

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

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:

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

§ 28-1001.1.1 [Definition] **Definitions.** As used in this [chapter, the] chapter:

**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 this code.

**COVERED BUILDING.** The term “covered building” shall have the same definition as set forth in section 28-309.2 of this 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 commissioner.

**ENERGY USE INTENSITY BASELINE.** The term “energy use intensity baseline” means, for a building either:

1. 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
2. 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:

1. 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 (i) the low energy intensity target for such building or (ii) if an alternative low energy intensity target has been adopted pursuant to paragraph (3) of subdivision b of section 224.1 of the New York city charter and such target would apply to such building if such building were subject to such subdivision, such alternative target; or
2. A building that is classified in occupancy groups F or H and that has been designed and constructed such that:
  - 2.1. 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 an alternative low energy intensity target has been adopted pursuant to paragraph (3) of subdivision b of section 224.1 of the New York city charter and such target would apply to such building if such building were subject to such section, such alternative target; or
  - 2.2. The design energy use intensity of such building 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:

1. For a building that is not classified in occupancy groups F or H, the less stringent of (i) 30 percent below the energy use intensity baseline or (ii) for new buildings, a source energy use intensity of 38 kBtu/yr per square foot of floor area and for substantial reconstructions of existing buildings, a source energy use intensity of 42 kBtu/yr per square foot of floor area;
2. 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 30 percent less than such energy usage would be if such building were designed and constructed according to ASHRAE 90.1-2013.

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

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

1. A qualified energy resource, as such term is defined in section 45 of title 26 of the United States code in effect on January 1, 2017;
2. A source that is determined to be renewable by the commissioner or the head of another agency or office designated by the mayor; or
3. A source that is determined by the commissioner or the head of another agency or office designated by the mayor to have (i) a positive environmental impact or (ii) a substantially lower negative environmental impact than sources of energy other than those identified pursuant to paragraph 1 or 2 of this definition.

**SOURCE ENERGY USE INTENSITY.** The term “source energy use intensity” means, for a building, the amount obtained by dividing (i) total energy used by such building in a year, other than energy generated from qualified energy sources, including losses that take place during generation, transmission and distribution of such energy, expressed in thousand British thermal units per year (kBTU/yr) and weather-normalized in a manner that is establish by the commissioner or the head of another agency or office designated by the mayor and consistent with the United States environmental protection agency portfolio manager, by (ii) the building’s gross floor area.

**SUBSTANTIAL RECONSTRUCTION.** The term “substantial reconstruction” means any repair, reconstruction, addition or improvement of a building, if the cost of such work equals or exceeds 50 percent of the market value of such building before such work is started and such work involves substantial work on the building envelope.

§ 2. Chapter 10 of title 28 of the administrative code of the city of New York is amended by adding new sections 28-1001.3.3 and 28-1001.3.4 to read as follows:

**§ 28-1001.3.3 Stretch energy code.** When the commissioner submits proposed amendments to this code to the city council pursuant to section 28-1001.3.1, the head of the office of long-term planning and sustainability, in consultation with the commissioner and the New York city energy conservation code advisory committee established pursuant to section 28-1001.3.2, shall for the first proposed amendments submitted to the city council pursuant to section 28-1001.3.1 in or after 2019, and for the first proposed amendments submitted to the city council pursuant to such section in or after 2022:

1. Submit to the city council proposed amendments to this code, or to the proposed amendments submitted by the commissioner, to bring this code up to date with the most recent model stretch code published by the New York state energy research and development authority, provided that such model stretch code is more stringent than the New York State Energy Code in effect when such proposed amendments are submitted and provided further that such model stretch code was published on or after three years before such proposed amendments are submitted;

2. If no such model stretch code exists at the time such amendments are to be submitted, such head, in consultation with the commissioner and such advisory committee, shall at such time submit to the city council proposed amendments to this code, or to the proposed amendments submitted by the commissioner, to ensure that the source energy use intensity of buildings designed and constructed in compliance with this code is at least 20 percent less than the source energy use intensity of buildings designed and constructed in compliance with the New York State Energy Code; or
  
3. If no such model stretch code exists and the head of the office of long-term planning and sustainability determines that proposed amendments to this code to achieve compliance with item 2 would render the design and construction of buildings impracticable or unduly burdensome, such head shall submit to the city council proposed amendments to ensure that the source energy use intensity of buildings designed and constructed in compliance with this code is, to the fullest extent practicable, less than the source energy use intensity of buildings designed and constructed in compliance with the New York State Energy Code, provided that such head shall submit together with such proposed amendments a report describing (i) why proposed amendments to achieve compliance with such item would render the design and construction of buildings impracticable or unduly burdensome and (ii) the estimated percentage by which the source energy use intensity of buildings designed and constructed in compliance with the amendments proposed by the commissioner would be less than the source energy use intensity of buildings designed and constructed in compliance with the New York State Energy Code.

**§ 28-1001.3.4 Low energy intensity buildings.** Beginning January 1, 2025, each (i) new building that would, upon completion, be a covered building and (ii) existing building undergoing substantial reconstruction that would, upon completion of such work, be a covered building, shall be designed and constructed as a low energy intensity building.

§ 3. This local law takes effect immediately.

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