

Proposed Int. No. 324-A

By The Speaker (Council Member Miller) and Council Members Gennaro, Brewer, Clarke, Fidler, Gerson, Gioia, James, Koppell, Liu, Martinez, Nelson, Recchia, Sanders, Stewart, Weprin, Serrano, Gonzalez, Comrie and Yassky

A LOCAL LAW

To amend the New York city charter, in relation to green building standards for certain capital projects.

Be it enacted by the Council as follows:

Section 1. Statement of findings and purpose. Few aspects of urban life have more impact on human health and the environment than building construction and use. Enormous quantities of resources are used during building construction, renovation and operation, the production of which has substantial environmental impacts. In addition, many indoor building materials release hazardous toxins, impairing indoor air quality and reducing occupant health and productivity.

Buildings also use a tremendous amount of energy. Since much of New York City's electricity is produced within the City and buildings use oil or natural gas for their heating and hot water, energy consumption by buildings translates directly into greater local pollution, including emissions of sulfur dioxide, nitrogen oxides, particulate matter, carbon dioxide, and mercury. These pollutants contribute to respiratory disease, heart disease, smog, acid rain, and climate change. Moreover, as energy demand rises, so does our reliance on dirty, inefficient power plants and the City and nation's dependence on foreign oil and natural gas.

Modern architects and engineers can reduce the health and environmental impacts of buildings by designing “high-performance buildings” or “green buildings.” The United States Green Building Council, the nation’s foremost coalition of real estate and environmental organizations working to promote green buildings, has developed a green building rating system known as LEED (Leadership in Energy and Environmental Design). Buildings receive LEED certification if their designs score sufficient "points" in five general design areas including siting, water efficiency, energy and atmosphere, materials and resources and indoor environmental quality. Thousands of residential and commercial buildings, ranging from single-family homes to large corporate headquarters, have been designed and constructed throughout the United States utilizing green building principles. Significant local examples include 4 Times Square and 20 River Terrace. A recent study conducted for the State of California concluded that, on average, green buildings show a ten times return on the investment in green building design. This comprehensive analysis of 33 green buildings revealed an average green cost premium of less than 2%, with only a 0.66% premium for building that achieved the most basic level of LEED certification.

Numerous municipalities, including Atlanta, Austin, Boston, Boulder, Chicago, Dallas, Los Angeles, Portland, San Diego, San Francisco, San José, and Seattle, have adopted LEED or have otherwise required that city-owned buildings be built according to green building criteria. Some localities have created incentive programs for private green building construction including direct subsidies, density bonuses and expedited permitting, and Boston will soon require private sector buildings over 50,000 square feet to be LEED-certifiable. In New York City, numerous governmental bodies have also embraced green building. The Battery Park City Authority has begun utilizing green building guidelines

modeled on LEED for all commercial and residential building construction in Battery Park City. The Department of Design and Construction has also developed High Performance Building Guidelines and has begun applying the guidelines for schools, libraries and other facilities. The New York City Transit Authority has adopted green building guidelines for all new transit facilities, including the Second Avenue Subway. Moreover, the Lower Manhattan Development Corporation and the Port Authority of New York and New Jersey have developed sustainable design guidelines and have designated “environmental planning” as one of five general requirements for the redevelopment of the World Trade Center site and surrounding area.

Likewise, many states, such as California, Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, have begun utilizing LEED for state-owned buildings. The State of New York provides tax credits for buildings that meet defined green building criteria and, under Executive Order 111, state agencies are directed to reduce energy use and carbon dioxide emissions and to utilize green building principles.

The Council finds that the use of green building criteria will substantially reduce the City’s electricity consumption, air pollution and water use, as well as improve occupant health and worker productivity and encourage market transformation. The Council further finds that reducing overall energy demand through green building techniques will reduce our dependence on foreign oil and allow new power plants to displace power from less efficient and dirtier existing plants. Accordingly, the Council declares that it is reasonable and necessary to employ green building standards in the construction and renovation of city-owned and city-funded buildings and that these standards be utilized in an orderly and timely fashion.

§2. The New York city charter is amended by adding a new section 224.1, to read as follows:

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

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

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

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

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

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

(6) The term “LEED energy and atmosphere credit 1” shall mean the credit point under the appropriate LEED green building rating system intended to achieve increased energy performance.

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

(8) The term "LEED water efficiency credit 3.2" shall mean the credit point under the appropriate LEED green building rating system intended to achieve water use reduction.

(9) The term "not less stringent" shall mean providing no less net environmental and health benefit.

(10) The term "rehabilitation work" shall mean any restoration, replacement or repair of any materials, systems and/or components.

(11) The term "selected green building rating system" shall mean the current and most appropriate building rating system published by the United States Green Building Council; provided, however, at the mayor's discretion, the term "selected green building rating system" shall mean New Construction version 2.1, Existing Buildings version 2 or Commercial Interiors version 2, whichever is most appropriate.

(12) The term "substantial reconstruction" shall mean a capital project in which the scope of work includes rehabilitation work in at least two of the three major systems, electrical, HVAC (heating, ventilating and air conditioning) and plumbing, of a building and construction work affects at least fifty percent (50%) of the building's floor area.

b. Any capital project with an estimated construction cost of two million dollars (\$2,000,000) or more involving (i) the construction of any new building, (ii) any addition to any existing building, or (iii) the substantial reconstruction of any existing building shall be designed and constructed in a manner that shall comply with green building standards not less stringent than the standards prescribed for buildings designed in accordance with the LEED green building rating system to achieve a LEED silver or higher rating. If the mayor elects to utilize any green building standards other than the LEED green building rating system, the mayor shall publish findings demonstrating that such other green building standards are not less stringent than the standards prescribed for buildings designed in accordance with the LEED green building rating system to achieve a LEED silver or higher rating. The mayor shall review and update the green building standards utilized by the city no less often than once every three years.

c. Any capital project with an estimated construction cost of twelve million dollars (\$12,000,000) or more involving (i) the construction of any new building, (ii) any addition to any existing building, or (iii) the substantial reconstruction of any existing building shall be designed and constructed to reduce energy cost by a minimum of thirty percent (30%) as determined by the methodology prescribed in LEED energy and atmosphere credit 1 or the New York state energy conservation code, whichever is more stringent.

d. Any capital project involving the installation or replacement of any HVAC system in any building at an estimated construction cost for such installation or replacement of two million dollars (\$2,000,000) or more, or involving the installation or replacement of lighting systems in any building at an estimated construction cost for such

installation or replacement of one million dollars (\$1,000,000) or more, shall be designed and constructed to reduce energy cost by a minimum of ten percent (10%) as determined by the methodology prescribed in LEED energy and atmosphere credit 1 or the New York state energy conservation code, whichever is more stringent.

e. Any capital project involving the installation or replacement of plumbing systems in any building at an estimated construction cost for such installation or replacement of five hundred thousand dollars (\$500,000) or more shall be designed and constructed to reduce potable water consumption in aggregate by a minimum of thirty percent (30%), as determined by a methodology not less stringent than that prescribed in LEED water efficiency credit 3.2.

f. This section shall apply only to capital projects involving buildings classified in occupancy groups B 1, B 2, C, E, F 1a, F 1b, F 3, F 4, G, H 1 and H 2.

g. The mayor may exempt from the provisions of this section capital projects accounting for up to five percent (5%) of the capital dollars in each fiscal year subject to each of subdivisions b, c, d and e of this section if in his or her sole judgment such exemption is necessary in the public interest.

h. This section shall not apply to capital projects of entities that are not city agencies unless thirty percent (30%) or more of the estimated cost of such project is to be paid for out of the city treasury. This exemption shall not apply to any capital project that receives ten million dollars (\$10,000,000) or more out of the city treasury.

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

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

k. The costs listed in subdivisions b, c, d, e and h of this section shall be indexed to inflation.

l. Capital projects accounting for at least fifty percent (50%) of the capital dollars of each city agency subject to subdivision b of this section, which utilize a version of the LEED green building rating system for which the United States Green Building Council will accept applications for certification, shall apply to the United States Green Building Council for certification that such projects have achieved a silver or higher rating under the LEED green building rating system.

§3. An annual report shall be prepared no later than September 1 of each year in accordance with the procedure and format established by the department of design and construction. Such report shall include, but shall not be limited to, a list of any capital project subject to section 224.1 of the charter, as added by section 2 of this local law, completed during the preceding calendar year; the estimated level of LEED certification such capital projects have achieved as determined by the design agency in accordance with the LEED rating system or, if applicable, the level achieved, as certified by the United States Green Building Council; additional costs attributable to complying with the LEED green building rating system or any other green building standard; an assessment of the health, environmental and energy-related benefits achieved in comparison with a base-case code compliant project (including projected energy savings and reductions in peak load, reductions in emissions, reductions in storm water runoff and potable water use); and a list and description of, and the total value of, the capital allocations in each fiscal year, by city agency, of projects subject to, and exempted by the major from, each of subdivisions

b, c, d and e of section 224.1 of the charter, as added by section 2 of this local law. The first such report shall be completed on or prior to September 1, 2008.

§4. This local law shall take effect on January 1, 2007 and shall apply to capital projects for which the final design is approved pursuant to section 223 of the New York city charter after such effective date, except that prior to such effective date the mayor shall take all actions necessary for the timely implementation of this local law, including the promulgation of rules, and shall take all practicable steps to implement this local immediately. By November 1, 2005, each city agency shall submit to the mayor and council a plan for implementation of this local law, including training of staff and integration of the provisions of this local law into contracting procedures. Section 3 of this local law shall expire and shall be of no further force and effect on and after January 1, 2019. Subdivision 1 of section 224.1 of the charter, as added by section 2 of this local law, shall expire and shall be of no further force and effect on and after January 1, 2017.

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