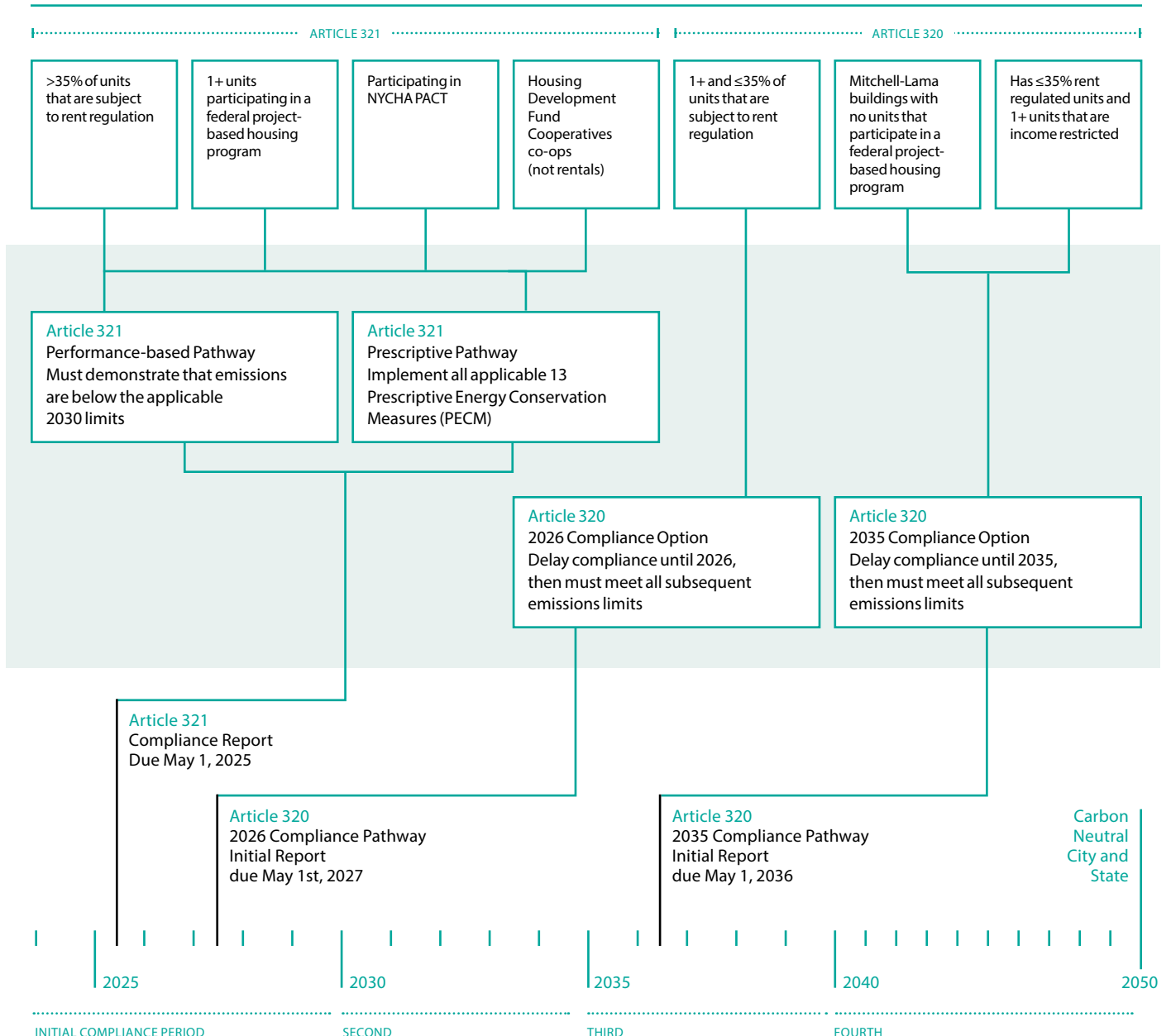


Frequently Asked Questions

Local Law 97 of 2019 (LL97) places limits on carbon emissions for New York’s large buildings starting in 2024. The law generally covers buildings that exceed 25,000 gross square feet, two or more buildings on the same tax lot that together exceed 50,000 square feet, and two or more buildings owned by a condo association that are governed by the same board of managers and that together exceed 50,000 square feet. Of all covered buildings, those that include affordable or rent-regulated housing may qualify for alternate or delayed compliance with LL97. Alternate compliance, detailed in [NYC Administrative Code Title 28, Article 321](#), requires certain buildings to meet a different set of requirements than most buildings covered by LL97. Delayed compliance is afforded to certain buildings per [NYC Administrative Code Title 28, Article 320](#), in which compliance with LL97 can be delayed through two possible timelines.

Find your building type:



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Article 321: The Prescriptive Pathway

What types of affordable housing projects qualify for Article 321 compliance?

Under Article 321, prescriptive compliance pathways are afforded to the following buildings:

- Buildings in which more than 35 % of the units are rent regulated, regardless of whether they contain units with income restrictions
- Housing Development Fund Cooperatives co-ops (not rentals)
- Buildings that have at one or more units that participate in a federal project-based housing program (section 8, 2302, 811, CoC, etc.)
- Buildings on NYCHA land that participate in the PACT/RAD program

My building is subject to Article 321. What do I need to do?

Article 321 details two compliance pathways for the above buildings. Either demonstrate that your building's 2024 emissions are below its LL97 2030 applicable limits or implement a set of Prescriptive Energy Conservation Measures. Building owners will have to submit a report demonstrating compliance with one of these options by May 1, 2025. For the first option, the building owner must submit a report certified by a registered design professional that demonstrates compliance with its LL97 2030 building emission limits. For the latter, a retro-commissioning agent must prepare and certify a report for the building owner that demonstrates completion and documented inspection of all applicable Prescriptive Energy Conservation Measures, as well as inventory and installation dates of all HVAC, DHW, electrical, lighting, and conveyance equipment serving the building.

My building's emissions may be too high to meet the 2030 limits. What Prescriptive Energy Conservation Measures do I implement?

All applicable measures from the following list of Prescriptive Energy Conservation Measures must be implemented. You can only omit a measure if it is not applicable to your building (e.g., my building does not have steam traps, so I cannot replace or repair them) and indicate that it does not apply.

- Adjusting temperature set points for heat and hot water to reflect appropriate space occupancy and facility requirements
- Repairing all heating system leaks
- Maintaining heating system, including but not limited to ensuring that the system component parts are clean and in good operating condition
- Installing individual temperature controls or insulated radiator enclosures with temperature controls on all radiators
- Insulating all pipes for heating and/or hot water
- Insulating steam system condensate tank or water tank
- Installing indoor and outdoor heating system sensors and boiler controls to allow for proper set-points
- Replacing or repairing all steam traps such that all are in working order
- Installing or upgrading steam system master venting at the ends of mains, large horizontal pipes, and tops of risers, vertical pipes branching off a main
- Upgrading lighting to comply with New York City Energy Conservation Code at time of installation
- Weatherizing and air sealing, where appropriate, including windows and ductwork, with focus on whole-building insulation
- Installing timers on exhaust fans
- Installing radiant barriers behind all radiators

What is the penalty for not complying with Article 321?

Failure to both submit a report and comply with either one-time compliance option is cause for a civil penalty

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of \$20,000 per covered building, which can be levied annually until compliance is demonstrated.

How can I mitigate the penalty fees if I am making progress towards complying, but will not be able to meet the 2024 deadline?

For buildings under Article 321, you can mitigate penalties under any of these three circumstances:

- You receive an extension to file your report*
- You can demonstrate your building has experienced damage from an unforeseen disaster that has prevented compliance
- You can demonstrate that your building will undergo an eligible energy conservation project with HPD, HDC, NYCHA, or HCR with commitment no sooner than November 15, 2019

What is a mediated resolution according to Article 321?

A mediated resolution is an agreement between the NYC Department of Buildings (DOB) and a building owner that is not in compliance with their building's emissions limits. The DOB may offer a mediated resolution if:

- You submit an attestation that your building is not in compliance
- You submit a benchmarking report for the calendar year 2024
- You submit a "Compliance Plan" that details either:
 - How the building will comply with 2030 emissions limits by 2030, including estimated emissions reduction of proposed renovations and how such renovations will be financed and implemented
 - How the 13 PECMs will be completed by December 31, 2025, including which vendors are responsible

A mediated resolution differs from the specific ways that penalties can be mitigated under Article 320 and Article 321 (see each section for more detail). If you fail to comply with the terms of the mediated resolution, you will still be subjected to penalty fees.

Article 320: The 2026 and 2035 Pathways

My building has some rent-regulated units — but not more than 35%. Does this mean that my building must comply with Article 320 of LL97?

Yes, but — buildings with at least one rent-regulated unit, and where up to (but not over) 35% of units are rent regulated, may delay compliance with LL97's emissions limits until 2026. For all years following, these buildings will be subject to the same thresholds as all other buildings covered by LL97.

Is income-restricted housing exempt from Article 320 of LL97?

No, but — Mitchell-Lama rentals and cooperatives, and buildings that contain one or more units that are income restricted (through certain loan, grant, real property tax exemption, or property disposition programs) are not subject to LL97 emissions limits until 2035. After 2035, they must meet subsequent limits. See additional considerations below.

How can I mitigate the penalty fees if I am making progress towards complying, but will not be able to meet my deadline?

For buildings on the 2026 or 2035 Pathways, you can mitigate penalties under any of these three circumstances:

- You receive an extension to file your report*

* see Applicable to Both section for more details

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- You can demonstrate your building has experienced damage from an unforeseen disaster that has prevented compliance
- You can demonstrate “good faith efforts” to comply

What are “good faith efforts?”

To demonstrate “good faith efforts,” you must:

- Submit a building emissions report for the previous calendar year
- Upload your building's benchmarking data for the previous calendar year
- Submit an attestation form that proves lighting upgrades and electrical sub-meters have been installed in compliance with Local Law 88
- Any one of the following:
 - Submit a decarbonization plan with an energy audit, major equipment inventory, and list of alterations needed for compliance by May 1, 2025 that will bring the building into compliance with its 2024 emission limits by May 1, 2027 at the latest, and demonstrate work for 2030 compliance is underway by May 1, 2028
 - Demonstrate an application and timeline for the work to comply with emission limits has been approved by the DOB
 - Demonstrate the building is actively undergoing work for electrification readiness
 - Demonstrate that your building was previously under the emissions limit for the previous reporting year
 - For owners of a critical facility, demonstrate that paying the penalty fine will impact its operations
 - Submit an attestation form that your building has applied for or received an approved adjustment by the DOB

What is a critical facility according to the law?

Critical facilities are defined as ones that are critical for human life and safety, such hospitals or vaccine clinics.

What is a mediated resolution according to Article 320?

A mediated resolution is an agreement between the DOB and a building owner that is not in compliance with their building's emissions limits. The DOB may offer a mediated resolution if:

- You have filed your building emissions report
- You have demonstrated “good faith efforts” to comply
- The mediated resolution would facilitate your building's compliance

A mediated resolution differs from the specific ways that penalties can be mitigated under Article 320 and Article 321 (see each section for more detail). If you fail to comply with the terms of the mediated resolution, you will still be subjected to penalty fees.

Applicable to Both

How can I calculate my building's LL97 limits for each compliance period?

Visit Building Energy Exchange's [LL97 Carbon Emissions Calculator](#), an online tool that helps estimate a building's LL97 carbon thresholds and penalties. Search your building address to automatically load building from NYC's benchmarking database, or manually enter energy use data.

How is beneficial electrification treated in the law?

The law works to incentivize covered buildings to take on early efforts to displace fossil fuel sources and less efficient heating systems by offering a credit for beneficial electrification. By installing and using qualified energy efficient and electric-based heating, cooling and DHW systems as defined in the law, building owners

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can use a beneficial electrification emissions coefficient when calculating the building's emissions through either a metered or deemed electric use. You can subsequently apply the emissions savings in that reporting year, or accrue it for future reporting years, provided that the building is not below its emissions limit between 2024 – 2036.

How can I apply for an extension to file my report?

You may be eligible to apply for an extension in cases where:

- Your registered design professional or qualified retro-commissioning agent was unable to complete the report by the deadline
- You are currently determining with the Department of Finance whether your building is covered under LL97

If you have demonstrated proof for either of these cases, you must submit an extension application no sooner than April 1, 2025 and no later than June 30, 2025.

Additional Considerations

My building has both income restriction and rent regulation. What do I do?

If your building has income restriction and 35% or more units with rent regulation, it is treated as a rent regulated building and can pursue alternate compliance detailed in Article 321. If your building has income restriction and at least one rent-regulated unit, but not more than 35% rent regulated units, it is treated as an income-restricted building and can delay compliance until 2026.

What about the City's NYCHA (New York City Housing Authority) housing? Will those buildings be subject to LL97 and face potential penalties?

Buildings on land owned by NYCHA are subject to separate, rigorous emissions reduction requirements, targeting 40% portfolio-wide reductions by 2030, and 80% by 2050, relative 2005 emissions. In addition, NYCHA developments in the federal Rental Assistance Demonstration (RAD) program, including those that participate in the Permanent Affordability Commitment Together (PACT) programs, also must comply with LL97's alternate compliance pathway— either by meeting 2030 limits in 2024, or completing Prescriptive Energy Conservation Measures.

What if my building has tenant-based rental assistance (vouchers)?

Vouchers are associated with tenants, rather than attached to a particular building, so they do not qualify a building for Article 321 Prescriptive Pathway compliance.

What about Inclusionary Housing (IH), Mandatory Inclusionary Housing (MIH), or buildings with Low Income Housing Tax Credits?

LL97 does not specifically address buildings subject to inclusionary housing, nor does it address buildings awarded Low Income Housing Tax Credits. Buildings that fall into these categories should refer to the above guidance to determine compliance requirements.

What about Mitchell-Lamas regulated by the City's HPD (Department of Housing Preservation & Development) and financed by HDC (New York City Housing Development Corporation)? Which pathway do they follow?

Mitchell-Lama buildings generally fall under the 2035 Pathway under Article 320. However, if a Mitchell-Lama has any units that participate in a federal project-based housing program, then it must follow the Prescriptive Pathway under Article 321.