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**THE COUNCIL**

COMMITTEE REPORT OF THE Land Use Division

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**COMMITTEE ON LAND USE**

**Hon. Rafael Salamanca, Jr., Chair**

**SUBCOMMITTEE ON ZONING AND FRANCHISES**

**Hon. Francisco Moya, Chair**

**May 7, 2019**

**Int. No. 1487**: By Council Members Moya, Gjonaj, Chin, Salamanca, Kallos, Reynoso, Powers, Adams, Rosenthal, Ayala, Cumbo, Rose, Cornegy, Grodenchik, Barron, Constantinides, Deutsch, Gibson, Lancman, Miller, Rivera, and Torres

**Title:** A Local Law to amend the New York city charter, in relation to studying the incidence of secondary displacement resulting from neighborhood rezonings

**Charter:** Adds a new § 1807

**Int. No.1523**: By Council Members Gjonaj and Kallos

**Title:** A Local Law to amend the New York city charter, in relation to studying and reporting on transportation impacts of decisions of the city planning commission in connection with certain land use actions

**Charter:** Adds a new § 207

**Int. No.1531**: By Council Members Moya and Kallos

**Title:** A Local Law to amend the New York city charter, in relation to studying and reporting on the education capacity and overcrowding impacts of decisions of the city planning commission in connection with certain land use actions

**Charter:** Adds a new § 207

**Int. No. 252:** By Council Members Reynoso and Kallos

**Title:** A Local Law to amend the New York city charter, in relation to tracking mitigation strategies in final environmental impact statements as part of the uniform land use review process

**Charter:** Amends § 206

**Res No. 9**: By Council Member Barron

**Title:** Resolution calling on the Mayor, the Mayor's Office of Environmental Coordination, the New York City Planning Commission, the New York City Department of City Planning, and all other relevant City agencies to re-examine the standards in the CEQR regulations and the Technical Manual for assessing when a possible adverse impact on a neighborhood's character or socioeconomic status requires a detailed analysis and possible mitigation, and calling on the relevant agencies, when such significant adverse impacts are identified, consistently to seek mitigation or development alternatives that provide long-term or permanent protection for the residents, businesses, and character of the affected community, including through the provision of permanently affordable housing and commercial space.

1. **Introduction**

On May 7, 2019, the Committee on Land Use, jointly with its Subcommittee on Zoning & Franchises, will hear four bills and a resolution related to environmental impacts statements (EIS) prepared in connection with land use actions: Introduction No. 252 by Council Member Reynoso, Int. No. 1487 by Council Member Moya, Int. No. 1523 by Council Member Gjonaj, Int. No. 1531 by Council Member Moya, and Resolution No. 9 by Council Member Barron. Representatives of the Mayor’s Office of Environmental Coordination (MOEC), the City Planning Commission (CPC), the Department of City Planning (DCP), the Department of Education (DOE), the School Construction Authority (SCA), the Department of Transportation (DOT), and the Department of Housing Preservation and Development (HPD), as well as advocates, experts, and stakeholders have been invited to testify.

1. **Summary of Legislation**

Consistent with the State Environmental Quality Review Act (SEQRA) all land use applications that are subject to the Uniform Land Use Review Process (ULURP) and all applications for changes to the Zoning Resolution must be analyzed in accordance with City Environmental Quality Review (CEQR) procedures to determine whether an environmental impact statement (EIS) must be prepared in connection with the proposed action.[[1]](#footnote-1) If a determination is made that a proposed action is likely to have significant impacts on the environment, the lead agency must prepare, or cause to be prepared, an Environmental Impact Statement (EIS).[[2]](#footnote-2) SEQRA further requires that when a local agency decides to approve an action which has been the subject of an EIS, such agency shall make an explicit finding that to the maximum extent practicable, adverse environmental effects revealed in the EIS process will be minimized or avoided.[[3]](#footnote-3) As a consequence, an EIS that fails to accurately project adverse environmental impacts may not trigger mandatory mitigation measures to address likely impacts. However, even if an EIS does trigger such mitigation measures, the implemen0tation of such measures could be years after the final approval of the application and after the elected officials who approved the actions have left office, presenting challenges to enforcement of such mitigation measures over time.

Introduction Nos. 1487, 1523, and 1531 would address the accuracy of environmental impact statements by requiring a retrospective analysis of land use actions to review whether the EIS accurately projected the adverse environmental impacts with respect to secondary residential displacement, transportation, and school capacity and overcrowding. Introduction No. 252 would make it easier to track the implementation of mitigation measures over time by requiring that mitigation measures incorporated into an EIS produced in connection with large land use actions be included in the City’s publicly available online database that tracks for mayoral commitments made in connection with neighborhood rezonings.[[4]](#footnote-4) Resolution No. 9 would call on the CPC and the MOEC to review the thresholds set forth in the CEQR Technical Manual that establish when detailed analysis of potential socioeconomic impacts must be performed.

**Int. No. 1487, A Local Law to amend the New York city charter, in relation to studying the incidence of secondary displacement resulting from neighborhood rezonings**

The CEQR Technical Manual (CEQR TM) defines secondary (or indirect) displacement as the involuntary displacement of residents, businesses, or employees that results from a change in socioeconomic conditions created by a change in land use.[[5]](#footnote-5) According to the CEQR technical manual, “A socioeconomic assessment should be conducted if a project may be reasonably expected to create socioeconomic changes, such as rising rents, within the area affected by the project that would not be expected to occur without the project.”[[6]](#footnote-6)

The objective of the secondary residential displacement analysis is to determine whether the proposed project may introduce a trend or accelerate a trend of changing socioeconomic conditions that may potentially displace a population of renters living in units not protected by rent stabilization, rent control, or other government regulations restricting rents.[[7]](#footnote-7) If the displacement analysis concludes that the change in land use will introduce or accelerate such a trend, the CEQR TM requires a detailed assessment to determine whether the population living within the unprotected units may be at risk of secondary displacement under the proposed project because that population’s incomes are too low to afford increases in rents.[[8]](#footnote-8) The CEQR TM states that generally, if the detailed assessment identifies a vulnerable population potentially subject to secondary displacement that exceeds 5 percent of the study area population– or relevant sub-areas, if the vulnerable population is located within the subarea identified – the project may substantially affect the socioeconomic character of the study area, and a significant adverse impact may occur.[[9]](#footnote-9) If the detailed assessment identifies such a vulnerable population, mitigation measures should also be identified.[[10]](#footnote-10)

Introduction No. 1487 by Council Member Moya would seek to determine whether the projections of secondary displacement in connection with neighborhood rezonings is accurate and properly mitigated. The bill would add a new Section 1807 to the New York Charter to require HPD to conduct a study of secondary displacement resulting from either a land use action subject to ULURP or an amendment to the Zoning Resolution approved by the CPC on or after January 1, 2015 on which the city or a non-profit controlled by mayoral appointees is the applicant and that involves at least four adjacent blocks of real property. The study would be required to cover a period from the approval of the action to a five years after such date. If the study reveals a significant disparity between the actual secondary displacement and that projected in the EIS, HPD would be required to make recommendations for changing the methodology of the CEQR Technical Manual to better project such displacement in the future.

**Int. 1523, A Local Law to amend the New York city charter, in relation to studying and reporting on transportation impacts of decisions of the city planning commission in connection with certain land use actions**

The CEQR Technical Manual prescribes a level of service (LOS) methodology for analyzing traffic, transit, and pedestrian impacts.[[11]](#footnote-11) LOS methodology measures the number of trips by a given modality (e.g. private car, taxi, subway/rail, bus, ferry, bicycle, by foot) that utilize a specific transportation resource (e.g. traffic intersections, subway platforms, sidewalks) relative to a LOS index for the particular resource.[[12]](#footnote-12) In effect, LOS measures the expected utilization of transportation resources against the capacity of transportation resources to determine whether the proposed land use action will require mitigation. LOS models do not measure the impacts or results of the use of transportation resources, such as auto emissions. To better predict the greenhouse gas impacts of a proposed development, some jurisdictions use a vehicle miles traveled (VMT) model.[[13]](#footnote-13) VMT methodology analyzes the total number of vehicle miles that will be traveled to and from a destination that is the subject of a proposed land use action.[[14]](#footnote-14) This method is considered more appropriate for measuring a project’s transportation impacts because it directly relates to long term climate goals, protection of human health and protection of the natural environment.

Int. No. 1523 by Council Member Gjonaj would require retrospective reviews of land use actions certified after January 1, 2015, to compare the actual transportation impacts to the impacts projected in the related EIS. The studies would be required for actions subject to ULURP and amendments of the Zoning Resolution that involve at least four adjacent blocks of real property. DCP, or the lead agency, in coordination with the DOT, would be required to conduct studies four and ten years after approval of such an action. The relevant agency would be required to report on such studies to the mayor, the speaker of the council, the affected borough president, the affected community board, and the affected council member. If a study reveals an impact not discussed in the EIS or a disparity of more than five percent between the significance of an actual impact and the projected significance, DCP or the lead agency would be required to make recommendations for how to amend the CEQR Technical Manual to more accurately predict such impacts in the future. The bill would also require an analysis of the project’s transportation impacts using the VMT methodology and a discussion of the benefits of such analysis relative to an LOS methodology.

**Int. 1531, A Local Law to amend the New York city charter, in relation to studying and reporting on the education capacity and overcrowding impacts of decisions of the city planning commission in connection with certain land use actions**

New York City has a significant school overcrowding problem. Upzonings bring with them the potential for increases in the number of households with school age children.[[15]](#footnote-15) Currently, the CEQR manual provides that if there is an increase of 5% or more in the collective utilization rate, there may be an impact. However, this methodology fails to account for the fact some districts are already overcrowded, resulting in a threshold that is too high.[[16]](#footnote-16) If an EIS fails to accurately predict the impact of new residential development on the existing school capacity, the environmental analysis may not trigger the construction of new schools to mitigate the projected increase in school age children.[[17]](#footnote-17)

Int. 1531 by Council Member Moya would require retrospective reviews of land use actions certified after January 1, 2015 to compare the actual education capacity and overcrowding impacts caused by such actions to the impacts projected in the related EIS. The studies would be required for actions subject to ULURP and amendments of the Zoning Resolution that involve at least four adjacent blocks of real property. The Department of City Planning (DCP), or the lead agency, in coordination with the Department of Education and the School Construction Authority, would be required to conduct studies four and ten years after approval of such an action. The relevant agency would be required to report on such studies to the mayor, the speaker of the council, the affected borough president, the affected community board, and the affected council member. If a study reveals an impact not discussed in the EIS or a disparity of more than five percent between the significance of an actual impact and the projected significance, DCP or the lead agency would be required to make recommendations for how to amend the CEQR Technical Manual to more accurately predict such impacts in the future.

**Int. No. 252, A Local Law to amend the New York city charter, in relation to tracking mitigation strategies in final environmental impact statements as part of the uniform land use review process**

Introduction No. 252 by Council Member Reynoso, would build on Local Law 175 for the year 2016, which added a new Section 206 to the Charter requiring the establishment of an online searchable list of all commitments made by letter by the mayor in connection with a finally approved land use action subject to City Planning Commission review pursuant to Section 197-c or an amendment to the Zoning Resolution pursuant to Section 200 and 201. Int. No. 252 would amend Section 206 to require that the required online list include any mitigation measures or other project components that would eliminate the potential for an adverse impact identified in a final EIS, conditional negative declaration, or environmental assessment statement (EAS) prepared in connection with a covered project. Introduction No. 252 would distinguish environmental mitigation which may be incorporated by an applicant during the course of environmental review (which may not otherwise be specified in a letter by the mayor) and those commitments made in such a mayoral letter that are unrelated to environmental impacts identified during CEQR. By building on Local Law 175 in this way, Int. No. 252 would provide additional transparency and accountability for an applicant’s commitment to follow through on planning goals.

**Resolution No. 9, Resolution calling on the Mayor, the Mayor’s Office of Environmental Coordination, the New York City Planning Commission, the New York City Department of City Planning, and all other relevant City agencies to re-examine the standards in the CEQR regulations and the Technical Manual for assessing when a possible adverse impact on a neighborhood’s character or socioeconomic status requires a detailed analysis and possible mitigation, and calling on the relevant agencies, when such significant adverse impacts are identified, consistently to seek mitigation or development alternatives that provide long-term or permanent protection for the residents, businesses, and character of the affected community, including through the provision of permanently affordable housing and commercial space.**

The CEQR Technical Manual provides guidelines for conducting a preliminary review of environmental impacts to determine whether more detailed analysis is required. Resolution 9 states that the preliminary review thresholds that relate to socioeconomic impacts of major developments underestimate the impact of displacing long-term area residents and businesses, and therefore reduce the mitigation measures that project sponsors might otherwise have to undertake and shield project sponsors from full and transparent public review. Accordingly Resolution 9 calls on the Mayor, MOEC, CPC and DCP to reexamine the CEQR thresholds for socioeconomic impact review and mitigation, and to consistently seek mitigation to avoid displacement of long-timer residents and businesses through the provision of permanently affordable housing and commercial space.

1. **Analysis of Legislation**

Int. No. 1487

Bill section one would amend chapter 61 of the Charter by adding a new section 1807 titled “Secondary displacement studies” containing the provisions described herein.

Subdivision a of new section 1807 would provide that for the purposes of such new section, the following terms would have the following meanings.

The term “block” would have the same meaning given to that term in section 12-10 of the Zoning Resolution.

The term “CEQR technical manual” would mean the City Environmental Quality Review Technical Manual issued in May 2010 by the Mayor’s Office of Environmental Coordination, together with any updates, supplements and revisions thereto.

The term “neighborhood rezoning” would mean an application for an action subject to ULURP described in paragraph 1, 3, 4, 5, 6, 8, 10, or 11 of subdivision a of section 197-c or for a change in the text of the Zoning Resolution pursuant to sections 200 and 201, involving at least four adjacent blocks of real property, filed by the City or a non-profit corporation of which a majority of the members are appointed by the mayor, the City Planning Commission (CPC) decision for which has been approved or approved with modifications by the Council pursuant to section 197-d and is not subject to further action pursuant to subdivisions e or f of such section.

The term “rent regulation” would mean any regulation of residential rents imposed pursuant to local, state, or federal law or pursuant to a regulatory agreement executed by the Department of Housing Preservation and Development (HPD) and a property owner.

The term “secondary displacement” would have the meaning given to that term in chapter 5 of the CEQR technical manual.

The term “study area” would the study area analyzed pursuant to city environmental quality regulations in connection with a proposed neighborhood rezoning.

Subdivision b of new section 1807 would provide that in connection with each neighborhood rezoning certified by the CPC on or after January 1, 2015, HPD would be required to conduct a study of actual residential secondary displacement effects in the study area from the date of final approval of such neighborhood rezoning to a date five years after such date.

Subdivision c of new section 1807 would provide that each study conducted pursuant to subdivision b of such section shall use the data sources and methodology prescribed by the CEQR technical manual for studying secondary displacement that may result from land use actions.

Subdivision d of new section 1807 would provide that no later than six months after the end of the study period described in subdivision b of such section, HPD would be required to report to the mayor and the speaker of the council the findings of such study. The bill would require that such findings discuss similarities and disparities between the actual residential secondary displacement of the subject neighborhood rezoning and the potential for such secondary displacement described in connection with the application for the proposed neighborhood rezoning. If such findings reveal a disparity of more than five percent between the potential for residential secondary displacement discussed in connection with the application and the actual residential secondary displacement effects, such report would be required to make recommendations for amending the CEQR technical manual to more accurately capture the potential residential secondary displacement impacts of future neighborhood rezonings.

Bill section 2 would provide that this local law takes effect 90 days after it becomes law.

Int. No. 1523

Bill section 1 would amend chapter 8 of the Charter by adding a new section 207 titled “Review of actual transportation impacts” containing the provisions described herein.

Subdivision a of new section 207 would provide that for the purposes of such section, the following terms would have the following meanings.

The term “block” would have the same meaning given to that term in section 12-10 of the Zoning Resolution.

The term “CEQR technical manual” would mean the City Environment Quality Review Technical Manual issued in 2014 by the Mayor’s Office of Environmental Coordination, together with any updates, supplements, and revisions thereto.

The term “covered land use action” would mean an application for a matter described in paragraph 1, 3, 4, 5, 6, 8, 10 or 11 of subdivision a of section 197-c or a change in the Zoning Resolution pursuant to sections 200 and 201 that has been approved or approved with modifications by the City Planning Commission (CPC), the CPC decision for which has been approved or approved with modifications by the Council pursuant to section 197-d and is not subject to further action by the mayor pursuant to subdivision e or f of such section, and involves at least 4 adjacent blocks of real property.

The term “EIS” would mean a final environmental impact statement prepared pursuant to chapter 5 of title 62 of the Rules of the City of New York in connection with an application subject to review of the CPC pursuant to section 197-c.

The term “lead agency” would have the meaning given to that term in section 5-02 of title 62 of the Rules and Regulations of the City of New York.

The term “study area” would mean the geographic area or areas analyzed for potential transportation impacts as part of an EIS prepared in connection with a covered land use action.

Subdivision b of new section 207 would provide that in connection with each covered land use action certified by the CPC on or after January 1, 2015, the Department of City Planning (DCP) or, if the CPC is not the lead agency, the lead agency, in coordination with the Department of Transportation (DOT), would be required to conduct studies of transportation impacts in the relevant study area for the following periods:

* from the date of final approval of such covered land use action to a date four years after such final approval; and
* from the date of final approval of such covered land use action to a date 10 years after such final approval.

Subdivision c of new section 207 would provide that every study conducted pursuant to new subdivision b of such section would be required to:

* use the methodology for analyzing existing transportation conditions, as prescribed in the CEQR technical manual, to compare the transportation conditions existing at the time of such study to the projected transportation impacts or lack of impacts identified in the EIS prepared in connection with such covered land use action; and
* analyze whether any mitigation provided for in the EIS offset any potential transportation impact identified in such EIS and provide the date of implementation of each such mitigation measure.

Subdivision d of new section 207 would provide that for each study conducted pursuant to such section, DCP or, if the CPC is not the lead agency, the lead agency, shall report its findings to the mayor, the speaker of the council, the affected borough president, the affected community board, and the affected council member. Subdivision d would require that such findings discuss the reasons for any similarities and disparities between the existing transportation conditions and the projected transportation impacts described in the EIS prepared in the connection with the covered land use action. Subdivision d of new section 207 would further provide that if such findings reveal a disparity in any metric of more than five percent between the potential for such impacts identified in the EIS and the existing transportation condition analyzed pursuant to subdivision c of such section, or if the study reveals any impacts not discussed in an EIS prepared in connection with the application, such report shall include recommendations for amending the CEQR technical manual to more accurately predict the transportation impacts of future land use actions. Subdivision d would require that such recommendations include a discussion of whether a vehicle miles traveled model could more accurately and usefully capture transportation impacts of future land use actions. Finally, subdivision d would require that DCP or the lead agency issue each report prepared pursuant to such subdivision no later than six months after the end of the applicable study period described in subdivision b of such section.

Bill section 2 would provide that this local law would take effect on January 1, 2020.

Int. No. 1531

Bill section 1 would amend chapter 8 of the Charter by adding a new section 207 titled “Review of actual education impacts” containing the provisions described herein.

Subdivision a of new section 207 would provide that for the purposes of such section, the following terms would have the following meanings.

The term “block” would have the same meaning given to that term in section 12-10 of the Zoning Resolution.

The term “capacity” would have the same meaning as such term is used in chapter 6 of the CEQR technical manual in relation to public schools.

The term “CEQR technical manual” would mean the City Environment Quality Review Technical Manual issued in 2014 by the Mayor’s Office of Environmental Coordination, together with any updates, supplements, and revisions thereto.

The term “covered land use action” would mean an application for a matter described in paragraph 1, 3, 4, 5, 6, 8, 10 or 11 of subdivision a of section 197-c or a change in the Zoning Resolution pursuant to sections 200 and 201 that has been approved or approved with modifications by the City Planning Commission (CPC), the CPC decision for which has been approved or approved with modifications by the Council pursuant to section 197-d and is not subject to further action by the mayor pursuant to subdivision e or f of such section, and involves at least 4 adjacent blocks of real property.

The term “EIS” would mean a final environmental impact statement prepared pursuant to chapter 5 of title 62 of the Rules of the City of New York in connection with an application subject to review of the CPC pursuant to section 197-c.

The term “lead agency” would have the meaning given to that term in section 5-02 of title 62 of the Rules and Regulations of the City of New York.

The term “study area” would mean the geographic area or areas analyzed for potential transportation impacts as part of an EIS prepared in connection with a covered land use action.

The term “utilization rate” would have the same meaning as such term is used in chapter 6 of the CEQR technical manual in relation to public schools.

Subdivision b of new section 207 would provide that in connection with each covered land use action certified by the CPC on or after January 1, 2015, the Department of City Planning (DCP) or, if the CPC is not the lead agency, the lead agency, in coordination with the Department of Education (DOE) and the New York City School Construction Authority (SCA), would be required to conduct studies of actual public elementary, intermediate, and high school capacity and overcrowding in the relevant study area for the following periods:

* from the date of final approval of such covered land use action to a date four years after such final approval; and
* from the date of final approval of such covered land use action to a date 10 years after such final approval.

Subdivision c of new section 207 would provide that every study conducted pursuant to new subdivision b of such section would be required to:

* compare the number of dwelling units generated by the covered land use action since final approval of such action to the number of dwelling units projected to be generated, as analyzed in the EIS for such action;
* compare the number of elementary, middle school, and high school students generated by the covered land use action to the number of such students projected to be generated in the EIS for such action; and
* provide an analysis of the following information for each public school, subdistrict and district in the study area:

1. a comparison of the current enrollment, the enrollment at the time of the covered land use action, and the enrollment projected by the EIS prepared in connection with such action;
2. a comparison of the current capacity, the capacity at the time of final approval of the covered land use action, and the capacity projected by the EIS prepared in connection with such action; and
3. a comparison of the current utilization rate, the utilization rate at the time of final approval of the covered land use action, and the utilization rate projected by the EIS prepared in connection with such action.

Subdivision d of new section 207 would provide that for each study conducted pursuant to such section DCP or, if the CPC is not the lead agency, the lead agency, shall report its findings to the mayor, the speaker of the council, the affected borough president, the affected community board, and the affected council member. Subdivision d would provide that such findings shall discuss the reasons for any similarities and disparities between the actual utilization rates and the projected utilization rates described in the EIS prepared in connection with a covered land use action. Subdivision d would further provide that if such findings reveal a disparity in any metric of more than five percent between the potential for such impacts identified in the EIS and the actual effects analyzed pursuant to subdivision c of new section 207, or if the study conducted pursuant to subdivision b of such section reveals any impacts not discussed in an EIS prepared in connection with the application, such report shall make recommendations for amending the CEQR technical manual to more accurately capture and mitigate the potential elementary, intermediate, and high school capacity and overcrowding impacts of future land use actions. Finally, subdivision d would provide that DCP or the lead agency shall issue each report prepared pursuant to such subdivision no later than six months after the end of the applicable study period described in subdivision b.

Bill section 2 would provide that this local law would take effect on January 1, 2020.

Int. No. 252

Bill section 1 would provide that subdivisions c and d of section 206 of the Charter would be amended as follows.

Subdivision c of section 206 would be amended to provide that the publicly accessible online searchable list of land use application commitments established and maintained pursuant to subdivision b that relate to a covered application on which the city or a not-for-profit corporation of which a majority of its members are appointed by the mayor is either an applicant or co-applicant shall include any mitigation measures or other project components that would eliminate the potential for an adverse impact identified in a final environmental impact statement, conditional negative declaration, or environmental assessment statement.

Subdivision d of section 206 would be amended to provide that the publicly accessible online searchable list of land use application commitments maintained pursuant to subdivision b of section 206 that relate to a covered private application shall include any mitigation measures or other project components that would eliminate the potential for an adverse impact identified in a final environmental impact statement, conditional negative declaration, or environmental assessment statement.

Bill section 2 would provide that this local law takes effect 90 days after it becomes law.

Int. No. 1487

By Council Members Moya, Gjonaj, Chin, Salamanca, Kallos, Reynoso, Powers, Adams, Rosenthal, Ayala, Cumbo, Rose, Cornegy, Grodenchik, Barron, Deutsch, Gibson, Lancman, Miller, Rivera and Torres

A Local Law

To amend the New York city charter, in relation to studying the incidence of secondary displacement resulting from neighborhood rezonings

Be it enacted by the Council as follows:

Section 1. Chapter 61 of the New York city charter is amended by adding a new section 1807 to read as follows:

§ 1807 Secondary displacement studies. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Block. The term “block” has the meaning given to that term in section 12-10 of the zoning resolution.

CEQR technical manual. The term “CEQR technical manual” means the city environmental quality review technical manual issued in May 2010 by the mayor’s office of environmental coordination, together with any updates, supplements and revisions thereto.

Neighborhood rezoning. The term “neighborhood rezoning” means an application on which the city or a not-for-profit corporation of which a majority of its members are appointed by the mayor is either the applicant or co-applicant that:

(1) the city planning commission has approved or approved with modifications for a matter described in paragraph one, three, four, five, six, eight, ten, or eleven of subdivision a of section one hundred ninety-seven-c or a change in the text of the zoning resolution pursuant to section two hundred or two hundred one;

(2) the commission decision has been approved or approved with modifications by the council pursuant to section one hundred ninety-seven-d and is not subject to further action pursuant to subdivision e or f of such section; and

(3) involves at least four adjacent blocks of real property.

Rent regulation. The term “rent regulation” means any regulation of residential rents imposed pursuant to local, state, or federal law or pursuant to a regulatory agreement executed by the department and a property owner.

Secondary displacement. The term “secondary displacement” has the meaning given to that term in chapter 5 of the CEQR technical manual.

Study area. The term “study area” means the study area analyzed pursuant to city environmental quality regulations in connection with a proposed neighborhood rezoning.

b. In connection with each neighborhood rezoning certified by the city planning commission on or after January 1, 2015, the department shall conduct a study of actual residential secondary displacement effects in the study area from the date of final approval of such neighborhood rezoning to a date five years after such date.

c. Each study conducted pursuant to subdivision b of this section shall use the data sources and methodology prescribed by the CEQR technical manual for studying secondary displacement that may result from land use actions.

d. No later than six months after the end of the study period described in subdivision b of this section, the department shall report to the mayor and the speaker of the council the findings of such study. Such findings shall discuss similarities and disparities between the actual residential secondary displacement of the subject neighborhood rezoning and the potential for such secondary displacement described in connection with the application for the proposed neighborhood rezoning. If such findings reveal a disparity of more than five percent between the potential for residential secondary displacement discussed in connection with the application and the actual residential secondary displacement effects, such report shall make recommendations for amending the CEQR Technical Manual to more accurately capture the potential residential secondary displacement impacts of future neighborhood rezonings.

§ 2. This local law takes effect 90 days after it becomes law.

JHC

LS #6607

12/3/2018

Int. No. 1523

By Council Members Gjonaj and Kallos

A LOCAL LAW

To amend the New York city charter, in relation to studying and reporting on transportation impacts of decisions of the city planning commission in connection with certain land use actions

Be it enacted by the Council as follows:

Section 1. Chapter 8 of the New York city charter is amended by adding a new section 207 to read as follows

§ 207 Review of actual transportation impacts. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Block. The term “block” has the meaning given to that term in section 12-10 of the zoning resolution.

CEQR technical manual. The term “CEQR technical manual” means the city environmental quality review technical manual issued in 2014 by the mayor’s office of environmental coordination, together with any updates, supplements and revisions thereto.

Covered land use action. The term “covered land use action” means an application that:

(1) the city planning commission has approved or approved with modifications for a matter described in paragraph one, three, four, five, six, eight, ten, or eleven of subdivision a of section 197-c or a change in the text of the zoning resolution pursuant to section two hundred or two hundred one;

(2) the commission decision has been approved or approved with modifications by the council pursuant to section one hundred ninety-seven-d and is not subject to further action pursuant to subdivision e or f of such section; and

(3) involves at least four adjacent blocks of real property.

EIS. The term “EIS” means a final environmental impact statement prepared pursuant to chapter 5 of title 62 of the rules of the city of New York in connection with an application subject to review of the city planning commission pursuant to section 197-c.

Lead agency. The term “lead agency” has the meaning given to that term in section 5-02 of title 62 of the rules and regulations of the city of New York.

Study area. The term “study area” means the geographic area or areas analyzed for potential transportation impacts as part of an EIS prepared in connection with a covered land use action.

Vehicle miles traveled. The term “vehicle miles traveled” means the total annual miles of vehicular travel generated by a covered land use action.

b. In connection with each covered land use action certified by the city planning commission on or after January 1, 2015, the department or, if the city planning commission is not the lead agency, the lead agency, in coordination with the department of transportation, shall conduct studies of transportation impacts in the relevant study area for the following periods:

1. from the date of final approval of such covered land use action to a date four years after such final approval; and

2. from the date of final approval of such covered land use action to a date 10 years after such final approval.

c. Each study conducted pursuant to subdivision b of this section shall:

1. Using the methodology for analyzing existing transportation conditions, as prescribed in the CEQR technical manual, compare such transportation conditions existing at the time of such study to the projected transportation impacts or lack of impacts identified in the EIS prepared in connection with such covered land use action;

2. Analyze whether any mitigation provided for in the EIS offset any potential transportation impact identified in such EIS and provide the date of implementation of each such mitigation measure.

d. For each study conducted pursuant to this section, the department or, if the city planning commission is not the lead agency, the lead agency shall report its findings to the mayor, the speaker of the council, the affected borough president, the affected community board, and the affected council member. Such findings shall discuss the reasons for any similarities and disparities between the existing transportation conditions and the projected transportation impacts described in the EIS prepared in connection with the covered land use action. If such findings reveal a disparity in any metric of more than five percent between the potential for such impacts identified in the EIS and the existing transportation condition analyzed pursuant to subdivision c of this section, or if the study reveals any impacts not discussed in an EIS prepared in connection with the application, such report shall make recommendations for amending the CEQR technical manual to more accurately predict the transportation impacts of future land use actions. Recommendations shall include discussion of whether a vehicle miles traveled model could more accurately and usefully capture transportation impacts of future land use actions. The department or the lead agency shall issue each report prepared pursuant to this subdivision no later than six months after the end of the applicable study period described in subdivision b of this section.

§ 2. This local law takes effect on January 1, 2020.

JHC

LS #10349

4/1/2018

Int. No. 1531

By Council Members Moya and Kallos

A LOCAL LAW

To amend the New York city charter, in relation to studying and reporting on the education capacity and overcrowding impacts of decisions of the city planning commission in connection with certain land use actions

Be it enacted by the Council as follows:

Section 1. Chapter 8 of the New York city charter is amended by adding a new section 207 to read as follows

§ 207 Review of actual educational impacts. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Block. The term “block” has the meaning given to that term in section 12-10 of the zoning resolution.

Capacity. The term “capacity” has the same meaning as such term is used in chapter 6 of the CEQR technical manual in relation to public schools.

CEQR technical manual. The term “CEQR technical manual” means the city environmental quality review technical manual issued in 2014 by the mayor’s office of environmental coordination, together with any updates, supplements and revisions thereto.

Covered land use action. The term “covered land use action” means an application that:

(1) the city planning commission has approved or approved with modifications for a matter described in paragraph one, three, four, five, six, eight, ten, or eleven of subdivision a of section 197-c or a change in the text of the zoning resolution pursuant to section two hundred or two hundred one;

(2) the commission decision has been approved or approved with modifications by the council pursuant to section one hundred ninety-seven-d and is not subject to further action pursuant to subdivision e or f of such section; and

(3) involves at least four adjacent blocks of real property.

EIS. The term “EIS” means a final environmental impact statement prepared pursuant to chapter 5 of title 62 of the rules of the city of New York in connection with an application subject to review of the city planning commission pursuant to section 197-c.

Lead agency. The term “lead agency” has the meaning given to that term in section 5-02 of title 62 of the rules and regulations of the city of New York.

Study area. The term “study area” means the geographic area or areas analyzed for potential public school capacity and overcrowding impacts as part of an EIS prepared in connection with a covered land use action.

Utilization rate. The term “utilization rate” has the same meaning as such term is used in chapter 6 of the CEQR technical manual in relation to public schools.

b. In connection with each covered land use action certified by the city planning commission on or after January 1, 2015, the department or, if the city planning commission is not the lead agency, the lead agency, in coordination with the department of education and the New York city school construction authority, shall conduct studies of public elementary, intermediate, and high school capacity and overcrowding in the relevant study area. Such studies shall analyze such impacts for the following periods:

1. from the date of final approval of such covered land use action to a date four years after such final approval; and

2. from the date of final approval of such covered land use action to a date 10 years after such final approval.

c. Each study conducted pursuant to subdivision b of this section shall:

1. Compare the number of dwelling units generated by the covered land use action since final approval of such action to the number of dwelling units projected to be generated, as analyzed in the EIS for such action;

2. Compare the number of elementary, middle school, and high school students generated by the covered land use action to the number of such students projected to be generated in the EIS for such action;

3. Provide an analysis of the following information for each public school, subdistrict and district in the study area:

(a) current enrollment compared to the enrollment at the time of the covered land use action and the enrollment projected by the EIS prepared in connection with such action;

(b) current capacity compared to capacity at the time of final approval of the covered land use action and the capacity projected by the EIS prepared in connection with such action; and

(c) current utilization rate compared to the utilization rate at the time of final approval of the covered land use action and the utilization rate projected by the EIS prepared in connection with such action.

d. For each study conducted pursuant to this section, the department or, if the city planning commission is not the lead agency, the lead agency, shall report its findings to the mayor, the speaker of the council, the affected borough president, the affected community board, and the affected council member. Such findings shall discuss the reasons for any similarities and disparities between the actual utilization rates and the projected utilization rates described in the EIS prepared in connection with such covered land use action. If such findings reveal a disparity in any metric of more than five percent between the potential for such impacts identified in the EIS and the actual effects analyzed pursuant to subdivision c of this section, or if the study conducted pursuant to subdivision b reveals any impacts not discussed in an EIS prepared in connection with the application, such report shall make recommendations for amending the CEQR technical manual to more accurately capture and mitigate the potential elementary, intermediate, and high school capacity and overcrowding impacts of future land use actions. The department or the lead agency shall issue each report prepared pursuant to this subdivision no later than six months after the end of the applicable study period described in subdivision b of this section.

§ 2. This local law takes effect on January 1, 2020.

JHC

LS #10347

4/1/2018

Int. No. 252

By Council Members Reynoso and Kallos

A LOCAL LAW

A Local Law to amend the New York city charter, in relation to tracking mitigation strategies in final environmental impact statements as part of the uniform land use review process

Be it enacted by the Council as follows:

Section 1. Subdivisions c and d of section 206 of the New York city charter are amended to read as follows:

c. Such list shall include all commitments made by letter by the mayor or a representative designated by the mayor to the council or a council member, and any mitigation measures or other project components that would eliminate the potential for an adverse impact identified in a final environmental impact statement, conditional negative declaration, or environmental assessment statement that relate to an application described in subdivision b of this section on which the city or a not-for-profit corporation of which a majority of its members are appointed by the mayor is either the applicant or co-applicant.

d. Such list shall include any commitment made by letter by the mayor or a representative designated by the mayor to the council or a council member for which a funding amount of one million dollars or more is set forth in the letter establishing such commitment, and any mitigation measures or other project components that would eliminate the potential for an adverse impact identified in a final environmental impact statement, conditional negative declaration, or environmental assessment statement in relation to an application described in subdivision b of this section on which neither the city nor a not-for-profit corporation of which a majority of its members are appointed by the mayor is either the applicant or co-applicant.

§ 2. This local law takes effect 90 days after it becomes law.

JHC

LS # 9317/Int. 1786-2017

LS # 626

12/29/2017

Res. No. 9

Resolution calling on the Mayor, the Mayor’s Office of Environmental Coordination, the New York City Planning Commission, the New York City Department of City Planning, and all other relevant City agencies to re-examine the standards in the CEQR regulations and the Technical Manual for assessing when a possible adverse impact on a neighborhood’s character or socioeconomic status requires a detailed analysis and possible mitigation, and calling on the relevant agencies, when such significant adverse impacts are identified, consistently to seek mitigation or development alternatives that provide long-term or permanent protection for the residents, businesses, and character of the affected community, including through the provision of permanently affordable housing and commercial space.

By Council Member Barron

Whereas, In recent years, the City of New York has rezoned and redeveloped (or allowed to be redeveloped) a substantial portion of the real estate in the City; and

Whereas, Specifically, the Furman Center has reported that between 2002 and 2010 the City of New York rezoned roughly twenty percent of the land in the City and recent reports suggest that as much as forty percent of the City was rezoned between 2002 and 2014; and

Whereas, Some major redevelopment projects directly displace local residents and businesses to make room for new construction; and

Whereas, Such projects may also displace local residents and businesses by substantially altering the character and affordability of the affected neighborhoods (a process often called indirect or secondary displacement); and

Whereas, Before the City of New York may undertake or give discretionary approval to a project, Article 8 of the New York State Environmental Conservation Law and related regulations generally require the City to consider whether the proposed project would have a significant adverse impact on the “environment” (including on “existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character”); and

Whereas, The New York State environmental review regulations specify that projects may cause an adverse environmental impact if they “creat[e] . . . a material conflict with a community’s current plans or goals as officially approved or adopted; . . . impair[] . . . existing community or neighborhood character; . . . [or cause] a substantial change in the use, or intensity of use, of land”; and

Whereas, Section 192 of the New York City Charter requires the City Planning Commission to “oversee implementation of” environmental review laws and “establish by rule procedures for environmental reviews of proposed actions by the city”; and

Whereas, The City of New York accordingly has adopted the City Environmental Quality Review (CEQR) process for evaluating any project it plans to undertake or give discretionary approval to; and

Whereas, Section 5-04 of Title 62 of the Rules of the City of New York obliges the Mayor’s Office of Environmental Coordination to assist all city agencies in fulfilling their environmental review responsibilities, and to “[w]ork with appropriate city agencies to develop and maintain technical standards and methodologies for environmental review”; and

Whereas, The Mayor’s Office of Environmental Coordination plays a central role in developing and maintaining the CEQR Technical Manual, which offers City agencies standards and guidance for conducting these required environmental reviews; and

Whereas, Depending on the type and scale of the project, CEQR review may involve several stages of study and evaluation, including 1) a determination of whether the action is the kind that requires any significant environmental review or instead has been identified by state or local rule as requiring no environmental study, 2) an Environmental Assessment Statement (“EAS”) to help identify any impacts the proposed project may have on the environment and whether those environmental impacts may be significant and adverse, and 3) if significant adverse impacts might result, either adopting changes to the project or conducting a full Environmental Impact Statement (“EIS”), which generally involves a deeper analysis of the possible impacts and of project alternatives or mitigation measures; and

Whereas, Specifically, after considering the EAS, the reviewing agency may issue one of three determinations. A Negative Declaration means that the proposal will not result in any significant adverse environmental impacts. A Conditional Negative Declaration (which is only available for certain types of projects) means that, while the “action as initially proposed may result in one or more significant adverse environmental impacts,” the proposal has been changed and will no longer cause such impacts. In other words, this finding means that, through mitigation or changes to the project, the project sponsor likely can avoid having to prepare a full EIS. Third, a Positive Declaration means that there are potentially significant adverse environmental impacts and a full EIS is necessary; and

Whereas, The Technical Manual offers guidance on assessing a variety of possible adverse environmental impacts, including socioeconomic impacts and damage to the character of the neighborhood; and

Whereas, The Technical Manual describes three major levels of analysis that may be necessary to evaluate each kind of potential adverse impact as part of an EAS or EIS. If a particular level of analysis cannot rule out the possibility of a significant adverse impact, the project sponsor must proceed to the next level and ultimately (if necessary) identify possible mitigation measures or project alternatives; and

Whereas, The first level is an initial screening, often consisting of a set of initial questions or thresholds spelled out in the Technical Manual and also included on the standard EAS forms; and

Whereas, The second level is a preliminary assessment; and

Whereas, The third level is a detailed analysis; and

Whereas, At the initial screening level, the Technical Manual calls for a project sponsor to undertake further socioeconomic assessment “if a project may be reasonably expected to create socioeconomic changes within the area affected by the project that would not be expected to occur without the project,” including by producing levels of direct or indirect displacement of area residents and businesses that “typically” warrant further study, such as 1) the direct displacement of more than 500 residents, 2) the direct displacement of more than 100 employees, 3) the displacement of a business or industry that is “unusually important,” and 4) “substantial new development that is markedly different from existing uses, development, and activities within the neighborhood” - usually involving the addition of more than 200 residential units or 200,000 square feet of commercial development; and

Whereas, If at least one of those thresholds is met or the agency otherwise concludes that more analysis is necessary, the analysis proceeds to the next level, a “preliminary assessment.” Under the Technical Manual’s preliminary assessment standards, generally a project sponsor may have to go on and conduct the most detailed level of analysis of, for example, direct residential displacement only if: 1) more than 500 residents will be directly displaced, 2) the displaced residents constitute more than five percent of the population in the area surrounding the project, and 3) the average income of the displaced population is markedly lower than that of the relevant area more generally; and

Whereas, Similarly, the most detailed level of analysis of indirect residential displacement is usually only required if 1) the project would add a new population with higher average income relative to the people who would otherwise live in the area, 2) the population increase is more than five percent of the population otherwise expected to live in the area, and 3) the relevant area is not already experiencing a sustained trend toward increasing rents and new market rate development; and

Whereas, Although the Technical Manual emphasizes that adequate analysis depends upon the project’s context, the initial screening and preliminary assessment thresholds may in practice be applied formulaically – particularly the initial screening questions, which are presented in check-box format on the standardized EAS forms; and

Whereas, It is the view of the City Council that these initial screening and preliminary assessment thresholds for more detailed study underestimate the impact of displacing long-term area residents and businesses; and

Whereas, If the third, most detailed level of analysis reveals a change in socioeconomic conditions or neighborhood character, the project sponsor must assess the significance of the impact and, if it is significant and adverse, must identify possible mitigation measures or project alternatives; and

Whereas, The Technical Manual already recognizes a variety of reasonable mitigation measures that project proponents may rely on to address significant adverse socioeconomic impacts, including relocation expenses, lump-sum payments, building or preserving affordable housing, and similar measures for displaced businesses; and

Whereas, While the Technical Manual recognizes that a combination of multiple moderate impacts, such as a moderate socioeconomic impact combined with an impact on cultural and historic resources and on community facilities and services, can harm a neighborhood’s overall character, when assessing whether there is a significant adverse impact on “neighborhood character,” the Technical Manual focuses on a few “defining” features of the relevant community and so may miss major, adverse changes in the character of an affected neighborhood; and

Whereas, Because the thresholds for deciding when further study is needed, and ultimately for identifying potentially significant adverse socioeconomic and neighborhood character impacts, are too high, too many projects receive only limited CEQR scrutiny, stopping, for example, at the initial screening stage, and so project sponsors are never required to adequately assess or mitigate immediate and long-term displacement of community residents and businesses; and

Whereas, For example, if the Technical Manual set lower initial screening thresholds, more project sponsors would have to take a closer look at the characteristics of the neighborhood that the project will impact, providing additional valuable information for the agency and the public to consider when assessing the proposal; and

Whereas, Similarly, if the Technical Manual also set lower preliminary assessment and detailed study thresholds for identifying possible significant adverse socioeconomic impacts, more project sponsors could be required to adopt displacement mitigation measures (such as providing permanently affordable housing and commercial space) in order to receive a Conditional Negative Declaration following an EAS, or would be required to explicitly evaluate such mitigation options, along with less-impactful project alternatives, as part of an EIS; and

Whereas, When projects that may impact the relevant neighborhood are studied in greater detail, the resulting disclosures support meaningful review by community members and city stakeholders and may generate new and creative solutions for minimizing significant adverse effects (as occurred in the Greenpoint-Williamsburg rezoning process in 2004 to 2006); and

Whereas, Creating permanently affordable housing and commercial space for directly and indirectly displaced residents and businesses is essential to ameliorating the negative effects of redevelopment and preserving the character of our neighborhoods and should be a priority in every project undertaken or approved by the City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Mayor, the Mayor’s Office of Environmental Coordination, the New York City Planning Commission, the New York City Department of City Planning, and all other relevant City agencies to re-examine the standards in the CEQR regulations and the Technical Manual for assessing when a possible adverse impact on a neighborhood’s character or socioeconomic status requires a detailed analysis and possible mitigation, and calls upon the relevant agencies, when such significant adverse impacts are identified, consistently to seek mitigation or development alternatives that provide long-term or permanent protection for the residents, businesses, and character of the affected community, including through the provision of permanently affordable housing and commercial space.

KAC/JJ

LS #1281/Res. 0516-2014

LS #497 12/18/2017 1:16PM

1. See ECL§ 8-0109(8) (providing that All agencies (or applicant as hereinafter provided) shall prepare, or cause to be prepared by contract or otherwise an environmental impact statement on any action they propose or approve which may have a significant effect on the environment); *see also*, New York City, N.Y., Rules, Tit. 62, § 2-02(a)(5), setting forth the requirements for certifying the completeness of a ULURP application, including that “[a] determination has been made whether the action is subject to City or State Environmental Quality Review, and if so subject, the lead agency has issued either… a Negative or Conditional Negative Declaration; or a Notice of Acceptance of a Draft Environmental Impact Statement.”; *see also* New York City, N.Y., Rules, Tit. 62, § 2-01.1, providing that applications for amendments to the Zoning Resolution are subject to requirements of § 2-02(c), which provides that such applications are subject to the environmental review requirements of § 2-02(a); *see also* New York City, N.Y., Rules, Tit. 62, § 5-02 (defining the term “determination of significance” to mean “a negative declaration, conditional negative declaration, or a notice of determination (positive declaration)”). [↑](#footnote-ref-1)
2. 6 NYCRR 617.2 (proving that the lead agency determines whether an EIS is required); see also, New York City, N.Y., Rules, Tit. 62, § 6-07(3) (providing that if it is determined that an action is not exempt and that it may have a significant impact on the environment, the lead agency shall issue a notice of determination including a request that the applicant prepare an EIS); see also New York City, N.Y., Rules, Tit. 62, § 6-08 (establishing who is responsible for preparing an EIS). [↑](#footnote-ref-2)
3. ECL § 8-0109(8). [↑](#footnote-ref-3)
4. *See* Charter § 206 (requiring the establishment of an online list of mayoral commitments made in connection with certain land use actions); *see also*, Mayor’s Office of Operations, NYC Rezoning Commitments Tracker, available at <https://www1.nyc.gov/site/operations/performance/neighborhood-rezoning-commitments-tracker.page>. [↑](#footnote-ref-4)
5. CEQR Technical Manual 5-01. [↑](#footnote-ref-5)
6. CEQR Technical Manual 5-2. [↑](#footnote-ref-6)
7. Id at 5-13 [↑](#footnote-ref-7)
8. Id. at 5-13 [↑](#footnote-ref-8)
9. Id. at 5-21. [↑](#footnote-ref-9)
10. Id. 5-23 [↑](#footnote-ref-10)
11. Id. at Chapter 16. [↑](#footnote-ref-11)
12. Id. [↑](#footnote-ref-12)
13. *See* State of California Governor’s Office of Planning and Research, Technical Advisory On Evaluation Transportation Impacts in CEQA 1 (Dec. 2018), available at <http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf> [↑](#footnote-ref-13)
14. Id. at 4. [↑](#footnote-ref-14)
15. New York City Council, Planning to Learn: The School Building Challenge 2-5 (March, 2018). [↑](#footnote-ref-15)
16. Id. at 53. [↑](#footnote-ref-16)
17. Id. at 41 (“As it relates to CEQR, there are issues with the way . . . housing starts are being used to project future needs for school planning. The CEQR analysis for needed school facilities relies on SCA to project the future need of a community before the impact of a proposed action (e.g. a rezoning) can be evaluated. If the projected need only reflects the housing starts in the first five years, then the full impacts of a project are not being fully measured.”). [↑](#footnote-ref-17)