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Int. No. 267

By Council Members Joseph, Restler, Won, Feliz, Brewer, Abreu, Louis, Marte, Gutiérrez, Hanif, Salaam, Riley, Farías, De La Rosa, Hudson, Avilés, Cabán, Williams, Banks, Sanchez, Brooks-Powers, Stevens, Ossé, Zhuang, Nurse, Hanks, Krishnan, Schulman, Narcisse, Brannan, Epstein and Bottcher (by request of the Manhattan Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to making certain bathrooms in city facilities available for public use

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 4 of the administrative code of the city of New York is amended by adding a new section 4-218 to read as follows:

§ 4-218 Public access to bathrooms in city-managed facilities. a. Definitions. As used in this section, the following terms have the following meanings:

ADA accessible bathroom. The term "ADA accessible bathroom" means a bathroom that complies with the Americans with Disabilities Act and the regulations promulgated thereunder, contained in parts 35 and 36 of title 28 of the code of federal regulations, and any additional applicable federal, state, and local laws relating to accessibility for persons with disabilities, as such laws, rules, or regulations may from time to time be amended.

Available bathroom. The term "available bathroom" means a bathroom located in a publicly accessible area of a city facility.

City facility. The term "city facility" means a building or structure or part thereof that (i) is owned or leased by the city; (ii) is managed or operated by an agency; and (iii) has a publicly accessible area.

Commissioner. The term "commissioner" means the commissioner of citywide administrative services.

Publicly accessible area. The term "publicly accessible area" means an area of a city facility to which members of the public are regularly invited or permitted entrance to on most business days and which does not require special authorization, other than basic security screening, to gain admission.

Facility employee. The term "facility employee" means a person who regularly performs work in a city facility with at least 1 available bathroom.

b. Bathrooms to be opened to the public. The commissioner shall coordinate with the heads of all agencies that manage or operate a city facility to open every available bathroom to public use during the operating hours of the city facility in which each bathroom is located. In determining which available bathrooms are to be opened to the public, the commissioner shall coordinate with the manager or operator of each city facility to:

1. Make every reasonable effort to open available bathrooms that are ADA accessible to the public;

2. At least 28 calendar days before selected bathrooms are to be opened to the public, provide written notice to the designated leadership of any labor union or labor organization that represents facility employees; and

3. At least 28 calendar days before selected bathrooms are to be opened to the public, post notice in or near all entrances to each selected bathroom.

c. Information to be shared with the public. 1. The commissioner shall coordinate with the heads of all city agencies that manage or operate a bathroom opened to the public pursuant to this section to display signage indicating that the facility offers bathrooms for public use. During operating hours, such signage shall be conspicuously visible in front of all publicly accessible entrances to each city facility. The sign shall state the hours during which the bathrooms are open and whether the bathrooms are ADA accessible.

2. A bathroom opened to the public pursuant to subdivision b of this section shall be considered a public bathroom for the purposes of section 18-159.

d. Report on implementation. No later than 30 days after the effective date of this section, the

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commissioner shall coordinate with all agency heads that manage or operate a city facility to submit a report to the speaker of the council, the mayor, the public advocate, and each community board that lists:

1. The address of each city facility and the name of the agency that manages or operates it;

2. A list of all bathroom facilities in each city facility, categorized as follows: (i) ADA accessible bathrooms open to the public; (ii) bathrooms open to the public that are not ADA accessible; (iii) bathrooms not open to the public; and

3. For any bathroom not opened to the public, the factors that led to such determination. Where such bathroom is ADA accessible, the report shall describe the potential workarounds that were considered and why these were insufficient to allow opening the bathroom to the public.

e. Agency duty to notify. Agencies shall notify the commissioner of the following changes in circumstance at least 30 days in advance of when such change are expected to occur, except where such change is unforeseen, in which case agencies must notify the commissioner within 2 business days from when the change occurred:

1. When a bathroom opened to the public pursuant to this section is to be closed to the public during operating hours for a reason other than regularly scheduled maintenance, or when a bathroom becomes inaccessible to persons with disabilities after having been listed as ADA accessible, including, as applicable, the date on which the bathroom is expected to be re-opened to the public or to persons with disabilities; or

2. When a bathroom becomes available to the public for the first time or an available bathroom is newly made ADA accessible, including the date on which such change is expected to occur.

f. Periodic updates to the report. Upon a change in circumstance pursuant to subdivision e of this section, the commissioner shall update and resubmit the report required by subdivision d of this section. The updated portion of the report must also be submitted to the agency designated by the mayor pursuant to subdivision c of section 18-159 and reflected on the website listing all public bathrooms in the city. If a bathroom will be closed temporarily, the report and website must specify the date on which the bathroom is

expected to be re-opened to the public. The updated report must be submitted no later than 14 calendar days before a change in circumstance pursuant to subdivision e of this section is expected to occur, or 4 business days after an unforeseen change, except that no update shall be required within 14 calendar days of the previous update.

§ 2. Paragraph 26) of subdivision a of section 4-208 of the administrative code of the city of New York, as added by local law number 48 for the year 2011, is amended to read as follows:

26) the major use of the structure or structures, where applicable, including whether it contains a publicly available bathroom as defined in section 4-218;

§ 3. This local law takes effect 90 days after it becomes law, except that, to the extent that any part of this local law cannot be implemented without reference to section 18-159 of the administrative code of the city of New York, that part takes effect no earlier than the effective date of a local law to amend the administrative code of the city of New York, in relation to requiring reporting on the features and condition of public bathrooms, as proposed in introduction number 576 for the year 2022.

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