Legislation Details (With Text)

File #:	Int 0876-2023 **Version:** A	**Name:**	Green building standards and repealing section 224.1 of the New York city charter in relation thereto.
Type:	Introduction	**Status:**	Enacted
		In control:	Committee on Housing and Buildings
On agenda:	1/4/2023		
Enactment date:	4/16/2023	**Enactment #:**	2023/051

Title: A Local Law to amend the New York city charter and the administrative code of the city of New York in relation to green building standards and repealing section 224.1 of the New York city charter in relation thereto

Sponsors: Pierina Ana Sanchez, Marjorie Velázquez, Carlina Rivera, (by request of the Mayor)

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Date	Ver.	Action By	Action	Result
1/4/2023	*	City Council	Referred to Comm by Council	
1/4/2023	*	City Council	Introduced by Council	
1/24/2023	*	Committee on Housing and Buildings	Hearing Held by Committee	
1/24/2023	*	Committee on Housing and Buildings	Laid Over by Committee	
3/16/2023	*	Committee on Housing and Buildings	Hearing Held by Committee	
3/16/2023	*	Committee on Housing and Buildings	Amendment Proposed by Comm	
3/16/2023	*	Committee on Housing and Buildings	Amended by Committee	
3/16/2023	A	Committee on Housing and Buildings	Approved by Committee	Pass
3/16/2023	A	City Council	Approved by Council	Pass
3/16/2023	A	City Council	Sent to Mayor by Council	
4/16/2023	A	Administration	City Charter Rule Adopted	
4/18/2023	A	City Council	Returned Unsigned by Mayor	

Int. No. 876-A

Council Members Sanchez, Velázquez and Rivera (by request of the Mayor)

A Local Law to amend the New York city charter and the administrative code of the city of New York in

relation to green building standards and repealing section 224.1 of the New York city charter in relation thereto

Be it enacted by the Council as follows:

Section 1. Section 224.1 of the New York city charter is REPEALED and a new section 224.1 is added to read as follows:

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

ASHRAE 90.1. The term "ASHRAE 90.1" means the edition of the energy standard for buildings except low-rise residential buildings published by the American society of heating, refrigerating and air conditioning engineers (ASHRAE) as indicated by rule of the mayor.

Base building systems. The term "base building systems" has the same meaning as set forth in section 28-308.1 of the administrative code.

Capital project. The term "capital project" means a capital project as defined in section 210 of this chapter that is paid for in whole or in part from the city treasury.

City agency. The term "city agency" has the same meaning as the term “agency” as defined in section 1150.

Construction work. The term "construction work" means any work or operations necessary or incidental to the erection, demolition, assembling, alteration, installing or equipping of any building.

Energy use intensity. The term "energy use intensity" means, for a building, the energy use intensity projected for such building based on its design at the time of filing with the department of buildings.

Estimated construction cost. The term "estimated construction cost" means capital dollars allocated to construction as defined in the respective project’s certificate to proceed, or with respect to entities that are not city agencies, cost allocated to construction of a project intended to achieve a public purpose of the city as such project is described in supporting documentation submitted to the office of management and budget for the issuance of the certificate to proceed.

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Green building standards. The term "green building standards" means design guidelines, a rating system or rules for constructing buildings that ensure site planning, water efficiency, energy efficiency and renewable energy, conservation of materials and resources and indoor environmental quality.

Inflation. The term "inflation" means the annual 12-month average of the consumer price index published by the United States department of labor.

LEED green building rating system. The term "LEED green building rating system" means a version of the leadership in energy and environmental design (LEED) building rating system published by the United States green building council that is not less stringent than the selected green building rating system, or another standard not less stringent than the selected green building rating system which has been developed by or for the city consisting of practices and technologies derived from the LEED rating system that are reasonable and appropriate for building in New York city and approved by the mayor.

LEED water efficiency: indoor water use reduction credit. The term "LEED water efficiency: indoor water use reduction credit" means the credit to achieve points under the LEED for building design and construction version 4, or another version as approved by the mayor, intended to achieve water use reduction.

Mayor. The term “mayor” means the mayor, or as designated by the mayor, an office within the office of the mayor or any department or office the head of which is appointed by the mayor.

Net zero energy building. The term "net zero energy building" means a building that has been designed and constructed to produce energy onsite from renewable energy sources in an amount equal to or greater than such building's total energy needs.

Not less stringent. The term "not less stringent" means providing no less net environmental and health benefits.

Occupancy group. The term "occupancy group" means occupancy group as classified in accordance with the New York city construction codes.

Onsite energy generating building. The term "onsite energy generating building" means a building that

has been designed and constructed to produce energy onsite from renewable energy sources to the maximum practicable extent as leads to a system of high performance and best value to New York city.

Rehabilitation work. The term "rehabilitation work" means any restoration, replacement or repair of any materials, systems or components.

Renewable energy source. The term "renewable energy source" means a qualified energy resource, as such term is defined in paragraph (1) of subsection (c) of section 45 of title 26 of the United States code.

Selected green building rating system. The term "selected green building rating system" means LEED building design and construction version 4, building operations and maintenance version 4 or interior design and construction version 4, whichever is most appropriate for the project under United States green building council guidelines, or other not less stringent versions of such building rating systems as approved by the mayor.

Source energy use intensity. The term "source energy use intensity" means, for a building, the total energy used by such building in a year, including losses that take place during generation, transmission and distribution of such energy, divided by the building's gross floor area.

Substantial reconstruction. The term "substantial reconstruction" means:

(1) For buildings not classified in occupancy group R, a capital project in which (i) the scope of work includes rehabilitation work in at least two of the following three major systems of the building: electrical, HVAC (heating, ventilating and air conditioning) and plumbing, and (ii) at least 50 percent of the building's gross floor area is subject to construction work.

(2) For buildings classified in occupancy group R, a capital project that includes (i) heating system replacement, which includes the heating equipment and distribution system, (ii) work on at least 75 percent of dwelling units contained within such building, including but not limited to fixture replacements in kitchens and bathrooms, and (iii) substantial work on the building envelope.

Substantial work on the building envelope. The term “substantial work on the building envelope” means

the replacement or alteration of 50 percent or more of the building envelope's total glazing area, or 50 percent or more of the building envelope's total area of opaque components, including, but not limited to, recladding, work on the interior side of exterior walls, such as removal of interior wallboard or plaster, and roof replacements.

b. (1) Except as otherwise provided in this section, each capital project with an estimated construction cost of $2,000,000 or more involving the construction of a new building, an addition to an existing building or the substantial reconstruction of an existing building, shall be designed and constructed to comply with green building standards not less stringent than the standards prescribed for buildings designed in accordance with the LEED green building rating system to achieve a LEED gold or higher rating, or, with respect to buildings classified in occupancy groups F or H, to achieve a LEED certified or higher rating, or, with respect to buildings classified in occupancy group R, to comply with the version of the New York city overlay of the enterprise green communities criteria designated by rule of the department of housing preservation and development.

(2) This subdivision shall not apply to a capital project involving additions to or the substantial reconstruction of existing buildings in occupancy groups F or H with an estimated construction cost of not more than $10,000,000.

(3) If the mayor elects to utilize a green building standard other than the LEED green building rating system for compliance with paragraph (1) of this subdivision, the mayor shall publish findings demonstrating that such other green building standards are not less stringent than the LEED standards described above for achievement of a LEED gold or, if applicable, a LEED certified rating.

(4) The green building standards utilized by the city in accordance with this subdivision shall be reviewed and updated, as necessary, by the mayor no less often than once every three years.

c. For capital projects required to comply with subdivision b of this section that are buildings classified in occupancy groups E, F, H, I-2 or R, the mayor may, in coordination, when relevant, with the New York city

economic development corporation, the New York city school construction authority or any other relevant office or agency, establish by rule alternative design and construction standards that may be less stringent than the green building standards described in subdivision b of this section provided that:

(1) For buildings classified in occupancy groups F, H or I-2, such alternative standards may be less stringent than the green building standards described in subdivision b only to the minimum extent necessary to address provisions of the green building standards described in such subdivision that the mayor finds to be impracticable or burdensome for the particular occupancy group;

(2) For buildings classified in occupancy group R, such alternative standards shall not be less stringent than the standards prescribed for buildings designed to achieve a LEED certified rating under LEED green building rating system version 4; and

(3) For buildings classified in occupancy group E, such alternative standards may be the version of the New York city green schools guide designated by the mayor but shall be not less stringent than the standards prescribed for buildings designed to achieve a LEED certified rating under LEED green building rating system version 4.

d. (1) In addition to compliance with subdivision b or c, each capital project that involves the construction of a new city-owned building, and each capital project that involves an addition to, or the substantial reconstruction of, an existing city-owned building, where such substantial reconstruction involves substantial work on the building envelope, shall be designed and constructed to reduce energy use as follows:

(a) For a building that is not classified in occupancy groups F or H, either:

(i) An energy use intensity that is no greater than 50 percent below the energy use intensity of such a building if designed and constructed according to the prescriptive and mandatory requirements of ASHRAE 90.1; or

(ii) For new buildings, a source energy use intensity not more than 38 kBTU/yr per square foot of floor area, and for additions to or substantial reconstructions of existing buildings involving substantial work on the

building envelope, a source energy use intensity not more than 42 kBTU/yr per square foot of floor area.

(b) For a building classified in occupancy groups F or H, energy usage of the base building systems, exclusive of process loads, that is at least 50 percent less than such energy usage would be if such building were designed and constructed according to ASHRAE 90.1.

(2) For each capital project required to comply with this subdivision, the design agency shall:

(a) Conduct a design alternate study to construct such project as an onsite energy generating building;

(b) Where a capital project involves a building that is no more than three stories above grade, conduct a design alternate study to construct such project as a net zero energy building; and

(c) Conduct a design alternate study to construct such project to incorporate green infrastructure.

e. (1) Capital projects with an estimated construction cost of $12,000,000 or more required to comply with green building standards in accordance with subdivision b, and which involve buildings that are not city-owned or involve city-owned buildings not subject to subdivision d, shall be designed and constructed to reduce energy use as set forth in this subdivision, provided that this subdivision shall not apply to buildings that are not city-owned and projects involving city-owned buildings not subject to subdivision d that are classified in occupancy groups E or R.

(2) Capital projects with an estimated construction cost of $12,000,000 or more but less than $30,000,000 shall be designed and constructed to reduce energy use as follows:

(a) For capital projects involving buildings not classified in occupancy groups F or H that are new buildings or additions to existing buildings, the energy use intensity shall be no less than 25 percent below the design energy use intensity of such a building if designed and constructed according to the prescriptive and mandatory requirements of ASHRAE 90.1. For such capital projects that are substantial reconstructions of existing buildings, the energy use intensity shall be no less than 25 percent below the existing building's energy use as determined in accordance with a methodology determined by the mayor.

(b) For capital projects involving buildings classified in occupancy groups F or H that are for new

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buildings and additions to existing buildings, energy usage of the base building systems, exclusive of process loads, shall be no less than 25 percent below what it would be if such building were designed and constructed according to ASHRAE 90.1. For such capital projects that are for substantial reconstruction of existing buildings, energy usage shall be no less than 25 percent below the existing building's energy usage as determined in accordance with a methodology determined by the mayor.

(3) Capital projects with an estimated construction cost of $30,000,000 or more shall be designed and constructed to reduce energy use as follows:

(a) For capital projects involving buildings not classified in occupancy groups F or H that are for new buildings and additions to existing buildings, energy use intensity shall be no less than 30 percent below the design energy use intensity of such a building if designed and constructed according to the prescriptive and mandatory requirements of ASHRAE 90.1 1. For such capital projects that are for substantial reconstruction of existing buildings, design energy use intensity shall be no less than 30 percent below the existing building's energy use intensity measured in accordance with a methodology determined by the mayor .

(b) For capital projects involving buildings classified in occupancy groups F or H that are for new buildings and additions to existing buildings, energy usage of the base building systems, exclusive of process loads, shall be no less than 30 percent below what it would be if such building were designed and constructed according to ASHRAE 90.1. For such capital projects that are for substantial reconstruction of existing buildings, energy usage of the base building systems shall be no less than 30 percent below the existing building's energy usage as measured in accordance with a methodology determined by the mayor .

f. For capital projects required to comply with subdivision d or e, the mayor may establish an alternative energy intensity requirement for new buildings, or additions to or substantial reconstructions of existing buildings classified in a particular occupancy group that may be less stringent than the energy intensity requirements described in subdivision d or e. Such alternative energy intensity requirement may be less stringent than the energy use intensity described by subdivision d or e to the minimum extent necessary to

avoid impracticality or undue burden found by the mayor for a particular occupancy group.

g. Capital projects, other than those required to comply with green building and energy use standards in accordance with subdivision b, that involve the installation or replacement of HVAC systems at an estimated construction cost for such installation or replacement of $2,000,000 or more, shall be designed and constructed to reduce energy use by a minimum of 10 percent from the standard as determined by the New York city energy conservation code, or other methodology designated by the mayor.

h. In addition to complying with any other applicable subdivisions in this section, each capital project involving the installation or replacement of plumbing systems that includes the installation or replacement of plumbing fixtures at an estimated construction cost for such installation or replacement of $500,000 or more shall be designed and constructed to reduce potable water consumption in the aggregate by a minimum of 30 percent from the calculated baseline as determined by a methodology not less stringent than that prescribed in LEED water efficiency: indoor water use reduction credit.

i. This section shall not apply to capital projects that only involve buildings classified in occupancy groups A-5 or U.

j. The mayor may exempt from each provision of this section a capital project accounting for up to 20 percent of the capital dollars in each fiscal year subject to such provision if, in the mayor's sole judgment, exemption from such provision is necessary for the public interest. At the conclusion of each year, the mayor shall inform the city council of any exemption granted pursuant to this subdivision.

k. This section shall not apply to capital projects of entities that are not city agencies unless 50 percent or more of the estimated cost of such project is to be paid for out of the city treasury. This exemption shall not apply to any capital project that receives $10,000,000 or more out of the city treasury.

l. The costs listed in subdivisions b, c, d and g are denominated in January 2022 dollars and shall be indexed to inflation annually.

m. Capital projects that are subject to subdivision b that utilize a version of the LEED green building

rating system for which the United States green building council will accept applications for certification, shall apply to the United States green building council for certification that such projects have achieved a gold or higher rating under the LEED green building rating system, or where applicable, a certified or higher rating. The mayor shall establish an alternative certification process for capital projects that are complying with alternative standards promulgated by the mayor pursuant to subdivision c.

n. No later than December 1 of each year, the mayor shall submit to the speaker of the council a report, containing, at a minimum:

(1) For each capital project subject to this section completed during the preceding fiscal year:

(a) A brief description of such project, including the total cost of the project;

(b) The street address of such project and the community district and council district in which such project is located;

(c) The estimated level of LEED certification such project has achieved as determined by the city agency that designed such project in accordance with the LEED green building rating system or, if applicable, the level achieved, as certified by the United States green building council;

(d) A statement as to whether such project has been designed and constructed to comply with the energy use reduction required in subdivision e, as an onsite energy generating building or a net zero energy building and, for each project designed and constructed to comply with the prescribed energy use reduction, the energy use intensity for such building or, if the mayor has adopted an alternative energy intensity target pursuant to subdivision f, such alternative target;

(e) If such capital project was not designed and constructed as an onsite energy generating building, a description of the reasons therefor, a statement as to whether such building has been designed and constructed to produce any energy onsite from renewable energy sources and, if so, the amount of such onsite energy production expressed as a percentage of the building's total energy needs; and

(f) An assessment of the environmental and energy-related benefits achieved in comparison with a base-

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case code compliant project, including projected energy savings reductions in peak load, reductions in emissions and potable water use.

(2) The total value of capital allocations in the preceding calendar year to projects exempted from the requirements of this section by the mayor pursuant to subdivision j, and a list and brief description of each such project, including but not limited to square footage, project cost and the reason for such exemption, disaggregated by city agency.

o. The mayor shall publish online and submit a report to the speaker of the council within 12 months of establishing any alternative standards pursuant to subdivisions c or f, and every three years thereafter. Such report shall:

(1) Describe the alternative standard and the occupancy groups to which it will apply;

(2) Identify any provision in such alterative standard that is less stringent than the standard which it replaces, and for each such provision, describe the reasons why compliance with the standard which it replaces would be impracticable or unduly burdensome for buildings classified in such occupancy groups;

(3) For an alternative standard provided pursuant to subdivision c that is not for a building classified in occupancy group R, describe how such alternative standard is not less stringent than the standard prescribed for buildings designed to achieve a LEED certified rating under LEED green building rating system version 4; and

(4) Describe the reasons why the mayor has determined that such alternative standard continues to be necessary and why such standard cannot be made more stringent.

§ 2. Paragraph 2 of subdivision d of section 3-125 of the administrative code of the city of New York, as added by local law number 6 for the year 2016, is amended to read as follows:

2. If the geothermal system has the [lowest] highest net present value of all alternatives considered it shall be selected for implementation.

§ 3. This local law takes effect immediately, except that for a capital project that has either (A) received the last certificate to proceed for construction, or the last certificate for design and construction prior to bid, as

issued by the New York city office of management and budget, prior to the effective date of this local law, or (B) has submitted documentation to obtain a permit from the New York city department of buildings prior to the effective date of this local law, the repeal and reenactment of section 224.1 of the New York city charter pursuant to section one of this local law shall not apply, and section 224.1 of the New York city charter as was in effect prior to the repeal and re-enactment of such section pursuant to this local law, and any rules promulgated thereto, shall continue to be in effect as if such section had not been so repealed and re-enacted.

AS
2/15/2023 6:38 p.m.