

THE COUNCIL

Minutes of the Proceedings for the
STATED MEETING
of
Thursday, June 25, 2020, 1:44 p.m.
held remotely via video-conference

The Public Advocate (Mr. Williams)
presiding as the Acting President Pro Tempore

Council Members

Corey D. Johnson, *Speaker*

Adrienne E. Adams	Robert F. Holden	Antonio Reynoso
Alicka Ampry-Samuel	Ben Kallos	Donovan J. Richards
Diana Ayala	Andy L. King	Carlina Rivera
Inez D. Barron	Peter A. Koo	Ydanis A. Rodriguez
Joseph C. Borelli	Karen Koslowitz	Deborah L. Rose
Justin L. Brannan	Rory I. Lancman	Helen K. Rosenthal
Fernando Cabrera	Bradford S. Lander	Rafael Salamanca, Jr
Margaret S. Chin	Stephen T. Levin	Ritchie J. Torres
Andrew Cohen	Mark D. Levine	Mark Treyger
Laurie A. Cumbo	Farah N. Louis	Eric A. Ulrich
Chaim M. Deutsch	Alan N. Maisel	Paul A. Vallone
Ruben Diaz, Sr.	Steven Matteo	James G. Van Bramer
Daniel Dromm	Carlos Menchaca	Kalman Yeger
Mathieu Eugene	I. Daneek Miller	
Vanessa L. Gibson	Francisco P. Moya	
Mark Gjonaj	Bill Perkins	
Barry S. Grodenchik	Keith Powers	

Absent: Council Members Constantinides and Cornegy.

At the time of this virtual Stated Meeting, there was one vacant seat on the Council in the 37th District (Brooklyn) pending the swearing-in of the certified winner of the November 3, 2020 General Election.

The Public Advocate (Mr. Williams) assumed the chair as the Acting President Pro Tempore and Presiding Officer for these virtual 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 Public Advocate and Acting President Pro Tempore (Mr. Williams).

There were 48 Council Members marked present at this Stated Meeting held remotely due to the coronavirus pandemic emergency. These virtual proceedings were video-conferenced via Zoom.

INVOCATION

The Invocation was delivered by Bishop R.C. Hugh Nelson, D. Min. Lead Pastor/ District Administrative Bishop who serves as a spiritual leader at Church of God of East Flatbush, located at 409 East 95th Street, Brooklyn, NY 11212.

Thank you so very much for this opportunity
and pour blessings over you today.
Would you bow your heads with me?

Heavenly Father
we humbly approach your throne of mercy and grace
acknowledging you as creator of this world and our lives.
You instructed us in the words of Saint Paul,
I urge first of all, that petitions, prayers, intercession,
and thanksgiving be made for all people.
For kings and for all those in authority
that we may live peaceful and quiet lives
in our godliness and holiness.
We thank you for each individual seated in this Council today
and prayer your blessings up on them
and also for those who are not able to attend.
I thank you for the rich diversity of New York City
and what it represents around this world,
even though we were forced to battle
the viral pandemic of COVID-19
and witness the massive loss of lives.
Still, we celebrate the resilience of the city
and the courage of our essential workers.
I pray that you'll direct all officials
in how to deal with the racial unrest
that plagues our country and give us wisdom
to correct the wrongs of the past
as we celebrate your image in each individual.
Help us oh Lord to live as brothers and sisters
that we may walk in fellowship and compassion
and to love one another.
I pray that you will use the gifts and abilities
within each of us to accomplish the tasks set before us.
Help us to maintain a hopeful expectation
in the deliberations of the day
and to always remember that
when our agenda stay focused on the wealth of all constituents.
We can always depend on your presence and grace.
We pray as we carry out your work of justice and mercy,

you will guide our hearts and direct our steps.
We pray these things in the precious name of Jesus Christ our Lord.
Amen.

God Bless You and have a wonderful day.

Council Member Ampry-Samuel moved to spread the Invocation in full upon the record.

ADOPTION OF MINUTES

Council Member Koslowitz moved that the Minutes of the Stated Meeting of May 28, 2020 be adopted as printed.

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Johnson) noted that New York City had moved into the second phase of its reopening and he praised the progress that New Yorkers had made in flattening the curve. He reminded everyone to stay vigilant and reiterated the vital importance of social distancing and wearing a mask. The Speaker (Council Member Johnson) acknowledged that the number of coronavirus deaths and probable deaths in New York had reached 22,365 as of June 24, 2020. On behalf of the Council, he offered his thoughts and prayers to those who had lost loved ones to this devastating virus. The Speaker (Council Member Johnson) also acknowledged that retired Firefighter Blaise Del Bianco died of a 9/11-related disease. The late firefighter died on June 21, 2020 at the age of 66.

The Speaker (Council Member Johnson) asked for a Moment of Silence in memory of Firefighter Del Bianco and the tens of thousands of New Yorkers who lost their lives to COVID-19.

At this point, a Moment of Silence was observed.

* * *

Council Member Yeger’s Motion to Amend Int. No. 1964-A, and Res. Nos. 1347, 1348, and 1349.

During the Communication from the Speaker segment of this Meeting, Council Member Yeger made a motion to amend Int. No. 1964-A, and Res. Nos. 1347, 1348, and 1349 pursuant to Council Rule 9.40. Council Member Yeger acknowledged to the Parliamentarian (Mr. Polivy) that the proposed amendments were reduced to writing and transmitted by e-mail to the Legislative Document Unit. At a later point, the Parliamentarian (Mr. Polivy) noted that copies of the proposed amendments were distributed to all of the Council Members during the Stated Meeting.

The Parliamentarian (Mr. Polivy) asked Jonathan Ettricks, Director of the Legislative Document Unit, to read Council Member Yeger’s proposed amendments received in writing into the record.

At this point, Mr. Ettricks read the proposed amendments into the record:

An amendment to Int. No. 1964-A striking all references to 7.5 percent and inserting zero instead.

An amendment to Res. No. 1347 striking all references to 18 percent and inserting 2 percent instead.

An amendment to Res. No. 1348 striking all references to 3.25 percent and 5 percent and inserting zero instead.

An amendment to Res. No. 1349 striking all references to 7.5 percent and inserts zero instead.

Following a parliamentary point of order and a number of brief recesses, the debate on these four proposed amendments went forward and was concluded (please see Stated Meeting Transcript of June 25, 2020, pages 42-79 found as an attachment to the [Res. 1349 of 2020 file](#) on the Council website www.council.gov).

During the debate, the following Council Members spoke in support of adopting Council Member Yeger’s proposed amendments at this Stated Meeting: Council Members Yeger, Holden, Koo, Gjonaj, and Deutsch.

During the debate, the following Council Members spoke against adopting Council Member Yeger’s proposed amendments at this Stated Meeting: Council Members Miller, Rosenthal, the Speaker (Council Member Johnson), Chin, Lancman, Vallone, Dromm, and Van Bramer. The Public Advocate and Acting President Pro Tempore (Mr. Williams) also spoke against adopting the proposed amendments at this Stated Meeting.

Following the end of the debate, the Public Advocate (Mr. Williams) put the question whether the Council would agree with and adopt such motion which failed by the following vote:

Affirmative – Borelli, Brannan, Deutsch, Diaz, Gjonaj, Holden, King, Koo, Menchaca, Perkins, Ulrich, Yeger, and the Minority Leader (Council Member Matteo) – **13**.

Negative – Adams, Ampry-Samuel, Ayala, Barron, Cabrera, Chin, Cohen, Dromm, Eugene, Gibson, Grodenchik, Kallos, Koslowitz, Lancman, Lander, Levin, Levine, Louis, Maisel, Miller, Moya, Powers, Reynoso, Richards, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Vallone, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **34**.

(Present but Not Voting – Torres)

Council Member Yeger’s motion to amend Int. No. 1964-A and Res. Nos. 1347, 1348, and 1349 failed by a vote of 13-34-0.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Consumer Affairs and Business Licensing

Report for Int. 1957-A

Report of the Committee on Consumer Affairs and Business Licensing in favor of approving and adopting, as amended, a Local Law in relation to temporary space for outdoor dining.

The Committee on Consumer Affairs and Business Licensing, to which the annexed proposed amended local law was referred on May 28, 2020 (Minutes, page 1017), respectfully

REPORTS:

I. INTRODUCTION

On June 25, 2020, the Committee on Consumer Affairs and Business Licensing, chaired by Council Member Andrew Cohen, held a vote on Proposed Introduction Number 1957-A (Int. 1957-A), in relation to temporary space for outdoor dining. The Committee previously held a remote hearing on an earlier version of this bill. The Committee invited the Department of Consumer and Worker Protection (DCWP) (formerly the Department of Consumer Affairs), Chambers of Commerce, Business Improvement Districts (BIDs), restaurant industry representatives, mobile food vendors, and other stakeholders to testify, and this feedback informed the final version of the bill. On June 25, 2020, Int. 1957-A passed the committee vote with a vote of seven in the affirmative, zero in the negative and zero abstentions.

II. BACKGROUND

In late December of 2019, a new virus, SARS-CoV-2, was detected in Wuhan, China and by January 30, 2020, the World Health Organization (WHO) declared that COVID-19, the disease caused by the SARS-CoV-2 virus, was now a Public Health Emergency of International Concern (PHEIC).¹ SARS-CoV-2 is not the first virus to pose a serious threat to modern civilization in recent decades. In 2003, the severe acute respiratory syndrome (SARS) was labelled the “first pandemic of the 21st century”, because it spread quickly across continents, infected more than 8,000 people and killed nearly 800.² By comparison, COVID-19 has infected more than 9.3 million people across 213 countries, and has killed nearly 480,000 people as of June 23, 2020.³

The ease with which the virus spreads has caused governments across the globe to shut-down businesses, schools, religious and cultural institutions, and mandate various levels of social isolation. While this has helped to limit the spread of the virus, stay-at-home orders have had a catastrophic impact on economic markets and particularly small businesses.

The Impact on New York City’s Restaurant and Food Industry Amid the COVID-19 Crisis

In New York, Governor Andrew Cuomo issued an executive order – New York State on PAUSE (PAUSE) – that closed all on-site, non-essential businesses, effective March 22, 2020, to help stop the spread of SARS-

¹ World Health Organization “Rolling updates on coronavirus disease (COVID-19)”, last updated April 18, 2020, available at: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen>.

² James W. DeLuc and M. Anita Barry “SARS, the first pandemic of the 21st century”, *Emerging Infectious Diseases*, November 2004, vol. 10(11), e26, available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3329048/>.

³ Worldometer “Countries where COVID-19 has spread”, May 28, 2020, available at: <https://www.worldometers.info/coronavirus/countries-where-coronavirus-has-spread/>.

CoV-2.⁴ On May 4, 2020, the Governor announced that the State would monitor a series of metrics that permit regions within New York state to begin reopening.⁵ As these regions reopen and move through the various phases, businesses are able to begin trading again, giving them back their economic lifeline. The first phase of reopening allows construction, manufacturing and retail curbside pick-up, while restaurants and food services are able to serve outside customers in phase two. New York City hit phase two on June 22, 2020.⁶

Prior to reaching phase two, all businesses deemed non-essential remained closed or were restricted to operating under strict new guidelines. For example, restaurants and food establishments were able to sell food, but only for delivery or take-out. According to the Mayor's Office, during the first four month of 2020, restaurant revenue dropped nearly 90 percent, compared to the same period the year before.⁷ Meanwhile, according to the findings of a New York Restaurant Association survey, restaurant sales have declined by 79 percent, and New York State restaurants were expected to lose \$3.6 billion in sales revenue, in April alone.⁸ Just over half (51 percent) of all restaurants have been able to move their operations online, and unemployment rates in this sector have skyrocketed, as 80 percent of restaurant workers have lost their jobs.⁹

Helping Restaurants Stay Open

There are more than 50,000 food establishments in New York state,¹⁰ and more than half (27,000¹¹) are located in New York City. In 2019, these establishments provided jobs for 856,800 New Yorkers, which was nine percent of the State's employment.¹² In terms of impact on the State's economy, according to the New York State Restaurant Association, "[e]very dollar spent in the tableservice segment contributes \$1.76 to the state economy. Every dollar spent in the limited-service segment contributes \$1.51 to the state economy."¹³ In addition, the shut down of many restaurants has had a ripple effect on the industries that support them. For example, producers such as farmers and fishmongers are also unable to operate. According to New York City restaurant owners Luca and Isabella Pietro, "[t]hat's why we are seeing farmers dumping out gallons and gallons milk and leaving their vegetables to rot in the field."¹⁴ Thus, the reduced operations of restaurants have had an outsized impact on the economy and supply chain.

In many parts of the country, restaurants and food establishments have been able to operate a dine-in service. As of May 27, 2020, 41 states are permitting some form of dine-in service, but there are various restrictions in place that ensure social distancing and other health and safety protocols are followed.¹⁵ For example, in Alabama, tables must be six-feet apart and no more than eight people may be at the same table.¹⁶ Colorado has similar restrictions, with the additional provision that establishments can only reach 50 percent of their normal

⁴ Governor Andrew Cuomo "Governor Cuomo signs the 'New York State on PAUSE' executive order", March 20, 2020, available at: <https://www.governor.ny.gov/news/governor-cuomo-signs-new-york-state-pause-executive-order>.

⁵ Governor Andrew Cuomo "Amid ongoing COVID-19 pandemic, Governor Cuomo outlines additional guidelines for when regions can re-open", May 4, 2020, available at: <https://www.governor.ny.gov/news/amid-ongoing-covid-19-pandemic-governor-cuomo-outlines-additional-guidelines-when-regions-can>.

⁶ Mayor de Blasio "Open restaurants: As New York City prepares for Phase 2 of reopening, Mayor de Blasio announces outdoor dining guidance for restaurants", June 18, 2020, available at: <https://www1.nyc.gov/office-of-the-mayor/news/449-20/open-restaurants-new-york-city-prepares-phase-2-reopening-mayor-de-blasio-announces>.

⁷ Shant Shahrigian "NYC Council unveils outdoor dining plan for struggling restaurants", *NY Daily News*, May 28, 2020, available at: <http://www.nydailynews.com/coronavirus/ny-coronavirus-outdoor-dining-new-york-city-corey-johnson-20200528-kfhhm7itkbbz3mhke7dttkmdqy-story.html>.

⁸ New York State Restaurant Association "Restaurant industry impact survey: New York State", April, 2020, available at: https://www.nysra.org/uploads/1/2/1/3/121352550/restaurant_industry_impact_survey_new_york_state_2_.pdf.

⁹ Id.

¹⁰ National Restaurant Association and New York State Restaurant Association "New York restaurant industry at a glance", 2019, available at: <https://restaurant.org/downloads/pdfs/state-statistics/newyork.pdf>.

¹¹ NYC Health "Food establishment inspections", available at: <https://www1.nyc.gov/site/doh/services/restaurant-grades.page>, last accessed May 28, 2020.

¹² National Restaurant Association and New York State Restaurant Association "New York restaurant industry at a glance", 2019, available at: <https://restaurant.org/downloads/pdfs/state-statistics/newyork.pdf>.

¹³ Id.

¹⁴ Luca and Isabella Pietro in "Reopenings, resistance, and PPP loans: How food businesses nationwide are handling Coronavirus", *Bon Appétit*, May 28, 2020, available at: <https://www.bonappetit.com/story/food-businesses-covid-19>, last accessed May 28, 2020.

¹⁵ Elazar Sontag "Where restaurants have reopened across the U.S.", *Eater*, May 27, 2020, available at: <https://www.eater.com/21264229/where-restaurants-reopened-across-the-u-s>, last accessed May 28, 2020.

¹⁶ Id.

capacity.¹⁷ In Delaware, meanwhile, establishments are only allowed to operate at 30 percent of their normal capacity, tables must be at least eight-feet apart, and diners can only be seated if they have made a prior reservation.¹⁸

For many restaurant owners, operating at a reduced capacity, especially while their rent and other expenses remain the same, is simply not profitable.¹⁹ Restaurants already operate on very slim margins and even the decision to reopen would take an influx of cash to be able to restock produce and rehire staff. According to the Bureau of Economic Research, an average restaurant faces monthly costs of about \$10,000 per month, but owners typically only have enough cash on hand to cover two weeks' expenses.²⁰

For some restaurants, a busy weekend service is enough to turn a profit, even if the rest of the week is slow. Therefore, reducing this weekend service, to meet social distancing requirements, can be more costly than one might first assume.²¹ Similarly, relying solely on delivery is not feasible for many restaurants, as research has shown that the profits from a delivery meal are typically 30 percent less than dine-in profits, due to delivery costs, and profit margins on drinks and extras that people tend to forego when they order delivery.²²

In New York City, where restaurant spaces are much smaller, and rents and other operating costs are higher, compared to other parts of the country, it could be more difficult for restaurants to operate under these strict spacing or capacity limits. As discussed earlier, however, ensuring that restaurants can operate is vital for a broad array of economic reasons, as well as serving as community gathering places and giving neighborhoods their unique character. The timing of these reopenings are also crucial as research has shown that the longer restaurants stay closed, the less chance they have of reopening. According to a paper from the National Bureau of Economic Research, if the COVID-19 pandemic requires restaurants to be closed for four months, they have a 30 percent chance of reopening. However, if the shutdown lasts an additional two months, the chance of reopening drops to 15 percent.²³

There have been various attempts to assist small businesses such as restaurants stay afloat. At the federal level the government has created assistance programs including the Paycheck Protection Program (PPP),²⁴ the Economic Injury Disaster Loan and Advance (EIDL)²⁵ and the SBA Express Bridge Loans²⁶ and Debt Relief²⁷ programs. The federal government has also temporarily increased the unemployment insurance stipend that laid-off or furloughed workers may receive, which may have implications for the workforce of some small businesses. Meanwhile, at the local level, the City's Small Business Services rolled out the Employee Retention Grant Program and the Small Business Continuity Loan Fund. To qualify for either program, businesses were required to provide documentation proving that over a two-month period in 2020 their revenues decreased by 25 percent due to COVID-19.²⁸ Businesses with fewer than five employees were eligible for the Employee Retention Grant Program, which provided a grant covering up to 40 percent of a business's payroll for two months, with a

¹⁷ Id.

¹⁸ Id.

¹⁹ Elazar Sontag "Limiting capacity may be a death sentence for suffering restaurants", *Eater*, May 1, 2020, available at: <https://www.eater.com/2020/5/1/21243489/limited-capacity-could-destroy-the-restaurant-business>.

²⁰ Laura Reiley "As restaurants in some states fire up again, proprietors wonder if the rich dining landscape will ever be the same", *Washington Post*, May 4, 2020, available at: <https://www.washingtonpost.com/business/2020/05/04/restaurants-some-states-fire-up-again-proprietors-wonder-if-rich-dining-landscape-will-ever-be-same/>.

²¹ Id.

²² Kim Courvoisier "15 delivery statistics you need to know", *Thanx*, May 21, 2019, available at:

<https://www.thanx.com/academy/restaurant-marketing/delivery/15-delivery-statistics-you-need-to-know/>.

²³ Laura Reiley "As restaurants in some states fire up again, proprietors wonder if the rich dining landscape will ever be the same", *Washington Post*, May 4, 2020, available at: <https://www.washingtonpost.com/business/2020/05/04/restaurants-some-states-fire-up-again-proprietors-wonder-if-rich-dining-landscape-will-ever-be-same/>.

²⁴ United States Small Business Administration "Paycheck Protection Program", available at: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/paycheck-protection-program-ppp>, last accessed April 9, 2020.

²⁵ United States Small Business Administration "Economic injury disaster loan emergency advance", available at: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/economic-injury-disaster-loan-emergency-advance>, last accessed April 9, 2020.

²⁶ United States Small Business Administration "SBA Express Bridge Loans", available at: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/sba-express-bridge-loans>, last accessed April 9, 2020.

²⁷ United States Small Business Administration "SBA debt relief", available at: <https://www.sba.gov/funding-programs/loans/coronavirus-relief-options/sba-debt-relief>, last accessed April 9, 2020.

²⁸ Id.

maximum amount of \$27,000.²⁹ The Small Business Continuity Loan Fund, which provided a zero-interest loan to businesses with fewer than 100 employees for up to \$75,000, ceased on April 3, 2020.³⁰

In addition, the City Council passed a series of measures to assist the City's food and restaurant businesses. Local Law 52 of 2020, for example, sets a cap on the fees and commissions charged by third party delivery applications such as GrubHub and DoorDash,³¹ while Local Law 51 of 2020 regulates the way these platforms charge for telephone calls that do not result in orders.³² For restaurants that possess sidewalk café licenses, this Committee recently enacted Local Law 54 of 2020, which waives and/or refunds the fees for maintaining a sidewalk café until February 28, 2021.³³ While helpful, additional measures and creative solutions must be sought by government and industry alike to help small businesses survive the economic impact of COVID-19.

One option that has gained traction from many corners is allowing food establishments to utilize the open space, sidewalks and streets adjacent to food establishments for in-person, outdoor, dining.³⁴ Alfresco dining is a common experience in many parts of the world, and with the warmer weather approaching, using this space in New York City could provide the perfect time for this operation, while allowing for social distancing. Experts are also increasingly confident that transmission of the SARS-CoV-2 virus is reduced when people are outside in open spaces, and following social distancing guidelines.³⁵ These factors, when paired with emptier streets, sidewalks, pedestrian plazas, the current Open Streets plan, and other unoccupied spaces in the City due to COVID-19, creates the perfect opportunity to implement outdoor dining possibilities for the City's restaurants and food establishments.

Across the country, different jurisdictions are implementing outdoor dining. In Cincinnati, for example, where restaurants had been closed since March 21, 2020, streets in the downtown and Over-the-Rhine neighborhoods have been closed to create outdoor dining space for restaurants.³⁶ Similar plans have been carried out in Tampa, Florida, parts of California and Atlanta.³⁷ Similarly, although Boston has yet to resume restaurant dining, the Boston Licensing Board has updated its licensing measures to streamline the application process, once restaurants can open again. Rather than hold public hearings and meetings with neighborhood groups if they want to add outdoor dining space, restaurants will now be able to apply directly to the Licensing Board, which will evaluate the application at its weekly meeting.³⁸ The new process will be in place while the pandemic orders are in place.³⁹

Typically, the process for applying for a sidewalk café license in New York City is lengthy and cumbersome, requiring hearings and approvals from various city bodies and agencies. Given the urgent need to find solutions to keep the city's restaurants afloat, Int. 1957-A proposes allowing temporary sidewalk cafes for the duration of the COVID-19 state of emergency, and codifying the Mayor's Emergency Executive Order 126, discussed below. This will provide restaurants with some certainty during these rapidly changing times.

²⁹ NYC Department of Small Business Services "NYC Employee Retention Grant Program", (as of April 2, 2020), available at: <https://www1.nyc.gov/nycbusiness/article/nyc-employee-retention-grant-program>. Program information is still available at: https://www.paulweiss.com/media/3979874/nyc2-employee-retention-grant-program-summary_4-6.pdf.

³⁰ NYC Department of Small Business Services "NYC Small Business Continuity Loan Program", (as of April 7, 2020) available at: <https://www1.nyc.gov/nycbusiness/article/nyc-small-business-continuity-loan-program>. Program Information still available at: <https://www.natlawreview.com/article/nyc-financial-assistance-businesses-impacted-covid-19>

³¹ LL 52/2020.

³² LL 51/2020.

³³ LL 54/2020.

³⁴ Corey Johnson and Andrew Rigie "Reopen New York restaurants with a European café sensibility", *Crain's*, May 18, 2020.

³⁵ Peter Sullivan "Evidence mounts that outside is safer when it comes to COVID-19", *The Hill*, May 6, 2020, available at: <https://thehill.com/policy/healthcare/496483-evidence-mounts-that-outside-is-safer-when-it-comes-to-covid-19>.

³⁶ Sharon Coolidge "

So small restaurants can open, some Cincinnati streets will close - and become outdoor dining spaces", *The Enquirer*, May 8, 2020, available at: <https://www.cincinnati.com/story/news/2020/05/08/coronavirus-in-ohio-cincinnati-to-close-streets-to-help-restaurants/3098965001/>.

³⁷ Kevin Stankiewicz "Cities are letting restaurants set up tables in streets and parking lots to ease virus restrictions", *CNBC*, May 22, 2020, available at: <https://www.cnb.com/2020/05/22/cities-let-restaurants-set-up-in-streets-to-ease-covid-19-restrictions.html>.

³⁸ Terrence Doyle "The Boston Licensing Board is making it easier for restaurants to create outdoor dining spaces", *Eater Boston*, May 26, 2020, available at: <https://boston.eater.com/2020/5/26/21270397/outdoor-dining-covid-restaurants-reopening-boston>.

³⁹ Id.

Mayor de Blasio's Emergency Executive Order 126

On June 18, Mayor de Blasio issued an Emergency Executive Order to create a streamlined outdoor dining process. The Emergency Executive Order 126 (EEO 126) suspends various sections of the Admin Code, and other City rules and zoning regulations, to allow various provisions.⁴⁰ Under EEO 126, consumption of alcohol is now permitted on streets,⁴¹ and restaurants that qualify for the program may establish outdoor dining in backyards, sidewalks, curb lanes, plazas and the streets that have been closed to traffic under the Mayor's Open Streets plan.⁴² EEO 126 needs to be renewed every five days;⁴³ however, the Mayor indicated that seating on sidewalks will be permitted until the end of October and that seating in curb lanes will be in effect until Labor Day.⁴⁴

Mobile Food Vendors

New York City's mobile food vendors are also a vital part of the City's food-chain and food culture. Green carts in New York City, for example, have been shown to "increase access to healthy food in otherwise underserved high-density and low-income neighborhoods, influenced customers' consumption of fruits and vegetables, and created jobs for immigrant entrepreneurs."⁴⁵ These healthy and affordable food options are crucial for New Yorkers, especially during the pandemic when people's movements are largely restricted to their own neighborhoods. However, while the pandemic continues, mobile food vendors are still restricted by the various time, place and manner provisions that limit where they can vend from. During normal times, these regulations prevent sidewalk overcrowding in the most congested parts of the City, but while the PAUSE restrictions remain in place, some of these limitations may be counter-productive.

Like the restaurant and brick-and-mortar food industry, mobile food vendors' contribution to the wider economy is also substantial. While the data for street vendors is harder to come by, modelling based on a 2012 survey showed that New York City's street vendors (food and general merchandise) directly contributed to creating more than 16,300 jobs, generating more \$78.5 million in wages, and contributing more than \$71 million in taxes.⁴⁶

In contrast to restaurant owners, however, most mobile food vendors are unable to access either federal or city loan and grant assistance. Applications for these programs require proof of paystubs, commercial rent leases, utility costs, and other items that vendors do not have and that do not apply to their business model. The types of records vendors keep, such as tax returns and commissary lease agreements, are not accepted as proof of doing business. Furthermore, immigration status is also a significant barrier to funding assistance, as is language access.⁴⁷ Though more remains to be done to address the challenges faced by food vendors, Int. 1957 would ensure that food vendors are also included in the plan to provide outdoor spaces for restaurants.

⁴⁰ Mayor de Blasio "Emergency Executive Order No. 126: Open restaurants program and the expansion of outdoor seating in Phase 2", June 18, 2020, available at: <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-126.pdf>.

⁴¹ Id.

⁴² Mayor de Blasio "Open restaurants: As New York City prepares for Phase 2 of reopening, Mayor de Blasio announces outdoor dining guidance for restaurants", June 18, 2020, available at: <https://www1.nyc.gov/office-of-the-mayor/news/449-20/open-restaurants-new-york-city-prepares-phase-2-reopening-mayor-de-blasio-announces>.

⁴³ Mayor de Blasio "Emergency Executive Order No. 126: Open restaurants program and the expansion of outdoor seating in Phase 2", June 18, 2020, available at: <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-126.pdf>.

⁴⁴ Mayor de Blasio "Open restaurants: As New York City prepares for Phase 2 of reopening, Mayor de Blasio announces outdoor dining guidance for restaurants", June 18, 2020, available at: <https://www1.nyc.gov/office-of-the-mayor/news/449-20/open-restaurants-new-york-city-prepares-phase-2-reopening-mayor-de-blasio-announces>.

⁴⁵ Columbia School of International and Public Affairs "Study: Green carts expand access to fresh produce in low-income neighborhoods", June 11, 2014, available at: <https://sipa.columbia.edu/news/study-nyc-green-carts-expand-access-fresh-produce-low-income-neighborhoods>.

⁴⁶ Dick M. Carpenter II "Upwardly mobile: Street vending and the American dream", Institute for Justice, September 2015, available at: <https://ij.org/wp-content/uploads/2015/10/upwardly-mobile-web-final.pdf>.

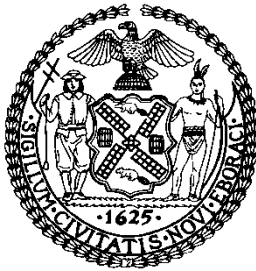
⁴⁷ NYC Council "Transcript of the minutes of the Committee on Small Business jointly with the Committee on Consumer Affairs and Business Licensing on The Impact of COVID-19 on Small Businesses in New York City, and other items", April 29, 2020, available at: <https://nyc.legistar.com/LegislationDetail.aspx?ID=4424923&GUID=434CB079-AF12-47DD-8DBB-156E15E0E379&Options=&Search=>.

III. BILL ANALYSIS

Int. 1957-A

This bill requires the City to create an open restaurants program that would allow restaurants to offer outdoor dining to patrons on sidewalks and other approved open space. The Department of Transportation (DOT) is required to create a self-certification process that restaurants owners must complete before offering outdoor dining. Such process would not require a fee or DOT approval, however, a self-certification could be suspended or terminated by the Department for non-compliance with requirements of the program or for the protection of health or safety. In addition, the City would be required to identify additional areas where food vendors could temporarily operate. The program will run until at least September 8, 2020, with the possibility of extension, but it shall expire by December 31, 2020.

(The following is the text of the Fiscal Impact Statement for Int. No. 1957-A:)



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO NO. 1957-A

Consumer Affairs and Business Licensing

TITLE: A Local Law in relation to temporary space for outdoor dining.

SPONSORS: Council Members Reynoso, Gjonaj, Rivera, Cumbo, Powers, Van Bramer, Lander, Ayala, Richards, Salamanca, Kallos, the Speaker (Council Member Johnson), Constantinides, Holden, Vallone, Brannan, Dromm, Koslowitz, Moya and Levine.

SUMMARY OF LEGISLATION: This Local Law would require the City to establish an open restaurants program pursuant to which food service establishments could operate a temporary outdoor dining area. The food service establishment would be permitted to operate roadway seating or sidewalk seating after the completion of an online self-certification application, which shall be determined in a form and manner by the Department of Transportation (DOT). DOT, in consultation with the Department of Health and Mental Hygiene (DOHMH), would designate a sidewalk, roadway, or other open space including, but not limited to, a pedestrian plaza and or a public parking lot as an area which a food vendor may vend, provided that such food vendor adheres to guidelines from DOHMH. This local law would not relieve food service establishments from their obligation to adhere to all emergency executive orders, and to all local, state and federal requirements relating to health and safety. There would be no fee for participation in this program. The program would remain in effect until September 8, 2020 or until such later date as DOT shall determine, provided however that such program shall not remain in effect after December 31, 2020. DOT shall provide the Speaker of the Council notice five days prior to the termination of such program.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2021

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: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is estimated that there would be no an impact on expenditures resulting from the enactment of this legislation because the relevant agencies would use existing resources to accomplish its requirements.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs
Office of Management and Budget
Department of Transportation

ESTIMATE PREPARED BY: Sebastian Palacio Bacchi, Senior Financial Analyst

ESTIMATE REVIEWED BY: Nathaniel Toth, Deputy Director
John Russell, Unit Head
Noah Brick, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1957 on May 28, 2020 and was referred to the Committee on Consumer Affairs and Business Licensing (Committee). The Committee heard the legislation on June 4, 2020, and the legislation was laid over. The legislation was subsequently amended, and the amended version, Proposed Int. 1957-A, will be considered by the Committee on Thursday, June 25, 2020. Upon a successful vote by the Committee, Proposed Int. 1957-A will be submitted to the full Council for a vote on June 25, 2020.

DATE PREPARED: June 18, 2020.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1957-A:)

Int. No. 1957-A

By Council Members Reynoso, Gjonaj, Rivera, Cumbo, Powers, Van Bramer, Lander, Ayala, Richards, Salamanca, Kallos, the Speaker (Council Member Johnson), Constantinides, Holden, Vallone, Brannan, Dromm, Koslowitz, Moya, Levine, Rosenthal, Barron and Ampry-Samuel.

A Local Law in relation to temporary space for outdoor dining

Be it enacted by the Council as follows:

Section 1. Temporary space for outdoor dining. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Food service establishment. The term “food service establishment” has the same meaning as set forth in subdivisions s of section 81.03 of the health code of the city of New York.

Food vendor. The term “food vendor” has the same meaning as in section 17-306 of the administrative code of the city of New York.

Open space. The term “open space” means any location of roadway seating or sidewalk seating, or any other public outdoor location, including but not limited to a sidewalk, pedestrian plaza, roadway, or public parking lot, that may be used by a food service establishment for temporary outdoor dining and that has been approved for such use by the department of transportation.

Pedestrian plaza. The term “pedestrian plaza” has the same meaning as set forth in section 19-157 of the administrative code of the city of New York.

Roadway seating. The term “roadway seating” means seating located in the roadway adjacent to the curb in front of the business frontage of a food service establishment in accordance with guidelines established by the department of transportation.

Sidewalk seating. The term “sidewalk seating” means seating located outside the business frontage of a food service establishment in accordance with guidelines established by the department of transportation.

Temporary outdoor dining area. The term “temporary outdoor dining area” means a portion of any food service establishment operated under permit from the department of health and mental hygiene that is located in an open space.

b. Open restaurants program. 1. The city shall establish an open restaurants program pursuant to which a food service establishment may operate a temporary outdoor dining area.

2. A food service establishment shall be permitted to operate roadway seating or sidewalk seating after the completion of an online self-certification application, which shall be in a form and manner as determined by the department of transportation. The department of transportation may establish a process to allow for the use of other types of open space as temporary outdoor dining areas.

3. There shall be no fee for participation in such program.

c. Vendors. Notwithstanding section 17-315 of the administrative code of the city of the New York, as part of such program, the department of transportation, in consultation with the department of health and mental hygiene and any other agency as designated by the mayor, may designate a sidewalk, pedestrian plaza, roadway, or public parking lot as an area in which a food vendor may vend, provided that such vendor adheres to any guidelines issued by the department of health and mental hygiene.

d. Compliance with other laws. Nothing in this local law shall relieve a food service establishment from their obligation to adhere to all emergency executive orders issued pursuant to section 24 or 29-a of the executive law, and to all local, state, and federal requirements relating to health and safety, except as modified by any such emergency executive order or this local law. Any food service establishment participating in the open restaurants program shall adhere to all applicable guidance issued by the department of transportation, the department of health and mental hygiene, the New York state department of health, and the New York state liquor authority.

e. Validity of a self-certification. A self-certification submitted pursuant to the outdoor restaurants program shall remain valid until terminated or suspended by the department of transportation. The department may terminate or suspend a self-certification for non-compliance with the requirements of such program or as necessary to protect health or safety.

f. Expiration. The outdoor restaurants program shall remain in effect until September 8, 2020 or until such later date as the department of transportation shall determine; provided however that such program shall not remain in effect after December 31, 2020. The department of transportation shall provide the speaker of the council notice five days prior to the termination of such the program.

§ 2. This local law takes effect immediately.

ANDREW COHEN, *Chairperson*; MARGARET S. CHIN, PETER A. KOO, KAREN KOSLOWITZ, BRADFORD S. LANDER, JUSTIN BRANNAN, KALMAN YEGER; Committee on Consumer Affairs and Business Licensing, June 25, 2020 (Remote Hearing). *Other Council Members Attending: Reynoso, Adams, Menchaca, Perkins, Rose and Grodenchik.*

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. 1952-A

Report of the Committee on Finance in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the creation of a database to track the expenditure of funds in connection with COVID-19, and to provide for the repeal thereof.

The Committee on Finance, to which the annexed proposed amended local law was referred on May 28, 2020 (Minutes, page 1010), respectfully

REPORTS:

I. Introduction

On June 10, 2020, the Committee on Finance (Committee), chaired by Council Member Daniel Dromm, held a hearing to consider a piece of legislation relating to tracking COVID-19 expenditures by the City. At that hearing, the Committee heard testimony from a representative from the Mayor's Office of Contract Services and members of the public. This is the second hearing on this bill, which was amended after introduction.

The bill to be considered by the Committee is the following: Proposed Int. No. 1952-A, sponsored by Council Member Vanessa Gibson, A Local Law to amend the administrative code of the city of New York, in relation to the creation of a database to track the expenditure of funds in connection with COVID-19, and to provide for the repeal thereof.

II. Background

The outbreak of the novel coronavirus, COVID-19, in the City of New York has resulted in a myriad of concerns for many New Yorkers, including loss of income and housing instability. The first case of COVID-19 in New York State was confirmed on March 1, 2020, an individual who contracted the virus while traveling in Iran, and then returned home to Manhattan.¹ The second case was confirmed two days later.²

On March 7, Governor Cuomo issued Executive Order No. 202 declaring a state disaster emergency for New York State, to remain in effect until September 7, 2020, in an effort to contain the spread of the virus.³ On

¹ Governor Cuomo Issues Statement Regarding Novel Coronavirus in New York, Mar. 1, 2020, *available at*: <https://www.governor.ny.gov/news/governor-cuomo-issues-statement-regarding-novel-coronavirus-new-york>.

² New York City Department of Health, New York City Confirms A Second COVID-19 Case, Mar. 3, 2020, *available at* <https://www1.nyc.gov/site/doh/about/press/pr2020/city-confirms-second-covid-19-case.page>.

³ New York State, Governor Andrew M. Cuomo, Executive Order No. 202: Declaring a Disaster Emergency in the State of New York, https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_202.pdf

March 11, the World Health Organization (WHO) characterized COVID-19 as a pandemic.⁴ On March 12, Mayor de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in New York City.⁵

III. COVID-19 Spending in New York City

To date, the City has received approximately \$2.8 billion in COVID-19 related funding, with obligations totaling approximately \$2.3 billion. The budget includes funding received from federal, state or local sources, and the obligations represents the money that has been entered into a contract and has either been paid or will be paid at some point in the future. The agency with the largest COVID-19 budget is Department of Citywide Administrative Services with a current budget of \$1.4 billion, or 52 percent, of the city's total COVID-19 budget.

The chart below summarizes the budget and obligations for city agencies and offices as of May 8, 2020, as provided by the Council Finance Division.

COVID-19 Spending in New York City

Agency	Budget	Obligations
Department of Citywide Administrative Services	\$1,442,521,255	\$1,235,900,027
Office of Emergency Management	\$379,000,000	\$317,117,340
Department of Sanitation	\$265,246,753	\$140,660,501
Department of Design and Construction	\$222,866,906	\$126,718,924
Department of Small Business Services	\$149,100,000	\$118,653,512
Department of Health and Mental Hygiene	\$125,633,592	\$72,664,165
Department of Information Technology and Telecommunications	\$88,063,646	\$71,025,795
Department of Education	\$0	\$53,956,971
Fire Department	\$8,307,997	\$45,112,211
Department of Homeless Services	\$50,000,000	\$36,738,699
Department for the Aging	\$7,387,407	\$25,331,399
Police Department	\$15,994,950	\$14,526,910
Department of Social Services	\$2,000,000	\$6,819,641
Department of Transportation	\$5,093,908	\$6,206,050
Department of Correction	\$0	\$5,115,072
Department of Environmental Protection	\$7,026,865	\$3,332,315
Department of Parks and Recreation	\$3,315,000	\$1,789,454
Administration for Children's Services	\$3,000,003	\$1,384,549
District Attorney-Kings	\$484,300	\$1,086,706
District Attorney-New York	\$0	\$945,990
Mayoralty	\$824	\$623,661
Department of Buildings	\$1,920,421	\$612,497
Financial Information Services Agency	\$0	\$566,688
Department of Probation	\$744,142	\$499,498
Office of the Comptroller	\$0	\$241,294
Department of Finance	\$0	\$239,982
District Attorney-Queens	\$18,286	\$217,054
Department of Youth and Community Development	\$366,581	\$166,865
Department of Consumer Affairs	\$174,483	\$136,493
Office of Administrative Trials and Hearings	\$0	\$119,010
Office of Prosecution Special Narcotics	\$0	\$84,695

⁴ Press Release, World Health Organization, WHO Director-General's opening remarks at the media briefing on COVID-19 (March 11, 2020), available at <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19--11-march-2020> (last accessed on March 20, 2020).

⁵ New York City, Mayor Bill de Blasio, Executive Order No. 98: Declaration of Local State Emergency (March 12, 2020), available at <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-98.pdf> (last accessed on March 19, 2020).

District Attorney-Richmond	\$0	\$69,522
Taxi and Limousine Commission	\$58,613	\$63,724
Civilian Complaint Review Board	\$9,658	\$61,210
Business Integrity Commission	\$0	\$48,971
Office of the Actuary	\$0	\$24,979
Office of Administrative Tax Appeals	\$0	\$17,908
Board of Correction	\$0	\$6,349
Equal Employment Practices Commission	\$3,510	\$3,510
Department of Records and Information Services	\$2,533	\$2,533
Department of Veterans' Services	\$3,453	\$219
Health and Hospitals Corporation	\$0	\$0
Housing Preservation and Development	\$315,000	\$0
Office of Payroll Administration	\$0	-\$10,729
TOTAL	\$2,778,660,086	\$2,288,882,165

IV. Federal Stimulus Packages

To date, Congress has passed four pieces of federal legislation appropriating funds to the federal government, states, and localities for purposes of funding direct, COVID-related expenses and addressing the financial impacts of the pandemic.

a. Phase 1 – Coronavirus Preparedness and Response Supplemental Appropriations Act

On March 6, 2020, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 was signed into law and was the federal government's initial response to the virus.⁶ The bill provided \$8.3 billion in emergency funding for federal agencies to respond to COVID-19. The stimulus package included \$20 million for the SBA disaster loans program to support SBA's administration of loan subsidies that would be made available to entities financially impacted as a result of the coronavirus.⁷ The bill also included a waiver removing restrictions on Medicare providers allowing them to offer telehealth services to beneficiaries, at an estimated cost of \$500 million.⁸

According to U.S. Senator for New York, Charles E. Schumer, the legislation provided nearly \$1 billion directly to state, local, and tribal governments to conduct public health preparedness and response activities, including: surveillance and monitoring; laboratory testing to identify new cases; tracing to identify additional positive cases; infection control at the local level to prevent new cases; and mitigation activities.⁹

b. Phase 2 – Families First Coronavirus Response Act

On March 18, 2020, the Families First Coronavirus Response Act or FFCRA (H.R. 6201) was signed into law.¹⁰ The legislation included \$3.5 billion to provide immediate relief to individuals and businesses impacted by the virus, and expanded the coverage for COVID-19 testing, paid sick and family leave, food assistance, and unemployment benefits.¹¹

⁶ See *Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020*, Public Law No. 116-123, available at <https://www.congress.gov/bills/116/congress-house-bill/6074> (last accessed on April 2, 2020).

⁷ See Kaiser Family Foundation, Stephanie Oum, Adam Wexler and Jennifer Kates, *Summary of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020*, available at <https://www.kff.org/global-health-policy/issue-brief/the-u-s-response-to-coronavirus-summary-of-the-coronavirus-preparedness-and-response-supplemental-appropriations-act-2020/> (last accessed on April 2, 2020).

⁸ See *id.*

⁹ United States Senator for New York, Charles E. Schumer, *Coronavirus, COVID-19: What's Being Done*, available at <https://www.schumer.senate.gov/coronavirus/whats-being-done> (last accessed on April 7, 2020).

¹⁰ See Families First Coronavirus Response Act, Public Law No. 116-127, available at <https://www.congress.gov/116/plaws/publ127/PLAW-116publ127.htm> (last accessed on April 2, 2020).

¹¹ See *id.*

According to Senator Schumer, the FFCRA provided critical healthcare funding to states and designated approximately \$5.3 billion to New York in the form of Federal Medical Assistance Percentages (FMAPs).¹² FMAPs are used in determining the amount of federal matching funds for state expenditures for assistance payments for certain social services, and State medical and medical insurance expenditures.¹³

Senator Schumer also announced that the legislation provided \$1 billion in additional unemployment benefits to states, unlocking tens of millions of new dollars to help New York as the virus's economic impacts risk taking effect.¹⁴ The legislation also provides states, including New York, \$15 million for meals homebound seniors might require and \$1 billion for free coronavirus testing, paid sick leave for workers, and food assistance.¹⁵

c. Phase 3 – Coronavirus Aid, Relief, and Economic Security Act

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act, or the CARES Act (H.R. 748) was enacted to provide an estimated \$2.2 trillion stimulus package to battle the harmful effects of the COVID-19 pandemic.¹⁶ A few highlights of funding that will flow into the State and City budgets from the federal stimulus package are provided below.

i. Direct Economic Stimulus Funding

The legislation provides \$150 billion to use for expenditures incurred due to the public health emergency with respect to COVID-19 in the face of revenue declines.¹⁷ The distribution is based on population, and no state will receive a payment for Fiscal 2020 that is less than \$1.3 billion.¹⁸ Approximately 45 percent of a state's funds are set aside for local governments, with populations that exceed 500,000.¹⁹ New York is expected to receive an estimated \$7.5 billion from the Coronavirus Relief Fund.²⁰

¹² See United States Senator for New York, Charles E. Schumer, AFTER SCHUMER'S SUCCESSFUL PUSH TO INCLUDE NY-SPECIFIC MEASURES INTO FIRST-OF-ITS-KIND CORONAVIRUS BILL, SENATE PASSES FMAP LEGISLATION, UNLOCKING OVER \$6 BILLION FOR NYS – THE MOST OF ANY STATE –AND MILLIONS FOR COUNTIES, TO SUPPORT NY'S FIGHT TO CONTAIN CORONAVIRUS SPREAD & COVER MOUNTING LOCAL COSTS (March 18, 2020), available at <https://www.schumer.senate.gov/newsroom/press-releases/after-schumers-successful-push-to-include-ny-specific-measures-into-first-of-its-kind-coronavirus-bill-senate-passes-fmap-legislation-unlocking-over-6-billion-for-nys-the-most-of-any-state-and-millions-for-counties-to-support-nys-fight-to-contain-coronavirus-spread-and-cover-mounting-local-costs> (last accessed on April 6, 2020).

¹³ See U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, FEDERAL MEDICAL ASSISTANCE PERCENTAGES OR FEDERAL FINANCIAL PARTICIPATION IN STATE ASSISTANCE EXPENDITURES FMAP (March 1, 2015), available at <https://aspe.hhs.gov/federal-medical-assistance-percentages-or-federal-financial-participation-state-assistance-expenditures> (last accessed on April 7, 2020).

¹⁴ See Kaiser Family Foundation, Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier, available at <https://www.kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier> (last accessed on April 7, 2020).

¹⁵ See *id.*

¹⁶ See Coronavirus Aid, Relief, and Economic Security Act or the CARES Act, Public Law No. 116-136, available at <https://www.congress.gov/bill/116th-congress/house-bill/748/text?loclr=bloglaw> (last accessed on April 10, 2020).

¹⁷ See National Conference of State Legislatures, *COVID-19 Stimulus Bill: What It Means for States*, available at https://www.ncsl.org/Portals/1/Documents/statefed/COVID-19-Stimulus-Bill_3-27-20.pdf (last accessed on April 2, 2020).

¹⁸ See *id.*

¹⁹ See *id.*

²⁰ See United States Senator for New York, Charles E. Schumer, WITH SENATE PASSAGE OF “CORONA 3” EMERGENCY LEGISLATION, SCHUMER DELIVERS \$40 BILLION+ TO NEW YORK & ITS CITIZENS; SENATOR SAYS FINAL DEAL PUTS WORKERS & FAMILIES FIRST, WHILE SUPPORTING PUBLIC HEALTH EFFORTS & INSTITUTIONS VITAL TO COMBATING THE VIRUS (March 25, 2020), available at <https://www.schumer.senate.gov/newsroom/press-releases/with-senate-passage-of-corona-3-emergency-legislation-schumer-delivers-40-billion-to-new-york-and-its-citizens-senator-says-final-deal-puts-workers-families-first-while-supporting-public-health-efforts--institutions-vital-to-combating-the-virus> (last accessed on April 6, 2020).

ii. Health Provisions

Of the \$2.2 trillion, \$140.4 billion was designated for HHS.²¹ Of the \$140.4 billion in designated funding, New York State is estimated to receive an estimated \$18 million from the CDC Emergency Grant.²²

iii. Human Services

Approximately, \$6.3 billion was designated to the Administration for Children and Families (ACF).²³ This funding was designated to go to a number of human services programs including \$3.5 billion for the Child Care and Development Block Grant (CCDBG) to provide immediate assistance to childcare providers.²⁴ Additionally, \$900 million was designated for the Low-Income Home Energy Assistance Program (LIHEAP) to help families and to provide assistance.²⁵ Of the designated funding, New York State is expected to receive \$162 million for CCDBG Funding, and \$28 million for LIHEAP.²⁶

iv. Education

Approximately, \$30.8 billion was designated for an Education Stabilization Fund for states, school districts and institutions of higher education for costs related to COVID-19.²⁷

i. Federal Emergency Management Agency (FEMA)

Approximately, \$45 billion was designated for a Disaster Relief Fund.²⁸ Of the \$45 billion, \$25 billion was designated for major disasters declared for certain states under the Stafford Act ~~and~~ and \$45 million was designated for FEMA to expand information technology and communications capabilities and build capacity in response coordination efforts.²⁹

ii. Transportation

Approximately, \$25 billion was allocated for the nation's transit systems.³⁰ Approximately \$1 billion dollars was designated to Amtrak to ensure continued operations along the Northeast Corridor and long-distance routes.³¹ States will also receive a portion of this assistance to help meet their match obligations on state-supported routes. An estimated \$3.8 billion in funding will go to the Metropolitan Transportation Authority.³²

iii. Agriculture

The CARES Act provided a number of food- and agriculture-related benefits.³³ Among those benefits included approximately \$15.5 billion to expand SNAP, \$8.8 billion to children nutrition programs, and \$450 million to The Emergency Food Assistance Program (TEFAP) to provide funding for commodities and

²¹ See *COVID-19 Stimulus Bill: What It Means for States*, *supra* note 17.

²² See United States House Representative Sean Patrick Maloney for New York's 18th District, *Coronavirus Emergency Response*, available at <https://seanmaloney.house.gov/coronavirus-emergency-response> (last accessed on April 6, 2020).

²³ See *COVID-19 Stimulus Bill: What It Means for States*, *supra* note 17.

²⁴ See *id.*

²⁵ See *id.*

²⁶ See *Coronavirus Emergency Response*, *supra* note 22.

²⁷ See *COVID-19 Stimulus Bill: What It Means for States*, *supra* note 17.

²⁸ See *id.*

²⁹ See *id.*

³⁰ See *id.*

³¹ See *id.*

³² See United States House Representative Sean Patrick Maloney for New York's 18th District, *CARES Act: New York Impact*, available at <https://seanmaloney.house.gov/sites/seanmaloney.house.gov/files/CARES%20ACT-%20NEW%20YORK%20IMPACT.pdf> (last accessed on June 9, 2020).

³³ See *id.*

distribution of emergency food assistance through community partners, including food banks.³⁴

d. Phase 3.5 - Paycheck Protection and Health Care Enhancement Act

On April 24, 2020, the Paycheck Protection Program and Health Care Enhancement Act (H.R. 266) was enacted to further respond to the COVID-19 outbreak by providing additional funding for small business loans, health care providers, and COVID-19 testing.³⁵ The legislation provided \$310 billion to the Paycheck Protection Program for small businesses, \$100 billion to hospitals for aid and more testing capability, and \$60 billion for small business disaster loans.³⁶ The testing funding included in the legislation provided no less than \$11 billion for states, localities, territories, tribes, tribal organizations, urban Indian health organizations, or health service providers to tribes, of which, and no less than \$750 million was allocated to tribes and tribal organizations, and no less than \$4.25 billion be allocated to States, localities, and territories according to a formula based on the relative number of COVID-19 cases.³⁷

V. Federal Stimulus Aid to New York City

The Executive Financial Plan recognized approximately \$2 billion in federal aid related to the COVID-19 pandemic, all of it in Fiscal 2020. The Plan allocated \$594 million in CARES Act funding in agency budgets for spending related to COVID-19. The Plan budgeted an additional \$800 million from the CARES Act as revenue. This allocation reimbursed the City for a portion of its prior Medicaid spending. The Plan also recognized new federal support through grants from the CDC as a part of the CARES Act.

The Plan also recognized \$250 million in FEMA revenue for overtime reimbursement for uniformed agencies. Additionally, the Plan projects \$1.6 billion in FEMA reimbursements across agencies in Fiscal 2020 for COVID-19 related expenses. According to current guidelines, FEMA will reimburse the City for 70 percent of its approved COVID-19 related spending. This funding will be reimbursed upon approval from FEMA.

With respect to FMAP allocations, the City budgeted for \$498 million in FMAP funding through Medicaid for Fiscal 2020 and \$444 million in Fiscal 2021.

VI. Previous Funding Trackers

In the past, when the City has received large influxes of funding from outside sources as a result of an unexpected event, it has created online funding trackers to allow the public to monitor the progress and results of spending. Previous examples include trackers set up to track spending of federal stimulus funds after the Great Recession in 2008 and funds received after Hurricane Sandy in 2012. It is the goal of the City Council to establish a similar mechanism for funds provided to and spent by New York City as a result of COVID-19.

a. NYC Stat Stimulus Tracker

To respond to the financial crisis in 2008, President Barack Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), commonly referred to as the “Recovery Act” or “Stimulus Package” on February 17, 2009.³⁸ The goals of the bill were achieved by providing an initial appropriation of \$787 billion in tax cuts and benefits, funding for entitlement programs such as unemployment benefits, and funding for federal

³⁴ See CARES Act: New York Impact, *supra* note 32.

³⁵ See Paycheck Protection Program and Health Care Enhancement Act, Public Law No. 116-139, available at <https://www.congress.gov/bill/116th-congress/house-bill/266> (last accessed on June 8, 2020).

³⁶ See National Conference of State Legislatures, Tres York and Haley Nicholson, *A Quick Review of the Paycheck Protection Program and Health Care Enhancement Act*, available at <https://www.ncsl.org/blog/2020/04/22/a-quick-review-of-the-paycheck-protection-program-and-health-care-enhancement-act.aspx> (last accessed on June 8, 2020).

³⁷ See *id.*

³⁸ See Pub.L. 111-5, 123 Stat. 115 (Feb 17, 2009).

contract, grants, and loans.³⁹ The following month, the New York City Mayor's Office of Operations and the New York City Department of Information Technology and Telecommunications created the NYC Stat Stimulus Tracker, an online database to help the public track federal stimulus funds appropriated to, and used by, New York City.⁴⁰

Not only was the Stimulus Tracker created rapidly, the Stimulus Tracker allowed New Yorkers to track the City's use of federal stimulus/recovery funds through interactive features and easy-to-read charts and graphs at project, contract, and payment levels.⁴¹ The tracker provided a funding summary, which gave an overview of all stimulus dollars allocated to date; funding details, which provided detailed information about projects and programs in each major category of stimulus funding; and the number of jobs created and maintained as a result of the Stimulus funding.⁴² New Yorkers were also to view projects occurring in locations throughout the city through the use of mapping technologies.⁴³ The Stimulus Tracker allowed the public and government officials, to follow federal funding progress at project, contract, and payment levels and tied public outcomes to money spent.

b. Hurricane Sandy Tracker

Similar to the Stimulus Tracker, in December of 2013, the City Council passed legislation that became Local Law 140, creating a database to track the expenditure of funds in connection with recovery efforts in the wake of Superstorm Sandy.⁴⁴ Referred to as the Sandy Funding Tracker, the database was to improve transparency, accessibility of information and accountability for how Sandy funds are used.⁴⁵ Additionally, the database was to be used to track key performance measurements such as jobs created and maintained.⁴⁶

The legislation required the City to establish a searchable, interactive online database to be updated monthly that includes summaries of the administration of Superstorm Sandy funds (defined as local, State, or federal funds in excess of \$100,000 provided to a recipient to recover or rebuild from Superstorm Sandy).⁴⁷ For each project (and construction, services or programs paid for with Sandy funds) the database was required to include information about the contractor, the project, and funding. The data provided for such projects was required to be aggregated by zip code.⁴⁸ In order to track the companies earning money from the rebuilding effort and whether local companies and workers are being included in the process the legislation required various reporting on contracts and subcontracts. It also was required to provide data that would allow an analysis of job creation and retention relating to the rebuilding and resiliency effort.

VII. Legislative Analysis

a. Analysis of Proposed Int. No. 1952-A (sponsored by Council Member Gibson)

Proposed Int. 1952-A would require the City to create a public database on its website that would track expenditures of federal, state and local funds for addressing COVID-19, including city procurement contracts,

³⁹ See *id.* In 2011, the original expenditure estimate of \$787 billion was increased to \$840 billion to be in line with the President's 2012 budget and with scoring changes made by the Congressional Budget Office since the enactment of the Recovery Act. Since its enactment in February 2009, \$803.1 billion has been paid out. See the Recovery.gov website, Home, available at <http://www.recovery.gov/Pages/default.aspx> (last accessed November 11, 2013).

⁴⁰ See NYC Stat Stimulus Tracker, available at <http://www.nyc.gov/html/ops/nycstim/html/home/home.shtml> (last accessed November 11, 2013).

⁴¹ See *id.*

⁴² See *id.*

⁴³ See *id.*

⁴⁴ See The New York City Council Website, available at:

<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1419832&GUID=5902C0D5-CDF7-492C-AD73-DFA089487BCC>

⁴⁵ See *id.*

⁴⁶ See *id.*

⁴⁷ See Administrative Code §6-138(a)(1).

⁴⁸ See Administrative Code §6-138(b)(1).

grants and loans.

Section 1 of Proposed Int. No. 1952-A would renumber Section 6-138 of the administrative code of the city of New York, relating to reporting on the expenditure of hurricane Sandy funds, as added by local law number 140 for the year 2013, to Section 6-143 of the administrative code of the city of New York.

Section 2 of Proposed Int. No. 1952-A would require the Mayor to establish and maintain a public online searchable and interactive database on the city's website. Such database would be required to include summaries of the administration of COVID-19 funds and be in a format that would allow automated processing and that is downloadable. The information contained in the database would be disaggregated by federal, state and local COVID-19 funds and include, but not be limited, to the following:

- For each COVID-19 expense expenditure, where applicable, the administering agency, the unit of appropriation, the budget code, the amount submitted for reimbursement, the amount reimbursed and the source of reimbursement;
- For each COVID-19 capital expenditure, where applicable, the administering agency, the budget line, the project identification number, the project description, the amount submitted for reimbursement, the amount reimbursed and the source of reimbursement;
- For each executed city procurement contract funded in whole or in part by COVID-19 funds, the awarding agency, the unit of appropriation, the budget code, the name and address of the contractor and, if known, subcontractors, the contract identification number, the purpose of the contract, the original contract value in dollars and any applicable contract modification value in dollars, the contract award method, the contract type, the contract start and end date and any revised contract end date, the original contract registration date and the registration date of any applicable contract modification, the status of any contractor and, if known, subcontractor, as a minority and women-owned business enterprise, the contract status, to the extent practicable the amount spent to date on the contract and, if known, subcontracts, and information on the value of the contract and, if known, subcontracts, eligible for reimbursement from a COVID-19 funds award; and
- For each grant or loan issuance associated with COVID-19 funds, the awarding agency, the recipient name, the recipient's zip code, the grant or loan name, the purpose of the grant or loan, the grant or loan award amount, whether the grant or loan was subject to a selective award process and the nature of that process, the award status and information on the value of the grant or loan eligible for reimbursement from a COVID-19 funds award.

Section 2 would further require that to the extent that the city is awarded funding from any federal appropriation related to COVID-19 that is not covered in this section, the database would include the amount of such funds, disaggregated by source, and how such funds were allocated and expended by agency, unit of appropriation and budget code.

Section 2 also would provide that the database established by this local law would not be used to distribute information which, if disclosed, would jeopardize compliance with local, state or federal law, threaten public health, welfare, or safety, or harm the competitive economic position of a recipient. It would further provide that this local law would not create a private right of action to enforce its provisions, and that failure to comply with the provisions of this local law would not result in liability for the city. Lastly, Section 2 would require that the database be updated on a quarterly basis.

Section 3 of Proposed Int. No. 1952-A would provide that no reporting on any contract entered prior to the effective date of this local law would be required if the reporting requirements of this local law would require the city to collect information that is not available and that cannot be reasonably obtained.

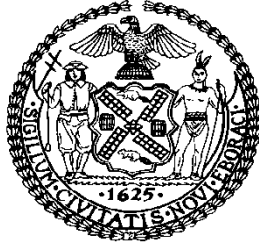
Section 4 of Proposed Int. No. 1952-A would provide that if any provision of this local law, or its application, be adjudged by any court to be invalid or unconstitutional, such judgement would not impair or invalidate the remainder of the local law.

Section 5 of Proposed Int. No. 1952-A would provide that any data maintained pursuant to this local law would also be subject to the requirements of the Open Data Law.

Section 6 of Proposed Int. No. 1952 would provide that the local law takes effect 90 days after it becomes law, provided, however, that mayor may take such actions as are necessary for its implementation prior to such

effective date. It further provides that Section 2 through Section 5 of this local law would expire and be deemed repealed 5 years after it becomes law.

(The following is the text of the Fiscal Impact Statement for Int. No. 1952-A:)



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

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1952-A

COMMITTEE: Finance

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the creation of a database to track the expenditure of funds in connection with COVID-19, and to provide for the repeal thereof.

SPONSORS: By Council Members Gibson, Treyger, Lander, Brannan, Rosenthal, Kallos, Louis, Richards, Rose, Moya, Chin, Koo, Ampry-Samuel, Ayala and Adams.

SUMMARY OF LEGISLATION: Proposed Int. No. 1952-A would require the City to create a searchable and interactive public database on its website that would track expenditures of federal, state and local funds for addressing COVID-19, including agency spending, city procurement contracts, grants and loans.

EFFECTIVE DATE: This local law would take effect 90 days after it becomes law, provided, however that the Mayor may take such actions as are necessary for its implementation prior to such effective date, and provided further that section two through five of this local law shall expire and be deemed repealed 5 years after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 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: It is estimated that there would be no impact on revenues from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is estimated that there would be minimal to no impact on expenditures resulting from the enactment of this legislation because agencies would use existing resources to comply with this law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Luke Zangerle, Financial Analyst

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

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on May 28, 2020 as Intro. No. 1952 and was referred to the Committee on Finance (Committee). A hearing was held by the Committee on June 10, 2020, and the bill was laid over. The legislation was subsequently amended and the amended version, Proposed Int. No. 1952-A, will be considered by the Committee on June 25, 2020. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on June 25, 2020.

DATE PREPARED: June 22, 2020.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1952-A:)

Int. No. 1952-A

By Council Members Gibson, Treyger, Lander, Brannan, Rosenthal, Kallos, Louis, Richards, Rose, Moya, Chin, Koo, Ampy-Samuel, Ayala and Adams.

A Local Law to amend the administrative code of the city of New York, in relation to the creation of a database to track the expenditure of funds in connection with COVID-19, and to provide for the repeal thereof

Be it enacted by the Council as follows:

Section 1. Section 6-138 of the administrative code of the city of New York, relating to reporting on the expenditure of hurricane Sandy funds, as added by local law number 140 for the year 2013, is renumbered section 6-143.

§ 2. Title 6 of the administrative code of the city of New York is amended by adding a new section 6-144 to read as follow:

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

COVID-19. The term “COVID-19” means the 2019 novel coronavirus or 2019-nCoV.

COVID-19 expenditure. The term “COVID-19 expenditure” means any expense or capital expenditure by a city agency for services, goods or materials, programs or construction paid for, in whole or in part, with any COVID-19 funds, provided that such term shall only include personnel expenditures that are tracked as such for reimbursement.

COVID-19 funds. The term “COVID-19 funds” means any federal, state or local funds allocated to or expended by any city agency to provide assistance for responding to COVID-19, including, but not limited to, preventing the spread among the population, containing or treating COVID-19 or mitigating the direct or indirect effects of COVID-19.

Recipient. The term “recipient” means any person or entity, including any individual, sole proprietorship, public authority, partnership, association, joint venture, limited liability company, corporation or any other form of doing business, awarded COVID-19 funds.

b. 1. The mayor shall establish and maintain a public online searchable and interactive database on the website of the city that shall include summaries of the administration of COVID-19 funds as set forth in this section. The data included in such database shall be available in a format that permits automated processing and is downloadable, and shall be available without any registration requirement, license requirement or restrictions on their use, provided that the city may require a third party providing to the public any data from

such database, or any application utilizing such data, to explicitly identify the source and version of the data, and a description of any modifications made to such data. The database shall include but not be limited to the following information, which shall, to the extent practicable, be disaggregated by federal, state and local COVID-19 funds, and, for federal funds, by the source of such funds:

(a) For each COVID-19 expense expenditure, where applicable, the administering agency, the unit of appropriation, the budget code, the amount submitted for reimbursement, the amount reimbursed and the source of reimbursement;

(b) For each COVID-19 capital expenditure, where applicable, the administering agency, the budget line, the project identification number, the project description, the amount submitted for reimbursement, the amount reimbursed and the source of reimbursement;

(c) For each executed city procurement contract funded in whole or in part by COVID-19 funds, the awarding agency, the unit of appropriation, the budget code, the name and address of the contractor and, if known, subcontractors, the contract identification number, the purpose of the contract, the original contract value in dollars and any applicable contract modification value in dollars, the contract award method, the contract type, the contract start and end date and any revised contract end date, the original contract registration date and the registration date of any applicable contract modification, the status of any contractor and, if known, subcontractor, as a minority and women-owned business enterprise, the contract status, to the extent practicable the amount spent to date on the contract and, if known, subcontracts, and information on the value of the contract and, if known, subcontracts, eligible for reimbursement from a COVID-19 funds award; and

(d) For each grant or loan issuance associated with COVID-19 funds, the awarding agency, the recipient name, the recipient's zip code, the grant or loan name, the purpose of the grant or loan, the grant or loan award amount, whether the grant or loan was subject to a selective award process and the nature of that process, the award status and information on the value of the grant or loan eligible for reimbursement from a COVID-19 funds award.

2. To the extent that the city is awarded funding from any federal appropriation related to COVID-19 that is not covered by paragraph 1 of subdivision b of this section, the database shall include the amount of such funds, disaggregated by source, and how such funds were allocated and expended by agency, unit of appropriation and budget code.

c. Notwithstanding any other provision of this section the database required by subdivision b of this section shall not be used to distribute information which, if disclosed, would jeopardize compliance with local, state or federal law, threaten public health, welfare, or safety, or harm the competitive economic position of a recipient.

d. The database prescribed in subdivision b of this section shall be updated each quarter within 30 days of the end of such quarter.

e. This section shall not be construed to create a private right of action to enforce its provisions. Failure to comply with this section shall not result in liability for the city. The city shall not be deemed to warranty the completeness, accuracy, content or fitness for any particular purpose or use of any information provided by the city pursuant to this section, including but not limited to information provided to the city by a third party or information provided by the city that is based upon information provided by a third party.

§ 3. Section 6-144 of the administrative code of the city of New York, as added by section two of this local law, shall not require reporting on any contracts entered into prior to the effective date of this local law where the reporting requirements of this local law would require collecting information that is not available to the city, and cannot reasonably be obtained by the city.

§ 4. If any provision of section 6-144 of the administrative code of the city of New York, as added by section two of this local law, or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not effect, impair or invalidate the remainder of such section.

§ 5. Data maintained pursuant to section 6-144 of the administrative code of the city of New York, as added by section two of this local law, shall also be subject to chapter 5 of title 23 of such administrative code, where such chapter is otherwise applicable.

§ 6. This local law shall take effect 90 days after it becomes law, provided, however, that mayor may take such actions as are necessary for its implementation prior to such effective date, and provided further that sections two through five of this local law shall expire and be deemed repealed 5 years after it becomes law.

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, RORY I. LANCMAN, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, MARK GJONAJ, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, June 25, 2020 (Remote Hearing). *Other Council Members Attending: Council Members Chin, Menchaca, Perkins, Yeger and the Public Advocate (Mr. Williams).*

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. 1964-A

Report of the Committee on Finance in favor of approving and adopting, as amended, a Local Law to authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value over two hundred fifty thousand dollars in fiscal year 2021 for certain property owners adversely affected by COVID-19.

The Committee on Finance, to which the annexed proposed amended local law was referred on June 18, 2020 (Minutes, page 1074), respectfully

REPORTS:

Introduction

On June 10, 2020, the Committee on Finance (Committee), chaired by providing late payment interest rate relief for certain COVID-19-impacted property owners unable to pay their real property tax on July 1, 2020. At that hearing, the Committee heard testimony from representatives from the Department of Finance (DOF) and members of the public. This is the second hearing on these bills, of which both were amended after introduction.

The two bills are: Proposed int. No. 1964-A, sponsored by Council Member Chin, a local law to authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value of two-hundred and fifty thousand dollars or less in fiscal year 2021 for property owners adversely affected by COVID-19; and Proposed Int. No. 1974-A, sponsored by the Public Advocate, a local law to authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value over two hundred fifty thousand dollars in fiscal year 2021 for certain property owners adversely affected by COVID-19.

I. Background

The outbreak of the novel coronavirus, COVID-19, in the City of New York has resulted in a myriad of concerns for many New Yorkers, including loss of income and housing instability. The first case of COVID-19 in New York State was confirmed on March 1, 2020, an individual who contracted the virus while traveling in Iran, and then returned home to Manhattan.¹ The second case was confirmed two days later.²

On March 7, Governor Cuomo issued Executive Order No. 202 declaring a state disaster emergency for New York State, to remain in effect until September 7, 2020, in an effort to contain the spread of the virus.³ On

¹ Governor Cuomo Issues Statement Regarding Novel Coronavirus in New York, Mar. 1, 2020, *available at*: <https://www.governor.ny.gov/news/governor-cuomo-issues-statement-regarding-novel-coronavirus-new-york>.

² New York City Department of Health, New York City Confirms A Second COVID-19 Case, Mar. 3, 2020, *available at* <https://www1.nyc.gov/site/doh/about/press/pr2020/city-confirms-second-covid-19-case.page>.

³ New York State, Governor Andrew M. Cuomo, Executive Order No. 202: Declaring a Disaster Emergency in the State of New York, https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_202.pdf

March 11, the World Health Organization (WHO) characterized COVID-19 as a pandemic.⁴ On March 12, Mayor de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in New York City.⁵

a. Impact on New York City Small Businesses and Residential Tenants

In an effort to manage the spread of the virus, Governor Andrew Cuomo issued an executive order,⁶ and subsequent continuing executive orders, to bring the State to a “PAUSE,” which ordered the closing of all businesses deemed “nonessential.”⁷ The initial “PAUSE” order was issued on March 7, 2020, and businesses began to close or were required to reduce the number of in-person employees commencing on that date.⁸ The closure of “nonessential” businesses eventually became applicable to 100 percent of employees at all nonessential businesses at 8:00 p.m. on March 22, 2020.⁹ The “PAUSE” started to lift in New York City on June 8, 2020, with Phase 1 of a four-part gradual reopening plan permitting the re-opening of construction, retail, manufacturing, and wholesale trade, subject to Empire State Development guidelines to maximize safety and social distancing.¹⁰

Although a range of industries were permitted to operate during PAUSE, a large proportion of New York’s businesses had to severely reduce their capacities. According to an analysis by the New York City Comptroller, the City’s hotels are projected to only maintain an occupancy rate of 20 percent, while restaurant sales are expected to drop by a staggering 80 percent. Real estate and retail sales are both expected to decline by 20 percent.¹¹ The Comptroller’s projections for the restaurant industry are reflected in the results of a recent survey by the New York State Restaurant Association. According to their findings, sales have declined by 79 percent, and New York State restaurants are expected to lose \$3.6 billion in sales revenue, in April alone.¹² Just over half (51 percent) of all restaurants have been able to move their operations online, and unemployment rates in this sector have skyrocketed, as 80 percent of restaurant workers have lost their jobs.¹³

In an analysis of the potential economic impacts of the pandemic on New York City households, the New York University Furman Center “estimate[s] that about 1,405,000 (or 34 percent) of the city’s wage earners may be at risk of income loss”¹⁴ as a result of mass layoffs or workplace closures, and that there are nearly 1,032,000 New York City households with at least one wage earner in an occupation more vulnerable to income loss.¹⁵ Additionally, the number of unemployment claims filed with the State has skyrocketed since the “PAUSE”: approximately 144,000 claims were filed in New York City the week of March 22, 2020, up 2,637% from the same period in 2019.¹⁶ With this sudden loss of income, many tenants in the City have been left wondering how

⁴ Press Release, World Health Organization, WHO Director-General’s opening remarks at the media briefing on COVID-19 (March 11, 2020), available at <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19--11-march-2020> (last accessed on March 20, 2020).

⁵ New York City, Mayor Bill de Blasio, Executive Order No. 98: Declaration of Local State Emergency (March 12, 2020), available at <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-98.pdf> (last accessed on March 19, 2020).

⁶ See *id.* at *supra* note 3.

⁷ See *id.*

⁸ See *id.*

⁹ N.Y. Exec. Order No. 202.8 (Mar. 20, 2020) https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_202.8.pdf.

¹⁰ Governor Cuomo Announces New York City to Enter Phase 1 of Reopening on June 8 and Five Regions Enter Phase 2 of Reopening Today (May 29, 2020), available at <https://www.governor.ny.gov/news/governor-cuomo-announces-new-york-city-enter-phase-1-reopening-june-8-and-five-regions-enter>; see also, New York Forward: New York City Phase One Industries (retrieved Jun. 8, 2020), <https://forward.ny.gov/new-york-city-phase-one-industries>.

¹¹ New York City Comptroller Scott M. Stringer “Comptroller Stringer: City must take immediate action to prepare for economic impacts of COVID-19 and protect vital services for most vulnerable New Yorkers”, March 16, 2020, available at: <https://comptroller.nyc.gov/newsroom/comptroller-stringer-city-must-take-immediate-action-to-prepare-for-economic-impacts-of-covid-19-and-protect-vital-services-for-most-vulnerable-new-yorkers/>.

¹² New York State Restaurant Association “Restaurant industry impact survey: New York State”, April, 2020, available at: https://www.nysra.org/uploads/1/2/1/3/121352550/restaurant_industry_impact_survey_new_york_state_2_.pdf.

¹³ See *id.*

¹⁴ *What are the Housing Costs of Households Most Vulnerable to Job Layoffs? An Initial Analysis*, NYU Furman Center (Mar. 30, 2020) available at <https://furmancenter.org/thestoop/entry/what-are-the-housing-costs-of-households-most-vulnerable-to-job-layoffs-an>.

¹⁵ See *id.*

¹⁶ Corina Knoll, Azi Paybarah, Jacob Mensche and Elaine Chen, *11 Numbers That Show How the Coronavirus Has Changed N.Y.C.*, The New York Times, (Apr. 20, 2020) available at <https://www.nytimes.com/2020/04/20/nyregion/coronavirus-nyc-numbers-unemployment.html>.

they would make their rent payments.

In an effort to provide some relief to tenants, the State and federal governments have each enacted measures to halt evictions for a period of time. New York State has implemented a moratorium on evictions, meaning no evictions will be enforced against residential or commercial tenants. The closure of the state courts to all non-essential functions, including eviction proceedings, on May 16, 2020¹⁷ was reinforced by Governor Cuomo's Executive Order No. 202.8, on March 20, 2020.¹⁸ Likewise, the Federal Coronavirus Aid, Relief, and Economic Security Act, otherwise known as the CARES Act, imposes a moratorium on evictions for nonpayment of rent on all federally subsidized housing.¹⁹ Although the eviction moratoriums serve as temporary stopgaps, they do not provide any kind of relief to tenants for rent owed during the moratoriums nor do not guarantee that tenants unable to pay rent will be able to stay once the moratoriums are lifted.

b. Impact on Property Owners

The difficulties faced by small businesses and residential tenants has also been felt sharply by property owners. An eviction moratorium or rent deferral program shifts the financial burden of the lost rent directly to the property owner.²⁰

Unsurprisingly, rent collections have tumbled. According to a survey by landlord trade group Community Housing Improvement Program, which represents owners of about 100,000 rent-stabilized apartment units, about 25 percent of its member's residential tenants skipped rent altogether in May, up from 20 percent in April.²¹ The results align with to a National Multifamily Housing Council report last week that found just 12 percent of tenants at the 11.4 million market-rate properties it tracks failed to make a rent payment for the month.²²

The Community Housing Improvement Program survey also found that 64% percent of retail ground-floor tenants at those apartment buildings surveyed did not pay May rent, as most New York City businesses remained closed.²³ The results align with the finding by Datex Property Solutions that nationally only 58.6 percent of retail rents were paid in May.²⁴ According to Datex, the situation is especially dire for owners of hotels and malls. Faced with plunging sales, companies are trying to renegotiate their office and retail leases — and in some cases refusing to pay — in hopes of lowering their overhead and surviving the worst economic downturn since the Great Depression.²⁵

Many chains stopped paying rent entirely in May, and while Starbucks paid May rent it also sent a letter to landlords requesting rent concessions starting June 1 and continuing for 12 months.²⁶ Christopher Whalen of Whalen Global Advisors wrote that “social distancing means financial Armageddon for commercial real estate and municipalities in coming months,” predicting defaults could be worse than the peak losses of the early 1990s commercial real estate bust “by a wide margin.”²⁷ One challenge for commercial landlords navigating these challenges is that fewer than 40 percent of commercial property loans are owned by banks, with the remainder

¹⁷ Hon. Lawrence Marks, Memorandum Re: Updated Protocols in light of the Coronavirus Public Health Emergency in New York State, March 15, 2020, <https://www.nycourts.gov/whatsnew/pdf/Updated-Protocol-AttachmentA3.pdf>.

¹⁸ N.Y. Exec. Order No. 202.28 (May. 7, 2020) https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_202.28.pdf.

¹⁹ Coronavirus Aid, Relief, and Economic Security Act, § 4024 (Mar. 27, 2020) <https://www.congress.gov/116/bills/hr748/BILLS-116hr748eas.pdf>.

²⁰ Laurie Goodman and Dan Magder, Avoiding a COVID-19 Disaster for Renters and the Housing Market, Urban Institute Housing Policy Finance Center, April 2020, https://www.urban.org/sites/default/files/publication/102013/avoiding-a-covid-19-disaster-for-renters-and-the-housing-market_1.pdf.

²¹ Matthew Haag, New Threat to New York City: Commercial Rent Payments Plummet, NY Times, May 21, 2020, available at <https://www.nytimes.com/2020/05/21/nyregion/commercial-rent-NYC-coronavirus.html>.

²² Georgia Kromrei, About 25% of NYC renters didn't pay in May: survey, The Real Deal, May 19, 2020, available at <https://therealdeal.com/2020/05/19/about-25-of-nyc-renters-didnt-pay-in-may-survey/>.

²³ *Id.*

²⁴ Heather Long, The next big problem for the economy: Businesses can't pay their rent, Wash. Po., Jun. 4, 2020, available at <https://www.washingtonpost.com/business/2020/06/03/next-big-problem-businesses-cant-or-wont-pay-their-rent-its-setting-off-dangerous-chain-reaction/>.

²⁵ Conor Dougherty and Peter Eavis, Tenants' Troubles Put Stress on Commercial Real Estate, NY Times, June 5, 2020, available at <https://www.nytimes.com/2020/06/05/business/economy/coronavirus-commercial-real-estate.html>

²⁶ Long, *supra* note 26.

²⁷ Long, *supra* note 26.

held by life insurers, real estate investment trusts and investors in commercial mortgage-backed securities.²⁸ Such diffuse ownership of commercial real estate debt may complicate the negotiation of concession agreements.

Historically, New York City has charged interest rates on late payments of property taxes, most recently 7% properties with an assessed value of not more than \$250,000²⁹ and 18% for properties with an assessed value of over \$250,000.³⁰ To avoid accelerating mounting pressures on COVID-impacted property taxpayers, the proposed bills propose temporarily relaxing those interest rates under specific circumstances.

II. Legislative Analysis

a. Analysis of Proposed Int. No. 1964-A (sponsored by Council Member Chin)

Proposed Int. No. 1964-A would authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value over two hundred fifty thousand dollars in fiscal year 2021 for certain property owners adversely affected by COVID-19.

Section 1 of Proposed Int. No. 1964-A would authorize the Council by resolution adopt an interest rate of 7.5 percent to be charged for nonpayment of taxes, during the period between July 1, 2020 and October 15, 2020. To be eligible, property owners would be required to demonstrate to DOF by no later than September 30, 2020 that such property owner has been adversely affected by the COVID-19 pandemic and either: owns class 4 real property with an assessed value of more than \$250,000 and less than \$750,000; or owns real property with an assessed value over \$250,000 where at least 50 percent of the property is used for residential rental dwellings and contains no more than 30 rental dwelling units, of which at least 50 percent are rent regulated accommodations.

Section 2 of Proposed Int. No. 1964-A would define various terms for the purposes of the local law. Adversely affected by the COVID-19 pandemic would mean: for eligible class 4 property owners, the income of the property owner from such real property declined, between March 7, 2020 and June 30, 2020, by at least 50 percent as compared to the corresponding period in the previous calendar year due to COVID-19; and for eligible residential rental dwelling property owners, the income of the property owner from such real property declined, between March 7, 2020 and June 30, 2020, by at least 25 percent as compared to the corresponding period in the previous calendar year due to COVID-19.

Section 3 of Proposed Int. No. 1964-A would require DOF to report to the Speaker of the Council no later than November 1, 2020 the number of properties for which the 7.5 percent interest rate was imposed pursuant to the provisions of this local law and the aggregate value of the real property tax liability of those properties.

Section 4 of Proposed Int. No. 1964-A would provide that the local law take effect immediately and is retroactive to and deemed to have been in effect as of June 25, 2020, except that the council of the city of New York may take such measures as are necessary for the implementation of this local law, including the adoption of the resolution that is the subject of this local law, on or before such date.

b. Analysis of Proposed Int. No. 1974-A (sponsored by the Public Advocate)

Proposed Int. No. 1974-A would authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value over two hundred fifty thousand dollars in fiscal year 2021 for certain property owners adversely affected by COVID-19.

Section 1 of Proposed Int. No. 1974-A would authorize the Council by resolution adopt a zero percent interest rate for nonpayment of taxes on real property due on July 1, 2020 for fiscal year 2021, and paid between July 15 and September 30, 2020, for certain owners of class 1 real property and dwellings unit in a condominium. To be eligible, such property owner would be required to demonstrate to DOF by no later than September 30,

²⁸ Long, *supra* note 26.

²⁹ Res 0889-2019.

³⁰ Res 0890-2019.

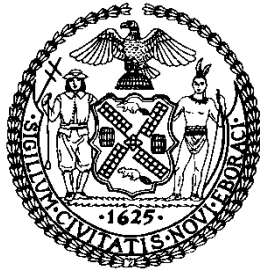
2020 that such property owner has been adversely affected by the COVID-19 pandemic and be either: enrolled as of July 1, 2020 in installment agreements with DOF or such property owner must have had a 2019 income, together with the incomes of any additional property owners, of \$150,000 or less and such property must have been the primary residence of at least one of the property’s owners for an uninterrupted period of not less than one year preceding July 1, 2020 (without regard to any hospitalization or temporary stay in a nursing home or rehabilitation facility).

Section 2 of Proposed Int. No. 1974-A would define various terms for the purposes of the local law. Adversely affected by the COVID-19 pandemic would mean: the property owner or a member of the household of such property owner was diagnosed with COVID-19, received confirmation from a health professional of having contracted COVID-19 or experienced symptoms of COVID-19 and sought a medical diagnosis; or the loss of the primary source of income because of COVID-19 between March 7, 2020 and June 30, 2020, which continued for at least 1 month, by the property owner or any additional property owners of such real property

Section 3 of Proposed Int. No. 1974-A would require DOF to report to the Speaker of the Council no later than November 1, 2020 the number of properties for which the zero percent interest rate was imposed pursuant to the provisions of this local law and the aggregate value of the real property tax liability of those properties.

Section 4 of Proposed Int. No. 1974-A would provide that the local law would take effect immediately and is retroactive to and deemed to have been in effect as of June 25, 2020, except that the council of the city of New York may take such measures as are necessary for the implementation of this local law, including the adoption of the resolution that is the subject of this local law, on or before such date.

(The following is the text of the Fiscal Impact Statement for Int. No. 1964-A:)



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

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. 1964-A

Finance

TITLE: A local law to authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value over two hundred fifty thousand dollars in fiscal year 2021 for certain property owners adversely affected by COVID-19.

SPONSOR(S): Council Members Chin and Adams.

SUMMARY OF LEGISLATION: This bill would authorize the City Council to pass a resolution adopting a 7.5 percent interest rate for the late payment of property taxes due on July 1, 2020, and paid by October 15, 2020 for certain real property owners. To be eligible, property owners would be required to demonstrate to the Department of Finance (DOF) by no later than September 30, 2020 that such property owner has been adversely affected by COVID-19 and either: (a) owns class 4 real property with an assessed value of more than \$250,000 and less than \$750,000; or (b) owns real property with an assessed value over \$250,000 where at least 50 percent of the property is used for residential rental dwellings and contains no more than 30 rental dwelling units, of which at least 50 percent are rent regulated accommodations. For the first category, adversely affected by COVID-19 means the income of the property owner declined between March 7, 2020 and June 30, 2020, by at least 50 percent as compared to the corresponding period in the previous calendar year, and for the second

category that the income of the property owner declined between March 7, 2020 and June 30, 2020, by at least 25 percent as compared to the corresponding period in the previous calendar year.

EFFECTIVE DATE: This local law would take effect immediately and be retroactive to and deemed to have been in effect as of June 25, 2020, except that the council of the city of New York may take such measures as are necessary for the implementation of this local law, including the adoption of the resolution that is the subject of this local law, on or before such date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2021

FISCAL IMPACT STATEMENT:

	Effective FY20	FY Succeeding Effective FY21	Full Fiscal Impact FY21
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation. This legislation would authorize the Council to adopt a 7.5 percent interest rate for properties that meet specified criteria but would not mandate it. Therefore, since it does not directly effectuate different interest rates, there is no impact on revenues directly attributed to this legislation.

IMPACT ON EXPENDITURES: It is estimated 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
New York City Banking Commission

ESTIMATE PREPARED BY: Andrew Wilber, Economist

ESTIMATE REVIEWED BY: Emre Edev, Assistant Director
Raymond Majewski, Deputy Director/Chief Economist
Rebecca Chasan, Senior Counsel

LEGISLATIVE HISTORY: This legislation was heard by the Committee on Finance (Committee) as a Preconsidered Introduction on June 10, 2020 and was laid over. The legislation was then introduced as Introduction No. 1964 and referred back to the Committee. The legislation was subsequently amended and the amended legislation, Proposed Int. No. 1964–A, will be considered by the Committee on June 25, 2020. Upon a successful vote by the Committee, the legislation will be submitted to the full Council for a vote on June 25, 2020.

DATE PREPARED: June 22, 2020.

(For text of Int. No. 1974-A and its Fiscal Impact Statement, please see the Report of the Committee on Finance for Int. No. 1974-A printed in these Minutes; for text of Int. No. 1964-A, please see below)

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1964-A:)

Proposed Int. No. 1964-A

By Council Members Chin, Adams and Vallone.

A Local Law to authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value over two hundred fifty thousand dollars in fiscal year 2021 for certain property owners adversely affected by COVID-19

Be it enacted by the Council as follows:

Section 1. Notwithstanding paragraph (ii) of subdivision (e) of section 11-224.1 of the administrative code of the city of New York, the council may by resolution adopt an interest rate of 7.5 percent to be charged for nonpayment of taxes, during the period between July 1, 2020 and October 15, 2020, on real property due on July 1, 2020 for fiscal year 2021 for real property: (1) classified as class 4 pursuant to section 1802 of the real property tax law with an assessed value of more than \$250,000 and less than \$750,000; or (2) with an assessed value over \$250,000 (i) where at least 50 percent of the property is used for residential rental dwellings; and (ii) which contains no more than 30 rental dwelling units of which at least 50 percent are rent regulated accommodations; provided that no later than September 30, 2020, the owner of such property submits documentation to the commissioner of finance demonstrating that such owner has been adversely affected by the COVID-19 pandemic; and provided further that nothing herein shall be construed to amend paragraph 6 of subdivision b of section 11-319 of such code.

§ 2. For the purposes of this local law, the following terms shall have the following meanings:

(a) "Adversely affected by the COVID-19 pandemic" means: (1) for real property described in subdivision one of section one of this local law, the income of the property owner from such real property declined, between March 7, 2020 and June 30, 2020, by at least 50 percent as compared to the corresponding period in the previous calendar year due to COVID-19; and (2) for real property described in subdivision two of section one of this local law, the income of the property owner from such real property declined, between March 7, 2020 and June 30, 2020, by at least 25 percent as compared to the corresponding period in the previous calendar year due to COVID-19.

(b) "Owner" means a person who is liable for payment of the real property tax on the subject property.

(c) "Rent regulated accommodation" means a dwelling unit required by law or by an agreement with a governmental entity to be regulated in accordance with the emergency tenant protection act of 1974, the rent stabilization law of 1969, the local emergency housing rent control act of 1962 .

§ 3. No later than November 1, 2020, the department of finance shall report to the speaker of the council the number of properties for which the 7.5 percent interest rate was imposed pursuant to the provisions of this local law and the aggregate value of the real property tax liability of those properties.

§ 4. This local law takes effect immediately and is retroactive to and deemed to have been in effect as of June 25, 2020, except that the council of the city of New York may take such measures as are necessary for the implementation of this local law, including the adoption of the resolution that is the subject of this local law, on or before such date.

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, RORY I. LANCMAN, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, MARK GJONAJ, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, June 25, 2020 (Remote Hearing). *Other Council Members Attending: Council Members Chin, Menchaca, Perkins, Yeger and the Public Advocate (Mr. Williams).*

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. 1974-A

Report of the Committee on Finance in favor of approving and adopting, as amended, a Local Law to authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value of two-hundred and fifty thousand dollars or less in fiscal year 2021 for property owners adversely affected by COVID-19.

The Committee on Finance, to which the annexed proposed amended local law was referred on June 18, 2020 (Minutes, page 1090), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Finance for Int. No. 1964-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1974-A:



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

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. 1974-A

COMMITTEE: Finance

TITLE: A local law to authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value of two-hundred and fifty thousand dollars or less in fiscal year 2021 for property owners adversely affected by COVID-19.

SPONSOR(S): The Public Advocate (Jumaane Williams) and Council Members Kallos, Lander, Adams, Ayala and Grodenchik.

SUMMARY OF LEGISLATION: This bill would authorize the Council to adopt a resolution adopting a zero percent interest rate for the late payment of property taxes due on July 1, 2020 that are paid before September 30, 2020 for certain property owners who demonstrate they were adversely affected by the COVID-19 pandemic. Eligible properties include class 1 and condominium properties that are used as the property owner’s primary residence that either (a) are enrolled in a Property Tax and Interest Deferral Program installment agreement with the Department of Finance (DOF); or (b) have a property with an assessed value of \$250,000 or less and the property owners have an income of less than \$150,000. Eligible property owners would be required to submit documentation to the Department of Finance demonstrating an adverse impact caused by COVID-19 no later than September 30, 2020.

EFFECTIVE DATE: This local law would take effect immediately and be retroactive to and deemed to have been in effect as of June 25, 2020, except that the council of the city of New York may take such measures as are necessary for the implementation of this local law, including the adoption of the resolution that is the subject of this local law, on or before such date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2021

FISCAL IMPACT STATEMENT:

	Effective FY20	FY Succeeding Effective FY21	Full Fiscal Impact FY21
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation. This legislation would permit the Council the option of adopting a zero percent interest rate for properties that meet specified criteria, but would not mandate it. Therefore, since it does not directly effectuate different interest rates, there is no impact on revenues directly attributed to this legislation.

IMPACT ON EXPENDITURES: It is estimated 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
New York City Banking Commission

ESTIMATE PREPARED BY: Andrew Wilber, Economist

ESTIMATE REVIEWED BY: Emre Edev, Assistant Director
Raymond Majewski, Deputy Director/Chief Economist
Rebecca Chasan, Senior Counsel

LEGISLATIVE HISTORY: This legislation was heard by the Committee on Finance (Committee) as a Preconsidered Introduction on June 10, 2020 and was laid over. The legislation was then introduced as Introduction No. 1974 and referred back to the Committee. The legislation was subsequently amended and the amended legislation, Proposed Int. No. 1974–A, will be considered by the Committee on June 25, 2020. Upon a successful vote by the Committee, the legislation will be submitted to the full Council for a vote on June 25, 2020.

DATE PREPARED: June 22, 2020.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1974-A:)

Proposed Int. No. 1974-A

By The Public Advocate (Mr. Williams) and Council Members Kallos, Lander, Adams, Ayala, Grodenchik and Miller.

A Local Law to authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value of two-hundred and fifty thousand dollars or less in fiscal year 2021 for property owners adversely affected by COVID-19

Be it enacted by the Council as follows:

Section 1. Notwithstanding paragraph (i) of subdivision (e) of section 11-224.1 of the administrative code of the city of New York, the council may, by resolution pursuant to such subdivision, adopt an interest rate to be charged for nonpayment of taxes on real property due on July 1, 2020 as follows:

a. For real property for which, as of July 1, 2020, a property owner has an executed agreement with the department of finance for the payment in installments of any real property taxes, assessments or other charges that are made a lien subject to the provisions of chapter 3 of title 11 of the administrative code of the city of New York, pursuant to section 11-322.1 of such code, the interest rate to be charged for nonpayment of taxes on the real property that is the subject of such executed agreement, due on July 1, 2020 for fiscal year 2021, and paid between July 15 and September 30, 2020, shall be zero percent, provided that no later than September 30, 2020, such property owner submits documentation to the commissioner of finance demonstrating that such property owner has been adversely affected by the COVID-19 pandemic, and provided further that nothing herein shall be construed to amend paragraph 6 of subdivision b of section 11-319 of such code.

b. For real property with an assessed value of \$250,000 or less, for which the income, as defined in subdivision a of section 11-322.1 of the administrative code of the city of New York, of the owner of such property, and all the additional property owners of such real property, during calendar year 2019 was less than \$150,000, the interest rate to be charged for nonpayment of taxes on such real property due on July 1, 2020, and paid between July 15 and September 30, 2020, shall be zero percent, provided that such property has been the primary residence of at least one such property owner for an uninterrupted period of not less than one year preceding July 1, 2020, which determination shall be made without regard to any hospitalization or temporary stay in a nursing home or rehabilitation facility, and provided further that no later than September 30, 2020, such property owner submits documentation to the commissioner of finance demonstrating that such property owner has been adversely affected by the COVID-19 pandemic, and provided further that nothing herein shall be construed to amend paragraph 6 of subdivision b of section 11-319 of such code.

§ 2. For the purposes of this local law, the following terms shall have the following meanings:

a. “Adversely affected by the COVID-19 pandemic” means: (a) the property owner or a member of the household of such property owner was diagnosed with COVID-19, received confirmation from a health professional of having contracted COVID-19 or experienced symptoms of COVID-19 and sought a medical diagnosis; or (b) the loss of the primary source of income because of COVID-19 between March 7, 2020 and June 30, 2020, which continued for at least 1 month, by the property owner or any additional property owners of such real property.

b. “Property” means real property classified as class 1 pursuant to section 1802 of the real property tax law or a dwelling unit in a condominium.

§ 3. Any nonpayment of taxes on real property due on July 1, 2020 and paid between July 15 and September 30, 2020, pursuant to subdivisions a and b of section one of this local law, shall not be subject to the provisions regarding subsequent tax liens in subdivision a-1 of section 11-319 of the administrative code of the city of New York.

§ 4. No later than November 1, 2020, the department of finance shall report to the speaker of the council the number of properties for which the zero percent interest rate was imposed pursuant to the provisions of this local law and the aggregate value of the real property tax liability of those properties.

§ 5. This local law takes effect immediately and is retroactive to and deemed to have been in effect as of June 25, 2020, except that the council of the city of New York may take such measures as are necessary for the implementation of this local law, including the adoption of the resolution that is the subject of this local law, on or before such date.

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, RORY I. LANCMAN, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, MARK GJONAJ, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, June 25, 2020 (Remote Hearing). *Other Council Members Attending: Council Members Chin, Menchaca, Perkins, Yeger and the Public Advocate (Mr. Williams).*

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Preconsidered Int. No. 1974-A:)

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

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

PROPOSED INT. 1974-A

A local law to authorize adoption by resolution of an interest rate for nonpayment of taxes on real property with an assessed value of two-hundred and fifty thousand dollars or less in fiscal year 2021 for property owners adversely affected by COVID-19.

Given under my hand and seal this 24th day of
June, 2020 at City Hall in the City of New York.

Bill de Blasio
Mayor

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. 1346

Report of the Committee on Finance in favor of approving a Resolution to establish that the discount percentage for early payment of real estate taxes be set at one-half of one percent per annum for Fiscal Year 2021.

The Committee on Finance, to which the annexed preconsidered resolution was referred on June 25, 2020, respectfully

REPORTS:

Under current law, the City provides a discount for property owners who pay their property tax bills early. To receive a discount on the *entire* tax bill, both semi-annual and quarterly taxpayers have to pay the entire tax bill prior to the date the July 1st installment could be paid without interest. For quarterly taxpayers, if the taxpayer does not pay the entire tax bill upfront, but instead pays the last three quarters in full on or before October 15th, the discount is calculated at a rate of two-thirds of the discount percentage. If the last two quarters (due in January and April) are paid in full on or before January 15th, the taxpayer receives a discount equal to one-third of the discount percentage. A tax installment paid after the January 15th due date is not eligible for a discount.

The New York City Council is charged with the responsibility of setting the discount percentages for the early payment of real estate taxes prior to the dates on which such taxes become due and payable. Specifically, §1519-a(7)(b) of the New York City Charter provides that not later than the 13th day of May in each year, the New York City Banking Commission (the “Banking Commission”) shall send a written recommendation to the Council of a proposed discount percentage for the ensuing fiscal year.

Further, §1519-a(7)(c) of the New York City Charter provides that the New York City Council may adopt a discount percentage by resolution no earlier than the 14th day of May.

If the Council does not set a discount rate, the default discount rate, which is set by §1519-a(7)(d) of the New York City Charter will apply. The default discount rate is a formula equaling the annualized interest rate on six-month United States treasury bills, as reported by the Board of Governors for the Federal Reserve System plus seventy-five basis points, the sum of which is divided by four for the last business day of April preceding the ensuing fiscal year.

The Banking Commission forwarded to the Council, by letter dated May 13, 2020, its recommendation that the discount percentage for early payment of real estate taxes for Fiscal Year 2020 be set at one-half of one percent (0.5%) per annum.

As required by Local Law 30 of 2015, the Banking Commission included with its recommendations a report detailing the factors considered when determining the recommendation. For the Fiscal Year 2020 recommendation, the Banking Commission considered the City’s cash balances, the estimated savings from fewer issuances of property tax statements, current interest rates, and discount rates offered by other municipalities.

Pursuant to Charter §1519-a(7)(c), the Council adopts the Banking Commission’s recommendation and establishes that the discount percentage for early payment of real estate taxes shall be set at one-half of one percent (0.5%) per annum for Fiscal Year 2021.

The discount percentage the Council established for early payment of Fiscal Year 2021 real estate taxes is the same as it was for Fiscal Year 2020.

Accordingly, this Committee recommends its adoption.

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

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, RORY I. LANCMAN, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, MARK GJONAJ, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, June 25, 2020 (Remote Hearing).

Other Council Members Attending: Council Members Chin, Menchaca, Perkins, Yeger and the Public Advocate (Mr. Williams).

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. 1347

Report of the Committee on Finance in favor of approving a Resolution to establish that the interest rate be 18 percent per annum for Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of over \$250,000, or over \$250,000 per residential unit for cooperative apartments.

The Committee on Finance, to which the annexed preconsidered resolution was referred on June 25, 2020, respectfully

REPORTS:

Section 11-224.1 of the Administrative Code of the City of New York requires the New York City Banking Commission (the “Banking Commission”) to send a written recommendation to the City Council of proposed interest rates to be charged for non-payment of taxes on real property no later than the 13th day of May each year. In making such recommendation, the Banking Commission shall consider the prevailing interest rate charged for commercial loans extended to prime borrowers by commercial banks operating in the City (the “Prime Rate”). For real property with an assessed value of over \$250,000, or over \$250,000 per residential unit for cooperative apartments,¹ the Banking Commission shall propose an interest rate of at least 6% per annum greater than the prevailing Prime Rate.

By letter dated May 13, 2020, the Banking Commission recommended to the Council an interest rate of 18% per annum for Fiscal Year 2021 to be charged for non-payment of taxes of real property where the assessed value on a parcel is over \$250,000, or over \$250,000 per residential unit for cooperative apartments.²

As required by Local Law 30 of 2015, the Banking Commission included with its recommendation a report detailing the factors considered when determining the recommendation. For the Fiscal Year 2021 recommendation, the Banking Commission considered the penalty rates used by other property tax collectors, and the interest rates charged for mortgages and home equity lines of credit.

Pursuant to section 11-224.1 of the Administrative Code, the Council adopts the Banking Commission’s recommendation, and establishes that the interest rate be 18% per annum for Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of over \$250,000, or over \$250,000 per residential unit for cooperative apartments.

The interest rate the Council established for Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of over \$250,000, or over \$250,000 per residential unit for cooperative apartments is the same as it was for Fiscal Year 2020.

Accordingly, this Committee recommends its adoption.

¹To be deemed over \$250,000, the cooperative apartment would have to be located in a building where the average assessed valuation of units is over \$250,000.

²Interest rate reflects the Prime Rate referenced in the Banking Commission’s resolution and letter. The Banking Commission notes that on May 9, 2019, the Prime Rate stands at 5.5% as published by the Board of Governors of the Federal Reserve System.

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

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, RORY I. LANCMAN, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, MARK GJONAJ, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, June 25, 2020. *Other Council Members Attending: Council Members Chin, Menchaca, Perkins, Yeger and the Public Advocate (Mr. Williams).*

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. 1348

Report of the Committee on Finance in favor of a approving a Resolution to establish that the interest rate be 3.25 percent for the first quarter of Fiscal Year 2021 and 5 percent for the remainder of Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of not more than \$250,000, or not more than \$250,000 per residential unit for cooperative apartments.

The Committee on Finance, to which the annexed preconsidered resolution was referred on June 25, 2020, respectfully

REPORTS:

Section 11-224.1 of the Administrative Code of the City of New York requires the New York City Banking Commission (the “Banking Commission”) to send a written recommendation to the City Council of proposed interest rates to be charged for non-payment of taxes on real property no later than the 13th day of May each year. In making such recommendation, the Banking Commission shall consider the prevailing interest rate charged for commercial loans extended to prime borrowers by commercial banks operating in the City (the “Prime Rate”). Pursuant to such section, for real property with an assessed value of \$250,000 or less, or \$250,000 or less per residential unit for cooperative apartments,³ the Banking Commission shall propose a rate at least equal to the prevailing Prime Rate.

The Banking Commission forwarded, by letter dated May 13, 2020, a recommendation to the Council to establish an interest rate of 3.25 percent for the first quarter of Fiscal Year 2021, and five percent for the second, third, and fourth quarters of Fiscal Year 2021 for non-payment of taxes of real property where the assessed value on a parcel is \$250,000 or less, or \$250,000 or less per residential unit for cooperative apartments.⁴

As required by Local Law 30 of 2015, the Banking Commission included with its recommendation a report detailing the factors considered when determining the recommendation. For the Fiscal Year 2021 recommendation, the Banking Commission considered penalty rates used by other property tax collectors, and the interest rates charged for mortgages and home equity lines of credit.

Pursuant to section 11-224.1 of the Administrative Code, the Council adopts the Banking Commission’s recommendation, and establishes the interest rate to be 3.25 percent for the first quarter of Fiscal Year 2021, and five percent per annum for the second, third, and fourth quarters of Fiscal Year 2021 for non-payment of taxes

¹ To be deemed \$250,000 or less, the cooperative apartment must be located in a building where the average assessed value of units is \$250,000 or less.

² Interest rate reflects the Prime Rate that is referenced in the Banking Commission’s resolution and letter. The Banking Commission notes that as of May 13, 2020 the Prime Rate stands at 3.25% as published by the Board of Governors of the Federal Reserve System.

on properties with an assessed value of not more than \$250,000, or not more than \$250,000 per residential unit for cooperative apartments.

The interest rates the Council establishes for Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of not more than \$250,000, or not more than \$250,000 per residential unit for cooperative apartments are historically the lowest rates the Council has adopted.

Accordingly, this Committee recommends its adoption.

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

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, RORY I. LANCMAN, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, MARK GJONAJ, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, June 25, 2020 (Remote Hearing). *Other Council Members Attending: Council Members Chin, Menchaca, Perkins, Yeager and the Public Advocate (Mr. Williams).*

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. 1349

Report of the Committee on Finance in favor of a Resolution approving a Resolution to adopt an interest rate of 7.5 percent for a portion of Fiscal Year 2021 for the non-payment of taxes on real property with an assessed value over \$250,000 for property owners adversely affected by COVID-19 as authorized by the local law for the year 2020 as proposed in introduction number 1964-A.

The Committee on Finance, to which the annexed preconsidered resolution was referred on June 25, 2020, respectfully

REPORTS:

Proposed Int. 1964-A, sponsored by the Council Member Chin, would authorize the City Council to pass a resolution adopting a 7.5 percent interest rate for the late payment of property taxes due on July 1, 2020, and paid by October 15, 2020 for certain real property owners. To be eligible, property owners would be required to demonstrate to the Department of Finance (DOF) by no later than September 30, 2020 that such property owner has been adversely affected by COVID-19 and either: (a) owns class 4 real property with an assessed value of more than \$250,000 and less than \$750,000; or (b) owns real property with an assessed value over \$250,000 where at least 50 percent of the property is used for residential rental dwellings and contains no more than 30 rental dwelling units, of which at least 50 percent are rent regulated accommodations. For the first category, adversely affected by COVID-19 means the income of the property owner declined between March 7, 2020 and June 30, 2020, by at least 50 percent as compared to the corresponding period in the previous calendar year, and for the second category that the income of the property owner declined between March 7, 2020 and June 30, 2020, by at least 25 percent as compared to the corresponding period in the previous calendar year. Proposed Int. 1964-A would be retroactive to and deemed to have been in effect as of June 25, 2020, and would authorize the Council to take such measures as are necessary for its implementation on or before such date, including the adoption of the resolution expressly authorized by the legislation.

This Preconsidered Resolution would set the 7.5 percent interest rate as authorized by Proposed Int. 1964-A. The Preconsidered Resolution takes effect on the same date as the local law for the year 2020 as proposed in introduction number 1964-A takes effect.

Accordingly, this Committee recommends its adoption.

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

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, RORY I. LANCMAN, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, MARK GJONAJ, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, June 25, 2020. *Other Council Members Attending: Council Members Chin, Menchaca, Perkins, Yeager and the Public Advocate (Mr. Williams).*

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. 1350

Report of the Committee on Finance in favor of approving a Resolution to adopt an interest rate of zero percent for a portion of Fiscal Year 2021 for the non-payment of taxes on real property with an assessed value of \$250,000 or less for property owners adversely affected by COVID-19 as authorized by the local law for the year 2020 as proposed in introduction number 1974-A.

The Committee on Finance, to which the annexed preconsidered resolution was referred on June 25, 2020, respectfully

REPORTS:

Proposed Int. 1964-A, sponsored by the Council Member Chin, would authorize the City Council to pass a resolution adopting a 7.5 percent interest rate for the late payment of property taxes due on July 1, 2020, and paid by October 15, 2020 for certain real property owners. To be eligible, property owners would be required to demonstrate to the Department of Finance (DOF) by no later than September 30, 2020 that such property owner has been adversely affected by COVID-19 and either: (a) owns class 4 real property with an assessed value of more than \$250,000 and less than \$750,000; or (b) owns real property with an assessed value over \$250,000 where at least 50 percent of the property is used for residential rental dwellings and contains no more than 30 rental dwelling units, of which at least 50 percent are rent regulated accommodations. For the first category, adversely affected by COVID-19 means the income of the property owner declined between March 7, 2020 and June 30, 2020, by at least 50 percent as compared to the corresponding period in the previous calendar year, and for the second category that the income of the property owner declined between March 7, 2020 and June 30, 2020, by at least 25 percent as compared to the corresponding period in the previous calendar year. Proposed Int. 1964-A would be retroactive to and deemed to have been in effect as of June 25, 2020, and would authorize the Council to take such measures as are necessary for its implementation on or before such date, including the adoption of the resolution expressly authorized by the legislation.

This Preconsidered Resolution would set the 7.5 percent interest rate as authorized by Proposed Int. 1964-A. The Preconsidered Resolution takes effect on the same date as the local law for the year 2020 as proposed in introduction number 1964-A takes effect.

Accordingly, this Committee recommends its adoption.

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

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, RORY I. LANCMAN, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, MARK GJONAJ, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, June 25, 2020. *Other Council Members Attending: Council Members Chin, Menchaca, Perkins, Yeger and the Public Advocate (Mr. Williams).*

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. 664

Report of the Committee on Finance in favor of a Resolution approving 3415 Knox Place.GHPP.FY20, Block 3324, Lot 89; Bronx, Community District No. 7, Council District No. 11.

The Committee on Finance, to which the annexed preconsidered Land Use item was referred on June 25, 2020 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:)

DATE: June 25, 2020

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: Committee of Finance of June 25, 2020 – Resolution approving tax exemption for one Land Use item (Council District 11)

Item 1: 3415 Knox Place.GHPP.FY20

3415 Knox Place is a 25-unit building located in the Norwood neighborhood of the Bronx. The 25 units include 24 one-bedroom units and a three-bedroom unit (inclusive of a superintendent unit).

In 2016, the project's sponsor, Galaxy General Contracting Corp., acquired the property through a private transaction. As part of that transaction, the Community Preservation Corporation ("CPC") issued a bridge loan, and the mortgage matures on December 31, 2021.

Under the proposed project, 3415 Knox Housing Development Fund Corporation ("HDFC") will acquire the property and 3415 Knox Place LLC ("Company") will be the beneficial owner and will operate the building. The HDFC and the Company will finance the rehabilitation of the building with loans from the New York City Department of Housing Preservation and Development ("HPD"), the New York City Housing Development Corporation and CPC.

HPD is requesting that the Council approve a full, 40-year Article XI exemption. The HDFC, the Company, and HPD would enter into a regulatory which would require that three units be leased to households with income up to 70% of Area Median Income ("AMI"), eight units be leased to households with incomes up to 80% AMI, and 13 units be leased to household with incomes up to 90% AMI.

Summary:

- Borough – Bronx
- Block 3324, Lot 89
- Council District – 11
- Council Member – Cohen
- Council Member approval – Yes
- Number of buildings – 1
- Number of units – 25 (inclusive of one superintendent unit)
- Type of exemption – Article XI, full, 40 years
- Population – affordable rental housing
- Sponsor – Galaxy General Contracting Corp.; 3415 Knox Housing Development Fund Corporation;
- 3415 Knox Place LLC
- Purpose – preservation
- Cost to the city – \$1.6 million
- Housing Code Violations
 - Class A – 0
 - Class B – 7
 - Class C – 3
- AMI target – 3 units at 70% AMI, 8 units at 80% AMI, and 13 units at 90% AMI

Accordingly, this Committee recommends its adoption.

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

Res. No. 1351

Resolution approving an exemption from real property taxes for property located at (Block 3324, Lot 89) Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 664).

By Council Member Dromm.

WHEREAS, The New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated February 21, 2020 that the Council take the following action regarding a housing project located at (Block 3324, Lot 89) 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. “Company” shall mean 3415 Knox Place LLC or any other entity that acquires the beneficial interest in the Exemption Area with the prior written consent of HPD.
 - b. “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.
 - c. “Exemption” shall mean the exemption from real property taxation provided hereunder.
 - d. “Exemption Area” shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 3324, Lot 89 on the Tax Map of the City of New York.
 - e. “Expiration Date” shall mean the earlier to occur of (i) a date which is 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.
 - f. “HDFC” shall mean 3415 Knox Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - g. “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
 - h. “Owner” shall mean, collectively, the HDFC and Company.
 - i. “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. 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 a building on the Exemption Area that exists 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, 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, 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.

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, RORY I. LANCMAN, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, MARK GJONAJ, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, June 25, 2020 (Remote Hearing). *Other Council Members Attending: Council Members Chin, Menchaca, Perkins, Yeager and the Public Advocate (Mr. Williams).*

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 Governmental Operations

Report for Int. No. 1950-A

Report of the Committee on Governmental Operations in favor of approving and adopting, as amended, a Local Law in relation to the establishment of a task force to recommend policies and protocols relating to the safe reopening and operation of city agencies in response to the COVID-19 pandemic.

The Committee on Governmental Operations, to which the annexed proposed amended local law was referred on May 28, 2020 (Minutes, page 1008), respectfully

REPORTS:

I. INTRODUCTION

On June 16, 2020, the Committee on Governmental Operations, chaired by Council Member Fernando Cabrera, held a hearing on Int. No. 1950, sponsored by Council Member Laurie Cumbo, in relation to

establishing a city restart officer and policies and protocols relating to the safe reopening and operation of city agencies in response to the COVID-19 pandemic. Those who testified included representatives from the Department of Citywide Administrative Services, the Department of Health and Mental Hygiene, the Office of Labor Relations, unions, and other interested members of the public. On June 25, 2020, the Committee held a second hearing and vote on Proposed Int. 1950-A. The bill was approved by the Committee with six votes in the affirmative, one vote in the negative.

II. BACKGROUND

A. COVID-19 and New York On PAUSE: Agencies send non-essential workforce home

The rapid transmission of the novel coronavirus (SARS-CoV-2) and the resulting infectious disease, COVID-19, first identified in late 2019, led the World Health Organization to declare a pandemic on March 11, 2020.¹ As of June 2, 2020, there had been 6,318,040 confirmed COVID-19 cases worldwide, and the disease had claimed the lives of 376,885 people.² In the United States, there were 1,812,742 confirmed COVID-19 cases and 105,475 deaths as of June 2, 2020.³ By March 22, 2020, New York City was designated the epicenter of the pandemic, with approximately five percent of confirmed COVID-19 cases worldwide.⁴ As of May 31, 2020, New York State had confirmed 371,711 positive COVID-19 cases, and 23,959 related deaths.⁵ Of those, New York City had reported 200,830 positive COVID-19 cases, and 15,349 confirmed deaths.⁶

On March 7, 2020, Governor Cuomo issued an Executive Order declaring a disaster emergency for the State of New York.⁷ This declaration was followed by a series of Executive Orders,⁸ referred to collectively as “New York On PAUSE,” which “closed or otherwise restricted public or private businesses or places of public accommodation” in order to slow the spread of COVID-19 throughout the state.⁹ Meanwhile, Mayor de Blasio issued a number of Executive Orders suspending, postponing, and modifying City government operations to promote social distancing in the City.¹⁰ Among other things, these state and local orders closed schools and businesses, and required government agencies at the State and City levels to drastically reduce the number of staff working in offices. The majority of City and State agencies have since moved to partial or full work-from-home postures.

B. New York Forward: Business in the State begin to reopen

As social distancing measures slowed the spread of COVID-19 across the State, leading to consistently lower rates of new COVID-19 cases, hospital admissions and deaths, Governor Cuomo announced a plan to reopen businesses across the State in four phases on May 4, 2020.¹¹ Phased reopening of the State would be regionally-implemented based on benchmarks set forth in the plan, and would begin as early as May 15, 2020. Regions would only be able to loosen restrictions with proof of the following:¹²

¹ WORLD HEALTH ORGANIZATION, WHO DIRECTOR-GENERAL'S OPENING REMARKS AT THE MEDIA BRIEFING ON COVID-19 (2020), <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>

² JOHNS HOPKINS UNIVERSITY, COVID-19 MAP, <https://coronavirus.jhu.edu/map.html> (last visited June 2, 2020).

³ *Id.*

⁴ Jesse McKinley, *New York City Region Is Now an Epicenter of the Coronavirus Pandemic*, N.Y. TIMES (Mar. 22, 2020), <https://www.nytimes.com/2020/03/22/nyregion/Coronavirus-new-York-epicenter.html>.

⁵ NEW YORK STATE DEPARTMENT OF HEALTH COVID-19 TRACKER, <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Map?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n> (last visited June 2, 2020).

⁶ In addition to confirmed deaths, the City tracks “probable” COVID-19 deaths. As of June 1st, 2020, there were 4,725 probable COVID-19 deaths reported. See NYC DOHMH, COVID-19: DATA, <https://www1.nyc.gov/site/doh/covid/covid-19-data.page> (last visited June 2, 2020).

⁷ N.Y. Gov. Exec. Order No. 202.

⁸ N.Y. Gov. Exec. Order No. 202.3, 202.4, 202.5, 202.6, 202.7, 202.8, 202.10, 202.11, 202.13, 202.14, 202.28, and 202.31.

⁹ N.Y. Gov. Exec. Order No. 202.31.

¹⁰ See, e.g., N.Y.C Mayor Exec. Order No. 99 and 100.

¹¹ NEW YORK FORWARD, <https://forward.ny.gov/> (last visited June 2, 2020).

¹² N.Y. GOV. ANDREW CUOMO, NY FORWARD: A GUIDE TO REOPENING NEW YORK & BUILDING BACK BETTER, at 26 (2020), <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/NYForwardReopeningGuide.pdf>.

- Sufficiently low infection rate;
- Healthcare system capacity to absorb potential increase in new cases;
- High diagnostic testing capacity to identify new cases; and
- Contact-tracing capacity to track viral spread.

Phase One would allow for reopening of the following industries: construction, agriculture (includes forestry, fishing and hunting), retail (curbside or in-store pick-up and drop-off, only), manufacturing, and wholesale trade.¹³ Phase Two would allow for reopening of the following industries: business offices, real estate, in-store retail, vehicle retail (sale, leasing and rental), retail rental, repair, and cleaning activities, commercial building management, and hair salons and barbershops.¹⁴ Phase Three would allow for reopening of restaurants, and Phase Four would allow for reopening of education and arts/entertainment/recreation establishments. As of June 2, 2020, all New York regions, except for New York City, have entered at least Phase One of the re-opening plan,¹⁵ with six New York State regions having entered Phase Two.¹⁶

As part of Phase Two, the New York State Department of Health (DOH) has issued guidance for each industry to consider as they re-open. On May 28, 2020, DOH issued detailed and summary guidance for entities that operate within office spaces. The guidance recommends policies and procedures on a variety of topics, including promoting physical distancing in the office, limiting in-person gatherings such as meetings and conferences, ensuring the use of personal protective equipment, cleaning and disinfecting, screening and testing, and tracing and tracking.¹⁷

C. OSHA guidelines on returning to work

Following the onset of the COVID-19 crisis, the U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA) published guidance on preparing workplaces for COVID-19.¹⁸ The guidance is based on “traditional infection prevention and industrial hygiene practices.”¹⁹ It describes basic steps that every employer can take to reduce the risk of worker infection and provides specific recommendations for workers within various risk categories.²⁰

According to OSHA’s guidance, some basic steps that all employers can take include: (i) developing a plan to help guide protective action against COVID-19; (ii) implementing good hygiene and infection control practices; (iii) developing policies and procedures for the prompt identification and isolation of sick people, if appropriate; (iv) implementing flexible policies that allow sick employees to stay home; (v) implementing engineering controls (such as barriers and air filters) and administrative controls (such as staggered work schedules); and (vi) promoting the use of appropriate PPE.²¹ OSHA also recommends that employers stay abreast of federal, state, and local guidance on safety precautions.²²

III. LEGISLATIVE ANALYSIS OF INT. NO. 1950-A (CUMBO)

Int. No. 1950-A (Cumbo) would require the Mayor to establish a task force to facilitate the safe reopening of agency offices and the safe resumption of agency functions in response to the COVID-19 pandemic. The task

¹³ NEW YORK FORWARD, PHASE ONE INDUSTRIES, <https://forward.ny.gov/phase-one-industries> (last visited June 2, 2020).

¹⁴ NEW YORK FORWARD, PHASE TWO INDUSTRIES <https://forward.ny.gov/phase-two-industries> (last visited June 2, 2020).

¹⁵ NEW YORK FORWARD, <https://forward.ny.gov/> (last visited June 2, 2020).

¹⁶ NEW YORK FORWARD, PHASE ONE INDUSTRIES, <https://forward.ny.gov/phase-one-industries> (last visited June 2, 2020).

¹⁷ NEW YORK DEPARTMENT OF HEALTH, INTERIM GUIDANCE FOR OFFICE-BASED WORK DURING THE COVID-19 EMERGENCY (2020), <https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/offices-interim-guidance.pdf>

¹⁸ OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, GUIDANCE ON PREPARING WORKPLACES FOR COVID-19 (2020), <https://www.osha.gov/Publications/OSHA3990.pdf>

¹⁹ *Id.* at 3.

²⁰ *Id.* at 7.

²¹ *Id.* at 7-18.

²² *Id.* at 26.

force would consist of 5 to 10 members appointed by the Mayor. The Mayor would have the discretion to select any member of senior mayoral management staff to serve on the task force.

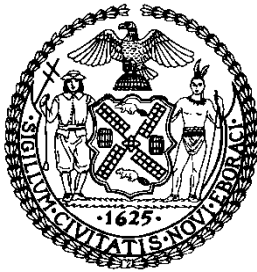
Within 30 days of being established, the task force, in consultation with the Department of Health and Mental Hygiene and the Department of Citywide Administrative Services, would be required to (i) recommend policies and protocols for reopening agency offices and resuming agency functions in a manner that prevents the spread of COVID-19, and (ii) determine the operations and functions that each agency will need to address as it plans to reopen. The policies and protocols recommended by the task force would need to cover certain specified topics, including occupancy limits for offices and facilities, protective furnishings, sanitizing products, personal protective equipment, surface cleaning, air purification, and accommodations for persons at higher risk for developing serious health complications from COVID-19. The task force would also be responsible for providing each agency with information on applicable federal, state, and local laws, regulations, and advisory guidelines related to reopening.

Once the task force publishes the recommendations, each agency would have 30 days to develop a reopening plan and submit it to the task force. Plans that do not conform to the task force's recommendations or address the specific operations and functions identified by the task force would need to include an explanation as to why. The task force would be responsible for reviewing each agency's reopening plan and proposing amendments thereto.

No later than 90 days after the effective date of Int. No. 1950-A, and every 90 days thereafter, the task force would be required to submit a report to the Mayor and the Speaker of the Council on how agencies have complied with their obligation to develop and submit a reopening plan. In addition, task force would be required to routinely update its recommendations to the extent necessary and practicable.

Int. No. 1950 would expire upon the earlier of: (i) the date on which the state of emergency declared by the Mayor's emergency executive order number 98, published March 12, 2020, as extended, has expired; or (ii) one year following the effective date of the local law

(The following is the text of the Fiscal Impact Statement for Int. No. 1950-A:)



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO NO. 1950-A

COMMITTEE: Governmental Operations

TITLE: A Local Law in relation to the establishment of a task force to recommend policies and protocols relating to the safe reopening and operation of city agencies in response to the COVID-19 pandemic.

SPONSORS: Council Members Cumbo, Dromm, Salamanca, Rivera, Kallos, Moya, Van Bramer, Chin, Adams, Rose, Menchaca, Lancman, Cohen, Rosenthal, Ampry-Samuel and Ayala.

SUMMARY OF LEGISLATION: This bill would require the Mayor to establish a task force for the purpose of recommending both citywide and agency-specific policies and protocols to promote the safe reopening and operation of city agencies in response to COVID-19. This bill would require city agencies to develop and publish

their own policies and protocols, to be reviewed by the task force for the purpose of promoting compliance with applicable laws and regulations, and for coordinating the citywide effort to mitigate the ongoing public health risks posed by COVID-19.

EFFECTIVE DATE: This local law would take effect immediately and expire upon the earlier of the date on which the state of emergency declared by the Mayor’s emergency executive order 98, published March 12, 2020, as extended, has expired, or one year following the effective date of this local law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2021

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: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is estimated that there would be no impact on expenditures resulting from the enactment of this legislation because the relevant agencies would use existing resources to accomplish its requirements.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

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

ESTIMATE PREPARED BY: Sebastian Palacio Bacchi, Senior Financial Analyst

ESTIMATE REVIEWED BY: Nathaniel Toth, Deputy Director
John Russell, Unit Head
Noah Brick, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1950 on May 28, 2020 and was referred to the Committee on Governmental Operations (Committee). The Committee heard the legislation on June 16, 2020, and the legislation was laid over. The legislation was subsequently amended, and the amended version, Proposed Int. 1950-A, will be considered by the Committee on Thursday, June 25, 2020. Upon a successful vote by the Committee, Proposed Int. 1950-A will be submitted to the full Council for a vote on June 25, 2020.

DATE PREPARED: June 18, 2020.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1950-A:)

Int. No. 1950-A

By Council Members Cumbo, Dromm, Salamanca, Rivera, Kallos, Moya, Van Bramer, Chin, Adams, Rose, Menchaca, Lancman, Cohen, Rosenthal, Ampry-Samuel, Ayala, Brannan, Perkins, Gibson, Louis, Vallone and Barron.

A Local Law in relation to the establishment of a task force to recommend policies and protocols relating to the safe reopening and operation of city agencies in response to the COVID-19 pandemic

Be it enacted by the Council as follows:

Section 1. Definitions. For the purposes of this local law, the following terms have the following meanings:

Agency. The term “agency” means: (i) any agency as such term is defined in section 1150 of the New York city charter, the head of which is appointed by the mayor; (ii) any agency as such term is defined in section 1150 of the New York city charter headed by a board, commission or other multi-member body, where a majority of such body’s members are appointed by the mayor; and (iii) the office of the mayor.

City. The term “city” means the city of New York.

COVID-19. The term “COVID-19” means the 2019 novel coronavirus or 2019-nCoV.

Task force. The term “task force” means the task force established pursuant to section two of this local law.

§ 2. The mayor shall establish a task force to oversee the implementation of this local law and to facilitate the safe reopening of agency offices and resumption of agency functions in response to COVID-19. The mayor shall appoint at least 5 and no more than 10 members of mayoral senior management staff or their designees to serve on such task force.

§ 3. Powers and duties. The task force established by the mayor shall:

a. No later than 30 days after being established, and in consultation with the department of health and mental hygiene and the department of citywide administrative services, recommend policies and protocols regarding the reopening of agency offices and resumption of agency functions to prevent the spread of COVID-19, including, but not limited to, policies and protocols with respect to the following:

1. For offices and any other facilities where persons may be present, the maximum occupancy, based on room size and other relevant criteria;

2. The types of and need for protective furnishings, and methods of use of such furnishings;

3. The types of sanitizing products needed, and methods of distribution, access and application;

4. The types of personal protective equipment needed, and methods of distribution, access and use;

5. The cleaning and sanitizing of surfaces and purification of air, including the frequency of such measures; and

6. Any other relevant matters, including those related to accommodating persons at higher risk for developing serious health complications as a result of a COVID-19 infection.

b. No later than 30 days after being established, and in consultation with the department of health and mental hygiene and the department of citywide administrative services, determine the operations and functions that each agency shall address in each such agency’s reopening plan required pursuant to section four of this local law. The task force shall consider the various operations, functions and circumstances of each agency when making such determinations. The task force shall make such determinations consistent with applicable federal, state and local laws, regulations, and relevant advisory guidelines related to the reopening of agency offices and resumption of agency functions, and to conform such plans to policies and protocols recommended pursuant to subdivision a of this section;

c. Provide information to each agency regarding relevant federal, state and local laws, regulations and advisory guidelines related to the reopening of agency offices and resumption of agency functions;

d. Review agency reopening plans and amendments to such plans submitted pursuant to section four of this local law and propose amendments to such plans to promote compliance with applicable federal, state and local

laws and regulations related to the reopening of agency offices and resumption of agency functions; conformance to the policies and protocols recommended pursuant to subdivision a of this section; and adequate treatment of the functions and operations identified pursuant to subdivision b of this section;

e. No later than 90 days after the effective date of this local law, and every 90 days thereafter until this local law expires pursuant to section six of this local law, submit to the mayor and speaker of the council a report on agency compliance with section four of this local law; and

f. Routinely update, as necessary and practicable, the policies and protocols recommended pursuant to subdivision a of this section or received from appropriate public health agencies.

§ 4. Agency reopening plans. No later than 30 days after the task force produces the recommendations described in section three of this local law, each agency shall submit to the task force a plan for reopening and resuming functions. Any amendment made by an agency to its plan shall also be submitted to the task force as soon as reasonably practicable after such amendment is made. If any such plan does not conform to the task force's recommendations pursuant to subdivision a of section three of this local law, or address a specific operation or function identified pursuant to subdivision b of section three of this local law, an explanation shall be provided in such plan. Each agency shall publish its reopening plan on its website no later than 1 week after such plan is approved, and shall update and republish the plan within 1 week of making any amendment to such plan, provided that any information that could compromise either the security of such agency or the privacy of any employee of such agency if made public, may be redacted.

§ 5. Online access to recommendations, plans and reports. The task force shall, in conjunction with any agency submitting a reopening plan to the task force, make recommendations and reports generated pursuant to this local law available on the city's website no later than 1 week after making such recommendation or approving such report.

§ 6. Effective date. This local law takes effect immediately and shall expire upon the earlier of: (i) the date on which the state of emergency declared by the mayor's emergency executive order number 98, published March 12, 2020, as extended, has expired; or (ii) one year following the effective date of this local law.

FERNANDO CABRERA, *Chairperson*; YDANIS A. RODRIGUEZ, BEN KALLOS, ALAN N. MAISEL, BILL PERKINS, KEITH POWERS; Committee on Governmental Operations, June 25, 2020 (Remote Hearing). *Other Council Members Attending: Council Members Holden, Menchaca and Cumbo.*

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 Housing and Buildings

Report for Int. No. 1976

Report of the Committee on Housing and Buildings in favor of approving and adopting, a Local Law to amend the administrative code of the city of New York, in relation to requiring booking services to report short-term housing rental transactions.

The Committee on Housing and Buildings, to which the annexed proposed local law was referred on June 18, 2020 (Minutes, page 1094), respectfully

REPORTS:

INTRODUCTION

On June 25, 2020, the Committee on Housing and Buildings, chaired by Council Member Robert Cornegy, Jr., held a hearing on Int. No. 1976, in relation to requiring booking services to report short-term housing rental transactions, which was first heard on June 17, 2020. This bill is intended solely to assist OSE in its efforts to enforce laws related to short-term housing rentals, and does not change any laws related to the circumstances under which certain short-term rentals are prohibited. More information about this bill, along with the materials for that hearing, can be found at <https://on.nyc.gov/2NpI1IU>.

Int. No. 1976

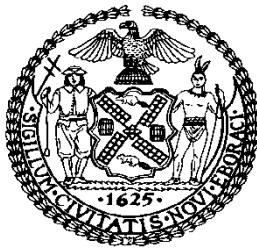
Int. No. 1976 would amend Local Law number 146 for the year 2018 by adding a new definition for the term “qualified listing.” It would also change the reporting period from monthly to quarterly, and would remove the requirement that a booking service report the specific fee amounts associated with a given short-term housing rental transaction.

This legislation would take effect 180 days after becoming law.

Update

On Thursday, June 25, 2020, the Committee adopted Int. No. 1976 by a vote of nine in the affirmative, zero in the negative, and zero abstentions.

(The following is the text of the Fiscal Impact Statement for Int. No. 1976:)



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

**LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INT. NO: 1976

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring booking services to report short-term housing rental transactions.

SPONSORS: By Council Members Rivera and Kallos.

SUMMARY OF LEGISLATION: Proposed Int. No. 1976 would clarify the transactions for which a booking service charged, collected or received a fee that must be reported to the Office of Special Enforcement. Under the bill, a “qualifying listing” would now be defined as a listing or advertisement that offers a short-term rental via a booking service, and offers or appears to offer the short-term rental of an entire dwelling unit or housing accommodation, or a short-term rental for three or more individuals at the same time. The legislation would also reduce the frequency of reporting required, from monthly to quarterly, and for rental listings of four days or less, would remove the requirement that a booking service report the specific amount of fees associated with such transactions.

EFFECTIVE DATE: This local law would take effect 180 days after it becomes law, except that (i) the head of the administering agency, as such term is defined in section 26-2101 of the administrative code of the city of

New York, may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date and (ii) the Mayor may designate an administering agency, as such term is defined in such section, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 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: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation. While the administering agency is authorized to impose civil penalties on booking services that fail to provide information with respect to a short-term rental, this estimate assumes booking services would fully comply with the provisions of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Financial Analyst

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

LEGISLATIVE HISTORY: This legislation was first considered by the Committee on Housing and Buildings (Committee), as a Preconsidered Introduction on June 17, 2020 and the bill was laid over. The legislation was then introduced to the full Council on June 18, 2020, as Proposed Intro. No. 1976 and was referred to the Committee. Proposed Int. No. 1976 will be considered by the Committee on June 25, 2020. Upon a successful vote by the Committee, the legislation will be submitted to the full Council for a vote on June 25, 2020.

DATE PREPARED: June 22, 2020.

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 1976:)

Int. No. 1976

By Council Members Rivera and Kallos.

A Local Law to amend the administrative code of the city of New York, in relation to requiring booking services to report short-term housing rental transactions

Be it enacted by the Council as follows:

Section 1. Section 26-2101 of the administrative code of the city of New York, as added by local law number 146 for the year 2018, is amended by adding a new definition of “qualifying listing” in alphabetical order to read as follows:

Qualifying Listing. The term “qualifying listing” means a listing or advertisement that offers a short-term rental via a booking service, and:

1. such listing or advertisement offers or appears to offer the short-term rental of an entire dwelling unit or housing accommodation, or
2. such listing or advertisement offers or appears to offer a short-term rental for three or more individuals at the same time.

§ 2. Section 26-2102 of the administrative code of the city of New York, as added by local law number 146 for the year 2018, is amended to read as follows:

§ 26-2102 Requirements for booking services. a. A booking service shall periodically submit to the administering agency a report of transactions *associated with a qualifying listing* for which the booking service charged, collected or received a fee, directly or indirectly, for activity described in the definition of booking service. Each short-term rental associated with such fee is considered to be a separate transaction. The report shall be submitted in a time, manner and form established by such agency, including but not limited to, electronic submission in a format established by such agency. The report shall be submitted on a [monthly] *quarterly* basis, or less frequently as determined by such agency. *A booking service need not report any information for transactions associated with a qualifying listing when all such transactions within a reporting period result in the rental of a dwelling unit or housing accommodation for an aggregate of four days or less.* Such report shall include the following information for each such transaction or, in instances where such information is unavailable to the booking service, an explanation of why such information is unavailable:

- (1) The physical address of the short-term rental associated with such transaction, including the street name, street number, apartment or unit number, borough or county, and zip code;
- (2) The full legal name, physical address, phone number and email address of the host of such short-term rental and the uniform resource locator (URL) and the individualized name and number of such host on such booking service’s platform;
- (3) The individualized name and number and the URL of [such advertisement or] *the associated qualifying listing*;
- (4) A statement as to whether such short-term rental transaction involved (i) short-term rental of the entirety of a dwelling unit or housing accommodations in a building or (ii) short-term rental of part of such unit or housing accommodations;
- (5) The total number of days that the dwelling unit, part thereof or housing accommodations in a building were rented as a short-term rental through such booking service’s platform;
- [(6) The total amount of fees received by such booking service for such short-term rental;] and
- [(7)] (6) If such booking service collects rent for short-term rentals on behalf of such host, (i) the total amount of such rent received by such booking service and transmitted to such host and (ii) the account name and consistently anonymized identifier for the account number for the account used by such host to receive payments from such booking service or, if such booking service provides an explanation why such anonymized identifiers are unavailable, the account name and account number for such account.

b. A booking service shall obtain, from each host using such booking service to offer, manage or administer a short-term rental, lawful consent to provide the information described in subdivision a to the administering agency. Obtaining lawful consent may include, but is not limited to, advising or providing notice to a user of the booking service that new or continuing use of such booking service as a host constitutes consent to such disclosure. It shall not be a defense to a violation of subdivision a that the booking service did not obtain consent.

§ 3. Section 26-2104 of the administrative code of the city of New York, as added by local law number 146 for the year 2018, is amended to read as follows:

§ 26-2104 Penalties. A booking service that fails to submit a report in compliance with subdivision a of section 26-2102 shall be liable for a civil penalty, to be assessed once per reporting period for each [set of records corresponding to a listing which] *qualifying listing for which any of the information required pursuant to section*

26-2102 is missing, incomplete or inaccurate. The civil penalty shall not be more than the greater of \$1,500 or the total fees collected during the preceding year by the booking service for transactions related to the qualifying listing. The civil penalties established by this section may be recovered in a proceeding before the office of administrative trials and hearings or a court of competent jurisdiction.

§ 4. This local law takes effect 180 days after it becomes law, except that (i) the head of the administering agency, as such term is defined in section 26-2101 of the administrative code of the city of New York, may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date and (ii) the mayor may designate an administering agency, as such term is defined in such section, before such effective date.

ROBERT E. CORNEGY, Jr., *Chairperson*; FERNANDO CABRERA, HELEN K. ROSENTHAL, RITCHIE J. TORRES, BARRY S. GRODENCHIK, BILL PERKINS, MARK GJONAJ, CARLINA RIVERA, FARAH N. LOUIS; Committee on Housing and Buildings, June 25, 2020 (Remote Hearing). *Other Council Members Attending: Council Member Holden.*

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 Transportation

Report for Int. No. 1250-A

Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the operation of certain electric scooters.

The Committee on Transportation, to which the annexed proposed amended local law was referred on November 28, 2018 (Minutes, page 4525), respectfully

REPORTS:

INTRODUCTION

On June 25, 2020, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, conducted a vote on the following legislation: Int. No. 1250-A, a local law to amend the administrative code of the city of New York, in relation to the operation of certain electric scooters; Int. No. 1264-A, a local law to amend the administrative code of the city of New York, in relation to the operation of certain electric bicycles; and Int. No. 1266-A, a local law in relation to a pilot program for shared electric scooters.

The Committee previously held a hearing on previous versions of these pieces of legislation on January 23, 2019. At that hearing, the committee heard testimony from representatives of the New York City (NYC) Department of Transportation (DOT), and the NYC Police Department (NYPD), cycling advocates, and members of the public.

On June 25, 2020, the Committee on Transportation passed: Int. No. 1250-A, by a vote of nine in the affirmative, four in the negative, with zero abstentions; Int. No. 1264-A, by a vote of eleven in the affirmative, two in the negative, with zero abstentions; and Int. No. 1266-A, by a vote of nine in the affirmative, four in the negative, with zero abstentions.

BACKGROUND

E-bikes and E-scooters

In April 2020, New York State (NYS) acted to legalize certain e-bikes and e-scooters as part of the budget agreement for Fiscal Year 2021.¹ The budget legislation is similar to a bill that had passed the NYS Legislature in 2019, but then ultimately vetoed by Governor Andrew Cuomo, yet provides localities, like NYC, some ability to decide whether to allow and how to regulate such vehicles.²

The State budget language allows for the creation of three classes of e-bikes: Class 1, pedal-assisted without throttle; Class 2, throttle-assisted with a maximum speed of 20 mph; and Class 3, throttle-powered with a maximum speed of 25 mph.³ Under the State law, Class 3 e-bikes may only be operated in NYC, and cyclists riding Class 3 e-bikes are required to wear helmets.⁴ The State law allows for the operation of e-scooters incapable of exceeding 20 mph, but provides that scooters may not be operated at speeds in excess of 15 mph. E-scooters may not be used by riders under the age of 16, and riders between the ages of 16 and 18 are required to wear a helmet.⁵

As per the NYS Department of Motor Vehicles (DMV), effective April 2020, State Law allows people to operate e-bikes on some streets and highways within the State,⁶ with the provisions that: these devices are only operated on highways with a posted speed limit of 30 mph or less; municipalities can further regulate the time, place and manner of operation of these devices; and these devices cannot operate on a sidewalk except as authorized by local law or ordinance.⁷ In NYS, electric motorized devices cannot be registered with the DMV.

The NYC Administrative Code contains provisions against the operation of “motorized scooters,” which encompass e-bikes and e-scooters, including penalties and means of enforcement.⁸ Proposed Int. No. 1250-A and Proposed Int. No. 1264-A would amend this section to allow for the use of certain e-bikes and e-scooters currently allowed under NYS Law. These include Class 1, Class 2 and Class 3 e-bikes, which Class 3 bikes, as indicated earlier, have top speeds capped at 25 mph, and e-scooters up to 20 mph (not to be operated in excess of 15 mph). The Administrative Code would still prohibit the use of other types of e-bikes, e-scooters and other motorized devices that remain illegal under State law. For devices that remain illegal, fines that could be imposed pursuant to the Administrative Code have been reduced from \$500 to \$250, and impoundment may now only be used for prohibited devices that have been operated in a manner that endangers the safety of the operator or safety or property of another. In the past, the conversation around expanding legal micromobility⁹ options in NYC has centered on e-bikes, which are used primarily by commercial cyclists.¹⁰ In 2018 and 2019, the debate about legal operation of these transportation devices evolved to also include e-scooters and the adoption of e-bikes more broadly as a mode of transportation.¹¹

Private companies have advocated, for NYC and NYS to legalize e-bikes and e-scooters so they can create shared networks, similar to Citi Bike.¹² However, unlike Citi Bike, these companies predominantly use a “dockless” model, which does not require a user to dock a bike or scooter at a specific fixed location. In recent

¹ Andrew J. Hawkins, *New York finally legalizes electric bikes and scooters*, The Verge (April 2, 2020) available at <https://www.theverge.com/2020/4/2/21204232/new-york-legalizes-electric-bikes-scooters>

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ New York State, Department of Motor Vehicles, Registration: Electric Scooters and Bicycles and Other Unregistered Vehicles, available at <https://dmv.ny.gov/registration/electric-scooters-and-bicycles-and-other-unregistered-vehicles#:~:text=Effective%20August%202020%2C%202020%202D%20the,highways%20in%20New%20York%20State>

⁷ *Id.*

⁸ Adm. Code § 19-176.2.

⁹ *Micromobility* refers to the use of electronic scooters and bikes to travel shorter distances around cities, often to or from another mode of transportation (bus, train, or car). Users typically rent such a scooter or bike for a short period of time using an app. See: Dictionary, Tech and Science Dictionary, *Micromobility*, available at <https://www.dictionary.com/e/tech-science/micromobility/>

¹⁰ Vicky Gan, *The Murky Legality of E-Bikes*, CityLab (February 17, 2016) available at <https://www.citylab.com/equity/2016/02/the-murky-legality-of-e-bikes/426969/>

¹¹ Joshua Brusteine and Nate Lanxon, *How Electric Scooters are Reshaping Cities*, Bloomberg, (September 7, 2018) available at <https://www.bloomberg.com/news/articles/2018-09-07/are-electric-scooters-the-future-of-urban-transport-quicktake>

¹² Jim Faber, *Electric Bikes are About to Go Mainstream*, NYTIMES, (October 9, 2018) available at <https://www.nytimes.com/2018/10/09/nyregion/are-electric-bikes-about-to-take-over-new-york.html>

years, e-scooter companies have increased operation in cities throughout the country.¹³ Many cities allow dockless scooter companies to operate predominantly as small fleets on a more limited scale.¹⁴ This arrangement had raised questions about not only legalizing e-bikes and e-scooters, but also the feasibility of allowing dockless shared networks to operate in NYC. Additionally, questions remain regarding the safety of these devices considering that little data is available on their use.

Previous Regulations for E-bikes and E-scooters

Over the years, e-bikes and e-scooters have been an area highly regulated by NYC. As previously mentioned, the NYC Administrative Code prohibits the use of “motorized scooters,” which are defined as wheeled devices that have handle bars, can be operated by a standing or sitting user, have an electric motor or gas motor that can operate the device without human power, and cannot be registered with the DMV.¹⁵ This prohibition applies to e-scooters and throttle e-bikes, which can operate without a person pedaling or propelling the device.¹⁶ Individuals who use these devices faced a penalty of \$500, a traffic infraction and confiscation.¹⁷ Businesses that sell and rent electric vehicles, can face a penalty of \$1,000 for the first offense and \$2,000 for the second offense.¹⁸

In addition, the Council passed Local Law 41 of 2013 (“Local Law 41”), which clarified, that for enforcement purposes, a business would be liable for the \$500 penalty for having a commercial cyclists operate an e-bike in the course of business.¹⁹ Although Local Law 41 was generally enforced based on raids conducted by the NYPD, the fine was often left unpaid by businesses or passed on to commercial cyclists.²⁰

In October of 2017, Mayor Bill de Blasio announced a major crackdown against e-bikes.^{21,22} However, instead of ensuring that the businesses were paying the fines, the burden of the increased enforcement fell upon many commercial cyclists.²³ In May of 2018, after backlash from delivery workers and advocates, DOT amended its rules to clarify that “pedal assist” e-bikes are permitted in the City so long as they do not exceed 20 miles per hour.²⁴ Unlike throttle e-bikes, pedal assist e-bikes have motors that are activated as the operator pedals, and shut off after the operator reaches a certain speed. The amendment to the rules did not solve the problem for commercial cyclists, who do not use pedal assist bikes, but use throttle e-bikes that often exceed 20 mph and still received fines.²⁵ In March of 2020, Mayor de Blasio suspended NYPD enforcement on throttle-powered e-bikes in an effort to ease the burdens of COVID-19 for NYC’s roughly 40,000 delivery cyclists who are considered frontline workers during this pandemic.²⁶ However, hours after the announcement, an NYPD

¹³ *Id.*

¹⁴ *Id.* at 3.

¹⁵ Adm. Code § 19-176.2.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Adm. Code § 20-762.

¹⁹ Local Law 41 of 2013/Adm. Code § 10-157(k).

²⁰ *Id.* at 2.

²¹ Press Release: *Mayor de Blasio and NYPD Announce Plans to Crack Down on Improper Use of Electric Bikes* (October 19, 2017) available at <https://www1.nyc.gov/office-of-the-mayor/news/666-17/mayor-de-blasio-nypd-plans-crack-down-improper-use-electric-bikes#/0>

²² Note: In 2018, the NYPD confiscated 1,215 e-bikes and issued 1,154 e-bike summonses to individuals. Although NYC law states that employers are “liable” for the e-bike fines their workers receive, only 167 e-bike summonses were given to commercial businesses in 2018. In January 2019, the NYPD issued officers to fine businesses not workers. See: Christopher Robbins, *De Blasio’s 2018 War On E-Bikes Targeted Riders, Not Businesses*, Gothamist, (January 18, 2019) available at http://gothamist.com/2019/01/18/nypd_e-bike_cyc_crackdown.php and Kristin Toussaint, *NYPD directs officers to fine businesses, not delivery workers, for e-bike violations*, Metro (January 3, 2019) available at <https://www.metro.us/news/local-news/new-york/nypd-fine-businesses-not-delivery-workers-e-bike>

²³ Christopher Robbins and Jeffery E. Singer, *NYC’s War on E-Bikes Takes a Toll on Immigrant Delivery Workers*, Gothamist, April 26, 2018) available at http://gothamist.com/2018/04/26/e-bike_immigrants_nypd_nyc.php#photo-1

²⁴ 34 CRR-NY 4.1; See New York City Department of Transportation, *Notice of Adoption – Traffic Rules Amendment Relating to Pedal-Assist Bicycles*, available at <http://rules.cityofnewyork.us/content/dot-notice-adoption-traffic-rules-amendment-relating-pedal-assist-bicycles>

²⁵ David Meyer, *Delivery Workers Say de Blasio’s Proposed E-bike Rules Won’t Help Them*, Streetsblog (May 14, 2018) available at <https://nyc.streetsblog.org/2018/05/14/delivery-workers-say-de-blasios-proposed-e-bike-rules-wont-help-them/>

²⁶ Jake Offenhartz, *De Blasio Pauses Crackdown on E-Bikes, As Delivery Cyclists Become “Frontline Workers” In Coronavirus Crisis*, Gothamist (March 16, 2020) available at <https://gothamist.com/news/de-blasio-pauses-crackdown-e-bikes-covid-19>

spokesperson reported to the Gothamist that the department would not stop enforcement against riders of throttle-powered e-bikes.²⁷

The City Tests E-Bikes

In August of 2018, not long after pedal-assist bikes were considered legal in NYC, DOT approved 200 pedal-assist e-bikes for use that would be dispersed throughout Citi Bike's 750 docks.²⁸ Additionally, e-bikes were included in DOT's dockless bike share pilot program, which was assessing the feasibility of operating a bikeshare network without docking stations. During this time, Jump, which is owned by Uber, and Lime included pedal assist bikes in Staten Island and the Bronx.²⁹ Results from the pilot may be able to provide information on whether or not it is feasible for dockless companies to operate in the City and will help to provide a better understanding of whether or not electric devices could be used in the City.³⁰

More recently, in December 2019, Mayor de Blasio announced that NYC would launch the Commercial Cargo Bike Program, which would encourage freight companies to reduce delivery-related congestion through the use of pedal-assist cargo e-bicycles.³¹ The program would bring an estimated 100 cargo e-bikes from major delivery companies, such as UPS, Amazon and DHL, to NYC's most congested streets in Manhattan south of 60th Street—the same area to be covered by Central Business District Tolling starting in 2021.³² Any freight company is allowed and encouraged to participate in the program, with certain rules, including: size limits for sidewalk parking; walkways being kept clear in compliance with the Americans with Disabilities Act; requirements for contact information and identification on the cargo bikes; requirements that the bikes not exceed speeds of 12 mph; safety training for operators; and requirements that the bikes be stored overnight inside company facilities.³³ The program's goal would be to better understand whether cargo bicycles can successfully be implemented into NYC, with companies monitoring and sending data to DOT about the speed, parking, use of bike lanes, and the size of the cargo bikes.³⁴ If the 6-month pilot is deemed successful, it may be extended for an additional 6 months, and then further evaluated.³⁵

E-Scooter Pilot Programs in Other Cities

The operating approach for e-scooter programs has differed in cities throughout the country. In some cases, e-scooter companies started operating without local authorization, figuring that the shared vehicles would prove useful and that cities would naturally just accept them.³⁶ In other cases, companies are operating under pilot programs and specific permits authorized by the local municipality.³⁷ Generally, e-scooters have been embraced by different cities, in some cases becoming “an entrenched feature of urban life;” however, with the COVID-19 pandemic and its impacts on local transportation regulations, for 2020, there are indications that changes to the current and future climate and general acceptance around e-scooters maybe occurring in other cities.³⁸

²⁷ *Id.*

²⁸ Jim Faber, *Electric Bikes are About to Go Mainstream*, NYTIMES, (October 9, 2018) available at <https://www.nytimes.com/2018/10/09/nyregion/are-electric-bikes-about-to-take-over-new-york.html> and Gersh Kuntzman, *CitiBike's New Electric Bike is Exciting for Riders (if they live near CitiBike, of course) Yet no help to Deliverymen*, Streetsblog, (August 20, 2018) available at <https://nyc.streetsblog.org/2018/08/20/citi-bikes-new-electric-bike-is-a-bolt-of-excitement-for-riders-if-they-live-in-a-citi-bike-area-of-course/>

²⁹ Jim Faber, *Electric Bikes are About to Go Mainstream*, NY TIMES, (October 9, 2018) available at <https://www.nytimes.com/2018/10/09/nyregion/are-electric-bikes-about-to-take-over-new-york.html>

³⁰ Amenna Walker, *NYC Gives Dockless Bike Share Pilot a 90-Day Extension*, Curbed, (November 16, 2018) available at <https://ny.curbed.com/2018/11/16/18098764/nyc-dockless-bike-share-pilot-extended-citi-bike-lime-jump>

³¹ New York City, Office of the Mayor, *Mayor de Blasio Announces Commercial Cargo Bike Program to Reduce Delivery Congestion* (December 4, 2019) available at <https://www1.nyc.gov/office-of-the-mayor/news/594-19/mayor-de-blasio-commercial-cargo-bike-program-reduce-delivery-congestion>

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ David Zipper, *The Frenzied Era of E-Scooters Is Over*, Slate (February 27, 2020), available at <https://slate.com/business/2020/02/e-scooters-regulations-bird-lyft-lime-cities.html>

³⁷ *Id.*

³⁸ *Id.*

San Francisco, California

In April 2018, the San Francisco Board of Supervisors passed legislation to allow the San Francisco Municipal Transportation Agency (SFMTA) to create a new pilot program to regulate Powered Scooter Share.³⁹ After its application process, permits for the pilot program were offered to two companies, Scoot and Skip.⁴⁰ Through the receipt of these permits, these companies would be allowed to operate a maximum of 625 scooters each in the first six months, with the potential to increase their number of scooters in months seven to 12 to a cap of 2,500 upon meeting certain criteria based on equity.⁴¹ As of July 2019, Scoot and Skip were authorized to operate up to 625 and 800 scooter respectively, although actual deployment has varied.⁴²

After a successful pilot program, the SFMTA implemented a “Powered Scooter Share Permit Program,” which allows permitted operators to implement an e-scooter share program in the city.⁴³ San Francisco planned to authorize five companies to operate a shared total of up to 2,500 e-scooters during the pilot, during which the city would collect data and assess whether further increases in scooters would serve the public interest.⁴⁴ The permit application placed the onus on e-scooter companies to create plans for service areas and ensure users operate the scooters lawfully. Operators would need to do a host of things, including: provide user education; be insured; share data with the city; safeguard user information; offer a low-income plan; provide accessible customer interface technology for persons with disabilities; submit a proposed service area plan for city approval; have a plan in place to address sidewalk riding and sidewalk parking; and ensure that their customers comply with the rules of the road in order to receive a permit and be authorized to operate as a permitted company.⁴⁵

As of October 2019, Uber’s JUMP, Lime, Ford’s Spin and Scoot were granted permits to operate the shared e-scooter services in San Francisco.⁴⁶ The program allowed Scoot to operate 1,000 scooters, down from the 1,250, while JUMP, Spin and Lime would be able to deploy 500 each, with the cap for new providers having increased to 750 on December 15, 2019, and 1,000 on February 15, 2020.⁴⁷ Although slated for expansion in October 2019, currently, due to the COVID-19 pandemic, e-scooter sharing services have grinded to a halt, with companies like Bird pausing its service.⁴⁸

Santa Monica, California

The city of Santa Monica launched a 16-month Shared Mobility Pilot Program, which includes e-scooters, allowing four private companies (Bird, Jump, Lime, and Lyft) to provide shared mobility services in the public-right-of-way.⁴⁹ The goals of the program included: developing a new area of policy, regulation and enforcement through firsthand experience; adapting quickly to a changing industry; testing new devices and service providers in this industry; exploring data capabilities; and allowing the city time to experiment with different management tools, such as geo-fencing.⁵⁰ Initially, the companies were approved to operate an initial fleet of 2,500 devices- 2,000 e-scooters and 500 e-bikes, however, in September 2019, under the city’s dynamic fleet cap, this number rose to 3,250 devices.⁵¹

³⁹ San Francisco Municipal Transportation Agency, *SFMTA Powered Scooter Share Permit and Pilot Program*, available at <https://www.sfmta.com/projects/powered-scooter-share-permit-and-pilot-program>

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ San Francisco Municipal Transportation Agency, *SFMTA Powered Scooter Share Program Permit Application*, available at https://www.sfmta.com/sites/default/files/reports-and-documents/2018/05/powered_scooter_share_program_permit_application.pdf

⁴⁴ *Id.*

⁴⁵ Tom Maguire, *A New Permit and Pilot Program for San Francisco’s Scooters*, Street Talk, San Francisco Municipal Transportation Agency (May 1, 2018) available at <https://www.sfmta.com/blog/new-permit-and-pilot-program-san-franciscos-scooters>

⁴⁶ Megan Rose Dickey, *Uber, Lime and Spin scooters are now legal in SF*, TechCrunch (October 15, 2019) available at <https://techcrunch.com/2019/10/15/uber-lime-and-spin-scooters-are-now-legal-in-sf/>

⁴⁷ *Id.*

⁴⁸ Andrew J. Hawkins, *Electric scooter-sharing grinds to a halt in response to the COVID-19 pandemic*, The Verge (March 20, 2020), available at <https://www.theverge.com/2020/3/20/21188119/electric-scooter-coronavirus-bird-lime-spin-suspend-bikes>

⁴⁹ City of Santa Monica, Planning and Community Development, *Scooter and Bike Share Services*, available at <https://www.smgov.net/Departments/PCD/Transportation/Shared-Mobility-Services/>

⁵⁰ *Id.*

⁵¹ Joe Linton, *Santa Monica Extends Pioneering E-Scooter Pilot Program*, (November 15, 2019) available at <https://la.streetsblog.org/2019/11/15/santa-monica-extends-pioneering-e-scooter-pilot-program/>

During the pilot, Santa Monica has pioneered scooter parking “drop zones” on sidewalks and in streets, of which they are the first in the nation, installing 107 e-scooter/e-bike drop zones in the 8.5 mile square city, as of November 2019.⁵² In addition, they have become one of the first cities to enforce geofencing and digital policy tools to remedy parking, safety and oversaturation problems.⁵³ Notably, the results of the pilot have proved positive, with the city becoming an effective leader in shared mobility, particularly e-scooters, however, due to uncertainty caused by the COVID-19 pandemic, in April and May of 2020, Lime and Jump discontinued operations in the city.⁵⁴ As a result of the COVID-19 pandemic and its impacts on the city and program, on May 26, 2020, the Santa Monica City Council voted to extend the first Pilot Program through April 30, 2021, and postponed a previously approved second shared mobility pilot program with intensified regulations until May 2021.⁵⁵ Currently, due to low rider demand, permitted fleet sizes for Bird and Lyft have been reduced to 350 devices per operator, with Jump and Lime permanently discontinuing service in the city.⁵⁶

Denver, Colorado

Denver also had a year-long pilot program that was similar to San Francisco’s pilot, but included the possibility for e-scooter companies to add up to 40% more scooters to their fleets if they target designated “opportunity areas” such as low-income neighborhoods.⁵⁷ Additionally, Denver’s program required fleet operators to “rebalance” the scooters back to transit stations, bus stops and opportunity areas on a daily basis.⁵⁸ Participating companies were responsible for creating and maintaining painted dockless parking zones to be used by dockless e-scooters, bikes and e-bikes.⁵⁹

Bike Infrastructure and Bike Safety

The popularity of cycling has increased in NYC. From 2006 to 2015, annual bicycle trips rose from 66 million trips to 164 million trips, an increase of approximately 150%.⁶⁰ The most recent available data shows that about 24% of adult New Yorkers, nearly 1.6 million people, have rode a bike at least once in the past year, with 793,000 of those New Yorkers riding a bike at least several times a month.⁶¹ Tens of thousands rely on bikes to commute to work, with the most recently available data indicating that, in 2017, there were 48,800 bike commuters to work, with a total of 97,600 bike commute trips to work.⁶² Contributing to the rise in cycling has been the introduction of bike sharing programs like Citi Bike.⁶³ Launched in May 2013, Citi Bike was a joint venture between DOT and Motivate International (now Lyft), providing convenient bike sharing services to New Yorkers.⁶⁴ As of November 2019, Citi Bike had a total annual membership of 152,465, with Citi Bike having an average of 50,329 rides per day, meaning each bike was being used 3.41 times per day.⁶⁵ Notably, as of April 2020, average Citi Bike use has dramatically decreased by more than half, with average rides per day at 23,071

⁵² *Id.*

⁵³ *Id.*

⁵⁴ City of Santa Monica, Planning and Community Development, *Scooter and Bike Share Services*, available at <https://www.smgov.net/Departments/PCD/Transportation/Shared-Mobility-Services/>

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ Jon Murray, *Denver Gives Scooter Companies Bird, Lime a Roadmap to Get Legal*, The Denver Post (June 29, 2018) available at <https://www.denverpost.com/2018/06/29/denver-scooter-bird-lime-legal/>

⁵⁸ Department of Public Works, City of Denver, *Dockless Mobility Vehicle Pilot Permit Program Overview* (June 2018), available at https://www.denvergov.org/content/dam/denvergov/Portals/705/documents/permits/Dockless-Mobility-Pilot-Permit-Program-Overview_June2018.pdf

⁵⁹ *Id.*

⁶⁰ NYC, *Safer Cycling: Bicycle Ridership and Safety in New York City*, 2017, available for download at <http://www.nyc.gov/html/dot/downloads/pdf/bike-safety-study-fullreport2017.pdf>

⁶¹ *Cycling in the City, Cycling Trends in NYC May 2019*, available for download at <https://www1.nyc.gov/html/dot/downloads/pdf/cycling-in-the-city.pdf>

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Citi Bike, *November 2019 Monthly Report*, (November 2019) available at <https://d21xlh2maitm24.cloudfront.net/nyc/November-2019-Citi-Bike-Monthly-Report.pdf?mtime=20191215143007>

in April 2020, with each bike being used only 1.61 times per day.⁶⁶ This decrease in use is most likely due to the COVID-19 pandemic, however, nonetheless, Citi Bike ridership has seen some surges throughout these past months, with Citi Bike ridership increasing by 67% between March 1 and March 11, compared to the same period a year earlier.⁶⁷ This is most likely due to COVID-related fears of mass transit options.

Over the last several years, the City has made efforts to accommodate the growth in cycling by increasing bicycle safety. Currently, there are more than 1,200 miles of bike lanes in the city, the most of any major city in the nation.⁶⁸ As of 2018, 1,240 miles of bike lanes have been installed in NYC, with 66.1 miles installed in 2018 alone.⁶⁹ In addition, 480 lane miles of protected bike lanes have been installed in the City as of 2018, with 20.4 protected bike lane miles installed in 2018 alone.⁷⁰ Per year, the City has added an average of 62 bike lane miles per year, including over 20 protected bike lane miles.⁷¹

According to DOT, at the end of 2018, the City had 480 protected bike lane miles.⁷² In 2019, the city installed an additional 21.4 of protected bike lane miles.⁷³ On January 29, 2020, the city announced plans to create an additional thirty miles of protected bike lanes throughout this year, with at least ten of those miles being installed in Brooklyn due to the high number of cycling fatalities that occurred in the borough in 2019.⁷⁴

In October of 2019, the City Council passed a \$1.7 billion plan that would drastically expand protected bike lanes as part of an effort to overhaul the City's streetscape.⁷⁵ The legislation requires the city to build 250 miles of protected bike lanes and 150 miles of dedicated bus lanes over a five-year period.⁷⁶ The bill requires the DOT to release a plan every five years to make street safety improvements and to prioritize public transit.⁷⁷

The City has increased its efforts to ensure bicycle safety, however, there have been mixed results. In 2017, there were 4,397 cyclists injured with 24 cyclist fatalities.⁷⁸ In 2018, there were 4,688 cyclists injured with 10 cyclist fatalities, a record low and the lowest number of deaths since 2013.⁷⁹ However, in 2019, although cyclist injuries did not increase dramatically-4,632 cyclists were injured,⁸⁰ there were 29 cyclist fatalities, an increase of almost 190%.⁸¹ If the City wants to encourage the low numbers seen in 2018, additional steps must be taken to ensure that both cyclists and pedestrians are kept safe, especially if the City is serious about allowing and increasing the use of alternative modes of transportation like e-bikes and e-scooters.

⁶⁶ Citi Bike, *April 2020 Monthly Report*, (April 2020) available at <https://d21xlh2maitm24.cloudfront.net/nyc/April-2020-Citi-Bike-Monthly-Report.pdf?mtime=20200519145703>

⁶⁷ Gersh Juntzman, *Citi Bike Ridership is Back to "Normal"-Even as Millions are Not Commuting*, (March 19, 2020) available at <https://nyc.streetsblog.org/2020/03/19/citi-bike-ridership-is-back-to-normal-even-as-millions-are-not-commuting/>

⁶⁸ Press Release, Office the Mayor, *Vision Zero: Mayor de Blasio Announces New York City Added Over Twenty Miles of Protected Bicycle Lanes in 2018*, December 19, 2018, available at <https://www1.nyc.gov/office-of-the-mayor/news/604-18/vision-zero-mayor-de-blasio-new-york-city-added-twenty-miles-protected-bicycle>

⁶⁹ NYC, *Cycling in the City, Cycling Trends in NYC May 2019*, available for download at <https://www1.nyc.gov/html/dot/downloads/pdf/cycling-in-the-city.pdf>

⁷⁰ *Id.*

⁷¹ New York City, Department of Transportation, *Bicyclists*, available at <https://www1.nyc.gov/html/dot/html/bicyclists/bikestats.shtml>.

⁷² NYC, *Cycling in the City, Cycling Trends in NYC May 2019*, available for download at <https://www1.nyc.gov/html/dot/downloads/pdf/cycling-in-the-city.pdf>

⁷³ New York City Office of the Mayor, *Mayor de Blasio Announces Major Progress on Green Wave Plan to Make Streets Safer for Cyclists*, The Official Website of the City of New York, (February 19, 2020), available at <https://www1.nyc.gov/office-of-the-mayor/news/087-20/mayor-de-blasio-major-progress-green-wave-plan-make-streets-safer-cyclists>

⁷⁴ New York City Office of the Mayor, *Vision Zero: De Blasio Administration Announces 2020 Major Projected Bicycle Lane Projects in Brooklyn*, The Official Website of the City of New York, (January 29, 2020), available at <https://www1.nyc.gov/office-of-the-mayor/news/049-20/vision-zero-de-blasio-administration-2020-major-projected-bicycle-lane-projects-in-#0>

⁷⁵ Caroline Splvack, *City Council passes \$1.7B plan to "revolutionize" NYC streets*, CurbedNY (October 30, 2019), available at <https://ny.curbed.com/2019/10/30/20940184/city-council-passes-master-street-safety-plan>.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ NYC, Department of Transportation, *Bicycle Crash Data Report 2017*, available for download at <http://www.nyc.gov/html/dot/downloads/pdf/bicycle-crash-data-report-2017.pdf>

⁷⁹ NYC, Department of Transportation, *Bicycle Crash Data Report 2018*, available for download at <https://www1.nyc.gov/html/dot/downloads/pdf/bicycle-crash-data-report-2018.pdf>

⁸⁰ Vision Zero View, *Cyclists Injuries and Fatalities: 2019*, available at <https://vzv.nyc/>

⁸¹ Clarisa Diaz and Emma Whitford, *Infographic: The 29 Cyclists Who Died in 2019*, Gothamist (December 17, 2019) available at <https://gothamist.com/news/infographic-28-cyclists-who-died-2019>

Opponents of legalizing e-bikes argue that the bikes go too fast and their riders often drive erratically.⁸² However, there is very little evidence that suggests e-bikes are more dangerous than regular bikes in the U.S. In fact, there has been research done that asserts that electric bikes may be just as safe to ride as traditional bikes. For example, a Dutch organization, VeiligheidNL has released research indicating that e-bikes, when analyzing data on cycle-related accidents, were not more dangerous than traditional bikes.⁸³ Data on cycle-related accidents from hospital accident and emergency departments shows that although e-bike users still have a greater risk of ending up at the accident and emergency department, this was related to the age of the users and the distance traveled, not to the type or bike that was used.⁸⁴ More pertinent to NYC, according to the city's NYPD Motor Vehicle Collisions database, just 31 of the reported 45,775 motor vehicle collisions in 2018 resulting in injuries were caused by e-bikes, roughly 0.7%, while only 32 people were injured by e-bikes-just .05% of the total 61,939 people injured from motor vehicle collisions.⁸⁵ In addition, in 2018, in total, 11,115 pedestrians were injured, yet only nine of them were caused by an e-bike, of which is roughly a fraction on one percent.⁸⁶

UPDATE

On June 25, 2020, the Committee on Transportation passed: Int. No. 1250-A, by a vote of nine in the affirmative, four in the negative, with zero abstentions; Int. No. 1264-A, by a vote of eleven in the affirmative, two in the negative, with zero abstentions; and Int. No. 1266-A, by a vote of nine in the affirmative, four in the negative, with zero abstentions.

ANALYSIS OF INT. NO. 1250-A

Section one of Int. No. 1250-A amends section 19-176.2 of the Administrative Code. Subdivision a would be amended to exclude electric scooters as defined in the Vehicle and Traffic law from the definition of motorized scooter, a class of devices prohibited under local law. Subdivision b would be amended to clarify that motorized scooters may not be operated on streets, in parks or other public places. Subdivision c would be amended to reduce the civil penalty for operation of a motorized scooter from \$500 to \$250. Subdivision d of such section would be amended to require that motorized scooters may only be impounded if operated in a manner that endangers the safety of the operator or the safety or property of another. Subdivision e of such section would be added to establish that electric scooters as defined in the vehicle and traffic law shall be subject to the same rights and responsibilities attributed to operators of bicycles pursuant to the vehicle and traffic law, the administrative code and the rules of the city of New York and any additional applicable provisions of such.

Section two of Int. No. 1250-A would provide that this local law takes effect 120 days after it becomes law, except that the Commissioner of Transportation shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

ANALYSIS OF INT. NO. 1264-A

Section one of Int. No. 1264-A would amend section 19-176.2 of the Administrative Code. Subdivision a would be amended to exclude bicycles with electric assist as defined in the Vehicle and Traffic law from the definition of motorized scooters, a class of devices prohibited under local law.

Section two of the legislation would amend subdivision e of section 19-176.2 of the Administrative Code to establish that bicycles with electric assist as defined in the Vehicle and Traffic law would be subject to the same rights and responsibilities attributed to operators of bicycles pursuant to the Vehicle and Traffic law, the Administrative Code and the Rules of the City of New York and any additional applicable provisions of such.

⁸² Katie Pyzyk, *NYC council members move to legalize e-bikes, scooters*, November 29, 2018, Smart Cities Dive, available at <https://www.smartcitiesdive.com/news/nyc-council-members-move-to-legalize-e-bikes-scooters/543189/>

⁸³ John Styles, *E-bikes just as safe as traditional bikes says Dutch Study*, Cycling Industry (October 22, 2018), available at <https://cyclingindustry.news/e-bikes-just-as-safe-as-traditional-bikes-says-dutch-study/>

⁸⁴ *Id.*

⁸⁵ Julianne Cuba, *Damn Lies and Statistics: The Numbers Don't Back Up de Blasio's Reason for E-Bike Crackdown*, Streetsblog NYC (April 18, 2019), available at <https://nyc.streetsblog.org/2019/04/18/damn-lies-and-statistics-the-numbers-dont-back-up-de-blasios-reason-for-e-bike-crackdown/>

⁸⁶ *Id.*

Section three of the legislation would provide that this local law takes effect 120 days after it becomes law, except that the Commissioner of Transportation shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

ANALYSIS OF INT. NO. 1266-A

Subdivision a of section one of Int. No. 1266-A would establish certain definitions for use in this local law. The term “electric scooter” would be defined as having the same meaning as provided in section 114-e of the vehicle and traffic law. The term “shared electric scooter organization” would be defined as a natural person, organization or entity that operates a fleet of shared, private electric scooters available for rent to the public on a short-term basis. The term “shared electric scooter system” would be defined as network of self-service and publicly available electric scooters and related infrastructure.

Subdivision b of this section would require the Department of Transportation (DOT) to establish a shared electric scooter pilot program that allows qualified shared electric scooter organizations to operate publicly available shared electric scooter fleets. DOT would be required to issue a solicitation for the pilot by October 15, 2020, and determine an organization or organizations to offer shared electric scooter systems to the public by March 1, 2021. The pilot would be required to be of a scope and scale suitable for evaluating the efficacy of shared electric scooter systems. DOT would be required to determine the geographic boundaries of such pilot program, with priority given to neighborhoods currently unserved by existing dock-based bike share programs. Shared electric scooter organizations would be required to provide any information requested by DOT relating to their participation in such pilot program. Organizations participating in the pilot would be required to implement protocols to keep paths of travel, curb ramps, and other accessibility features unobstructed for people with disabilities, and to ensure that accessible electric scooter options are available for use by people with disabilities as part of the pilot program.

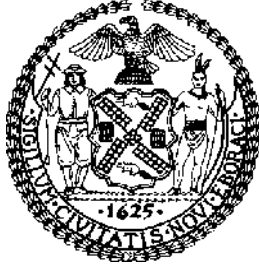
Subdivision c of this section would provide that the pilot program exist for a duration of no less than one year and no more than two years, unless DOT terminates or suspends the program on an earlier date; provided, however, that DOT would be required to notify the Speaker of the Council in writing of such termination or suspension within seven days of taking such action and the reasons for such action.

Subdivision d of such section would prohibit shared electric scooter organizations from operating any electric scooter in the city without the prior written approval of the DOT. Any such electric scooter parked or operated on a public street without Department approval, would be subject to impoundment and not be released until any and all removal charges and storage fees have been paid or a bond has been posted in an amount satisfactory to the commissioner of the agency that impounded such electric scooter.

Subdivision e of this new section would require the DOT to submit a report to the Speaker of the Council regarding the progress of the pilot program, including a determination as to whether DOT recommends the implementation of a permanent shared electric scooter program along with any recommendations as to changes in the laws, rules, regulations and policies governing the use of such electric scooters, where appropriate.

Section two of Int. No. 1266-A would provide that this local law takes effect immediately.

(The following is the text of the Fiscal Impact Statement for Int. No. 1250-A:)



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1250-A

COMMITTEE: Transportation

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the operation of electric scooters.

SPONSORS: Council Members Cabrera, Salamanca, Ulrich, Levine, Koslowitz, Richards, Torres, Cornegy, Constantinides, Ampry-Samuel, Brannan, Maisel, Cumbo, Gjonaj, the Public Advocate (Mr. Williams), Rivera, Van Bramer, Adams, Reynoso, and Borelli.

SUMMARY OF LEGISLATION: Proposed Intro. No. 1250-A would remove prohibitions in local law against the operation of certain electric scooters allowed pursuant to State law. The bill would allow for the use of electric scooters incapable of exceeding 20 miles per hour. The bill would also reduce fines for operating certain motorized devices that remain prohibited by local law, amend the law to provide that only prohibited motorized devices operated in a manner that endangers safety or property are subject to impoundment and clarify that operators of electric scooters allowed by local law are subject to State and local laws applicable to bicycle operators as well as any additional provisions applicable to electric scooter operators.

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

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 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: It is estimated that this legislation would have no impact on revenues.

IMPACT ON EXPENDITURES: It is estimated that this legislation would have no impact on expenditures because the agencies responsible for enforcing the requirements of this legislation would use existing resources to comply with this law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

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

ESTIMATE PREPARED BY: John Basile, Senior Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Chima Obichere, Unit Head
Stephanie Ruiz, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was first introduced to the full Council as Intro. No. 1250 on November 28, 2018 and the bill was referred to the Committee on Transportation (Committee). A hearing was held by the Committee on January 23, 2019 and the bill was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1250-A, will be considered by the Committee on June 25, 2020. Upon a successful vote by the Committee, Proposed Intro. No. 1250-A will be submitted to the full Council for a vote on June 25, 2020.

DATE PREPARED: June 24, 2020.

(For text of Int. Nos. 1264-A and 1266-A and their Fiscal Impact Statements, please see the Report of the Committee on Transportation for Int. Nos. 1264-A and 1266-A, respectively, printed in these Minutes; for text of Int. No. 1250-A, please see below)

Accordingly, this Committee recommends the adoption of Int. Nos. 1250-A, 1264-A, and 1266-A.

(The following is the text of Int. No. 1250-A:)

Int. No. 1250-A

By Council Members Cabrera, Rodriguez, Salamanca, Ulrich, Levine, Koslowitz, Richards, Torres, Cornegy, Constantinides, Ampry-Samuel, Brannan, Maisel, Cumbo, Gjonaj, the Public Advocate (Mr. Williams), Rivera, Van Bramer, Adams, Reynoso, Levin and Borelli.

A Local Law to amend the administrative code of the city of New York, in relation to the operation of certain electric scooters

Be it enacted by the Council as follows:

Section 1. Section 19-176.2 of the administrative code of the city of New York, subdivisions a and d of such section as amended by local law number 40 for the year 2013 and subdivisions b and c of such section as added by local law number 51 for the year 2004, is amended to read as follows:

§ 19-176.2. Motorized scooters. a. For purposes of this section, the term “motorized scooter” shall mean any wheeled device that has handlebars that is designed to be stood or sat upon by the operator, is powered by an electric motor or by a gasoline motor that is capable of propelling the device without human power and is not capable of being registered with the New York State Department of Motor Vehicles. For the purposes of this section, the term motorized scooter shall not include wheelchairs or other mobility [aids] *devices* designed for use by [disabled] persons *with disabilities; or an electric scooter as such term is defined in section 114-e of the vehicle and traffic law or successor provision.*

b. No person shall operate a motorized scooter *on streets or in parks and other public places* in the city of New York.

c. Any person who violates subdivision b of this section shall be liable for a civil penalty in the amount of [five hundred dollars] \$250. Authorized employees of the police department and department of parks and recreation shall have the authority to enforce the provisions of this section. Such penalties shall be recovered in

a civil action or in a proceeding commenced by the service of a notice of violation that shall be returnable before the environmental control board. In addition, such violation shall be a traffic infraction and shall be punishable in accordance with section eighteen hundred of the New York state vehicle and traffic law.

d. Any motorized scooter that has been used or is being used in violation of the provisions of this section *that has been operated in a manner that endangers the safety of the operator or the safety or property of another* may be impounded and shall not be released until any and all removal charges and storage fees and the applicable fines and civil penalties have been paid or a bond has been posted in an amount satisfactory to the commissioner of the agency that impounded such [vehicle] device.

e. *Operators of electric scooters as defined in section 114-e of the vehicle and traffic law shall be subject to the same rights and responsibilities attributed to operators of bicycles pursuant to the vehicle and traffic law, this code and the rules of the department, and shall be subject to any additional applicable provisions of the vehicle and traffic law, this code and rules of the department.*

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

YDANIS A. RODRIGUEZ, *Chairperson*; FERNANDO CABRERA, PETER A. KOO, STEPHEN T. LEVIN, DEBORAH L. ROSE, DONOVAN J. RICHARDS, CHAIM M. DEUTSCH, MARK D. LEVINE, ANTONIO REYNOSO; Committee on Transportation, June 25, 2020 (Remote Hearing). *Other Council Members Attending: Council Members Perkins, Yeager, and Chin.*

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. 1264-A

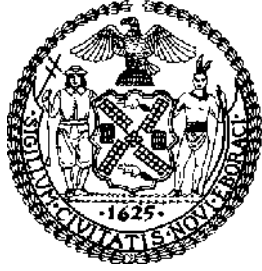
Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the operation of certain electric bicycles.

The Committee on Transportation, to which the annexed proposed amended local law was referred on November 28, 2018 (Minutes, page 4546), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Transportation for Int. No. 1250-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1264-A:



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

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1264-A

COMMITTEE: Transportation

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the operation of certain electric bicycles.

SPONSORS: Council Members Cabrera, Rodriguez, Salamanca, Chin, Rivera, Levine, Cumbo, Cornegy, Reynoso, Menchaca, Van Bramer, Lander, Lancman, Richards, Brannan, Constantinides, Torres, Gjonaj, Perkins, Grodenchik, Eugene, Ayala, Barron, Maisel, Rose, Adams, Ampy-Samuel, Koo, Borelli, Ulrich and the Public Advocate (Mr. Williams).

SUMMARY OF LEGISLATION: Proposed Intro. No. 1264-A would remove prohibitions in local law against the operation of certain electric bicycles allowed pursuant to State law. The bill would allow for the use of electric bicycles incapable of exceeding 25 miles per hour. The bill would also clarify that operators of electric bicycles allowed by local law are subject to State and local laws applicable to bicycle operators as well as any additional provisions applicable to electric bicycle operators.

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

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 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: It is estimated that this legislation would have no impact on revenues.

IMPACT ON EXPENDITURES: It is estimated that this legislation would have no impact on expenditures because the agencies responsible for enforcing the requirements of this legislation would use existing resources to comply with this law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

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

ESTIMATE PREPARED BY: John Basile, Senior Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Chima Obichere, Unit Head
Stephanie Ruiz, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was first introduced to the full Council as Intro. No. 1264 on November 28, 2018 and the bill was referred to the Committee on Transportation (Committee). A hearing was held by the Committee on January 23, 2019 and the bill was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1264-A, will be considered by the Committee on June 25, 2020. Upon a successful vote by the Committee, Proposed Intro. No. 1264-A will be submitted to the full Council for a vote on June 25, 2020.

DATE PREPARED: June 24, 2020.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1264-A:)

Int. No. 1264-A

By Council Members Cabrera, Rodriguez, Salamanca, Chin, Rivera, Levine, Cumbo, Cornegy, Reynoso, Menchaca, Van Bramer, Lander, Lancman, Richards, Brannan, Constantinides, Torres, Gjonaj, Perkins, Grodenchik, Eugene, Ayala, Barron, Maisel, Rose, Adams, Ampry-Samuel, Koo, Levin, Borelli, Ulrich and the Public Advocate (Mr. Williams).

A Local Law to amend the administrative code of the city of New York, in relation to the operation of certain electric bicycles

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 19-176.2 of the administrative code of the city of New York, as amended by local law number 40 for the year 2013, and as amended by a local law for the year 2020 amending the administrative code of the city of New York, relating to the operation of certain electric scooters, as proposed in introduction number 1250-A, is amended to read as follows:

a. For purposes of this section, the term “motorized scooter” shall mean any wheeled device that has handlebars that is designed to be stood or sat upon by the operator, is powered by an electric motor or by a gasoline motor that is capable of propelling the device without human power and is not capable of being registered with the New York State Department of Motor Vehicles. For the purposes of this section, the term motorized scooter shall not include wheelchairs or other mobility devices designed for use by persons with disabilities; or an electric scooter as such term is defined in section 114-e of the vehicle and traffic law or successor provision; or a bicycle with electric assist as defined in section 102-c of the vehicle and traffic law or successor provision.

§ 2. Subdivision e of section 19-176.2 of the administrative code of the city of New York, as amended by a local law for the year 2020 amending the administrative code of the city of New York, relating to the operation of certain electric scooters, as proposed in introduction number 1250-A, is amended to read as follows:

e. Operators of electric scooters as defined in section 114-e of the vehicle and traffic law, and operators of bicycles with electric assist as defined in section 102-c of the vehicle and traffic law, or successor provisions, shall be subject to the same rights and responsibilities attributed to operators of bicycles pursuant to the vehicle and traffic law, this code and the rules of the department, and shall be subject to any additional applicable provisions of the vehicle and traffic law, this code and rules of the department.

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

YDANIS A. RODRIGUEZ, *Chairperson*; FERNANDO CABRERA, PETER A. KOO, STEPHEN T. LEVIN, DEBORAH L. ROSE, DONOVAN J. RICHARDS, CHAIM M. DEUTSCH, MARK D. LEVINE, CARLOS MENCHACA, I. DANEEK MILLER, ANTONIO REYNOSO; Committee on Transportation, June 25, 2020 (Remote Hearing).

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. 1266-A

Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law in relation to a pilot program for shared electric scooters.

The Committee on Transportation, to which the annexed proposed amended local law was referred on November 28, 2018 (Minutes, page 4548), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Transportation for Int. No. 1250-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1266-A:



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

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1266-A

COMMITTEE: Transportation

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to a pilot program for shared electric scooters.

SPONSORS: Council Members Cabrera, Rodriguez, Salamanca, Levine, Cumbo, Cornegy, Koslowitz, Ampry-Samuel, Vallone, Brannan, Maisel, Constantinides, the Public Advocate (Mr. Williams), Grodenchik, Torres, Richards, Van Bramer, Gibson, Reynoso, Rosenthal, Perkins, Eugene, Adams, Chin, Gjonaj, Levin, Barron, Rivera, Treyger, Ayala, Powers, Menchaca, Ulrich and Borelli.

SUMMARY OF LEGISLATION: Proposed Intro. No. 1266-A would require the Department of Transportation (Department) to create a pilot program for the operation of shared electric scooters in New York City. The bill would require that the Department issue a solicitation for such pilot by October 15, 2020, and that shared electric scooter organizations be allowed to offer shared electric scooters to the public by March 1, 2021. This bill would provide that neighborhoods unserved by existing bike share programs be given priority when determining the geographic boundaries of the pilot program. Organizations participating in the pilot would be required to implement protocols for keeping clear paths of travel and provide accessible scooter options. The bill would also require that the Department report to the Council on the progress of the program and would prohibit the operation of shared electric scooters by any shared electric scooter organization without the prior written approval of the Department.

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

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 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: It is estimated that this legislation would have no impact on revenues.

IMPACT ON EXPENDITURES: It is estimated that this legislation would have no impact on expenditures because the agencies responsible for enforcing the requirements of this legislation would use existing resources to comply with this law

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

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

ESTIMATE PREPARED BY: John Basile, Senior Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Chima Obichere, Unit Head
Stephanie Ruiz, Assistant Counsel

LEGISLATIVE HISTORY: This legislation was first introduced to the full Council as Intro. No. 1266 on November 28, 2018 and the bill was referred to the Committee on Transportation (Committee). A hearing was held by the Committee on January 23, 2019 and the bill was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1266-A, will be considered by the Committee on June 25, 2020. Upon a successful vote by the Committee, Proposed Intro. No. 1266-A will be submitted to the full Council for a vote on June 25, 2020.

DATE PREPARED: June 24, 2020.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1266-A:)

Int. No. 1266-A

By Council Members Cabrera, Rodriguez, Salamanca, Levine, Cumbo, Cornegy, Koslowitz, Ampry-Samuel, Vallone, Brannan, Maisel, Constantinides, the Public Advocate (Mr. Williams), Grodenchik, Torres, Richards, Van Bramer, Kallos, Gibson, Reynoso, Rosenthal, Perkins, Eugene, Adams, Chin, Gjonaj, Levin, Barron, Rivera, Treyger, Ayala, Powers, Ulrich and Borelli.

A Local Law in relation to a pilot program for shared electric scooters

Be it enacted by the Council as follows:

Section 1. Shared electric scooter pilot program. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Electric scooter. The term “electric scooter” has the same meaning as provided in section 114-e of the vehicle and traffic law or any successor provision.

Shared electric scooter organizations. The term “shared electric scooter organization” means a natural person, organization or entity that operates a fleet of shared electric scooters available for rent to the public on a short-term basis.

Shared electric scooter system. The term “shared electric scooter system” means a network of self-service and publicly available electric scooters and related infrastructure.

b. Pilot program. The department of transportation shall establish a shared electric scooter pilot program that allows shared electric scooter organizations, determined by the department, to operate shared electric scooter systems. The department will issue a solicitation for such pilot no later than October 15, 2020. As part of such pilot program, the department shall determine a shared electric scooter organization or organizations to offer shared electric scooter systems to the public by March 1, 2021. Such pilot shall be of a scope and scale suitable for evaluating the efficacy of shared electric scooter systems. The department shall determine the standards and geographic boundaries of such pilot program, with priority given to neighborhoods currently unserved by existing dock-based bike share programs. Shared electric scooter organizations shall provide any information requested by the department relating to their participation in such pilot program. Any shared electric scooter organizations participating in such pilot program shall be required to have in place and implement a protocol to keep paths of travel, curb ramps, and other accessibility features unobstructed for people with disabilities. Such shared electric scooter organizations shall work with the department, other relevant organizations and city agencies, and members of the disability community to ensure that accessible electric scooter options are available for use by people with disabilities as part of the pilot program.

c. Duration of pilot program. The shared electric scooter pilot program described in subdivision b of this section shall exist for a duration of no less than one year and no more than two years, unless the department of transportation terminates or suspends the program on an earlier date; provided, however, the department shall notify the speaker of the council in writing of such termination or suspension within seven days of taking such action and the reasons for such action.

d. No shared electric scooter organization shall operate any electric scooter in the city without the prior written approval of the department of transportation. If any shared electric scooter is parked or operated on a public street without such approval, it may be impounded and shall not be released until any and all removal charges and storage fees have been paid or a bond has been posted in an amount satisfactory to the commissioner of the agency that impounded such electric scooter. Such agency shall notify the owner of such impounded electric scooter, if known, of such impoundment and the method for claiming the electric scooter. Any such electric scooter not claimed may be disposed of in accordance with applicable law relating to the disposal of abandoned property.

e. Report. Prior to the completion of such pilot, the department of transportation shall submit a report to the speaker of the council regarding the progress of the pilot program. Such report shall include, but need not be

limited to, a determination as to whether the department recommends the implementation of a permanent shared electric scooter program, along with any recommendations as to changes in the laws, rules, regulations and policies governing the use of such electric scooters, where appropriate.

§ 2. This local law takes effect immediately.

YDANIS A. RODRIGUEZ, *Chairperson*; FERNANDO CABRERA, ANDREW COHEN, STEPHEN T. LEVIN, DEBORAH L. ROSE, DONOVAN J. RICHARDS, CHAIM M. DEUTSCH, MARK D. LEVINE, ANTONIO REYNOSO; Committee on Transportation, June 25, 2020 (Remote Hearing).

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

There were no additional items listed on the General Order Calendar.

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

- | | | |
|-----|----------------------|---|
| (1) | Int. 1250-A - | Operation of certain electric scooters. |
| (2) | Int. 1264-A - | Operation of certain electric bicycles. |
| (3) | Int. 1266-A - | A pilot program for shared electric scooters. |
| (4) | Int. 1950-A - | The establishment of a task force to recommend policies and protocols relating to the safe reopening and operation of city agencies in response to the COVID-19 pandemic. |
| (5) | Int. 1952-A - | The creation of a database to track the expenditure of funds in connection with COVID-19, and to provide for the repeal thereof. |
| (6) | Int. 1957-A - | Temporary space for outdoor dining, |
| (7) | Int. 1964-A - | Adoption by Resolution of an interest rate for nonpayment of taxes on real |

- property with an assessed value over two hundred fifty thousand dollars in Fiscal Year 2021 for certain property owners adversely affected by COVID-19.
- (8) **Int. 1974-A -** Interest rate for nonpayment of taxes on real property with an assessed value of two-hundred and fifty thousand dollars or less in Fiscal Year 2021 for property owners adversely affected by COVID-19 **(with a Message of Necessity from the Mayor requiring an affirmative vote of at least two-thirds of the Council for passage).**
- (9) **Int. 1976 -** Requiring booking services to report short-term housing rental transactions.
- (10) **Res. 1346 -** Discount percentage for early payment of real estate taxes be set at one-half of one percent per annum for Fiscal Year 2021.
- (11) **Res. 1347 -** Interest rate be 18 percent per annum for Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of over \$250,000, or over \$250,000 per residential unit for cooperative apartments.
- (12) **Res. 1348 -** Interest rate be 3.25 percent for the first quarter of Fiscal Year 2021 and 5 percent for the remainder of Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of not more than \$250,000, or not more than \$250,000 per residential unit for cooperative apartments.
- (13) **Res. 1349 -** Adopt an interest rate of 7.5 percent for a portion of Fiscal Year 2021 for the non-payment of taxes on real property with an assessed value over \$250,000 for property owners adversely affected by COVID-19.
- (14) **Res. 1350 -** Resolution to adopt an interest rate of zero percent for a portion of Fiscal Year 2021 for the non-payment of

taxes on real property with an assessed value of \$250,000 or less for property owners adversely affected by COVID-19.

(15) **L.U. 664 & Res. 1351 -** 3415 Knox Place.GHPP.FY20,
Block 3324, Lot 89; Bronx,
Community District No. 7, Council
District No. 11.

The Public Advocate (Mr. Williams) 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, Cabrera, Chin, Cohen, Deutsch, Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Holden, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Richards, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **47**.

(Present but Not Voting – Torres)

The General Order vote recorded for this Stated Meeting was 47-0-0 as shown above with Council Member Torres considered Present but Not Voting (PNV). The items listed below had the following individual votes with Council Member Torres considered Present but Not Voting for each vote as well:

The following was the vote recorded for **Int. No. 1250-A:**

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Miller, Perkins, Powers, Reynoso, Richards, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **39**.

Negative – Cohen, Deutsch, Holden, King, Lancman, Menchaca, Moya, Yeger – **8**.

(Present but Not Voting – Torres)

The following was the vote recorded for **Int. No. 1264-A:**

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

Negative – Cohen, Deutsch, Holden, King and Yeger – **5**.

(Present but Not Voting – Torres)

The following was the vote recorded for **Int. No. 1266-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Cohen, Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Kallos, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Perkins, Powers, Reynoso, Richards, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **38**.

Negative – Deutsch, Holden, King, Koo, Lancman, Menchaca, Miller, Moya, and Yeger – **9**.

(Present but Not Voting – Torres)

The following was the vote recorded for **Int. No. 1950-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Cohen, Deutsch, Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Holden, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Richards, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **46**.

Negative – Yeger – **1**.

(Present but Not Voting – Torres)

The following was the vote recorded for **Int. No. 1964-A**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Cohen, Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Holden, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Richards, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **46**.

Negative – Deutsch – **1**.

(Present but Not Voting – Torres)

The following was the vote recorded for **Int. No. 1976**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Cohen, Deutsch, Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Holden, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Richards, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Vallone, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **46**.

Negative – Ulrich – **1**.

(Present but Not Voting – Torres)

The following was the vote recorded for **Res. No. 1347, 1348, and 1349**:

Affirmative – Adams, Ampry-Samuel, Ayala, Barron, Cabrera, Chin, Cohen, Dromm, Eugene, Gibson, Grodenchik, Kallos, Koslowitz, Lancman, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Richards, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Vallone, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **36**.

Negative – Borelli, Brannan, Deutsch, Diaz, Gjonaj, Holden, King, Koo, Ulrich, Yeger, and the Minority Leader (Council Member Matteo) – **11**.

(Present but Not Voting – Torres)

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

Int. Nos. 1250-A, 1264-A, 1266-A, 1950-A, 1952-A, 1957-A, 1964-A, 1974-A (passed under a Message of Necessity), and 1976.

INTRODUCTION AND READING OF BILLS

Int. No. 1981

By Council Members Borelli and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to the location of stations for active transportation

Be it enacted by the Council as follows:

Section 1. Subchapter 3 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-199.2 to read as follows:

§ 19-199.2 *Active transportation stations. a. Definitions. As used in this section, the following terms have the following meanings:*

Active transportation. The term “active transportation” means all non-vehicular methods of transportation that use a wheeled device propelled by human power. Such term also includes electric bicycles, electric skateboards and electric scooters.

Station. The term “station” means an outdoor structure that contains docks for multiple active transportation devices and facilitates the rental of such devices.

b. Location of stations. No active transportation station shall be sited on a sidewalk that is less than 10 feet wide, except that an active transportation station located on a sidewalk that is less than 10 feet wide at the time this local law takes effect may be maintained on such sidewalk.

§ 2. This local law takes effect 30 days after it becomes law.

Referred to the Committee on Transportation.

Res. No. 1345

Resolution calling upon the New York City Department of Education to require that all public school students from kindergarten through grade 5 receive three hours of art and music education per school week.

By Council Member Brannan.

Whereas, Art and music are core subjects in public education and promote a positive healthy lifestyle; and

Whereas, The elementary school years are a formative part of social, emotional, intellectual, and sensory development and are where children develop foundational skills that they use throughout their personal, academic, and professional lives; and

Whereas, The arts allow children to actively experiment, which fosters a deeper level of engagement and a stronger desire to acquire knowledge; and

Whereas, The arts enhance visual, verbal and non-verbal communication in children, and has been found to help with language development; and

Whereas, An education in the arts promotes action, experimentation, critical thinking, and both collaborative and individual expression; and

Whereas, An analysis of four United States Department of Education longitudinal studies by the National Endowment for the Arts found that eighth graders with high levels of art engagement from kindergarten to grade 5 received higher test scores in science and writing than students with a lower level of art engagement; and

Whereas, Among children with a low socioeconomic status, 74% of eighth graders with a high level of art engagement aspired to graduate from a college with a Bachelor's Degree, compared to 43% of eighth graders with a low level of art engagement; and

Whereas, Education in the arts makes eighth graders more likely to engage in civic minded behavior throughout their lives including: participating in student government, volunteering at least once a month, reading the news at least once a week, and voting in local elections; and

Whereas, A report by the NAMM Foundation found that more than 88% of teachers say music education helps children express themselves, become more confident, develop better study habits, and display more self-control; and

Whereas, The NAMM Foundation report also found that the average student in the United States has only three years of art and music education; and

Whereas, Almost 80% of teacher and parents interviewed in the report said that class duration and class frequency are significant factors for a high quality music education; and

Whereas, A 2016 survey from the non-profit organization Americans for the Arts found that 88% of people believe that it's important for students in elementary schools to receive an education in the arts; and

Whereas, The 2017 New York State P-12 Learning Standards for the Arts recommends that 20% of weekly class time in grades 1 to 3 is spent on the arts and 10% of weekly class time in grades 4 to 6; and

Whereas, According to the New York City Department of Education, public schools are required to provide 101 hours of arts education for grades 1 to 3 and 93 hours for grades 4 to 6; and

Whereas, In a school year that has a minimum of 900 hours, the New York City Department of Education's requirements are below the recommended amount of class time stated in the 2017 P-12 Learning Standards for the Arts; and

Whereas, According to the New York City Department of Education's most recent annual Art in Schools Report, pursuant to Local Law 123 of 2013 passed by the Council, of the 796 responding New York City schools that serve grades 1 to 5 in the 2018-2019 school year, 10% did not offer a music course and 3% did not offer a visual arts course; and

Whereas, The Art in Schools Report 2018-2019, pursuant to Local Law 123 of 2013 passed by the Council, also found that 22% of music classes and 10% of art classes from grades 1 to 5 are not taught by school-based art teachers; and

Whereas, Only 46% of New York City public elementary schools have a full time certified music teacher, and only 43% have a full time certified arts teacher; and

Whereas, The National Center of Education Statistics found that in the 2009-2010 school year, 35% of the nation's elementary schools with the highest poverty concentration lacked a dedicated music room with special

equipment, and 32% of the nation's schools with the highest poverty concentration lacked a dedicated art room with special equipment; and

Whereas, Art and music programs are among the first to be cut in a school budget; and

Whereas, According to a report by Class Size Matters, "Space Crunch in New York City Public Schools," during the 2008-2009 school year, 25% of the nearly 500 principals surveyed reported losing their art, dance, or music rooms to make more academic classroom space; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education to require that all public school students from kindergarten through grade 5 receive three hours of art and music education per school week.

Referred to the Committee on Education.

Int. No. 1982

By Council Members Constantinides, Ayala and Brannan.

A Local Law to amend the administrative code of the city of New York, in relation to marginal emissions

Be it enacted by the Council as follows:

Section 1. Section 28-320.1.1 of the administrative code of the city of New York, as amended by local law number 147 for the year 2019, is amended to read as follows:

6. The amount of greenhouse gas emissions attributable to natural gas powered fuel cells shall be credited compared to [a] the *electricity grid* marginal emissions factor [that will be determined by the commissioner and promulgated into rules of the department.] *published in the most recent New York state energy research and development authority renewable energy standard program impact evaluation and clean energy standard triennial review, or a successor to such report issued by the New York state energy research and development authority.*

§ 2. Section 28-320.3.2.1 of the administrative code of the city of New York, as amended by local law number 147 for the year 2019, is amended to read as follows:

§ 28-320.3.2.1 Greenhouse gas coefficients of energy consumption for calendar years 2030 through 2034. For the purposes of calculating the annual building emissions of a covered building in accordance with this section, the amount of greenhouse gas emissions attributed to particular energy sources shall be determined by the commissioner and promulgated into rules of the department by no later than January 1, 2023. The commissioner shall consult with the advisory board required by this article to develop such greenhouse gas coefficients for utility electricity consumption. When developing such coefficients, the commissioner shall consider factors, including but not limited to the best available New York state energy research and development authority and State Energy Plan *marginal* forecasts for Zone J for the end of the compliance period and beneficial electrification.

§ 3 This local law takes effect immediately.

Referred to the Committee on Environmental Protection.

Preconsidered Res. No. 1346

Resolution to establish that the discount percentage for early payment of real estate taxes be set at one-half of one percent per annum for Fiscal Year 2021.

By Council Member Dromm.

Whereas, Pursuant to section 1519-a(7)(b) of the New York City charter, the Banking Commission is required to recommend to the City Council, not later than the 13th day of May, the proposed discount percentage allowed for early payment of real estate taxes; and

Whereas, Section 1519-a(7)(c) of the New York City charter provides that the Council may adopt a discount percentage for early payment of real estate taxes no earlier than the 14th day of May; and

Whereas, The Banking Commission forwarded its recommendation to the Council, by letter dated May 13, 2020, that the discount percentage for early payment of real estate taxes for Fiscal Year 2021 be set at one-half of one percent per annum; now, therefore, be it

Resolved, That the Council of the City of New York establishes that the discount percentage for early payment of real estate taxes be set at one-half of one percent per annum for Fiscal Year 2021.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered Res. No. 1347

Resolution to establish that the interest rate be 18 percent per annum for Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of over \$250,000, or over \$250,000 per residential unit for cooperative apartments.

By Council Member Dromm.

Whereas, Pursuant to Section 11-224.1 of the Administrative Code of the City of New York the Banking Commission is required to recommend to the City Council, not later than the 13th day of May of each year, the proposed interest rate to be charged for non-payment of taxes on properties with an assessed value of over \$250,000, or over \$250,000 per residential unit for cooperative apartments; and

Whereas, The Banking Commission is required to propose a rate of at least six percent per annum greater than the prevailing interest rate charged for commercial loans extended to prime borrowers by commercial banks operating in the City (the "Prime Rate") and

Whereas, The Banking Commission notes that as of May 13, 2020, the Prime Rate stands at 3.25 percent as published by the Board of Governors of the Federal Reserve System; and

Whereas, It is in the best interest of the City to encourage the prompt payment of taxes on real estate by all taxpayers; and

Whereas, The Banking Commission forwarded its recommendation to the Council, by letter dated May 13, 2020, that the interest rate be charged for the non-payment of taxes on properties where the assessed value on a parcel is over \$250,000, or over \$250,000 per residential unit for cooperative apartments, be 18 percent per annum for the first quarter of Fiscal Year 2021; now, therefore, be it

Resolved, That the Council of the City of New York establishes that the interest rate be 18 percent per annum for Fiscal Year 2021 for the non-payment of taxes on properties with an assessed value of over \$250,000, or over \$250,000 per residential unit for cooperative apartments.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered Res. No. 1348

Resolution to establish that the interest rate be 3.25 percent for the first quarter of Fiscal Year 2021 and 5 percent for the remainder of Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of not more than \$250,000, or not more than \$250,000 per residential unit for cooperative apartments.

By Council Member Dromm.

Whereas, Pursuant to Section 11-224.1 of the Administrative Code of the City of New York the Banking Commission is required to recommend to the City Council, not later than the 13th day of May of each year, the proposed interest rate to be charged for non-payment of taxes on properties with an assessed value of not more than \$250,000, or not more than \$250,000 per residential unit for cooperative apartments; and

Whereas, The Banking Commission is required to propose a rate at least equal to the prevailing interest rate charged for commercial loans extended to prime borrowers by commercial banks operating in the City (the “Prime Rate”); and

Whereas, The Banking Commission notes that as of May 13, 2020, the Prime Rate stands at 3.25 percent as published by the Board of Governors of the Federal Reserve System; and

Whereas, It is in the best interest of the City to encourage the prompt payment of taxes on real estate by all taxpayers; and

Whereas, The Banking Commission forwarded its recommendation to the Council, by letter dated May 13, 2020, that the interest rate to be charged for the non-payment of taxes on properties where the assessed value on a parcel is not more than \$250,000, or not more than \$250,000 per residential unit for cooperative apartments, be 3.25 percent for the first quarter of Fiscal Year 2021, and five percent for the second, third, and fourth quarters of Fiscal Year 2021; now, therefore, be it

Resolved, That the Council of the City of New York establishes that the interest rate be that 3.25 percent for the first quarter of Fiscal Year 2021 and 5 percent for the remainder of Fiscal Year 2021 for non-payment of taxes on properties with an assessed value of not more than \$250,000, or not more than \$250,000 per residential unit for cooperative apartments.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered Res. No. 1349

Resolution to adopt an interest rate of 7.5 percent for a portion of Fiscal Year 2021 for the non-payment of taxes on real property with an assessed value over \$250,000 for property owners adversely affected by COVID-19 as authorized by the local law for the year 2020 as proposed in introduction number 1964-A.

By Council Member Dromm.

Whereas, Pursuant to the local law for the year 2020 as proposed in introduction number 1964-A, the Council of the City of New York is authorized to adopt by resolution an interest rate of 7.5 percent for a portion of Fiscal Year 2021 for the nonpayment of taxes on real property with an assessed value of more than \$250,000 for property adversely affected by COVID-19; and

Whereas, Pursuant to the legislation, the Council is authorized to adopt an interest rate of 7.5 percent for nonpayment of taxes due on July 1, 2020 for Fiscal Year 2021, and paid between July 1 and October 15, 2020, on real property which (1) is classified as class 4 pursuant to section 1802 of the real property tax law with an assessed value of more than \$250,000 and less than \$750,000; or (2) has an assessed value over \$250,000 (i) where at least 50 percent of the property is used for residential rental dwellings; and (ii) which contains no more than 30 rental dwelling units of which at least 50 percent are rent regulated accommodations, provided that no later than September 30, 2020, such property owner submits documentation to the commissioner of finance demonstrating that such property owner has been adversely affected by the COVID-19 pandemic; and

Whereas, For the first category of properties, adversely affected by the COVID-19 pandemic means the income of the property owner from such real property declined, between March 7, 2020 and June 30, 2020, by at least 50 percent as compared to the corresponding period in the previous calendar year due to COVID-19; and

Whereas, For the second category of properties, adversely affected by the COVID-19 pandemic means the income of the property owner from such real property declined, between March 7, 2020 and June 30, 2020, by at least 25 percent as compared to the corresponding period in the previous calendar year due to COVID-19

Resolved, That an interest rate of 7.5 percent is hereby adopted for a portion of Fiscal Year 2021 for the non-payment of taxes on real property with an assessed value over \$250,000 for property owners adversely affected by COVID-19 as authorized by the local law for the year 2020 as proposed in introduction number 1964-A; and be it further

Resolved, That this resolution shall take effect on the same date as the local law for the year 2020 as proposed in introduction number 1964-A takes effect.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered Res. No. 1350

Resolution to adopt an interest rate of zero percent for a portion of Fiscal Year 2021 for the non-payment of taxes on real property with an assessed value of \$250,000 or less for property owners adversely affected by COVID-19 as authorized by the local law for the year 2020 as proposed in introduction number 1974-A.

By Council Member Dromm.

Whereas, Pursuant to the local law for the year 2020 as proposed in introduction number 1974-A, the Council of the City of New York is authorized to adopt by resolution an interest rate of zero percent for a portion of Fiscal Year 2021 for the nonpayment of taxes on real property with an assessed value of \$250,000 or less for property adversely affected by COVID-19; and

Whereas, Pursuant to the legislation, the Council is authorized to adopt an interest rate of zero percent for nonpayment of taxes due on July 1, 2020 for Fiscal Year 2021, and paid between July 15 and September 30, 2020, on real property which, as of July 1, 2020, a property owner has an executed agreement with the Department of Finance for the payment in installments of any real property taxes, assessments or other charges that are made a lien subject to the provisions of section 11-322.1 of the Administrative Code of the City of New York, provided that no later than September 30, 2020, such property owner submits documentation to the commissioner of finance demonstrating that such property owner has been adversely affected by the COVID-19 pandemic; and

Whereas, Further, pursuant to the legislation the Council is authorized to adopt an interest rate of zero percent for nonpayment of taxes due on July 1, 2020 for Fiscal Year 2021, and paid between July 15 and September 30, 2020, on real property with an assessed value of \$250,000 or less, for which the income, as defined in section 11-322.1(a) of the Administrative Code of the City of New York, of the owner of such property, and all the additional property owners of such real property, during calendar year 2019 was less than \$150,000, provided that such property has been the primary residence of at least one such property owner for an uninterrupted period of not less than one year preceding July 1, 2020, which determination shall be made without regard to any hospitalization or temporary stay in a nursing home or rehabilitation facility, and provided further that no later than September 30, 2020, such property owner submits documentation to the commissioner of finance demonstrating that such property owner has been adversely affected by the COVID-19 pandemic; and

Whereas, Adversely affected by the COVID-19 pandemic means the property owner or a member of the household of such property owner was diagnosed with COVID-19, received confirmation from a health professional of having contracted COVID-19 or experienced symptoms of COVID-19 and sought a medical diagnosis; or the loss of the primary source of income because of COVID-19 between March 7, 2020 and June 30, 2020, which continued for at least 1 month, by the property owner or any additional property owners of such real property; and

Whereas, The subject real property must be classified as class 1 pursuant to section 1802 of the real property tax law or of a dwelling unit in a condominium; now, therefore, be it

Resolved, That an interest rate of zero percent is hereby adopted for a portion of Fiscal Year 2021 for the non-payment of taxes on real property with an assessed value of \$250,000 or less for property owners adversely

affected by COVID-19 as authorized by the local law for the year 2020 as proposed in introduction number 1974-A; and be it further

Resolved, That this resolution shall take effect on the same date as the local law for the year 2020 as proposed in introduction number 1974-A takes effect.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Int. No. 1983

By Council Members Holden, Kallos, Gjonaj and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to guidance to private employers and the public in the event of a highly transmissible disease emergency

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 17-104.1 to read as follows:

§ 17-104.1 *Highly transmissible diseases; guidance for private employers. a. Definitions. For purposes of this section, the following terms have the following meanings:*

Highly transmissible disease. The term “highly transmissible disease” means a disease for which no vaccine is readily available and that can be transmitted through aerosols or respiratory droplets.

Highly transmissible disease emergency. The term “highly transmissible disease emergency” means any time during which, due to the spread of a highly transmissible disease, a state of emergency has been declared by the governor pursuant to section 28 of the executive law or by the mayor pursuant to section 24 of the executive law or a public health emergency has been declared by the commissioner pursuant to section 3.01(d) of the New York city health code.

b. Guidance for private employers. The department shall develop and publish on its website guidance and recommendations for private employers in the event of a highly transmissible disease emergency. Such guidance shall set forth measures that private employers may take during an outbreak of a highly transmissible disease to mitigate disease transmission.

§ 2. Title 19 of the administrative code of the city of New York is amended by adding a new chapter 11 to read as follows:

**CHAPTER 11
PUBLIC HEALTH EMERGENCIES**

§ 19-1101. *Highly transmissible disease emergencies. a. Definitions. For purposes of this section, the following terms have the following meanings:*

Highly transmissible disease. The term “highly transmissible disease” means a disease for which no vaccine is readily available and that can be transmitted through aerosols or respiratory droplets.

Highly transmissible disease emergency. The term “highly transmissible disease emergency” means any time during which, due to the spread of a highly transmissible disease, a state of emergency has been declared by the governor pursuant to section 28 of the executive law or by the mayor pursuant to section 24 of the executive law or a public health emergency has been declared by the commissioner of health and mental hygiene pursuant to section 3.01(d) of the New York city health code.

b. Highly transmissible disease emergencies. The department, in consultation with the department of health and mental hygiene and the metropolitan transportation authority, shall develop and publish on its website public guidance and recommendations for the reduction of travel and the reduction in usage of public transportation and mass transit in the event of a highly transmissible disease emergency. Such guidance shall set forth measures that the public may take during an outbreak of a highly transmissible disease to reduce the risk of disease exposure and transmission.

§ 3. This local law takes effect immediately.

Referred to the Committee on Health.

Int. No. 1984

By Council Members Levine, Kallos, Gjonaj, Chin and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to a hospital surge capacity plan

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 30 of the administrative code of the city of New York is amended by adding a new section 30-116 to read as follows:

§ 30-116 Hospital surge capacity plan. a. The commissioner, in consultation with hospitals, the department of health and mental hygiene and other relevant city, state and federal agencies, shall develop a hospital surge capacity plan to ensure the ability of hospitals to increase bed capacity by 100 percent, to the extent feasible, in the event of a public health emergency declared by the commissioner of health and mental hygiene or a state of emergency declared by the president of the United States, the governor or the mayor. Such plan shall include but not be limited to the following information:

- 1. Protocols and procedures for activation and implementation of such plan;*
- 2. Strategies and tactics that hospitals may implement to increase bed capacity, such as canceling elective surgeries and procedures and transitioning non-critical patients to other hospital areas;*
- 3. Protocols and procedures to meet additional equipment, supply and other resource needs related to increasing bed capacity; and*
- 4. A mechanism to establish ongoing communication among hospitals, the office and other relevant governmental agencies to report daily patient census and bed capacity.*

b. No later than 180 days after the effective date of this local law, the commissioner shall submit to the council a copy of the hospital surge capacity plan required pursuant to subdivision a of this section. The commissioner shall assess such plan annually and shall provide the council with updated versions of such plan no later than 60 days after any subsequent revisions to such plan.

c. Notwithstanding the requirements of this section, the commissioner shall not be required to disclose to the council portions of the hospital surge capacity plan required pursuant to subdivision a of this section or revisions made to such plan, where disclosure of such information could compromise public safety or health.

§ 2. This local law takes effect immediately.

Referred to the Committee on Hospitals.

Int. No. 1985

By Council Members Levine, Brannan, Koo, Kallos, Gjonaj and Yeger.

A Local Law to amend the administrative code of the city of New York in relation to requiring the commissioner of parks and recreation to open beaches during the 2020 bathing season in accordance with guidance from the New York state department of health

Be it enacted by the Council as follows:

Section 1. Section 18-154 of the administrative code of the city of New York is amended by adding new subdivisions a-1 and a-2 to read as follows:

a-1. During the 2020 bathing season, the commissioner shall open beaches to the public, including for bathing, in accordance with the New York state department of health's interim guidance for beach activities

during the COVID-19 public health emergency for lake and ocean beaches, and with any additional precautions or restrictions provided by the department of health and mental hygiene.

a-2. During the 2020 bathing season, the commissioner, in consultation with the commissioner of health and mental hygiene, shall publish on the department's website and regularly update, as necessary and practicable, recommendations and guidelines to protect against the spread of COVID-19 while beaches are in operation.

§ 2. Subdivision b of section 18-154 of the administrative code of the city of New York, as added by local law number 181 for the year 2017, is amended to read as follows:

b. Notwithstanding [subdivision] *subdivisions a, a-1 and a-2* of this section, the commissioner may limit the bathing season for extreme weather conditions, staffing level requirements for beaches or particular facilities, and the safety of the public.

§ 3. This local law takes effect immediately.

Referred to the Committee on Parks and Recreation.

Int. No. 1986

By Council Members Menchaca, Kallos and Yeger.

A Local Law to amend the administrative code of the city of New York, in relation to burial services during a state of emergency

Be it enacted by the Council as follows:

Section 1. Section 21-110.2 of the administrative code of the city of New York, as added by local law number 213 for the year 2019, is amended by adding two subdivisions b and c to read as follows:

b. Whenever a state of emergency declared by the mayor or governor is in effect, the office of burial services shall:

1) Notify New York city residents of any changes in burial services provided by the city within 24 hours of such changes taking effect; and

2) Establish a dedicated hotline to respond to questions regarding burial services in the city.

c. The notification provided by the office pursuant to paragraph 1 of subdivision b of this section shall be made available in each of the designated citywide languages, as defined in section 23-1101.

§ 2. This local law takes effect 90 days after it becomes law, except that the commissioner may take such actions as are necessary to implement this local law, including the promulgation of rules, before such date, and is deemed repealed two years after it becomes law.

Referred to the Committee on Health.

Int. No. 1987

By The Public Advocate (Mr. Williams) and Council Members Kallos and Chin.

A Local Law in relation to the creation of a state of emergency response and recovery task force

Be it enacted by the Council as follows:

Section 1. Definitions. For purposes of this local law, the following terms have the following meanings:

Emergency plan. The term “emergency plan” means a plan made by a city agency to respond to a declared state of emergency.

State of emergency. The term “state of emergency” means a declaration of a local state of emergency by the mayor or a declaration of a state disaster emergency by the governor, provided that the city of New York, or some portion thereof, is also declared an affected area.

§ 2. Task force established. There is hereby established a task force to be known as the state of emergency response and recovery task force.

§ 3. Duties. The task force shall review every city agency’s emergency plan and shall make recommendations for legislation and policy to address any concerns identified.

§ 4. Membership. a. The task force shall be composed of the following members:

1. The commissioner of emergency management or such commissioner’s designee, who shall serve as co-chair of the task force;

2. Three members appointed by the public advocate, one of whom shall serve as co-chair of the task force;

3. Three members appointed by the mayor; and

4. Two members appointed by the speaker of the council.

b. All appointments required by this section shall be made no later than 60 days after the effective date of this local law.

c. Each member of the task force shall serve at the pleasure of the officer who appointed the member. In the event of a vacancy on the task force, a successor shall be selected in the same manner as the original appointment. All members of the task force shall serve without compensation.

§ 5. Meetings. a. The co-chairs shall convene the first meeting of the task force no later than 30 days after the last member has been appointed.

b. The task force may invite relevant experts and stakeholders to attend its meetings and to otherwise provide testimony and information relevant to its duties.

c. The task force shall meet no less than once each quarter to carry out the duties described in section three and may hold additional meetings as deemed necessary by the co-chairs. The task force shall hold at least one public hearing each year.

§ 6. Report. a. No later than 1 year after the effective date of this local law, and annually thereafter, the task force shall submit a report to the mayor, the speaker of the council and the public advocate, setting forth its recommendations for legislation and policy relating to each agency’s emergency plan. The report shall include a summary of information the task force considered in formulating its recommendations.

b. The commissioner of emergency management shall publish the task force’s report electronically on the emergency management department’s website no later than 30 days after its submission to the mayor, the speaker of the council and the public advocate.

§ 7. Agency support. Each agency affected by this local law shall provide appropriate staff and resources to support the work of such agency related to the task force.

§ 8. Effective date. This local law takes effect immediately.

Referred to the Committee on Fire and Emergency Management.

Int. No. 1988

By The Public Advocate (Mr. Williams) and Council Member Kallos.

A Local Law to amend the administrative code of the city of New York, in relation to the establishment of a task force to develop equitable responses to infectious disease related emergencies, including COVID-19

Be it enacted by the Council as follows:

Section 1. Title 30 of the administrative code of the city of New York is amended by adding a new chapter 2 to read as follows:

CHAPTER 2
INFECTIOUS DISEASE RELATED EMERGENCIES

§ 30-201 Task force to develop equitable responses to infectious disease related emergencies. *a. Definitions. For purposes of this section, the term “task force” means the ensuring equity task force.*

b. Task force established. There is hereby established a task force to be known as the ensuring equity task force.

c. Duties. The task force shall study racial disparities in exposure to infectious disease and related testing, treatment and outcomes citywide whenever a state disaster emergency or local state of emergency is declared in relation to an infectious disease that affects the city, and shall make recommendations for legislation and policy to mitigate and eliminate such disparities pursuant to subdivision f of this section.

d. Membership. 1. The task force shall be composed of the following members:

(a) The commissioner of health and mental hygiene or such commissioner’s designee;

(b) The commissioner of emergency management or such commissioner’s designee;

(c) The commissioner of small business services or such commissioner’s designee;

(d) The director of the mayor’s office of minority and women-owned business enterprises or such director’s designee;

(e) Five members appointed by the mayor;

(f) Two members appointed by the speaker of the council; and

(g) Two members appointed by the public advocate.

2. The public advocate shall designate a chair among the members of the task force.

3. The mayor may invite officers and representatives of relevant federal, state and local agencies and authorities to participate in the work of the task force.

4. Each member of the task force shall serve at the pleasure of the officer who appointed the member. In the event of a vacancy on the task force, a successor shall be appointed in the same manner as the original appointment. All members of the task force shall serve without compensation.

e. Meetings. 1. The task force shall hold at least one meeting each week for any period of time during which an executive order of the governor declares a state disaster emergency related to an infectious disease that affects the city, or an order of the mayor declares a local state of emergency related to an infectious disease. Notwithstanding the expiration of any such order, the task force shall continue to hold at least one meeting each week until the submission of a report pursuant to subdivision f of this section in connection with the originating infectious disease related emergency.

2. The task force may invite experts and stakeholders to attend its meetings and to provide testimony and information relevant to its duties.

3. Meetings may be held in person or via videoconferencing. Public access shall be granted to all meetings via videoconferencing. The minutes of such meetings shall be published on the office’s website no later than one day after each such meeting.

f. Report. 1. No later than 100 days after the task force’s first meeting after the issuance of an executive order of the governor declaring a state disaster emergency or an order of the mayor declaring a local state of emergency related to an infectious disease, the task force shall submit a report to the mayor, the speaker of the council and the public advocate setting forth its recommendations for legislation and policy relating to the mitigation and elimination of racial disparities in exposure to infectious disease and related testing, treatment and outcomes. The report shall set forth a plan to mitigate such disparities, which shall address city-provided financial support and other programs that may improve outcomes for persons affected by the disparities identified in such report. The report shall include a summary of information the task force considered in formulating its recommendations.

2. The commissioner of emergency management shall publish the task force’s report on the office’s website no later than one day after its submission to the mayor, the speaker of the council and the public advocate.

g. Agency support. Each agency shall provide appropriate staff and resources to support the work of such agency related to the task force.

h. Suspension and reinstatement. 1. The task force’s duties pursuant to subdivision c of this section and the task force’s meeting requirements pursuant to subdivision e of this section shall be suspended upon submission of a report pursuant to subdivision f of this section unless the chair of the task force determines that continued

study is necessary to make further recommendations for legislation and policy to mitigate and eliminate racial disparities in infectious disease exposure and related testing, treatment and outcomes. Upon a determination by the chair that continued study is necessary, the task force shall continue to meet for a duration of time and with such frequency as the chair determines is sufficient to perform the task force's duties, and shall prepare and submit further reports setting forth recommendations for legislation and policy as the chair determines are necessary to accomplish the task force's objectives.

2. The task force's duties and meeting requirements shall be reinstated whenever the governor issues an executive order declaring a state disaster emergency related to an infectious disease that affects the city, or whenever the mayor issues an order declaring a local state of emergency related to an infectious disease.

§ 2. This local law takes effect immediately, and all appointments required by this local law shall be made no later than 60 days after such date.

Referred to the Committee on Health.

Int. No. 1989

By The Public Advocate (Mr. Williams) and Council Members Kallos and Chin.

A Local Law to amend the administrative code of the city of New York, in relation to granting the office of the inspector general and the department of records and information services access to body-worn camera footage

Be it enacted by the Council as follows:

Section 1. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-178 to read as follows:

§ 14-178 Access to body worn camera footage.

The department shall provide access to all body-worn camera footage of an officer's law enforcement activity to the person identified in paragraph 1 of subdivision c of section 803 of the New York City Charter and the department of records and information services within 120 hours of such footage being recorded. For the purposes of this section, the term "body-worn camera" means a video recording device that can be attached or affixed to a person's body, apparel or clothing and the terms "law enforcement activity," "noncustodial questioning" and "officer" have the same meanings as in section 14-174.

§ 2. This local takes effect January 1, 2021.

Referred to the Committee on Public Safety.

Int. No. 1990

By The Public Advocate (Mr. Williams) and Council Members Powers, Louis, Gibson, Kallos and Chin.

A Local Law to amend the administrative code of the city of New York, in relation the provision of interest-free loans to small businesses, non-profits, and freelance workers following certain emergency circumstances

Be it enacted by the Council as follows:

Section 1. Subchapter 2 of chapter 8 of title 22 of the administrative code of the city of New York is amended by adding a new section 22-1006 to read as follows:

§ 22-1006 *Emergency loan programs. a. Definitions. For purposes of this section, the following terms have the following meanings:*

Freelance worker. The term “freelance worker” means any natural person or any organization composed of no more than one natural person, whether or not incorporated or employing a trade name, that is hired or retained as an independent contractor by a hiring party to provide services in exchange for compensation.

Interest-free loan. The term “interest-free loan” means a loan with terms including interest rates of zero percent.

Operating expenses. The term “operating expenses” means money spent during the normal operation of business, including but not limited to rent, payroll, insurance, equipment, inventory costs, and other expenses as determined by the commissioner.

Small business. The term “small business” means a small business as defined by the United States small business administration pursuant to part 121 of title 13 of the code of federal regulations.

b. During emergencies declared by the mayor or governor, the department shall establish and operate a program to provide interest-free loans to partially or fully fund the operating expenses of small businesses, non-profit organizations, or freelance workers and independent contractors not otherwise eligible for unemployment insurance, that are required to substantially limit their operations by, or which are otherwise substantially negatively impacted financially by, such state of emergency.

c. The commissioner shall establish eligibility criteria and procedures for the application for, disbursement of, and repayment of interest-free loans pursuant to this section. Such information established pursuant to this subdivision shall be made publicly available on the department’s website. Such criteria must ensure that loans are: (i) made available to individuals and entities regardless of immigration status or prior contractual relationships with the City, and (ii) distributed in a manner that focuses on individuals and entities that have been excluded from state and federal small business loan programs, if any.

d. The commissioner shall establish the terms and conditions of such loans, including: (i) the amount to be loaned, (ii) the length of the repayment term, (iii) procedures in the event of default, and (iv) circumstances upon which a borrower would be released from the obligation to repay part or all of a loan received pursuant to this section.

§ 2. This local law takes effect 365 days after it becomes law, provided that the commissioner of small business services may take all actions necessary for its implementation, including the promulgation of rules, before such effective date.

Referred to the Committee on Small Business.

Int. No. 1991

By Council Members Torres, Lander, Kallos, Chin and the Public Advocate (Mr. Williams).

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of investigation to investigate allegations of evidentiary misconduct by police officers.

Be it enacted by the Council as follows:

Section 1. Chapter 34 of the New York city charter is amended by adding a new section 809 to read as follows:

809. Evidentiary misconduct complaints in criminal prosecutions.

a. Definitions. As used in this section, the following terms have the following meanings

Evidentiary misconduct. The term “evidentiary misconduct” means any conduct that impugns the integrity of a criminal proceeding as defined in the criminal procedure law, including but not limited to:

1. Interrogation tactics that compromise an individual’s constitutional rights or the veracity of a suspect’s statement;

2. Providing false or misleading testimony or information, or colluding with other individuals to provide such testimony or information to a court or District Attorney;

3. *Withholding relevant exculpatory evidence;*
4. *Failing to follow NYPD protocols related to the use of body-worn cameras;*
5. *Failing to preserve and disclose to a District Attorney in a timely manner evidence or reports that are discoverable pursuant to state law or*
6. *Conducting identification procedures in a manner likely to compromise the integrity of the witness identification or the reliability of the witness.*

Interested parties. The term “interested parties” means any defendant, prosecutor, attorney, judge, court attorney, police officer, or other individual who has evidence that an officer engaged in evidentiary misconduct.

b. The department shall create within 180 days and maintain an online referral system for receiving complaints from interested parties alleging evidentiary misconduct. The department shall coordinate with the mayor’s office of criminal justice to notify defense organizations, district attorneys, court staff, and any other interested parties regarding the procedures for filing such a complaint.

c. Investigation of complaints. After receiving a complaint, the department shall fully investigate the merits of the complaint by reviewing all relevant documents provided by the interested party, all available court records including transcripts of any testimony, and any relevant information in the possession of the New York police department including contemporaneous reports, notes, and other case information associated with the arrest. The department may seek to interview the officer who is the subject of the complaint. The department shall not inspect any personnel file or disciplinary record in connection with the investigation.

2. Upon review of the relevant documentation, the department shall substantiate any case in which it determines that the officer engaged in conduct that impugns the integrity of any criminal court process. The department shall notify the relevant interested party or parties of its determination.

d. Investigation of substantiated cases. For each complaint substantiated pursuant to subdivision c of this section, the department shall make a determination as to whether a preponderance of the evidence indicates that the evidentiary misconduct was knowing or intentional.

1. For any evidentiary misconduct that the department determines was willful, knowing or intentional, the department shall:

(a) determine whether the evidentiary misconduct is part of a pattern of officer misconduct by obtaining records relating to prior arrests, obtaining transcripts of prior court testimony, seeking an order from a criminal court judge to inspect any sealed records that are relevant to the investigation, requesting any relevant documentation from the District Attorney in the county in which the prosecution occurred, reviewing any state or federal civil litigation involving the officer, and by viewing body camera footage of the officer. The department shall not review any personnel records in connection with its investigation

(b) publish a report describing its conclusions about the officer’s evidentiary misconduct; and

(c) deliver a copy of such report to the relevant interested party or parties and the District Attorneys in all five counties.

2. For any evidentiary misconduct for which the department determines that there was insufficient evidence to establish was a willful, knowing or intentional act, the department shall deliver a report describing such misconduct to the internal affairs bureau of the New York City police department for further investigation and a recommendation for whether the complaint warrants retraining of one or more members of service or disciplinary action against one or more members of service.

3. For any evidentiary misconduct that constitutes a criminal offense, the department shall refer the case to the appropriate District Attorney.

e. Reporting. Within 60 days of the end of each calendar year, the department shall post on its website a report including:

1. For each type of evidentiary misconduct, the following information for the prior calendar year: the number of complaints received, the number of complaints substantiated, the number of complaints pending substantiation review, the number of substantiated cases pending further investigation, the number of substantiated complaints determined to be willful, knowing or intentional, and the number of substantiated complaints referred to the police department; and

2. A detailed description of the acts constituting evidentiary misconduct for which there was insufficient evidence to determine that such evidentiary misconduct was willful, knowing, or intentional, including the reasons the department determined that there was insufficient evidence to make such determination, and any patterns or practices revealed through the department’s investigation, as permitted by law.

§ 2. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-181 to read as follows:

§14-181. *Compliance with investigation of complaints and substantiated allegations of evidentiary misconduct. The department shall provide all information, documents, and relevant body worn camera footage within 7 business days of any request in relation to an investigation of evidentiary misconduct conducted pursuant to section 809 of the charter. The department shall make available for a questioning any employee of the department identified by the department of investigation as a relevant witness to a substantiated allegation of evidentiary misconduct.*

§ 3. This local law takes effect immediately.

Referred to the Committee on Oversight and Investigations.

Preconsidered L.U. No. 664

By Council Member Dromm:

3415 Knox Place.GHPP.FY20, Block 3324, Lot 89; Bronx, Community District No. 7, Council District No. 11.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

[NEW YORK CITY COUNCIL](#)

A N N O U N C E M E N T S

Monday, June 29, 2020

[Committee on Public Housing](#) jointly with the
[Committee on Housing and Buildings](#)

Alicka Ampry-Samuel, Chairperson
Robert Cornegy, Jr., Chairperson

Oversight - Tenant Safety and Building Sanitation in the Time of COVID-19.

Remote Hearing (Virtual Room 1).....1:00 p.m.

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Johnson) acknowledged that June 26th marked the two year anniversary of the United States Supreme Court decision upholding the President’s Muslim ban. He described this Muslim ban as racist and against what this country stand for – he further declared that it was necessary to continue to fight such policies emanating from this White House.

The Speaker (Council Member Johnson) also acknowledged that June 28th would mark the fiftieth anniversary of New York City’s Pride Parade. He noted that the Parade celebrates the achievements of the gay community which includes the encouragement of love and acceptance.

Whereupon on motion of the Speaker (Council Member Johnson), the Public Advocate (Mr. Williams) adjourned these virtual proceedings to meet again for the next scheduled Stated Meeting.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor’s Note: The next Stated Meeting was scheduled subsequently for Tuesday, June 30, 2020.