

## THE COUNCIL

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*Minutes of the Proceedings for the*

### STATED MEETING

*of*

Thursday, January 28, 2021, 1:42 p.m.

*held remotely via video-conference*

*The Majority Leader (Council Member Cumbo)*

*presiding as the Acting President Pro Tempore*

### Council Members

Corey D. Johnson, *Speaker*

Adrienne E. Adams	Mark Gjonaj	Antonio Reynoso
Alicia Ampry-Samuel	Barry S. Grodenchik	Kevin C. Riley
Diana Ayala	Robert F. Holden	Carlina Rivera
Inez D. Barron	Ben Kallos	Ydanis A. Rodriguez
Joseph C. Borelli	Peter A. Koo	Deborah L. Rose
Justin L. Brannan	Karen Koslowitz	Helen K. Rosenthal
Fernando Cabrera	Bradford S. Lander	Rafael Salamanca, Jr
Margaret S. Chin	Stephen T. Levin	Mark Treyger
Costa G. Constantinides	Mark D. Levine	Eric A. Ulrich
Robert E. Cornegy, Jr	Farah N. Louis	Paul A. Vallone
Laurie A. Cumbo	Alan N. Maisel	James G. Van Bramer
Chaim M. Deutsch	Steven Matteo	Kalman Yeger
Darma V. Diaz	Carlos Menchaca	
Ruben Diaz, Sr.	I. Daneek Miller	
Daniel Dromm	Francisco P. Moya	
Mathieu Eugene	Bill Perkins	
Vanessa L. Gibson	Keith Powers	

At the time of this virtual Stated Meeting, there were four vacant seats in the Council pending the swearing-in of the certified winners of the special non-partisan elections scheduled on the following respective dates: February 2, 2021 in the 24th District (Queens); February 23, 2021 in the 31<sup>st</sup> District (Queens); March 23, 2021 in the 11th and 15th Districts (The Bronx).

The Majority Leader (Council Member Cumbo) assumed the chair as the Acting President Pro Tempore and Presiding Officer for these virtual proceedings. Following the gaveling-in of the Meeting and the recitation of the Pledge of Allegiance, the Roll Call for Attendance was called by the City Clerk and the Clerk of the Council (Mr. McSweeney).

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Majority Leader and the Acting President Pro Tempore (Council Member Cumbo).

*There were 47 Council Members marked present at this virtual Stated Meeting.*

### INVOCATION

The Invocation was delivered by Reverend Dan Rodriguez, Associate Pastor at Greater Allen AME Cathedral, 110-31 Floyd H. Flake Boulevard Jamaica, New York 11433.

Good afternoon esteemed Council persons,  
Madam Majority Leader, Speaker, staff, security and friends.  
You all look great, impressive, strong-bodied.  
This Invocation today is an honor  
and I bring you greetings from, again,  
my pastors Floyd and Elaine Flake.

Let us pray.  
Most merciful, and gracious and holy God  
your apostle Matthew declared in your word  
“...where two or three are gathered in his name,  
there am I among them”.  
Dear Lord, we pray  
that You would help our leaders in this new season  
and help them to govern wisely.  
Help them to rest in your power and purpose for their lives.  
Bring them emotional stability, mental clarity,  
physical endurance to do their work.  
Heavenly Father, give our leaders grace to do justice,  
love mercy, and walk humbly before You in all integrity.  
May they defend the oppressed, protect the virtuous,  
and discipline the wrongdoers.  
Please give them the wisdom to enact laws and regulations  
that will foster an environment where every citizen  
can flourish spiritually, socially, and physically.  
We pray that all affected in any way by the COVID virus  
find comfort and relief from loss,  
financial hardships, housing, and educational crisis.  
Empower this body of people-appointed leaders today, God,  
to discern, expose, and resolve  
equitable paths of solution for your people.  
God told David in the Bible:  
“The ones who rule righteously, who rule in the fear of God,  
are like the lights in the morning sunshine...”  
And we thank You, Precious God,  
for choosing these Council leaders  
to serve at such a time as this.  
Bless them and every family represented.  
May they go forth through their supportive staff,  
forever mindful of every person  
to be impacted by their decisions,  
raising the level of this beloved Community

with joy, fulfillment, good health, and success.  
Dear Mighty God,  
it is in your strong and powerful name  
that we pray, Amen, Amen and Amen!

Council Member Miller moved to spread the Invocation in full upon the record.

During the Communication from the Speaker segment of this meeting, the Speaker (Council Member Johnson) acknowledged that the number of coronavirus deaths in New York City had reached 26,763 as of January 5, 2021. He noted that the nation had a new administration in Washington, D.C., and with it, a new hope that swift action would be taken in the battle against the pandemic. The Speaker (Council Member Johnson) spoke of how New Yorkers desperately needed vaccines and urged the Federal government to continue to prioritize their delivery.

During the Communication from the Speaker segment of this meeting, the Speaker (Council Member Johnson) asked for a Moment of Silence in memory of a number of individuals listed below.

Two more first responders recently passed away of 9/11-related illnesses: Retired FDNY Lieutenant Gerard “Roddy” McGibbon who died on January 24, 2021 at the age of 61; and Retired FDNY Firefighter Ronald P. Stortz who died on January 16, 2021 at the age of 53.

New York City construction worker Jashim Mia died during the course of his employment. Mr. Mia, 39, was killed in the collapse of a retaining wall at a Brooklyn site on December 28, 2020.

George McDonald, founder of the DOE Fund, died on January 26, 2021 at the age of 76. The Speaker (Council Member Johnson) spoke of how Mr. McDonald had started the DOE Fund to empower and uplift New Yorkers who had histories of homelessness, substance abuse, and incarceration. He noted that Mr. McDonald had committed his life to the betterment of New York and the city was grateful for his work.

On behalf of the Council, the Speaker (Council Member Johnson) also offered his thoughts and prayers to the families of all of the deceased. He asked for Moment of Silence in memory of the individuals named above and in memory of those who had lost their lives to COVID-19.

At this point, a Moment of Silence was observed.

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#### **ADOPTION OF MINUTES**

Council Member Riley moved that the Minutes of the Stated Meeting of December 17, 2020 and the Charter Meeting of January 6, 2021 be adopted as printed.

**MESSAGES & PAPERS FROM THE MAYOR**

M-276

**Communication from the Mayor - Submitting Preliminary Expense, Revenue, and Contract Budget for Fiscal Year 2022, pursuant to Sections 225 and 236 of the New York City Charter.**

(For text, please refer to the New York City Council at <https://council.nyc.gov> for the attachment section of the [M-276 of 2021 file](#); please also refer to the Mayor's Office of Management and Budget at 255 Greenwich Street, Suite 8, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-277

**Communication from the Mayor – Submitting January 2021 Financial Plan Detail for Fiscal Years 2021-2025, pursuant to Sections 101 and 213 of the New York City Charter.**

(For text, please refer to the New York City Council at <https://council.nyc.gov> for the attachment section of the [M-277 of 2021 file](#); please also refer to the Mayor's Office of Management and Budget at 255 Greenwich Street, Suite 8, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-278

**Communication from the Mayor - Submitting Geographic Reports for Expense Budget for Fiscal Year 2022, pursuant to Sections 100 and 231 of the New York City Charter.**

(For text, please refer to the New York City Council at <https://council.nyc.gov> for the attachment section of the [M-278 of 2021 file](#); please also refer to the Mayor's Office of Management and Budget at 255 Greenwich Street, Suite 8, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-279

**Communication from the Mayor - Submitting Departmental Estimates for Fiscal Year 2022, pursuant to Sections 100, 212 and 231 of the New York City Charter.**

(For text, please refer to the New York City Council at <https://council.nyc.gov> for the attachment section of the [M-279 of 2021 file](#); please also refer to the Mayor's Office of Management and Budget at 255 Greenwich Street, Suite 8, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-280

**Communication from the Mayor - Submitting the Preliminary Capital Budget, Fiscal Year 2022, pursuant to Section 213 and 236 of the New York City Charter.**

(For text, please refer to the New York City Council at <https://council.nyc.gov> for the attachment section of the [M-280 of 2021 file](#); please also refer to the Mayor's Office of Management and Budget at 255 Greenwich Street, Suite 8, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-281

**Communication from the Mayor - Submitting the Preliminary Capital Commitment Plan, Fiscal Year 2022, Volumes 1, 2, 3, & 4, pursuant to Section 219 of the New York City Charter.**

(For text, please refer to the New York City Council at <https://council.nyc.gov> for the attachment section of the [M-281 of 2021 file](#); please also refer to the Mayor's Office of Management and Budget at 255 Greenwich Street, Suite 8, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-282

**Communication from the Mayor – Submitting the Preliminary Ten-Year Capital Strategy Fiscal Years 2022-2031, pursuant to Section 215 of the New York City Charter.**

(For text, please refer to the New York City Council at <https://council.nyc.gov> for the attachment section of the [M-282 of 2021 file](#); please also refer to the Mayor's Office of Management and Budget at 255 Greenwich Street, Suite 8, New York, N.Y. 10007)

Referred to the Committee on Finance.

M-283

**Communication from the Mayor – Submitting Preliminary Mayor's Management Report (PMMR) for Fiscal Year 2021, pursuant to Section 12 of the New York City Charter.**

(For text, please refer to the New York City Council at <https://council.nyc.gov> for the attachment section of the [M-283 of 2021 file](#); please also refer to the Mayor's Office of Management and Budget at 255 Greenwich Street, Suite 8, New York, N.Y. 10007)

Received, Ordered, Printed and Filed.

M-284

**Communication from the Mayor - Submitting the Preliminary Certificate, setting forth the maximum amount of debt and reserves which the City, and the NYC Municipal Water Finance Authority, may soundly incur for capital projects for Fiscal Year 2022 and the ensuing three fiscal years, and the maximum amount of appropriations and expenditures for capital projects which may soundly be made during each fiscal year, pursuant to Section 235 of the New York City Charter.**

January 14, 2021

Honorable Members of the Council

Honorable Scott M. Stringer, Comptroller

Honorable Ruben Diaz, Jr., Bronx Borough President

Honorable Eric L. Adams, Brooklyn Borough President

Honorable Gale A. Brewer, Manhattan Borough President

Honorable Donovan Richards, Queens Borough President

Honorable James S. Oddo, Staten Island Borough President

Honorable Members of the City Planning Commission Ladies and Gentlemen:

I hereby certify on a preliminary basis that, as of this date, in my opinion, the City of New York (the "City"), the New York City Municipal Water Finance Authority and the New York City Transitional Finance Authority may soundly issue debt and expend reserves to finance total capital expenditures of the City for fiscal year 2022 and the ensuing three fiscal years, in maximum annual amounts as set forth below:

2022	\$10,201 Million
2023	11,337 Million
2024	11,876 Million
2025	12,734 Million

Certain capital expenditures are herein assumed to be financed from the proceeds of sale of bonds by the City and the New York City Transitional Finance Authority. Amounts of expenditures to be so financed have been included in the total amounts listed above and are estimated to be as follows in fiscal years 2022 — 2025:

2022	\$8,287 Million
2023	9,460 Million
2024	9,891 Million
2025	10,471 Million

Certain water and sewer capital expenditures are herein assumed to be financed from the proceeds of the sale of bonds by the New York City Municipal Water Finance Authority. Amounts of expenditures to be so financed have been included in the total amounts listed in the first paragraph hereof and are estimated to be as follows in fiscal years 2022 — 2025:

2022	\$1,914 Million
2023	1,877 Million
2024	1,985 Million
2025	2,263 Million

I further certify on a preliminary basis that, as of this date, in my opinion, the City may newly appropriate in the Capital Budget for fiscal year 2022, and may include in the capital program for the ensuing three fiscal years, amounts to be funded by City debt, New York City Transitional Finance Authority debt or, with respect to water and sewer projects, debt of the New York City Municipal Water Finance Authority, not to exceed the following:

2022	\$8,451 Million
2023	12,630 Million
2024	15,073 Million
2025	14,628 Million

Sincerely,

Bill de Blasio Mayor

Received, Ordered, Printed and Filed.

**COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES**

M-285

**Communication from the Public Advocate – Submitting Cea Weaver for appointment to the City Planning Commission for term that began on July 1, 2020 pursuant to sections 31 and 192(a) of the New York City Charter.**

01/05/2021

Speaker Corey Johnson  
New York City Council  
City Hall  
New York, NY 10007

RE: Appointment to the City Planning Commission

Dear Speaker Johnson:

Pursuant to sections 31 and 192(a) of the New York City Charter, I am transmitting for the City Council's consideration the name of Cea Weaver for appointment to the City Planning Commission, for the term that began July 1, 2020.

If you need to contact Ms. Weaver, she may be reached at [redacted]. For further information, your staff may contact my office through Casie Addison, Legislative Director, at [caddisoneadvocate.nyc.gov](mailto:caddisoneadvocate.nyc.gov), and Michael Twomey, Esq., Deputy General Counsel, at [mtwomeyaadvocate.nyc.gov](mailto:mtwomeyaadvocate.nyc.gov).

Please have your office inform me of the date and time of the hearing on this appointment once it has been scheduled.

Sincerely,

Jumaane D. Williams  
Public Advocate for the City of New York

cc: Mayor Bill de Blasio  
Council Member Karen Koslowitz, Chair - Committee on Rules, Privileges and Elections  
Marisa Lago, Chair - City Planning Commission  
Cea Weaver

Referred to the Committee on Rules, Privileges and Elections.

## REPORTS OF THE STANDING COMMITTEES

### Report of the Committee on Civil Service and Labor

Report for Int. No. 2161-A

**Report of the Committee on Civil Service and Labor in favor of approving and adopting, as amended, a Local Law in relation to establishing a board to review workplace health and safety guidance during the COVID-19 pandemic.**

The Committee on Civil Service and Labor, to which the annexed proposed amended local law was referred on November 19, 2020 (Minutes, page 2443), respectfully

#### REPORTS:

#### **I. INTRODUCTION**

On January 27, 2021, the Committee on Civil Service and Labor, chaired by Council Member I. Daneek Miller, held a vote on two pieces of legislation related to workplace safety during public health emergencies such as the COVID-19 pandemic. *Int. No. 2161-A*, sponsored by Council Member I. Daneek Miller, is a Local Law in relation to establishing a board to review workplace health and safety guidance during the COVID-19 pandemic, and *Int. No. 2162-A*, also sponsored by Council Member I. Daneek Miller, is a Local Law in relation to disseminating occupational safety and health information to city employees during a public health emergency.

The Committee passed the package of legislation by a vote of six in the affirmative, zero in the negative, with zero abstentions.

This legislation was originally heard at a hearing of this Committee on November 20, 2020, at which the Committee received testimony from representatives from the New York City (NYC) Department of Consumer and Worker Protection (DCWP), the NYC Department of Citywide Administrative Services (DCAS), various labor unions, labor organizations, chambers of commerce, public and private places of employment, and other interested parties.

#### **II. BACKGROUND**

##### *COVID-19 and Workplaces in New York City*

In late 2019 and early 2020, a novel coronavirus called SARS-CoV-2 began to spread rapidly worldwide, causing over eleven million reported cases of COVID-19, the disease caused by SARS-CoV-2, and nearly 250,000 deaths by November 2020 in the U.S. alone.<sup>1</sup> Because of the virus's extremely contagious nature, pervasive health effects, and high death toll, efforts to limit and stop the virus's spread have necessitated closures for the majority of workplaces.<sup>2</sup>

On March 20, 2020, Governor Andrew M. Cuomo issued the "New York State on PAUSE" executive order (Executive Order 202.6) in the state of New York.<sup>3</sup> The Order closed most businesses, but delineated twelve

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<sup>1</sup> Center for Disease Control. Case Trends. Cases and Deaths by State. *United States COVID-19 Cases and Deaths by State*. Available at: [https://covid.cdc.gov/covid-data-tracker/#cases\\_casesinlast7days](https://covid.cdc.gov/covid-data-tracker/#cases_casesinlast7days).

<sup>2</sup> Center on Budget and Policy Priorities. Research. Poverty and Inequality. *Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships*. Available at: <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and>

<sup>3</sup> Governor Cuomo Issues Guidance On Essential Services Under the 'New York State on PAUSE' Executive Order. [Governor.NY.gov](https://www.governor.ny.gov/news/governor-cuomo-issues-guidance-essential-services-under-new-york-state-pause-executive-order). March 20, 2020. Available at: <https://www.governor.ny.gov/news/governor-cuomo-issues-guidance-essential-services-under-new-york-state-pause-executive-order>

categories of essential business that were allowed to stay open under limited circumstances and with proper safety precautions in place.<sup>4</sup> This list included hospitals, certain forms of retail such as grocery stores and pharmacies, and essential public services such as the postal service.<sup>5</sup> Throughout the duration of the pandemic so far, these essential businesses have stayed open, utilizing social distancing measures and safety precautions.<sup>6</sup> All other businesses in industries not specifically named in the Executive Order were ordered to shut down in-office personnel functions until the State issued orders directing otherwise.<sup>7</sup>

While New York initially suffered disproportionately high rates of COVID cases and deaths in spring 2020, the state also saw a reduction in reported viral spread sooner than other areas in the United States, and began to make small moves towards reopening in June 2020.<sup>8</sup> Through a series of successive “phases,” different industries and business types were gradually allowed to reopen, so long as COVID-19 rates remained sufficiently low.<sup>9</sup> New York City entered Phase One of reopening on June 8, 2020, Phase Two on June 22, Phase Three on July 6, 2020, and Phase Four on July 19, 2020.<sup>10</sup> By September 2020, all workplaces in the City included in the final stage of the COVID reopening process, including gyms, malls, and public schools, were allowed to reopen to some extent.<sup>11</sup> Establishments were allowed to operate indoor dining, considered to be a major test for whether the city can return to pre-pandemic life, at 25 percent capacity beginning on September 30<sup>th</sup>.<sup>12</sup>

However, for many businesses forced to suspend in-person work, the process of reopening worksites in New York City has been far from linear.<sup>13</sup> The financial services company JPMorgan, for example, set a target date of September 21, 2020 for bringing its trading floor back to in-person work, but was forced to cancel these plans after a number of traders tested positive for COVID-19.<sup>14</sup> Additionally, approaches have varied starkly among different large employers in the New York City area. While some, such as JPMorgan, have sought to return to on-site work as soon as possible, other employers, such as American Express and Google, have declared that employees can work remotely until summer 2021.<sup>15</sup>

The recent spikes in cases, beginning roughly in the last week of September 2020, have caused a fresh set of concerns that the city is about to enter a so-called “second wave” of COVID-19 cases.<sup>16</sup> On September 29, 2020, the City reported that its daily positivity rate of coronavirus tests passed 3% for the first time since June.<sup>17</sup> This led Mayor Bill de Blasio to reinstitute various restrictions in roughly twenty neighborhoods around New York City on October 4<sup>th</sup>, including the closure of all non-essential businesses in nine particularly affected areas

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Guidance for Determining Whether A Business Enterprise Is Subject To A Workforce Reduction Under Recent Executive Orders.* Empire State Development Corporation. Last updated October 23, 2020. Available at: <https://esd.ny.gov/guidance-executive-order-2026>.

<sup>7</sup> *Id.*

<sup>8</sup> John Hilsenrath and Kate King. *New York Starts Mapping Out the Road Back from Coronavirus – And It’s Long.* *Wall Street Journal*. May 27, 2020. Available at: <https://www.wsj.com/articles/new-york-starts-mapping-out-the-road-back-from-coronavirus-crisisand-its-long-11590599226>

<sup>9</sup> Alexandra Kerr. *A Historical Timeline of COVID-19 In New York City.* *Investopedia*. Last updated Oct. 6, 2020. Available at: <https://www.investopedia.com/historical-timeline-of-covid-19-in-new-york-city-5071986>

<sup>10</sup> Alexandra Kerr. *A Historical Timeline of COVID-19 In New York City.* *Investopedia*. Last updated Oct. 6, 2020. Available at: <https://www.investopedia.com/historical-timeline-of-covid-19-in-new-york-city-5071986>

<sup>11</sup> *Id.*

<sup>12</sup> Jesse McKinley, Sharon Otterman, and Joseph Goldstein. *NYC to Allow Indoor Dining, in Milestone on Recovery from Pandemic.* *New York Times*. Last updated Sept. 29, 2020. Available at: <https://www.nytimes.com/2020/09/09/nyregion/indoor-dining-coronavirus.html>

<sup>13</sup> Matthew S. Schwarz. *NYC To Close Businesses In Parts of Brooklyn and Queens As Virus Takes Hold Again.* *NPR*. Oct. 4, 2020. Available at: <https://www.npr.org/sections/coronavirus-live-updates/2020/10/04/920174065/nyc-to-close-businesses-in-much-of-brooklyn-and-queens-as-virus-takes-hold-again>

<sup>14</sup> Lisette Voytko. *JPMorgan Reportedly Sends NYC Workers Home As Employee Tests Positive for COVID-19.* *Forbes*. Sept. 15, 2020. Available at: <https://www.forbes.com/sites/lisettevoytko/2020/09/15/jpmorgan-reportedly-sends-nyc-workers-home-as-employee-tests-positive-for-covid-19/?sh=740d47814894>

<sup>15</sup> Lucas Manfredi. *American Express extends work from home policy through June 2021.* *Fox News*. Sept. 10, 2020. Available at: <https://www.foxbusiness.com/economy/american-express-extends-work-from-home-policy-through-june-2021>

<sup>16</sup> Jennifer Millman. *NJ Gov Says 2<sup>nd</sup> Wave ‘Is Coming Now’ as NYC Mayor Calls City’s Latest COVID Rate ‘Worrisome.’* *NBC New York*. Last updated Oct. 29, 2020. Available at: <https://www.nbcnewyork.com/news/coronavirus/another-new-jersey-city-imposes-virus-curfew-as-u-s-breaks-daily-case-record-for-3rd-time-in-week/2693359/>

<sup>17</sup> Zack Burdyk. *New York City reports uptick in COVID-19 cases as schools try to reopen.* *The Hill*. Sept. 29, 2020. Available at: <https://thehill.com/policy/healthcare/518745-new-york-city-reports-daily-covid-19-positivity-rate-of-325-percent-as>

in Queens and Brooklyn.<sup>18</sup> Governor Cuomo chose not to approve Mayor de Blasio's specific actions on closures, but did enact a "Cluster Action Initiative," which also closed all non-essential businesses, limited restaurant dining to takeout-only, closed schools, and allowed houses of worship to continue operating under drastically reduced capacity.<sup>19</sup> On November 18, 2020, the mayor announced that public schools would be closed once more in response to the new increase in COVID cases.<sup>20</sup>

### *Workplace Safety Standards During the Pandemic*

The Centers for Disease Control's (CDC) guidance to prevent viral transmission has largely revolved around: (i) minimizing interpersonal contact and (ii) where interpersonal contact cannot be prevented, utilizing appropriate safety precautions, such as facial coverings and maintaining a distance of six to ten feet from other individuals.<sup>21</sup> Additionally, measures to kill the virus, such as hand-washing and sanitation of common spaces, may be effective at removing the virus from surfaces if proper sanitation materials are used.<sup>22</sup> Finally, research has strongly suggested that gatherings of multiple people indoors may be far more conducive to viral transmission than gatherings outdoors.<sup>23</sup>

Such guidance poses significant challenges to workplaces, which are frequently indoors, have multiple shared areas and items of common use, and tend to place employees in close quarters.<sup>24</sup> For retail workers, restaurant staff, and other employees who interact with customers as part of their job, an additional hurdle of ensuring safe personal interactions arises.<sup>25</sup> Businesses that open are supposed to mandate that customers wear masks, as well as provide access to hand sanitizer for public and employee use.<sup>26</sup> Where possible, employers must keep at least six feet of distance between individuals, and ensure that masks are being worn for any closer encounter.<sup>27</sup>

However, the novel nature of this virus has caused great uncertainty as to what exactly the best practices are to combat its spread.<sup>28</sup> While a thorough body of scientific research backs the above measures, the body of knowledge surrounding COVID-19 is constantly shifting, and multiple unanswered questions still remain.<sup>29</sup> For example, it is still largely unknown the extent to which people who have previously contracted the virus can be re-infected, why certain people experience much more severe symptoms, and whether specific measures such as upgrading ventilation systems can make indoor spaces safer.<sup>30</sup>

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<sup>18</sup> Dana Rubinstein, Daniel E. Slotnik, Eliza Shapiro and Liam Stack. *Fearing 2<sup>nd</sup> Wave, NYC Will Adopt Restrictions In Hard-Hit Areas*. New York Times. Last updated Oct. 16, 2020. Available at: <https://www.nytimes.com/2020/10/04/nyregion/nyc-covid-shutdown-zip-codes.html>

<sup>19</sup> *Governor Cuomo Announces New Cluster Action Initiative*. Governor.ny.gov. Oct. 6, 2020. Available at: <https://www.governor.ny.gov/news/governor-cuomo-announces-new-cluster-action-initiative>

<sup>20</sup> David K. Li and Caitlin Fichtel. *NYC Schools to Close as City Reaches 3 Percent Test Positivity Threshold*. NBC News. Nov. 18, 2020. Available at: <https://www.nbcnews.com/news/us-news/nyc-schools-close-city-reaches-3-percent-test-positivity-threshold-n1247899>

<sup>21</sup> *Coronavirus (COVID-19)*. CDC.gov. Available at: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Lu-Hai Liang. *Covid-19: The Ways Viruses Spread In Offices*. BBC. Mar. 25, 2020. Available at: <https://www.bbc.com/worklife/article/20200324-covid-19-the-ways-viruses-can-spread-in-offices>

<sup>25</sup> *Guidance on Preparing Workplaces for COVID-19*. OSHA.gov. March 2020. Available at: <https://www.osha.gov/Publications/OSHA3990.pdf>

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Ferric C Fang, Constance A Benson, Carlos del Rio, Kathryn M Edwards, Vance G Fowler, Jr, David N Fredricks, Ajit P Limaye, Barbara E Murray, Susanna Naggie, Peter G Pappas, Robin Patel, David L Paterson, David A Pegues, William A Petri, Jr, Robert T Schooley. *COVID-19—Lessons Learned and Questions Remaining*. Clinical Infectious Diseases, c1aa1654, <https://doi.org/10.1093/cid/ciaa1654>

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

### *City Guidance During COVID-19*

The bulk of the city’s COVID-19-related guidance and information can be found on the city’s dedicated COVID-19 Citywide Information Portal, as well as on the New York City Department of Health and Mental Hygiene (DOHMH)’s COVID webpage.<sup>31,32</sup> Each page can be broken down into roughly two sections: a section offering safety information and resources for individuals, and a section for business owners and employers, including industry-specific guidance on opening safely.<sup>33,34</sup> The employer-oriented section “Guidance for Businesses and Schools” on the DOHMH’s page also contains templates businesses can follow to ensure they are meeting all necessary safety requirements.<sup>35</sup>

By contrast, the New York City Department of Consumer and Worker Protection (DCWP) Office of Labor Policy & Standards hosts a webpage with COVID-19 related guidance and resources primarily aimed at workers’ rights.<sup>36</sup> Aspects of their outreach include:

- a best practices document for domestic workers, advocating for employees and employers to jointly develop safety plans and sanitation protocols;
- a hotline specifically for COVID-related worker information and complaints;
- clarification surrounding the September and January changes to the Earned Safe and Sick Time Act, which will place additional requirements on large employers; and
- a summary of existing New York City labor laws.<sup>37</sup>

The New York City Department of Small Business Services (SBS) also hosts a webpage consisting primarily of guidance for businesses, including information on the Open Storefronts program and specific guidelines surrounding indoor dining.<sup>38</sup> Indoor dining establishments must take temperatures and contact information for all patrons that enter, and also must close bar areas to seating, in addition to staying under 25% capacity and following general distancing and PPE protocols.<sup>39</sup> Finally, the Department of Citywide Administrative Services (DCAS) has posted a lengthy document with reopening guidance for city agencies, consisting of a four-step preparation plan.<sup>40</sup>

### **III. WORKPLACE ISSUES AND CONCERNS DURING COVID-19**

The concern over work and employment in the era of COVID-19 is twofold.<sup>41</sup> Without the necessary income to pay their bills and support themselves, millions of workers face economic hardship under continued closures.<sup>42</sup> Similarly, employers face financial constraints such as rent and sharply decreased revenue.<sup>43</sup> However, as many workplaces tend to be sites of regular, frequent interactions at close quarters, they could serve as incubators for

<sup>31</sup> *NYC COVID-19 Citywide Information Portal*. NYC.gov. Available at: <https://www1.nyc.gov/site/coronavirus/index.page>

<sup>32</sup> *Coronavirus Disease 2019 (COVID-19)*. NYC DOHMH. Available at: <https://www1.nyc.gov/site/doh/covid/covid-19-main.page>

<sup>33</sup> *Id.*

<sup>34</sup> *COVID-19: Guidance for Businesses and Schools*. NYC DOHMH. Available at: <https://www1.nyc.gov/site/doh/covid/covid-19-businesses-and-facilities.page>

<sup>35</sup> *Id.*

<sup>36</sup> *Worker Rights*. NYC Department of Consumer and Worker Protections. Available at: <https://www1.nyc.gov/site/dca/workers/worker-rights.page>

<sup>37</sup> *Id.*

<sup>38</sup> *COVID-19 Assistance & Guidance for Businesses*. NYC Small Business Services. Available at: <https://www1.nyc.gov/site/sbs/businesses/covid19-business-outreach.page>

<sup>39</sup> *Id.*

<sup>40</sup> *Managing the Return to the Office In the Age of COVID-19*. NYC DCAS. Last updated Aug. 11, 2020. Available at: [https://www1.nyc.gov/assets/dcas/downloads/pdf/guidelines/city\\_guidance.pdf](https://www1.nyc.gov/assets/dcas/downloads/pdf/guidelines/city_guidance.pdf)

<sup>41</sup> Shaun P. Hargreaves Heap, Christel Koop, Konstantinos Matakos, Asli Unan, and Nina Weber. *Valuating Health vs. Wealth: The Effect of Information and How This Matters for COVID-19 Policymaking*. VoxEU, Centre for Economic Policy Research. June 6, 2020. Available at: <https://voxeu.org/article/health-vs-wealth-trade-and-covid-19-policymaking>.

<sup>42</sup> Lauren Bauer, Kristen E. Broady, Wendy Edelberg, and Jimmy O’Donnell. *Ten Facts About COVID-19 and the U.S. Economy*. Brookings. Sept. 17, 2020. Available at: <https://www.brookings.edu/research/ten-facts-about-covid-19-and-the-u-s-economy/>

<sup>43</sup> *Id.*

viral spread.<sup>44</sup> Employers and employees alike have thus been forced to balance these competing concerns of physical and economic livelihood.<sup>45</sup>

A primary concern for employers and employees is the implementation of safety precautions and provision of materials necessary to keep the workplace safe.<sup>46</sup> The Occupational Health and Safety Act of 1970 requires employers to create a workplace free of known dangers to their workers' safety.<sup>47</sup> Additionally, Governor Cuomo's executive orders have directed employers to provide all necessary personal protective equipment (PPE) at no cost to the employee, as well as institute social-distancing measures to reduce the chances of viral transmission as much as possible.<sup>48</sup>

However, as researchers from the University of Miami and Rutgers University have noted, the current structure surrounding health and safety precautions has the potential to pit the interests of employers seeking to minimize costs against the interests of workers seeking to ensure their safety.<sup>49</sup> Employers may incur steep additional costs by providing PPE to employees and customers, creating an incentive to underprovide these items or not provide them at all.<sup>50</sup> This incentive is even stronger given the recession caused by the pandemic, which has made it even more difficult for businesses to survive.<sup>51</sup> Similarly, employers may observe a reduction in revenue or business traffic caused by contact-reducing measures such as social distancing and mandatory reduced capacity, and may subsequently fail to enforce these measures.<sup>52</sup>

Finally, a separate issue concerns the unequal nature of the employer-employee relationship.<sup>53</sup> Workers may feel pressured to work in person if their job demands that they resume on-site operations, and also may be unable to voice concerns over safety without fear of losing their employment.<sup>54</sup> Given that roughly half of all Americans have employer-sponsored health insurance, maintaining employment for these workers becomes even more important during a pandemic, should they or their families contract COVID-19 and need medical care.<sup>55</sup>

#### *Employee Concerns over Workplace Safety in New York City*

Since the beginning of the pandemic, numerous reports have surfaced of employees working in unsafe environments, not receiving adequate PPE or safety materials, and/or being forced to work in-person in an unsafe environment.<sup>56</sup> Below are selected examples of worker groups who have reported safety concerns about their employer or workplace environment during COVID-19:

<sup>44</sup> Lu-Hai Liang. *Covid-19: The Ways Viruses Spread In Offices*. BBC. Mar. 25, 2020. Available at: <https://www.bbc.com/worklife/article/20200324-covid-19-the-ways-viruses-can-spread-in-offices>

<sup>45</sup> Shaun P. Hargreaves Heap, Christel Koop, Konstantinos Matakos, Asli Unan, and Nina Weber. *Valuating Health vs. Wealth: The Effect of Information and How This Matters for COVID-19 Policymaking*. VoxEU, Centre for Economic Policy Research. June 6, 2020. Available at: <https://voxeu.org/article/health-vs-wealth-trade-and-covid-19-policymaking>.

<sup>46</sup> Chris Dall. *As Pandemic Rages, PPE Supply Remains A Problem*. University of Minnesota Center for Infectious Disease Research and Policy. July 29, 2020. Available at: <https://www.cidrap.umn.edu/news-perspective/2020/07/pandemic-rages-ppe-supply-remains-problem>

<sup>47</sup> *OSHA Requirements*. NYC Department of Buildings. Available at: <https://www1.nyc.gov/site/buildings/safety/osha-requirements.page>

<sup>48</sup> *Amid Ongoing COVID-19 Pandemic, Governor Cuomo Issues Executive Order Directing Employers To Provide Masks to Employees Who Interact With the General Public*. Governor.NY.gov. April 12, 2020. Available at: <https://www.governor.ny.gov/news/amid-ongoing-covid-19-pandemic-governor-cuomo-issues-executive-order-directing-employers>

<sup>49</sup> Jennifer Cohen and Yana van der Meulen Rodgers. *Contributing factors to personal protective equipment shortages during the COVID-19 pandemic*. Preventive medicine, vol. 141 106263. 2 Oct. 2020, doi:10.1016/j.ypmed.2020.106263

<sup>50</sup> *Id.*

<sup>51</sup> Lauren Bauer, Kristen E. Broady, Wendy Edelberg, and Jimmy O'Donnell. *Ten Facts About COVID-19 and the U.S. Economy*. Brookings. Sept. 17, 2020. Available at: <https://www.brookings.edu/research/ten-facts-about-covid-19-and-the-u-s-economy/>

<sup>52</sup> Laura Wronski and Jon Cohen. *Main Street forced to trade profits for safety in COVID-19 reopening*. CNBC, Aug. 13, 2020. Available at: <https://www.cnn.com/2020/08/13/main-street-forced-to-trade-profits-for-safety-in-covid-19-reopening.html>

<sup>53</sup> Aditi Bagchi. *The Myth of Equality in the Employment Relation*. University of Pennsylvania Law School, Public Law Research Paper No. 09-07. Last updated Nov. 13, 2010. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1357448](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1357448)

<sup>54</sup> Collin Eaton and Konrad Putzier. *Employees Feel Pressured As Bosses Order Them Back To Offices During Pandemic*. Wall Street Journal. Last updated July 15, 2020. Available at: <https://www.wsj.com/articles/employees-feel-pressured-as-bosses-order-them-back-to-offices-during-pandemic-11594821600>

<sup>55</sup> *Health Insurance Coverage of the Total Population*. KFF.org. Available at: <https://www.kff.org/other/state-indicator/total-population/?dataView=1&currentTimeframe=0&selectedDistributions=employer&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

<sup>56</sup> Michelle Andrews. *Workers Fired, Penalized for Reporting COVID Safety Violations*. Kaiser Health News. Oct. 23, 2020. Available at: <https://khn.org/news/article/workers-fired-penalized-for-reporting-covid-safety-violations/>

- *Doctors, Nurses, and other Hospital Staff:* Several reports and testimonies from hospital workers have reported a lack of adequate safety protections, and have also alleged that employees voicing concerns over the safety environment have been terminated. Nurses in the Bronx led a protest in March after being told to reuse N95 masks in what they felt were unsafe and unscientific ways.<sup>57</sup> A local nurses' union president was terminated following his decision to defend a fellow nurse who raised concerns over worker safety at a disciplinary hearing, which he alleges was the reason for his firing.<sup>58</sup> The Montefiore and NYU Langone medical centers have informed their employees of potential professional repercussions for those who speak to the media without authorization, which was seen by many as an attempt to prevent hospital workers from voicing any safety concerns to the public.<sup>59</sup>
- *Home Health Care Workers:* An August 2020 study surveyed 33 home health care workers in New York City on their experiences during the first two months of the pandemic, and nearly all respondents indicated feeling inadequately supported and not receiving appropriate levels of safety protection.<sup>60</sup> A separate survey, conducted earlier in the pandemic, found that two-thirds of home care and hospice agencies in New York state lack adequate PPE.<sup>61</sup>
- *City Workers:* A March 19, 2020 *New York Daily News* article outlined reports from Henry Garrido, President of union District Council 37, that the City took multiple weeks to meet the state's mandate that 75 percent of municipal workers telecommute, and saw delays in providing necessary support or infrastructure for working from home.<sup>62</sup>
- *Warehouse Workers:* In March, a group of warehouse workers at an Amazon warehouse in Staten Island walked out over concerns about the level of PPE they were receiving.<sup>63</sup>
- *Transportation Workers:* A study by the NYU School of Global Health found that over 90% of Metropolitan Transit Authority (MTA) workers in New York City were fearful of getting sick at work, due primarily to concerns over passengers not wearing masks and having to personally enforce the mask mandate on subways.<sup>64</sup> The same study found that while PPE was not readily available at the beginning of the pandemic, by July and August, its provision had become much more consistent.<sup>65</sup>
- *Laundry Workers:* Six employees of FDR Services, a business that cleans hospital linens, reported being fired and not receiving state-mandated COVID-19 paid sick leave after testing positive in March and April.<sup>66</sup>

<sup>57</sup> Dana Kennedy and Khristina Narizhnaya. *Nurses Protest Coronavirus Mask and Glove Shortage in the Bronx*. *New York Post*. Mar. 28, 2020. Available at: <https://nypost.com/2020/03/28/nurses-protest-coronavirus-mask-and-glove-shortage-in-the-bronx/>

<sup>58</sup> Noam Schieber and Brian M. Rosenthal. *Nurses and Doctors Speaking Out on Safety Now Risk Their Job*. *New York Times*. April 9, 2020. Available at: <https://www.nytimes.com/2020/04/09/business/coronavirus-health-workers-speak-out.html>.

<sup>59</sup> *Id.*

<sup>60</sup> Madeline Sterling, Emily Tseng, Anthony Poon, et al. *Experiences of Home Health Care Workers in New York City During the Coronavirus Disease 2019 Pandemic: A Qualitative Analysis*. *JAMA Intern Med.* 2020; 180(11):1453–1459. doi:10.1001/jamainternmed.2020.3930

<sup>61</sup> Home Care Association of New York State. *COVID-19 survey results: statewide home care, hospice & MLTC impacts*. Published March 18, 2020. Available at: <https://hca-nys.org/wp-content/uploads/2020/03/HCA-Memo-Statewide-COVID-19-Survey-Results.pdf>

<sup>62</sup> Michael Gartland. *Not Enough NYC Municipal Workers Work From Home, Says Union Head*. *New York Daily News*. Mar. 19, 2020. Available at: <https://www.nydailynews.com/coronavirus/ny-coronavirus-20200319-pehacnmto5bc5ix06qf3hujw24-story.html>

<sup>63</sup> Brian Fung. *Amazon Workers to Stage a Walkout Monday, Demanding Closure of Staten Island Facility*. *CNN. Com.* Last updated Mar. 30, 2020. Available at: <https://www.cnn.com/2020/03/29/tech/amazon-workers-walkout-coronavirus/index.html>

<sup>64</sup> Robyn Gershon, DrPH. *Impact of Covid-19 Pandemic on NYC Transit Workers: Pilot Study Findings*. *NYU School of Global Health*. October 2020. Available at: <https://www.nyu.edu/content/dam/nyu/publicAffairs/documents/PDF/GershonTransitWorkerPilotStudy>

<sup>65</sup> *Id.*

<sup>66</sup> Amir Khafagy. *New York Frontline Workers Claim To Have Been Fired for Having COVID-19*. *Documented*. Aug. 31, 2020. Available at: <https://documentedny.com/2020/08/31/new-york-frontline-workers-claim-to-have-been-fired-for-having-covid-19/>

- *Teachers, Educators, and School Staff*: As schools in New York City reopen, many teachers have described reporting to work without proper PPE or sanitation protocols in place.<sup>67</sup> In August, news reports found that some New York City teachers were having to spend their own income on PPE in preparation for the upcoming school year.<sup>68</sup>
- *EMS Workers*: In March, the New York City Fire Department (FDNY) pulled firefighters from answering medical calls that described symptoms associated with coronavirus, but did not do so for EMTs and paramedics.<sup>69</sup> Additionally, an April article from the *New York Post* cites EMS Local 2507 President Oren Barzilay's claim that the FDNY was limiting usage of N95 masks by EMTs and paramedics.<sup>70</sup>

While the COVID-19 pandemic continues, it will be essential for the City to help ensure that employees are safe and protected in their workplaces—this means ensuring adequate PPE to all essential and other workers, enforcing sanitation and social distancing regimes, and ensuring employers are following federal, state, and local guidance as they reopen their businesses and continue to stay open.<sup>71</sup> The intention here is twofold: protecting employees will help save lives, and protecting the workforce will help limit and stop the spread the virus within the City.<sup>72</sup>

#### IV. LEGISLATIVE ANALYSIS

##### ANALYSIS OF INT. NO. 2161-A

Int. No. 2161-A would create an independent board to review workplace health and safety guidance that agencies and private employers have issued to employees during the COVID-19 pandemic. The board would hold two public hearings a year to solicit testimony from employees, relevant experts, and stakeholders and make recommendations on protocols for future public health emergencies based on an assessment of the testimony and any submitted guidance. The board would consist of nine members, including the Commissioners of DOHMH, DCAS, DCWP, and the Office of Labor Relations, two Mayoral appointees, two appointees by the Speaker of the Council, and one appointee by the Public Advocate.

The bill would require the board to submit a preliminary report after the first hearing and, by December 15, 2021, a final report to the Mayor and the Speaker of the Council. The final report would include an assessment of the submitted testimony regarding how employers and agencies have advised and helped protect employees during the COVID-19 pandemic and issue recommendations on health and safety protocols for future public health emergencies. The board would dissolve 180 days after the submission of the final report.

This bill would take effect immediately.

Since introduction, Int. No. 2161-A was amended to require the board to hold and staff two public hearings to solicit testimony and submitted guidance from stakeholders, experts, and private and public employees. The new language requires both hearings to be recorded and documented and for the board members to also include a representative from organized labor. In the revised bill, agencies no longer need to reply to the submitted recommendations, and the final report issued by the board must be submitted by December 15, 2021.

<sup>67</sup> Sophia Chang and Jessica Gould. *City "Is Using Us As Science Experiments": Some NYC Teachers Preparing to Reopen Schools Say They Don't Feel Safe*. *Gothamist*. Sept. 10, 2020. Available at: <https://gothamist.com/news/not-adequate-all-some-nyc-teachers-preparing-reopen-schools-say-they-dont-feel-safe>

<sup>68</sup> Jennifer Bislam. *NYC Teachers Say They've Had To Buy Their Own Personal Protective Equipment*. *Pix 11*. Aug. 16, 2020. Available at: <https://www.pix11.com/news/back-to-school/nyc-teachers-say-theyve-had-to-buy-their-own-personal-protective-equipment>

<sup>69</sup> Ginger Adams Otis. *FDNY Pulls Firefighters Back From Potential Coronavirus Calls*. *New York Daily News*. Accessed on [EMS1](https://www.ems1.com/coronavirus-covid-19/articles/fdny-pulls-firefighters-back-from-potential-coronavirus-calls-xDcHJXmczmKdiD4s/). Mar. 8, 2020. Available at: <https://www.ems1.com/coronavirus-covid-19/articles/fdny-pulls-firefighters-back-from-potential-coronavirus-calls-xDcHJXmczmKdiD4s/>

<sup>70</sup> Susan Edelman, Isabel Vincent, Sara Dorn, and Melissa Klein. *EMTs, Medics Defy 'Deadly' FDNY Order Not To Wear N95 Masks*. *New York Post*. April 4, 2020. Available at: <https://nypost.com/2020/04/04/ambulance-workers-say-theyre-at-risk-as-the-fdny-limits-mask-use/>.

<sup>71</sup> *Interim Guidance for Businesses and Employers Responding to Coronavirus Disease 2019 (COVID-19)*. *CDC.gov*. Last updated May 6, 2020. Available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

<sup>72</sup> *Protecting Workers During A Pandemic*. *OSHA.gov*. Available at: <https://www.osha.gov/Publications/OSHA-FS-3747.pdf>

**ANALYSIS OF INT. NO. 2162-A**

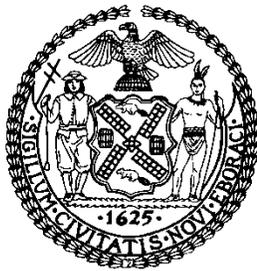
Int. No. 2162-A would require the Citywide Office of Occupational Safety and Health (COSH), an office within DCAS, to disseminate occupational safety and health information to city employees during a public health emergency. The bill would specifically have COSH monitor federal, state, and city agencies that provide information about occupational safety and health. If any such agency issues guidance about occupational safety and health related to the public health emergency, COSH would be required to email such guidance to the safety and health coordinator at each city agency within 24 hours.

Within 24 hours of receipt of such guidance, the safety and health coordinator would then be required to post the guidance in the workplace, email it to each employee within the agency, and send a summary to each employee that is tailored to the employee's position to highlight the most relevant information to them from the guidance. The safety and health coordinator would also be required to provide each employee with any education or training required to ensure proper compliance with the most recent guidance.

The bill would take effect 90 days after it becomes law.

Since introduction, Int. No. 2162-A was amended to clarify the definition of "city agency," to require the coordinator to educate or train employees to properly comply with the most recent health and safety guidance, and to extend the enactment date of the bill from 60 to 90 days after it becomes law.

**(The following is the text of the Fiscal Impact Statement for Int. No. 2161-A:)**



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION**

**LATONIA MCKINNEY, DIRECTOR**

**FISCAL IMPACT STATEMENT  
PROPOSED INT. NO.: 2161-A  
COMMITTEE: Civil Service and Labor**

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**TITLE:** A Local Law in relation to establishing a board to review workplace health and safety guidance during the COVID-19 pandemic

**SPONSORS:** Miller, Rosenthal, and Louis.

**SUMMARY OF LEGISLATION:** This bill would establish a workplace health and safety guidance review board to conduct two public hearings to hear testimony from employees and employers in the public and private sectors about policies and related health and safety protocols implemented to address employee safety during the COVID-19 pandemic, how effectively those policies and protocols have been communicated to employees, how effectively employees have been trained in any mandatory protocols, and recommendations for improvements. The board would consist of nine members: The Commissioners of Health and Mental Hygiene, Citywide Administrative Services, Consumer and Worker Protection, and Labor Relations; two Mayoral appointees; two appointees by the Speaker of the Council, one of whom is a member of organized labor; and one appointee by the Public Advocate. The board would submit to the Mayor and the Speaker of the Council a preliminary report within 60 days of the first public hearing, and a final report by December 15, 2021. The board would additionally hold monthly public meetings to discuss testimony given at each public hearing until the submission of the final report. The board would dissolve 180 days after submission of the final report.

**EFFECTIVE DATE:** The local law would take effect immediately upon its enactment.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2022

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**FISCAL IMPACT STATEMENT:**

	<b>Effective FY21</b>	<b>FY Succeeding Effective FY22</b>	<b>Full Fiscal Impact FY22</b>
<b>Revenues</b>	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** It is anticipated that there would be no impact on revenues resulting from this legislation.

**IMPACT ON EXPENDITURES:** It is estimated that there would be no impact on expenditures resulting from the enactment of this legislation, as existing resources are expected to be utilized to fulfill its requirements.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division  
New York City Mayor's Office of City Legislative Affairs

**ESTIMATE PREPARED BY:** John Cheng, Financial Analyst

**ESTIMATE REVIEWED BY:** John Russell, Unit Head  
Stephanie Ruiz, Assistant Counsel  
Nathan Toth, Deputy Director

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council on November 19, 2020 and referred to the Committee on Civil Service and Labor (Committee). A hearing was held by the Committee on November 20, 2020, and the legislation was laid over. The legislation was subsequently amended, and the amended version, Proposed Int. No. 2161-A, will be considered by the Committee on January 27, 2021. Upon successful vote by the Committee, Proposed Int. No. 2161-A will be submitted to the full Council for a vote on January 28, 2021.

**DATE PREPARED:** January 26, 2021.

(For text of Int. No. 2162-A and its Fiscal Impact Statement, please see the Report of the Committee on Governmental Operations for Int. No. 2162-A printed in these Minutes; for text of Int. No. 2161-A, please see below)

*Accordingly, this Committee recommends the adoption of Int. Nos. 2161-A and 2162-A.*

**(The following is the text of Int. No. 2161-A:)**

Int. No. 2161-A

By Council Members Miller, Rosenthal, Louis, Rivera and Barron.

**A Local Law in relation to establishing a board to review workplace health and safety guidance during the COVID-19 pandemic**

*Be it enacted by the Council as follows:*

Section 1. Definitions. For the purposes of this local law, the following terms have the following meanings:  
Agency. The term "agency" means: (i) any agency as such term is defined in section 1150 of the New York

city charter, the head of which is appointed by the mayor; and (ii) any agency as such term is defined in section 1150 of the New York city charter headed by a board, commission or other multi-member body, where a majority of such body's members are appointed by the mayor.

Board. The term "board" means the workplace health and safety guidance review board.

City. The term "city" means the city of New York.

COVID-19. The term "COVID-19" means disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

Guidance. The term "guidance" means the workplace health and safety guidance that agencies have issued to municipal officers and employees and that private employers have issued to private employees during the pendency COVID-19 pandemic.

Private employee. The term "private employee" means a person who is employed by a private employer and works:

1. Remotely during the COVID-19 pandemic; or
2. At or for an essential business, as defined by the New York state department of economic development in accordance with executive order number 202.6 as issued by the governor of New York on March 18, 2020 and extended or amended thereafter.

Private employer. The term "private employer" means any person, company, corporation, labor organization or association that employs 10 or more persons.

§ 2. Workplace health and safety guidance review board. a. There shall be a workplace health and safety guidance review board. The board shall conduct two public hearings to hear testimony from employees and employers in the public and private sectors about policies and related health and safety protocols that have been implemented to address employee safety during the COVID-19 pandemic, how effectively the policies and protocols have been communicated to employees, how effectively employees have been trained in any mandatory protocols and any recommendations for improvements.

b. The board shall consist of the following 9 members, each of whom shall have demonstrated expertise relevant to the purpose and duties of the board:

1. The commissioners of health and mental hygiene, citywide administrative services, consumer and worker protection, and labor relations, or the designees thereof;
2. Two members appointed by the mayor;
3. Two members appointed by the speaker of the council, one of whom is a member of organized labor; and
4. One member appointed by the public advocate.

c. The mayor shall designate a chair from among the members of the board and an agency to provide administrative support.

d. The board may invite relevant experts and stakeholders, including, but not limited to, those representing public employers, uniformed and non-uniformed municipal employees, organized labor and private employers and employees in the construction, human services, nonprofit, healthcare, hospitality, retail and other industries, to attend its meetings and to otherwise provide testimony and information relevant to its duties.

e. All members shall be appointed no later than 30 days after the effective date of this local law. Vacancies in membership shall be filled in the same manner as the original appointment.

f. Each member of the board shall serve at the pleasure of the officer who appointed the member. In the event of a vacancy, a successor shall be appointed in the same manner as the original appointment for the remainder of the unexpired term. All members shall serve without compensation.

g. The first meeting of the board shall be convened no later than 60 days after the effective date of this local law. At such meeting, the board shall determine the dates for the two public hearings.

h. The board shall publicly notice each hearing at least 30 days prior to it being held and shall conduct such public outreach as necessary to make relevant experts and stakeholders aware of the upcoming hearing.

i. All testimony from both public hearings shall be recorded and documented and its transcript made available to the mayor and the speaker of the council.

j. The board shall meet monthly to discuss the testimony given at each public hearing until it submits the final report required by subdivision k. Such meetings shall be open to the public. The board shall keep a record of its deliberations and determine its rules of procedure.

k. Within 60 days of the first public hearing, the board shall submit a preliminary report to the mayor and the speaker of the council on findings from its public hearings as well as any preliminary recommendations to help

public and private employers more effectively protect and inform employees during the COVID-19 pandemic. By December 15, 2021, the board shall submit a final report to the mayor and speaker of the council on final findings from both public hearings, as well as final and updated recommendations pertaining to the COVID-19 pandemic and recommendations on health and safety protocols for future public health emergencies.

l. The board shall terminate 180 days after the date on which it submits its final report, as required by subdivision k.

§ 3. This local law takes effect immediately.

I. DANEEK MILLER, *Chairperson*; DANIEL DROMM; HELEN K. ROSENTHAL, ADRIENNE E. ADAMS, FRANCISCO P. MOYA, ERIC A. ULRICH; Committee on Civil Service and Labor, January 27, 2021 (Remote Hearing).

On motion of the Speaker (Council Member Johnson), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 2162-A

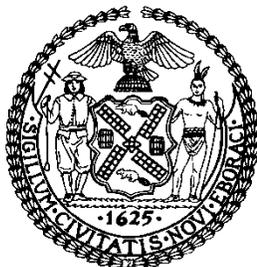
**Report of the Committee on Civil Service and Labor in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the dissemination of occupational safety and health information to city employees during a public health emergency.**

The Committee on Civil and Service Labor, to which the annexed proposed amended local law was referred on November 19, 2020 (Minutes, page 2445), respectfully

**REPORTS:**

**(For text of report, please see the Report of the Committee on Civil Service and Labor for Int. No. 2161-A printed in the Reports of the Standing Committees section of these Minutes)**

*The following is the text of the Fiscal Impact Statement for Int. No. 2162-A:*



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION**

**LATONIA MCKINNEY, DIRECTOR**

**FISCAL IMPACT STATEMENT  
PROPOSED INT. NO.: 2162-A  
COMMITTEE: Civil Service and Labor**

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**TITLE:** A Local Law to amend the administrative code of the City of New York, in relation to the dissemination of occupational safety and health information to city employees during a public health emergency.

**SPONSORS:** Miller, Ampry-Samuel, Kallos, Rosenthal, Adams, and Louis.

**SUMMARY OF LEGISLATION:** This bill would require that, during a public health emergency, the Citywide Office of Occupational Safety and Health (COSH) monitor all occupational safety and health agencies for the issuance of guidance related to the public health emergency, including any guidance on hazard assessment, hygiene, social distancing, identification and isolation of sick employees, return to work after illness or exposure, physical and administrative controls, workplace flexibility, and training and anti-retaliation practices; that COSH email said guidance to the safety and health coordinator at each city agency within 24 hours of its issuance; and that agency safety and health coordinators, within 24 hours of receipt from COSH, post such guidance in the workplace, email such guidance to each agency employee, email a tailored summary of such guidance to each agency employee, and provide each employee any education or training necessary to ensure proper application of the latest guidance.

**EFFECTIVE DATE:** The local law would take effect 90 days after its enactment.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2022

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY21</b>	<b>FY Succeeding Effective FY22</b>	<b>Full Fiscal Impact FY22</b>
<b>Revenues</b>	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** It is anticipated that there would be no impact on revenues resulting from this legislation.

**IMPACT ON EXPENDITURES:** It is estimated that there would be no impact on expenditures resulting from the enactment of this legislation, as existing resources are expected to be utilized to fulfill its requirements.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Division  
New York City Mayor's Office of City Legislative Affairs

**ESTIMATE PREPARED BY:** John Cheng, Financial Analyst

**ESTIMATE REVIEWED BY:** John Russell, Unit Head  
Stephanie Ruiz, Assistant Counsel  
Nathan Toth, Deputy Director

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council on November 19, 2020, and referred to the Committee on Civil Service and Labor (Committee). A hearing was held by the Committee on November 20, 2020, and the legislation was laid over. The legislation was subsequently amended, and the amended version, Proposed Int. No. 2162-A, will be considered by the Committee on January 27, 2021. Upon successful vote by the Committee, Proposed Int. No. 2162-A will be submitted to the full Council for a vote on January 28, 2021.

**DATE PREPARED:** January 26, 2021

*Accordingly, this Committee recommends its adoption, as amended.*

**(The following is the text of Int. No. 2162-A:)**

## Int. No. 2162-A

By Council Members Miller, Ampry-Samuel, Kallos, Rosenthal, Adams, Louis, Yeger, Rivera and Barron.

**A Local Law to amend the administrative code of the city of New York, in relation to the dissemination of occupational safety and health information to city employees during a public health emergency**

*Be it enacted by the Council as follows:*

Section 1. Section 12-208 of the administrative code of the city of New York, as added by local law number 182 for the year 2018, is renumbered section 12-209.

§ 2. Chapter 2 of title 12 of the administrative code of the city of New York is amended by adding a new section 12-210 to read as follows:

*§ 12-210 Dissemination of occupational safety and health information during a public health emergency. a. Definitions. For purposes of this section, the following terms have the following meanings:*

*City agency. The term “city agency” means: (i) any agency as such term is defined in section 1150 of the New York city charter, the head of which is appointed by the mayor; and (ii) any agency as such term is defined in section 1150 of the New York city charter headed by a board, commission or other multi-member body, where a majority of such body’s members are appointed by the mayor.*

*Citywide office of occupational safety and health. The term “citywide office of occupational safety and health” means the office within the department of citywide administrative services responsible for providing oversight to city agencies in environmental and occupational safety and health to ensure compliance with federal, state and local regulations or any successor office that carries out the same or substantially similar functions.*

*Occupational safety and health agency. The term “occupational safety and health agency” means any federal, state or city agency or office that issues guidance related to occupational safety and health, including the federal occupational safety and health administration, the public employee safety and health bureau, the federal centers for disease control and prevention, the national institute for occupational safety and health and the department of health and mental hygiene.*

*Public health emergency. The term “public health emergency” means any time during which, due to a threat to public health, a state of emergency has been declared by the governor pursuant to section 28 of the executive law or by the mayor pursuant to section 24 of the executive law or a public health emergency has been declared by the commissioner of health and mental hygiene pursuant to subdivision d of section 3.01 of the New York city health code.*

*Safety and health coordinator. The term “safety and health coordinator” means the person at a city agency who is primarily responsible for occupational safety and health within the city agency.*

*b. During any public health emergency, the citywide office of occupational safety and health shall monitor all occupational safety and health agencies for the issuance of guidance regarding occupational safety and health related to the public health emergency. This guidance shall include, without limitation, any guidance on hazard assessment, hygiene, social distancing, identification and isolation of sick employees, return to work after illness or exposure, physical and administrative controls, workplace flexibility, training and anti-retaliation practices. Within 24 hours of the issuance of any such guidance, the citywide office of occupational safety and health shall deliver said guidance by electronic mail to the safety and health coordinator at each city agency.*

*c. Within 24 hours of receipt of any occupational safety and health guidance from the citywide office of occupational safety and health during a public health emergency, each safety and health coordinator shall:*

*1. Post such guidance in the workplace next to the poster required pursuant to section 801.47 of title 12 of the New York codes, rules and regulations;*

*2. Deliver such guidance by electronic mail to each employee of the city agency;*

*3. Prepare and deliver by electronic mail a summary of the guidance to each employee of the city agency. Such summary shall be tailored so as to highlight the guidance that is most relevant to employees holding a particular position, or a category of positions, within the city agency; and*

4. Provide to each employee any education or training necessary to ensure the proper application of the latest guidance issued by the citywide office of occupational safety and health.

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

I. DANEEK MILLER, *Chairperson*; DANIEL DROMM; HELEN K. ROSENTHAL, ADRIENNE E. ADAMS, FRANCISCO P. MOYA, ERIC A. ULRICH; Committee on Civil Service and Labor, January 27, 2021 (Remote Hearing).

On motion of the Speaker (Council Member Johnson), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

### **Report of the Committee on Consumer Affairs and Business Licensing**

Report for Int. No. 1116-B

**Report of the Committee on Consumer Affairs and Business Licensing in favor of approving and adopting, as amended, a Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board.**

The Committee on Consumer Affairs and Business Licensing, to which the annexed proposed amended local law was referred on September 26, 2018 (Minutes, page 3739), respectfully

#### **REPORTS:**

##### **I. INTRODUCTION**

On January 28, 2021, the Committee on Consumer Affairs and Business Licensing, chaired by Council Member Diana Ayala, held a vote on Proposed Introduction Bill Number 1116-B (Int. No. 1116-B), in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board. The Committee previously held a hearing on an earlier version of this bill in April 2019. During that hearing, the Committee heard testimony from the Mayor's office, the Departments of Consumer and Worker Protection (DCWP, formerly the Department of Consumer Affairs) and Health and Mental Hygiene (DOHMH), as well as representatives of brick-and-mortar businesses and street vendors, and other interested members of various residential and commercial communities within the City. This feedback informed the final version of the bill. The Committee also heard a previous version of this bill, then numbered Int. No. 1303, last session. At the vote on January 28, the Committee voted 8 in favor, 1 opposed and 0 abstentions on the bill.

##### **II. BACKGROUND**

Street vendors in New York City have contributed markedly to the vibrancy of the City's streets and to the City's food and retail landscape. They often offer affordable food and merchandise alternatives to that sold in traditional stores, and sell fresh fruit and vegetables in underserved areas that are considered food deserts. Street vending in this City has existed for centuries and has consistently been an avenue for newly arrived immigrants

and those with minimal work opportunities to use their skills and resources to make a living.<sup>1</sup>

However, whether it was the peddlers selling oysters and clams in the early 1800s or street vendors today selling hot dogs and halal food,<sup>2</sup> street vendors have consistently struggled over their centuries of operation to be seen as equal counterparts to other small business merchants. This quote from the 1906 Mayoral commission aptly captures the mixed sentiment towards vending today as it did back then: “While adding materially to the picturesqueness of the city’s streets and imparting that air of foreign life which is so interesting to the traveler, lending an element of gaiety and charm to the scene which is otherwise lacking, the practical disadvantages from the undue congestion of peddlers in certain localities are so great as to lead to a demand in many quarters for the entire abolition of this industry, *if it may be dignified by that term.*”<sup>3</sup>

Street vendors were first licensed in New York City in the 1890s, and the number of licensed vendors rose to over 6,000 by 1904.<sup>4</sup> The population of vendors, licensed and unlicensed, continued to grow over the years, since street vending offered a means of income when employment opportunities were scarce. By the 1940s, the number of licenses was reduced to 5,550.<sup>5</sup> Various restrictions were imposed on street vendors by various city agencies over the years and decades. In 1943, the court in Good Humor Corp. v. City of New York, struck down a local law that sought to prohibit all ‘itinerant peddling’ on the City streets, but affirmed the City’s authority to regulate and license the industry.<sup>6</sup>

Tensions between street vendors and other established businesses continue to exist. The illegal market for vending permits due to a local cap continues to cause prolific exploitation, and the various city agencies with oversight of the industry continue to struggle with enforcing the patchwork of regulations. The legislation being considered by the Committee aims to mitigate some of these problems, while balancing the competing needs of vendors, customers, residents and brick-and-mortar establishments.

#### **A. Current New York City Street Vending Regulations and Restrictions**

Like other small businesses in the City, selling food, merchandise or other items on the streets involves adhering to a series of often complex laws and rules. Multiple agencies enforce these regulations, and depending on the item for sale, where the sale takes place, and who is doing the selling, different rules apply. Street vendors are regulated by DCWP, DOHMH, as well as the departments of Sanitation, Environmental Protection, Finance, Parks and Recreation, and the Police Department (NYPD). This patchwork of laws and agencies often causes confusion for both vendors and enforcement agencies.

Broadly speaking, street vending falls into four categories: first amendment street vending; street vending by veterans; general merchandise vending; and mobile food vending (MFV). Each type of street vending is governed by specific laws and guidelines.

##### a) General vendors

Current street vendor regulations trace back to the General Vendor Law (GVL) passed in 1977. The GVL consolidated and codified the City’s then existing array of street vendor regulations, replacing the piecemeal restrictions that were previously imposed by the Board of Estimates, the Department of Markets, and other city agencies.<sup>7</sup> The GVL defines a general vendor as any “person who hawks, peddles, sells, leases or offers to sell or lease, at retail, goods or services, including newspapers, periodicals, books, pamphlets or other similar written matter in a public space.”<sup>8</sup> In 1979, the GVL set the cap of general vendor licenses at 853 and this cap remains

<sup>1</sup> See for example Rembert Browne et al “New York City street vendors”, Columbia University Graduate School of Architecture, Planning and Preservation, Spring 2011, available at: [http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport\\_Final.pdf](http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport_Final.pdf), pp. 10-11.

<sup>2</sup> Devin Gannon “From oysters to falafel: The complete history of street vending in NYC”, *6sqft*, August 10, 2017, available at: <https://www.6sqft.com/from-oysters-to-falafel-the-complete-history-of-street-vending-in-nyc/>.

<sup>3</sup> NYC Mayor’s Push-Cart Commission “Report of the Mayor’s Push-Cart Commission”, September 10, 1906, available at: [http://www.archive.org/stream/reportofmayorspu00newyrich/reportofmayorspu00newyrich\\_djvu.txt](http://www.archive.org/stream/reportofmayorspu00newyrich/reportofmayorspu00newyrich_djvu.txt), emphasis added.

<sup>4</sup> See Balancing Safety and Sales on the City Streets: A Report on Street Vending to Mayor David N. Dinkins. Task Force on General Vendors. Department of Consumer Affairs. February 1991.

<sup>5</sup> Balancing Safety and Sales on the City Streets, *supra* note 4 at 7.

<sup>6</sup> Good Humor Corp. v. City of New York. 290 N. Y. 312, 49 N. E. 2d 153 (1943)

<sup>7</sup> Local Law 77 of 1977, Balancing Safety and Sales on the City Streets

<sup>8</sup> N.Y. Admin. Code §20-452.

in effect today.<sup>9</sup> A waiting list was created when the cap was first set and, according to DCWP, surpassed 5,300 would-be general vendors when it was closed in 1993. More than 20 years later, DCWP exhausted the original list and, in October 2016, reopened the waiting list to new applicants for 30 days.<sup>10</sup>

b) First Amendment vendors

In recognition of “principles of free speech and freedom of the press,” vendors who exclusively vend “newspapers, periodicals, books, pamphlets or other similar written matter” are not required to obtain a license.<sup>11</sup> These general vendors are often referred to as “First Amendment vendors.” While such vendors are not required to be licensed and are thus unlimited in number, First Amendment vendors must abide by various time place and manner restrictions as applied to general vendors.<sup>12</sup>

c) Food vendors

Food vendors are governed by Subchapter 2 of Chapter 3 of Title 17 of the Administrative Code.<sup>13</sup> Food vendors are defined as a “person who hawks, peddles, sells or offers food for sale at retail in any public space.”<sup>14</sup> Any person seeking to sell food in the City must first receive a food vendor license from DOHMH. A food vendor license is available to anyone who completes a food safety training program and there is no limit on the number of licenses that may be granted. In addition to the food vendor license, any person wishing to vend food must also obtain a permit for the vehicle or pushcart from which the food is sold.<sup>15</sup>

The number of full-time permits for an MFV unit was capped at 3,000<sup>16</sup> by a local law passed in 1983.<sup>17</sup> Additionally, there are 100 full-time permits available for veterans and disabled vendors.<sup>18</sup> Of the 3,000 full-time permits, 200 are designated for the exclusive use within Brooklyn, the Bronx, Queens and Staten Island, as specified.<sup>19</sup> An additional 1,000 full-time permits are available for fresh fruit and vegetable carts in designated locations.<sup>20</sup> Finally, up to 1,000 temporary permits are available for seasonal use from April 1 through October 31.<sup>21</sup>

d) Veteran vendors

Pursuant to Section 32 of the General Business Law (GBL) of the State of New York, every honorably discharged member of the armed forces of the United States who is a resident of the state and a veteran of any war or has served overseas has the right to vend upon the streets or highways of the county of their residence.<sup>22</sup> In the City of New York, all veteran vendor licenses are administered by DCWP in accordance with state law. General vending licenses available to veterans under Section 32 of the GBL are unlimited and compel the veteran vendor to comply with all time, place and manner restrictions that regulate general vendors.<sup>23</sup> Pursuant to State law, general vendor licenses are free of cost to the applicant.

Section 35-a of the GBL further provides that veterans who are disabled due to injuries sustained in the line

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<sup>9</sup> Local Law 50 of 1979

<sup>10</sup> Rules of the City of New York, Title 6, Sec. 2-319, available at [rules.cityofnewyork.us/content/general-vendorwaiting-list-0](http://rules.cityofnewyork.us/content/general-vendorwaiting-list-0)

<sup>11</sup> N.Y. Admin. Code §20-453, as amended by Local Law 33 of 1982 and quoted in *Berv et al v City of New York*.

97 F.3d 689 (1996). Expanding the protections afforded to First Amendment vendors to street artists.

<sup>12</sup> N.Y. Admin. Code §20-473

<sup>13</sup> N.Y.C. Admin. Code §§ 17-306 through 17-325.1.

<sup>14</sup> N.Y.C. Admin. Code § 17-306.

<sup>15</sup> N.Y.C. Admin. Code § 17-306 (f) (a pushcart is defined as any "wheeled vehicle or device used by a food vendor, other than a motor vehicle or trailer, which may be moved with or without the assistance of a motor and which does not require registration by the department of motor vehicles").

<sup>16</sup> N.Y.C. Admin. Code §17-307(b)(2)(a).

<sup>17</sup> Local Law 17 of the year 1983.

<sup>18</sup> N.Y.C. Admin. Code §17-307(b)(3).

<sup>19</sup> N.Y.C. Admin. Code §17-307(b)(2)(b).

<sup>20</sup> N.Y.C. Admin. Code §§ 17-307(b)(2)(a) and 17-307(b)(3)(a).

<sup>21</sup> N.Y.C. Admin. Code §17-307(f).

<sup>22</sup> N.Y. Gen. Bus. Law §32.

<sup>23</sup> *Id.*

of duty are eligible for a specialized vending license (SVL).<sup>24</sup> Holders of an SVL may operate on many City streets where vending might be otherwise prohibited.<sup>25</sup>

Disabled veterans eligible for an SVL who desire to vend in the “midtown core” of Manhattan must secure a midtown core specialized license (MSVL), which are capped at 105.<sup>26</sup> The midtown core is defined by the GBL and incorporated into City rules as the area within 13th St (south) and 65th St (north), and 2nd Ave (east) and 9th/Columbus Ave (west).<sup>27</sup> Pursuant to various city laws and regulations, many streets in the midtown core are fully restricted from vendors.<sup>28</sup>

SVLs and MSVLs may vend anywhere street vendors are permitted to vend. When these SVLs and MSVLs vend in areas of the City that are available to all street vendors, they must comply with all time, place and manner restrictions found in local law.<sup>29</sup> When specialized vendors vend in streets that are restricted from other street vendors, they must comply only with the time, place and manner restrictions contained GBL 35-a.<sup>30</sup> These restrictions largely mirror those found in local law. In significant part, SVLs are limited to two per block face when vending on streets otherwise restricted to street vendors.<sup>31</sup> MSVLs are limited to one per block face. When a third or second, as applicable, vendor arrives, the priority number on the license determines which vendors may remain.<sup>32</sup>

As noted above, permits for a mobile food vending unit are capped and 100 permits are set aside exclusively for veterans. In addition to the permits provided in the Administrative Code, the City’s Parks Department issues permits to disabled veterans to vend on the sidewalks surrounding the City parks, pursuant to agency rules.<sup>33</sup> The table below illustrates how each type of street vending is governed by specific laws and guidelines:

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<sup>24</sup> Id.

<sup>25</sup> N.Y. Gen. Bus. Law §35-a.

<sup>26</sup> N.Y. Gen. Bus. Law § 35-a.7. and N.Y., Rules, Tit. 6, § 2-315(3).

<sup>27</sup> Id.

<sup>28</sup> Including streets closed by the Street Vendor Review Panel and published in N.Y. Rules., Tit. 6, §2-314.

<sup>29</sup> N.Y. Gen. Bus. Law § 35-a.2.

<sup>30</sup> N.Y. Gen. Bus. Law §35-a.

<sup>31</sup> Id.

<sup>32</sup> See *Rossi v New York City Dep’t of Parks*, 2015 WL 1565887. While the court deliberates the meaning of a “block face” for purposes of applying GBL 35-a, it plainly accepted that even a holder of a specialized vending license pursuant to state law must acquire a permit before vending food.

<sup>33</sup> Rules of the City of New York, Title 24, Sec. 6-13. According to DOHMH and Parks, about 135 permits are issued pursuant to this program.

### Types of street vending in New York City<sup>34</sup>

<p align="center"><b>General Merchandise</b> Sell goods or services including newspapers, periodicals, books, pamphlets, art <b>Capped number of licenses: 853</b></p>	<p align="center"><b>First Amendment</b> <i>Exclusively</i> sell newspapers, periodicals, books, pamphlets, art <b>No license required</b> <b>No cap</b></p>
<p align="center"><b>Veterans</b> Allowed unlimited general vending permits <b>License required</b> <b>No cap</b> (unless vending food, or disabled veterans who wish to vend in the midtown core)</p>	<p align="center"><b>Mobile Food Vending (MFV)</b></p> <ul style="list-style-type: none"> <li>• 2,900 citywide permits</li> <li>• 100 citywide permits for veterans and disabled veterans and persons</li> <li>• 1,000 seasonal permits</li> <li>• 200 borough specific permits</li> <li>• 1,000 green cart permits</li> </ul> <p align="center"><b>Citywide waiting list closed since 2007</b></p>

The Parks Department also offers additional vending opportunities, which include selling merchandise, food, newspapers and offering ice skating.<sup>35</sup> Under the Parks Department model, specific locations are determined by the City and vendors bid for the opportunity to sell at these spots.<sup>36</sup>

#### *Mobile food vending licenses and permits*

Prior to commencing vending operations, a food vendor must obtain a permit for their physical cart. Unlike personal *licenses* (discussed below) that are photo IDs required for the actual worker, MFV *permits* are linked to the food cart. This means that the permit holder and licensed food vendor can be (and usually are), different people. Further, because the number of permits is capped, the vendor selling food on the street is rarely the owner of the MFV permit.

There are six different types of food cart permits:

- 1) **Citywide permit:** This is the most valuable and sought-after food vending permit. It allows mobile food vendors to vend across all five boroughs, year-round. If the foods for sale at these carts are prepared or processed on-site, the cost for this permit is \$200. If the food is pre-packaged, the cost for the permit is \$75.<sup>37</sup> The permit is valid for two years,<sup>38</sup> upon which time it must be renewed in person.<sup>39</sup>

<sup>34</sup> Information from: N.Y.C. Admin. Code §17-307; Kathryn G. Wheeler “Street vending policy and partnership opportunities in New York City”, Pratt Institute, February 2018, available at:

[http://www.academia.edu/36961528/Street\\_Vending\\_Policy\\_and\\_Partnership\\_Opportunities\\_in\\_New\\_York\\_City](http://www.academia.edu/36961528/Street_Vending_Policy_and_Partnership_Opportunities_in_New_York_City), p. 13; Street Vendor Project “Peddling uphill: A report on the conditions of street vendors in New York City”, 2006, available at:

<https://www.scribd.com/document/18948529/Peddling-Uphill>, p. 6; and Ilya Marritz “Broken permitting system forces food trucks into the black market”, WNYC, June 6, 2012, available at: <https://www.wnyc.org/story/214757-food-trucks/>, and re-tabulated by the author.

<sup>35</sup> NYC Parks Department “Concessions”, available at: <https://www.nycgovparks.org/opportunities/concessions>, last accessed January 26, 2021.

<sup>36</sup> Id.

<sup>37</sup> NYC Business “Mobile food vending unit permit (seasonal or two-year) – Apply”, available at: <https://www1.nyc.gov/nycbusiness/description/mobile-food-vending-unit-permit-seasonal-or-twoyear/apply>, last accessed January 22, 2019.

<sup>38</sup> NYC Health “What mobile food vendors should know”, available at: <https://www1.nyc.gov/assets/doh/downloads/pdf/rii/regulations-for-mobile-food-vendors.pdf>, p. 4, last accessed January 22, 2019.

<sup>39</sup> Ilya Marritz “Broken permitting system forces food trucks into the black market”, WNYC, June 6, 2012, available at: <https://www.wnyc.org/story/214757-food-trucks/>.

- 2) Temporary (seasonal) permit: This allows vendors to sell food in all boroughs, but sales are only permitted from April 1 to October 31. This permit must be renewed each year.<sup>40</sup> For food that is prepared on-site, the permit costs \$35 and for prepared foods, the permit is \$15.<sup>41</sup>
- 3) Borough specific permit: This permit allows vendors to work in a specified borough. There are 50 for each borough (except for Manhattan) and the permit is valid for two years.<sup>42</sup>
- 4) Green cart permit: This allows food vendors to sell only fresh fruits and vegetables. Vendors with these permits are restricted to selling their produce in one borough only, and they are limited to certain areas within the specific borough. The designated areas are demarcated according to police precincts.<sup>43</sup> There are in total 1,000 of these permits available, 350 for Brooklyn, 350 for the Bronx, 150 for Manhattan, 100 for Queens and 50 for Staten Island.<sup>44</sup> The green cart program was implemented under Mayor Bloomberg as a way to address New York City food deserts and to encourage healthy eating by New Yorkers.<sup>45</sup> These permits are valid for two years and initially cost \$75. The cost to renew the permit is \$50.<sup>46</sup>
- 5) Restricted area permit: These permits restrict MFVs to selling on private property and it requires a lease agreement from the property owner. There is no limit on the number of these permits and they are valid for two or less years, depending on the lease agreement.<sup>47</sup> If the foods for sale at these carts are prepared or processed on-site, the cost for this permit is \$200. If the food is pre-packaged, the cost for the permit is \$75.<sup>48</sup>
- 6) Specialized vendor permit: These permits allow year-round vending along the perimeters of New York City parks. Although there is no cap on the number of these permits, only veterans with a disability are eligible for these permits.<sup>49</sup>

To vend on a food cart, one must apply for a license, in person, to New York’s Citywide Licensing Center within DCWP, although the license is ultimately issued by the DOHMH.<sup>50</sup> Currently, a full-term license is valid for two years and costs \$50, while a seasonal license (valid from April 1 to October 31) costs \$10.<sup>51</sup> There are no costs for honorably discharged U.S. veterans, or their surviving spouse/domestic partner. There is no cap on the number of Mobile Food Vendor Personal Licenses issued by DOHMH,<sup>52</sup> and there are approximately 19,000 active licensees.<sup>53</sup>

To obtain this personal license, all applicants must take a mobile food vending protection course.<sup>54</sup> The

<sup>40</sup> NYC Health “What mobile food vendors should know”, available at: <https://www1.nyc.gov/assets/doh/downloads/pdf/rii/regulations-for-mobile-food-vendors.pdf>, p. 4, last accessed January 22, 2019.

<sup>41</sup> NYC Business “Mobile food vending unit permit (seasonal or two-year) – Apply”, available at: <https://www1.nyc.gov/nycbusiness/description/mobile-food-vending-unit-permit-seasonal-or-twoyear/apply>, last accessed January 22, 2019.

<sup>42</sup> NYC Health “What mobile food vendors should know”, available at: <https://www1.nyc.gov/assets/doh/downloads/pdf/rii/regulations-for-mobile-food-vendors.pdf>, p. 4, last accessed January 22, 2019.

<sup>43</sup> For a map of green cart designated areas see: “NYC green cart”, available at: [https://www1.nyc.gov/assets/doh/downloads/pdf/cdp/green\\_carts\\_areas.pdf](https://www1.nyc.gov/assets/doh/downloads/pdf/cdp/green_carts_areas.pdf), last accessed January 22, 2019.

<sup>44</sup> NYC Business “Green Cart Permit”, available at: <https://www1.nyc.gov/nycbusiness/description/green-cart-permit>, last accessed January 26, 2021.

<sup>45</sup> “Green carts’ will increase access to health foods, improving the health of an estimated 75,000 New Yorkers”, available at: [https://www1.nyc.gov/assets/doh/downloads/pdf/cdp/green\\_carts\\_summary.pdf](https://www1.nyc.gov/assets/doh/downloads/pdf/cdp/green_carts_summary.pdf), last accessed January 22, 2019.

<sup>46</sup> NYC Health “Green Cart”, available at [https://www1.nyc.gov/assets/doh/downloads/pdf/cdp/green\\_carts\\_faq.pdf](https://www1.nyc.gov/assets/doh/downloads/pdf/cdp/green_carts_faq.pdf), last accessed January 26, 2021.

<sup>47</sup> NYC Health “What mobile food vendors should know”, available at: <https://www1.nyc.gov/assets/doh/downloads/pdf/rii/regulations-for-mobile-food-vendors.pdf>, p. 4, last accessed January 22, 2019, p. 5.

<sup>48</sup> NYC Business “Restricted area mobile food vending permit – Apply”, accessed January 22, 2019, available at: <https://www1.nyc.gov/nycbusiness/description/restricted-area-permit/apply>.

<sup>49</sup> NYC Health “What mobile food vendors should know”, available at: <https://www1.nyc.gov/assets/doh/downloads/pdf/rii/regulations-for-mobile-food-vendors.pdf>, p. 4, last accessed January 22, 2019, p. 5.

<sup>50</sup> NYC Health “Instructions for applying for an initial mobile food vendor license form the NYC Health Department”, available at: [https://www1.nyc.gov/assets/doh/downloads/pdf/permit/mfv\\_application\\_forms\\_package.pdf](https://www1.nyc.gov/assets/doh/downloads/pdf/permit/mfv_application_forms_package.pdf), last accessed January 27, 2021.

<sup>51</sup> Id.

<sup>52</sup> Id.

<sup>53</sup> Kathleen Dunn “Decriminalize street vending: Reform and social justice”, in Julian Agyeman, Caitlin Matthews and Hannah Sobel *Food Trucks, Cultural Identity, and Social Justice* (2017), MIT Press; Cambridge, MA, p. 51.

<sup>54</sup> NYC Business “Mobile food vending license – About”, available at: <https://www1.nyc.gov/nycbusiness/description/mobile-food-vending-license>, last accessed January 26, 2021

course, which focuses on food safety practices, is run over two days with a four-hour class each day. The course costs \$53 and is available in multiple languages.<sup>55</sup>

Lastly, mobile food vendors must obtain a Certificate of Authority from the New York State Department of Taxation and Finance, which bestows the right to collect tax on applicable items.<sup>56</sup>

### ***Mobile food vending cart regulations and placement***

In addition to the personal license and cart permit necessary to sell food in New York City, the cart, itself, must meet a long list of requirements. Like the permits, these regulations vary by cart and are determined by the types of foods sold. For example: carts for prepacked foods require overhead structures (such as an umbrella or canopy); thermometers; and both hot and cold storage (i.e. food warmers or refrigeration). Carts that sell grilled meats are required to have these elements, in addition to potable water, sinks for washing food and cooking utensils, as well as a handwashing sink and ventilation.<sup>57</sup> The size of the cart is also restricted and regulated, as are any water and propane tanks.<sup>58</sup> These tables below demonstrate the variety of regulations.

### **Equipment requirements: MFV processing units<sup>59</sup>**

Food Type and Cooking Method	Examples	Equipment Required								
		Potable Water	Washing Sinks for Food and Cooking Tools <sup>1</sup>	Hand Wash Sink	Waste Water Tank <sup>2</sup>	Overhead Structure	Ventilation	Cold Holding	Hot Holding	Thermometers
Prepare and cook raw, potentially hazardous foods on the unit.	<ul style="list-style-type: none"> <li>• fried/grilled sausages</li> <li>• poultry</li> <li>• shish kebabs</li> <li>• hamburgers</li> <li>• eggs</li> <li>• gyros</li> </ul>									
Prepare potentially hazardous foods on the unit.	<ul style="list-style-type: none"> <li>• sandwiches</li> <li>• raw fruits</li> <li>• vegetables/salads</li> <li>• breads</li> <li>• bagels/rolls buttered or topped with cream cheese</li> <li>• smoothies</li> <li>• soft-serve ice cream</li> </ul>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

<sup>55</sup> NYC Business “Food protection course for mobile vendors – About”, available at:

<https://www1.nyc.gov/nycbusiness/description/food-protection-course-for-mobile-vendors>, last accessed January 22, 2019.

<sup>56</sup> NYC Business “Mobile food vending license – Apply”, available at: <https://www1.nyc.gov/nycbusiness/description/mobile-food-vending-license/apply>, last accessed January 22, 2019.

<sup>57</sup> NYC Health “What mobile food vendors should know”, available at: <https://www1.nyc.gov/assets/doh/downloads/pdf/rii/regulations-for-mobile-food-vendors.pdf>, p. 4, last accessed January 22, 2019, p. 6.

<sup>58</sup> For more information see id, pp. 10-11.

<sup>59</sup> John C. Jones “The regulation of mobile food vending in New York City”, *Graduate Association For Food Studies*, September 13, 2016, vol. 3, no. 1, available at: <https://gradfoodstudies.org/2016/09/13/regulation-of-mobile-food-vending/>.

### Equipment requirements: MFV non-processing units<sup>60</sup>

Food Type and Preparation Method	Examples	Equipment Required								
		Potable Water	Washing Sinks for Food and Cooking Tools	Hand Wash Sink	Waste Water Tank <sup>1</sup>	Overhead Structure	Ventilation	Cold Holding	Hot Holding	Thermometers
Sell only unopened, prepackaged potentially hazardous foods that require temperature control.	<ul style="list-style-type: none"> <li>prepackaged frozen desserts</li> <li>prepackaged sandwiches</li> <li>prepackaged and pre-sliced fruits/vegetables</li> </ul>	No	No	No	Yes	Yes	No	Yes	Yes	Yes
Sell only non-potentially hazardous unpackaged or packaged foods that do not require temperature control.	<ul style="list-style-type: none"> <li>brewed coffee/tea</li> <li>donuts</li> <li>pastries</li> <li>rolls/bagels buttered or topped with cream cheese at a commissary</li> <li>popcorn</li> <li>cotton candy</li> <li>plain/candied nuts</li> <li>soft pretzels</li> <li>chestnuts</li> </ul>	Yes	No	No	Yes	Yes	Yes	No	No	No
Sell only non-potentially hazardous unpackaged or packaged foods that require temperature control.	<ul style="list-style-type: none"> <li>boiled frankfurters/sausages</li> <li>knishes</li> </ul>	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Sell uncut, whole fruits and vegetables.	<ul style="list-style-type: none"> <li>Green Carts</li> </ul>	No	No	No	No	Yes	No	No	No	No

**Note**

1. Mobile food vending units that create liquid waste from operations including, but not limited to, serving beverages such as coffee or tea, boiling frankfurters or holding ice, must be equipped with a waste water tank.

The DOHMH is required to inspect food vending carts at least once a year and before a permit is initially issued or renewed. The inspections are also conducted to correct a violation or follow up a Health Commissioner order, or if modifications are made to the cart, or there are complaints or reports of potential violations.<sup>61</sup> With the passage of Local Law 108 of 2017, mobile food vending carts also must be inspected and issued a letter grade, similar to restaurants and other food establishments. DOHMH began grading food carts in December 2018 with a plan to complete grading all food carts and trucks within a two-year timeframe.<sup>62</sup>

Broadly speaking, mobile food vendors who have citywide permits may sell food on all of the City's streets throughout the five boroughs; however, there are many limitations. For instance, vending is prohibited on more than five hundred specific streets,<sup>63</sup> while on other streets vending is restricted to certain times and days of the year.<sup>64</sup> Some of these restrictions are based on the width of the sidewalk, a need to keep the street clear from obstructions (for example, around security checkpoints), or because the area is overly congested. Once a suitable street has been located, food vendors navigate the sidewalk regulations to find a legal spot. Listed below are some examples of what a food vendor must consider before placing their cart:

<sup>60</sup> Id.

<sup>61</sup> NYC Health "What mobile food vendors should know", available at: <https://www1.nyc.gov/assets/doh/downloads/pdf/rii/regulations-for-mobile-food-vendors.pdf>, p. 4, last accessed January 22, 2019, pp. 1 and 7.

<sup>62</sup> NYC Health "Letter grading for mobile food vending units: What vendors need to know", available at:

<https://www1.nyc.gov/assets/doh/downloads/pdf/rii/mfv-what-vendors-need-to-know.pdf>, last accessed March 20, 2019.

<sup>63</sup> Kathleen Dunn "Decriminalize street vending: Reform and social justice", in Julian Agyeman, Caitlin Matthews and Hannah Sobel *Food Trucks, Cultural Identity, and Social Justice* (2017), MIT Press; Cambridge, MA, p. 52.

<sup>64</sup> See "Mobile food vending restricted streets guide", accessed January 22, 2019, available at: [https://www1.nyc.gov/assets/doh/downloads/pdf/permit/mfv\\_restricted\\_streets.pdf](https://www1.nyc.gov/assets/doh/downloads/pdf/permit/mfv_restricted_streets.pdf).

- 1) A sidewalk that is at least 12 feet wide;
- 2) Within 6-12 inches of the curb;
- 3) At least 10 feet away from any crosswalk, driveway or subway entrance/exit; or
- 4) In an area that is not designated as a ‘no standing zone’, a bus stop or a hospital.<sup>65</sup>

At the close of business, food vendors must remove their carts from the street, and the carts must be stored and cleaned in a DOHMH approved facility – usually a commissary or depot. Regulations also require MFVs to prepare their foods for the day at, or to purchase pre-prepared foods from, the commissary.<sup>66</sup> The cost to store a cart at a depot or commissary is hundreds of dollars per month.<sup>67</sup>

## **B. Street Vending Enforcement**

The abovementioned is not an exhaustive list of all the applicable rules for each type of vendor. The layers of regulation by various agencies has led to confusion from both vendors and enforcement agents, as well as the general public, on where street vendors may legally vend.<sup>68</sup> Confusion over vending regulations and a lack of on the ground enforcement by relevant agencies has resulted in the NYPD predominantly enforcing all vending laws, and, at times, the unlawful confiscation of goods. In 2019, a settlement was reached between the City and about 300 street vendors, that requires the City to pay more than 300 street vendors a total of nearly \$190,000 after the City confiscated their carts without documentation.<sup>69</sup>

In November 2019, two high-profile incidents involving NYPD and female street vendors selling food illegally in Brooklyn subway stations were captured and shared widely on social media.<sup>70</sup> In both instances, police officers were seen arresting female food vendors (affectionately referred to as ‘churro ladies’), putting them in handcuffs and, in one of the cases, confiscating the woman’s cart.<sup>71</sup> Subway stations fall under the control of the MTA, who license concession stands and vending machines. As such, the women were vending illegally, but are typically seen by the public as harmless and hard-working women, simply trying to make a living. Interestingly, in New York City only 22 percent of MFV permits are held by women even though, globally, street vending tends to be dominated by women.<sup>72</sup> Considering the current cap on permits, female and other marginalized vendors in New York City are typically vending illegally, putting them at risk of criminality.

The arrests of the churro ladies sparked outrage and re-ignited the debate about the policing of an industry comprised mainly of poor and/or immigrant New Yorkers. In the summer of 2020, as protests about police brutality again exploded around the Country, Mayor de Blasio announced that the NYPD would be pulling back from enforcing street vendor violations.<sup>73</sup>

<sup>65</sup> NYC Health “What mobile food vendors should know”, available at: <https://www1.nyc.gov/assets/doh/downloads/pdf/rii/regulations-for-mobile-food-vendors.pdf>, last accessed January 22, 2019, p. 20.

<sup>66</sup> Id, p. 15.

<sup>67</sup> See for example Jeff Koyen “Inside the underground economy propping up New York city’s food carts”, Crain’s, June 12, 2016, available at: [https://www.crainsnewyork.com/article/20160612/HOSPITALITY\\_TOURISM/160619986/hot-dog-vendors-and-coffee-carts-turn-to-a-black-market-operating-in-the-open-to-buy-permits-and-licen](https://www.crainsnewyork.com/article/20160612/HOSPITALITY_TOURISM/160619986/hot-dog-vendors-and-coffee-carts-turn-to-a-black-market-operating-in-the-open-to-buy-permits-and-licen).

<sup>68</sup> Ryan Thomas Devlin, “Informal Urbanism: Legal Ambiguity, Uncertainty, and the Management of Street Vending in New York City”, dissertation submitted for the degree of Doctor of Philosophy in City and Regional Planning and the Designated Emphasis in Global Metropolitan Studies in the Graduate Division of the University of California, Berkeley, Spring 2010, available at: [https://escholarship.org/content/qt948005rd/qt948005rd\\_noSplash\\_09d45e8c76aecfd3293f5632e27eb991.pdf](https://escholarship.org/content/qt948005rd/qt948005rd_noSplash_09d45e8c76aecfd3293f5632e27eb991.pdf)

<sup>69</sup> Christine Chung “A taste of justice for food vendors whose carts were trashed by City”, *The City*, March 15, 2019, available at: <http://nymag.com/intelligencer/2019/03/justice-for-food-vendors-whose-carts-were-trashed-by-city.html>.

<sup>70</sup> Chris Crowley “Another churro vendor arrested in Brooklyn”, *Grub Street*, November 12, 2019, available at: <https://www.grubstreet.com/2019/11/another-churro-vendor-arrested-in-nyc.html>.

<sup>71</sup> Tara C. Mahadevan “Woman arrested for selling churros in New York subway station”, *Complex Life*, November 10, 2021, available at: <https://www.complex.com/life/2019/11/woman-arrested-for-selling-churros-in-ny-subway-station>.

<sup>72</sup> Street Vendor Project “Vulnerable in itself: Results and recommendations of women street vendors in New York City”, October 2019, available at: <https://www.scribd.com/document/432317126/Vulnerable-in-Itself>.

<sup>73</sup> Amelia Nierenberg and Rachel Wharton “New York police will stop enforcing street-vendor laws, but questions linger”, *New York Times*, June 12, 2020, available at: <https://www.nytimes.com/2020/06/12/dining/nypd-street-vendors.html>.

### *Penalties*

Any person who vends without a license is guilty of a misdemeanor punishable by a fine of up to \$1,000, by imprisonment of up to three months, or both.<sup>74</sup> Unlicensed general vendors are subject to fines and imprisonment, in addition to penalties for each day of unlicensed business activity.<sup>75</sup> General vendors who violate time, place and manner requirements set forth in the Code face fines of up to \$500 for multiple offenses over a two-year period.<sup>76</sup> Both licensed and unlicensed vendors may have their carts or goods seized for certain transgressions and face possible forfeiture of their possessions.<sup>77</sup>

Any person who vends food without the appropriate license and permit is also guilty of a misdemeanor punishable by a fine of up to \$1,000, by imprisonment of up to three months, or both.<sup>78</sup> Food vendors who violate time, place and manner requirements set forth in the Administrative Code face fines of up to \$500 for multiple offenses over a two-year period, possible forfeiture of their possessions, and may have their carts or goods seized for certain transgressions.<sup>79</sup> They may also have their licenses suspended or revoked for certain fraudulent activity, or for three or more violations of the Code within a two-year period.<sup>80</sup> Unlicensed food vendors are subject to additional fines and may have their carts and goods seized.<sup>81</sup>

### **The Illegal-Market and Informal Regulations**

Although not legally transferable, permits for MFV carts are often rented via a thriving illegal-market. The City's cap on cart permits, and the ability for owners of these permits to simply renew them every two years means that permit holders have a secure monopoly on mobile food vending in New York City. Through the DOHMH, a permit for a food cart is \$200. However, in the illegal market it is alleged that the rental price for a cart permit can run between \$15,000 and \$30,000.<sup>82</sup> Furthermore, since changes in the law were made so that the permit holder, rather than the actual food vendor on the street, is required to appear in person to contest violations, some permit holders now even charge a deposit to cover this responsibility.<sup>83</sup>

The illegal market in New York City's mobile food vending industry is estimated to be worth between \$15 million and \$20 million per year and approximately 70-80 percent of permits are estimated to be illegally in use.<sup>84</sup> The proliferation of the underground market means that it is "harder for immigrant entrepreneurs to build equity and take the first step up the economic ladder."<sup>85</sup> There are also reports of vendors engaging in 'rent-a-vet' where a street vendor will pay a veteran vendor, whose license is not subject to a cap, to be present at the merchandise table, for example, while the unlicensed or unpermitted vendor makes the sale and actually handles the business.<sup>86</sup> Similarly, if a licensed veteran vendor is selling on a restricted street, their presence means that first amendment vendors, who would normally be restricted, are also permitted to sell on that street, making them a valuable resource for other vendors.<sup>87</sup>

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<sup>74</sup> N.Y.C. Admin. Code §20-472.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> N.Y.C. Admin. Code §§ 20-468 and 469

<sup>78</sup> N.Y.C. Admin. Code §13-325(a)

<sup>79</sup> N.Y.C. Admin. Code §17-325.

<sup>80</sup> N.Y.C. Admin. Code §17-325.

<sup>81</sup> N.Y.C. Admin. Code §§ 17-321(c).

<sup>82</sup> See for example Adam Davidson "The food-truck business stinks", *New York Times*, May 7, 2013, available at: <https://www.nytimes.com/2013/05/12/magazine/the-food-truck-business-stinks.html>; Tejal Rao "A day in the life of a food vendor", *New York Times*, April 18, 2017, available at: <https://www.nytimes.com/2017/04/18/dining/halal-cart-food-vendor-new-york-city.html>; and Jeff Koyen "Inside the underground economy propping up New York city's food carts", *Crain's*, June 12, 2016, available at: [https://www.craigslist.com/article/20160612/HOSPITALITY\\_TOURISM/160619986/hot-dog-vendors-and-coffee-carts-turn-to-a-black-market-operating-in-the-open-to-buy-permits-and-licen](https://www.craigslist.com/article/20160612/HOSPITALITY_TOURISM/160619986/hot-dog-vendors-and-coffee-carts-turn-to-a-black-market-operating-in-the-open-to-buy-permits-and-licen).

<sup>83</sup> Jeff Koyen, *id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> Rembert Browne et al "New York City street vendors", Columbia University Graduate School of Architecture, Planning and & Preservation, Spring 2011, available at: [http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport\\_Final.pdf](http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport_Final.pdf), p. 26.

<sup>87</sup> *Id.*, p. 25.

### C. Available Data on Street Vendors in New York City

Over the past few hundred years, the face of New York City’s street vendors has changed, although there are many similarities that connect vendors of today with their historical peers. For example, street vendors in New York City are still predominantly immigrants, although the countries that vendors stem from are different. According to research from the Street Vendor Project, “[a]t the turn of the [twentieth] century, 93 percent of all vendors were foreign-born; primarily Jewish and Italian, with a smaller number of Irish, German, Russian, and ‘Spanish’ vendors.” Their survey data from 2006 revealed that New York City’s street vendors are now “from more than 20 countries on four continents. The top represented nations are Bangladesh (18 percent), China (16 percent), and Afghanistan (12 percent). The average immigrant vendor surveyed had been in the United States for more than 11 years.”<sup>88</sup>

Street vendors are also still “bootstrap entrepreneurs”<sup>89</sup> who use street vending as an avenue for financial security, although turning a street vending enterprise into a more substantial business is becoming less and less common, due to the illegal market and complex regulations.<sup>90</sup> Though, from a historical perspective, New York City does have its share of transformative street vendor success stories. For example, “D’Agostino’s supermarkets, Cohen Fashion Optical, and Odd Job Trading stores [all] got their start as pushcarts on the Lower East Side. Even Bloomingdale’s and Macy’s... were founded by door-to-door pack peddlers.”<sup>91</sup>

Such success stories are harder to come by for today’s street vendors, however, certain food vendors have been able to use their success to establish brick-and-mortar businesses. Maria Cano moved to the United States to escape violence in Colombia and earned the nickname “Arepa Lady” when she sold the Colombian cornmeal pancakes from a food cart 30 years ago.<sup>92</sup> Maria Cano and her family opened Arepa Lady, a restaurant on Roosevelt Avenue in Jackson Heights in 2014.<sup>93</sup> In 1990, the “Halal Guys” started selling halal food to Muslim taxi drivers who had few options for authentic halal food, on 53<sup>rd</sup> street and Sixth Avenue.<sup>94</sup> The Halal Guys is currently an international business with 93 franchised brick-and-mortar locations.<sup>95</sup>

Due to the illegal market, it is difficult to accurately quantify both the number of street vendors in the City and the overall financial contribution that they make. However, research conducted by the Institute of Justice was able to model estimates based on data acquired through surveying a sample of street vendors in 2012. As a result, the study approximated that New York City’s street vendors directly contributed, through hiring and purchasing goods and services, to creating more than 16,300 jobs and generating more \$78.5 million in wages.<sup>96</sup> This research also estimated the indirect contributions of street vendors, as illustrated in the graphic below.

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<sup>88</sup> Street Vendor Project “Peddling uphill: A report on the conditions of street vendors in New York City”, 2006, available at: <https://www.scribd.com/document/18948529/Pedding-Uphill>, p. 9.

<sup>89</sup> Dick M. Carpenter II “Upwardly mobile: Street vending and the American dream”, Institute for Justice, September 2015, available at: <https://ij.org/wp-content/uploads/2015/10/upwardly-mobile-web-final.pdf>, p. 17.

<sup>90</sup> See for example: Matthew Sedacca “NYC street vendors want to end the black market for permits”, *VICE*, October 20, 2015, available at: <https://www.vice.com/en/article/wn7pxq/nyc-street-vendors-want-to-end-the-black-market-for-permits>.

<sup>91</sup> Street Vendor Project “Peddling uphill: A report on the conditions of street vendors in New York City”, 2006, available at: <https://www.scribd.com/document/18948529/Pedding-Uphill>, p. 6.

<sup>92</sup> Tara Law, “Arepa Lady Reopens a Block from Old Location”, Jackson Heights Post, Oct. 5, 2018, Available at <https://jacksonheightspost.com/arepa-lady-reopens-a-block-from-old-location>

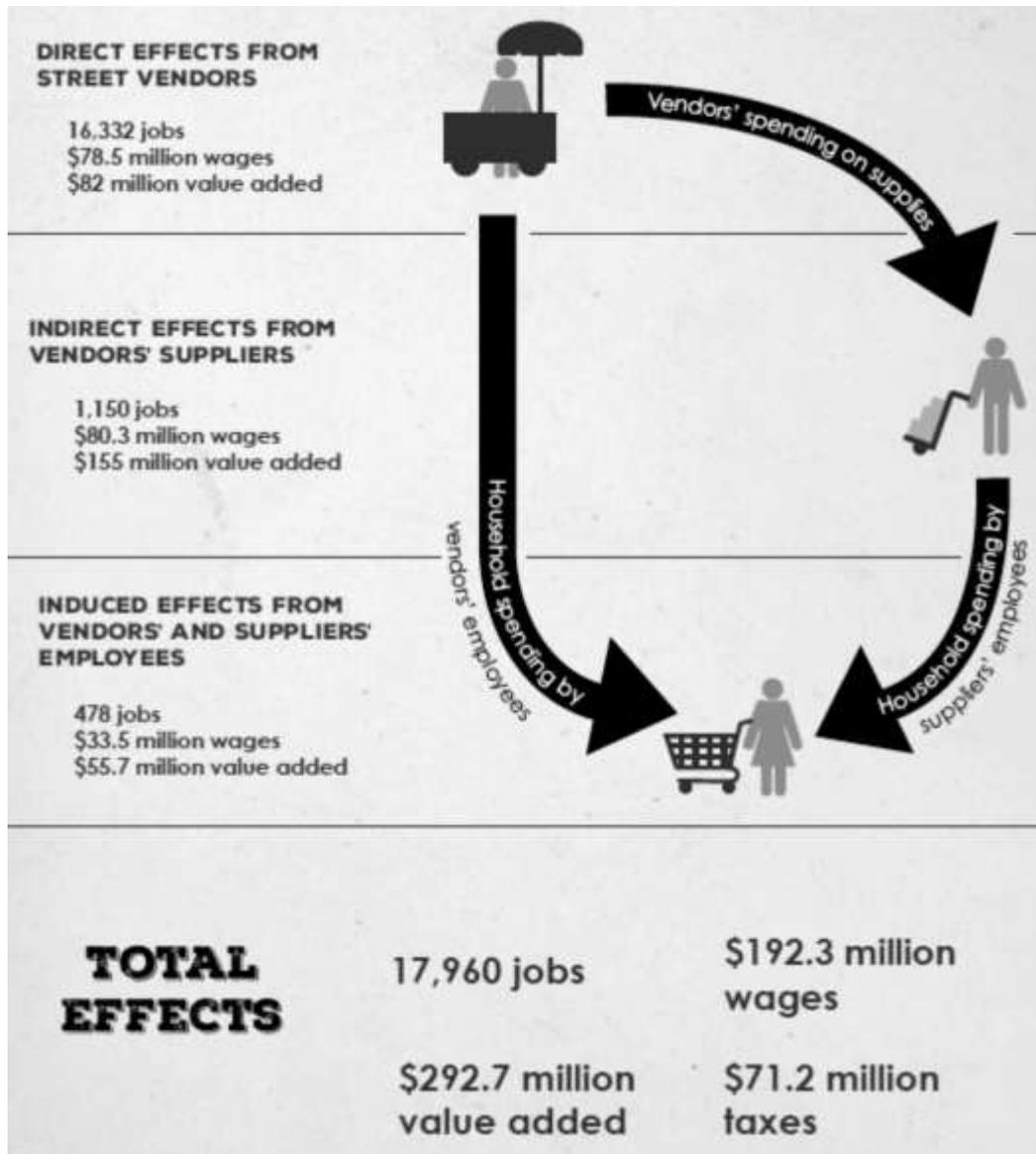
<sup>93</sup> Id.

<sup>94</sup> “Our Story”, The Halal Guys, Available at <https://thehalalguys.com/about-us/>

<sup>95</sup> “Being Different: Operator Profile” Available at: <https://thehalalguys.com/wp-content/uploads/2020/05/The-Halal-Guys-Feature-5282020.pdf>

<sup>96</sup> Dick M. Carpenter II “Upwardly mobile: Street vending and the American dream”, Institute for Justice, September 2015, available at: <https://ij.org/wp-content/uploads/2015/10/upwardly-mobile-web-final.pdf>, p. 28.

Street Vendors' Contributions to NYC's Economy (2012 estimates)<sup>97</sup>



Comprehensive research to accurately calculate the impact of street vendors is rare, although there have been some illuminating studies. One such example is from the mid-1990s and it focused on the street vendors around 14<sup>th</sup> Street in Manhattan. According to the findings, street vending in this area contributed to the diversity of retail options for customers and thus attracted more consumers. It was determined that this benefited both street vendors and their brick-and-mortar counterparts, suggesting that criticisms from these business owners that street vendors siphon off their customers is not always the case.<sup>98</sup> Similar outcomes were evident in a multi-year study of street vendors in Los Angeles. The research “found that brick-and-mortar retail and restaurants that

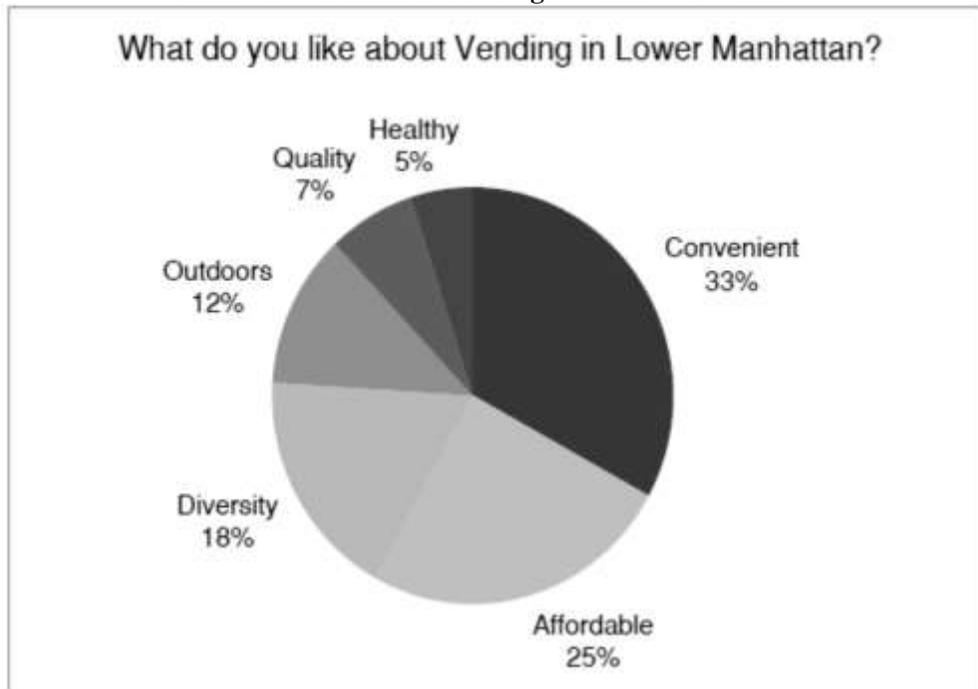
<sup>97</sup> Id, p. 29.

<sup>98</sup> John C. Jones “The regulation of mobile food vending in New York City”, *Graduate Association For Food Studies*, September 13, 2016, vol. 3, no. 1, available at: <https://gradfoodstudies.org/2016/09/13/regulation-of-mobile-food-vending/>.

were located in close proximity to street vendors were more likely to grow their businesses during the recent recession, increasing their employment levels on average by five percent between 2007 and 2011.”<sup>99</sup>

In addition to the direct and indirect economic contribution, New York City’s street vendors contribute to the cultural fabric of the City. Street vendors provide a culturally diverse and vibrant streetscape that broadens the marketplace for consumers. MFVs, for instance, provide food options in traditionally underserved parts of the City, known as food deserts, while general merchandise vendors often provide more affordable products than their large chain-store competitors. In a survey of customers who frequent the vendors in Lower Manhattan, research found that the affordability and convenience of the products was most valued by customers. The full breakdown of their responses is illustrated in the chart below.

**Customer Attitudes to Vending in Lower Manhattan<sup>100</sup>**



Despite their valuable contributions, New York City’s street vendors work incredibly hard for modest returns. “Today’s mobile food vending business is one of day laborers and shift workers who, despite hustling all week long, may not earn minimum wage.”<sup>101</sup> The 2006 survey data from the Street Vendor Project indicated that, not including the time spent transporting the cart and goods to and from the garage, vendors work on average nearly nine hours a day. In the cooler months vendors work an average of nearly 4.5 days a week, while in the summer they reported working six or seven days a week.<sup>102</sup> Using this information the Street Vendor Project estimated that this equated to an income of roughly \$14,300 per year,<sup>103</sup> which parallels national data from 2012

<sup>99</sup> Kathryn G. Wheeler “Street vending policy and partnership opportunities in New York City”, Pratt Institute, February 2018, available at: [http://www.academia.edu/36961528/Street\\_Vending\\_Policy\\_and\\_Partnership\\_Opportunities\\_in\\_New\\_York\\_City](http://www.academia.edu/36961528/Street_Vending_Policy_and_Partnership_Opportunities_in_New_York_City), p. 9.

<sup>100</sup> Rembert Browne et al “New York City street vendors”, Columbia University Graduate School of Architecture, Planning and Preservation, Spring 2011, available at: [http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport\\_Final.pdf](http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport_Final.pdf), p. 48.

<sup>101</sup> Jeff Koyen “Inside the underground economy propping up New York city’s food carts”, Crain’s, June 12, 2016, available at: [https://www.crainnewyork.com/article/20160612/HOSPITALITY\\_TOURISM/160619986/hot-dog-vendors-and-coffee-carts-turn-to-a-black-market-operating-in-the-open-to-buy-permits-and-licen](https://www.crainnewyork.com/article/20160612/HOSPITALITY_TOURISM/160619986/hot-dog-vendors-and-coffee-carts-turn-to-a-black-market-operating-in-the-open-to-buy-permits-and-licen).

<sup>102</sup> Street Vendor Project “Peddling uphill: A report on the conditions of street vendors in New York City”, 2006, available at: <https://www.scribd.com/document/18948529/Pedding-Uphill>, p. 11.

<sup>103</sup> Id.

that calculated an average yearly income of less than \$18,000.<sup>104</sup> Generally speaking, most (78 percent) of the surveyed New York City vendors were supporting a family on this income and half also reported sending money back to their home countries.<sup>105</sup> The data also illustrated that while 43 percent of surveyed vendors had a college degree or higher,<sup>106</sup> the most common reason (38 percent) that vendors chose this profession was because they were unable to find another job.<sup>107</sup>

#### **D. Street vending during COVID-19**

Like many industries in New York City, the COVID-19 pandemic has decimated street vending. No longer able to rely on foot traffic from local pedestrians, office workers and tourists, estimates suggest that street vendors have lost 80 to 90 percent of their business since the emergency was declared.<sup>108</sup> However, unlike other workers and small business owners, street vendors did not always qualify for the various government assistance programs, including the federal Paycheck Protection Program, stimulus checks through the CARES Act, or unemployment benefits.<sup>109</sup> As discussed above, the majority of street vendors in New York City are immigrants, some of whom are undocumented. This makes them either ineligible for federal assistance (in some instances even U.S. citizens who are married to an undocumented immigrant are barred from receiving government support<sup>110</sup>), or it put their immigration status in the crosshairs of a federal administration that was openly hostile to immigrants.<sup>111</sup> Even under certain financial relief programs where immigration status did not prevent access to relief, language access barriers and burdensome documentation requirements may have prevented vendors from accessing necessary financial assistance. The City's Department of Small Business Services (SBS) created the Employee Retention Grant Program and Small Business Continuity Loan Fund to provide financial relief to small businesses during the beginning of the COVID-19 crisis.<sup>112</sup> To qualify for either program, businesses were required to provide documentation proving that over a two-month period in 2020 their revenues decreased by 25 percent due to COVID-19.<sup>113</sup> While these programs did not explicitly prohibit undocumented business owners from accessing grants or loans, the programs were administered on a first-come first-served basis, and business owners not conversant in English may have had difficulty understanding the terms and conditions of how to apply to the programs, without materials available in other languages. SBS took weeks to translate application materials on their website, and even then only translated certain materials, with text on the website translated by browser tools.<sup>114</sup> Applicants to SBS's financial relief programs also had to provide documentation many street vendors do not possess, such as proof of paystubs,<sup>115</sup> commercial rent leases and utility costs.<sup>116</sup>

<sup>104</sup> Dick M. Carpenter II "Upwardly mobile: Street vending and the American dream", Institute for Justice, September 2015, available at: <https://ij.org/wp-content/uploads/2015/10/upwardly-mobile-web-final.pdf>, p. 17.

<sup>105</sup> Street Vendor Project "Peddling uphill: A report on the conditions of street vendors in New York City", 2006, available at: <https://www.scribd.com/document/18948529/Pedding-Uphill>, p. 11.

<sup>106</sup> *Id.*, p. 10.

<sup>107</sup> *Id.*, p. 8.

<sup>108</sup> *CBS New York* "NYC street vendors call for financial relief during pandemic", November 12, 2020, available at: <https://newyork.cbslocal.com/2020/11/12/nyc-street-vendors-coronavirus-pandemic-relief/>.

<sup>109</sup> Amir Khafagy "Facing near total loss of customers during pandemic, street vendors need relief", *Truthout*, April 25, 2020, available at: <https://truthout.org/articles/facing-near-total-loss-of-customers-during-pandemic-street-vendors-need-relief/>.

<sup>110</sup> Beth Fertig "Undocumented immigrants in need finally get promised pandemic cash assistance", *Gothamist*, July 9, 2020, available at: [https://gothamist.com/news/undocumented-immigrants-need-finally-get-promised-pandemic-cash-assistance?utm\\_medium=social&utm\\_source=twitt...](https://gothamist.com/news/undocumented-immigrants-need-finally-get-promised-pandemic-cash-assistance?utm_medium=social&utm_source=twitt...).

<sup>111</sup> Emily Guerin "LA street vendors left out of federal aid", *LAist*, April 15, 2020, available at:

[https://laist.com/2020/04/15/coronavirus\\_small\\_business\\_street\\_vendors\\_undocumented\\_loans\\_la.php](https://laist.com/2020/04/15/coronavirus_small_business_street_vendors_undocumented_loans_la.php).

<sup>112</sup> Office of the Mayor, Mayor de Blasio Provides Updates on New York City's COVID-19 Response, March 8, 2020, available at: <https://www1.nyc.gov/office-of-the-mayor/news/124-20/mayor-de-blasio-provides-on-new-yorkcity-scovid-19-response>.

<sup>113</sup> *Id.*

<sup>114</sup> See NYC Department of Small Business Services "Assistance & Guidance for Businesses Impacted Due to Novel Coronavirus", available at: <https://www1.nyc.gov/site/sbs/businesses/covid19-business-financial-assistance.page> (last viewed on April 24, 2020). Page has since been updated to reflect the fact that the programs are no longer being offered, but materials had not been translated as of March 20, 2020. See also a tweet publicizing an SBS guide in languages other than English from NYC Mayor's Office of Immigrant Affairs, March 24, 2020, available at: <https://twitter.com/NYCImmigrants/status/1242484476057354240>

<sup>115</sup> NYC Small Business Continuity Loan Program, Department of Small Business Services, March 29, 2020, Available at:

<https://web.archive.org/web/20200329171756/https://www1.nyc.gov/nycbusiness/article/nyc-small-business-continuity-loan-program>

<sup>116</sup> Based on conversation between City Council Central Staff and The Street Vendor Project, May 6, 2020.

With little option but to vend on the street, despite the dramatic fall in customers, it is no surprise that illegal vending has become rampant during the COVID-19 emergency. While Manhattan was the most common borough for vending, new vending hotspots are popping up across the outer boroughs, in areas such as Fifth Avenue in Sunset Park, Brooklyn; 149<sup>th</sup> Street and Fordham Road in the Bronx; and downtown Flushing in Queens.<sup>117</sup> In fact, despite the lockdown orders, complaints about street vending continued to be around the same as compared to the previous year (2,907 and 3,101, respectively).<sup>118</sup> Furthermore, with unemployment at record highs, new illegal vendors are turning to the street to sell various items, including staples of the pandemic – face masks, hand sanitizer, gloves and cleaning products.<sup>119</sup>

### **E. Previous Efforts to Reform**

As discussed, the caps on both general and food vendors, which have been in place since 1979 and 1983, respectively, have caused the illegal market to flourish and most street vendors in New York City work illegally. Recognizing this, Mayor Dinkins previously proposed lifting the cap, but the policy was never implemented.<sup>120</sup> Under Mayor Bloomberg’s administration, the City did expand its vending opportunities by creating a green cart initiative that made 1,000 new permits available to vendors who exclusively sold raw and uncut/unprepared fruits and vegetables. Given the tight restrictions on the types of food that vendors could sell, this program has not attracted many vendors and, according to research from 2011,<sup>121</sup> and discussions with street vendor advocates, only a few hundred of these permits are being used.<sup>122</sup>

Enforcement of street vending laws has always been a troublesome issue for the City. During his term, Mayor Giuliani attempted to remedy this by establishing the Street Vendor Review Panel (SVRP). After many contentious street closures and numerous court cases, the SVRP came to be seen as fundamentally undemocratic, classist and overly restrictive. Its last ruling was in 2000.<sup>123</sup>

Frustrations over vending in New York City exist for multiple reasons. Some vendors, for example, criticize excessive penalties for minor infractions and arbitrary enforcement of vendor regulations, and believe they are unfairly and disproportionately targeted by City government. In 2018, the City issued approximately 12,000 summonses to the City’s street vendors.<sup>124</sup> Meanwhile, a 2011 study by the Urban Justice Center’s Street Vendor Project found that of the 949 summonses issued to fruit and vegetable vendors in Forsyth Street market by the Environmental Control Board (ECB), 63 percent were written for two arguably trivial offenses – 50 percent for not keeping items in or under the cart and 13 percent for failing to display a food vendor license.<sup>125</sup> In response to these concerns, in 2013, the Council reduced the maximum penalty that may be assessed for certain time place and manner restrictions from \$1,000 to \$500.<sup>126</sup>

Street vendors themselves are also the subject of complaints. Various community boards, businesses, BIDs and individuals have voiced their concern to the City Council about unlawful (or allegedly unlawful) activity by

<sup>117</sup> Melanie Grey “Mayhem in the streets: Illegal vendors are overtaking NYC”, *The Post*, December 26, 2020, available at: <https://nypost.com/2020/12/26/mayhem-in-the-streets-illegal-vendors-are-overtaking-nyc/>.

<sup>118</sup> *Id.*

<sup>119</sup> Anne Kadet “In NYC, Pandemic Sparks a New Wave of Street Vendors”, *Wall Street Journal*, November 3, 2020, available at: <https://www.wsj.com/articles/in-nyc-pandemic-sparks-a-new-wave-of-street-vendors-11604415600>.

<sup>120</sup> Ryan Thomas Devlin “Informal urbanism: Legal ambiguity, uncertainty, and the management of street vending in New York City” (dissertation), University of California, Spring 2010, available at: [http://digitalassets.lib.berkeley.edu/etd/ucb/text/Devlin\\_berkeley\\_0028E\\_10609.pdf](http://digitalassets.lib.berkeley.edu/etd/ucb/text/Devlin_berkeley_0028E_10609.pdf), p. 7.

<sup>121</sup> Rembert Browne et al “New York City street vendors”, Columbia University Graduate School of Architecture, Planning and Preservation, Spring 2011, available at: [http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport\\_Final.pdf](http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport_Final.pdf), p. 17.

<sup>122</sup> Conversation between City Council Central Staff and The Street Vendor Project, May 6, 2020.

<sup>123</sup> Rembert Browne et al “New York City street vendors”, Columbia University Graduate School of Architecture, Planning and Preservation, Spring 2011, available at: [http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport\\_Final.pdf](http://www.spacesofmigration.org/migration/wordpress/wp-content/uploads/2017/05/StreetVendorReport_Final.pdf), p., pp. 70-76.

<sup>124</sup> Mohamed Attia, testimony, New York City Council Consumer Affairs and Business Licensing Hearing on Int. 1116-A, April 11, 2019, available at: <https://nyc.legistar.com/View.ashx?M=F&ID=7167908&GUID=A00261F4-2571-4CC4-B64A-A2D550454F47>, p. 118.

<sup>125</sup> Street Vendor Project of the Urban Justice Center, “Spoiled! How relentless enforcement and \$1,000 tickets are ruining Chinatown’s largest fruit and vegetable market”, 2011, at [http://www.urbanjustice.org/pdf/publications/svpforsyth\\_20july11.pdf](http://www.urbanjustice.org/pdf/publications/svpforsyth_20july11.pdf), last accessed April 16, 2012.

<sup>126</sup> Local Law 38 of 2013.

street vendors, including the frequent violation of time, place and manner restrictions, and congestion in certain locations that forces pedestrians into the street – thus raising a public safety concern.<sup>127</sup> In response to these concerns, the Council made several amendments to time, place and manner restrictions in 2013, such as prohibiting vending in hospital no standing zones,<sup>128</sup> in taxi stands,<sup>129</sup> near entrances and service entrances,<sup>130</sup> and requiring that notices of violation issued to a food vendors contain the permit number of the mobile vending unit to hold the permit holder accountable.<sup>131</sup> During this legislative session, the Council enacted Local Law 180, which expanded the vendor-restricted zone around the World Trade Center site due to new security booths, and Local Law 180, which created new street and time restrictions for vending in downtown Flushing in response to concerns about extreme sidewalk congestion in the area. The Council also enacted Local Law 191 of 2019, which prohibited street vending in the Dyker Heights neighborhood, during the holiday season. Residents found that the annual Christmas lights display, while a festive attraction for locals and tourists, was also causing a flood of street vendors who blocked residents’ driveways and parking spots, and contributed to unwanted noise and congestion.<sup>132</sup>

### III. BILL ANALYSIS

Int. No. 1116-B contains reforms that seek to address many of the fundamental issues relating to vending, namely, inadequate enforcement, the illegal market and increasing opportunities to legally vend food. Section 1 of the bill creates a dedicated enforcement unit, with specially trained workers who would exclusively enforce vending laws—for both food and general merchandise vendors. The unit would be established in the office of the Mayor or an agency designated by the Mayor. The unit would:

- Enforce placement restrictions and other vending rules, as well as provisions related to health, sanitation, and air pollution;
- Focus first on those areas of the City with known vending enforcement challenges such as supermarkets and other congestion hot spots, as determined by the Department of Transportation;
- Be fully operational by September 2021, sufficiently staffed to inspect at least 75% of all vendors at least once per year on the street (in addition to current inspections upon permit renewal); and
- Collaborate with the Department of Small Business Services (SBS) to provide training and education to street vendors on applicable laws, and to engage in other activities designated by the Mayor relating to enforcement of, and improving compliance with, vending laws in New York City.

After the enforcement unit has been in place for approximately 10 months, the bill prompts the release of 400 MFV supervisory licenses each year for 10 years. These supervisory licenses would entitle the holder to an application for a full-time MFV permit—despite the existing cap on such permits in the Administrative Code. Supervisory licenses would be issued in the following order of preference: (i) persons who have held a MFV license continuously since on or before March of 2017 and who are on the waiting list for a full-term MFV permit; (ii) persons on the waiting list for a full-term MFV permit who have not held a MFV license continuously since on or before March of 2017; (iii) persons who have held a MFV license continuously since on or before March of 2017 who are not on the waiting list for a full-term MFV permit; and (iv) persons who do not meet the requirements of the first three preference categories. Of the 400 new supervisory licenses issued annually pursuant to this ten-year roll-out, 300 may be used to obtain a MFV permit to vend in any borough except Manhattan and 100 may be used to obtain a MFV permit to vend in any borough including Manhattan. An additional 45 supervisory licenses would be issued each year for ten years exclusively to veterans.

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<sup>127</sup> For example, see: testimony, New York City Council Committee on Consumer Affairs and Business Licensing Hearing on Int. 1116-A, April 11, 2019, available at: <https://nyc.legistar.com/View.ashx?M=F&ID=7167908&GUID=A00261F4-2571-4CC4-B64A-A2D550454F47>.

<sup>128</sup> Local Law 19 of 2013.

<sup>129</sup> Local Law 17 of 2013.

<sup>130</sup> Local Law 18 of 2013.

<sup>131</sup> Local Law 20 of 2013.

<sup>132</sup> Testimony, New York City Council Committee on Consumer Affairs and Business Licensing Hearing on 1657-A, October 16, 2019, available at: <https://nyc.legistar.com/View.ashx?M=F&ID=7826207&GUID=627DD8E4-1486-464E-BFE1-B79E68C0ECAF>.

The release of the first batch of 400 supervisory licenses would begin in July of 2022. No later than six months before the release of these supervisory licenses, the bill requires the City to open the waiting list for full-term MFV permits to vendors who have held a MFV license consistently since on or before March of 2017.

A holder of a supervisory license must be present and vending at all times of operation at any cart or truck for which a permit was issued to a supervisory licensee. This bill will not void existing permits issued before the release of supervisory licenses. The presence of a supervisory licensee is not required to operate carts associated with existing permits—these carts may continue to operate as they have for the time being. However, on and after July of 2032, any and all full-term MFV permits, other than those issued under the City’s fruit and vegetable vending program, may only be issued to the holder of a supervisory license. At that time, anyone holding a permit under the current system will be entitled to an application for a supervisory license when their permit is up for renewal, and will thereafter be subject to all rights and restrictions of such license (namely, the requirement that a supervisory licensee be present at all times of operation). Supervisory licenses issued in place of an existing citywide MFV permit—either upon release by the current permit holder or upon renewal by the current permit holder—shall entitle the supervisory licensee to vend in any borough in the City. Supervisory licenses issued to the holder of or a person on the waiting list for a borough-based MFV permit, issued pursuant to subparagraph b of paragraph 2 of subdivision b of section 17-307 of the Administrative Code, shall entitle the supervisory licensee to vend in any borough except Manhattan.

The annual fee for a supervisory license will be \$500, which will cover some of the costs of administering, issuing, inspecting and enforcing the requirements of the license and the associated right to vend.

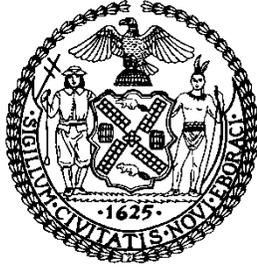
The bill also establishes a Street Vendor Advisory Board that consists of city officials from DCWP, DOHMH, SBS, the Department of Transportation and the NYPD; six members appointed by the Speaker, two of whom represent street vendors, two of whom represent the small business community, one of whom represents workers at retail food stores, one of whom represents property owners and one of whom who represents a community organization; and four members appointed by the Mayor, two of whom represent street vendors and two of whom represent the small business community. The Street Vendor Advisory Board must convene no later than April 28, 2021, and would monitor and make recommendations to the Mayor and the City Council regarding the performance of the enforcement unit and the expansion of vending licenses. On or before November 1, 2021, the Board would submit to the Speaker of the Council and the Mayor a report containing recommendations in relation to amendments to local laws and/or rules, the creation of designated community spaces where street vendors can congregate to vend, appropriate locations for food trucks and the availability of commissary space. Prior to June 1 of 2023 and for each year ten years thereafter, the Board shall make recommendations to the Speaker of the City Council related to the roll-out of new supervisory licenses.

The bill also contains other reforms, including:

- The creation of a website and mobile application that would allow users to view a map of legal places to vend—both food and general merchandise;
- The creation of a mandatory training program for vendors on the rules and regulations applicable to vending;
- An expansion of the fruit and vegetable vending program (or “Green Carts”) to allow these vendors to sell cut fruit, nuts, water and any other foods DOHMH designates as healthful, as well as potentially expanding the locations at which such Green Carts may vend; and
- A requirement that both food and general merchandise vendors stay at least 20 feet away from stoop line stands and sidewalk cafes, as those terms are defined in the Administrative Code.

Provisions in the bill related to the Street Vendor Advisory Board and Green Carts would take effect 90 days after the bill becomes law. Provisions related to new distance restrictions would take effect 180 days after the bill becomes law. Provisions related to the website and mapping tool for legal vending spots would take effect one year after the bill becomes law. All other provisions would take effect immediately.

(The following is the text of the Fiscal Impact Statement for Int. No. 1116-B:)



**THE COUNCIL OF THE CITY OF NEW YORK**  
**FINANCE DIVISION**  
**LATONIA MCKINNEY, DIRECTOR**

**FISCAL IMPACT STATEMENT**

**PROPOSED INT. NO.:** 1116-B

**COMMITTEE:** Consumer Affairs and Business  
 Licensing

**TITLE:** A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board.

**SPONSOR(S):** By Council Members Chin, Menchaca, Lander, Rose, Miller, Koslowitz, Reynoso, Dromm, Barron, Treyger, Levine, Ayala, Brannan, Diaz, Levin, Kallos, the Public Advocate (Mr. Williams), Rodriguez, Eugene, Ampry-Samuel, Perkins, Rivera, Adams, Moya, Gibson, Van Bramer, Cumbo, Rosenthal, Powers and Salamanca.

**SUMMARY OF LEGISLATION:** Proposed Int. No. 1116-B would gradually expand the number of permits to vend food on the streets and sidewalks of New York City. Four hundred supervisory licenses would be issued each year beginning in 2022 until 2032. The new supervisory licenses would entitle the holder thereof to an application for a food vending permit and would require at least one supervisory licensee to be present at a pushcart at all times. This new requirement will not be applied to existing permits until 2032, at which time a supervisory licensee must be present at any cart to operate. The bill will also create a new dedicated vending law enforcement unit, which would exclusively enforce vending laws. It would focus on areas of the City with known vending enforcement challenges but will respond to vending complaints and violations throughout the City. The bill would also create a street vendor advisory board, to assess the effectiveness of the enforcement unit and the roll-out of new permits, and examine and make recommendations pertaining to vending laws.

**EFFECTIVE DATE:** Some sections of this local law would take effect immediately, while others would take effect 90 days, either 180 days, or one year after they become law.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** FISCAL 2032

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY22</b>	<b>FY Succeeding Effective FY23</b>	<b>Full Fiscal Impact FY32</b>
<b>Revenues</b>	\$440,000	\$ 440,000	\$3,990,875
<b>Expenditures</b>	\$3,067,226	\$2,917,226	\$4,270,735
<b>Net</b>	(\$2,627,226)	(\$2,477,226)	(\$279,860)

**IMPACT ON REVENUES:** It is estimated that this legislation would generate revenue of \$440,000 in the first year of implementation, increasing to approximately \$4 million annually once all 4,000 supervisory licenses are issued and when existing permits holders will need to acquire supervisory licenses. This estimate accounts for

the \$1,000 cost of the supervisory license that needs to be renewed every other year, as well as the \$100 permit fee that needs to be paid annually.

**IMPACT ON EXPENDITURES:** It is estimated that the enforcement requirements in this legislation would require additional resources of approximately \$3 million in the first year of implementation for the hiring of 31 new staff and related costs at the Department of Consumer and Worker Protection. It is estimate that over time, 10 additional staff would need to be hired, for a total of 41 new staff, at a cost of \$4.2 million annually.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** General Fund

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Florentine Kabore, Financial Analyst

**ESTIMATE REVIEWED BY:** John Russell, Unit Head  
Rebecca Chasan, Senior Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced by the Council on September 26, 2018 as Int. No. 1116 and was referred to the Committee on Consumer Affairs and Business Licensing (Committee). The legislation was subsequently amended and a hearing was held by the Committee on the amended version, Proposed Int. No. 1116-A, on April 11, 2019, and the legislation was laid over. The legislation was subsequently amended for a second time, and the most recently amended legislation, Proposed Int. No. 1116-B, will be considered by the Committee on January 28, 2021. Upon successful vote by the Committee, Proposed Int. No. 1116-B will be submitted to the full Council for a vote on January 28, 2021.

**DATE PREPARED:** January 26, 2021.

*Accordingly, this Committee recommends its adoption, as amended.*

**(The following is the text of Int. No. 1116-B:)**

Int. No. 1116-B

By Council Members Chin, Menchaca, Lander, Rose, Miller, Koslowitz, Reynoso, Dromm, Barron, Treyger, Levine, Ayala, Brannan, Diaz, Levin, Kallos, the Public Advocate (Mr. Williams), Rodriguez, Eugene, Ampry-Samuel, Perkins, Rivera, Adams, Moya, Gibson, Van Bramer, Cumbo, Rosenthal, Powers, Salamanca and Louis.

**A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board**

*Be it enacted by the Council as follows:*

Section 1. Chapter 1 of the New York city charter is amended by adding a new section 13-e to read as follows:

*§ 13-e Office of street vendor enforcement. There shall be an office of street vendor enforcement, which shall consist of enforcement agents who are specially trained in local laws and rules related to vending on the streets and sidewalks of the city of New York. The office of street vendor enforcement shall be fully operational on or before September 1, 2021 and shall commence enforcement activities on or before such date. Such enforcement activities shall, at a minimum, include a sufficient number of street patrols to inspect or examine the vending activities of at least 75 percent of applicable permittees or licensees on an annual basis. For the purposes of this section, the term “applicable permittees or licensees” means persons issued full-term or*

*temporary permits pursuant to section 17-307 of the administrative code, or persons issued licenses to vend pursuant to sections 17-307 or 17-307.1 of the administrative code, or licenses issued pursuant to section 20-456 of the administrative code. The mayor may establish such office in the executive office of the mayor, within any other office in the executive office of the mayor, or within any department, the head of which is appointed by the mayor. Such office shall have the power and duty to:*

*a. enforce all local laws and rules related to vending on the streets and sidewalks of the city of New York, other than such local laws and rules related to food safety, including, but not limited to: section 16-118, subchapter 2 of chapter 3 of title 17, subchapter 27 of chapter 2 of title 20 and chapter 1 of title 24 of the administrative code; article 89 of the health code; and any rules of the city of New York implementing such laws;*

*b. focus its enforcement efforts on areas including, but not limited to, areas adjacent to retailers that dedicate substantial floor area to the sale of fresh fruits and vegetables, and any other areas identified by the department of transportation as excessively congested and featuring a high level of complaints about vendor activity, if any;*

*c. collaborate with the department of small business services to provide training, outreach and education to all street vendors on entrepreneurship and compliance with all applicable local laws and regulations, as well as solicit feedback from the street vendor community;*

*d. receive all complaints related to street vending on the streets and sidewalks of the city of New York from the 311 service center or from any other means; and*

*e. engage in such other activities related to enforcement of laws related to vending on the streets and sidewalks of the city of New York, or related to improving compliance with such laws, as may be designated by the mayor. For the purposes of this section, "excessively congested" areas include, but are not limited to, areas where pedestrian volume regularly approaches or exceeds the capacity of the sidewalk.*

§ 2. Subdivisions q, r and s of section 17-306 of the administrative code of the city of New York, as added by local law number 9 for the year 2008, are amended to read as follows:

q. "Fresh fruits and vegetables". [Unprocessed unfrozen] *Unfrozen* raw fruits and vegetables that have not been combined with other ingredients.

r. "Fresh fruits and vegetables permit". A full-term permit for the vending at retail solely of fresh fruits or vegetables, [or both,] *water, raw single ingredient nuts and any other food designated by the commissioner as healthful pursuant to section 17-324.1*, from a pushcart or vehicle in a public place. Unless otherwise specified, a fresh fruits and vegetables permit shall be a permit in accordance with the provisions of this subchapter.

s. "Green cart". A pushcart *or vehicle* used exclusively by those issued fresh fruits and vegetables full-term permits pursuant to section 17-307 of this subchapter [and which, in addition to being in compliance with all other legal requirements applicable to non-processing pushcarts, must also have a distinctive and easily recognizable appearance in accordance with rules to be established by the commissioner].

§ 3. Section 17-306 of the administrative code of the city of New York is amended by adding new subdivisions u and v to read as follows:

u. "*Plate or permit plate*". *Certificate issued by the department subsequent to inspection and approval of a vehicle or pushcart.*

v. "*Supervisory license*". *On or after July 1, 2022, a food vendor license that authorizes the licensee to vend from a vehicle or pushcart for which a permit is issued in accordance with the provisions of this subchapter.*

§ 4. Paragraph 1 of subdivision b of section 17-307 of the administrative code of the city of New York, as amended by local law number 9 for the year 2008, is amended to read as follows:

1. (a) It shall be unlawful to vend food from any vehicle or pushcart in a public space without having first obtained a permit for such vehicle or pushcart from the commissioner in accordance with the provisions of this subchapter. *On or after July 1, 2032, it shall be unlawful to vend food from any vehicle or pushcart in a public place without a supervisory licensee physically present and vending at such vehicle or pushcart.*

(b) The commissioner shall establish standards relating to the size and design of such vehicles and pushcarts. No vendors shall vend from any vehicle or pushcart which does not comply with the standards established by the commissioner. No vendor shall vend from other than a vehicle or pushcart.

(c) No food vendor issued a fresh fruits and vegetables permit shall vend from other than a vehicle or a green cart. No food vendor issued a fresh fruits and vegetables permit shall vend any food other than fresh fruits and vegetables, *water, raw single ingredient nuts and other food designated by the commissioner as healthful pursuant to section 17-324.1* from the green cart or vehicle for which the permit was issued.

§ 5. Subparagraph (a) of paragraph 2 of subdivision b of section 17-307 of the administrative code of the city of New York, as amended by local law number 15 for the year 1995, is amended to read as follows:

(a) [On and after July thirtieth, nineteen hundred eighty-three, no] *No* new full-term permits shall be issued until the number of such permits which are in effect is less than [three thousand] 3,000. Thereafter, the maximum number of such permits which may be in effect shall be [three thousand] 3,000 and no new permits shall be issued in excess of such maximum number. Notwithstanding the limitations on the issuance of new full-term permits, a permit issued prior to [July thirtieth, nineteen hundred eighty-three] *July 30, 1983* which is in effect shall be renewable by the licensee to whom the permit was issued subject to the provisions of subparagraph (f) of this paragraph and provided that all other requirements for renewal under the provisions of this subchapter and any rules promulgated pursuant thereto are complied with, the license of the person to whom the permit was issued or the permit has not been revoked or suspended and the licensee has not committed a violation or violations which could be a basis for permit or license revocation or suspension.

§ 6. Clause (ii) of subparagraph (b) of paragraph 2 of subdivision b of section 17-307 of the administrative code of the city of New York, as added by local law number 15 for the year 1995, is amended to read as follows:

(ii) After the initial issuance of such permits, the commissioner shall establish a separate waiting list for each of the relevant boroughs to be administered in accordance with procedures to be established by rules of the commissioner. The commissioner may by rule limit the number of places on each such waiting list. *On or after July 1, 2022 all new permits issued pursuant to this subparagraph shall be designated for use exclusively in any borough outside of Manhattan and shall be issued only to the holder of a supervisory license. Such requirement shall not apply to a borough specific permit issued before July 1, 2022 or renewal thereof until July 1, 2032. On or after July 1, 2032, permits issued pursuant to this subparagraph shall issue only to the holder of a supervisory license. Supervisory licenses shall be made available for application to individuals on the waiting lists for borough-specific permits in the order of priority set out in subparagraph (d) of paragraph 5 of this subdivision until such waiting lists are exhausted.*

§ 7. Subparagraph (c) of paragraph 2 of subdivision b of section 17-307 of the administrative code of the city of New York, as amended by local law number 27 for the year 1997, is amended to read as follows:

(c) [On and after January first, nineteen hundred ninety-five, full] *Full-term permits issued under this subchapter shall be issued only to persons who at the time of application [for a permit] have not had a full-term or temporary permit or supervisory license revoked or suspended and who satisfy the commissioner that they are fit and able to conduct, maintain or operate a food vending business. Except as otherwise provided in item (B) of clause (ii) of subparagraph (a) of paragraph three of subdivision f of this section, no person shall be issued more than one permit under this subchapter, whether full-term or temporary. Any full-term permit issued under this subchapter on or after July 1, 2022 shall be issued only to the holder of a supervisory license, applications for which shall be distributed in the order prescribed in subparagraph (d) of paragraph 5 of this subdivision.*

§ 8. Subparagraph (d) of paragraph 2 of subdivision b of section 17-307 of the administrative code of the city of New York, as added by local law number 15 for the year 1995, is amended to read as follows:

(d) The issuance or renewal of a full-term permit pursuant to this subchapter shall be subject to the permittee within three months after the certification of a complete application therefor presenting a pushcart or vehicle for inspection by the department and within six months after such certification, passing such inspection, *except that a supervisory licensee may apply for a permit at any time between acquiring a supervisory license and the expiration of such license.*

§ 9. Subparagraph (e) of paragraph 2 of subdivision b of section 17-307 of the administrative code of the city of New York, as added by local law number 15 for the year 1995, is amended to read as follows:

(e) The commissioner shall establish a separate waiting list *or lists* for the issuance of full-term permits pursuant to this subchapter to be administered in accordance with requirements to be established by rules of the commissioner. The commissioner may by rule limit the number of places on such waiting list *or lists*.

§ 10. Subparagraph (a) of paragraph 3 of subdivision b of section 17-307 of the administrative code of the city of New York, as amended by local law number 15 for the year 1995, is amended to read as follows:

(a) (i) Notwithstanding the provisions of paragraph two of this subdivision limiting the number of full-term permits that are authorized to be issued, the commissioner may issue up to a maximum of [one hundred] 100 additional full-term permits authorizing the holders thereof to vend food from any vehicle or pushcart in any public place in the city of New York where food vendors are not prohibited from vending. Such permits shall be issued only to natural persons [who at the time of application for a permit hereunder are not holders of a full-

term permit issued pursuant to paragraph two of this subdivision and who have not had a full-term permit revoked or suspended. No person shall be issued more than one permit. Such permits].

(ii) *The department shall make available for application 45 supervisory licenses per twelve-month period for ten consecutive years beginning on July 1, 2022. In addition to the 100 permits authorized to be issued by clause (i) of this subparagraph, and notwithstanding the provisions of paragraph two of this subdivision limiting the number of full-term permits authorized to be issued, the department shall make available for application to applicants who comply with the requirements for such supervisory licenses an additional 45 permits per twelve-month period for ten consecutive years beginning on July 1, 2022 and issue a permit to each applicant who complies with the requirements for such permit.*

(iii) *Supervisory licenses available pursuant to this paragraph shall be [issued in the order in which applications for such permits are received] made available for application in accordance with the preferences specified in subparagraph (b) of this paragraph and the procedures established by the commissioner. [The issuance or renewal of a full-term permit pursuant to this paragraph shall be subject to the permittee within three months after the certification of a complete application therefor presenting a pushcart or vehicle for inspection by the department and, within six months after such certification, passing such inspection. After the initial issuance of such permits, the]*

(iv) *The commissioner shall establish a waiting list, not to exceed four hundred in number, to be administered in accordance with procedures to be established by rules of the commissioner.*

§ 11. Subparagraph (c) of paragraph 3 of subdivision b of section 17-307 of the administrative code of the city of New York is REPEALED.

§ 12. Subparagraph (d) of paragraph 3 of subdivision b of section 17-307 of the administrative code of the city of New York is relettered as subparagraph (c).

§ 13. Subparagraphs (a), (b) and (c) of paragraph 4 of subdivision b of section 17-307 of the administrative code of the city of New York, as added by local law number 9 for the year 2008, are amended to read as follows:

(a) Notwithstanding the provisions of paragraph two of this subdivision limiting the total number of full-term permits that are authorized to be issued, the commissioner may issue up to a maximum of one thousand fresh fruits and vegetable permits, as that term is defined in subdivision r of section 17-306 of this chapter. [The initial issuance of these one thousand fresh fruits and vegetables permits shall be phased in over a two-year period. No more than five hundred permits shall be issued during the first year of permit availability, nor shall more than one-half of the number of fresh fruits and vegetables permits designated for use in a borough be issued during the first year of permit availability. During the second year of permit availability the commissioner may issue the remaining five hundred permits along with any permits from the initial five hundred not issued during the first year of permit availability. Thereafter, the maximum number of such permits which may be in effect shall be one thousand and no new permits shall be issued in excess of such number.] Each of the one thousand fruits and vegetables permits to be issued pursuant to this paragraph shall be designated for use exclusively in a specified borough as follows:

(i) three hundred fifty of such fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables, *water, raw single ingredient nuts and any other food designated by the commissioner as healthful pursuant to section 17-324.1* from any [vehicle or any] green cart in the borough of the Bronx in the areas designated in clause (i) of subparagraph [b] (b) of this paragraph.

(ii) three hundred fifty of such fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables, *water, raw single ingredient nuts and any other food designated by the commissioner as healthful pursuant to section 17-324.1* from any [vehicle or any] green cart in the borough of Brooklyn in the areas designated in clause (ii) of subparagraph [b] (b) of this paragraph.

(iii) one hundred fifty of such fresh fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables, *water, raw single ingredient nuts and any other food designated by the commissioner as healthful pursuant to section 17-324.1* from any [vehicle or any] green cart in the borough of Manhattan in the areas designated in clause (iii) of subparagraph [b] (b) of this paragraph.

(iv) one hundred of such fresh fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables, *water, raw single ingredient nuts and any other food designated by the commissioner as healthful pursuant to section 17-324.1* from any [vehicle or any] green cart in the borough of Queens in the areas designated in clause (iv) of subparagraph [b] (b) of this paragraph.

(v) fifty of such fresh fruits and vegetables permits shall authorize the holders thereof to vend fresh fruits and vegetables, *water, raw single ingredient nuts and any other food designated by the commissioner as healthful pursuant to section 17-324.1* from any [vehicle or any] green cart in the borough of Staten Island in the areas designated in clause (v) of subparagraph [b] (b) of this paragraph.

(b) The issuance or renewal of a full-term permit issued pursuant to this paragraph shall be subject to the permittee within three months after the certification of a complete application therefore presenting a green cart for inspection by the department and, within six months after such certification, passing such inspection. No person shall be issued more than one permit. Fresh fruits and vegetables permits, in addition to being designated for use exclusively in a borough as specified in subparagraph (a) of this paragraph, shall be designated for use exclusively within the police precincts specified below *or pursuant to subparagraph (c) of this paragraph*, and shall be subject to the same time and place restrictions for vending in such areas as other food vendors:

- (i) Bronx: Police Precincts 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 52;
- (ii) Brooklyn: Police Precincts 67, 70, 71, 72, 73, 75, 77, 79, 81, 83;
- (iii) Manhattan: Police Precincts 23, 25, 26, 28, 30, 32, 33, 34;
- (iv) Queens: Police Precincts 100, 101, 103, 113; and
- (v) Staten Island: Police Precinct 120.

(c) [Notwithstanding any provision of this section to the contrary, within eight months of the effective date of the local law adding this paragraph, the commissioner may exempt by rule any police precinct specified in subparagraph b of paragraph four of this section upon] *In addition to the police precincts listed in subparagraph (b) of this paragraph, a fresh fruits and vegetable permits that is designated for use exclusively in a borough as specified in subparagraph (a) of this paragraph may also be designated for use in any other police precinct in such borough that the commissioner has specified in rules of the department, after determining that the rate of consumption of fresh fruits and vegetables in [the] such precinct is [not] substantially lower than the citywide average and that the precinct [does not have] has an elevated rate of nutrition-related health problems compared to the rest of the city.*

§ 14. Subdivision b of section 17-307 of the administrative code of the city of New York is amended by adding a new paragraph 5 to read as follows:

5. (a) *On or after July 1, 2022 all new permits issued under this subchapter, except fresh fruits and vegetables permits, shall be designated for use only when any holder of a supervisory license is physically present and vending. Such requirement shall not apply to a permit issued before July 1, 2022 or a renewal thereof until July 1, 2032. On or after July 1, 2032, all permits issued under this subchapter, except fresh fruits and vegetables permits, shall be designated for use only when any holder of a supervisory license is physically present and vending.*

(b) *The commissioner shall make available for application 400 supervisory licenses per twelve-month period for ten consecutive years beginning on July 1, 2022. Notwithstanding the provisions of this subdivision limiting the total number of full-term permits that are authorized to be issued, the commissioner shall make available a permit application to each license applicant who complies with the requirements for such supervisory license and issue a permit to each permit applicant who complies with the requirements for such permit. On or before July 1, 2032, the commissioner shall make available for application supervisory licenses to any person seeking to renew a permit that was issued under this subchapter before July 1, 2022.*

(c) *In accordance with procedures to be established by rules of the commissioner, in each twelve month period, 100 of the supervisory licenses made available for application under this paragraph shall be designated for use in any borough, and the remaining 300 such supervisory licenses shall be designated for use in boroughs outside of Manhattan.*

(d) *Preferences shall be given in the availability of applications for supervisory licenses pursuant to this paragraph and in the placement on a waiting list therefor to the following categories of persons in the following order:*

(i) *Persons who have held a food vendor license continuously since on or before March 1, 2017 and have been on a waiting list for a full-term permit pursuant to subparagraph (e) of paragraph 2 of this subdivision and remain on such list as of the date an application is made available. Applications shall be made available to such persons by order of numerical rank on the waiting list.*

(ii) *Persons who have been on a waiting list for a full-term permit pursuant to this subchapter and remain on such list as of the date an application is made available but have not held a food vendor license continuously*

since on or before March 1, 2017. Applications shall be made available to such persons by order of numerical rank on the waiting list.

(iii) Persons who have held a food vendor license continuously since on or before March 1, 2017 but are were not on a waiting list for a full-term permit pursuant to this subchapter as of the effective date of the local law that added this paragraph.

(iv) Persons who have not held a food vendor license continuously since on or before March 1, 2017 and were not on a waiting list for a full-term permit pursuant to this subchapter as of the effective date of the local law that added this paragraph.

(e) The commissioner may by rule limit the number of places on such waiting list, but shall ensure that such waiting list is operative prior to supervisory licenses becoming available to new individuals.

§ 15. Subdivision d of section 17-307 of the administrative code of the city of New York, as amended by local law number 9 for the year 2008, is amended to read as follows:

d. A food vendor's license shall *not* entitle the holder thereof to vend any food *other than foods* which the commissioner or board may authorize or otherwise approve[, except that a]. A food vendor vending from a green cart or vehicle with a fresh fruits and vegetables permit shall [only] not be authorized to vend *any food other than fresh fruit and vegetables, water, raw single ingredient nuts and any other food that has been designated by the commissioner as healthful pursuant to section 17-324.1*. [No food vendor while acting as such shall vend any item which the commissioner or board has not authorized or otherwise approved.]

§ 16. Section 17-307 of the administrative code of the city of New York is amended by adding new subdivision h to read as follows:

*h. No permit or license, including a supervisory license, shall be issued to a person required to have a permit or license pursuant to this subchapter unless such person obtains a certificate issued by the department subsequent to successful completion of a training developed or approved by the department on the vending restrictions contained in this section and any other information the department deems necessary to the safe operation of such vending unit, and passage of an examination administered by the department. The department shall require renewal of such certificate every four years. Renewal shall be contingent on passing an examination regarding the vending restrictions contained in this section and any other information the department deems necessary to the safe operation of such vending unit pursuant to rules promulgated by the department. Any examinations, or educational materials designed for such training program shall be made available in English and in the ten most common languages spoken by limited English proficient individuals in the city according to the department of city planning. Such educational materials shall be available on the department's website.*

§ 17. Subchapter 2 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-307.1 to read as follows:

§ 17-307.1 Supervisory licenses

*a. License restrictions. In addition to laws applicable to food vendors, the following additional requirements apply to supervisory licensees:*

*1. A permittee issued a supervisory license shall not allow the operation of such permittee's vehicle or pushcart unless such permittee or another holder of a supervisory licensee is physically present and vending at such vehicle or pushcart, subject to any exceptions provided in rules of the commissioner.*

*2. A person issued a supervisory license may not vend food from any vehicle or pushcart located outside of the geographical restrictions on such person's supervisory license unless a licensee authorized to vend alone from such vehicle or pushcart is also physically present and vending or the permit for such vehicle or pushcart does not require the presence of a supervisory licensee.*

*b. Eligibility for supervisory license.*

*1. The department shall issue a supervisory license only to a natural person.*

*2. The department shall not issue a supervisory license to any person who at the time of application had a full-term or temporary permit or supervisory license revoked or suspended or who is not fit and able to conduct, maintain or operate a food vending business.*

*3. The department shall not issue a supervisory license to any person who is a minor.*

*4. No person shall be issued more than one supervisory license.*

§ 18. Subdivision b of section 17-308 of the administrative code of the city of New York is amended to read as follows:

b. The annual fee for a license or renewal thereof shall be twenty-five dollars, *except that the annual fee for a supervisory license shall be five hundred dollars*; provided, however, that for an initial license issued for more than two years the applicable license fee shall be increased proportionally to the nearest quarter year.

§ 19. Paragraph 2 of subdivision c of section 17-308 of the administrative code of the city of New York is amended to read as follows:

2. For a vehicle selling foods prepared or processed therein: [one hundred dollars] *as specified by rules of the commissioner.*

§ 20. Subdivision b of section 17-311 of the administrative code of the city of New York, as amended by local law number 108 for the year 2017, is amended to read as follows:

b. The food vendor's license, *including a supervisory license*, shall be worn conspicuously by him or her at all times while he or she is operating as a food vendor.

§ 21. Section 17-311 of the administrative code of the city of New York is amended by adding a subdivision e to read as follows:

e. *A permit plate on a vehicle or pushcart issued to a supervisory licensee shall indicate, either by color or other designation of the department's choosing, that such vehicle or pushcart may only be operated when a supervisory licensee is physically present and vending at such vehicle or pushcart.*

§ 22. Subdivision d of section 17-315 of the administrative code of the city of New York, as amended by local law number 18 for the year 2013, is amended to read as follows:

d. No vending pushcart shall be located against display windows of fixed location businesses, nor shall they be within twenty feet of any *licensed stoop line stand, licensed sidewalk cafe, or any* entranceway to any building, store, theatre, movie house, sports arena or other place of public assembly, or within twenty feet from exits, including service exits, to buildings that are exclusively residential at the street level.

§ 23. Section 17-315 of the administrative code of the city of New York is amended by adding a new subdivision m to read as follows:

m. *The department, or such other agency designated by the mayor, shall provide a website that shows a map of block faces where food vending is prohibited by law, based on the day and hour entered by the user.*

§ 24. Paragraph 5 of subdivision a of section 17-317 of the administrative code of the city of New York, as added by local law number 9 for the year 2008, is amended to read as follows:

5. A licensee issued a "fresh fruits and vegetables" permit, pursuant to paragraph 4 of subdivision b of section 17-307 of this subchapter, is found to be vending food [other than fresh fruits and vegetables] *such licensee is not permitted to sell* or is found to be vending in a police precinct other than one in which the licensee is authorized to vend in accordance with [his (her)] *such licensee's* borough-specific permit.

§ 25. Subdivision a of section 17-317 of the administrative code of the city of New York is amended by adding a new paragraph 6 as follows:

6. *A vehicle or pushcart for which the department issued a permit to a supervisory licensee is found to be operating without the presence of a person who has been issued a supervisory license or outside of the geographical restrictions permitted by the supervisory license.*

§ 26. Subdivision e of section 17-321 of the administrative code of the city of New York, as added by local law number 20 for the year 2013, is amended to read as follows:

e. Any notice of violation issued to a food vendor by an officer or employee described in subdivision a of this section that is returnable to [the environmental control board] *a tribunal established within the office of administrative trials and hearings or within any agency of the city of New York designated to conduct such proceedings, or to any court of competent jurisdiction*, shall state the permit number of the vehicle or pushcart associated with such notice of violation. *Any penalty duly imposed by such tribunal, and any fine or penalty imposed by such court, shall be considered to have been issued against the permittee associated with such permit number for the purposes of the non-issuance or renewal of a food vendor permit pursuant to subdivision b of section 17-317.*

§ 27. Title 17 of the administrative code of the city of New York is hereby amended by adding a new section 17-324.1 to read as follows:

§ 17-324.1 *Other foods. The commissioner may designate by rule a list of healthful foods in addition to fresh fruits and vegetables, water, and raw single ingredient nuts, provided that any food designated as healthful is in alignment with evidence-based dietary recommendations.*

§ 28. Subdivision a of section 20-454 of the administrative code of the city of New York is amended to read as follows:

a. All licenses issued pursuant to this subchapter shall be valid for [one year] *two years* unless sooner suspended or revoked. The commissioner shall establish by regulation the expiration date of such licenses.

§ 29. Subdivision q of section 20-465 of the administrative code of the city of New York, as added by local law number 12 for the year 1989, is amended to read as follows:

q. No general vendor shall vend:

1. within twenty feet from sidewalk cafes *or licensed stoop line stands; and*
2. within five feet from (a) bus shelters, (b) newsstands, (c) public telephones or (d) disabled access ramps[; and].

§ 30. Section 20-465 of the administrative code of the city of New York is amended by adding a new subdivision r to read as follows:

*r. The department, or such other agency designated by the mayor, shall provide a website that shows a map of block faces where general vending is prohibited by law, based on the day and hour entered by the user.*

§ 31. Subchapter 27 of chapter 2 of title 20 of administrative code of the city of New York is amended by adding a new section 20-465.2 to read as follows:

*§ 20-465.2 Street vendor advisory board. a. There is hereby established a street vendor advisory board consisting of the commissioner of consumer and worker protection, the commissioner of health and mental hygiene, the commissioner of small business services, the commissioner of transportation, and the police commissioner, or the designee of any such commissioner, six members appointed by the speaker, two of whom represent street vendors, one of whom represent the small business community, one of whom represents organizations representing workers at retail food stores, one of whom represents property owners and one of whom who represents a community organization, and four members appointed by the mayor, two of whom represent street vendors and two of whom represent the small business community.*

*b. In addition to its other duties, the street vendor advisory board shall, prior to June 1 of each year from 2023 through 2030, issue to the speaker of the council a recommendation on whether the department of health and mental hygiene's authority to issue any or all of the supervisory licenses authorized to be issued by such department should be restricted, expanded, or otherwise altered based on an analysis of the results of the increased number of food vendor permits issued pursuant to the local law that added this section.*

§ 32. The street vendor advisory board shall convene no later than April 28, 2021. The board shall review and evaluate all state and local laws and rules related to street vendors, including placement restrictions such as the minimum distance of 20 feet from any building entrance or exit, and the process for obtaining a street vendor license or permit pursuant to titles 17 and 20 of the administrative code of the city of New York. In conducting such review and evaluation the board shall consider whether such laws and rules should be clarified, are overly burdensome, or are duplicative. Such review shall also include an assessment of how the open streets, open restaurants and open storefronts programs affect the availability of legal spaces to vend, as well as whether new placement restrictions should be considered to ensure equitable and efficient use of sidewalk and street space. On or before November 1, 2021, the board shall submit to the speaker of the council and the mayor a report containing the board's recommendations in relation to amendments to local laws and/or rules based on such review and evaluation and the basis for each recommendation. Such report shall also include recommendations for the creation of designated community spaces where street vendors can congregate to vend, including specific recommendations concerning appropriate locations for food trucks and the availability of commissary space throughout the city.

§ 33. The commissioner of health and mental hygiene shall open the waiting list for full-term permits operated pursuant to subparagraph (e) of paragraph 2 of subdivision b of section 17-307 of the administrative code of the city of New York as soon as practicable, but no later than six months prior to the first issuance of supervisory licenses pursuant to subparagraph (b) of paragraph 5 of subdivision b of section 17-307 of the administrative code of the city of New York. At such time, only persons who have held a food vendor license continuously since on or before March 1, 2017 may be added to the waiting list.

§ 34. Nothing in this local law limits the authority of any agency granted elsewhere in law to enforce any law or rule.

§ 35. Sections one, three, four, five, six, seven, eight, nine, ten, eleven, twelve, fourteen, seventeen, eighteen, twenty, twenty-one, twenty-five, twenty-six, thirty-three and thirty-four of this local law take effect immediately.

Sections two, thirteen, fifteen, twenty-four, twenty-seven, twenty-eight, thirty-one and thirty-two of this local law take effect 90 days after they become law. Sections sixteen, nineteen, twenty-two and twenty-nine of this local law take effect 180 days after they become law. Sections twenty-three and thirty of this local law take effect 1 year after they become law.

DIANA AYALA *Chairperson*; MARGARET S. CHIN, PETER A. KOO, KAREN KOSLOWITZ, BRADFORD S. LANDER, BEN KALLOS, JUSTIN L. BRANNAN, CARLOS MENCHACA; Committee on Consumer Affairs and Business Licensing, January 28, 2021 (Remote Hearing).

On motion of the Speaker (Council Member Johnson), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

### **Report of the Committee on Finance**

Report for Int. No. 2166-B

#### **Report of the Committee on Finance in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York in relation to the sale of tax liens.**

The Committee on Finance, to which the annexed proposed amended local law was referred on September 23, 2020 (Minutes, page 2593), respectfully

#### **REPORTS:**

##### **I. Introduction**

On January 28, 2021, the Committee on Finance (Committee), chaired by Council Member Daniel Dromm will hold a second hearing on Proposed Int. No. 2166-B, A Local Law to amend the administrative code of the city of New York, in relation to the sale of tax liens, introduced by Council Member Adams by request of the Mayor. This is the second hearing on this legislation, which was amended twice after introduction. At the first hearing on December 9, 2020, the Committee heard testimony from the Mayor's Office of Management and Budget (OMB), the New York City Department of Finance (DOF), the New York City Department of Housing Preservation and Development (HPD), the New York City Department of Environmental Protection (DEP), and advocacy groups and members of the public.

##### **II. Property Tax Lien Background**

A lien is a legal claim against real property for unpaid property taxes, water, sewer or other property charges, as well as the interest due on these taxes and charges.<sup>1</sup> When outstanding amounts have been delinquent for a legally specified period of time, and the City has mailed notice to the property owner, the City of New York is allowed to sell the lien(s) to an authorized third party, who becomes the "tax lien purchaser."<sup>2</sup> The new tax lien purchaser then has the authority to collect the money that was previously owed to the City, plus other fees and interest.<sup>3</sup>

<sup>1</sup> See generally, NYC Administrative Code, Title 11, Chapter 3.

<sup>2</sup> See NYC Administrative Code § 11-332.

<sup>3</sup> *Id.*

In the City’s lien sale program, the tax lien purchaser is a statutory trust (the Trust), set up and “closely monitored” by the City to ensure that the Trust is acting in compliance with the trust documents.<sup>4</sup> The Trust must resolve the outstanding debts in a “professional, fair, but unambiguous manner.”<sup>5</sup> After the liens are sold to the Trust, the Trust only owns the liens, not the underlying property itself. Thus, the property owner still holds title to the property and may pay off the liens to the Trust.<sup>6</sup>

The Trust engages ratings agencies to examine the credit quality of liens that are collateralized, and subsequently sells bonds to investors to pay the City a “cash-advance” for the lien purchase.<sup>7</sup> The Trust will then hire professional servicers to attempt to collect the delinquent taxes and charges.<sup>8</sup> Once a sufficient amount is collected to retire the Trust’s bonds (i.e. pay back the investors), the residual amount is paid to the City.<sup>9</sup> If the property owner does not voluntarily redeem their lien or enter into a forbearance agreement within one year after the date the liens were sold, it is then that the liens become subject to foreclosure.<sup>10</sup>

### III. Legislative History

In 1996, the Council adopted Local Law No. 26 of 1996, which provided that “a tax lien or tax liens on a property or any component of the amount thereof may be sold by the city when such tax lien or tax liens shall have remained unpaid in whole or in part for one year, provided, however, that a tax lien or tax liens on any class 1 property or on class 2 property that is a residential condominium or residential cooperative, as such classes of property are defined in subdivision 1 of section 1802 of the real property tax law, may be sold by the city only when the real property tax component of such tax lien or tax liens shall have remained unpaid in whole or in part for three years....” Local Law No. 26 did not permit the City to sell *any* tax lien or tax liens that did not contain a real property tax component. In other words, tax liens on any property that were comprised solely of unpaid water and sewer charges and/or non-property tax lienable charges could not be sold by the City.<sup>11</sup>

In 1997, and again in 2001, the Council enacted legislation that extended the Commissioner’s authority to sell tax liens.<sup>12</sup> Together, these local laws excluded from the lien sale property owned by a company organized pursuant to article XI of the State Private Housing Finance Law (Housing Development Fund Corporations-HDFCs), and allowed the sale of liens on class 4 properties with only a water or sewer component so long as the property was in arrears for a minimum of one year. In 2006, after a series of amendments and extensions, the tax lien program, pursuant to Local Law 2 of 2006, was extended until August 31, 2006.<sup>13</sup>

In 2007 the Council enacted Local Law 68, which reauthorized and extended the Commissioner’s authority to sell tax liens based on delinquent property taxes or delinquent water and sewer charges until December 31, 2010.<sup>14</sup> This legislation authorized the Commissioner for the first time to conduct stand-alone lien sales of delinquent water and sewer charges on certain residential properties.

In 2011, the Council again enacted legislation that extended the Commissioner’s authority to sell tax liens.<sup>15</sup> Local Law 15 of 2011 made significant changes to the lien sale law, as described in more detail below, and added a host of property owner protections that had never before existed in the law. The legislation also authorized the Commissioner to sell liens for delinquent charges pursuant to the Emergency Repair Program and the Alternative Enforcement Program. The Commissioner’s authority to sell tax liens under Local Law 15 expired on December 31, 2014.

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<sup>4</sup> New York City Department of Finance, *Report of the Lien Sale Task Force* (September 2016), available at [http://www1.nyc.gov/assets/finance/downloads/pdf/reports/lien\\_sale\\_report/lien\\_sale\\_task\\_force\\_report.pdf](http://www1.nyc.gov/assets/finance/downloads/pdf/reports/lien_sale_report/lien_sale_task_force_report.pdf)

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> See Local Law 26 of 1996, as codified in NYC Administrative Code § 11-319 (a).

<sup>12</sup> See Local Law 98 of 1997 and Local Law 26 of 2001.

<sup>13</sup> See NYC Administrative Code § 11-319(b).

<sup>14</sup> See Local Law 68 of 2007.

<sup>15</sup> See Local Law 15 of 2011.

The Council next extended the Commissioner's authority in January 2015 with the enactment of Local Law 14 of 2015.<sup>16</sup> This renewed the program until December 31, 2016.<sup>17</sup> Additionally, Local Law 14 excluded certain properties impacted by Superstorm Sandy from lien sales, provides that certain notices be provided to not-for-profits, required a report to the Council by lien sale servicers containing specified property details for each lien, and authorized Council Members to request outreach sessions with DOF, DEP and HPD.<sup>18</sup> Finally, Local Law 14 established a temporary lien sale task force to be comprised of ten members (representatives of the Mayor, Mayor's Office of Management and Budget, DOF, HPD, DEP, and five Council members) to review and evaluate the lien sale program in an effort to ensure that it is "fair, efficient and effective" and to present the findings of the Task Force in a report issued to the Mayor and the Speaker.<sup>19</sup>

In 2016, the Council again enacted legislation that extended the Commissioner's authority to sell tax liens. Local Law 4 of 2017 made several changes to the tax lien sale and allowed for greater flexibility with payment plans, including the option of monthly payments and a one-time opportunity to enter into a second payment plan if the property owner has defaulted on a previous plan. The legislation also made changes to the notification and communication requirements, including the provision of written notification to the owner when a property is removed from the lien sale due to payment or any other reason, expansion of the use of telephone and email as outreach methods, and connecting property owners to financial counseling resources. Local Law 4 also mandated greater data collection and reporting on the impact of the lien sale, including the reporting of currently available data on the charges accrued to properties after the lien sale, mortgage and title transfers of properties included in the lien sale, and surveys to determine the circumstances that lead property owners to fall behind on municipal charges. Finally, the legislation allowed emergency repair charges of at least \$1,000, that had remained unpaid for at least one year, to trigger lien sale eligibility for non-owner occupied one-, two-, and three-family homes.

#### **IV. New York City Lien Sale Program**

##### **a. Overview**

The tax lien sale is administered by DOF, which sells liens for overdue property taxes, water and sewer charges, and other property charges to a non-profit trust.<sup>20</sup> The agency sends out four warning notices to property owners starting three months prior to the sale, alerting them that the property is at risk of having liens sold.<sup>21</sup> According to DOF, typically over 80 percent of property owners who receive warning notices, pay the full amount owed, enter into a payment plan, or obtain an exemption that removes them from the at-risk pool.<sup>22</sup>

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<sup>16</sup> See Local Law 14 of 2015.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Press Release, New York City Mayor Bill de Blasio, *Mayor de Blasio Announces Postponement of Annual Tax Lien Sale Until September* (Jul. 7, 20), available at <https://www1.nyc.gov/office-of-the-mayor/news/503-20/mayor-de-blasio-postponement-annual-tax-lien-sale-until-september> (last accessed on December 8, 2020).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

Currently, the threshold amounts and years overdue that once met, make a property eligible for the lien sale depend on the particular type of property:<sup>23</sup>

Property Type	Property Tax Debt		Water/Sewer Debt		Emergency Repair and Alternative Enforcement Program Charges***	
	Minimum Amount	Years Overdue	Minimum Amount	Years Overdue	Minimum Amount	Years Overdue
1-Family House	\$1,000	3	n/a*	n/a	n/a	n/a
2-3-Family House	\$1,000	3	\$2,000	1	\$1,000**	1**
Residential Condominium & Residential Cooperation	\$1,000	3	\$1,000	1	\$1,000	1
Housing Development Fund Corporation (HDFC) Rentals	\$5,000	2	\$5,000	2	\$5,000	2
Other Class 2 Properties (non-HDFC rentals 4+ Family)	\$1,000	1	\$1,000	1	\$1,000	1
Class 4 Properties	\$1,000	1	\$1,000	1	\$1,000	1
<p>*Although the water/sewer debt may not be sold, DEP may report it to a credit reporting agency if the charges remain delinquent.  **Only applies to 3-Family non-owner occupied homes in Alternative Enforcement Program.  ***Only charges posted on or after January 1, 2006 may be included.</p>						

<sup>23</sup> The New York City Department of Finance, *Report of the Lien Sale Task Force* (September 2016), available at [http://www1.nyc.gov/assets/finance/downloads/pdf/reports/lien\\_sale\\_report/lien\\_sale\\_task\\_force\\_report.pdf](http://www1.nyc.gov/assets/finance/downloads/pdf/reports/lien_sale_report/lien_sale_task_force_report.pdf) (last accessed on December 8, 2020).

Source: New York City Department of Finance

However, certain properties remain exempt from lien sales. Liens on owner-occupied one, two, and three-family homes and residential condominiums for which the property owner qualifies for the senior citizen homeowners' exemption, the disabled homeowners' exemption, and/or certain veteran exemptions may not be sold.<sup>24</sup> Active duty military personnel may also request exclusions from the tax lien sale by completing an affidavit.<sup>25</sup> In addition, various City agencies have the authority to remove liens from the lien sale list in their discretion.

As mentioned previously, the lien sale process begins with a 90-day notice of intention to sell the liens that is sent to the property in question.<sup>26</sup> The notice indicates that to avoid the sale of a lien on the property, the debt must be resolved within 90 days.<sup>27</sup> Liens may be sold even in cases where the individual is contesting the assessed value of the property or the amount of other charges.<sup>28</sup> A property owner can resolve the debt either by paying the full amount, arranging a payment agreement, or bringing a payment agreement in default up to date.<sup>29</sup> Individuals may make these payments online, by mail, or in person at DOF offices.<sup>30</sup>

If the debt is not resolved within the prescribed period, the City will sell the lien(s) to a single authorized buyer.<sup>31</sup> Within 90 days following the sale, the DOF will notify all property owners by mail of the terms and conditions under which the lien was sold, the name and address of the new lienholder, and the name of the lienholder's authorized representative.<sup>32</sup> After a lien is sold, the property owner owes the taxes, charges, and accrued interest to the new lienholder.<sup>33</sup> The amount on the lien increases once it is sold by the City, and lienholders are authorized to charge a surcharge on the entire lien amount, interest (compounded daily and payable semi-annually), and administrative costs of the sale (including the costs to cover the notice and advertisement fees).<sup>34</sup> The authorized representative of the new lienholder will contact the property owner regarding the arrangement of payments after the sale.<sup>35</sup>

The aggregate amount of each tax lien transferred to the lienholder is due and payable one year from the date of the sale. Until such aggregate amount is fully paid and discharged, the lienholder is entitled to receive interest on the aggregate amount from the date of sale and apply a semi-annual interest rate.<sup>36</sup> Foreclosure proceedings may begin as early as where the semi-annual interest payment is not paid within 30 days of the payment due date or current taxes or charges remain unpaid for six months before the lien is paid in full.<sup>37</sup>

## **b. Impact of the Lien Sale Program**

According to a report by the Coalition for Affordable Homes, *Compounding Debt Race, Affordability, and NYC's Tax Lien Sale*,<sup>38</sup> the City's tax lien sale has historically hit black and brown communities the hardest. The neighborhoods that are hardest hit by the sale of liens on one-to-three family homes are communities of color – the same communities that struggled to recover from the mortgage foreclosure crisis.<sup>39</sup>

According to a study by the NYU Furman Center, East New York in Brooklyn and the neighborhoods of Jamaica and Hollis in southeast Queens have had the highest numbers of tax liens on class 1 properties sold.<sup>40</sup>

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at *supra* fn 4.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> The Coalition for Affordable Homes, in collaboration with The Center for New York City Neighborhood, *Compounding Debt Race, Affordability, and NYC's Tax Lien Sale* (Nov. 1, 16), available at <https://s28299.pcdn.co/wp-content/uploads/2014/02/CAH-tax-lien-sale-report-final.pdf> (last accessed on December 8, 2020).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

Between 2010 and 2015, 1,390 properties in just these two community districts have had at least one tax lien sold, which makes it 18 percent of all tax liens on tax class 1 properties in just two out of 56 community districts in the Bronx, Brooklyn, Queens, and Manhattan.<sup>41</sup> Eastern Brooklyn and southeast Queens has among the highest concentrations of black and Hispanic homeowners in the City.<sup>42</sup> They were also the epicenters of the mortgage foreclosure crisis, and continue to struggle with some of the highest foreclosure rates in the City.<sup>43</sup>

According to the report, the lien sale also destabilizes an additional segment of properties in these distressed communities: those without mortgages.<sup>44</sup> Many seniors who have paid off their mortgage or families who have inherited homes without a mortgage can find their properties at risk of foreclosure as a result of the tax lien sale.<sup>45</sup>

### c. Property Tax Delinquency

One goal of the tax lien sale program was to increase property tax collections and thereby lower the delinquency rate. According to the 1999 Mayor's Management Report, the real property tax delinquency rate was almost five percent in the early to mid-1990s, before implementation of the tax lien sale program.<sup>46</sup>

Although the delinquency rates have dropped significantly since the implementation of the lien sale program, the rate has gradually increased in recent years. The following tables provides a comparison of the property tax delinquency rates for Fiscal 2019, 2018 and 2017, as provided in DOF's Fiscal 2020 Annual Property Tax Report:<sup>47</sup>

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<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> The City of New York, *Mayor's Management Report Fiscal 1999*, available at [http://www1.nyc.gov/assets/operations/downloads/pdf/mmr/0999\\_summary.pdf](http://www1.nyc.gov/assets/operations/downloads/pdf/mmr/0999_summary.pdf) (last accessed on December 8, 2020).

<sup>47</sup> The City of New York, Department of Finance, Division of Tax Policy and Data Analytics, *Annual Report of the New York City Property Tax, Fiscal Year 2020*, available at [https://www1.nyc.gov/assets/finance/downloads/pdf/reports/reports-property-tax/nyc\\_property\\_fy20.pdf](https://www1.nyc.gov/assets/finance/downloads/pdf/reports/reports-property-tax/nyc_property_fy20.pdf) (last accessed on December 8, 2020).

Quarter	Number of Parcels**			Delinquency (\$ millions)			Delinquency Rate (Percent of Tax Levy)			Delinquency Rate (Percent of Final Levy Billed)*****		
	FY2019	FY2018	FY2017	FY2019	FY2018	FY2017	FY2019	FY2018	FY2017	FY2019	FY2018	FY2017
First Quarter	35,084	28,485	27,288	\$118.0	\$74.7	\$71.9	n/a	0.63%	0.66%	0.98%	0.66%	0.74%
Second Quarter	40,055	33,061	32,114	\$48.7	\$40.3	\$37.8	n/a	1.91%	1.92%	2.38%	2.04%	2.11%
Third Quarter	58,980	49,119	48,647	\$206.9	\$144.0	\$137.0	n/a	1.20%	1.25%	1.71%	1.28%	1.41%
Fourth Quarter	75,455	62,067	62,680	\$104.6	\$82.1	\$77.9	n/a	3.85%	3.86%	5.00%	4.17%	4.25%
<b>Total</b>				<b>\$478.2</b>	<b>\$341.0</b>	<b>\$324.6</b>	<b>n/a</b>	<b>1.22%</b>	<b>1.26%</b>	<b>1.69%</b>	<b>1.28%</b>	<b>1.40%</b>

Tax Class	Number of Parcels***			Delinquency (\$ millions)			Delinquency Rate (Percent of Tax Levy)			Delinquency Rate (Percent of Final Levy Billed)*****		
	FY2019	FY2018	FY2017	FY2019	FY2018	FY2017	FY2019	FY2018	FY2017	FY2019	FY2018	FY2017
Class One	52,598	44,882	43,382	\$140.2	\$116.6	\$105.0	n/a	2.92%	2.86%	3.34%	2.97%	3.01%
Class Two	21,341	15,040	16,479	\$174.2	\$115.8	\$103.7	n/a	1.09%	1.07%	1.66%	1.20%	1.27%
Class Three	17	8	2	\$0.3	\$0.5	\$0.5	n/a	0.02%	0.03%	0.02%	0.03%	0.03%
Class Four	11,234	9,547	9,765	\$163.4	\$105.7	\$112.1	n/a	0.91%	1.03%	1.39%	0.94%	1.12%
Unidentified****	-	18	17	-	\$2.3	\$3.3	-	8.47%	11.47%	-	9.49%	14.34%
<b>Total</b>	<b>85,190</b>	<b>69,495</b>	<b>69,645</b>	<b>\$478.2</b>	<b>\$341.0</b>	<b>\$324.6</b>	<b>n/a</b>	<b>1.22%</b>	<b>1.26%</b>	<b>1.69%</b>	<b>1.28%</b>	<b>1.40%</b>

Borough	Number of Parcels			Delinquency (\$ millions)			Delinquency Rate (Percent of Tax Levy)			Delinquency Rate (Percent of Final Levy Billed)*****		
	FY2019	FY2018	FY2017	FY2019	FY2018	FY2017	FY2019	FY2018	FY2017	FY2019	FY2018	FY2017
Manhattan	11,039	7,737	9,336	\$150.3	\$96.8	\$98.0	n/a	0.56%	0.62%	0.87%	n/a	n/a
Bronx	9,041	7,754	7,763	\$51.7	\$33.9	\$33.1	n/a	2.18%	2.32%	3.30%	n/a	n/a
Brooklyn	28,838	23,973	23,397	\$143.1	\$106.8	\$97.8	n/a	2.72%	2.76%	3.60%	n/a	n/a
Queens	26,398	22,335	21,666	\$104.8	\$77.9	\$75.4	n/a	1.78%	1.86%	2.36%	n/a	n/a
Staten Island	9,874	7,696	7,483	\$28.3	\$25.7	\$20.4	n/a	2.70%	2.33%	2.92%	n/a	n/a
<b>Total</b>	<b>85,190</b>	<b>69,495</b>	<b>69,645</b>	<b>\$478.2</b>	<b>\$341.0</b>	<b>\$324.6</b>	<b>n/a</b>	<b>1.22%</b>	<b>1.26%</b>	<b>1.69%</b>	<b>1.28%</b>	<b>1.40%</b>

According to the report, the delinquency rate has increased from 1.28 percent in Fiscal Year 2018 to 1.69 percent in Fiscal Year 2019, as of June 30.<sup>48</sup> Additionally, in Fiscal 2019, the number of delinquent parcels increased by 22.6 percent, while the delinquent amount increased by \$137.2 million.<sup>49</sup> For class 1 properties, the number of delinquent parcels has also increased by 17.2 percent, to 52,598, while the amount delinquent increased by 20.2 percent, to \$140.2 million.<sup>50</sup>

## V. The 2020 Tax Lien Sale

Prior to the COVID-19 outbreak, New York City was scheduled to hold its annual tax lien sale in May 2020.<sup>51</sup> However, in response to the public health and economic crises resulting from the pandemic, Mayor de Blasio announced that he was postponing the tax lien sale until August 2020. Subsequently, on July 7, 2020, Mayor de Blasio announced the postponement of the tax lien sale until September 2020, as the City continued its recovery from the COVID-19 pandemic.<sup>52</sup> In late July, the Administration specifically set September 4, 2020 as the date for the lien sale and sent out the required 30-day notices to properties at-risk of having their liens sold.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Transcript: *Mayor de Blasio Holds Media Availability at the USTA Billie Jean King National Tennis Center* (Mar. 31, 20), available at <https://www1.nyc.gov/office-of-the-mayor/news/213-20/transcript-mayor-de-blasio-holds-media-availabilitiy-the-usta-billie-jean-king-national-tennis> (last accessed on December 7, 2020).

<sup>52</sup> Press Release, New York City Mayor Bill de Blasio, *Mayor de Blasio Announces Postponement of Annual Tax Lien Sale Until September* (Jul. 7, 20), available at <https://www1.nyc.gov/office-of-the-mayor/news/503-20/mayor-de-blasio-postponement-annual-tax-lien-sale-until-september> (last accessed on December 7, 2020).

On September 4, 2020, the day the lien sale was supposed to take place, Mayor de Blasio further delayed the lien sale to September 25, 2020.<sup>53</sup> In a statement, the Mayor said that “COVID-19 has hit the pocketbooks of New Yorkers hard, and we’re doing whatever we can to give New Yorkers some relief... [p]ostponing the lien sale will allow New Yorkers more time to work with the City on their best path forward.”<sup>54</sup> The same day, Governor Cuomo issued an Executive Order suspending the City’s ability to conduct the tax lien sale until after the end of the State declaration of emergency.<sup>55</sup> In a joint statement, the Governor and Attorney General Letitia James released a statement stating that “COVID-19 caused enormous disruption in the daily lives of New Yorkers, including their ability to keep a roof over their head... The tax and water lien sale was delayed in May in recognition of this hardship, and given the current economic climate it makes sense to delay it again so that homeowners aren’t facing further uncertainty. This measure is part and parcel with our ongoing efforts to help New Yorkers weather the ongoing public health emergency.”<sup>56</sup>

Since September, the Governor has issued a series of executive orders further suspending the tax lien sale with the latest order suspending it through January 1, 2021.<sup>57</sup>

The most recent data shows that approximately 3,358 properties are still at risk of having their liens sold.<sup>58</sup> Although this is a significant drop from the 9,678 properties that received the 30-day warning notice of their eligibility for inclusion in the September 2020 tax lien sale, there are still at least 1,580 of properties that remain in the at-risk pool that are classified as class 1 properties, which mainly consists of residential properties and vacant land.

## VI. Analysis of Proposed Int. No. 2166-B

Section 1 would establish a middle tier of property owners for which interest rates applies to real property with an assessed value of over \$250,000 but no greater than \$450,000, with interest rates to be adopted by the Council.

Section 2 would require the Banking Commission to include in its report to the Council a recommendation on a proposed interest rate to be charged for the nonpayment of real property taxes for properties with an assessed value of over \$250,000 but no greater than \$450,000, and require that the report include information disaggregated by property with an assessed value of over \$450,000.

Section 3 would require DOF to include on the pre-lien sale notice that is mailed to at-risk property owners by October 31 of each year a clear and concise instructions on how an owner may register to receive information from the agency, through electronic mail, regarding outreach sessions relating to the lien sale.

Section 4 would increase the property tax eligibility threshold for which the City may sell a tax lien or tax liens for any Class 1 property that is not vacant land, or any Class 2 property that is a residential condominium or residential cooperative to \$5,000,

Section 5 would increase the water and sewer rents/surcharges eligibility threshold for which the City may sell a tax lien or tax liens on any two- or three-family residential real property in Class 1 to \$3,000.

Section 6 would authorize the City to sell a subsequent tax lien or tax liens on any two- or three-family residential real property in Class 1 regardless if the subsequent tax lien, or any component of the amount, has remained unpaid in whole or in part for one year, or whether the subsequent tax lien or related charges equal or exceed \$3,000.

<sup>53</sup> Press Release, New York City Mayor Bill de Blasio, *Mayor de Blasio Announces Delay of Tax Lien Sale Until September 25, 2020* (Sept. 4, 20), available at <https://www1.nyc.gov/office-of-the-mayor/news/641-20/mayor-de-blasio-delay-tax-lien-sale-until-september-25-2020> (last accessed on December 8, 2020).

<sup>54</sup> *Id.*

<sup>55</sup> New York State Governor Andrew M. Cuomo, Executive Order No. 202.60: Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency (Sept. 2, 20) available at <https://www.governor.ny.gov/news/no-20260-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency> (last accessed on December 8, 2020).

<sup>56</sup> Press Release, New York State Governor Andrew M. Cuomo, *Governor Cuomo and Attorney General James Protect Thousands of Homeowners by Stopping Tax Lien Sale* (Sept. 4, 20), available at <https://www.governor.ny.gov/news/governor-cuomo-and-attorney-general-james-protect-thousands-homeowners-stopping-tax-lien-sale> (last accessed on December 8, 2020).

<sup>57</sup> New York State Governor Andrew M. Cuomo, Executive Order No. 202.79 Continuing Temporary Suspension and Modification of Laws Relating to the Disaster Emergency, available at <https://www.governor.ny.gov/news/no-20279-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency> (last accessed on December 8, 2020).

<sup>58</sup> Based on data provided by the Department of Finance.

Section 7 would reauthorize the City's tax lien sale program until one year after the date of enactment of this local law.

Section 8 would create an exemption from the lien sale for eligible COVID-19 impacted properties. Specifically, this section would prevent the tax liens on any Class 1, 2 and 4 properties, including residential cooperatives, from being sold in a tax lien sale during the period beginning on January 1, 2021 and ending on December 31, 2021, where: (i) the owner of such property is a natural person; (ii) such natural person owns ten or fewer dwelling units that may be contained within more than one property or building, provided that one of such dwelling units is the primary residence of such natural person and each of the remaining units is occupied by a tenant or is available for rent; and (iii) prior to the date of sale, such natural person has submitted a hardship declaration to DOF demonstrating that such person is experiencing financial hardship and is unable to pay the real property taxes due on such covered property as a result of one or more enumerated reasons. DOF would be required to provide notice of this exemption and the availability of the hardship declaration in each of the four required lien sale notices.

Section 9 would require DOF to remove any property from the lien sale if, prior to the date of sale, DOF confirms that a property is the subject of (i) a judicial proceeding or (ii) an investigation or a prosecution by any agency or office of the United States or any state or subdivision thereof with regard to the ownership of such property arising from the fraudulent transmittal of a deed relating to such property, provided that the owner has submitted an affidavit to DOF and any such other documentation required by the department to establish that such property is the subject of such a proceeding, investigation or prosecution.

Section 10 would require DOF to contact by electronic mail any person who has registered to receive information about the outreach sessions regarding the lien sale, and provide the necessary information within a time period reasonably proximate to the scheduled outreach session.

Section 11 would require DOF to conduct outreach sessions in the ten council districts with the greatest number of properties for which a notice of intention to sell a tax lien has been mailed to 90 days prior to the date of the sale, provided, however, that, DOF must conduct additional outreach sessions in the five council districts with the greatest number of properties for which a notice of intention to sell a tax lien has been mailed to 90 days prior to the lien sale. To the extent practicable, DOF must schedule the outreach sessions in the five council districts described above so that one occurs prior to the mailing of the notice of intention to sell a tax lien that is required to be mailed 30 days prior to the date of sale, and schedule another outreach session following that mailing.

Section 12 would increase the income eligibility threshold for the low-income payment plan to \$86,400.

Section 13 would require the establishment of a temporary task force to review and evaluate the lien sale program to ensure the City's collection of delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, or any other charges that are made subject to tax liens are fair, efficient and effective. The task force must also study the feasibility of: (1) transferring property that has delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, or any other charges that are made a lien subject, and are eligible to be sold, to community land trusts, land banks, mutual housing associations or other entities exempt from taxation pursuant to section 501(c)(3) of the internal revenue code as a tool for the city to collect delinquent municipal charges and as a housing and community preservation tool; and (2) the extent to which liens for vacant property are included in the lien sale and alternatives to such inclusion, and the potential advantages and disadvantages for each such alternative.

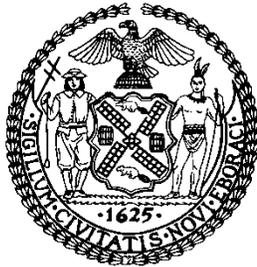
The task force must consist of twelve members, two of which must be representatives of relevant not-for-profit organizations, and must be appointed no later than April 1, 2021. No later than May 1, 2021, the task force must hold its initial meeting and must meet at least once per month thereafter. The task force must consider: (i) actions, including recommendations for administrative or legislative changes, that could minimize the nonpayment of taxes, assessments, sewer rents, sewer surcharges, water rents and any other charges that are made a lien subject to the provisions of this chapter, including, but not limited to, increasing awareness of and participation in tax benefit programs, (ii) actions, including recommendations for administrative or legislative changes, that could maximize the collection of any debt owed to the city, whether or not any such debt is currently a "tax lien", and (iii) any other matter that the task force deems relevant to ensure the City's collection of delinquent property taxes, assessments, sewer rents, sewer surcharges, water rents or any other charges that are made subject to a lien are fair, efficient and effective.

No later than November 1, 2021, the task force must submit to the mayor and the speaker of the council recommendations for administrative or legislative changes that may improve the fairness, efficiency and effectiveness of the City's collection of delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, or any other charges that are made a lien subject, including recommendations for administrative and legislative changes: (1) that would permit the transfer of property that has delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, or any other charges that are made a lien subject, and are eligible to be sold, to community land trusts, land banks, mutual housing associations or other entities exempt from taxation pursuant to section 501(c)(3) of the internal revenue code as an additional tool for the city to collect delinquent municipal charges and as a housing and community preservation tool; (2) regarding the treatment of vacant land in the tax lien sale process; and (3) regarding the feasibility of centralizing in one agency the processing, administration of, and collection of payment pursuant to a hardship installment agreement authorized pursuant to section 11-322 and section 11-322.1 of this chapter; and any additional recommendations deemed relevant by the task force.

No later than 30 days prior to the submission of recommendations, the task force must hold a public meeting to present its preliminary recommendations and receive comments relating to such preliminary recommendations. The task force's preliminary recommendations must be made publicly available at least ten business days prior to such public meeting. No later than thirty days prior to the public meeting, the DOF and DEP commissioners, or their designees, must make a presentation to the task force regarding the feasibility of centralizing in one agency the processing, administration of, and collection of payment pursuant to hardship installment agreements.

Section 14 would provide that this local law takes effect immediately and is retroactive to and deemed to have been in full force and effect as of January 1, 2021.

**(The following is the text of the Fiscal Impact Statement for Int. No. 2166-B:)**



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION**

LATONIA MCKINNEY, DIRECTOR

**FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. 2166-B**

**COMMITTEE: Finance**

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**TITLE:** A Local Law to amend the administrative code of the city of New York in relation to the sale of tax liens. **SPONSOR(S):** Council Member Adams (by request of the Mayor).

**SUMMARY OF LEGISLATION:** Proposed Int. 2166-b would extend the City's authority to sell certain tax liens for one year past the date of enactment of the local law while making the following series of reforms to the lien sale process and other administrative changes:

**Reforms to the Lien Sale Process**

- 1. Raise the Eligibility Threshold for Residential Properties:** The Class 1 and residential condo and cooperative threshold for triggering inclusion in the lien sale due to property tax debt would be raised to \$5,000 from the current \$1,000 level. For 2- and 3-family homes, the eligibility threshold for water debt would be increased to \$3,000 from the current \$2,000 level.

2. **Protect COVID-Impacted Homeowners:** Property owners who own ten or fewer dwelling units, one of which must be their primary residence, will be exempted from any lien sale in 2021 if they submit a hardship declaration to the Department of Finance stating that they have a financial hardship due to COVID-19.
3. **Mandate Outreach Events:** The Administration would be required to hold an outreach event in each of the ten Council districts with the highest number of liens on the 90-day notice, as well as a second outreach event in the top five districts. Further, the at-risk notice required to be sent to delinquent properties in October would now be required to include information on how owners can sign up for electronic notification of outreach events.
4. **Protect Victims of Deed Fraud:** Property subject to an investigation or litigation regarding an allegation of deed theft or fraud would be exempted from the lien sale pending the outcome of such action.

**Changes to the Treatment of Delinquent Charges**

5. **Lower Interest Rate for Medium-Sized Properties:** Currently, all properties with an assessed value of \$250,000 or more are charged the same interest rate on delinquent charges. In Fiscal 2021, this rate is set at 18 percent. This bill would create a new interest rate tier for properties with assessments greater than \$250,000 but less than \$450,000, with such rate set annually by the Council. The default interest rate for these properties if the Council does not set a rate would be 13 percent.
6. **Expand Property Tax Deferral Program (PTAID):** The Department of Finance’s property tax deferral program is currently available to homeowners with incomes below \$58,400. This threshold would be raised to \$86,400.

**Studies for Further Reforms**

7. **Municipal Charges Collection Task Force:** A temporary task force would be established to ensure that the City’s collection of delinquent municipal charges is fair, effective, and efficient and to study the feasibility of transferring properties with delinquent property taxes, sewer and water rents subject to a lien to community land trusts, land banks, mutual housing associations or other similar entities. The task force would be comprised of 12 appointees by the Mayor and Speaker, including at least two appointees from not-for-profit organizations.

Additionally, as part of an agreement on this legislation, the City has agreed to fund \$1 million over Fiscal 2021 and 2022 to not-for-profit organizations to assist with the outreach and engagement of tax delinquent property owners. However, as this funding is not part of the legislation, it is not included in the fiscal impact statement calculations below.

**EFFECTIVE DATE:** This local law would take effect immediately and is retroactive to January 1, 2021.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2022

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY21</b>	<b>FY Succeeding Effective FY22</b>	<b>Full Fiscal Impact FY22</b>
<b>Revenues</b>	\$0	\$(61,600,000)	\$(61,600,000)
<b>Expenditures</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$(61,600,000)	\$(61,600,000)

**IMPACT ON REVENUES:** The most recent financial plan released by the City on January 14, 2021 assumes that there will be no lien sale in Fiscal 2021, but there will be one in Fiscal 2022. Three provisions of the legislation as detailed below, could impact the timing of revenue collections associated with that lien sale. However, none of the provisions would reduce the amount of revenue owed to the City and the City would continue to retain the legal right to collect such amounts. Therefore, any reductions in revenues estimated in this fiscal impact statement would be expected to be recouped in future years, plus additional interest, though the timing would be dependent on the Administration's enforcement and outreach efforts.

First, by increasing the eligibility threshold for property tax and water charges to trigger the inclusion of a property in the lien sale would reduce revenues by \$10.6 million in Fiscal 2022. The City estimates that the Fiscal 2022 lien sale pool will be reduced by 2,100 properties with about \$38 million in liens. However, Council analysis of prior lien sales finds that about 46 percent of liens are removed from the list prior to the sale due exemption enrollment, payment plan agreements, or administrative removals. About 38 percent of the liens are paid during the 90-day notice period, either in full, or enough to disqualify the property from the lien sale, but it is assumed that roughly half of these amounts can still be collected by continued outreach and engagement, as demonstrated by the success of the 2020 lien sale outreach efforts. This means that about 19 percent, or \$7.2 million would be deferred by this higher threshold. The remaining 16 percent of liens by value can be expected to be sold which would result in \$6.1 million less in liens sold. However the City only collects a fraction (roughly 56 percent) of the value of the lien from the sale, so the fiscal impact of not selling these liens is only \$3.4 million. This combined with the \$7.2 million lost from outreach efforts results in the \$10.6 million revenue loss from increasing the threshold.

Second, it is estimated that there would be \$50 million in foregone Fiscal 2022 revenue as a result of excluding properties that apply for the COVID-19 exemption. The City estimates that the lien pool of 1-to-10-unit residential properties (a rough proxy for the property types eligible for the COVID-19 protection) totals roughly \$280 million on the 90-day notice. However, not all of these properties are owner-occupied, and not all owner-occupied homes are COVID-19 impacted, therefore Council Finance estimates that approximately \$107 million of the at-risk pool would be enrolled in the COVID-19 exemption. However, the assumptions described in the prior paragraph apply to this estimate. Therefore, adjusting the figure to reflect that 46 percent of the lien value would not have been collected anyways, and the 16 percent of value sold would only generate a fraction of the value brings the fiscal impact of removing that \$107 million in liens this fiscal year to only \$50 million.

Third, increasing the income threshold for the PTAID to \$86,400 would expand the number of households eligible for program from approximately 270,000 to approximately 420,000 households. While this represents about a 54 percent increase in the eligible pool, lack of data on how many newly eligible property owners would enroll, coupled with the relative newness of the program, make it difficult to estimate any fiscal impact. Currently, 187 properties are enrolled in the PTAID program. However, beyond the accrual of added interest, this program does not reduce the revenue owed to, and ultimately collected by the City. Rather it merely shifts the timing of those collections. OMB assumes that roughly \$1 million in taxes will be deferred annually by this expansion.

It should be noted that the bill also creates a new interest rate tier for the late payment of property taxes with an interest rate to be set by the Council each year. Because the Council has not yet set a rate for Fiscal 2022, it is not possible to estimate a fiscal impact at this time.

**IMPACT ON EXPENDITURES:** It is estimated that there would be no impact on expenditures resulting from the enactment of this legislation as the City possesses adequate existing resources to implement the reporting, outreach, and task force measures outlined in the bill. Though as noted above, outside this legislation, the City has agreed to fund not-for-profit organizations to assist with outreach and engagement with a \$1 million discretionary funding allocation spread between Fiscal 2021 and 2022.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** General Fund

**SOURCE OF INFORMATION:** New York City Council Finance Division

**ESTIMATE PREPARED BY:** Emre Edev, Assistant Director - Andrew Wilber, Economist –  
Nashia Roman, Economist

**ESTIMATE REVIEWED BY:** Rebecca Chasan, Senior Counsel  
Raymond Majewski, Deputy Director/Chief Economist

**LEGISLATIVE HISTORY:** This legislation was heard by the Committee on Finance as a Preconsidered Int. on December 9, 2020. It was introduced as Int. 2166 on December 10, 2020 and referred to the Committee on Finance. The legislation was subsequently amended twice and the most recently amended version, Proposed Int. 2166-B, will be considered by the Committee on Finance on January 28, 2021. Upon successful vote by the Committee, Proposed Int. 2166-B will be submitted to the full Council for a vote on January 28, 2021.

**DATE PREPARED:** January 27, 2021.

*Accordingly, this Committee recommends its adoption, as amended.*

**(The following is the text of Int. No. 2166-B:)**

Int. No. 2166-B

By Council Member Adams (by request of the Mayor).

**A Local Law to amend the administrative code of the city of New York in relation to the sale of tax liens**

*Be it enacted by the Council as follows:*

Section 1. Subdivisions c and e of section 11-224.1 of the administrative code of the city of New York, subdivisions c and e as amended by local law number 66 for the year 2008 and the opening paragraph of subdivision e as amended by local law number 30 for the year 2015, are amended to read as follows:

(c) Interest rates on tax due and payable on or after July first, two thousand five. If the council does not adopt interest rates, the rates shall be (a) for real property with an assessed value of two hundred fifty thousand dollars or less, seven percent per annum; [and] (b) for real property with an assessed value of over two hundred fifty thousand dollars *but no greater than four hundred fifty thousand dollars, thirteen percent per annum; and (c) for real property with an assessed value of over four hundred fifty thousand dollars, fifteen percent per annum.*

(e) Council adopted rates. By May thirteenth of each year, the banking commission shall send a written recommendation to the council of a proposed interest rate to be charged for nonpayment of taxes on real property. The commission shall consider the prevailing interest rates charged for commercial loans extended to prime borrowers by commercial banks operating in the city and:

(i) for real property with an assessed value of two hundred fifty thousand dollars or less, shall propose a rate at least equal to such prevailing prime rate;

(ii) for real property with an assessed value of over two hundred fifty thousand dollars *but no greater than four hundred fifty thousand dollars, shall propose a rate of at least four percent per annum greater than such prevailing prime rate;*

(iii) *for real property with an assessed value of over four hundred fifty thousand dollars, shall propose a rate of at least six percent per annum greater than such prevailing prime rate.*

The council may by resolution adopt interest rates to be applicable to the aforementioned properties and may specify in such resolution the date that such rates will take effect.

§ 2. The opening paragraph of subdivision e-1 of section 11-224.1 of the administrative code of the city of New York, as added by local law number 30 for the year 2015, is amended to read as follows:

Report on recommendation. The banking commission's recommendation provided pursuant to subdivision e of this section shall include a report describing the factors considered when determining the recommendation and the rationale for the use of such factors. Such report shall include the interest rate charged for nonpayment of taxes on real property in comparable cities for the two previous fiscal years. Such report shall further include, in a searchable and machine-readable format, sortable by council district, real property tax class, and real property tax sub class, the following information for the current fiscal year and two previous fiscal years, disaggregated by real property with an assessed value of over *four hundred fifty thousand dollars*, *real property with an assessed value of over two hundred fifty thousand dollars but no greater than four hundred fifty thousand dollars*, and real property with an assessed value of two hundred fifty thousand dollars or less, provided that such information shall be reported for fiscal years prior to the 2016 fiscal year only to the extent such information is available:

§ 3. The opening paragraph of subdivision a of section 11-245.8 of the administrative code of the city of New York, as amended by local law number 15 for the year 2011, is amended to read as follows:

The commissioner of finance or his or her designee, shall provide a notice relating to the lien sale process to all property owners, included with the notice of value sent to property owners by the department of finance pursuant to section 1511 of the New York city charter and, in addition, no later than October thirty-first of each year, to any property owner who is delinquent in the payment of any real property taxes, assessments, or any other charges that are made a lien subject to the provisions of chapter three of this title, except sewer rents, sewer charges and water rents, if such delinquency, in the aggregate, equals or exceeds the sum of one thousand dollars. This notice shall include, but not be limited to, actions homeowners can take if a lien is sold on such property; the type of debt that can be sold in a lien sale; a timeline of statutory notifications required pursuant to section 11-320 of this title; a clear, concise explanation of the consequences of the sale of a tax lien; the telephone number and electronic mail address of the employee or employees designated pursuant to subdivision f of section 11-320 of this title; a conspicuous statement that an owner of any class of property may enter into a payment plan for the satisfaction of delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, and any other charges that are made a lien subject to the provisions of chapter three of this title, or exclusion from the tax lien sale; [and] credits and property tax exemptions that may exclude certain class one real property from a tax lien sale; *and clear and concise instructions on how an owner of any class of property may register to receive information from the department, through electronic mail, regarding outreach sessions relating to the sale of tax liens conducted pursuant to subdivision j of section 11-320 of this title*. Such notice shall also include information on the following real property tax credits or real property tax exemptions:

§ 4. Subdivision a of section 11-319 of the administrative code of the city of New York, as amended by local law number 42 for the year 2020, is amended to read as follows:

a. A tax lien or tax liens on a property or any component of the amount thereof may be sold by the city as authorized by subdivision b of this section, when such tax lien or tax liens shall have remained unpaid in whole or in part for one year, provided, however, that a tax lien or tax liens on any class one property or on class two property that is a residential condominium or residential cooperative, as such classes of property are defined in subdivision one of section eighteen hundred two of the real property tax law, may be sold by the city only when the real property tax component of such tax lien or tax liens shall have remained unpaid in whole or in part for three years *and, in the case of any such class one property that is not vacant land or any such class two property that is a residential condominium or residential cooperative, as such classes of property are defined in subdivision one of section eighteen hundred two of the real property tax law, equals or exceeds the sum of five thousand dollars*, or, in the case of any class two residential property owned by a company organized pursuant to article XI of the state private housing finance law that is not a residential condominium or a residential cooperative, as such class of property is defined in subdivision one of section eighteen hundred two of the real property tax law, for two years, and equals or exceeds the sum of five thousand dollars or, in the case of abandoned class one property or abandoned class two property that is a residential condominium or residential cooperative, for eighteen months, and after such sale, shall be transferred, in the manner provided by this chapter, and provided, further, however, that (i) the real property tax component of such tax lien may not be sold pursuant to this subdivision on any: (A) residential real property in class one that is receiving an exemption pursuant to section 11-245.3 or 11-245.4 of this title, or pursuant to section four hundred fifty-eight of the real property tax law with respect to real property purchased with payments received as prisoner of war compensation from the United States government, or pursuant to paragraph (b) or (c) of subdivision two of section four hundred fifty-

eight-a of the real property tax law, or where the owner of such residential real property in class one is receiving benefits in accordance with department of finance memorandum 05-3, or any successor memorandum thereto, relating to active duty military personnel, or where the owner of such residential real property in class one has been allowed a credit pursuant to subsection (e) of section six hundred six of the tax law for the calendar year in which the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale, occurs or for the calendar year immediately preceding such date; or (B) [on any] real property that was granted an exemption pursuant to section four hundred twenty-a, four hundred twenty-b, four hundred forty-six, or four hundred sixty-two of the real property tax law in one of the two fiscal years preceding the date of such sale, provided that: (1) such exemption was granted to such real property upon the application of a not-for-profit organization that owns such real property on or after the date on which such real property was conveyed to such not-for-profit organization; (2) the real property tax component of such lien arose on or after the date on which such real property was conveyed to such not-for-profit organization; and (3) such not-for-profit organization is organized or conducted for one of the purposes described in paragraph a or paragraph b of subdivision 1 of section 11-246 of this chapter, and (ii) the sewer rents component, sewer surcharges component or water rents component of such tax lien may not be sold pursuant to this subdivision on any one family residential real property in class one or on any two or three family residential real property in class one that is receiving an exemption pursuant to section 11-245.3 or 11-245.4 of this title, or pursuant to section four hundred fifty-eight of the real property tax law with respect to real property purchased with payments received as prisoner of war compensation from the United States government, or pursuant to paragraph (b) or (c) of subdivision two of section four hundred fifty-eight-a of the real property tax law, or where the owner of any two or three family residential real property in class one is receiving benefits in accordance with department of finance memorandum 05-3, or any successor memorandum thereto, relating to active duty military personnel, or where the owner of any two or three family residential real property in class one has been allowed a credit pursuant to subsection (e) of section six hundred six of the tax law for the calendar year in which the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale, occurs or for the calendar year immediately preceding such date. A tax lien or tax liens on any property classified as a class two property, except a class two property that is a residential condominium or residential cooperative, or a class two residential property owned by a company organized pursuant to article XI of the state private housing finance law that is not a residential condominium or a residential cooperative, or class three property, as such classes of property are defined in subdivision one of section eighteen hundred two of the real property tax law, shall not be sold by the city unless such tax lien or tax liens include a real property tax component as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale. Notwithstanding any provision of this subdivision to the contrary, any such tax lien or tax liens that remain unpaid in whole or in part after such date may be sold regardless of whether such tax lien or tax liens include a real property tax component. A tax lien or tax liens on a property classified as a class four property, as such class of property is defined in subdivision one of section eighteen hundred two of the real property tax law, shall not be sold by the city unless such tax lien or tax liens include a real property tax component or sewer rents component or sewer surcharges component or water rents component or emergency repair charges component, where such emergency repair charges accrued on or after January first, two thousand six and are made a lien pursuant to section 27-2144 of this code, as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale, provided, however, that any tax lien or tax liens that remain unpaid in whole or in part after such date may be sold regardless of whether such tax lien or tax liens include a real property tax component, sewer rents component, sewer surcharges component, water rents component or emergency repair charges component. For purposes of this subdivision, the words "real property tax" shall not include an assessment or charge upon property imposed pursuant to section 25-411 of the administrative code. A sale of a tax lien or tax liens shall include, in addition to such lien or liens that have remained unpaid in whole or in part for one year, or, in the case of any class one property or class two property that is a residential condominium or residential cooperative, when the real property tax component of such lien or liens has remained unpaid in whole or in part for three years, or, in the case of any class two residential property owned by a company organized pursuant to article XI of the state private housing finance law that is not a residential condominium or a residential cooperative, when the real property tax component of such lien or liens has remained unpaid in whole or in part for two years, and equals or exceeds the sum of five thousand dollars, any taxes, assessments, sewer rents, sewer surcharges, water rents, any other charges that are made a lien subject to the provisions of this

chapter, the costs of any advertisements and notices given pursuant to this chapter, any other charges that are due and payable, a surcharge pursuant to section 11-332 of this chapter, and interest and penalties thereon or such component of the amount thereof as shall be determined by the commissioner of finance. The commissioner of finance may promulgate rules defining "abandoned" property, as such term is used in this subdivision.

§ 5. Subdivision a-2 of section 11-319 of the administrative code of the city of New York, as amended by local law number 15 for the year 2011, is amended to read as follows:

a-2. In addition to any sale authorized pursuant to subdivision a or subdivision a-1 of this section and notwithstanding any provision of this chapter to the contrary, beginning on December first, two thousand seven, the water rents, sewer rents and sewer surcharges components of any tax lien on any class of real property, as such real property is classified in subdivision one of section eighteen hundred two of the real property tax law, may be sold by the city pursuant to this chapter, where such water rents, sewer rents or sewer surcharges component of such tax lien, as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale: (i) shall have remained unpaid in whole or in part for one year and (ii) equals or exceeds the sum of one thousand dollars or, beginning on March first, two thousand eleven, in the case of any two or three family residential real property in class one, for one year, and equals or exceeds the sum of two thousand dollars, *or, beginning on January first, two thousand twenty-one, in the case of any two or three family residential real property in class one, for one year, and equals or exceeds the sum of three thousand dollars,* or, beginning on January first, two thousand twelve, in the case of any class two residential property owned by a company organized pursuant to article XI of the state private housing finance law that is not a residential condominium or a residential cooperative, as such class of property is defined in subdivision one of section eighteen hundred two of the real property tax law, for two years, and equals or exceeds the sum of five thousand dollars; provided, however, that such water rents, sewer rents or sewer surcharges component of such tax lien may not be sold pursuant to this subdivision on any one family residential real property in class one or on any two or three family residential real property in class one that is receiving an exemption pursuant to section 11-245.3 or 11-245.4 of this title, or pursuant to section four hundred fifty-eight of the real property tax law with respect to real property purchased with payments received as prisoner of war compensation from the United States government, or pursuant to paragraph (b) or (c) of subdivision two of section four hundred fifty-eight-a of the real property tax law, or where the owner of any two or three family residential real property in class one is receiving benefits in accordance with department of finance memorandum 05-3, or any successor memorandum thereto, relating to active duty military personnel, or where the owner of any two or three family residential real property in class one has been allowed a credit pursuant to subsection (e) of section six hundred six of the tax law for the calendar year in which the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale, occurs or for the calendar year immediately preceding such date. After such sale, any such water rents, sewer rents or sewer surcharges component of such tax lien may be transferred in the manner provided by this chapter.

§ 6. Subdivision a-3 of section 11-319 of the administrative code of the city of New York, as amended by local law number 11 for the year 2014, is amended to read as follows:

a-3. In addition to any sale authorized pursuant to subdivision a or subdivision a-1 of this section and notwithstanding any provision of this chapter to the contrary, beginning on December first, two thousand seven, a subsequent tax lien on any class of real property, as such real property is classified in subdivision one of section eighteen hundred two of the real property tax law, may be sold by the city pursuant to this chapter, regardless of whether such subsequent tax lien, or any component of the amount thereof, shall have remained unpaid in whole or in part for one year, and regardless of whether such subsequent tax lien, or any component of the amount thereof, equals or exceeds the sum of one thousand dollars or beginning on March first, two thousand eleven, in the case of any two or three family residential real property in class one, a subsequent tax lien on such property may be sold by the city pursuant to this chapter, regardless of whether such subsequent tax lien, or any component of the amount thereof, shall have remained unpaid in whole or in part for one year, and regardless of whether such subsequent tax lien, or any component of the amount thereof, equals or exceeds the sum of two thousand dollars, *or, beginning on January first, two thousand twenty-one, in the case of any two or three family residential real property in class one, a subsequent tax lien on such property may be sold by the city pursuant to this chapter, regardless of whether such subsequent tax lien, or any component of the amount thereof, shall have remained unpaid in whole or in part for one year, and regardless of whether such subsequent tax lien, or any component of the amount thereof, equals or exceeds the sum of three thousand dollars,* or, beginning on January first, two

thousand twelve, in the case of any class two residential property owned by a company organized pursuant to article XI of the state private housing finance law that is not a residential condominium or a residential cooperative, as such class of property is defined in subdivision one of section eighteen hundred two of the real property tax law, a subsequent tax lien on such property may be sold by the city pursuant to this chapter, regardless of whether such subsequent tax lien, or any component of the amount thereof, shall have remained unpaid in whole or in part for two years, and regardless of whether such subsequent tax lien, or any component of the amount thereof, equals or exceeds the sum of five thousand dollars; provided, however, that such subsequent tax lien may not be sold pursuant to this subdivision on any one family residential real property in class one or on any two or three family residential real property in class one that is receiving an exemption pursuant to section 11-245.3 or 11-245.4 of this title, or pursuant to section four hundred fifty-eight of the real property tax law with respect to real property purchased with payments received as prisoner of war compensation from the United States government, or pursuant to paragraph (b) or (c) of subdivision two of section four hundred fifty-eight-a of the real property tax law, or where the owner of any two or three family residential real property in class one is receiving benefits in accordance with department of finance memorandum 05-3, or any successor memorandum thereto, relating to active duty military personnel, or where the owner of any two or three family residential real property in class one has been allowed a credit pursuant to subsection (e) of section six hundred six of the tax law for the calendar year in which the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale, occurs or for the calendar year immediately preceding such date. After such sale, any such subsequent tax lien, or any component of the amount thereof, may be transferred in the manner provided by this chapter. For purposes of this subdivision, the term "subsequent tax lien" shall mean the water rents, sewer rents or sewer surcharges component of any tax lien on property that becomes such on or after the date of sale of any water rents, sewer rents or sewer surcharges component of any tax lien on such property that has been sold pursuant to this chapter, provided that the prior tax lien remains unpaid as of the date of the first publication, pursuant to subdivision a of section 11-320 of this chapter, of the notice of sale of the subsequent tax lien. Nothing in this subdivision shall be deemed to limit the rights conferred by section 11-332 of this chapter on the holder of a tax lien certificate with respect to a subsequent tax lien.

§ 7. The opening paragraph of subdivision b of section 11-319 of the administrative code of the city of New York, as amended by local law number 4 for the year 2017, is amended to read as follows:

The commissioner of finance, on behalf of the city, may sell tax liens, either individually, in combinations, or in the aggregate, pursuant to the procedures provided herein. The commissioner of finance shall establish the terms and conditions of a sale of a tax lien or tax liens. [Enactment of the local law that added this sentence shall be deemed to constitute authorization by the council for the commissioner of finance to conduct a sale or sales of tax liens through and including December thirty-first, two thousand twenty. Subsequent to December thirty-first, two thousand twenty, the city shall not have the authority to sell tax liens.] *Enactment of the local law that added this sentence shall be deemed to constitute authorization by the council for the commissioner of finance to conduct a sale or sales of tax liens through and including a date that is one year after the date of enactment of the local law that added this sentence. Subsequent to one year after the date of enactment of the local law that added the preceding sentence, the city shall not have the authority to sell tax liens.*

§ 8. Subdivision b of section 11-319 of the administrative code of the city of New York is amended by adding a new paragraph 14 to read as follows:

*14. Notwithstanding any provision of this chapter to the contrary, during the period commencing January first, two thousand twenty-one and ending December thirty-first, two thousand twenty-one, no tax lien or tax liens on any covered property shall be sold where: (i) the owner of such covered property is a natural person, regardless of how title is held; (ii) such natural person owns ten or fewer dwelling units that may be contained within more than one property or building, provided that one of such dwelling units is the primary residence of such natural person and each of the remaining units is occupied by a tenant or is available for rent; and (iii) prior to the date of sale, such natural person has submitted a hardship declaration to the department of finance. For purposes of this paragraph, the following terms have the following meanings:*

*"covered property" means real property classified as class one, two or four, as such classes of property are defined in subdivision one of section eighteen hundred two of the real property tax law, including shares in a residential cooperative, that is used for residential purposes, provided that such real property shall not include property that is vacant and abandoned, as defined in subdivision two of section thirteen hundred nine of the real property actions and proceedings law, which was listed on the statewide vacant and abandoned property*

*electronic registry, as defined in section thirteen hundred ten of the real property actions and proceedings law, prior to March seventh, two thousand twenty and that remains on such registry;*

*“date of sale” means (A) for a negotiated sale, the date of the signing of the tax lien purchase agreement, and (B) for a competitive sale, the date designated by the commissioner of finance for the submission of bids;*

*“dwelling unit” means a unit that is used for residential purposes.*

*“hardship declaration” means a written statement, in a form to be developed by the department of finance and posted on its website, that:*

*(A) the owner of a covered property is the owner of ten or fewer dwelling units, one of which is such owner’s primary residence, and such owner is experiencing financial hardship and is unable to pay the real property taxes due on such covered property as a result of one or more of the following reasons:*

*(1) significant loss of income by such owner or by a member of the household of such owner during the COVID-19 pandemic;*

*(2) increase in necessary out-of-pocket expenses by such owner related to performing essential work or related to health impacts during the COVID-19 pandemic;*

*(3) responsibilities to provide childcare or to care for an elderly, disabled, or sick family member during the COVID-19 pandemic have negatively affected the ability of such owner or the ability of a member of the household of such owner to obtain meaningful employment or earn income or have increased necessary out-of-pocket expenses of such owner;*

*(4) moving expenses and difficulties in securing alternate housing has created a hardship for such owner to relocate to another residence during the COVID-19 pandemic;*

*(5) other circumstances related to the COVID-19 pandemic have negatively affected the ability of such owner to obtain meaningful employment or earn income, have significantly reduced the income of the household of such owner, or have significantly increased the expenses of such owner; or*

*(6) at least one tenant of such owner has defaulted on a significant amount of such tenant’s rent obligations since March first, two thousand twenty;*

*(B) any public assistance, including unemployment insurance, pandemic unemployment assistance, disability insurance, or paid family leave, that such owner has received since the start of the COVID-19 pandemic does not fully make up for the loss of household income or increased expenses of such owner; and*

*(C) such owner understands that any fees, penalties or interest for not having paid real property taxes in full may be charged or collected and may result in a foreclosure action against such owner on or after December thirty-first, two thousand twenty-one if such owner fails to fully pay any missed or partial payments and fees.*

*a. Notwithstanding the restrictions on eligibility to enter into an installment agreement described in paragraph one of subdivision b of section 11-322 and in subparagraphs (b) and (c) of paragraph three of subdivision k of section 11-322.1, an owner of a covered property who satisfies all other eligibility criteria may enter into an installment agreement pursuant to section 11-322 or a hardship installment agreement pursuant to 11-322.1.*

*b. The notice that is required to be mailed by the commissioner of finance pursuant to paragraph one of subdivision b of section 11-320 not less than ninety, sixty, thirty and ten days prior to the date of sale also shall notify owners of real property containing dwelling units of their rights pursuant to this section and that a copy of the hardship declaration can be accessed on the website of the department of finance and provide a link to such hardship declaration.*

§ 9. Subdivision b of section 11-320 of the administrative code of the city of New York is amended by adding a new paragraph 2-a to read as follows:

*2-a. If, prior to the date of sale, the department of finance confirms that a property is the subject of (i) a judicial proceeding or (ii) an investigation or a prosecution by any agency or office of the United States or any state or subdivision thereof with regard to the ownership of such property arising from the fraudulent transmittal of a deed relating to such property, the department shall remove such property from the sale, provided that the owner of such property has provided an affidavit to the department and any such other documentation required by the department to establish that such property is the subject of such a proceeding, investigation or prosecution. Any such removal shall relate only to the sale of a tax lien or tax liens for which the owner has received notice pursuant to paragraph one of subdivision b of this section. Failure by the department of finance to remove such property shall not affect the validity of any sale of tax liens pursuant to this chapter.*

§ 10. Paragraph 5 of subdivision b of section 11-320 of the administrative code of the city of New York, as added by local law number 4 for the year 2017, is amended to read as follows:

5. The department of finance and the department of environmental protection shall, to the extent practicable, contact by telephone or electronic mail any person who (i) has registered their telephone number or electronic mail address with such departments and (ii) has received the ninety-day notice described in paragraph one of this subdivision. Any such contact shall be made within a time period reasonably proximate to the mailing of such notice, shall inform such person of the intention to sell a tax lien and shall provide such other information as the respective commissioner deems appropriate, which may include, but need not be limited to, the telephone numbers and electronic mail addresses of the employees designated pursuant to subdivision f of this section. *The department of finance shall contact by electronic mail any person who has registered pursuant to subdivision a of section 11-245.8 of this title to receive information about the outreach sessions described in subdivision j of this section and provide such information within a time period reasonably proximate to the scheduled outreach session.* Failure by the department of finance or the department of environmental protection to contact any such person by telephone or electronic mail shall not affect the validity of any sale of tax liens pursuant to this chapter.

§ 11. Subdivision j of section 11-320 of the administrative code of the city of New York, as amended by local law number 4 for the year 2017, is amended to read as follows:

j. At the request of a council member, the commissioner of finance, in consultation with the commissioner of housing preservation and development and the commissioner of environmental protection, may conduct outreach sessions in the district of such council member, *provided, however, that, the commissioner of finance shall conduct such outreach sessions in the ten council districts with the greatest number of properties for which a notice of intention to sell a tax lien has been mailed ninety days prior to the date of sale pursuant to paragraph one of subdivision b of this section, and provided, further, however, that, such commissioner shall conduct additional outreach sessions in the five council districts with the greatest number of properties for which a notice of intention to sell a tax lien has been mailed ninety days prior to the date of sale pursuant to such paragraph. To the extent practicable, the commissioner of finance shall schedule the outreach sessions in the five council districts described in the preceding sentence such that one occurs prior to the mailing of the notice of intention to sell a tax lien that is required to be mailed thirty days prior to the date of sale pursuant to paragraph one of subdivision b of this section and one occurs subsequent to such mailing.* The scope of such outreach sessions shall include, but need not be limited to, (i) actions property owners can take if a lien is sold on such property; (ii) the type of tax lien or tax liens that can be sold in a tax lien sale; (iii) installment agreement information, including informing attendees in such outreach sessions of their option to enter into an installment agreement for exclusion from the tax lien sale with no down payment, with options for income-based installment agreements or installment agreements with a term of up to ten years; (iv) credits and property tax exemptions that may exclude a property from a tax lien sale; (v) distribution of a customer survey to property owners who have received notice of the intention to sell a tax lien on their property, in order to determine the circumstances that led to the creation of the lien; and (vi) any other credit or residential real property tax exemption information, which, in the discretion of the commissioner, should be included in such outreach sessions. The commissioner shall make a good faith effort to have a financial counselor available at such outreach sessions. No later than ninety days after the tax lien sale, the commissioner of finance shall submit to the council a report on the number of outreach sessions performed in each council district during the ninety-day period preceding the tax lien sale. Such report shall include: (i) the number of installment agreements begun by property owners or, as defined in subdivision b of section 11-322 of this chapter, other eligible persons, acting on behalf of property owners at each outreach session; (ii) the number of property tax exemption applications begun at each outreach session; (iii) the total number of attendees at each outreach session; (iv) the number of outreach sessions at which a financial counselor was available; (v) the number of property owners, or other eligible persons acting on behalf of property owners, who consulted a financial counselor at each outreach session at which a financial counselor was available; and (vi) the results of such surveys. Such report and the results of each outreach session shall be disaggregated by council district.

§ 12. Paragraph 3 of subdivision c of section 11-322.1 of the administrative code of the city of New York, as added by local law number 45 for the year 2019, is amended to read as follows:

3. The combined income of the applicant and of all the additional property owners may not exceed [\$58,399] \$86,400 for the income tax year immediately preceding the date of the application for the installment agreement.

The department shall promulgate rules that establish a process for an applicant to seek an exception from the requirement that income information from all additional property owners be provided in cases of hardship.

§ 13. Section 11-356 of the administrative code of the city of New York, as added by local law number 14 for the year 2015 and subdivision b as amended by local law number 20 for the year 2015, is amended to read as follows:

§ 11-356 Temporary taskforce. a. The mayor and council shall establish a temporary task force to review and evaluate the provisions of this chapter, any actions taken pursuant to the provisions of this chapter, and such other matters as the task force deems appropriate, to ensure that the [tax lien sale process] *city's collection of delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, or any other charges that are made a lien subject to the provisions of this chapter* is fair, efficient and effective.

*a-1. The temporary task force shall also study:*

*1. the feasibility of transferring property that has delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, or any other charges that are made a lien subject to the provisions of chapter 3 of title 11 of the administrative code of the city of New York, provided that any such liens are eligible to be sold pursuant to section 11-319 of such code, or of transferring tax liens, provided that such liens are eligible to be sold pursuant to section 11-319, to community land trusts, land banks, mutual housing associations or other entities exempt from taxation pursuant to section 501(c)(3) of the internal revenue code as a tool for the city to collect delinquent municipal charges and as a housing and community preservation tool; and*

*2. the extent to which liens for vacant property are included in the lien sale and alternatives to such inclusion, and the potential advantages and disadvantages for each such alternative.*

b. The task force shall consist of [ten] *twelve* members, as follows: the commissioner of environmental protection or his or her designee, the director of management and budget or his or her designee, the commissioner of housing preservation and development or his or her designee, the commissioner of finance or his or her designee, [one member] *two members* appointed by the mayor and [five] *six* members appointed by the speaker of the council, *provided that at least one member appointed by the mayor and one member appointed by the speaker of the council shall be representatives of not-for-profit organizations dedicated to outreach to taxpayers regarding payment of the real property tax, financial counseling of owners of real property, compliance with payment of property taxes and related charges, integrity of government operations, or housing preservation.* Any member appointed by the speaker of the council *other than any such representative of a not-for-profit organization* may name a designee, provided that such designee shall be an employee of the council. Members shall serve without compensation. The members of the task force shall be appointed no later than [August first, two thousand fifteen] *April first, two thousand twenty-one*. The chairperson shall be elected from among the members. Any vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. The director of management and budget, and the commissioners of finance, environmental protection, and housing preservation and development may provide staff to assist the task force in the execution of its duties pursuant to this section. Members of the task force shall serve until the [opening paragraph of subdivision b of section 11-319 of this chapter authorizes the commissioner of finance to conduct a sale or sales of tax liens after December thirty-first, two thousand sixteen, or the] task force submits [a report] *recommendations* to the mayor and the council pursuant to subdivision d of this section[, whichever is sooner], after which time such temporary task force shall cease to exist.

c. No later than [September first, two thousand fifteen] *May first, two thousand twenty-one*, the task force shall hold its initial meeting and thereafter shall meet at least [quarterly to review and evaluate the provisions of this chapter, any actions taken pursuant to the provisions of this chapter, and such other matters as the task force deems appropriate, to ensure that the tax lien sale process is fair, efficient and effective] *once per month to conduct the review and the study required by subdivisions a and a-1 of this section*. The task force shall consider: (i) actions, including recommendations for administrative or legislative changes, that could minimize the nonpayment of taxes, assessments, sewer rents, sewer surcharges, water rents and any other charges that are made a lien subject to the provisions of this chapter, including, but not limited to, increasing awareness of and participation in tax benefit programs, (ii) actions, including recommendations for administrative or legislative changes, that could maximize the collection of any debt owed to the city, whether or not any such debt is currently a "tax lien" as defined in section 11-301 of this chapter, and (iii) any other matter that the task force deems relevant to [the] ensure that the *city's collection of delinquent real property taxes, assessments, sewer rents,*

*sewer surcharges, water rents, or any other charges that are made a lien subject to the provisions of this chapter is fair, efficient and effective [implementation of the tax lien sale process].*

d. No later than [September first, two thousand sixteen] *November first, two thousand twenty-one*, the task force shall submit [a report] to the mayor and the speaker of the council[. Such report shall include, but need not be limited to: (i)] recommendations for administrative or legislative changes that may improve the fairness, efficiency and effectiveness of the [tax lien sale process; (ii) any findings or facts that support such recommendations, (iii) evaluation of installment agreements and consideration of prospective changes to the terms of installment agreements; (iv) the impact of the tax lien sale process on affordable housing; and (v)] *city's collection of delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, or any other charges that are made a lien subject to the provisions of this chapter, including recommendations for administrative and legislative changes: that would permit the transfer of property that has delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, or any other charges that are made a lien subject to the provisions of chapter 3 of title 11 of the administrative code of the city of New York, provided that any such liens are eligible to be sold pursuant to section 11-319 of such code, or the transfer of tax liens, provided that any such liens are eligible to be sold pursuant to section 11-319 of such code, to community land trusts, land banks, mutual housing associations or other entities exempt from taxation pursuant to section 501(c)(3) of the internal revenue code as an additional tool for the city to collect delinquent municipal charges and as a housing and community preservation tool; regarding the treatment of vacant land in the tax lien sale process; and regarding the feasibility of centralizing in one agency the processing, administration of, and collection of payment pursuant to agreements authorized pursuant to section 11-322 and section 11-322.1 of this chapter, as presented to the task force pursuant to subdivision f of this section; and any additional [information] recommendations deemed relevant by the task force.*

e. *No later than thirty days prior to the submission of recommendations pursuant to subdivision d of this section, the task force shall hold a public meeting to present its preliminary recommendations and receive comments relating to such preliminary recommendations. The task force's preliminary recommendations shall be made publicly available at least ten business days prior to such public meeting.*

f. *No later than thirty days prior to the public meeting required to be held pursuant to subdivision e of this section, the commissioners of the department of finance and the department of environmental protection, or their designees, shall make a presentation to the task force regarding the feasibility of centralizing in one agency the processing, administration of, and collection of payment pursuant to agreements authorized pursuant to section 11-322 and section 11-322.1 of this chapter.*

§ 15. This local law takes effect immediately and is retroactive to and deemed to have been in full force and effect as of January 1, 2021.

DANIEL DROMM, *Chairperson*; KAREN KOSLOWITZ, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, VANESSA L. GIBSON, HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, ALICKA AMPRY-SAMUEL, DIANA AYALA, FRANCISCO P. MOYA, KEITH POWERS, FARAH N. LOUIS, STEVEN MATTEO; Committee on Finance, January 28, 2021 (Remote Hearing). *Other Council Members Attending: Council Member Yeger.*

On motion of the Speaker (Council Member Johnson), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

## Report of the Committee on Governmental Operations

Report for Int. No. 1420-C

### Report of the Committee on Governmental Operations in favor of approving and adopting, as amended, a Local Law in relation to requiring a study and report on 311 complaints resulting in unconfirmed conditions.

The Committee on Governmental Operations, to which the annexed proposed amended local law was referred on February 13, 2019 (Minutes, page 462), respectfully

#### REPORTS:

##### I. INTRODUCTION

On January 28, 2021, the Committee on Governmental Operations, chaired by Council Member Cabrera, held a second hearing and a vote on the following pieces of legislation: Proposed Int. No. 1420-C, sponsored by Council Members Matteo and Holden, in relation to requiring a study and report on 311 complaints resulting in unconfirmed conditions; Proposed Int. No. 1832-B, sponsored by Council Member Cabrera, in relation to requiring 311 to notify each agency when a request for service or complaint has not been closed within the number of days specified by such agency's service level agreement; and Proposed Int. No. 1994-A, sponsored by Council Member Ampry-Samuel, in relation to a voter education campaign regarding ranked choice voting. The bills were approved by the Committee with 9 votes in the affirmative, and 0 in the negative.

##### II. BACKGROUND – 311

###### *a. 311 Overview*

The 311 Customer Service Center (“311”) is a citywide program providing non-emergency government services to New York City residents, visitors, and businesses.<sup>1</sup> 311 is housed within the Department of Information Technology & Telecommunications (“DoITT”), the agency responsible for providing information technology, infrastructure, and telecommunications services to City agencies, boards, and offices. 311 was first launched in 2003 as a call center.<sup>2</sup> Prior to its establishment by former Mayor Michael Bloomberg, the City relied on approximately 40 agency help lines and a general mayoral phone line, almost all of which were folded into 311.<sup>3</sup> Today, 311 is available 24 hours a day, seven days a week, via multiple channels.<sup>4</sup>

In Fiscal Year 2020, 311 received over 21 million calls, a more than 10 percent increase over the year before.<sup>5</sup> In addition, over 420,000 text messages were sent to 311, representing an increase of 68 percent.<sup>6</sup> About

<sup>1</sup> The Official Website of the City of New York, NYC311, <https://portal.311.nyc.gov> (last accessed Dec. 9, 2019).

<sup>2</sup> Committee Report, Committees on Governmental Operations and Technology, New York City Council, (Jan. 17, 2019), at page 2, available at <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3723063&GUID=82CF9499-67A5-48FB-BAF1-2E230611B69B&Options=&Search>.

<sup>3</sup> New York City Budget Office, Fiscal Brief: 311 Customer Service Center: More Calls and a Growing Budget, April 2008, p. 1-2, available at <http://www.ibo.nyc.ny.us/iboreports/311Apr08.pdf>. Examples of entities not incorporated into 311 are areas of New York City operated by certain authorities, such as the New York City Housing Authority, the Battery Park City Authority and the Roosevelt Island Operating Corporation. See Rachel Holliday Smith, *What's the 311? Stranded in New York's Service Hotline Deserts*, THE CITY (Apr. 24, 2019), <https://thecity.nyc/2019/04/whats-the-311-stranded-in-n-y-s-service-hotline-deserts.html>.

<sup>4</sup> Mayor's Office of Operations, Mayor's Management Report (Sept. 2019) at 134, available at <https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2018/311.pdf>.

<sup>5</sup> Mayor's Office of Operations, Mayor's Management Report (Sept. 2020) at 144, available at <https://www1.nyc.gov/assets/operations/downloads/pdf/mmr2020/311.pdf>.

<sup>6</sup> *Id.*

2.2 million inquiries were made via the 311 mobile app, and the 311 website had approximately 10.5 million visits.<sup>7</sup> The average wait time for a 311 caller was one minute and 38 seconds during peak hours, and one minute and three seconds during off-peak hours.<sup>8</sup> From March 13 to April 16—during the peak of first wave of the COVID-19 pandemic in New York City—311 received more than 180,000 calls per day, and average wait times were significantly longer: six minutes and 38 seconds during peak hours, and four minutes and 27 seconds during off-peak hours.<sup>9</sup>

### *b. Agency service level agreements*

A customer contact with 311 generally generates either a service request, when the customer is seeking a City agency to take an action, or an informational request, when the customer has a question regarding a City service.<sup>10</sup> There are datasets for both types of requests on the City’s Open Data portal.<sup>11</sup> Once a customer makes a complaint or request, a unique number is generated which is shared with the customer and can be used to track the resolution of the case.<sup>12</sup> Service requests are submitted to appropriate City agencies, based on complaint type.<sup>13</sup>

Service level agreements (“SLAs”) outline the time frame within which an agency is expected to respond to a particular service request.<sup>14</sup> Some SLAs are as short as an hour while others can span several days, depending on the severity of the threat to public safety.<sup>15</sup> 311 communicates this information to customers so they have an expectation for when the service request will be fulfilled. However, 311 is unable to follow an agency’s workflow for each request. It relies on each agency to document a clear resolution for each request and mark each request as closed.<sup>16</sup>

During a Committee oversight hearing on February 4, 2019, the Departments of Environmental Protection (“DEP”), Buildings (“DOB”), Finance (“DOF”), Health and Mental Hygiene (“DOHMH”), Transportation (“DOT”) and Housing Preservation and Development (“HPD”), and the Taxi and Limousine Commission (“TLC”), each testified to how they prioritize and respond to disparate requests relayed by 311.<sup>17</sup> Each agency has numerous complaint types, each with an assigned response time under an SLA. For example, DEP has 123 unique complaint types, DOB has nearly 100 and HPD has more than 150.<sup>18</sup> Agencies testified that the majority of service requests are responded to within the time provided in their SLAs.<sup>19</sup> However, not all are responded to in a timely fashion. For example, DOF reported that 67 percent of its requests were closed within the SLA timeframe in Fiscal Year 2018.<sup>20</sup> DOHMH reported that it responded to rodent complaints within its 10-business day SLA target 81 percent of the time.<sup>21</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Jan. 17, 2019 Committee Report, *supra* note 2 at 2.

<sup>11</sup> See NYC OpenData, 311 Service Requests from 2010 to present, <https://data.cityofnewyork.us/Social-Services/311-Service-Requests-from-2010-to-Present/erm2-nwe9> (last accessed Dec. 10, 2019); NYC OpenData, 311 Call Center Inquiry, <https://data.cityofnewyork.us/City-Government/311-Call-Center-Inquiry/tdd6-3ysr> (last accessed Dec. 10, 2019).

<sup>12</sup> Committee Report, Committee on Governmental Operations, New York City Council, (Feb. 4, 2019), at page 4, *available at* <https://nyc.legistar.com/LegislationDetail.aspx?ID=3840384&GUID=0F7E3CF0-3DB1-49D3-8280-63036A475EE7&Options=&Search>.

<sup>13</sup> *Id.*

<sup>14</sup> Testimony of 311 Exec. Dir. Joseph R. Morrisroe before the Committee on Governmental Operations, New York City Council, (Feb. 4, 2019), *available at* <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3541118&GUID=B2312F00-2894-40AC-9DEF-A54C44F9FCBC&Options=&Search>.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> See generally Feb. 4 testimony, *supra* note 14; Andrew Millman, *In Second 311 Oversight Hearing, City Council Examines Agency Responsiveness*, GOTHAM GAZETTE (Feb. 10, 2019), <https://www.gothamgazette.com/city/8271-in-second-311-oversight-hearing-council-examines-agency-responsiveness>.

<sup>18</sup> Feb. 4 testimony, *supra* note 14.

<sup>19</sup> See *id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

Both 311 representatives and members of the public can look up the status of a request if they have the corresponding service request number, and can see the SLA deadline for that request.<sup>22</sup> Tracking service requests is possible through 311's website and smartphone application for iOS and Android.<sup>23</sup> The following is a screenshot (Figure No. 1) of what members of the public would see online, with the SLA complaint type and "SLA remaining days" highlighted:

The Department of Transportation requires 30 days to respond to this type of complaint. Please note your Service Request number for future reference.

The Department of Transportation requires 30 days to respond to this type of complaint. Please note your Service Request number for future reference.

**Updated On**  
11/15/2019 10:32 AM

**Date Reported**  
11/15/2019 10:32 AM

**Date Closed**

**SR Status**  
In Progress

**Problem**  
Sidewalk Condition

**Problem Detail**  
Sidewalk Violation

**Additional Details**  
Sidewalk Violation Inquiry

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**Time Until Agency Action**      **SLA Remaining Days**  
30

**SR Address**  
31-48 93 STREET, QUEENS (EAST ELM/HURST), NY, 11369

Figure No. 1

Currently, 311 does not notify an agency when a service request remains open beyond the SLA time frame.<sup>24</sup>

**a. Anonymous complaint harassment**

While 311 is intended to be a way for New Yorkers to request agencies to address legitimate complaints, there is concern that it occasionally has been used as a tool for harassment, whereby a caller makes repeated, anonymous, unsubstantiated complaints against a private property. Such abuse is not only detrimental to the subject of the anonymous complaints, but also a drain on City resources that could be used to respond to valid complaints.

Between 2006 and 2014, the Staten Island Borough President's district office recorded more than 50 reports of 311 harassment, including one homeowner who was the subject of nine anonymous complaints about various conditions in and around his home in 2013, five of which were made over just two days, and seven of which were deemed baseless upon inspection.<sup>25</sup> Local elected officials believed these repeated anonymous calls were the result of neighbor-versus-neighbor disputes.<sup>26</sup> In 2017, a Bronx homeowner reported that he had received 68 summonses for conditions in and around his home over the past two years, all arising from anonymous calls to

<sup>22</sup> See The Official Website of the City of New York, NYC311 Look Up Service Requests, <https://portal.311.nyc.gov/check-status> (last accessed Dec. 9, 2019).

<sup>23</sup> See *id.*; The Official Website of the City of New York, NYC311 Mobile App, <https://portal.311.nyc.gov/article/?kanumber=KA-01025> (last accessed Dec. 15, 2019).

<sup>24</sup> Nov. 19, 2019 email correspondence with the Mayor's Office of City Legislative Affairs, on file with Governmental Operations Committee staff.

<sup>25</sup> Anna Sanders, *New City Council bill targets 311 'harassment,'* METRO, (Mar. 20, 2014), <https://www.metro.us/local/new-york-city-looks-to-end-harassment-via-311-complaint-hotline/tmWncs--b47PDHFLFQBMqs>.

<sup>26</sup> *Id.*

311.<sup>27</sup> Local State Assembly Member Michael Benedetto said that 66 of the 68 complaints were dismissed.<sup>28</sup> That case also appeared to involve a neighbor-versus-neighbor dispute.<sup>29</sup>

News reporting indicates that there has also been 311 harassment against businesses. In 2012, D’Amico, a coffee and specialty food store in Carroll Gardens, Brooklyn, was the subject of repeated anonymous complaints over the smell of roasting coffee beans coming from their shop.<sup>30</sup> The caller then began calling the Fire Department, which could have diverted important City resources away from responding to true emergencies.<sup>31</sup>

The Council passed Local Law 70 of 2017 to require DoITT to create a notification system whereby business owners can be informed of any 311 complaints lodged against them.<sup>32</sup> Participation is voluntary. Business owners can sign up to receive notifications via text message or email.<sup>33</sup> Such notifications must be made available in the ten designated citywide languages.<sup>34</sup>

### III. BACKGROUND – RANKED CHOICE VOTING

On November 5, 2019, New York City voters overwhelming approved a ballot measure to adopt three election-related amendments to the New York City Charter.<sup>35</sup> The most significant of these amendments was the addition of section 1057-G, instituting ranked choice voting (“RCV”) for local special and primary elections.<sup>36</sup> Under RCV, instead of voting for a single candidate in each contest, voters may rank up to five candidates in their order of preference.<sup>37</sup> If one candidate receives more than 50 percent of the first-choice votes, that candidate will be declared the winner.<sup>38</sup> If no candidate receives 50 percent of the first-choice votes, the last-place candidate will be eliminated, and voters who ranked the last-place candidate first will be treated as having voted for their second-choice candidate.<sup>39</sup> This process will repeat until only two candidates remain, at which point the candidate with the most votes will be declared the winner.<sup>40</sup>

Under section 1057-G of the Charter, RCV will be used for all primary and special elections for Mayor, Public Advocate, Comptroller, Borough President, and City Council.<sup>41</sup> RCV will not be used for local general elections, or for elections for any other office.<sup>42</sup> Section 1057-G became effective on January 1, 2021, meaning that all local primary and special elections going forward will be required to utilize RCV.<sup>43</sup>

The first RCV election in the City will be the special election to fill the vacant City Council seat in District 24. This election has been scheduled for Tuesday, February 2, 2021,<sup>44</sup> although early voting began on January 23.<sup>45</sup> An additional RCV election to fill a vacancy in Council District 31 has been scheduled for February 23,<sup>46</sup>

<sup>27</sup> Jessica Moore, *Bronx Man Claims Neighbor Is Using 311 Complaint Hotline to Harass Him*, CBS N.Y. (Aug. 10, 2017), <https://newyork.cbslocal.com/2017/08/10/311-complaint-harassment/>.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> Katia Kelly, *D’Amico To Anonymous 311 Caller In New Message: Stop Calling DEP And Fire Department*, PARDON ME FOR ASKING (blog) (April 20, 2012), <https://pardonmeforasking.blogspot.com/2012/04/damico-to-anonymous-311-caller-in-new.html>.

<sup>31</sup> *Id.*

<sup>32</sup> N.Y.C. Admin. Code § 23-303.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> See Board of Elections in the City of New York, Statement and Return Report for Certification, General Election 2019 (2019), <https://legistar.council.nyc.gov/View.ashx?M=F&ID=7953071&GUID=1CB8282C-EC0E-48BC-8386-0130F05D2A5A>.

<sup>36</sup> See Charter § 1057-G.

<sup>37</sup> Charter § 1057-G(d)(1).

<sup>38</sup> Charter § 1057-G(e)(1).

<sup>39</sup> Charter § 1057-G(e)(2).

<sup>40</sup> *Id.*

<sup>41</sup> See Charter § 1057-G(a) (definition of “ranked choice election”).

<sup>42</sup> *Id.*

<sup>43</sup> Charter § 1057-G.

<sup>44</sup> Office of the Mayor, Mayor de Blasio Declares Special Election Date for the 24th Council District in Queens (November 2020), <https://www1.nyc.gov/office-of-the-mayor/news/767-20/mayor-de-blasio-declares-special-election-date-the-24th-council-district-queens>.

<sup>45</sup> See N.Y. Elec. Law § 8-600(1).

<sup>46</sup> Office of the Mayor, Mayor de Blasio Declares Special Election Date for the 31st Council District in Queens (December 4, 2020), <https://www1.nyc.gov/office-of-the-mayor/news/835-20/mayor-de-blasio-declares-special-election-date-the-31st-council-district-queens>.

and two more—to fill vacancies in Districts 11 and 15—have been scheduled for March 23.<sup>47</sup> New Yorkers who do not live in one of these four Council Districts will likely have their first opportunity to vote in an RCV election in June, when the City will conduct primary elections for the offices of Mayor, Comptroller, Public Advocate, Borough President, and City Council.

Under the Charter and the New York State Election Law, the Board of Elections in the City of New York (“NYCBOE”) is responsible for administering RCV elections. The New York City Campaign Finance Board (“CFB”), meanwhile, is required to “conduct a voter education campaign to familiarize voters with ranked choice voting.”<sup>48</sup>

#### **IV. LEGISLATIVE ANALYSIS**

##### **Int. No. 1420-C**

Int. No. 1420-C (Matteo) would require an office or agency designated by the Mayor to collaborate with DEP, DOB, DOHMH, the Department of Sanitation, and the Police Department to study the frequency of anonymous 311 complaints referred to these agencies and whether such complaints are more likely than other complaints to be unsubstantiated. Such study would also seek to identify patterns of unsubstantiated complaints against specific properties. A report on the findings of the study would be due to the Council on December 1, 2021. Such report would be required to include recommendations on the types of 311 complaints that agencies should allow to be made anonymously. This bill would take effect immediately.

##### **Int. No. 1832-B**

Int. No. 1832-B (Cabrera) would require 311 to notify each agency when a customer’s request for service or complaint has not been closed within the number of days specified by such agency’s SLA. This bill would take effect one year after becoming law.

##### **Int. No. 1994-A**

As discussed above, the Charter currently requires the CFB to conduct a voter education campaign to familiarize voters with ranked choice voting. Int. No. 1994-A (Ampry-Samuel) would specify the steps that the CFB must take in conducting such campaign. Specifically, the bill would require the CFB to create and maintain information on its website regarding RCV. Such information would need to be available in each of the designated voter guide languages determined pursuant to section 1053(d) of the Charter.<sup>49</sup> Such information would need to include, at a minimum, a fact sheet, a sample RCV ballot, and a brief video. The bill would also require the CFB to disseminate print and digital information materials on RCV as part of its NYC Votes campaign and include information on RCV in its Voter Guide.

Int. No. 1994-A would also require the CFB to produce educational materials regarding RCV and distribute such materials to each agency designated as a participating voter registration agency pursuant to section 1057-A of the Charter.<sup>50</sup> Such materials would need to include fact sheets, language suitable for print and digital communications, a brief video, and explanatory graphics suitable for use in print and digital communications.

<sup>47</sup> Office of the Mayor, Mayor de Blasio Declares Special Election Date for the 15th and 11th Council Districts in The Bronx, <https://www1.nyc.gov/office-of-the-mayor/news/001-21/mayor-de-blasio-declares-special-election-date-the-15th-11th-council-districts-the-bronx>.

<sup>48</sup> Charter § 1057-G(h).

<sup>49</sup> Currently, the designated voter guide languages are English, Spanish, Chinese, Bengali, and Korean. See Campaign Finance Board, 2021 City Council District 24 Special Election Voter Guide, <https://www.nycfb.info/nyc-votes/vgwelcome/council-district-24-special-election-2021>.

<sup>50</sup> The following agencies are designated as a participating voter registration agencies pursuant to section 1057-A of the Charter: the Administration for Children’s Services, the Business Integrity Commission, the City Clerk, the Civilian Complaint Review Board, the Commission on Human Rights, Community Boards, the Department of Small Business Services, the Department for the Aging, the Department of Citywide Administrative Services, the Department of City Planning, the Department of Consumer and Worker Protection, the Department of Correction, the Department of Cultural Affairs, the Department of Environmental Protection, the Department of Finance, the Department of Health and Mental Hygiene, the Department of Homeless Services, the Department of Housing Preservation

Each agency receiving RCV educational materials from the CFB would be required to distribute such materials as part of its program for distributing voter registration forms. In addition, each agency would be required to submit a semi-annual report on its implementation of section 1057-A of the Charter and would be required to include in such report the number of printed educational materials it distributed. The Mayor's Office of Operations would, in turn, be required to include this information in its report required by section 1057-A.

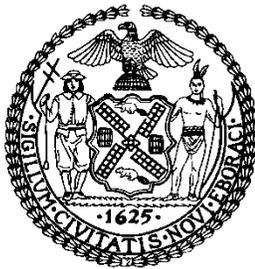
Under Int. No 1994-A, the CFB would also be required to establish training programs for employees of agencies designated as a participating voter registration agencies pursuant to section 1057-A, and employees of such agencies' contracted service providers, to receive guidance on how to incorporate RCV awareness into employees' interactions with the public. In addition, every agency receiving educational materials from CFB would be required to prominently display them on its website and in physical locations occupied or controlled by the agency and distribute such materials to its employees and the public.

Int. No. 1994-A would also require CFB to conduct a citywide media campaign, collaborate with community-based organizations in all five boroughs, and conduct targeted outreach to voters in council districts where special elections have been scheduled to take place prior to June 22, 2021, the date of the first citywide election to use RCV.

In addition, Int. No 1994-A would require the Civic Engagement Commission to include RCV education as part of its poll site language interpreter training pursuant to section 3202 of the Charter.

This bill would take effect immediately and would be deemed repealed on December 31, 2025.

**(The following is the text of the Fiscal Impact Statement for Int. No. 1420-C:)**



**THE COUNCIL OF THE CITY OF NEW YORK**  
**FINANCE DIVISION**  
 LATONIA MCKINNEY, DIRECTOR  
**FISCAL IMPACT STATEMENT**

**PROPOSED INTRO NO. 1420-C**

**COMMITTEE:** Governmental Operations

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**TITLE:** A Local Law in relation to requiring a study and report on 311 complaints resulting in unconfirmed conditions. **SPONSORS:** Council Members Matteo, Holden, Ayala, Yeger, Louis and Ulrich.

**SUMMARY OF LEGISLATION:** This bill would require an office or agency designated by the Mayor to collaborate with certain agencies to study the frequency of anonymous 311 complaints for the period beginning on January 1, 2016 and ending on December 31, 2020, and whether such complaints are more likely than other complaints to be unsubstantiated. Such study would also seek to identify patterns of unsubstantiated complaints against specific properties. A report on the findings of this study would be due to the Council on December 1, 2021. Such report would be required to include recommendations on the types of 311 complaints that agencies should allow to be made anonymously.

**EFFECTIVE DATE:** This local law would take effect immediately

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2022

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and Development, the Department of Parks and Recreation, the Department of Probation, the Department of Records and Information services, the Taxi and Limousine Commission, the Department of Transportation, the Department of Youth and Community Development, the Fire Department, and the Human Resources Administration.

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY21</b>	<b>FY Succeeding Effective FY22</b>	<b>Full Fiscal Impact FY22</b>
<b>Revenues (-)</b>	\$0	\$0	\$0
<b>Expenditures (+)</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

**IMPACT ON EXPENDITURES:** It is estimated that there would be no impact on expenditures resulting from the enactment of this legislation because the relevant agencies would use existing resources to accomplish its requirements.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCES OF INFORMATION:** New York City Council Finance Division  
Mayor's Office of Legislative Affairs  
Office of Management and Budget

**ESTIMATE PREPARED BY:** Sebastian Palacio Bacchi, Senior Financial Analyst

**ESTIMATE REVIEWED BY:** Nathaniel Toth, Deputy Director  
John Russell, Unit Head  
Noah Brick, Assistant Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council as Intro. No. 1420 on February 13, 2019 and was referred to the Committee on Governmental Operations (Committee). The Committee heard the legislation at a joint hearing with the Committee on Technology on January 21, 2020, and the legislation was laid over. The legislation was subsequently amended twice, and the most recent version, Proposed Intro. 1420-C, will be considered by the Committee on January 28, 2021. Upon a successful vote by the Committee, Proposed Int. 1420-C will be submitted to the full Council for a vote on January 28, 2021.

**DATE PREPARED:** January 21, 2021

**(For text of Int. Nos. 1832-B and 1994-A and their Fiscal Impact Statements, please see the Report of the Committee on Governmental Operations for Int. Nos. 1832-B and 1994-A, respectively, printed in these Minutes; for text of Int. No. 1420-C, please see below)**

*Accordingly, this Committee recommends the adoption of Int. Nos. 1420-C, 1832-B, and 1994-A.*

Int. No. 1420-C

By Council Members Matteo, Holden, Ayala, Yeger, Louis, Levin and Ulrich.

**A Local Law in relation to requiring a study and report on 311 complaints resulting in unconfirmed conditions**

*Be it enacted by the Council as follows:*

Section 1. Reporting on 311 complaints. a. Definitions. For the purposes of this section the following terms have the following meanings:

Covered agency. The term “covered agency” means the department of environmental protection, the department of buildings, the department of health and mental hygiene, the department of sanitation, the police department and any other city agency designated as a covered agency by an office or agency as may be designated by the mayor.

Covered service request. The term “covered service request” means any service request made to the 311 customer service center during the reporting period that was referred to a covered agency.

Reporting period. The term “reporting period” means the period beginning on January 1, 2016 and ending on December 31, 2020.

Unconfirmed condition. The term “unconfirmed condition” means a status assigned to a service request for which there was not enough evidence for an enforcement official from the responding agency to determine whether or not the reported incident occurred, or a service request for which the reported condition was not found by an enforcement official from the responding agency. Such term does not include a service request for which the responding agency was unable to investigate the reported incident or condition because such official was denied access to private property.

b. An office or agency designated by the mayor shall collaborate with each covered agency to conduct a study of all covered service requests to determine the proportion of such service requests that were made anonymously and whether anonymous covered service requests were more likely to result in unconfirmed conditions than were other covered service requests. Such study shall also examine anonymous covered service requests to identify patterns of service requests resulting in unconfirmed conditions against specific private properties or residences, if any.

c. No later than December 1, 2021, the office or agency designated by the mayor to conduct the study required by subdivision b of this section shall submit to the council, and post conspicuously on its website, a report summarizing the findings of such study. Such report shall include recommendations, based on such study, regarding the types of service requests for which agencies should allow anonymous service requests. Such report shall not contain personally identifying information.

§ 2. This local law takes effect immediately.

FERNANDO CABRERA, *Chairperson*; YDANIS A. RODRIGUEZ, BEN KALLOS, STEPHEN T. LEVIN, ALAN N. MAISEL, BILL PERKINS, KEITH POWERS, KALMAN YEGER, DARMA V. DIAZ; Committee on Governmental Operations, January 28, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Cumbo, Koslowitz, Grodenchik and Ampry-Samuel.*

On motion of the Speaker (Council Member Johnson), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 1832-B

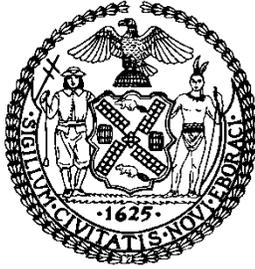
**Report of the Committee on Governmental Operations in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring 311 to notify each agency when a request for service or complaint has not been closed within the number of days specified by such agency’s service level agreement.**

The Committee on Governmental Operations, to which the annexed proposed amended local law was referred on December 19, 2019 (Minutes, page 4868), respectfully

#### REPORTS:

**(For text of report, please see the Report of the Committee on Governmental Operations for Int. No. 1420-C printed in these Minutes)**

*The following is the text of the Fiscal Impact Statement for Int. No. 1832-B:*



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION  
LATONIA MCKINNEY, DIRECTOR  
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO NO. 1832-B**

**COMMITTEE:** Governmental Operations

**TITLE:** A Local Law to amend the administrative code of the city of New York, in relation to requiring 311 to notify each agency when a request for service or complaint has not been closed within the number of days specified by such agency’s service level agreement.

**SPONSORS:** Council Members Cabrera, Louis, Brannan, Kallos, Ayala, Yeager, Adams and Ulrich.

**SUMMARY OF LEGISLATION:** This bill would require 311 to notify each agency when a customer’s request for service or complaint has not been closed within the number of days specified by such agency’s service level agreement, which sets forth the number of days within which the agency has committed to review, take action on, and close a particular category of requests for service or complaints.

**EFFECTIVE DATE:** This local law would take effect one year after it becomes law

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2023

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY22</b>	<b>FY Succeeding Effective FY23</b>	<b>Full Fiscal Impact FY23</b>
<b>Revenues (+)</b>	\$0	\$0	\$0
<b>Expenditures (-)</b>	\$0	\$250,000	\$250,000
<b>Net</b>	\$0	\$250,000	\$250,000

**IMPACT ON REVENUES:** It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

**IMPACT ON EXPENDITURES:** It is estimated that the enactment of this legislation would result in a one-time expense of \$250,000, as the Department of Information Technology and Telecommunications (DoITT) would need to partner with its external tech partners to make the necessary upgrades to the 311 backend.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** General Fund

**SOURCES OF INFORMATION:** New York City Council Finance Division  
Mayor’s Office of Legislative Affairs  
Office of Management and Budget  
Department of Information Technology and Telecommunications

**ESTIMATE PREPARED BY:** Sebastian Palacio Bacchi, Senior Financial Analyst

**ESTIMATE REVIEWED BY:** Nathaniel Toth, Deputy Director  
John Russell, Unit Head  
Noah Brick, Assistant Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council as Intro. No. 1832 on December 19, 2019 and was referred to the Committee on Governmental Operations (Committee). The Committee heard the legislation at a joint hearing with the Committee on Technology on January 21, 2020, and the legislation was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. 1832-B, will be considered by the Committee on January 28, 2021. Upon a successful vote by the Committee, Proposed Int. 1832-B will be submitted to the full Council for a vote on January 28, 2021.

**DATE PREPARED:** January 21, 2021.

*Accordingly, this Committee recommends its adoption, as amended.*

**(The following is the text of Int. No. 1832-B:)**

Int. No. 1832-B

By Council Members Cabrera, Louis, Brannan, Kallos, Ayala, Yeger, Adams, Levin, Rivera and Ulrich.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring 311 to notify each agency when a request for service or complaint has not been closed within the number of days specified by such agency's service level agreement**

*Be it enacted by the Council as follows:*

Section 1. Chapter 3 of title 23 of the administrative code of the city of New York is amended by adding a new section 23-305 to read as follows:

§ 23-305 *Service level agreements.* *The 311 customer service center shall notify the applicable agency when a customer's request for service, or complaint, referred by the 311 customer service center to such agency has not been closed within the time specified by such agency's service level agreement. For purposes of this section, the term "service level agreement" means the maximum number of hours or days within which an agency has committed to review, take action on and close a particular category of requests for service or complaints referred by the 311 customer service center to such agency.*

§ 2. This local law takes effect 1 year after it becomes law.

FERNANDO CABRERA, *Chairperson*; YDANIS A. RODRIGUEZ, BEN KALLOS, STEPHEN T. LEVIN, ALAN N. MAISEL, BILL PERKINS, KEITH POWERS, KALMAN YEGER, DARMA V. DIAZ; Committee on Governmental Operations, January 28, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Cumbo, Koslowitz, Grodenchik and Ampy-Samuel.*

On motion of the Speaker (Council Member Johnson), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 1994-A

**Report of the Committee on Governmental Operations in favor of approving and adopting, as amended, a Local Law in relation to a voter education campaign regarding ranked choice voting.**

The Committee on Governmental Operations, to which the annexed proposed amended local law was referred on July 28, 2020 (Minutes, page 1377), respectfully

**REPORTS:**

**(For text of report, please see the Report of the Committee on Governmental Operations for Int. No. 1832-B printed in these Minutes)**

*The following is the text of the Fiscal Impact Statement for Int. No. 1994-A:*



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION**

LATONIA MCKINNEY, DIRECTOR

**FISCAL IMPACT STATEMENT**

**PROPOSED INTRO NO. 1994-A**

**COMMITTEE:** Governmental Operations

**TITLE:** A Local Law in relation to a voter education campaign regarding ranked choice voting.

**SPONSORS:** Council Members Ampry-Samuel, Kallos, Yeger, Dromm, Van Bramer, Reynoso, Powers, Chin, Barron, Louis, Ayala, Levin, Constantinides, Rosenthal, Lander, Adams, Rivera, Levine, Cabrera, Miller, Moya, Vallone, Gibson, Cornegy, Koo and the Public Advocate (Mr. Williams).

**SUMMARY OF LEGISLATION:** This bill would dictate certain specific actions the Campaign Finance Board and City agencies must take as part of a public awareness campaign to familiarize voters with ranked choice voting, including the development and distribution of print and digital education materials in conjunction with the June 22, 2021 citywide primary election.

**EFFECTIVE DATE:** This local law takes effect immediately and is deemed repealed on December 31, 2025

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2021.

**FISCAL IMPACT STATEMENT:**

	<b>Effective FY21</b>	<b>FY Succeeding Effective FY22</b>	<b>Full Fiscal Impact FY21</b>
<b>Revenues (-)</b>	\$0	\$0	\$0
<b>Expenditures (+)</b>	\$2,025,000	\$0	\$2,025,000
<b>Net</b>	\$2,025,000	\$0	\$2,025,000

**IMPACT ON REVENUES:** It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

**IMPACT ON EXPENDITURES:** It is estimated that the enactment of this legislation would require the expenditure of \$2,025,000, none of which is funded by the Campaign Finance Board's current budget. This includes \$50,000 for large print communications design, printing and distribution; \$1,200,000 for printing and distributing a postcard to all households with a single registered voter; and \$775,000 in additional advertising costs, moving from the Board's planned 4 weeks to 7 weeks of media buys. The legislation specifies that these hard cost expenditures would be required prior to the June 22, 2021 citywide primary election. To the limited extent that the legislation additionally requires the Board to use materials developed in anticipation of June 22, 2021 in subsequent elections, it is anticipated that the Board could fund that using existing resources.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** General Fund

**SOURCES OF INFORMATION:** New York City Council Finance Division  
Mayor's Office of Legislative Affairs  
Office of Management and Budget  
Campaign Finance Board

**ESTIMATE PREPARED BY:** Sebastian Palacio Bacchi, Senior Financial Analyst

**ESTIMATE REVIEWED BY:** Nathaniel Toth, Deputy Director  
John Russell, Unit Head  
Noah Brick, Assistant Counsel

**LEGISLATIVE HISTORY:** This legislation was introduced to the Council as Intro. No. 1994 on July 28, 2020 and was referred to the Committee on Governmental Operations (Committee). The Committee heard the legislation on December 7, 2020, and the legislation was laid over. The legislation was subsequently amended, and the amended legislation, Proposed Intro. 1994-A, will be considered by the Committee on January 28, 2021. Upon a successful vote by the Committee, Proposed Int. 1994-A will be submitted to the full Council for a vote on January 28, 2021.

**DATE PREPARED:** January 21, 2021.

*Accordingly, this Committee recommends its adoption, as amended.*

**(The following is the text of Int. No. 1994-A:)**

Int. No. 1994-A

By Council Members Ampry-Samuel, Kallos, Yeger, Dromm, Van Bramer, Reynoso, Powers, Chin, Barron, Louis, Ayala, Levin, Constantinides, Rosenthal, Lander, Adams, Rivera, Levine, Cabrera, Miller, Moya, Vallone, Gibson, Cornegy, Koo, Menchaca, Rose, Riley, Salamanca and the Public Advocate (Mr. Williams).

**A Local Law in relation to a voter education campaign regarding ranked choice voting**

*Be it enacted by the Council as follows:*

Section 1. a. The campaign finance board shall create and thereafter maintain information on its website regarding ranked choice voting in primary and special elections pursuant to section 1057-g of the charter. Such information shall be available, at minimum, in each of the designated voter guide languages as determined

pursuant to subdivision (d) of section 1053 of the charter. Such information shall include, but need not be limited to:

1. A fact sheet explaining ranked choice voting;
2. A sample ranked choice ballot; and
3. By no later than March 15, 2021, a brief video explaining ranked choice voting.

b. The campaign finance board and the voter assistance advisory committee shall include ranked choice voting information on any print and digital educational materials provided to the public in connection with a ranked choice election as defined in section 1057-g(a) of the charter, including but not limited to materials provided as part of NYC Votes youth and community voter outreach and engagement programs.

c. The voter guide published by the campaign finance board pursuant to subdivision b of section 1052 of the New York city charter shall include information explaining ranked choice voting, including information explaining that a voter may rank as many or as few candidates as a ballot allows, and further including a sample ranked choice ballot.

d. By no later than May 1, 2021, the campaign finance board shall produce educational materials regarding ranked choice voting and distribute such materials to each agency designated as a participating voter registration agency pursuant to section 1057-a of the charter, including community boards. Educational materials shall be available, at minimum, in each of the designated voter guide languages as determined pursuant to subdivision (d) of section 1053 of the charter. Such educational materials shall include, but need not be limited to, the following:

1. A fact sheet explaining ranked choice voting, including a large-print edition made available to the department of the aging;
2. A sample ranked choice ballot;
3. Language suitable for use in print and digital communications explaining ranked choice voting;
4. A brief video suitable for use on websites and social media explaining ranked choice voting; and
5. Explanatory graphics suitable for use in print and digital communications directing the public to information on the campaign finance board website created pursuant to subdivision a.

e. Each agency receiving materials pursuant to subdivision d shall, as part of its program of distribution of voter registration forms, distribute such educational materials. Each designated participating voter registration agency required to submit semi-annual reports on their implementation of section 1057-a of the charter shall report the number of printed educational materials it distributed, and the mayor's office of operations shall include this information in its report required by section 1057-a of the charter.

f. The campaign finance board shall establish training programs for employees of agencies designated as participating voter registration agencies pursuant to section 1057-a of the charter, and employees of such agencies' contracted service providers, to receive guidance on how to incorporate ranked choice voting awareness into employees' interactions with the public.

g. Within ten days of receiving education materials regarding ranked choice voting produced by the campaign finance board pursuant to subdivision d, every agency required to receive such materials, including community boards, shall:

1. Identify physical locations occupied or controlled by such agency, or by contracted service providers, where educational materials regarding ranked choice voting produced by the campaign finance board pursuant to subdivision d may be made available and where campaign finance board staff or volunteers can educate the public about ranked choice voting; and

2. Use such educational materials regarding ranked choice voting produced by the campaign finance board pursuant to subdivision d to:

- (a) Prominently display digital education materials on such agency's website, or prominently display, with a specific reference to ranked choice voting, a button directing the public to the information on the campaign finance board website created pursuant to subdivision a;

- (b) Prominently display educational materials at physical locations occupied or controlled by such agency that have been identified pursuant to paragraph 1 of this subdivision, including making printed educational materials available to the public, and, to the extent practicable and consistent with programmatic needs, displaying digital materials on electronic screens controlled by each such agency and visible to the public;

- (c) Include educational materials in appropriate print and electronic communications such agency distributes to the public; and

(d) Distribute educational materials to employees of such agency.

h. By no later than May 24, 2021, the campaign finance board shall distribute a postcard explaining ranked choice voting to each household in the city of New York in which there is at least one registered voter.

i. By no later than May 1, 2021, the campaign finance board shall conduct a citywide media campaign to familiarize voters with ranked choice voting. Such campaign shall include, but need not be limited to, advertisements published in community and ethnic media outlets.

j. The campaign finance board shall collaborate with community-based organizations in all five boroughs to ensure that voters are familiar with ranked choice voting. Such organizations shall include, but need not be limited to: civil rights organizations; disability rights organizations; organizations serving public housing residents; organizations serving categories of residents that are underrepresented among those who vote or among those who are registered to vote; and organizations serving voters who are limited in English proficiency, including voters who primarily speak languages other than the designated voter guide languages as determined pursuant to subdivision (d) of section 1053 of the charter.

k. The campaign finance board shall conduct targeted outreach to explain ranked choice voting to voters in any council district in which a special election to fill a vacant city council seat has been scheduled to take place prior to June 22, 2021.

l. The civic engagement commission shall include ranked choice voting education as part of its poll site language interpreter training established pursuant to subparagraph (g) of paragraph 4 of subdivision a of section 3202 of the charter.

§ 2. This local law takes effect immediately and is deemed repealed on December 31, 2025.

FERNANDO CABRERA, *Chairperson*; YDANIS A. RODRIGUEZ, BEN KALLOS, STEPHEN T. LEVIN, ALAN N. MAISEL, BILL PERKINS, KEITH POWERS, KALMAN YEGER, DARMA V. DIAZ; Committee on Governmental Operations, January 28, 2021 (Remote Hearing). *Other Council Members Attending: Council Members Cumbo, Koslowitz, Grodenchik and Ampry-Samuel.*

On motion of the Speaker (Council Member Johnson), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

### **Report of the Committee on Housing and Buildings**

At this point, the Speaker (Council Member Johnson) announced that the following items had been **preconsidered as amended** by the Committee on Housing and Buildings and had been favorably reported for adoption.

Report for Int. No. 2204-A

**Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend local law number 49 for the year 2019, relating to establishing a demonstration program to facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family dwellings, in relation to extending the time limit for filing construction documents for such program.**

The Committee on Housing and Buildings, to which the annexed preconsidered as amended proposed local law was referred on January 28, 2021, respectfully

**REPORTS:**

### **Introduction**

On January 28, 2021, the Committee on Housing and Buildings, chaired by Council Member Robert Cornegy, Jr., held a hearing on Preconsidered Int. No. 2204-A. The original bill was first heard on January 19, 2021. More information about this bill, along with the materials for that hearing, can be found at <https://on.nyc.gov/2MoQ8Sj>.

### **Preconsidered Int. No. 2204-A**

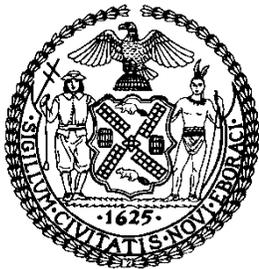
Local Law number 49 for the year 2019 established the City’s basement legalization pilot program. This program, which is administered by the Department of Housing Preservation and Development, creates a path for certain homeowners to legally convert their basement or cellar into a safe and rentable dwelling unit. Pursuant to the Local Law, applicants for participation in the program were required to submit completed construction documents to the Department of Buildings (“DOB”) within 18 months of the law going into effect, a deadline which expired on January 2, 2021. However, the COVID-19 crisis resulted in significant delays, making compliance with this deadline difficult for many applicants and also impacting the ability of DOB to conduct necessary inspections. To provide additional time for applicants to submit the required documents, Preconsidered Int. No. 2204-A would amend Local Law 49 for the year 2019 to extend the submission deadline by six months.

This bill would take effect immediately and be retroactive to January 1, 2021.

### **Update**

On Thursday, January 28, 2021, the Committee adopted Preconsidered Int. No. 2204-A by a vote of nine in the affirmative, zero in the negative, and zero abstentions.

**(The following is the text of the Fiscal Impact Statement for Int. No. 2204-A:)**



**THE COUNCIL OF THE CITY OF NEW YORK  
FINANCE DIVISION**

**LATONIA MCKINNEY, DIRECTOR**

**FISCAL IMPACT STATEMENT**

**PRECONSIDERED INT. NO. 2204-A:**

**COMMITTEE: Housing and Buildings**

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**TITLE:** A Local Law to amend local law number 49 for the year 2019, relating to establishing a demonstration program to facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family dwellings, in relation to extending the time limit for filing construction documents for such program.

**SPONSORS:** Council Members D. Diaz, Cabrera, Lander, and Barron.

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**SUMMARY OF LEGISLATION:** The legislation would amend Local Law 49 for the year 2019, which established the basement legalization pilot program, to extend the deadline for applicants to submit necessary construction documents by six months.

**EFFECTIVE DATE:** This local law would take effect immediately and be retroactive to and deemed to have been in full force and effect on and after January 1, 2021.

**FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED:** Fiscal 2022**FISCAL IMPACT STATEMENT:**

	<b>Effective FY21</b>	<b>FY Succeeding Effective FY22</b>	<b>Full Fiscal Impact FY22</b>
<b>Revenues</b>	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0
<b>Net</b>	\$0	\$0	\$0

**IMPACT ON REVENUES:** It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

**IMPACT ON EXPENDITURES:** It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** New York City Council Finance Davison

**ESTIMATE PREPARED BY:** Luke Zangerle, Financial Analyst

**ESTIMATE REVIEWED BY:** Chima Obichere, Unit Head  
Noah Brick, Assistant Counsel

**LEGISLATIVE HISTORY:** This legislation was heard by the Committee on Housing and Buildings (Committee) as a preconsidered introduction on January 19, 2021. The legislation was subsequently amended and the amended version, Proposed Int. No. 2204-A, will be voted on by the Committee on January 28, 2021. Upon a successful Committee vote, the legislation will be introduced to the full Council and voted on January 28, 2021.

**DATE PREPARED:** January 21, 2021.

*Accordingly, this Committee recommends its adoption, as amended.*

**(The following is the text of Preconsidered Int. No. 2204-A:)**

Preconsidered Int. No. 2204-A

By Council Members D. Diaz, Lander, Cabrera, Barron, Adams, Yeger and Kallos.

**A Local Law to amend local law number 49 for the year 2019, relating to establishing a demonstration program to facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family dwellings, in relation to extending the time limit for filing construction documents for such program**

*Be it enacted by the Council as follows:*

Section 1. Sections 10, 16 and 17 of local law number 49 for the year 2019 are amended to read as follows:

§ 10. Time limit for filing of construction documents. Completed construction documents pursuant to this local law shall be filed with the department of buildings [within 18 months from the effective date of this local law] *no later than 6 months after the date of enactment of the local law that last amended this section* subject to

the provisions of articles 104 and 105 of chapter 1 of title 28 of the administrative code of the city of New York pertaining to time limitation of applications and expiration of permits.

§ 16. Report. No later than [48] 30 months after the date [this local law takes effect] *completed construction documents must be filed with the department of buildings pursuant to section ten of this local law*, an agency appointed by the mayor shall submit to the mayor and the speaker of the city council a report summarizing the impact of the demonstration program established by section two of this local law.

§ 17. This local law takes effect 120 days after it becomes law, provided that the provisions of paragraph 2 of subdivision a of section six of this local law and sections eight and nine of this local law shall not apply to any building in the program area for which a complete application for construction document approval is filed more than [18] 6 months after the date [this local law takes effect] *of enactment of the local law that last amended this section*.

§ 2. This local law takes effect immediately and shall be retroactive to and shall be deemed to be in full force and effect on and after January 1, 2021.

ROBERT E. CORNEGY, Jr., *Chairperson*; FERNANDO CABRERA, MARGARET S. CHIN; HELEN K. ROSENTHAL, BARRY S. GRODENCHIK, BILL PERKINS, MARK GJONAJ, CARLINA RIVERA, FARAH N. LOUIS; Committee on Housing and Buildings, January 28, 2020 (Remote Hearing). *Other Council Members Attending: Council Members D. Diaz, Koslowitz, and Powers.*

On motion of the Speaker (Council Member Johnson), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

### **Report of the Committee on Land Use**

At this point, the Speaker (Council Member Johnson) announced that the following items had been **preconsidered** by the Committee on Land Use and had been favorably reported for adoption.

Report for L.U. No. 716

**Report of the Committee on Land Use in favor of approving Application No. 20215009 SCK (475-Seat Intermediate School Facility) submitted pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 475-Seat Intermediate School Facility located at 4002 Ft. Hamilton Parkway (Block 5587, p/o Lot 38), Borough of Brooklyn, Council District 39, Community School District 15.**

The Committee on Land Use, to which the annexed preconsidered Land Use item was referred on January 21 2021, and which same Land Use item was coupled with the resolution shown below, respectfully

### **REPORTS:**

#### **SUBJECT**

**BROOKLYN CB - 12**

**20215009 SCK**

Application pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 475-Seat Intermediate School Facility located at 4002 Ft. Hamilton Parkway (Block 5587, p/o Lot 38), Borough of Brooklyn, Council District 39, Community School District 15.

**INTENT**

To approve the site plan for the construction of a new, approximately 475-Seat Intermediate School facility to accommodate students in Community School District No. 15.

**PUBLIC HEARING**

**DATE:** January 20, 2021

**Witnesses in Favor:** Two

**Witnesses Against:** None

**SUBCOMMITTEE RECOMMENDATION**

**DATE:** January 20, 2021

The Subcommittee recommends that the Land Use Committee approve the Site Plan.

**In Favor:**

Riley, Koo, Barron, Miller, Treyger.

**Against:**

None

**Abstain:**

None.

**COMMITTEE ACTION**

**DATE:** January 27, 2021

The Committee recommends that the Council approve the attached resolution.

**In Favor:**

Salamanca, Gibson, Barron, Deutsch, Koo, Levin, Miller, Reynoso, Treyger, Grodenchik, Adams, Ayala, Diaz, Moya, Rivera, Riley, Borelli.

**Against:**

None

**Abstain:**

None.

In connection herewith, Council Members Salamanca and Riley offered the following resolution:

Res. No. 1536

**Resolution approving the site plan for a new, approximately 475-Seat Intermediate School Facility located at 4002 Fort Hamilton Parkway (Block 5587, p/o Lot 38), Community District 12, Borough of Brooklyn (Non-ULURP No. 20215009 SCK; Preconsidered L.U. No. 716).**

By Council Members Salamanca and Riley.

**WHEREAS**, the New York City School Construction Authority submitted to the Council on January 19, 2021, a site plan pursuant to Section 1732 of the New York State Public Authorities Law for a new, approximately 475-Seat Intermediate School Facility located at 4002 Fort Hamilton Parkway (Block 5587, p/o Lot 38), Community District 12, Borough of Brooklyn, to accommodate students in Community School District No. 15 (the “Site Plan”);

**WHEREAS**, the Site Plan is subject to review and action by the Council pursuant to Section 1732 of the New York State Public Authorities Law;

**WHEREAS**, upon due notice, the Council held a public hearing on the Site Plan on January 20, 2021;

**WHEREAS**, the Council has considered the relevant environmental issues, including the negative declaration issued on December 7, 2020, (SEQR Project Number 21-001) (the “Negative Declaration”); and

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Site Plan.

**RESOLVED:**

The Council finds that the action described herein will have no significant effect on the environment as set forth in the Negative Declaration.

Pursuant to Section 1732 of the Public Authorities Law, the Council approves the Site Plan.

RAFAEL SALAMANCA, Jr., *Chairperson*; PETER A. KOO, STEPHEN T. LEVIN, VANESSA L. GIBSON, INEZ D. BARRON, CHAIM M. DEUTSCH, I. DANEEK MILLER, ANTONIO REYNOSO, MARK TREYGER, BARRY S. GRODENCHIK, ADRIENNE E. ADAMS, DIANA AYALA, RUBEN DIAZ, Sr., FRANCISCO P. MOYA, CARLINA RIVERA, KEVIN C. RILEY, JOSEPH C. BORELLI; Committee on Land Use, January 27, 2021 (Remote Hearing).

On motion of the Speaker (Council Member Johnson), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

**GENERAL ORDER CALENDAR**

*There were no additional items listed on the General Order Calendar.*

**ROLL CALL ON GENERAL ORDERS FOR THE DAY**  
**(Items Coupled on General Order Calendar)**

- |                                      |   |
|--------------------------------------|---|
| (1) <b>Int 1116-B -</b>              | Expanding the availability of food vendor permits, creating an office of street vendor enforcement, and establishing a street vendor advisory board.  |
| (2) <b>Int 1420-C -</b>              | A study and report on 311 complaints resulting in unconfirmed conditions.   |
| (3) <b>Int 1832-B -</b>              | Requiring 311 to notify each agency when a request for service or complaint has not been closed within the number of days specified by such agency's service level agreement.   |
| (4) <b>Int 1994-A -</b>              | Voter education campaign regarding ranked choice voting.  |
| (5) <b>Int 2161-A -</b>              | Establishing a board to review workplace health and safety guidance during the COVID-19 pandemic.   |
| (6) <b>Int 2162-A -</b>              | Dissemination of occupational safety and health information to city employees during a public health emergency.   |
| (7) <b>Int 2166-B -</b>              | Administrative code of the city of New York in relation to the sale of tax liens.   |
| (8) <b>Int 2204-A -</b>              | Establishing a demonstration program to facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family dwellings, in relation to extending the time limit for filing construction documents for such program. |
| (9) <b>L.U. 716 &amp; Res 1536 -</b> | App. <b>20215009 SCK (475-Seat Intermediate School Facility)</b> Borough of Brooklyn, Council District 39, Community School District 15.  |

The Majority Leader and Acting President Pro Tempore (Council Member Cumbo) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

**Affirmative** – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Constantinides, Cornegy, Deutsch, D. Diaz, R. Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **47**.

**The General Order vote recorded for this Stated Meeting was 47-0-0 as shown above with the exception of the votes for the following legislative items:**

The following was the vote recorded for **Int. No. 1116-B**:

**Affirmative** – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Chin, Constantinides, D. Diaz, Dromm, Eugene, Gibson, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Van Bramer, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **34**.

**Negative** – Borelli, Cabrera, Cornegy, Deutsch, R. Diaz, Gjonaj, Grodenchik, Holden, Maisel, Ulrich, Vallone, Yeger, and the Minority Leader (Council Member Matteo) – **13**.

The following was the vote recorded for **Int. No. 1994-A**:

**Affirmative** – Adams, Ampry-Samuel, Ayala, Barron, Borelli, Brannan, Cabrera, Chin, Constantinides, Cornegy, Deutsch, D. Diaz, R. Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Miller, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, Van Bramer, Yeger, the Minority Leader (Council Member Matteo), and The Speaker (Council Member Johnson) – **46**.

**Negative** – The Majority Leader (Council Member Cumbo) – **1**.

The following was the vote recorded for **Int. No. 2166-B**:

**Affirmative** – Adams, Ampry-Samuel, Ayala, Borelli, Brannan, Chin, Constantinides, Cornegy, Deutsch, D. Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Holden, Kallos, Koo, Koslowitz, Levin, Levine, Louis, Maisel, Miller, Moya, Perkins, Powers, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Vallone, the Minority Leader (Council Member Matteo), the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **39**.

**Negative** – Barron, Cabrera, R. Diaz, Lander, Menchaca, Reynoso, Van Bramer, and Yeger – **8**.

The following was the vote recorded for **Int. No. 2204-A**:

**Affirmative** – Adams, Ampry-Samuel, Ayala, Barron, Brannan, Cabrera, Chin, Constantinides, Cornegy, Deutsch, D. Diaz, R. Diaz, Dromm, Eugene, Gibson, Gjonaj, Grodenchik, Kallos, Koo, Koslowitz, Lander, Levin, Levine, Louis, Maisel, Menchaca, Moya, Perkins, Powers, Reynoso, Riley, Rivera, Rodriguez, Rose, Rosenthal, Salamanca, Treyger, Ulrich, Van Bramer, Yeger, the Majority Leader (Council Member Cumbo), and The Speaker (Council Member Johnson) – **42**.

**Negative** – Borelli, Holden, Vallone, and the Minority Leader (Council Member Matteo) – **4**.

**Abstention** – Miller – **1**.

*The following Introductions were sent to the Mayor for his consideration and approval:  
Int. Nos. 1116-B, 1420-C, 1832-B, 1994-A, 2161-A, 2162-A, 2166-B, and 2204-A.*

## INTRODUCTION AND READING OF BILLS

Preconsidered Res. No. 1532

### **Resolution calling on Congress to pass, and the President to sign, legislation amending the Stafford Act to proactively fund the planning and construction of FEMA and HUD coastal resiliency projects.**

By Council Members Brannan, Rose, Yeger and Kallos.

**Whereas**, The Robert T. Stafford Disaster Relief and Emergency Assistance Act (“the Stafford Act”) gives the president the power to declare a national emergency as a response to a national disaster, thereby allowing the president to access funds set aside by Congress to provide states with federal assistance during and after an emergency or disaster; and

**Whereas**, The United States (“U.S.”) has a number of agencies that work towards disaster relief, such as the Federal Emergency Management Agency (“FEMA”), the U.S. Department of Housing and Urban Development (“HUD”), and the U.S. Army Corps of Engineers (“USACE”); and

**Whereas**, Although FEMA and HUD administer federal funding programs for disaster relief and prevention, the USACE is also able to fund, design, and construct large-scale infrastructure projects, provided, however, that all allocations for such programs and projects must be planned for and earmarked in advance by Congress; and

**Whereas**, The Stafford Act required all funding requests must be in relation to a “major disaster” declaration by the president for a declared disaster that occurred in the past seven years; and

**Whereas**, The Safeguarding Tomorrow through Ongoing Risk Mitigation Act, or The STORM Act, was passed on January 1, 2021, amending the Stafford Act by adding § 205, which authorizes the FEMA Administrator to enter into agreements with a state or Indian tribal government (“eligible entity”) to make capitalization grants that are not contingent upon prior disaster declarations but are instead based on an application’s ability to detail both recurring major disaster vulnerabilities that show sizable risk and how the application’s plan would achieve resilience in a vulnerable area to establish hazard mitigation so as to help local governments carry out eligible projects to reduce disaster risks and decrease disaster costs, with single hazard mitigation projects having to be less than \$5 million; and,

**Whereas**, The STORM Act authorizes appropriations of \$100 million for each of Fiscal Year 2022 and Fiscal Year 2023, but has not authorized any appropriations after Fiscal Year 2023; and

**Whereas**, FEMA and HUD have dedicated disaster relief and mitigation funding programs, particularly FEMA’s Building Resilient Infrastructure and Communities (“BRIC”) and Disaster Relief Fund (“DRF”) and HUD’s Community Development Block Grant Mitigation (“CDBG-MIT”) and Disaster Relief (“CDBG-DR”) programs, all of which provide key frameworks and details for directing federal disaster funding in accordance with the Stafford Act; and

**Whereas**, While BRIC and CDBG-MIT were formulated with a focus on future disaster prevention and mitigation, they are still mandated by the Stafford Act to require funding allocations to be in relation to recent and past disasters; and

**Whereas**, The Stafford Act caps BRIC funding at up to 6 percent of the total estimated disaster expenditures associated with each presidential disaster declaration, with annual contributions depending on the number and cost of disasters in the previous year and all funds entering the National Public Infrastructure Pre-Disaster Mitigation Fund, leading to FEMA estimating annual contributions to this fund to be between \$300 and \$500 million nationwide; and

**Whereas**, For Fiscal Year 2020 (“FY2020”), BRIC was allocated \$500 million, and, in 2018, Congress appropriated \$15.9 billion to HUD for CDBG-MIT for mitigation activities for qualifying disasters in 2015, 2016, and 2017, but has not indicated plans for future CDBG-MIT appropriations or allocations; and

**Whereas**, In comparison, the New York City Council issued a report entitled “Securing Our Future: Strategies for New York City in the Fight Against Climate Change,” which included a snapshot of New York City’s (“NYC”) current coastal resiliency projects, which cost approximately \$52.87 billion in combined funding from NYC, New York State, USACE, FEMA, and HUD, demonstrating that current federal funding for coastal resiliency will not be sufficient for the future needs of both NYC and the nation at large; and

**Whereas**, Due to the advance of climate change, more and more national disasters are happening each year, with FEMA reporting more than twice the number of annual billion-dollar events in the U.S. were experienced in the 2010s compared to the 2000s, that 2020 bore witness to the most active Atlantic hurricane season on record, and that severe storms are becoming an increasing contributor to the number of billion-dollar events, with the average frequency of high-tide flooding already up 50 percent when compared to the frequency in 2000; and

**Whereas**, The National Oceanic and Atmospheric Administration (“NOAA”) found that NYC is under threat from disasters like flooding, sea level rise, and coastal storms due to its 520 miles of coastline, which is more shoreline mileage than the cities of Miami, Los Angeles, San Francisco, and Boston combined, meaning coastal resiliency efforts, which seek to protect against coastal hazardous events, are a necessary aspect of disaster prevention in NYC; and

**Whereas**, Regular tidal flooding is already occurring in NYC neighborhoods such as Broad Channel, Hamilton Beach, and Howard Beach, with a Lower Manhattan Climate Resilience Study conducted by NYC’s Economic Development Corporation and the Mayor’s Office of Recovery & Resiliency finding that by 2050, 37 percent of buildings in Lower Manhattan will be at risk from a rise in seawater level caused by a storm, otherwise known as storm surge; and

**Whereas**, FEMA recorded billions of dollars in National Flood Insurance Program (“NFIP”) payouts in the past decade, with six of the top 10 most significant NFIP payouts occurring in the past decade, and all 10 occurring since 2000, and has paid out \$830 million to NFIP policy holders in 2020 alone; and

**Whereas**, According to NOAA, coastal resiliency efforts are crucial to protecting against and minimizing the impacts of coastal hazards like flooding and storm surge, as well as coastal disasters like Hurricane Sandy, which cost \$19 billion in citywide damages and lost economic activity while also damaging over 69,000 residential units according to the NYC Mayor’s Office of Management and Budget; and

**Whereas**, Coastal resiliency efforts are predicated on preparing for, rather than reacting to, coastal hazards and consist of a myriad of different strategies, all of which take time and money to develop, yet, in 2020, FEMA published their “FEMA Mitigation Action Portfolio” which found that natural hazard mitigation saves, on average, \$6 in future disaster costs for every \$1 spent on federal grants; and

**Whereas**, As currently written, and other than what is authorized by the STORM Act, the Stafford Act only allows for mitigation funding as a reaction to past disasters as declared by the president, rather than a proactive protection against potential future disasters and damages, meaning that potential disasters which, due to climate change, could impact an area previously not affected by disasters, or wreak damage on an unprecedented level, would not allow an applicant to qualify for federal mitigation funding needed to build resiliency; and

**Whereas**, Proactive funding of coastal resiliency projects would entail both increased funding and easier access to disaster prevention funding, both of which would enhance and expedite current and future coastal resiliency plans, and which might cost-effectively reduce future needs for post-disaster funding and flood insurance payouts; now, therefore, be it

**Resolved**, That the Council of the City of New York calls on Congress to pass, and the President to sign, legislation amending the Stafford Act to proactively fund the planning and construction of FEMA and HUD coastal resiliency projects.

Adopted by the Council (preconsidered but laid over by the Committee on Resiliency and Waterfronts).

Res. No. 1533

**Resolution calling upon the State of New York to remove the name “Robert Moses” from various state parks, roadways and bridges in recognition of the racism that motivated specific characteristics of those venues and discouraged lower income New Yorkers, specifically people of color, from easily accessing them.**

By Council Member Cabrera.

**Whereas**, Robert Moses was a New York State and Municipal officer whose career in public works has been credited with shaping much of the physical landscape of New York City; and

**Whereas,** Robert Moses served as Commissioner of the New York City Department of Parks (1934 to 1960), Chairman of the Triborough Bridge and Tunnel Authority (1934 to 1981), President of the Jones Beach Parkway Authority (1933 to 1963), Commissioner of the New York City Planning Commission (1942 to 1960), Special Advisor on Housing for the Office of the Governor of New York (1974 through 1975), and President of the Long Island State Park Commission (1924 through 1963); and

**Whereas,** During his tenure, Robert Moses supervised the construction of 35 highways, 12 bridges, numerous parks and public housing projects, Lincoln Center, Shea Stadium, two hydroelectric dams and the 1964 World's Fair; and

**Whereas,** Entire neighborhoods and countless structures were razed in order to accommodate the building of new highways, parks, and cultural centers, overwhelmingly in low income and minority neighborhoods, thereby serving to sever rather than expand socioeconomic opportunities for its displaced residents;

**Whereas,** According to Robert Moses historian and John Jay College Professor Jason Haber, under the guise of urban renewal, 7,000 African Americans and Hispanics were evicted from a diverse working class neighborhood in order to make way for Lincoln Center; and

**Whereas,** Lacking political influence, neighborhoods of color were often unable to fight plans to bulldoze their largely middle and lower income neighborhoods; and

**Whereas,** While transportation remains inexorably linked to opportunity, Moses saw expressways as an antidote to what he termed "slum areas" and argued that new highways would provide urban renewal; and

**Whereas,** Professor Haber argued that Robert Moses built Jones Beach to accommodate white visitors, and knowing that most African Americans were not car owners at the time of construction, purposely built highway overpasses leading to Jones Beach too low for buses to access; and

**Whereas,** Professor Haber asserted "in 1936, Moses built 11 enormous pools across the city, but had no intention of permitting minorities to use them" as evidenced by "setting those built in Harlem to colder temperatures, believing, for whatever reason, that African Americans didn't like to swim in cold water"; and

**Whereas,** According to Brooklyn College political science Professor Gaston Alonso, many of the expressways built by Robert Moses not only served to displace thousands of underserved and predominantly low income residents by effectively walling off neighborhoods and creating commercial deserts, but those expressways continue to cause hazardous and unhealthy traffic conditions in those communities while bypassing local commerce and robbing communities of favorable economic and cultural opportunities; and

**Whereas,** The Cross Bronx Expressway has served to segregate middle and upper class residents to the north from the lower income residents to the south and prioritized a car culture above public transportation such as the subway; and

**Whereas,** According to the MIT-Boston University Big Dig Seminar Report, construction of the Cross Bronx Expressway permanently destroyed neighborhoods and "displaced as many as 5,000 families" when an alternate route proposed by then Bronx Borough President James Lyons along Crotona Park would have affected no more than 19 families; and

**Whereas,** According to the Sheridan Hunts Point Land Use and Transportation Study, the Sheridan Expressway in the Hunts Point Community has long served to congest the surrounding neighborhoods and obstruct access to the Bronx River Waterfront; and

**Whereas,** Improvements to the Sheridan Expressway would result in improved air quality, increased pedestrian safety and access to Hunts Point peninsula food centers, open access to waterfront parkland and include new residential and commercial opportunities for local residents; and

**Whereas,** In order to build the Belt Parkway, Jamaica Bay marshland was infilled causing negative environmental impacts on the nearby communities, as evidenced by the extensive flooding caused by Hurricane Sandy; and

**Whereas,** Robert Moses sought to also build his visions in other states, Former Obama Administration Transportation Secretary Anthony Foxx described Moses' Harlem Park in West Baltimore as a once "thriving middle class Black neighborhood" which, in spite of the project never having been built, saw its neighborhood razed by Robert Moses who called the neighborhood a slum and was quoted as saying "the more of them that are wiped out the healthier Baltimore will be in the long run"; and

**Whereas,** Secretary Foxx observed that roughly two-thirds of the families displaced by Moses' American highway construction projects were poor and mostly African American residents, and argued that the role of

transportation should serve to “strengthen communities along the highways, instead of its origins and destinations,” and should further opportunities for and within the communities themselves; and

**Whereas**, In order to support and recognize New York City neighborhoods that have been disproportionately affected, disenfranchised and disconnected from opportunities as a result of the actions of Robert Moses; therefore, be it

**Resolved**, That the Council of the City of New York calls upon the State of New York to remove the name “Robert Moses” from various state parks, roadways and bridges in recognition of the racism that motivated specific characteristics of those venues and discouraged lower income New Yorkers, specifically people of color, from easily accessing them.

Referred to the Committee on Cultural Affairs, Libraries and International Intergroup Relations.

Res. No. 1534

**Resolution calling on the Governor and the Chief Judge of the State of New York to implement appropriate COVID-19 safety protocols and improve the efficiency of criminal trials.**

By Council Members Cabrera and Kallos.

**Whereas**, In December 2020, the New York Times reported that only nine criminal trials had been held in a nine month period, as the coronavirus, COVID-19, has wreaked havoc on the New York City court systems; and

**Whereas**, According to the New York Office of Court Administration, temporary stops have recently been placed on jury services due to advice from epidemiologists and Governor Cuomo’s directives concerning limiting congregation of groups of people to prevent spread of the virus; and

**Whereas**, To bolster protections for in-person trials, the New York State Unified Court System has stated that courtrooms across the state have installed Plexiglas barriers and spaced seating to allow individuals to be appropriately distanced, though some have said such measures have been faulty in implementation; and

**Whereas**, According to testimony presented by the Legal Aid Society on September 4, 2020, to the New York State Senate, studies have shown that New York City courthouses still pose “an unacceptable high risk” of spreading COVID-19 due to issues with crowding, inadequate ventilation, and the improper use of masks; and

**Whereas**, According to the Equal Justice Initiative, incarcerated people are among the highest risk groups for contracting COVID-19 and experience a higher infection death rate than the national average; and

**Whereas**, According to New York’s chief administrative judge, Lawrence K. Marks, a criminal justice system cannot be fully functioning if it is not conducting jury trials, underlining the unfair conditions that have left people languishing in detention with no prospect of a trial; and

**Whereas**, According to the University of Chicago’s Law Review’s series on COVID-19 and Criminal Justice, 38 states, as well as the District of Columbia and Puerto Rico, have encouraged the use of virtual technologies to facilitate hearings and increase accessibility and efficiency; and

**Whereas**, When discussing the equipment that is currently being used to facilitate distanced proceedings in New York City, Manhattan criminal lawyer Eric Creizman noted, “The whole technology seems like it was from the days of Alexander Graham Bell,” such as the use of walkies-talkies and telephones for making communications; and

**Whereas**, According to a November 12, 2020, article published by the New York Law Journal entitled “It’s Time for Virtual Justice,” virtual technologies have an opportunity to make trials more efficient, flexible, and streamlined as a smart and effective way of keeping the participants safe in any given proceeding; and

**Whereas**, In an effort to restart criminal trials in New York City, further measures such as videoconference and teleconference technology must be adopted to increase the efficiency of trials and reduce the backlog of criminal trials; and

**Whereas**, These measures will not only protect defendants from their prolonged risk of COVID-19 in detention facilities, but also promote the basic civil right to a speedy trial; now, therefore, be it

**Resolved,** That the Council of the City of New York calls on the Governor and the Chief Judge of the State of New York to implement appropriate COVID-19 safety protocols and improve the efficiency of criminal trials.

Referred to the Committee on Public Safety.

Preconsidered Int. No. 2204-A

By Council Members D. Diaz, Lander, Cabrera, Barron, Adams, Yeger and Kallos.

**A Local Law to amend local law number 49 for the year 2019, relating to establishing a demonstration program to facilitate the creation and alteration of habitable apartments in basements and cellars of certain one- and two-family dwellings, in relation to extending the time limit for filing construction documents for such program**

*Be it enacted by the Council as follows:*

Section 1. Sections 10, 16 and 17 of local law number 49 for the year 2019 are amended to read as follows:

§ 10. Time limit for filing of construction documents. Completed construction documents pursuant to this local law shall be filed with the department of buildings [within 18 months from the effective date of this local law] *no later than 6 months after the date of enactment of the local law that last amended this section* subject to the provisions of articles 104 and 105 of chapter 1 of title 28 of the administrative code of the city of New York pertaining to time limitation of applications and expiration of permits.

§ 16. Report. No later than [48] 30 months after the date [this local law takes effect] *completed construction documents must be filed with the department of buildings pursuant to section ten of this local law*, an agency appointed by the mayor shall submit to the mayor and the speaker of the city council a report summarizing the impact of the demonstration program established by section two of this local law.

§ 17. This local law takes effect 120 days after it becomes law, provided that the provisions of paragraph 2 of subdivision a of section six of this local law and sections eight and nine of this local law shall not apply to any building in the program area for which a complete application for construction document approval is filed more than [18] 6 months after the date [this local law takes effect] *of enactment of the local law that last amended this section*.

§ 2. This local law takes effect immediately and shall be retroactive to and shall be deemed to be in full force and effect on and after January 1, 2021.

Adopted by the Council (preconsidered as amended by the Committee on Housing and Buildings).

Int. No. 2205

By Council Members Kallos and Yeger.

**A Local Law to amend the New York city charter, in relation to early voting**

*Be it enacted by the Council as follows:*

Section 1. Chapter 46 of the New York city charter is amended by adding a new section 1057-h to read as follows:

§ 1057-h. Early voting.

a. For the purposes of this section, the following terms have the following meanings:

*Board of elections.* The term “board of elections” means the board of elections in the city of New York.

*Covered election.* The term “covered election” means any election administered by the board of elections for which early voting is authorized pursuant to subdivision 1 of section 8-600 of the election law.

*Early voting.* The term “early voting” means voting in the manner authorized by title VI of article eight of the election law.

*Early voting period.* The term “early voting period” means the period during which early voting is permitted pursuant to subdivision 1 of section 8-600 of the election law.

b. 1. Throughout the early voting period, polling places in the city of New York shall be open for early voting from:

(a) No later than eight o’clock in the morning until no earlier than eight o’clock in the evening on each week day; and

(c) No later than nine o’clock in the morning until no earlier than five o’clock in the afternoon on Saturday and Sunday.

2. Nothing in this section shall be construed to prohibit the board of elections from establishing a greater number of hours for voting during the early voting period beyond the number of hours required by this subdivision.

c. 1. For each covered election taking place prior to January 1, 2023, the board of elections shall designate no fewer than two polling places for early voting in each council district.

2. For each covered election taking place on or after January 1, 2023, the board of elections shall designate no fewer than four polling places for early voting in each council district.

3. The board of elections shall use reasonable efforts, which shall include, but need not be limited to, collaborating with council members and community boards, to designate additional polling places for early voting beyond the minimum numbers required by paragraphs one and two; provided, however, that the board of elections shall not be required to designate more than eight early voting polling places in any council district.

d. 1. Paragraph (c) of subdivision two of section 8-600 of the election law shall not apply to any primary or special election in the city of New York.

2. To the extent any other provision of title VI of article eight of the election law or any rule or regulation promulgated thereunder is inconsistent with a provision of this section, the provision of this section shall apply.

§ 2. This local law takes effect immediately.

Referred to the Committee on Governmental Operations.

Int. No. 2206

By Council Members Lander, Gjonaj, Yeger and Kallos.

**A Local Law to amend the administrative code of the city of New York, in relation the provision of financial grants to small businesses and non-profit organizations to be used for cleaning expenses**

*Be it enacted by the Council as follows:*

Section 1. Chapter 10 of title 22 of the administrative code of the city of New York is amended by adding a new section 22-1006 to read as follows:

§ 22-1006 *Infectious disease related cleaning expenses.* a. *Definitions.* For the purposes of this section, the following terms have the following meanings:

*Financial grant.* The term “financial grant” means the provision of money to an entity without an obligation of repayment.

*Public health emergency.* The term “public health emergency” means any declared state of emergency made in response to an outbreak of an infectious disease or other circumstances warranting enhanced sanitizing procedures for public health purposes as determined by the commissioner.

*Small business.* The term “small business” means a small business as defined by the United States small business administration pursuant to part 121 of title 13 of the code of federal regulations.

*b. The department shall establish and operate a program to provide financial grants to small businesses and non-profit organizations to assist in the purchasing of cleaning supplies and services to minimize the spread of infectious disease during a public health emergency.*

*c. The commissioner shall establish criteria and procedures for the application for, and disbursement of, grants pursuant to this section. Such criteria and procedures shall be made publicly available on the department's website.*

§ 2. This local law takes effect 90 days after it becomes law, provided that the commissioner of small business services may take all actions necessary for its implementation, including the promulgation of rules, before such effective date.

Referred to the Committee on Small Business.

Res. No. 1535

**Resolution calling on the New York State Legislature to pass, and the Governor to sign, legislation allowing local health departments to implement changes to improve the COVID-19 vaccine roll out.**

By Council Members Miller, Cabrera, Moya, Ampry-Samuel, Adams, Koo, Louis, Kallos, Chin, Grodenchik, Ayala, Lander, Levine, Rosenthal, Powers, Riley, Gibson, Brannan and Rose (at the request of the Brooklyn Borough President).

**Whereas**, A novel coronavirus, called SARS-CoV-2, first emerged in late 2019 and spread rapidly around the world; and

**Whereas**, New York City, which was the epicenter of the pandemic for months, has been devastated both economically and emotionally; and

**Whereas**, As of January 15, 2021, 517,729 residents of New York City had tested positive for the disease caused by SARS-CoV-2, called COVID-19, with 73,272 hospitalized for treatment and 25,909 dying from the virus; and

**Whereas**, According to data from the New York City Department of Health and Mental Hygiene (DOHMH), COVID-19 has disproportionately impacted New York City residents who are Black, Latino, and lower income; and

**Whereas**, Residents of neighborhoods with 30 percent or more households living below the poverty line were more than twice as likely to die from COVID-19 as those living in neighborhoods with under 10 percent of households living in poverty; and

**Whereas**, New York City residents who are Black or Latino die from COVID-19 at nearly twice the rate of those who are white; and

**Whereas**, According to a preliminary report about disparities among Asian Americans at New York City's Public Hospital System, certain Asian American communities, including South Asians and those who are Chinese, were also disproportionately impacted by COVID-19; and

**Whereas**, DOHMH data, and other health data in general, is limited because they aggregate all Asian ethnic groups into a single race category, which can obscure differences in characteristics and outcomes between these diverse groups; and

**Whereas**, Starting in December 2020, the City began administering COVID-19 vaccines to the first group of individuals eligible, including staff and residents of long-term care facilities and frontline health care workers; and

**Whereas**, In January 2020, eligibility was expanded to all New Yorkers over the age of 65, as well as many essential workers; and

**Whereas**, Despite increased eligibility, the pace of vaccine deployment is insufficient to combat the crisis as infections and deaths continue to rise; and

**Whereas**, The COVID positivity rate in New York City, as of January 15, 2021, is nearly 8.5 percent, with some neighborhoods experiencing rates of over 15 percent; and

**Whereas,** As of January 14, 2021, only 337,518 vaccine doses have been administered in New York City, out of 800,500 available doses; and

**Whereas,** On January 5, 2021, Brooklyn Borough President Eric Adams and the New York City Council's Black, Latino, and Asian Caucus shared a letter with New York State Department of Health (NYSDOH) Commissioner Howard Zucker and DOHMH Commissioner Dave Chokshi outlining steps to improve the vaccination process; and

**Whereas,** According to the letter, vaccine distribution must be executed with maximum urgency, and no less frequently than 24 hours per day, 7 days per week; and

**Whereas,** NYSDOH must expand eligibility to include those with underlying health conditions as well as those who live in the zip codes most impacted by COVID-19; and

**Whereas,** NYSDOH should create a more transparent, color-coded, tiered system to define each level of eligibility for the vaccine; and

**Whereas,** Regardless of eligibility, the City and State should ensure that all vaccine doses are used each day by creating a vaccine standby list for residents, so individuals can receive a vaccine if it would otherwise go to waste; and

**Whereas,** The City and State should create a hotline for New Yorkers to use to book vaccine appointments as well as educate them about the proof they will need to provide at the vaccine site; and

**Whereas,** All vaccination sites should require proof of eligibility from everyone with an appointment; and

**Whereas,** To ensure immigrants and other at-risk communities are connected with the vaccination program, the City and State must work with advocacy organizations and those groups on the ground that can help them prove eligibility and to build the queue for the next round vaccines, once more individuals become eligible; and

**Whereas,** The City must immediately provide a map of vaccine locations; and

**Whereas,** To ensure equitable distribution, locations should be open 24 hours a day and should include schools without student populations currently doing in-person learning, schoolyards, houses of worship, and senior centers; and

**Whereas,** To provide adequate staffing, the City and State should incentivize people to help supervise sites and administer the vaccine, including individuals who are retired health professionals, medical students, the American Red Cross, and the NYC Blood Bank; and

**Whereas,** The City needs a vaccine distribution plan that recognizes the urgency of vaccinating every resident, while prioritizing those most in need, and one that ensures that the City and State are working in concert with one another; and

**Whereas,** In addition to the vaccine distribution planning steps in the letter, the State must also develop a publicly accessible, real-time vaccination dashboard which discloses vaccination data disaggregated by race, ethnicity, gender, age, sexual orientation, employment, and zip code; and

**Whereas,** Along with urgency, we must ensure that our vaccination plan is equitable and reaching communities most impacted by COVID-19; now, therefore, be it

**Resolved,** That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, legislation allowing local health departments to implement changes to improve the COVID-19 vaccine roll out.

Referred to the Committee on Health.

Int. No. 2207

By Council Members Powers and Cornegy.

**A Local Law to amend the administrative code of the city of New York, in relation to permitting dwelling occupants to postpone indoor allergen hazard inspections until after the COVID-19 state of emergency, and providing for the repeal of such provision upon the expiration thereof**

*Be it enacted by the Council as follows:*

Section 1. Subdivision b of section 27-2017.2 of the administrative code of the city of New York, as added by local law number 55 for the year 2018, is amended to read as follows:

b. Investigations shall be undertaken at least once a year and more often if necessary, such as when, in the exercise of reasonable care, an owner knows or should have known of a condition that is reasonably foreseeable to cause an indoor allergen hazard, or an occupant makes a complaint concerning a condition that is likely to cause an indoor allergen hazard or requests an inspection, or the department issues a notice of violation or orders the correction of a violation that is likely to cause an indoor allergen hazard. *An occupant may request postponement of such an investigation during the state of emergency declared by the mayor in response to the 2019 novel coronavirus and for up to one year after such state of emergency is lifted; however, an owner is not relieved of the requirement to cause an investigation to be made absent such a request for postponement by an occupant.*

§ 2. This local law takes effect immediately and expires and is deemed repealed one year after the date on which the state of emergency declared by the mayor's emergency executive order number 98, published March 12, 2020, as extended, has expired.

Referred to the Committee on Housing and Buildings.

Int. No. 2208

By Council Members Rivera, Yeger and Kallos.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of transportation to develop a map of current bicycle infrastructure conditions**

*Be it enacted by the Council as follows:*

Section 1. Subchapter 1 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-159.5 to read as follows:

§ 19-159.5. *Map of current bicycle infrastructure conditions. a. No later than October 1, 2021, and on the first day of each month thereafter, the department shall make available on its website a searchable map of every bicycle lane in the city.*

*b. Such map shall include:*

*1. The location of any bicycle lane that is obstructed, in whole or in part, by street construction, maintenance or repair, or pursuant to any permit issued by an agency of the city, where such obstruction persists for a period of 14 days or longer;*

*2. The location of any temporary bicycle lane, as set forth in section 19-159.3;*

*3. Following any emergency weather declaration, the location of any bicycle lane that is obstructed, in whole or in part, by hazardous conditions including snow, ice and flooding, and weather specific recommendations for cycling in such conditions;*

*4. Locations exhibiting a pattern of crashes involving pedestrians and/or cyclists, as set forth in section 19-181;*

*5. The location of any bicycle lanes that exist in space shared with pedestrian paths;*

*6. The location of bicycle lane features that may lead to conflict with vehicles or other hazards, including, but not limited to narrow lane widths, high vehicle speeds or traffic volumes, and nonstandard lane or intersection designs;*

*7. The location of any active street resurfacing or reconstruction projects;*

*8. The location of any other potentially hazardous conditions present in bicycle lanes known to the department;*

*9. The location of all bicycle parking infrastructure;*

*10. The location of docks for bicycle share programs, and real time bicycle availability data, if available;*

*11. The locations of and information on any streets closed to vehicle traffic and open to bicycle travel;*

*12. The location of and information on businesses or other entities that provide bicycle repair, maintenance or other related services;*

13. *Information on reporting bicycle lane issues to appropriate agencies;*  
 14. *Reports of bicycle lane issues made through the 311 system;*  
 15. *Any bicycle traffic volume data collected by the department on an annual or more frequent basis; and*  
 16. *Information on planned bicycle lane projects for new or existing lanes.*
- § 2. This local law takes effect immediately.

Referred to the Committee on Transportation.

Preconsidered L.U. No. 716

By Council Member Salamanca:

**Application No. 20215009 SCK (475-Seat Intermediate School Facility) submitted pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 475-Seat Intermediate School Facility located at 4002 Ft. Hamilton Parkway (Block 5587, p/o Lot 38), Borough of Brooklyn, Council District 39, Community School District 15.**

Adopted by the Council (preconsidered and approved by the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings and Dispositions).

Preconsidered L.U. No. 717

By Council Member Salamanca:

**Application No. 20215011 HIK; N 210176 HIK (Angel Guardian Home) the designation by the Landmarks Preservation Commission of the Angel Guardian Home located at 6301 12<sup>th</sup> Avenue (aka 6301-6323 12<sup>th</sup> Avenue, 1202-1216 63<sup>rd</sup> Street, and 1201-1215 64<sup>th</sup> Street) Tax Map Block 5739, p/o Lot 1, as an historic landmark (DL-520/LP-2613), submitted pursuant to Section 3020 of the New York City Charter and Section 25-303 of the Administrative Code of the City of New York, Borough of Brooklyn, Council District 38, Community District 10.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings and Dispositions (preconsidered but laid over by the Subcommittee on Landmarks, Public Sitings and Dispositions).

Preconsidered L.U. No. 718

By Council Member Salamanca:

**Application No. C 180496 ZMK (1620 Cortelyou Road Rezoning) submitted by 1600/20 Realty Corp., pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22c, changing from an existing R6A District to an R7D District property bounded by Cortelyou Road, East 17<sup>th</sup> Street, a line 100 feet southeasterly of Cortelyou Road, and East 16<sup>th</sup> Street, Borough of Brooklyn, Community District 40, Council District 14.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered but laid over by the Subcommittee on Zoning & Franchises).

## Preconsidered L.U. No. 719

By Council Member Salamanca:

**Application No. N 180497 ZRK (1620 Cortelyou Road Rezoning) submitted by 1600/20 Realty Corp., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 40, Council District 14.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered but laid over by the Subcommittee on Zoning & Franchises).

## Preconsidered L.U. No. 720

By Council Member Salamanca:

**Application No. C 190517 ZMQ (42-01 28<sup>th</sup> Avenue Rezoning) submitted by Vlacich, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section Nos. 9a and 9c, establishing within an R5 District a C1-2 District, changing from an R5 District to an R6A District, and establishing within the proposed R6A District a C1-2 District, Borough of Queens, Community District 1, Council District 22.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered but laid over by the Subcommittee on Zoning & Franchises).

## Preconsidered L.U. No. 721

By Council Member Salamanca:

**Application No. N 190518 ZRQ (42-01 28<sup>th</sup> Avenue Rezoning) submitted by Vlacich, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Queens, Community District 1, Council District 22.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered but laid over by the Subcommittee on Zoning & Franchises).

## Preconsidered L.U. No. 722

By Council Member Salamanca:

**Application No. C 200062 ZMK (16<sup>th</sup> Avenue Rezoning) submitted by Borough Park Realty, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 22d, eliminating from within an existing R5 District a C2-2 District and changing from an existing R5 District a C4-4A District, Borough of Brooklyn, Community District 12, Council District 44.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered but laid over by the Subcommittee on Zoning & Franchises).

## Preconsidered L.U. No. 723

By Council Member Salamanca:

**Application No. N 200063 ZRK (16<sup>th</sup> Avenue Rezoning) submitted by Borough Park Realty, LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Brooklyn, Community District 12, Council District 44.**

Referred to the Committee on Land Use and the Subcommittee on Zoning & Franchises (preconsidered but laid over by the Subcommittee on Zoning & Franchises).

## L.U. No. 724

By Council Member Salamanca:

**Application No. 20215012 HKK / N 210194 HKK (East 25<sup>th</sup> Street Historic District) submitted by the Landmarks Preservation Commission pursuant to Section 3020 of the New York City Charter and Chapter 3 of Title 25 of the Administrative Code of the City of New York, for the designation as a historic district of the East 25<sup>th</sup> Street Historic District (DL 521, LP-2647), containing the property bounded by a line beginning on the eastern curblineline of East 25th Street at a point on a line extending westerly from the northern property line of 315 East 25th Street, and extending easterly along said line and the northern property line of 315 East 25th Street, southerly along the eastern property lines of 315 to 377 East 25th Street, westerly along the southern property line of 377 East 25th Street, across East 25th Street and along the southern property line of 378 East 25th Street, northerly along the western property lines of 378 to 314 East 25th Street, and easterly along the northern property line of 314 East 25th Street and across East 25th Street to the point of beginning, Borough of Brooklyn, Community District 17, Council District 45.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings & Dispositions.

## L.U. No. 725

By Council Member Salamanca:

**Application No. 20215014 HAM (Everlasting Pine HDFC Ground Lease Amendment) submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law requesting waiver of the designation requirements of Section 693 of the General Municipal Law, waiver of the requirements of Sections 197-c and 197-d of the Charter, and approval of an Urban Development Action Area Project for property located at 96 Baxter Street (Block 198, p/o Lot 126), Borough of Manhattan, Community District 1, Council District 1.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Sitings & Dispositions.

NEW YORK CITY COUNCIL

**A N N O U N C E M E N T S**

**Monday, February 8, 2021**

Committee on Housing and Buildings jointly with the  
Committee on Resiliency and Waterfronts

Robert Cornegy, Jr., Chairperson  
Justin Brannan, Chairperson

**Oversight** – Neighborhood Resiliency

**Int 566** - By Council Member Treyger - **A Local Law** to amend the administrative code of the city of New York, in relation to the creation of a free elevation certificate program.

**Int 962** - By Council Member Constantinides - **A Local Law** to amend the New York city building code, in relation to allowed amount of impermeable area at zoning lots.

Remote Hearing (Virtual Room 1).....10:00 a.m.

**Tuesday, February 9, 2021**

Subcommittee on Zoning & Franchises

Francisco Moya, Chairperson

**See Land Use Calendar**

Remote Hearing (Virtual Room 1).....10:00 a.m.

**Wednesday, February 10, 2021**

Committee on Immigration jointly with the  
Committee on Aging

Carlos Menchaca, Chairperson  
Margaret Chin, Chairperson

**Oversight** - Older Adult Immigrant Population.

Remote Hearing (Virtual Room 3).....10:00 a.m.

Committee on Transportation

Ydanis Rodriguez, Chairperson

**Oversight** - The MTA in the Era of COVID-19.

Remote Hearing (Virtual Room 2).....10:00 a.m.

Subcommittee on Landmarks, Public Sitings and Dispositions

Vacant, Chairperson

**See Land Use Calendar**

Remote Hearing (Virtual Room 1).....2:00 p.m.

**Thursday, February 11, 2021**

Committee on Land Use

Rafael Salamanca, Jr., Chairperson

**All items reported out of the Subcommittees  
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY**

Remote Hearing (Virtual Room 1).....11:00 a.m.

**Wednesday, February 17, 2021**

[Committee on Health](#) jointly with the  
[Committee on Aging](#)

Mark Levine, Chairperson  
Margaret Chin, Chairperson

**Oversight - COVID and Seniors: Protecting Older Adults in the Community.**

Remote Hearing (Virtual Room 2).....10:00 a.m.

**Thursday, February 18, 2021**

[Committee on Economic Development](#)

Paul Vallone, Chairperson

**Int 2026** - By Council Members Vallone, Kallos, Chin and Rosenthal - **A Local Law** to amend the administrative code of the city of New York, in relation to reducing noise caused by chartered helicopters.

**Int 2027** - By Council Members Vallone, Chin and Kallos - **A Local Law** in relation to requiring the department of citywide administrative services to study electric powered takeoff and landing vehicles.

**Int 2067** - By Council Members Vallone, Chin and Kallos - **A Local Law** to amend the administrative code of the city of New York, in relation to collection of safety and route information regarding helicopters operating on city-owned property.

Remote Hearing (Virtual Room 2).....10:00 a.m.

**Monday, February 22, 2021**

[Committee on Youth Services](#)

Deborah Rose, Chairperson

**Oversight - Youth Count.**

Remote Hearing (Virtual Room 3).....11:00 a.m.

The following were among the comments made by the Speaker (Council Member Johnson) during the Communication from the Speaker segment of this meeting:

The Speaker (Council Member Johnson) acknowledged that January 27<sup>th</sup> marked International Holocaust Remembrance Day. He noted that this day of remembrance commemorates the liberation of Auschwitz and the millions of lives that were tragically lost during the Holocaust. The Speaker (Council Member Johnson) spoke of how International Holocaust Remembrance Day was an opportunity to reaffirm our commitment to fight hate and counter antisemitism. He acknowledged that the Council had voted in 2020 for a resolution to commemorate this day and to promote Holocaust education. The Speaker (Council Member Johnson) reiterated that the Council remained united with the Jewish people and sought to honor those who had survived the Holocaust by saying, “Never forget. Never again”.

The Speaker (Council Member Johnson) acknowledged the resignation of Michael Regan who stepped down as a City Council appointee to the New York City Board of Correction. This Board is the independent oversight agency for the jails in the City of New York. Mr. Regan served on the Board of Correction for 19 years from December 2001 until early January 2021 and was its Vice-Chair from 2006 to 2012. During Mr. Regan’s tenure, the Board played a significant role in monitoring and drawing attention to major issues in the city jail system such as solitary confinement, mental health treatment, and suicide. The Speaker (Council Member Johnson) also noted that Mr. Regan was a former Council staffer who had served as the Director of Communications. On behalf of the Council, he expressed his gratitude for his long service to the Board of Correction and to the City of New York.

Whereupon on motion of the Speaker (Council Member Johnson), the Majority Leader and Acting President Pro Tempore (Council Member Cumbo) adjourned these virtual proceedings.

MICHAEL M. McSWEENEY, City Clerk  
Clerk of the Council

*Editor's Local Law Note: Int. Nos. 1170-A, 1314-A, 1911-A, 2033-A, 2034-A, and 2068-A, all adopted by the Council at the December 10, 2020 Stated Meeting, were returned unsigned by the Mayor on January 11, 2021. These items had become law on January 10, 2021 due to the lack of Mayoral action within the Charter-prescribed thirty day time period. These bills were assigned subsequently as Local Laws Nos. 3 to 8 of 2021, respectively.*

*Int. Nos. 1770-A, 2058-A, 2104-A, 2151-B, 2171-A, and preconsidered Int. No. 2187, all adopted by the Council at the December 17, 2020 Stated Meeting, were returned unsigned by the Mayor on January 19, 2021. These items had become law on January 17, 2021 due to the lack of Mayoral action within the Charter-prescribed thirty day time period. These bills were assigned subsequently as Local Laws Nos. 9 to 14 of 2021, respectively.*

