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Title: A Local Law to amend the New York city charter, in relation to reducing overconcentration of city facilities in certain community districts

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Attachments: 1. Summary of Int. No. 544, 2. Int. No. 544, 3. February 14, 2018 - Stated Meeting Agenda, 4. Hearing Transcript - Stated Meeting 02-14-2018, 5. Minutes of the Stated Meeting - February 14, 2018

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Int. No. 544

By Council Members Lander, Rose and Adams

A Local Law to amend the New York city charter, in relation to reducing overconcentration of city facilities in certain community districts

Be it enacted by the Council as follows:

Section 1. Section 197-d of the New York city charter, as added by vote of the electors on November 7, 1989, is amended by to read as follows:

§ 197-d. Council Review. a. The city planning commission shall file with the council and with the affected borough president a copy of its decisions to approve or approve with modifications (1) all matters described in subdivision a of section [one hundred ninety-seven-c] 197-c, (2) plans pursuant to section [one hundred ninety-seven-a] 197-a, [and] (3) changes in the text of the zoning resolution pursuant to sections [two hundred and two hundred one.] 200 and 201, and (4) any prohibited facility siting or expansion that proceeds pursuant to paragraph 4 of subdivision a of section 203. Any such filing of a decision pursuant to section [one

hundred ninety-seven-c] 197-c shall be completed prior to the expiration of the [sixty-day] 60-day period for action by the commission. Any such filing with the council shall include copies of all written recommendations of community boards, borough boards and borough presidents with respect to the decision being filed.

b. The following decisions filed with the council pursuant to subdivision a of this section, shall be subject to review and action by the council:

(1) any decision of the city planning commission to approve or approve with modifications a matter described in paragraph [three] (3) or [eight] (8) of subdivision a of section [one hundred ninety-seven-c] 197-c, a disposition of residential real property (as defined in this paragraph) pursuant to paragraph [ten] (10) of subdivision a of section [one hundred ninety-seven-c] 197-c (except for dispositions to companies that have been organized exclusively to develop housing projects for persons of low income), a plan pursuant to section [one hundred ninety-seven-a] 197-a, or a change in the text of the zoning resolution pursuant to sections [two hundred] 200 or [two hundred one] 201. For purposes of this section, residential real property [shall mean] means real property improved by structures, whether or not occupied, built for or converted to a use which is primarily residential, but [shall] does not include property subsequently converted to non-residential use;

(2) any other decision of the city planning commission to approve or approve with modifications a matter described in subdivision a of section [one hundred ninety-seven-c] 197-c, if (i) both an affected community board (after holding a public hearing) and the affected borough president, within the time periods allotted for their reviews pursuant to section [one hundred ninety-seven-c] 197-c, have recommended in writing against approval and (ii) the affected borough president, within five days of receiving a copy of the decision of the commission, files with the commission and the council a written objection to the decision; and

(3) any other decision of the city planning commission to approve or approve with modifications a matter described in subdivision a of section [one hundred ninety-seven-c] 197-c or any otherwise prohibited facility siting or expansion that proceeds pursuant to paragraph 4 of subdivision a of section 203, if within [twenty] 20 days of the filing of such decision pursuant to subdivision a of this section, the council resolves by

the majority vote of all the council members to review the decision of the commission.

c. Within [fifty] 50 days of the filing with the council pursuant to subdivision a of this section of any decision of the city planning commission which pursuant to subdivision b of this section is subject to review by the council, the council shall hold a public hearing, after giving public notice not less than five days in advance of such hearing, and the council, within such [fifty] 50 days, shall take final action on the decision. [The] An affirmative vote of a majority of all the council members [shall be] is required to approve, approve with modifications or disapprove such a decision. If, within the time period provided for in this subdivision and, if applicable, in subdivision d of this section, the council fails to act or fails to act by the required vote on a decision of the city planning commission subject to council review pursuant to subdivision b of this section, the council shall be deemed to have approved the decision of the commission.

d. The council shall not approve with modifications a commission decision if the commission has determined pursuant to this subdivision that additional review of the modifications is required. Prior to approving a decision of the commission with modifications, the council shall file the text of any such proposed modifications with the commission. Within [fifteen] 15 days of such filing, the commission shall file with the council a written statement indicating whether such proposed modifications are of such significance that additional review of environmental issues or additional review pursuant to section [one hundred ninety-seven-c] 197-c or paragraph 4 of subdivision a of section 203 is required. If no additional review is required, the commission may include in such statement its advisory recommendation concerning the proposed modifications, together with any proposed amendments to the proposed modifications. The council may thereafter approve such proposed modifications, with or without the amendments proposed by the commission. The time period for council action shall be tolled during such [fifteen-day] 15-day period; provided, however, that proposed modifications may be referred to the commission pursuant to this subdivision only once with respect to each application or group of related applications under review by the council.

e. All actions of the council pursuant to this section shall be filed by the council with the mayor prior to

the expiration of the time period for council action under subdivisions c and, if applicable, d of this section. Actions of the council pursuant to this section shall be final unless the mayor within five days of receiving a filing with respect to such an action of the council files with the council a written disapproval of the action. Any mayoral disapproval under this subdivision shall be subject to override by a two-thirds vote of all the council members within [ten] 10 days of such filing by the mayor.

f. The mayor [shall have the right to] may file a written disapproval of any approval deemed to have occurred pursuant to subdivision c of this section as a result of a failure of the council to act or to act by the required vote. Any such written disapproval must be filed within five days of the expiration of the time period for action by the council under subdivisions c and, if applicable, d of this section. Any mayoral disapproval under this subdivision shall be subject to override by a two-thirds vote of all the council members within [ten] 10 days of such filing by the mayor.

g. If a decision of the commission approving an application is not subject to council review pursuant to paragraph [one] (1) of subdivision b of this section or is not made subject to council review pursuant to [paragraphs two] paragraph (2) or [three] (3) of subdivision b of this section, the mayor may nonetheless file with the council a written objection to such decision of the commission within five days of the expiration of time for the council to act under paragraph [three] (3) of subdivision b of this section. Any mayoral objection under this subdivision shall be subject to override by a two-thirds vote of all the council members within [ten] 10 days of such filing by the mayor.

§ 2. Subdivision a of section 203 of the New York city charter, as added by vote of the electors on November 7, 1989, is amended by to read as follows:

§ 203. Criteria for location of city facilities. a. 1. Not later than [the first day of July, nineteen hundred ninety] March 1, 2019, the mayor, after consulting with each of the borough presidents, shall file with the city planning commission proposed rules establishing criteria for [(1)] (i) the location of new city facilities and [(2)] (ii) the significant expansion, closing or significant reduction in size or capacity for service delivery of existing

facilities. The city planning commission shall review and may modify the rules proposed by the mayor. Not more than 30 days after the mayor's proposed rules are filed, the city planning commission shall commence rulemaking under section 1043 with regard to such rules, as initially proposed or as the commission proposes to modify them. Once adopted, the city planning commission shall file the rules with the council.

2. The criteria shall be designed to further the fair distribution among communities of the burdens and benefits associated with city facilities, consistent with community needs for services and efficient and cost effective delivery of services and with due regard for the social and economic impacts of such facilities upon the areas surrounding the sites. [Not later than thirty days after the filing of such proposed rules, the city planning commission shall publish a notice of proposed rule making under section one thousand forty-three with regard to such rules, as proposed by the mayor or as proposed to be modified by the commission. Promptly thereafter, the commission shall approve or approve with modifications the rules and shall file the rules as approved with the council.]

3. The criteria shall be designed to prohibit the siting of any new city facility or the significant expansion of any city facility in any of the top 10 percent of districts that have the highest ratios of capacity to district resident population. For the purposes of this section, the term "capacity" means the cumulative total in existing similar facilities, including such facility in the case of a proposed expansion.

4. Notwithstanding the prohibition against siting or expanding a facility pursuant to paragraph 3 of this subdivision, the commission may proceed with an otherwise prohibited siting or expansion based upon a demonstration that the facility in question serves a particular need of the community in such district, extending no further than the district or area in which the majority of persons served by the facility live or work, provided, however, that in assessing such particular need the commission shall not take into account need caused by the presence of similar existing facilities within such district.

5. For any otherwise prohibited facility siting or expansion that proceeds pursuant to paragraph 4 of this subdivision, the commission shall issue and file with the council and the affected borough president a written

statement indicating:

(a) The vote of each member of the commission, or if absent or failing to vote, indicating such fact; and

(b) How the proposed siting meets the requirements of paragraph 4 of this subdivision.

6. Actions taken by the commission pursuant to paragraph 4 of this subdivision are subject to council review pursuant to section 197-d.

7. The commission shall establish and maintain a publicly accessible online database to track the status of any facility siting made pursuant to paragraph 4 of this subdivision.

(a) The commission shall record such sitings in the database within 30 days of final approval of a siting proposal and shall update the progress towards the opening of such facility if new, or the expansion of such facility if an existing facility, not less than annually thereafter. The record of each siting in such database shall include the application number of the related city-sponsored facility proposal and the date such proposal was finally approved.

(b) Beginning June 30, 2019, and annually thereafter, the commission shall report to the mayor, the council, the borough presidents and the community boards a listing of any prohibited facility siting that does not progress or that is sited in an alternative location based upon a demonstration made pursuant to paragraph 4 of this subdivision.

§ 3. Section 315 of the New York city charter, as amended by local law number 135 for the year 2013, is amended by to read as follows:

§ 315. Emergency Procurement. a. Notwithstanding the provisions of section [three hundred twelve] 312 of this chapter, in the case of unforeseen danger to life, safety, property or a necessary service, an emergency procurement may be made with the prior approval of the comptroller and corporation counsel, provided that:

[such] 1. Such procurement shall be made with such competition as is practicable under the circumstances, consistent with the provisions of section [three hundred seventeen] 317 of this chapter; and

2. In the case of procuring or significantly expanding the use of any facility subject to the criteria established pursuant to section 203, such procurement or significant expansion shall be made consistent with any prohibition against locating or expanding that facility in any of the top 10 percent of community districts that have the highest ratios of facility capacity to district resident population as prescribed by the process set forth in section 203.

b. A written determination of the basis for the emergency and the selection of the contractor shall be placed in the agency contract file, and shall further be submitted to the council no later than [fifteen] 15 days following contract award, and the determination or summary of such determination shall be included in the notice of the award of contract published pursuant to section [three hundred twenty-five] 325 of this chapter.

§ 4. This local law takes effect immediately after it is submitted for the approval of the qualified electors of the city at the next general election held after its enactment and approved by a majority of such electors voting thereon.

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