

Green Building Legislation Passed by New York City Council

Last month, the New York City Council enacted four new laws that establish a New York City Energy Conservation Code (“City Energy Code”) and require certain building owners to conduct energy audits and retro-commissioning, benchmark energy and water efficiency, upgrade the lighting systems and install sub-meters to measure the flow of electricity within certain “tenant spaces.” The City Energy Code will go into effect on July 1, 2010. The other laws take effect immediately.

Local Law 564-A creates the City Energy Code. The City Energy Code is a more stringent version of the 2007 Energy Conservation Construction Code of New York State (“State Energy Code”). Both energy codes set standards for the energy performance of buildings, however, unlike the State Energy Code, the City Energy Code applies to all work that requires building owners to submit applications for construction document approval to the Department of Buildings (“DOB”). The City Energy Code modifies portions of New York City’s Plumbing, Building, Mechanical and Fuel Gas Codes.

While the City Energy Code generally applies to all buildings, with some exceptions for historic buildings and a few types of additions, alterations, renovations and repairs, the other laws apply only to “covered buildings,” which are generally defined as buildings that exceed 50,000 gross square feet, two or more buildings on the same tax lot that together exceed 100,000 gross square feet, and two or more buildings held in the condominium form of ownership that together exceed 100,000 gross square feet. One, two and three-family homes are exempted.

Local Law 967-A requires owners of covered buildings to submit an energy efficiency report every ten years to DOB, beginning in 2013. The energy efficiency report is submitted after the building owner conducts energy audits and retro-commissioning of building systems, including the building envelope and the HVAC, elevator, hot water and electrical and lighting systems. The energy audit identifies and develops modifications and improvements to existing systems in order to optimize energy performance of the building and save energy. Retro-commissioning optimizes the energy efficiency of existing systems through identifying and correcting deficiencies, including repairing defects, cleaning, adjusting valves/sensors/controls/programmed settings, and/or changing operational practices.

Local Law 476 requires owners of covered buildings to benchmark their buildings’ total energy and water use for the previous calendar year annually, beginning no later than May 1, 2011. The information must be loaded onto an internet-based database system that will track and assess the energy and water use of certain buildings relative to similar buildings. Some of this information will then be made available to the public.

Local Law 973-A requires owners of covered buildings to upgrade their building's lighting systems to comply with the City Energy Code by January 1, 2025. Certain historic buildings are exempted, as are dwelling units classified in occupancy group R-2 or R-3 and spaces classified in occupancy group A-3 that are within a house of worship. The law also requires owners of covered buildings to install, by January 1, 2025, sub-meters for tenant spaces that are larger than 10,000 gross square feet on one or more floors of a covered building let or sublet to the same person or for floors of covered buildings that are larger than 10,000 gross square feet that are let or sublet to two or more different persons. Dwelling units classified in occupancy group R-2 or R-3 are exempted.

This new set of laws will impose significant new obligations on building owners in the energy area and careful scrutiny needs to be made of the eligibility provisions. Please contact the authors below if you have any questions about New York City's Green Building Legislation or any other environmental issue.

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