employees.

(2) Where a labor organization seeks to represent the covered employees of a covered employer after the expiration of the 90-day period following the award date of the city service contract or the approval of a city service subcontractor, and the labor organization has provided notice to the contracting agency and the covered employer regarding such interest, the covered employer shall then submit an attestation signed by the labor organization to the applicable contracting agency no later than 90 days after the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.

c. 1. Prior to the award or renewal of a city service contract, the bidder or proposer seeking award or the city service contractor seeking renewal shall provide the awarding contracting agency a certification containing the following information:

(a) The name, address and telephone number of the chief executive officer of the bidder or proposer seeking award, or the city service contractor seeking renewal, as applicable;

(b) A statement that, if the city service contract is awarded or renewed, the bidder or proposer seeking award, or the city service contractor seeking renewal, as applicable, agrees to comply with the requirements of this section, and with all applicable federal, state and local laws; and

(c) A record of any instances during the preceding five years in which the bidder or proposer seeking award, or the city service contractor seeking renewal, as applicable, has been found by a court or government agency to have violated federal, state or local laws regulating labor relations, in which any government body initiated a judicial action, administrative proceeding or investigation of the bidder, proposer, or city service contractor in regard to such laws.

The certification shall be signed under penalty of perjury by an officer of the bidder, proposer, or city service contractor and shall be annexed to and form a part of the city service contract. The certification and the city service contract shall be public documents, and the contracting agency shall make such documents available to the public upon request for inspection and copying pursuant to article six of the public officers law.

2. A city service contractor shall each year throughout the term of the city service contract submit to the contracting agency an updated version of the certification required under paragraph one of this subdivision, and identify any changes from the previous certification.

d. 1. The comptroller shall monitor, investigate and audit the compliance by all contracting agencies, and provide covered employers and covered employees with the information and assistance necessary to ensure that the provisions of this section are implemented.

2. The mayor or the mayor's designee shall promulgate implementing rules and regulations, as appropriate and consistent with this section, and may delegate such authority to the comptroller.

3. The comptroller and the mayor shall ensure that the information set forth in the certifications required to be submitted under subdivision c of this section is integrated into and contained in the database established pursuant to subdivision b of section 6-116.2.

4. The comptroller shall submit annual reports to the mayor and the city council summarizing and assessing the implementation and enforcement of this section during the preceding year and include such information in the report required pursuant to subdivision f of section 6-116.2.

e. 1. Contracting agencies shall comply with and enforce the requirements of this section.

2. The contracting agency shall state in the solicitation for each city service contract that the city service contract shall include:

(a) a requirement that the city service contractor comply with all applicable requirements under this section and any rules promulgated pursuant to this section, and that such requirements constitute a material term of the city service contract;

(b) the certification required under subdivision c of this section; and

(c) a provision providing that: (i) Failure to comply with the requirements of this section may constitute a material breach by the city service contractor of the terms of the city service contract; (ii) Such failure shall be determined by the contracting agency; and (iii) If the city service contractor and/or subcontractor receives written notice of such a breach and fails to cure such breach within 30 days of such notice or a longer time period established pursuant to the terms of the city service contract, the city shall have the right to pursue any rights or remedies available under the terms of the city service contract or under applicable law, including termination of the contract.

f. 1. Whenever the comptroller has reason to believe that a covered employer or other person has not complied with the requirements of this section, or upon a verified complaint in writing from an interested party, the comptroller shall conduct an investigation to determine the facts relating thereto. Based upon such investigation, the comptroller shall report the results of such investigation to the contracting agency. Based on the contracting agency's own findings or as a result of the comptroller's investigation, the contracting agency may, where appropriate, issue an order, determination or other disposition. Such disposition may:

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

(b) Direct payment of the sums withheld at the commencement of the investigation and the interest that has accrued thereon to the covered employer;

(c) Find the city service contractor to be in default or otherwise terminate the applicable city service contract;

(d) Withdraw approval of a city service subcontractor;

(e) Assess actual and consequential damages; or

(f) Enter an agreement with the city service contractor allowing the contractor to cure the violation.

In assessing an appropriate remedy, due consideration shall be given to the size of the covered employer's business, the covered employer's good faith, the gravity of the violation, the history of previous violations and the failure to comply with recordkeeping, reporting or other requirements.

2. Before issuing an order, determination or any other disposition, the contracting agency shall give notice thereof together with a statement of the facts disclosed upon investigation, which notice shall be served personally or by mail on any person or covered employer affected thereby. The mayor or contracting agency, as applicable, may negotiate an agreed upon stipulation of settlement or refer the matter to the office of administrative trials and hearings for a hearing and recommended disposition. Such covered employer shall be notified of a hearing date by the office of administrative trials and hearings and shall have the opportunity to be heard in respect to such matters.

3. When, pursuant to the provisions of this section, a final disposition has been entered against a covered employer in two instances within any consecutive six year period determining that such covered employer has failed to comply with the requirements of this section, such covered employer, and any principal or officer of such covered employer who knowingly participated in such failure, shall be ineligible to submit a bid or proposal on or be awarded any city service contract for a period of five years from the date of the second disposition.

4. Each city service contract shall provide that, in circumstances where a city service contractor fails to perform in accordance with any of the requirements of this section and there is a continued need for the service, a contracting agency may obtain from another source the required service as specified in the original city service contract, or any part thereof, may charge the non-performing city service contractor for any difference in price resulting from the alternative arrangements, may assess any administrative charge established by the contracting agency, and may, as appropriate, invoke such other sanctions as are available under the contract and applicable law.

§ 2. (a) This local law takes effect 90 days after it becomes law, provided that this local law shall not apply to awards or renewals of city service contracts prior to the effective date of this local law, and provided further that the mayor, or a designee of the mayor, may promulgate any rules necessary for implementation of this local law and take any other measures as are necessary for its implementation, prior to such date.

(b) For the purpose of this section, the term "city service contract", shall be defined in accordance with the definition in section 6-145 of the administrative code.

I. DANEEK MILLER, *Chairperson*; HELEN K. ROSENTHAL, ADRIENNE E. ADAMS, FRANCISCO P. MOYA, FARAH N. LOUIS, ERIC DINOWITZ, ERIC A. ULRICH; Committee on Civil Service and Labor, July 29, 2021. *Other Council Members Attending: Council Member Koslowitz, Rose, Levin, Powers and Ayala.*

On motion of the Speaker (Council Member Johnson), 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 Consumer Affairs and Business Licensing

Report for Int. No. 2311-A

Report of the Committee on Consumer Affairs and Business Licensing 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 data on orders placed through third-party food delivery services.

The Committee on Consumer Affairs and Business Licensing, to which the annexed proposed amended local law was referred on May 12, 2021 (Minutes, page 1426), respectfully

REPORTS:

I. INTRODUCTION

On July 29, 2021, the Committee on Consumer Affairs and Business Licensing, chaired by Council Member Diana Ayala, held a vote on Proposed Introduction Number 2311-A (Int. 2311-A), in relation to data on orders placed through third-party food delivery services. The Committee previously heard testimony on this bill from the Department of Consumer and Worker Protection (DCWP), third-party delivery platforms, restaurants, trade associations and other advocates. This feedback informed the final version of the bill. At the vote on July 29, the Committee voted 8 in favor, 1 opposed and 0 abstentions on the bill.

II. BACKGROUND

New York City is a mecca for acclaimed and diverse food options. With more than 23,000 establishments (as of 2019), the City's eateries represent food from over 150 different countries.¹ If you tried to eat, just once, at every restaurant in New York City, it would take over twenty years to visit them all.²

Just like the food they offer, the City's food and restaurant industry is not monolithic, and is comprised of everything from small mom-and-pop establishments, to street vendors, to Michelin-starred, fine dining restaurants. Eighty percent of the City's restaurants are small, with fewer than 20 employees, while only one percent have more than 500 workers.³ With such a diverse food landscape within such a small geographic area, it is no wonder that New York City is consistently ranked as one of the culinary capitals of the world,⁴ and that New York City's eateries form the second-largest component of City's tourism industry, after accommodations.⁵

The restaurant industry is also a vital source of employment and key contributor to the economy. Prior to the COVID-19 pandemic, there were more than 23,600 food establishments in New York City, which contributed to nearly \$27 billion in taxable sales.⁶ Furthermore, in 2019, the industry accounted for one in every 12 private sector positions, supporting around 317,800 jobs.⁷ Clearly, the food and restaurant sector is a pivotal economic contributor and an essential component of the City's identity, to New Yorkers and visitors alike.

Given the important role that the food and restaurant industry plays in New York City, it is crucial that governments do all they can to support this sector as it weathers the ongoing effects of the COVID-19 pandemic. Over the past year and a half, the City Council has passed a number of bills to assist the restaurant industry through this difficult time. This includes allowing a recovery surcharge, a suspension on certain fees and applications, and permitting the use of public streets and sidewalks to accommodate outdoor dining.

Third-Party Delivery Platforms

The three major third-party platforms (TPPs) in New York City are Uber Eats, DoorDash and Grubhub (which also does business as Seamless),⁸ each of which account for approximately a third of all online food

¹ Thomas P. DiNapoli "The restaurant industry in New York City: Tracking the recovery", *Office of the New York State Comptroller*, September 2020, available at: <https://www.osc.state.ny.us/files/reports/osdc/pdf/nyc-restaurant-industry-final.pdf>, p. 1.

² Nick Hines "It would take 22.7 Years to eat at every New York City restaurant", *Vinepair*, May 9, 2017, available at: <https://vinepair.com/booze-news/new-york-restaurants-eat-at-every-on/>.

³ Thomas P. DiNapoli "The restaurant industry in New York City: Tracking the recovery", *Office of the New York State Comptroller*, September 2020, available at: <https://www.osc.state.ny.us/files/reports/osdc/pdf/nyc-restaurant-industry-final.pdf>, p. 1.

⁴ See for example: "New York beats Paris to be named the culinary capital of the world", *Luxury Travel Magazine*, June 4, 2019, available at: <https://www.luxurytravelmagazine.com/news-articles/new-york-beats-paris-to-be-named-the-culinary-capital-of-the-world>; and Kendall Cornish "These are the world's best cities for food", *Travel and Leisure*, July 8, 2020, available at: <https://www.travelandleisure.com/food-drink/worlds-best-cities-for-food>.

⁵ Thomas P. DiNapoli "The restaurant industry in New York City: Tracking the recovery", *Office of the New York State Comptroller*, September 2020, available at: <https://www.osc.state.ny.us/files/reports/osdc/pdf/nyc-restaurant-industry-final.pdf>, p. 1.

⁶ *Id.*

⁷ *Id.* p. 2.

⁸ Seamless is a subsidiary of Grubhub.

orders.⁹ Each platform utilizes a different commission model to facilitate online ordering for customers and restaurants. Typically though, the TPPs charge a commission as well as additional fees for increased visibility on their platform, access to customer data,¹⁰ promotions and marketing, as well as delivery¹¹

With strict limitations on dining throughout the pandemic, TPPs were a crucial lifeline to New York City's restaurants, but that role also earned them hefty rewards. The major TPPs doubled their combined revenue during the pandemic, making a profit of \$5.5 billion in April to September 2020, compared to \$2.5 billion during the same months the previous year.¹² These companies generated \$50.6 billion in sales in 2020, more than double the \$22.7 billion in sales generated in 2019.¹³ Absent the pandemic, it is estimated that sales for TPPs would have grown by only 38 percent, which is significantly below the actual sales growth of 122 percent achieved due to the pandemic.¹⁴

TPPs and Customer Data Collection

Clearly there are mutual benefits for both restaurants and TPPs in utilizing online ordering and delivery. However, as the major TPPs expand their control of the market, the espoused benefits to restaurants have come under scrutiny.¹⁵ One important aspect is that of customer ordering data. While each TPP has a different privacy policy, it is typical for them to collect and analyze the data supplied by restaurant customers in connection with their orders. This will include the customer's name, location, specific food order, email address and payment information.¹⁶ GrubHub additionally requests access to customers' "photos or contact list from your mobile device, Facebook Messenger account or email account".¹⁷ Grubhub may also gather each customer's location data from sources including IP addresses, GPS, Google Maps, WiFi access points and cell towers.¹⁸ DoorDash will also collect information from customers' social media account if the customer logs in to DoorDash from such an account.¹⁹ In all instances, the data is collected from or shared with third-parties.

Compared to other online platforms, TPPs are some of the most frequent trackers and sharers of customer data. According to a study by pCloud, Uber Eats shared 50 percent of the personal data it collected with third parties.²⁰ When it came to collecting data to benefit their own business, Grubhub collected 64 percent of personal data while Uber Eats collected 57 percent.²¹ Overall, according to the study, Uber Eats tracked 50 percent of personal data collected, while GrubHub tracked 36 percent, making these platforms some of the most "invasive" apps studied by pCloud.²² An example of these practices may be found in Grubhub's policy "About Our Ads".

⁹ Kathryn Roethel Rieck, "Which company is winning the food delivery war?", June 14, 2021, *Second Measure*, available at: <https://secondmeasure.com/datapoints/food-delivery-services-grubhub-uber-eats-doordash-postmates>.

¹⁰ For example, DoorDash offers a service called 'Storefront' where restaurants pay a fee to DoorDash in exchange for a website, under the restaurant's actual trading name, that customers will use to place their order. This is one way that restaurants can pay to have access to their customers' ordering information.

¹¹ David Yaffe-Bellany, "New York vs. Grubhub", September 30, 2019, *The New York Times*, available at: <https://www.nytimes.com/2019/09/30/business/grubhub-seamless-restaurants-delivery-apps-fees.html>

¹² Levi Sumagaysay "The pandemic has more than doubled food-delivery apps' business. Now what?", *MarketWatch*, November 27, 2020, available at: <https://www.marketwatch.com/story/the-pandemic-has-more-than-doubled-americans-use-of-food-delivery-apps-but-that-doesnt-mean-the-companies-are-making-money-11606340169>.

¹³ Elliot Shin Oblander and Daniel Minh McCarthy, "How has COVID-19 impacted customer relationship dynamics at restaurant food delivery businesses?", SSRN, April 26, 2021, available at:

https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID3836262_code3120037.pdf?abstractid=3836262&mirid=1, p. 12.

¹⁴ *Id.*

¹⁵ See for example: Nathaniel Popper "As diners flock to delivery apps, restaurants fear for their future", *New York Times*, June 9, 2020, available at: <https://www.nytimes.com/2020/06/09/technology/delivery-apps-restaurants-fees-virus.html>.

¹⁶ Andrew Cromer "Customer data is the hidden value in food-delivery transactions", *Miami Herald*, June 26, 2020, available at: <https://www.miamiherald.com/news/business/biz-columns-blogs/article243827347.html>.

¹⁷ Grubhub "Privacy policy", available at: <https://www.grubhub.com/legal/privacy-policy>, last accessed July 26, 2021.

¹⁸ *Id.*

¹⁹ DoorDash "Privacy policy – United States", effective December 21, 2020, available at:

https://help.doordash.com/consumers/s/privacy-policy-us?language=en_US, last accessed July 26, 2021.

²⁰ Ivan Dimitrov, "Invasive apps", *pCloud*, March 5, 2021, <https://blog.pcloud.com/invasive-apps/>. See also Jason Cohen "Social media and food delivery apps sell the most personal data", *PC Mag*, March 12, 2021, available at: <https://www.pc当地.com/how-to/social-media-and-food-delivery-apps-sell-the-most-personal-data>; and Emma Woollacott, "Which Apps Share Your Data The Most?" *Forbes*, March 5, 2021, <https://www.forbes.com/sites/emmawoollacott/2021/03/05/which-apps-share-your-data-the-most/?sh=e1fbfce5bf2>.

²¹ *Id.*

²² *Id.*

The disclosure, dated January 1, 2020, reveals that the platform allows third parties to place tracking technologies within their service and advertise to users²³ based upon an extensive amount of information they are allowed to collect by Grubhub: users' geolocation data, navigation on the Grubhub website (called "clickstream"), use of third-party applications, times and dates of use and "other information" – all with a common account identifier so that advertisers can combine this information with other devices users employ.²⁴ The user may navigate to this disclosure by clicking on the Grubhub Privacy Policy and finding the link within a sentence in the Privacy Policy.²⁵ In total, the Terms of Use,²⁶ Privacy Policy and About Our Ads disclosure (the latter two of which are incorporated by reference into the users' agreement) contain about 26 pages of text equaling almost 17,000 words.

Although TPPs are recipients of a trove of customer data and may share this information with third-parties, very little of this customer data is shared with the restaurants that the customer is actually ordering from. Instead, TPPs typically limit the ability of restaurants to retain data on their own customers, as the platforms assert ownership over all orders placed through their products.

Customers who sign up to use TPPs typically agree that the TPP may use their data in accordance with guidelines laid out in the agreement.²⁷ These agreements allow the TPP to limit the restaurants' access to data on their own customers,²⁸ even though the order is placed with the restaurant and the TPP simply acts as a conduit for that order. Although TPPs have to provide restaurants with certain information on the customer and their order to fulfill the order, the TPP may opt to limit future access to or retention of that information after the order is completed. In some instances, TPPs may provide the restaurant with historical information on their most popular menu items, and restaurant reviews; however, they may not allow restaurants to access data on past customers' contact information or phone numbers.²⁹ Accordingly, restaurants may develop loyal customers ordering food regularly through a TPP, but the restaurant owner may have no record of the specific customers placing repeat orders.³⁰

TPPs are acutely aware of the value of customer data. Running analytics of current customer data enables TPPs to expose customers to restaurants that pay a higher commission to the platform, creating a hierarchy of advertisements to benefit the TPP. For example, if a customer regularly orders pizza from a specific restaurant through a TPP the TPP will analyze that habit. In order to capitalize on this information, the next time that customer logs in to their TPP account, they will likely see advertisements, deals and promotions from additional pizza restaurants; however, those highlighted by the TPP will typically be those that have paid additional fees and commissions to the TPP.³¹ There have also been instances of TPPs listing false information about a restaurant (for example, listing it as closed), in order to direct traffic to a restaurant paying higher commissions and fees.³²

Ownership of data of thousands of restaurants in a city also enables TPPs to help create targeted restaurant concepts that exist only on their platforms, thereby deepening dependency on their products. Platforms like Uber Eats analyze the ordering data and persuade restaurants to open virtual restaurants – re-branded cuisine concepts from the same restaurant – to meet demand for dishes in a given neighborhood.³³ Some of these virtual

²³ Grubhub, "About Our Ads", Effective January 1, 2020, <https://www.grubhub.com/legal/about-our-ads> ("This information is used to make the advertisements you see online more relevant to your interests, as well as to provide advertising-related services such as reporting, attribution, analytics and market research.")

²⁴ *Id.*

²⁵ Grubhub, "Privacy Policy", Effective December 14, 2020, <https://www.grubhub.com/legal/privacy-policy>.

²⁶ Grubhub, "Terms of Use", Effective December 14, 2020, <https://www.grubhub.com/legal/terms-of-use>.

²⁷ See for example: DoorDash "Terms and Conditions – United States: DoorDash Consumers", effective date December 22, 2020, Sections 1 (definition of "Service") and 7 (a), available at: https://help.doordash.com/consumers/s/terms-and-conditions-us?language=en_US.

²⁸ See for example: DoorDash "Terms of Service – United States: DoorDash Merchants", effective date, February 1, 2021, Section 12 (1): Data Privacy and Security: General, available at: https://help.doordash.com/merchants/s/terms-of-service-us?language=en_US.

²⁹ "Implications for Customer Data When Using Third-Party Restaurant Technology", *Total Food Service*, January 20, 2021, available at: <https://totalfood.com/implications-for-customer-data-when-using-third-party-restaurant-technology/>.

³⁰ Kyle Bagley, "Why Restaurant Delivery Companies Don't Share Their Data," *Medium*, May 23, 2019, available at: https://medium.com/@kb_77275/why-restaurant-delivery-companies-dont-share-their-data-267b97e587eb

³¹ "Why third-party marketplaces want your restaurant's data", *ChowNow*, July 9, 2019, available at: <https://get.chownow.com/blog/why-third-party-marketplaces-want-your-restaurant-data/>.

³² Nathaniel Popper "As diners flock to delivery apps, restaurants fear for their future", *New York Times*, June 9, 2020, available at: <https://www.nytimes.com/2020/06/09/technology/delivery-apps-restaurants-fees-virus.html>.

³³ Mike Isaac and David Yaffe-Bellany "The Rise of the Virtual Restaurant" *The New York Times*, August 4, 2019, available at: <https://www.nytimes.com/2019/08/14/technology/uber-eats-ghost-kitchens.html>.

restaurants may be “ghost” or “dark” or “cloud” kitchens, which are restaurants without an actual storefront or dining room.³⁴ At times, one of these kitchens may actually fulfill orders for a number of different restaurants – both in name and cuisine.³⁵ This model allows restaurants to maximize kitchen space and produce a greater variety of food, while reducing labor and other costs.³⁶ For example, in one New York City ghost kitchen, chefs prepare food for Frato’s pizza, along with food for restaurants under the banners of: Halal Kitchen, Tenderlicious, Cheesy Deliciousness and Heavenly Shakes – “all of which can only be ordered through online sites Grubhub, DoorDash and Uber Eats.”³⁷

Key to establishing these kitchens is the data that explains what food is in demand, at what times, in which neighbors and by which customers – data that restaurants themselves rarely have access to. By monopolizing the data, TPPs have a clear advantage over the restaurants whose orders and customers actually produced the data. Consumers using TPPs are clearly customers of the restaurants from which they order, but restaurants are precluded from equitable access to this data.

While TPPs might be using this data in unique and innovative ways that provide options for consumers, customer data can also be a very useful mechanism to drive future profits for restaurant owners, including growing the loyalty of a restaurant’s existing customer base and reaching new audiences. It is common in the restaurant industry for 80 percent of a restaurant’s business to come from 20 percent of its customers.³⁸ Therefore, possessing information on their loyal customers – such as their contact information and commonly ordered items – can inform business decisions and enable restaurants to conduct specific outreach to retain those customers.³⁹ Infrequent or new customers can also be made into loyal customers through marketing outreach like offering promo codes, new menu items, or special discounts, but data on these customers is crucial.⁴⁰ Data on customers’ ordering habits can further enable a restaurant owner to assess the popularity of their menu items, allowing a restaurant owner to decide which items they should keep or drop from their menu, or which to highlight in marketing campaigns.⁴¹ Aside from driving profits, knowing more about their customers can also enable restaurateurs to develop interpersonal relationships in their communities.

Unlike the comprehensive data that TPPs currently collect and analyze, however, the customer information that would be provided to restaurants under Int. 2311-A is, by comparison, much less: the customer’s name, telephone number, e-mail address, delivery address, and what they are ordering. Although basic, this information for restaurants is vital in terms of keeping in contact with loyal customers and expanding their base. Furthermore, unlike TPPs, sharing customer data with third parties is not a traditional revenue stream for restaurants and, in fact, sharing it with competitors could be detrimental to their bottom line. This again differs from the main objective TPPs have in collecting customer data.

III. BILL ANALYSIS

Int. 2311-A would require the TPPs to share information related to each delivery order placed through their platform with the restaurant that fulfills that order, upon that restaurant’s request. The information would consist of the customer’s name, phone number, e-mail address, delivery address and the contents of their order (this information is outlined in Prop. Int. No. 2335-A, which contains all new definitions for the subchapter). The

³⁴ Emily Newton “Why Are Virtual Kitchens Increasing in Popularity?”, *QSR*, January 8, 2021, available at: <https://www.qsrmagazine.com/outside-insights/why-are-virtual-kitchens-increasing-popularity>.

³⁵ Alexandra Olsen “The rise of ‘ghost kitchens’: Here’s what the online food ordering boom has produced”, *USA Today*, October 21, 2019, available at: <https://www.usatoday.com/story/tech/2019/10/21/ghost-kitchen-virtual-restaurant-heres-how-works/4053659002/>.

³⁶ Jennifer Gould Keil “NYC restaurateurs setting up ‘ghost kitchens’”, *New York Post*, October 6, 2019, available at: <https://nypost.com/2019/10/06/nyc-restaurateurs-setting-up-ghost-kitchens/>

³⁷ Alexandra Olsen “The rise of ‘ghost kitchens’: Here’s what the online food ordering boom has produced”, *USA Today*, October 21, 2019, available at: <https://www.usatoday.com/story/tech/2019/10/21/ghost-kitchen-virtual-restaurant-heres-how-works/4053659002/>.

³⁸ “The 80/20 Restaurant”, The Restaurant Coach, December 6, 2017, available at: <https://www.therestaurantcoach.com/blog/the-80-20-restaurant>

³⁹ Jason Untracht, “Why Your Restaurant Needs to Take Advantage of Customer Data,” ChowNow, May 2, 2018, available at: <https://get.chownow.com/blog/why-your-restaurant-needs-to-take-advantage-of-customer-data/>

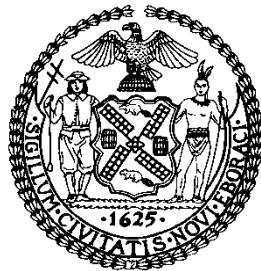
⁴⁰ *Id.*

⁴¹ Ryan Andrews, “How Restaurants Are Using Data and Analytics to Increase Profits”, July 17, 2019, available at: <https://restaurant.eatapp.co/blog/restaurant-data-and-analytics-increase-revenue>

customer would be able to opt out of the sharing of this information, and the TPP would be required to provide a clear disclosure to the customer explaining what information would be shared with the restaurant. The restaurant fulfilling the customer's order would be permitted to retain that information, which must be provided by the platform in a machine-readable format. The TPP could not limit the restaurants' use of the information, but the customer could. The bill would prohibit the restaurant from selling, renting or disclosing the information for financial benefit without express consent from the customer. The customer would also be able to withdraw their consent to using their information and request that the restaurant delete their information. Violations of this bill would result in a civil penalty of not more than \$500 per day per restaurant with respect to which a violation was committed.

This bill would take effect on the same day that Proposed Introduction Number 2333-A takes effect (which is 120 days after becoming law).

(The following is the text of the Fiscal Impact Statement for Int. No. 2311-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO: 2311-A
COMMITTEE: Consumer Affairs and Business
Licensing**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to data on orders placed through third-party food delivery services.

SPONSOR(S): Council Members Powers, Rosenthal, Kallos, Ayala, Lander, Menchaca and Gjonaj.

SUMMARY OF LEGISLATION: Proposed Intro. No. 2311-A would require third-party food delivery services, entities that provide food service establishments with online order and delivery services, to share monthly information on customers who have placed a food or beverage order with an establishment, if that establishment requests the information. The information would consist of the customer's name, phone number, e-mail address, delivery address and the contents of their orders, as described in Proposed Int. No. 2335-A. Customers would be able to opt out of the sharing of this information, and the service would be required to provide a clear disclosure to customers explaining what information would be shared with the establishment. The establishment fulfilling the customer's order would be permitted to retain that information, which would be required to be provided in a machine-readable format. Services could not limit the establishments' use of the information, but the bill would prohibit the establishments from selling, renting or disclosing the information without express consent from the customer, and the customer would be able to withdraw their consent to using their information. The bill would also permit customers to request that the establishment delete their information.

EFFECTIVE DATE: This local law would take effect on the same day as Intro. No. 2333-A takes effect.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2023

FISCAL IMPACT STATEMENT:

	Effective FY22	FY Succeeding Effective FY23	Full Fiscal Impact FY23
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is estimated that this bill would have no impact on revenues.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation. Any costs of complying with this legislation would be borne by private parties.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Florentine Kabore, Financial Analyst

ESTIMATE REVIEWED BY: John Russell, Unit Head
Noah Brick, Assistant Council

LEGISLATIVE HISTORY: This legislation was introduced by the Council on May 12, 2021 as Int. No. 2311 and was referred to the Committee on Consumer Affairs and Business Licensing (Committee). The Committee heard the legislation on June 8, 2021 and the legislation was laid over. The bill was subsequently amended, and the amended version, Proposed Int. No. 2311-A, will be heard by the Committee on July 29, 2021. Upon successful vote by the Committee, the bill will be submitted to the full Council for a vote on July 29, 2021.

DATE PREPARED: July 26, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2311-A:)

Int. No. 2311-A

By Council Members Powers, Rosenthal, Kallos, Ayala, Lander, Menchaca and Gjonaj.

A Local Law to amend the administrative code of the city of New York, in relation to data on orders placed through third-party food delivery services

Be it enacted by the Council as follows:

Section 1. Subchapter 22 of chapter 5 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-847.3 to read as follows:

§ 20-847.3 Customer data. a. A food service establishment may request customer data from a third-party food delivery service. Upon such a request, a third-party food delivery service shall provide to the food service establishment all applicable customer data, until such food service establishment requests to no longer receive such customer data.

b. Notwithstanding the requirements of subdivision a of this section, a third-party food delivery service shall not share customer data applicable to an online order pursuant to subdivision a of this section if such customer requests that such data not be shared in relation to such online order. The customer shall be presumed to have

consented to the sharing of such customer data applicable to all online orders unless such customer has made such a request in relation to a specific online order. The third-party food delivery service shall provide in a conspicuous manner on its website a means for a customer to make such request. To assist its customers with deciding whether their data should be shared, a third-party delivery service shall clearly and conspicuously disclose to the customer the customer data that may be shared with the food service establishment and shall identify the food service establishment fulfilling such customer's online order as a recipient of such data.

c. Third-party food delivery services that share customer data pursuant to this section shall provide such data in a machine-readable format, disaggregated by customer, on an at least monthly basis. Third-party food delivery services shall not limit the ability of food service establishments to download and retain such data, nor limit their use of such data for marketing or other purposes outside the third-party food delivery service website, mobile application or other internet service.

d. Food service establishments that receive customer data pursuant to this section shall not sell, rent, or disclose such customer data to any other party in exchange for financial benefit, except with the express consent of the customer from whom the customer data was collected; shall enable customers to withdraw their consent to use of their data by the food service establishment; and shall enable customers to request and receive deletion of their customer data by the food service establishment.

e. This section does not apply to telephone orders.

f. Nothing in this section shall prevent third-party food delivery services or food service establishments from complying with any other law or rule.

§ 2. This local law takes effect on the same day as a local law amending the administrative code of the city of New York, relating to prohibiting the inclusion of a food service establishment's products on a third-party food delivery platform, as proposed in introduction number 2333-A for the year 2021, takes effect.

DIANA AYALA *Chairperson*; MARGARET S. CHIN, PETER A. KOO, KAREN KOSLOWITZ, BRADFORD S. LANDER, BEN KALLOS, JUSTIN L. BRANNAN, CARLOS MENCHACA; Committee on Consumer Affairs and Business Licensing, July 29, 2021.

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

Report of the Committee on Finance

Report for Int. No. 2291

Report of the Committee on Finance in favor of approving and adopting, a Local Law to amend the administrative code of the city of New York, in relation to authorizing an increase in the amount to be expended annually in the Madison/23rd/ Flatiron/ Chelsea business improvement district, an extension of the Madison/23rd/Flatiron/Chelsea business improvement district, and a change in the method of assessment upon which the district charge in Madison/23rd/Flatiron/Chelsea business improvement district is based.

The Committee on Finance, to which the annexed proposed local law was referred on April 29, 2021 (Minutes, page 1066), respectfully

REPORTS:

BACKGROUND

Under Local Law 82 of 1990, the City Council assumed responsibility for adopting the legislation that would establish individual business improvement districts (“BIDs”).

BIDs are specifically defined areas of designated properties. They use the City’s real property tax collection mechanism to collect a special tax assessment that the BID District Management Association uses to pay for additional services beyond those that the City provides. The additional services would be designed to enhance the area and to improve local business. Normally, a BID’s additional services would be in the areas of security, sanitation, physical/capital improvements (lighting, landscaping, sidewalks, etc.), seasonal activities (Christmas lighting) and related business services (marketing and advertising).

Under the process established by the Law, on May 12, 2021, the City Council adopted Resolution No. 1616, which set a public hearing date of Thursday, May 27, 2021 at 9am in virtual hearing room 1 for the legislation that would authorize an increase in the amount to be expended annually in the Madison/23rd/Flatiron/Chelsea BID (the District), an extension of the District, and a change in the method of assessment upon which the district charge is based.

Prior to the Council’s action, the Community Boards for the district in which the proposed BID is located – Community Boards 4 and 5 in Manhattan – voted to approve the proposed changes to the District on December 20, 2021 and December 21, 2021, respectively. The City Planning Commission (“CPC”) also reviewed the BID’s amended district plan and held a public hearing on January 20, 2021. The CPC approved a resolution on February 17, 2021 (Calendar No. 10), which certified the CPC’s unqualified approval of the amended district plan for the District.

Resolution No. 1616 also directed that all notice provisions contained in the law be complied with. Therefore, the Department of Small Business Services was directed to publish the Resolution or its summary in the City Record or a newspaper of general circulation not less than 10 nor more than 30 days before the public hearing. The District Management Association was directed to mail the Resolution or its summary to each owner of real property within the proposed extended district at the address shown on the latest City assessment roll, to such other persons as are registered with the City to receive tax bills for property within the BID, and to occupants of each building within the proposed extended district, also not less than 10 nor more than 30 days before the public hearing. Finally, the District Management Association was also directed to publish in a newspaper of general circulation a notice stating the time and place of the hearing and stating the increase in the amount to be expended annually in the District not less than 10 days prior to the hearing.

The public hearing to consider both the amended district plan and the enacting legislation, according to the provisions of the law, is to be closed without a vote. The Committee then must wait at least 30 days before it can again consider and possibly vote to approve this legislation. The 30-day period immediately after this public hearing serves as an objection period. Any property owner may, during this time period, formally object to the plan by filing such objection in the Office of the City Clerk, on forms provided by the City Clerk. In the event that either at least 51 percent of the total number of property owners or owners with at least 51 percent of the assessed valuation of all the benefited real property within the district object to the plan, then the City Council is prohibited, by law, from approving such the amended district plan.

When the Committee considers this legislation after the conclusion of the objection period, it must answer the following four questions:

1. Were all notices of hearing for all hearings required to be held published and mailed as so required?;
2. Does all the real property within the district's boundaries benefit from the establishment of the district, except as otherwise provided by the law?;
3. Is all real property benefited by the district included within the district?; and
4. Is the establishment of the district in the best interests of the public?

If the Committee and the full Council finds in the affirmative on these four questions and the number of objections required to prevent the creation of such district are not filed, then the legislation can be adopted.

In addition, pursuant to Section 25-410(b) of the Administrative Code, a BID may obtain an increase in its budget (i.e. the total amount allowed to be expended annually by the BID or improvements, services, maintenance and operation) by means of the adoption of a local law amending the BID's district plan. So, in addition to the four questions outlined above, the Committee and the full Council must also determine that it is in the public interest to authorize such an increase in the maximum annual amount and that the tax and debt limits prescribed in section 25-412 of the Administrative Code will not be exceeded.

This local law takes effect after the requirements contained in Section 25-408 of the Administrative Code are complied with.

MADISON/23RD/FLATIRON/CHELSEA BID DETAILS

The Madison/23rd/Flatiron/Chelsea BID was first established in 2005 and includes properties in the area generally bounded by 20th Street to the south; 29th Street to the north; Sixth Avenue to the west; and Lexington and Third Avenues to the east.

The current service area and the proposed expansion area have experienced substantial population and employment growth since the BID was established. New mixed-use development in the late 1990s and early 2000s concentrated along Sixth Avenue introduced new demand for retail, hotels, and services in the areas west of and within the current BID. Rapid growth in employment since 2000 contributed to the southward expansion of Midtown office demand as businesses in technology, arts, media, and professional services sought space within the Flatiron BID's historic commercial buildings. Consequently, there is a greater demand for BID services and a need to develop a more cohesive marketing strategy to support area businesses.

The BID is requesting that the Council approve the following changes to the District Plan:

- 1) extending existing BID boundaries to the west to include more properties on both sides of Sixth Avenue from 24th Street to 31st Street; to the north from 27th Street to 31st Street, and along Park Avenue South to 33rd Street; and to the south by one block to include both sides of 20th Street between Sixth Avenue and Park Avenue South;
- 2) increasing the BID annual assessment from \$3.25 million to \$6 million; and
- 3) changing method of assessment on which the district charge is based to create a formula based on use class.

Boundary Expansion

The amended district plan would extend BID boundaries from the south side of 20th street to the north side of 30th street including avenues and mid blocks along Sixth avenue and Broadway, Madison Avenue and Fifth Avenue from 20th Street to 31st Street, Lexington Avenue between 22nd and 26th Street, along 23rd Street from the west side of Third Avenue to the west side of Sixth Avenue, and along Park Avenue South from the south side of 20th Street to the north side of 31st Street as well as the northeast side of 31st Street and 1 Park Avenue, between 32nd and 33rd streets

The expanded BID boundary would contain over 6,000 businesses, an increase of approximately 1,500 businesses from the 4,500 within the current BID boundary. There is street level retail on every blockfront - restaurants, apparel shops, shoes, sporting goods, boutique fitness, cosmetics, bookstores, dry goods - in every price range. The toy industry, insurance companies, table and home furnishings, and interior design showrooms have been historic commercial uses in the District and are today joined by technology, new media, creative design, publishing, and marketing/advertising/public relations uses, as well as several hotels. The expanded district would also add an additional 3,000 residential units to the approximately 20,000 units in the district today.

Annual Assessment Increase

The current maximum annual assessment for the BID is authorized to be \$3.25 million. The geographic expansion of the BID would provide additional funding and would allow for the expansion of services to new areas and augmentation of services in the existing area. Accordingly, the BID is requesting authorization to increase the annual assessment to \$6 million.

Funding Formula Changes

The main source of BID funding would continue to be an assessment of the properties within the BID. Retail, commercial, professional, parking lots, and mixed-use properties would continue to be assessed using commercial square footage, but subject to the creation of additional assessment classes varying the assessment per commercial square foot according to use class. According to the report issued by the City Planning Commission, approximate assessments by class would be:

- Class A – Commercial properties will be assessed at approximately \$0.16 per square foot of floor area.
- Class A.1 – Commercial properties over 1 million square feet and located on a single block will be assessed at approximately \$0.13 per square foot of floor area.
- Class A.2 – Properties larger than 200,000 square feet containing both residential and commercial uses will be assessed at approximately \$0.16 per square foot of commercial floor area and \$0.07 per square foot of residential floor area.
- Class B – All other residential properties will be assessed at \$1.00 annually.
- Class C – Not-for-profit and government properties will not be assessed.
- Class D – Vacant properties will be assessed at \$1.00 annually.
Class D.1 – Parking lots with no structures on the property will be assessed at \$0.16 per square foot of lot area.

MAY 27, 2021 HEARING

On May 27, 2021, as set forth in Resolution No. 1616, the Committee on Finance held a public hearing to consider Int. No. 2291 that would approve the above-described changes to the District Plan.

Representatives of the Department of Small Business Services and the Madison/23rd/Flatiron/Chelsea BID testified in support of the proposed changes to the BID's District Plan. Specifically, the Department of Small Business Services testified about its extensive outreach and close coordination with key stakeholders, the documented support among all stakeholder groups, its mailing of all required notices, and its publication of a copy of the summary of the Resolution in the City Record.

As required by law, the hearing closed without a vote and the 30-day period for property owners to file objections to the amended district plan with the Office of the City Clerk began. Copies of objection forms were made available at the Office of the City Clerk which is located at 1 Centre Street in Manhattan.

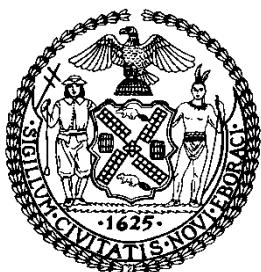
JULY 29, 2021 HEARING

On July 29, 2021, the Committee on Finance will meet to consider and vote on Int. No. 2291. The objection period for the changes to the BID's District Plan closed thirty days after the public hearing. According to the City Clerk, no eligible property owners filed a valid objection to the changes to the BID's District Plan. Also according to information provided by the Department of Small Business Services, which is on file with the Committee on Finance, the legislation proposes zero municipal indebtedness to be contracted for district improvements and the \$6 million district assessment it would authorize would be less than 20 percent of the total general city taxes levied in that year against the taxable real property within the expanded district boundaries, as required by section 25-412 of the Administrative Code.

Since the number of objections required to prevent the creation of the BID have not been filed with the City Clerk, and the tax and debt limits prescribed in section 25-412 of the Administrative Code will not be exceeded

by such increased expenditure, if the Council finds in the affirmative on the four questions outlined above, then the legislation can be adopted, and the BID District Plan will be amended.

(The following is the text of the Fiscal Impact Statement for Int. No. 2291:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

INTRO. NO. 2291

COMMITTEE: Finance

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to authorizing an increase in the amount to be expended annually in the Madison/23rd/Flatiron/Chelsea business improvement district, an extension of the Madison/23rd/Flatiron/Chelsea business improvement district, and a change in the method of assessment upon which the district charge in Madison/23rd/Flatiron/Chelsea business improvement district is based.

SPONSORS: Council Member Dromm (by request of the Mayor).

SUMMARY OF LEGISLATION: Business Improvement Districts (BIDs) raise funding, primarily through special assessments, to provide services independent of those already provided by the City. Special assessments are additional charges billed to property owners within a BID that are collected as part of the City's property tax collection system. This legislation would authorize the Madison/23rd/Flatiron/Chelsea BID to increase the amount it expends annually from \$3,250,000 to \$6,000,000. This legislation would also authorize the Madison/23rd/Flatiron/Chelsea BID to extend the district's physical boundaries as well as change the method of assessment upon which the district charge is based.

EFFECTIVE DATE: This local law would take effect immediately and be retroactive to and deemed to have been in effect as of June 30, 2021.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal Year 2022

FISCAL IMPACT STATEMENT:

	Effective FY21	FY Succeeding Effective FY22	Full Fiscal Impact FY22
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES AND EXPENDITURES: There would be no net impact on revenues or expenditures resulting from the enactment of this legislation. The BID assessments are charges separate from the City's property tax levy and do not contribute to the General Fund. The assessments are levied on the businesses located in the impacted BIDs, then collected with the City's property tax collection system and passed through to the BIDs.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: BID special assessments

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Luke Zangerle, Finance Analyst, Finance Division

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Stephanie Ruiz, Assistant Counsel

LEGISLATIVE HISTORY: Intro. No. 2291 was introduced to the full Council on April 29, 2021 and referred to the Committee on Finance (Committee). A hearing was held by the Committee on May 27, 2021 and the bill was laid over. The Committee will consider and vote on the legislation on July 29, 2021. Upon a successful vote by the Committee, the legislation will be submitted to the full Council for a vote on July 29, 2021.

DATE PREPARED: July 26, 2021.

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 2291:)

Int. No. 2291

By Council Member Dromm (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to authorizing an increase in the amount to be expended annually in the Madison/23rd/ Flatiron/ Chelsea business improvement district, an extension of the Madison/23rd/Flatiron/Chelsea business improvement district, and a change in the method of assessment upon which the district charge in Madison/23rd/Flatiron/Chelsea business improvement district is based

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 25-463.1 of the administrative code of the city of New York, as amended by local law number 223 for the year 2018, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Madison/23rd/Flatiron/Chelsea business improvement district beginning on July 1, [2018] 2021, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [three million two hundred fifty thousand dollars (\$3,250,000)] *six million dollars (\$6,000,000)*.

§ 2. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-463.2 to read as follows:

§ 25-263.2 Madison/23rd/Flatiron/Chelsea business improvement district; extension of district. a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the extension of the district; that all the real property benefited is included within the

limits of the district; and that the extension of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, the Madison/23rd/Flatiron/Chelsea business improvement district in the borough of Manhattan is hereby extended. Such district is extended in accordance with the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the amended district plan upon which the Madison/23rd/Flatiron/Chelsea business improvement district, and the extension thereof, is based.

c. The amended district plan shall not be further amended except in accordance with chapter four of this title.

§ 3. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-463.3 to read as follows:

§ 25-463.3 Madison/23rd/Flatiron/Chelsea business improvement district; amendment of the district plan. a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize a change in the method of assessment upon which the district charge in the Madison/23rd Flatiron/Chelsea business improvement district is based, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such change, there is hereby authorized in such district such change as is set forth in the amended district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law, the council shall file with the city clerk the amended district plan containing the change in the method of assessment authorized by subdivision a of this section.

§ 4. This local law takes effect immediately and is retroactive to and deemed to have been in full force and effect as of June 30, 2021; provided that section two of this local law takes effect upon compliance with section 25-408 of chapter 4 of title 25 of the administrative code of the city of New York and is retroactive to and deemed to have been in full force and effect as of June 30, 2021.

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, VANESSA L. GIBSON, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, FRANCISCO P. MOYA, KEITH POWERS, DARMA V. DIAZ, JAMES F. GENNARO, SELVENA N. BROOKS-POWERS, STEVEN MATTEO; Committee on Finance, July 29, 2021. *Other Council Members Attending: Council Member Menchaca.*

On motion of the Speaker (Council Member Johnson), 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 Johnson) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for Res. No. 1715

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

The Committee on Finance, to which the annexed preconsidered resolution was referred on July 29, 2021, respectfully

REPORTS:

Introduction. The Council of the City of New York (the “Council”) annually adopts the City’s budget covering expenditures other than for capital projects (the “expense budget”) pursuant to Section 254 of the Charter. On June 19, 2019, the Council adopted the expense budget for fiscal year 2020 with various programs and initiatives (the “Fiscal 2020 Expense Budget”). On June 30, 2020, the Council adopted the expense budget for fiscal year

2021 with various programs and initiatives (the “Fiscal 2021 Expense Budget”). On June 30, 2021, the Council adopted the expense budget for fiscal year 2022 with various programs and initiatives (the “Fiscal 2022 Expense Budget”).

Analysis. In an effort to continue to make the budget process more transparent, the Council is providing a list setting forth new designations and/or changes in the designation of certain organizations receiving funding in accordance with the Fiscal 2022 Expense Budget, new designations and/or changes in the designation of certain organizations receiving funding in accordance with the Fiscal 2021 Expense Budget, and amendments to the description for the Description/Scope of Services of certain organizations receiving funding in accordance with the Fiscal 2021, Fiscal 2020 and Fiscal 2019 Expense Budgets.

This Resolution, dated July 29, 2021, approves the new designation and the changes in the designation of certain organizations receiving local, anti-poverty, aging and youth discretionary funding and funding for certain initiatives in accordance with the Fiscal 2022 Expense Budget, approves the new designation and the changes in the designation of certain organizations receiving local and aging discretionary funding and funding for certain initiatives in accordance with the Fiscal 2021 Expense Budget, and amends the description for the Description/Scope of Services of certain organization receiving local discretionary funding and funding for a certain initiative in accordance with the Fiscal 2022, Fiscal 2021 and Fiscal 2020 Expense Budgets.

This Resolution sets forth the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2022 Expense Budget, as described in Chart 1; sets forth the new designation and the changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2022 Expense Budget, as described in Chart 2; sets forth the new designation and the changes in the designation of certain organizations receiving aging discretionary funding in accordance with the Fiscal 2022 Expense Budget, as described in Chart 3; sets forth the new designation and the changes in the designation of certain organizations receiving anti-poverty discretionary funding in accordance with the Fiscal 2022 Expense Budget, as described in Chart 4; sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to certain initiatives pursuant to the Fiscal 2022 Expense Budget, as described in Charts 5-39; sets forth the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2021 Expense Budget, as described in Chart 40; sets forth the new designation and the changes in the designation of certain organizations receiving aging discretionary funding pursuant to the Fiscal 2021 Expense Budget, as described in Chart 41; sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to certain initiatives pursuant to the Fiscal 2021 Expense Budget, as described in Charts 42-46; amends the description for the Description/Scope of Services of certain organizations receiving local discretionary funding in accordance with the Fiscal 2021 Expense Budget, as described in Chart 47; amends the description for the Description/Scope of Services of certain organizations receiving local and funding for a certain initiative pursuant in accordance with the Fiscal 2021 Expense Budget, as described in Chart 48; and amends the description for the Description/Scope of Services of certain organizations receiving local discretionary funding pursuant in accordance with the Fiscal 2020 Expense Budget, as described in Chart 49.

Specifically, Chart 1 sets forth the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2022 Expense Budget. Some of these changes will be effectuated upon a budget modification.

Chart 2 sets forth the new designation and the changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2022 Expense Budget.

Chart 3 sets forth the new designation and the changes in the designation of certain organizations receiving aging discretionary funding in accordance with the Fiscal 2022 Expense Budget.

Chart 4 sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to the anti-poverty discretionary funding in accordance with the Fiscal 2022 Expense Budget. Some of these designations will be effectuated upon a budget modification.

Chart 5 sets forth the new designation of a certain organization receiving funding pursuant to the Boroughwide Needs Infinitive in accordance with the Fiscal 2022 Expense Budget.

Chart 6 sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to the Speaker's Initiative to Address Citywide Needs Initiative in accordance with the Fiscal 2022 Expense Budget. Some of these designations will be effectuated upon a budget modification.

Chart 7 sets forth the new designation of certain organizations receiving funding pursuant to the A Greener NYC Initiative in accordance with the Fiscal 2022 Expense Budget. Some of these designations will be effectuated upon a budget modification.

Chart 8 sets forth the new designation of certain organizations receiving funding pursuant to the Cultural After-School Adventure (CASA) Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 9 sets forth the new designation of certain organizations receiving funding pursuant to the Neighborhood Development Grant Initiative in accordance with the Fiscal 2022 Expense Budget. Some of these designations will be effectuated upon a budget modification.

Chart 10 sets forth the new designation of certain organizations receiving funding pursuant to the NYC Cleanup Initiative in accordance with the Fiscal 2022 Expense Budget. Some of these designations will be effectuated upon a budget modification.

Chart 11 sets forth the new designation of certain organizations receiving funding pursuant to the Parks Equity Initiative in accordance with the Fiscal 2022 Expense Budget. One of these designations will be effectuated upon a budget modification.

Chart 12 sets forth the new designation of certain organizations receiving funding pursuant to the Cultural Immigrant Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 13 sets forth the new designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2022 Expense Budget. One of these designations will be effectuated upon a budget modification.

Chart 14 sets forth the new designation of certain organizations receiving funding pursuant to the Food Pantries Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 15 sets forth the new designation of a certain organization receiving funding pursuant to the Digital Inclusion and Literacy Initiative in accordance with the Fiscal 2022 Expense Budget. Some of these designations will be effectuated upon a budget modification.

Chart 16 sets forth the new designation of certain organizations receiving funding pursuant to the Five Borough Chamber Alliance Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 17 sets forth the new designation of certain organizations receiving funding pursuant to the LGBT Community Services Initiative in accordance with the Fiscal 2022 Expense Budget. Some of these changes will be effected upon a budget modification.

Chart 18 sets forth the new designation of certain organizations receiving funding pursuant to the Trans Equity Programs Initiative in accordance with the Fiscal 2022 Expense Budget. Some of these changes will be effectuated upon a budget modification.

Chart 19 sets forth the new designation of certain organizations receiving funding pursuant to the Legal Services for the Working Poor Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 20 sets forth the new designation of a certain organization receiving funding pursuant to the Alternatives to Incarceration (ATI's) Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 21 sets forth the new designation of a certain organization receiving funding pursuant to the Young Women's Leadership Development Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 22 sets forth the new designation of certain organizations receiving funding pursuant to the Access Health Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 23 sets forth the new designation of certain organizations receiving funding pursuant to the Autism Awareness Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 24 sets forth the new designation of a certain organization receiving funding pursuant to the Cancer Services Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 25 sets forth the new designation of certain organizations receiving funding pursuant to the Court-Involved Youth Mental Health Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 26 sets forth the new designation of certain organizations receiving funding pursuant to the Developmental, Psychological and Behavioral Health Services Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 27 sets forth the new designation of certain organizations receiving funding pursuant to the Ending the Epidemic Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 28 sets forth the new designation of certain organizations receiving funding pursuant to the Geriatric Mental Health Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 29 sets forth the new designation of certain organizations receiving funding pursuant to the HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 30 sets forth the new designation of a certain organization receiving funding pursuant to the Maternal and Child Health Services Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 31 sets forth the new designation of certain organizations receiving funding pursuant to the Mental Health Services for Vulnerable Populations Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 32 sets forth the new designation of certain organizations receiving funding pursuant to the Opioid Prevention and Treatment Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 33 sets forth the new designation of certain organizations receiving funding pursuant to the Viral Hepatitis Prevention Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 34 sets forth the new designation of a certain organization receiving funding pursuant to the Veterans Community Development Initiative in accordance with the Fiscal 2022 Expense Budget. All of these changes will be effectuated upon a budget modification.

Chart 35 sets forth the change in the designation of a certain organization receiving funding pursuant to the Construction Site Safety Training Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 36 sets forth the new designation of a certain organization receiving funding pursuant to the Afterschool Enrichment Initiative in accordance with the Fiscal 2022 Expense Budget. One of these changes will be effectuated upon a budget modification.

Chart 37 sets forth the new designation of a certain organization receiving funding pursuant to the Job Training and Placement Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 38 sets forth the new designation of a certain organization receiving funding pursuant to the LGBTQ Inclusive Curriculum Initiative in accordance with the Fiscal 2022 Expense Budget. Some of these changes will be effectuated upon a budget modification.

Chart 39 sets forth the change in the designation of a certain organization receiving funding pursuant to the Community Schools Initiative in accordance with the Fiscal 2022 Expense Budget.

Chart 40 sets forth the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2021 Expense Budget.

Chart 41 sets forth the new designation and the changes in the designation of certain organizations receiving aging discretionary funding in accordance with the Fiscal 2021 Expense Budget.

Chart 42 sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to the A Greener NYC Initiative in accordance with the Fiscal 2021 Expense Budget.

Chart 43 sets forth the changes in the designation of a certain organization receiving funding pursuant to the Cultural After-School Adventure (CASA) Initiative in accordance with the Fiscal 2021 Expense Budget.

Chart 44 sets forth the new designation of a certain organization receiving funding pursuant to the Cultural Immigrant Initiative in accordance with the Fiscal 2021 Expense Budget.

Chart 45 sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2021 Expense Budget.

Chart 46 sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to the Naturally Occurring Retirement Communities (NORCs) Initiative in accordance with the Fiscal 2021 Expense Budget.

Chart 47 amends the description for the Description/Scope of Services for certain organizations receiving local discretionary funding in accordance with the Fiscal 2022 Expense Budget.

Chart 48 amends the description for the Description/Scope of Services for certain organizations receiving local discretionary funding and funding for a certain initiative in accordance with the Fiscal 2021 Expense Budget.

Chart 49 amends the description for the Description/Scope of Services for a certain organization receiving local discretionary funding in accordance with the Fiscal 2020 Expense Budget.

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

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

Description of Above-captioned Resolution. In the above-captioned Resolution, the Council would approve the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2022, Fiscal 2021, and Fiscal 2020 Expense Budgets. Such Resolution would take effect as of the date of adoption.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1715:)

Preconsidered Res. No. 1715

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

By Council Member Dromm.

Whereas, On June 30, 2021, the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2022 with various programs and initiatives (the “Fiscal 2021 Expense Budget”); and

Whereas, On June 30, 2020, the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2021 with various programs and initiatives (the “Fiscal 2021 Expense Budget”); and

Whereas, On June 19, 2019 the Council adopted the expense budget for fiscal year 2020 with various programs and initiatives (the “Fiscal 2020 Expense Budget”); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2022, Fiscal 2021, and Fiscal 2020 Expense Budgets by approving the new designation and changes in the designation of certain organizations receiving local, youth, aging, and anti-poverty discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2022, Fiscal 2021, and Fiscal 2020 Expense Budgets by approving new Description/Scope of Services for certain organizations receiving local discretionary funding and funding pursuant to a certain initiative; now, therefore, be it

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2022 Expense Budget, as set forth in Chart 1; and be it further

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 2; and be it further

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving aging discretionary funding in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 3; and be it further

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving funding pursuant to the anti-poverty discretionary funding in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 4; and be it further

Resolved, That the City Council approves the new designation of a certain organization receiving funding pursuant to the Boroughwide Needs Infinitive in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 5; and be it further

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving funding pursuant to the Speaker’s Initiative to Address Citywide Needs Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 6; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the A Greener NYC Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 7; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Cultural After-School Adventure (CASA) Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 8; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Neighborhood Development Grant Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 9; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the NYC Cleanup Initiative in accordance with the Fiscal 2022 Expense Budget t, as set forth in Chart 10; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Parks Equity Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 11; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Cultural Immigrant Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 12; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 13; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 14; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Digital Inclusion and Literacy Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 15; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Five Borough Chamber Alliance Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 16; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the LGBT Community Services Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 17; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Trans Equity Programs Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 18; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Legal Services for the Working Poor Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 19; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Alternatives to Incarceration (ATI's) Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 20; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Young Women's Leadership Development Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 21; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Access Health Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 22; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Autism Awareness Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 23; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Cancer Services Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 24; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Court-Involved Youth Mental Health Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 25; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Developmental, Psychological and Behavioral Health Services Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 26; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Ending the Epidemic Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 27; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Geriatric Mental Health Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 28; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 29; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Maternal and Child Health Services Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 30; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Mental Health Services for Vulnerable Populations Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 31; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Opioid Prevention and Treatment Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 32; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Viral Hepatitis Prevention Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 33; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Veterans Community Development Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 34; and be it further

Resolved, That the City Council approves sets forth the change in the designation of a certain organization receiving funding pursuant to the Construction Site Safety Training Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 35; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Afterschool Enrichment Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 36; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Job Training and Placement Initiative in accordance with the Fiscal 2022 Expense Budget; as set forth in Chart 37; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the LGBTQ Inclusive Curriculum Initiative in accordance with the Fiscal 2022 Expense Budget; as set forth in Chart 38; and be it further

Resolved, That the City Council approves sets forth the change in the designation of a certain organization receiving funding pursuant to the Community Schools Initiative in accordance with the Fiscal 2022 Expense Budget; as set forth in Chart 39; and be it further

Resolved, That the City Council approves sets forth the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2021 Expense Budget, as set forth in Chart 40; and be it further

Resolved, That the City Council approves sets forth the new designation and the changes in the designation of certain organizations receiving aging discretionary funding in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 41; and be it further

Resolved, That the City Council approves sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to the A Greener NYC Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 42; and be it further

Resolved, That the City Council approves sets forth the changes in the designation of a certain organization receiving funding pursuant to the Cultural After-School Adventure (CASA) Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 43; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Cultural Immigrant Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 44; and be it further

Resolved, That the City Council approves sets forth the changes in the designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 45; and be it further

Resolved, That the City Council approves sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to the Naturally Occurring Retirement Communities (NORCs) Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 46; and be it further

Resolved, That the City Council amends the description for the Description/Scope of Services for certain organizations receiving local discretionary funding in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 47; and be it further

Resolved, That the City Council amends the description for the Description/Scope of Services for certain organizations receiving local discretionary funding and funding for a certain initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 48; and be it further

Resolved, That the City Council amends the description for the Description/Scope of Services for a certain organization receiving local discretionary funding in accordance with the Fiscal 2020 Expense Budget, as set forth in Chart 49.

(For text of the Exhibit Charts, please refer to the attachments section of the Res. No. 1715 of 2021 file in the legislation section of the New York City Council website at <https://council.nyc.gov>)

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, VANESSA L. GIBSON, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, FRANCISCO P. MOYA, KEITH POWERS, DARMA V. DIAZ, JAMES F. GENNARO, SELVENA N. BROOKS-POWERS, STEVEN MATTEO; Committee on Finance, July 29, 2021. *Other Council Members Attending: Council Member Menchaca.*

On motion of the Speaker (Council Member Johnson), 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 Johnson) 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. 818

Report of the Committee on Finance in favor of a Resolution approving Beck Street HDFC.PL.P.FY22, Block 2684, Lots 54 and 57; Bronx, Community District No. 2, Council District 17.

The Committee on Finance, to which the annexed preconsidered Land Use item was referred on July 29, 2021 and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

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

July 29, 2021

TO: Hon. Daniel Dromm
Chair, Finance Committee
Members of the Finance Committee

FROM: Rebecca Chasan, Senior Counsel, Finance Division
Stephanie Ruiz, Assistant Counsel, Finance Division

RE: Finance Committee Agenda of July 29, 2021 – Resolutions approving a tax exemption for two Land Use items (Council Districts 17 and 38)

Item 1: Beck Street HDFC

Beck Street HDFC is comprised of two contiguous buildings located on the border of the Mott Haven and Hunts Point neighborhoods in the Bronx, containing 84 residential units. The residential units include three studios, 50 one-bedrooms, 19 two-bedrooms, and 11 three-bedrooms (inclusive of one superintendent unit).

The building is owned and managed by 664-672 Beck Street Housing Development Fund Company, Inc. (“HDFC”). The project will support the substantial rehabilitation of the buildings, anticipated to include the replacement of nearly every building system. The buildings are expected to receive approximately \$8 million in City capital and \$4 million in private financing. In addition, the buildings will receive assistance through the Weatherization Assistance Program (“WAP”), which will provide \$232,000 in grant financing for energy efficiency measures such as a new gas boiler and domestic hot water heater, LED lighting in apartments, low flow showerhead and aerators, and pipe insulation.

The properties currently benefit from partial J-51 tax exemptions. In order to ensure the continued affordability of the buildings, the new 40-year Article XI exemption will be reduced by an amount equal to any concurrent J-51 benefits. Further, the new tax exemption will be partially retroactive to address accumulated arrears, with an effective date of July 1, 2016 for the building located at 664 Beck Street, and an effective date of January 1, 2017 for the building located at 672 Beck Street.

The New York City Department of Housing Preservation and Development (“HPD”) is requesting that the Council approve a full, 40-year Article XI property tax exemption to support affordability. The HDFC, the New York City Housing Development Corporation (“HDC”) and HPD would enter into a regulatory agreement that would require that 33 units be leased to households with incomes up to 55 percent of the Area Median Income (“AMI”), that 30 units be leased to households with incomes up to 60 percent of the AMI, and that 20 units be leased to households with incomes up to 70 percent of the AMI.

Summary:

- Borough – Bronx
- Block 2684, Lots 54 and 57
- Council District – 17
- Council Member – Salamanca

- Council Member approval –Yes
- Number of buildings – 2
- Number of units – 84 (including one superintendent unit)
- Type of exemption – Article XI, full, 40 years
- Population – affordable rental housing
- Sponsor – 664-672 Beck Street HDFC
- Purpose – preservation
- Cost to the city - \$11.3 million
- Housing Code Violations
 - Class A – 33
 - Class B – 77
 - Class C – 2
- AMI target – 33 units at 55% of AMI; 30 units at 60% of AMI; 20 units at 70% of AMI.

Item 2: Maimonides

The Maimonides project consists of six buildings with a total of 229 residential units. The residential units include 21 studio units, 77 one-bedroom units, 97 two-bedroom units, and 33 three-bedroom units, inclusive of one superintendent unit.

Currently, one of the buildings receive J-51 benefits. Under the proposed project, Park Affordable HDFC will acquire the properties and Park Affordable LP (“Partnership”) will become the beneficial owner and will manage the buildings. The HDFC and the Partnership (collectively, “Owner”) will finance the rehabilitation of the buildings with a loan from a private lending institution.

HPD is requesting that the Council approve a partial, 40-year Article XI property tax exemption. The Owner and HPD would enter into a regulatory agreement that would require that 46 units be leased to households with incomes up to 50 percent of the AMI, three units be leased to households with incomes up to 60 percent of the AMI, 57 units be leased to households with incomes up to 110 percent of the AMI, 115 units be leased to households with incomes up to 110 percent of the AMI and seven units would be leased at market value. Additionally, as part of the regulatory agreement, there would be a 30 percent set-aside of the total regulated units for formerly homeless households. All units would also receive services to help referred tenants connect with benefits and other assistance in the area. Additionally, a portion of these units may receive enhanced services to address the needs of households who are high utilizers of NYC’s Health and Hospitals system.

Furthermore, the Partnership has committed to a number of other provisions memorialized in a June 25, 2021 letter to Council Member Menchaca, on file with the Finance Committee. These provisions include participating in HPD’s Aging in Place Initiative; working with CAMBA, Inc., as the services provider to acclimate tenants to their new apartments, develop an assessment and service plan for each household, assign case managers, provide entitlements counseling, facilitate regular meetings with property management and tenants on lease obligations to ensure long term tenancies, and connect tenants to other qualified providers to obtain additional services; making efforts to ensure that the opportunity for community members to apply for housing in this project would be made available and publicized in the various languages and publications; committing that any written communications from the property management to the tenants be made available in various languages; hiring individuals to host pertinent tenant meetings in languages most spoken in buildings, including three community open house meetings after the project closes; informing the community board of all vacancies; provide quarterly updates on vacancies and major capital improvements to the community board and the local Council Member; including an additional \$12 million in renovations; and paying prevailing wages for all building service workers.

Summary:

- Borough – Brooklyn
- Block 5590, Lot 52; Block 5613, Lot 44; Block 5625, Lots 5, 8, and 11; Block 5637, Lot 32
- Council District – 38
- Council Member – Menchaca
- Council Member approval –Yes
- Number of buildings – 6
- Number of units – 229
- Type of exemption – Article XI, partial, 40 years
- Population – affordable rental housing
- Sponsor – Park Affordable HDFC; Park Affordable LP
- Purpose – preservation
- Cost to the city - \$22.5 million
- Housing Code Violations
 - Class A – 36
 - Class B – 93
 - Class C – 72
- AMI target – 46 units at 50% of AMI, 3 units at 60% of AMI, 57 units at 110% of AMI, 115 units at 110% of AMI, and 7 units at market value.

(For text of the coupled resolution for L.U. No. 819, please see the Report of the Committee on Finance for L.U. No. 819 printed in these Minutes; for the coupled resolution for L.U. No. 818, please see below:)

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

Res. No. 1718

Resolution approving an exemption from real property taxes for property located at (Block 2684, Lots 54 and 57) Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 818).

By Council Member Dromm.

WHEREAS, The New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council its request dated July 7, 2021 that the Council take the following action regarding a housing project located at (Block 2684, Lots 54 and 57) Bronx (“Exemption Area”):

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

WHEREAS, The project description that HPD provided to the Council states that the purchaser of the Project (the “Owner”) 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 (i) July 1, 2016 for Block 2684, Lot 54, and (ii) January 1, 2017 for Block 2684, Lot 57.
 - b. “Exemption” shall mean the exemption from real property taxation provided hereunder.
 - c. “Exemption Area” shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2684, Lots 54 and 57 on the Tax Map of the City of New York.
 - d. “Expiration Date” shall mean for each of the tax lots in the Exemption Area, respectively, 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 664-672 Beck Street Housing Development Fund Company, Inc. or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - 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.
 - i. “Regulatory Agreement” shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area on or after the date such Regulatory Agreement is executed.
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, commercial, or community facility 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) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or 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 buildings on the Exemption Area that exist on the Effective Date.

- c. Nothing herein shall entitle the HDFC, the Owner, or any other person or entity to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
4. In consideration of the Exemption, the owner of the Exemption Area shall (a) execute and record the Regulatory Agreement, and (b) for so long as the Exemption shall remain in effect, 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, (a) nothing herein shall prohibit the granting of any real property tax abatement pursuant to Sections 467-b or 467-c of the Real Property Tax Law to real property occupied by senior citizens or persons with disabilities, and (b) the J-51 Benefits shall remain in effect, but the Exemption shall be reduced by the amount of such J-51 Benefits.

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, VANESSA L. GIBSON, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, FRANCISCO P. MOYA, KEITH POWERS, DARMA V. DIAZ, JAMES F. GENNARO, SELVENA N. BROOKS-POWERS, STEVEN MATTEO; Committee on Finance, July 29, 2021. *Other Council Members Attending: Council Member Menchaca.*

On motion of the Speaker (Council Member Johnson), 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 Johnson) 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. 819

Report of the Committee on Finance in favor of a Resolution approving Maimonides, Block 5590, Lot 52, Block 5613, Lot 44, Block 5625, Lots 5, 8, and 11, Block 5637, Lot 32; Brooklyn, Community District No. 12, Council District 38.

The Committee on Finance, to which the annexed preconsidered Land Use item was referred on July 29, 2021 and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Finance for L.U. No. 818 printed in these Minutes)

Accordingly, this Committee recommends its adoption.

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

Res. No. 1719

Resolution approving an exemption from real property taxes for property located at (Block 5590, Lot 52; Block 5613, Lot 44; Block 5625, Lots 5, 8, and 11; Block 5637, Lot 32) Brooklyn, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 819).

By Council Member Dromm.

WHEREAS, The New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council its request dated June 25, 2021 that the Council take the following action regarding a housing project located at (Block 5590, Lot 52; Block 5613, Lot 44; Block 5625, Lots 5, 8, and 11; Block 5637, Lot 32) Brooklyn (“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 “Owner”) is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

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

RESOLVED:

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

1. For the purposes hereof, the following terms shall have the following meanings:
 - a. “Effective Date” shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, or (ii) the date that HPD and the Owner enter into the Regulatory Agreement.
 - b. “Exemption” shall mean the exemption from real property taxation provided hereunder.
 - c. “Exemption Area” shall mean the real property located in the Borough of Brooklyn, City and State of New York, identified as Block 5590, Lot 52, Block 5613, Lot 44, Block 5625, Lots 5, 8, and 11, and Block 5637, Lot 32 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. “Gross Rent” shall mean the gross potential rents from all residential, commercial, and community facility units on the Exemption Area without regard to whether such units are occupied or vacant, including, but not limited to, Section 8, rent supplements, rental assistance, or any other subsidy.
 - f. “Gross Rent Deadline” shall mean three hundred and sixty-five (365) days from the date of the HPD letter requesting the information that HPD needs to calculate the Gross Rent Tax for the applicable tax year.

- g. “Gross Rent Tax” shall mean, with respect to any tax year, an amount equal to one-hundredth of one percent (0.01%) of the Gross Rent in such tax year; provided, however, that if the Owner fails to provide the Gross Rent on or before the Gross Rent Deadline, Gross Rent Tax shall mean an amount equal to real property taxes that would otherwise be due in such tax year in the absence of any form of exemption from or abatement of real property taxation.
 - h. “HDFC” shall mean Park Affordable Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - i. “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
 - j. “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.
 - k. “Owner” shall mean, collectively, the HDFC and the Partnership.
 - l. “Partnership” shall mean Park Affordable LP or any other entity that acquires the beneficial interest in the Exemption Area with the prior written consent of HPD.
 - m. “Regulatory Agreement” shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.
- 2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business, commercial, or community facility use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
 - 3. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments in the sum of the Gross Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by an existing or future local, state, or federal law, rule, or regulation.
 - 4. Notwithstanding any provision hereof to the contrary:
 - a. The Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (iv) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or 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 buildings on the Exemption Area that exist on the Effective Date.
 - c. Nothing herein shall entitle the HDFC, the Owner, or any other person or entity to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
5. In consideration of the Exemption, the owner of the Exemption Area shall, for so long as the Exemption shall remain in effect, 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, (a) nothing herein shall prohibit the granting of any real property tax abatement pursuant to Sections 467-b or 467-c of the Real Property Tax Law to real property occupied by senior citizens or persons with disabilities, and (b) the J-51 Benefits shall remain in effect, but (i) the Exemption shall be reduced by the amount of such J-51 Benefits, and (ii) the Gross Rent Tax shall not be reduced by such J-51 Benefits.

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, VANESSA L. GIBSON, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, FRANCISCO P. MOYA, KEITH POWERS, DARMA V. DIAZ, JAMES F. GENNARO, SELVENA N. BROOKS-POWERS; Committee on Finance, July 29, 2021. *Other Council Members Attending: Council Member Menchaca.*

On motion of the Speaker (Council Member Johnson), 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 Johnson) announced that the following items had been **preconsidered** by the Committee on Rules, Privileges and Elections and had been favorably reported for adoption.

Report for M-322

Report of the Committee on Rules, Privileges and Elections in favor of approving the appointment by the Mayor of Georgia Pestana as Corporation Counsel of the New York City Law Department.

The Committee on Rules, Privileges and Elections, to which the annexed preconsidered Mayor's Message was referred on July 29, 2021 and which same Mayor's Message was coupled with the resolution shown below, respectfully

REPORTS:

Candidate for Appointment by the Mayor upon Advice and Consent of the Council as Corporation Counsel of the City of New York.

Georgia Pestana [Preconsidered M-322]

By letter dated July 8, 2021, Mayor Bill de Blasio formally submitted the name of Georgia Pestana to the Council of the City of New York concerning the appointment of Ms. Pestana as Corporation Counsel of the City

of New York. As Corporation Counsel, Ms. Pestana would serve as the head of the New York City Law Department.

Pursuant to the New York City Charter (“Charter”) Section 31, the Mayor nominates and, with the advice and consent of the Council, appoints the Corporation Counsel. Section 391(b) of the Charter stipulates that the Mayor shall submit a nominee for Corporation Counsel to the City Council for its advice and consent within 60 days of a vacancy. Today, the Corporation Counsel receives an annual salary of \$243,171.

Law Department Powers and Duties

Chapter 17 of the Charter outlines the powers of the Corporation Counsel and the New York City Law Department. The Charter dictates that the Corporation Counsel shall be the attorney for the City and all City agencies. The Law Department “shall have the charge and conduct of all the law business of the city and its agencies and in which the city is interested.” New York City Charter, Section 394(a).

This mandate includes the ability to institute legal actions on behalf of the City in any court. New York City Charter, Section 394(c). Any settlement requires the approval of the Comptroller. *Id.* The Corporation Counsel is also charged with preparing certain legal papers for the City, including leases, deeds, contracts, and bonds, among other types of legal papers. New York City Charter, Section 394(b).

Agency Structure

Pursuant to Section 392 of the Charter, the Corporation Counsel is authorized to appoint and assign various positions.

The Corporation Counsel “may appoint a first assistant corporation counsel, and such other assistants as may be necessary” New York City Charter, Section 392(a).

The First Assistant Corporation Counsel “possesses all of the powers” to act as the Corporation Counsel if the Corporation Counsel is absent or disabled, and in case of the death or a vacancy in the office of Corporation Counsel, acts “as the Corporation Counsel until the appointment of a new Corporation Counsel.” New York City Charter, Section 392(b). Georgia Pestana was serving as the First Assistant Corporation Counsel when the position of Corporation Counsel became vacant. Since the vacancy occurred, she has been serving as the Acting Corporation Counsel.

Assistant Corporation Counsels will possess the power to perform duties as assigned by the Corporation Counsel, by written authority filed on record at the Law Department. New York City Charter, Section 392(c).

Conclusion

If appointed, Ms. Georgia Pestana will fill a recent vacancy and serve for an indefinite term. Ms. Pestana appeared before the New York City Council’s Committee on Rules, Privileges, and Elections on July 27, 2021. Copies of Ms. Pestana’s résumé, Committee Report/Resolution, and answers to pre-hearing questions are attached to this briefing paper.

(After interviewing the candidate and reviewing the submitted material, the Committee decided to approve the appointment of the nominee GEORGIA PESTANA [M-322])

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to §§ 31 and 391 of the New York City *Charter*, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Mayor of Georgia Pestana as Corporation Counsel of the New York City Law Department to serve for an indefinite term.

This matter will be referred to the Committee on July 29, 2021

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

Res. No. 1720

RESOLUTION APPROVING THE APPOINTMENT BY THE MAYOR OF GEORGIA PESTANA AS CORPORATION COUNSEL OF THE NEW YORK CITY LAW DEPARTMENT.

By Council Member Koslowitz.

RESOLVED, that pursuant §§ 31 and 391 of the New York City Charter, the Council does hereby approve the appointment by the Mayor of Georgia Pestana as the Corporation Counsel of the New York City Law Department to serve for an indefinite term.

KAREN KOSLOWITZ, *Chairperson*; MARGARET S. CHIN, DEBORAH L. ROSE, ADRIENNE E. ADAMS, KEITH POWERS, THE MINORITY LEADER (STEVEN MATTEO), THE SPEAKER (COUNCIL MEMBER COREY D. JOHNSON); Committee on Rules, Privileges and Elections, July 29, 2021. *Other Council Members Attending: Council Member Dromm.*

On motion of the Speaker (Council Member Johnson), 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 Small Business

Report for Int. No. 2333-A

Report of the Committee on Small Business 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 prohibiting the inclusion of a food service establishment's products on a third-party food delivery platform without a written agreement authorizing such inclusion, and to provide penalties.

The Committee on Small Business, to which the annexed proposed amended local law was referred on June 17, 2021 (Minutes, page 1870), respectfully

REPORTS:

I. INTRODUCTION

On July 29, 2021, the Committee on Small Business, chaired by Council Member Mark Gjonaj, will hold a vote on the following bills: (1) Proposed Introduction Number 2333-A (Int. 2333-A), in relation to prohibiting the inclusion of a food service establishment's products on a third-party food delivery platform without a written agreement authorizing such inclusion, and to provide penalties; (2) Proposed Introduction Number 2335-A (Int. 2335-A), in relation to requiring third-party food delivery services to provide a description of the telephone numbers listed in connection with food service establishments; (3) Proposed Introduction Number 2356-A (Int. 2356-A), in relation to extending the prohibition of certain telephone order charges by third-party food delivery services; and (4) Proposed Introduction Number 2359-A (Int. 2359-A), in relation to extending the limitation on fees charged to food service establishments by third-party food delivery services.

The Committee previously heard testimony on this bill from the Office of Special Enforcement (OSE) and Department of Consumer Affairs and Worker Protection (DCWP), third-party delivery platforms, restaurants and trade associations. This feedback informed the final version of the bills.

II. BACKGROUND

a. NYC's Restaurant Industry

New York City is a mecca for acclaimed and diverse food options. With more than 23,000 establishments (as of 2019), the City's eateries represent food from over 150 different countries.¹ If you tried to eat, just once, at every restaurant in New York City, it would take over twenty years to visit them all.²

Just like the food they offer, the City's food and restaurant industry is not monolithic, and is comprised of everything from small mom-and-pop establishments, to street vendors, to Michelin-starred, fine dining restaurants. Eighty percent of the City's restaurants are small, with fewer than 20 employees, while only one percent have more than 500 workers.³ With such a diverse food landscape within such a small geographic area, it is no wonder that New York City is consistently ranked as one of the culinary capitals of the world,⁴ and that New York City's eateries form the second-largest component of City's tourism industry, after accommodations.⁵

The restaurant industry is also a vital source of employment and key contributor to the economy. Prior to the COVID-19 pandemic, there were more than 23,600 food establishments in New York City, which contributed to nearly \$27 billion in taxable sales.⁶ Furthermore, in 2019, the industry accounted for one in every 12 private sector positions, supporting around 317,800 jobs.⁷ Clearly, the food and restaurant sector is a pivotal economic contributor and an essential component of the City's identity, to New Yorkers and visitors alike.

b. Third-Party Platforms

Before the COVID-19 pandemic, online food delivery services were becoming an increasingly popular way for consumers to dine. Online restaurant orders grew 23 percent annually from 2013 to 2017.⁸ In 2018, UBS predicted that by 2030 the global online food-ordering marketplace could grow to \$365 billion, up from \$35 billion in 2018.⁹ Sales for the third-party food delivery industry rose 31 percent in 2019, and the percentage of Americans who ordered food from a third-party platform increased from 20 percent to 26 percent. A 2019 survey conducted by the National Restaurant Association found that 60 percent of consumers ordering takeout used a third-party delivery service.¹⁰

The three major third-party delivery platforms utilize different commission models to remain profitable in this overcrowded and competitive marketplace. Grubhub currently accounts for about 36 percent of meal delivery sales in New York City.¹¹ Prior to the Council's passage of Local Law 52 of 2020, Grubhub charged

¹ Thomas P. DiNapoli "The restaurant industry in New York City: Tracking the recovery", *Office of the New York State Comptroller*, September 2020, available at: <https://www.osc.state.ny.us/files/reports/osdc/pdf/nyc-restaurant-industry-final.pdf>, p. 1.

² Nick Hines "It would take 22.7 Years to eat at every New York City restaurant", *Vinepair*, May 9, 2017, available at: <https://vinepair.com/booze-news/new-york-restaurants-eat-at-every-on/>.

³ Thomas P. DiNapoli "The restaurant industry in New York City: Tracking the recovery", *Office of the New York State Comptroller*, September 2020, available at: <https://www.osc.state.ny.us/files/reports/osdc/pdf/nyc-restaurant-industry-final.pdf>, p. 1.

⁴ See for example: "New York beats Paris to be named the culinary capital of the world", *Luxury Travel Magazine*, June 4, 2019, available at: <https://www.luxurytravelmagazine.com/news-articles/new-york-beats-paris-to-be-named-the-culinary-capital-of-the-world>; and Kendall Cornish "These are the world's best cities for food", *Travel and Leisure*, July 8, 2020, available at: <https://www.travelandleisure.com/food-drink/worlds-best-cities-for-food>.

⁵ Thomas P. DiNapoli "The restaurant industry in New York City: Tracking the recovery", *Office of the New York State Comptroller*, September 2020, available at: <https://www.osc.state.ny.us/files/reports/osdc/pdf/nyc-restaurant-industry-final.pdf>, p. 1.

⁶ Thomas P. DiNapoli "The restaurant industry in New York City: Tracking the recovery", *Office of the New York State Comptroller*, September 2020, available at: <https://www.osc.state.ny.us/files/reports/osdc/pdf/nyc-restaurant-industry-final.pdf>, p. 1.

⁷ Thomas P. DiNapoli "The restaurant industry in New York City: Tracking the recovery", *Office of the New York State Comptroller*, September 2020, available at: <https://www.osc.state.ny.us/files/reports/osdc/pdf/nyc-restaurant-industry-final.pdf>, p. 2.

⁸ The NPD Group "Feeding the growing appetite for restaurant apps", <https://www.npd.com/wps/portal/npd/us/news/infographics/2018/feeding-the-growing-appetite-for-restaurant-apps/>.

⁹ UBS Investment Bank "Is The Kitchen Dead?", June 18, 2018, available at: <https://www.ubs.com/global/en/investment-bank/in-focus/2018/dead-kitchen.html>.

¹⁰ Hudson Riehle and Melissa Wilson "Harnessing Technology to Drive Off-Premises Sales", 2019, *National Restaurant Association*, available at: https://www.restaurant.org/Downloads/PDFs/Research/research_offpremises_201910.

¹¹ Kathryn Roethel Rieck, "Which company is winning the food delivery war?", June 14, 2021, *Second Measure*, available at: <https://secondmeasure.com/datapoints/food-delivery-services-grubhub-uber-eats-doordash-postmates/>

restaurants a 10 percent fee for all orders delivered by a Grubhub courier,¹² and charged restaurants higher commissions in exchange for increased visibility on their platform.¹³ DoorDash accounts for 35 percent of meal delivery sales in NYC.¹⁴ Doordash charges restaurants promotion fees, marketing fees, and subscription fees.¹⁵ Similar to Grubhub, DoorDash charges restaurants a commission fee “in exchange for promoting and featuring the Merchant...on the DoorDash platform,” and for all orders delivered by DoorDash couriers (known as “Dashers”).¹⁶ Uber Eats accounts for 28 percent of delivery sales in NYC.¹⁷ Uber Eats charged restaurants a 30 percent fee for orders delivered by Uber couriers,¹⁸ and a 15 percent fee for orders that are made on the Uber Eats website but are delivered by a restaurant’s delivery worker.¹⁹

During the COVID-19 pandemic, when lockdowns were in place across the country, many consumers turned to take-out due to restricted dine-in options. Over 65 percent of consumers in the United States are more likely to purchase takeout from a restaurant now than before the pandemic, and over 50 percent of consumers say that takeout and delivery are essential to the way they now live.²⁰ Even though COVID-19 restrictions have been lifted in New York and City residents are able to dine-in at restaurants, the shift in consumer behavior may remain. According to Scott Duke Kominers, an associate professor at Harvard Business School, “People have gotten much more used to ordering food and other products through delivery services. Some of that will decline once it's safe to do things in person, of course... But new habit formation is powerful.”²¹ Uber CEO Dara Khosrowshahi similarly expects Uber Eats to experience a small decline in new customers as COVID-19 restrictions are lifted, however, he acknowledged “it looks like the habit [of consumers ordering food on Uber Eats] is sticking.”²²

Third-party platforms profited from the surge in consumer use of their platforms during the pandemic. The major food delivery platforms doubled their combined revenue during the pandemic, making a profit of \$5.5 billion in April to September 2020, compared to \$2.5 billion during the same months the previous year.²³ Food delivery companies generated \$50.6 billion in sales in 2020, more than double the \$22.7 billion in sales generated in 2019.²⁴ A study found that of the \$28 billion increase in sales that occurred between 2019 and 2020, over \$19 billion (69 percent) of this increase was due to the pandemic.²⁵ The report concludes, “Sales would have grown by 38% in the absence of the pandemic, significantly less than the 122% [growth] that was actually observed.”²⁶

The increase in consumer usage of third party food delivery platforms during the pandemic was also caused by an increase in restaurants joining delivery platforms. Because restaurants across the country were only open

¹² Grubhub “Grubub Pricing”, available at: https://learn.grubhub.com/wp-content/uploads/2018/08/Grubhub_One-Pager_Pricing-Overview_Final.pdf

¹³ David Yaffe-Bellany, “New York vs. Grubhub”, September 30, 2019, *The New York Times*, available at: <https://www.nytimes.com/2019/09/30/business/grubhub-seamless-restaurants-delivery-apps-fees.html>

¹⁴ Kathryn Roethel Rieck, “Which company is winning the food delivery war?”, June 14, 2021, *Second Measure*, available at: <https://secondmeasure.com/datapoints/food-delivery-services-grubhub-uber-eats-doordash-postmates/>

¹⁵ DoorDash “Terms of Service - United States DoorDash Merchants”, available at: https://help.doordash.com/merchants/s/terms-of-service-us?language=en_US#payment-fees-and-taxes

¹⁶ *Id.*

¹⁷ Kathryn Roethel Rieck, “Which company is winning the food delivery war?”, June 14, 2021, *Second Measure*, available at: <https://secondmeasure.com/datapoints/food-delivery-services-grubhub-uber-eats-doordash-postmates/>

¹⁸ Julie Littman “Delivery by the numbers: How top third-party platforms compare”, October 3, 2019, *Restaurant Dive*, available at: <https://www.restaurantdive.com/news/delivery-by-the-numbers-how-top-third-party-platforms-compare/564279/>.

¹⁹ Uber “How do fees work on Uber Eats”, available at: <https://help.uber.com/ubereats/article/how-do-fees-work-on-uber-eats?nodeId=65d229e2-a2b4-4fa0-b10f-b36c9546cf55>

²⁰ “National Restaurant Association Releases 2021 State of the Restaurant Industry Report”, January 26, 2021, available at: <https://restaurant.org/news/pressroom/press-releases/2021-state-of-the-restaurant-industry-report>

²¹ Sara Ashley O’Brien, “The pandemic boosted food delivery companies. Soon they may face a reality check” December 6, 2020, available at: <https://www.cnn.com/2020/12/06/tech/food-delivery-pandemic-doordash/index.html>

²² “Food Delivery Is Keeping Uber Alive. Will It Kill Restaurants?” Kara Swisher, *The New York Times*, January 14, 2021, available at: <https://www.nytimes.com/2021/01/14/opinion/sway-kara-swisher-dara-khosrowshahi.html?showTranscript=1>

²³ Levi Sumagaysay “The pandemic has more than doubled food-delivery apps’ business. Now what?”, *MarketWatch*, November 27, 2020, available at: <https://www.marketwatch.com/story/the-pandemic-has-more-than-doubled-americans-use-of-food-delivery-apps-but-that-doesnt-mean-the-companies-are-making-money-11606340169>.

²⁴ Elliot Shin Obländer and Daniel Minh McCarthy, “How has COVID-19 Impacted Customer Relationship Dynamics at Restaurant Food Delivery Businesses?” April 26, 2021, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3836262

²⁵ *Id.*

²⁶ *Id.*

for take-out and delivery, many restaurants not previously on delivery platforms joined the platforms for the first time. The de Blasio administration issued a COVID-19 related guidance sheet for business owners on March 16, 2020, advising restaurants and food services to join food delivery platforms.²⁷ Accordingly, the platforms were able to expand their footprint in NYC by increasing the number of restaurants on their platforms. During an interview with MarketWatch, Grubhub CEO Matt Maloney acknowledged that the pandemic caused the platform to receive “10 to 15 times our usual new restaurant leads. This interest has led to four to five times more new restaurant go-lives compared to our previous record-breaking day.”²⁸ Maloney meanwhile acknowledged that restaurants could not survive on deliveries alone during the pandemic.²⁹ According to Maloney, “The industry isn’t large enough for all restaurants to survive just on delivery, but they can survive for a matter of weeks potentially. It’s definitely not a long-term solution to bridge across restaurants.”³⁰

The financial success of these companies is also apparent from their corporate strategies during this period. Uber acquired the delivery service Postmates in November 2020, further consolidating the food delivery marketplace.³¹ In December 2020, DoorDash made its public market debut and the DoorDash stock rose 86 percent during its initial public offering (IPO), one of the biggest IPOs of 2020.³²

While platforms profited during the pandemic, the restaurant industry has struggled. Even before the pandemic, the costs to operate a restaurant in the City, including rent, labor and inventory, were high, leaving little room for added costs like platform commission fees.³³ From 2015 to 2016 the number of independent restaurants in the City fell three percent, slightly more than the national average.³⁴ The onset of the pandemic only worsened conditions for restaurants. According to Partnership for New York City, 5,000 eateries have closed in New York City since the start of the pandemic.³⁵ In December 2020, the National Restaurant Association reported that over 110,000 restaurants, around 17 percent of restaurants in the U.S., were either closed permanently or long-term due to the pandemic.³⁶ Opportunity Insights reports that revenue for small businesses in the leisure and hospitality industry are still down 70 percent in June 2021 in comparison to January 2020.³⁷

While restaurants made a greater percentage of their earnings through off-premise sales during the pandemic, the increase in off-premise sales did not compensate for the loss of in-person dining. According to a NYS Restaurant Association survey from March 2021, among restaurant owners in New York whose off-premise business increased compared to pre-COVID levels, over 65 percent say their higher off-premises sales made up

²⁷ Flatiron District “Guidance for business owners – Updated March 16, 2020: Tips for addressing changes in customer behavior due to the Novel (New) Coronavirus (COVID19)”, available at:

<https://www.flatirondistrict.nyc/uploaded/files/COVID-19/COVID-19%20Guidance%20for%20Business%20Owners%20-%203-16-2020.pdf>

²⁸ *Id.*

²⁹ Elisabeth Buchwald, “Restaurants can’t survive on delivery alone, says Grubhub CEO Matt Maloney”, March 23, 2020, MarketWatch, available at: <https://www.marketwatch.com/story/restaurants-wont-be-able-to-survive-on-delivery-only-says-grubhub-ceo-matt-maloney-2020-03-21>

³⁰ *Id.*

³¹ “Mike Isaac, Erin Griffith and Adam Satariano, “Uber Buys Postmates for \$2.65 Billion,” *The New York Times*, Updated November 13, 2020, available at: <https://www.nytimes.com/2020/07/05/technology/uber-postmates-deal.html#:~:text=SAN%20FRANCISCO%20E2%80%94Uber%20has%20agreed,stock%20deal%20on%20Monday%20morning>

³² Erin Griffith, “DoorDash Soars in First Day of Trading,” *The New York Times*, Updated March 19, 2021, available at: <https://www.nytimes.com/2020/12/09/technology/doordash-ipo-stock.html>

³³ Karen Stabiner, “Is New York Too Expensive for Restaurateurs? We Do the Math,” *The New York Times*, October 25, 2016, <https://www.nytimes.com/2016/10/26/dining/restaurant-economics-new-york.html>. See also Gabe Flores, “What Is the Average Profit Margin for a Restaurant?” *Restaurant365*, February 25, 2020, <https://www.restaurant365.com/blog/what-is-the-average-profit-margin-for-a-restaurant/> (asserting the average profit margin of a restaurant is three to six percent, with a possible margin of up to 10 percent).

³⁴ *Id.*

³⁵ “Jobs, not Taxes, Should be Top Priority for 2021-22” *Partnership for New York City*, February 17, 2021, available at: <https://pfny.org/news/jobs-not-taxes-should-be-top-priority-for-2021-22/>

³⁶ “Restaurant Industry in Free Fall; 10,000 Close in Three Months”, *National Restaurant Association*, December 7, 2020, available at: <https://restaurant.org/news/pressroom/press-releases/restaurant-industry-in-free-fall-10000-close-in>

³⁷ “Percent Change in Small Business Revenue”, *Opportunity Insights*, Updated June 2, 2021, available at: <https://trackthererecovery.org/>

less than 30 percent of their lost on-premises sales.³⁸ Thirty-five percent of restaurant owners surveyed predicted it would take over a year before business conditions returned to their pre-COVID levels.³⁹

As shown by the NYS Restaurant Association survey, the increase in consumers ordering takeout did not lead restaurants to recover the loss of in-person sales that they were experiencing due to the pandemic. While the platforms often market to restaurants by arguing they will generate “incremental” sales for restaurants, additional profit on top of their existing dine-in customers, the commissions restaurants are forced to pay on those incremental sales are far less profitable than the revenue restaurants generate from dine-in customers.⁴⁰ Because of the increase in use of delivery platforms by New Yorkers due to the pandemic, and because this consumer behavior change will likely continue to a degree after the pandemic subsides, the platforms may take the business of existing dine-in customers.⁴¹ Since customers have become accustomed to ordering on the platforms, many may switch from being more profitable dine-in customers to less profitable delivery customers, which will continue to hurt restaurants.⁴² According to a restaurant owner in NYC, “We know for a fact that as delivery increases, our profitability decreases,” and accordingly, “sometimes it seems like we’re making food to make Seamless profitable.”⁴³

In response to this financial devastation, the Council passed Local Laws 51 and 52, which went into effect in June 2020, and then further extended these pieces of legislation through the passage of Local Laws 87 and 88 of 2020. These laws prohibited platforms from charging restaurants for telephone orders that did not result in an actual transaction during the call and limited the amount of fees per order that may be charged by the platforms, respectively. Other jurisdictions have taken similar measures to limit third-party platform fees. The State of New Jersey has limited commission fees to 10 or 20 percent depending on whether the order is delivered by a restaurant worker or a restaurant’s contractor;⁴⁴ Philadelphia,⁴⁵ Washington D.C.⁴⁶ and Portland⁴⁷ enacted laws limiting commission fees; and the mayors of Seattle⁴⁸ and San Francisco⁴⁹ issued emergency orders temporarily capping commission fees at 15 percent (Jersey City at 10 percent)⁵⁰. On June 22, 2021, the San Francisco Board of Supervisors voted unanimously to pass a permanent fee cap on the amount that platforms can charge restaurants.⁵¹ The cap prohibits the platforms from charging over 15 percent per order for delivery fees, however, the cap does not cover other costs like marketing fees.

³⁸ “State Restaurant Association Survey: Majority of Operators Report Delivery and Take-Out Sales Make Up Less Than One Third of Lost Sales,” New York State Restaurant Association, March 4, 2021, available at:

https://www.nysra.org/uploads/1/2/1/3/121352550/nys_survey_results_march_4_2021.pdf

³⁹ *Id.*

⁴⁰ Pnina Feldman, Andrew E. Frazelle, and Robert Swinney, “Can Delivery Platforms Benefit Restaurants?”, April 30, 2019, Available at SSRN: <https://ssrn.com/abstract=3258739> or <http://dx.doi.org/10.2139/ssrn.3258739>

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ New Jersey Senate Bill 2437, available at: <https://legiscan.com/NJ/text/S2437/id/2203307>.

⁴⁵ The Philadelphia Code, Chapter 9-5000, available at:

https://phila.legistar.com/LegislationDetail.aspx?ID=4553673&GUID=0DE18EE1-E462-4B1E-B58F-746F39D76748&Options=ID%7cText%7c&Search=200344&fbclid=IwAR02ax6pEBPrAZVOYk4jBY5ydrD_ZbeiA2WwwroV9E-CFOeQD4MKzlp51-U; see also Jenn Ladd, “How Philly’s new food-delivery law changes the rules for Grubhub, DoorDash, and other services”, July 30, 2020, *The Philadelphia Inquirer*, <https://www.inquirer.com/food/philly/caps-third-party-delivery-fees-restaurants-pandemic-20200730.html>.

⁴⁶ Code of the District of Columbia, § 48-641, available at: <https://code.dccouncil.us/dc/council/code/sections/48-641.html>.

⁴⁷ Portland Ordinance available at: <https://efiles.portlandoregon.gov/Record/13908986/File/Document>

⁴⁸ City of Seattle, Civil Emergency Order: Restricting Restaurant Delivery and Pick-Up Commission Fees, April 24, 2020, available at: <https://durkan.seattle.gov/wp-content/uploads/sites/9/2020/04/Emergency-Order-Delivery-Fee-Cap-4-24-2020.pdf>.

⁴⁹ City and County of San Francisco, Office of the Mayor, Mayor London Breed Announces Delivery Fee Cap to Support San Francisco Restaurants During COVID-19 Pandemic, April 10, 2020, available at: <https://sfmayor.org/article/mayor-london-breed-announces-delivery-fee-cap-support-san-francisco-restaurants-during-covid>.

⁵⁰ City of Jersey City Office of the Mayor, Executive Order – Third-Party Food Service Fee Cap, May 7, 2020, available at: https://jerseycitynj.gov/UserFiles/Servers/Server_6189660/File/City%20Hall/Mayors%20Office/Mayoral%20Executive%20Orders/2020/Executive%20Order%20Food%20Delivery%20App%20Price%20Cap%20-%205.4.20.pdf.

⁵¹ Tanay Warerkar, “San Francisco will permanently cap food delivery fees for DoorDash, Grubhub and other apps”, San Francisco Chronicle, June 23, 2021, available at: <https://www.sfgate.com/food/restaurants/article/Food-app-delivery-commission-in-S-F-capped-at-16266468.php>

c. Issues with Restaurants

While third-party delivery platforms provide restaurants a unique marketing and delivery service, small businesses have accused these platforms of acting in a predatory manner. A class action lawsuit was filed in the United States District Court for the Southern District of New York in April 2020 against the major third-party delivery platforms.⁵² The lawsuit alleges that the platforms have violated U.S. antitrust law by requiring restaurants to charge delivery customers and dine-in customers the same price for each menu item, while imposing “exorbitant” fees of 10 to 40 percent of revenue to process delivery orders.⁵³ On June 7, 2021, a bakery in Manhattan filed a class action lawsuit against the third party delivery platforms⁵⁴ alleging they have violated Local Law 52 of 2020. The plaintiff alleged that the platforms failed to comply with the Council’s Local Law, as they overcharged the bakery above the permitted fee cap and inflated credit card processing fees.⁵⁵

The City Council has conducted three oversight hearings this legislative session on the rise of third-party delivery platforms in the City.⁵⁶ During these hearings, small businesses and advocates have highlighted issues they experienced from using these platforms, including high commission fees, restrictions on menu pricing, and erroneous fees they are forced to pay from consumer phone calls that do not result in orders.⁵⁷

d. Listing Non-Participating Restaurants

Since the food delivery sector is a competitive marketplace, certain practices have become commonplace in the industry that are disadvantageous to restaurant owners. For example, restaurants that have not joined a third-party delivery service may find their restaurant listed on a delivery application without their consent. According to Grubhub spokesperson Grant Klinzman, a delivery service may add a restaurant to its platform without the consent of the restaurant owner if the service sees local demand for the restaurant owner’s cuisine. Grubhub adds these unlisted restaurants so “the restaurant can receive more orders and revenue from deliveries completed by our drivers. This is a model that other food delivery companies have been doing for years as a way to widen their restaurant supply, and we’re using it as well in some markets to create a level playing field.”⁵⁸ A delivery application may add restaurants to their platform, even in the absence of a contract with the restaurant, to ensure they are not at a disadvantage in comparison to other food delivery platforms. This system may also benefit a restaurant owner, who could begin to get higher order volumes through the application.⁵⁹

Nonetheless, the model of platforms adding restaurants without the restaurant owner’s knowledge can be detrimental to a restaurant owner’s business. Restaurants may not have designed dishes for long travel or high volume,⁶⁰ and menus posted by third-party platforms can be out of date or inaccurate, which can also further frustrate

⁵² The four platforms are Grubhub Inc. (which also does business as Seamless), DoorDash Inc., Postmates Inc., and Uber Technologies, Inc., which is the parent company of Uber Eats.

⁵³ Jonathan Stempel, “Grubhub, DoorDash, Postmates, Uber Eats are sued over restaurant prices amid pandemic” April 13, 2020, *Reuters*, available at: <https://www.reuters.com/article/us-health-coronavirus-food-delivery-laws-idUSKCN21V2C1>.

⁵⁴ Including Grubhub and Seamless, Uber Eats and Postmates, and DoorDash.

⁵⁵ Micheli & Shel, LLC individually and on behalf of others similarly situated, v. GRUBHUB INC., GRUBHUB INC. d/b/a SEAMLESS, SEAMLESS NORTH AMERICA, LLC, UBER TECHNOLOGIES INC., UBER EATS, POSTMATES LLC, and DOORDASH INC., UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

⁵⁶ New York City Council “Oversight – The Changing Market for Food Delivery”, June 6, 2019, available at:

<https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=705634&GUID=0BC09A92-5DB4-496B-90EE-BF75DF712131&Options=info&Search=>; and New York City Council “Oversight: ‘Ghost Kitchens’ ‘Virtual Restaurants’ and the Future of the Restaurant Industry”, February 6, 2020, available at:

<https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=759804&GUID=B42220FE-417A-484C-B7CF-51725F784A71&Options=info&Search=>; and New York City Council “Oversight - The Impact of COVID-19 on Small Businesses in New York City.” April 29, 2020, available at: <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4424922&GUID=F205F93F-5C61-490F-ACA3-D343CA9C8584&Options=&Search=>

⁵⁷ *Id.*

⁵⁸ Christopher Robbins, “New Bill Aims To Curb “Parasite” Food Delivery Apps In NY State”, *Gothamist*, January 6, 2021, available at: <https://gothamist.com/food/new-bill-aims-curb-parasite-food-delivery-apps-ny-state>

⁵⁹ Jaya Saxena, “Grubhub’s New Strategy Is to Be an Even Worse Partner to Restaurants” *Eater NY*, October 30, 2019, available at: <https://www.eater.com/2019/10/30/20940107/grubhub-to-add-restaurants-without-permission-like-postmates>

⁶⁰ Caleb Pershan, “‘We Don’t Even Do Takeout’: Why, Then, Is This Restaurant on Seamless?” *Eater*, January 29, 2020, available at: <https://www.eater.com/2020/1/29/21113416/grubhub-seamless-kin-khao-online-delivery-mistake-doordash>

customers.⁶¹ Delivery platforms' practice of listing restaurants without consulting the restaurant owner also robs the restaurant of the agency to decide whether they want to contract with a platform.⁶² Restaurant owners unknowingly lose control of making their own business decisions and deciding the direction they want to take their business.⁶³ According to Grubhub, “[T]he non-partnered model is no doubt a bad experience for diners, drivers and restaurants. But our peers have shown growth – although not profits – using the tactic, and we believe there is a benefit to having a larger restaurant network: from finding new diners and not giving diners any reason to go elsewhere.”⁶⁴

Restaurants have filed lawsuits against delivery platforms after finding out they have been listed on a platform without their knowledge. In 2015, In-N-Out filed a lawsuit against DoorDash for trademark infringement and unfair competition under state and federal laws for DoorDash advertising and delivering In-N-Out orders without the company's agreement.⁶⁵ In October 2020, two restaurants in California filed a class action lawsuit against Grubhub for listing their restaurants on the platform without the restaurants' consent, which the restaurants have alleged has caused their businesses to suffer reputational harm and a loss in control over their customers' experiences.⁶⁶

Regulators have taken action to stop the practice of platforms listing restaurants without the consent of the restaurant owner. In September 2020, Governor Newsom signed AB-2149, which prevents platforms from delivering food from a restaurant unless the restaurant has “expressly authoriz[ed] the food delivery platform to take orders and deliver meals prepared by the food facility.”⁶⁷ The Seattle City Council passed a similar law on June 14, 2021, which requires food delivery platforms to have a written agreement with a restaurant prior to offering consumers delivery from that restaurant.⁶⁸ In the New York State Legislature, A4651/S1630A, which would similarly prohibit the unauthorized listing of restaurants on food delivery platforms, passed in the State Senate and Assembly. It has not yet been delivered to the Governor for his signature.⁶⁹

e. Telephone Orders

As previously mentioned, during past Committee hearings on the rise of third party delivery platforms, restaurants have testified that they have been charged erroneous fees they are forced to pay from consumer phone calls that do not result in orders. When consumers call a restaurant directly instead of ordering from the platform's website or phone application, delivery platforms are left out of the transaction and therefore do not profit from the order. To capitalize off these transactions, certain third party platforms have generated their own numbers for restaurants online.⁷⁰ Telephone calls placed through the number are analyzed by an algorithm to determine whether an order was placed on the call.⁷¹

The algorithm often does not accurately identify telephone orders, however, according to restaurants that have been charged these fees. In 2018, a class action lawsuit was filed in the United States District Court for the Eastern District of Philadelphia against Grubhub. According to the plaintiff, an owner of a local Indian restaurant

⁶¹ *Id.*

⁶² “Restaurants File Class Action Lawsuit Against Grubhub for Adding Them to Its Platform Without Permission” *Business Wire*, October 27, 2020, available at: <https://www.businesswire.com/news/home/20201027006171/en/Restaurants-File-Class-Action-Lawsuit-Against-Grubhub-for-Adding-Them-to-Its-Platform-Without-Permission>

⁶³ *Id.*

⁶⁴ Jaya Saxena, “Grubhub’s New Strategy Is to Be an Even Worse Partner to Restaurants” *Eater NY*, October 30, 2019, available at: <https://www.eater.com/2019/10/30/20940107/grubhub-to-add-restaurants-without-permission-like-postmates>

⁶⁵ Whitney Filloon, “In-N-Out Burger Sues DoorDash for Delivering Its Food Without Permission,” *Eater*, November 11, 2015, available at: <https://www.eater.com/2015/11/11/9714840/in-n-out-doordash-delivery-lawsuit>

⁶⁶ LYNN SCOTT, LLC; THE FARMER’s WIFE, LLC, on behalf of themselves and all others similarly situated, v. GRUBHUB INC. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION, October 26, 2020, available at: <https://www.classlawgroup.com/wp-content/uploads/Grubhub-Class-Action-Lawsuit-Gibbs-Law-Group.pdf?x96633>

⁶⁷ Assembly Bill No. 2149, California Legislative Information, available at:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2149

⁶⁸ “CB 120092, AN ORDINANCE relating to the regulation of food delivery businesses and platforms; adding a new Chapter 7.30 to the Seattle Municipal Code.” Office of the City Clerk, available at: <https://seattle.legistar.com/LegislationDetail.aspx?ID=4969081&GUID=75D6EFC5-36FB-4B08-AFA5-3898DC755786&Options=ID%7CText%7C&Search=120092>

⁶⁹ Assembly Bill A4651, New York State Assembly, <https://www.nysenate.gov/legislation/bills/2021/a4651>

⁷⁰ Jaya Saxena, “Delivery Apps Aren’t Getting Any Better” *Eater*, May 29, 2019, available at:

<https://www.eater.com/2019/5/29/18636255/delivery-apps-hurting-restaurants-grubhub-seamless-ubereats>

⁷¹ *Id.*

chain, Grubhub had committed wrongful conduct, including, but not limited to, “withholding commissions for sham telephone food orders, depriving more than 80,000 restaurants of revenues and profits that rightfully belong to them.”⁷² At the Committee hearing on August 13, 2020, a restaurant owner testified that despite the Council’s passage of Local Law 51, he continued to be charged by a platform erroneously for phone orders. The Council subsequently extended Local Law 51 through the passage of Local Law 87.

III. BILL ANALYSIS

Int. 2333-A, in relation to prohibiting the inclusion of a food service establishment's products on a third-party food delivery platform without a written agreement authorizing such inclusion, and to provide penalties

This bill would prohibit third-party delivery platforms from listing food service establishments on their application or website and making deliveries from those establishments, without a written agreement granting permission to do so. It would also prohibit the delivery platforms from requiring the food service establishments, in these written agreements, to indemnify the platform or their independent contractors or agents for damage that occurs after food or beverages leave the establishment. Violations of this bill would result in a civil penalty of not more than \$500 per day per food service establishment with respect to which a violation was committed. The Commissioner of DCWP would be required to conduct outreach about the requirements of this bill. This bill would take effect 120 days after it becomes law.

Int. 2335-A, in relation to requiring third-party food delivery services to provide a description of the telephone numbers listed in connection with food service establishments

This bill would require the platforms to list a food service establishment’s direct telephone number, if listing any telephone number for that establishment. If the platform also includes an alternate number, they would be required to provide a description that identifies each type of telephone number and any fees associated with their use. The Commissioner of DCWP would be required to promulgate rules defining the content, size and location of the description. Violations of this bill would result in a civil penalty of not more than \$500 per day per restaurant with respect to which a violation was committed. This bill would take effect on the same day that Prop. Int. No. 2333-A takes effect.

Int. 2356-A, in relation to extending the prohibition of certain telephone order charges by third-party food delivery services

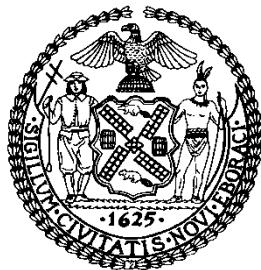
This bill would extend Local Laws 51 and 87 of 2020, which prohibit third-party delivery platforms from charging restaurants for telephone orders that did not result in a transaction. Under the existing law, such charges are prohibited only when certain conditions apply. This bill would extend protections past the anticipated end date of those conditions until February 17, 2022. Violations of this bill would result in a civil penalty of not more than \$500 per day per restaurant with respect to which a violation was committed. This bill would take effect immediately.

Int. 2359-A, in relation to extending the limitation on fees charged to food service establishments by third-party food delivery services

This bill would extend Local Laws 52 and 88 of 2020, which prohibit third-party delivery platforms from charging restaurants more than 15% per order for delivery and more than 5% per order for all other fees. This bill would instead prohibit such charges from the anticipated end date of those conditions until February 17, 2022. It would also clarify the types of transaction fees exempted from these limits on charges. Violations of this bill would result in a civil penalty of not more than \$1000 per day per restaurant with respect to which a violation was committed. This bill would take effect immediately.

⁷² *TIFFIN EPS, LLC v. GrubHub, Inc.*, 2:18-cv-05630-PD, Complaint, p. 21.5., available at: https://cdn.vox-cdn.com/uploads/chorus_asset/file/16288289/Grubhub_lawsuit.pdf.

(The following is the text of the Fiscal Impact Statement for Int. No. 2333-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INT. NO.: 2333-A

COMMITTEE: Small Business

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the inclusion of a food service establishment's products on a third-party food delivery platform without a written agreement authorizing such inclusion, and to provide penalties.

Sponsors: By Council Members Gjonaj, Perkins and Cornegy.

SUMMARY OF LEGISLATION: Proposed Int. No. 2333-A would prohibit third-party food delivery services – defined in this bill as any website, mobile application or other internet service that sells and offers delivery or pickup of food and beverages from a food service establishment owned by another entity – from listing food service establishments on their application or website and making deliveries from such establishments, without a written agreement between the delivery service and the establishment. It would also prohibit the delivery services from requiring the establishments, in these written agreements, to indemnify the delivery service or their independent contractors or agents for certain damage that occurs after food or beverages leave the establishment. Violations of this bill would be subject to a civil penalty of not more than \$500 per day per establishment with respect to which a violation was committed. The Commissioner of the Department of Consumer and Worker Protection would be required to conduct outreach about the requirements of this bill.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2023

FISCAL IMPACT STATEMENT:

	Effective FY22	FY Succeeding Effective FY23	Full Fiscal Impact FY23
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is estimated that there will be full compliance and no revenue generated from the implementation of this legislation.

IMPACT ON EXPENDITURES: It is estimated that there will be no cost from the implementing this legislation as agency can use existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Aliya Ali, Principal Financial Analyst

ESTIMATE REVIEWED BY: Stephanie Ruiz, Assistant Counsel
Nathan Toth, Deputy Director
Crilhien Francisco, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Int. No. 2333 on June 17, 2021 and was referred to the Committee on Small Business (Committee). A hearing was held by the Committee on July 1, 2021, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Int. No. 2333-A, will be voted on by the Committee at a hearing on July 29, 2021. Upon successful vote by the Committee, Proposed Int. No. 2333-A will be submitted to the full Council for a vote on July 29, 2021.

DATE PREPARED: July 22, 2021.

(For text of Int. Nos. 2335-A, 2356-A and 2359-A and their Fiscal Impact Statements, please see the Reports of the Committee on Small Business for Int. No. 2335-A, 2356-A and 2359-A printed in these Minutes; for text of Int. No. 2333-A, please see below)

Accordingly, this Committee recommends the adoption of Int. Nos. 2333-A, 2335-A, 2356-A, and 2359-A.

(The following is the text of Int. No. 2333-A:)

Int. No. 2333-A

By Council Members Gjonaj, Perkins and Corney.

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the inclusion of a food service establishment's products on a third-party food delivery platform without a written agreement authorizing such inclusion, and to provide penalties

Be it enacted by the Council as follows:

Section 1. Subchapter 22 of chapter 5 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-847.2 to read as follows:

§ 20-847.2 Unauthorized listings. a. Notwithstanding section 20-845, for the purposes of this section the term "third-party food delivery service" means any website, mobile application or other internet service that offers or arranges for the sale of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverages from, a food service establishment located in the city that is owned and operated by a different person.

b. A third-party food delivery service shall not list, advertise, promote, or sell a food service establishment's products on, or arrange for the delivery of an order of such products through, the website, mobile application or other platform of such third-party food delivery service without a written agreement between such third-party delivery service and such food service establishment to include the food service establishment's products on such website, mobile application or other platform.

c. An agreement executed in accordance with this section shall not include a provision, clause, or covenant that requires a food service establishment to indemnify a third-party food delivery service, any independent contractor acting on behalf of the third-party food delivery service, or any registered agent of the third-party food delivery service, for any damages or harm by an act or omission occurring after the food service establishment's product leaves the place of business of the food service establishment. To the extent an agreement executed in accordance with this section contains such a provision, such provision shall be deemed void and unenforceable.

d. Outreach. No more than 30 days after the effective date of the local law that added this section, and continuing for 90 days thereafter, the commissioner shall conduct outreach in the designated citywide languages,

as defined in section 23-1101, to alert food service establishments and third-party food delivery services to this section. Such outreach shall include, but need not be limited to, posting information on relevant agency websites and distributing information to food service establishments, third-party food delivery services and other relevant stakeholders.

§ 2. Subdivision a of section 20-848 of the administrative code of the city of New York, as amended by local law number 51 for the year 2020, is amended to read as follows:

a. Any person that violates any provision of [section 20-846] *this subchapter* or any rule promulgated pursuant thereto shall be subject to a civil penalty that shall not exceed [\$1,000] \$500 per violation[. Any person] *except that a person* that violates any provision of section [20-847] 20-846 or any rule promulgated pursuant thereto shall be subject to a civil penalty that shall not exceed [\$500] \$1000 per violation. Violations under this subchapter shall accrue on a daily basis for each day and for each food service establishment [charged a fee in] *with respect to which a violation of this subchapter or any rule promulgated pursuant to this subchapter was committed.*

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner of consumer and worker protection shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

MARK GJONAJ, *Chairperson*; STEPHEN T. LEVIN, BILL PERKINS, YDANIS A. RODRIGUEZ, HELEN K. ROSENTHAL, SELVENA N. BROOKS-POWERS, ERIC DINOWITZ; Committee on Small Business, July 29, 2021. *Other Council Members Attending: Council Members Koslowitz, Adams, Moya, Rose and Powers.*

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

Report for Int. No. 2335-A

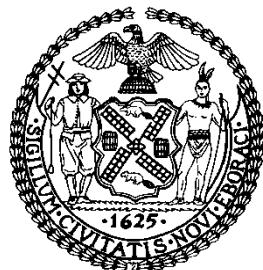
Report of the Committee on Small Business in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring third-party food delivery services to provide a description of the telephone numbers listed in connection with food service establishments.

The Committee on Small Business, to which the annexed proposed amended local law was referred on June 17, 2021 (Minutes, page 1872), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Small Business for Int. No. 2333-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 2335-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INT. NO.: 2335-A

COMMITTEE: Small Business

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring third-party food delivery services to provide a description of the telephone numbers listed in connection with food service establishments.

Sponsors: By Council Members Gjonaj, Perkins and Cornegy.

SUMMARY OF LEGISLATION: Proposed Int. No. 2335-A would require third-party food delivery services, if listing any telephone number for an establishment, to include that establishment's direct telephone number, and if also including a unique telephone number, to provide a description of the telephone numbers. The description must identify each type of telephone number and any fees associated with their use. The Commissioner of the Department of Consumer and Worker Protection would be required to promulgate rules defining the content, size and location of the description.

EFFECTIVE DATE: This local law would take effect on the same day Proposed Int. No. 2333-A-2021 takes effect.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2023

FISCAL IMPACT STATEMENT:

	Effective FY22	FY Succeeding Effective FY23	Full Fiscal Impact FY23
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is estimated that there will be no revenue generated from the implementation of this legislation.

IMPACT ON EXPENDITURES: It is estimated that there will be no cost from the implementing this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Aliya Ali, Principal Financial Analyst

ESTIMATE REVIEWED BY: Stephanie Ruiz, Assistant Counsel
Nathan Toth, Deputy Director
Crilhien Francisco, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Int. No. 2335 on June 17, 2021 and was referred to the Committee on Small Business (Committee). A hearing was held by the Committee on July 1, 2021, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Int. No. 2335-A, will be voted on by the Committee at a hearing on July 29, 2021. Upon successful vote by the Committee, Proposed Int. No. 2335-A will be submitted to the full Council for a vote on July 29, 2021.

DATE PREPARED: July 22, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2335-A:)

Int. No. 2335-A

By Council Members Gjonaj, Perkins and Corney.

A Local Law to amend the administrative code of the city of New York, in relation to requiring third-party food delivery services to provide a description of the telephone numbers listed in connection with food service establishments

Be it enacted by the Council as follows:

Section 1. Section 20-845 of the administrative code of the city of New York, as amended by local law number 88 for the year 2020, is amended to read as follows:

§ 20-845 Definitions. For the purposes of this subchapter, the following terms have the following meanings:

Customer data. The term "customer data" means the following information provided to a third-party food delivery service by a customer who has placed an online order:

- (i) Name;*
- (ii) Telephone number;*
- (iii) E-mail address;*
- (iv) The delivery address of the online order; and*
- (v) The contents of the online order being requested to be fulfilled by a food service establishment.*

Delivery fee. The term "delivery fee" means a fee charged by a third-party food delivery service for providing a food service establishment with a service that delivers food from such establishment to customers. The term does not include any other fee that may be charged by a third-party food delivery service to a food service establishment, such as fees for listing or advertising the food service establishment on the third-party food delivery service platform or fees related to processing the online order.

Direct telephone number. The term "direct telephone number" means a telephone number by which the caller communicates directly with a food service establishment.

Food service establishment. The term "food service establishment" has the same meaning as provided in subdivision s of section 81.03 of the health code of the city of New York.

Online order. The term "online order" means any order placed by a customer through or with the assistance of a platform provided by a third-party food delivery service, including a telephone order.

Purchase price. The term "purchase price" means the total price of the items contained in an online order that are listed on the menu of the food service establishment where such order is placed. Such term does not include taxes, gratuities and any other fees that may make up the total cost to the customer of an online order.

Telephone order. The term "telephone order" means an order placed by a customer to a food service establishment through a telephone call forwarded by a call system provided by a third-party food delivery service or by another entity by agreement with a third-party food delivery service.

Third-party food delivery service. The term "third-party food delivery service" means any website, mobile application or other internet service that offers or arranges for the sale of food and beverages prepared by, and

the same-day delivery or same-day pickup of food and beverages from, no fewer than 20 food service establishments located in the city that are owned and operated by different persons.

Third-party telephone number. The term “third-party telephone number” means a telephone number by which a customer may place a telephone order that is not a direct telephone number.

§ 2. Subchapter 22 of chapter 5 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-847.1 to read as follows:

§ 20-847.1 Telephone number listings. a. A third-party food delivery service that lists or links to a telephone number for a food service establishment shall include in such listing or link the direct telephone number of such food service establishment. A third-party food delivery service may also list or link to a third-party telephone number, in addition to such direct telephone number, provided that such listing or link includes a prominent and conspicuous description of each telephone number, including but not limited to identification of each telephone number as a third-party telephone number or a direct telephone number, as applicable, and any fee associated with the use of each telephone number for telephone orders, whether imposed on the food service establishment or on the caller.

b. The commissioner shall adopt such rules and regulations as may be necessary to effectuate the purposes of this section, including but not limited to defining the contents, size and location of the descriptions required by this section.

§ 3. This local law takes effect on the same day as a local law amending the administrative code of the city of New York, relating to prohibiting the inclusion of a food service establishment’s products on a third-party food delivery platform, as proposed in introduction number 2333-A for the year 2021, takes effect, except that the commissioner of consumer and worker protection shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

MARK GJONAJ, *Chairperson*; STEPHEN T. LEVIN, BILL PERKINS, YDANIS A. RODRIGUEZ, HELEN K. ROSENTHAL, SELVENA N. BROOKS-POWERS, ERIC DINOWITZ; Committee on Small Business, July 29, 2021. *Other Council Members Attending: Council Members Koslowitz, Adams, Moya, Rose and Powers.*

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

Report for Int. No. 2356-A

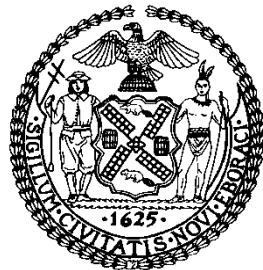
Report of the Committee on Small Business in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to extending the prohibition of certain telephone order charges by third-party food delivery services.

The Committee on Small Business, to which the annexed proposed amended local law was referred on June 30, 2021 (Minutes, page 1997), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Small Business for Int. No. 2333-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 2356-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INT. NO.: 2356-A

COMMITTEE: Small Business

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to extending the prohibition of certain telephone order charges by third-party food delivery services.

Sponsors: By Council Member Gjonaj.

SUMMARY OF LEGISLATION: Proposed Int. No. 2356-A would amend an existing law that prohibits third-party food delivery services - entities that provide food service establishments with online order and delivery services - from charging such establishments for telephone orders that did not result in a transaction during the call. Under the existing law, such charges are prohibited only when certain conditions apply. This bill would instead prohibit such charges from the anticipated end date of those conditions until February 17, 2022.

EFFECTIVE DATE: This local law would take effect immediately, except that if it becomes law after August 17, 2021, it shall be retroactive to and deemed to have been in effect on and after August 17, 2021.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2023

FISCAL IMPACT STATEMENT:

	Effective FY22	FY Succeeding Effective FY23	Full Fiscal Impact FY23
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is estimated that there will be no revenue generated from the implementation of this legislation.

IMPACT ON EXPENDITURES: It is estimated that there will be no cost from the implementing this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Aliya Ali, Principal Financial Analyst

ESTIMATE REVIEWED BY:
Stephanie Ruiz, Assistant Counsel
Nathan Toth, Deputy Director
Crilhien Francisco, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Int. No. 2356 on June 30, 2021 and was referred to the Committee on Small Business (Committee). A hearing was held by the Committee on July 1, 2021, and the legislation was laid over. The legislation was subsequently amended and the amended

version, Proposed Int. No. 2356-A, will be voted on by the Committee at a hearing on July 29, 2021. Upon successful vote by the Committee, Proposed Int. No. 2356-A will be submitted to the full Council for a vote on July 29, 2021.

DATE PREPARED: July 22, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2356-A:)

Int. No. 2356-A

By Council Member Gjonaj.

A Local Law to amend the administrative code of the city of New York, in relation to extending the prohibition of certain telephone order charges by third-party food delivery services

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 20-847 of the administrative code of the city of New York, as amended by local law number 87 for the year 2020, is amended to read as follows:

b. The requirements of this section apply only [during the period in which a state disaster emergency has been declared by the governor of the state of New York or a state of emergency has been declared by the mayor, such declaration is in effect in the city, and all food service establishments in the city are prohibited from operating at the maximum indoor occupancy and for a period of 90 days thereafter] until February 17, 2022.

§ 2. This local law takes effect immediately, except that if it becomes law after August 17, 2021, it shall be retroactive to and deemed to have been in effect on and after August 17, 2021.

MARK GJONAJ, *Chairperson*; STEPHEN T. LEVIN, BILL PERKINS, YDANIS A. RODRIGUEZ, HELEN K. ROSENTHAL, SELVENA N. BROOKS-POWERS, ERIC DINOWITZ; Committee on Small Business, July 29, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Koslowitz, Adams, Moya, Rose and Powers.*

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

Report for Int. No. 2359-A

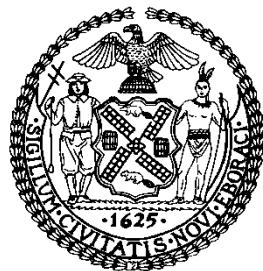
Report of the Committee on Small Business in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to extending the limitation on fees charged to food service establishments by third-party food delivery services.

The Committee on Small Business, to which the annexed proposed amended local law was referred on June 30, 2021 (Minutes, page 1999), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Small Business for Int. No. 2333-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 2359-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INT. NO.: 2359-A

COMMITTEE: Small Business

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to extending the limitation on fees charged to food service establishments by third-party food delivery services.

Sponsors: By Council Members Moya and Gjonaj.

SUMMARY OF LEGISLATION: Proposed Int. No. 2359-A would amend an existing law that prohibits third-party food delivery services - entities that provide food service establishments with online order and delivery services - from charging such establishments more than 15 percent per order for delivery and more than 5 percent per order for all other fees only when certain conditions apply. This bill would instead prohibit such charges from the anticipated end date of those conditions until February 17, 2022. It would also clarify the types of transaction fees exempted from these limits on charges.

EFFECTIVE DATE: This local law would take effect immediately, except that if it becomes law after August 17, 2021, it shall be retroactive to and deemed to have been in effect on and after August 17, 2021.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2023

FISCAL IMPACT STATEMENT:

	Effective FY22	FY Succeeding Effective FY23	Full Fiscal Impact FY23
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is estimated that there will be no revenue generated from the implementation of this legislation.

IMPACT ON EXPENDITURES: It is estimated that there will be no cost from the implementing this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Aliya Ali, Principal Financial Analyst

ESTIMATE REVIEWED BY:
Stephanie Ruiz, Assistant Counsel
Nathan Toth, Deputy Director
Crilhien Francisco, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Int. No. 2359 on June 30, 2021 and was referred to the Committee on Small Business (Committee). A hearing was held by the Committee on July 1, 2021, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Int. No. 2359-A, will be voted on by the Committee at a hearing on July 29, 2021. Upon successful vote by the Committee, Proposed Int. No. 2359-A will be submitted to the full Council for a vote on July 29, 2021.

DATE PREPARED: July 22, 2021.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 2359-A:)

Int. No. 2359-A

By Council Members Moya and Gjonaj.

A Local Law to amend the administrative code of the city of New York, in relation to extending the limitation on fees charged to food service establishments by third-party food delivery services

Be it enacted by the Council as follows:

Section 1. Section 20-846 of the administrative code of the city of New York, as added by local law number 52 for the year 2020 and subdivisions b and c as amended by local law number 88 for the year 2020, is amended to read as follows:

§ 20-846 [Fee limits during declared emergencies] **Fees.** a. It shall be unlawful for a third-party food delivery service to charge a food service establishment a delivery fee that totals more than 15% of the purchase price of each online order.

b. It shall be unlawful for a third-party food delivery service to charge a food service establishment any fee other than a delivery fee for the use of their service greater than 5% of the purchase price of each online order, provided that such cap shall not apply to a *transaction fee imposed either by: (i) a credit card issuer or (ii) an internet-based payment system, when such transaction fee [that] is charged to the third-party food delivery service and is charged in the same amount by the third-party food delivery service to such food service establishment.*

c. The requirements of this section apply only [during the period in which a state disaster emergency has been declared by the governor of the state of New York or a state of emergency has been declared by the mayor, such declaration is in effect in the city, and all food service establishments in the city are prohibited from operating at the maximum indoor occupancy and for a period of 90 days thereafter] until *February 17, 2022.*

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

Credit card. The term “credit card” means any credit card, charge card, courtesy card, debit card, or other device issued by a person to another person which may be used to obtain a cash advance or a loan or credit, or to purchase or lease property or services on the credit of the person issuing the credit card or a person who has agreed with the issuer to pay obligations arising from the use of a credit card issued to another person.

Internet-based payment system. The term “internet-based payment system” means any mobile application or other internet service that facilitates electronic payments.

Transaction fee. The term “transaction fee” means a charge for the processing of a payment for an online order.

§ 2. This local law takes effect immediately, except that if it becomes law after August 17, 2021, it shall be retroactive to and deemed to have been in effect on and after August 17, 2021.

MARK GJONAJ, *Chairperson*; STEPHEN T. LEVIN, BILL PERKINS, YDANIS A. RODRIGUEZ, HELEN K. ROSENTHAL, SELVENA N. BROOKS-POWERS, ERIC DINOWITZ; Committee on Small Business, July

29, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Koslowitz, Adams, Moya, Rose and Powers.*

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

GENERAL ORDER CALENDAR

Resolution approving various persons Commissioners of Deeds

By the Presiding Officer –

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

Approved New Applicants

<i>Name</i>	<i>Address</i>	<i>District #</i>
Aliza Klingenstein	110 Horatio Street, Apt 110 New York, New York 10014	3
Connie Medina	551 Wales Ave, Apt 604 Bronx, New York 10455	8
Jaqueleine Pizarro	353 East 141st Street Bronx, New York 10454	8
McKenzie Dean	245 E 124th Street, Apt 6H New York, New York 10035	8
Christine Clemmings	75 Saint Nicholas, Apt 4D New York, New York 10032	9
Maritza Hernandez	2034 5th Ave, Apt 1B New York, New York 10035	9
Stephanie Herrera Camilo	1310 Sheridan Ave, Apt 6F Bronx, New York 10456	16
Tiffany Monsanto	1408 Webster Ave, 12G Bronx, New York 10456	16
Kewana White	1500 Hoe Ave, Apt 8I Bronx, New York 10460	17

Marilyn Stuart	635 Castle Hill Ave, Apt 16D Bronx, New York 10473	18
Natali Huertas	23-13 Broadway Queens, New York 11106	22
Princess Tyson	41-03 Vernon Blvd, Apt 3E Queens, New York 11101	26
Randy Edmund	61-25 98th Street, Apt 16N Queens, New York 11374	29
Juan Arango	78-46 83rd Floor, 2nd FL Queens, New York 11385	30
Marian Gardner	894 Bushwick Ave, Apt 2B Brooklyn, New York 11221	34
Farhaana Washington	455 Carlton Ave, Apt 10D Brooklyn, New York 11238	35
Lucy Perez	191 Sands Street, Apt 7J Brooklyn, New York 11201	35
Ansley Pentz	1299 Greene Ave, Apt 1R Brooklyn, New York 11237	37
Timothy Covell	1441 Dekalb Ave, #7 Brooklyn, New York 11237	37
Keisha Oliver	573 Elton Street Brooklyn, New York 11208	42
Marie Carmel Morpeau	460 Ovington Ave, Apt 4E Brooklyn, New York 11209	43
Inga Wilkins	130 Avenue P, Apt 2A Brooklyn, New York 11204	44
Vadim Larkov	1800 Ocean Pkwy, B7 Brooklyn, New York 11223	44
Tanita Ford	1882 E 52nd Street Brooklyn, New York 11234	46
Erica Vega	178 Ave S Brooklyn, New York 11223	47
Frank Marino	8814 21st Ave Brooklyn, New York 11214	47
Ekaterina Fedorova	1902 E 18th Street, D7 Brooklyn, New York 11229	48

Ganna Ostrovska	2753 Ocean Ave, Apt 5E Brooklyn, New York 11229	48
Inna Diasamidze	2754 E 28th Street, BSMT Brooklyn, New York 11235	48
Jennifer Celia	2543 E 14th Street, 2 Brooklyn, New York 11235	48
Luis Valentin II	302 Oceanview Ave Brooklyn, New York 11235	48
Nataliya Severynenko	2940 W 5th Ave, Apt 6C Brooklyn, New York 11224	48
Ester Garcia	810 Henderson Ave Staten Island, New York 10310	49
Setonji Oluwafimisola Agosa	18 Confederation Place Staten Island, New York 10303	49
Isabelle Marie Gorishnya	1139 Mason Ave Staten Island, New York 10306	50
Taylor Murphy	1810 Drumgoole Rd W Staten Island, New York 10309	51

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

ROLL CALL ON GENERAL ORDERS FOR THE DAY
(Items Coupled on General Order Calendar)

- (1) **M-322 & Res 1720 -** Submitting the name of **Georgia Pestana** to the Council for its advice and consent regarding her appointment as the **Corporation Counsel**.
- (2) **Int 339-B -** Protections for domestic workers under the Human Rights Law.
- (3) **Int 2252-A -** Requiring city human services contractors to enter into labor peace agreements.
- (4) **Int 2291 -** An increase in the amount to be expended annually in the Madison/23rd/ Flatiron/ Chelsea business improvement district, an extension of the Madison/23rd/Flatiron/Chelsea business improvement district, and a change in the method of assessment upon which the district charge.
- (5) **Int 2311-A -** Data on orders placed through third-party food delivery services.
- (6) **Int 2333-A -** Prohibiting the inclusion of a food service establishment's products on a third-party food delivery platform without a written agreement.
- (7) **Int 2335-A -** Third-party food delivery services to provide a description of the telephone numbers listed in connection with food service establishments.
- (8) **Int 2356-A -** Extending the prohibition of certain telephone order charges by third-party food delivery services.
- (9) **Int 2359-A -** Extending the limitation on fees charged to food service establishments by third-party food delivery services.

(10) Res 1715 -

New designation and changes in the designation of certain organizations to receive funding in the Expense Budget (**Transparency Resolution**).

(11) L.U. 818 & Res 1718 -

Beck Street Bronx, Community District No. 2, Council District 17.

(12) L.U. 819 & Res 1719 -

Maimonides, Brooklyn, Community District No. 12, Council District 38.

(13) Resolution approving various persons Commissioners of Deeds.

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

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Brooks-Powers, Chin, D. Diaz, R. Diaz, Dinowitz, Dromm, Eugene, Feliz, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **43**.

The General Order vote recorded for this Stated Meeting was 43-0-0 as shown above with the exception of the votes for the following legislative items:

The following was the vote recorded for **Int. No. 339-B**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Brooks-Powers, Chin, D. Diaz, R. Diaz, Dinowitz, Dromm, Eugene, Feliz, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Van Bramer, Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **41**.

Negative – Yeger and the Minority Leader (Council Member Matteo) – **2**.

The following was the vote recorded for **Int. No. 2252-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Brooks-Powers, Chin, D. Diaz, R. Diaz, Dinowitz, Dromm, Eugene, Feliz, Gibson, Gjonaj, Grodenchik, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Van Bramer, Yeger, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **41**.

Negative – Holden and the Minority Leader (Council Member Matteo) – **2**.

The following was the vote recorded for **Int. No. 2291**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Brooks-Powers, Chin, D. Diaz, R. Diaz, Dinowitz, Dromm, Eugene, Feliz, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Van Bramer, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **42**.

Negative – Yeger – **1**.

The following was the vote recorded for **Int. No. 2311-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Chin, D. Diaz, R. Diaz, Dinowitz, Dromm, Eugene, Feliz, Gibson, Gjonaj, Grodenchik, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Menchaca, Moya, Perkins, Powers, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **35**.

Negative – Borelli, Holden, Miller, Ulrich, Yeger, and the Minority Leader (Matteo) – **6**.

Abstention – Brooks-Powers and Treyger – **2**.

The following was the vote recorded for **Int. Nos. 2333-A and 2335-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Brooks-Powers, Chin, D. Diaz, R. Diaz, Dinowitz, Dromm, Eugene, Feliz, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **42**.

Negative – Borelli – **1**.

The following was the vote recorded for **Int. Nos. 2356-A and 2359-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Brooks-Powers, Chin, D. Diaz, R. Diaz, Dinowitz, Dromm, Eugene, Feliz, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **40**.

Negative – Borelli, Yeger, and the Minority Leader (Council Member Matteo) – **3**.

The following was the vote recorded for **L.U. No. 819 & Res. No. 1719**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Brooks-Powers, Chin, D. Diaz, R. Diaz, Dinowitz, Dromm, Eugene, Feliz, Gibson, Gjonaj, Grodenchik, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **38**.

Negative – Borelli, Holden, Ulrich, Yeger, and the Minority Leader (Council Member Matteo) – **5**.

The following Introductions were sent to the Mayor for his consideration and approval:

Int. Nos. 339-B, 2252-A, 2291, 2311-A, 2333-A, 2335-A, 2356-A, and 2359-A.

INTRODUCTION AND READING OF BILLS

Res. No. 1713

Resolution calling on the New York City Department of Education to establish asynchronous learning programs at all Specialized High Schools and allow all New York City high school students to audit asynchronous learning program courses at Specialized High Schools provided that there is no undue burden imposed on teachers.

By Council Members Barron, Louis and Yeger.

Whereas, The New York City (NYC) Department of Education (DOE) educates over 1.1 million students who attend more than 1,800 schools, including over 400 high schools and nine Specialized High Schools (SHS); and

Whereas, Pursuant to a 1971 New York State (NYS) law known as the Hecht-Calandra Act, student admission to SHS is decided solely and exclusively on their Specialized High School Admissions Test (SHSAT) scores, except for the Fiorello H. LaGuardia High School of Music & Art and Performing Arts, which requires an audition; and

Whereas, These eight test-based high schools are NYC's most prestigious and sought after public high schools, as evidenced by DOE's admissions data; and

Whereas, According to DOE's 2021 SHS admission data, while about 23,500 eighth graders took the SHSAT during school year 2020-21, only 4,262 of these students received an offer based on their test performance; and

Whereas, According to DOE's SHS admissions data, Black and Latino students are significantly underrepresented at SHS, as they make up almost 70 percent of the City school system and over 40 percent of all students who took the SHSAT, but received just 9 percent of offers for the 2021-22 school year; and

Whereas, SHS offer opportunities to take advanced courses and earn college credit through their ample range of Advanced Placement (AP) courses in every subject, including an emphasis on science, technology, engineering, and mathematics (STEM); and

Whereas, Some SHS offer courses that go beyond AP (post-AP), such as courses like multivariable calculus, genetics, and organic chemistry, which are offered at the Bronx High School for Science and Technology; and

Whereas, SHS also provide access to College Now at The City College of New York, which is a program that allows qualified NYC public high school students to enroll in courses, such as psychology, sociology, cultural diversity, and more, and earn college credit while accessing academic enrichment workshops and programs; and

Whereas, Students attending SHS have access to many language courses and diverse electives, including Latin, poetry, film, horticulture, science fiction, international relations, gastronomy, cultural anthropology, and more; and

Whereas, In 2015, Mayor Bill de Blasio announced the Equity and Excellence Agenda, which revealed that nearly 40,000 NYC high school students were enrolled in schools that did not offer any AP courses; and

Whereas, According to the DOE's AP for All initiative, one of eight initiatives included in the Equity and Excellence Agenda, the goal was for students at all 400 NYC high schools to have access to at least five AP classes by Fall 2021; and

Whereas, According to the de Blasio administration's most recent update in 2017, during the 2015-16 school year, as part of the AP for All initiative, 63 high schools offered new AP courses, and participation and performance gains were largest for Black and Latino students; and

Whereas, According to College Board, in NYC high schools that do offer AP courses, there are wide disparities in participation and performance for Black and Latino students, as well as English language learners and students with disabilities; and

Whereas, Enrolling in AP courses gives students the opportunity to earn college credit, which can raise students' GPA and yield a better class ranking and a more competitive college application; and

Whereas, Research shows that the rigor of AP courses and exams better prepares students for college, and students who take AP courses and exams are more likely to graduate college on time; and

Whereas, Even with the expansion of AP courses across all NYC high schools, many non-SHS do not offer the comprehensive variety of AP, Post-AP, STEM and College Now courses and diverse electives that are accessible at SHS; and

Whereas, Asynchronous learning programs, which offer flexibility by allowing students to complete coursework at their own pace, can be accessed and downloaded on any remote device at any time of day to accommodate the schedules of non-SHS students; and

Whereas, Asynchronous learning programs at SHS could serve as a way to allow all NYC high school students access to remote and self-paced AP, Post-AP, STEM and College Now courses and diverse electives; and

Whereas, Asynchronous learning programs provide immediate, automated feedback and allow students to review and edit any incorrect coursework submitted, therefore, any undue burden of grading additional assignments would not be imposed on teachers; and

Whereas, Establishing and allowing all NYC high school students access to asynchronous learning programs at SHS, could provide a more equitable learning experience for each student and greater opportunity to excel academically; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York City Department of Education to establish asynchronous learning programs at all Specialized High Schools and allow all New York City high school students to audit asynchronous learning program courses at Specialized High Schools, provided that there is no undue burden imposed on teachers.

Referred to the Committee on Education.

Int. No. 2361

By Council Members Corney and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to creating a questionnaire related to the inspection and correction of building gas piping systems

Be it enacted by the Council as follows:

Section 1. Item 4 of section 28-318.3.3 of the administrative code of the city of New York, as added by local law 152 for the year 2016, is amended to read as follows:

4. No later than 120 days after the due date for such inspection, in accordance with department rules, such owner shall submit to the department, in a form and manner determined by the department, (i) a certification from a licensed master plumber that all conditions that were identified in the inspection report for which a certification was submitted pursuant to item 2 of this section have been corrected, except that such certification may note that correction of one or more conditions identified in such report, other than conditions referred to in section 28-318.3.4, will reasonably take additional time to complete and (ii) a certification from such owner that such owner is in compliance with item 3 of this section. Along with such certification, such owner may also submit *a completed questionnaire as described in section § 28-318.6.* If such certification notes that one or more conditions will take additional time to complete, such owner shall, no later than 180 days after the due date for such inspection, submit to the department, in a form and manner determined by the department, a certification from a licensed master plumber that all conditions identified in such report have been corrected.

§ 2. Article 318 of section of chapter 3 of title 28 of the administrative code of the city of New York, as added by local law 152 for the year 2016, is amended by adding a new section 28-318.6 as follows:

§ 28-318.6 Questionnaire. *The department shall create a questionnaire that shall seek feedback from the owner of any building required to undergo periodic inspections under article 318 of chapter 3 of this section. The questionnaire shall include, but need not be limited to the following: questions regarding the implementation of gas inspections as required by article 318 of chapter 3 of this section; hardships experienced by owners whose buildings are required to undergo such periodic inspection; and general concerns related to article 318 of chapter 3 of this section. Such questionnaire shall be mailed to each owner whose building is required to undergo periodic inspections under article 318 of chapter 3 of this section, made available on the department's website and may be requested by calling 311. A link to the questionnaire shall also be included with every service update provided in connection with the implementation of article 318 of chapter 3 of this section.*

§ 3. Article 318 of section of chapter 3 of title 28 of the administrative code of the city of New York, as added by local law 152 for the year 2016, is amended by adding a new section 28-318.7 as follows:

§ 28-318.7 Report. *No later than March 1, 2022 and on March 1 of every year thereafter, the department shall submit to the mayor and the speaker of the council, and shall post on its website, a report summarizing the results of all completed questionnaires received during the prior calendar year.*

§ 4. This local law takes effect 120 days after becoming law.

Referred to the Committee on Housing and Buildings.

Res. No. 1714

Resolution calling on Congress to pass, and the President to sign, H.R. 1350/S. 408, the Supporting Best Practices for Healthy Moms Act.

By Council Members D. Diaz and Yeger.

Whereas, According to the Commonwealth Fund, in 2018 there were 17 maternal deaths for every 100,000 live births in the United States, which is more than double the ratio of most other high-income countries; and

Whereas, According to the Centers for Disease Control and Prevention (CDC), about 700 people die each year in the United States as a result of pregnancy or delivery complications, and Black, American Indian, and Alaska Native people are two to three times more likely to die from pregnancy-related causes than white people; and

Whereas, In New York City, data from the Department of Health and Mental Hygiene (DOHMH) show that Black people are eight to twelve times more likely to die of pregnancy-related causes than white people; and

Whereas, Black people in New York City also experience disproportionately high rates of maternal morbidity, or life-threatening complications during delivery; and

Whereas, Black non-Latinx people had the highest severe maternal morbidity rate, at three times that of white, non-Latinx people; and

Whereas, This rate remained high even after accounting for other known risk factors, such as low education, neighborhood poverty level, and pre-pregnancy obesity; and

Whereas, According to DOHMH, severe maternal morbidity rates were also high among Puerto Rican and other Latinx people compared to white non-Latinx people; and

Whereas, Rates were highest among people living in high-poverty neighborhoods, and for people with an underlying chronic condition such as hypertension, diabetes, or heart disease, the rate was three times as high as those without any underlying conditions; and

Whereas, According to the Medicaid and CHIP Payment and Access Commission (MACPAC), Medicaid plays a key role in providing maternity-related services, paying for slightly less than half of all births nationally in 2018; and

Whereas, According to MACPAC, 48.4 percent of births in New York State were covered by Medicaid in 2018; and

Whereas, According to DOHMH, severe maternal morbidity and pregnancy-related deaths are more likely to impact Medicaid recipients; and

Whereas, H.R. 1350/S. 408, sponsored by Representative Robin L. Kelly and Senator Pat Toomey, otherwise known as the “Supporting Best Practices for Healthy Moms Act,” requires the Secretary of Health and Human Services (Secretary) to publish guidance for states on strategies for maternal care providers participating in the Medicaid program to reduce maternal mortality and severe morbidity with respect to individuals receiving medical assistance under such program; and

Whereas, The guidance for states will include resources and strategies for hospitals, freestanding birth centers, and other maternal care providers, as determined by the Secretary; and

Whereas, The Supporting Best Practices for Healthy Moms Act calls for the establishment of an advisory committee to be known as the “National Advisory Committee on Reducing Maternal Deaths,” which will provide consensus advice and guidance to the Secretary on the development and compilation of the guidance; and

Whereas, This Committee will include an extensive list of experts, including representatives from the doula, obstetrician-gynecologist, primary care, certified nurse-midwife, and community health fields, as well as representatives from the Federal Government; and

Whereas, Members of the Committee will include individuals with expertise in maternal health and experience working with populations that are at higher risk for maternal mortality or severe morbidity; and

Whereas, These populations include those that experience racial, ethnic, and geographic health disparities, pregnant and postpartum people experiencing a mental health disorder, or pregnant or postpartum people with other comorbidities such as substance use disorders, hypertension, thyroid disorders, and sickle cell disease; and

Whereas, Guidance will include best practices regarding evidence-based screening and clinician education initiatives relating to screening and treatment protocols for individuals who are at risk of experiencing complications related to pregnancy, with an emphasis on individuals with preconditions directly linked to pregnancy complications and maternal mortality and severe morbidity; and

Whereas, Guidance will also include best practices for hospitals, freestanding birth centers, and providers to make pregnant people aware of the complications related to pregnancy, and a fact sheet for pregnant people who are receiving care on an outpatient basis that explains the risks associated with pregnancy, birth, and the postpartum period, among other things; and

Whereas, Further, the guidance will provide information regarding quality assurance, health care checklists, and other information for medical professionals and institutions; and

Whereas, The Act also calls for a report on the payment methodologies under Medicaid for the antepartum, intrapartum, and postpartum transfer of pregnant people from one health care facility to another, including any potential disincentives or regulatory barriers to such transfers; now, therefore, be it

Resolved, That the Council of the City of New York calls on Congress to pass, and the President to sign, the Supporting Best Practices for Healthy Moms Act.

Referred to the Committee on Health.

Preconsidered Res. No. 1715

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

By Council Member Dromm.

Whereas, On June 30, 2021, the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2022 with various programs and initiatives (the “Fiscal 2021 Expense Budget”); and

Whereas, On June 30, 2020, the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2021 with various programs and initiatives (the “Fiscal 2021 Expense Budget”); and

Whereas, On June 19, 2019 the Council adopted the expense budget for fiscal year 2020 with various programs and initiatives (the “Fiscal 2020 Expense Budget”); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2022, Fiscal 2021, and Fiscal 2020 Expense Budgets by approving the new designation and changes in the designation of certain organizations receiving local, youth, aging, and anti-poverty discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2022, Fiscal 2021, and Fiscal 2020 Expense Budgets by approving new Description/Scope of Services for certain organizations receiving local discretionary funding and funding pursuant to a certain initiative; now, therefore, be it

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2022 Expense Budget, as set forth in Chart 1; and be it further

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 2; and be it further

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving aging discretionary funding in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 3; and be it further

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving funding pursuant to the anti-poverty discretionary funding in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 4; and be it further

Resolved, That the City Council approves the new designation of a certain organization receiving funding pursuant to the Boroughwide Needs Infinitive in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 5; and be it further

Resolved, That the City Council approves the new designation and the changes in the designation of certain organizations receiving funding pursuant to the Speaker's Initiative to Address Citywide Needs Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 6; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the A Greener NYC Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 7; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Cultural After-School Adventure (CASA) Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 8; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Neighborhood Development Grant Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 9; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the NYC Cleanup Initiative in accordance with the Fiscal 2022 Expense Budget t, as set forth in Chart 10; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Parks Equity Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 11; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Cultural Immigrant Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 12; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 13; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 14; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Digital Inclusion and Literacy Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 15; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Five Borough Chamber Alliance Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 16; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the LGBT Community Services Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 17; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Trans Equity Programs Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 18; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Legal Services for the Working Poor Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 19; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Alternatives to Incarceration (ATI's) Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 20; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Young Women's Leadership Development Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 21; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Access Health Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 22; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Autism Awareness Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 23; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Cancer Services Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 24; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Court-Involved Youth Mental Health Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 25; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Developmental, Psychological and Behavioral Health Services Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 26; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Ending the Epidemic Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 27; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Geriatric Mental Health Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 28; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 29; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Maternal and Child Health Services Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 30; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Mental Health Services for Vulnerable Populations Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 31; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Opioid Prevention and Treatment Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 32; and be it further

Resolved, That the City Council approves sets forth the new designation of certain organizations receiving funding pursuant to the Viral Hepatitis Prevention Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 33; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Veterans Community Development Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 34; and be it further

Resolved, That the City Council approves sets forth the change in the designation of a certain organization receiving funding pursuant to the Construction Site Safety Training Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 35; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Afterschool Enrichment Initiative in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 36; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Job Training and Placement Initiative in accordance with the Fiscal 2022 Expense Budget; as set forth in Chart 37; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the LGBTQ Inclusive Curriculum Initiative in accordance with the Fiscal 2022 Expense Budget; as set forth in Chart 38; and be it further

Resolved, That the City Council approves sets forth the change in the designation of a certain organization receiving funding pursuant to the Community Schools Initiative in accordance with the Fiscal 2022 Expense Budget; as set forth in Chart 39; and be it further

Resolved, That the City Council approves sets forth the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2021 Expense Budget, as set forth in Chart 40; and be it further

Resolved, That the City Council approves sets forth the new designation and the changes in the designation of certain organizations receiving aging discretionary funding in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 41; and be it further

Resolved, That the City Council approves sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to the A Greener NYC Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 42; and be it further

Resolved, That the City Council approves sets forth the changes in the designation of a certain organization receiving funding pursuant to the Cultural After-School Adventure (CASA) Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 43; and be it further

Resolved, That the City Council approves sets forth the new designation of a certain organization receiving funding pursuant to the Cultural Immigrant Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 44; and be it further

Resolved, That the City Council approves sets forth the changes in the designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 45; and be it further

Resolved, That the City Council approves sets forth the new designation and the changes in the designation of certain organizations receiving funding pursuant to the Naturally Occurring Retirement Communities (NORCs) Initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 46; and be it further

Resolved, That the City Council amends the description for the Description/Scope of Services for certain organizations receiving local discretionary funding in accordance with the Fiscal 2022 Expense Budget, as set forth in Chart 47; and be it further

Resolved, That the City Council amends the description for the Description/Scope of Services for certain organizations receiving local discretionary funding and funding for a certain initiative in accordance with the Fiscal 2021 Expense Budget, as set forth in Chart 48; and be it further

Resolved, That the City Council amends the description for the Description/Scope of Services for a certain organization receiving local discretionary funding in accordance with the Fiscal 2020 Expense Budget, as set forth in Chart 49.

Adopted by the Council (preconsidered and approved by the Committee on Finance; for text of the Exhibit Charts, please refer to the attachments section of [the Res. No. 1715 of 2021 file](#) in the legislation section of the New York City Council website at <https://council.nyc.gov>).

Int. No. 2362

By Council Members Holden and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to authorizing special rigger licensees to install accessory signs

Be it enacted by the Council as follows:

Section 1. Section 28-404.2 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

§ 28-404.2 Classification. Rigger licenses shall be classified as follows:

1. **Master rigger license.** Authorizes the holder thereof to install or use a suspended scaffold, or to hoist or lower any article with a hoisting machine, irrespective of weight, on the outside of any building.
2. **Special rigger license.** Authorizes the holder thereof to:
 - 2.1. Install or use a suspended scaffold; and
 - 2.2. Hoist or lower any article not exceeding 2,000 pounds (907 kg) in weight on the outside of any building with a hoisting machine, provided the manufacturer rated capacity of such hoisting machine does not exceed 2,000 pounds (907 kg).

2.3 Hoist, lower, hang or attach a sign that is accessory to a use on the same zoning lot as defined in section 12-10 of the zoning resolution, that does not exceed 150 square feet in area, measured on one face only, or exceed 1,200 pounds (544 kg) in weight.
3. **Climber or tower crane rigger license.** Authorizes the holder thereof to assemble, jump or disassemble a tower crane or a climber crane, or to supervise such work, and to install or use a derrick(s) in conjunction with such work and supervise such installation or use of the derrick.

§ 2. Section 28-415.1 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

§28-415.1 Sign hanger license required. It shall be unlawful to hoist or lower or to hang or attach any sign upon or on the outside of any building or structure in the city unless such work is performed by or under the direct and continuing supervision of a person licensed as a sign hanger under the provisions of this article.

Exception: A sign that is accessory to a use on the same zoning lot, as defined in section 12-10 of the zoning resolution that does not exceed 150 square feet in area, measured on one face only, or exceed 1,200 pounds

(544 kg) in weight may be hoisted, lowered, hung or attached upon or on the outside of any building by a special rigger licensed in accordance with article 404 of this chapter.

§ 3. This local law takes effect on January 1, 2022.

Referred to the Committee on Housing and Buildings.

Res. No. 1716

Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation that would amend pretrial detention to include all hate crime charges.

By Council Members Holden and Yeger.

Whereas, On January 1, 2020, The New York State legislature implemented sweeping reforms to the state's system of pretrial detention, which prohibited judges from setting bail or other forms of pretrial detention for many charges; and

Whereas, By April 2020, the State legislature amended these laws to allow for pretrial detention for wider number of charges, including two categories of hate crimes: assault as a hate crime in the third degree and arson as a hate crime in the third degree; and

Whereas, New York City has experienced a significant rise in hate crimes when comparing first quarter data from 2021 to first quarter data from 2020; and

Whereas, The bulk of these hate crimes have been anti-Semitic or anti-Asian; and

Whereas, Permitting pretrial detention provides judges with the option to more meaningfully address hate crimes; and

Whereas, The 2020 amendments to the bail reform laws do not include the types of hate crimes prevalent throughout the city; and

Whereas, With over 3 million foreign-born residents, New York City is incredibly diverse: New Yorkers practice a number of different faiths and speak more than 200 languages; and

Whereas, There can be no tolerance for hate crimes perpetrated against any New Yorker; and

Whereas, Expanding bail eligibility to all hate crimes underlines the seriousness with which the City takes these types of attacks; now, therefore, be it

Resolved, That the Council of the City of New York calls on New York State Legislature to pass, and the Governor to sign, legislation that would amend pretrial detention to include all hate crime charges.

Referred to the Committee on Public Safety.

Int. No. 2363

By Council Member Kallos.

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to departmental statements of needs and notice to the city required when real property is available for purchase

Be it enacted by the Council as follows:

Section 1. Subdivision e of section 204 of the New York city charter is amended to read as follows:
e. Preparation of the statement of needs.

(1) Annually on such date as the mayor shall direct, each agency shall submit to the mayor and the council a statement containing all the information required to be included in the statement of needs for the ensuing two fiscal years pursuant to subdivisions a, b and c of this section that relates to the plans, jurisdiction and responsibility of such agency. Such statements shall be known as the departmental statements of need for city facilities. In preparing such departmental statements of needs, each agency shall review and consider the district needs statements submitted by community boards pursuant to paragraph ten of subdivision d of section twenty eight hundred and the statements of budget priorities submitted by the community boards pursuant to section two hundred thirty.

§ 2. Title 4 of the administrative code of the city of New York is amended by adding a new chapter 3 to read as follows:

CHAPTER 3
REAL PROPERTY AVAILABLE FOR PURCHASE BY THE CITY

§ 4-301 Definitions. For the purposes of this section, the following terms have the following meanings:

Bona fide offer to purchase. The term "bona fide offer to purchase" means an offer to purchase real property, which offer is made in writing, in good faith and without fraud.

Commissioner. The term "commissioner" means the commissioner of citywide administrative services or the head of a successor agency charged with administration of this chapter.

Department. The term "department" means the department of citywide administrative services or a successor agency charged with administration of this chapter.

Owner. The term "owner" means any person, agent, firm, partnership, corporation or other legal entity having a legal or equitable interest in, or control of, real property that is offered for or subject to sale.

Real property professional. The term "real property professional" means any realtor, broker, listing agent or service who is acting on behalf of an owner and who is charged with listing real property available for purchase or facilitating the purchase of real property.

§ 4-302 Properties for sale; notice required. a. An owner or real property professional shall provide notice to the department before taking any action that will result in the sale of vacant real property with a lot size of 20,000 square feet or more. For vacant real property with a lot size less than 20,000 square feet, such notice may be required as determined by rule of the department.

b. The owner or real property professional shall provide such notice of sale no less than 30 days before taking such action. The notice may be provided fewer than 30 days before the owner takes such action where the owner or real property professional shows good cause for delay, including but not limited to the owner's death or financial hardship, or if the sale is in response to a previously unsolicited offer.

c. A notice of sale shall include the following information:

1. The name and address of each owner of the real property;

2. All addresses and names of the real property;

3. The action that will result in a sale, including receipt of any bona fide offer to purchase a previously unlisted property;

4. The date on which such action is anticipated to take place;

5. The provision of law, rule or regulation pursuant to which such action is authorized, if any;

6. The total size and type of real property subject to a sale;

7. The amount of any outstanding mortgage as of the date of the notice;

8. The asking price for the real property; and

9. Such other information as the department may require.

d. An owner or real property professional may withdraw a notice of sale, subject to the terms of any accepted offer to purchase or executed purchase and sale agreement, and to applicable statutory and common law remedies. To withdraw a notice of sale, the owner or real property professional shall give notice of withdrawal to the department in a manner specified by the department. Nothing in this subdivision shall be construed as exempting an owner or real property professional who has withdrawn a notice of sale from complying with subdivisions a, b and c of this section and with all other applicable requirements of this chapter before taking any action that will result in the sale of real property.

e. Notwithstanding any provision of this section to the contrary:

1. A person shall be deemed to have complied with the requirement to provide notice of sale or notice of withdrawal under this section if such person has complied with a substantially similar notice requirement imposed pursuant to a superseding statute or program; and

2. If the notice of sale or notice of withdrawal is required by this section to include more information than is required by any applicable superseding city, state or federal statute or program, the additional information required by this section shall be provided within the time period established by the superseding statute or program.

§ 4-303 Agency response required. Within 30 days of the posting of a notice of sale of real property pursuant to this chapter, each agency shall respond to each such notice by either (i) expressing an interest in purchasing such real property or (ii) by disclaiming any such interest. An expression of interest includes, but is not limited to, outreach to the owner or real property professional to make inquiries about the available real property or submitting an offer for such property.

§ 4-304 Prior notification. Notwithstanding any other provision of this chapter, where an owner or real property professional listed real property for sale before the effective date of this chapter and such listing was properly posted under any other applicable provision of law, such owner or real property professional shall notify the city as required by section 4-302. Such notice is not required if the owner has entered into a contract for the sale of such property or the sale period has closed before the effective date of this chapter.

§ 4-305 Manner of notice, generally. a. Wherever this chapter requires provision of notice, such notice shall be made by posting on a website designated by the commissioner.

b. The commissioner shall designate a website through which an owner or real property professional shall provide notice to the city under this chapter. The commissioner shall update the website at least daily and shall include disclaimers to the effect that (i) where a notice is provided on the website, such notice usually will not be provided in any other manner and (ii) it is the responsibility of any person interested in receiving any notice under this chapter to monitor the website for such notices.

c. Where applicable, the department shall include with a notice posted on such website the following information:

1. An affirmative statement that a copy of such notice was sent to every agency automatically when it was posted to such website;

2. The response of each agency to such notice;

3. Whether any agency is in the process of acquiring the real property listed and, if so, which agency;

4. Whether an agency disclaimed any interest in purchasing the real property and the reason for such lack of interest, including budget constraints, space limitations or location;

5. The reason the owner refused an agreement with an agency that expressed interest, if any;

6. Whether eminent domain was used to acquire the real property; and

7. Whether the real property was acquired through successful completion of the uniform land use review procedure.

d. The department shall post an update of an agency's expression of interest upon referral of an application that was submitted pursuant to the uniform land use review procedure for community board review. Any notice posted upon the website shall remain on such website until six months after sale of the real property has concluded or been canceled, or six months after an eminent domain action has concluded or been canceled. Such website shall provide every agency with alerts for every notice that is posted on the website. Such website shall allow public users to sign up for alerts for available properties filtered by zip code, council district and community district.

e. Provision of notice as required by this chapter shall be deemed complete upon posting to the website designated by the commissioner pursuant to subdivision b of this section.

§ 4-306 Penalties. a. An owner shall be liable for a civil penalty of \$30,000 where:

1. Such owner willfully violates any provision of this chapter; or

2. Such owner directs a real property professional to take or refrain from taking any action that results in a violation of any provision of this chapter.

b. A real property professional who willfully violates any provision of this chapter shall be liable for a civil penalty of \$30,000, except when such violation is a result of action or inaction at the express direction of the owner.

§ 4-307 Exclusions; construction. a. The provisions of this chapter do not apply:

1. To any agreement regarding the transfer of real property that was in effect on the effective date of this chapter, except that any renewal, modification or amendment of such agreement occurring on or after the effective date of this chapter is subject to the provisions of this chapter;

2. To any refinancing arrangement where an owner or purchaser refinances real property in order to maintain ownership of such property;

3. To any transfer of property initiated by (i) a government entity implementing its powers of eminent domain, (ii) a judicial proceeding, including a judicially supervised sale, (iii) a bankruptcy proceeding, or (iv) other operation of law; or

4. To any proposed sale for which (i) a listing, as described in section 4-305, was properly posted in accordance with any other applicable provision of law that requires provision of a notice of sale to the department, and (ii) 45 or fewer days remain before the expiration of the notice of sale period under such other applicable provision of law.

b. Nothing in this chapter shall be construed as requiring an owner to give preference to any particular offer to purchase real property, or to accept any such offer.

§ 4-308 Power of acquisition by ULURP or eminent domain preserved. Nothing in this chapter shall be construed as curtailing the city's authority to acquire real property in accordance with the uniform land use review procedure or by exercise of the power of eminent domain, subject to all applicable laws governing the exercise of such power.

§ 3. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Governmental Operations.

Int. No. 2364

By Council Members Kallos, Dromm and Yeger.

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to establishing the office of the taxpayer advocate

Be it enacted by the Council as follows:

Section 1. Chapter 58 of the New York city charter is amended by adding a new section 1528 to read as follows:

§ 1528 Office of Taxpayer Advocate.

a. There shall be established within the department an office of the taxpayer advocate. Such office shall be under the supervision and direction of an official known as the taxpayer advocate who shall be appointed by the mayor.

b. The taxpayer advocate shall have the following functions, powers and duties:

1. to assist taxpayers in resolving problems with the department;

2. to identify areas in which taxpayers have problems in dealings with the department;

3. to propose solutions, including administrative changes to practices and procedures of the department to mitigate problems identified in paragraphs 1 and 2 of this subdivision;

4. to recommend legislative action as may be appropriate to resolve problems encountered by taxpayers; and

5. to preserve and promote the rights of the taxpayer.

c. The taxpayer advocate shall not prepare tax returns for taxpayers, nor shall the taxpayer advocate participate in litigation on behalf of taxpayers.

§ 2. Chapter 1 of Title 11 of the administrative code of the city of New York is amended by adding a new section 11-143 to read as follows:

§ 11-143 Office of the Taxpayer Advocate.

a. Appointment. 1. There shall be established within the department an office of the taxpayer advocate. Such office shall be under the supervision and direction of an official known as the taxpayer advocate who shall be appointed by the mayor.

2. An individual appointed as taxpayer advocate shall have experience in customer service, tax law, and representing individual taxpayers.

3. An individual may be appointed as the taxpayer advocate only if such individual was not an officer or employee of the department during the two-year period ending with such appointment, and such individual agrees not to accept employment with the department for at least five years after ceasing to be the taxpayer advocate. Service as an officer or employee of the office of taxpayer advocate shall not be taken into account in applying this clause.

b. Duties and powers of the taxpayer advocate. The taxpayer advocate shall have the following functions, powers and duties:

1. to assist taxpayers in resolving problems with the department;

2. to identify areas in which taxpayers have problems in dealings with the department;

3. to propose solutions, including administrative changes to practices and procedures of the department to mitigate problems identified in paragraphs 1 and 2 of this subdivision;

4. to recommend legislative action as may be appropriate to resolve problems encountered by taxpayers; and

5. to preserve and promote the rights of the taxpayer.

c. The taxpayer advocate shall not prepare tax returns for taxpayers, nor shall the taxpayer advocate participate in litigation on behalf of taxpayers.

§3. This local law takes effect 6 days after it becomes law.

Referred to the Committee on Finance.

Int. No. 2365

By Council Members Koo, Gennaro and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to the creation of a task force to coordinate the removal of fallen trees due to a severe weather event

Be it enacted by the Council as follows:

Section 1. Section 18-142 of the administrative code of the city of New York, as added by local law number 21 of the year 2015, is amended to read as follows:

§18-142 Tree removal protocol and downed tree task force. a. The department, in consultation with the [office of emergency management, department of sanitation, local electric corporations, and other utility corporations identified by the department] *downed tree task force, established pursuant to subdivision d of this section,* shall develop a protocol for the removal of trees on city property that have been downed or damaged as a result of severe weather events. Such *tree removal* protocol shall require the department:

1. to establish effective means of communication with local electric corporations and other utility corporations identified by the department, so that the department is notified in a timely manner (i) of downed or damaged trees that have fallen on powered electrical wires or cables, and (ii) whether it is safe to remove such trees;

2. to effectively coordinate city personnel engaged in tree removal on city property, upon receiving information regarding the status of downed or damaged trees;

3. to establish a system whereby each report of downed or damaged trees is provided with a unique identifier or tracking number and a method to notify the local electric corporation and other utility corporations identified by the department when a downed or damaged tree on city property has been removed; and

4. to establish a system whereby department personnel engaged in tree removal may be deployed with local electric corporation or other utility corporation personnel, if practicable, to assess and remove downed or damaged trees that have fallen on powered electrical wires or cables.

b. The department shall publish prominently on its website as soon as is practicable after a severe weather event information instructing persons how to notify the city of downed or damaged trees or downed wires.

c. The department shall submit a description of such protocol to the mayor and the speaker of the council, and publish such description prominently on its website, within one hundred eighty days after the enactment of the local law that added this subdivision.

d. There is hereby established a downed tree task force to coordinate the safe removal of trees or tree limbs that have fallen as a result of a severe weather or climate event.

1. The downed tree task force shall consist of the following individuals, or designees thereof:

i. the commissioner of emergency management, who shall be the chairperson;

ii. the commissioner of parks and recreation;

iii. the commissioner of sanitation;

iv. the fire commissioner;

v. the police commissioner;

vi. the commissioner of transportation;

vii. the commissioner of environmental protection;

viii. the commissioner of information technology and telecommunications; and

ix. such other members as the commissioner of emergency management shall designate.

2. The downed tree task force shall:

i. convene to implement and oversee the tree removal protocol, established pursuant to subdivision a of this section, when a severe weather event or climate event occurs;

ii. convene no later than three days prior to the occurrence of an expected severe weather or climate event, convene throughout the duration of such event, and convene no later than one day following the conclusion of a severe weather or climate event;

iii. convene at least two times per year to consider or propose any changes to the tree removal protocol established pursuant to subdivision a of this section;

iv. consult with representatives from local electric corporations and other utility corporations identified by the task force and invite such representatives to each convening of the task force; and

v. within five days of amending the tree removal protocol, notify the mayor and the speaker of the council of such amendments and publish the amended tree removal protocol on the website of the department.

§ 2. This local law takes effect 90 days after it becomes law.

Referred to the Committee on Parks and Recreation.

Int. No. 2366

By Council Members Koo, Gennaro and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to tree health assessments and inspections

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-157 to read as follows:

§ 18-157 Tree inspections and health assessments. a. The department shall inspect each tree under its jurisdiction, to determine if any issue threatens the health of such tree or causes such tree to pose a threat to public safety, at least once between each time each tree is pruned by the department or pruned by a person authorized by the department for the maintenance of such tree, provided that any pruning conducted solely for the maintenance or preservation of utility infrastructure shall not toll such time period.

b. The department shall post on its website a description of the process used and the factors considered by the department, or by any person authorized by the department, to determine when inspections are performed on trees under the jurisdiction of the department in order to assess the health of such trees.

c. No later than November 1 of each year, the department shall, for the period covering the immediately preceding fiscal year, submit an annual report to the mayor and the speaker of the council that includes, but is not limited to, the following:

1. The total number and location of all trees inspected by the department or person authorized by the department, the result of such inspection and the action taken by the department in response to such inspection result;

2. The number and location of trees for which an inspection was requested or referred through the 311 citizen service center or other means and the number of such trees that were inspected by the department or a person authorized by the department;

3. The date of each referral or request for a tree inspection and the reason, if any, that was provided for such referral or request;

4. The action taken by the department in response to each request or referral for inspection and the date such action was taken; and

5. A regularly updated map on the website of the department that displays each inspected tree, the result of such inspection and the action taken by the department in response to the result of such inspection.

§ 2. This local law takes effect 90 days after it becomes law.

Referred to the Committee on Parks and Recreation.

Int. No. 2367

By Council Members Koo and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to parking violations issued for the failure to observe a parking sign where pavement markings designate a parking space

Be it enacted by the Council as follows:

Section 1. Subchapter 2 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-175.8 to read as follows:

§ 19-175.8 Failure to observe a parking sign where pavement markings designate a parking space. a. Affirmative defense. Notwithstanding any rule or regulation to the contrary, it shall be an affirmative defense to a notice of violation for the failure to observe a parking sign, with the burden of proof on the vehicle owner, that pavement markings on the roadway designated a parking space.

b. Exceptions. Such affirmative defense shall not be available to a vehicle owner where:

1. The department installed a physical barrier in the parking space to designate no parking; or

2. Pavement markings designate a parking space but street signs limit:

(a) The times when parking is authorized; or

(b) The type of vehicle authorized to park in such parking space.

c. Outreach. Beginning no later than the effective date of this local law, and continuing for 90 days thereafter, the commissioner, in collaboration with relevant agencies and relevant stakeholders, shall conduct culturally appropriate outreach in the designated citywide languages, as defined in section 23-1101, to alert vehicle owners to the affirmative defense established by subdivision a. Such outreach shall include, but need not be limited to, posting information on relevant agency websites and distributing information to vehicle owners and relevant stakeholders.

d. The commissioner shall promulgate rules necessary and appropriate to the administration of this section.

§ 2. This local law takes effect 90 days after it becomes law.

Referred to the Committee on Transportation.

Int. No. 2368

By Council Members Levin and Yeger.

A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to requiring that certain contact information be posted at work sites

Be it enacted by the Council as follows:

Section 1. Article 105 of chapter 1 of title 28 of the administrative code of the city of New York is amended by adding a new section 28-105.8.3 to read as follows:

§ 28-105.8.3 Contact information on permit. Every permit issued by the commissioner shall list a telephone number for the permit holder.

§ 2. Section 3301.9.1.1 of the New York city building code, as added by local law number 47 for the year 2013, is amended to read as follows:

3301.9.1.1 Project information panel content. Project information panels shall contain the following information:

1. A rendering, elevation drawing, or zoning diagram of the building exterior that does not contain logos or commercially recognizable symbols;
2. A title line stating "Work in Progress:" and specifying the intended type(s) of zoning use(s) (e.g. Residential, Commercial, Manufacturing, Retail, Office, Hospital, School);
3. Anticipated project completion date;
4. The corporate name, address, and telephone number of the owner of the property, *and the name of an individual to contact at the place of business of the owner*;
5. Website address or phone number to contact for project information;
6. The corporate name and telephone number of the general contractor, or for a demolition site, the demolition contractor, *and the name of an individual to contact at the place of business of the general contractor or demolition contractor*;
7. The statement, in both English and Spanish, "TO ANONYMOUSLY REPORT UNSAFE CONDITIONS AT THIS WORK SITE, CALL 311."; and
8. A copy of the primary project permit, with accompanying text "To see other permits issued on this property, visit: www.nyc.gov/buildings." The permit shall be laminated or encased in a plastic covering to protect it from the elements or shall be printed directly onto the project information panel.

Exception: A rendering, elevation drawing, or zoning diagram of the building exterior is not required for demolition projects.

§ 3. Section 3301.9.2.1.1 of the New York city building code, as added by local law number 47 for the year 2013, is amended to read as follows:

3301.9.2.1.1 Sidewalk Shed parapet panel content for sites not included in a best construction site management program. Sidewalk shed parapet panels not included in a best construction site management program shall contain the following information and be arranged in accordance with Figure 3301.9.2.1(1):

1. The street, address of the site;
2. Name (which may incorporate a logo) of the contractor responsible for the site or where there is no contractor, the name (which may incorporate a logo) of the owner of the site, *the name of an individual to contact at the place of business of the contractor or owner, and a phone number for such individual;* and
3. The statement "For more information, visit www.nyc.gov/buildings."

§ 4. Section 3301.9.3.1 of the New York city building code, as added by local law number 47 for the year 2013, is amended to read as follows:

3301.9.3.1 Sign content and posting. One or more signs needed to accommodate the following information shall be posted on the fence on each perimeter fronting a public thoroughfare at a height of no more than 12 feet (3658 mm) above the ground, with such distance measured from the ground to the top of the sign:

1. The name, address, and telephone number of the owner of the property;
2. The name, address, and telephone number of the general contractor, or for a demolition site, the demolition contractor, *and the name of an individual to contact at the place of business of the general contractor or demolition contractor;* and
3. The statement, in both English and Spanish, "TO ANONYMOUSLY REPORT UNSAFE CONDITIONS AT THIS WORK SITE THAT ENDANGER WORKERS, CALL 311."

§ 5. Section 3301.9.4 of the New York city building code, as added by local law number 47 for the year 2013, is amended to read as follows:

3301.9.4 Existing sidewalk shed signs and signs at construction or demolition sites for one, two- or three-family dwellings. Where a sidewalk shed is installed, and a sidewalk shed parapet panel is not required in accordance with Section 3301.9.2, a sign readily visible from the street shall be posted on the parapet that runs along the long axis of the sidewalk shed. Such sidewalk shed sign shall be in place throughout the duration that the sidewalk shed remains at the site. Such sidewalk shed sign shall include:

1. The corporate name, address, and telephone number of the sidewalk shed permit holder, *and the name of an individual to contact at the place of business of the sidewalk shed permit holder;*
2. The sidewalk shed permit number; and
3. The expiration date of the sidewalk shed permit.

§ 6. The commissioner of buildings shall create updated versions of the following figures in the New York city building code to reflect the amendments made by this local law, and shall post such revised figures on the website of the department of buildings for the convenience of legal publishers and the public:

- a. Figure 3301.9.1.4(1), displaying a fence project information panel text detail;
- b. Figure 3301.9.1.4(2), displaying a fence project information panel layout;
- c. Figure 3301.9.1.4(3) displaying a fence project information panel layout for small lots;

- d. Figure 3301.9.2.1(1), displaying the sidewalk shed parapet panel layout; and
- e. Figure 3301.9.2.1(2), displaying the sidewalk shed parapet panel layout for accepted site management programs.

§ 7. This local law takes effect 90 days after it becomes law, except that section six of this local law takes effect immediately.

Referred to the Committee on Housing and Buildings.

Int. No. 2369

By the Public Advocate (Mr. Williams) and Council Member Gibson.

A Local Law to amend the administrative code of the city of New York, in relation to requiring employers to hold an onboarding meeting to discuss an employee's reintegration back into the workplace after parental leave

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 8 of the administrative code of the city of New York is amended by adding a new section 8-134 to read as follows:

§ 8-134 Onboarding meeting after parental leave. 1. Definitions. As used in this section, the following terms have the following meanings:

Onboarding meeting. The term “onboarding meeting” means a meeting between an employer, or an employer’s designee, and an employee regarding the conditions and expectations of employment after such employee returns from parental leave. The substantive agenda of such a meeting shall adhere to the guidelines promulgated by the commission.

Parental leave. The term “parental leave” means any job-protected paid or unpaid leave taken pursuant to chapter 28 of title 29 of the United States code, section 204 of the worker’s compensation law or other parental leave benefit program provided by an employer that an employee may use to bond with a new child.

2. Guidelines. The commission shall promulgate guidelines regarding the timeline, topics of discussion, relevant rights and responsibilities, goals, format and duration of such an onboarding meeting within 90 days of the effective date of the local law that added this section. These guidelines may be updated by the commission as needed thereafter.

3. Compliance. Every employer must hold an onboarding meeting with every employee who returns from parental leave within two weeks of such employee’s return. An employee may opt out of an onboarding meeting by informing the employer in writing. The employer shall keep such record for at least five years and shall make such record available for review by the commission upon the commission’s request. The onboarding meeting required by this section is intended to establish a minimum threshold and shall not be construed to prohibit any employer from providing additional onboarding meetings or support for employees returning from parental leave. An employer shall keep a record of compliance with this section and retain such records for at least five years.

4. Notwithstanding the foregoing, the provisions of this section shall not apply to employers to whom the commission grants an exemption based on bona fide considerations of public policy.

5. Nothing in this section shall be construed to create a protected class in itself.

§ 2. This local law takes effect 180 days after it becomes law, except that the chairperson of the New York city commission on human rights may take all actions necessary for its implementation, including the promulgation of rules, prior to such date.

Referred to the Committee on Civil and Human Rights.

Int. No. 2370

By the Public Advocate (Mr. Williams) and Council Members Gibson and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to education about city standards for respectful care at birth, health care proxy forms and patients' rights

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-200.1 to read as follows

§ 17-200.1 Respectful care at birth, health care proxy; public education. a. The commissioner shall engage in public education efforts as necessary to inform health care providers and patients about the city's standards for respectful care at birth; health care proxy forms; the right to be free from discrimination in relation to pregnancy, childbirth or a related medical condition; the right to reasonable workplace accommodations and New York's paid family leave. Such efforts shall include, but need not be limited to:

1. An outreach initiative to distribute posters, flyers, online materials, and other written materials to all facilities where obstetric and gynecological care is provided through the department containing information about standards for respectful care at birth; health care proxy forms and their uses; the right to be free from discrimination related to pregnancy, childbirth or a related medical condition; the right to be free from discrimination related to caregiver status; the right to reasonable workplace accommodations including lactation accommodations, paid sick and safe leave, temporary schedule changes, temporary disability insurance, the family and medical leave act of 1993 and New York's paid family leave program. The department shall develop such materials in consultation with the New York city commission on human rights, the department of consumer and worker protection, and community based organizations with expertise in the workplace rights of pregnant workers. Such materials shall be developed with a focus on equity. The department shall distribute blank health care proxy forms as part of such initiative.

2. An invitation to the New York city health and hospitals corporation to participate in the posting and distribution of such posters, flyers, forms, online materials, and other written materials to patients seeking or receiving obstetric and gynecological care.

b. Nothing in this section shall be construed as requiring the acceptance or display of any such materials by any private entity.

§ 2. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Health.

Int. No. 2371

By the Public Advocate (Mr. Williams) and Council Member Treyger.

A Local Law in relation to the department of education reporting on school reopening plans to the commissioner of health and mental hygiene

Be it enacted by the Council as follows:

Section 1. a. For purposes of this section, the term "COVID-19" means the disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

b. Not later than September 1, 2021, the department of education shall submit to the commissioner of health and mental hygiene a report on the reopening plans for each public school in the city of New York for the 2021-2022 school year. The report shall include detailed information, disaggregated by school, on the following:

1. Measures that will be implemented for the 2021-2022 school year to protect the health of students, staff, and the community against COVID-19, including measures developed in consultation with city engineers; and

2. Protocols that will be implemented for communication with parents and the school community regarding the measures described in paragraph 1 of this subdivision, including communication in the designated citywide languages described in section 23-1101 of the administrative code of the city of New York.

c. Not later than September 10, 2021, the commissioner of health and mental hygiene shall:

1. Review the report required under subdivision b;

2. Report feedback, disaggregated by school, to the department of education with respect to the adequacy of the school reopening plans in protecting the health of students, staff, and the community from COVID-19; and

3. Report recommendations to the department of education for any modifications with respect to such school reopening plans, disaggregated by school.

§ 2. This local law takes effect immediately.

Referred to the Committee on Education.

Res. No. 1717

Resolution calling on the United States Congress to pass and President Joseph Biden to sign the Black Maternal Health Momnibus Act of 2021.

By the Public Advocate (Mr. Williams) and Council Member Gibson.

Whereas, The rate of maternal mortality in the United States more than doubled between 1990 and 2014 and the United States is the only developed country in the world whose rates continue to rise according to studies published in *Obstetrics and Gynecology*; and

Whereas, Over 700 women a year in the United States die of complications related to pregnancy and two-thirds of those deaths are preventable, with 50,000 women suffering from Severe Maternal Morbidity defined as life threatening complications of pregnancy according to the Centers for Disease Control and Prevention; and

Whereas, Rising maternal mortality and morbidity rates disproportionately impact Black women, who are up to three times more likely to die due to a complication from child birth than white women, regardless of other factors such as their level of educational attainment or income, according to United States Department of Health and Human Services research on maternal mortality disparities; and

Whereas, In New York State, the maternal mortality rate for black women was 51.6 deaths per 100,000 live births, compared to 15.9 deaths per 100,000 live births for white women from 2014-2016, according to the New York State Taskforce on Maternal Mortality and Disparate Racial Outcomes report from March 2019; and

Whereas, In New York City, Black women are three times more likely than white women to suffer from Severe Maternal Morbidity according to a New York City Department of Health and Mental Hygiene report on Severe Maternal Morbidity; and

Whereas, The Black Maternal Momnibus Act of 2021 H.R.959/S.346 sponsored by Rep. Lauren Underwood (D-IL-14) and Sen. Cory Booker (D-NJ) is a package that includes nine individual pieces of legislation to address the immense racial and ethnic disparities in maternal healthcare in the United States; and

Whereas, The Social Determinants for Moms Act H.R.943/S.851 sponsored by Rep. Lucy McBath (D-GA-6) and Sen. Richard Blumenthal (D-CT) approves the disbursement of grant funding for further research and study on social determinants of maternal health such as transportation, housing and environmental factors; and

Whereas, The Kira Johnson Act H.R.1212 sponsored by Rep. Alma Adams (D-NC-12) and named for a 39-year-old active, otherwise healthy Black woman who passed away in 2016 from a preventable complication shortly after delivering her second son, would expand funding for community based organizations working to improve maternal health outcomes for Black women; and

Whereas, The Protecting Moms Who Served Act H.R.958/S.796 sponsored by Rep. Lauren Underwood (D-IL-14) and Sen. Tammy Duckworth (D-IL) would commission a study on maternal health outcomes among veterans with an emphasis on ethnic and racial disparity; and

Whereas, The Perinatal Workforce Act H.R.945/S.287 sponsored by Rep. Gwen Moore (D-WI-4) and Tammy Baldwin (D-WI) would establish grant funding under the Public Services Act for accredited schools

that educate and train certified nurse-midwives and other perinatal healthcare providers in order to expand and diversify the maternity care workforce; and

Whereas, The Data to Save Moms Act H.R.925/S.347 sponsored by Rep. Sharice Davids (D-KS-3) and Sen. Tina Smith (D-MN) would improve data collection processes and quality measures of maternal health outcomes; and

Whereas, The Moms MATTER Act H.R.909/S.484 sponsored by Rep. Lisa Blunt Rochester (D-DE-At Large) and Sen. Kirsten Gillibrand (D-NY) would address the mental health and substance use disorder needs of mothers through the promotion of evidence-based programs that improve outcomes; and

Whereas, The Justice for Incarcerated Moms Act H.R.948/S.341 sponsored by Rep. Ayanna Presley (D-MA-7) and Sen. Cory Booker (D-NJ) would support incarcerated women by promoting better care in corrections facilities and would help to end the utilization of shackling in state and local prisons by attaching federal funding to prohibitions on the use of restraints on pregnant women; and

Whereas, The Tech to Save Moms Act H.R.937/S.893 sponsored by Rep. Eddie Bernice Johnson (D-TX-30) and Sen. Bob Menendez (D-NJ) would invest in digital tools like telehealth to improve maternal health outcomes in underserved areas; and

Whereas, The IMPACT to Save Moms Act H.R.950/S.334 sponsored by Rep. Janice Schakowsky (D-IL-09) and Sen. Bob Casey (D-PA) would help to promote better access to care through the continuity of health insurance coverage for the duration of labor, delivery and postpartum care; and

Whereas, The Maternal Health Pandemic Response Act H.R.8027/S.4769 sponsored by Rep. Lauren Underwood (D-IL-14) and Sen. Elizabeth Warren (D-MA) would make targeted investments to advance safe and maternity care and improve data collection, monitoring, and research on maternal health outcomes during the COVID-19 pandemic and beyond; and

Whereas, The Protecting Moms and Babies Against Climate Change Act H.R.957/S.423 sponsored by Rep. Lauren Underwood (D-IL-14) and Sen. Ed Markey (D-MA) would address climate change-related risks, make investments to initiatives that aim to reduce levels of and exposure to extreme heat, air pollution, and other environmental threats to pregnant people, new moms, and their infants, and

Whereas, The Maternal Vaccination Act H.R.951/S.345 sponsored by Representative Terri A. Sewell (D-AL-07) and Sen. Tim Kaine (D-VA) would provide funding for programs to increase maternal vaccination rates, protecting both new moms and their babies; and

Whereas, The Black Maternal Health Momnibus Act of 2021 would make critical investments in policies that would help to end preventable maternal mortality and to close the racial and ethnic disparities in maternal healthcare; now, therefore, be it

Resolved, That the Council of the City of New York calls on the United States Congress to pass and President Joseph Biden to sign the Black Maternal Health Momnibus Act of 2021.

Referred to the Committee on Health.

Int. No. 2372

By Council Members Rivera, Brooks-Powers, Yeger, Brannan, Dinowitz and Van Bramer.

A Local Law to amend the administrative code of the city of New York, in relation to creating a two year look-back window to the gender-motivated violence act, and extending its statute of limitations

Be it enacted by the Council as follows:

Section 1. Paragraph a of section 8-905 of the administrative code of the city of New York, as added by local law number 73 for the year 2000, is amended to read as follows:

2. A civil action under this chapter must 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] nine years after the inability to commence the action ceases. *Notwithstanding any provision of law which imposes a period of limitation to the contrary, any civil claim or cause of action brought under this chapter which is barred because the applicable period of limitation has expired or the plaintiff previously failed to file a notice of claim or a notice of intention to file a claim or action thereon may be commenced not earlier than six months after, and not later than two years and six months after, January 1, 2022.*

§ 2. This local law takes effect immediately.

Referred to the Committee on Women and Gender Equity.

Int. No. 2373

By Council Members Salamanca, Yeger, Brannan, Ampry-Samuel, Riley, Van Bramer, Lander, Rosenthal, Brooks-Powers, Powers, Koo, Dinowitz, Rivera, Rose, Adams, Koslowitz, D. Diaz, Dromm and Moya.

A Local Law to amend the administrative code of the city of New York, in relation to amending death certificates for deaths caused by COVID-19

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-169.1 to read as follows:

§ 17-169.1 Amending death certificates; certain fees prohibited. a. Definitions. As used in this section, the term "COVID-19" means the disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

b. Deaths caused by COVID-19. The department shall not charge a fee to an applicant applying to amend a death certificate where such amendment would change the cause of death to COVID-19 or health complications caused by COVID-19.

§ 2. This local law takes effect immediately.

Referred to the Committee on Health.

Int. No. 2374

By Council Members Treyger, the Speaker (Council Member Johnson), Cornegy, Dinowitz, Brooks-Powers, Dromm, Levin, D. Diaz, Ampry-Samuel, Koslowitz, Rivera, Chin and Moya.

A Local Law to amend the administrative code of the city of New York, in relation to classroom capacity

Be it enacted by the Council as follows:

Section 1. Title 17 of the administrative code of the city of New York is amended by adding a new section 17-199.17 to read as follows:

§ 17-199.17. Classroom capacity. The minimum allowance of space for each child in a classroom or other room of instruction in any school of the city school district of the city of New York shall be 35 square feet of net floor area. Children shall not be permitted in a classroom or other room of instruction in excess of the number allowed by this section.

§ 2. No later than September 1, 2022, and no later than each September 1 thereafter until every school of the city school district of the city of New York is fully compliant with section 17-199.17 of the administrative code, the chancellor shall report to the speaker and post on the department of education website, a list of schools which

are deemed to be in compliance and the total number of classrooms which are not compliant disaggregated by school, community school district, and borough.

§ 3. This local law takes effect immediately; provided, however, that no later than September 1, 2022, no less than one-third of schools of the city school district of the city of New York shall be fully compliant with section 17-199.17, as added by section one of this local law; no later than September 1, 2023, no less than two-thirds of schools shall be fully compliant with section 17-199.17; and no later than September 1, 2024, every school shall be fully compliant with section 17-199.17.

Referred to the Committee on Education.

Preconsidered L.U. No. 818

By Council Member Dromm:

Beck Street HDFC.PL.PFY22, Block 2684, Lots 54 and 57; Bronx, Community District No. 2, Council District 17.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered L.U. No. 819

By Council Member Dromm:

Maimonides, Block 5590, Lot 52, Block 5613, Lot 44, Block 5625, Lots 5, 8, and 11, Block 5637, Lot 32; Brooklyn, Community District No. 12, Council District 38.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 820

By Council Member Salamanca:

Application No. 20215031 HIM (N 210467 HIM) submitted by the Landmarks Preservation Commission pursuant to Section 3020 of the New York City Charter and Section 25-303 of the Administrative Code of the City of New York for the designation of Holyrood Episcopal Church – Iglesia Santa Cruz (Block 2176, Lot 30) as an historic landmark [DL 523/LP-2649], Borough of Manhattan, Council District 10, Community District 12.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings & Dispositions

L.U. No. 821

By Council Member Salamanca:

Application No. 20215018 HIM (N 210468 HIM) submitted by the Landmarks Preservation Commission pursuant to Section 3020 of the New York City Charter and Section 25-303 of the Administrative Code of the City of New York for the designation of Educational Building, 70 Fifth Avenue (Block 576, Lot 36) as an historic landmark [DL 523/LP-2650]. Borough of Manhattan, Council District 3, Community District 2.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings & Dispositions

NEW YORK CITY COUNCIL**A N N O U N C E M E N T S****Tuesday, August 3, 2021**Subcommittee on Zoning & Franchises

Francisco Moya, Chairperson

See Land Use Calendar

HYBRID HEARING - Chambers/Virtual Room 1 (Overflow room for additional public viewing at 250 Broadway across the street from City Hall).....10:00 a.m.

Wednesday, August 4, 2021Subcommittee on Landmarks, Public Sitings and Dispositions

Kevin C. Riley, Chairperson

See Land Use Calendar

HYBRID HEARING - Chambers/Virtual Room 1 (Overflow room for additional public viewing at 250 Broadway across the street from City Hall).....2:00 p.m.

Wednesday, August 11, 2021Subcommittee on Zoning & Franchises

Francisco Moya, Chairperson

See Land Use Calendar

Council Chambers – City Hall.....10:00 a.m.

Subcommittee on Landmarks, Public Sitings and Dispositions

Kevin C. Riley, Chairperson

See Land Use Calendar

Council Chambers – City Hall.....10:30 a.m.

Committee on Land Use

Rafael Salamanca, Jr., Chairperson

All items reported out of the Subcommittees

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

Council Chambers – City Hall.....11:00 a.m.

Thursday, August 26, 2021*Stated Council Meeting*.....*Agenda – 1:30 p.m.*

Council Chambers – City Hall (Overflow room for additional public viewing at 250 Broadway across the street from City Hall).

Shortly before the adjournment of the meeting, the Speaker (Council Member Johnson) wished a Happy 4th Birthday to Council Member Cumbo's son Prince.

Whereupon on motion of the Speaker (Council Member Johnson), the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) adjourned these in-person proceedings to meet again for the Stated Meeting of Thursday, August 26, 2021.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor's Local Law Note: Int. Nos. 946-B, 1572-B, 1859, 2233-A, 2234-A, 2257, 2313-A, and 2353, all adopted at the June 17, 2021 Stated Meeting, were returned unsigned by the Mayor on July 19, 2021. These items had lapsed into law on July 18, 2021 due to the lack of Mayoral action within the Charter-prescribed thirty day time period. These bills were assigned subsequently as Local Laws Nos. 77 to 84 of 2021, respectively,