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**The New York City Council**

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**Committee Report of the Infrastructure Division**

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**Committee on Environmental Protection**

Hon. Costa Constantinides, Chair

**April 18, 2019**

**Proposed Int. No. 276-A:** By Council Members Richards, The Speaker (Council Member Johnson), Brannan, Rose, Espinal, Cohen, Rivera, Rosenthal, Rodriguez, Lander and Kallos

**Title:** A Local Law to amend the New York city building code, in relation to requiring that the roofs of certain buildings be partially covered in green roof or solar photovoltaic electricity generating systems

**Building Code:** Adds a new section BC 1512 to chapter 15

**Proposed Int. No. 1031-A:** By Council Members Espinal, The Speaker (Council Member Johnson), Constantinides, Levine, Yeger, Ampry-Samuel, Cohen, Rivera, Lander and Kallos

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to posting information regarding green roofs on the website of the department of buildings

**Administrative Code:** Section 28-103.31 is renumbered to be section 28-103.32; section 28-103.31.1 is renumbered as section 28-103.32.1 and amended; section 28-103.31.2 is renumbered to be section 28-103.32.2; section 28-103.31.3 is renumbered to be 28-103.32.3; section 28-103.31.4 is renumbered as section 28-103.32.4 and amended

**Proposed Int. No. 1032-A:** By Council Members Espinal, The Speaker (Council Member Johnson), Levin, Constantinides, Richards, Levine, Ampry-Samuel, Cohen, Rivera, Rosenthal, Rodriguez, Lander and Kallos

**Title:** A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to requiring that the roofs of certain buildings be covered in green roofs or solar photovoltaic electricity generating systems

**Administrative Code:**  Amends by adding a new exception 12.4 to section 28-101.4.3

**Building Code:** Amends section BC 1502.1, section BC 1504.9 and section BC 1511 to chapter 15

**Proposed Int. No. 1251-A:** By Council Members Cohen, The Speaker (Council Member Johnson), Levine, Brannan, Ampry-Samuel, Espinal, Levin and Kallos

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to a building energy efficiency grade

**Administrative Code:** Amends section 28-309.12.1

**Proposed Int. No. 1252-A:** By Council Members Constantinides, The Speaker (Council Member Johnson), Cumbo, Richards, Lander, Ampry-Samuel, Yeger, Espinal, Brannan, Levin and Kallos (in conjunction with the Mayor)

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

**Administrative Code:** Amends title 11 by adding a new chapter 30

**Proposed Int. No. 1253-C:** By Council Members Constantinides, The Speaker (Council Member Johnson), Torres, Kallos, Rosenthal, Levin, Rivera, Koo, Powers, Levine, Reynoso, Richards, Salamanca, Menchaca, Chin, Lander, Ampry-Samuel, Ayala, Cumbo, Rose, Brannan, the Public Advocate (Mr. Williams), Espinal, Rodriguez, Lancman, Dromm, Gibson, Treyger, Cornegy, Van Bramer, Moya, Holden, Cohen, Eugene, Barron, Adams, Koslowitz and Cabrera

**Title:** A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the commitment to achieve certain reductions in greenhouse gas emissions by 2050

**Charter:** Amends chapter 26 by adding a new section 651

**Administrative Code:** Amends section 28-308.1; amends chapter 3 of title 28 by adding a new article 320

**Proposed Int. No. 1317-A:** By Council Members Constantinides, The Speaker (Council Member Johnson), Rosenthal, Vallone, Menchaca, Kallos, Rodriguez, Dromm, Lander, Maisel and Ulrich

**Title:** A Local Law to amend the administrative code of the city of New York, and the New York city building code, in relation to large wind turbines

**Administrative Code:** Amends section 24-232.1 and adds new article 320 to chapter 3 of title 28

**Building Code:** Adds new section BC 3114 to chapter 4

**Proposed Int. No. 1318-A:** By Council Members Constantinides, The Speaker (Council Member Johnson), Cabrera, Rosenthal, Cohen, Rodriguez, Menchaca, Dromm, Powers, Maisel, Vallone, Adams, Espinal, Richards, Kallos and Lander

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to an assessment of the replacement of gas-fired power plants and to amend local law number 248 for the year 2017, in relation to the completion date of the long-term energy plan

**Administrative Code:** Amends subdivision d and adds a new subdivision g to section 3-126

**Res. No. 66:** By Council Members Levin, The Speaker (Council Member Johnson), Brannan, Yeger and Cohen

**Title:** Resolution calling upon the State Legislature to pass, and the Governor to sign, legislation that would increase the real property tax abatement for the installation of a green roof to $15 per square foot

**Preconsidered Res. No.\_845:** By Council Members Constantinides, The Speaker (Council Member Johnson) and Richards

**Title:** Resolutioncalling upon the New York State Department of Environmental Conservation to deny the Water Quality Certification permit for the construction of the Northeast Supply Enhancement pipeline through New York Harbor

1. **Introduction**

On April 18, 2019, the Committee on Environmental Protection, chaired by Council Member Costa Constantinides, will hold a hearing on a package of bills related to green roofs, large wind turbines, green buildings and power plants.

Proposed Int. No. 276-A would adjust the requirements of Int. No. 1032-A for certain smaller buildings and require HPD to study the impact that compliance with Int. No. 1032-A would have on the affordability of certain buildings. Proposed Int. No. 1031-A would require the Office of Alternative Energy to maintain information and resources pertaining to green roofs on its website. Proposed Int. No. 1032-A would require that the roofs of certain buildings be covered in green roofs or solar photovoltaic electricity generating systems. Proposed Int. No. 1317-A would expand city support for large wind turbines. Res. No. 66 calls for the State to increase the real property tax abatement for the installation of a green roof to $15 per square foot. The Committee previously held a hearing on these bills on January 28, 2019, and received testimony from the New York City Department of Environmental Protection (“DEP”), DOB, renewable energy experts, environmental advocates, and interested members of the public.

Proposed Int. No. 1251-A would update the ranges for energy efficiency grades. Proposed Int. No. 1252-A would establish a sustainable energy loan program to provide certain building owners with funding for the installation of renewable energy systems or energy efficiency improvements. Proposed Int. No. 1253-C would establish the Office of Building Energy and Emissions Performance and expand existing retro-commissioning requirements to certain buildings over 25,000 square feet.The Committee previously held a hearing on these bills on December 4, 2018, and received testimony from the New York City Mayor’s Office of Sustainability (“MOS”), the New York City Department of Buildings (“DOB”), climate scientists, environmental and housing advocates, architects, engineers, members of the real estate industry, and the general public.

Proposed Int. No. 1318-A would require the city to prepare and submit an assessment on the feasibility of replacing in-city gas fired power plants with battery storage powered by renewable sources. The Committee previously held a hearing on this bill on February 11, 2019 and received testimony from the testimony from Con Edison, the New York City Mayor’s Office of Sustainability, energy experts, public health and environmental advocates, and interested members of the public.

Preconsidered Res. No. \_\_\_\_ calls upon the New York State Department of Environmental Conservation to deny the Water Quality Certification permit for the construction of the Northeast Supply Enhancement pipeline through New York Harbor. The Committee previously held a hearing on this resolution on April 15, 2019, and received testimony from Con Edison, the New York City Mayor’s Office of Recovery and Resiliency, energy experts, environmental advocates, and interested members of the public.

More information about these bills is available with the materials for that hearing, which can be accessed online at <http://legistar.council.nyc.gov/>.

1. **Proposed Int. No. 276-A**

Proposed Int. No. 276-A would adjust the green roof requirements established by Int. No. 1032-A for certain buildings that are 5 stories or less in height. It would also require the Department of Housing Preservation and Development (HPD) to study the impact that compliance with Proposed Int. No. 1032-A would have on the affordability of housing in buildings receiving certain tax exemptions or owned by HPD. Finally, this bill would provide for adjusting the requirements of Proposed Int. No. 1032-A for certain buildings (e.g. buildings receiving certain tax exemptions or owned by HPD) for a period of 5 years. This local law would take effect upon the effective date of Int. No. 1032-A.

1. **Proposed Int. No. 1031-A**

Proposed Int. No. 1031-A would require the office of alternative energy to post and maintain links on its website to information regarding the installation of green roofs and other resources and materials regarding green roof systems. This local law would take effect 120 days after it becomes law, except that the commissioner of buildings may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

1. **Proposed Int. No. 1032-A**

Proposed Int. No. 1032-A would require the installation of green roofs or solar photovoltaic electricity generating systems on the roofs of new construction and buildings undergoing certain major renovations. This local law would take effect 180 days after becoming law.

1. **Proposed Int. No. 1251-A**

Proposed Int. No. 1251-A would update the ranges for energy efficiency grades, which building owners are required to post pursuant to Local Law 33 of 2018. This local law would take effect immediately.

1. **Proposed Int. No. 1252-A**

Proposed Int. No. 1252-A would establish a sustainable energy loan program for the purposes of providing certain building owners with funding for the installation of renewable energy systems or energy efficiency improvements. This local law would take effect immediately.

1. **Proposed Int. No. 1253-C**

Proposed Int. No. 1253-C would establish the Office of Building Energy and Emissions Performance as well as greenhouse gas emissions limits for existing buildings. This bill would mandate that buildings in each certain occupancy group reduce their greenhouse emissions to get below an absolute target. The limits in the first compliance period, which must be met by 2024, were calculated so the highest emitting 20% of buildings in each occupancy group would be required to make some reduction in their greenhouse gas emissions. There would be several ways to reduce greenhouse gas emissions to comply with the bill, including through operational changes, building retrofits, the purchase of greenhouse gas offsets, the purchase of renewable energy credits, and the use of clean distributed energy resources. Clean distributed energy resources include any method of storing clean energy, including fuel cells. The limits in the second compliance period, between the years 2024 and 2029, were calculated so the highest emitting 75% of buildings in each occupancy group need to reduce their greenhouse gas emissions.

This bill would also create an advisory board, made up of a wide range of stakeholders, who will recommend ways to adapt and fine-tune the metric for 2030. The advisory board would complete reports and recommendations on particular issues, such as how to incentivize reduction of energy use during peak demand, and examine the potential feasibility of separate targets for base building and tenant-controlled energy systems. The advisory board is also required to study other matters relating to emissions reduction, including how to ensure that higher education buildings are able to reduce emissions without increasing tuition costs.

Adjustments to the building emissions limit would be available if a building is unable to make reductions because of a legal limitation, such as its status as a landmark site, or a financial limitation, and if that building makes an effort to purchase greenhouse gas offsets, renewable energy credits, and participate in available grant and incentive programs. An institution that cannot participate for religious reasons in available financing, such as Property Assessed Clean Energy (PACE) financing, would not be considered reasonably able to participate in that financing program. A building may also apply for a percent reduction if that building is 40% over its greenhouse gas emissions limit, or if that building is a hospital. This bill would also include a study and implementation plan of carbon trading, to be completed in January of 2021.

This local law would take effect 180 days after it becomes law, except that the department shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules.

1. **Proposed Int. No. 1317-A**

Proposed Int. No. 1317-A would clarify the Department of Buildings’ (DOB) obligation to include wind energy generation in its toolbox of renewable energy technologies. It would also require DOB to develop or support standards and technologies and authorize the installation of large wind energy turbines and assemblies that are certified in appropriate locations. This local law would take effect one hundred and eighty days after it becomes law, except that the commissioner of buildings and the commissioner of environmental protection may take such measures as are necessary for its implementation, including the promulgation of rules, before such date.

1. **Proposed Int. No. 1318-A**

Proposed Int. No. 1318-A would mandate an assessment on the feasibility of replacing in-city gas fired power plants with battery storage powered by renewable sources by MOS or such other office as the mayor may designate. Such an assessment shall include when such replacement could take place, and a review of potential technologies for battery storage of energy. The assessment will be part of the long-term energy plan and shall be updated every four years. This local law would take effect immediately.

1. **Res. No. 66**

Res. No. 66 calls upon the State Legislature to pass, and the Governor to sign, legislation that would increase the real property tax abatement for the installation of a green roof to $15 per square foot.

1. **Preconsidered Res. No. \_\_\_**

Preconsidered Res. No. \_\_\_ calls upon the New York State Department of Environmental Conservation to deny the Water Quality Certification permit for the construction of the Northeast Supply Enhancement pipeline through New York Harbor.

Proposed Int. No. 276-A

By Council Members Richards, The Speaker (Council Member Johnson), Brannan, Rose, Espinal, Cohen, Rivera, Rosenthal, Rodriguez, Lander and Kallos

..Title

A LOCAL LAW

To amend the New York city building code, in relation to requiring that the roofs of certain buildings be partially covered in green roof or solar photovoltaic electricity generating systems

..Body

Be it enacted by the Council as follows:

Section 1. Item 1 of section BC 1511.2 of the New York city building code, as added by a local law for the year 2019 amending the New York city building code, relating to requiring that the roofs of certain buildings be covered in green roofs or solar photovoltaic electricity generating systems, as proposed in introduction number 1032, is amended to read as follows:

1.   A contiguous area of a sustainable roofing zone measuring less than 200 square feet (18.5 m2), or in the case of a building five stories or less in height where the main use or dominant occupancy is classified as Group R, such an area measuring less than 100 square feet (9.20 m2), shall be equipped with at least a solar photovoltaic electricity generating system if such system would accommodate at least 4kW of solar photovoltaic electricity generating capacity, as determined by the department; and

§ 2. a. The department of housing preservation and development shall study the potential impact of compliance with section 1511.2 of the New York city building code on affordability in connection with construction or renovation of (i) buildings with one or more dwelling units for which occupancy or initial occupancy is restricted based upon the income of the occupant or prospective occupant as a condition of (A) a loan, grant, tax exemption or conveyance of property from any state or local governmental entity pursuant to the private housing finance law or the general municipal law, or (B) a tax exemption pursuant to section 420-c of the real property tax law, (ii) buildings subject to the alternative enforcement program pursuant to section 27-2153 of the administrative code of the city of New York, and (iii) buildings owned by the department of housing preservation and development. Such department shall the results of such study report to the mayor and the speaker of the city council no later than 4 years after the effective date of this section. Such report shall include particularized recommendations for cost-effective pathways for these buildings to comply with section 1511.2 of the New York city building code, and whether the exemption provided for by subdivision b of this section should be continued to maintain affordability.

b. For a period of 5 years after the effective date of this section, buildings described in subdivision a of this section shall only be required to comply with section 1511.2 of the New York city building code to the extent determined by the department of housing preservation and development based on considerations of affordability or financial viability. Five years after the effective date of this section, all such buildings shall be required to comply with section 1511.2 of the New York city building code.

§ 3. This local law takes effect on the same date that a local law for the year 2019 amending the New York city building code, relating to requiring that the roofs of certain buildings be covered in green roofs or solar photovoltaic electricity generating systems, as proposed in introduction number 1032, takes effect, except that the commissioner of buildings shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to its effective date.

EAA/GP/APB

LS 4660/Int. 1716

LS 205

4/10/19 9:06 PM

Proposed Int. No. 1031-A

By Council Members Espinal, The Speaker (Council Member Johnson), Constantinides, Levine, Yeger, Ampry-Samuel, Cohen, Rivera, Lander and Kallos

..Title

A Local Law to amend the administrative code of the city of New York, in relation to posting information regarding green roofs on the website of the department of buildings

..Body

Be it enacted by the Council as follows:

Section 1. Section 28-103.30 of the New York city administrative code, as added by local law 196 for the year 2017, is renumbered section 28-103.29.1.

§ 2. Sections 28-103.31, 28-103.31.2 and 28-103.31.3 of the New York city administrative code, as added by local law 233 for the year 2017, are renumbered sections 28-103.33, 28-103.33.2 and 28-103.33.3, respectively.

§ 3. Section 28-103.31.1 of the New York city administrative code, as added by local law 233 for the year 2017, is amended to read as follows:

**§ [28-103.31.1 Definition] 28-103.33.1 Definitions.** As used in this section, the [term "alternative energy project” means construction] following terms have the following meaning:

**ALTERNATIVE ENERGY PROJECT.** Construction work on a building[, as such term is defined in section 28-101.5 of the administrative code,] that will result in such building having at least 50 kilowatts of alternative energy capacity installed onsite from:

    1. A qualified energy resource, as such term is defined in section 45 of title 26 of the United States code; or

2. A source that is determined to be renewable by the commissioner or the head of another agency designated by the mayor.

**GREEN ROOF SYSTEM.** See section 1502.1 of the New York city building code.

§ 4. Section 28-103.31.4 of the New York city administrative code, as added by local law 233 for the year 2017, is amended to read as follows:

**§ [28-103.31.4] 28-103.33.4 Posting of information**. The office of alternative energy shall maintain a website and shall post on such website the contact information for such office and a statement indicating that any person may contact such office if such person has a comment, question or complaint with respect to such office.

**§ 28-103.33.4.1 Information regarding installation of green roof systems**. The office of alternative energy shall further post and maintain links on its website to information regarding the installation of green roof systems and other resources and materials regarding green roof systems.

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

CCF

LS 5747

5/15/2018 1:20 PM

Proposed Int. No. 1032-A

By Council Members Espinal, The Speaker (Council Member Johnson), Levin, Constantinides, Richards, Levine, Ampry-Samuel, Cohen, Rivera, Rosenthal, Rodriguez, Lander and Kallos

..Title

A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to requiring that the roofs of certain buildings be covered in green roofs or solar photovoltaic electricity generating systems

..Body

Be it enacted by the Council as follows:

Section 1. Exception 12 of section 28-101.4.3 of title 28 of the administrative code of the city of New York is amended by adding a new exception 12.4 to read as follows:

12.4 Sustainable roofs. Work involving the replacing of an entire existing roof deck or roof assembly shall comply with section 1511.2 of the New York city building code.

§ 2. Section BC 1502.1 of the New York city building code is amended by adding a new definition of “sustainable roofing zone” in alphabetical order to read as follows:

**SUSTAINABLE ROOFING ZONE.** Areas of a roof assembly where a solar photovoltaic electricity generating system, a green roof system, or a combination thereof, is installed.

§ 3. Section BC 1504.9 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

**1504.9 Reflectance.** Roof coverings on roofs or setbacks with slope equal to or less than two units vertical in 12 units horizontal (17 percent) shall have:

1. A minimum initial solar reflectance of 0.7 in accordance with ASTM C 1549 or ASTM E 1918, and a minimum thermal emittance of 0.75 as determined in accordance with ASTM C 1371 or ASTM E 408; or

2. A minimum SRI of [78] 82 as determined in accordance with ASTM E 1980.

Roof coverings on roofs or setbacks with slope greater than two units vertical in 12 units horizontal (17 percent) shall have:

1. A minimum initial solar reflectance of 0.25 in accordance with ASTM C 1549 or ASTM E 1918, and a minimum thermal emittance of 0.75 as determined in accordance with ASTM C 1371 or ASTM E 408; or

2. A minimum SRI of 39 as determined in accordance with ASTM E 1980.

**Exceptions:**

1. Terraces on setbacks comprising less than 25 percent of the area of the largest floor plate in the building.

2. Any portion of a roof covered by a green roof system, including such a system with agricultural plantings, in compliance with Section 1507.16.

3. Any portion of a roof used as outdoor recreation space by the occupants of the building that is landscaped, covered by wood decking or covered with a walking surface or other protective surface, provided that such walking surface or protective surface has a minimum initial solar reflectance of 0.3 as determined in accordance with ASTM C 1549 or ASTM E 1918.

4. Ballasted roofs, provided that the ballast has a minimum initial solar reflectance of 0.2 as determined in accordance with ASTM C 1549 or ASTM E 1918.

5. Any portion of a roof that is under mechanical equipment, [flush mounted solar panels lying directly on the roof surface,] duckboarding, decking, platform, roof tank, cooling tower or any other rooftop structure or equipment exempted by rule by the commissioner.

6. Any roof or portion of a roof composed of glass, metal, clay or concrete tile or plastic/rubber intended to simulate clay or concrete tile, wood, or slate.

7. Any roof, if the amount of rooftop space not subject to exceptions 1 through 7 is in the aggregate less than 100 square feet (9.3 m2).

§ 4. Section BC 1511 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 BC 1511**

**SOLAR PHOTOVOLTAlC PANELS/MODULES AND REQUIRED SUSTAINABLE ROOFING ZONES**

**1511.1 Solar photovoltaic panels/modules.** Solar photovoltaic panels/modules installed upon a roof or as an integral part of a roof assembly shall comply with the requirements of this code and the *New York City Fire Code*.

**1511.1.1 Structural fire resistance.** The structural frame and roof construction supporting the load imposed upon the roof by the photovoltaic panels/modules shall comply with the requirements of Table 601.

**1511.2 Sustainable roofing zone.** A sustainable roofing zone shall be required on 100 percent of the roof. For such sustainable roofing zone:

1.   A contiguous area of a sustainable roofing zone measuring less than 200 square feet (18.5 m2) shall be equipped with at least a solar photovoltaic electricity generating system if such system would accommodate at least 4kW of solar photovoltaic electricity generating capacity, as determined by the department; and

2.   A sustainable roofing zone with a slope less than or equal to two units vertical in 12 units horizontal (17 percent) that would accommodate less than 4kW of solar photovoltaic electricity generating capacity, as determined by the department, shall be equipped with at least a green roof system.

**Exceptions:**

1. Areas required to be set aside for setbacks or access pursuant to the *New York City Fire Code*, the *New York City Construction Codes*, or the *Zoning Resolution of the City of New York*.

2. Areas occupied by rooftop structures, mechanical equipment, towers, parapets, guardrails, solar thermal systems, and appurtenances.

2. Areas occupied by obstructions related to stormwater management practices including, but not limited to, cisterns, or reuse systems that are installed to comply with site connection or stormwater construction permits issued by the department of environmental protection.

3. Terraces on setbacks comprising less than 25 percent of the area of the largest floor plate in the building.

4. Recreational spaces that are principal to the use of the building on which the rooftop is located.

5. A roof assembly with a slope greater than two units vertical in 12 units horizontal (17 percent) that would accommodate less than 4kW of solar photovoltaic electricity generating capacity.

6. Areas where site conditions are determined by the department to be unfavorable to either a solar photovoltaic electricity generating system or a green roof system.

§ 5. This local law takes effect 180 days after it becomes law, except that the commissioner of buildings shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

EAA/GP/APB

LS 4660/Int. 1716

LS 205

4/10/19 10:38 PM

Proposed Int. No. 1251-A

By Council Members Cohen, The Speaker (Council Member Johnson), Levine, Brannan, Ampry-Samuel, Espinal, Levin and Kallos

A LOCAL LAW

..Title

To amend the administrative code of the city of New York, in relation to a building energy efficiency grade

..Body

Be it enacted by the Council as follows:

   Section 1. The definition of “energy efficiency grade” in section 28-309.12.1 of the administrative code of the city of New York, as added by local law number 33 for the year 2018, is amended to read as follows:

**ENERGY EFFICIENCY GRADE**. The term “energy efficiency grade” means, for a covered building, a grade based on an energy efficiency score assigned through the benchmarking tool in accordance with this section as follows:

1. If such score is equal to or greater than [90] 85 the energy efficiency grade shall be A;

2. If such score is equal to or greater than [50] 70 but less than [90] 85, the energy efficiency grade shall be B;

3. If such score is equal to or greater than [20] 55 but less than [50] 70, the energy efficiency grade shall be C;

4. If such score is less than [20] 55, the energy efficiency grade shall be D;

5.  If the owner of such building has not complied with section 28-309.12.2, and such owner has had an opportunity to be heard with respect to such non-compliance, the energy efficiency grade shall be F; and

6. If, in accordance with the rules of the department, it is not feasible to obtain an energy efficiency score for such building or if such building is subject to the exception in section 28-309.8, the energy efficiency grade shall be N.

§ 2. This local law takes effect immediately.

NKA/APB

4/4/19 11:26am

LS 7701

Proposed Int. No. 1252-A

By Council Members Constantinides, the Speaker (Council Member Johnson), Cumbo, Richards, Lander, Ampry-Samuel, Yeger, Espinal, Brannan, Levin and Kallos (in conjunction with the Mayor)

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

..Body

Be it enacted by the Council as follows:

Section 1. Title 11 of the administrative code of the city of New York is amended by adding a new chapter 30 to read as follows:

CHAPTER 30

NEW YORK CITY SUSTAINABLE ENERGY LOAN PROGRAM

§ 11-3001 Definitions. As used in this chapter, the following terms have the following meanings:

Administering agency. The term “administering agency” means an agency or office designated by the mayor, pursuant to section 11-3008, to implement, administer and enforce the provisions of this chapter.

Authority. The term “authority” means the New York state energy research and development authority, as defined by subdivision two of section eighteen hundred fifty-one of the public authorities law, or its successor.

Credit support. The term “credit support” means the use of (i) direct loans, (ii) letters of credit, (iii) loan guarantees or (iv) insurance products, in any combination, and the purchase of or commitment to purchase, or the sale of or commitment to sell, debt instruments, including subordinated securities.

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 the property.

Energy efficiency improvement. The term “energy efficiency improvement” means any renovation or retrofitting of a 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.

Loan. The term “loan” means a loan made pursuant to the program.

Program. The term “program” means the sustainable energy loan program established by this chapter.

Renewable energy system. The term “renewable energy system” means an energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the owner of real property is a commercial entity, by means of a solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the authority not including the combustion or pyrolysis of solid waste.

Renewable energy system feasibility study. The term “renewable energy system feasibility study” means a written study, conducted by a contractor certified by the authority, or certified by an 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 determining the feasibility of installing a renewable energy system.

§ 11-3002 Sustainable energy loan program. Pursuant to the authority granted by section 119-gg of the general municipal law, there is hereby established a sustainable energy loan program. The administering agency may implement the program using federal grant assistance or federal credit support or monies from the state of New York or any state authority as defined by section 2 of the public authorities law available for this purpose. The administering agency may enter into an agreement with one or more for-profit or not-for-profit corporations to manage or assist in the implementation, administration and enforcement of the program. Any fees imposed on an owner of real property by a for-profit or not-for-profit corporation managing or assisting in the implementation, administration and enforcement of the program to recoup any such corporation’s administrative costs shall be subject to approval by the administering agency.

§ 11-3003 Loans. The program may make loans to the owners of real property located within the city to finance the installation of renewable energy systems and energy efficiency improvements, related energy audits and renewable energy system feasibility studies, and the verification of the installation of such systems and improvements.

§ 11-3004 Loan conditions. a. Every loan shall be repaid over a term not to exceed the weighted average of the useful life of such systems and improvements as determined by the administering agency. The administering agency shall set a fixed rate of interest for the repayment of the principal amount of each loan at the time the loan is made.

b. For loans made to an owner of real property that is a commercial entity, not-for-profit organization, or entity other than an individual, the administering agency shall have the authority to impose requirements on the maximum amount that may be borrowed through such loan, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.

c. For loans made to an owner of real property who is an individual, the principal amount of each loan made under the program, excluding interest, shall not exceed the lesser of 10 percent of the appraised real property value of the real property benefitted by such loan or the actual cost of installing the renewable energy system and energy efficiency improvements, including the costs of necessary equipment, materials, and labor, the costs of each related energy audit and renewable energy system feasibility study, and the cost of verification of such renewable energy system and energy efficiency improvements.

d. No loan shall be made for energy efficiency improvements unless determined to be appropriate through an energy audit, and no such loan shall be made for a renewable energy system unless determined to be feasible through a renewable energy system feasibility study.

e. No loan shall be made unless the administering agency, any corporation managing or assisting in the implementation, administration and enforcement of the program pursuant to section 11-3002 and any lender to the program have agreed to the subordination of such lender’s rights under the loan, including the subordination of the payment of any lien arising from the loan to the payment of all other liens and encumbrances on such real property arising out of taxes and assessments, sewer rents, sewer surcharges, water rents, other city charges and interest or penalty thereon levied or charged pursuant to law or rule.

f. No loan shall be made to an owner of real property that has unpaid civil penalties or taxes or other debt owed to the city that is delinquent.

§ 11-3005 Repayment. a. A loan shall constitute a lien upon the real property benefitted by such loan.

b. A loan shall be repaid by the property owner through a charge on the real property benefitted by such loan. Such charge shall be on the real property and shall be levied and collected at the same time and in the same manner as municipal taxes, provided that such charge shall be separately listed on the tax bill. Any partial payment of charges separately listed on the tax bill shall be allocated to payment of taxes and assessments, sewer rents, sewer surcharges, water rents, any other city charges and interest or penalty thereon levied or charged pursuant to law or rule before payment shall be allocated to any loan.

c. In the event such charge is not paid when due, such unpaid charge shall be subject to the provisions of chapters 3 and 4 of this title and other related provisions of the charter and administrative code.

§ 11-3006 Reporting. The administering agency shall annually verify and report on the installation and performance of renewable energy systems and energy efficiency improvements financed by the program in such form and manner as the authority may establish.

§ 11-3007 Rulemaking. The administering agency shall promulgate rules to implement this program. Such rules shall include, but need not be limited to, eligibility criteria for loans, terms and conditions for repayment of such loans and reporting and filing requirements related to such loans. Such rules shall also include criteria for persons to be certified pursuant to the program for purposes of conducting energy audits and renewable energy system feasibility studies, which shall be at least as stringent as the criteria for certification adopted by the authority for the purposes of article 5-L of the general municipal law.

§ 11-3008 Designation of administering agency. The mayor shall, in writing, designate one or more offices or agencies to implement, administer and enforce the provisions of this chapter and may, from time to time at the mayor’s discretion, change such designation. Within 10 days after such designation or change thereof, a copy of such designation or change thereof shall be published on the website of each such office or agency, and shall be electronically submitted to the speaker of the council.

§ 2. This local law takes effect immediately.

APB/NKA/SS

LS 3239

4/10/19 4:10 PM

Proposed Int. No. 1253-C

By Council Member Constantinides, the Speaker (Council Member Johnson) and Council Members Torres, Kallos, Rosenthal, Levin, Rivera, Koo, Powers, Levine, Reynoso, Richards, Salamanca, Menchaca, Chin, Lander, Ampry-Samuel, Ayala, Cumbo, Rose, Brannan, the Public Advocate (Mr. Williams), Espinal, Rodriguez, Lancman, Dromm, Gibson, Treyger, Cornegy, Van Bramer, Moya, Holden, Cohen, Eugene, Barron, Adams, Koslowitz and Cabrera

A Local Law

To amend the New York city charter and the administrative code of the city of New York, in relation to the commitment to achieve certain reductions in greenhouse gas emissions by 2050

Be it enacted by the Council as follows:

Section 1. Chapter 26 of the New York city charter is amended by adding a new section 651 to read as follows:

§ 651. Office of building energy and emissions performance. a. There shall be in the department an office of building energy and emissions performance. The office shall be headed by a director, who is a registered design professional, who shall be appointed by and shall report to the commissioner. The duties of the office shall include, but not be limited to:

1. Overseeing implementation of building energy and emissions performance laws and policies for existing buildings, new construction and major renovations;

2. Establishing or administering protocols for assessing annual energy use in buildings;

3. Monitoring buildings’ energy use and emissions, and reviewing building emissions assessment methodologies, building emissions limits, goals and timeframes to further the goal of achieving a 40 percent reduction in aggregate greenhouse gas emissions from covered buildings by calendar year 2030, relative to such emissions for the calendar year 2005;

4. Creating an online portal for the submission of annual building emissions assessments by owners;

5. Receiving and validating annual building emissions assessments;

6. Auditing building emissions assessments and inspecting covered buildings, as necessary, to ensure proper reporting;

7. Determining recommended penalties, including minimum penalties, for buildings that are noncompliant with applicable emissions limits;

8. Reviewing applications for alternative methods of compliance with building emissions limits, including adjustments of emissions limits, deductions for the purchase of greenhouse gas offsets or renewable energy credits, deductions for the use of distributed energy resources, and adjustments for special categories of buildings or for special use and occupancies;

9. Working in close coordination with the mayor’s office of long-term planning and sustainability; receiving advice and recommendations, as applicable, from the advisory board established pursuant to section 28-320.2 of the administrative code; and

10. Ensuring the participation and cooperation of agencies, including but not limited to the department of environmental protection, the department of housing preservation and development and the department of citywide administrative services. Such participation and cooperation shall include, but not be limited to, detailing agency staff to assist office staff consistent with agency and office functions and reporting to the office on building energy performance issues and related enforcement efforts.

§ 2. Subdivision e of section 24-802 of the administrative code of the city of New York, as added by local law number 22 for the year 2008, is amended to read as follows:

e. "City government operations" means [operations described in the Government Inventory Methodology and the Government Inventory Results sections of the Inventory of New York City Greenhouse Gas Emissions, dated April 2007] operations, facilities, and other assets that are owned or leased by the city for which the city pays all or part of the annual energy bills.

§ 3. Paragraph (1) of subdivision a of section 24-803 of the administrative code of the city of New York, as amended by local law number 66 for the year 2014, is amended to read as follows:

(1) Reduction of emissions citywide. There shall be, at minimum, a [thirty] 40 percent reduction in citywide emissions by calendar year 2030, and an [eighty] 80 percent reduction in citywide emissions by calendar year 2050, relative to such emissions for the base year for citywide emissions.

§ 4. Subdivision b of section 24-803 of the administrative code of the city of New York, as added by local law number 22 for the year 2008, is amended to read as follows:

b. (1) Reduction of emissions from city government operations. There shall be, at minimum, a [thirty] 40 percent reduction in city government emissions by [calendar] fiscal year [2017] 2025, and a 50 percent reduction in city government emissions by calendar year 2030, relative to such emissions for the base year for city government emissions.

(2) The emissions reduction required by paragraph [one] 1 of this subdivision shall be achieved through the applicable policies, programs and actions included in PlaNYC, energy efficiency retrofits, and any additional policies, programs and actions to reduce greenhouse gas emissions that contribute to global warming, including methods to ensure equitable investment in environmental justice communities that preserve a minimum level of benefits for all communities and do not result in any localized increases in pollution. If the office determines that such emissions reduction is not feasible despite the best efforts of city government operations, such office shall report such findings and make recommendations with respect to policies, programs and actions that may be undertaken to achieve such reductions.

(3) Reduction of emissions by the New York city housing authority. The New York city housing authority shall make efforts to reduce greenhouse gas emissions by 40 percent by the year 2030 and 80 percent by the year 2050, relative to such emissions for calendar year 2005, for the portfolio of buildings owned or operated by the New York city housing authority. If the office determines that such emissions reduction is not feasible despite the best efforts of city government operations, such office shall report such findings and make recommendations with respect to policies, programs and actions that may be undertaken to achieve such reductions.

§ 5. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new article 320 to read as follows:

**ARTICLE 320**

**Building ENERGY AND emissions limits**

**§ 28-320.1 Definitions**. As used in this article, the following terms shall have the following meanings:

**BUILDING EMISSIONS.**The term “building emissions” means greenhouse gas emissions as expressed in metric tons of carbon dioxide equivalent emitted as a result of operating a covered building and calculated in accordance with rules promulgated by the department in consultation with the mayor’s office of long term planning and sustainability. The term “building emissions” shall not include greenhouse gas emissions emitted during a local state of emergency declared by the mayor pursuant to section 24 of the executive law or a state of emergency declared by the governor pursuant to sections 28 of the executive law, where such local or state emergency has an impact on building emissions.

**BUILDING EMISSIONS INTENSITY**. The term “building emissions intensity” means, for a covered building, the number obtained by dividing the building emissions by the gross floor area for such building, expressed in metric tons of carbon dioxide equivalent per square foot per year.

**Carbon dioxide equivalent.** The term “carbon dioxide equivalent” means the metric used to compare the emissions of various greenhouse gases based upon their global warming potential as defined in the Intergovernmental Panel on Climate Change Fifth Assessment Report (2014).

**CITY BUILDING**. The term “city building” means a building that is owned by the city or for which the city regularly pays all of the annual energy bills.

**Exception**: The term “city building” shall not include any senior college in the city university of New York system.

**CLEAN DISTRIBUTED ENERGY RESOURCE.** The term “clean distributed energy resource” means a distributed energy resource that (i) uses any of the following sources to generate electricity: hydropower, solar photovoltaics, geothermal wells or loops, tidal action, waves or water currents, and wind; or (ii) is designed and operated to store energy, including, but not limited to, batteries, thermal systems, mechanical systems, compressed air, and superconducting equipment.

**COVERED BUILDING.**The term “covered building” means, as it appears in the records of the department of finance, (i) a building that exceeds 25,000 gross square feet or (ii) two or more buildings on the same tax lot that together exceed 50,000 gross square feet (9290 m2), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 50,000 gross square feet (9290 m2).

**Exceptions**:

1. An industrial facility primarily used for the generation of electric power or steam.

2. Real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the HVAC systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than two dwelling units, as certified by a registered design professional to the department.

3. A city building.

4. A housing development or building on land owned by the New York city housing authority

5. A rent regulated accommodation.

6. The real estate owned by any religious corporation located in the city of New York as now constituted, actually dedicated and used by such corporation exclusively as a place of public worship.

7. Real property owned by a housing development fund company organized pursuant to the business corporation law and article eleven of the private housing finance law.

**DISTRIBUTED ENERGY RESOURCE.** The term “a distributed energy resource” means a resource comprised of one or multiple units capable of generating or storing electricity, all at a single location that is directly or indirectly connected to an electric utility distribution system.  The resource may serve all or part of the electric load of one or more customers at the same location, and it may simultaneously or alternatively transmit all or part of the electricity it generates or stores onto the electric distribution system for sale to or use by other customers at other locations.

**Greenhouse gas.** The term “greenhouse gas” means a unit of greenhouse gas, including carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF6), and nitrogen trifluoride (NF3).

**GREENHOUSE GAS OFFSET.** The term “greenhouse gas offset”means a credit representing one metric ton of carbon dioxide equivalent emissions reduced, avoided, or sequestered by a project from a measured baseline of emissions and which has been verified by an independent, qualified third party in accordance with offset standards referenced by rules of the department.

**FINANCIAL HARDSHIP (OF A BUILDING).** The term “financial hardship (of a building)” means a building shall be considered to be subject to financial hardship where, for the combined two years prior to the application for an adjustment to annual building emissions limit pursuant to section 28-320.7, the building:

1. Had arrears of property taxes or water or wastewater charges that resulted in the property's inclusion on the department of finance's annual New York city tax lien sale list;

2. Is exempt from real property taxes pursuant to sections 420-a, 420-b, 446 or 462 of the real property tax law and applicable local law and the owner had negative revenue less expenses as certified to the department by a certified public accountant, or by affidavit under penalties of perjury; or

3. Had outstanding balances under the department of housing preservation and development's emergency repair program that resulted in the property's inclusion on the department of finance's annual New York city tax lien sale list.

**METRIC TONS OF CARBON DIOXIDE EQUIVALENT.**The term “metric tons of carbon dioxide equivalent” means the global standard unit in carbon accounting to quantify greenhouse gas emissions, also expressed as tCO2e.

**RENEWABLE ENERGY CREDIT**. The term “renewable energy credit” means a certificate representing the environmental, social and other non-power attributes of one megawatt-hour of electricity generated from a renewable energy resource, which certificate is recognized and tradable or transferable within national renewable energy markets or the New York generation attribute tracking system. This term also means the environmental, social, and other non-power attributes of one megawatt-hour of electricity generated from a hydropower resource that does not trade or transfer renewable energy certificates for those hydropower resources in any renewable energy market or via the New York generation attribute tracking system, provided that the hydropower resource owner certifies the amount of energy produced in each reporting year and that it has not sold the non-power attributes equal to its energy production more than once.

**RENT REGULATED ACCOMMODATION.**The term “rent regulated accommodation” means a building (i) containing one or more dwelling units with a legal regulated rent pursuant to the emergency tenant protection act of 1974, the rent stabilization law of 1969 or the local emergency housing rent control act of 1962, (ii) containing one or more dwelling units required by law to be registered and regulated pursuant to the emergency tenant protection act of 1974 or the rent stabilization law of 1969, (iii) buildings developed with subsidies received pursuant to section 1701q of title 12 of the United States code and (iv) buildings participating in a project-based assistance program pursuant to section 1473f of title 42 of the United States code.

**§ 28-320.2** **Advisory board**. There shall be an advisory board convened, by the office of building energy and emissions performance upon the effective date of this article, in January of 2029 and in January of 2039, to provide advice and recommendations to the commissioner and to the mayor’s office of long term planning and sustainability relating to effectively reducing greenhouse gas emissions from buildings. Such recommendations shall include, but not be limited to:

1. A report and recommendations to be delivered to the mayor and the speaker of the city council no later than January 1, 2023 for additional or improved approaches to assessing building energy performance. Such report shall include, but not be limited to:

1.1. An approach for buildings to submit energy use or greenhouse gas emissions and other information for the purpose of assessing energy performance of covered buildings;

1.2. A methodology that includes the metric of measure, adjustments to the metric, the approach to comparing the output to a benchmark, alternative compliance paths, credit for beneficial electrification and distributed energy resources, and an approach for a trading mechanism as described in section 28-320.11;

1.3. Recommendations for addressing tenant-controlled energy usage;

1.4. Recommendations for amendments to the audit required under section 28-308.2 of the administrative code, including consideration of whether such audit should be replaced by a capital plan;

1.5 Recommendations for reducing building emissions from rent regulated accommodations;

1.6 Recommendations for allowing additional time to comply with the emissions limits for buildings converting to a new occupancy group or use with lower emissions limits or some other change in status that would affect applicability of the provisions of this article;

1.7 An evaluation of the extent to which the mayor’s 80x50 energy infrastructure pathways study is incorporated and addressed within the recommendations made pursuant to items 1.1 through 1.6 of this section; and

1.8 A reference guide to delineate the responsibilities of the building designer and owners to comply with emissions limits.

2. A report to be delivered to the mayor and the speaker of the city council no later than January 1, 2023, providing an analysis of, and any recommendations for improving, energy and emissions performance requirements for covered buildings. Such recommendations shall be targeted to achieve at least a 40 percent reduction in aggregate greenhouse gas emissions from covered buildings by calendar year 2030 relative to such emissions for the calendar year 2005. Such report shall include, but not be limited to assessments of:

2.1. Incentives for reduction of peak energy demand;

2.2. Methods to allow for staggered reporting cycles for compliance with energy and emissions performance improvements;

2.3. Methods for calculating penalties for non-compliance;

2.4. Estimated emissions reductions associated with any recommended energy performance requirements;

2.5. The economic impact, including benefits, of achieving the energy and emissions performance requirements;

2.6. Methods for achieving earlier or larger reductions from city-owned buildings;

2.7 Separate improvement targets for base building energy systems and tenant-controlled energy systems;

2.8 Methods for achieving emissions reductions from manufacturing and industrial processes; and

2.9 Methods for achieving emissions reductions from hospitals while maintaining critical care for human health and safety.

**§ 28-320.2.1** **Advisory board composition.**Such advisory board shall be staffed with registered design professionals and be composed of 16 members including the chairperson, 8 of the members of such advisory board shall be appointed by the mayor or the mayor’s designee, and 8 of the members of such advisory board shall be appointed by the speaker of the council. The mayor shall appoint one architect, one operating engineer, one building owner or manager, one public utility industry representative, one environmental justice representative, one business sector representative, one residential tenant representative, and one environmental advocacy organization representative. The speaker shall appoint one architect, one stationary engineer, one construction trades representative, one green energy industry representative, one residential tenant representative, one environmental justice organization representative, one environmental advocacy representative and one not for profit organization representative. The director of such office, or the designee of such director, shall serve as chairperson of the advisory board. The advisory board may convene in working groups. Such working groups may include individuals not on such advisory board to address the recommendations required by this article. The mayor shall invite the appropriate federal, state and local agencies and authorities to participate, including but not limited to the New York state energy research and development authority. Such advisory board shall convene a working group on hospitals that shall be composed of engineers, architects, and hospital industry representatives.

**§ 28-320.3** **Building emissions limits**. Except as otherwise provided in this article, or otherwise provided by rule, on and after January 1, 2024 a covered building shall not have annual building emissions higher than the annual building emissions limit for such building as determined in accordance with this section based on the occupancy group of the building.

**§ 28-320.3.1 Annual building emissions limits 2024-2029**. For calendar years 2024 through 2029 the annual building emissions limits for covered buildings shall be calculated pursuant to items 1 through 10 of this section. For the purposes of such calculation the department shall provide a method for converting categories of uses under the United States environmental protection agency Portfolio Manager tool to the equivalent uses and occupancy groups set forth in this section. For a covered building with spaces classified in more than one occupancy group, the annual building emissions limit shall be the sum of the calculated values from items 1 through 10 of this paragraph, as applicable for each space.

1. For spaces classified as occupancy group A: multiply the building emissions intensity limit of 0.01074 tCO2e/sf by the corresponding gross floor area (sf);

2. For spaces classified as occupancy group B other than as described in item 6: multiply the building emissions intensity limit of 0.00846 tCO2e/sf by the corresponding gross floor area (sf);

3. For spaces classified as occupancy groups E and I-4: multiply the building emissions intensity limit of 0.00758 tCO2e/sf by the corresponding gross floor area (sf);

4. For spaces classified as occupancy group I-1: multiply the building emissions intensity limit of 0.01138 tCO2e/sf by the corresponding gross floor area (sf);

5. For spaces classified as occupancy group F: multiply the building emissions intensity limit of 0.00574 tCO2e/sf by the corresponding gross floor area (sf);

6. For spaces classified as occupancy groups B civic administrative facility for emergency response services, B non-production laboratory, Group B ambulatory health care facility, H, I-2 and I-3: multiply the building emissions intensity limit of 0.02381 tCO2e/sf by the corresponding gross floor area (sf);

7. For spaces classified as occupancy group M: multiply the building emissions intensity limit of 0.01181 tCO2e/sf by the corresponding gross floor area (sf);

8. For spaces classified as occupancy group R-1: multiply the building emissions intensity limit of 0.00987 tCO2e/sf by the corresponding gross floor area (sf);

9. For spaces classified as occupancy group R-2: multiply the building emissions intensity limit of 0.00675 tCO2e/sf by the corresponding gross floor area (sf);

10. For spaces classified as occupancy groups S and U: multiply the building emissions intensity limit of 0.00426 tCO2e/sf by the corresponding gross floor area (sf).

**§ 28-320.3.1.1 Greenhouse gas coefficient of energy consumption for calendar years 2024 through 2029.** The annual building emissions of a covered building in accordance with this section, greenhouse gas emissions shall be calculated as follows for calendar years 2024 through 2029:

1. Utility electricity consumed on the premises of a covered building that is delivered to the building via the electric grid shall be calculated as generating 0.000288962 tCO2e per kilowatt hour, provided, however, that the department, in consultation with the office of long term planning and sustainability, shall promulgate rules governing the calculation of greenhouse gas emissions for campus-style electric systems that share on-site generation but make use of the utility distribution system and for buildings that are not connected to the utility distribution system.

2. Natural gas combusted on the premises of a covered building shall be calculated as generating 0.00005311 tCO2e per kbtu.

3. #2 fuel oil combusted on the premises of a covered building shall be calculated as generating 0.00007421 tCO2e per kbtu.

4. #4 fuel oil combusted on the premises of a covered building shall be calculated as generating 0.00007529 tCO2e per kbtu.

5. District steam consumed on the premises of a covered building shall be calculated as generating 0.00004493tCO2e per kbtu.

6. The amount of greenhouse gas emissions attributable to other energy sources, including but not limited to distributed energy resources, shall be determined by the commissioner and promulgated into rules of the department.

**§ 28-320.3.2** **Building emissions limits for calendar years 2030 through 2034.**For calendar years 2030 through 2034 the annual building emissions limits for covered buildings shall be calculated pursuant to items 1 through 10 of this section. For the purposes of such calculation the department shall provide a method for converting categories of uses under the United States environmental protection agency Portfolio Manager tool to the equivalent uses and occupancy groups set forth in this section. For a covered building with spaces classified in more than one occupancy group, the annual building emissions limit shall be the sum of the calculated values from items 1 through 10 of this paragraph, as applicable for each space. The department may establish different limits, set forth in the rules of the department, where the department determines that different limits are feasible and in the public interest. Where such limits are set by rule, the average emission limits for all covered buildings shall not be less restrictive than the average emissions impact of the building emissions limits outlined in items 1 through 10 of this section. The advisory board and the office of long term planning and sustainability shall provide advice and recommendation regarding such limits.

1. For spaces classified as occupancy group A: multiply the building emissions intensity limit of 0.00420 tCO2e/sf by the corresponding gross floor area (sf);

2. For spaces classified as occupancy group B other than as described in item 6: multiply the building emissions intensity limit of 0.00453 tCO2e/sf by the corresponding gross floor area (sf);

3. For spaces classified as occupancy groups E and I-4: multiply the building emissions intensity limit of 0.00344 tCO2e/sf by the corresponding gross floor area (sf);

4. For spaces classified as occupancy group I-1: multiply the building emissions intensity limit of 0.00598 tCO2e/sf by the corresponding gross floor area (sf);

5. For spaces classified as occupancy group F: multiply the building emissions intensity limit of 0.00167 tCO2e/sf by the corresponding gross floor area (sf);

6. For spaces classified as occupancy groups B civic administrative facility for emergency response services, B non-production laboratory, Group B ambulatory health care facility, H, I-2 or I-3: multiply the building emissions intensity limit of 0.01193 tCO2e/sf by the corresponding gross floor area (sf);

7. For spaces classified as occupancy group M: multiply the building emissions intensity limit of 0.00403 tCO2e/sf by the corresponding gross floor area (sf);

8. For spaces classified as occupancy group R-1: multiply the building emissions intensity limit of 0.00526 tCO2e/sf by the corresponding gross floor area (sf);

9. For spaces classified as occupancy groups R-2: multiply the building emissions intensity limit of 0.00407 tCO2e/sf by the corresponding gross floor area (sf);

10. For spaces classified as occupancy groups S and U: multiply the building emissions intensity limit of 0.00110 tCO2e/sf by the corresponding gross floor area (sf).

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

**§ 28-320.3.4 Building emissions limits for calendar years 2035 through 2050**. No later than January 1, 2023, the commissioner shall establish by rule annual building emissions limits and building emissions intensity limits applicable for calendar years 2035 through 2039 and building emissions limits and building emissions intensity limits applicable for calendar years 2040 through 2049. Such limits shall be set to achieve an average building emissions intensity for all covered buildings of no more than 0.0014 tCO2e/sf/yr by 2050.

**§** **28-320.3.5 Building emissions limits on and after calendar year 2050.**No later than January 1, 2023 the commissioner shall establish by rule annual building emissions limits and building emissions intensity limits applicable for calendar years commencing on and after January 1, 2050. Such limits shall achieve an average building emissions intensity for all covered buildings of no more than 0.0014 tCO2e/sf/yr.

**§ 28-320.3.6 Deductions from reported annual building emissions.** The department may authorize a deduction from the annual building emissions required to be reported by an owner pursuant to section 28-320.3 where the owner demonstrates the purchase of greenhouse gas offsets or renewable energy credits, or the use of clean distributed energy resources, in accordance with this section.

**§ 28-320.6.1 Deductions from reported annual building emissions for renewable energy credits.** A deduction from the reported annual building emissions shall be authorized equal to the number of renewable energy credits purchased by or on behalf of a building owner, provided (i) the renewable energy resource that is the source of the renewable energy credits is considered by the New York independent system operator to be a capacity resource located in or directly deliverable into zone J load zone for the reporting calendar year; (ii) the renewable energy credits are solely owned and retired by, or on behalf of, the building owner; (iii) the renewable energy credits are from the same year as the reporting year; and (iv) the building that hosts the system producing the energy does not receive a deduction under § 28-320.6.3.  Covered buildings claiming deductions for renewable energy credits under this section must provide the department with the geographic location of the renewable energy resource that created the renewable energy credits. The department, in consultation with the mayor’s office of long term planning and sustainability, shall promulgate rules to implement this deduction.

**§ 28-320.3.6.2 Deductions from reported annual building emissions for purchased greenhouse gas offsets.** For calendar years 2024 through 2029, a deduction shall be authorized for up to 10 percent of the annual building emissions limit. Such a deduction shall be authorized only where within the reporting calendar year, greenhouse gas offsets equivalent to the size of the deduction as measured in metric tons of carbon dioxide equivalent and generated within the reporting calendar year have been (i) purchased by or on behalf of the owner in accordance with an offset standard referenced by rules of the department, (ii) publicly registered in accordance with such offset standard, and (iii) retired or designated to the department for retirement. Such greenhouse gas offsets must exhibit environmental integrity principles, including additionality, in accordance with rules promulgated by the department in consultation with the office of long term planning and sustainability. For the purposes of this section, additionality means a requirement that an offset project is not already required by local, national or international regulations. Prior to the department promulgation of rules, the department shall consult the advisory board on environmental justice as established in local law 64 of 2017.

**§ 28-320.3.6.3 Deductions from reported annual building emissions for clean distributed energy resources.** For calendar years 2024 through 2029, a deduction from the reported annual building emissions shall be authorized based upon the calculated output of a clean distributed energy resource located at, on, in, or directly connected to the building subject to the report. The department shall promulgate rules to set forth how such deduction shall be calculated, in accordance with the following:

1. For a clean distributed energy resource that generates electricity, the department shall establish separate calculations for each type of commercially available clean distributed energy resource, which shall not be revised more frequently than once every three years.

2. For a clean distributed energy resource that stores electricity, the deduction shall be based on the size of the resource and its ability to reduce greenhouse gas emissions during designated peak periods.

**§ 28-320.3.7 Reports.** By May 1, 2025, and by May 1 of every year thereafter, the owner of a covered building shall file with the department a report, certified by a registered design professional, prepared in a form and manner and containing such information as specified in rules of the department, that for the previous calendar year such building is either:

1. In compliance with the applicable building emissions limit established pursuant to section 28-320.3; or

2. Not in compliance with such applicable building emissions limit, along with the amount by which such building exceeds such limit.

**§ 28-320.3.7.1 Extension of time to file report.** An owner may apply for an extension of time to file an annual report required by section 28-320.3.7 in accordance with this section and the rules of the department. An extension may be granted where the owner is unable to file the certified report by the scheduled due date despite such owner’s good faith efforts, as documented in such application. An extension granted pursuant to this section shall not modify the owner’s obligation to comply with the applicable emission limits for such calendar year.

**§ 28-320.3.8 Continuing requirements**. In 2055, the office of building energy and emissions performance shall prepare and submit to the mayor and the speaker of the council recommendations whether to repeal or amend any of the requirements of this article.

**§ 28-320.3.9 Extension for certain income-restricted housing.** This section is applicable to covered buildings that are owned by a limited-profit housing company organized under article 2 of the private housing finance law, or contain one or more dwelling units for which occupancy or initial occupancy is restricted based upon the income of the occupant or prospective occupant thereof as a condition of a loan, grant, tax exemption, or conveyance of property from any state or local governmental agency or instrumentality pursuant to the private housing finance law, the general municipal law, or section 420-c of the real property tax law. Such buildings are exempted from the annual building emissions limits set forth in section 28-320.3.1 and 28-320.3.2 and from any applicable reporting requirements.

**§ 28-320.3.10 Changes in building status.** The department may establish by rule procedures for a building to apply for additional time to comply with the emissions limits when such building converts to a new occupancy group or use with lower emissions limits, or undergoes a change affecting the applicability of this article to such building.

**§ 28-320.4** **Assistance**. The office of building energy and emissions performance shall establish and maintain a program for assisting owners of covered buildings in complying with this article, as well as expand existing programs established to assist owners in making energy efficiency and renewable energy improvements. These programs shall be made available to assist building owners without adequate financial resources or technical expertise.

**§ 28-320.5** **Outreach and education**. The office of building energy and emissions performance shall establish and engage in outreach and education efforts to inform building owners about building emissions limits, building emissions intensity limits and compliance with this article. The materials developed for such outreach and education shall be made available on the office’s website. Such outreach shall include a list of city, state, federal, private and utility incentive programs related to energy reduction or renewable energy for which buildings reasonably could be eligible. The office of building energy and emissions performance shall also provide outreach, education, and training opportunities for buildings’ maintenance and operations staff.

**§ 28-320.6** **Penalties**. An owner of a covered building who has submitted a report pursuant to section 28-320.3.7 which indicates that such building has exceeded its annual building emissions limit shall be liable for a civil penalty of not more than an amount equal to the difference between the building emissions limit for such year and the reported building emissions for such year, multiplied by $268.

**§ 28-320.6.1 Determination of penalty**. In considering the amount of the civil penalty to be imposed pursuant to this article, a court or administrative tribunal shall give due regard to aggravating or mitigating factors including:

1. The respondent’s good faith efforts to comply with the requirements of this article, including investments in energy efficiency and greenhouse gas emissions reductions before the effective date of this article;

2. The respondent’s history of compliance with this article;

3. The respondent’s compliance with the conditions of any adjustment to the applicable building emissions limit, issued by the department pursuant to section 28-320.7;

4. Whether the non-compliance was directly related to unexpected and unforeseeable events or conditions during the calendar year outside the control of the respondent;

5. The respondent’s access to financial resources; and 6. Whether payment of such penalty would impact the operations of facilities critical to human life or safety .

**§ 28-320.6.2 Civil penalty for failure to file report**. It shall be unlawful for the owner of a covered building to fail to submit an annual report as required by section 28-320.3.7 on or before the applicable due date. An owner of a covered building subject to a violation for failure to file a report shall be liable for a penalty of not more than an amount equal to the gross floor area of such covered building, multiplied by $0.50, for each month that the violation is not corrected within the 12 months following the reporting deadline; provided, however, that an owner shall not be liable for a penalty for a report demonstrating compliance with the requirements of this article if such report is filed within 60 days of the date such report is due.

**§ 28-320.6.3 False statement**. It shall be unlawful to knowingly make a material false statement in a report or other submission filed with the department, pursuant to this article. A violation of this section shall be a misdemeanor and subject to a fine of not more than $500,000 or imprisonment of not more than 30 days or both such fine and imprisonment. A person who violates this section shall also be liable for a civil penalty of not more than $500,000.

**§ 28-320.6.4 Penalty recovery.** Civil penalties provided for by this article may be recovered in a proceeding before an administrative tribunal within the jurisdiction of the office of administrative trials and hearings. Administrative summonses returnable to such tribunal for violations of this article may be issued by the department or by an agency designated by the department. Civil penalties provided for by this article may also be recovered in an action by the corporation counsel in any court of competent jurisdiction.

**§ 28-320.7. Adjustment to applicable annual building emissions limit**. The department, in consultation with the mayor’s office of long term planning and sustainability or any other agency designated by the mayor, may grant an adjustment of the annual building emissions limit applicable to a covered building in existence on the effective date of this article or for which a permit for the construction of such building was issued prior to such effective date, provided that the owner is complying with the requirements of this article to the maximum extent practicable.

1. Such an adjustment may be granted upon a specific determination that:

1.1. Capital improvements are necessary for strict compliance with the limit set forth in section 28-320.3 and it is not reasonably possible to make such improvements due to (i) a constraint imposed by another provision of law including but not limited to designation as a landmark, landmark site, interior landmark, or within a historic district pursuant to chapter 3 of title 25 of the administrative code, or (ii)  a physical condition of the building or building site including but not limited to lack of access to energy infrastructure, space constraints, or lack of access to a space within a building covered by a lease in existence on the effective date of this section;

1.2. The owner has made a good faith effort to purchase greenhouse gas offsets to comply with section 28-320.3 but a sufficient quantity is not available at a reasonable cost; and

1.3. The owner has availed itself of all available city, state, federal, private and utility incentive programs related to energy reduction or renewable energy for which it reasonably could participate.

2. Such an adjustment may be granted upon a specific determination that:

2.1. The cost of financing capital improvements necessary for strict compliance with the limit set forth in section 28-320.3 would prevent the owner of a building from earning a reasonable financial return on the use of such building or the building is subject to financial hardship as defined in this article. In evaluating the ability of an owner to earn a reasonable financial return, the department may consider future savings expected from such capital improvements;

2.2. The owner is not eligible for any program funded by the city or enabled by a local law that provides financing for the purpose of energy reduction or sustainability measures. Proof of ineligibility for financing must be demonstrated by rejection from any such program funded by the city or enabled by a local law or an affidavit explanation why such owner could not reasonably participate in such programs;

2.3. The owner has made a good faith effort to purchase greenhouse gas offsets or renewable energy credits to comply with section 28-320.3 but a sufficient quantity is not available at a reasonable cost; and

2.4. The owner has availed itself of all available city, state, federal, private and utility incentive programs related to energy reduction or renewable energy for which it reasonably could participate.

**§ 28-320.7.1 Effective period.** An adjustment granted pursuant to item 1 of section 28-320.7 may be effective for a period of not more than three calendar years. An adjustment granted pursuant to item 2 of such section may be effective for a period of not more than one calendar year.

**§ 28-320.7.2 Application.** An application for such an adjustment shall be made in the form and manner determined by the department and certified by a registered design professional.

**§ 28-320.8 Adjustment to applicable annual building emissions limit for calendar years 2024-2029.** The department may grant an adjustment of the annual building emissions limit for calendar years 2024 through 2029 applicable to a covered building in existence on the effective date of this article where such covered building emissions in calendar year 2018 exceeds the building emissions limit as prescribed by section 28-320.3.1 by more than 40 percent, as reported to the department by a registered design professional. The adjustment shall result in a required building emissions limit that is 70 percent of the calendar year 2018 building emissions for the covered building. Such adjustment may be granted where:

1. The owner of a covered building demonstrates that the building emissions in excess of the building emissions limit is attributable to special circumstances related to the use of the building, including but not limited to 24 hour operations, operations critical to human health and safety, high density occupancy, energy intensive communications technologies or operations, and energy-intensive industrial processes;

2. The owner of a covered building demonstrates that the energy performance of the covered building is equivalent to a building in compliance with the New York city energy conservation code in effect on January 1, 2015; and

3. The owner of the covered building has submitted a plan to the department setting forth a schedule of alterations to the covered building or changes to the operations and management of the covered building sufficient to ensure that the covered building will be in compliance with the annual building emissions limits for calendar years 2030 through 2034, as required by section 28-320.3.2.

**§ 28-320.8.1 Effective period.** An adjustment granted pursuant to section 28-320.8 may be effective for the reporting years 2025 through 2030, as prescribed by section 28-320.3.7, provided that the certificate of occupancy has not been amended after December 31, 2018.

**§ 28-320.8.1.1 Extension of effective period.** The commissioner may also grant an extension of the effective period of the adjustment to applicable annual building emissions limit for calendar years 2030-2035, as prescribed by section 28-320.3.8. Such extension may be granted upon submission of a schedule of alterations to the covered building or changes to the operations and management of the covered building in accordance with section 28-320.8 sufficient to ensure that by 2035 the covered building will comply with a required building emissions limit that is 50 percent of the reported 2018 building emissions for the covered building.

**§ 28-320.8.2 Application.** An application for an adjustment shall be submitted to the department before July 1, 2021 in the form and manner determined by the department and certified by a registered design professional.

**§ 28-320.9 Adjustment to applicable annual building emissions limit for not-for-profit hospitals and healthcare facilities.** The department shall grant an adjustment of the annual building emissions limits for calendar years 2024-2029 and 2030-34 where:

1. The building is classified as a not-for-profit hospital, not-for-profit health center, or not-for-profit HIP center, in existence on the effective date of this article; and

2. By no later than July 21, 2021, the owner of the covered building submits an application to the department for such adjustment in a form and manner prescribed by the department.

For calendar years 2024 through 2029, the adjustment shall result in the covered building being subject to an emissions limit that is 85 percent of the calendar 2018 building emissions for such covered building. For calendar years 2030 through 2034, the adjustment shall result in the covered building being subject to an emissions limit that is 70 percent of the calendar 2018 building emissions for such covered building.

**§ 28-320.10 Fee schedule**. The department may establish by rule a schedule of fees that shall be paid upon the filing of a report or an application for an adjustment to the applicable building emissions limit pursuant to this article. Such schedule may include a fee for the late filing of a report.

**§ 28-320.11** **Carbon trading study**. The office of long term planning and sustainability shall conduct a study on the feasibility of a citywide trading scheme for greenhouse gas emissions from buildings and submit a report and implementation plan with the findings of such study to the mayor and the speaker of the council no later than January 1, 2021. Such study shall include methods to ensure equitable investment in environmental justice communities that preserve a minimum level of benefits for all covered buildings and do not result in any localized increases in pollution.  Such study shall also include an approach to a marketplace for credit trading, pricing mechanisms, credit verification, and mechanisms for regular improvement of the scheme. Such study should also consider the reports and recommendations of the advisory board.

§ 6. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new article 321 to read as follows:

**ARTICLE 321**

**ENERGY CONSERVATION MEASURE REQUIREMENTS FOR Certain Buildings**

**§ 28-321.1 Definitions.** As used in this article, the following terms shall have the following meanings:

**COVERED BUILDING.**The term “covered building” means a building (i) containing one or more dwelling units with a legal regulated rent pursuant to the emergency tenant protection act of 1974, the rent stabilization law of 1969 or the local emergency housing rent control act of 1962, (ii) containing one or more dwelling units required by law to be registered and regulated pursuant to the emergency tenant protection act of 1974 or the rent stabilization law of 1969, (iii) buildings developed with subsidies received pursuant to section 1701q of title 12 of the United States code and (iv) buildings participating in a project-based assistance program pursuant to section 1473f of title 42 of the United States code , (v) real estate owned by any religious corporation located in the city of New York as now constituted, actually dedicated and used by such corporation exclusively as a place of public worship and, as it appears in the records of the department of finance, (i) a building that exceeds 25,000 gross square feet or (ii) two or more buildings on the same tax lot that together exceed 50,000 gross square feet (9290 m2), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 50,000 gross square feet (9290 m2).

**Exceptions**:

1. Real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the HVAC systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than two dwelling units, as certified by a registered design professional to the department.

2. An industrial facility primarily used for the generation of electric power or steam.

3. A covered building as defined in article 320.

**§ 28-321.2 Required energy conservation measures for certain buildings.** A covered building must comply with either section 28-321.2.1 or section 28-321.2.2.

**§ 28-321.2.1 Energy compliant buildings.** The owner of a covered building shall demonstrate that, for calendar year 2024, the annual building emissions of such covered building did not exceed what the applicable annual building emissions limit would be pursuant to section 28-320.3.2 if such building were a covered building as defined in article 320 of this chapter.

**§ 28-321.2.2 Prescriptive energy conservation measures.** By December 31, 2024, the owner of a covered building shall ensure that the following energy conservation measures have been implemented where applicable:

1. Adjusting temperature set points for heat and hot water to reflect appropriate space occupancy and facility requirements;

2. Repairing all heating system leaks;

3. Maintaining the heating system, including but not limited to ensuring that system component parts are clean and in good operating condition;

4. Installing individual temperature controls or insulated radiator enclosures with temperature controls on all radiators;

5. Insulating all pipes for heating and/or hot water;

6. Insulating the steam system condensate tank or water tank;

7. Installing indoor and outdoor heating system sensors and boiler controls to allow for proper set-points;

8. Replacing or repairing all steam traps such that all are in working order;

9. Installing or upgrading steam system master venting at the ends of mains, large horizontal pipes, and tops of risers, vertical pipes branching off a main;

10. Upgrading lighting to comply with the standards for new systems set forth in section 805 of the New York city energy conservation code and/or applicable standards referenced in such energy code on or prior to December 31, 2024. This provision is subject to exception 1 in section 28-310.3, provided that July 1, 2010 is replaced by January 1, 2020 for the purposes of this section;

11. Weatherizing and air sealing where appropriate, including windows and ductwork, with focus on whole-building insulation;

12. Installing timers on exhaust fans; and

13. Installing radiant barriers behind all radiators.

**§ 28-321.3 Reports.** By May 1, 2025, an owner of a covered building shall submit a report to the department to demonstrate compliance with this section in accordance with section 28-321.3.1 or section 28-321.3.2.

**§ 28-321.3.1 Energy compliant buildings reports.** The owner of a covered building shall file with the department a report, certified by a registered design professional, prepared in a form and manner and containing such information as specified in rules of the department, that for calendar year 2024 such building was in compliance with the applicable building emissions limit established pursuant to section 28-320.3.2.

**§ 28-321.3.2** **Prescriptive energy conservation measures reports.** A retro-commissioning agent, as defined in article 308, shall prepare and certify a report in a form and manner determined by the department. The report shall include such information relating to the completion of the prescriptive energy conservation measures as shall be set forth in the rules of the department including, at a minimum:

1. Project and team information:

1.1. Building address.

1.2. Experience and certification of persons performing the prescriptive energy conservation measures and any staff involved in the project.

1.3. Name, affiliation, and contact information for persons performing the prescriptive energy conservation measures, owner of building, and facility manager of building.

2. Building information:

2.1. List of all HVAC, domestic hot water, electrical equipment, lighting, and conveyance equipment types serving the covered building.

**§ 28-321.4 Penalties.** Penalties that may be assessed for violations of section 28-321.2 shall be determined by department rule.

§ 7. This local law takes effect 180 days after it becomes law, except that prior to such effective date the department of buildings and the office of long term planning and sustainability may take such measures as are necessary for the implementation of this local law, including the promulgation of rules.

NKA/APB

LS 145

11:24pm

4/10/19

Proposed Int. No. 1317-A

By Council Members Constantinides, The Speaker (Council Member Johnson), Rosenthal, Vallone, Menchaca, Kallos, Rodriguez, Dromm, Lander, Maisel and Ulrich

..Title

A Local Law to amend the administrative code of the city of New York, and the New York city building code, in relation to large wind turbines

..Body

Be it enacted by the Council as follows:

Section 1. Section 232.1 of the administrative code of the city of New York, as added by local law number 105 for the year 2018, is amended to read as follows:

§ 24–232.1  [Small wind] Wind turbines. No person shall cause or permit operation of a small wind turbine, as such term are defined in section 3113.2 of the New York city building code, or a large wind turbine as such term is defined in section 3114.2 of the New York city building code, so as to create a sound level in excess of 5 db(A) above the ambient sound level, as measured at the property line or at an elevated receptor of the property containing the nearest occupied building.

§ 2. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new article 320 to read as follows:

**ARTICLE 320**

**MAINTENANCE AND REMOVAL OF large WIND TURBINES**

**§ 28-320.1 Maintenance.** The owner of a large wind turbine or large wind turbine tower, as such terms are defined in section 3114.2 of the New York city building code, shall maintain such turbine and tower in accordance with department rules.

**§ 28-320.2 Removal.** The owner of a large wind turbine, as such term is defined in section 3114.2 of the New York city building code, shall remove such turbine when (i) the time elapsed since the installation of such turbine exceeds the manufacturer’s suggested useful life of such turbine or (ii) such turbine has been continuously inoperable for 12 months or more, whichever occurs sooner, provided that the commissioner shall by rule establish a timeframe for removing large wind turbines that do not have manufacturer’s suggested useful lives.

§**28-320.3 Locking before hurricane or strong wind conditions.** If a hurricane or strong wind conditions are expected, the commissioner may order that large turbines equipped with passive locks be stopped and locked.

**§28-320.4 Lighting.** A large wind turbine shall not be artificially lighted.

**Exception:** Lighting that is required by this code or other applicable laws or rules, provided that such lighting is shielded in accordance with rules promulgated by the commissioner.

§ 3. Chapter 31 of the New York city building code is amended by adding a new section BC 3114 to read as follows:

**SECTION BC 3114**

**large WIND TURBINES**

**3114.1 General.** Large wind turbines shall be designed and constructed in accordance with this section.

**3114.2 Definitions.** The following words and terms shall for the purposes of this section have the meanings shown herein.

**Large WIND TURBINE.** A turbine with a swept area greater than 200 m².

**large WIND TURBINE TOWER.** A structure that supports a large wind turbine.

**3114.3 Design standards.** A large wind turbine shall be designed in accordance with standards adopted by rules of the commissioner. Such standards shall include but need not be limited to standards relating to the design of large wind turbines that are developed by the American Wind Energy Association, the New York State Energy Research and Development Authority, the California Energy Commission, the European Wind Turbine Certification, the British Wind Energy Association, the International Electrotechnical Commission, the National Renewable Energy Laboratory, or the Underwriters Laboratory.

**3114.4 Wind speed.** A large wind turbine shall be designed to withstand winds of up to and including 130 mph (58.1 m/s) or such higher wind load as may be specified in this code or the design standard for such turbine pursuant to Section 3114.3.

**3114.5 Brakes and locks.** Where necessary for public safety, the commissioner may require that a large wind turbine shall be equipped with a redundant braking system and a passive lock, including aerodynamic overspeed controls and mechanical brakes.

**3114.6 Visual appearance.** A large wind turbine shall be white, off-white, grey, or another non-obtrusive color specified by the commissioner.

**3114.8 Access.** Access to a large wind turbine shall be limited as follows:

1. Access to electrical components of a large wind turbine shall be prevented by a lock.

2. A large wind turbine tower shall not be climbable, except by authorized personnel, up to a height of 10 feet (3048 mm) measured from the base of such tower.

**3114.9 Noise.** A large wind turbine shall be designed to comply with the sound level limit of section 24-232.1 of the Administrative Code.

**3114.10 Shadow flicker.** The commissioner shall by rule establish shadow flicker limitations for large wind turbines for the purpose of limiting, to the extent practicable, such flicker on buildings adjacent to such turbines.

**3114.11 Signal interference.** The commissioner shall establish rules governing large wind turbines for purpose of minimizing, to the extent practicable, interference by such turbines with radio, telephone, television, cellular or other similar signals.

**3114.12 Setback.** No part of a large wind turbine or large wind turbine tower shall be located within a horizontal distance of a property line that is equal or less than one-half the height of such turbine, including such tower, measured from the base of such tower or, if there is no such tower, the base of such turbine.

**Exception:** A turbine or tower for which each owner of property adjacent to such property line has entered into a written agreement providing that such turbine or tower or a part thereof may be located closer to such property line than this section allows.

§ 4. This local law takes effect 180 days after it becomes law, except that the commissioner of buildings and the commissioner of environmental protection may take such measures as are necessary for its implementation, including the promulgation of rules, before such date.

SS

LS 3,414

12/6/18 11:37 a.m.

Proposed Int. No. 1318-A

By Council Members Constantinides, The Speaker (Council Member Johnson), Cabrera, Rosenthal, Cohen, Rodriguez, Menchaca, Dromm, Powers, Maisel, Vallone, Adams, Espinal, Richards, Kallos and Lander

..Title

A Local Law to amend the administrative code of the city of New York, in relation to an assessment of the replacement of gas-fired power plants and to amend local law number 248 for the year 2017, in relation to the completion date of the long-term energy plan

..Body

Be it enacted by the Council as follows:

Section 1. The introductory paragraph of subdivision d of section 3-126 is amended to read as follows:

d. The administering agency shall submit to the mayor and the speaker of the council, and make publicly available online, a long-term energy plan, in conjunction with the plan developed in accordance with subdivision e of section 20 of the New York city charter. Such plan must be completed by December 31, 2021, and shall be updated every four years thereafter. The advisory subcommittee established by this section shall provide, as needed, advice and recommendations with respect to the development of such plan, which shall include, but not be limited to:

§ 2. Section 3-126 of the administrative code of the city of New York is amended by adding a new subdivision g to read as follows:

g. The long-term energy plan developed in accordance with subdivision d of this section shall include the following:

1. An assessment of the feasibility of replacing in-city gas-fired power plants associated with the bulk power system with battery storage powered by renewable energy sources in a manner that is consistent with the New York state public service commission energy storage deployment policy developed pursuant to section 74 of the public service law;

2. An assessment of when such replacement, if feasible, can take place; and

3. A review of potential technologies for battery storage of energy.

§ 3. Section 2 of local law number 248 for the year 2017 is amended to read as follows:

This local law takes effect immediately[; provided, however, that the plan required by subdivision d of section 3-126 of the administrative code of the city of New York, as added by this local law, shall be completed by December 31, 2019 and shall be updated every four years thereafter].

§ 4. This local law takes effect immediately.

SS

LS #7643

4/10/19 5:12pm

Res. No. 66

..Title

Resolution calling upon the State Legislature to pass, and the Governor to sign, legislation that would increase the real property tax abatement for the installation of a green roof to $15 per square foot

..Body

By Council Members Levin, The Speaker (Council Member Johnson), Brannan, Yeger and Cohen

Whereas, New York State law provides a one-time real property tax abatement for the installation of green roofs within New York City; and

Whereas, Section 499-bbb of the State Real Property Tax Law provides a real property tax abatement to the owners of class one, two, or four properties who install or have installed green roofs on such properties; and

Whereas, To be eligible for the tax abatement, the green roof must cover at least 50 percent of the eligible rooftop space and can include a weatherproof and waterproof roofing membrane layer; a root barrier layer; an insulation layer; a drainage layer that is designed so the drains can be inspected and cleaned; a growth medium with a depth of at least two inches; an independent water holding layer, for growth mediums less than three inches, that is designed to prevent the rapid drying of the growth medium; or certain vegetation layers; and

Whereas, The law currently provides for a tax abatement at varying levels depending on the year that the tax abatement is claimed; and

Whereas, According to the United States Environmental Protection Agency, the cost of installing a green roof could be $25 per square foot; and

Whereas, However, the existing tax abatement is far less than this cost; and

Whereas, For tax abatements claimed between July 1, 2009 and June 30, 2014, the amount of the tax abatement is $4.50 per square foot of green roof, but not more than the lesser of $100,000 or the amount of taxes owed that year for the eligible building; and

Whereas, For tax abatements claimed between July 1, 2014 and June 30, 2019, the amount of the tax abatement is $5.23 per square foot of green roof, but not more than the lesser of $200,000 or the amount of taxes owed that year for the eligible building; and

Whereas, While the existing tax abatement is helpful, because of the disparity between the cost to install a green roof and the amount of the tax abatement, it does not provide a meaningful incentive for people to build green roofs; and

Whereas, An increased tax abatement amount would provide a greater incentive for property owners to build green roofs and contribute to the greening of the City; and

Whereas, The City also recognizes the benefits of green roof installation and encourages their use; and

Whereas, For example, the City’s Department of Environmental Protection offers a Green Infrastructure Grant Program which funds the design and construction of certain green infrastructure projects, including green roofs, on private property in certain areas of the City; and

Whereas, In 2014, the grant program awarded more than $3,000,000 to fund six projects, five of which included a green roof component; and

Whereas, The State and the City both understand the importance of promoting green infrastructure and, therefore, the tax abatement to incentivize green roof installation should be deepened to reflect the actual cost of installing a green roof; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the State Legislature to pass, and the Governor to sign, legislation that would increase the real property tax abatement for the installation of a green roof to $15 per square foot.

RKC

LS #3024

01/09/2018

Res. No.

Resolution calling upon the New York State Department of Environmental Conservation to deny the Water Quality Certification permit for the construction of the Northeast Supply Enhancement pipeline through New York Harbor

By Council Members Constantinides, The Speaker (Council Member Johnson) and Richards

Whereas, The Northeast Supply Enhancement pipeline proposed by Williams Companies Inc. (Williams) would carry natural gas extracted from the ground via the process of hydraulic fracturing to customers in lower New York by connecting to an existing pipeline across New York Harbor; and

Whereas, Natural gas can be comprised of anywhere from 70 to 90% methane which is a more potent greenhouse gas than carbon dioxide, as it traps heat in the earth’s atmosphere by 30 to 80 times in magnitude; and

Whereas, A recent NASA study into atmospheric methane levels has identified oil and gas exploration as a major contributor to the sharp rise in methane concentrations beginning in 2006; and

Whereas, Further, multiple studies by various researchers have found methane leakage from hydraulic fracturing operations at rates much higher than the levels that industry reports suggest; and

Whereas, The State of New York has committed to a 50% reduction in greenhouse gas emissions by 2030, and New York City has committed to an 80% reduction in greenhouse gas emissions by 2050; and

Whereas, The State of New York has also committed to 9,000 megawatts of offshore wind energy by 2035, and 6,000 megawatts of solar energy by 2025, which will reduce the need for new fossil fuel infrastructure; and

Whereas, The City and State’s emissions reduction goals cannot be reached without a shift away from fossil fuels and an increased reliance on renewable energy generation; and

Whereas, The United States (U.S.) Energy Information Administration’s forecast for natural gas use is flat due to a downward trend in demand, efficiency gains in new equipment, and an increased load capture by the renewable energy sector; and

Whereas, Williams’ projection of a 10% increase in demand is contradicted by analyses by the New York Independent System Operator, the Long Island Power Authority, and the U.S. Energy Information Administration; and

Whereas, The construction of the Northeast Supply Enhancement pipeline will require trenching through under water sediment heavily contaminated with toxins such as polychlorinated biphenyls, arsenic, and lead; and

Whereas, The act of trenching would uncover these toxic sediments, releasing them back into the environment and back into the food chain; and

Whereas, Many of these toxins are known to bio-accumulate in marine life, posing a serious threat to the marine ecosystem, including many important or endangered species of fish, marine mammals, sea turtles, and invertebrates; and

Whereas, The bioaccumulation of polychlorinated biphenyls, arsenic, and lead, in sea-life poses a threat to the Mid Atlantic fishing industry, as well as to the health of anyone who consumes the products of said industry; and

Whereas, A study published by the Journal of Science in 2018 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, 2.3% of the total annual extracted supply; and

Whereas, According to another study from the Yale School of Forestry and Environmental Studies’ Journal of Industrial Ecology, published in 2016, an increase to 4% leakage would negate any emission reduction gains made by switching from coal to natural gas; and

Whereas, Williams Companies has been reported to have at least 64 environmental violations since the year 2000; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Department of Environmental Conservation to deny the Water Quality Certification permit for the construction of the Northeast Supply Enhancement pipeline through New York Harbor.

NRC

LS# 7706

4/02/19