

By Council Members Constantinides, Richards, Johnson, Treyger, Levin, Rosenthal, Chin, Salamanca, Cohen, Menchaca and Gentile

A Local Law to amend the administrative code of the city of New York, in relation to requiring periodic recommendations on adoption of a more stringent energy efficiency requirements for buildings and energy use intensity requirements for new and substantially reconstructed buildings

Be it enacted by the Council as follows:

1           Section 1. Section 28-1001.1.1 of the administrative code of the city of New York is  
2 amended to read as follows:

3 **§ 28-1001.1.1 [Definition] Definitions.** As used in this [chapter, the] chapter:  
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5 **ASHRAE 90.1-2013.** The term “ASHRAE 90.1-2013” means the 2013 edition of the energy  
6 standard for buildings except low-rise residential buildings, standard reference number 90.1-2013,  
7 published by the American society of heating, refrigerating and air conditioning engineers  
8 (ASHRAE).  
9

10 **BUILDING SYSTEM.** The term “building system” has the same meaning as set forth in the New  
11 York city energy conservation code.  
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13 **COVERED BUILDING.** The term “covered building” has the same meaning as set forth in  
14 section 28-309.2 of this code.  
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16 **DESIGN ENERGY USE INTENSITY.** The term “design energy use intensity” means, for a  
17 building, the source energy use intensity projected for such building based on its design at the time  
18 of filing with the commissioner.  
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20 **ENERGY USE INTENSITY BASELINE.** The term “energy use intensity baseline” means, for  
21 a building, the design energy use intensity of such building as if designed and constructed  
22 according to the prescriptive and mandatory requirements of ASHRAE 90.1-2013.  
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24 **LOW ENERGY INTENSITY BUILDING.** The term “low energy intensity building” means:  
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- 26       1. A building that is not classified in occupancy groups F or H and that has been designed and  
27 constructed such that its design energy use intensity is equal to or less than (i) the low  
28 energy intensity target for such building or (ii) if an alternative low energy intensity target  
29 has been adopted pursuant to paragraph (3) of subdivision 1 of section 224.1 of the New  
30 York city charter and such target would apply to such building if such building were subject  
31 to such subdivision, such alternative target; or  
32

1        2. A building that is classified in occupancy groups F or H and that has been designed and  
2        constructed such that the regulated energy use of the building and its building systems, is  
3        equal to or less than the low energy intensity target for such building, or, if an alternative  
4        low energy intensity target has been adopted pursuant to paragraph (3) of subdivision 1 of  
5        section 224.1 of the New York city charter and such target would apply to such building if  
6        such building were subject to such section, such alternative target.

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8        **LOW ENERGY INTENSITY TARGET.** The term “low energy intensity target” means:

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10        1. For a building that is not classified in occupancy groups F or H, the less stringent of (i) 30  
11        percent below the energy use intensity baseline or (ii) for new buildings, a source energy  
12        use intensity of 38 kBTU/yr per square foot of floor area and, for substantial  
13        reconstructions of existing buildings, a source energy use intensity of 42 kBTU/yr per  
14        square foot of floor area, as defined by department rules;

15  
16        2. For a building classified in occupancy groups F or H, regulated energy use of the building  
17        systems, which is at least 30 percent less than such energy usage would be if such building  
18        were designed and constructed according to ASHRAE 90.1-2013.

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20        **NEW YORK STATE ENERGY CODE.** The term “New York State Energy Code” means the  
21        New York State Energy Conservation Construction Code (the "New York State Energy Code"),  
22        constituting part 1240 of title 19 of the New York codes, rules and regulations (19 NYCRR Part  
23        1240), and the publications incorporated by reference in such part, promulgated on September 21,  
24        2016, by the State Fire Prevention and Building Code Council pursuant to Article 11 of the New  
25        York State Energy Law.

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27        **QUALIFIED ENERGY SOURCE.** The term “qualified energy source” means a source of energy  
28        that is:

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30        1. A qualified energy resource, as such term is defined in section 45 of title 26 of the United  
31        States code in effect on January 1, 2017;

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33        2. A source that is determined to be renewable by the commissioner or the head of another  
34        agency or office designated by the mayor; or

35  
36        3. A source that is determined by the commissioner or the head of another agency or office  
37        designated by the mayor to have (i) a positive environmental impact or (ii) a substantially  
38        lower negative environmental impact than sources of energy other than those identified  
39        pursuant to paragraph 1 or 2 of this definition.

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41        **REGULATED ENERGY USE.** The term “regulated energy use” shall have the same definition  
42        as set forth in ASHRAE 90.1.

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44        **SOURCE ENERGY USE INTENSITY.** The term “source energy use intensity” means, for a  
45        building, the amount obtained by dividing (i) total energy used by such building in a year, other  
46        than energy generated from qualified energy sources, including losses that take place during

1 generation, transmission and distribution of such energy, expressed in thousand British thermal  
2 units per year (kBTU/yr) and weather-normalized in a manner that is established by the head of  
3 another agency or office designated by the mayor and consistent with the United States  
4 environmental protection agency portfolio manager, by (ii) the building's gross floor area, as  
5 defined by department rules.

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7 **SUBSTANTIAL RECONSTRUCTION.** The term “substantial reconstruction” means any  
8 alteration or improvement of an existing building, if such work involves alteration of forty percent  
9 or more of the building envelope and any two of the following, within a period of twenty-four  
10 months:

- 11  
12 1. Replacement of the equipment that provides heating capacity, including service hot water,  
13 to fifty percent or more of the building floor area;
- 14  
15 2. Replacement of the equipment that provides cooling capacity to fifty percent or more of  
16 the building floor area; or
- 17  
18 3. Replacement of fifty percent or more of the connected lighting load.

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20 § 2. Chapter 10 of title 28 of the administrative code of the city of New York is amended

21 by adding new sections 28-1001.3.3 and 28-1001.3.4 to read as follows:

22 **§ 28-1001.3.3 Stretch energy code.** When the commissioner submits proposed amendments to  
23 this code to the city council pursuant to section 28-1001.3.1, the commissioner, in consultation  
24 with the New York city energy conservation code advisory committee established pursuant to  
25 section 28-1001.3.2, shall for the first proposed amendments submitted to the city council pursuant  
26 to section 28-1001.3.1 in or after 2019, and for the first proposed amendments submitted to the  
27 city council pursuant to such section in or after 2022:

- 28  
29 1. Submit to the city council proposed amendments to this code to bring this code up to date  
30 with the most recent model stretch code published by the New York state energy research  
31 and development authority, provided that such model stretch code is more stringent than  
32 the New York State Energy Code in effect when such proposed amendments are submitted  
33 and provided further that such model stretch code was published on or after three years  
34 before such proposed amendments are submitted;
- 35  
36 2. If no such model stretch code exists at the time such amendments are to be submitted, the  
37 commissioner and such advisory committee shall at such time submit to the city council  
38 proposed amendments to this code, to ensure that the predicted source energy use intensity  
39 of buildings designed and constructed in compliance with this code is at least 20 percent  
40 less than the predicted source energy use intensity of buildings designed and constructed  
41 in compliance with the New York State Energy Code; or
- 42  
43 3. If no such model stretch code exists and the commissioner determines that proposed  
44 amendments to this code to achieve compliance with item 2 would render the design and

1 construction of buildings impracticable or unduly burdensome, the commissioner shall  
2 submit to the city council proposed amendments to ensure that the predicted source energy  
3 use intensity of buildings designed and constructed in compliance with this code is, to the  
4 fullest extent practicable, less than the predicted source energy use intensity of buildings  
5 designed and constructed in compliance with the New York State Energy Code, provided  
6 that, together with such proposed amendments, the head of the office of long-term  
7 planning and sustainability shall submit a report describing (i) why proposed amendments  
8 to achieve compliance with such item would render the design and construction of  
9 buildings impracticable or unduly burdensome and (ii) the estimated percentage by which  
10 the source energy use intensity of buildings designed and constructed in compliance with  
11 the amendments proposed by the commissioner would be less than the predicted source  
12 energy use intensity of buildings designed and constructed in compliance with the New  
13 York State Energy Code.

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15 **§ 28-1001.3.4 Low energy intensity buildings.** Beginning with the effective date of amendments  
16 to this code proposed on or after January 1, 2025, each (i) new building that would, upon  
17 completion, be a covered building and (ii) existing building undergoing substantial reconstruction  
18 that would, upon completion of such work, be a covered building, shall be designed and  
19 constructed as a low energy intensity building.

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21 § 3. This local law takes effect immediately.