

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2016**

No. 32

Introduced by Council Members Williams, Richards, Rose, Rodriguez, Vallone and Kallos.

A LOCAL LAW

To amend the New York city charter, in relation to green building standards for certain capital projects, and to repeal section 3 of local law number 86 for the year 2005, relating to certain reporting requirements.

Be it enacted by the Council as follows:

Section 1. Section 224.1 of the New York city charter, as added by local law number 86 for the year 2005, is amended to read as follows:

§ 224.1 Green building standards. a. As used in this section the following terms shall have the following meanings:

[(1)] *Capital project*. The term “capital project” [shall mean] *means* a capital project as defined in section 210 of this chapter that is paid for in whole or in part from the city treasury.

[(2)] *City agency*. The term “city agency” [shall mean] *means* a city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid, in whole or in part, from the city treasury.

[(3)] *Construction work*. The term “construction work” [shall mean] *means* any work or operations necessary or incidental to the erection, demolition, assembling, alteration, installing, or equipping of any building.

[(4)] *Green building standards*. The term “green building standards” [shall mean] *means* design guidelines, a rating system or rules for constructing buildings that ensure site planning, water efficiency, energy efficiency and renewable energy, conservation of materials and resources and indoor environmental quality.

[(5)] *Inflation*. The term “inflation” shall mean the annual [twelve (12) month] *12-month* average of the consumer price index published by the United States department of labor.

[(6)] *LEED energy and atmosphere: optimize energy performance credit*. The term “LEED energy and atmosphere: *optimize energy performance* credit [1]” [shall mean] *means* the credit [point] *to achieve points* under LEED for New Construction version [2.1] *4* intended to achieve increased energy performance.

[(7)] *LEED green building rating system*. The term “LEED green building rating system” [shall mean] *means* a version of the Leadership in Energy and Environmental Design (LEED) building rating system published by the [United States] *U.S.* Green Building Council, not less stringent than the selected green building rating system, including a standard developed by or for the city consisting of practices and technologies derived from the LEED rating system that are reasonable and appropriate for building in New York city.

[(8)] *LEED water efficiency: indoor water use reduction credit*. The term “LEED water efficiency: *indoor water use reduction* credit [3.2]” [shall mean] *means* the credit [point] *to achieve points* under the LEED for New Construction version [2.1] *4* intended to achieve water use reduction.

[(9)] *Not less stringent*. The term “not less stringent” [shall mean] *means* providing no less net environmental and health benefits.

Occupancy group. The term “occupancy group” means occupancy group as classified in accordance with the New York city construction codes.

[(10)] *Rehabilitation work. The term “rehabilitation work” [shall mean] means any restoration, replacement or repair of any materials, systems and/or components.*

[(11)] *Selected green building rating system. The term “selected green building rating system” [shall mean] means the [current and most appropriate building rating system published by the United States] U.S. Green Building Council; provided, however, at the mayor’s discretion, the term “selected green building rating system” shall mean] Building Design and [New] Construction version [2.1] 4, [Existing Buildings] *Building Operations and Maintenance* version [2] 4 or [Commercial Interiors] *Interior Design and Construction* version [2] 4 of the building rating system published by the U.S. Green Building Council, whichever is most appropriate for the project under [United States] U.S. Green Building Council guidelines.*

[(12)] *The] Substantial reconstruction. For buildings other than buildings classified in occupancy group R, the term “substantial reconstruction” [shall mean] means a capital project in which (i) the scope of work includes rehabilitation work in at least two of the following three major systems[,] of the building: electrical, HVAC (heating, ventilating and air conditioning) and plumbing, [of a building] and (ii) construction work affects at least [fifty] 50 percent [(50%)] of the building’s floor area. For buildings classified in occupancy group R, the term “substantial reconstruction” means a capital project that includes (i) heating system replacement, (ii) work on at least 75 percent of dwelling units contained within such building, including but not limited to fixture replacements in kitchens and bathrooms, and (iii) substantial work on the building envelope, including but not limited to the addition of building wide air sealing measures performed in conjunction with window replacements on at least 50 percent of total glazing,*

addition of roof insulation on 100 percent of the roof or the addition of at least 50 percent wall insulation.

b. (1) [Each] *Except as provided in paragraph (3) of this subdivision, each capital project with an estimated construction cost of [two million dollars (\$2,000,000)] \$2,000,000 or more involving (i) the construction of a new building, (ii) an addition to an existing building, or (iii) the substantial reconstruction of an existing building shall be designed and constructed to comply with green building standards not less stringent than the standards prescribed for buildings designed in accordance with the LEED green building rating system to achieve a LEED [silver] gold or higher rating, or, with respect to buildings classified in occupancy groups [G or H-2] F or H, to achieve a LEED certified or higher rating, or with respect to buildings classified in occupancy group R, to comply with the version of the New York city overlay of the Enterprise green communities criteria in effect as of the effective date of the local law adding paragraph (3) of this subdivision, or the version of such criteria designated by the department of housing preservation and development by rule; provided that capital projects with an estimated construction cost of less than \$10,000,000 and that involve only an addition to or substantial reconstruction of an existing building classified in occupancy groups F or H are exempted from complying with this subdivision. If the mayor elects to utilize green building standards other than the LEED green building rating system, the mayor shall publish findings demonstrating that such other green building standards are not less stringent than the LEED standards described above for achievement of a LEED [silver] gold or, if applicable, a LEED certified rating. The green building standards utilized by the city in accordance with this section shall be reviewed and updated, as necessary, by the mayor no less often than once every three years.*

(2) In addition, if the estimated construction cost of a *capital* project required to comply with green building standards in accordance with paragraph [one] (1) of this subdivision is [12 million dollars (\$12,000,000)] *\$12,000,000* or more, such project shall be designed and constructed to reduce energy cost as follows; *provided that this paragraph shall not apply to capital projects involving city-owned buildings or buildings classified in occupancy groups E or R:*

(i) Capital projects[, other than buildings classified in occupancy group G,] with an estimated construction cost of [12 million dollars (\$12,000,000)] *\$12,000,000* or more but less than [30 million dollars (\$30,000,000)] *\$30,000,000* shall be designed and constructed to reduce energy cost by a minimum of [twenty] 20 percent [(20%)], as determined by the methodology prescribed in LEED energy and atmosphere: *optimize energy performance* credit [1] or the New York state energy conservation code, whichever is more stringent. In addition to such [twenty] 20 percent [(20%)] reduction in energy cost, the design agency shall make investments in energy efficiency that reduce energy cost by an additional five percent [(5%)] if it finds that the payback on such investment through savings in energy cost would not exceed seven years.

(ii) Capital projects[, other than buildings classified in occupancy group G,] with an estimated construction cost of [30 million dollars (\$30,000,000)] *\$30,000,000* or more shall be designed and constructed to reduce energy cost by a minimum of [twenty-five] 25 percent [(25%)], as determined by the methodology prescribed in LEED energy and atmosphere: *optimize energy performance* credit [1] or the New York state energy conservation code, whichever is more stringent. In addition to such [twenty-five] 25 percent [(25%)] reduction in energy cost, the design agency shall make investments in energy efficiency that reduce energy cost by an additional five

percent [(5%)] if it finds that the payback on such investment through savings in energy cost would not exceed seven years.

[(iii) Capital projects involving buildings classified in occupancy group G with an estimated construction cost of 12 million dollars (\$12,000,000) or more shall be designed and constructed to reduce energy cost by a minimum of twenty percent (20%), as determined by the methodology prescribed in LEED energy and atmosphere credit 1 or the New York state energy conservation code, whichever is more stringent. In addition to such twenty percent (20%) reduction in energy cost, the design agency shall make investments in energy efficiency that reduce energy cost by an additional five percent (5%) if it finds that the payback on such investment through savings in energy cost would not exceed seven years or, in the alternative, the design agency shall make investments in energy efficiency that reduce energy cost by an additional ten percent (10%) if it finds that the payback on such investment through savings in energy cost would not exceed seven years.]

(3) For capital projects required to comply with paragraph (1) of this subdivision which are buildings classified in occupancy groups E, I-2 or in any occupancy group that, before the enactment of the local law adding this paragraph, was not required to comply with paragraph (1) of this subdivision, the mayor or an office or agency designated by the mayor may, in conjunction with the New York city economic development corporation, the New York city school construction authority and any other relevant offices or agencies, establish alternative design and construction standards. Such alternative standards may be as stringent or more stringent than the standards described by paragraph (1) of this subdivision. For buildings that are not classified in occupancy group E, such alternative standards may be less stringent than the standards described by paragraph (1) of this subdivision if the mayor or such designated office or agency determines that

compliance with the standards described by such paragraph would be impracticable or unduly burdensome for a particular occupancy group; provided that such alternative standards may be less stringent than the standards described by such paragraph only to the minimum extent necessary and, except in the case of alternative standards prescribed for buildings classified in occupancy group R, shall be not less stringent than standards prescribed for buildings designed to achieve a LEED certified rating under version 4 of the LEED green building rating system. For buildings that are classified in occupancy group E, such alternative standards may be the New York city green schools guide in effect as of the effective date of the local law adding this paragraph, or the version of such guide designated by rule by the mayor or such designated office or agency; provided that such alternative standards are not less stringent than standards prescribed for buildings designed to achieve a LEED certified rating under version 4 of the LEED green building rating system. If the mayor or such designated office or agency establishes alternative standards under this paragraph, the mayor or such designated office or agency shall:

(i) Within 60 days after adopting such alternative standards, submit to the council and make publicly available online a report that, at a minimum:

(A) Describes such standards and the occupancy groups to which they will apply;

(B) Identifies any provisions in such standards that are less stringent than the standards described in paragraph (1) of this subdivision and, for each such provision, sets forth the reasons why compliance with the standards described in such paragraph would be impracticable or unduly burdensome for buildings classified in such occupancy groups;

(C) Except in the case of alternative standards prescribed for buildings classified in occupancy group R, describes how such alternative standards are not less stringent than the

standards prescribed for buildings designed to achieve a LEED certified rating under version 4 of the LEED green building rating system; and

(ii) If such alternative standards are less stringent than the standards described in paragraph (1) of this subdivision, in every third fiscal year thereafter, submit to the council and make publicly available online a report that, at a minimum, states whether the mayor or such designated office or agency has determined that such less stringent standards continue to be necessary and, if so, a description of the reasons therefor and whether such standards can reasonably be made more stringent.

c. Capital projects, other than those required to comply with green building standards in accordance with subdivision b of this section, shall be subject to the following:

(1) Each capital project that includes the installation or replacement of a boiler at an estimated construction cost for such installation or replacement of [two million dollars (\$2,000,000)] *\$2,000,000* or more, or that involves the installation or replacement of lighting systems in a building at an estimated construction cost for such installation or replacement of [one million dollars (\$1,000,000)] *\$1,000,000* or more, shall be designed and constructed to reduce energy cost by a minimum of ten percent [(10%)], as determined by the methodology prescribed in LEED energy and atmosphere: *optimize energy performance* credit [1] or the New York state energy conservation code, whichever is more stringent; *provided that compliance with this paragraph shall not be required for capital projects that would be subject to this paragraph solely because such project involves replacement of a boiler, unless the cost of such project equals or exceeds 50 percent of the cost of replacing the heating distribution system of such building.*

(2) Each capital project, other than a project required to comply with paragraph [one] (1) of this subdivision, that involves the installation or replacement of HVAC [comfort controls] systems

at an estimated construction cost for such installation or replacement of [two million dollars (\$2,000,000)] \$2,000,000 or more, shall be designed and constructed to reduce energy cost by a minimum of five percent [(5%)] as determined by the methodology prescribed in LEED energy and atmosphere: *optimize energy performance* credit [1] or the New York state energy conservation code, whichever is more stringent.

d. In addition to complying with any other applicable subdivision in this section, each capital project involving the installation or replacement of plumbing systems that includes the installation or replacement of plumbing fixtures at an estimated construction cost for such installation or replacement of plumbing systems of [five hundred thousand dollars (\$500,000)] \$500,000 or more shall be designed and constructed to reduce potable water consumption in the aggregate by a minimum of [thirty] 30 percent [(30%)], as determined by a methodology not less stringent than that prescribed in LEED water efficiency: *indoor water use reduction* credit [3.2]; provided, however, that such percentage shall be reduced to a minimum of [20%] 20 percent if the department of buildings rejects an application for the use of waterless urinals for the project.

e. [This section shall apply only to capital projects involving buildings classified in occupancy groups B-1, B-2, C, E, F-1a, F-1b, F-3, F-4, G, H-1 and H-2.] *This section shall not apply to capital projects that only involve buildings classified in occupancy groups A-5 or U.*

f. The mayor may exempt from each provision of this section [capitol] *capital* projects accounting for up to [20%] 20 percent of the capital dollars in each fiscal year subject to such provision if in [his or her] *such mayor's* sole judgment such exemption is necessary in the public interest. At the conclusion of each fiscal year the mayor shall report to the council the exemptions granted pursuant to this section.

g. This section shall not apply to capital projects of entities that are not city agencies unless [fifty] 50 percent [(50%)] or more of the estimated cost of such project is to be paid for out of the city treasury. This exemption shall not apply to any capital project that receives [ten million dollars (\$10,000,000)] *\$10,000,000* or more out of the city treasury.

h. This section shall not apply to capital projects that have received capital dollars from the city treasury before January 1, 2007.

i. The mayor shall promulgate rules to carry out the provisions of this section.

j. The costs listed in subdivisions b, c, d and g of this section *are denominated in January 2007 dollars and* shall be indexed to inflation *annually*.

k. Capital projects [accounting for at least fifty percent (50%) of the capital dollars in each fiscal year allocated for each city agency] that are subject to paragraph [one] (1) of subdivision b of this section that utilize a version of the LEED green building rating system for which the [United States] U.S. Green Building Council will accept applications for certification, shall apply to the [United States] U.S. Green Building Council for certification that such projects have achieved a [silver] *gold* or higher rating under the LEED green building rating system [or, with respect to projects involving buildings classified in occupancy groups G or H-2, a certified or higher rating under such rating system]. *The mayor or an office or agency designated by the mayor shall by rule establish an alternative certification process for capital projects that are complying with alternative standards promulgated by the mayor or such designated office or agency under paragraph (3) of subdivision b of this section.*

l. Reserved.

m. By no later than December 1 of each year, the mayor shall submit to the speaker of the council a report, in accordance with the procedure and format established by the department of design and construction, containing, at a minimum, the following information:

(1) for each capital project subject to this section completed during the preceding fiscal year:

(i) a brief description of such project;

(ii) the street address of such project and the community district and council district in which such project is located;

(iii) the estimated level of LEED certification such project has achieved as determined by the city agency that designed such project in accordance with the LEED green building rating system or, if applicable, the level achieved, as certified by the U.S. Green Building Council;

(iv) additional costs attributed to complying with the LEED green building rating system or any other green building standard; and

(v) an assessment of the health, environmental and energy-related benefits achieved in comparison with a base-case code compliant project, including projected energy savings and reductions in peak load, reductions in emissions and potable water use;

(2) a summary of agency findings related to additional investment in energy efficiency pursuant to subparagraphs (i) and (ii) of paragraph 2 of subdivision b of this section, including any additional investment in energy efficiency considered and the estimated payback time for such investment through savings in energy cost; and

(3) the total value of capital allocations in the preceding calendar year to projects exempted from the requirements of this section by the mayor pursuant to subdivision f of this

section, and a list and brief description of each such project, including but not limited to square footage, project cost and the reason for such exemption, disaggregated by city agency.

§ 2. Section three of local law number 86 for the year 2005 is REPEALED.

§ 3. Section four of local law number 86 for the year 2005 is amended to read as follows:

§ 4. This local law shall take effect on January 1, 2007 and shall apply to capital projects for which the final design is approved pursuant to section 223 of the New York city charter after such effective date, except that prior to such effective date the mayor shall take all actions necessary for the timely implementation of this local law, including the promulgation of rules, and shall take all practicable steps to implement this local law. [Section 3 of this local law shall expire and shall be of no further force and effect on and after January 1, 2019. Subdivision k of section 224.1 of the charter, as added by section 2 of this local law shall expire and shall be of no further force and effect on and after January 1, 2017.]

§ 4. This local law takes effect immediately, except that this local law shall apply only to capital projects which are added to the capital plan on or after July 1, 2017. All other capital projects shall comply with section 224.1 of such charter, as in effect before the effective date of this local law, subject to the provisions of section four of local law 86 for the year 2005.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 9, 2016 and approved by the Mayor on March 28, 2016.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 32 of 2016, Council Int. No. 721-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.