



Legislation Text

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Preconsidered Int. No. 1619

By Council Members Constantinides and Kallos

A Local Law to amend the New York city charter and the administrative code of the city of New York in relation to greenhouse gas emissions

Be it enacted by the Council as follows:

Section 1. Paragraphs 8, 9 and 10 of subdivision a of section 651 of the New York city charter, as added by local law number 97 for the year 2019, are amended to read as follows:

8. Reviewing applications for alternative methods of compliance with building emissions limits, including adjustments of emissions limits, deductions for the purchase of greenhouse gas offsets or renewable energy credits, deductions for the use of distributed energy resources, and adjustments for special categories of buildings or for special use and occupancies; and

9. Working in close coordination with the mayor's office of long-term planning and sustainability; receiving advice and recommendations, as applicable, from the advisory board established pursuant to section 28-320.2 of the administrative code[; and].

[10. Ensuring the participation and cooperation of agencies] b. Agencies, including but not limited to the department of environmental protection, the department of housing preservation and development and the department of citywide administrative services shall cooperate with the office as requested by the director. Such participation and cooperation [shall] may include[, but not be limited to,] detailing agency staff to assist office staff consistent with agency and office functions and reporting to the office on building energy performance issues and related enforcement efforts. Agencies shall provide information necessary to support building energy performance enforcement efforts consistent with applicable law.

§ 2. Paragraph (1) of subdivision b of section 24-803 of the administrative code of the city of New York, as amended by local law number 97 for the year 2019, is amended to read as follows:

(1) Reduction of emissions from city government operations. There shall be, at minimum, a 40 percent reduction in city government emissions by fiscal year 2025, and a 50 percent reduction in city government emissions by [calendar] fiscal year 2030, relative to such emissions for the base year for city government emissions.

§ 3. Section 28-320.1 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to add a new definition of “capacity resource” in alphabetical order, and to amend the definitions of “city building,” “clean distributed energy resource,” “covered building,” “distributed energy resource,” “financial hardship (of a building)” and “rent regulation accommodation” to read as follows:

**CAPACITY RESOURCE.** The term “capacity resource” means a facility that has the capability to generate and transmit electrical power and sell capacity (i) by bilateral contracts, (ii) in the wholesale capacity market, or (iii) by indirect sales of capacity in the wholesale market in accordance with the schedules of rates and charges of a utility in effect pursuant to section 66 of the public service law.

**CITY BUILDING.** The term "city building" means a building that is owned by the city or for which the city regularly pays all of the annual energy bills, or a cultural institution that is in the Cultural Institutions Group as determined by the department of cultural affairs for which the city regularly pays all or part of the annual energy bills.

**Exception:** The term "city building" shall not include any senior college in the city university of New York system.

**CLEAN DISTRIBUTED ENERGY RESOURCE.** The term “clean distributed energy resource” means a distributed energy resource that (i) uses any of the following sources to generate electricity: hydropower, solar photovoltaics, geothermal wells or loops, tidal action, waves or water currents, [and] or wind; or (ii) is designed and operated to store energy, including[, ] but not limited to[, ] batteries, thermal systems, mechanical systems, compressed air, and superconducting equipment.

**COVERED BUILDING.** The term “covered building” means, as it appears in the records of the department of finance, (i) a building that exceeds 25,000 gross square feet (2322.5 m<sup>2</sup>) or (ii) two or more buildings on the same tax lot that together exceed 50,000 gross square feet [(9290 m<sup>2</sup>)] (4645 m<sup>2</sup>), or (iii) two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 50,000 gross square feet [(9290 m<sup>2</sup>)] (4645 m<sup>2</sup>).

**Exceptions:**

1. An industrial facility primarily used for the generation of electric power or steam.
2. Real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the HVAC systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than [two dwelling units] 25,000 gross square feet (2322.5 m<sup>2</sup>), as certified by a registered design professional to the department.
3. A city building.
4. A housing development or building on land owned by the New York city housing authority.
5. A rent regulated accommodation.
6. [The real estate owned by any religious corporation located in the city of New York as now constituted, actually dedicated and used by such corporation exclusively as a place of public worship] A building whose main use or dominant occupancy is classified as occupancy group A-3 religious house of worship.
7. Real property owned by a housing development fund company organized pursuant to the business corporation law and article eleven of the private housing finance law.
8. A building that participates in a project-based federal housing program.

**DISTRIBUTED ENERGY RESOURCE.** The term “[a] distributed energy resource” means a resource comprised of one or multiple units capable of generating or storing electricity, all at a single location that is directly or indirectly connected to an electric utility transmission and distribution system. The resource may serve all or part of the electric load of one or more customers at the same location, and it may simultaneously or alternatively transmit all or part of the electricity it generates or stores onto the electric transmission and distribution system for sale to or use by other customers at other locations.

**FINANCIAL HARDSHIP (OF A BUILDING).** The term “financial hardship (of a building)” means a building [shall be considered to be subject to financial hardship where,] that for the combined two years prior to the application for an adjustment to annual building emissions limit pursuant to section 28-320.7[, the building]:

1. Had arrears of property taxes or water or wastewater charges that resulted in the property's inclusion on the department of finance's annual New York city tax lien sale list;
2. [Is] Had been exempt from real property taxes pursuant to sections 420-a, 420-b, 446 or 462 of the real property tax law and applicable local law and the owner had negative revenue less expenses as certified to the department by a certified public accountant, or by affidavit under penalties of perjury; or

3. Had outstanding balances under the department of housing preservation and development's emergency repair program that resulted in the property's inclusion on the department of finance's annual New York city tax lien sale list.

**RENT REGULATED ACCOMMODATION.** The term “rent regulated accommodation” means a building [(i) containing one or more dwelling units with a legal regulated rent pursuant to the emergency tenant protection act of 1974, the rent stabilization law of 1969 or the local emergency housing rent control act of 1962, (ii)] containing one or more dwelling units required by law or by an agreement with a governmental entity to be [registered and] regulated [pursuant to] in accordance with the emergency tenant protection act of 1974, [or] the rent stabilization law of 1969, [(iii) buildings developed with subsidies received pursuant to section 1701q of title 12 of the United States code and (iv) buildings participating in a project-based assistance program pursuant to section 1473f of title 42 of the United States code] or the local emergency housing rent control act of 1962.

§ 4. Section 28-320.2 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ 28-320.2 Advisory board.** There shall be an advisory board convened[,] by the office of building energy and emissions performance upon the effective date of this article, in January of 2029 and in January of 2039, to provide advice and recommendations to the commissioner and to the mayor’s office of long term planning and sustainability relating to effectively reducing greenhouse gas emissions from buildings. Such recommendations shall include, but not be limited to:

1. A report and recommendations to be delivered to the mayor and the speaker of the city council no later than January 1, 2023 for additional or improved approaches to assessing building energy performance. Such report shall include, but not be limited to:
  - 1.1. An approach for buildings to submit energy use or greenhouse gas emissions and other information for the purpose of assessing energy performance of covered buildings;
  - 1.2. A methodology that includes the metric of measure, adjustments to the metric, the approach to comparing the output to a benchmark, alternative compliance paths, credit for beneficial electrification and distributed energy resources, and an approach for a trading mechanism as described in section 28-320.11;
  - 1.3. Recommendations for addressing tenant-controlled energy usage;
  - 1.4. Recommendations for amendments to the audit required under section 28-308.2 of the administrative code, including consideration of whether such audit should be replaced by a capital plan;
  - 1.5. Recommendations for reducing building emissions from rent regulated accommodations;
  - 1.6. Recommendations for allowing additional time to comply with the emissions limits for buildings converting to a new occupancy group or use with lower emissions limits or some other change in

status that would affect applicability of the provisions of this article;

1.7. An evaluation of the extent to which the mayor's 80x50 energy infrastructure pathways study is incorporated and addressed within the recommendations made pursuant to items 1.1 through 1.6 of this section; and

1.8. A reference guide to delineate the responsibilities of the building designer and owners to comply with emissions limits.

2. A report to be delivered to the mayor and the speaker of the city council no later than January 1, 2023, providing an analysis of, and any recommendations for improving, energy and emissions performance requirements for covered buildings. Such recommendations shall be targeted to achieve at least a 40 percent reduction in aggregate greenhouse gas emissions from covered buildings by calendar year 2030 relative to such emissions for the calendar year 2005. Such report shall include, but not be limited to, assessments of:

2.1. Incentives for reduction of peak energy demand;

2.2. Methods to allow for staggered reporting cycles for compliance with energy and emissions performance improvements;

2.3. Methods for calculating penalties for non-compliance;

2.4. Estimated emissions reductions associated with any recommended energy performance requirements;

2.5. The economic impact, including benefits, of achieving the energy and emissions performance requirements;

2.6. Methods for achieving earlier or larger reductions from [city-owned] city buildings;

2.7. Separate improvement targets for base building energy systems and tenant-controlled energy systems;

2.8. Methods for achieving emissions reductions from manufacturing and industrial processes; and

2.9. Methods for achieving emissions reductions from hospitals while maintaining critical care for human health and safety.

§ 5. Section 28-320.2.1 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ 28-320.2.1 Advisory board composition.** Such advisory board shall be staffed with registered design professionals and be composed of [16] 19 members [including] as follows: the chairperson, [8 of the] the speaker of the council or the speaker's designee, the mayor or the mayor's designee, eight members [of such advisory board shall be] appointed by the mayor [or the mayor's designee, and 8 of the members of

such advisory board shall be], and eight members appointed by the speaker of the council. The mayor shall appoint one architect, one [operating] engineer, one building owner or manager, one public utility industry representative, one environmental justice representative, one business sector representative, one residential tenant representative, and one environmental advocacy organization representative. The speaker shall appoint one architect, one stationary engineer, one construction trades representative, one green energy industry representative, one residential tenant representative, one environmental justice organization representative, one environmental advocacy representative and one not for profit organization representative. The director of such office, or the designee of such director, shall serve as chairperson of the advisory board. The advisory board may convene in working groups. Such working groups may include individuals not on such advisory board to address the recommendations required by this article. The mayor shall invite the appropriate federal, state and local agencies and authorities to participate, including but not limited to[,] the New York state energy research and development authority. Such advisory board shall convene a working group on hospitals that shall be composed of engineers, architects, and hospital industry representatives.

§ 6. Section 28-320.3.1.1 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ 28-320.3.1.1 Greenhouse gas coefficient of energy consumption for calendar years 2024 through 2029.** The annual building emissions of a covered building in accordance with this section, greenhouse gas emissions shall be calculated as follows for calendar years 2024 through 2029:

1. Utility electricity consumed on the premises of a covered building that is delivered to the building via the electric grid shall be calculated as generating 0.000288962 tCO<sub>2</sub>e per kilowatt hour[, provided, however, that the] or, at the owner's option, shall be calculated based on time of use in accordance with referenced emissions factors promulgated by rules of the department. The department, in consultation with the office of long term planning and sustainability, shall promulgate rules governing the calculation of greenhouse gas emissions for campus-style electric systems that share on-site generation but make use of the utility distribution system and for buildings that are not connected to the utility distribution system.
2. Natural gas combusted on the premises of a covered building shall be calculated as generating 0.00005311 tCO<sub>2</sub>e per kbtu.
3. #2 fuel oil combusted on the premises of a covered building shall be calculated as generating 0.00007421 tCO<sub>2</sub>e per kbtu.
4. #4 fuel oil combusted on the premises of a covered building shall be calculated as generating 0.00007529 tCO<sub>2</sub>e per kbtu.
5. District steam consumed on the premises of a covered building shall be calculated as generating 0.00004493tCO<sub>2</sub>e per kbtu.

6. The amount of greenhouse gas emissions attributable to natural gas powered fuel cells shall be credited compared to a marginal emissions factor that will be determined by the commissioner and promulgated into rules of the department.
7. The amount of greenhouse gas emissions attributable to other energy sources, including but not limited to distributed energy resources, shall be determined by the commissioner and promulgated into rules of the department.

§ 7. The first undesignated paragraph and item 6 of section 28-320.3.2 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, are amended to read as follows:

For calendar years 2030 through 2034 the annual building emissions limits for covered buildings shall be calculated pursuant to items 1 through 10 of this section. For the purposes of such calculation the department shall provide a method for converting categories of uses under the United States environmental protection agency Portfolio Manager tool to the equivalent uses and occupancy groups set forth in this section. For a covered building with spaces classified in more than one occupancy group, the annual building emissions limit shall be the sum of the calculated values from items 1 through 10 of this paragraph, as applicable for each space. The department may establish different limits, including a different metric or method of calculation, set forth in the rules of the department, where the department determines that different limits are feasible and in the public interest. Where such limits are set by rule, the average emission limits for all covered buildings shall not be less restrictive than the average emissions impact of the building emissions limits outlined in items 1 through 10 of this section. The advisory board and the office of long term planning and sustainability shall provide advice and recommendation regarding such limits.

6. For spaces classified as occupancy groups B civic administrative facility for emergency response services, B non-production laboratory, Group B ambulatory health care facility, H, I-2 or I-3: multiply the building emissions intensity limit of [0.01193] 0.01330 tCO<sub>2</sub>e/sf by the corresponding gross floor area (sf);

§ 8. Section 28-320.3.2.1 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ 28-320.3.2.1 Greenhouse gas coefficients of energy consumption for calendar years 2030 through 2034.** For the purposes of calculating the annual building emissions of a covered building in accordance with this section, the amount of greenhouse gas emissions attributed to particular energy sources shall be determined by the commissioner and promulgated into rules of the department by no later than January 1, 2023. The commissioner shall consult with the advisory board required by this article to develop such greenhouse gas coefficients for utility electricity consumption. When developing such coefficient, the commissioner shall consider factors, including[,] but not limited to[,] the best available New York state energy research and development authority and State Energy Plan forecasts for Zone J for the end of the compliance period and beneficial electrification.

§ 9. Section 28-320.3.6 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ 28-320.3.6 Deductions from reported annual building emissions.** The department may authorize a deduction from the annual building emissions required to be reported by an owner pursuant to section 28-320.3 where the owner demonstrates the purchase of greenhouse gas offsets or renewable energy credits, or the use of clean distributed energy resources, in accordance with this section. For such sections that limit the dates of applicability of such deductions, the department shall promulgate rules to extend such deductions for each future compliance date.

§ 10. Section 28-320.6.1 as labeled “Deductions from reported annual building emissions for renewable energy credits” of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ [28-320.6.1] 28-320.3.6.1 Deductions from reported annual building emissions for renewable energy credits.** A deduction from the reported annual building emissions shall be authorized equal to the number of renewable energy credits purchased by or on behalf of a building owner, provided (i) the renewable energy resource that is the source of the renewable energy credits is considered by the New York independent system operator to be a capacity resource located in, or whose output directly [deliverable] sinks into, the zone J load zone for the reporting calendar year; (ii) the renewable energy credits are solely owned and retired by, or on behalf of, the building owner; (iii) the renewable energy credits are from the same year as the reporting year; and (iv) the building that hosts the system producing the energy does not receive a deduction under [§ 28-320.6.3] section 28-320.3.6.3. Covered buildings claiming deductions for renewable energy credits under this section must provide the department with the geographic location of the renewable energy resource that created the renewable energy credits. The department, in consultation with the mayor’s office of long term planning and sustainability, shall promulgate rules to implement this deduction.

§ 11. Sections 28-320.3.6.2 and 28-320.3.6.3 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, are amended to read as follows:

**§ 28-320.3.6.2 Deductions from reported annual building emissions for purchased greenhouse gas offsets.** For calendar years 2024 through 2029, a deduction shall be authorized for up to 10 percent of the annual building emissions limit. Such a deduction shall be authorized only where within the reporting calendar year, greenhouse gas offsets equivalent to the size of the deduction as measured in metric tons of carbon dioxide equivalent and generated within the reporting calendar year have been (i) purchased by or on behalf of the owner in accordance with an offset standard referenced by rules of the department, (ii) publicly registered in accordance with such offset standard, and (iii) retired or designated to the department for retirement. Such greenhouse gas offsets must exhibit environmental integrity principles, including additionality, in accordance with rules promulgated by the department in consultation with the office of long term planning and sustainability. For the purposes of this section,



additionality means a requirement that an offset project is not already required by local, national or international regulations. Prior to the department promulgation of rules pursuant to this section, the department shall consult the advisory board on environmental justice as established [in local law 64 of 2017] by section 3-1006 of the administrative code.

**§ 28-320.3.6.3 Deductions from reported annual building emissions for clean distributed energy resources.** [For calendar years 2024 through 2029, a] A deduction from the reported annual building emissions shall be authorized based upon the calculated output of a clean distributed energy resource located at[, on, in, or directly connected to] the building subject to the report. The department shall promulgate rules to set forth how such deduction shall be calculated, in accordance with the following:

1. For a clean distributed energy resource that generates electricity, the department shall establish separate calculations for each type of commercially available clean distributed energy resource, which shall not be revised more frequently than once every three years.
2. For a clean distributed energy resource that stores electricity, the deduction shall be based on the size of the resource and its ability to reduce greenhouse gas emissions during designated peak periods.

§ 12. Section 28-320.3.9 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ 28-320.3.9 Extension for certain income-restricted housing.** This section is applicable to covered buildings [that]:

1. That are owned by a limited-profit housing company organized under article 2 of the private housing finance law, [or] and
2. That contain one or more dwelling units for which occupancy or initial occupancy is restricted based upon the income of the occupant or prospective occupant thereof as a condition of a loan, grant, tax exemption, tax abatement, or conveyance of property from any state or local governmental agency or instrumentality pursuant to the private housing finance law, the general municipal law, or section 420-c of the real property tax law.

Such covered buildings are exempted from the annual building emissions limits set forth in section 28-320.3.1 and 28-320.3.2 and from any applicable reporting requirements. Commencing January 1, 2035, such covered buildings shall be subject to the annual building emissions limits established pursuant to sections 28-320.3.4 and 28-320.3.5 and any applicable reporting requirements.

§ 13. Section 28-320.6.1 as labeled “Determination of penalty” of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ 28-320.6.1 Determination of penalty.** In considering the amount of the civil penalty to be imposed pursuant to this article, a court or administrative tribunal shall give due regard to aggravating or mitigating factors including:

1. The respondent's good faith efforts to comply with the requirements of this article, including investments in energy efficiency and greenhouse gas emissions reductions before the effective date of this article;
2. The respondent's history of compliance with this article;
3. The respondent's compliance with the conditions of any adjustment to the applicable building emissions limit, issued by the department pursuant to section 28-320.7;
4. Whether the non-compliance was directly related to unexpected and unforeseeable events or conditions during the calendar year outside the control of the respondent;
5. The respondent's access to financial resources, where the court or administrative tribunal may consider the financial hardship of a building owned by such respondent as evidence of such respondent's access to such financial resources; and
6. Whether payment of such penalty would impact the operations of facilities critical to human life or safety[ ].

§ 14. Items 1 and 2 of section 28-320.7 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, are amended to read as follows:

1. Such an adjustment may be granted upon a specific determination that all of the following conditions in items 1.1 through 1.3 are met:
  - 1.1. Capital improvements are necessary for strict compliance with the limit set forth in section 28-320.3 and it is not reasonably possible to make such improvements due to (i) a constraint imposed by another provision of law, including but not limited to designation as a landmark, landmark site, interior landmark, or within a historic district pursuant to chapter 3 of title 25 of the administrative code, or (ii) a physical condition of the building or building site, including but not limited to lack of access to energy infrastructure, space constraints, or lack of access to a space within a building covered by a lease in existence on the effective date of this section;
  - 1.2. The owner has made a good faith effort to purchase greenhouse gas offsets to comply with section 28-320.3 but a sufficient quantity is not available at a reasonable cost; and
  - 1.3. The owner has availed itself of all available city, state, federal, private and utility incentive programs related to energy reduction or renewable energy for which it reasonably could participate.
2. Such an adjustment may be granted upon a specific determination that all of the following conditions in items 2.1 through 2.4 are met:
  - 2.1. The cost of financing capital improvements necessary for strict compliance with the limit set forth in section 28-320.3 would prevent the owner of a building from earning a reasonable financial return on the use of such building or the building is subject to financial hardship as defined in this article. In evaluating the ability of an owner to earn a reasonable financial return, the department may

consider future savings expected from such capital improvements;

- 2.2. The owner is not eligible for any program funded by the city or enabled by a local law that provides financing for the purpose of energy reduction or sustainability measures. Proof of ineligibility for financing must be demonstrated by rejection from any such program funded by the city or enabled by a local law or an affidavit explanation why such owner could not reasonably participate in such programs;
- 2.3. The owner has made a good faith effort to purchase greenhouse gas offsets or renewable energy credits to comply with section 28-320.3 but a sufficient quantity is not available at a reasonable cost; and
- 2.4. The owner has availed itself of all available city, state, federal, private and utility incentive programs related to energy reduction or renewable energy for which it reasonably could participate.

§ 15. Section 28-320.8 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ 28-320.8 Adjustment to applicable annual building emissions limit for calendar years 2024-2029.** The department may grant an adjustment of the annual building emissions limit for calendar years 2024 through 2029 applicable to a covered building in existence on the effective date of this article where such covered building emissions in calendar year 2018 exceeds the building emissions limit as prescribed by section 28-320.3.1 by more than 40 percent, as reported to the department by a registered design professional. The adjustment shall result in a required building emissions limit that is 70 percent of the calendar year 2018 building emissions for the covered building. Such adjustment may be granted where all of the following conditions in items 1 through 3 are met:

1. The owner of [a] the covered building demonstrates that the building emissions in excess of the building emissions limit is attributable to special circumstances related to the use of the building, including but not limited to 24 hour operations, operations critical to human health and safety, high density occupancy, energy intensive communications technologies or operations, and energy-intensive industrial processes;
2. The owner of [a] the covered building demonstrates that the energy performance of the covered building is equivalent to a building in compliance with the New York city energy conservation code in effect on January 1, 2015; and
3. The owner of the covered building has submitted a plan to the department setting forth a schedule of alterations to the covered building or changes to the operations and management of the covered building sufficient to ensure that the covered building will be in compliance with the annual building emissions limits for calendar years 2030 through 2034, as required by section 28-320.3.2.

§ 16. Section 28-320.9 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**§ 28-320.9 Adjustment to applicable annual building emissions limit for not-for-profit hospitals and**

**healthcare facilities.** The department shall grant an adjustment of the annual building emissions limits for calendar years 2024-2029 and 2030-34 where all of the following conditions in items 1 and 2 are met:

1. The building is classified as a not-for-profit hospital, not-for-profit health center, or not-for-profit HIP center, in existence on the effective date of this article; and
2. By no later than July 21, 2021, the owner of the covered building submits an application to the department for such adjustment in a form and manner prescribed by the department.

§ 17. The definition of “covered building” in section 28-321.1 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended, and a new definition of “rent regulated accommodation” is added to such section, to read as follows:

**COVERED BUILDING.** The term “covered building” means a building [(i) containing one or more dwelling units with a legal regulated rent pursuant to the emergency tenant protection act of 1974, the rent stabilization law of 1969 or the local emergency housing rent control act of 1962, (ii) containing one or more dwelling units required by law to be registered and regulated pursuant to the emergency tenant protection act of 1974 or the rent stabilization law of 1969, (iii) buildings developed with subsidies received pursuant to section 1701q of title 12 of the United States code and (iv) buildings participating in a project-based assistance program pursuant to section 1473f of title 42 of the United States code, (v) real estate owned by any religious corporation located in the city of New York as now constituted, actually dedicated and used by such corporation exclusively as a place of public] that is (i) a rent regulated accommodation, (ii) a building whose main use or dominant occupancy is classified as occupancy group A-3 religious house of worship, (iii) owned by a housing development fund company organized pursuant to the business corporation law and article 11 of the private housing finance law, or (iv) a building that participates in a project-based federal housing program and, as it appears in the records of the department of finance, such building (i) [a building that] exceeds 25,000 (2322.5 m<sup>2</sup>) gross square feet, or (ii) is one of two or more buildings on the same tax lot that together exceed 50,000 gross square feet [(9290 m<sup>2</sup>)] (4645 m<sup>2</sup>), or (iii) is one of two or more buildings held in the condominium form of ownership that are governed by the same board of managers and that together exceed 50,000 gross square feet [(9290 m<sup>2</sup>)] (4645 m<sup>2</sup>).

**Exceptions:**

1. Real property, not more than three stories, consisting of a series of attached, detached or semi-detached dwellings, for which ownership and the responsibility for maintenance of the HVAC systems and hot water heating systems is held by each individual dwelling unit owner, and with no HVAC system or hot water heating system in the series serving more than [two dwelling units] 25,000 gross square feet (2322.5 m<sup>2</sup>), as certified by a registered design professional to the department.
2. An industrial facility primarily used for the generation of electric power or steam.
- [3. A covered building as defined in article 320.]

**RENT REGULATED ACCOMMODATION.** The term “rent regulated accommodation” means a building containing one or more dwelling units required by law or by an agreement with a governmental

entity to be regulated in accordance with the emergency tenant protection act of 1974, the rent stabilization law of 1969, or the local emergency housing rent control act of 1962.

§ 18. Section 28-321.4 of the administrative code of the city of New York, as added by local law number 97 for the year 2019, is amended to read as follows:

**[§ 28-321.4 Penalties.** Penalties that may be assessed for violations of section 28-321.2 shall be determined by department rule.]

§ 19. Article 320 and sections 28-320.1 through 28-320.4, as added by local law number 98 for the year 2019, are renumbered as article 322 and sections 28-322.1 through 28.322.4, respectively.

§ 20. This local law takes effect on the same date local law number 97 for the year 2019, takes effect; except that section nineteen of this local law takes effect on the same date local law number 98 for the year 2019, takes effect.

NKA  
6/18/2019  
8:18pm  
LS 11064