LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2016

No. 31

Introduced by the Speaker (Council Member Mark-Viverito) and Council Members Constantinides, Levin, Garodnick, Lander, Palma, Richards, Rodriguez, Menchaca, Levine, Vallone, Vacca, Williams, Cumbo, Dromm, Reynoso, Rose, Espinal, Maisel, Crowley, Chin, Rosenthal, Van Bramer, Miller, Kallos, Johnson, Torres, Lancman, Cohen, Barron, Ferreras-Copeland, Treyger and Ulrich.

A LOCAL LAW

To amend the New York city charter, in relation to low energy intensity building requirements for certain capital projects.

Be it enacted by the Council as follows:

Section 1. Paragraph (1) of subdivision b of section 224.1 of the New York city charter, as amended by a local law of the city of New York for the year 2016 amending the New York city charter, in relation to green building standards for certain capital projects, as proposed in introduction number 721-A is amended to read as follows:

b. (1) Except as provided in paragraphs (3) of this subdivision, each capital project with an estimated construction cost of $2,000,000 or more involving (i) the construction of a new building, (ii) an addition to an existing building, or (iii) the substantial reconstruction of an existing building shall be designed and constructed to comply with green building standards not less stringent than the standards prescribed for buildings designed in accordance with the LEED green building rating system to achieve a LEED gold or higher rating, or, with respect to buildings classified in groups F or H, to achieve a LEED certified or higher rating, or with respect to buildings classified in occupancy group R, to comply with the version of the New York city

overlay of the Enterprise green communities criteria in effect as of the effective date of the local law adding paragraph (3) of this subdivision, or the version of such criteria designated by the department of housing preservation and development by rule; provided that capital projects with an estimated construction cost of less than $10,000,000 and that involve only an addition to or substantial reconstruction of an existing building classified in occupancy groups F or H are exempted from complying with this subdivision*; and further provided that capital projects with an estimated construction cost of $10,000,000 or more involving an addition to or substantial reconstruction of an existing building classified in occupancy groups F or H may be designed and constructed as low energy intensity buildings, as defined in subdivision l of this section, in lieu of complying with this subdivision*. If the mayor elects to utilize green building standards other than the LEED green building rating system, the mayor shall publish findings demonstrating that such other green building standards are not less stringent than the LEED standards described above for achievement of a LEED gold or, if applicable, a LEED certified rating. The green building standards utilized by the city in accordance with this section shall be reviewed and updated, as necessary, by the mayor no less often that once every three years.

§ 2. Subdivisions 1 and m of section 224.1 of the New York city charter, as amended by a local law of the city of New York for the year 2015 amending the New York city charter, in relation to green building standards for certain capital projects, as proposed in introduction number 721-A are amended to read as follows:

l. [Reserved.] *(1) As used in this subdivision:*

ASHRAE 90.1-2013. The term "ASHRAE 90.1-2013" means the 2013 edition of the energy standard for buildings except low-rise residential buildings, standard reference number

90.1-2013, published by the American society of heating, refrigerating and air conditioning engineers (ASHRAE).

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

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

Energy use intensity baseline. The term "energy use intensity baseline" means, for a building either (i) the median source energy use intensity for buildings designed and constructed for similar uses according to benchmarking data obtained under article 309 of title 28 of the administrative code within the year preceding the effective date of the local law that added this paragraph or (ii) the design energy use intensity of such building if designed and constructed according to the prescriptive and mandatory requirements of ASHRAE 90.1-2013.

Low energy intensity building. The term "low energy intensity building" means (i) a building that is not classified in occupancy groups F or H and that has been designed and constructed such that its design energy use intensity is equal to or less than (A) the low energy intensity target for such building or (B) if the mayor, or an office or agency designated by the mayor, has adopted an alternative low energy intensity target pursuant to paragraph (3) of this subdivision, such alternative target or (ii) a building that is classified in occupancy groups F or H and that has been designed and constructed such that (A) the energy usage of its base building systems, exclusive of process loads, is equal to or less than the low energy intensity target for such building or, if the mayor, or an office or agency designated by the mayor, has adopted an alternative low energy intensity target pursuant to paragraph (3) of this subdivision, such

alternative target for such building or (B) its design energy use intensity is at least 50 percent below the median source energy use intensity for buildings designed and constructed for similar uses according to benchmarking data obtained under article 309 of title 28 of the administrative code within the year preceding the effective date of the local law that added this paragraph.

Low energy intensity target. The term "low energy intensity target" means, (i) for a building that is not classified in occupancy groups F or H, the less stringent of (A) 50 percent below the energy use intensity baseline or (B) for new buildings, a source energy use intensity of 38 kBTU/yr per square foot of floor area and for additions to, or substantial reconstructions of, existing buildings, a source energy use intensity of 42 kBTU/yr per square foot of floor area and (ii) for a building classified in occupancy groups F or H, energy usage of the base building systems, exclusive of process loads, which is at least 50 percent less than such energy usage would be if such building were designed and constructed according to ASHRAE 90.1-2013.

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

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

Renewable energy sources. The term "renewable energy sources" means qualified energy resources, as such term is defined in section 45 of title 26 of the United States code.

Source energy use intensity. The term "source energy use intensity" means, for a building, the total energy used by such building in a year, including losses that take place during

generation, transmission and distribution of such energy, divided by the building's gross floor area.

(2) (i) Each capital project that involves the construction of a new city-owned building and each capital project that involves an addition to an existing city-owned building or the substantial reconstruction of an existing city-owned building, where such substantial reconstruction involves substantial work on the building envelope, shall be designed and constructed as a low energy intensity building.

(ii) For each capital project subject to subparagraph (i) of this paragraph the design agency shall consider the feasibility of designing and constructing such project as an onsite energy generating building.

(iii) For each capital project subject to subparagraph (i) of this paragraph with an estimated height of no more than three stories above grade, the design agency shall consider the feasibility of designing and constructing such project as a net zero energy building.

(iv) This paragraph shall apply only to capital projects which are added to the capital plan on or after July 1, 2017.

(3) The mayor, or an office or agency designated by the mayor, may establish an alternative low energy intensity target for buildings designed and constructed for a particular use, or for additions to, or substantial reconstructions of, existing buildings. Such alternative target may be equivalent to or more stringent than the low energy intensity target or, if the mayor or such designated office or agency determines that compliance with subparagraph (i) of paragraph (2) of this subdivision would be impracticable or unduly burdensome for such buildings or such work using the low energy intensity target, less stringent than such target. Where the mayor or such designated office or agency adopts such an alternative target, the mayor or such designated office

or agency shall, no later than 60 days after such adoption, submit to the council and make publicly available online a report describing such alternative target and the types of buildings or work to which it will apply. If such alternative target is less stringent than the corresponding low energy intensity target, such report shall set forth the reasons that compliance with subparagraph (i) of paragraph (2) of this subdivision using such low energy intensity target would be impracticable or unduly burdensome for such types of buildings or work and, in each fiscal year thereafter, the mayor or such designated office or agency shall submit to the council and make publicly available online a report stating whether the mayor or such designated office or agency has determined that such alternative targets continue to be necessary and, if so, a description of the reasons therefor and whether such targets can reasonably be made more stringent.

(4) No later than January 1, 2017, the mayor shall submit to the speaker of the council and make publicly available online a plan for ensuring that by 2030 capital projects subject to paragraph (2) of this subdivision will be designed and constructed so that new buildings have a source energy use intensity no greater than 38 kBTU/yr per square foot of floor area and that additions to, or substantial reconstructions of, existing buildings have a source energy use intensity of no greater than 42 kBTU/yr per square foot of floor area. Such plan shall include a list of policies, programs and actions that the city will seek to undertake to achieve such targets.

(5) In 2019 and every third year thereafter, the mayor shall, by June 30 of such year, submit to the speaker of the council and make publicly available online a report containing, at a minimum, recommended practices for designing and constructing low energy intensity buildings.

m. By no later than December 1 of each year, the mayor shall submit to the speaker of the council a report, in accordance with the procedure and format established by the department of design and construction, containing, at a minimum, the following information:

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

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

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

(iii) the estimated level of LEED certification such project has achieved as determined by the city agency that designed such project in accordance with the LEED green building rating system or, if applicable, the level achieved, as certified by the U.S. Green Building Council;

(iv) additional costs attributed to complying with the LEED green building rating system or any other green building standard; [and]

(v) *a statement as to whether such project has been designed and constructed as a low energy intensity building, onsite energy generating building or a net zero energy building and, for each project designed and constructed as a low energy intensity building, the low energy intensity target for such building or if the mayor, or an office or agency designated by the mayor, has adopted an alternative low energy intensity target pursuant to paragraph (3) of this subdivision, such alternative target;*

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

(vii) additional costs attributable to complying with the low energy intensity building requirements, the onsite energy generating requirements and the net zero energy building requirements of paragraph (2) of subdivision 1 of this section; and

(viii) an assessment of the health, environmental and energy-related benefits achieved in comparison with a base-case code compliant project, including projected energy savings and reductions in peak load, reductions in emissions and potable water use;

(2) *for each capital project subject to paragraph (2) of subdivision l that was commissioned before the preceding fiscal year and that is not a low energy intensity building, a summary of remedial actions taken and to be taken and the anticipated or actual start and completion dates of such actions;*

(3) a summary of agency findings related to additional investment in energy efficiency pursuant to subparagraphs (i) and (ii) of paragraph 2 of subdivision b of this section, including any additional investment in energy efficiency considered and the estimated payback time for such investment through savings in energy cost; and

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

§ 3. This local law shall take effect on the same date that a local law amending the New York city charter, in relation to green building standards for certain capital projects, as proposed in introduction number 721-A for the year 2016, takes effect.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 9, 2016 and approved by the Mayor on March 28, 2016.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 31 of 2016, Council Int. No. 701-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.