

Brooklyn Industry Meeting – In person

November 30, 2023 at 2:00 PM

Additional information

- Local Law 154 of 2021, see attached presentation materials and link to FAQ's below.

<https://www.nyc.gov/site/buildings/codes/ll154-frequently-asked-questions.page>

- DOB NOW Build once an application is saved as a Pro Cert filing it cannot be changed to a standard plan exam filing.
- DOB NOW Inspections portal, issues with uploading documents with Silverlight, see instructions in link below.

https://www.nyc.gov/assets/buildings/pdf/dobnow_insp_google_chrome_extension_guide.pdf

LOCAL LAW 154 IN DOB NOW: PHASE 1

New Building or ALT-CO with Existing Elements to Remain jobs **submitted in DOB NOW on or after January 1, 2024:**

If user selects Occupancy Classification R-3 (1-, 2-family homes) or the building is less than 7 stories:

- The applicant will be able to specify on the Schedule of Occupancy the floors that will be used for a purpose for which fossil fuel will be necessary.
- When the job is approved, a banner will appear on the DOB NOW Property Profile for the BIN.
 - **No Fossil Fuel:** Building cannot contain gas or gas appliances.
 - **Partial Fossil Fuel:** Building can use gas only for Service Hot Water.
 - **Partial Fossil Fuel Exception:** Building can only use gas for a specific use on specific floor(s). (User will click the banner to see which floors can have gas.)
 - **Full Fossil Fuel Exception:** Building can have gas.
- Messages will be displayed to the applicant on the public portal and to the plan examiner in CRM regarding applicable fossil fuel restrictions.

LOCAL LAW 154 OF 2021

■ Exceptions:

- buildings used by a regulated utility for energy generation
- buildings operated by DEP for treatment of sewage or food waste
- specific spaces within buildings in which fossil fuels are necessary for
 - manufacturing use or purpose
 - laboratories
 - laundromats
 - hospitals and crematoria
 - commercial kitchens
 - emergency or standby power

LOCAL LAW 154 OF 2021

- Prohibits the onsite combustion of fuels that emit more than 25kg CO₂/MMBTU and phases out the use of fossil fuels in new buildings for heating and service hot water (Service HW). This also impacts appliances such as domestic cooking ranges and clothes dryers.
- New Buildings (NB) and Alt-CO New Buildings with Existing Elements to Remain are required to comply based on the filing/submission date of the **initial GC filing in DOB NOW** as follows:

Submitted on or After	Filing/Building Type
January 1, 2024	Group R-3 (1- and 2-family homes) and all occupancies less than 7 stories (excluding Service HW)
December 31, 2024	NYC School Construction Authority
December 31, 2025	Affordable Housing less than 7 stories (excluding Service HW)
July 2, 2027	All occupancies (includes Service HW)
December 31, 2027	Affordable Housing more than 7 stories (includes Service HW)



LL154 OF 2021: NYC BUILDING ELECTRIFICATION LAW

WHAT YOU NEED TO KNOW...

Local Law 154 of 2021 prohibits the onsite combustion of fuels that emit more than 25kg CO₂/MMBTU.

What does this mean?

The City is phasing out the usage of natural gas and fuel oil in buildings for cooking, heating and service hot water (Service HW). This impacts appliances such as cooking ranges and clothes dryers.

What types of applications are affected and when?

New Building or Alt-CO New Building with Existing Elements to Remain (alterations that must be filed as New Buildings), submitting applications on or after these dates:

- ▶ **January 1, 2024:** for Group R-3 (1,2 family homes) and all occupancies less than 7 stories (excluding Service HW)
- ▶ **December 31, 2024:** for NYC School Construction Authority projects
- ▶ **December 31, 2025:** for Affordable Housing* less than 7 stories (excluding Service HW)
- ▶ **July 2, 2027:** for all occupancies (includes Service HW)
- ▶ **December 31, 2027:** for Affordable Housing* 7 stories or taller (includes Service HW)

**50% or more of the units are subject to a regulatory agreement, restrictive declaration, or similar instrument with a federal, state, or local governmental entity or instrumentality for the creation or preservation of affordable housing.*

Are there exceptions to the law?

Yes. The following are exceptions to the law:

- ▶ Buildings used by a regulated utility for energy generation
- ▶ Buildings operated by DEP for treatment of sewage or food waste
- ▶ Specific spaces within buildings in which fossil fuels are necessary for a manufacturing use or purpose, such as:
 - Laboratories
 - Commercial Kitchens
 - Laundromats
 - For Emergency or Standby Power
 - Hospitals and Crematoria

For more details read the law at www.nyc.gov/assets/buildings/local_laws/ll154of2021.pdf.

Brooklyn DOB Industry Meeting Questions

November 30, 2023

1. What is required to vest a newly proposed conforming use that will be approved & permitted under a CO-GC application, prior to a zoning district change? Once the zoning district is changed the newly proposed conforming use approved & permitted under the CO-GC application will become a non-confirming use.

For example:

There is an existing one story 60,000 sq ft retail store UG 6 in a M2-1 zoning district.

A CO-GC application to renovate and change the use from the existing UG 6 to a UG 16 warehouse, with no change in bulk & no new foundations, is approved and permitted.

City Planning will be changing the zoning district from M1 to a C4 next summer 2024.

As there will be no new foundations, what will be required to vest the new UG 16 use prior to the change of the zoning district as per 11-30 ZR?

Or in another words, what is required to vest for a change of use under a CO application when there is a zoning district change?

Since this is strictly about a change in use group with construction work limited to fit out of the space(s), the applicant, to be vested, must obtain a TCO with the allowed use under the current zoning regulations before the effective date of the zoning map change (or rezoning). If applicant is not able to obtain a valid TCO prior to zoning change, he/ she may have to go to BSA.

2. BC-2022, Article 108 provides for Alt.1 (Alt.CO) exemption for BPP filing "where the commissioner determines, in consultation with the commissioner of transportation, that a sidewalk is not required."
It's not unusual for BPP to be filed even though minor repair or change to only a small portion of the sidewalk is necessary, when the architect believes that the rest of the sidewalk and roadway are in satisfactory condition - no surface defects, slope inconsistencies and/or trip hazards.

A- Would it be appropriate for an architect to determine that a roadway with an existing small patch without any slope inconsistencies does not need to be repaved with a new larger patch?

B- Would it be appropriate for an architect to determine that a portion of an existing sidewalk which has no trip hazards or slope inconsistencies does not need to be repaved?

No. The applicant or record must submit a package to the BC office with dated, signed, and sealed photographs of the existing sidewalks and roadway for review by the Borough Commissioner. Include a site plan and survey. A waiver of improvements from DOT will also be required.

3. While Local Law 152 of 2016 provides an exemption for two-family houses, many owners are still receiving email notifications presumably because their property is listed incorrectly by the DOF as a three-family.

- While they request DOF to revise their records, does anything else need to be done to avoid a DOB violation?

Local Law 152 of 2016 is for periodic inspection of gas piping systems required for all buildings, except for buildings classified in occupancy group R-3.

In the absence of a valid CO, an LNO may be requested to confirm the legal use and occupancy of the premises. This should stay the possibility – or successful prosecution - of any related enforcement that may be issued.

- Why is the DOF database, which often has incorrect information, used instead of DOB database, which in fact controls the use and occupancy records and must be used for determination when a property is exempt?

The DOF does not rely on the DOB records alone. They typically verify, sometimes through inspections or records, if the building has additional dwelling units. For example, if a DOF inspector sees or obtains records that an additional kitchen was added to a two-family building, they will change their classification from B1 (TWO FAMILY BRICK) to a C0 (THREE FAMILIES).

DOB does not have a database of legal uses and occupancies of every building, so we rely on those observed by DOF, which has a database of sort, and though that database maybe not be reflective of the legal uses and occupancies of every building, is reasonably accurate. Any errors or discrepancies may be handled on an individual basis.

4. Since January 1, 2022, owners became responsible for the required periodic elevator inspections listed in Table N1 of ASME A17.1, as modified by Chapter K1 of Appendix K of the New York City Building Code.

Only after receiving an elevator inspection violations owners start scrambling to figure out why the category 1 inspection wasn't enough. On DOBNOW it is unclear which properties are required to have a periodic inspection. Shouldn't DOBNOW be set up to have required inspections clearly visible so that even if a category 1 inspection has been filed a periodic inspection is still automatically shown as required?

Jody Kaplan: #4 is a good suggestion and has been added as an item for a future system enhancement. We are going to expand on the idea and come up with a way for an owner to see on the DOB NOW public portal the compliance filings required and status (elevator, boiler, façade, parking structure, energy grade).