



New York City Environmental Justice Alliance

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New York City Environmental Justice Alliance comments to the New York City Council Committees on Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts, on proposed legislation following recommendations of the Building Resiliency Task Force, and the Mayors' Special Initiative on Rebuilding and Resiliency

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Founded in 1991, the New York City Environmental Justice Alliance (NYC-EJA) is a non-profit city-wide membership network linking grassroots organizations from low-income neighborhoods and communities of color in their struggle for environmental justice. NYC-EJA empowers its member organizations to advocate for improved environmental conditions and against inequitable environmental burdens. Through our efforts, member organizations coalesce around specific common issues that threaten the ability of low-income communities of color to thrive and coordinate campaigns designed to affect City and State policies. The impact of climate change and mitigation measures is central to NYC-EJA's agenda and members; the following recommendations are offered to expand the Council's thoughtful legislative agenda to better protect vulnerable environmentally-overburdened communities, as per our testimony at the June 27th hearing. We appreciate the opportunity to advocate for an equitable recovery process that integrates regional rebuilding efforts with local resiliency priorities, strengthens vulnerable communities & addresses public health impacts, expanding community-based climate change planning, preparedness & response.

NYC-EJA's Waterfront Justice Project (Background)

In 2010, NYC-EJA launched the Waterfront Justice Project, New York City's first citywide community resiliency campaign. When the City of New York initiated its overhaul of the Comprehensive Waterfront Plan (Vision 2020) in 2010, NYC-EJA began an advocacy campaign to convince the Bloomberg Administration to reform waterfront zones designated as the Significant Maritime and Industrial Areas (SMIAs.) These are zones designed to encourage the clustering and concentration of heavy industrial and polluting infrastructure uses. There are only six SMIAs in the City – all are located in classic “environmental justice” communities (the South Bronx, Sunset Park, Red Hook, Newtown Creek, Brooklyn Navy Yard & the North Shore of Staten Island) and predominantly low-income communities of color. Development applications in SMIAs are treated differently – and to a lower review standard – than other waterfront areas, thereby easing the siting and clustering of polluting infrastructure.

As part of these efforts, NYC-EJA discovered that the six SMIAs are all in hurricane storm surge zones, and that the City of New York had not analyzed the cumulative contamination exposure risks associated with clusters of heavy industrial use in such vulnerable locations. NYC-EJA began a research project to assess facilities that use, transport, or store hazardous or toxic substances in order to identify community vulnerability for those working and living in and around SMIAs in the event of severe weather. Preliminary results of this research were presented as part of NYC-EJA's testimony to the New York City Council Committee on Environmental Protection at the Hearing on Climate Change Impacts and

Mitigation Measures in New York City on December 16, 2011, and to the Committee on Public Safety at the hearing on Hurricane Sandy After Action Report And Recommendations on June 20th, 2013.

The Sandy Regional Assembly

Following the aftermath of Superstorm Sandy, NYC-EJA co-convened the Sandy Regional Assembly, an association of environmental justice organizations, community-based groups, labor unions and our allies from Superstorm Sandy-impacted and storm surge-vulnerable areas in New York City, New Jersey and Long Island. Nearly 200 participants representing over 40 organizations participated in a January 2013 meeting to assess the aftermath of Sandy and the role of local communities in the Sandy Recovery process. Together, we are advocating for a grassroots-led recovery that includes priorities of low-income people, communities of color, immigrants, and workers. Participants discussed goals and recommendations that structured the Sandy Regional Assembly Recovery Agenda, available at www.nyc-eja.org. The Agenda was released on April 1st 2013, and shared with the City Council, representatives of the Mayor's Special Initiative for Rebuilding and Resiliency (SIRR), state and federal officials for their incorporation in government recovery plans. Following the release of the SIRR plan, the Sandy Regional Assembly released an analysis of this document, and presented additional recommendations to the federal Hurricane Sandy Rebuilding Task Force highlighting unaddressed challenges and opportunities requiring special attention.

Recommendations

The following recommendations are submitted to the City Council based on the research that NYC-EJA has developed as part of the Waterfront Justice Project, and the goals articulated by the Sandy Regional Assembly:

a. Require the Mayor's Office of long-Term Planning and Sustainability to coordinate inter-agency efforts for climate adaptation and pollution prevention strategies that specifically address potential hazardous exposures deriving from climate change impacts (i.e. flooding, storm surge, strong winds, and sea-level-rise, among others) in industrial waterfront neighborhoods.

Rationale:

- Industrial waterfront neighborhoods require special attention given the vulnerability of residents and workers to potential hazardous exposures from vulnerable industrial facilities and unenclosed industrial sites in the event of severe weather.
- Superstorm Sandy reminded all New Yorkers, that climate change does not just include flooding, but the potential impacts of storm surge among other climate change impacts.
- Manufacturing and industrial uses, including infrastructure and utilities, are subject by the Zoning Resolution to performance standards. However, the current zoning performance standards that regulate uses in M3 districts are very low, uncoordinated, and out of date -- having been established in 1961 without a substantive update. Many Use Group 18 uses are also regulated by city, state and/or federal agencies - policies and regulations that reference the outdated performance standards in the zoning resolution as the basis for regulation, consistency determinations and/or enforcement.
- Besides zoning performance standards, industrial facilities are subject to the requirements of the Building Code. Unfortunately, these requirements do not apply to unenclosed industrial sites that do not include a building, require a certificate of occupancy, and therefore not subject to this Code.
- But even where there are various environmental regulations affecting hazardous substances in industrial waterfront neighborhoods, there is no level of coordination or enforcement oversight among them.

- The proposed regulation places exclusive emphasis on the characteristics of the built environment, where in industrial waterfront neighborhoods, the handling, transfer, disposal and storage of hazardous substances, currently require special attention.
- Besides coordinating policies, programs, regulation, and actions to meet the long-term needs of the city regarding sustainability, the Mayor's Office of Long-Term Planning and Sustainability should also develop measurable resiliency indicators, use them to assess the City's progress in this regard, and take actions to increase public awareness on resiliency and its practices.

Proposed language in bold/underlined; proposed deletions in ~~bold/strikethrough~~:

- Proposed Int. No. 1105-A: To amend the New York city charter, in relation to planning for resiliency to climate change as a responsibility of the office of long-term planning and sustainability:
 - §20.b.1: develop and coordinate the implementation of policies, programs, **regulation**, and actions to meet the long-term needs of the city, with respect to its infrastructure, environment and overall sustainability citywide, including but not limited to the categories of housing, open space, brownfields, transportation, water quality and infrastructure, , air quality, **hazardous substances and toxic chemicals**, energy, **public health and safety** and climate change; ~~the resiliency of critical infrastructure, the built environment, coastal protection, industrial waterfront activities involving hazardous substances, and communities;~~
 - §20.b.2: develop measurable sustainability **and resiliency** indicators, which shall be used to assess the city's progress in achieving sustainability **and resiliency** citywide; and
 - §20.b.3: take actions to increase public awareness and education regarding sustainability, **resiliency** and sustainable practices.
 - §20.e.1.i: an identification and analysis of long-term planning and sustainability issues associated with, but not limited to, housing, open space, brownfields, transportation, water quality and infrastructure, air quality, **hazardous substances and toxic chemicals**, energy, **public health and safety**, and climate change; and
 - §20.e.2: No later than ~~two thousand fifteen, and no later than every four years thereafter, the plan shall also include a list of policies, programs and actions that the city will seek to implement or undertake to achieve each goal relating to the resiliency of critical infrastructure, industrial waterfront activities involving hazardous substances, the built environment, coastal protection and communities.~~
- Proposed Int. No. 1090-A: A Local Law to amend the administrative code of the city of New York, in relation to studying the effects of wind on certain buildings:
 - §3-124.a.1: An analysis to determine the types of existing buildings that are at risk of causing falling debris, based on the age, construction classification, construction methods and materials, height, and occupancy use of such buildings – **including enclosed and unenclosed industrial facilities and sites that handle, transfer, dispose or store, hazardous substances and toxic chemicals;**
 - §3-124.a.4: An analysis of forecasts related to potential changes in the frequency, intensity, and path of future storm events, **including updated documentation on the**

speed and location of areas vulnerable to wind loads from projected storm surge events, along with consideration of whether climate change may impact wind speeds; and

- §3-124.b: The report shall include recommendations on paragraphs one through five of subdivision a of this section as well as recommendations on whether the applicable wind loads under the city's building code should be revised; whether standard wind plans for sites in various stages of construction are needed including equipment and temporary structures such as cranes, derricks, scaffolds, concrete formwork and sidewalk bridges; how equipment and temporary structures such as cranes, derricks, scaffolds, concrete formwork and sidewalk bridges should be designed and secured in light of wind effects; **how enclosed industrial facilities and unenclosed industrial sites that handle, transfer or store, hazardous substances and toxic chemicals should be designed and operated to prevent potential exposures as a result of winds impacts;** whether changes to the building code or department of buildings rules related to façade work filing and inspection exemptions or safety inspection requirements are necessary ; what wind load requirements should be applied to existing buildings, **and what wind load requirements should be required for unenclosed industrial sites, among other open storage spaces where the building code would not apply.**

- Proposed Int. No. Int. No. 1099-A: To amend the administrative code of the city of New York and the New York city building code, in relation to preventing wind damage to existing buildings.
 - 1601.2.4 Wind loads: (...) **The installation and alteration of curtain wall systems, windows, doors, attachments, fixtures, building mounted equipment, hand equipment enclosures, storage areas, including but not limited to industrial facilities and sites that handle, transfer or store, hazardous substances and toxic chemicals,** shall be governed by Section 1609 (...)

- Proposed Int. No. Int. No. 1095: A Local Law to amend the administrative code of the city of New York, in relation to creating a manual on flood construction and protection standards:
 - §28-103.21.2: **The manner in which specific utilities and attendant equipment, and hazardous substances and toxic chemicals,** must be protected from flooding (...)

- Proposed Int. No. 1098-A: To amend the New York city plumbing code, in relation to preventing the backflow of sewage:
 - Section 1.715.1, Sewage backflow: (...) **Buildings located in areas of special flood hazard, as established by Section G102.2 of Appendix G of the New York City Building Code, or industrial buildings located within a storm surge zone as established by the New York State Office of Emergency Management, or a hurricane evacuation zone as established by the New York City Office of Emergency Management,** shall be deemed to be subject to overflow as the result of backwater from the public sewer system and shall be provided with backwater valves

in accordance with the requirements of Section 7.3.3 of ASCE 24 as modified by Appendix G of the *New York City Building Code*.

- Section 1101.9.1, Backwater valves in special flood hazard areas: Backwater valves shall be installed in storm drainage systems in accordance with Section 7.3.4 of ASCE 24 as modified by Appendix G of the *New York City Building Code* for all buildings located in the areas of special flood hazard, as established by Section G102.2 of Appendix G of the *New York City Building Code*, or for industrial buildings located within a storm surge zone as established by the New York State Office of Emergency Management, or a hurricane evacuation zone as established by the New York City Office of Emergency Management.

b. Require that planning for resiliency is structured and carried out as an inclusive process that should incorporate vulnerable populations in planning and outreach activities, responding to their requirements.

Rationale:

- There is a need for detailed demographic (race and ethnicity), socio-economic and public health indicators to understand the impact of resiliency strategies on the most vulnerable population.
- Low-income areas and communities of color with a history of environmental justice, where pollution and contamination have created a disproportionate burden on residents and workers, experience quality of life issues that increase their vulnerability to climate change impacts.
- Disaster plans and climate adaptation measures need to focus on the most vulnerable population, including people with disabilities, residents in long-term care facilities, immigrant communities, seniors, youth, people with limited English proficiency, people with language access plans or disability plans, and residents of industrial waterfront communities vulnerable to storm surge.
- For this reason, population projections need to account for such demographic (including race and ethnicity), socio-economic and public health characteristics, in order to identify relevant trends experienced by this population, and respond to their specific needs.
- Moreover, planning for resiliency needs to be an inclusive process that should include vulnerable populations in planning and outreach activities, responding to their requirements – such as the creation of multilingual outreach materials, and ensuring that materials are accessible and widely distributed.

Proposed language in bold/underlined; proposed deletions in ~~strikethrough~~:

- Proposed Int. No. 1105-A: To amend the New York city charter, in relation to planning for resiliency to climate change as a responsibility of the office of long-term planning and sustainability:
 - §20.d: (...) ~~Where feasible,~~ Such projections shall include geographic ~~and~~ demographic (including race and ethnicity), socio-economic and public health indicators, and need to be disaggregated by community district, or any other smaller geographies were feasible.
 - §20.g: There shall be a sustainability advisory board whose members, including, at a minimum, representatives from environmental, environmental justice, public health and safety, community-based planning, engineering, coastal protection, critical infrastructure, labor, business and academic sectors, shall be appointed by the mayor.

- Proposed Int. No. 1094-A: To amend the New York city plumbing code and the administrative code of the city of New York, in relation to requiring residential buildings to provide drinking water to a common area supplied directly through pressure in the public water main:
 - 614.1.4, Signage: (...) Signs shall be readily visible, translated into another language other than English based on the second most spoken language in the building, and located near such fixtures, and on the door to any room or closet in which such a fixture is located, and on the main entrance to elevators or public stairways.
 - 614.1.5: In special flood hazard areas, or for buildings located within a storm surge zone as established by the New York State Office of Emergency Management, or a hurricane evacuation zone as established by the New York City Office of Emergency Management, fixtures, storm surge zones capable of supplying an emergency source of potable water in accordance with this section shall be located on a story that is entirely above the design flood elevation specified in ASCE 24, Table 7-1, as modified by Appendix G of the New York City Building Code.

We commend the Committees on Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts for inviting additional comments on these bills, expanding the opportunity for public comment. The City Council plays a critical role in ensuring that New York City fully recovers from Superstorm Sandy, and builds the resiliency required to face the challenges posed by future climate change impacts.