

## THE COUNCIL

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*Minutes of the Proceedings for the  
STATED MEETING  
of  
Thursday, March 18, 2021, 1:40 p.m.  
held remotely via video-conference*

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

### Council Members

Corey D. Johnson, *Speaker*

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

Absent: Council Member Deutsch.

At the time of this virtual Stated Meeting, there were three vacant seats in the Council pending the swearing in of the certified winners of the special non-partisan elections held on these dates: February 23, 2021 in the 31st District (Queens); March 23, 2021 in the 11th and 15th Districts (The Bronx).

The Majority Leader (Council Member Cumbo) 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 Majority Leader and the Acting President Pro Tempore (Council Member Cumbo).

*There were 47 Council Members marked present at this virtual Stated Meeting.*

### INVOCATION

The Invocation was delivered by Sister Teresa Fitzgerald, CSJ, spiritual leader of Hour Children, located at 36-11 12th Street, Long Island City, NY 11106.

Good afternoon everyone.  
 Let us pause for a moment of welcome silence.  
 Loving and gracious God, God of many names and faces,  
 we ask your blessings upon this gathering of the City Council  
 and upon the lives of all New Yorkers  
 especially the poor, the homeless,  
 the unemployed, and the incarcerated.  
 With tender love and compassion  
 embrace those whose lives and livelihoods  
 have been devastated by this pervasive pandemic.  
 May we always walk the pathway  
 of racial justice and equity.  
 We pray that all grow more aware  
 of our awesome responsibility  
 to shape policies and laws that affect the lives  
 of the men, women, and children  
 who are entrusted to our care.  
 As we celebrate Women's History Month  
 and the accomplishment and goodness of countless women,  
 especially those we lovingly call mother,  
 may we put aside partisan politics  
 and ask for your wisdom and vision on all our deliberations.  
 If our hopes have become faded, revive them.  
 If our ideals have become tarnished, restore them.  
 If our principles have become clouded, focus them.  
 If our values have become confused, clarify them.  
 If our horizons have become narrowed, widen them.  
 Be with us, oh gracious God, in this time and place  
 so that together we might create a future  
 that gives hope and promise  
 and to create a better tomorrow  
 for all who call New York City home  
 and to this we say  
 Amen.

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

During the Communication from the Speaker segment of this meeting, the Speaker (Council Member Johnson) acknowledged that the number of coronavirus deaths in New York City had reached 30,406 as of March 17, 2021. He also noted that it was one year since the COVID-19 virus came bearing down on the city. The Speaker (Council Member Johnson) asked that we never forget all of the lives that were lost and all of the pain that was suffered. He asked that we also remember the unbelievable sacrifice and restraint shown by New Yorkers in the past year. He noted that this same strength and sacrifice would help New York come back stronger than it was before.

The Speaker (Council Member Johnson) acknowledged the recent March 16, 2021 mass shooting that took place at several spas in Atlanta, Georgia. He noted that six of the eight individuals killed were Asian women. The Speaker (Council Member Johnson) described the shooting as an attack on humanity. He also noted that this attack followed a pattern of hate crimes and abuse that have been committed against Asian Americans over the past year. He emphasized that discrimination in any form was unacceptable and that New Yorkers must continue to fight anti-Asian rhetoric and anti-Asian hate crimes that were occurring in the city as well. On behalf of the Council, the Speaker (Council Member Johnson) offered his thoughts and prayers to the families of the victims.

The Speaker (Council Member Johnson) acknowledged that several more first responders had recently died of 9/11-related illnesses: retired FDNY Firefighter Dennis A. Farrell, 59; retired FDNY Firefighter George H. Wilton, Jr., 69; NYPD Detective Brian Maley, who served the city for 22 years; retired NYPD officer Gerard J. Bowden; and Corrections Officer Conal P. Gallagher, 62.

The Speaker (Council Member Johnson) also acknowledged that another New Yorker had recently lost his life during the course of his employment: Brooklyn assistant superintendent Kennie Lessie, 64, was killed on March 5, 2021 while trying to retrieve a neighbor's cell phone from an elevator machine room.

The Speaker (Council Member Johnson) acknowledged that disabilities advocate and activist Edith Prentiss had recently passed away. Ms. Prentiss died on March 16, 2021 at the age of 69. He noted that Ms. Prentiss had fought tirelessly to make the city more accessible for all New Yorkers including those who came to testify before the Council. On behalf of the Council, the Speaker (Council Member Johnson) expressed his debt of gratitude to her for her advocacy.

The Speaker (Council Member Johnson) also acknowledged a death in the Council family: Dr. June Kallos, mother of Council Member Ben Kallos, passed away on March 10, 2021. He noted that Dr. Kallos had grown up on the Upper East Side and was a retired behavioral therapist who had taught psychology at CUNY. On behalf of the Council, the Speaker (Council Member Johnson) offered his condolences to Council Member Kallos and his entire family during this difficult time.

The Speaker (Council Member Johnson) asked for a Moment of Silence in memory of the individuals named above and in memory of those who had lost their lives to COVID-19.

At this point, a Moment of Silence was observed.

\* \* \*

**ADOPTION OF MINUTES**

Council Member Koslowitz moved that the Minutes of the Stated Meetings of February 11, 2021 and February 25, 2021 be adopted as printed.

**COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES**

Preconsidered M-291

**The Operating Budget of the Council of the City of New York.**

March 10, 2021

TO: Honorable Corey Johnson  
Speaker

Honorable Daniel Dromm  
Chairperson, Finance Committee

FROM: Marcello Testa  
Fiscal Officer

**SUBJECT: THE BUDGET OF THE COUNCIL OF THE CITY OF NEW YORK**

**Precon. (M 291) The Operating Budget of the Council of the City of New York**  
**Precon. (M 292) Schedule Detailing the Lump-Sum OTPS Unit of Appropriation of the Operating Budget of the Council of the City of New York**

**INITIATION:** Pursuant to section 243 of the New York City Charter, the Council is authorized to present, for inclusion in the executive budget without amendment by the Mayor, its operating budget. This document presents a summary description of the structure and presentation of the Council's budget, and sets forth the proposed Council budget for consideration and approval by the Finance Committee and the Council. Also included is a resolution for the approval of a lump-sum OTPS unit of appropriation.

**(For text of the entire Operating Budget and Schedule Detailing the Lump-Sum OTPS Unit of Appropriation, please refer to the City Council website at <http://council.nyc.gov> for the Operating Budget attachment to the [M-291 of 2021 file](#)).**

Referred to the Committee on Finance.

## Preconsidered M-292

**Schedule detailing the lump sum OTPS Unit of Appropriation of the Operating Budget of the Council of the City of New York.**

(For text of the entire Operating Budget and Schedule Detailing the Lump-Sum OTPS Unit of Appropriation, please refer to the City Council website at <http://council.nyc.gov> for the Operating Budget attachment to the [M-291 of 2021 file](#) )

Referred to the Committee on Finance.

**LAND USE CALL-UPS**

M-293

By Council Member Levin:

**Pursuant to Sections 11.20(b-c) of the Council Rules and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the actions of the City Planning Commission on related Application No. C 200356 PPK (69 Adams Street) shall be subject to Council review.**

Coupled on Call-up vote.

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

**Affirmative** – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, 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**.

At this point, the Majority Leader and the Acting President Pro Tempore (Council Member Cumbo) declared the aforementioned item **adopted** and referred this item to the Committee on Land Use and to the appropriate Land Use subcommittee.

**REPORTS OF THE STANDING COMMITTEES****Report of the Committee on Environmental Protection**

Report for Int. No. 2170-A

**Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the sustainable energy loan program.**

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on December 10, 2020 (Minutes, page 2598), respectfully

**REPORTS:****I. INTRODUCTION**

On March 18, 2021, the Committee on Environmental Protection, chaired by Council Member Costa Constantinides, voted on Int. No. 2170-A, in relation to the sustainable energy program.

The Committee previously held a hearing on Int. No. 2170 on February 16, 2021 and received testimony from the New York City Mayor's Office of Sustainability, apartment and building owners, financing institutions, and interested members of the public. More information about this legislation is available with the materials for this hearing, which can be accessed online at <https://on.nyc.gov/2P30Dw4>.

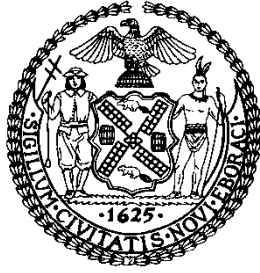
**II. INT. NO. 2170-A**

Int. No. 2170-A would amend the previously enacted sustainable energy loan program, which was generally limited to financing for energy improvements made to existing buildings, to also include energy efficiency improvements incorporated into new construction. The bill also defines real property to mean any property, an interest in which is or is eligible to be recorded with the city register or the office of the Richmond county clerk by the possessor of such interest. This local law would take effect immediately.

**III. UPDATE**

On March 18, 2021, the Committee adopted Int. No. 2170-A by a vote of five in the affirmative, zero in the negative. Accordingly, the Committee recommends the adoption of this legislation.

**(The following is the text of the Fiscal Impact Statement for Int. No. 2170-A:)**



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

**PROPOSED INTRO. NO. 2170-A**

**COMMITTEE:** Environmental Protection

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to the sustainable energy loan program.

**SPONSORS:** Council Members Constantinides, Kallos, Rosenthal and Rivera.

**SUMMARY OF LEGISLATION:** Proposed Intro. No. 2170-A would amend the previously enacted sustainable energy loan program to permit the energy efficiency improvements incorporated into real property as an improvement or component of a new or existing building. Furthermore, it would define real property to mean any property, an interest in which is or is eligible to be recorded with the City Register or the Office of the Richmond County Clerk by the possessor of such interest.

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

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

**FISCAL IMPACT STATEMENT:**

	Effective FY21	FY Succeeding Effective FY22	Full Fiscal Impact FY22
<b>Revenues (+)</b>	\$0	\$0	\$0
<b>Expenditures (-)</b>	\$0	\$0	\$0
<b>Net</b>	\$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 as the relevant office would use existing resources to implement the requirements of the legislation.

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

**SOURCES OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Jonathan Seltzer, Senior Financial Analyst

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

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council as Intro. No. 2170 on December 10, 2020 and referred to the Committee on Environmental Protection (Committee). The Committee heard the

legislation on February 16, 2021 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 2170-A, will be considered by the Committee on March 18, 2021. Upon a successful vote by the Committee, Proposed Intro. No. 2170-A will be submitted to the full Council for a vote on March 18, 2021.

**DATE PREPARED:** March 17, 2021

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

**(The following is the text of Int. No. 2170-A:)**

Int. No. 2170-A

By Council Members Constantinides, Kallos, Rosenthal, Rivera and Gennaro.

**A Local Law to amend the administrative code of the city of New York, in relation to the sustainable energy loan program**

*Be it enacted by the Council as follows:*

Section 1. The definitions of “energy audit” and “energy efficiency improvement” in section 11-3001 of the administrative code of the city of New York, as added by local law number 96 for the year 2019, are amended to read as follows:

Energy audit. The term "energy audit" means a formal evaluation of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the authority, or certified by a certifying entity approved by the authority for purposes of article 5-L of the general municipal law, or certified by the administering agency, for the purpose of identifying appropriate energy efficiency improvements that could be made to *or incorporated into the construction of* the property.

Energy efficiency improvement. The term "energy efficiency improvement" means any *improvement to real property, whether as a component of the new construction of a building or as the renovation or retrofitting of [a] an existing building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the authority. However, "energy efficiency improvement" shall not include lighting measures or household appliances that are not permanently fixed to real property.*

§ 2. Section 11-3001 of the administrative code of the city of New York is amended by adding a new definition of “real property” in alphabetical order to read as follows:

*Real property. The term “real property” means any property, an interest in which is or is eligible to be recorded with the city register or the office of the Richmond county clerk by the possessor of such interest.*

§ 3. This local law takes effect immediately.

COSTA G. CONSTANTINIDES, *Chairperson*; STEPHEN T. LEVIN, CARLOS MENCHACA, DARMA V. DIAZ, ERIC A. ULRICH; Committee on Environmental Protection, March 18, 2021 (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 of the Committee on Finance**

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 M-291

**Report of the Committee on Finance in favor of approving the Operating Budget of the Council of the City of New York.**

The Committee on Finance, to which the annexed preconsidered Council communication was referred on March 18, 2021 and which same Council communication was coupled with the resolution shown below, respectfully

**REPORTS:**

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

March 10, 2021

TO: Honorable Corey Johnson  
Speaker

Honorable Daniel Dromm  
Chairperson, Finance Committee

FROM: Marcello Testa  
Fiscal Officer

**SUBJECT: THE BUDGET OF THE COUNCIL OF THE CITY OF NEW YORK**

**Precon. (M 291) The Operating Budget of the Council of the City of New York**

**Precon. (M 292) Schedule Detailing the Lump-Sum OTPS Unit of Appropriation of the Operating Budget of the Council of the City of New York**

**INITIATION:** Pursuant to section 243 of the New York City Charter, the Council is authorized to present, for inclusion in the executive budget without amendment by the Mayor, its operating budget. This document presents a summary description of the structure and presentation of the Council's budget, and sets forth the proposed Council budget for consideration and approval by the Finance Committee and the Council. Also included is a resolution for the approval of a lump-sum OTPS unit of appropriation.

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

Res. No. 1569

**RESOLUTION APPROVING THE FISCAL YEAR 2022 OPERATING BUDGET OF THE COUNCIL OF THE CITY OF NEW YORK.**

**Resolved:** By the Council of the City of New York, pursuant to the provisions of section 243 of the New York City Charter that the following amounts shall be submitted to the Mayor, for inclusion in the executive budget for the operating budget for the Council of the City of New York.

**ATTACHMENT:**

## Summary:

Under the City Charter, the City Council is authorized to structure its own budget. This budget must be presented to the Mayor, for inclusion in the Executive Budget, after the Council approves it.

The Council's staff is described through divisions within three units of appropriation: Council Members and their aides, Committee Staffing, and Council Services. These and the standing committees each have a U/A for PS. OTPS is divided into the following categories: members, central staff, and each standing committee. A separate resolution approving the central staff's lump sum unit of appropriation is attached for Council approval pursuant to Section 100 (c) of the Charter.

Council Member office budgets are funded in U/A 001 object 021 (PS) and U/A 100 objects 400 and 414 (OTPS). Funds allocated for each Member's budget total \$521,000.

Staff from the Office of the General Counsel, Governmental Affairs, Finance, Land Use, Infrastructure, and Human Services divisions are specifically assigned to each committee and subcommittee. These analysts and attorneys in turn are supported by the Administrative Services Division, which functions as the central administration.

**Staffs from the following Divisions are assigned to these Committees and Subcommittees:****Finance**

- ❖ Finance
- ❖ Capital Budget (Subcommittee)

**Land Use**

- ❖ Land Use
- ❖ Landmarks, Public Siting & Dispositions (Subcommittee)
- ❖ Zoning & Franchises (Subcommittee)

**General Counsel**

- ❖ Rules, Privileges & Elections
- ❖ Standards & Ethics

**Governmental Affairs**

- ❖ Civil & Human Rights
- ❖ Consumer Affairs & Business Licensing
- ❖ Contracts
- ❖ Criminal Justice
- ❖ Fire & Emergency Management
- ❖ General Welfare
- ❖ Governmental Operations
- ❖ Immigration
- ❖ Oversight & Investigations
- ❖ Public Safety
- ❖ State & Federal Legislation

**Human Services**

- ❖ Aging
- ❖ Civil Services & Labor
- ❖ Cultural Affairs, Libraries & International Intergroup Relations
- ❖ Education
- ❖ Health
- ❖ Higher Education
- ❖ Hospitals
- ❖ Mental Health, Disabilities and Addiction
- ❖ Small Business
- ❖ Transportation
- ❖ Veterans
- ❖ Women and Gender Equity
- ❖ Youth Services

**Infrastructure**

- ❖ Economic Development
- ❖ Environmental Protection
- ❖ Housing & Buildings
- ❖ Parks & Recreation
- ❖ Public Housing
- ❖ Resiliency & Waterfronts
- ❖ Sanitation & Solid Waste Management
- ❖ Technology

**Drafting**

- ❖ Responsible for drafting of legislation for the Council's Legislative Committees

**CITY COUNCIL BUDGET****Function:**

The New York City Council is the legislative branch of city government. Council members are elected every four years and each represents a district of approximately 160,000 people.

The Council is an equal partner with the Mayor in the governing of New York City. The Council monitors the operation and performance of city agencies. It has sole responsibility for analyzing and approving the city's budget which sets spending priorities and has decision-making powers over major land use issues. It is the city's lawmaking body.

The allocations of funds made through this Resolution are based on current projections and information available. Final allocations may vary from those anticipated in this Resolution, subject to the discretion of the Speaker.

**(For text of the entire Operating Budget and Schedule Detailing the Lump-Sum OTPS Unit of Appropriation, please refer to the City Council website at <http://council.nyc.gov> for the Operating Budget attachment to the [M-291 of 2021 file](#); please also refer to Res No. 1570 following the Report for the Committee on Finance for M-292 printed below).**

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, VANESSA L. GIBSON, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, DARMA V. DIAZ, JAMES F. GENNARO, STEVEN MATTEO; Committee on Finance, March 18, 2021 (Remote Hearing). *Other Council Members Attending: Barron and R. Diaz, Sr.*

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 M-292

**Report of the Committee on Finance in favor of approving a Schedule detailing the lump sum OTPS Unit of Appropriation of the Operating Budget of the Council of the City of New York.**

The Committee on Finance, to which the annexed preconsidered Council communication was referred on March 18, 2021 and which same Council communication was coupled with the resolution shown below, respectfully

**REPORTS:**

(For the entire text of the Operating Budget Report, please refer to the City Council website at <http://council.nyc.gov> for the Operating Budget attachment to **Res. No. 1569 of 2021**; please also refer to Res No. 1570 printed below)

*Accordingly, this Committee recommends its adoption.*

In connection herewith Council Member Dromm offered the following resolution:

Res. No. 1570

**RESOLUTION APPROVING FOR FISCAL YEAR 2022 THE SCHEDULE DETAILING THE LUMP SUM OTHER THAN PERSONAL SERVICES UNIT OF APPROPRIATION OF THE OPERATING BUDGET OF THE COUNCIL OF THE CITY OF NEW YORK.**

Resolved by the Council, pursuant to the provisions of section 100 (c) of the New York City Charter, that the following spending shall be presented in a lump sum OTPS unit of appropriation, the allocation of which corresponds to the following PS units of appropriation.

**COUNCIL BUDGET**

<b>PS</b>	<b>U/A DESCRIPTION</b>	<b>MEMO OTPS*</b>
002	COMMITTEE STAFFING	\$6,714,836
005	COUNCIL SERVICES	\$4,609,337
	<b>TOTAL OTPS</b>	<b>\$11,324,173</b>

\*Set forth for informational purposes only in accordance with Charter Section 100 (c)

\*See page 8, City Council Fiscal Year 2022 OTPS Detail

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, JAMES G. VAN BRAMER, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, VANESSA L. GIBSON, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, DARMA V. DIAZ, JAMES F. GENNARO, STEVEN MATTEO; Committee on Finance, March 18, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Barron and R. Diaz, Sr.*

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. 742

**Report of the Committee on Finance in favor of a Resolution approving Los Sures SIP HDFC, Block 2394, Lot 20, Block 2395, Lot 25, Block 2419, Lots 7, 9, and 12, Block 2432, Lot 25; Brooklyn, Community District No. 1, Council District 34.**

The Committee on Finance, to which the annexed Land Use item was referred on March 18, 2021 and which same Land Use item was coupled with the resolution shown below, respectfully

**REPORTS:**

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

March 18, 2021

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

FROM: Rebecca Chasan, Senior Counsel, Finance Division  
Noah Brick, Assistant Counsel, Finance Division

RE: Finance Committee Agenda of March 18, 2021 – Resolution approving a tax exemption for one Land Use item (Council District 34)

**Item 1: Los Sures SIP HDFC**

Los Sures SIP Housing Development Fund Company (HDFC) is comprised of six rental buildings, totaling 124 units (including 3 superintendent units), in Williamsburg, Brooklyn.

To support the moderate rehabilitation and energy and water efficiency needs of the buildings, the Department of Housing Preservation and Development (HPD) is requesting that the Council approve a full, 40-year Article XI property tax exemption to replace existing Article XI exemptions. Two of the properties – 743 Driggs Avenue and 184 South 2nd Street – have Article XI tax exemptions that will expire on January 1, 2032 and July 1, 2033, respectively. The remaining four properties – 188 South 2nd Street, 258 Grand Street, 249 South 1st Street, and 201 South 4th Street – have Article XI tax exemptions that will expire on January 8, 2053.

To formalize affordability restrictions, the HDFC would enter into a regulatory agreement with HPD that would limit the incomes of shareholder tenants to 50% Area Median Income (AMI) for 48 of the units, and 60% AMI for the other 73 units.

Summary:

- Borough – Brooklyn
- Block 2394, Lot 20; Block 2395, Lot 25; Block 2419, Lots 7, 9, and 12; Block 2432, Lot 25
- Council District – 34
- Council Member – Reynoso
- Council Member approval – Yes
- Number of buildings – 6
- Number of units – 124 (including 3 superintendent units)
- Type of exemption – Article XI, full, 40 years
- Population – affordable rental
- Sponsor – Los Sures SIP HDFC, Southside United HDFC.
- Purpose – preservation
- Cost to the City – \$2.3 million
- Housing Code Violations
  - Class A – 20
  - Class B – 19
- AMI target – 50% to 60% AMI

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

Res. No. 1571

**Resolution approving an exemption from real property taxes for property located at (Block 2394, Lot 20; Block 2395, Lot 25; Block 2419, Lots 7, 9, and 12; Block 2432, Lot 25) Brooklyn, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 742).**

By Council Member Dromm.

**WHEREAS**, the New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council its request dated February 10, 2021 that the Council take the following action regarding a housing project located at (Block 2394, Lot 20; Block 2395, Lot 25; Block 2419, Lots 7, 9, and 12; Block 2432, Lot 25) Brooklyn, (“Exemption Area”):

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

**WHEREAS**, the project description that HPD provided to the Council states that the purchaser of the Project (the “Sponsor”) is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

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

**RESOLVED:**

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

1. For the purposes hereof, the following terms shall have the following meanings:
  - a. “Community Facility Space” shall mean those portions of the Exemption Area which the Regulatory Agreement requires to be devoted solely to community facility uses.
  - b. “Effective Date” shall mean the date that HPD and the Owner enter into the Regulatory Agreement.
  - c. “Exemption Area” shall mean the real property located in the Borough of Brooklyn, City and State of New York, identified as Block 2394, Lot 20, Block 2395, Lot 25, Block 2419, Lots 7, 9, and 12, and Block 2432, Lot 25 on the Tax Map of the City of New York.
  - d. “Expiration Date” shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
  - e. “HDFC” shall mean Los Sures SIP Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
  - f. “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
  - g. “New Exemption” shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
  - h. “Owner” shall mean the HDFC.
  - i. “Prior Exemption” shall mean the exemption from real property taxation for a portion of the Exemption Area approved by the New York City Council on April 6, 2011 (Resolution No. 769) and the exemption from real property taxation for a portion of the Exemption Area approved by the New York City Council on April 6, 2011 (Resolution No. 770) and on June 14, 2011 (Resolution No. 877).
  - j. “Regulatory Agreement” shall mean the regulatory agreement between HPD and the Owner that is executed on or after September 1, 2020 and that establishes certain controls upon the operation of the Exemption Area during the term of the New Exemption.
2. The Prior Exemption shall terminate with respect to the Exemption Area upon the Effective Date.
3. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use other than the Community Facility Space), 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.
4. Notwithstanding any provision hereof to the contrary:
  - a. The New 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 New Exemption shall prospectively terminate.

- b. The New Exemption shall apply to all land in the Exemption Area, but shall only apply to buildings on the Exemption Area that exist on the Effective Date.
  - c. Nothing herein shall entitle the HDPC, 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.
  - d. All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked as of the Effective Date.
5. In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New 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, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, VANESSA L. GIBSON, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, DARMA V. DIAZ, JAMES F. GENNARO, STEVEN MATTEO; Committee on Finance, March 18, 2021 (Remote Hearing). *Other Council Members Attending: Barron and R. Diaz, Sr.*

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 Health

Report for Int. No. 864-A

**Report of the Committee on Health 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 investigations by the department of health and mental hygiene in connection with lead poisoning incidents.**

The Committee on Health, to which the annexed proposed amended local law was referred on May 9, 2018 (Minutes, page 1785), respectfully

### REPORTS:

#### INTRODUCTION

On March 18, 2021, the Committee on Health, chaired by Council Member Mark Levine, will hold a hearing on Proposed Introduction number 864-A (Proposed Int. No. 864-A), a local law to amend the administrative code of the city of New York, in relation to investigations by the department of health and mental hygiene in connection with lead poisoning incidents. This bill was originally heard at a hearing of this Committee on September 27, 2018, at which the Committee received testimony from the Department of Buildings (“DOB”), Department of Environmental Protection (“DEP”), Department for Health and Mental Hygiene (“DOHMH”), and Department of Housing Preservation and Development (“HPD”), as well as health and environmental advocates, real estate representatives, tenant advocates, and members of the public. More information about these bills along with the materials for that hearing can be found at <https://bit.ly/2Gd46k0>.

#### BACKGROUND

##### *The City’s Current Lead Laws*

The use of lead-based paint in residential buildings was first banned in New York City in 1960.<sup>1</sup> It was subsequently banned by the federal government in 1978.<sup>2</sup> However, exposure to this toxic substance, which is especially harmful to children, has continued. Local Law 1 of 2004 (“Local Law 1”), also known as the Childhood Lead Poisoning Prevention Act, was enacted to reduce the likelihood of childhood exposure to lead, with a particular focus on identifying and remediating lead-based paint hazards in apartments and day care facilities.<sup>3</sup>

Local Law 1 requires, in part, that building owners investigate units and common areas in which lead-based paint may be present, with special attention paid to units where a child under age six resides.<sup>4</sup> Any lead-based paint hazards or violations must be addressed using safe work practices to prevent additional exposure to lead, and detailed records of investigation and remediation efforts must be maintained.<sup>5</sup> Owners are also required to inquire as to the presence of children under age six residing in the building, and to provide all tenants with information regarding the presence of lead-based paint (if applicable) and the owner’s responsibilities under Local Law 1.<sup>6</sup>

In addition to the requirements placed on building owners, Local Law 1 also creates a presumption that lead-based paint is present in any day care facility built before 1978.<sup>7</sup> Any lead-based paint or paint of

<sup>1</sup> N.Y.C. Department of Housing Preservation and Development, <https://www1.nyc.gov/site/hpd/owners/Lead-Based-Paint.page>.

<sup>2</sup> U.S. Environmental Protection Agency, <https://www.epa.gov/lead/protect-your-family-exposures-lead>.

<sup>3</sup> Local Law 1 for the year 2004 available at <https://www1.nyc.gov/assets/hpd/downloads/pdf/lead-local-local1-2004.pdf>

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

unknown lead content that is peeling or on a deteriorated, impact, or friction surface must be immediately remediated, and only lead-free paint can be used to paint equipment within the facility.<sup>8</sup> The operator of a day care facility is required to conduct an annual survey to ensure that surface-coating material throughout the facility is in compliance.<sup>9</sup>

Pursuant to Local Law 1, the Department of Housing Preservation and Development (“HPD”) is primarily responsible for the implementation and enforcement of the law’s requirements, with DOHMH also maintaining a significant role in the development of rules and procedures.<sup>10</sup> Local Law 1 requires that the agencies provide training and create inspection and remediation standards as well as safe work practices.<sup>11</sup> Further, Local Law 1 requires effective collaboration between the agencies throughout the process of conducting inspections and correcting violations by, among other things, requiring HPD to audit and/or inspect multiple dwellings for lead paint following a commissioner’s order to abate from DOHMH.<sup>12</sup>

However, despite the requirements of Local Law 1, lead continues to pose a substantial hazard to the health of children in the City.<sup>13</sup> The stated goal of Local Law 1, which was to eradicate childhood lead poisoning, has not been realized, with 3,866 children under six years of age identified with elevated blood lead levels in 2018.<sup>14</sup>

### *Recent Developments*

On March 13, 2019, the Council passed 10 pieces of lead-related legislation building upon the requirements of Local Law 1.<sup>15</sup> These bills took a number of approaches to ensure the safety of children and spaces potentially overlooked by the City’s lead laws. One approach requires the investigation and remediation of lead hazards not only where children live, but also where they spend ten or more hours per week.<sup>16</sup> Another approach lowered the blood lead reference level and the lead-based paint and the lead dust thresholds to trigger more proactive investigations of lead poisoning and lead hazards.<sup>17</sup> In addition, annual investigation requirements were extended to preschools and nursery schools,<sup>18</sup> and education, outreach, and reporting requirements were strengthened to effectively inform parents, guardians, and communities about lead hazards and lead poisoning prevention.<sup>19</sup> Finally, requirements were added to increase awareness and testing of lead in water.<sup>20</sup>

On February 11, 2020, the Council passed a package of 4 bills further strengthening the city’s lead laws. Int. 904-A<sup>21</sup> expanded the investigations DOHMH is required to undertake when a pregnant person is found to have an elevated blood lead level, and after the birth of a child, requires DOHMH to monitor such child for elevated blood lead levels and assess whether the apartment where such child resides contains any lead-based

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> N.Y.C. DOHMH, Report to the New York City Council on Progress in Preventing Childhood Lead Poisoning in New York City, August 30, 2018, available at <https://www1.nyc.gov/assets/doh/downloads/pdf/lead/lead-rep-cc-annual-18.pdf>.

<sup>14</sup> N.Y.C. DOHMH, Report to the New York City Council on Progress in Preventing Childhood Lead Poisoning in New York City, September 30, 2019, available at <https://www1.nyc.gov/assets/doh/downloads/pdf/lead/lead-rep-cc-annual-19.pdf>.

<sup>15</sup> Local Laws 64, 65, 66, 67, 68, 69, 70, 71, 72 and 73 for the year 2019. See N.Y.C. Council, Stated Meeting, March 13, 2019, <https://nyc.legistar.com/MeetingDetail.aspx?ID=683513&GUID=6B168C90-0D6F-4FF5-9637-10BD41E3C554&Options=info&Search=>.

<sup>16</sup> See Local Law 064/2019 (Intro. No. 464-B), <https://nyc.legistar.com/LegislationDetail.aspx?ID=3343772&GUID=D826FA06-E66A-4ECD-BBF1-B30F7BE3C3C2&Options=&Search=>.

<sup>17</sup> See Local Law 066/2019 (Intro. No. 865-A), <https://nyc.legistar.com/LegislationDetail.aspx?ID=3498451&GUID=32932F9A-CBB0-4413-95F3-4AFCCCE64F41&Options=&Search=>.

<sup>18</sup> See Local Law 071/2019 (Intro. No. 920-A), <https://nyc.legistar.com/LegislationDetail.aspx?ID=3498552&GUID=4B027FB2-02C8-4571-9F3B-5DA56A4A1AF8&Options=&Search=>.

<sup>19</sup> See Local Laws 68/2019 (Intro. No. 877-A), 69/2019 (Intro. No. 881-A), 70/2019 (Intro. No. 918-A), 73/2019 (Intro. No. 1117-A), accessible at <https://nyc.legistar.com/MeetingDetail.aspx?ID=683513&GUID=6B168C90-0D6F-4FF5-9637-10BD41E3C554&Options=info&Search=>.

<sup>20</sup> See Local Law 73/2019 (Intro. No. 1117-A), <https://nyc.legistar.com/LegislationDetail.aspx?ID=3683904&GUID=BEAFC322-DEFE-4780-BF47-3C6FE9D5BF72&Options=&Search=>.

<sup>21</sup> See Local Law 30/2020 (Intro. No. 904-A), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3498517&GUID=E93C70A4-5C93-4372-9FF8-61AABE7F4391&Options=ID|Text|&Search=904>.

paint or unsafe lead paint. The bill also requires DOHMH to conduct outreach to new and expected parents about the availability of inspections for lead paint hazards in their homes, and to provide them with information about blood lead testing for children, unsafe construction or renovation work practices, and the availability of inspections for such practices. Int. 873-A<sup>22</sup> requires schools operated by the Department of Education to conduct regular surveys and inspections of covered facilities<sup>23</sup> within such schools for lead-based paint hazards, the results of which must be made publicly available and delivered to parents and guardians. This bill also required the Department of Housing Preservation and Development, when conducting certain inspections, to determine whether there has been a violation of the Housing Maintenance Code requirement that the owner of a building constructed before 1960 remediate lead-based paint hazards, including on friction surfaces, when a new tenant moves in. Finally, this bill established a presumption that a building owner who is unable to provide a record of having completed lead hazard remediation upon turnover has violated the provisions requiring such remediation. Int. No. 891-A<sup>24</sup> expanded the meaning of “multiple dwelling” for the purposes of the lead law requirements described in the Housing and Maintenance provisions of the Administrative Code to also include non-owner-occupied private dwellings. Finally, Int. No. 919-A requires the owners of certain dwellings to, upon the earlier of either within five years of the bill’s effective date or one year of a child moving in, arrange for a thorough inspection for lead-based paint hazards to be conducted by an independent EPA-certified inspector. It also requires home improvement contractors to be EPA-certified to ensure that they are prepared to follow lead-related safety standards.

#### **PROPOSED INT. NO. 864-A**

Proposed Int. No. 864-A would expand the investigations that the Department of Health and Mental Hygiene (“DOHMH”) is required to conduct under existing law whenever it is alerted about a child with an elevated blood lead level. Under this legislation, DOHMH or another relevant city agency would be required to inspect not just the dwelling unit where a poisoned child resides, but also any daycare, preschool, or nursery school where the child routinely spends 10 or more hours per week, as well as any park or playground where DOHMH determines that bare soil presents a potential source of lead exposure. DOHMH would also be required to inspect any apartment with a child under one in the same building as the dwelling unit where a poisoned child resides. These inspections would include analysis by an x-ray fluorescence analyzer (XRF) of all friction surfaces, chewable surfaces and impact surfaces, as well as assisting with the ordering of a free water test kit and testing of soil from any area on the property covered in bare soil that may be a potential source of lead exposure. When DOHMH issues an order to abate a lead paint hazard, landlords would be required to report XRF results for all surfaces in a unit to the Department of Housing Preservation and Development (“HPD”) within 60 days. DOHMH or another relevant city agency would be required to notify all residents of the building that a lead hazard was identified, and to provide specific notice to residents of units it intends to inspect, including the date and approximate time of such inspections, as well as refer these residents to resources to learn more about their rights under the city’s lead laws. This legislation also requires that DOHMH provide information regarding special education services available from the department of education to the parent or guardian of any child under the age of 18 determined to have an elevated blood lead level.

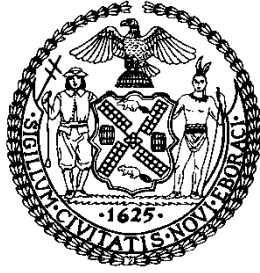
This legislation would take effect 18 months after it becomes law.

#### **(The following is the text of the Fiscal Impact Statement for Int. No. 864-A:)**

<sup>22</sup> See Local Law 28/2020 (Intro. No. 873-A), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3498486&GUID=C44E1098-18F0-4821-A9EE-8FC5355230F0&Options=ID|Text|&Search=873>.

<sup>23</sup> This bill amended the definition of “covered facility” to also include spaces in schools regulated by article 47 of the New York City Health Code. This amendment would extend to schools the existing requirements for operators of facilities providing day care services to survey and remediate lead-based hazards. This bill would also establish additional requirements for the Department of Education to survey and inspect for lead-based paint hazards.

<sup>24</sup> See Local Law 29/2020 (Intro. No. 891-A), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3498519&GUID=0F583E43-17F2-4497-BCD1-AA89F40CB05A&Options=ID|Text|&Search=891>.



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

**PROPOSED INTRO. NO:** 864-A

**COMMITTEE:** Health

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to investigation by the department of health and mental hygiene in connection with lead poisoning incidents.

**SPONSORS:** The Speaker (Council Member Johnson) and Council Members Holden, Cumbo, Kallos, Powers, Rose, Brannan, Levine, Rivera, Constantinides, Miller, Ayala, Koo, the Public Advocate (Mr. Williams), Rodriguez, Dromm, Cabrera, Salamanca, Grodenchik, Yeger, Van Bramer, Gibson, Reynoso, Vallone, Rosenthal, Moya, Koslowitz, Deutsch, Treyger, Lander, Ampry-Samuel, Eugene, Adams, Levin, Chin, Menchaca, Maisel, Barron, Cornegy, Louis, Perkins and Ulrich.

**SUMMARY OF LEGISLATION:** Proposed Intro. No. 864-A would expand the investigations that the Department of Health and Mental Hygiene (DOHMH) is required to conduct under existing law whenever it is alerted about a child with an elevated blood lead level, in some cases taking over for the Department of Education (DOE). Under this legislation, DOHMH or another relevant city agency, would be required to inspect not just the dwelling unit where a poisoned child resides, but also any daycare, preschool, or nursery school where the child routinely spends 10 or more hours per week, as well as any park or playground where DOHMH determines that bare soil presents a potential source of lead exposure. DOHMH would also be required to inspect any apartment with a child under 1 in the same building as the dwelling unit where a poisoned child resides. These inspections would include analysis by an x-ray fluorescence analyzer (XRF) of all friction surfaces, chewable surfaces and impact surfaces, as well as assisting with the ordering of a free water test kit and testing of soil from any area on the property covered in bare soil that may be a potential source of lead exposure. When DOHMH issues an order to abate a lead paint hazard, landlords would be required to report XRF results for all surfaces in a unit to the Department of Housing Preservation and Development (HPD) within 60 days. DOHMH or another relevant city agency would be required to notify all residents of the building that a lead hazard was identified, and to provide specific notice to residents of units it intends to inspect, including the date and approximate time of such inspections, as well as refer these residents to resources to learn more about their rights under the city’s lead laws. This legislation would also require that DOHMH provide information regarding special education services available from the department of education to the parent or guardian of any child under the age of 18 determined to have an elevated blood lead level.

**EFFECTIVE DATE:** This local law would take effect 18 months after becoming law.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2024

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY23</b>	<b>FY Succeeding Effective FY24</b>	<b>Full Fiscal Impact FY24</b>
<b>Revenues</b>	\$0	\$0	\$0
<b>Expenditures</b>	\$2.55M	\$3.4M	\$3.4M
<b>Net</b>	\$2.55M	\$3.4M	\$3.4M

**IMPACT ON REVENUES:** It is anticipated that the proposed legislation would not affect revenues.

**IMPACT ON EXPENDITURES:** It is anticipated that there would be an impact on expenditures resulting from the enactment of Intro No. 864-A because the relevant city agencies would need to increase the number of inspectors and inspections to begin inspecting daycares, preschools, and nursery schools. It is anticipated that the legislation would require a \$1.85 million increase DOE's budget to complete additional remediation work, estimated as an expansion of the existing program cost. DOHMH's costs are estimated to increase by \$1.55 million – \$720,000 for new inspectors and part of new administrative/managerial staff and \$830,000 for lab analysis and outreach. The total anticipated cost for this legislation is \$3.4 million per year when fully executed. The legislation would go into effect in the second quarter of Fiscal 2023 and the prorated cost for this year would be \$2.55 million.

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

**SOURCE OF INFORMATION:** New York City Council Finance Division  
Department of Health and Mental Hygiene  
Office of Management and Budget

**ESTIMATE PREPARED BY:** Lauren Hunt, Financial Analyst

**ESTIMATE REVIEWED BY:** Nathan Toth, Deputy Director, NYC Council Finance Division  
Cirilhen R. Francisco, Unit Head, NYC Council Finance Division  
Noah Brick, Assistant Counsel, NYC Council Finance Division

**LEGISLATIVE HISTORY:** This legislation was introduced to the full Council on May 9, 2018 and was referred to the Committee on Health. A hearing was held by the Committee on Health, jointly with the Committee on Environmental Protection and the Committee on Housing and Buildings on September 27, 2018, and the bill was laid over. The legislation was amended, and the amended version, Proposed Intro. No. 864-A, will be considered on March 18, 2021. Upon successful vote by the Committee on Health, Proposed Intro. No. 864-A will be submitted to the full Council for a vote on March 18, 2021.

**DATE PREPARED:** March 16, 2021.

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

**(The following is the text of Int. No. 864-A:)**

Int. No. 864-A

By The Speaker (Council Member Johnson) and Council Members Holden, Cumbo, Kallos, Powers, Rose, Brannan, Levine, Rivera, Constantinides, Miller, Ayala, Koo, the Public Advocate (Mr. Williams), Rodriguez, Dromm, Cabrera, Salamanca, Grodenchik, Yeger, Van Bramer, Gibson, Reynoso, Vallone, Rosenthal, Moya, Koslowitz, Deutsch, Treyger, Lander, Ampry-Samuel, Eugene, Adams, Levin, Chin, Menchaca, Maisel, Barron, Cornegy, Louis, Perkins and Ulrich.

**A Local Law to amend the administrative code of the city of New York, in relation to investigations by the department of health and mental hygiene in connection with lead poisoning incidents**

*Be it enacted by the Council as follows:*

Section 1. Section 17-911 of the administrative code of the city of New York, as amended by local law number 30 for the year 2020, is amended to read as follows:

§ 17-911 Required investigation. a. In addition to or as part of any investigation required pursuant to section 27-2056.14, whenever a report has been made to the department of a person under 18 years of age with an elevated blood lead level that is at or above the blood lead reference level established pursuant to this subchapter, the department shall conduct such investigation as may be necessary to identify potential sources of such elevated blood lead level, including, but not limited to, [an inspection of any] *inspecting the following areas:*

1. Any dwelling unit in which the department determines such person is routinely present for 10 or more hours per week; and

2. Where a lead-based paint hazard is found in such a dwelling unit, any other dwelling unit in the same building in which a child under the age of one year resides, except that the department shall not be required to inspect any such dwelling unit that is required to be inspected by another agency or governmental entity; and

3. Any covered facility, as such term is defined in section 17-920, where the department determines the person with such elevated blood lead level is routinely present for 10 or more hours per week; and

4. Any park, playground or other area that is covered in bare soil where a risk assessment conducted by the department indicates that such bare soil presents a potential source of lead exposure contributing to such person's elevated blood lead level, except that the department of parks and recreation shall inspect any such park, playground or other area under its jurisdiction.

b. Whenever a report has been made to the department of a pregnant person with an elevated blood lead level, the department shall (i) conduct such investigation as may be necessary to identify potential sources of such elevated blood lead level, and (ii) after the birth of a child by such pregnant person, screen such child for elevated blood lead levels and assess whether the dwelling unit where such child resides contains a lead-based paint hazard or unsafe lead paint.

c. The department shall conduct outreach to any new parent or person imminently expecting to become a parent regarding the availability of inspections conducted pursuant to section 27-2056.9. Such outreach shall include information about blood lead testing for children, unsafe construction or renovation work practices and the availability of inspections for such practices.

d. Wherever the department is required to conduct an inspection pursuant to subdivision a of this section, such inspection shall include:

1. An inspection of the dwelling unit for lead-based paint hazards or unsafe lead paint, as applicable, including analysis by an x-ray fluorescence analyzer, in accordance with subdivision (7) of section 27-2056.2, of all friction surfaces, chewable surfaces, peeling paint, deteriorated subsurfaces and impact surfaces as such terms are defined in section 27-2056.2;

2. For a dwelling unit described in paragraph 1 of subdivision a of this section, assisting with the ordering of a free test kit supplied by the department of environmental protection to enable testing of drinking or cooking water for lead and conducting outreach, as needed, to promote the return of such test kit for testing; and

3. Lead testing of soil from any area on the property that (i) is covered in bare soil and (ii) presents a potential source of lead exposure contributing to the person's elevated blood lead level, as determined by the department's investigation.

e. In the event an inspection by the department pursuant to paragraph 1 of subdivision d of this section finds any lead-based paint hazards or unsafe lead paint on any surfaces, it shall order the correction of such conditions pursuant to the requirements of the New York city health code.

f. Nothing in this section shall require the department to analyze any area with an x-ray fluorescence analyzer more than once in any three-month period where no visual evidence of peeling paint or any deteriorated subsurface is observed.

§ 2. Section 17-179 of the administrative code of the city of New York is amended by adding new subdivisions c, d and e to read as follows:

c. As part of the investigation required by section 17-911, the department shall provide to the parent or guardian of any child under the age of 18 determined to have an elevated blood lead level information regarding special education services available from the department of education.

d. Whenever a lead-based paint hazard or unsafe lead paint is identified in a dwelling unit pursuant to an investigation required by section 17-911, the department shall post in a common area accessible to all occupants of the dwelling in which the dwelling unit is located a notice regarding lead-based paint hazards,

*the availability of inspections pursuant to subdivision a of section 27-2056.9 and a copy of the pamphlet described in subdivision b of this section.*

*e. Whenever a lead-based paint hazard or unsafe lead paint is identified in a covered facility, such covered facility shall provide notice to the parent or guardian of every child attending the covered facility that a lead-based paint hazard has been identified in the covered facility. Such notice shall be provided in the same form that the results of the annual survey of lead-based paint hazards are reported to such parent or guardian, as described in section 17-924.*

§ 3. Paragraph (c) of subdivision (7) of section 27-2056.2 of the administrative code of the city of New York, as added by local law number 66 for the year 2019, is amended to read as follows:

(c) Before and until the effective date of the rule described in paragraph (b) of this subdivision, for the purposes of the department of health and mental hygiene finding unsafe lead paint in a dwelling unit *or a covered facility, as defined in section 17-920*, and issuing an order to abate a condition in a dwelling unit where a child of applicable age with an elevated blood lead level resides *or to abate or remediate a condition in a covered facility where a child of applicable age with an elevated blood lead level is routinely present for 10 or more hours per week*, pursuant to section 173.13 of the health code, nothing in this article shall prevent the board of health from determining that unsafe lead paint may include paint with a concentration of lead content that is less than the concentration of lead content in paint set forth in paragraph (a) of this subdivision. Such a determination of unsafe lead paint may include paint with a concentration of lead content no less than 0.5 milligrams of lead per square centimeter, as determined by laboratory analysis, or by an x-ray fluorescence analyzer. X-ray fluorescence readings shall be classified as positive or negative in accordance with the manufacturer's instructions. If laboratory analysis is used to determine lead content, results shall be reported in milligrams of lead per square centimeter. Where the surface area of a paint chip sample cannot be accurately measured or if an accurately measured paint chip sample cannot be removed, a laboratory analysis may be reported in percent by weight. For such purposes, such concentration determined by the board of health pursuant to this paragraph shall be no less than 0.25 percent of metallic lead, based on the non-volatile content of the paint or other similar surface-coating material.

§ 4. Subdivision a-1 of section 27-2056.4 of the administrative code of the city of New York, as added by local law number 31 for the year 2020, is amended to read as follows:

a-1. Within *the earliest of* five years of the effective date of this subdivision, [or within] one year after a child of applicable age comes to reside in a dwelling unit subject to the requirements of subdivision a of this section, [whichever is sooner,] *or the issuance of an order by the department of health and mental hygiene as required by such order*, one investigation for the presence of lead-based paint undertaken pursuant to subdivision a of this section shall be performed by a person who (i) is not the owner or the agent of the owner or any contractor hired to perform work related to the remediation of lead-based paint hazards, and (ii) is certified as an inspector or risk assessor pursuant to section 745.226 of title 40 of the code of federal regulations. Such inspection shall consist of the use of an x-ray fluorescence analyzer on all types of surfaces in accordance with the procedures described in chapter 7 of the United States department of housing and urban development guidelines for the evaluation and control of lead-based paint hazards in housing, including on chewable surfaces, friction surfaces, and impact surfaces, to determine whether lead-based paint is present, and where such paint is located, in such dwelling unit. Provided, however, that the investigation specified by this subdivision shall not be required if an investigation that complies with the requirements of this subdivision was previously completed and the owner retains records of such investigation, or if the dwelling unit has an exemption from the presumption of lead paint, as provided in subdivision b of section 27-2056.5 of this article.

§ 5. Subdivision a of section 27-2056.7 of the administrative code of the city of New York, as amended by local law number 28 for the year 2020, is amended to read as follows:

a. When the department of health and mental hygiene issues a commissioner's order to abate pursuant to section 173.13 of the New York city health code or a successor rule that addresses lead-based paint hazards or unsafe lead paint in a specific dwelling unit in a multiple dwelling, the department, within 15 days of the receipt of such order, shall notify the owner of the multiple dwelling where the dwelling unit is located that the owner shall, within 45 days of the department's notice, provide to the department all records required to be maintained under this article. Upon the department's receipt of those records and a determination that there may exist uncorrected lead-based paint hazards in dwelling units where a child of applicable age resides, the department within 10 days of the end of the record order production period, shall attempt to inspect units



where a child of applicable age resides to determine whether there are any violations of sections 27-2056.6 or 27-2056.8. *At the first such attempt, the department shall post a notice in a conspicuous manner in the building lobby of the multiple dwelling, advising occupants of the date the department will return to attempt to inspect dwelling units the department was unable to inspect during the first attempt, and the building owner shall post such notice on each floor within 10 feet of the elevator, or, in a building where there is no elevator, within 10 feet of or in the main stairwell on such floor. When the department is unable to inspect a dwelling unit pursuant to this section, the department shall leave at such unit the pamphlet described in subdivision b of section 17-179 and a notice that provides a contact number for occupants to call to reschedule the inspection. Any notice required by this subdivision shall be available in any designated citywide language as defined in section 23-1101.*

§ 6. Section 27-2056.7 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

*e. When the department of health and mental hygiene issues a commissioner's order to abate pursuant to section 173.13 of the New York city health code or a successor rule that addresses lead-based paint hazards or unsafe lead paint in a specific dwelling unit in a multiple dwelling, such order shall require the owner of the multiple dwelling to, within 60 days, cause an investigation of such unit to be conducted pursuant to subdivision a-1 of section 27-2056.4, unless such an investigation has previously been conducted, and to provide a copy of any report received or generated by such investigation regardless of when such investigation occurred. The owner shall also provide a copy of such report to the current occupant of the dwelling unit subject to such commissioner's order, even if the results of such investigation have previously been provided to such occupant.*

§ 7. This local law takes effect 18 months after it becomes law.

MARK D. LEVINE, *Chairperson*; MATHIEU EUGENE; INEZ D. BARRON ALICKA AMPRY-SAMUEL, ROBERT F. HOLDEN, KEITH POWERS, DARMA V. DIAZ; Committee on Health, March 18 2021 (Remote Hearing). *Other Council Members Attending: Council Members Miller and Koslowitz.*

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. 2236-A

**Report of the Committee on Health in favor of approving and adopting, as amended, a Local Law in relation to the creation of a unified scheduling system for COVID-19 vaccinations, and to provide for the repeal thereof.**

The Committee on Health, to which the annexed proposed amended local law was referred on February 25, 2021 (Minutes, page 457), respectfully

#### **REPORTS:**

#### **I. INTRODUCTION**

On March 18, 2021, the Committee on Health, chaired by Council Member Mark Levine, will hold a hearing on three pieces of legislation relating to COVID-19 vaccinations and health: Proposed Int. No. 2236-A, sponsored by Council Member Mark Levine, would create a unified scheduling system for COVID-19 vaccinations; Proposed Res. No. 1529-A, sponsored by Council Member Mark Levine, would call on the New York State Legislature to pass legislation protecting the State's safety net providers and Special Needs Plans by eliminating the Medicaid pharmacy carve-out; and Res. No. 1535, sponsored by Council Member I. Daneek Miller, would call on the New York State Legislature to pass legislation allowing local health departments to implement changes to improve the COVID-19 vaccination roll out. This legislation was originally heard at a

hearing of this Committee as well as the Committees on Aging and Technology on February 17, 2021, at which the Committees heard testimony from the New York City Department of Health and Mental Hygiene (DOHMH), the Department for the Aging (DFTA), advocates, and other interested parties.

## II. BACKGROUND

### a. COVID-19 Background

In late 2019, a novel coronavirus, called SARS-CoV-2, first emerged and spread rapidly around the world, resulting in a global pandemic.<sup>1</sup> As of February 16, 2021, there have been over 109 million confirmed cases of COVID-19, the disease caused by SARS-CoV-2, and over 2.4 million deaths worldwide, including more than 28.3 million cases and close to 500,000 deaths in the United States alone.<sup>2</sup> New York State (NYS) and New York City (NYC) have been hit particularly hard by this pandemic. As of February 16, 2021, there have been more than 1.5 million confirmed cases<sup>3</sup> and more than 37,300 deaths in the State,<sup>4</sup> including more than 675,000 cases, 23,372 confirmed deaths, and 5,056 probable deaths in New York City.<sup>5</sup>

COVID-19 presents a wide range of symptoms, ranging from mild symptoms to severe illness.<sup>6</sup> Symptoms include fever or chills, cough, shortness of breath, difficulty breathing, fatigue, muscle or body aches, headache, loss of taste or smell, sore throat, congestion, runny nose, nausea, vomiting, and diarrhea.<sup>7</sup> Some people are at increased risk of developing severe COVID-19 symptoms and dying from the virus, including older adults and those with certain underlying medical conditions,<sup>8</sup> such as cancer, chronic kidney disease, heart conditions, obesity, and type 2 diabetes.<sup>9</sup> Other groups that should take extra precautions include people who are racial and/or ethnic minorities, individuals with disabilities, those with developmental and behavioral disorders, individuals with drug use or substance use disorder, those who are pregnant or breastfeeding, individuals living in rural communities, and those experiencing homelessness.<sup>10</sup> Studies have found that individuals with intellectual disabilities and developmental disorders are at particular risk, with a COVID-19 fatality rate three times as high as the rate amongst those without intellectual and developmental disabilities.<sup>11</sup>

## III. IMPACT ON SENIORS' HEALTH

### a. NYC Seniors and COVID-19 Data

COVID-19 has disproportionately impacted New York City's senior population. The rate of COVID-19 hospitalizations and deaths are drastically higher for those over the age of 75 compared to all other age groups,

<sup>1</sup> Axios, "The COVID-19 Tracker." Accessed at: <https://www.statnews.com/feature/coronavirus/covid-19-tracker/>.

<sup>2</sup> Worldometer, "COVID-19 Coronavirus Pandemic." Accessed at: <https://www.worldometers.info/coronavirus/>.

<sup>3</sup> NYS DOH COVID-19 Tracker, "Persons Tested Positive by County." Accessed at: <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Map?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n>.

<sup>4</sup> New York State Department of Health COVID-19 Tracker, "Fatalities." Accessed at: <https://covid19tracker.health.ny.gov/views/NYS-COVID19-Tracker/NYSDOHCOVID-19Tracker-Fatalities?%3Aembed=yes&%3Atoolbar=no&%3Atabs=n>.

<sup>5</sup> New York City Department of Health and Mental Hygiene, "COVID-19: Data." Accessed at: <https://www1.nyc.gov/site/doh/covid/covid-19-data.page>.

<sup>6</sup> Centers for Disease Control and Prevention, "Symptoms of Coronavirus," May 13, 2020. Accessed at: <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>.

<sup>7</sup> *Id.*

<sup>8</sup> Centers for Disease Control and Prevention, "People at Increased Risk and Other People Who Need to Take Extra Precautions," September 11, 2020. Accessed at: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.

<sup>9</sup> Centers for Disease Control and Prevention, "People with Certain Medical Conditions," October 6, 2020. Accessed at: [https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC\\_AA\\_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html).

<sup>10</sup> Centers for Disease Control and Prevention, "People at Increased Risk and Other People Who Need to Take Extra Precautions," September 11, 2020. Accessed at: <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.

<sup>11</sup> "Developmental Disabilities Heighten Risk of Covid Death," NY Times, Nov. 10, 2020, available at <https://www.nytimes.com/2020/11/10/health/covid-developmental-disabilities.html>.

and those aged 65-74 are also at increased risk.<sup>12</sup> As of February 16, 2021, the rate of hospitalizations for COVID-19 was 4,322.93 per 100,000 people for those 75 years and older.<sup>13</sup> For those aged 65-74, the rate is 2,589.33 per 100,000.<sup>14</sup> The Citywide average rate is 1,026.25 per 100,000.<sup>15</sup> Therefore, those 75 years and older are over four times more likely to be hospitalized with COVID than the City average, and those aged 65-74 are more than two and a half times more likely.<sup>16</sup>

The rate of COVID-19 related death among this population is even more stark. As of February 16, 2021, for those aged 75 and older, the rate of death from COVID-19 is 2,102.53 per 100,000.<sup>17</sup> This is approximately seven and a half times higher than the Citywide average, which is 280.35 per 100,000.<sup>18</sup> The rate of death for those aged 65-74 is 795.78, about three times the Citywide average.<sup>19</sup> Of the 28,277 confirmed and probable COVID-19 deaths in NYC with known data, 14,472 were individuals 75 years and older.<sup>20</sup> This is roughly half of all deaths in the City.<sup>21</sup> Those 65-74 years old accounted for 6,758 deaths.<sup>22</sup>

Additionally, hospitalizations and deaths resulting from COVID-19 infection also disproportionately impact those who are lower income, Black, and Latinx.<sup>23</sup> Residents of neighborhoods with 30 percent or more households living below the poverty line were more than twice as likely to become hospitalized or die from COVID-19 as those living in neighborhoods with under 10 percent of households living in poverty.<sup>24</sup> According to data from DOHMH, New York City residents who are Black are 1.84 times more likely to be hospitalized for COVID-19 compared to white residents, and are 1.74 times more likely to die.<sup>25</sup> New York City residents who are Latinx die from COVID-19 at 1.91 times the rate of white residents, and about two times as likely to be hospitalized.<sup>26</sup>

New Yorkers with intersecting identities, such as those who are older, Black, Latinx, and living with underlying health conditions, are at increased risk for severe COVID-19 complications and death.<sup>27</sup> For all age groups, including those 75 and older, the rate of death was highest for those who are Black and Latinx.<sup>28</sup> The rate of death per 100,000 people for those 75 years and older is 1,427.42 for those who are Asian/Pacific-Islanders, 1,733.54 for those who are white, 2,284.84 for those who are Black, and 2,478.34 for those who are Latinx.<sup>29</sup> The highest rate of death for those 65 years and older is in the Bronx.<sup>30</sup> Of the 11,808 individuals 75 years and older who have died, 9,669 (about 82 percent) had known underlying illnesses, including lung disease, asthma, heart disease, a weakened immune system, obesity, diabetes, kidney disease, liver disease, and cancer.<sup>31</sup> Of those aged 65-74, 4,885 out of 5,720 (or about 85 percent of) individuals had known underlying conditions.<sup>32</sup> It is very likely that more had underlying conditions, given the number of cases pending.<sup>33</sup>

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<sup>12</sup> NYC DOHMH, *COVID-19: Data Tools*, available at <https://www1.nyc.gov/site/doh/covid/covid-19-data-totals.page>

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

### b. *Impact on Seniors' Health*

In March 2020, the rapid spread of the SARS-CoV-2 virus required New York City to restrict in-person gatherings. To help control the spread of the virus, the City shut down physical operation of Department for the Aging senior centers in March 2020 and switched congregate meal operations to home delivered meals.<sup>34</sup> The consequences of the pandemic and the switch in service has impacted the older adult population even as the city has entered phased re-opening: older adults have been disproportionately affected by food insecurity and social isolation and the disruption of their daily lives has been exacerbated by the extended closures to in-person resources such as senior centers, libraries, and settlement houses, as well as the restricted re-opening of restaurants and houses of worship.<sup>35</sup>

At the height of the pandemic, communicating basic information about the virus in New York City was difficult, especially for those who have limited English proficiency and were cut off from their families due to social distancing guidance.<sup>36</sup> Furthermore, the digital divide made accessing information more difficult and has increased social isolation, as 50 percent of older New Yorkers live alone and 42 percent do not have broadband Internet access.<sup>37</sup> Food insecurity was also exacerbated during the pandemic, as senior centers and food pantries physically closed and meal delivery to older adults became a key concern.<sup>38</sup> According to a study done by FoodBank NYC, prior to the pandemic one in 10 older New Yorkers was food insecure, but that number has now soared to one in five.<sup>39</sup> In fact, since March, Citymeals, which many older adults rely on for food, has delivered 2.5 million meals to homebound New York older adults—an increase of 64 percent over the prior year.<sup>40</sup>

Older adults have additionally experienced declines in their mental, physical, and cognitive health as a result of isolation, becoming homebound, and disruption to their daily life.<sup>41</sup> According to the Centers for Disease Control (CDC), loneliness and isolation are serious health risks in older adults in the following ways:<sup>42</sup>

- Social isolation significantly increases a person's risk of premature death from all causes, a risk that may rival those of smoking, obesity, and physical inactivity;
- Social isolation was associated with about a 50% percent increased risk of dementia;
- Poor social relationships (characterized by social isolation or loneliness) was associated with a 29% increased risk of heart disease and a 32% increased risk of stroke;
- Loneliness was associated with higher rates of depression, anxiety, and suicide, as well as high blood pressure, heart disease, obesity, and a weakened immune system;
- Loneliness among heart failure patients was associated with a nearly 4 times increased risk of death, 68% increased risk of hospitalization, and 57% increased risk of emergency department visits.<sup>43</sup>

The above is particularly concerning as older adults seem to suffer severe health outcomes from both contracting COVID-19, and from being isolated to avoid contracting COVID-19.<sup>44</sup> In fact, a recent study

<sup>34</sup> See Yoav Gonen and Christine Chung, *Food Czar To Oversee Meal Delivery for Elderly After Early Stumbles*, THE CITY, Apr. 15, 2020, <https://www.thecity.nyc/life/2020/4/15/21247114/food-czar-to-oversee-meal-delivery-for-elderly-after-early-stumbles>.

<sup>35</sup> Erin Garnett, et al., *Supporting Older Adults Through Coronavirus: Ideas from Experts and Leaders Across NYC*, CENTER FOR URBAN FUTURE (Apr. 2020), <https://nycfuture.org/research/supporting-older-adults-through-coronavirus>.

<sup>36</sup> *Coronavirus intensifies existing issues for older immigrants*, AMERICAN HEART ASSOCIATION NEWS, Apr. 28, 2020, <https://www.heart.org/en/news/2020/04/28/coronavirus-intensifies-existing-issues-for-older-immigrants>.

<sup>37</sup> Elana Kieffer, *Beyond Age, Race & Income: Sociodemographic Factors to Track During COVID-19*, NATIONAL COUNCIL ON AGING, May 22, 2020, <https://www.ncoa.org/blog/beyond-age-race-income-sociodemographic-factors-to-track-during-covid-19/>.

<sup>38</sup> Kate Kirker, *40 Suggestions to Help Especially Vulnerable Seniors During Coronavirus Crisis: Report*, GOTHAM GAZETTE, Apr. 17, 2020, <https://www.gothamgazette.com/city/9320-suggestions-to-help-especially-vulnerable-seniors-during-coronavirus-crisis-new-york>; Chelsia Rose Marcus, *'A panic for food': How the COVID-19 pandemic has impacted NYC's hungry*, NEW YORK DAILY NEWS, Oct. 4, 2020, <https://www.nydailynews.com/new-york/ny-covid-nyc-hungry-need-food-20201005-74ukp32w4fcihckkuscui7t6fq-story.html>.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> See, e.g., *Loneliness and Social Isolation Linked to Serious Health Conditions*, Centers for Disease Control and Prevention, available at <https://www.cdc.gov/aging/publications/features/lonely-older-adults.html#:~:text=Older%20adults%20are%20at%20increased,the%20amount%20of%20social%20contact>.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> See, e.g., “The Impact of COVID-19 Infection and Enforced Prolonged Social Isolation on Neuropsychiatric Symptoms in Older

showed that as a result of both the COVID-19 infection and COVID-induced isolation, different neuropsychiatric symptoms emerged and/or worsened in older adults with and without dementia.<sup>45</sup>

Finally, COVID-induced isolation has caused many older adults to effectively become homebound by disrupting the daily activities in which they had previously been engaged. In some older adults, this has caused an acceleration into physical frailty, a decline in mobility, poor sleep quality, and physical inactivity.<sup>46</sup> Many of these conditions can be addressed by increased access to health care,<sup>47</sup> but as explained below, this access has also been disrupted.

### c. *Impact on Seniors' Access to Health Care*

In response to the spread of COVID-19 in early 2020, health systems made rapid and sweeping changes to how health care was delivered—mainly in an effort to keep as many people home as possible.<sup>48</sup> This shift led many patients, including many older adults, to schedule appointments with their health care providers through telehealth visits—appointments typically conducted by video or phone, rather than in-person.<sup>49</sup> Telehealth expanded tremendously during the COVID-19 pandemic, with virtual visits going from constituting almost 0.1 percent of medical visits nationwide in January 2020 to about 14 percent of all visits in April 2020, before leveling off at about 8 percent of visits by the end of the year.<sup>50</sup> In New York City, Health + Hospitals reported that the number of billable virtual visits increased from 500 in January 2020 to almost 57,000 in the first three weeks of the pandemic, and 235,000 by June 2020.<sup>51</sup> This expansion was made possible by a set of provisions through the two federal coronavirus relief bills in March 2020 and series of waivers that loosened regulations on who can get telehealth and how, as well as requiring insurance providers to cover telehealth visits.<sup>52</sup>

In June 2020, the University of Michigan National Poll on Healthy Aging surveyed a national sample of U.S. adults aged 50-80 about their experiences related to telehealth visits.<sup>53</sup> The poll found that from 2019 to 2020 there was a substantial increase in the proportion of older adults who reported that their health care providers offered telehealth visits; 62 percent stated that their health care providers offered telehealth visits in June 2020, compared to only 14 percent in May 2019.<sup>54</sup> Similarly, the percentage of older adults who had ever

Adults With and Without Dementia: A Review,” *Psychiatry*, 22 October 2020, available at <https://doi.org/10.3389/fpsy.2020.585540>.

<sup>45</sup> *Id.*

<sup>46</sup> See, e.g., “Maximising mobility in older people when isolated with COVID-19,” *The Centre for Evidence-Based Medicine*, March 20, 2020, available at <https://www.cebm.net/covid-19/maximising-mobility-in-the-older-people-when-isolated-with-covid-19/>.

<sup>47</sup> See, e.g., *Loneliness and Social Isolation Linked to Serious Health Conditions*, Centers for Disease Control and Prevention, available at <https://www.cdc.gov/aging/publications/features/lonely-older-adults.html#:~:text=Older%20adults%20are%20at%20increased.the%20amount%20of%20social%20contact>.

<sup>48</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

<sup>49</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

<sup>50</sup> Christian González-Rivera & Ruth Finkelstein, *Meaningful access: Investing in technology for aging well in New York City*, BROOKDALE CENTER FOR HEALTHY AGING, Jan. 22, 2021, <https://brookdale.org/meaningful-access-investing-in-technology-for-aging-well-in-new-york-city/>.

<sup>51</sup> Christian González-Rivera & Ruth Finkelstein, *Meaningful access: Investing in technology for aging well in New York City*, BROOKDALE CENTER FOR HEALTHY AGING, Jan. 22, 2021, <https://brookdale.org/meaningful-access-investing-in-technology-for-aging-well-in-new-york-city/>.

<sup>52</sup> Christian González-Rivera & Ruth Finkelstein, *Meaningful access: Investing in technology for aging well in New York City*, BROOKDALE CENTER FOR HEALTHY AGING, Jan. 22, 2021, <https://brookdale.org/meaningful-access-investing-in-technology-for-aging-well-in-new-york-city/>.

<sup>53</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

<sup>54</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

participated in a telehealth visit rose sharply from 4 percent in May 2019 to 30 percent in June 2020.<sup>55</sup> Among those who had a telehealth visit between March and June 2020, 76 percent reported it was with a primary care provider, 32 percent with a specialty care provider, and 18 percent with a mental health provider.<sup>56</sup> In June 2020, 30 percent of older adults with a telehealth visit said that video or phone were the only options available when scheduling an appointment and 46 percent stated that their in-person visits were canceled or rescheduled to telehealth visits by their health care providers.<sup>57</sup>

While older adults surveyed stated that their telehealth visits were more convenient than office visits, the majority also perceived office visits as providing a higher overall quality of care and better communication with health care providers.<sup>58</sup> The most common concerns with telehealth visits were the lack of a physical exam and the feeling that the quality of care was not as good as in-person appointments.<sup>59</sup> Other concerns included not feeling personally connected to the provider, having difficulty hearing or seeing the provider, and privacy concerns.<sup>60</sup> While a majority of older adults who had a telehealth visit reported that the technology was easy to use, some older adults have limited experience and comfort with technology and need additional support.<sup>61</sup> Many older adults do not have access to technology or the Internet at all, making telehealth visitations even more challenging and inaccessible. For example, while individuals aged 60 and above make up just 20 percent of the city's population, they also represent 36 percent of New Yorkers with no internet connection at home—translating to 474,000 older New Yorkers living in households without Internet access.<sup>62</sup> Furthermore, half of New Yorkers aged 80 and above lack access to the internet at home.<sup>63</sup>

Aside from increasing the reliance on telehealth visits, COVID-19 fears have also drastically decreased visits to the emergency department (ED).<sup>64</sup> In July 2020, it was reported that four in five adults were concerned about contracting COVID-19 from another patient or visitor if they needed to go to the ED, while nearly a third reported actively delaying or avoiding medical care.<sup>65</sup> This manifested in reduced ED visits overall, with the CDC reporting a 42 percent drop in ED visits.<sup>66</sup>

Older adults are in a particularly precarious situation, as they are among the highest at risk for complications and mortality from COVID-19, but can least afford to postpone or avoid receiving acute health

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<sup>55</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

<sup>56</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

<sup>57</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

<sup>58</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

<sup>59</sup> *Id.*

<sup>60</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

<sup>61</sup> Lorraine Buis, *Telehealth Use Among Older Adults Before and During COVID-19*, NATIONAL POLL ON HEALTHY AGING, UNIVERSITY OF MICHIGAN, Aug. 17, 2020, <https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19>.

<sup>62</sup> Christian González-Rivera & Ruth Finkelstein, *Meaningful access: Investing in technology for aging well in New York City*, BROOKDALE CENTER FOR HEALTHY AGING, Jan. 22, 2021, <https://brookdale.org/meaningful-access-investing-in-technology-for-aging-well-in-new-york-city/>.

<sup>63</sup> Christian González-Rivera & Ruth Finkelstein, *Meaningful access: Investing in technology for aging well in New York City*, BROOKDALE CENTER FOR HEALTHY AGING, Jan. 22, 2021, <https://brookdale.org/meaningful-access-investing-in-technology-for-aging-well-in-new-york-city/>.

<sup>64</sup> Kevin Biese, *Emergency care for older adults in the COVID-19 era and beyond: Proactive, Safe and Close to Home*, GEORGE WASHINGTON UNIVERSITY SCHOOL OF MEDICINE & HEALTH SCIENCES, Jul. 14, 2020, <https://smhs.gwu.edu/urgentmatters/news/emergency-care-older-adults-covid-19-era-and-beyond-proactive-safe-and-close-home>.

<sup>65</sup> Kevin Biese, *Emergency care for older adults in the COVID-19 era and beyond: Proactive, Safe and Close to Home*, GEORGE WASHINGTON UNIVERSITY SCHOOL OF MEDICINE & HEALTH SCIENCES, Jul. 14, 2020, <https://smhs.gwu.edu/urgentmatters/news/emergency-care-older-adults-covid-19-era-and-beyond-proactive-safe-and-close-home>.

<sup>66</sup> Kevin Biese, *Emergency care for older adults in the COVID-19 era and beyond: Proactive, Safe and Close to Home*, GEORGE WASHINGTON UNIVERSITY SCHOOL OF MEDICINE & HEALTH SCIENCES, Jul. 14, 2020, <https://smhs.gwu.edu/urgentmatters/news/emergency-care-older-adults-covid-19-era-and-beyond-proactive-safe-and-close-home>.

care for other serious illnesses, injuries, or exacerbations of chronic conditions.<sup>67</sup> As older adults are engaging at a lesser frequency with health care providers, a larger number of people are falling through the cracks with untreated or poorly managed health concerns.<sup>68</sup> For example, reports show that the number of patients being treated for major artery blockages dropped by 38 percent—and this is not because one-third of the population with artery blockages have gotten better while isolating at home.<sup>69</sup> Physicians have stated that once they returned to seeing their patients in person, the proportion of care shifted from majority routine care, to more urgent and post-acute care.<sup>70</sup> This shift has been the result of people waiting longer to address exacerbations out of fear, the worsening of chronic conditions, and lifestyle disruptions, such as having irregular food access, worse nutrition, and exercise/mobility issues.<sup>71</sup>

#### IV. COVID-19 Vaccine: An Overview

##### a. Vaccine Development

Although vaccines typically take years of research and testing before they are administered to the public, researchers have worked to develop a SARS-CoV-2 vaccine in record time.<sup>72</sup> The work on a COVID-19 vaccine has been expedited for a few reasons. Health experts say the world cannot fully return to a more normal level of activity until a coronavirus vaccine is widely distributed,<sup>73</sup> and multiple vaccines will be needed in order to supply enough doses for universal vaccination.<sup>74</sup> Before the virus even had a name, and when there was only one reported death, a team of Chinese scientists uploaded its genetic sequence to a public site, inviting people from all over the world to begin working on a vaccine.<sup>75</sup> Additionally, according to *STAT Health*, the virus itself is an easier target for potential vaccines than other pathogens, because it is similar to previously encountered viruses and because it causes an acute, and not a chronic, infection.<sup>76</sup>

While any effective vaccine triggers a person's immune system to make antibodies against the virus without causing disease, there are different techniques scientists are using to develop vaccines, some of which have not been approved previously for medical use.<sup>77</sup> Older and more traditional strategies for developing vaccines, such as using a weakened or inactivated form of the virus, take a long time to develop.<sup>78</sup> Inactive or live attenuated vaccines require growing viruses, and these procedures can take months to produce a batch of

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<sup>67</sup> Kevin Biese, *Emergency care for older adults in the COVID-19 era and beyond: Proactive, Safe and Close to Home*, GEORGE WASHINGTON UNIVERSITY SCHOOL OF MEDICINE & HEALTH SCIENCES, Jul. 14, 2020, <https://smhs.gwu.edu/urgentmatters/news/emergency-care-older-adults-covid-19-era-and-beyond-proactive-safe-and-close-home>.

<sup>68</sup> *Reaching Our "Silent Seniors" During COVID-19*, Healthwise, Oct. 6, 2020, <https://www.healthwise.org/blog/reaching-silent-seniors-during-covid.aspx>.

<sup>69</sup> *Reaching Our "Silent Seniors" During COVID-19*, Healthwise, Oct. 6, 2020, <https://www.healthwise.org/blog/reaching-silent-seniors-during-covid.aspx>.

<sup>70</sup> *Reaching Our "Silent Seniors" During COVID-19*, Healthwise, Oct. 6, 2020, <https://www.healthwise.org/blog/reaching-silent-seniors-during-covid.aspx>.

<sup>71</sup> *Reaching Our "Silent Seniors" During COVID-19*, Healthwise, Oct. 6, 2020, <https://www.healthwise.org/blog/reaching-silent-seniors-during-covid.aspx>.

<sup>72</sup> Jonathan Corum et. al., *Coronavirus Vaccine Tracker*, The New York Times, last updated November 23, 2020, available at <https://www.nytimes.com/interactive/2020/science/coronavirus-vaccine-tracker.html>

<sup>73</sup> Ursula Perano, *Key information about the effective COVID-19 vaccines*, Axios, November 23, 2020, available at <https://www.axios.com/covid-vaccines-coronavirus-moderna-pfizer-oxford-d9522a80-c1c5-4da2-b7d8-c6c90c28b4b3.html>

<sup>74</sup> Jonathan Corum et. al., *Coronavirus Vaccine Tracker*, The New York Times, last updated November 23, 2020, available at <https://www.nytimes.com/interactive/2020/science/coronavirus-vaccine-tracker.html>

<sup>75</sup> Andrew Joseph, *'A huge experiment': How the world made so much progress on a Covid-19 vaccine so fast*, STAT News, July 30, 2020, available at <https://www.statnews.com/2020/07/30/a-huge-experiment-how-the-world-made-so-much-progress-on-a-covid-19-vaccine-so-fast/>

<sup>76</sup> Andrew Joseph, *'A huge experiment': How the world made so much progress on a Covid-19 vaccine so fast*, STAT News, July 30, 2020, available at <https://www.statnews.com/2020/07/30/a-huge-experiment-how-the-world-made-so-much-progress-on-a-covid-19-vaccine-so-fast/>

<sup>77</sup> Jonathan Corum, et. al., *Different Approaches to a Coronavirus Vaccine*, The New York Times, May 20, 2020, available at <https://www.nytimes.com/interactive/2020/05/20/science/coronavirus-vaccine-development.html>

<sup>78</sup> Andrew Joseph, *'A huge experiment': How the world made so much progress on a Covid-19 vaccine so fast*, STAT News, July 30, 2020, available at <https://www.statnews.com/2020/07/30/a-huge-experiment-how-the-world-made-so-much-progress-on-a-covid-19-vaccine-so-fast/>

new vaccines.<sup>79</sup> Common examples of such vaccines include conventional vaccines for influenza, chickenpox, and measles, mumps, and rubella.<sup>80</sup>

Newer approaches, however, only require scientists to know the virus' genetic sequence, and are quicker to implement.<sup>81</sup> In fact, a team from the National Institute of Allergy and Infectious Diseases (NIAID) and the biotech company Moderna had a COVID-19 vaccine candidate ready for a Phase 1 trial less than ten weeks after scientists in China published the SARS-CoV-2 genetic sequence.<sup>82</sup> The Moderna/NIAID vaccine, and others, were built with messenger ribonucleic acid (mRNA).<sup>83</sup> mRNA is a naturally occurring hereditary substance—specifically, a single-stranded RNA molecule that is complementary to one of the deoxyribonucleic acid (DNA) strands of a gene.<sup>84</sup>

COVID-19 mRNA vaccines function by giving the human body “instructions” via mRNA for how to make the coronavirus' spike protein, a harmless piece of the virus found on its surface.<sup>85</sup> The vaccine shuttles the mRNA into cells, which utilize those instructions to create the protein that triggers the immune response to COVID-19.<sup>86</sup> Prior to this, no mRNA vaccine has ever been approved before.<sup>87</sup> Other approaches have also been developed, such as viral vector vaccines and protein-based vaccines.<sup>88</sup>

Vaccine development has also been speedy because of funding and regulatory nimbleness.<sup>89</sup> The Ebola crisis taught regulators and other stakeholders the importance of having regulatory flexibility and transparency, which allows faster and streamlined processes to develop life-saving vaccines and treatments.<sup>90</sup> For example, the FDA outlined that vaccines need to prevent infections or reduce the severity of COVID-19 in 50 percent of recipients to be approved, and some phases of clinical trials were collapsed, which saved time.<sup>91</sup>

According to *The New York Times*' COVID-19 vaccine tracker, there are various phases of vaccine testing, and researchers are currently testing 67 vaccines in clinical trials on humans and at least 89 preclinical vaccines are under active investigation in animals.<sup>92</sup> Six vaccines are currently approved for early or limited use, and four have been approved for full use.<sup>93</sup> Two vaccines are currently in use in the United States: the Pfizer-BioNTech Vaccine and the Moderna vaccine.<sup>94</sup> The Pfizer-BioNTech vaccine, which is an mRNA vaccine, reports having a 95 percent efficacy rate.<sup>95</sup> It can be stored safely for up to five days in a standard

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<sup>79</sup> Jonathan Corum, et. al., *Different Approaches to a Coronavirus Vaccine*, The New York Times, May 20, 2020, available at <https://www.nytimes.com/interactive/2020/05/20/science/coronavirus-vaccine-development.html>

<sup>80</sup> *Id.*

<sup>81</sup> Andrew Joseph, *'A huge experiment': How the world made so much progress on a Covid-19 vaccine so fast*, STAT News, July 30, 2020, available at <https://www.statnews.com/2020/07/30/a-huge-experiment-how-the-world-made-so-much-progress-on-a-covid-19-vaccine-so-fast/>

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> “Messenger RNA,” NIH, available at <https://www.genome.gov/genetics-glossary/messenger-rna>.

<sup>85</sup> *See Id.*; also, Andrew Joseph, *'A huge experiment': How the world made so much progress on a Covid-19 vaccine so fast*, STAT News, July 30, 2020, available at <https://www.statnews.com/2020/07/30/a-huge-experiment-how-the-world-made-so-much-progress-on-a-covid-19-vaccine-so-fast/>

<sup>86</sup> Andrew Joseph, *'A huge experiment': How the world made so much progress on a Covid-19 vaccine so fast*, STAT News, July 30, 2020, available at <https://www.statnews.com/2020/07/30/a-huge-experiment-how-the-world-made-so-much-progress-on-a-covid-19-vaccine-so-fast/>

<sup>87</sup> *Id.*

<sup>88</sup> Jonathan Corum, et. al., *Different Approaches to a Coronavirus Vaccine*, The New York Times, May 20, 2020, available at <https://www.nytimes.com/interactive/2020/05/20/science/coronavirus-vaccine-development.html>

<sup>89</sup> Andrew Joseph, *'A huge experiment': How the world made so much progress on a Covid-19 vaccine so fast*, STAT News, July 30, 2020, available at <https://www.statnews.com/2020/07/30/a-huge-experiment-how-the-world-made-so-much-progress-on-a-covid-19-vaccine-so-fast/>

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> Jonathan Corum et. al., *Coronavirus Vaccine Tracker*, The New York Times, last updated February 6, 2021, available at <https://www.nytimes.com/interactive/2020/science/coronavirus-vaccine-tracker.html>

<sup>93</sup> Jonathan Corum et. al., *Coronavirus Vaccine Tracker*, The New York Times, last updated February 6, 2021, available at <https://www.nytimes.com/interactive/2020/science/coronavirus-vaccine-tracker.html>

<sup>94</sup> *Id.*

<sup>95</sup> Ursula Perano, *Key information about the effective COVID-19 vaccines*, Axios, November 30, 2020, available at <https://www.axios.com/covid-vaccines-coronavirus-moderna-pfizer-oxford-d9522a80-c1c5-4da2-b7d8-c6c90c28b4b3.html>



refrigerator before being administered, and must be kept at minus 70 degrees Celsius for long-term storage.<sup>96</sup> The second vaccine, developed by Moderna, has an efficacy rate of 94.1 percent.<sup>97</sup> This vaccine can be stored for 30 days in a standard refrigerator or six months at minus 20 degrees Celsius.<sup>98</sup>

In addition to the two vaccines already in use, Johnson & Johnson (J&J) applied for an emergency use authorization (EUA) for their vaccine on February 4, 2021, and the Food and Drug Administration's (FDA's) advisory board will meet on February 26 to consider the application.<sup>99</sup> EUA allows unapproved medical products or unapproved uses of approved medical products to be used in an emergency to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by Chemical, Biological, Radiological, and Nuclear (CBRN) threat agents when there are no adequate, approved, and available alternatives.<sup>100</sup> The FDA granted EUA to the Pfizer vaccine on December 11, 2020, and to the Moderna vaccine on December 18, 2020.<sup>101</sup>

The clinical trials for J&J's vaccine have had varied results.<sup>102</sup> The vaccine had an efficacy of 72 percent in the United States, 66 percent in Latin America, and 57 percent in South Africa, with the lower result in South Africa likely to do with the rise of the B.1.351 variant in that country.<sup>103</sup> Variants have become a concern within widescale vaccination efforts, and studies are underway to confirm vaccine efficacy against various strains of the virus.<sup>104</sup> However, when J&J looked at just severe cases of COVID-19, the vaccine had an efficacy against severe disease of 85 percent in all regions, and therefore reduced the risk of hospitalization and death.<sup>105</sup> The J&J vaccine only requires one dose and can be stored in a refrigerator<sup>106</sup>, which can help streamline vaccine efforts.

#### *b. The COVID-19 Vaccine Roll Out Overview*

##### *i. New York State and City's Vaccine Distribution Models*

Both New York State and New York City proposed preliminary plans to ensure the safe and efficient distribution and administration of COVID-19 vaccines to New York residents.<sup>107</sup> To ensure coordinated and efficient statewide distribution and administration, all localities and entities in New York State will be required to follow the state's guidance and protocols for COVID-19 vaccinations.<sup>108</sup> The New York State Plan was created by analyzing New York's health emergency response to the first influenza pandemic, lessons learned from the H1N1 vaccination effort, and emergency preparedness exercises with state and local health departments.<sup>109</sup>

To establish and build public trust around vaccine safety and effectiveness, Governor Andrew Cuomo appointed members to New York's Independent Clinical Advisory Task Force; the Task Force is comprised of leading scientists, doctors, and health experts, whose role it is to expeditiously review every COVID-19

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> Jonathan Corum et. al., *Coronavirus Vaccine Tracker*, The New York Times, last updated February 6, 2021, available at <https://www.nytimes.com/interactive/2020/science/coronavirus-vaccine-tracker.html>

<sup>100</sup> "Emergency Use Authorization," FDA, available at <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization#abouteuas>.

<sup>101</sup> Jonathan Corum et. al., *Coronavirus Vaccine Tracker*, The New York Times, last updated November 23, 2020, available at <https://www.nytimes.com/interactive/2020/science/coronavirus-vaccine-tracker.html>

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.* & Jonathan Corum & Carl Zimmer, *Coronavirus Variants and Mutations*, The New York Times, last updated February 11, 2021, last accessed February 12, 2021, available at <https://www.nytimes.com/interactive/2021/health/coronavirus-variant-tracker.html>

<sup>105</sup> *Id.*

<sup>106</sup> *Id.*

<sup>107</sup> New York State Department of Health, *New York State's COVID-19 Vaccination Program*, Oct. 2020, [https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/NYS\\_COVID\\_Vaccination\\_Program\\_Book\\_10.16.20\\_FINAL.pdf](https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/NYS_COVID_Vaccination_Program_Book_10.16.20_FINAL.pdf); New York City Department of Health & Mental Hygiene, *Interim COVID-19 Vaccination Plan – Executive Summary*, <https://www.cdc.gov/vaccines/covid-19/downloads/new-york-city-jurisdiction-executive-summary.pdf>.

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

vaccine authorized by the federal government, and to advise New York State on the vaccine’s safety and effectiveness in fighting the virus.<sup>110</sup> To help guide the distribution and administration process, the Governor has also established a Vaccine Distribution and Implementation Task Force—comprised of experts in public health, immunizations, government operations, data, and other relevant fields—to advise the set up and operation of the State’s COVID-19 vaccination program.<sup>111</sup> New York State prioritized vaccination recipients based on science, clinical expertise, and federal guidelines, with critical populations identified and recommended by the Advisory Committee on Immunization Practices. Prioritization decisions also took into account the disparate impact of COVID-19 on communities of color, health disparities present in underrepresented and marginalized communities, and communities with historically poor health outcomes.<sup>112</sup> New York State is also working directly with Tribal Nations to ensure these communities’ vaccination needs are met.<sup>113</sup>

New York City’s vaccination plan builds upon a well-established immunization infrastructure, and draws on DOHMH’s pandemic influenza plan, as well as lessons learned from the H1N1 and annual flu vaccination plans.<sup>114</sup> DOHMH has established a Vaccine Task Force (VTF) for New York City’s COVID-19 response, with the objective of developing a plan for equitable distribution of COVID-19 vaccines when they become available.<sup>115</sup> The VTF includes staff from across DOHMH specializing in equity, provider communications, community partner engagement, people living congregate settings, development and dissemination of information to the public, health care system support and field operations, as well as vaccine distribution, allocation, and accountability.<sup>116</sup> DOHMH is utilizing existing relationship with immunization providers as well as reaching out to potential providers for enrollment in the COVID-19 vaccination program, and the VTF will coordinate vaccine planning with these organizations and collaborate closely with New York State and government agencies.<sup>117</sup>

Similar to the State plan, the NYC COVID-19 Vaccination Plan looks to the National Academy of Science, Engineering, and Medicine framework and guidance from the Advisory Committee on Immunization Practices for planning of a phased rollout that adheres to national guidance and ensures local equity in allocation and access to New York City residents.<sup>118</sup> The City plan states that the VTF is actively engaging community members to understand vaccine hesitancy, especially as it relates to historic and persistent racial oppression, and the VTF is prepared to deliver on-the-ground messaging both from public health leaders and trusted community members, in multiple languages to increase uptake of the vaccine and combat misinformation.<sup>119</sup>

## ii. *New York City’s Vaccine Roll Out*

On December 14, 2020, Nurse Sandra Lindsey became the first person in the United States to receive the COVID-19 vaccine in a non-clinical trial, when she received the vaccine at New York’s Long Island Jewish Medical Center.<sup>120</sup> New York City began the first portion of Phase 1a of vaccine distribution that same day, which included high-risk hospital staff, affiliates, volunteers and contract staff, following the clinical risk assessment guidance, who received the vaccine through hospital employers.<sup>121</sup> The following week, beginning

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<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> New York City Department of Health & Mental Hygiene, *Interim COVID-19 Vaccination Plan – Executive Summary*, <https://www.cdc.gov/vaccines/covid-19/downloads/new-york-city-jurisdiction-executive-summary.pdf>.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> *Id.*

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> See, e.g., “NYC Nurse Is Among The 1st To Get COVID-19 Vaccine In The U.S.,” NPR, Dec. 14, 2020, available at <https://www.npr.org/2020/12/14/946253331/new-york-city-nurse-among-the-first-to-get-coronavirus-vaccine-in-the-u-s>.

<sup>121</sup> “Guidance for Facilities, Providers, and Local Health Departments Receiving COVID-19 Vaccine Weeks 1-5 New York State Vaccination Program Phase 1A Only,” NYS DOH, available at [https://coronavirus.health.ny.gov/system/files/documents/2021/01/guidance\\_facilitiesreceivingcovid19vaccineweeks1-5.pdf](https://coronavirus.health.ny.gov/system/files/documents/2021/01/guidance_facilitiesreceivingcovid19vaccineweeks1-5.pdf).

December 21, 2020, this first group was expanded to include emergency medical services (EMS) personnel, medical examiners and coroners, funeral workers who have direct contact with infectious material and bodily fluids, health care or other high-risk direct care essential staff working in long-term care facilities (LTCF) and long-term, congregate settings, and persons living in LTCFs and in long-term congregate settings.<sup>122</sup>

In the following two weeks, the group was again expanded to the remaining categories of phase 1a, which include agency staff and residents in congregate living situations run by the Office of People with Developmental Disabilities (OPWDD), the Office of Mental Health (OMH), and the Office of Addiction Services and Supports (OASAS), urgent care providers, any staff administering COVID-19 vaccinations, and other frontline health care workers.<sup>123</sup>

On Friday, January 8, 2021, Governor Cuomo announced that phase 1b would commence in New York State on January 11, 2021, beginning with essential workers and New Yorkers over the age of 75.<sup>124</sup> The Governor also announced that a new network of vaccine sites would be operationalized to supplement vaccine administration for individuals falling under group 1a and eligible under the first phase of group 1b.<sup>125</sup> The Governor called upon large unions to organize vaccine administration to essential workers in their networks, to allow other providers to administer vaccines to those in the 75+ age group.<sup>126</sup> DOHMH provided further guidance after the Governor's announcement, declaring that the next phase would include people aged 75 and older, teachers and education workers, first responders, public safety workers, and public transit workers.<sup>127</sup>

On January 12, 2021, after updated guidance from the CDC, Governor Cuomo announced that those aged 65 and older would be eligible to receive the vaccine, and that the State was working to ensure that those under age 65 who are immunocompromised would also be eligible.<sup>128</sup> The Governor noted that although roughly seven million New Yorkers were now eligible for the vaccine, the federal government was still only allotting the state 300,000 vaccines per week.<sup>129</sup> Starting February 15, 2021, individuals with underlying conditions will also be eligible for the COVID-19 vaccine.<sup>130</sup> On February 5, 2021, Governor Cuomo announced which comorbidities and underlying conditions would allow a person to qualify for a vaccine.<sup>131</sup> Conditions include cancer, chronic kidney disease, pulmonary disease, intellectual and developmental disabilities, heart conditions, immunocompromised state, severe obesity, pregnancy, sickle cell disease or thalassemia, type 1 or 2 diabetes mellitus, cerebrovascular disease, neurologic conditions and liver disease.<sup>132</sup>

Due to lack of supply, technological barriers, and other issues, the State and City's vaccine roll out has led to disparate outcomes and inaccessible vaccine appointments.<sup>133</sup> As of February 16, 2021, among the adults who have received at least one dose of the vaccine who have known race and ethnicity data, 43 percent are white, 15 percent are Asian, 16 percent are Latino, 11 percent are Black, and 14 percent are listed as "other."<sup>134</sup> Among the adults 65 years old and older who have received at least one dose of the vaccine who have known race and ethnicity data, 47 percent are white, 13 percent are Asian, 15 percent are Latino, 12 percent are Black,

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<sup>122</sup> *Id.*

<sup>123</sup> "Guidance for Facilities, Providers, and Local Health Departments Receiving COVID-19 Vaccine Weeks 1-5 New York State Vaccination Program Phase 1A Only," NYS DOH, available at [https://coronavirus.health.ny.gov/system/files/documents/2021/01/guidance\\_facilitiesreceivingcovid19vaccineweeks1-5.pdf](https://coronavirus.health.ny.gov/system/files/documents/2021/01/guidance_facilitiesreceivingcovid19vaccineweeks1-5.pdf).

<sup>124</sup> "Governor Cuomo Announces Expanded Vaccination Network To Accelerate Distribution of COVID-19 Vaccine," Governor Press Release, Jan. 8, 2021, available at <https://www.governor.ny.gov/news/governor-cuomo-announces-expanded-vaccination-network-accelerate-distribution-covid-19-vaccine>.

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> "COVID-19: Vaccine Distribution in NYC," DOHMH Website, available at <https://www1.nyc.gov/site/doh/covid/covid-19-vaccine-eligibility.page>.

<sup>128</sup> *Audio & Rush Transcript: Governor Cuomo Updates New Yorkers on State's COVID-19 Response, Makes an Announcement*, Governor Press Release, Jan. 12, 2021, available at <https://www.governor.ny.gov/news/audio-rush-transcript-governor-cuomo-updates-new-yorkers-states-covid-19-response-makes-0>

<sup>129</sup> *Id.*

<sup>130</sup> *Governor Cuomo Announces List of Comorbidities and Underlying Conditions Eligible for COVID-19 Vaccine Starting February 15*, New York State Press Release, February 5, 2021, available at <https://www.governor.ny.gov/news/governor-cuomo-announces-list-comorbidities-and-underlying-conditions-eligible-covid-19-vaccine>

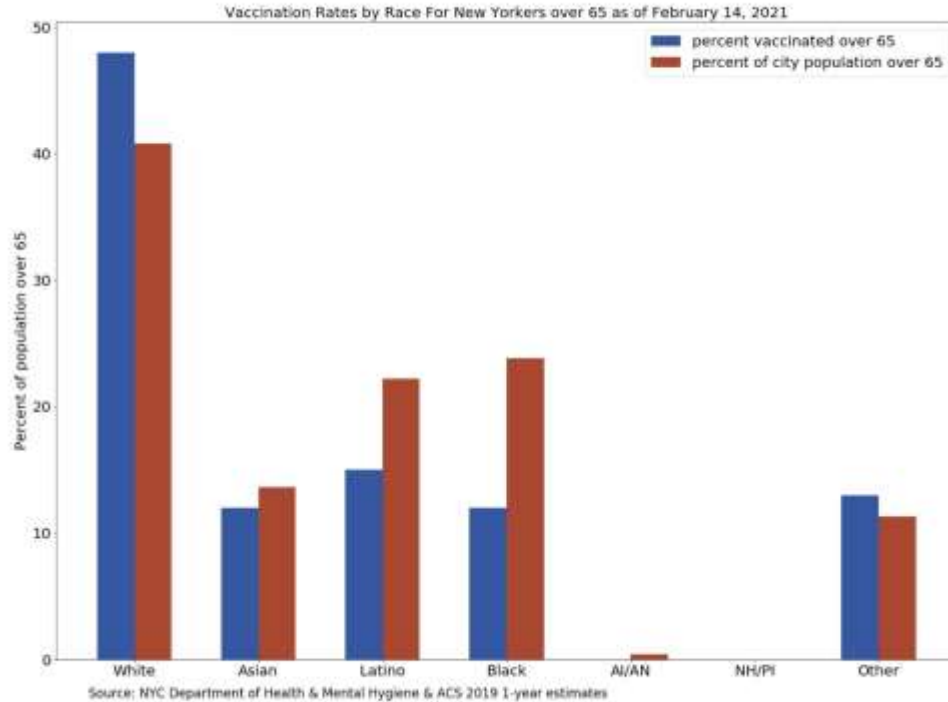
<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> Annie McDonough, *How New York can distribute the vaccine more equitably*, City & State, February 3, 2021, available at <https://www.cityandstateny.com/articles/policy/health-care/how-new-york-can-distribute-vaccine-more-equitably.html>

<sup>134</sup> New York City Department of Health and Mental Hygiene, *COVID-19 Vaccines*, last accessed on February 11, 2021, available at <https://www1.nyc.gov/site/doh/covid/covid-19-data-vaccines.page>

and 14 percent are listed as “other.”<sup>135</sup> The City is 29 percent Latino and 24 percent Black, and both communities are underrepresented in vaccine distribution.<sup>136</sup> See below a graph comparing vaccination rate by race for those aged 65 and older compared to percent of population.



One of the main barriers to equitable vaccine distribution is supply. According to Mayor de Blasio, since the beginning of February 2021, the City has had the capacity to vaccinate 500,000 people per week.<sup>137</sup> Although both the State and the City continue to open mass vaccination sites with the capability of vaccinating thousands of people per day each,<sup>138</sup> the City is still vaccinating, at most, less than 60,000 people per day, and much less than that on weekends.<sup>139</sup> On February 10, it was announced at a Governor’s press conference that the state and federal governments are continuing to take steps to increase the vaccine supply, and the federal government has achieved a 28 percent increase in vaccine allocation since the start of the Biden Administration.<sup>140</sup> Additionally, the federal government is helping states administer their vaccine supply more efficiently and equitably by providing visibility into the supply states will receive weeks in advance.<sup>141</sup> While

<sup>135</sup> *Id.*

<sup>136</sup> Annie McDonough, *How New York can distribute the vaccine more equitably*, City & State, February 3, 2021, available at <https://www.cityandstateny.com/articles/policy/health-care/how-new-york-can-distribute-vaccine-more-equitably.html>

<sup>137</sup> *Transcript: Mayor de Blasio Holds Media Availability*, New York City Mayor Press Release, January 25, 2021, available at <https://www1.nyc.gov/office-of-the-mayor/news/055-21/transcript-mayor-de-blasio-holds-media-availability>

<sup>138</sup> *Video, Audio, Photos & Rush Transcript: Governor Cuomo & Biden Administration Announce Mass Vaccination Sites to Open in New York State, Targeted at Increasing Equitable Vaccination Access*, New York State Press Release, February 10, 2021, available at <https://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-cuomo-biden-administration-announce-mass-and-vaccine-for-all-citi-field-site-opens-today>, New York City Press Release, February 10, 2021, available at <https://www1.nyc.gov/office-of-the-mayor/news/098-21/vaccine-all-citi-field-site-opens-today>

<sup>139</sup> *COVID-19 Data*, New York City Department of Health and Mental Hygiene, last accessed February 11, 2021, available at <https://www1.nyc.gov/site/doh/covid/covid-19-data.page>

<sup>140</sup> *Video, Audio, Photos & Rush Transcript: Governor Cuomo & Biden Administration Announce Mass Vaccination Sites to Open in New York State, Targeted at Increasing Equitable Vaccination Access*, New York State Press Release, February 10, 2021, available at <https://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-cuomo-biden-administration-announce-mass>

<sup>141</sup> *Id.*

federal, state, and city governments are working to increase supply and address other barriers, such as creating more mass vaccination sites in the hardest hit areas,<sup>142</sup> technological issues and other barriers persist.

## V. SCHEDULING VACCINE APPOINTMENTS IN NEW YORK CITY

New York State launched and maintains an external public-facing dashboard to keep New Yorkers informed of vaccination progress and relevant updates, including doses administered by region.<sup>143</sup> There is also a state website for those seeking information regarding vaccine eligibility and appointment scheduling that offers a vaccine eligibility screening tool and a vaccine administration site locator.<sup>144</sup> In addition to online services, a call center and hotline<sup>145</sup> have been made available for patients and providers to access live support.<sup>146</sup> Like New York State, New York City also offers online and over-the-phone services.<sup>147</sup>

There are several vaccination sign-up websites available to qualified New Yorkers. Among them are city and state-managed websites: *COVID-19 Vaccine Finder*<sup>148</sup>, *COVID-19 Vaccine Hubs*<sup>149</sup>, *New York City Health + Hospitals COVID-19 Vaccination Scheduler*<sup>150</sup>, *COVID-19 Vaccine*<sup>151</sup> as well as websites managed by third-party software engineers: *TurboVax*<sup>152</sup> and *NYC Vaccine List*.<sup>153</sup>

The *COVID-19 Vaccine Finder* is created and managed by DOHMH.<sup>154</sup> The *COVID-19 Vaccine Finder* is an aggregator of both public and private vaccination providers.<sup>155</sup> The website lists vaccination providers and upon entering a zip code or address in a search bar, directs a user to a map and directory of the closest vaccination providers.<sup>156</sup> It then further directs the user to the provider's website to schedule a COVID-19 vaccination appointment.<sup>157</sup> According to the information listed on the main page, "[e]ach [provider] manages its own schedules and appointments on its website."<sup>158</sup>

As required by Local Law 30 of 2017, information on the *COVID-19 Vaccine Finder* website is available in the top ten languages spoken by New Yorkers including: Spanish, Chinese, Russian, Bengali, Haitian Creole, Korean, Arabic, Urdu, French, and Polish.<sup>159</sup> The website's translation is provided by Google Translate.<sup>160</sup> However, as the website serves as a directory, there is no guarantee that this language support is consistent across all the private and public providers which the *COVID-19 Vaccine Finder* redirects towards.<sup>161</sup>

<sup>142</sup> *Id.* & *Vaccine For All: Citi Field Site Opens Today*, *New York City Press Release*, February 10, 2021, available at <https://www1.nyc.gov/office-of-the-mayor/news/098-21/vaccine-all-citi-field-site-opens-today>

<sup>143</sup> New York State Department Of Health COVID-19 Vaccine Tracker, last accessed February 11, 2021, available at <https://covid19vaccine.health.ny.gov/covid-19-vaccine-tracker>

<sup>144</sup> New York State Department of Health, *See if you may be Eligible to Receive the COVID-19 Vaccine*, last accessed February 11, 2021, available at <https://am-i-eligible.covid19vaccine.health.ny.gov/>

<sup>145</sup> "COVID-19 Vaccine: Get the Facts," NY DOH, available at <https://covid19vaccine.health.ny.gov/>; Hotline is 1-833-NYS-4-VAX (1-833-697-4829).

<sup>146</sup> *Id.*

<sup>147</sup> Sydney Pereira, "New Yorkers Eligible For COVID Vaccine Report Frustrations With City Registration Websites", *Gothamist*, January 11, 2021, available at <https://gothamist.com/news/new-yorkers-eligible-vaccine-report-frustrations-city-registration-websites>.

<sup>148</sup> "NYC COVID-19 Vaccine Finder", NYC DOHMH, last accessed on February 12, 2021, available at <https://vaccinefinder.nyc.gov/>.

<sup>149</sup> "COVID-19 Vaccine Hubs Appointment Scheduler", NYC DOHMH, last accessed on February 12, 2021, available at <https://vax4nyc.nyc.gov/patient/s/>.

<sup>150</sup> "COVID-19 Vaccination Scheduler", NYC Health + Hospitals, last accessed on February 12, 2021, available at <https://covid19.nychealthandhospitals.org/UnaffiliatedHealthCareWorkers>.

<sup>151</sup> "COVID-19 Vaccine", New York State, last accessed on February 12, 2021, available at <https://covid19vaccine.health.ny.gov/>.

<sup>152</sup> "TurboVax", available at <https://www.turbovax.info/>.

<sup>153</sup> "NYC Vaccine List", available at <https://nycvaccinelist.com/>.

<sup>154</sup> "COVID-19: Vaccines", NYC DOHMH, last accessed on February 12, 2021, available at <https://www1.nyc.gov/site/doh/covid/covid-19-vaccines.page>.

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> "COVID-19 Vaccine Finder Locations," NYC DOHMH, last accessed on February 12, 2021, available at <https://vaccinefinder.nyc.gov/locations>; Local Law 30, The New York City Council, available at <https://go.usa.gov/xsrAe>.

<sup>160</sup> *Id.*; "Language and Disability Access," NYC Mayor's Office of Immigrant Affairs, last accessed on February 12, 2021, available at <https://www1.nyc.gov/site/immigrants/about/language-and-disability-access.page>.

<sup>161</sup> "COVID-19 Vaccine Finder Locations," NYC DOHMH, last accessed on February 12, 2021, available at <https://vaccinefinder.nyc.gov/locations>.

Other municipal websites set up to help New Yorkers schedule vaccinations are *DOHMH COVID-19 Vaccine Hubs*<sup>162</sup> and the *NYC Health + Hospitals COVID-19 Vaccination Scheduler*.<sup>163</sup> Both websites, rather than directing a user to external webpages, require a step-by-step registration and verification process before allowing users to arrive at an appointment scheduler.<sup>164</sup> Unlike the *Vaccine Finder*, which provides information about both private and public vaccination sites, the *NYC Health + Hospitals COVID-19 Vaccination Scheduler* only coordinates appointments for vaccination sites run by NYC Health + Hospitals, and the *DOHMH COVID-19 Vaccine Hubs* only coordinates appointments for vaccination sites run by DOHMH.<sup>165</sup> The *DOHMH Vaccine Hubs* provides information in ten languages, while the *NYC Health + Hospitals COVID-19 Vaccination Scheduler* only offers information in English.<sup>166</sup>

Although these websites provide valuable information about the immunization process to New Yorkers, they have several issues that cause users frustration in navigating the process of finding and scheduling vaccination appointments.<sup>167</sup> The most common issues are related to a non-user-friendly interface, a lengthy registration process, and heavy web traffic.<sup>168</sup>

For example, in order to schedule vaccine appointments through the *COVID-19 Vaccine Finder* website, rather than browse appointment availability citywide, users are directed to other providers' websites with their own different interfaces.<sup>169</sup> Users are then asked to submit their personal information with a vaccination provider they select.<sup>170</sup> Required information often includes an email address, health insurance information, and employment information, which users may not have readily available.<sup>171</sup> This process can take from several minutes to several hours, and can ultimately leave residents without desired immunization appointments, as after the lengthy registration process, users often learn that no appointments are available due to a lack of availability of appointments or low vaccine supply.<sup>172</sup> If the user is unsuccessful with scheduling an appointment, the user has to repeat the same registration and screening processes with other providers.<sup>173</sup> In addition, heavy web traffic may slow that process, causing webpages to freeze or crash, and forcing users to restart the process all over again.<sup>174</sup>

Another issue is that the *COVID-19 Vaccine Finder* is not compatible with Internet Explorer, which is often used as a default browser on computers.<sup>175</sup> Downloading another browser in order to access the website

<sup>162</sup> "COVID-19 Vaccine Hubs Appointment Scheduler," NYC DOHMH, last accessed on February 12, 2021, available at <https://vax4nyc.nyc.gov/patient/s/>.

<sup>163</sup> "COVID-19 Vaccination Scheduler", NYC Health + Hospitals, last accessed on February 12, 2021, available at <https://covid19.nychealthandhospitals.org/UnaffiliatedHealthCareWorkers>.

<sup>164</sup> "COVID-19 Vaccine Hubs Appointment Scheduler," NYC DOHMH, last accessed on February 12, 2021, available at <https://vax4nyc.nyc.gov/patient/s/>; "COVID-19 Vaccination Scheduler", NYC Health + Hospitals, last accessed on February 12, 2021, available at <https://covid19.nychealthandhospitals.org/UnaffiliatedHealthCareWorkers>.

<sup>165</sup> "COVID-19 Vaccines at NYC Health + Hospitals," NYC Health + Hospitals, last accessed on February 12, 2021, available at <https://www.nychealthandhospitals.org/covid-19-vaccines/>; Sydney Pereira, "New Yorkers Eligible For COVID Vaccine Report Frustrations With City Registration Websites", Gothamist, January 11, 2021, available at <https://gothamist.com/news/new-yorkers-eligible-vaccine-report-frustrations-city-registration-websites>.

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*; Annie McDonough, "Vaccine website frustrations point to larger government tech problems", City and State, January 12, 2021, available at <https://www.cityandstateny.com/articles/policy/technology/vaccine-website-frustrations-point-larger-government-tech-problems.html>; Sharon Otterman, "The Maddening Red Tape Facing Older People Who Want the Vaccine", The New York Times, January 14, 2021, available at <https://www.nytimes.com/2021/01/14/nyregion/covid-vaccine-older-people-senior-citizens.html>.

<sup>169</sup> "COVID-19 Vaccine Finder Locations", NYC DOHMH, last accessed on February 12, 2021, available at <https://vaccinefinder.nyc.gov/locations>.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> Sydney Pereira, "New Yorkers Eligible For COVID Vaccine Report Frustrations With City Registration Websites", Gothamist, January 11, 2021, available at <https://gothamist.com/news/new-yorkers-eligible-vaccine-report-frustrations-city-registration-websites>; Annie McDonough, "Vaccine website frustrations point to larger government tech problems", City and State, January 12, 2021, available at <https://www.cityandstateny.com/articles/policy/technology/vaccine-website-frustrations-point-larger-government-tech-problems.html>; Sharon Otterman, "The Maddening Red Tape Facing Older People Who Want the Vaccine", The New York Times, January 14, 2021, available at <https://www.nytimes.com/2021/01/14/nyregion/covid-vaccine-older-people-senior-citizens.html>.

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *See* COVID-19 Vaccine Finder, <https://vaccinefinder.nyc.gov/> (this application does not support use with Internet Explorer. When utilizing this application we suggest using a different browser).

might not only be challenging for some non-tech-savvy New Yorkers, but could also become *an unbearable obstacle*.

The above issues related to access to vaccination appointments represent significant barriers to the equitable distribution of the vaccine in New York City.<sup>176</sup> In order to improve access to vaccination appointments online, several software engineers have created their own websites with an easier to use interface.<sup>177</sup> Independent websites that have come to the forefront are *NYC Vaccine List* and *TurboVax*.<sup>178</sup>

*NYC Vaccine List* was launched by a team of volunteers led by site developers Dan Benamy and Cameron Yick.<sup>179</sup> *NYC Vaccine List* collects data about vaccine availability with programs called "crawlers." These crawlers navigate several websites, including the *COVID-19 Vaccine Finder*, the NY State Department of Health, the *COVID-19 Vaccine Hubs*, and the *COVID-19 Vaccination Scheduler* run by NYC Health + Hospitals.<sup>180</sup> The development team recently incorporated Google Translate into their website to support most languages, including the top ten New York City languages.<sup>181</sup>

*TurboVax*, created by software developer Huge Ma, also automatically searches through three major government vaccination websites (*COVID-19 Vaccine Hubs*, *NYC Health + Hospitals COVID-19 Vaccine Scheduler*, and *New York State Vaccination Centers*) to find available appointment slots.<sup>182</sup> *TurboVax* does not have extra language support.<sup>183</sup>

Both websites direct users to external webpages to register and book appointments. However, instead of having users individually go through each vaccination provider's online registration process for potentially unavailable appointments, *NYC Vaccine List* and *TurboVax* streamline the process by compiling available appointments in one location so that it is easier to find appointment availability.<sup>184</sup> Both websites also have disclaimers that the data on their websites is not perfect given the limited supply of the vaccine and the limited availability of vaccine appointments.<sup>185</sup>

Unfortunately, some New Yorkers – especially seniors – might not be able to access either of these websites due to the lack of an Internet connection, low digital literacy, and/or lack of access to technology. For example, the New York City Comptroller reported that 42% of New Yorkers aged 65 and above lacked broadband Internet access.<sup>186</sup> Additionally, United States Census data from 2019 showed that in New York City, 9.6% of households aged 65 years and over do not have broadband access, but do have computers.<sup>187</sup> However, approximately 18.8% of these households do not have a computer at all; this compared to just 5.7% of the 18-64 year old age group that do have a computer, but no broadband and 3.1% with no computer.<sup>188</sup> Further, some of these New Yorkers, may not have electronic contact information like an email address, which is often required to schedule a vaccine appointment online.<sup>189</sup>

In order to assist those vulnerable individuals who may not be able to easily schedule vaccination appointments online, both New York State and New York City launched vaccination hotlines to allow

<sup>176</sup> Sharon Otterman, "N.Y.'s Vaccine Websites Weren't Working. He Built a New One for \$50," *New York Times*, February 9, 2021, <https://www.nytimes.com/2021/02/09/nyregion/vaccine-website-appointment-nyc.html>.

<sup>177</sup> Sharon Otterman, "N.Y.'s Vaccine Websites Weren't Working. He Built a New One for \$50", *The New York Times*, February 9, 2021, available at <https://www.nytimes.com/2021/02/09/nyregion/vaccine-website-appointment-nyc.html>.

<sup>178</sup> *Id.*

<sup>179</sup> "About", *NYC Vaccine List*, last accessed on February 12, 2021, available at <https://nycvaccinelist.com/about>.

<sup>180</sup> *Id.*

<sup>181</sup> *Id.*

<sup>182</sup> "About," *TurboVax*, last accessed on February 12, 2021, available at <https://www.turbovox.info/about>.

<sup>183</sup> *Id.*

<sup>184</sup> Sharon Otterman, "N.Y.'s Vaccine Websites Weren't Working. He Built a New One for \$50," *The New York Times*, February 9, 2021, available at <https://www.nytimes.com/2021/02/09/nyregion/vaccine-website-appointment-nyc.html>.

<sup>185</sup> "About," *TurboVax*, last accessed on February 12, 2021, available at <https://www.turbovox.info/about>; "About", *NYC Vaccine List*, last accessed on February 12, 2021, available at <https://nycvaccinelist.com/about>.

<sup>186</sup> *Census and The City: Overcoming NYC's Digital Divide in the 2020 Census*, Office of the NYC Comptroller, July 2019, available at [https://comptroller.nyc.gov/wp-content/uploads/documents/Census\\_and\\_The\\_City\\_Overcoming\\_NYC\\_Digital\\_Divide\\_Census.pdf](https://comptroller.nyc.gov/wp-content/uploads/documents/Census_and_The_City_Overcoming_NYC_Digital_Divide_Census.pdf) (based on 2017 United States Census data).

<sup>187</sup> American Community Survey, *Types of Internet Subscriptions by Selected Characteristics*, United States Census Bureau, available at <https://data.census.gov/cedsci/table?q=broadband,%20new%20york%20city&tid=ACST1Y2019.S2802&hidePreview=false>.

<sup>188</sup> *Id.*

<sup>189</sup> See Sharon Otterman, "N.Y.'s Vaccine Websites Weren't Working. He Built a New One for \$50", *The New York Times*, February 9, 2021, available at <https://www.nytimes.com/2021/02/09/nyregion/vaccine-website-appointment-nyc.html>.

residents to schedule immunization appointments by phone.<sup>190</sup> The New York State (1-833-NYS-4VAX) hotline is open from 7 a.m. - 10 p.m., while New York City (1-877-VAX-4NYC) hotline is open from 8 a.m. - 9 p.m.<sup>191</sup> The City's hotline has at least 750 customer service representatives answering calls seven days a week.<sup>192</sup> Nevertheless, hold times remains significantly long.<sup>193</sup>

As New York City continues its vaccination efforts and consolidates available appointments, more New York City residents will use either the online portals or the City's vaccination hotline to sign up for receiving vaccines.<sup>194</sup> Improving the user experience of these technologies is necessary in order to make it easier for New Yorkers to schedule appointments for the COVID-19 vaccine.<sup>195</sup>

## VI. SENIORS' ACCESS TO THE COVID-19 VACCINE

Citywide, 1.3 million people aged 65 or older are eligible for the COVID-19 vaccine,<sup>196</sup> and according to the Department of Health, 282,407 older New Yorkers have received at least 1 dose of the vaccine.<sup>197</sup> New York City's Vaccine Planning Group for Older New Yorkers works with local organizations to increase older adults' understanding of COVID-19 vaccinations and city resources available to them.<sup>198</sup> This group has conducted outreach to seniors through knocking on doors, making phone calls and robocalls, hosting virtual townhalls and partnering with local health providers.<sup>199</sup>

To help ensure older adults receive vaccinations, the City operates a vaccine registration website,<sup>200</sup> offers seniors transportation to vaccination sites, and provides vaccinations at targeted locations, including within the New York City Housing Authority.<sup>201</sup> However, despite the City's efforts, older adults face a plethora of hurdles when seeking vaccinations, including issues within the city's own services.<sup>202</sup>

### a. Older Adult Vaccine Skepticism

Many older adults are hesitant to receive the COVID-19 vaccine. According to a study by the City University of New York Graduate School of Public Health and Health Policy, vaccine acceptance for individuals aged 60 and older was just 52% in September 2020 and increased only by 11%, to 63%, in January 2021.<sup>203</sup> While data on vaccine acceptance rates for older adults of color is limited, research shows that people

<sup>190</sup> Sydney Pereira, "New Yorkers Eligible for COVID Vaccine Report Frustrations with City Registration Websites", GOTHAMIST, January 11, 2021, available at <https://gothamist.com/news/new-yorkers-eligible-vaccine-report-frustrations-city-registration-websites>.

<sup>191</sup> See *id.*

<sup>192</sup> Elizabeth Kim, "Coronavirus Updates: NYC Vaccination Appointment Hotline Will Soon Run 24/7", Gothamist, January 13, 2021, available at <https://gothamist.com/news/coronavirus-updates-nyc-vaccination-appointment-hotline-will-now-run-247>; Sydney Pereira, "New Yorkers Eligible For COVID Vaccine Report Frustrations With City Registration Websites", Gothamist, January 11, 2021, available at <https://gothamist.com/news/new-yorkers-eligible-vaccine-report-frustrations-city-registration-websites>.

<sup>193</sup> Sharon Otterman, "The Maddening Red Tape Facing Older People Who Want the Vaccine", The New York Times, January 14, 2021, available at <https://www.nytimes.com/2021/01/14/nyregion/covid-vaccine-older-people-senior-citizens.html>.

<sup>194</sup> Sydney Pereira, "NY State Website Overwhelmed By Newly-Eligible People Seeking Vaccine", Gothamist, February 14, 2021, available at <https://gothamist.com/news/ny-state-website-overwhelmed-newly-eligible-people-seeking-vaccine>.

<sup>195</sup> Annie McDonough, "Vaccine website frustrations point to larger government tech problems", City and State, January 12, 2021, available at <https://www.cityandstateny.com/articles/policy/technology/vaccine-website-frustrations-point-larger-government-tech-problems.html>.

<sup>196</sup> Testimony of NYC Aging, NYC Council Committees on Aging and Technology hearing. January 22, 2021.

<sup>197</sup> Department of Health, "Covid-19 Vaccines." Accessed at: <https://www1.nyc.gov/site/doh/covid/covid-19-data-vaccines.page>.

<sup>198</sup> Office of the Mayor, "Vaccine for All: City to Offer Transportation for NYC Seniors," January 17, 2021. Accessed at:

<https://www1.nyc.gov/office-of-the-mayor/news/035-21/vaccine-all-city-offer-transportation-nyc-seniors>

<sup>199</sup> *Id.*

<sup>200</sup> Nicole Javorsky, "NYC Faces Uphill Climb in Vaccinating Older New Yorkers," January 29, 2021. Accessed at:

<https://citylimits.org/2021/01/29/nyc-faces-uphill-climb-in-vaccinating-older-new-yorkers/>.

<sup>201</sup> Office of the Mayor, "Vaccine for All: City to Offer Transportation for NYC Seniors," January 17, 2021. Accessed at:

<https://www1.nyc.gov/office-of-the-mayor/news/035-21/vaccine-all-city-offer-transportation-nyc-seniors>.

<sup>202</sup> *Id.*

<sup>203</sup> CUNY SPH, *Vaccine Confidence Grows Under New Administration, Latest CUNY SPH Survey Reveals*, January 2021. Accessed at: <https://sph.cuny.edu/research/covid-19-tracking-survey/january-vaccines/>



of color, especially Black people, are disproportionately hesitant about receiving the COVID-19 vaccine.<sup>204</sup> Notably, such hesitancy is rooted in historical injustices, such as the Tuskegee syphilis experiment, as well as present day systemic injustices.<sup>205</sup> Recently, there have been reports of NYC nursing homes giving veterans experimental COVID-19 treatments without family members awareness.<sup>206</sup>

To address the overall skepticism of the vaccine, as previously noted, the City has conducted various outreach and informational campaigns, including launching a Vaccine for All effort, that include broad outreach and education to address vaccine hesitancy.<sup>207</sup>

### *b. Registration Challenges*

Like other eligible groups, older adults are required to register for vaccines online or call a city hotline to make an appointment.<sup>208</sup> However, as mentioned above, many older adults do not have access to technology and/or Wi-Fi to access the registration page, while those who are able to access the Internet often have troubles navigating vaccine registration websites.<sup>209</sup> For example, older adults have reported being confused by the multiple vaccine websites, many of which act in parallel to one other.<sup>210</sup> Further, there have been reports of malfunctioning registration websites, which have caused people to spend hours trying to schedule an appointment.<sup>211</sup> Overall, older adults have reported spending hours online trying to reserve a vaccination appointment, and in many cases, after all of that time invested, they learned that there were no appointments available.<sup>212</sup>

Although the City also offers a vaccination hotline for individuals who are unable to access the internet, this hotline has also produced frustration for older adults. For example, callers are required to have an email address, leaving seniors without one at a disadvantage.<sup>213</sup> There have also been reports of callers spending 30 minutes on hold after calling the hotline.<sup>214</sup>

### *c. Proximity to Vaccination Sites*

Following reports that vaccination sites were located far from many seniors' homes, the City announced several actions it would take to support older adults accessibility to vaccination sites.<sup>215</sup>

On January 14, 2021, Mayor Bill de Blasio announced that the City would open vaccination clinics in New York City Housing Authority (NYCHA) developments to provide on-site vaccinations for residents aged 65 and older.<sup>216</sup> Vaccination clinics have begun operating at Van Dyke I & II Houses in Brooklyn, Polo Grounds Towers in Manhattan and Cassidy Lafayette Houses in Staten Island.<sup>217</sup>

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<sup>204</sup> CUNY SPH, *Vaccine Confidence Grows Under New Administration, Latest CUNY SPH Survey Reveals*, January 2021, available at <https://sph.cuny.edu/research/covid-19-tracking-survey/january-vaccines/>

<sup>205</sup> *Id.*

<sup>206</sup> Dean Russel, "NYC Nursing Home Gave Dozens of Veterans Experimental COVID-19 Treatments. Some Families Had No Idea," (Feb. 8, 2021). Accessed at: <https://www.thecity.nyc.gov/2021/2/8/22269886/nyc-nursing-home-veterans-cuomo-covid-cocktail>

<sup>207</sup> Office of the Mayor, "Vaccine for All: City to Offer Transportation for NYC Seniors," January 17, 2021. Accessed at:

<https://www1.nyc.gov/office-of-the-mayor/news/035-21/vaccine-all-city-offer-transportation-nyc-seniors>

<sup>208</sup> Sydney Pereira, "New Yorkers Eligible for COVID Vaccine Report Frustrations with City Registration Websites", *GOTHAMIST*, January 11, 2021, available at <https://gothamist.com/news/new-yorkers-eligible-vaccine-report-frustrations-city-registration-websites>.

<sup>209</sup> Sharon Otterman, "The Maddening Red Tape Facing Older People Who Want the Vaccine," January 15, 2021,

<https://www.nytimes.com/2021/01/14/nyregion/covid-vaccine-older-people-senior-citizens.html>

<sup>210</sup> Nicole Javorsky, "NYC Faces Uphill Climb in Vaccinating Older New Yorkers," January 29, 2021. Accessed at:

<https://citylimits.org/2021/01/29/nyc-faces-uphill-climb-in-vaccinating-older-new-yorkers/>.

<sup>211</sup> *Id.*

<sup>212</sup> Sharon Otterman, "The Maddening Red Tape Facing Older People Who Want the Vaccine," January 15, 2021. Accessed at:

<https://www.nytimes.com/2021/01/14/nyregion/covid-vaccine-older-people-senior-citizens.html>.

<sup>213</sup> *Id.*

<sup>214</sup> *Id.*

<sup>215</sup> Office of the Mayor, "Vaccine for All: City to Offer Transportation for NYC Seniors," January 17, 2021. Accessed at:

<https://www1.nyc.gov/office-of-the-mayor/news/035-21/vaccine-all-city-offer-transportation-nyc-seniors>.

<sup>216</sup> *Id.*

<sup>217</sup> *Id.*

On January 17, 2021, Mayor de Blasio announced that the City would offer transportation services to individuals aged 65 and older who need transportation to and from COVID-19 vaccination appointments.<sup>218</sup> To ensure that older adults are aware of this resource, City-operated sites that schedule appointments ask older adults if they need transportation and if they do, they are directed to transportation options such as ambulette services, Access-a-Ride, and cab services.<sup>219</sup> The Mayor's office also announced that in a few weeks selected senior center programs will provide transportation to vaccine appointments for seniors, and that the Administration will offer about 10,000 rides weekly.<sup>220</sup>

Recently, on February 12, 2021, the Mayor also announced a plan to administer the vaccine to homebound older adults and home care workers.<sup>221</sup> The City will set up vaccination clinics at DFTA retirement communities and NYC's Housing Preservation and Development (HPD) senior buildings.<sup>222</sup> Two of these sites, Warbase Cares Program and Morningside Retirement & Health Services, will launch the week of February 15, with additional sites launching over the proceeding weeks.<sup>223</sup>

The City will also increase vaccinations for homecare aides, home health aides, and personal care aides by ensuring that they receive priority appointments at City vaccine sites and increased access to five workforce hubs.<sup>224</sup> According to the announcement, the City aims to vaccinate 25,000 home health aides throughout the next month.<sup>225</sup>

#### *d. New York City Aging Efforts*

The New York City Department for the Aging, also known as NYC Aging, administers federal, state, and city funding to address service needs for older residents. Since the development of the COVID-19 vaccination, NYC Aging has supported the city with outreach to older adults.<sup>226</sup> Currently, NYC Aging's website offers a resource hub that provides information about the vaccine, and NYC Aging Commissioner Lorraine Cortés-Vázquez is a member of the New York City's Vaccine Planning Group.<sup>227</sup> Additionally, NYC Aging senior provider organizations have helped older adults register for vaccines, and the City also recently announced that NYC Aging providers will be able to connect seniors to transportation services.<sup>228</sup>

Despite the aforementioned efforts and services, NYC Aging has been criticized for its ability to effectively support seniors with getting vaccinated.<sup>229</sup> Many senior service providers and older adults have called for senior centers to become vaccination distribution sites, contending that seniors trust their senior centers and would feel more comfortable with obtaining a vaccination there in lieu of an unfamiliar organization and location.<sup>230</sup> During a February 10, 2021 NYC Council hearing, Commissioner Cortez-Vasquez testified that while senior centers are not currently vaccination sites, the option is "never off the table."<sup>231</sup>

<sup>218</sup> Office of the Mayor, "Vaccine for All: City to Offer Transportation for NYC Seniors," January 17, 2021. Accessed at: <https://www1.nyc.gov/office-of-the-mayor/news/035-21/vaccine-all-city-offer-transportation-nyc-seniors>.

<sup>219</sup> *Id.*

<sup>220</sup> *Id.*

<sup>221</sup> Office of the Mayor, "Vaccine For All: City Expands Vaccination Effort For Seniors" February 12, 2021. Accessed at: <https://www1.nyc.gov/office-of-the-mayor/news/104-21/vaccine-all-city-expands-vaccination-effort-seniors>.

<sup>222</sup> *Id.*

<sup>223</sup> *Id.*

<sup>224</sup> *Id.*

<sup>225</sup> *Id.*

<sup>226</sup> Testimony of NYC Aging, NYC Council Committees on Aging and Technology hearing. January 22, 2021.

<sup>227</sup> *Id.*

<sup>228</sup> Office of the Mayor, "Vaccine for All: City to Offer Transportation for NYC Seniors," January 17, 2021. Accessed at: <https://www1.nyc.gov/office-of-the-mayor/news/035-21/vaccine-all-city-offer-transportation-nyc-seniors>.

<sup>229</sup> Testimony of Advocates, NYC Council Committees on Aging and Immigration hearing. February 10, 2021.

<sup>230</sup> Testimony of Advocates, NYC Council Committees on Aging and Technology hearing. January 22, 2021.

<sup>231</sup> Testimony of NYC Aging, NYC Council Committees on Aging and Immigration hearing. February 10, 2021.

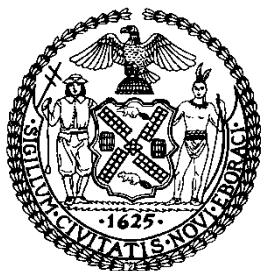
## VII. LEGISLATION ANALYSIS

**Proposed Int. No. 2236-A:** *A Local Law in relation to the creation of a unified scheduling system for COVID-19 vaccinations, and to provide for the repeal thereof*

This bill would require DOHMH to develop and maintain a website which operates as a unified scheduling system for COVID-19 vaccinations for all vaccination locations and providers located in New York City. Since introduction, the bill was updated to include the ability to display all available appointments across all vaccination locations of cooperating providers filterable by zip code and eligibility category. The was also amended to allow users to request to be notified when new COVID-19 vaccination appointments are available, and allows an eligible user to pre-register for such an appointment.

This law would take effect immediately and be deemed repealed 2 years after it becomes law.

(The following is the text of the Fiscal Impact Statement for Int. No. 2236-A:)



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

**PROPOSED INTRO. NO:** 2236-A

**COMMITTEE:** Health

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**TITLE:** In relation to the creation of a unified scheduling system for COVID-19 vaccinations, and to provide for the repeal thereof. **SPONSORS:** Council Members Levine, Powers, Miller, Lander, Rivera, Kallos and Holden.

**SUMMARY OF LEGISLATION:** Proposed Intro. No. 2236-A would require the Department of Health and Mental Hygiene (DOHMH), or another agency designated by the Mayor, to develop and maintain a website which operates as a unified scheduling system for COVID-19 vaccinations for all cooperating vaccination locations and providers located in New York City. The website would also allow an eligible user to receive notifications when new vaccination appointments are available, and to pre-register for such appointments.

**EFFECTIVE DATE:** This local law would take effect 30 days after it becomes law.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2021

**FISCAL IMPACT STATEMENT:**

	Effective FY21	FY Succeeding Effective FY22	Full Fiscal Impact FY22
<b>Revenues</b>	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** It is anticipated that the proposed legislation would have no impact on revenues.

**IMPACT ON EXPENDITURES:** It is anticipated that there would be no impact on expenditures resulting from the enactment of Intro No. 2236-A as the designated agency would utilize existing resources to comply with the

requirements of this legislation. DOHMH is already working with the Department of Information Technology and Telecommunications (DoITT) to redesign the existing vaccinate hub website.

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

**SOURCE OF INFORMATION:** New York City Council Finance Division  
Department of Health and Mental Hygiene

**ESTIMATE PREPARED BY:** Lauren Hunt, Financial Analyst

**ESTIMATE REVIEWED BY:** Nathan Toth, Deputy Director, NYC Council Finance Division  
Crielhien R. Francisco, Unit Head, NYC Council Finance Division  
Noah Brick, Assistant Counsel, NYC Council Finance Division

**LEGISLATIVE HISTORY:** This legislation was first considered by the Committee on Health (Committee), at a hearing held jointly with the Committee on Aging and the Committee on Technology, as a Preconsidered Introduction on February 17, 2021 and the bill was laid over. This legislation was introduced to the full Council on February 25, 2021 and was referred to the Committee. The legislation was subsequently amended and the amended version, Int. No. 2236–A, will be considered by the Committee on March 18, 2021. Upon a successful vote by the Committee, Proposed Intro. No. 2236-A will be submitted to the full Council for a vote on March 18, 2021.

**DATE PREPARED:** March 16, 2021.

**(For text of Res. Nos. 1529-A and 1535, please see the voice-voice Resolutions Calendar section of these Minutes; for text of Int. No. 2236-A, please see below)**

*Accordingly, this Committee recommends the adoption of Int. No. 2236-A, Res. No. 1529-A, and Res. No. 1535.*

**(The following is the text of Int. No. 2236-A:)**

Int. No. 2236-A

By Council Members Levine, Powers, Miller, Lander, Rivera, Kallos, Holden, Barron, Rose, Ampry-Samuel and Yeger.

**A Local Law in relation to the creation of a unified scheduling system for COVID-19 vaccinations, and to provide for the repeal thereof**

*Be it enacted by the Council as follows:*

Section 1. a. Definitions. For the purposes of this section, the following terms have the following meanings:

COVID-19. The term “COVID-19” means the disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

Department. The term “department” means the department of health and mental hygiene, or another agency designated by the mayor.

b. COVID-19 vaccination scheduling system. The department shall develop and maintain an online platform which can operate as a unified scheduling system for COVID-19 vaccinations for cooperating providers that may include, but need not be limited to, vaccination locations operated by the department, by the health and hospitals corporation, and by New York state. Such platform shall be made available to the general public in all designated citywide languages, as defined by section 23-1101 of the administrative code of the

city of New York, and shall be accessible to people with disabilities in accordance with section 23-802 of such code. Such platform shall display all available appointments across all vaccination locations of cooperating providers, organized by date and time and filterable by zip code and eligibility category, and allow for the scheduling of COVID-19 vaccination appointments, either on such platform or through a link to the website of a provider, across all vaccination locations of cooperating providers located in the city of New York.

c. Such platform shall allow an eligible user, as prioritized by the department, to request to be notified when new COVID-19 vaccination appointments are available for such user, and allow an eligible user to pre-register for such an appointment.

§ 2. This local law takes effect 30 days after it becomes law, and is deemed repealed 2 years after it becomes law.

MARK D. LEVINE, *Chairperson*; MATHIEU EUGENE; INEZ D. BARRON ALICKA AMPRY-SAMUEL, ROBERT F. HOLDEN, KEITH POWERS, DARMA V. DIAZ; Committee on Health, March 18 2021 (Remote Hearing). *Other Council Members Attending: Council Members Miller and Koslowitz.*

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. 874-A

**Report of the Committee on Housing and Buildings 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 improving tenant notification, interagency cooperation, conducting inspections and issuing stop work orders, in connection with lead paint and construction work.**

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on May 9, 2018 (Minutes, page 1801), respectfully

#### **REPORTS:**

#### **Introduction**

On March 17, 2021, the Committee on Housing and Buildings, chaired by Council Member Robert E. Cornegy, Jr., held a hearing on Int. No. 874-A, in relation to improving tenant notification, interagency cooperation, conducting inspections and issuing stop work orders, in connection with lead paint and construction work. This bill was first heard on September 27, 2018. [More information about this bill along with the materials for that hearing can be found at https://on.nyc.gov/3qTvA35.](https://on.nyc.gov/3qTvA35)

#### **BACKGROUND**

##### *The City's Current Lead Laws*

The use of lead-based paint in residential buildings was first banned in New York City in 1960.<sup>1</sup> It was subsequently banned by the federal government in 1978.<sup>2</sup> However, exposure to this toxic substance, which is

<sup>1</sup> N.Y.C. Department of Housing Preservation and Development, <https://www1.nyc.gov/site/hpd/owners/Lead-Based-Paint.page>.

especially harmful to children, has continued. Local Law 1 of 2004 (“Local Law 1”), also known as the Childhood Lead Poisoning Prevention Act, was enacted to reduce the likelihood of childhood exposure to lead, with a particular focus on identifying and remediating lead-based paint hazards in apartments and day care facilities.<sup>3</sup>

Local Law 1 requires, in part, that building owners investigate units and common areas in which lead-based paint may be present, with special attention paid to units where a child under age six resides.<sup>4</sup> Any lead-based paint hazards or violations must be addressed using safe work practices to prevent additional exposure to lead, and detailed records of investigation and remediation efforts must be maintained.<sup>5</sup> Owners are also required to inquire as to the presence of children under age six residing in the building, and to provide all tenants with information regarding the presence of lead-based paint (if applicable) and the owner’s responsibilities under Local Law 1.<sup>6</sup>

In addition to the requirements placed on building owners, Local Law 1 also creates a presumption that lead-based paint is present in any day care facility built before 1978.<sup>7</sup> Any lead-based paint or paint of unknown lead content that is peeling or on a deteriorated, impact, or friction surface must be immediately remediated, and only lead-free paint can be used to paint equipment within the facility.<sup>8</sup> The operator of a day care facility is required to conduct an annual survey to ensure that surface-coating material throughout the facility is in compliance.<sup>9</sup>

Pursuant to Local Law 1, the Department of Housing Preservation and Development (“HPD”) is primarily responsible for the implementation and enforcement of the law’s requirements, with The Department of Health and Mental Hygiene (“DOHMH”) also maintaining a significant role in the development of rules and procedures.<sup>10</sup> Local Law 1 requires that the agencies provide training and create inspection and remediation standards as well as safe work practices.<sup>11</sup> Further, Local Law 1 requires effective collaboration between the agencies throughout the process of conducting inspections and correcting violations by, among other things, requiring HPD to audit and/or inspect multiple dwellings for lead paint following a commissioner’s order to abate from DOHMH.<sup>12</sup>

However, despite the requirements of Local Law 1, lead continues to pose a substantial hazard to the health of children in the City.<sup>13</sup> The stated goal of Local Law 1, which was to eradicate childhood lead poisoning, has not been realized, with 3,866 children under six years of age identified with elevated blood lead levels in 2018.<sup>14</sup>

### *Recent Developments*

On March 13, 2019, the Council passed 10 pieces of lead-related legislation building upon the requirements of Local Law 1.<sup>15</sup> These bills took a number of approaches to ensure the safety of children and spaces potentially overlooked by the City’s lead laws. One approach requires the investigation and remediation of lead hazards not only where children live, but also where they spend ten or more hours per week.<sup>16</sup> Another

<sup>2</sup> U.S. Environmental Protection Agency, <https://www.epa.gov/lead/protect-your-family-exposures-lead>.

<sup>3</sup> Local Law 1 of 2004, available at <https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYAdmin/0-0-0-60589>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> N.Y.C. DOHMH, Report to the New York City Council on Progress in Preventing Childhood Lead Poisoning in New York City, August 30, 2018, available at <https://www1.nyc.gov/assets/doh/downloads/pdf/lead/lead-rep-cc-annual-18.pdf>.

<sup>14</sup> N.Y.C. DOHMH, Report to the New York City Council on Progress in Preventing Childhood Lead Poisoning in New York City, September 30, 2019, available at <https://www1.nyc.gov/assets/doh/downloads/pdf/lead/lead-rep-cc-annual-19.pdf>.

<sup>15</sup> Local Laws 64, 65, 66, 67, 68, 69, 70, 71, 72 and 73 for the year 2019. See N.Y.C. Council, Stated Meeting, March 13, 2019, <https://nyc.legistar.com/MeetingDetail.aspx?ID=683513&GUID=6B168C90-0D6F-4FF5-9637-10BD41E3C554&Options=info&Search=>.

<sup>16</sup> See Local Law 064/2019 (Intro. No. 464-B), <https://nyc.legistar.com/LegislationDetail.aspx?ID=3343772&GUID=D826FA06-E66A-4ECD-BBF1-B30F7BE3C3C2&Options=&Search=>.

approach lowered the blood lead reference level and the lead-based paint and the lead dust thresholds to trigger more proactive investigations of lead poisoning and lead hazards.<sup>17</sup> In addition, annual investigation requirements were extended to preschools and nursery schools,<sup>18</sup> and education, outreach, and reporting requirements were strengthened to effectively inform parents, guardians, and communities about lead hazards and lead poisoning prevention.<sup>19</sup> Finally, requirements were added to increase awareness and testing of lead in water.<sup>20</sup>

On February 11, 2020, the Council passed a package of 4 bills further strengthening the city's lead laws. Int. No. 904-A<sup>21</sup> expanded the investigations DOHMH is required to undertake when a pregnant person is found to have an elevated blood lead level, and, after the birth of a child, requires DOHMH to monitor such child for elevated blood lead levels and assess whether the apartment where such child resides contains any lead-based paint or unsafe lead paint. The bill also requires DOHMH to conduct outreach to new and expected parents about the availability of inspections for lead paint hazards in their homes, and to provide them with information about blood lead testing for children, unsafe construction or renovation work practices, and the availability of inspections for such practices. Int. No. 873-A<sup>22</sup> requires schools operated by the Department of Education to conduct regular surveys and inspections of covered facilities<sup>23</sup> within such schools for lead-based paint hazards, the results of which must be made publicly available and delivered to parents and guardians. This bill also requires HPD, when conducting certain inspections, to determine whether there has been a violation of the Housing Maintenance Code requirement that the owner of a building constructed before 1960 remediate lead-based paint hazards, including on friction surfaces, when a new tenant moves in. Finally, this bill established a presumption that a building owner who is unable to provide a record of having completed lead hazard remediation upon turnover has violated the provisions requiring such remediation. Int. No. 891-A<sup>24</sup> expanded the meaning of "multiple dwelling" for the purposes of the lead law requirements described in the Housing and Maintenance provisions of the Administrative Code to also include non-owner-occupied private dwellings. Finally, Int. No. 919-A requires the owners of certain dwellings to, upon the earlier of either within five years of the bill's effective date or one year of a child moving in, arrange for a thorough inspection for lead-based paint hazards to be conducted by an independent EPA-certified inspector. It also requires home improvement contractors to be EPA-certified to ensure that they are prepared to follow lead-related safety standards.

### Int. No. 874-A

Int. No. 874-A would establish requirements to strengthen interagency communication, tenant notification, and inspections related to lead-based paint and lead dust hazards. First, this bill would require DOHMH to add certain information regarding lead dust hazards to existing pamphlets. This bill would also expand existing DOHMH referral procedures where a child may have been exposed to lead to automatically refer such child to a medical provider for blood lead testing, regardless of whether a referral is requested by a parent or guardian.

<sup>17</sup> See Local Law 066/2019 (Intro. No. 865-A), <https://nyc.legistar.com/LegislationDetail.aspx?ID=3498451&GUID=32932F9A-CBB0-4413-95F3-4AFCCCE64F41&Options=&Search=>.

<sup>18</sup> See Local Law 071/2019 (Intro. No. 920-A), <https://nyc.legistar.com/LegislationDetail.aspx?ID=3498552&GUID=4B027FB2-02C8-4571-9F3B-5DA56A4A1AF8&Options=&Search=>.

<sup>19</sup> See Local Laws 68/2019 (Intro. No. 877-A), 69/2019 (Intro. No. 881-A), 70/2019 (Intro. No. 918-A), 73/2019 (Intro. No. 1117-A), accessible at <https://nyc.legistar.com/MeetingDetail.aspx?ID=683513&GUID=6B168C90-0D6F-4FF5-9637-10BD41E3C554&Options=info&Search=>.

<sup>20</sup> See Local Law 73/2019 (Intro. No. 1117-A), <https://nyc.legistar.com/LegislationDetail.aspx?ID=3683904&GUID=BEAFC322-DEFE-4780-BF47-3C6FE9D5BF72&Options=&Search=>.

<sup>21</sup> See Local Law 30/2020 (Intro. No. 904-A), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3498517&GUID=E93C70A4-5C93-4372-9FF8-61AABE7F4391&Options=ID|Text|&Search=904>.

<sup>22</sup> See Local Law 28/2020 (Intro. No. 873-A), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3498486&GUID=C44E1098-18F0-4821-A9EE-8FC5355230F0&Options=ID|Text|&Search=873>.

<sup>23</sup> This bill amended the definition of "covered facility" to also include spaces in schools regulated by article 47 of the New York City Health Code. This amendment would extend to schools the existing requirements for operators of facilities providing day care services to survey and remediate lead-based hazards. This bill would also establish additional requirements for the Department of Education to survey and inspect for lead-based paint hazards.

<sup>24</sup> See Local Law 29/2020 (Intro. No. 891-A), <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3498519&GUID=0F583E43-17F2-4497-BCD1-AA89F40CB05A&Options=ID|Text|&Search=891>.

This bill would also require DOHMH to post a notice in the lobby of a building when, in the course of completing certain inspections, a lead hazard has been discovered in the common area. Building owners would be required to post additional notices on every floor of that same building.

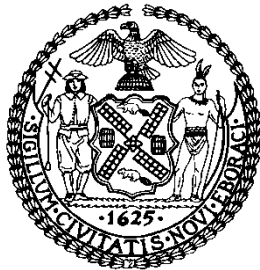
This bill would also require statements of compliance with lead safe work practices as a condition of certain permit applications, and would require DOB to maintain records of all such permits. This bill would add lead safe work practices to the requirements of a Tenant Protection Plan, while also allowing DOB to issue a stop work order where DOHMH has made a referral based on unsafe lead work practices. Where DOB receives a complaint alleging the violation of the lead safe practices described in a tenant protection plan, this bill would require DOB to inspect within 24 hours, take dust wipes upon inspection, and refer such dust wipes and any hazardous conditions to DOHMH for inspection and analysis.

A technical correction was made to the provision describing the effective date of this bill on March 15, 2021. This bill would take effect one year after becoming law.

### Update

On Wednesday, March 17, 2021, the Committee adopted Int. No. 874-A by a vote of eight in the affirmative, zero in the negative, and zero abstentions.

**(The following is the text of the Fiscal Impact Statement for Int. No. 874-A:)**



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION  
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO: 874-A  
COMMITTEE: Housing and Buildings**

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to improving tenant notification, interagency cooperation, conducting inspections and issuing stop work orders, in connection with lead paint and construction work

**SPONSOR(S):** Council Members Chin, Cumbo, Kallos, Lander, Vallone and Rosenthal.

**SUMMARY OF LEGISLATION:** The proposed legislation would establish requirements to strengthen interagency communication, tenant notification, and inspections related to lead-based paint and lead dust hazards. First, this bill would require the Department of Health and Mental Hygiene (DOHMH) to add certain information regarding lead dust hazards to existing pamphlets. This bill would also expand existing DOHMH referral procedures where a child may have been exposed to lead to automatically refer such child to a medical provider for blood lead testing. This bill would further require DOHMH to post a notice in the lobby of a building when, in the course of completing certain inspections, a lead hazard has been discovered in the common area. Building owners would be required to post additional notices on every floor.

This bill would additionally require statements of compliance with lead safe work practices as a condition of certain permit applications, and would require the Department of Buildings (DOB) to maintain records of all such permits. This bill would add lead safe work practices to Tenant Protection Plan requirements, while also



allowing DOB to issue a stop work order where DOHMH has made a referral based on unsafe lead work practices. Where DOB receives a complaint alleging the violation of the lead safe practices described in a Tenant Protection Plan, this bill would require DOB to inspect within 24 hours, take dust wipes upon inspection, and refer such dust wipes and any hazardous conditions to DOHMH for inspection and analysis.

**EFFECTIVE DATE:** This legislation would take effect one year after becoming law.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2023

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY22</b>	<b>FY Succeeding Effective FY23</b>	<b>Full Fiscal Impact FY23</b>
<b>Revenues</b>	\$0	\$0	\$0
<b>Expenditures</b>	De minimis	De minimis	De minimis
<b>Net</b>	De minimis	De minimis	De minimis

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

**IMPACT ON EXPENDITURES:** It is estimated that the the enactment and implementation of this legislation would have minimal impact on expenditures. With respect to inspections of alleged violations of lead safe work practices (i.e., lead dust), this legislation codifies the existing DOB practice of addressing these complaints within 24 hours. Any cost incurred by DOB would be limited to supplies and materials to carry out dust collection for testing by DOHMH.

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

**SOURCE OF INFORMATION:** City Council Finance Division

**ESTIMATE PREPARED BY:** Luke Zangerle, Legislative Financial Analyst  
Lauren Hunt, Legislative Financial Analyst

**ESTIMATED REVIEWED BY:** Chima Obichere, Unit Head  
Noah Brick, Assistant Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council on May 9, 2018 as Introduction No. 874 and was referred to the Committee on Housing and Buildings (Committee). The legislation was heard at a by the Committee, joint with the Committee on Environmental Protection and the Committee on Health, on September 27, 2018 and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Introduction No. 874-A, will be heard by the Committee on March 17, 2021. Following a successful Committee vote, the bill would be submitted to the full Council for a vote on March 18, 2021.

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

**(The following is the text of Int. No. 874-A:)**

Int. No. 874-A

By Council Members Chin, Cumbo, Kallos, Lander, Vallone, Rosenthal, Maisel and Rivera.

**A Local Law to amend the administrative code of the city of New York, in relation to improving tenant notification, interagency cooperation, conducting inspections and issuing stop work orders, in connection with lead paint and construction work**

*Be it enacted by the Council as follows:*

Section 1. Subdivision b of section 17-179 of the administrative code of the city of New York, as amended by local law number 73 for the year 2019, is amended to read as follows:

b. The department shall develop a pamphlet explaining the hazards associated with lead-based paint *and lead-contaminated dust* and describing the procedures to be used in order for a violation of sections 27-2056.6 [and], 27-2056.7, 27-2056.8 *and 27-2056.11* of this code to be corrected. The pamphlet shall include appropriate telephone numbers to obtain lead poisoning screening, diagnosis and treatment information and to report unsafe lead-based paint work practices. Such pamphlet shall also describe building owners' responsibilities under article 14 of subchapter 2 of chapter 2 of title 27, including such building owners' responsibilities to remediate all lead-based paint hazards and underlying defects upon turnover of any dwelling unit, and such building owners' responsibilities to annually inspect any dwelling unit where a child of applicable age resides for lead-based paint hazards. Such pamphlet shall be made available in accordance with section 27-2056.9 of this code. Such pamphlet shall also be made available *on the department's website and* to any member of the public upon request, and shall be available in any designated citywide language, as defined by section 23-1101 of this code.

§ 2. Subparagraph (i) of paragraph 3 of subdivision e of section 27-2056.4 of the administrative code of the city of New York, as added by local law number 1 for the year 2004, is amended to read as follows:

(i) Upon receipt of such notice the occupant shall have the responsibility to deliver by February fifteenth of that year, a written response to the owner indicating whether or not a child of applicable age resides therein. If, subsequent to delivery of such notice, the owner does not receive such written response by February fifteenth, and does not otherwise have actual knowledge as to whether a child of applicable age resides therein, then the owner shall at reasonable times and upon reasonable notice inspect that occupant's dwelling unit to ascertain the residency of a child of applicable age and, when necessary, conduct an investigation in order to make that determination. Where, between February sixteenth and March first of that year, the owner has made reasonable attempts to gain access to a dwelling unit to determine if a child of applicable age resides in that dwelling unit and was unable to gain access, the owner shall notify the department of health and mental hygiene of that circumstance. *The department of health and mental hygiene may require by rule that such notification to such department be provided electronically.*

§ 3. Paragraph 2 of subdivision a of section 27-2056.11 of the administrative code of the city of New York is amended by adding a new subparagraph (iv) to read as follows:

(iv) *The department of health and mental hygiene may by rule require the electronic submission of any notice required to be submitted to such department by this paragraph.*

§ 4. Paragraph 1 of subdivision b of section 27-2056.12 of the administrative code of the city of New York, as amended by local law number 70 for the year 2019, is amended to read as follows:

(1) the number of addresses inspected and the number of [commissioners] *commissioner's* orders and violations issued pursuant to section 27-2056.11 and any regulations promulgated thereunder, *disaggregated by whether such inspections occurred in response to complaints, referrals from the department of buildings or another cause;*

§ 5. Section 27-2056.13 of the administrative code of the city of New York, as added by local law number 1 for the year 2004, is amended to read as follows:

§ 27-2056.13 Transmittal of Violations to the Department of Health and Mental Hygiene. The department shall send a notice which shall be addressed to the dwelling unit in the multiple dwelling, when a dwelling unit is identified, for which a violation of this article was issued. Such notice shall include a telephone number for the department of health and mental hygiene. The department shall also refer to the department of health and mental hygiene the address of the unit in the multiple dwelling for which such violation was issued, *where applicable*, the name of the complainant, if any, and the complainant's telephone number, if available. The department of health and mental hygiene, pursuant to section 17-179 of this code, shall refer to appropriate medical providers any person who requests assistance in blood lead screening, testing, diagnosis or treatment[, and upon the request of a parent or guardian, arrange for blood lead screening of] *for any child who requires screening and whose parent or guardian is unable to obtain a lead test because the child is uninsured or the child's insurance does not cover such screening.*

§ 6. Section 27-2056.14 of the administrative code of the city of New York, as amended by local law number 66 for the year 2019, is amended to read as follows:

§ 27-2056.14 Inspections by Department of Health and Mental Hygiene and Removal of Health Code Violations by Department of Housing Preservation and Development. a. Whenever a report has been made to the department of health and mental hygiene of a person under eighteen years of age with an elevated blood lead level that is at or above the blood lead reference level established pursuant to section 17-912 residing in any dwelling unit, the department of health and mental hygiene shall conduct such investigation as may be necessary to identify potential sources of the elevated blood lead level, including but not limited to, an inspection of the dwelling unit where such person resides. If the department of health and mental hygiene issues an order to correct any violation, the department of health and mental hygiene shall notify the department of each dwelling unit in a dwelling for which the department of health and mental hygiene has issued an order to correct a violation. Where the owner of the dwelling or relevant dwelling unit within such dwelling fails to comply with an order of the department of health and mental hygiene to correct a violation placed by the department of health and mental hygiene, the department of health and mental hygiene shall certify such conditions to the department of housing preservation and development. The certification procedure shall be completed within sixteen days of the report of the elevated blood lead level. The conditions so certified shall be corrected within eighteen days of certification to the department.

*b. In the event that the department of health and mental hygiene issues an order to correct a violation for a condition in a common area of a dwelling identified during an investigation conducted pursuant to subdivision a of this section or section 17-185, the department of health and mental hygiene shall post a notice of such order in a conspicuous manner in the building lobby, and the building owner shall post a notice of such order on each floor within ten feet of the elevator, or, in a building where there is no elevator, within ten feet of or in the main stairwell on such floor. Such notice shall remain posted until a determination by the department of health and mental hygiene that the violating condition has been corrected, and shall include an explanation of the hazards of lead exposure, a description of precautionary measures to prevent exposure to lead dust and an appropriate telephone number to obtain lead poisoning screening, diagnosis and treatment information.*

§ 7. Article 105 of chapter 1 of title 28 of the administrative code of the city of New York is amended by adding new sections 28-105.12.12 and 28-105.12.13 to read as follows:

**§ 28-105.12.12 Statement of lead-based paint compliance.** *Where the work for which a permit is sought involves disturbance of lead-based paint, as defined in section 27-2056.2, or paint of unknown lead content, the application shall include a statement of compliance with section 27-2056.11 and, where applicable, subpart E or subpart L of part 745 of title 40 of the code of federal regulations. The application shall also include a statement that any firm performing proposed work holds the certification or certifications required to perform work pursuant to such section, such certification number(s) and, where applicable, that such firm has filed or will file a notice of commencement required pursuant to paragraph (2) of subdivision a of section 27-2056.11 with the department of health and mental hygiene.*

**§ 28-105.12.13 Reporting to the Department of Health and Mental Hygiene.** *The department shall maintain an electronic record of all permits issued that indicate that section 28-105.12.12 applies to the building subject to such permit. The department shall make such permit information available to the department of health and mental hygiene.*

§ 8. Subdivision 3.1 of section 28-120.1 of the administrative code of the city of New York, as added by local law number 106 for the year 2019, is amended to read as follows:

**3.1.** [There] **Lead and asbestos.** *Where the work involves disturbance of lead-based paint, as defined in section 27-2056.2, or paint of unknown lead content or asbestos, there shall be included a statement of compliance with applicable provisions of law relating to lead and asbestos, [and such statement shall describe with particularity what means and methods are being undertaken to meet such compliance] including whether the firm performing proposed work holds the certification or certifications required to perform such work pursuant to section 27-2056.11, and disclosure of any open violations related to lead*

*issued by the department of health and mental hygiene or the department of housing preservation and development.*

§ 9. Section 28-120.1.3 of the administrative code of the city of New York, as amended by local law number 106 for the year 2019, is amended to read as follows:

**§ 28-120.1.3 Notice to occupants.** Upon issuance of a permit for work containing a tenant protection plan, the owner shall (i) distribute a notice regarding such plan to each occupied dwelling unit and (ii) post a notice regarding such plan in a conspicuous manner in the building lobby, as well as on each floor within ten feet of the elevator, or in a building where there is no elevator, within ten feet of or in the main stairwell on such floor. The notice shall be in a form created or approved by the department and shall include:

1. A statement that occupants of the building may obtain a paper copy of such plan from the owner and may access such plan on the department website;
2. The name and contact information for the site safety manager, site safety coordinator or superintendent of construction required by section 3301.3 of the New York city building code, as applicable, or, if there is no site safety manager, site safety coordinator or superintendent of construction, the name and contact information of the owner of the building or such owner's designee; [and]
3. A statement that occupants of the building may call 311 to make complaints about the work; and
4. *Where the work involves the disturbance of lead-based paint, as defined in section 27-2056.2, or paint of unknown lead content, occupants of the building shall be directed to information regarding the hazards associated with lead-contaminated dust in a form established by the department in collaboration with the department of health and mental hygiene.*

§ 10. Section 28-207.2 of the administrative code of the city of New York, as amended by local law number 62 for the year 2019, is amended to read as follows:

**§ 28-207.2 Stop work orders.** Whenever the commissioner has issued a notice of proposed revocation pursuant to section 28-105.10.1 of this code or finds that any building work is being executed in violation of the provisions of this code, the 1968 building code, the zoning resolution or of any laws or rules enforced by the department, or in a dangerous or unsafe manner, *or, if the department of health and mental hygiene makes a referral to the department regarding unsafe lead work practices*, the commissioner or his or her authorized representative may issue a stop work order.

§ 11. Section 3303.10.2 of the New York city building code, as amended by local law number 116 for the year 2019, is amended to read as follows:

**3303.10.2 Inspections of tenant protection plan.** The owner shall notify the department in writing at least 72 hours prior to the commencement of any work requiring a tenant protection plan. The department shall conduct an inspection of 10 percent of such sites within seven days after the commencement of such work to verify compliance with the tenant protection plan. The department shall conduct follow up inspections of such sites every 180 days until such construction is completed to verify compliance with the building code and tenant protection plan. Thereafter, the department shall conduct an inspection within 10 days of receipt of a complaint concerning such work. *Where the department receives a complaint alleging that dust is not being contained or controlled in accordance with a tenant protection plan, it shall conduct an inspection within 24 hours. The department shall, in collaboration with the department of health and mental hygiene, develop a procedure to complete a lead-contaminated dust test upon a determination that dust is not being contained or controlled during such tenant protection plan inspections or an inspection conducted in response to a complaint, and take any appropriate enforcement action, including the issuance of an order pursuant to section 28-207.2 of the administrative code. The department of health and mental hygiene shall assist the department to implement such procedure,*

*including submitting dust samples collected by the department to a laboratory for analysis. The department shall refer the result of any such inspection to the department of health and mental hygiene for review and further inspection in accordance with the New York city health code.*

§ 12. This local law takes effect one year after it becomes law, except the commissioner of housing preservation and development and the commissioner of health and mental hygiene may take such actions as are necessary for the implementation of this local law, including the promulgation of rules, before such effective date.

ROBERT E. CORNEGY, Jr., *Chairperson*; FERNANDO CABRERA, MARGARET S. CHIN; HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, MARK GJONAJ, CARLINA RIVERA, FARAH N. LOUIS; Committee on Housing and Buildings, March 17, 2021 (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 of the Committee on Land Use**

Report for L.U. No. 718

**Report of the Committee on Land Use in favor of approving, as modified, Application No. C 180496 ZMK (1620 Cortelyou Road Rezoning) submitted by 1600/20 Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22c, changing from an existing R6A District to an R7D District property bounded by Cortelyou Road, East 17th Street, a line 100 feet southeasterly of Cortelyou Road, and East 16th Street, Borough of Brooklyn, Community District 40, Council District 14.**

The Committee on Land Use, to which the annexed Land Use item was referred on January 28, 2021 (Minutes, page 134), respectfully

#### **REPORTS:**

**(For text of report, please see the updated Report of the Committee on Land Use for L.U. No. 718 & Res. No. 1578 printed in the General Order Calendar section of these Minutes)**

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

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, CHAIM M. DEUTSCH, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 10, 2021 (Remote Hearing).

Approved with Modifications and Referred to the City Planning Commission pursuant to Section 197-(d) of the New York City Charter.

## Report for L.U. No. 719

**Report of the Committee on Land Use in favor of approving, as modified, Application No. N 180497 ZRK (1620 Cortelyou Road Rezoning) submitted by 1600/20 Realty Corp., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 40, Council District 14.**

The Committee on Land Use, to which the annexed Land Use item was referred on January 28, 2021 (Minutes, page 135), respectfully

**REPORTS:**

**(For text of report, please see the updated Report of the Committee on Land Use for L.U. No. 718 & Res. No. 1578 printed in the General Order Calendar section of these Minutes)**

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

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, CHAIM M. DEUTSCH, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 10, 2021 (Remote Hearing).

Approved with Modifications and Referred to the City Planning Commission pursuant to-Section 197-(d) of the New York City Charter.

## Report for L.U. No. 730

**Report of the Committee on Land Use in favor of approving Application No. 20215015 HAK (Sutter Ave-East New York Partnership Homes) submitted by the Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law requesting waiver of the designation requirements of Section 693 of the General Municipal Law and the requirements of 197-c and 197-d of the New York City Charter, and approval of the project as an Urban Development Action Area Project, for property located at Block 4049, p/o Lot 25, Borough of Brooklyn, Community District 5, Council District 42.**

The Committee on Land Use, to which the annexed Land Use item was referred on February 11, 2021 (Minutes, page 240) and which same Land Use item was coupled with the resolution shown below, respectfully

**REPORTS:****SUBJECT****BROOKLYN CB - 5****20215015 HAK**

Application submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law for approval of an urban development action area project,

and waiver of the area designation requirement and the requirements of Sections 197-c and 197-d of the New York City Charter, for property located on Sutter Avenue between Cleveland and Elton Streets (Block 4049, p/o Lot 25), Council District 42.

## **INTENT**

To approve UDAAP designation, project approval and disposition of the remaining portion of Block 4049, Lot 25 to the Sponsor to conserve existing private dwellings.

## **PUBLIC HEARING**

**DATE:** February 18, 2021

**Witnesses in Favor:** Two

**Witnesses Against:** None

## **SUBCOMMITTEE RECOMMENDATION**

**DATE:** March 8, 2021

The Subcommittee recommends that the Land Use Committee approve the requests made by the New York City Department of Housing Preservation and Development.

### **In Favor:**

Riley, Koo, Barron, Miller, Treyger.

### **Against:**

None

### **Abstain:**

None.

## **COMMITTEE ACTION**

**DATE:** March 10, 2021

The Committee recommends that the Council approve the attached resolution.

### **In Favor:**

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Reynoso, Treyger, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

### **Against:**

None

### **Abstain:**

None.

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

## Res. No. 1572

**Resolution approving an Urban Development Action Area Project pursuant to Article 16 of the General Municipal Law for property located on Sutter Avenue between Elton and Cleveland Streets (Block 4049, p/o 25), Borough of Brooklyn; and waiving the urban development action area designation requirement and the Uniform Land Use Review Procedure, Community District 5, Borough of Brooklyn (L.U. No. 730; 20215015 HAK).**

By Council Members Salamanca and Riley.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on February 2, 2021 its request dated February 2, 2021 that the Council approve an Urban Development Action Area Project (the "Project") located on Sutter Avenue between Elton and Cleveland Streets (Block 4049, p/o 25), Community District 5, Borough of Brooklyn (the "Disposition Area"):

1. Find that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to Section 693 of the General Municipal Law;
3. Waive the requirements of Sections 197-c and 197-d of the Charter pursuant to Section 694 of the General Municipal Law; and
4. Approve the project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law.

**WHEREAS**, the Project is to be developed on land that is an eligible area as defined in Section 692 of the General Municipal Law, consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings, and does not require any change in land use permitted under the New York City Zoning Resolution;

**WHEREAS**, the Council held a public hearing on the Project on February 18, 2021.

**WHEREAS**, the Council has considered the land use and financial implications and other policy issues relating to the Project.

**RESOLVED:**

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an Urban Development Action Area Project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council waives the designation requirement of the Disposition Area as an Urban Development Action Area pursuant to Section 693 of the General Municipal Law.

The Council waives the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law.

The Council approves the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law.



The Project shall be developed in a manner consistent with the Project Summary that HPD has submitted to the Council on February 2, 2021, a copy of which is attached hereto.

**ATTACHMENT:**

**PROJECT SUMMARY**

- |  |   |                      |
|--|---|----------------------|
| <b>1. PROGRAM:</b>                         | PARTNERSHIP NEW HOMES PROGRAM                     |                      |
| <b>2. PROJECT:</b>                         | East New York Partnership Homes                   |                      |
| <b>3. LOCATION:</b>                        | Sutter Avenue between Elton and Cleveland streets |                      |
| <b>a. BOROUGH:</b>                         | Brooklyn  |                      |
| <b>b. COMMUNITY DISTRICT:</b>              | 5   |                      |
| <b>c. COUNCIL DISTRICT:</b>                | 42  |                      |
| <b>d. DISPOSITION AREA:</b>                | <u>BLOCK</u><br>4049                              | <u>LOT</u><br>p/o 25 |
| <b>4. BASIS OF DISPOSITION PRICE:</b>      | Nominal. Sponsor will pay one dollar per tax lot. |                      |
| <b>5. TYPE OF PROJECT:</b>                 | Conservation                                      |                      |
| <b>6. APPROXIMATE NUMBER OF BUILDINGS:</b> | N/A   |                      |
| <b>7. APPROXIMATE NUMBER OF UNITS:</b>     | N/A   |                      |
| <b>8. HOUSING TYPE:</b>                    | Conservation of an existing private dwelling      |                      |
| <b>9. ESTIMATE OF INITIAL PRICE:</b>       | N/A   |                      |
| <b>10. INCOME TARGETS:</b>                 | N/A   |                      |
| <b>11. PROPOSED FACILITIES:</b>            | None  |                      |
| <b>12. PROPOSED CODES/ORDINANCES:</b>      | None  |                      |
| <b>13. ENVIRONMENTAL STATUS:</b>           | Type II   |                      |
| <b>14. PROPOSED TIME SCHEDULE:</b>         | Approximately 3 months to closing.                |                      |

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 10, 2021 (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 L.U. No. 735

**Report of the Committee on Land Use in favor of approving Application No. C 200178 ZMQ (91-32 63rd Drive Rezoning) submitted by 63-68 RWKOP, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 14a, eliminating from within an existing R4 District a C2-2 District, changing from an R4 District to an R7A District, and establishing within the proposed R7A District a C2-3 District, Borough of Queens, Community District 6, Council District 29.**

The Committee on Land Use, to which the annexed Land Use item was referred on February 25, 2021 (Minutes, page 459) and which same Land Use item was coupled with the resolution shown below, respectfully

#### **REPORTS:**

#### **SUBJECT**

#### **QUEENS CB-6 – TWO APPLICATIONS RELATED TO 91-32 63<sup>RD</sup> DRIVE REZONING**

#### **C 200178 ZMQ (Pre. L.U. No. 735)**

City Planning Commission decision approving an application submitted by 63-68 RWKOP, LLC, pursuant to Sections 197-c and 201 of the NYC Charter for the amendment of the Zoning Map, Section No. 14a:

1. eliminating from within an existing R4 District a C2-2 District bounded by Austin Street, a line 100 feet southeasterly of 63<sup>rd</sup> Drive, the northerly boundary line of the Long Island Railroad Main Line Right-of-Way, and 63<sup>rd</sup> Drive;
2. changing from an R4 District to an R7A District property bounded by Austin Street, a line 100 feet southeasterly of 63<sup>rd</sup> Drive, the northerly boundary line of the Long Island Railroad Main Line Right-of-Way, and 63<sup>rd</sup> Drive;
3. establishing within the proposed R7A District and C2-3 District bounded by Austin Street, a line 100 feet southeasterly of 63<sup>rd</sup> Drive, the northerly boundary line of the Long Island Railroad Main Line Right-of-Way, and 63<sup>rd</sup> Drive;

as shown on a diagram (for illustrative purposes only) dated October 5, 2020, and subject to the conditions of CEQR Declaration E-568.

**N 200179 ZRQ (Pre. L.U. No. 736)**

City Planning Commission decision approving an application submitted by 63-68 RWKOP, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

**INTENT**

To approve an amendment of the zoning map to change the existing R4/C2-2 zoning district mapped within the Project Area to a R7A/C2-3 zoning district and amend the zoning text to modify Appendix F to establish the Project Area as an MIH Area to facilitate the development of a nine-story mixed-use building at 91-32 63<sup>rd</sup> Drive in the Rego Park neighborhood of Queens Community District 6.

**PUBLIC HEARING**

**DATE:** February 23, 2021

**Witnesses in Favor:** Two

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** March 4, 2021

The Subcommittee recommends that the Land Use Committee approve the decisions of the City Planning Commission on Pre. L.U. Nos. 735 and 736.

**In Favor:**

Moya, Levin, Reynoso, Grodenchik, Ayala, Rivera, Borelli.

**Against:**

None

**Abstain:**

None

**COMMITTEE ACTION**

**DATE:** March 10, 2021

The Committee recommends that the Council approve the attached resolutions.

**In Favor:**

Salamanca, Gibson, Deutsch, Koo, Levin, Reynoso, Treyger, Grodenchik, Adams, Ayala, Diaz Sr, Moya, Rivera, Riley Borelli.

**Against:**            **Abstain:**  
None                    Barron.

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1573

**Resolution approving the decision of the City Planning Commission on ULURP No. C 200178 ZMQ, a Zoning Map amendment (Preconsidered L.U. No. 735).**

By Council Members Salamanca and Moya.

**WHEREAS**, 63-68 RWKOP, LLC, filed an application pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 14a, eliminating from within an existing R4 District a C2-2 District, changing from an R4 District to an R7A District, and establishing within the proposed R7A District and C2-3 District, which in conjunction with the related action would facilitate the construction of a nine-story mixed-use building at 91-32 63<sup>rd</sup> Drive in the Rego Park neighborhood of Queens, Community District 6 (ULURP No. C 200178 ZMQ) (the "Application");

**WHEREAS** the City Planning Commission filed with the Council on February 19, 2021, its decision dated February 17, 2021 (the "Decision") on the Application;

**WHEREAS**, the Application is related to application N 200179 ZRQ (Pre. L.U. No. 736), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on February 23, 2021;

**WHEREAS**, the Council has considered the land use and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued February 12, 2020, which supersedes the Negative Declaration issued October 1<sup>st</sup>, 2020, and Revised Environmental Assessment Statement issued February 11, 2020 (CEQR No. is 20DCP107Q) which includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality, and noise (E-568) (the "Revised Negative Declaration").

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-568) and Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 200178 ZMQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further changed by the Zoning Map, Section No. 14a:

1. eliminating from within an existing R4 District a C2-2 District bounded by Austin Street, a line 100 feet southeasterly of 63<sup>rd</sup> Drive, the northerly boundary line of the Long Island Railroad Main Line Right-of-Way, and 63<sup>rd</sup> Drive;
2. changing from an R4 District to an R7A District property bounded by Austin Street, a line 100 feet southeasterly of 63<sup>rd</sup> Drive, the northerly boundary line of the Long Island Railroad Main Line Right-of-Way, and 63<sup>rd</sup> Drive;
3. establishing within the proposed R7A District and C2-3 District bounded by Austin Street, a line 100 feet southeasterly of 63<sup>rd</sup> Drive, the northerly boundary line of the Long Island Railroad Main Line Right-of-Way, and 63<sup>rd</sup> Drive;

as shown on a diagram (for illustrative purposes only) dated October 5, 2020, and subject to the conditions of CEQR Declaration E-568, Borough of Queens, Community District 6.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, CHAIM M. DEUTSCH, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 10, 2021 (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 L.U. No. 736

**Report of the Committee on Land Use in favor of approving Application No. N 200179 ZRQ (91-32 63rd Drive Rezoning) submitted by 63-68 RWKOP, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Queens, Community District 6, Council District 29.**

The Committee on Land Use, to which the annexed Land Use item was referred on February 25, 2021 (Minutes, page 459) and which same Land Use item was coupled with the resolution shown below, respectfully

**REPORTS:**

**(For text of report, please see the Report of the Committee on Land Use for L.U. No.735 printed in these Minutes)**

*Accordingly, this Committee recommends its adoption.*

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1574

**Resolution approving the decision of the City Planning Commission on Application No. N 200179 ZRQ, for an amendment of the text of the Zoning Resolution (Preconsidered L.U. No. 736).**

By Council Members Salamanca and Moya.

**WHEREAS**, 63-68 RWKOP, LLC, filed an application pursuant to Section 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, which in conjunction with the related action would facilitate the development of a nine-story mixed-use building at 91-32 63<sup>rd</sup> Drive in the Rego Park neighborhood of Queens Community District 6 (Application No. N 200179 ZRQ) (the “Application”);

**WHEREAS**, the City Planning Commission filed with the Council on February 19, 2021, its decision dated February 17, 2021 (the “Decision”), on the Application;

**WHEREAS**, the Application is related to application C 200178 ZMQ (Pre. L.U. No. 735), a zoning map amendment to change an R4 zoning district with a C2-2 commercial overlay to an R7A zoning district with a C2-3 commercial overlay;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on February 23, 2021;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues, including the Revised Negative Declaration issued February 12, 2020, which supersedes the Negative Declaration issued October 1<sup>st</sup>, 2020, and Revised Environmental Assessment Statement issued February 11, 2020 (CEQR No. is 20DCP107Q) which includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality, and noise (E-568) (the “Revised Negative Declaration”).

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-568) and Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 200179 ZRQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution.

\* \* \*

**APPENDIX F**

**Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas**

\* \* \*

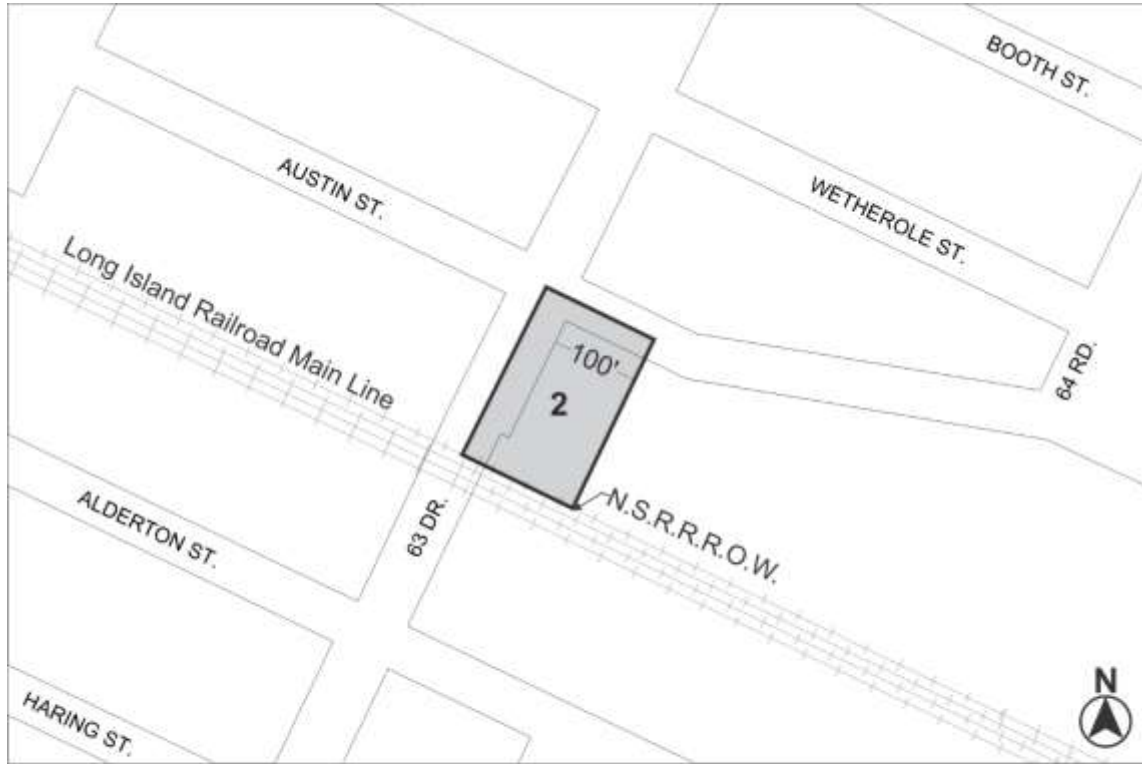
**QUEENS**

\* \* \*

**Queens Community District 6**

\* \* \*

Map 2— [date of adoption]



 Mandatory Inclusionary Housing Area (see Section 23-154(d)(3))

**Area 2** — [date of adoption] — MIH Program Option 1 and Option 2

Portion of Community District 6, Queens

\* \* \*

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, CHAIM M. DEUTSCH, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, January 21, 2021 (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 L.U. No. 737

**Report of the Committee on Land Use in favor of approving Application No. C 200252 ZMQ (245-01 Jamaica Avenue Rezoning) submitted by Marino Plaza 63-12, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 15c, eliminating from within an existing R4 District a C1-3 District and establishing within an existing R4 District a C2-3 District, Borough of Queens, Community District 13, Council District 23.**

The Committee on Land Use, to which the annexed Land Use item was referred on February 25, 2021 (Minutes, page 460) and which same Land Use item was coupled with the resolution shown below, respectfully

**REPORTS:****SUBJECT****QUEENS CB - 13****C 200252 ZMQ**

City Planning Commission decision approving an application submitted by Marino Plaza 63-12 LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 15c:

1. eliminating from within an existing R4 District a C1-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street; and
2. establishing within an existing R4 District a C2-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street;

as shown on a diagram (for illustrative purposes only) dated October 5, 2020.

**INTENT**

To approve an amendment to rezone the Proposed Project Area from an R4/C1-3 zoning district to an R4/C2-3 zoning district to permit additional uses and allow the applicant to file a special permit application at the New York City Board of Standards and Appeals (BSA) to legalize an existing physical culture establishment (PCE) on the development site at 245-01 Jamaica Avenue (Block 8659, Lot 1) in the Bellerose neighborhood of Queens Community District 13.

**PUBLIC HEARING****DATE:** February 23, 2021**Witnesses in Favor:** One**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** March 4, 2021



The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

**In Favor:**

Moya, Levin, Reynoso, Grodenchik, Ayala, Rivera, Borelli.

**Against:**

None

**Abstain:**

None.

**COMMITTEE ACTION**

**DATE:** March 10, 2021

The Committee recommends that the Council approve the attached resolution.

**In Favor:**

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Reynoso, Treyger, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

**Against:**

None

**Abstain:**

None.

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1575

**Resolution approving the decision of the City Planning Commission on ULURP No. C 200252 ZMQ, a Zoning Map amendment (Preconsidered L.U. No. 737).**

By Council Members Salamanca and Moya.

**WHEREAS**, Marino Plaza 63-12, LLC, filed an application pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 15c, eliminating from within an existing R4 District a C1-3 District and establishing within an existing R4 District a C2-3 District, in Queens, Community District 13 (ULURP No. C 200252 ZMQ) (the "Application");

**WHEREAS** the City Planning Commission filed with the Council on February 19, 2021, its decision dated February 17, 2021 (the "Decision") on the Application;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on February 23, 2021;

**WHEREAS**, the Council has considered the land use and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues, including the negative declaration issued October 2, 2020 (CEQR No. 20DCP054Q) (the "Negative Declaration").

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 200252 ZMQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 15c:

1. eliminating from within an existing R4 District a C1-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street; and
2. establishing within an existing R4 District a C2-3 District bounded by a line 80 feet northwesterly of Jericho Turnpike, 246th Street, Jericho Turnpike, and 245th Street;

as shown on a diagram (for illustrative purposes only) dated October 5, 2020, Borough of Queens, Community District 13.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, March 10, 2021 (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 of the Committee on Resiliency and Waterfronts**

Report for Int. No. 2092-A

**Report of the Committee on Resiliency and Waterfronts 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 climate resiliency design guidelines and resiliency scoring.**

The Committee on Resiliency and Waterfronts, to which the annexed proposed amended local law was referred on September 23, 2020 (Minutes, page 1968), respectfully

### **REPORTS:**

#### **INTRODUCTION**

On March 18, 2021, the Committee on Resiliency and Waterfronts, chaired by Council Member Justin Brannan, held a hearing to vote on Int. No. 2092-A, sponsored by Council Member Constantinides, in relation

to climate resiliency design guidelines and resiliency scoring and Int. No. 2198-A, sponsored by Council Member Matteo, in relation to additional freeboard for structures in the floodplain. At this hearing, the Committee voted 5 in favor, 0 opposed and 0 abstentions on the bills. This legislation was originally heard at a hearing held on January 25, 2021, during which the Committee received testimony from the Mayor's Office of Resiliency, advocates and other interested parties. More information about these bills, along with the materials for that hearing, can be accessed [here](#).

## LEGISLATION

Below is a brief summary of the legislation being considered today by this Committee. This summary is intended for informational purposes only and does not substitute for legal counsel. For more detailed information, you should review the full text of the bill, which is attached below.

### **Int. No. 2092-A, A Local Law to amend the administrative code of the city of New York, in relation to climate resiliency design guidelines and resiliency scoring**

Int. No. 2092-A would require the Office of Long-Term Planning and Sustainability (OLTPS) to develop climate resiliency design guidelines, pursuant to a pilot program, for City capital projects. OLTPS, in consultation with other City agencies, environmental justice organizations with expertise in climate resiliency, and members of the public with expertise in climate resiliency, climate design, the built environment, engineering, and environmental justice issues, would also use the climate resiliency design guidelines to develop a climate resiliency score metric for capital projects. Such score would account for features such as elevation to prevent flooding risk, energy efficiency, energy resilience and on-site water capture and management. Every City capital project above a threshold construction cost would be evaluated for its resiliency and have to meet or exceed a minimum resiliency score.

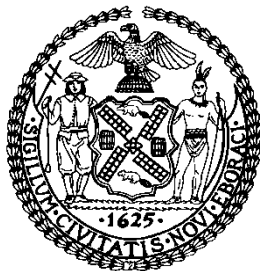
This local law would take effect 120 days after it becomes law.

### **Int. No. 2198-A, A Local Law to amend the New York city building code, in relation to additional freeboard for structures in the floodplain**

Int. No. 2198 would require that most structures located in the floodplain be elevated an additional one-to-two feet, or by the 500-year flood elevation, depending on the type of structure, to provide additional floodproofing of those structures.

This local law would take effect one year after it becomes law.

**(The following is the text of the Fiscal Impact Statement for Int. No. 2092-A:)**



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

**PROPOSED INTRO. NO. 2092-A**

**COMMITTEE: Resiliency and Waterfronts**

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to climate resiliency design guidelines and resiliency scoring.

**SPONSORS:** Council Members Constantinides, Kallos, Rosenthal, Lander, Cornegy, Levin, Rose, Vallone, Brannan and Rivera.

**SUMMARY OF LEGISLATION:** Proposed Intro. No. 2092-A would require the Office of Long-Term Planning and Sustainability (OLTPS) to develop climate resiliency design guidelines, pursuant to a pilot program, for City capital projects. OLTPS, in consultation with other City agencies, environmental justice organizations with expertise in climate resiliency, and members of the public with expertise in climate resiliency, climate design, the built environment, engineering, and environmental justice issues, would also use the climate resiliency design guidelines to develop a climate resiliency score metric for capital projects. Such score would account for flooding risk, energy efficiency, energy resilience and on-site water capture and management; every City capital project above a threshold construction cost would be evaluated for its resiliency and have to meet or exceed a minimum resiliency score.

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

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

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**FISCAL IMPACT STATEMENT:**

	<b>Effective FY21</b>	<b>FY Succeeding Effective FY22</b>	<b>Full Fiscal Impact FY22</b>
<b>Revenues (+)</b>	\$0	\$0	\$0
<b>Expenditures (-)</b>	\$0	\$0	\$0
<b>Net</b>	\$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 as the relevant office would use existing resources to develop the climate resiliency guidelines. Furthermore, the specific projects that would be impacted by the requirements of this legislation is unknown at the time of drafting the fiscal impact statement and therefore, a cost cannot be estimated at this time.

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

**SOURCES OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Jonathan Seltzer, Senior Financial Analyst

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

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council as Intro. No. 2092 on September 23, 2020 and referred to the Committee on Resiliency and Waterfronts (Committee). The Committee heard the legislation on January 25, 2021 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 2092-A, will be considered by the Committee on March 18, 2021. Upon a successful vote by the Committee, Proposed Intro. No. 2092-A will be submitted to the full Council for a vote on March 18, 2021.

**DATE PREPARED:** March 17, 2021.

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

**(The following is the text of Int. No. 2092-A:)**

## Int. No. 2092-A

By Council Members Constantinides, Kallos, Rosenthal, Lander, Cornegy, Levin, Rose, Vallone, Brannan, Rivera, Ayala, Gennaro and Powers.

**A Local Law to amend the administrative code of the city of New York, in relation to climate resiliency design guidelines and resiliency scoring**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 2 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-131, to read as follows:

*§ 3-131 Climate resiliency design guidelines. a. Definitions. For the purposes of this section, the following terms have the following meanings:*

*Agency. The term “agency” shall have the same definition as such term is defined in section 1150 of the charter.*

*Capital Project. The term “capital project” means a capital project as defined in section 210 of the charter.*

*Climate stressor. The term “climate stressor” means a condition, event or trend related to climate variability and change that can exacerbate an event or condition that may cause damage to assets or cause injury, illness or death to people.*

*Critical facility. The term “critical facility” means a:*

- 1. Hospital or healthcare facility;*
- 2. Fire, rescue, ambulance, police station or emergency vehicle facility;*
- 3. Jail, correctional facility or detention facility;*
- 4. Facility used in emergency response;*
- 5. Critical aviation facility;*
- 6. Food distribution center with an annual expected volume of greater than 170,000,000 pounds;*
- 7. Building or structure that manufactures, processes, handles, stores, disposes or uses toxic or explosive substances;*
- 8. Component of infrastructure in transportation, telecommunications or power networks;*
- 9. Ventilation building or fan plant;*
- 10. Operations center;*
- 11. Sanitary pumping station;*
- 12. Stormwater pumping station;*
- 13. Train and transit maintenance yard or shop;*
- 14. Wastewater treatment plant;*
- 15. Component of the water supply infrastructure;*
- 16. Combined sewer overflow retention tank;*
- 17. Fueling station;*
- 18. Waste transfer station; and*
- 19. Facility where residents have limited mobility or ability.*

*Office. The term “office” means the office of long-term planning and sustainability.*

*Useful life. The term “useful life” means the period over which a building, structure or system is expected to be available for use by an entity and may exceed the design life of such building, structure or system.*

*b. The office shall establish climate resiliency design guidelines for the design and construction of certain capital projects, to be informed both by any existing climate resiliency design guidelines and by the pilot program pursuant to subdivision c. Such climate resiliency design guidelines shall consider the capacity of a covered project, as defined in section 3-132, to absorb disruption and manage stresses while maintaining the same basic structure and function, and shall provide guidance on incorporating forward-looking climate change data into the design of capital projects and city facilities, as such term is defined in section 203 of the charter, as well as into the design of covered projects, as defined in section 3-132, and instruction on*

determining the appropriate resilient design strategies, including consideration of the useful life and criticality of facilities.

c. *Pilot program.* No later than August 31, 2021, each agency shall identify capital projects that comprise no less than five percent of their respective capital construction budgets for fiscal years 2021 through 2024. The pilot program shall be in effect for not more than five years, and the office shall select no fewer than 35 such capital projects to include in the pilot program. No less than 35 percent of all such capital projects shall be located in an environmental justice area, as such term is defined in section 3-1001, and no fewer than four projects shall be located in each borough. Projects selected for the pilot program shall include, but not be limited to, the following:

1. The most common capital projects;
2. New construction and substantial improvements, as both terms are defined in section G201.2 of chapter G2 of appendix G of the New York city building code;
3. Projects with a useful life: (a) less than 10 years; (b) 10 to 50 years; and (c) over 50 years;
4. Projects with capital costs: (a) under \$10 million; (b) \$10-49 million; (c) \$50-100 million; and (d) over \$100 million;
5. Critical and non-critical facilities; and
6. Facilities that are exposed to a variety of climate stressors.

d. No later than December 31, 2026, the office shall submit to the speaker of the council and publish on its website the climate resiliency design guidelines developed pursuant to the pilot program described in subdivision c. Such guidelines shall be updated as necessary and no less than once every eight years from such date of submission.

§ 2. Subchapter 2 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-132, to read as follows:

§ 3-132 *Resiliency scores of agency projects.* a. *Definitions.* For the purposes of this section, the following terms have the following meanings:

*Agency.* The term “agency” shall have the same definition as such term is defined in section 1150 of the charter.

*Covered project.* The term “covered project” means a capital project of an agency with an estimated construction cost of no less than \$10,000,000, provided that the office may by rule set such construction cost at a lower amount, that consists of:

1. New construction as defined in section G201.2 of chapter G2 of appendix G of the New York city building code of a building or structure;
2. Substantial improvement as defined in section G201.2 of chapter G2 of appendix G of the New York city building code of an existing building or structure; or
3. Construction of new or improvement of existing infrastructure including but not limited to sewers and other utilities, streets, landscape and transportation facilities with a minimum threshold construction value to be determined by rule or by meeting other specifications or qualifications to be set forth in such rules by the director of long-term planning and sustainability, provided that such term shall not include a public betterment consisting solely of a street that does not involve subsurface utility work, drainage or roadway grading, fencing, or combination thereof.

Such term shall include capital projects of the New York city housing authority and the New York city school construction authority provided that each such entity, in consultation and coordination with the office, may establish a distinct scoring metric for its respective capital projects to address climate hazards in accordance with subdivision c.

*Office.* The term “office” means the office of long-term planning and sustainability.

b. The director of long-term planning and sustainability, in consultation with the New York city panel on climate change, the commissioner of design and construction, the commissioner of environmental protection, the commissioner of citywide administrative services, the commissioner of transportation, the commissioner of emergency management, the commissioner of buildings, the commissioner of parks and recreation, the commissioner of housing preservation and development, the commissioner of health and mental hygiene, the fire commissioner, the director of management and budget, the director of city planning, the head of any other office or agency as appropriate, the president of the New York city economic development corporation, environmental justice organizations with expertise in climate resiliency, and members of the

*public with expertise in climate resiliency, climate design, the built environment, engineering, and environmental justice issues shall develop a resiliency score metric. For the purposes of calculating such resiliency score, the office shall by rule establish a system of points or metrics, considering potential performance of resiliency features, and develop a methodology for applying such scoring to covered projects, provided such methodology shall include one or more minimum thresholds of resiliency that covered projects shall meet, to be informed by and include features detailed in the climate resiliency design guidelines pursuant to section 3-131, and which may also include but need not be limited to features such as:*

- 1. Elevation to reduce the risk of flooding over the anticipated useful life;*
- 2. Flood-proofing of structures or equipment;*
- 3. Site elevation or responsible site considerations;*
- 4. Heat mitigation;*
- 5. Efficient energy resilience, including energy storage with or without use of on-site renewable energy generation;*
- 6. On-site storm water capture and management;*
- 7. Integration with naturally resilient shoreline features;*
- 8. Salt or flood tolerant landscaping;*
- 9. Green infrastructure;*
- 10. Pervious pavement;*
- 11. Resilient building materials;*
- 12. Living walls or structures; and*
- 13. Integration with and preservation of naturally occurring vegetation and habitat.*

*c. No later than December 31, 2026, the office shall establish by rule a minimum resiliency score that could be met or exceeded by most covered projects, provided that separate minimum resiliency scores may be established for: i) new construction; ii) substantial improvements; and iii) infrastructure. The New York city housing authority and the New York city school construction authority may each also establish, with the review and approval of the office, an alternative resiliency scoring metric for its capital projects to address climate hazards.*

*d. The office shall publish on its website the minimum resiliency score and the number of points that resilient features are assigned for calculating the resiliency score or scores, and other resiliency score methodology.*

*e. Each covered project that is a new construction of buildings and structures or new infrastructure shall be required to meet or exceed the minimum resiliency score. The project design shall be submitted to the office for calculation of a resiliency score and scored by such office prior to being made available for review by the respective council committee, borough president and the community board pursuant to section 223 of the charter. If a covered project is not subject to section 223 of the charter, the project design shall be submitted to the office for the calculation of a resiliency score prior to registration of a construction contract. Agencies must resubmit the covered project to the office for scoring if there are design changes that could result in a change to the resiliency score.*

*f. Each covered project that is a substantial improvement or the reconstruction, installation, retrofit, improvement or alteration to infrastructure shall be required to either:*

- 1. Meet or exceed the minimum resiliency score; or*
- 2. Receive approval from the office, after submission of the project design with a written statement explaining how resilient features have been incorporated into the design to the extent practicable.*

*g. After each update of the climate resiliency design guidelines pursuant to subdivision d of section 3-131, the office shall review the resiliency score methodology developed pursuant to subdivision b and, if necessary, revise such score methodology.*

§ 3. Section 2 of this local law shall not apply to any projects for which the design has been made available for review by the respective council committee, borough president and the community board pursuant to section 223 of the charter prior to the effective date of this local law, except section 2 of this local law shall apply to such projects if registration of a capital project change order occurs after the effective date of this local law and such change order has a value that exceeds 60 percent of the original registered construction contract value of such project.

§ 4. This local law takes effect 120 days after it becomes law.

JUSTIN L. BRANNAN, *Chairperson*; DEBORAH L. ROSE, COSTA G. CONSTANTINIDES, RUBEN DIAZ, Sr., ERIC A. ULRICH; Committee on Resiliency and Waterfronts, March 18, 2021 (Remote Hearing).  
*Other Council Members Attending: Council Member 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 for Int. No. 2198-A

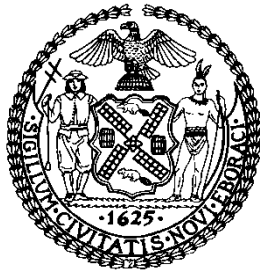
**Report of the Committee on Resiliency and Waterfronts in favor of approving and adopting, as amended, a Local Law to amend the New York city building code, in relation to additional freeboard for structures in the floodplain**

The Committee on Resiliency and Waterfronts, to which the annexed proposed amended local law was referred on January 6, 2021 (Minutes, page 23), respectfully

**REPORTS:**

(For text of report, please see the Report of the Committee on Resiliency and Waterfronts for Int. No. 2092-A printed in these Minutes)

*The following is the text of the Fiscal Impact Statement for Int. No. 2198-A:*



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

PROPOSED INTRO. NO. 2198-A

COMMITTEE: Resiliency and Waterfronts

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**TITLE:** A Local Law to amend the New York city building code, in relation to additional freeboard for structures in the floodplain. **SPONSORS:** Council Members Matteo, Rosenthal, Rose and Rivera.

**SUMMARY OF LEGISLATION:** Proposed Intro. No. 2198-A would require that most structures located in the floodplain be elevated an additional one-to-two feet, or by the 500-year flood elevation, depending on the type of structure, to provide additional floodproofing of those structures.

**EFFECTIVE DATE:** This local law would take effect one year after it becomes law, except that this local law shall not apply to construction work related to applications for construction document approval filed prior to such effective date.

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



**FISCAL IMPACT STATEMENT:**

	<b>Effective FY21</b>	<b>FY Succeeding Effective FY22</b>	<b>Full Fiscal Impact FY22</b>
<b>Revenues (+)</b>	\$0	\$0	\$0
<b>Expenditures (-)</b>	\$0	\$0	\$0
<b>Net</b>	\$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 as the relevant office would use existing resources to implement the requirements of this legislation.

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

**SOURCES OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Jonathan Seltzer, Senior Financial Analyst

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

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council as Intro. No. 2198 on January 6, 2021 and referred to the Committee on Resiliency and Waterfronts (Committee). The Committee heard the legislation on January 25, 2021 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 2198-A, will be considered by the Committee on March 18, 2021. Upon a successful vote by the Committee, Proposed Intro. No. 2198-A will be submitted to the full Council for a vote on March 18, 2021.

**DATE PREPARED:** March 17, 2021.

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

**(The following is the text of Int. No. 2198-A:)**

Int. No. 2198-A

By Council Members Matteo, Rosenthal, Rose, Rivera and Gennaro.

**A Local Law to amend the New York city building code, in relation to additional freeboard for structures in the floodplain**

*Be it enacted by the Council as follows:*

Section 1. The New York city amendments to section 2.3 of ASCE 24-05 as set forth in section G501.1 of chapter G5 of appendix G of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

**Section 2.3.** Table 2-1 of Section 2.3 (Elevation Requirements) is amended to read as follows:

**TABLE 2-1  
MINIMUM ELEVATION OF THE TOP OF LOWEST FLOOR  
RELATIVE TO DESIGN FLOOD ELEVATION (DFE)—A-ZONES<sup>a</sup>**

<b>Structural Occupancy Category<sup>b</sup></b>	<b>Minimum Elevation of Lowest Floor</b>
I	DFE = BFE + 2 ft
[II (1-and 2- family dwellings)]	[DFE = BFE + 2 ft]
II <sup>c, d</sup> [(all others)]	DFE = BFE + [1] 2 ft
III <sup>c, d</sup>	DFE = BFE + [1] 2 ft
IV <sup>c</sup>	DFE = BFE + 2 ft <i>or</i> 500-year flood elevation, whichever is higher

<sup>a</sup>. Minimum elevations shown in Table 2-1 do not apply to V Zones (see Table 4-1). Minimum elevations shown in Table 2-1 apply to A-Zones unless specific elevation requirements are given in Section 3 of this Standard.

<sup>b</sup>. See Table 1-1, or Table 1604.5 of the *New York City Building Code*, for structural occupancy category descriptions.

<sup>c</sup>. For nonresidential buildings and nonresidential portions of mixed-use buildings, the lowest floor shall be allowed below the minimum elevation if the structure meets the floodproofing requirements of Section 6.

<sup>d</sup>. Buildings that include I-2 occupancies that are hospitals shall use the greater of (i) the DFE for the applicable structural occupancy category as indicated in this table or (ii) the 500-year flood elevation.

§ 2. The New York city amendments to section 4.4 of ASCE 24-05 as set forth in section G501.1 of chapter G5 of appendix G of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

**Section 4.4.** Table 4-1 of Section 4.4 (Elevation Requirements) is amended to read as follows:

**TABLE 4-1  
MINIMUM ELEVATION OF BOTTOM OF LOWEST SUPPORTING  
HORIZONTAL STRUCTURAL MEMBER OF LOWEST FLOOR  
RELATIVE TO DESIGN FLOOD ELEVATION (DFE)—V-ZONES AND COASTAL A-ZONES**

<b>STRUCTURAL OCCUPANCY CATEGORY<sup>a</sup></b>	<b>MEMBER ORIENTATION RELATIVE TO THE DIRECTION OF WAVE APPROACH</b>	
	<b>Parallel<sup>b</sup></b>	<b>Perpendicular<sup>b</sup></b>
I	DFE=BFE + 2 ft	DFE=BFE + 2 ft
[II (1-and 2- family dwellings)]	[DFE=BFE + 2 ft]	[DFE=BFE + 2 ft]
II <sup>c</sup> [(all others)]	DFE=BFE + 2 ft	DFE=BFE + [1] 2 ft
III <sup>c</sup>	DFE=BFE + [1] 2 ft	DFE=BFE + 2 ft
IV <sup>c</sup>	DFE=BFE + [1] 2 ft	DFE=BFE + 2 ft <i>or</i> 500-year flood elevation, whichever is higher

<sup>a</sup>. See Table 1-1, or Table 1604.5 of the *New York City Building Code*, for structural occupancy category descriptions.

<sup>b</sup>. Orientation of lowest horizontal structural member relative to the general direction of wave approach; parallel shall mean less than or equal to 20 degrees from the direction of approach; perpendicular shall mean greater than 20 degrees from the direction of approach.

<sup>c</sup>. Buildings that include I-2 occupancies that are hospitals shall use the greater of (i) the DFE for the applicable structural occupancy category as indicated in this table or (ii) the 500-year flood elevation.

§ 3. The New York city amendments to section 5.1 of ASCE 24-05 as set forth in section G501.1 of chapter G5 of appendix G of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

**Section 5.1.** Table 5-1 of Section 5.1 (Materials, General) is amended to read as follows:

**TABLE 5-1  
MINIMUM ELEVATION, RELATIVE TO DESIGN FLOOD  
ELEVATION (DFE), BELOW WHICH DAMAGE-RESISTANT  
MATERIALS SHALL BE USED**

STRUCTURAL OCCUPANCY CATEGORY <sup>a</sup>	A-ZONE	Coastal High Hazard Areas and Coastal A-Zones	
		Orientation Parallel <sup>b</sup>	Orientation Perpendicular <sup>b</sup>
I	DFE=BFE + 2 ft	DFE=BFE + 2 ft	DFE=BFE + 2 ft
[II (1-and 2- family dwellings)]	[DFE=BFE + 2 ft]	[DFE=BFE + 2 ft]	[DFE=BFE + 2 ft]
II <sup>c</sup> [(all others)]	DFE=BFE + [1] 2 ft	DFE=BFE + [1] 2 ft	DFE=BFE + 2 ft
III <sup>c</sup>	DFE=BFE + [1] 2 ft	DFE=BFE + 2 ft	DFE=BFE + 3 ft
IV <sup>c</sup>	DFE=BFE + 2 ft <i>or</i> 500-year flood elevation, whichever is higher	DFE=BFE + 2 ft <i>or</i> 500-year flood elevation, whichever is higher	DFE=BFE + 3 ft <i>or</i> 500-year flood elevation, whichever is higher

<sup>a</sup>. See Table 1-1, or Table 1604.5 of the *New York City Building Code*, for structural occupancy category descriptions.

<sup>b</sup>. Wet or dry floodproofing shall extend to the same level.

<sup>c</sup>. Dry floodproofing of residential buildings and residential portions of mixed use buildings shall not be permitted.

<sup>d</sup>. Buildings that include I-2 occupancies that are hospitals shall use the greater of (i) the DFE for the applicable structural occupancy category as indicated in this table or (ii) the 500-year flood elevation.

§ 4. The New York city amendments to section 6.2 of ASCE 24-05 as set forth in section G501.1 of chapter G5 of appendix G of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

**Section 6.2.** Table 6-1 of Section 6.2 (Dry Floodproofing) is amended to read as follows:

**TABLE 6-1  
MINIMUM ELEVATION OF FLOODPROOFING, RELATIVE TO  
DESIGN FLOOD ELEVATION (DFE)—A-ZONES**

STRUCTURAL OCCUPANCY CATEGORY <sup>a</sup>	MINIMUM ELEVATION OF FLOODPROOFING <sup>b</sup>
I	DFE=BFE+ [1] 2 ft

II <sup>c,d</sup>	DFE=BFE+ [1] 2 ft
III <sup>d</sup>	DFE=BFE+ [1] 2 ft
IV <sup>d</sup>	DFE=BFE+ 2 ft or 500-year flood elevation, whichever is higher

§ 5. The New York city amendments to section 7.1 of ASCE 24-05 as set forth in section G501.1 of chapter G5 of appendix G of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

**Section 7.1.** Table 7-1 of Section 7.1 (General) is amended to read as follows (see Table 7-1 below):

**TABLE 7-1  
MINIMUM ELEVATION OF UTILITIES AND ATTENDANT EQUIPMENT RELATIVE TO  
DESIGN FLOOD ELEVATION (DFE)**

STRUCTURAL OCCUPANCY CATEGORY <sup>a</sup>	LOCATE UTILITIES AND ATTENDANT EQUIPMENT ABOVE <sup>b</sup>		
	A-Zones	Coastal High Hazard Area and Coastal A-Zones	
		Orientation Parallel <sup>c</sup>	Orientation Perpendicular <sup>c</sup>
I	DFE=BFE + 2 ft	DFE=BFE + 2 ft	DFE=BFE + 2 ft
[II (1-and 2- family dwellings)]	[DFE=BFE + 2 ft]	[DFE=BFE + 2 ft]	[DFE=BFE + 2 ft]
II <sup>c</sup> [(all others)]	DFE=BFE + [1] 2 ft	DFE=BFE + [1] 2 ft	DFE=BFE + 2 ft
III <sup>c</sup>	DFE=BFE + [1] 2 ft	DFE=BFE + 2 ft	DFE=BFE + 3 ft
IV <sup>c</sup>	DFE=BFE + 2 ft or 500-year flood elevation, whichever is higher	DFE=BFE + 2 ft or 500-year flood elevation, whichever is higher	DFE=BFE + 3 ft or 500-year flood elevation, whichever is higher

<sup>a</sup> See Table 1-1, or Table 1604.5 of the *New York City Building Code*, for structural occupancy category descriptions.

<sup>b</sup> Locate utilities and attendant equipment above elevations shown unless otherwise provided in the text.

<sup>c</sup> Orientation of lowest horizontal structural member relative to the general direction of wave approach; parallel shall mean less than or equal to +20 degrees from the direction of approach; perpendicular shall mean greater than +20 degrees from the direction of approach.

<sup>d</sup> Buildings that include I-2 occupancies that are hospitals shall use the greater of (i) the DFE for the applicable structural occupancy category as indicated in this table or (ii) the 500-year flood elevation.

§ 6. This local law takes effect 1 year after it becomes law, except that this local law shall not apply to construction work related to applications for construction document approval filed prior to such effective date.

JUSTIN L. BRANNAN, *Chairperson*; DEBORAH L. ROSE, COSTA G. CONSTANTINIDES, RUBEN DIAZ, Sr., ERIC A. ULRICH; Committee on Resiliency and Waterfronts, March 18, 2021 (Remote Hearing).  
*Other Council Members Attending: Council Member 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).

**GENERAL ORDER CALENDAR**

Report for L.U. No. 714 & Res. No. 1576

**Report of the Committee on Land Use in favor of approving, as modified, Application No. C 200303 ZSQ (42-11 9th Street Special Permit) submitted by RXR 42-11 9th Holdings LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-96 (Industrial Business Incentive Areas) of the Zoning Resolution to allow an increase in the maximum permitted floor area ratio in accordance with Section 74-963 (Permitted floor area increase) and, in conjunction therewith, to modify the quantity and size of the loading requirements of Section 44-50, in connection with a proposed twenty-story commercial building within an Industrial Business Incentive Area in an M1-4 District specified on the maps in Section 74-968 (Maps of Industrial Business Incentive Areas), on property located at 42 11 9th Street (Block 461, Lot 16), Borough of Queens, Community District 2, Council District 26.**

The Committee on Land Use, to which the annexed Land Use item was referred on January 6, 2021 (Minutes, page 29) and which same Land Use item was coupled with the resolution shown below and referred to the City Planning Commission on February 25, 2021 (Minutes, page 323), respectfully

**REPORTS:**

**SUBJECT**

**QUEES CB-2 – TWO APPLICATIONS RELATED TO 42-11 9<sup>TH</sup> STREET  
SPECIAL PERMIT**

**C 200303 ZSQ (L.U. No. 714)**

City Planning Commission decision approving an application submitted by RXR 42-11 9th Holdings, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-96 (Industrial Business Incentive Areas) of the Zoning Resolution to allow an increase in the maximum permitted floor area ratio in accordance with Section 74-963 (Permitted floor area increase) and, in conjunction therewith, to modify the quantity and size of the loading requirements of Section 44-50, in connection with a proposed twenty-story commercial building within an Industrial Business Incentive Area specified on the maps in Section 74-968 (Maps of Industrial Business Incentive Areas), on property located at 42-11 9th Street (Block 461, Lot 16), in an M1-4 District.

**N 200304 ZRQ (L.U. No. 715)**

City Planning Commission decision approving an application submitted by RXR 42-11 9th Holdings, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, adding an Industrial Business Incentive Area to Article VII, Chapter 4 (Special Permits by the City Planning Commission) and updates to Section 74-76 (Modifications of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas).

**INTENT**

To grant an approval of the special permit pursuant to ZR Section 74-96 (Industrial Business Incentive Areas) to allow an increase in the maximum permitted floor area ratio and to modify the quantity

and size of the loading requirements; and amend zoning text to update Modifications of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas and establish the Project Area as Industrial Business Incentive Area 2 to facilitate the construction of an approximately 320,000-square-foot mixed-use development with office, retail, and industrial uses at 42-11 Ninth Street in Long Island City, Queens, Community District 2.

## **PUBLIC HEARING**

**DATE:** January 26, 2021

**Witnesses in Favor:** Eleven

**Witnesses Against:** None

## **SUBCOMMITTEE RECOMMENDATION**

**DATE:** February 23, 2021

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission on L.U. No. 714 and approve with modifications the decision of the City Planning Commission on L.U. No.715.

### **In Favor:**

Moya, Levin, Reynoso, Grodenchik, Ayala, Rivera, Borelli.

### **Against:**

None

### **Abstain:**

None

## **COMMITTEE ACTION**

**DATE:** February 24, 2021

The Committee recommends that the Council approve the attached resolutions.

### **In Favor:**

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Treyger, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

### **Against:**

None

### **Abstain:**

None

## **FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION**

The City Planning Commission filed a letter dated March 15, 2021, with the Council on March 16, 2021, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1576

**Resolution approving the decision of the City Planning Commission on ULURP No. C 200303 ZSQ, for the grant of a special permit (L.U. No. 714).**

By Council Members Salamanca and Moya.

**WHEREAS**, RXR 42-11 9<sup>th</sup> Holdings, LLC, filed an application pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-96 (Industrial Business Incentive Areas) of the Zoning Resolution to allow an increase in the maximum permitted floor area ratio in accordance with Section 74-963 (Permitted floor area increase) and, in conjunction therewith, to modify the quantity and size of the loading requirements of Section 44-50 to facilitate the construction of an approximately 320,000-square-foot mixed-use development with office, retail, and industrial uses at 42-11 Ninth Street in Long Island City, Queens, Community District 2 (ULURP No. C 200303 ZSQ) (the “Application”);

**WHEREAS**, the City Planning Commission filed with the Council on January 15, 2021, its decision dated January 6, 2021 (the “Decision”) on the Application;

**WHEREAS**, the Application is related to application N 200304 ZRQ (L.U. No. 715), a zoning text amendment to ZR Section 74-96 (Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas);

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

**WHEREAS**, the City Planning Commission has made the findings required pursuant to Section 74-966 of the Zoning Resolution of the City of New York;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on January 26, 2021;

**WHEREAS**, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues, including the negative declaration issued September 14<sup>th</sup>, 2020 (CEQR No. 20DCP078Q) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality, and noise (E-562) (the “Negative Declaration”).

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-562) and Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 200303 ZSQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

1. The property that is the subject of this application (C 200303 ZSQ) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Perkins Eastman, filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-20	Zoning Analysis	08/07/2020
Z-30	Zoning Site Plan	09/11/2020
Z-40	Ground Floor Plan	08/07/2020
Z-41	Cellar Floor Plan	08/07/2020
Z-42	Second Floor Plan	08/07/2020
Z-43	Third Floor Plan	09/11/2020
Z-44	4th + 5th Floor Plan	08/07/2020
Z-45	6th Floor Plan	08/07/2020
Z-46	7th – 9th Floor Plan	08/07/2020
Z-47	10th Floor Plan	08/07/2020
Z-48	11 <sup>th</sup> - 18 <sup>th</sup> Typical Floor Plan	08/07/2020
Z-49	19 <sup>th</sup> - 21st Floor Plan	08/07/2020
Z-60	Zoning Sections	08/07/2020
Z-61	Zoning Sections	08/07/2020
Z-62	Zoning Sections	08/07/2020
Z-83	Detail Elevation	03/10/2020

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed this application.
3. Such development shall conform to all applicable laws and regulations relating to its construction and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.
5. Development pursuant to this resolution shall be allowed only after the Notice of Restrictions attached hereto as Exhibit A, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed and recorded in the Office of the Register of the City of New York, County of Queens.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign or legal representative of such party to observe any of the restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission or of any agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission to disapprove any application for modification, cancellation or amendment of the special permit.



7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, February 24, 2021 (Remote Hearing). *Other Council Members Attending: Council Member Brannan.*

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 L.U. No. 715 & Res. No. 1577

**Report of the Committee on Land Use in favor of approving, as modified, Application No. N 200304 ZRQ (42-11 9th Street Special Permit) submitted by RXR 42-11 9th Holdings LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, adding an Industrial Business Incentive Area to Article VII, Chapter 4 (Special Permits by the City Planning Commission) and updates to Section 74-76 (Modifications of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas), in connection with a proposed twenty-story commercial building within such Industrial Business Incentive Area, on property located at 42-11 9th Street (Block 461, Lot 16), Borough of Queens, Community District 2, Council District 26.**

The Committee on Land Use, to which the annexed Land Use item was referred on January 6, 2021 (Minutes, page 30) and which same Land Use item was coupled with the resolution shown below and referred to the City Planning Commission on February 25, 2021 (Minutes, page 325), respectfully

**REPORTS:**

**(For text of report, please see the Report of the Committee on Land Use for L.U. No. 714 printed in the General Order Calendar section of these Minutes)**

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

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1577

**Resolution approving with modifications the decision of the City Planning Commission on Application No. N 200304 ZRQ, for an amendment of the text of the Zoning Resolution (L.U. No. 715).**

By Council Members Salamanca and Moya.

**WHEREAS**, RXR 42-11 9th Holdings, LLC, filed an application pursuant to Section 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, adding an Industrial Business Incentive Area to Article VII, Chapter 4 (Special Permits by the City Planning Commission) and updates to Section 74-76 (Modifications of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas), which in conjunction with the related action would facilitate the construction of an approximately 320,000-square-foot mixed-use development with office, retail, and industrial uses at 42-11 Ninth Street in Long Island City, Queens, Community District 2 (Application No. N 200304 ZRQ) (the “Application”);

**WHEREAS**, the City Planning Commission filed with the Council on January 15, 2021, its decision dated January 6, 2021 (the “Decision”), on the Application;

**WHEREAS**, the Application is related to application C 200303 ZSQ (L.U. No. 714), a special permit pursuant to Section 74-96 (Industrial Business Incentive Areas) of the Zoning Resolution to allow an increase in the maximum permitted floor area ratio in accordance with Section 74-963 (Permitted floor area increase) and, in conjunction therewith, to modify the quantity and size of the loading requirements of Section 44-50;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on January 26, 2021;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues, including the negative declaration issued September 14<sup>th</sup>, 2020 (CEQR No. 20DCP078Q) which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality, and noise (E-562) (the “Negative Declaration”).

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-562) and Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 200304 ZRQ, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission with the following modifications:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter ~~double struck out~~ is old, deleted by the City Council

Matter double-underlined is new, added by the City Council

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution.

**ARTICLE VII  
ADMINISTRATION**

**Chapter 4**

## Special Permits by the City Planning Commission

\* \* \*

### 74-96

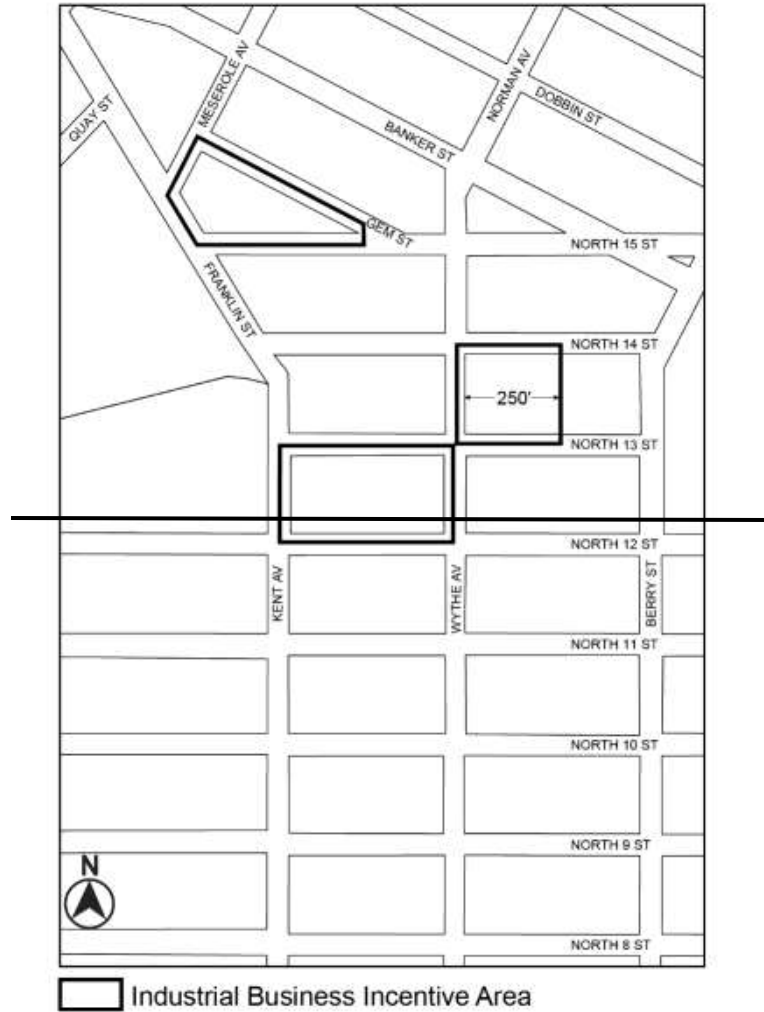
#### ~~Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas~~

[Yard modification provision moved to 74-964  
and area specification provision (i.e., map) moved to Section 74-968]

For ~~#developments#~~ or ~~#enlargements#~~ on ~~#zoning lots#~~ located within any Industrial Business Incentive Area specified on the maps in ~~this Section 74-968 (Maps of Industrial Business Incentive Areas)~~, the City Planning Commission may increase the maximum permitted ~~#floor area ratio#~~ and modify the #use#, #bulk# and #public plaza# regulations as set forth in accordance with Section 74-962 74-963 (Permitted Floor floor area increase and public plaza modifications in Industrial Business Incentive Areas). In conjunction with such #floor area# increase, the Commission may also modify permit modifications to other #bulk# regulations, provisions for publicly accessible open spaces, as well as parking and loading requirements for such #developments# or #enlargements#, pursuant to Section 74-963 74-964 (Parking and loading modifications in Industrial Business Incentive Areas-Modifications in conjunction with a floor area increase). All applications for a special permit pursuant to this Section, inclusive, shall be subject to the requirements, conditions and findings set forth in Section 74-962 (Application requirements), Section 74-965 (Conditions), Section 74-966 (Findings), and Section 74-967 (Compliance, recordation and reporting requirements).

For ~~#developments#~~ or ~~#enlargements#~~ receiving a ~~#floor area#~~ increase pursuant to this Section, Section 43-20 (YARD REGULATIONS), inclusive, shall be modified as follows: ~~#rear yard#~~ regulations shall not apply to any ~~#development#~~ or ~~#enlargement#~~ on a ~~#through lot#~~.

~~Map of Industrial Business Incentive Areas~~



Portion of Community District 1, Borough of Brooklyn

**74-961  
Definitions**

\* \* \*

**74-962  
Floor area increase and public plaza modifications in Industrial Business Incentive Areas  
Application requirements**

[NOTE: Floor area provisions moved to Section 74-963.  
Application requirement provisions remain in this Section]

~~In Industrial Business Incentive Areas, the City Planning Commission may increase the maximum #floor area ratio# on a #zoning lot# in accordance with the Table in this Section.~~

~~For #developments# or #enlargements# in the district indicated in Column A, the base maximum #floor area ratio# on a #zoning lot#, Column B, may be increased by 3.5 square feet for each square foot of #required industrial uses# up to the maximum #floor area ratio# for all #uses# on the #zoning lot#, Column E, provided~~

that such ~~development~~ or ~~enlargement~~ does not include a ~~transient hotel~~, and that such additional ~~floor area~~ is occupied by ~~required industrial uses~~ and ~~incentive uses~~ up to the maximum ~~floor area ratio~~ set forth in Column C (Maximum Additional ~~Floor Area Ratio~~ for ~~Required Industrial Uses~~), and Column D (Maximum Additional ~~Floor Area Ratio~~ for ~~Incentive Uses~~), respectively.

**FLOOR AREA INCREASE PERMITTED IN INDUSTRIAL BUSINESS INCENTIVE AREAS**

A	B	C	D	E
	Base Maximum #Floor Area Ratio#	Maximum Additional #Floor Area Ratio# for #Required Industrial Uses#	Maximum Additional #Floor Area Ratio# for #Incentive Uses#	Maximum #Floor Area Ratio# for All #Uses#
District				
M1-2	2.0	0.8	2.0	4.8

For such ~~developments~~ or ~~enlargements~~ that, pursuant to this Section, increase their permitted ~~floor area~~, and provide a ~~public plaza~~, the Commission may also increase the maximum height of such ~~development~~ or ~~enlargement~~ and may modify the requirements for ~~public plazas~~ set forth in Section 37-70 (PUBLIC PLAZAS).

Applications for such ~~floor area~~ increases and modifications are subject to the requirements, conditions and findings set forth in this Section.

(a) Application requirements

All applications for a special permit pursuant to this Section shall include the following:

- (1)(a) site plans and elevations which shall establish distribution of ~~floor area~~, height and ~~setback~~, sidewalk widths, primary business entrances, including parking and loading, ~~yards~~ and ~~public plazas~~ publicly accessible open space, signage and lighting;
- (2)(b) floor plans of all floors which shall establish the location, access plan and dimensions of freight elevators and loading areas and the location of ~~floor area~~ dedicated to ~~required industrial uses~~ and ~~incentive uses~~;
- (3)(c) drawings that show, within a 600-foot radius, the location and type of ~~uses~~, the location, dimensions and elements of off-site open areas including ~~streets~~, waterfront and ~~upland~~ parcels, elements of a Waterfront Access Plan, as applicable, and the location of ~~street~~ trees and ~~street~~ furniture and any other urban design elements. Where applicable, for applications in Industrial Business Incentive Area 1, The the plans shall demonstrate that any ~~public plaza~~ publicly accessible open space provided meets the requirements of paragraph (b)(5)(f) of this Section 74-965 (Conditions); and
- (4)(d) for ~~zoning lots~~ in ~~flood zones~~, flood protection plans, which shall show ~~base flood elevations~~ and advisory ~~base flood elevations~~, as applicable, location of mechanical equipment, areas for storage of any hazardous materials and proposed structural or design elements intended to mitigate the impacts of flood and storm events.

(b) — Conditions

[Note: Conditions moved to Section 74-965]

(1) — Minimum amount of ~~required industrial uses~~

~~#Required industrial uses~~ shall occupy a minimum of 5,000 square feet of horizontally

contiguous #floor area# and shall be served by loading areas and freight elevators with sufficient capacity.

(2) — Minimum sidewalk width

All #developments# and horizontal #enlargements# that front upon a #street line# shall provide a sidewalk with a minimum width of 15 feet along the entire frontage of the #zoning lot#. Such sidewalk, and any open area on the #zoning lot# required to meet such minimum width shall be improved as a sidewalk to Department of Transportation standards; shall be at the same level as the adjoining public sidewalk; and shall be accessible to the public at all times. For the purposes of applying the #street wall# location requirements and the height and setback regulations of paragraph (b)(3) of this Section, any sidewalk widening line shall be considered to be the #street line#.

(3) — Height and setback

The height and setback regulations of the applicable zoning district shall apply as modified by the provisions of this paragraph.

- (i) — The #street wall# of any #building# shall be located on the #street line# and shall extend to a height not lower than a minimum base height of 40 feet and not higher than a maximum base height of 75 feet or the height of the #building#, whichever is less. At least 70 percent of the aggregate width of such #street wall# below 12 feet shall be located at the #street line# and no less than 70 percent of the aggregate area of the #street wall# up to the base height shall be located at the #street line#. However, up to a width of 130 feet of such #street wall# located on the short end of the #block# may be set back from the #street line# to accommodate a #public plaza#.
- (ii) — The height of a #building or other structure#, or portion thereof, located within 10 feet of a #wide street# or within 15 feet of a #narrow street# shall not exceed a maximum base height of 75 feet. Permitted obstructions as set forth in Section 43-42 shall be modified to include dormers above the maximum base height within the front setback area, provided that on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 50 percent of the #street wall# and a maximum height of 110 feet. Beyond 10 feet of a #wide street# and 15 feet of a #narrow street#, the height of a #building or other structure# shall not exceed a maximum #building# height of 110 feet. All heights shall be measured from the #base plane#. Where a #public plaza# is provided pursuant to paragraph (b)(5) of this Section, such maximum #building# height may be increased to 135 feet.
- (iii) — Along the short dimension of a #block#, up to 130 feet of such #street wall# may be set back from the #street line# to accommodate a #public plaza#, and a #street wall# located at the #street line# that occupies not more than 40 percent of the short end of the #block# may rise without setback to the maximum #building# height.

(4) — Ground floor design

- (i) — The ground floor level #street walls# and ground floor level walls fronting on a #public plaza# of a #development# or horizontal #enlargement# shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between a height of two feet above the level of the adjoining sidewalk or #public plaza# and a height of 12 feet

above the level of the first finished floor above #curb level#. The floor level behind such transparent materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#. The ground floor transparency requirements of this paragraph (b)(4)(i) shall not apply to #uses# listed in Use Groups 11, 16, 17 and 18, or to #accessory# loading berths or garage entrances; or

- (ii) — For #zoning lots# within flood hazard areas, in lieu of the requirements of paragraph (b)(4)(i) of this Section, the provisions of Section 64-22 (Transparency Requirements) shall apply; and
- (iii) — For any #street wall# greater than 40 feet in width that does not require glazing, as specified in paragraphs (b)(4)(i) or (b)(4)(ii) of this Section, as applicable, the facade, measured between a height of two feet above the level of the adjoining sidewalk and a height of 12 feet above the level of the first finished floor above #curb level#, shall incorporate design elements, including lighting and wall art, or physical articulation.

(5) — #Public plazas#

A #public plaza# shall contain an area of not less than 12 percent of the #lot area# of the #zoning lot# and a minimum of at least 2,000 square feet in area. All #public plazas# shall comply with the provisions set forth in Section 37-70, inclusive, except that certification requirements of Sections 37-73 (Kiosks and Open Air Cafes) and 37-78 (Compliance) shall not apply.

(6) — Signs

- (i) — In all Industrial Business Incentive Areas, #signs# are subject to the regulations applicable in C6-4 Districts as set forth in Section 32-60, inclusive. Information #signs# provided pursuant to paragraph (b)(6)(ii) of this Section shall not count towards the maximum permitted #surface area# regulations of Section 32-64 (Surface Area and Illumination Provisions), inclusive.
- (ii) — An information #sign# shall be provided for all #buildings# subject to the #use# restrictions of this special permit. Such required #sign# shall be mounted on an exterior #building# wall adjacent to and no more than five feet from all primary entrances of the #building#. The #sign# shall be placed so that it is directly visible, without any obstruction, to persons entering the building, and at a height no less than four feet and no more than five and a half feet above the adjoining grade. Such #sign# shall be legible, no less than 12 inches by 12 inches in size and shall be fully opaque, non-reflective and constructed of permanent, highly durable materials. The information #sign# shall contain: the name and address of the building in lettering no less than three-quarters of an inch in height; and the following statement in lettering no less than one-half of an inch in height, "This building is subject to Industrial Business Incentive Area (IBIA) regulations which require a minimum amount of space to be provided for specific industrial uses." The information #sign# shall include the Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public, where the information required in paragraph (e) of this Section is available to the public.

(e) — Findings

[NOTE: Findings moved to Section 74-966]

~~In order to grant an increase of the maximum permitted #floor area ratio# and modification of #public plaza# regulations, the Commission shall find that such increase or modification:~~

- ~~(1) — will promote a beneficial mix of #required industrial# and #incentive uses#;~~
- ~~(2) — will result in superior site planning, harmonious urban design relationships and a safe and enjoyable streetscape;~~
- ~~(3) — will result in a #building# that has a better design relationship with surrounding #streets# and adjacent open areas;~~
- ~~(4) — will result in a #development# or #enlargement# that will not have an adverse effect on the surrounding neighborhood; and~~
- ~~(5) — of the #public plaza# requirements will result in a #public plaza# of equivalent or greater value as a public amenity.~~

~~The Commission may prescribe appropriate additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

(d) — Compliance and recordation

[NOTE: Compliance and recordation requirements moved to Section 74-967]

~~Failure to comply with a condition or restriction in a special permit granted pursuant to Section 74-96 (Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas), inclusive, or with applicable approved plans, or with provisions of paragraphs (d), (e) and (f), inclusive, shall constitute a violation of this Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy, or for a revocation of such special permit, and for the implementation of all other applicable remedies.~~

~~A Notice of Restrictions, the form and content of which shall be satisfactory to the Commission, for a property subject to #use# restrictions or #public plaza# requirements, as applicable, pursuant to this Section, shall be recorded against the subject tax lot in the Office of the City Register or, where applicable, in the County Clerk's office in the county where the tax lot is located.~~

~~The filing and recordation of such Notice of Restrictions shall be a precondition to the issuance of any building permit utilizing the provisions set forth in this Section. The recording information shall be referenced on the first certificate of occupancy to be issued after such notice is recorded, as well as all subsequent certificates of occupancy, for as long as the restrictions remain in effect. No temporary certificate of occupancy for any portion of the #building# to be occupied by #incentive uses# shall be issued until a temporary certificate of occupancy for the core and shell is issued for all portions of the #building# required to be occupied by #required industrial uses#.~~

(e) — Periodic notification by owner

[NOTE: Periodic notification requirements moved to Section 74-967]

~~No later than the 20th day after the lease executed by a new tenant permits occupancy of any~~



~~#required industrial space#, the owner of a #building# subject to #use# restrictions of this Section shall provide the following information at the designated Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public pursuant to paragraph (b)(6)(ii) of this Section. If no new tenant executes a lease for any #required industrial space# within the calendar year, such information shall be provided no later than the 20th day of the following calendar year. Such electronic information source shall be accessible to the general public at all times and include the information specified below:~~

- ~~(1) — the date of the most recent update of this information;~~
  - ~~(2) — total #floor area# of the #required industrial uses# in the #development#;~~
  - ~~(3) — a digital copy of all approved special permit drawings pursuant to paragraph (a)(1) through (a)(4) of this Section;~~
  - ~~(4) — the name of each business establishment occupying #floor area# reserved for #required industrial uses#. Such business establishment name shall include that name by which the establishment does business and is known to the public. For each business establishment, the amount of #floor area#, the Use Group, subgroup and specific #use# as listed in this Resolution shall also be included;~~
  - ~~(5) — contact information, including the name of the owner of the #building# and the building management entity, if different, the name of the person designated to manage the #building#, and the street address, current telephone number and e-mail address of the management office. Such names shall include the names by which the owner and manager, if different, do business and are known to the public; and~~
  - ~~(6) — all prior periodic notification information required pursuant to the provisions of this paragraph (e). However, such notification information that is older than four years from the date of the most recent update need not be included.~~
- ~~(f) — Annual reporting by qualified third party~~

[NOTE: Annual reporting requirements  
moved to Section 74-967]

~~No later than June 30 of each year, beginning in the first calendar year following the calendar year in which a temporary or final certificate of occupancy was issued for a #building# subject to #use# restrictions of this Section, the owner of a #building# subject to #use# restrictions of this Section shall cause to be prepared a report on the existing conditions of the #building#, as of a date of inspection which shall be no earlier than May 15 of the year in which the report is filed.~~

~~The inspection shall be preceded by an annual notification letter from the owner of a #building# subject to #use# restrictions of this Section to all the #required industrial use# tenants of the #building# announcing the date of such inspection, that the organization conducting the inspection shall have access to the spaces occupied by #required industrial uses#, and encouraging the tenants to provide information including, but not limited to, the number of employees for each such space, to the organization.~~

~~The owner of a #building# subject to #use# restrictions of this Section shall cause such report to be prepared by either an organization under contract with the City to provide inspection services, or on the Department of Small Business Services list of certified firms that provides such inspection services, or by an organization that the Commissioner of the Department of Small Business Services~~

determines to be qualified to produce such report, provided that any such organization selected by the owner to prepare such report shall have a professional engineer or a registered architect, licensed under the laws of the State of New York, certify the report. Such report shall be in a form provided by the Director of the Department of City Planning, and shall include all of the information required pursuant to the provisions of paragraph (e) of this Section, and additional information as set forth in this paragraph (f):

- (1) — a description of each establishment including the North American Industry Classification System (NAICS) code and number of employees;
- (2) — the total amount of #required industrial use floor area# that is vacant, as applicable;
- (3) — the average annual rent for the portions of the #building#, in the aggregate, required to be occupied by #required industrial uses#. However, prior to 36 months from the date of execution of a lease by the first #required industrial use# tenant in the building, no such figure shall be required to be included in any report due pursuant to this paragraph (f). For all calendar years following the year in which the first average annual rent figure is required to be submitted as part of an annual report, the average annual rent figure reported shall be for the annual average rent for the calendar year two years prior to the year in which the report is due; and
- (4) — the number of new leases executed during the calendar year, categorized by lease duration, in five year increments from zero to five years, five to 10 years, 10 to 15 years, 15 to 20 years and 20 years or greater.

The report shall be submitted to the Director of the Department of City Planning by any method, including e-mail or other electronic means, acceptable to the Director. The applicable Community Board, Borough President and local City Council member shall be included in such transmission.

### 74-963

#### **Parking and loading modifications in Industrial Business Incentive Areas**

[NOTE: Parking and loading provisions moved to paragraph (c) of Section 74-964 and required findings moved to Section 74-966]

In association with an application for a special permit for #developments# or #enlargements# pursuant to Section 74-962 (Floor area increase and public plaza modifications in Industrial Business Incentive Areas), the City Planning Commission may reduce or waive the off-street parking requirements set forth in Section 44-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR MANUFACTURING, COMMERCIAL OR COMMUNITY FACILITY USES), inclusive, not including bicycle parking, and may also reduce or waive the loading berth requirements as set forth in Section 44-50 (GENERAL PURPOSES), inclusive, provided that the Commission finds that:

- (a) — such reduction or waiver will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular and pedestrian movement;
- (b) — the number of curb cuts provided are the minimum required for adequate access to off-street parking and loading berths, and such curb cuts are located so as to cause minimum disruption to traffic, including vehicular, bicycle and pedestrian circulation patterns;
- (c) — the #streets# providing access to the #development# or #enlargement# are adequate to handle the traffic generated thereby, or provision has been made to handle such traffic; and

~~(d) — the reduction or waiver of loading berths will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement.~~

~~The Commission may prescribe appropriate additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

**Permitted floor area increase**

[NOTE: Permitted floor area increase provisions moved from Section 74-962, and modified]

In Industrial Business Incentive Areas, the City Planning Commission may increase the maximum #floor area ratio# on a #zoning lot# in accordance with the Table in this Section.

For #developments# or #enlargements# in the district indicated in Column A, for each square foot of #required industrial uses#, the base maximum #floor area ratio# on a #zoning lot#, set forth in Column B, may be increased by 3.5 square feet ~~for each square foot of #required industrial uses#,~~ up to the maximum #floor area ratio# for all #uses# on the #zoning lot#, as set forth in Column E, provided ~~that such #development# or #enlargement# does not include a #transient hotel#, and that such additional increase in #floor area# is~~ occupied by #required industrial uses# and #incentive uses# up to the maximum #floor area ratio# set forth in Column C (Maximum Additional #Floor Area Ratio# for #Required Industrial Uses#), and Column D (Maximum Additional #Floor Area Ratio# for #Incentive Uses#), respectively. In no event shall such #development# or #enlargement# include a #transient hotel#.

FLOOR AREA INCREASE PERMITTED IN INDUSTRIAL BUSINESS INCENTIVE AREAS

A	B	C	D	E
District	Base Maximum #Floor Area Ratio#	Maximum Additional #Floor Area Ratio# for #Required Industrial Uses#	Maximum Additional #Floor Area Ratio# for #Incentive Uses#	Maximum #Floor Area Ratio# for All #Uses#
M1-2	2.0	0.8	2.0	4.8
M1-4	2.0	1.3	3.2	6.5

~~For such #developments# or #enlargements# that, pursuant to this Section, increase their permitted #floor area#, and provide a #public plaza#, the Commission may also increase the maximum height of such #development# or #enlargement# and may modify the requirements for #public plazas# set forth in Section 37-70 (PUBLIC PLAZAS).~~

Applications for such #floor area# increases ~~and modifications~~ are eligible for modifications set forth in Section 74-964 (Modifications in conjunction with a floor area increase), and are subject to the requirements, conditions and findings set forth in this Section. ~~Section 74-965 and findings set forth in Section 74-966.~~

**74-964**  
**Modifications in conjunction with a floor area increase**

In Industrial Business Incentive Areas, the City Planning Commission may modify the following in conjunction with an application for a #floor area# increase pursuant to Section 74-963 (Permitted floor area increase).

[NOTE: Parking and loading provisions moved from Section 74-963 to paragraph (c) here, and modified]

(a) Bulk modifications

(1) Yard regulations

In all Industrial Business Incentive Areas, the #rear yard# regulations set forth in Section 43-20 (YARD REGULATIONS), inclusive, shall be modified pursuant to the provisions of paragraph (c) of Section 74-965 (Conditions). In addition, the Commission may modify any other #yard# regulations set forth in Section 43-20, inclusive.

(2) Height and setback regulations

(i) In Industrial Business Incentive Area 1, the height and setback regulations of Section 43-40 (HEIGHT AND SETBACK REGULATIONS), inclusive, shall be modified pursuant to the conditions of paragraph (d) of Section 74-965.

(ii) In Industrial Business Incentive Area 2, the Commission may modify the height and setback regulations of Section 43-40, inclusive.

(b) Modification for publicly accessible open space

In Industrial Business Incentive Area 1, where a publicly accessible open space is provided pursuant to paragraph (f) of Section 74-965, the Commission may modify the provisions of Section 37-70 (PUBLIC PLAZAS), inclusive.

(c) Parking and loading modifications

~~In association with an application for a special permit for developments or enlargements pursuant to Section 74-962 (Floor area increase and public plaza modifications in Industrial Business Incentive Areas);~~ In all Industrial Business Incentive Areas, the City Planning Commission may reduce or waive the off-street parking requirements set forth in Section 44-20 (REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR MANUFACTURING, COMMERCIAL OR COMMUNITY FACILITY USES), inclusive, not including bicycle parking, and may also reduce or waive the loading berth requirements as set forth in Section 44-50 (GENERAL PURPOSES), inclusive, provided that the Commission finds that:

**74-965**  
**Conditions**

[NOTE: Yard provisions moved from Section 74-96 and modified;  
Conditions provisions moved from  
paragraph (b) of Section 74-962 and modified]

(b) ~~—~~ Conditions

In Industrial Business Incentive Areas, applications for #floor area# increases pursuant to Section 74-963 (Permitted floor area increase) and modifications pursuant to Section 74-964 (Modifications in conjunction with a floor area increase), are subject to the following conditions:

(+) (a) Minimum amount of #required industrial uses#

~~#Required industrial uses# shall occupy a minimum of 5,000 square feet of horizontally contiguous #floor area# of 5,000 square feet in Industrial Business Incentive Area 1, and 2,500 square feet in Industrial Business Incentive Area 2, and shall be served by loading areas and freight elevators with sufficient capacity.~~

~~(2)(b)~~ Minimum sidewalk width

~~In all Industrial Business Incentive Areas, All all #developments# and horizontal #enlargements# that front upon a #street line# shall provide a sidewalk with a minimum width of 15 feet along the entire frontage of the #zoning lot#. Such sidewalk, and any open area on the #zoning lot# required to meet such minimum width shall be improved as a sidewalk to Department of Transportation standards; shall be at the same level as the adjoining public sidewalk; and shall be accessible to the public at all times. For the purposes of applying the #street wall# location requirements and the height and setback regulations of paragraph (b) (3) of this Section, any sidewalk widening line shall be considered to be the #street line#.~~

(c) Yards

~~In all Industrial Business Incentive Areas, For #developments# or #enlargements# receiving a #floor area# increase pursuant to this Section, Section 43-20 (YARD REGULATIONS), inclusive, shall be modified as follows: the #rear yard# regulations set forth in Section 43-20 (YARD REGULATIONS), inclusive, shall not apply to any #development# or #enlargement# on a #through lot# or the #through lot# portion of a #zoning lot#.~~

~~(3)(d)~~ Height and setback

~~The height and setback regulations of the applicable zoning district shall apply as modified by the provisions of this paragraph. In Industrial Business Incentive Area 1, the #street wall# location requirements and height and setback regulations of this paragraph shall apply to any #development# or #enlargement#. For the purposes of applying the provisions of this paragraph, any sidewalk widening line provided pursuant to the minimum sidewalk width requirement of paragraph (b) shall be considered the #street line#. All heights shall be measured from the #base plane#.~~

~~(i)(1)~~ The #street wall# of any #building# shall be located on the #street line# and shall extend to a height not lower than a minimum base height of 40 feet and not higher than a maximum base height of 75 feet or the height of the #building#, whichever is less. At least 70 percent of the aggregate width of such #street wall# below 12 feet shall be located at the #street line# and no less than 70 percent of the aggregate area of the #street wall# up to the base height shall be located at the #street line#. However, up to a width of 130 feet of such #street wall# located on the short end of the #block# may be set back from the #street line# to accommodate a #public plaza# publicly accessible open space provided pursuant to paragraph (f) of this Section.

~~(ii)(2)~~ The height of a #building or other structure#, or portion thereof, located within 10 feet of a #wide street# or within 15 feet of a #narrow street# shall not exceed a maximum base height of 75 feet. Permitted obstructions as set forth in Section 43-42 shall be modified to include dormers above the maximum base height within the front setback area, provided that on any #street# frontage, the aggregate width of all dormers at the maximum base height does not exceed 50 percent of the #street wall# and a maximum height of 110 feet. Beyond 10 feet of a #wide street# and 15 feet of a #narrow street#, the height of a #building or other structure# shall not exceed a maximum #building# height of 110 feet. All heights shall be measured from the #base plane#. Where a #public plaza# publicly accessible open space is provided

pursuant to paragraph ~~(b)(5)(f)~~ of this Section, such maximum #building# height may be increased to 135 feet.

- ~~(iii)(3)~~ Along the short dimension of a #block#, up to 130 feet of such #street wall# may be set back from the #street line# to accommodate a ~~#public plaza#~~ publicly accessible open space provided pursuant to paragraph (f) of this Section, and a #street wall# located at the #street line# that occupies not more than 40 percent of the short end of the #block# may rise without setback to the maximum #building# height.

~~(4)(e)~~ Ground floor design

In all Industrial Business Incentive Areas, the following shall apply:

- ~~(i)(1)~~ ~~The~~ the ground floor level #street walls#, and ground floor level walls fronting on a ~~#public plaza#~~ publicly accessible open space of a #development# or horizontal #enlargement# provided pursuant to paragraph (f) of this Section, shall be glazed with transparent materials which may include #show windows#, transom windows or glazed portions of doors. Such transparent materials shall occupy at least 50 percent of the surface area of such #street wall#, measured between a height of two feet above the level of the adjoining sidewalk or ~~#public plaza#~~ publicly accessible open space and a height of 12 feet above the level of the first finished floor above #curb level#. The floor level behind such transparent materials shall not exceed the level of the window sill for a depth of at least four feet, as measured perpendicular to the #street wall#. The ground floor transparency requirements of this paragraph ~~(b)(4)(i)~~ (e)(1) shall not apply to #uses# listed in Use Groups 11, 16, 17 and 18, or to #accessory# loading berths or garage entrances; or
- ~~(ii)(2)~~ ~~For~~ for #zoning lots# within flood hazard areas, in lieu of the requirements of paragraph ~~(b)(4)(i)~~ (e)(1) of this Section, the provisions of Section 64-22 (Transparency Requirements) shall apply; and
- ~~(iii)(3)~~ ~~For~~ for any #street wall# greater than 40 feet in width that does not require glazing, as specified in paragraphs ~~(b)(4)(i)~~ (e)(1) or ~~(b)(4)(ii)~~ (e)(2) of this Section, as applicable, the facade, measured between a height of two feet above the level of the adjoining sidewalk and a height of 12 feet above the level of the first finished floor above #curb level#, shall incorporate design elements, including lighting and wall art, or physical articulation.

~~(5)(f)~~ ~~#Public plazas#~~ Publicly accessible open space

In Industrial Business Incentive Area 1, A #public plaza# a publicly accessible open space shall be provided where the additional #building# height provision of paragraph (d)(2) of this Section is used. Such publicly accessible open space shall contain an area of not less than 12 percent of the #lot area# of the #zoning lot# and a minimum of at least 2,000 square feet in area. In addition, All #public plazas# such publicly accessible open space shall comply with the provisions set forth in Section 37-70 (PUBLIC PLAZAS), inclusive, except that certification requirements of Sections 37-73 (Kiosks and Open Air Cafes) and 37-78 (Compliance) shall not apply.

~~(6)(g)~~ Signs

In all Industrial Business Incentive Areas, the following shall apply:

- ~~(i)(1)~~ ~~In all Industrial Business Incentive Areas, #signs# are~~ #Signs# shall be subject to the regulations applicable in C6-4 Districts as set forth in Section 32-60 (SIGN

REGULATIONS), inclusive. Information ~~#signs#~~ provided pursuant to paragraph ~~(b)(6)(ii)~~ ~~(g)(2)~~ of this Section shall not count towards the maximum permitted ~~#surface area#~~ regulations of Section 32-64 (Surface Area and Illumination Provisions), inclusive.

- ~~(ii)(2)~~ An information ~~#sign#~~ shall be provided for all ~~#buildings#~~ subject to the ~~#use#~~ restrictions of this special permit. Such required ~~#sign#~~ shall be mounted on an exterior ~~#building#~~ wall adjacent to and no more than five feet from all primary entrances of the ~~#building#~~. The ~~#sign#~~ shall be placed so that it is directly visible, without any obstruction, to persons entering the building, and at a height no less than four feet and no more than five and a half feet above the adjoining grade. Such ~~#sign#~~ shall be legible, no less than 12 inches by 12 inches in size and shall be fully opaque, non-reflective and constructed of permanent, highly durable materials. The information ~~#sign#~~ shall contain: the name and address of the building in lettering no less than three-quarters of an inch in height; and the following statement in lettering no less than one-half of an inch in height, “This building is subject to Industrial Business Incentive Area ~~(IBIA)~~ regulations which require a minimum amount of space to be provided for specific industrial uses.” The information ~~#sign#~~ shall include the internet URL, or other widely accessible means of electronically transmitting and displaying information to the public, where the information required in paragraph ~~(e)(b)~~ of ~~this~~ Section 74-967 (Compliance, recordation and reporting requirements) is available to the public.

#### **74-966** **Findings**

[NOTE: Findings of paragraph (a) and (b) moved from paragraph (c) of Section 74-962 and modified; findings of paragraph (c) moved from Section 74-963 and modified]

In order to grant an increase of the maximum permitted #floor area ratio# and modification of #public plaza# regulations additional #floor area# and any modifications to #bulk#, publicly accessible open space or parking and loading regulations, the City Planning Commission shall find that:

- (a) For all applications with a #floor area# increase, and for any applications with #bulk# modifications, such increase or modification:
- (1) will promote a beneficial mix of ~~#required industrial#~~ and ~~#incentive uses#~~;
  - (2) will result in superior site planning, harmonious urban design relationships and a safe and enjoyable streetscape;
  - (3) will result in a ~~#building#~~ that has a better design relationship with surrounding ~~#streets#~~ and adjacent open areas;
  - (4) will result in a ~~#development#~~ or ~~#enlargement#~~ that will not have an adverse effect on the surrounding neighborhood; and
  - (5) of the #public plaza# requirements will result in a #public plaza# space of equivalent or greater value as a public amenity.  
will, for #yard# or height and setback regulations, provide a better distribution of #bulk# on the #zoning lot# and will not unduly obstruct the access to light and air of surrounding #streets# and properties.

- (b) Where modifications to publicly accessible open space requirements of paragraph (f) of Section 74-965 (Conditions) are proposed, such modifications will result in a publicly accessible open space of equivalent or greater value as a public amenity.
- (c) Where modifications to parking or loading regulations are proposed:
- (a)(1) ~~such~~ reduction or waiver of required parking spaces will not create or contribute to serious traffic congestion and will not unduly inhibit vehicular and pedestrian movement;
  - (b)(2) the number of curb cuts provided are the minimum required for adequate access to off-street parking and loading berths, and such curb cuts are located ~~so as~~ to cause minimum disruption to traffic, including vehicular, bicycle and pedestrian circulation patterns;
  - (c)(3) the ~~#streets#~~ providing access to the ~~#development#~~ or ~~#enlargement#~~ are adequate to handle the traffic generated thereby, or provision has been made to handle such traffic; and
  - (d)(4) the reduction or waiver of loading ~~berths~~ requirements will not create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement.

The Commission may prescribe appropriate additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

#### **74-967**

#### **Compliance, recordation and reporting requirements**

[NOTE: Provisions moved from paragraphs (d), (e) and (f) of Section 74-962, and modified]

Applications for #floor area# increases and modifications in Industrial Business Incentive Areas are subject to the following requirements:

~~(d)~~(a) Compliance and recordation

Failure to comply with a condition or restriction in a special permit granted pursuant to Section 74-96 (Industrial Business Incentive Areas)~~(Modification of Use, Bulk, Parking and Loading Regulations in Industrial Business Incentive Areas)~~, inclusive, or with applicable approved plans, or with provisions of paragraphs ~~(d), (e) and (f), inclusive,~~ (a), (b) and (c) of this Section, shall constitute a violation of this Resolution and may constitute the basis for denial or revocation of a building permit or certificate of occupancy, or for a revocation of such special permit, and for the implementation of all other applicable remedies.

A Notice of Restrictions, the form and content of which shall be satisfactory to the Commission, for a property subject to #use# restrictions or #public plaza# requirements, as applicable, pursuant to this Section, shall be recorded against the subject tax lot in the Office of the City Register or, where applicable, in the County Clerk's office in the county where the tax lot is located.

The filing and recordation of such Notice of Restrictions shall be a precondition to the issuance of any building permit utilizing the provisions set forth in this Section. The recording information shall be referenced on the first certificate of occupancy to be issued after such notice is recorded, as well as all subsequent certificates of occupancy, for as long as the restrictions remain in effect. No temporary certificate of occupancy for any portion of the #building# to be occupied by #incentive uses# shall be



issued until a temporary certificate of occupancy for the core and shell is issued for all portions of the #building# required to be occupied by #required industrial uses#.

~~(e)~~(b) Periodic notification by owner

No later than the 20th day after the lease executed by a new tenant permits occupancy of any #required industrial space#, the owner of a #building# subject to #use# restrictions of this Section ~~special permit~~ shall provide the following information at the designated internet URL, or other widely accessible means of electronically transmitting and displaying information to the public pursuant to ~~paragraph (b)(6)(ii) of this Section~~ paragraph (g)(2) of Section 74-965 (Conditions). If no new tenant executes a lease for any #required industrial space# within the calendar year, such information shall be provided no later than the 20th day of the following calendar year. Such electronic information source shall be accessible to the general public at all times and include the information specified below:

- (1) the date of the most recent update of this information;
- (2) total #floor area# of the #required industrial uses# in the #development#;
- (3) a digital copy of all approved special permit drawings pursuant to ~~paragraph (a)(1) through (a)(4) of this Section~~ Section 74-962 (Application requirements);
- (4) the name of each business establishment occupying #floor area# reserved for #required industrial uses#. Such business establishment name shall include that name by which the establishment does business and is known to the public. For each business establishment, the amount of #floor area#, the Use Group, subgroup and specific #use# as listed in this Resolution shall also be included;
- (5) contact information, including the name of the owner of the #building# and the building management entity, if different, the name of the person designated to manage the #building#, and the street address, current telephone number and e-mail address of the management office. Such names shall include the names by which the owner and manager, if different, do business and are known to the public; and
- (6) all prior periodic notification information required pursuant to the provisions of this paragraph ~~(e)(b)~~. However, such notification information that is older than four years from the date of the most recent update need not be included.

~~(f)~~(c) Annual reporting by qualified third party

~~In Industrial Business Incentive Area 1, applications for a special permit pursuant to Section 74-96 are subject to the following annual reporting requirements:~~

No later than June 30 of each year, beginning in the first calendar year following the calendar year in which a temporary or final certificate of occupancy was issued for a #building# subject to #use# restrictions of this Section, the owner of a #building# subject to #use# restrictions of this Section shall cause to be prepared a report on the existing conditions of the #building#, as of a date of inspection which shall be no earlier than May 15 of the year in which the report is filed.

The inspection shall be preceded by an annual notification letter from the owner of a #building# subject to #use# restrictions of this Section to all the #required industrial use# tenants of the #building# announcing the date of such inspection, that the organization conducting the inspection shall have access to the spaces occupied by #required industrial uses#, and encouraging the tenants to provide information including, but not limited to, the number of employees for each such space, to the

organization.

The owner of a #building# subject to #use# restrictions of this Section shall cause such report to be prepared by ~~either~~ an organization under contract with the City to provide inspection services, or on the Department of Small Business Services list of certified firms that provides such inspection services, or by an organization that the Commissioner of the Department of Small Business Services determines to be qualified to produce such report, or, in Industrial Business Incentive Area 2, by a special inspection agency that is registered with the City as established in section 28-101.5 of the Administrative Code. ~~provided that any such~~ Such organization or agency selected by the owner to prepare such report shall have a professional engineer or a registered architect, licensed under the laws of the State of New York, certify the report. Such report shall be in a form provided by the Director of the Department of City Planning, and shall include all of the information required pursuant to the provisions of paragraph ~~(e)~~(b) of this Section, and additional information as set forth in this paragraph ~~(f)~~(c):

- (1) a description of each establishment including the North American Industry Classification System (NAICS) code and number of employees;
- (2) the total amount of #required industrial use floor area# that is vacant, as applicable;
- (3) the average annual rent for the portions of the #building#, in the aggregate, required to be occupied by #required industrial uses#. However, prior to 36 months from the date of execution of a lease by the first #required industrial use# tenant in the building, no such figure shall be required to be included in any report due pursuant to this paragraph ~~(f)~~(c). For all calendar years following the year in which the first average annual rent figure is required to be submitted as part of an annual report, the average annual rent figure reported shall be for the annual average rent for the calendar year two years prior to the year in which the report is due; and
- (4) the number of new leases executed during the calendar year, categorized by lease duration, in five year increments from zero to five years, five to 10 years, 10 to 15 years, 15 to 20 years and 20 years or greater.

The report shall be submitted to the Director of the Department of City Planning by any method, including e-mail or other electronic means, acceptable to the Director. The applicable Community Board, Borough President and local City Council member shall be included in such transmission.

## **74-968**

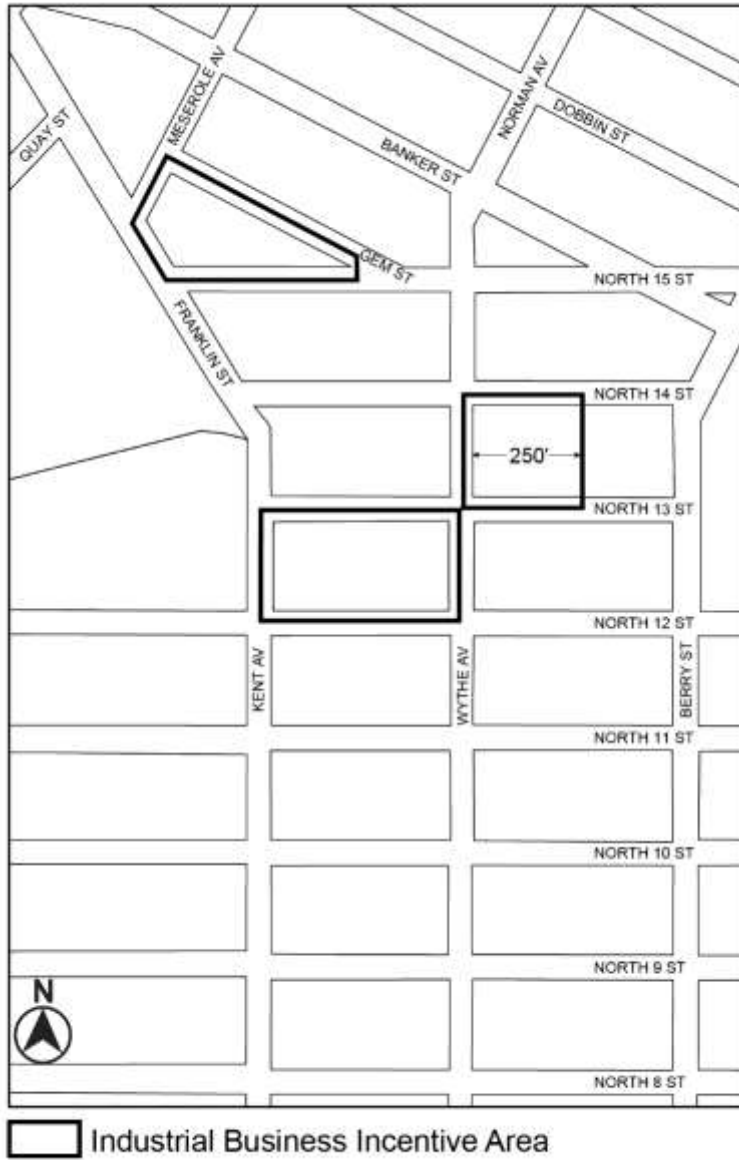
### **Maps of Industrial Business Incentive Areas**

[NOTE: Map 1 moved from Section 74-96 and additional borough map added]

~~Map of Industrial Business Incentive Areas:~~

Map 1: Brooklyn

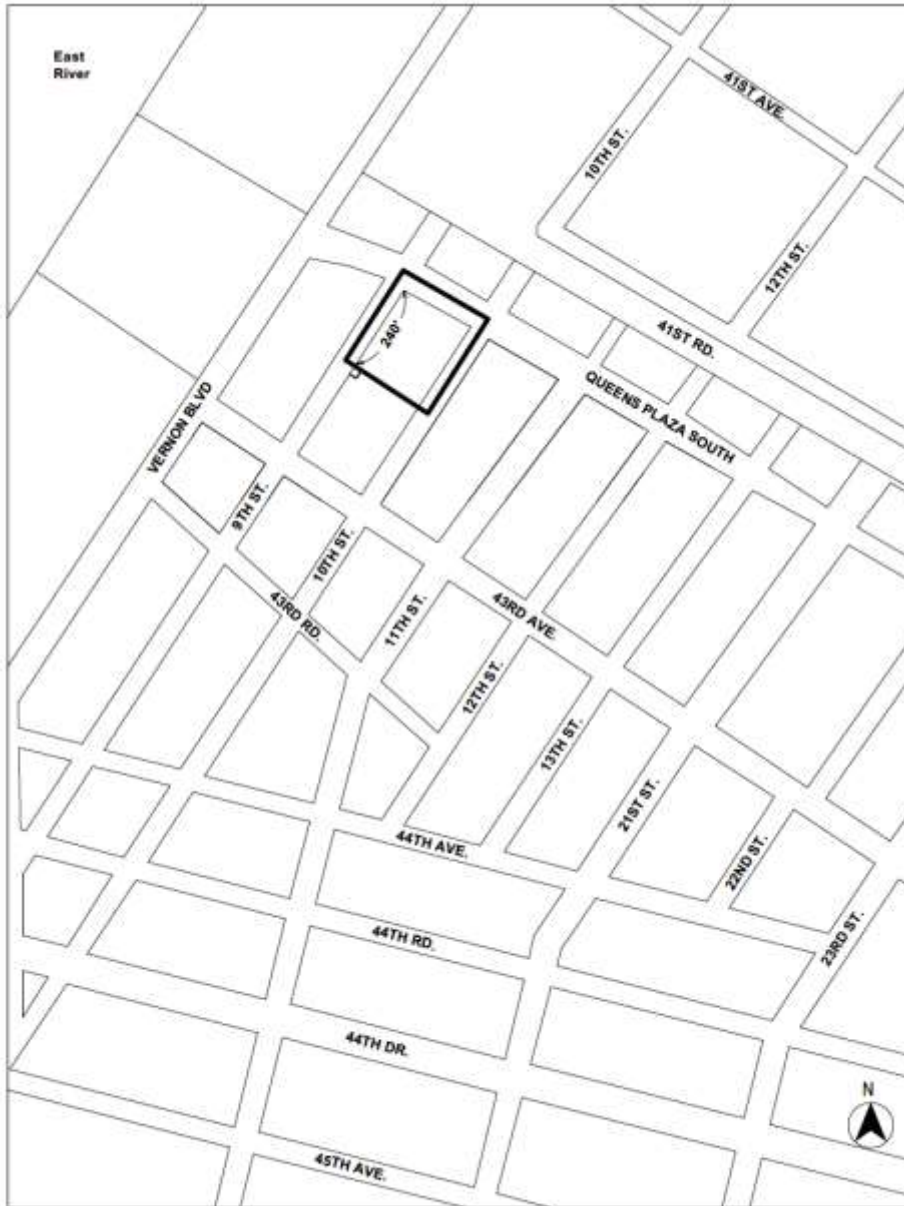
[EXISTING MAP]



Portion of Community District 1, Borough of Brooklyn

Map 2: Queens

[PROPOSED MAP]



 Industrial Business Incentive Area 2

Portion of Community District 2, Borough of Queens

\* \* \*

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, February 24, 2021 (Remote Hearing). *Other Council Members Attending: Council Member Brannan.*

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 L.U. No. 718 & Res. No. 1578

**Report of the Committee on Land Use in favor of approving, as modified, Application No. C 180496 ZMK (1620 Cortelyou Road Rezoning) submitted by 1600/20 Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22c, changing from an existing R6A District to an R7D District property bounded by Cortelyou Road, East 17th Street, a line 100 feet southeasterly of Cortelyou Road, and East 16th Street, Borough of Brooklyn, Community District 40, Council District 14.**

The Committee on Land Use, to which the annexed Land Use item was referred on January 28, 2021 (Minutes, page 134) and which same Land Use item was coupled with the resolution shown below and referred to the City Planning Commission on March 18, 2021, respectfully

#### **REPORTS:**

#### **SUBJECT**

#### **BROOKLYN CB-14 – TWO APPLICATIONS RELATED TO 1620 CORTELYOU ROAD REZONING**

#### **C 180496 ZMK (Pre. L.U. No. 718)**

City Planning Commission decision approving an application submitted by 1600/20 Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22c, by changing from an existing R6A/C2-4 District to an R7D/C2-4 District property bounded by Cortelyou Road, East 17th Street, a line 100 feet southeasterly of Cortelyou Road, and East 16th Street, Borough of Brooklyn, Community District 14, as shown on a diagram (for illustrative purposes only) dated March 2, 2020, and subject to the conditions of CEQR Declaration E-564.

#### **N 180497 ZRK (Pre. L.U. No. 719)**

City Planning Commission decision approving an application submitted by 1600/20 Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing Area, Borough of Brooklyn, Community District 14.

**INTENT**

To approve an amendment to rezone from R6A/C2-4 to an R7D/C2-4 districts and amend zoning text to map MIH utilizing Options 1 and 2, to facilitate a mixed-use development with approximately 85 residential units and 10,000 square feet of ground-floor retail space at 1620 Cortelyou Road in the Ditmas Park neighborhood of Brooklyn, Community District 14.

**PUBLIC HEARING**

**DATE:** January 26, 2021

**Witnesses in Favor:** Five

**Witnesses Against:** Nineteen

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** March 4, 2021

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission on Pre. L.U. No. 718 and approve with modifications the decision of the City Planning Commission on Pre. L.U. No. 719.

**In Favor:**

Moya, Levin, Reynoso, Grodenchik, Rivera, Borelli.

**Against:**

Ayala

**Abstain:**

None

**COMMITTEE ACTION**

**DATE:** March 10, 2021

The Committee recommends that the Council approve the attached resolutions.

**In Favor:**

Salamanca, Gibson, Deutsch, Koo, Levin, Reynoso, Treyger, Grodenchik, Adams, Diaz Sr., Moya, Rivera, Riley, Borelli

**Against:**

Ayala

**Abstain:**

Barron

**FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION**

The City Planning Commission filed a letter dated March 15, 2021, with the Council on March 16, 2021, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1578

**Resolution approving the decision of the City Planning Commission on ULURP No. C 180496 ZMK, a Zoning Map amendment (Preconsidered L.U. No. 718).**

By Council Members Salamanca and Moya.

**WHEREAS**, 1600/20 Realty Corp., filed an application pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22c, changing from an existing R6A/C2-4 District to an R7D/C2-4 District property bounded by Cortelyou Road, East 17th Street, a line 100 feet southeasterly of Cortelyou Road, and East 16th Street, which in conjunction with the related action would facilitate a mixed-use development with approximately 85 residential units and 10,000 square feet of ground-floor retail space at 1620 Cortelyou Road in the Ditmas Park neighborhood of Brooklyn, Community District 14 (ULURP No. C 180496 ZMK) (the "Application");

**WHEREAS** the City Planning Commission filed with the Council on January 22, 2021, its decision dated January 20, 2021 (the "Decision") on the Application;

**WHEREAS**, the Application is related to application N 180497 ZRK (Pre. L.U. No. 719), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on January 26, 2021;

**WHEREAS**, the Council has considered the land use and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues, including the negative declaration issued March 2, 2020 (CEQR No. 20DCP101K), which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-564) (the "Negative Declaration").

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-564) and Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 180496 ZMK, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 22c, by changing from an existing R6A District to an R7D District property bounded by Cortelyou Road, East 17th Street, a line 100 feet southeasterly of Cortelyou Road, and East 16th Street, Borough of Brooklyn, Community District 14, as

shown on a diagram (for illustrative purposes only) dated March 2, 2020, and subject to the conditions of CEQR Declaration E-564.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, February 24, 2021 (Remote Hearing). *Other Council Members Attending: Council Member Brannan.*

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 L.U. No. 719 & Res. No. 1579

**Report of the Committee on Land Use in favor of approving, as modified, Application No. N 180497 ZRK (1620 Cortelyou Road Rezoning) submitted by 1600/20 Realty Corp., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 40, Council District 14.**

The Committee on Land Use, to which the annexed Land Use item was referred on January 28, 2021 (Minutes, page 135) and which same Land Use item was coupled with the resolution shown below and referred to the City Planning Commission on March 18, 2021, respectfully

**REPORTS:**

**(For text of report, please see the Report of the Committee on Land Use for L.U. No. 718 printed above in the General Order Calendar section of these Minutes)**

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

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1579

**Resolution approving with modifications the decision of the City Planning Commission on Application No. N 180497 ZRK, for an amendment of the text of the Zoning Resolution (Preconsidered L.U. No. 719).**

By Council Members Salamanca and Moya.

**WHEREAS**, 1600/20 Realty Corp., filed an application pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing Area utilizing Options 1 and 2, which in conjunction with the related action would facilitate the construction of a mixed-use building containing a total of approximately 85 residential dwelling units and 10,000 square feet of ground floor commercial space at 1620 Cortelyou Road in the Ditmas Park neighborhood of Brooklyn, Community District 14 (Application No. N 180497 ZRK) (the “Application”);



**WHEREAS**, the City Planning Commission filed with the Council on January 22, 2021, its decision dated January 20, 2021 (the “Decision”), on the Application;

**WHEREAS**, the Application is related to application C 180496 ZMK (Pre. L.U. No. 718), a zoning map amendment to change an R6A/C2-4 zoning district to an R7D/C2-4 district;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on January 26, 2021;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues, including the negative declaration issued March 2, 2020 (CEQR No. 20DCP101K), which include an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials and noise (E-564) (the “Negative Declaration”).

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-564) and Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 180497 ZRK, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission with the following modifications:

- Matter underlined is new, to be added;
- Matter ~~struck out~~ is to be deleted;
- Matter ~~double struck out~~ is old, deleted by the City Council
- Matter double-underlined is new, added by the City Council
- Matter within # # is defined in Section 12-10;
- \* \* \* indicates where unchanged text appears in the Zoning Resolution.

\* \* \*

**APPENDIX F  
Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas**

\* \* \*

**BROOKLYN**

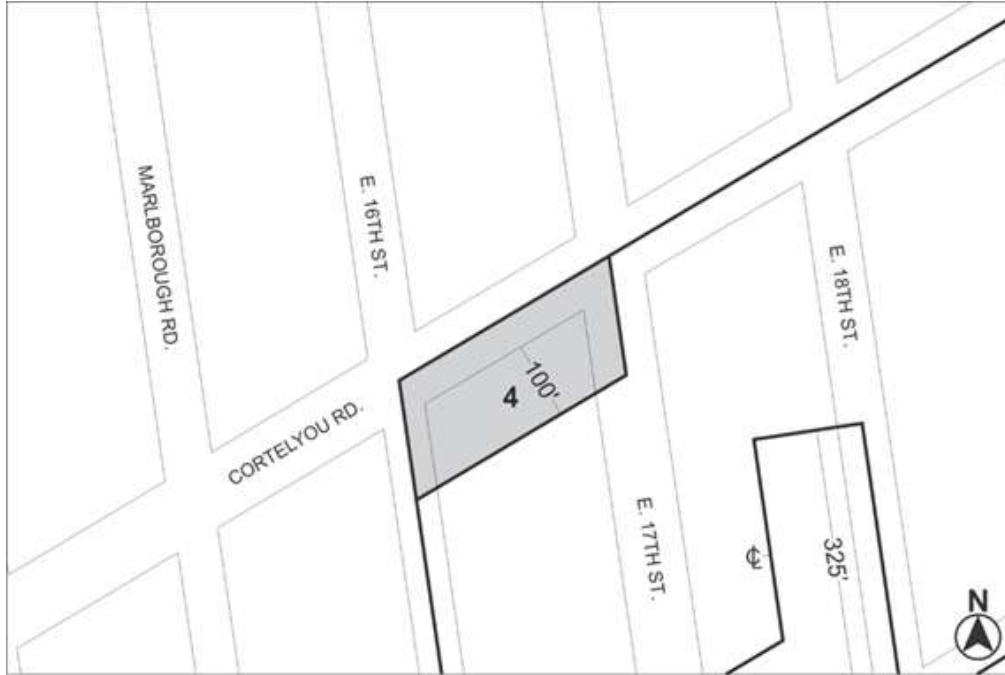
\* \* \*



**Brooklyn Community District 14**

\* \* \*

Map 6 – [date of adoption]

[PROPOSED]



-  *Inclusionary Housing designated area*
-  *Mandatory Inclusionary Housing Area* *see Section 23-154(d)(3)*

Area 4 — [date of adoption] — MIH Program Option 1 ~~and Option 2~~

Portion of Community District 14, Brooklyn

\* \* \*

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, February 24, 2021 (Remote Hearing). *Other Council Members Attending: Council Member Brannan.*

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 L.U. No. 727 & Res. No. 1580

**Report of the Committee on Land Use in favor of approving, as modified, Application No. C 190447 ZMK (9114 5th Avenue Rezoning) submitted by BayRide Realty, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22b, changing from an existing C8-2 District to an R7A District and establishing within a proposed R7A District a C2-4 District, Borough of Brooklyn, Community District 10, Council District 43.**

The Committee on Land Use, to which the annexed Land Use item was referred on February 11, 2021 (Minutes, page 240) and which same Land Use item was coupled with the resolution shown below and referred to the City Planning Commission on February 25, 2021 (Minutes, page 339), respectfully

#### **REPORTS:**

#### **SUBJECT**

#### **BROOKLYN CB-10 – TWO APPLICATIONS RELATED TO 9114 FIFTH AVENUE REZONING**

#### **C 190447 ZMK (Pre. L.U. No. 727)**

City Planning Commission decision approving an application submitted by Bayride Realty, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22b:

1. changing from an existing C8-2 District to an R7A District property bounded by a line 85 feet southwesterly of 91<sup>st</sup> Street, 5th Avenue, 92<sup>nd</sup> Street, a line 185 feet northwesterly of Fifth Avenue, a line 75 feet northeasterly of 92<sup>nd</sup> Street, and a line 125 feet northwesterly of Fifth Avenue; and
2. establishing within a proposed R7A District a C2-4 District bounded by a line 85 feet southwesterly of 91<sup>st</sup> Street, Fifth Avenue, 92<sup>nd</sup> Street, a line 185 feet northwesterly of Fifth Avenue, a line 75 feet northeasterly of 92<sup>nd</sup> Street, and a line 125 feet northwesterly of Fifth Avenue;

as shown on a diagram (for illustrative purposes only) dated September 14, 2020, and subject to the conditions of City Environmental Quality Review (CEQR) Declaration E-577.

**N 190448 ZRK (Pre. L.U. No. 728)**

City Planning Commission decision approving an application submitted by Bayride Realty, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area.

**INTENT**

To approve an amendment to rezone from C8-2 to an R7A/C2-4 and amend a zoning text to modify Appendix F to designate a Mandatory Inclusionary Housing (MIH) area with Options 1 and 2 to facilitate the construction of a new nine-story, approximately 45,000-square-foot mixed-use building with approximately 41 dwelling units and ground floor commercial uses at 9114 Fifth Avenue (Block 6087, Lots 23 and 31) in the Bay Ridge neighborhood of Brooklyn, Community District 10.

**PUBLIC HEARING**

**DATE:** February 9, 2021

**Witnesses in Favor:** One

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** February 23, 2021

The Subcommittee recommends that the Land Use Committee approve with modifications the decisions of the City Planning Commission on Pre. L.U. Nos. 727 and 728.

**In Favor:**

Moya, Levin, Reynoso, Grodenchik, Ayala, Rivera, Borelli.

**Against:**

None

**Abstain:**

None.

**COMMITTEE ACTION**

**DATE:** February 24, 2021

The Committee recommends that the Council approve the attached resolutions.

**In Favor:**

Salamanca, Gibson, Deutsch, Koo, Levin, Miller, Reynoso, Treyger, Grodenchik, Adams, Ayala, Diaz Sr., Moya, Rivera, Riley, Borelli.

**Against:**

None

**Abstain:**

Barron

**FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION**

The City Planning Commission filed a letter dated March 15, 2021, with the Council on March 16, 2021, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1580

**Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 190447 ZMK, a Zoning Map amendment (Preconsidered L.U. No. 727).**

By Council Members Salamanca and Moya.

**WHEREAS**, Bayride Realty, LLC, filed an application pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22b, changing from an existing C8-2 District to an R7A District and establishing within a proposed R7A District a C2-4 District, which in conjunction with the related action would facilitate the construction of a new nine-story, approximately 45,000-square-foot mixed-use building with approximately 41 dwelling units and ground floor commercial uses at 9114 Fifth Avenue (Block 6087, Lots 23 and 31) in the Bay Ridge neighborhood of Brooklyn, Community District 10 (ULURP No. C 190447 ZMK) (the "Application");

**WHEREAS** the City Planning Commission filed with the Council on February 8, 2021, its decision dated February 3, 2021 (the "Decision") on the Application;

**WHEREAS**, the Application is related to application N 190448 ZRK (Pre. L.U. No. 728), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on February 9, 2021;

**WHEREAS**, the Council has considered the land use and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues, including the negative declaration issued August 31<sup>st</sup>, 2020 (CEQR No. 19DCP128K) which includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality, and noise (E-513) (the "Negative Declaration").

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-513) and Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, C 190447 ZMK, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission with the following modifications:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter ~~double struck out~~ is old, deleted by the City Council

Matter double-underlined is new, added by the City Council

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 22d:

1. changing from an existing C8-2 District to an R6A District property bounded by a line 75 feet northeasterly of 92<sup>nd</sup> Street, a line 125 feet northwesterly of 5<sup>th</sup> Avenue, 92<sup>nd</sup> Street, and a line 185 feet northwesterly of 5<sup>th</sup> Avenue;
42. changing from an existing C8-2 District to an R7A District property bounded by a line 85 feet southwesterly of 91<sup>st</sup> Street, 5<sup>th</sup> Avenue, 92<sup>nd</sup> Street, ~~a line 185 feet northwesterly of 5<sup>th</sup> Avenue, a line 75 feet northeasterly of 92<sup>nd</sup> Street,~~ and a line 125 feet northwesterly of 5<sup>th</sup> Avenue; ~~and~~
3. establishing within a proposed R6A District a C2-4 District bounded by a line 75 feet northeasterly of 92<sup>nd</sup> Street, a line 125 feet northwesterly of 5<sup>th</sup> Avenue, 92<sup>nd</sup> Street, and a line 185 feet northwesterly of 5<sup>th</sup> Avenue; and
- ~~24.~~ establishing within a proposed R7A District a C2-4 District bounded by a line 85 feet southwesterly of 91<sup>st</sup> Street, 5<sup>th</sup> Avenue, 92<sup>nd</sup> Street, ~~a line 185 feet northwesterly of 5<sup>th</sup> Avenue, a line 75 feet northeasterly of 92<sup>nd</sup> Street,~~ and a line 125 feet northwesterly of 5<sup>th</sup> Avenue;

as shown on a diagram (for illustrative purposes only) dated September 14, 2020, and subject to the conditions of CEQR Declaration E-577.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, February 24, 2021 (Remote Hearing). *Other Council Members Attending: Council Member Brannan.*

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 L.U. No. 728 &amp; Res. No. 1581

**Report of the Committee on Land Use in favor of approving, as modified, Application No. N 190448 ZRK (9114 5th Avenue Rezoning) submitted by BayRide Realty, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 10, Council District 43.**

The Committee on Land Use, to which the annexed Land Use item was referred on February 11, 2021 (Minutes, page 240) and which same Land Use item was coupled with the resolution shown below and referred to the City Planning Commission on February 25, 2021 (Minutes, page 341), respectfully

**REPORTS:**

**(For text of report, please see the Report of the Committee on Land Use for L.U. No. 727 printed above in the General Order Calendar section of these Minutes)**

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

In connection herewith, Council Members Salamanca and Moya offered the following resolution:

Res. No. 1581

**Resolution approving with modifications the decision of the City Planning Commission on Application No. N 190448 ZRK, for an amendment of the text of the Zoning Resolution (Preconsidered L.U. No. 728).**

By Council Members Salamanca and Moya.

**WHEREAS**, Bayride Realty, LLC, filed an application pursuant to Section 201 of the New York City Charter, for an amendment of the text of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area utilizing Options 1 and 2, which in conjunction with the related action would facilitate the construction of a new nine-story, approximately 45,000-square-foot mixed-use building with approximately 41 dwelling units and ground floor commercial at 9114 Fifth Avenue (Block 6087, Lots 23 and 31) in the Bay Ridge neighborhood of Brooklyn, Community District 10 (Application No. N 190448 ZRK) (the “Application”);

**WHEREAS**, the City Planning Commission filed with the Council on February 8, 2021, its decision dated February 3, 2021 (the “Decision”), on the Application;

**WHEREAS**, the Application is related to application C 190447 ZMK (Pre. L.U. No. 727), a zoning map amendment to change a C8-2 zoning district to an R7A/C2-4 district;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on February 9, 2021;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues, including the negative declaration issued August 31<sup>st</sup>, 2020 (CEQR No. 19DCP128K) which includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality, and noise (E-513) (the “Negative Declaration”).

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment as set forth in the (E) Designation (E-513) and Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 190448 ZRK, incorporated by reference herein, and the record before the Council, the Council approves the Decision of the City Planning Commission with the following modifications:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter ~~double struck out~~ is old, deleted by the City Council

Matter double-underlined is new, added by the City Council

Matter within # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution.

\* \* \*

**APPENDIX F**

**Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas**

\* \* \*

**Brooklyn**

\* \* \*

**Brooklyn Community District 10**

\* \* \*

**Map 1 – [Date of Adoption]**

~~[CPC APPROVED MAP]~~





**Mandatory Inclusionary Housing Area** *(see Section 23-154(d)(3))*

**Area 1** — [date of adoption] — MIH Program Option 1 and Option 2

Portion of Community District 10, Borough of Brooklyn

\* \* \*

[CITY COUNCIL APPROVED MAP]



 Mandatory Inclusionary Housing Area — see Section 23-154(d)(3)

Area 1 — [date of adoption] — MIH Program Option 1, Option 2, and Workforce Option

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, February 24, 2021 (Remote Hearing). *Other Council Members Attending: Brannan.*

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

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

- |      |                                  |   |
|------|----------------------------------|---|
| (1)  | <b>M-291 &amp; Res 1569 -</b>    | The <b>Operating Budget of the Council</b> of the City of New York.   |
| (2)  | <b>M-292 &amp; Res 1570 -</b>    | Schedule detailing the <b>lump sum OTPS Unit of Appropriation</b> of the Operating Budget of the Council of the City of New York.                                 |
| (3)  | <b>Int 864-A -</b>               | Investigations by the Department of Health and Mental Hygiene in connection with lead poisoning incidents.  |
| (4)  | <b>Int 874-A -</b>               | Improving tenant notification, interagency cooperation, conducting inspections and issuing stop work orders, in connection with lead paint and construction work. |
| (5)  | <b>Int 2092-A -</b>              | Climate resiliency design guidelines and resiliency scoring.  |
| (6)  | <b>Int 2170-A -</b>              | The sustainable energy loan program.  |
| (7)  | <b>Int 2198-A -</b>              | Additional freeboard for structures in the floodplain.  |
| (8)  | <b>Int 2236-A -</b>              | The creation of a unified scheduling system for COVID-19 vaccinations, and to provide for the repeal thereof.   |
| (9)  | <b>L.U. 714 &amp; Res 1576 -</b> | App. C 200303 ZSQ (42-11 9th Street Special Permit) Borough of Queens, Community District 2, Council District 26.   |
| (10) | <b>L.U. 715 &amp; Res 1577 -</b> | App. N 200304 ZRQ (42-11 9th Street Special Permit) Borough of Queens, Community District 2, Council District 26.   |
| (11) | <b>L.U. 718 &amp; Res 1578 -</b> | App. C 180496 ZMK (1620 Cortelyou Road Rezoning) Borough of Brooklyn, Community District 40, Council District 14.   |
| (12) | <b>L.U. 719 &amp; Res 1579 -</b> | App. N 180497 ZRK (1620 Cortelyou Road Rezoning) Borough of Brooklyn, Community   |

District 40, Council District 14.

- (13) **L.U. 727 & Res 1580 -** App. C **190447 ZMK (9114 5th Avenue Rezoning)** Borough of Brooklyn, Community District 10, Council District 43.
- (14) **L.U. 728 & Res 1581 -** App. N **190448 ZRK (9114 5th Avenue Rezoning)** Borough of Brooklyn, Community District 10, Council District 43.
- (15) **L.U. 730 & Res 1572 -** App. **20215015 HAK (Sutter Ave-East New York Partnership Homes)** Borough of Brooklyn, Community District 5, Council District 42.
- (16) **L.U. 735 & Res 1573 -** App. C **200178 ZMQ (91-32 63rd Drive Rezoning)** Borough of Queens, Community District 6, Council District 29.
- (17) **L.U. 736 & Res 1574 -** App. N **200179 ZRQ (91-32 63rd Drive Rezoning)** Borough of Queens, Community District 6, Council District 29.
- (18) **L.U. 737 & Res 1575 -** App. C **200252 ZMQ (245-01 Jamaica Avenue Rezoning)** Borough of Queens, Community District 13, Council District 23.
- (19) **L.U. 742 & Res 1571 -** Los Sures SIP HDFC, Brooklyn, Community District No. 1, Council District 34.

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

**Affirmative** – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, 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.

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

The following was the vote recorded for **Preconsidered M-291 & Res. No. 1569 and Preconsidered M-292 & Res. No. 1570:**

**Affirmative** – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, 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**.

**Abstention** – Yeger – **1**.

The following was the vote recorded for **L.U. No. 718 & Res. No. 1578 and L.U. No. 719 & Res. No. 1579:**

**Affirmative** – Adams, Ampry-Samuel, Ayala, Borelli, Brannan, Cabrera, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, 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**.

**Abstention** – Barron – **1**.

The following was the vote recorded for **L.U. No. 727 & Res. No. 1580 and L.U. No. 728 & Res. No. 1581:**

**Affirmative** – Adams, Ampry-Samuel, Ayala, Borelli, Brannan, Cabrera, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, 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) – **45**.

**Negative** – Lander – **1**.

**Abstention** – Barron – **1**.

The following was the vote recorded for **L.U. No. 735 & Res. No. 1573 and L.U. No. 736 & Res. No. 1574:**

**Affirmative** – Adams, Ampry-Samuel, Ayala, Borelli, Brannan, Cabrera, Chin, Constantinides, Cornegy, D. Diaz, R. Diaz, Dromm, Eugene, Gennaro, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, 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**.

**Abstention** – Barron – **1**.

*The following Introductions were sent to the Mayor for his consideration and approval:  
Int. Nos. 864-A, 874-A, 2092-A, 2170-A, 2198-A, and 2236-A.*

## RESOLUTIONS

*presented for voice-vote*

**The following are the respective Committee Reports for each of the Resolutions referred to the Council for a voice-vote pursuant to Rule 8.50 of the Council:**

Report for voice-vote item Res. No. 1529-A

**Report of the Committee on Health in favor of approving, as amended, a Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation to protect New York State's safety net providers and Special Needs Plans by eliminating the Medicaid pharmacy carve-out.**

The Committee on Health, to which the annexed amended resolution was referred on January 6, 2021 (Minutes, page 21), respectfully

## REPORTS:

**(For text of report, please see the Report of the Committee on Health for Int. No. 2236-A printed in the Reports of the Standing Committees section of these Minutes)**

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

**(The following is the text of Res. No. 1529-A:)**

Res. No. 1529-A

**Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation to protect New York State's safety net providers and Special Needs Plans by eliminating the Medicaid pharmacy carve-out.**

By Council Members Levine, Louis, Chin, Lander, Rivera, Levin, Barron, Rose and Van Bramer.

**Whereas**, Congress created the Medicaid rebate program in 1990; and

**Whereas**, Under the program, a manufacturer must pay rebates to state Medicaid programs for "covered outpatient drugs," which lowers the cost of drugs for Medicaid programs; and

**Whereas**, In 1992, Congress extended the same kind of relief to safety net providers by enacting Section 340B of the Public Health Service Act (the 340B program); and

**Whereas**, The 340B program requires pharmaceutical manufacturers to provide front-end discounts on covered outpatient drugs purchased by specified providers, called "covered entities," that serve the nation's most vulnerable populations; and

**Whereas**, According to congressional reports, the purpose of the 340B program is to enable covered entities "to stretch scarce federal resources as far as possible, reaching more eligible patients and providing more comprehensive services"; and

**Whereas,** The 340B program protects safety net providers, including HIV/AIDS clinics that receive support under the federal Ryan White CARE Act, and community health centers and safety net hospitals that have been on the frontlines of fighting COVID-19; and

**Whereas,** COVID-19 has disproportionately impacted Black, Latinx, and other communities of color, as well as those who have lower incomes; and

**Whereas,** Ethnic and racial minorities and those who are lower income are also served by safety net providers; and

**Whereas,** According to New York State Department of Health (NYSDOH), there are 209 covered entities under the 340B program, totaling 2,191 sites across the state; and

**Whereas,** These providers rely on the savings from the 340B program to provide numerous services addressing social determinants of health and health inequities, including transportation assistance, sexually transmitted infection (STI) screenings, nurse triage and education services, care coordination and patient navigation for those who are chronically ill, free oncology services, and insurance assistance and enrollment services; and

**Whereas,** Providers also use these funds to operate food pantries and run mental health and wellness programs, including nutrition and diabetes education and harm reduction programs; and

**Whereas,** According to the Medicaid and CHIP Payment and Access Commission (MACPAC), states may offer Medicaid benefits on either a fee-for-service (FFS) basis, or through managed care plans, or both; and

**Whereas,** For those with managed care, which includes nearly everyone with Medicaid in New York State, the state pays a fee to a managed care plan for each person enrolled in such plan; and

**Whereas,** Managed care plans include Special Needs Plans (SNPs), such as HIV SNPs, which are managed care plans that cover the same services as other Medicaid managed care plans, as well as additional special services for people living with HIV/AIDS; and

**Whereas,** In April 2020, Governor Cuomo and the New York State Legislature passed a budget that included a plan to transition, or carve-out, the Medicaid managed care pharmacy benefit to FFS; and

**Whereas,** According to the NYSDOH, this proposal will carve-out the pharmacy benefit for 4.3 million managed care Medicaid members, moving the benefit back to FFS, by April 1, 2021, which will give the State “complete visibility into the underlying cost of prescription drugs and greater control to manage overall prescription drug spending”; and

**Whereas,** The Medicaid pharmacy carve-out would harm 340B providers, including community health centers, HIV providers, sexual health clinics, many rural hospitals, and other safety net providers, because they would no longer be able to purchase prescription drugs at a significantly reduced price; and

**Whereas,** If New York State shifts Medicaid drug coverage as outlined in the budget, safety net providers will lose hundreds of millions of dollars they now use for patient care, and the State and the federal government will instead receive more rebates; and

**Whereas,** According to the Community Healthcare Association of New York State (CHCANYS), extensive harm will occur to community health centers as a result of the pharmacy carve-out, including health center closures, lay-offs of hundreds of staff, and loss of over \$100 million in client services; and

**Whereas,** The End AIDS NY Coalition surveyed 15 of its member organizations that operate HIV clinics, and these 15 organizations alone reported that they will lose \$56.1 million in annual revenue if the planned pharmacy carve-out is implemented; and

**Whereas,** According to a letter that hospital leaders sent to Governor Cuomo and NYSDOH Commissioner Zucker, about 100 hospitals serving low-income and indigent populations across the state will lose more than \$87 million next year as a result of this change, on top of the \$20 billion to \$25 billion in losses and new expenses incurred due to COVID-19; and

**Whereas,** A.1671/ S.2520, sponsored by Assembly Member Richard Gottfried and Senator Gustavo Rivera, would delay the carve-out for eligible 340B providers and HIV SNPs to April 1, 2024; and

**Whereas,** Delaying implementation of the carve-out would give providers and policymakers more time to consider ways to avoid or minimize the negative impact of such a change; and

**Whereas,** While a delay would be beneficial, advocates, including safety net providers and HIV SNPs, are calling for the carve-out to be eliminated altogether; and

**Whereas,** Although the state's Fiscal 2022 Executive Budget proposes the creation of the 340B Reimbursement Fund, which is intended to offset the 340B revenue losses providers would face from the pharmacy benefit carve-out, this is not enough of a guarantee to protect our safety net providers and could cause undue hardship; and

**Whereas,** Given the disproportionate impact of COVID-19 on the most vulnerable communities and the providers that serve them, eliminating the carve-out would greatly benefit the New Yorkers who need it most; now, therefore, be it

**Resolved,** That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, legislation to protect New York State's safety net providers and Special Needs Plans by eliminating the Medicaid pharmacy carve-out

MARK D. LEVINE, *Chairperson*; MATHIEU EUGENE; INEZ D. BARRON ALICKA AMPRY-SAMUEL, ROBERT F. HOLDEN, KEITH POWERS, DARMA V. DIAZ; Committee on Health, March 18, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Miller and Koslowitz.*

Pursuant to Rule 8.50 of the Council, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) called for a voice vote. Hearing no objections, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

Report for voice-vote item Res. No. 1535

**Report of the Committee on Health in favor of approving a Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation allowing local health departments to implement changes to improve the COVID-19 vaccine roll out.**

The Committee on Health, to which the annexed amended resolution was referred on January 28, 2021 (Minutes, page 131), respectfully

#### **REPORTS:**

**(For text of report, please see the Report of the Committee on Health for Int. No. 2236-A printed in the Reports of the Standing Committees section of these Minutes)**

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

**(The following is the text of Res. No. 1535:)**

Res. No. 1535

**Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation allowing local health departments to implement changes to improve the COVID-19 vaccine roll out.**

By Council Members Miller, Cabrera, Moya, Ampy-Samuel, Adams, Koo, Louis, Kallos, Chin, Grodenchik, Ayala, Lander, Levine, Rosenthal, Powers, Riley, Gibson, Brannan, Rose, Rodriguez, Cumbo, Reynoso, Eugene, Perkins, Salamanca, D. Diaz, Cornegy, Rivera, Barron, Dromm, Koslowitz, Van Bramer and Holden (at the request of the Brooklyn Borough President).



**Whereas,** A novel coronavirus, called SARS-CoV-2, first emerged in late 2019 and spread rapidly around the world; and

**Whereas,** New York City, which was the epicenter of the pandemic for months, has been devastated both economically and emotionally; and

**Whereas,** As of January 15, 2021, 517,729 residents of New York City had tested positive for the disease caused by SARS-CoV-2, called COVID-19, with 73,272 hospitalized for treatment and 25,909 dying from the virus; and

**Whereas,** According to data from the New York City Department of Health and Mental Hygiene (DOHMH), COVID-19 has disproportionately impacted New York City residents who are Black, Latino, and lower income; and

**Whereas,** Residents of neighborhoods with 30 percent or more households living below the poverty line were more than twice as likely to die from COVID-19 as those living in neighborhoods with under 10 percent of households living in poverty; and

**Whereas,** New York City residents who are Black or Latino die from COVID-19 at nearly twice the rate of those who are white; and

**Whereas,** According to a preliminary report about disparities among Asian Americans at New York City's Public Hospital System, certain Asian American communities, including South Asians and those who are Chinese, were also disproportionately impacted by COVID-19; and

**Whereas,** DOHMH data, and other health data in general, is limited because they aggregate all Asian ethnic groups into a single race category, which can obscure differences in characteristics and outcomes between these diverse groups; and

**Whereas,** Starting in December 2020, the City began administering COVID-19 vaccines to the first group of individuals eligible, including staff and residents of long-term care facilities and frontline health care workers; and

**Whereas,** In January 2020, eligibility was expanded to all New Yorkers over the age of 65, as well as many essential workers; and

**Whereas,** Despite increased eligibility, the pace of vaccine deployment is insufficient to combat the crisis as infections and deaths continue to rise; and

**Whereas,** The COVID positivity rate in New York City, as of January 15, 2021, is nearly 8.5 percent, with some neighborhoods experiencing rates of over 15 percent; and

**Whereas,** As of January 14, 2021, only 337,518 vaccine doses have been administered in New York City, out of 800,500 available doses; and

**Whereas,** On January 5, 2021, Brooklyn Borough President Eric Adams and the New York City Council's Black, Latino, and Asian Caucus shared a letter with New York State Department of Health (NYSDOH) Commissioner Howard Zucker and DOHMH Commissioner Dave Chokshi outlining steps to improve the vaccination process; and

**Whereas,** According to the letter, vaccine distribution must be executed with maximum urgency, and no less frequently than 24 hours per day, 7 days per week; and

**Whereas,** NYSDOH must expand eligibility to include those with underlying health conditions as well as those who live in the zip codes most impacted by COVID-19; and

**Whereas,** NYSDOH should create a more transparent, color-coded, tiered system to define each level of eligibility for the vaccine; and

**Whereas,** Regardless of eligibility, the City and State should ensure that all vaccine doses are used each day by creating a vaccine standby list for residents, so individuals can receive a vaccine if it would otherwise go to waste; and

**Whereas,** The City and State should create a hotline for New Yorkers to use to book vaccine appointments as well as educate them about the proof they will need to provide at the vaccine site; and

**Whereas,** All vaccination sites should require proof of eligibility from everyone with an appointment; and

**Whereas,** To ensure immigrants and other at-risk communities are connected with the vaccination program, the City and State must work with advocacy organizations and those groups on the ground that can help them prove eligibility and to build the queue for the next round vaccines, once more individuals become eligible; and

**Whereas,** The City must immediately provide a map of vaccine locations; and

**Whereas,** To ensure equitable distribution, locations should be open 24 hours a day and should include schools without student populations currently doing in-person learning, schoolyards, houses of worship, and senior centers; and

**Whereas,** To provide adequate staffing, the City and State should incentivize people to help supervise sites and administer the vaccine, including individuals who are retired health professionals, medical students, the American Red Cross, and the NYC Blood Bank; and

**Whereas,** The City needs a vaccine distribution plan that recognizes the urgency of vaccinating every resident, while prioritizing those most in need, and one that ensures that the City and State are working in concert with one another; and

**Whereas,** In addition to the vaccine distribution planning steps in the letter, the State must also develop a publicly accessible, real-time vaccination dashboard which discloses vaccination data disaggregated by race, ethnicity, gender, age, sexual orientation, employment, and zip code; and

**Whereas,** Along with urgency, we must ensure that our vaccination plan is equitable and reaching communities most impacted by COVID-19; now, therefore, be it

**Resolved,** That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, legislation allowing local health departments to implement changes to improve the COVID-19 vaccine roll out.

MARK D. LEVINE, *Chairperson*; MATHIEU EUGENE; INEZ D. BARRON ALICKA AMPRY-SAMUEL, ROBERT F. HOLDEN, KEITH POWERS, DARMA V. DIAZ; Committee on Health, March 18, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Miller and Koslowitz.*

Pursuant to Rule 8.50 of the Council, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) called for a voice vote. Hearing no objections, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

At this point, the Speaker (Council Member Johnson) announced that the following items had been **preconsidered** by the Committee on Civil Service and Labor and had been favorably reported for adoption.

Report for voice-vote item Res. No. 1563

**Report of the Committee on Civil Service and Labor in favor of approving a Resolution calling on the New York State Legislature to pass, and the Governor to sign, S.4170/A.4548, authorizing certain public employers to offer temporary retirement incentives and providing an age 55/25 years temporary retirement incentive for certain public employees.**

The Committee on Civil Service and Labor, to which the annexed preconsidered amended resolution was referred on March 18, 2021, respectfully

## REPORTS:

### Introduction

On March 18, 2021, the Committee on Civil Service and Labor, chaired by Council Member I. Daneek Miller, will hold a hearing and vote on Resolution 1563-2021.

Resolution 1563-2021, introduced by Council Member Ampry-Samuel, is a resolution calling on the New York State Legislature to pass, and the Governor to sign, S.4170/A.4548, authorizing certain public employers

to offer temporary retirement incentives and providing an age 55/25 years temporary retirement incentive for certain public employees.

## **Background**

In 2019 and early 2020, the novel coronavirus SARS-CoV-2 spread rapidly worldwide, bringing about a global pandemic of the disease caused by the virus, commonly known as COVID-19.<sup>1</sup> This pandemic has resulted in over 120 million cases and 2.65 million deaths worldwide as of March 2021; over 780,000 of these cases and 30,000 of these deaths have occurred in New York City.<sup>2</sup>

Aside from the pandemic's pervasive health effects, COVID-19 has also brought about an economic recession.<sup>3</sup> In response to the virus' propensity for quick transmission, governments have mandated business closures and social-distancing measures designed to prevent its spread.<sup>4</sup> While these actions have been necessary to prevent further illness and death, they have also led to sharp reductions in economic activity and rising unemployment; The Partnership for New York City reported that as many as one-third of the city's small businesses may close as a result of the virus' impact.<sup>5</sup> Other downstream effects of the pandemic, including reduced tax revenue and unexpected costs for items such as personal protective equipment (PPE) and vaccines, have also exacerbated the economic impact of COVID-19.<sup>6</sup> Even after the worst of the pandemic is over, experts have predicted the continuation of COVID-related costs for the City to provide services such as the COVID Test & Trace Corps (a group of professionals tasked with providing general testing and tracing all known cases of COVID-19),<sup>7</sup> food relief, and technological and emotional support for students in hybrid learning.<sup>8</sup>

As a result, New York City faces a deficit of roughly \$5.25 million, as estimated by Mayor Bill de Blasio's preliminary budget for Fiscal Year 2022 (FY2022).<sup>9</sup> New York State also faces a budget deficit for FY2022 that may total as much as \$15 billion.<sup>10</sup> The unanticipated costs created by the pandemic, along with the prospect of future related expenditures, require that the City find ways to save money during the midst of this budgetary shortfall.<sup>11</sup> While New York State will receive over \$100 billion in the federal COVID-19 relief bill passed in March 2021,<sup>12</sup> many reports indicate that federal aid will not be sufficient by itself to cover the City's and State's respective budgetary gaps.<sup>13</sup> In August 2020, Mayor de Blasio mentioned some of the more extreme measures that may need to be considered if the City finds itself unable to achieve the necessary

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<sup>1</sup> Center for Disease Control. Case Trends. Cases and Deaths by State. *United States COVID-19 Cases and Deaths by State*. Available at: [https://covid.cdc.gov/covid-data-tracker/#cases\\_casesinlast7days](https://covid.cdc.gov/covid-data-tracker/#cases_casesinlast7days).

<sup>2</sup> *COVID-19: Data*. New York City Department of Health. Available at: <https://www1.nyc.gov/site/doh/covid/covid-19-data-totals.page>.

<sup>3</sup> <sup>3</sup> Center on Budget and Policy Priorities. Research. Poverty and Inequality. *Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships*. Available at: <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and>

<sup>4</sup> *Id.*

<sup>5</sup> Partnership for New York City. *A Call for Action and Collaboration*. Available at: <https://pfnyc.org/wp-content/uploads/2020/07/actionandcollaboration.pdf>

<sup>6</sup> *NYC Mayor Proposes \$92B Budget for FY 2022 In Response to COVID-19 Impact*. NBC New York, Jan. 14, 2021. Available at: <https://www.nbcnewyork.com/news/local/watch-live-mayor-bill-de-blasio-presents-preliminary-nyc-budget-for-fy-2022/2831593/>

<sup>7</sup> *Test and Trace Corps*. NYC Health and Hospitals. Available at: <https://www.nychealthandhospitals.org/test-and-trace/>

<sup>8</sup> *NYC Mayor Proposes \$92B Budget for FY 2022 In Response to COVID-19 Impact*. NBC New York, Jan. 14, 2021. Available at: <https://www.nbcnewyork.com/news/local/watch-live-mayor-bill-de-blasio-presents-preliminary-nyc-budget-for-fy-2022/2831593/>

<sup>9</sup> <https://www1.nyc.gov/office-of-the-mayor/news/030-21/fact-sheet-mayor-de-blasio-releases-preliminary-budget-fiscal-year-2022>

<sup>10</sup> Luis Ferré-Sadurní and Jesse McKinley. *Cuomo Offers Doomsday Proposal to Attack a Possible \$15 Billion Deficit*. New York Times, Jan. 19, 2021. Available at: <https://www.nytimes.com/2021/01/19/nyregion/budget-cuomo-ny.html>

<sup>11</sup> Partnership for New York City. *A Call for Action and Collaboration*. Available at: <https://pfnyc.org/wp-content/uploads/2020/07/actionandcollaboration.pdf>

<sup>12</sup> Amy Yensi. *What Will New York Get From The \$1.9 Trillion COVID-19 Relief Bill?* Spectrum News NY, Mar. 7, 2021. Available at: <https://www.ny1.com/nyc/all-boroughs/news/2021/03/07/what-will-new-york-get-from-the--1-9-trillion-covid-19-relief-bill->

<sup>13</sup> Ana Champeny and David Friedfel. *Federal Aid – Needed, But Unlikely To Solve New York State's and New York City's Fiscal Problems*. Citizens Budget Commission, Dec. 1, 2020. Available at: <https://cbcny.org/research/federal-aid-needed-unlikely-solve-new-york-states-and-new-york-citys-fiscal-problems>

savings through other means, including widespread layoffs and sharp cuts to the city's education and transportation systems.<sup>14</sup>

### **Early Retirement Incentive Program**

To reduce their labor costs during the pandemic, many private employers have offered early retirement programs to their workers over the past year.<sup>15</sup> Such a program would entail offering employees an earlier age at which to retire, generally with full access to any pensions or retirement benefits, and grants a company's workers more control over their exit from the firm.<sup>16</sup> This also allows employers to shrink the size of their workforce without resorting to layoffs, and potentially protect the salaries of other, younger workers.<sup>17</sup>

On February 2, 2021, New York Senate Bill S.4170 was introduced by State Senator Andrew Gounardes.<sup>18</sup> Its companion bill in the Assembly, A.4548, was introduced two days later.<sup>19</sup> S.4170 establishes a temporary early retirement program available to certain New York City public employees who choose to participate.<sup>20</sup> To be eligible for this program, an employee would need to be a member of the New York City teachers' retirement program, the New York City Board of Education retirement program, or the New York City employees' retirement program.<sup>21</sup> For nearly all workers in these programs, the current retirement age at which a worker is fully vested in their retirement benefits is 62, so long as the employee in question has worked five years of credited service.<sup>22</sup> The programs authorized by S.4170 would lower this age to 55, and would permit an employee to be eligible after working 25 years of credited service, also referred to as a "55/25 program."<sup>23</sup> In addition, S.4170 only authorizes temporary versions of these programs by creating a window of no more than 90 days in which workers can opt in to the program.<sup>24</sup> Finally, elected officials, judges, justices, chief administrative officers, and appointed members of public boards or commissions would not be considered eligible.<sup>25</sup>

New York State enacted a similar 55/25 early retirement incentive program in 2010.<sup>26</sup> The Citizens Budget Commission estimates that this program saved the State roughly \$681 million even after accounting for the increased costs of the added retirement benefits.<sup>27</sup> Additionally, New York City did not participate in the 2010 version of this program aside from the City University of New York (CUNY) system, meaning that the estimated savings to the State from this new program would likely exceed the 2010 number.

### **Conclusion**

At today's hearing, the Committee on Civil Service and Labor will hear and hold a vote on Resolution 1563-2021, sponsored by Council Members Ampry-Samuel and Miller.

*Update*

<sup>14</sup> Tony Romm. *New York City Battled Back the Coronavirus. Now It's Struggling to Pay For It.* Washington Post. Aug. 28, 2020. Available at: <https://www.washingtonpost.com/business/2020/08/28/new-york-city-budget-coronavirus/>

<sup>15</sup> Lisa Brown. *Op-Ed: The pandemic has forced firms to offer early retirement plans. Here's what to consider before you decide to pack it in.* CNBC. Sept. 25, 2020. Available at: <https://www.cnbc.com/2020/09/25/heres-what-to-consider-if-your-company-offers-an-early-retirement-package.html>

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> New York State Senate. *Senate Bill S4170*. Available at: <https://www.nysenate.gov/legislation/bills/2021/s4170>

<sup>19</sup> New York State Senate. *Assembly Bill A4548*. Available at: <https://www.nysenate.gov/legislation/bills/2021/A4548>

<sup>20</sup> *Senate Bill S4170*.

<sup>21</sup> *Id.*

<sup>22</sup> New York City Employees Retirement System. *62/5 Retirement Plan for Tier 4 Members*. Available at: <https://www.nycers.org/brochure/625-retirement-plan-tier-4-members#:~:text=The%2062%2F5%20Retirement%20Plan,ages%20of%2055%20and%2061>

<sup>23</sup> *Senate Bill 4170*. <https://www.nysenate.gov/legislation/bills/2021/s4170>

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Tammy Gaman. *How Much Did New York's 2010 Early Retirement Incentive Save?* Citizens Budget Commission. Oct. 25, 2011. Available at: <https://cbcny.org/research/how-much-did-new-yorks-2010-early-retirement-incentive-save>

The resolution passed in Committee with seven votes in the affirmative and none in the negative.

*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)**

I. DANEEK MILLER, *Chairperson*; DANIEL DROMM; HELEN K. ROSENTHAL, ADRIENNE E. ADAMS, FRANCISCO P. MOYA, FARAH N. LOUIS, ERIC A. ULRICH; Committee on Civil Service and Labor, March 18, 2021 (Remote Hearing). *Other Council Members Attending: Council Member Barron.*

Pursuant to Rule 8.50 of the Council, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) called for a voice vote. Hearing no objections, the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

**INTRODUCTION AND READING OF BILLS**

Res. No. 1562

**Resolution calling upon the New York State Public Service Commission to deny a rate hike and all fossil fuel infrastructure development for the Metropolitan Reliability Infrastructure project.**

By Council Member Ampry-Samuel and the Public Advocate (Mr. Williams).

**Whereas**, In January 2021, NASA reported that 2020 tied with 2016 as the hottest years on record; and

**Whereas**, The threat of climate change requires all levels of government to take aggressive measures to immediately reduce our greenhouse gas (GHG) emissions or suffer long-standing and irreversible effects; and

**Whereas**, In order to reduce GHG emissions, both New York City (City) and New York State (State) have passed laws to significantly reduce these emissions with timebound targets, with New York City committing to reduce its GHG emissions by 80 percent of its 2005 levels by 2050, and the State of New York committing to limit statewide GHG emissions to 40 percent of its 1990 levels by 2030 and 85 percent by 2050; and

**Whereas**, However, the City's and State's emissions reduction goals cannot be reached without a shift away from fossil fuels like natural gas and oil, and without creating an increased reliance on clean energy generation such as solar, wind and hydropower; and

**Whereas**, National Grid is currently seeking to expand a fracked natural gas pipeline being built in New York City by connecting it to an existing pipeline in Brooklyn via a proposal called the Metropolitan Reliability Infrastructure (MRI) project, also known as the North Brooklyn Pipeline project, which would run underneath the Brooklyn neighborhoods of Brownsville, Bedford Stuyvesant, Crown Heights, Bushwick, Williamsburg, and Greenpoint; and

**Whereas**, The Brooklyn Union Gas Company, doing business as (d/b/a), National Grid NY, (formerly d/b/a KeySpan Energy Delivery New York, ("KEDNY"), and KeySpan Gas East Corporation, d/b/a National Grid, (formerly d/b/a/ KeySpan Energy Delivery Long Island, ("KEDLI"), are two National Grid utilities that have filed Case no. 19-G-0309 and Case no. 19-G-0310, respectively, before the New York State Public Service Commission, seeking a major rate increase that would pay for the final phases of the MRI; and

**Whereas**, According to the Sane Energy Project, the first three phases of the MRI were presumably paid for by previous ratepayer funds, but the National Grid utilities are seeking a rate increase of \$185 million to pay for the final two phases of the pipeline project; and

**Whereas**, The pipeline is intended to move gas to a National Grid Depot on Newtown Creek, where the utility company plans to expand liquefied natural gas (LNG) storage and vaporizer operations; and

**Whereas**, The seven-mile long pipeline will trench through several low-income neighborhoods where the majority of the population are people of color, and these same communities are considered 'environmental justice' neighborhoods as the residents face disproportionate environmental health burdens; and

**Whereas**, For example, 78 percent of Brownsville residents are Black and the neighborhood has the highest rates of adult asthma and the lowest life expectancy in the City of New York; and

**Whereas**, On December 3, 2020, New York City Mayor Bill de Blasio called on National Grid to halt the North Brooklyn Pipeline project, stating it was unnecessary and that the environmental impacts on Black and Brown communities could not be justified; and

**Whereas**, Gas pipelines present an infrequent but present risk of fire and explosion, with a 350-per square inch (psi) gas pipeline requiring an evacuation radius of approximately 1275 feet; and

**Whereas**, The MRI project is a 350-psi pipeline that is a transmission and not distribution line, and will not service the communities where the pipeline is located; and

**Whereas**, Fracked gas pipelines present a host of health and safety risks from explosion or leakage of toxic materials such as methane, benzene, and radon; and

**Whereas**, According to FracTracker, in 2019 there were 614 reported pipeline incidents in the United States, resulting in the death of 10 people, injuries to another 35, and about \$259 million in damages; and

**Whereas**, Until January 2015, New York State did not allow the construction of new LNG facilities for decades, following a 1976 explosion on Staten Island that killed 40 workers; and

**Whereas,** Methane leaks are even more common than explosions and pose significant health risks to residents living along pipeline infrastructure; and

**Whereas,** A July 2018 study published by the journal ‘Science’ found that the domestic oil and natural gas industry leaked an estimated 13 million metric tons of methane a year from various points along a respective supply pipeline, a leakage of 2.3 percent of total gas produced and a 60 percent higher leakage rate than the Environmental Protection Agency (EPA) had estimated, at 1.4 percent; and

**Whereas,** In July 2019, KEDNY and KEDLI were subject to enforcement proceedings after the New York State Department of Public Service uncovered 1,616 state safety violations over a three-year period, mostly related to a natural gas pipeline in Queens, including improper installations that led to gas leaks and plastic pipe fusing that failed inspections; and

**Whereas,** Expansion of natural gas pipelines would further lock New York City into dependence on fossil fuels to meet our energy needs for decades to come; and

**Whereas,** While burning natural gas for fuel emits less particulate matter and carbon dioxide (CO<sub>2</sub>) than burning coal or oil, natural gas is primarily comprised of methane; and

**Whereas,** Global methane emissions averaged 576 million metric tons per year for the decade of 2008 to 2017, which is an increase of 9 percent from the decade prior; and

**Whereas,** Methane traps heat far more effectively than CO<sub>2</sub>, with a global climate warming impact of more than 80 times that of CO<sub>2</sub> over a 20-year period; and

**Whereas,** Methane leaks further negate any emission reduction gains made by switching from coal or oil to natural gas; and

**Whereas,** The December 8, 2020 'Short-Term Energy Outlook' by the United States Energy Information Administration forecasts that the share of electric power sector generation from natural gas will decrease from 39 percent in 2020 to 34 percent in 2021, while electricity from sources of renewable energy will rise from 20 percent in 2020 to 21 percent in 2021; and

**Whereas,** The State of New York and the City of New York can meet their GHG reduction targets by investing in the growing clean, renewable energy sector instead of approving rate increases for the MRI fracked natural gas pipeline; now, therefore, be it

**Resolved,** That the Council of the City of New York calls upon the New York State Public Service Commission to deny a rate hike and all fossil fuel infrastructure development for the Metropolitan Reliability Infrastructure project.

Referred to the Committee on Environmental Protection.

Preconsidered Res. No. 1563

**Resolution calling on the New York State Legislature to pass, and the Governor to sign, S.4170/A.4548, authorizing certain public employers to offer temporary retirement incentives and providing an age 55/25 years temporary retirement incentive for certain public employees.**

By Council Members Ampry-Samuel, Miller and Rosenthal.

**Whereas,** In 2020, the novel coronavirus disease COVID-19 spread rapidly worldwide, causing a global pandemic; and

**Whereas,** The pandemic has resulted in roughly 28.7 million confirmed cases and over 514,000 deaths in the United States alone, as of March 2, 2021; and

**Whereas,** Aside from its widespread health impacts, the COVID-19 pandemic has also brought about unexpected and high costs, sharply decreased economic activity and revenue, and caused large increases in unemployment, all of which have led to an economic recession; and

**Whereas,** Mayor Bill de Blasio’s preliminary budget for Fiscal Year 2022 (FY2022), initially presented on January 14, 2021, estimates the unexpected costs of the pandemic to New York City to be roughly \$5.9 billion; and

**Whereas**, Mayor de Blasio's preliminary FY2022 budget also estimates a decline in New York City's revenue of roughly \$1.5 billion; and

**Whereas**, The above factors have led to a large shortfall in New York City's finances, which Mayor de Blasio's preliminary FY2022 budget estimates to be \$5.25 billion; and

**Whereas**, The excessive size of this shortfall necessitates that the City take measures to find savings and cut costs to meet its financial obligations and close the size of this budgetary gap; and

**Whereas**, New York Senate Bill S.4170, introduced by State Senator Andrew Gounardes, and its companion bill in the New York State Assembly, A.4548, would permit certain public employers in New York State to create early retirement incentives for their employees; and

**Whereas**, S.4170/A.4548 would establish a temporary retirement incentive program for members of the New York City Employees Retirement System, New York City Teachers Retirement System, and the New York City Board of Education Retirement System; and

**Whereas**, The retirement incentive program set forth in S.4170/A.4548 would grant these members specified above the option to retire at age 55, or after having worked 25 years of government service, without any reduction in benefits that would normally be applied for retirement at this age and level of service; and

**Whereas**, The retirement incentive program would only be available to eligible employees during a period of no less than 30 days and no more than 90 days, as specified by the City; and

**Whereas**, The text of S.4170 notes that this program is similar to that offered by the State in 2010, which saved state and local governments roughly \$681 million over two years; and

**Whereas**, This bill would offer the City the opportunity to streamline its workforce and achieve cost savings during a severe budgetary crisis without laying off workers; now, therefore, be it

**Resolved**, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, S.4170/A.4548, authorizing certain public employers to offer temporary retirement incentives and providing an age 55/25 years temporary retirement incentive for certain public employees.

Adopted by the Council by voice-vote (preconsidered and adopted by the Committee on Civil Service and Labor).

Res. No. 1564

**Resolution calling on the Governor to establish and publicize specific metrics for when small businesses can reopen at full customer capacity.**

By Council Member Gjonaj.

**Whereas**, On March 20, 2020, Governor Cuomo signed the New York State (NYS) on PAUSE executive order, which mandated the closure of all non-essential businesses statewide to deal with the outbreak of COVID-19; and

**Whereas**, Essential businesses were allowed to remain open but were required to implement strict social distancing rules; and

**Whereas**, On April 26, 2020, Governor Cuomo announced a phased approach to reopen industries and businesses in NYS based on specific health metrics; and

**Whereas**, When a region in NYS reached an adequately low infection rate, had sufficient capacity in its health care system, had enough diagnostics testing to detect new cases and a robust contact-tracing program, the region could advance through the Governor's reopening phases; and

**Whereas**, On July 20, 2020, New York City (NYC) entered "phase four," the final phase of the Governor's reopening plan; and

**Whereas**, Even after NYC entered phase four, certain industries remained shuttered entirely, such as concert venues and movie theaters, and other storefront businesses, such as restaurants and bars, hair and nail salons, and retailers, were required to abide by strict customer capacity requirements; and



**Whereas,** As all regions in NYS have completely advanced through the Governor’s phased reopening process, the Governor is now using a new set of metrics to determine if businesses in a region can further reopen; and

**Whereas,** These metrics include a region’s new cases per capita, hospitalizations, and test positivity rate; and

**Whereas,** The determination of when a region qualifies under these metrics to further reopen is less clear than the Governor’s initial phased reopening process; and

**Whereas,** For example, on January 27, 2021, the seven-day average COVID-19 positivity rate in NYC was 5.4 percent and restaurants could not offer indoor dining, while the positivity rate in Long Island was 6.8 percent and indoor dining remained open; and

**Whereas,** The use of specific and consistent metrics to determine further business openings would benefit the business community, as it would provide small business owners time to prepare for changes in COVID-19 related restrictions; and

**Whereas,** The Governor’s determination of when businesses can reopen has major implications for the financial success of struggling small businesses; and

**Whereas,** Even after NYC advanced through the Governor’s reopening phases and businesses reopened at reduced capacity, small businesses continued to struggle; and

**Whereas,** According to a recent survey of restaurants, bars, nightclubs, and event venues in NYC, over 90 percent could not pay their full rent in December 2020; and

**Whereas,** Unemployment in retail stores, which are currently limited to 50 percent customer capacity, was over 10 percentage points higher in December 2020 in comparison to December 2019; and

**Whereas,** Governor Cuomo has not specified when numerous small business sectors will be allowed to increase their current in-store customer capacity; and

**Whereas,** As NYC approaches one year since Governor Cuomo signed the NYS on PAUSE executive order, the Governor should determine and publicize when small businesses will be able to resume their normal operations; and

**Whereas,** NYC’s struggling small businesses deserve to have a plan created that will detail when they will be able to completely reopen; now, therefore, be it

**Resolved,** That the Council of the City of New York calls on the on the Governor to establish and publicize specific metrics for when small businesses can reopen at full customer capacity.

Referred to the Committee on Small Business.

Int. No. 2237

By Council Member Holden.

**A Local Law in relation to a study and report on the ownership and maintenance of utility poles**

*Be it enacted by the Council as follows:*

Section 1. a. Definitions. For purposes of this local law, the following terms have the following meanings:  
City. The term “city” means the city of New York.

Utility pole. The term “utility pole” means a column or pole that is used to support overhead electrical, telephone or cable wires.

b. Study and report. The mayor shall designate an office or agency to study the ownership and maintenance of utility poles. No later than 6 months after the effective date of this local law, such office or agency shall submit to the council a report detailing its recommendations on increasing transparency regarding the ownership of utility poles in the city and improving maintenance of such poles. Such report shall, at a minimum:

1. Identify the locations of all utility poles in the city and the owner of each utility pole;

2. Provide methods to the public for contacting owners of utility poles in order to report problems with their utility poles; and

3. Recommend actions by the city to improve maintenance of utility poles, including inspection and identification of poorly maintained utility poles, communicating best practices to the owners of utility poles and reporting on when maintenance is performed on each utility pole.

§ 2. This local law takes effect immediately.

Referred to the Committee on Consumer Affairs and Business Licensing.

Int. No. 2238

By Council Member Holden.

**A Local Law to amend the administrative code of the city of New York, in relation to the requirements for maintenance of a civil action against the city for damages or injuries sustained in consequence of unsafe conditions on streets, sidewalks or similar public spaces**

*Be it enacted by the Council as follows:*

Section 1. Paragraph 2 of subdivision c of section 7-201 of the administrative code of the city of New York is amended to read as follows:

2. No civil action shall be maintained against the city for damage to property or injury to person or death sustained in consequence of any street, highway, bridge, wharf, culvert, sidewalk or crosswalk, or any part or portion of any of the foregoing including any encumbrances thereon or attachments thereto, being out of repair, unsafe, dangerous or obstructed, unless it appears that written notice of the defective, unsafe, dangerous or obstructed condition, was actually given to the commissioner of transportation or any person or department authorized by the commissioner to receive such notice, or where there was previous injury to person or property as a result of the existence of the defective, unsafe, dangerous or obstructed condition, and written notice thereof was given to a city agency, or there was written acknowledgement from the city of the defective, unsafe, dangerous or obstructed condition, and there was a failure or neglect within [fifteen] seven days after the receipt of such notice to repair or remove the defect, danger or obstruction complained of, or the place otherwise made reasonably safe.

§ 2. This local law takes effect 90 days after it becomes law.

Referred to the Committee on Transportation.

Res. No. 1565

**Resolution calling on the New York State Legislature to overturn the Governor's executive order on indoor dining capacity for NYC and increase indoor dining capacity to 50 percent.**

By Council Member Holden.

**Whereas**, On March 7, 2020, Governor Cuomo issued Executive Order Number 202, declaring a disaster emergency for the State of New York to deal with the outbreak of COVID-19; and

**Whereas**, To stop the spread of COVID-19, the Governor used his powers under Section 29-a of Article 2-B of the Executive Law to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation if compliance would “prevent, hinder, or delay action necessary to cope with the disaster;” and

**Whereas**, The Governor also used his powers under Section 29-a of Article 2-B of the Executive Law to issue directives necessary to cope with the disaster during the emergency; and

**Whereas**, On March 20, 2020, Governor Cuomo signed the New York State (NYS) on PAUSE executive order, which mandated the closure of all non-essential businesses statewide; and

**Whereas**, Essential businesses were allowed to remain open but were required to implement strict social distancing rules; and

**Whereas**, On April 26, 2020, Governor Cuomo announced a phased approach to reopen industries and businesses in NYS based on specific health metrics; and

**Whereas**, On July 20, 2020, New York City (NYC) entered “phase four,” the final phase of the Governor’s reopening plan; and

**Whereas**, Even after NYC entered phase four, restaurants in NYC were still prohibited from offering indoor dining; and

**Whereas**, Restaurants in all other regions of NYS were allowed to offer indoor dining in some capacity after their region entered phase four; and

**Whereas**, In response to the continued closure of indoor dining in NYC after it advanced through the Governor’s phased reopening plan, Andrew Rigie from the Hospitality Alliance argued, “we’re in no man’s land. No one knows when we’re going to be able to reopen and what the metrics are that must be met. It’s very unfair;” and

**Whereas**, At certain points during the pandemic, indoor dining was allowed in regions of NYS that had higher COVID positivity rates than NYC, where indoor dining remained closed; and

**Whereas**, For example, on January 27, 2021, the seven-day average COVID-19 positivity rate in NYC was 5.4 percent and restaurants could not offer indoor dining, while the positivity rate on Long Island was 6.8 percent and indoor dining remained open; and

**Whereas**, The Governor’s closure of indoor dining has had major implications for the financial success of struggling restaurant owners; and

**Whereas**, According to a recent survey of restaurants, bars, nightclubs, and event venues in NYC, over 90 percent could not pay their full rent in December 2020; and

**Whereas**, Unemployment in the full-service restaurant industry in NYC was over 55 percentage points higher in December 2020 than in December 2019; and

**Whereas**, On February 8, 2021, Governor Cuomo announced that indoor dining in NYC could reopen at 25 percent capacity starting on February 12, 2021; and

**Whereas**, On February 19, 2021, Governor Cuomo announced that restaurants in NYC could increase indoor dining capacity to 35 percent starting on February 26, 2021; and

**Whereas**, As of March 3, 2021, the Mid-Hudson region and Long Island had higher COVID positivity rates than NYC, but could offer indoor dining at 50 percent capacity; and

**Whereas**, The Governor’s unilateral control in determining the reopening process of the restaurant industry has therefore disproportionately hurt NYC restaurant owners; and

**Whereas**, As long as NYC’s COVID positivity rate is consistent with other regions in NYS, NYC restaurants should be allowed to abide by the same restrictions on indoor dining; and

**Whereas**, Under Section 29-a of Article 2-B of the Executive Law, the NYS Legislature “may terminate by concurrent resolution executive orders issued under this section at any time;” and

**Whereas**, If Governor Cuomo continues to prohibit restaurants in NYC from offering indoor dining at 50 percent capacity, the NYS Legislature must get involved to save NYC’s restaurant industry; now, therefore, be it

**Resolved**, That the Council of the City of New York calls on the State Legislature to overturn the Governor’s executive order on indoor dining capacity for NYC and increase indoor dining capacity to 50 percent.

Referred to the Committee on Consumer Affairs and Business Licensing.

## Int. No. 2239

By Council Member Kallos.

**A Local Law in relation to establishing a poll site 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:

ADA. The term “ADA” means the Americans with disabilities act, chapter 126 of title 42 of the United States code and any applicable guidelines or regulations pursuant to such law.

Board of elections. The term “board of elections” means the board of elections in the city of New York.

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

Task force. The term “task force” means the poll site task force established by this local law.

§ 2. Task force established. There is hereby established a task force to be known as the poll site task force.

§ 3. Duties. The task force shall study ways to improve efficiency and access to poll sites in the city, and shall make recommendations for future poll site locations. Those recommendations shall take into account the poll sites utilized in the 2020 presidential election, potential effects on the health and welfare of persons in the city, the projected costs of implementing any recommended programs, anticipated effects on stakeholders, and any other considerations the task force deems relevant.

§ 4. Membership. a. The task force shall be composed of the following members:

1. The president of the board of elections or such president’s designee, who shall serve as chair;
2. One commissioner of the board of elections from each borough or their designee, appointed by the mayor;
3. The chancellor of the city school district of the city of New York or their designee;
4. The commissioner of design and construction or their designee;
5. Two members appointed by the mayor; and
6. Two members appointed by the speaker of the council.

b. The mayor shall invite the president of the school construction authority to participate in the work of the task force, and may invite other officers and representatives of relevant federal, state and local agencies and authorities to participate in the work of the task force.

c. All appointments required by this section shall be made no later than 90 days after the effective date of this local law.

d. 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 for the remainder of the unexpired term. All members of the task force shall serve without compensation.

§ 5. Meetings. a. The chair shall convene the first meeting of the task force no later than 30 days after the last member has been appointed, except that where not all members of the task force have been appointed within the time specified in section four, the chair shall convene the first meeting of the task force within 10 days of the appointment of a quorum.

b. The task force may invite experts and stakeholders to attend its meetings and to provide testimony and information relevant to its duties.

c. The task force shall meet no less than once each month to carry out the duties described in section three.

d. The meeting requirement of subdivision c shall be suspended when the task force submits its report as required by section six.

§ 6. Report. a. No later than 270 days after the effective date of this local law, the task force shall submit a report to the mayor and the speaker of the council setting forth its recommendations for future poll site locations and ways to improve efficiency and accessibility at poll sites for elections in the city, and shall include but need not be limited to the following:

1. A list of poll sites where voters were required to wait more than thirty minutes to cast their ballots in the 2020 presidential election and any issues that contributed to the wait at such poll sites;
2. The costs for each poll site utilized in the 2020 presidential election incurred to make any temporary or permanent changes required to comply with the ADA;

3. A list of poll site locations considered for use during the 2020 presidential election by the board of elections, including:

- i. Whether such locations were subsequently accepted or rejected by such board;
- ii. The number of such newly accepted poll sites that made such building's facilities available as a poll site;
- iii. The number of such newly accepted poll sites that did not make such building's facilities available as a poll site; and
- iv. Whether a special proceeding was conducted pursuant to section 16-115 of the election law and whether any tax abatements were revoked pursuant to paragraphs 3-a and 3-b of section 4-104 of the election law for each poll site considered for use; and

4. A summary of any additional information the task force considered in formulating its recommendations.

b. The president of the board of elections shall publish the task force's report electronically on the website of the board of elections no later than 10 days after its submission to the mayor and the speaker of the council.

§ 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. Termination. The task force shall terminate 180 days after the date on which it submits its report, as required by section six.

§ 9. Effective date. This local law takes effect immediately.

Referred to the Committee on Governmental Operations.

Int. No. 2240

By Council Members Kallos and Gibson.

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the police department from using a robot armed with a weapon**

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 14 of the administrative code of the city of New York is amended by adding a new section 14-191 to read as follows:

§ 14-191 Use of armed robots prohibited. a. Definitions. As used in this section, the following terms have the following meanings:

*Robot.* The term "robot" means an artificial object or system that senses, processes and acts, to at least some degree, and is operated either autonomously by computers or by an individual remotely. The term does not include unmanned aerial vehicles.

*Weapon.* The term "weapon" means a device designed to inflict death or serious physical injury.

b. The department shall not authorize the use, attempted use or threatened use of a robot armed with any weapon.

c. The department shall not authorize the use, attempted use or threatened use of a robot in any manner that is substantially likely to cause death or serious physical injury, regardless of whether or not the robot is armed with a weapon.

§ 2. This local law takes effect immediately.

Referred to the Committee on Public Safety.

Int. No. 2241

By Council Members Lander, Adams, Reynoso and Ayala.

**A Local Law to amend the administrative code of the city of New York, in relation to the rehire of workers laid off as a result of the COVID-19 pandemic**

*Be it enacted by the Council as follows:*

Section 1. Subparagraphs (g) and (h) of paragraph 3 of subdivision a of section 20-1208 of the administrative code of the city of New York are amended, and a new subparagraph (i) is added to such paragraph, to read as follows:

(g) Subdivisions a and b of section 20-1252, \$300; [and]

(h) Subdivision a or b of section 20-1262, \$500 and an order directing compliance with such subdivision, provided, however, that an employer who fails to provide an employee with the written response required by subdivision a of section 20-1262 may cure the violation without a penalty being imposed by presenting proof to the satisfaction of the office that it provided the employee with the required written response within seven days of the office notifying the employer of the opportunity to cure[.]; *and*

(i) *Section 20-1272, an order directing compliance with such section and directing the rehire of any employee aggrieved by a violation of section 20-1272.*

§ 2. Subdivision a of section 20-1211 of the administrative code of the city of New York, as added by local law number 107 for the year 2017, is amended to read as follows:

a. Claims. Any person, including any organization, alleging a violation of the following provisions of this chapter may bring a civil action, in accordance with applicable law, in any court of competent jurisdiction:

1. Section 20-1204;
2. Section 20-1221;
3. Subdivisions a and b of section 20-1222;
4. Section 20-1231;
5. Subdivisions a, b, d, f and g of section 20-1241;
6. Section 20-1251; [and]
7. Subdivisions a and b of section 20-1252[.]; *and*
8. *Section 20-1272.*

§ 3. Chapter 12 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 7 to read as follows:

*Subchapter 7  
Rehiring Workers Laid Off Due to COVID-19 Pandemic*

§ 20-1271 *Definitions. For the purposes of this subchapter, the following terms have the following meanings:*

*Change in control. The term “change in control” means any sale, assignment, transfer, contribution or other disposition of all or substantially all of the assets used in the operation of a covered employer. A change in control shall be defined to occur on the date of execution of the document effectuating such change.*

*Change in controlling interest or identity. The term “change in controlling interest or identity” means (i) any sale, assignment, transfer, contribution, or other disposition of a controlling interest, including by consolidation, merger, or reorganization, of a covered employer or any person who controls a covered employer or (ii) any other event or sequence of events, including a purchase, sale, lease, termination of a management contract or lease, that causes the identity of the covered employer to change. A change in controlling interest or identity shall be defined to occur on the date of execution of the document effectuating such change.*

*Covered employer. The term “covered employer” means an employer that earned gross receipts in 2019 exceeding \$5,000,000.*

*Covered position. The term “covered position” means any position at a covered employer that is not classified as managerial, supervisory or confidential, or otherwise exercise control over the management of the covered employer.*

*Laid-off worker. The term “laid-off worker” means any worker who was employed by a covered employer in a covered position for six months or more and whose most recent separation from active employment by the covered employer occurred on or after March 12, 2020, and resulted from a lack of business, a reduction in workforce or other economic, non-disciplinary reason related to the COVID-19 pandemic. There shall be a rebuttable presumption that any termination occurring on or after March 12, 2020, was due to a non-disciplinary reason.*

*Person. The term “person” means any individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust, association, a trustee in bankruptcy or a receiver, or other entity that may employ persons or enter into service contracts.*

*Successor business. The term “successor employer” means a covered employer who owns, controls, or operates a covered employer after a change in control or change in controlling interest or identity of the covered employer or of a discrete portion of the covered employer that continues to operate as a covered employer after such change.*

*Worker. The term “worker” means any employee at a covered employer who does not act as a manager, supervisor or confidential employee, or who otherwise exercise control over the management of the covered employer.*

*§ 20-1272 Rehire required. a. Before a covered or successor employer may hire for a covered position that is or becomes available after the effective date of this subchapter, the covered or successor employer shall first offer such covered position to every laid-off worker who is qualified for the covered position. Such offer shall be made in writing to the laid-off worker’s last known address.*

*b. A laid off worker is qualified and must be offered a covered position when:*

*1. The same or similar covered position as the laid-off worker held before the most recent separation from active service, at the same site of employment, becomes available for hiring; or*

*2. A new covered position is created, for which the laid-off worker is qualified after receiving the same training that would be provided to a new worker hired into that covered position.*

*c. A covered or successor employer shall offer a covered position first to the laid-off worker with the greatest length of service with the covered employer at the employment site.*

*d. A laid-off worker who is offered a covered position pursuant to this subchapter shall be given no less than 10 days after the receipt of the written notice at the laid-off worker’s last known address to accept or decline the offer. A covered employer or successor employer shall retain written verification of each offer of employment made pursuant to this section for no less than three years from the date the offer is made. Such verification shall include the name, address, date of hire, and job classification of the eligible worker to whom the offer was made.*

*§ 20-1273 Collective bargaining agreements. The provisions of this subchapter do not apply to any laid-off worker covered by a valid collective bargaining agreement, including an agreement that is open for renegotiation, if (i) such provisions are expressly waived in the collective bargaining agreement and (ii) the collective bargaining agreement addresses rehiring of workers.*

*§ 20-1274 No waiver of rights. Except for a collective bargaining agreement provision made pursuant to section 20-1273, any waiver by a worker of any provision of this subchapter shall be void as against public policy.*

§ 4. This local law takes effect 60 days after it becomes law.

Referred to the Committee on Civil Service and Labor.

Int. No. 2242

By Council Member Levine.

**A Local Law in relation to giving local residents priority for COVID-19 vaccination appointments at city vaccination sites and providing for the repeal of such provisions upon the expiration thereof**

*Be it enacted by the Council as follows:*

Section 1. a. Definitions. For purposes of this local law, the following terms have the following meanings: City. The term “city” means the city of New York.

City vaccination site. The term “city vaccination site” means a location at which COVID-19 vaccinations are provided to the public that is operated in whole or in part by the department of health and mental hygiene.

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

b. At each city vaccination site, residents of the 15 zip codes that are closest to such vaccination site and within the same borough as such vaccination site shall be given priority for at least 50 percent of the appointments to receive a COVID-19 vaccine.

§ 2. This local law takes effect 15 days after it becomes law and expires and is deemed repealed on June 30, 2022.

Referred to the Committee on Health.

Res. No. 1566

**Resolution calling upon the City and State Universities of New York to provide students who opt out of campus housing with current information on residential tenants’ rights.**

By Council Member Maisel

**Whereas**, The economic fallout from the COVID-19 pandemic has taken a severe toll on the City’s rental market, according to StreetEasy’s November 2020 Market Reports; and

**Whereas**, While New York City (“NYC” or “City”) rents have fallen more in 2020 than they did during the Great Recession, a 2021 StreetEasy report revealed that the share of rent cuts represented only four percent of the total market-rate inventory and were largely reflected in the City’s priciest neighborhoods; and

**Whereas**, Additionally, prior to the COVID-19 pandemic, City rents had been steadily increasing for about a decade, which has contributed to NYC being consistently ranked as one of the most expensive cities to live in the United States (U.S.) over the years; and

**Whereas**, The COVID-19 pandemic has also impacted employment in NYC; according to the New York State (“State”) Department of Labor, the unemployment rate increased from 3.5 percent to 11 percent in 2020, with a high of 20.4 percent in June; and

**Whereas**, According to the NYC Department of Consumer and Worker Protection, these job losses were widespread and primarily affected low-income New Yorkers, including young workers; workers with lower education attainment; workers who are Black or Hispanic, and women; and

**Whereas**, In an effort to avert homelessness for many New Yorkers, the City and the State promoted existing resources, created new housing resources and passed housing legislation for the COVID-19-era; and

**Whereas**, In addition to the City’s free “Tenant Helpline,” which predates the COVID-19 pandemic, and the State Legislature’s COVID Rent Relief Program, the State passed the COVID-19 Emergency Eviction and Foreclosure Act, which includes eviction restrictions to protect most tenants from eviction through May 1, 2021; and

**Whereas**, Despite government resources available to NYC renters, landlords have been reported for taking advantage of uninformed New Yorkers, mostly in neighborhoods hardest hit by COVID-19 and lower income communities of color; and

**Whereas**, The City University of New York (“CUNY”), the largest urban public university in the U.S., serves more than 271,000 degree and non-degree seeking students with over 228,000 course registrations at 25 colleges across the five boroughs; and

**Whereas**, The State University of New York (“SUNY”), one of the largest comprehensive public universities in the U.S., serves more than 433,000 full- and part-time students with over 7,000 degree and certificate programs at 64 colleges across the State; and



**Whereas,** At a June 11, 2020 City Council Committee on Higher Education hearing, CUNY Executive Vice Chancellor and University Provost José Luis Cruz testified that recent student polling suggests that since March, nearly 40 percent lost their jobs, roughly 18 percent have gone hungry, and 55 percent face housing insecurity; and

**Whereas,** Even before the COVID-19 pandemic, more than 40 percent of students earned less than \$20,000 annually and nearly half were first generation college students, per a 2016 CUNY Student Experience Survey; and

**Whereas,** When it comes to housing, CUNY and SUNY students are in a vulnerable position and providing information on their rights as a residential tenant can empower them to be independent New Yorkers; now, therefore, be it

**Resolved,** That the Council of the City of New York calls upon the City and State Universities of New York to provide students who opt out of campus housing with current information on residential tenants' rights.

Referred to the Committee on Higher Education.

Preconsidered Int. No. 2243

By Council Members Rivera, the Speaker (Council Member Johnson), Constantinides, Kallos, Chin, Rosenthal and Ayala.

**A Local Law to amend the administrative code of the city of New York, in relation to extending temporary personal guaranty protection provisions for commercial tenants impacted by COVID-19**

*Be it enacted by the Council as follows:*

Section 1. Declaration of legislative intent and findings. a. The council finds and declares that:

1. The city is in the midst of a local, state, and federally declared disaster emergency due to a global pandemic. While the numbers increase daily, the 2019 novel coronavirus, or COVID-19, has killed over 2.5 million people worldwide, over 513,000 people in the United States, and about 47,200 people in New York state. Within the city itself, about 755,000 people have been infected with the disease and more than 29,000 people have likely died because of it.

2. Governments around the world, the country, and the state, including the city, have taken drastic measures to limit the spread of COVID-19. While many of these measures appear to have helped slow the progress of the disease, many have also contributed to a catastrophic impact on the city's economic and social livelihood.

3. For example, as part of the effort to stop the spread of COVID-19, the governor in March 2020 issued executive order numbers 202.3, 202.6, and 202.7. These orders, as subsequently amended and extended through other executive orders, and interpreted through guidance issued by the New York state departments of economic development and health, effectively prohibited restaurants, bars, gyms, fitness centers, movie theaters, non-essential retail stores, barbershops, hair salons, nail salons, tattoo or piercing parlors, and related personal care services from operating with any indoor occupancy.

4. These operational limitations, while necessary to combat the spread of a global pandemic, have contributed to the severe economic damage suffered by the city. For example, the most recently available labor statistics from the New York state department of labor relating to the businesses subject to these orders indicate that:

(a) The city lost 131,300 jobs in the food services and drinking places subsector from February 2020 to December 2020, leaving employment in that subsector down 43.4% in December 2020 compared to December 2019. This includes a loss of 89,000 jobs in the full service restaurants industry between February 2020 and

December 2020, which left employment in that industry down 54.4% in December 2020 compared to December 2019.

(b) Within the retail trade sector, the city lost about 25,200 jobs from the clothing stores industry, the furniture and home furnishings stores subsector, and the sporting goods, hobby, book, and music stores subsector between February 2020 and December 2020, which left employment in those industries and subsectors down 49.9%, 27.2%, and 17.6%, respectively, in December 2020 compared to December 2019.

(c) Within the personal and laundry services subsector, which includes barbershops, hair salons, and other personal care businesses, the city lost 19,900 jobs, leaving employment in that subsector down 30.7% in December 2020 compared to December 2019.

5. While businesses may be willing to weather the economic hardships imposed upon them by governmental measures to combat COVID-19 by either staying open or temporarily closing and later reopening, individual owners and other natural persons who personally guarantee the financial obligations of these businesses face a different and more substantial risk than losing revenue and profit. They risk losing their personal assets, including their possessions and even their own homes, transforming a business loss into a devastating personal loss. This is particularly a risk for small businesses, as the scale of the financial obligations of larger businesses generally renders having a natural person guarantee those obligations impracticable.

6. If these individual owners and natural persons are forced to close their businesses permanently now or to suffer grave personal economic losses like the loss of a home, the economic and social damage caused to the city will be greatly exacerbated and will be significantly worse than if these businesses are able to temporarily close and return or, failing that, to close later, gradually, and not all at once.

7. For the foregoing reasons, the council passed, and the mayor signed, local law number 55 for the year 2020 and local law number 98 for the year 2020, which provided and extended temporary protections to natural persons who personally guarantee the financial obligations of businesses subject to the substantial occupancy limitations imposed by the above-described executive orders issued by the governor. These protections are, however, due to expire on March 31, 2021.

8. As of March 31, 2021, these businesses will have been either prohibited from operating with any indoor occupancy at all, or subject to significant indoor occupancy restrictions, for over 12 months, and it is likely that such significant indoor occupancy restrictions will continue for the foreseeable future as the existing COVID-19 crisis has not yet subsided, new variants of COVID-19 have emerged in the city and elsewhere, and the rate at which the COVID-19 vaccine is being administered in the city indicates that it will take several months at a minimum to vaccinate enough of the population to achieve “herd immunity” to COVID-19 and its variants. As of March 9, 2021, only 623,719 adults in New York city had been fully vaccinated.

9. Extending the duration of the personal liability protections contained within local law number 98 for the year 2020 by three months, as this local law does, is intended to provide these businesses a reasonable recovery period with a duration that is comparable to the period of time that these businesses were forced to close or operate with significant limitations on indoor occupancy and thereby to provide them with an opportunity to not only survive but also to generate sufficient revenues to defray owed financial obligations.

10. As with local law number 55 for the year 2020 and local law number for the year 2020, this local law does not, nor is it intended to, limit any other lawful remedies that a landlord may be able to seek against a commercial tenant itself, such as bringing suit against that tenant for damages; collecting or offsetting financial obligations by using the revenues, inventory, equipment, or other assets of that tenant; or evicting or declining to renew the lease or rental agreement of that tenant.

b. For the foregoing reasons, the council finds that it is necessary and appropriate to extend the duration of the personal liability protections in local law number 55 for the year 2020 and local law number 98 for the year 2020.

§ 2. Paragraph 2 of section 22-1005 of the administrative code of the city of New York, as added by local law number 98 for the year 2020, is amended to read as follows:

2. The default or other event causing such natural persons to become wholly or partially personally liable for such obligation occurred between March 7, 2020 and [March 31, 2021] *June 30, 2021*, inclusive.

§ 3. The department of small business services, or another mayoral agency or office designated by the mayor, shall conduct an information and outreach campaign to educate commercial tenants affected by this local law about its protections.

§ 4. This local law takes effect immediately.

Referred to the Committee on Small Business (preconsidered but laid over by the Committee on Small Business).

Res. No. 1567

**Resolution calling on the United States Senate to ratify, and the President to sign, the United Nations Convention on Biological Diversity.**

By Council Member Rosenthal.

**Whereas**, On September 30, 2020, the United Nations (UN) Secretary-General expressed that “Wildlife populations are plummeting because of overconsumption, population growth and intensive agriculture,” emphasizing that “biodiversity and ecosystems are essential for human progress and prosperity” during the UN Biodiversity Summit hosted in New York City; and

**Whereas**, The loss of biodiversity means the loss of ecosystems and ecological life that provide oxygen, clean air and water, and pollination for plants to enable a sustainable habitat for life, according to the New York State Department of Parks & Recreation; and

**Whereas**, Growing urbanization in the metropolitan region has elevated climate change, endangering crop yields and fishery productivity in New York, according to Columbia University’s Earth Institute; and

**Whereas**, According to the UN’s Food and Agriculture Organization, food security, health and nutrition, are all dependent on biodiversity; and

**Whereas**, According to City Harvest, food insecurity in New York City has risen 38 percent in 2020; and

**Whereas**, New York City must incorporate biodiversity planning into the city’s resiliency and green infrastructure efforts in order to maintain a sustainable living environment and combat ecological threats, according to the American Institute of Biological Sciences; and

**Whereas**, The UN Convention on Biological Diversity is a multinational treaty that calls on its signatories to conserve biodiversity, as it underpins essential ecosystem functioning; and

**Whereas**, The importance of the UN Convention on Biological Diversity is further supported by the fact that it has been ratified by all UN member states, with the United States being the only exception; and

**Whereas**, As climate change continues to impact wildlife, agriculture and urban landscape in New York City and beyond, the United States must reaffirm its commitment to the conservation of biodiversity ahead of the 2021 UN Summit on Biodiversity; now, therefore, be it

**Resolved**, That the Council of the City of New York calls on the United States Senate to ratify, and the President to sign, the United Nations Convention on Biological Diversity.

Referred to the Committee on Environmental Protection.

Res. No. 1568

**Resolution calling upon the New York State Legislature to pass S. 2272A/A. 2800A, a resolution proposing an amendment to the New York State Constitution to lower the voting age to 16.**

By Council Member Van Bramer.

**Whereas**, The 26th Amendment of the United States Constitution provides that the voting rights of citizens who are at least 18 years of age shall not be denied or abridged on account of age; and

**Whereas**, Article 2, Section 1 of the New York State Constitution and section 5-102 of New York State Election Law require citizens to be at least 18 years of age to vote; and

**Whereas**, In January 2019, the New York State Legislature passed, and the Governor signed, legislation to allow 16- and 17-year-olds to pre-register to vote, provided that their registrations will not be effective and they may not vote in an election until they are 18; and

**Whereas**, 18 states and the District of Columbia permit 16- or 17-year-olds to pre-register to vote; and

**Whereas**, 25 states allow citizens under 18 to vote in primaries or caucuses if they will be 18 by the date of the general election; and

**Whereas**, Beginning with Takoma Park, Maryland in 2013, four towns in Maryland allow 16-year-olds to vote in local elections; and

**Whereas**, 16- and 17-year-olds already participate independently in society, carrying out adult responsibilities such as driving, paying taxes, and working without restrictions on their hours; and

**Whereas**, 16- and 17-year-olds deserve a say in public policy issues that will affect them for decades to come, such as environmental policy, public education, and long-term government debt; and

**Whereas**, Research shows that voting is a habit-forming activity, and voting habits are formed early in life; and

**Whereas**, Starting to vote at 16 is a good time to form the habit of voting, as most 16-year-olds are still in school, live at home, and have not yet entered an often-transient period of young adulthood; and

**Whereas**, According to the New York City Campaign Finance Board's 2018-2019 Voter Analysis Report, in New York City, voters between the ages of 18 and 29 have consistently had the lowest turnout among different age groups across general elections in midterm, presidential, and citywide election years, ranging from a low of 11 percent in 2014 to a high of 55 percent in 2016; and

**Whereas**, According to the New York City Campaign Finance Board's 2019-2020 Voter Analysis Report, young voters increased their vote share dramatically between the 2015 and 2019 general elections (from 5.3 percent to 9.9 percent), they still represented the lowest share of voters in the 2019 election; and

**Whereas**, Lowering the voting age to 16 would give young people in New York City the opportunity to form lifelong voting habits earlier and could improve the participation rate of adults aged 18-29; and

**Whereas**, In January 2019, U.S. Congresswoman Grace Meng, of New York's 6th District, introduced H.J. Res. 23, a joint resolution proposing an amendment to the U.S. Constitution extending the right to vote to citizens aged 16 years or older; and

**Whereas**, S. 2272A, introduced by State Senator Brad Hoylman and pending in the New York State Senate, and companion bill A. 2800A, introduced by Robert Carroll and pending in the New York State Assembly, propose an amendment to the New York State Constitution to lower the voting age to 16; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon the New York State Legislature to pass S. 2272A/A. 2800A, a resolution proposing an amendment to the New York State Constitution to lower the voting age to 16.

Referred to the Committee on Governmental Operations.

Preconsidered L.U. No. 742

By Council Member Dromm:

**Los Sures SIP HDFC, Block 2394, Lot 20, Block 2395, Lot 25, Block 2419, Lots 7, 9, and 12, Block 2432, Lot 25; Brooklyn, Community District No. 1, Council District 34.**

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

## Preconsidered L.U. No. 743

By Council Member Salamanca:

**Application No. C 200276 HAM (Harlem Open Door Cluster) submitted by the Department of Housing Preservation and Development (HPD), pursuant to Article 16 of the General Municipal Law for approval of the designation of an Urban Development Action Area, an Urban Development Action Area Project and disposition, for property located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2) 131 West 133<sup>rd</sup> Street (Block 1918, Lot 16), 130 West 134<sup>th</sup> Street (Block 1918, Lot 53), Borough of Manhattan, Community District 10, Council District 9.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings, and Dispositions (preconsidered but laid over by the Subcommittee on Landmarks, Public Sitings, and Dispositions).

## Preconsidered L.U. No. 744

By Council Member Salamanca:

**Application No. 20215017 HAM (Harlem Open Door Cluster—Article XI) submitted by the New York City Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of an exemption from real property taxes for property located at 2735 Frederick Douglass Boulevard (Block 2045, Lot 13), 2752 Frederick Douglass Boulevard (Block 2032, Lot 2), 131 West 133<sup>rd</sup> Street (Block 1918, Lot 16), and 130 West 134<sup>th</sup> Street (Block 1918, Lot 53), Borough of Manhattan, Community District 10, Council District 9.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings, and Dispositions (preconsidered but laid over by the Subcommittee on Landmarks, Public Sitings, and Dispositions).

## Preconsidered L.U. No. 745

By Council Member Salamanca:

**Application No. C 200277 HAM (Harlem NCP CB 11 Site) submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law for approval of the designation of an Urban Development Action Area, an Urban Development Action Area Project and disposition, for property located at 2 East 130<sup>th</sup> Street (Block 1754, Lot 68), Borough of Manhattan, Community District 11, Council District, 9.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings, and Dispositions (preconsidered but laid over by the Subcommittee on Landmarks, Public Sitings, and Dispositions).

## Preconsidered L.U. No. 746

By Council Member Salamanca:

**Application No. C 200278 HAM (Central Harlem Infill NCP) submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law for approval of the designation of an Urban Development Action Area, an Urban Development Action Area Project and disposition, for property located at 2803 Frederick Douglass Boulevard (Block 2045, Lot 89), 136 West 137th Street (Block 1921, Lot 49), 203 West 135th Street (Block 1941, Lot 27), 61 West 130th Street (Block 1728, Lot 9), 142 West 129th Street (Block 1913, Lot 52) and 109 West 126th Street (Block 1911, Lot 26), Borough of Manhattan, Community District 10, Council District 9.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings, and Dispositions (preconsidered but laid over by the Subcommittee on Landmarks, Public Sitings, and Dispositions).

## Preconsidered L.U. No. 747

By Council Member Salamanca:

**Application No. C 200279 HAM (Harlem NCP Western Site) submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law for approval of the designation of an Urban Development Action Area, an Urban Development Action Area Project and disposition, for property located at 313 West 112<sup>th</sup> Street (Block 1847, Lot 13), Borough of Manhattan, Community District 10, Council District 9.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings, and Dispositions (preconsidered but laid over by the Subcommittee on Landmarks, Public Sitings, and Dispositions).

## Preconsidered L.U. No. 748

By Council Member Salamanca:

**Application No. C 200243 ZMQ (50-25 Barnett Avenue Rezoning) submitted by Phipps Houses, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 9b and 9d, changing from an M1-1 District to an R6A District, as shown on a diagram (for illustrative purposes only) dated October 5, 2020, and subject to the conditions of CEQR Declaration E-573, Borough of Queens, Community District 2, Council District 26.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered and approved by the Subcommittee on Zoning & Franchises).

Preconsidered L.U. No. 749

By Council Member Salamanca:

**Application No. N 200244 ZRQ (50-25 Barnett Avenue Rezoning) submitted by Phipps Houses, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing Area, Borough of Queens, Community District 2, Council District 26.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered and approved by the Subcommittee on Zoning & Franchises).

Preconsidered L.U. No. 750

By Council Member Salamanca:

**Application No. C 210103 ZMX (1099 Webster Avenue) submitted by Webster 1099 Realty, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3d, eliminating from within an existing R7-1 District a C1-4 District, changing from an R7-1 District to an R7X District, changing from an M1-1 District to an R7X District, establishing within the proposed R7X District a C2-4 District, as shown on a diagram (for illustrative purposes only) dated October 19, 2020, and subject to the conditions of CEQR Declaration E-576, Borough of the Bronx, Community District 4, Council District 16.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered and approved by the Subcommittee on Zoning & Franchises).

Preconsidered L.U. No. 751

By Council Member Salamanca:

**Application No. N 210104 ZRX (1099 Webster Avenue) submitted by Webster 1099 Realty, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of the Bronx, Community District 4, Council District 16.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered and approved by the Subcommittee on Zoning & Franchises).

L.U. No. 752

By Council Member Salamanca:

**Application Number C 200356 PPK (69 Adams Street) submitted by the Department of Citywide Administrative Services pursuant to Section 197-c of the New York City Charter, for the disposition pursuant to zoning of city- owned property located on the west side of Pearl Street between York and Front streets (Block 52, Lots 15 and 17), Borough of Brooklyn, Community District 2, Council District 33.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings and Dispositions.

NEW YORK CITY COUNCIL

**A N N O U N C E M E N T S**

**New York City Council Budget and Oversight Hearings on  
The Preliminary Budget for Fiscal Year 2022  
The Preliminary Capital Commitment Plan for Fiscal Years 2021-2025 and  
The Fiscal 2021 Preliminary Mayor's Management Report**

**Friday, March 19, 2021**

**10:00 a.m. Economic Development Committee - Remote Hearing (Virtual Room 1)**

10:00 a.m. Economic Development Corporation

11:00 p.m. Public

**10:00 a.m. Fire and Emergency Management Committee - Remote Hearing  
(Virtual Room 2)**

10:00 a.m. Fire/Emergency Medical Service

11:00 a.m. NYCEM

11:30 a.m. Public

**Monday, March 22, 2021**

**9:30 a.m. Hospitals Committee - Remote Hearing (Virtual Room 3)**

9:30 a.m. Health + Hospitals

11:30 a.m. Public

**12:00 p.m. Public Safety Committee Day 2 - Remote Hearing (Virtual Room 2)**

12:00 p.m. District Attorneys/Special Narcotics Prosecutor

2:00 p.m. Public

**2:00 p.m. Criminal Justice Committee - Remote Hearing (Virtual Room 4)**

2:00 p.m. Department of Probation

2:30 p.m. Department of Correction

4:00 p.m. Board of Correction

4:30 p.m. Public

[Subcommittee on Landmarks, Public Sitings and Dispositions](#)

Kevin C. Riley, Chairperson

**See Land Use Calendar**

Remote Hearing (Virtual Room 1).....2:00 p.m.



**Tuesday, March 23, 2021**

- 9:00 a.m. Education Committee Remote Hearing (Virtual Room 2)**
- 9:00 a.m. Department of Education (Expense)
- 11:00 a.m. School Construction Authority (Capital)
- 12:00 p.m. Public

Subcommittee on Zoning & Franchises  
**See Land Use Calendar**

Francisco Moya, Chairperson

Remote Hearing (Virtual Room 1).....10:30 a.m.

Committee on Land Use

Rafael Salamanca, Jr., Chairperson

**All items reported out of the Subcommittees**

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

Remote Hearing (Virtual Room 1).....11:00 a.m.

- 1:00 p.m. Veterans Committee Remote Hearing (Virtual Room 3)**
- 1:00 p.m. Department of Veterans’ Services
- 1:45 p.m. Public

- 2:00 p.m. Transportation Committee - Remote Hearing (Virtual Room 4)**
- 2:00 p.m. MTA/NYC Transit
- 3:00 p.m. Public

**Wednesday, March 24, 2021**

- 10:00 a.m. Finance Committee Remote Hearing (Virtual Room 1)**
- 10:00 a.m. Department of Finance
- 11:00 a.m. Finance Committee jointly with the Subcommittee on Capital Budget**
- 11:00 a.m. Department of Design and Construction
- 12:00 p.m. Public

**Thursday, March 25, 2021**

*Stated Council Meeting (Virtual Room 1).....Agenda –1:30 p.m.*

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Johnson) acknowledged that Council Member Van Bramer and his Chief of Staff Matthew Wallace had tested positive for COVID-19. On behalf of the Council, he offered his thoughts and prayers to his colleague and also sent his well-wishes to Council Member Van Bramer’s husband Dan Hendrick during this difficult time.

The Speaker (Council Member Johnson) acknowledged that March marks Women’s History Month. He spoke of being inspired by the women of the Council and gave a special mention to the Council’s Women’s Caucus for their work in making sure the needs of women were heard.

Whereupon on motion of the Speaker (Council Member Johnson), the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) adjourned these virtual proceedings to meet again for the Stated Meeting on Thursday, March 25, 2021.

MICHAEL M. McSWEENEY, City Clerk  
Clerk of the Council

*Editor's Local Law Note: Int. Nos. 1116-B, 1420-C, 1832-B, 1994-A, 2161-A, 2162-A, 2166-B, and 2204-A, all adopted by the Council at the January 28, 2021 Stated Meeting, were returned unsigned by the Mayor on March 1, 2021. These items had become law on February 28, 2021 due to the lack of Mayoral action within the Charter-prescribed thirty day time period. These bills were assigned subsequently as Local Laws Nos. 18 to 25 of 2021, respectively.*

*Int. Nos. 1525-B., 1830-A, 1966-A, 2044-A, and 2064-A, all adopted by the Council at the February 11, 2021 Stated Meeting, were returned unsigned by the Mayor on March 15, 2021. These items had become law on March 14, 2021 due to the lack of Mayoral action within the Charter-prescribed thirty day time period. These bills were assigned subsequently as Local Laws Nos. 26 to 30 of 2021, respectively.*