LOCAL LAW 97: New Rules for Affordable Housing released!

In September, DOB released a new package of proposed rules for LL97 which will help owners of most affordable housing by letting them use their often-limited resources to come into compliance, rather than paying fines. The rules support the intent of the law to get New York on a greener path.

What is Local Law 97 (LL97)? LL97 sets carbon limits for most buildings over 25,000 SF starting in 2024 and becoming increasingly rigorous through 2050. Buildings that don't comply will face penalties. The law treats affordable and rent-regulated housing differently:

ARTICLE 321:

The Prescriptive Pathway:

Buildings w/ >35% rent regulated units; HDFC Coops; and buildings w/ project-based federal funding must:

Implement 13 Prescriptive Energy Conservation Measures or meet 2030 carbon limits. This is a one-time compliance deadline. A report must be filed by May 2025.*

**The new rules give some buildings additional time to comply.*

ARTICLE 320:

The 2026 Pathway:

Buildings w/ at least one and up to 35% rent regulated units must:

Meet carbon limits starting in 2026 or face penalties of $268/ ton of carbon above the limit.

ARTICLE 320:

The 2035 Pathway:

Mitchell-Lamas w/ no project-based federal funding; and buildings w/ 1+ income-restricted units but no rent regulated units must:

Meet carbon limits starting in 2035 or face penalties of $268/ ton of carbon above the limit.

What are the penalties for non-compliance with the Article 321 (The Prescriptive Pathway)?

1. Failure to report compliance: $10,000 per covered building
2. Failure to comply: $10,000 per covered building

What if I can't comply by 2024? The new rules give these options:

- **Extension of time to file report:** Owners will be given an additional 120 days to file the report if they can't complete the report on time or if they are disputing their "covered building" status
- **Mitigated Penalties:** The owner may be eligible for a mitigated penalty due to an "unexpected or unforeseeable event" or if the building received funding from a Housing Agency as of November 15, 2019, to complete an "eligible Energy Conservation Project"
- **Mediated Resolution:** The Department may offer a mediated resolution if the owner submits, by May 2025, (1) an attestation that the building is not in compliance, (2) the previous year's benchmarking AND (3) a "Compliance Plan" that either:
  - Details how a building will meet **2030 carbon limits by 2030** or
  - Demonstrates that work is underway to **implement the applicable Prescriptive Measures** and a date by which the remaining work will be complete and the final report submitted

  Note that buildings will face retroactive penalties if the agreed-upon plan is not met.

See page 2 for how HPD can help!

These are the 13 Prescriptive Energy Conservation Measures. Note that these are low-cost, high impact measures that will save buildings money right away, and most of the measures are eligible for incentives:

1. Adjust temperature set points for heat and hot water
2. Repair visible heating system leaks
3. Maintain heating system so that it is in good working order
4. Install individual temperature controls or insulated radiator enclosures
5. Insulate exposed heating and hot water pipes
6. Insulate steam system condensate tank or water tank
7. Install heating system sensors and boiler controls
8. Repair or replace steam traps
9. Install or upgrade steam system master venting
10. Upgrade common area lighting to comply with New York City Energy Conservation Code
11. Weatherize and air seal, where appropriate
12. Install timers on intermittent exhaust fans
13. Install radiant barriers behind all radiators subject to item #4

Additional details can be found here: https://www.nyc.gov/site/buildings/codes/sustainability.page.

Are there resources to help?

1. **The NYC Accelerator can provide free support and technical assistance** to building owners to help them determine their compliance requirements, create a compliance plan, direct owners to the right service providers, and help owners leverage all available financial incentives and resources.
2. **The HPD-Con Ed Limited Time LL97 Incentive for Affordable Housing** can provide $500-$2,000 per dwelling unit with a cap of 85% of the total project cost to help buildings comply with the Prescriptive Measures Pathway.
3. The utilities' **AMEEP Program** can provide incentives of up to $2,000 per dwelling unit for comprehensive upgrades
4. HPD has partnered with NYSERDA to provide **free tools and enhanced assistance to owners of HPD-assisted properties** to help owners assess if the Mediated Resolution makes sense for them!

How do I get started?

Act Now! Kinetic Communities Consulting Corporation (KC3), an affiliate of the NYC Accelerator, can provide free technical assistance to building owners of affordable housing to understand LL97, develop an appropriate work scope, identify incentives, and assemble a team to implement the work. Contact KC3 at **affordable@kc3.nyc** to speak to a dedicated affordable housing account manager.

Is the "Mediated Resolution" right for your building? The answer might be yes if:

- **Your building is heated with oil**
- **Your building is near the 2030 carbon limits already**
- **Your building is planning a near-term refinancing**
- **Your building has upcoming repair or capital needs**
- **You'd like to implement a project like solar or electrification**
- **You don't think you can complete the Prescriptive Measures by the extended deadline.**

Contact **affordable@kc3.nyc for more information!**

Click here for the most up-to-date LL97 Guidance for Affordable Housing and FAQs and the DOB's Greenhouse Gas Emission Reporting page for the latest guidance on reporting.