

NEW YORK CITY BANS GAS HOOKUPS IN NEW BUILDINGS; IS THE STATE NEXT?

Hodgson Russ Renewable Energy Alert
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On December 15, 2021, the New York City Council (“Council”) passed Int. 2317-2021 in a 40 to 7 vote effectively banning new fossil fuel hookups in buildings for heat, hot water, and kitchen stoves starting as early as 2024. Similarly to the All-Electric Building Act (*i.e.*, Senate Bill S6843A) introduced in the New York State Senate, recently discussed by Hodgson Russ ([here](#)), the local law marks New York City’s (“NYC” or “City”) latest push toward building decarbonization.

Although receiving significant publicity for its role in potentially reducing greenhouse gas emissions, measures to achieve building decarbonization are also important from a public health perspective. According to a recent study, New York State “tops the list in terms of premature deaths and health impacts from fuel combustion in buildings ... [and] New York City accounted for the majority of these impacts, with 1,114 premature deaths and \$12.5 billion in health impact costs, compared to 826 premature deaths and \$9.2 billion in the rest of the state combined.”^[1]

The New York City Gas Ban

Int. 2317-2021 (a local law to amend the administrative code of the city of New York, in relation to the use of substances with certain emissions profiles) (“New Law”),^[2] provides for emission limits for new buildings and prohibits combustion of any substance that emits 25 kilograms or more of carbon dioxide per million BTUs of energy within buildings. However, such combustion is permitted in buildings where it is associated with a device *not* connected to the building’s gas or fuel oil supply system, is done intermittently, and is not used for provision of heat and hot water to the building.

All new buildings are subject to these limits, which apply to buildings less than seven stories where an application for the approval of construction documents is submitted after December 31, 2023, and to buildings seven stories or more where an application for the approval of construction documents is submitted after July 1, 2027. However, there are several exceptions. For buildings less than seven stories with at least 50 percent affordable housing units, the law applies after December 31, 2025 whereas similar buildings seven stories or more must comply after December 31, 2027. Also, school construction authorities must comply after December 31, 2024. Lastly, buildings primarily used by a utility regulated by the Public Service

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Commission (“PSC”) for electric power or steam generation, buildings operated by the Department of Environmental Conservation (“DEC”) for treatment of sewage or food waste, combustion for emergency or standby power generation, and buildings used for manufacturing, laboratories, laundromats, hospitals, crematoria, and commercial kitchens are exempt.

Additionally, the New Law requires the Office of Long-term Planning and Sustainability to study (1) the use of heat pumps and (2) the reliability and resiliency of the City’s electrical grid and transmission system relating to implementation of the New Law and provide a report of its findings to the Mayor and Speaker of the Council by June 1, 2023.

Opponents of the New Law—real estate developers and National Grid, a major supplier of natural gas to the City—stated it would not be effective in the fight against climate change until the City no longer receives its electricity from fossil fuel sources and that improved gas infrastructure should remain an option for buildings.^[3] On the other hand, supporters, which include Con Edison—the City’s other supplier of natural gas *as well as* electricity—opined that the City’s grid could handle the increase and that use of heat pumps, which can heat and cool spaces using less energy, could reduce demand in summers to avoid the biggest strain on the grid.^[4]

The State May Also Act

At the state level, efforts on building decarbonization received a significant boost when Governor Hochul called for a statewide ban on natural gas in her State of the State address, following recommendations to do so from the Climate Action Council (“CAC”). The CAC wrote in its recent report that “[a]ll the information before the Council indicates that achievement of the emission limits will entail a downsizing of the fossil gas system.”^[5]

The Governor’s proposal, still in its formative stage, calls for a statewide gas ban by 2027. The goal is electrification of 2 million homes by 2030, with at least 800,000 of those being households of low- and moderate-income New Yorkers.^[6] In addition to the gas ban, her proposal would seek “legislation to level the playing field for clean energy alternatives and end the obligation to serve customers with natural gas that currently exists in state law, tailored to maintain affordability for New York’s most vulnerable customers[.]”^[7]

Hodgson Russ Takeaways

This development is significant on both the local, state, and national levels. New York City, as the largest city in the country, will be opening doors for other likeminded cities to push forward with building electrification. The New Law, and the Governor’s speech, will substantially support efforts to pass the All-Electric Building Act. If passed, it would make New York the first state implementing a state-wide gas ban. Both laws together would solidify New York’s leadership on decarbonization and climate change.

But New York City is not alone. Several cities in California have implemented similar laws such as electric-required reach codes, natural gas bans, or both.^[8] Salt Lake City and Denver have made strides toward building electrification and the City of Ithaca has committed to electrifying new and existing buildings with BlocPower.^[9] These cities are demonstrating the power of municipalities as the regulators of the built environment to lead the charge on building decarbonization in the face of the climate crisis.

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There are also significant potential public health and ratepayer positive impacts from the New Law. According to the Rocky Mountain Institute, the New Law would prevent roughly 2.1 million tons of carbon emissions, the equivalent of 450,000 cars, and would save hundreds of millions of dollars for ratepayers by 2040.^[10] Thus, the benefits to air quality and climate justice would be substantial, given the excessive rates of premature deaths from building-related air pollution in New York.^[11]

If you have any questions about how to address potential required building electrification in New York City, please contact [Daniel Spitzer](mailto:dspitzer@hodgsonruss.com) (716.848.1420), [Alicia Legland](mailto:alegland@hodgsonruss.com) (518.433.2416), [Carmine Castellano](mailto:ccastellano@hodgsonruss.com) (646.218.7571), or another member of the Hodgson Russ [Environment, Renewable Energy](#), or [Municipal Law](#) Practices.

[1] Taylor Gruenwald and Stephen Mushegan, *New York Emits More Building Air Pollution Than Any Other State: Going Electric Can Fix That*, RMI (May 18, 2021, <https://rmi.org/new-york-emits-more-building-air-pollution-than-any-other-state/>) (citing Jonathan J. Buonocore et al., *A decade of the U.S. energy mix transitioning away from coal: historical reconstruction of the reductions in the public health burden of energy*, 16 Environ. Res. Lett. 054030 (2021)).

[2] See Int. No. 2317-2021 (as passed by the New York City Council, Dec. 15, 2021).

[3] Anne Barnard, *N.Y.C.'s Gas Ban Takes Fight Against Climate Change to the Kitchen* (Dec. 15, 2021, <https://www.nytimes.com/2021/12/15/nyregion/nyc-gas-stove-heat-ban.html>).

[4] *Id.*

[5] New York State Climate Action Council, *Draft Scoping Plan* (Dec. 30, 2021) at 264.

[6] Governor's Press Office, *Governor Hochul Announces Plan to Achieve 2 Million Climate-Friendly Homes by 2030* (Jan. 5, 2022, <https://www.governor.ny.gov/news/governor-hochul-announces-plan-achieve-2-million-climate-friendly-homes-2030>).

[7] *Id.*

[8] Tom DiChristopher, *Gas Ban Monitor: Building electrification evolves as 19 states prohibit bans*, S&P Global Market Intelligence (July 20, 2021, <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/gas-ban-monitor-building-electrification-evolves-as-19-states-prohibit-bans-65518738>).

[9] Deepa Shivaram, *The largest city in the U.S. bans natural gas in new buildings*, NPR (Dec. 15, 2021, <https://www.npr.org/2021/12/15/1064496749/new-york-natural-gas-buildings-electrification>). See also BlocPower, *Ithaca, NY Selects BlocPower to "Green" Entire City, First Large-Scale City Electrification Initiative in the U.S.* (Nov. 4, 2021, <https://www.blocpower.io/press-release/ithaca-ny-selects-blocpower-to-green-entire-city-first-large-scale-city-electrification-initiative-in-the-u-s>).

[10] Yu Ann Tan, Amar Shah, Talor Gruenwald, *Stopping Gas Hookups in New Construction in NYC Would Cut Carbon and Costs* (Dec. 10, 2021, <https://rmi.org/stopping-gas-hookups-in-new-construction-in-nyc-would-cut-carbon-and-costs/>).

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[11] *Id.*

