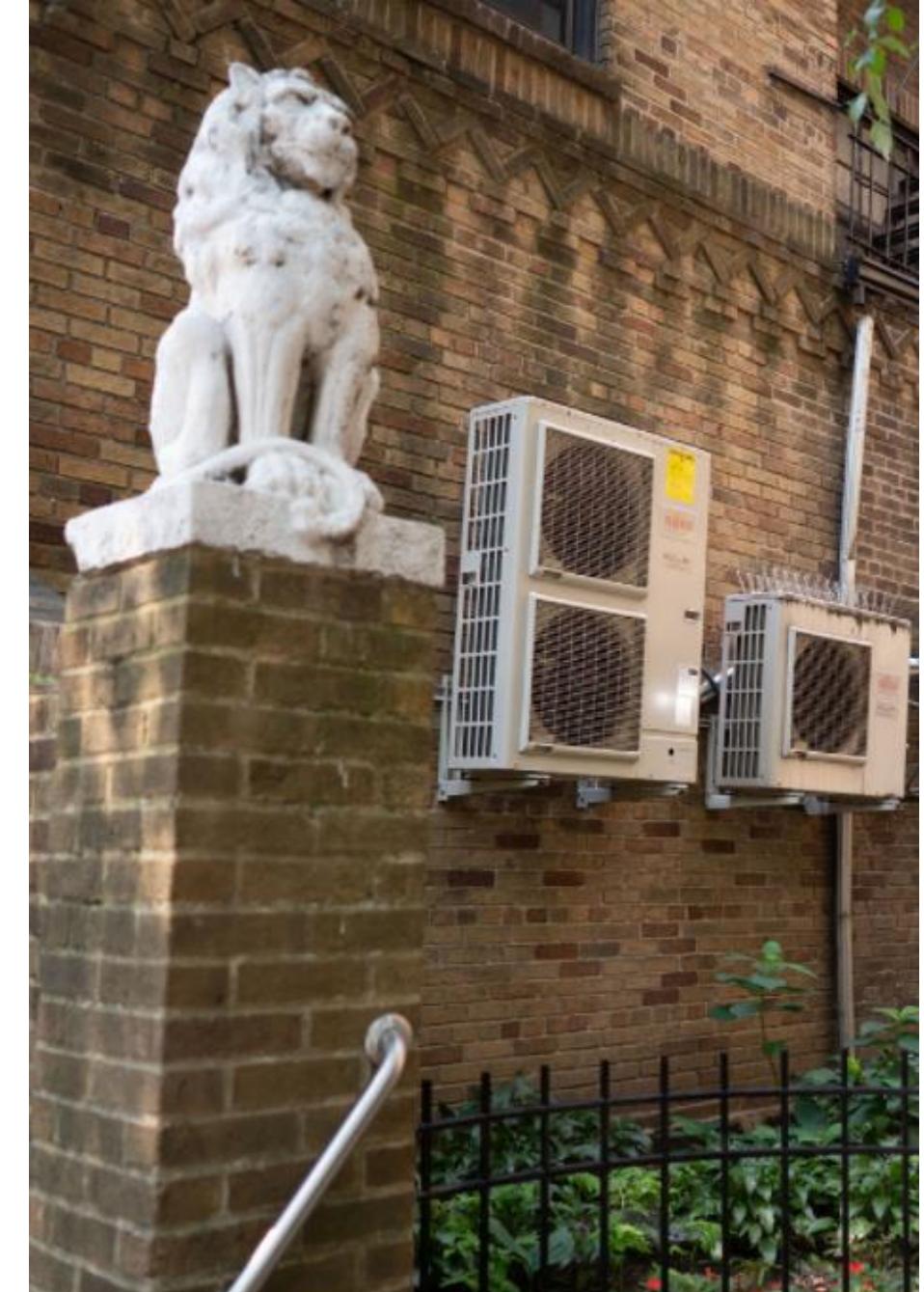


Service Provider Program

Denise Milianta, Service Provider Specialist



What is NYC Accelerator?

- + A City program to help control costs, meet local law compliance, boost building performance, increase energy savings, and reduce carbon emissions across NYC buildings
- + This program provides free technical guidance to help the market accelerate the transformation of how our buildings are built and operated
- + The NYC Accelerator team identifies building upgrade projects to help meet emissions limits established by LL97 of the Climate Mobilization Act
- + NYC Accelerator also provides no-cost trainings and supports green workforce development



The Service Provider Program

Role of the Service Provider Program

- + Actively refer building owners, facility, and property managers to the companies in the NYC Accelerator Service Provider Network.
- + Encourage and enhance market transformation for the city.
- + Support job creation, workforce development and economic opportunity, with a focus on M/WBE engagement.
- + Build the Service Provider sector to accelerate the implementation of decarbonization projects.
- + Create a Service Provider network that serves as an extension the NYC Accelerator Outreach Team.



Benefits to Service Providers

- + Grow your business through referrals from NYC Accelerator
- + Earn inclusion in NYC Accelerator's Service Provider Lookup Tool
 - 5,827 views and 256 emails July-September



NYC ACCELERATOR
FIND A CONTRACTOR

Find qualified, local service providers and design professionals to help you implement building energy improvements.

Search by keyword or filter criteria using the dropdown fields below.

Search Building Size Services
Incentives Certifications/Licenses Market Sectors
 Apply Reset

Need assistance with your search? Please contact our Service Provider Specialist at ServiceProvider@Accelerator.nyc.



Benefits to Service Providers

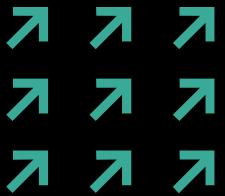
- + Access to our entire bench of account managers
- + Expand skills and grow your team
- + Participate in NYCA networking events
- + Gain access to financing and solar specialists



Interested in Joining? Next Steps

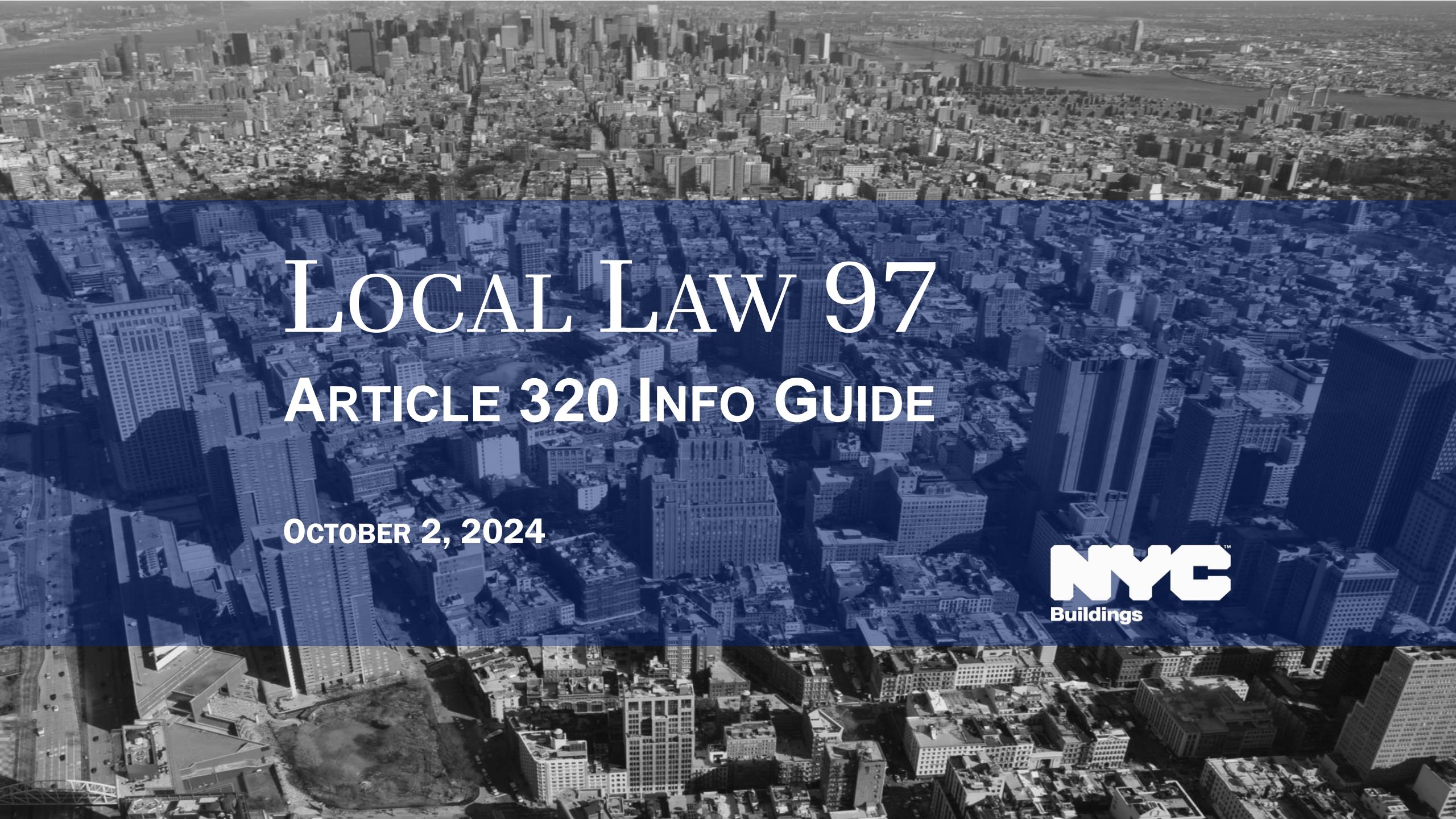
- + Contact Denise Milianta, Service Provider Specialist at denise@accelerator.nyc.
- + Attend a virtual information session – held every Thursday at 11:00 a.m. [Click here to join the meeting](#)





**For further inquiries,
please email Denise Milianta**

denise@accelerator.nyc



LOCAL LAW 97 ARTICLE 320 INFO GUIDE

OCTOBER 2, 2024





Approved
Continuing
Education

Course # S092524

LOCAL LAW 97: Article 320 Info Guide

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October 2, 2024

Marketing • Legal

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Questions related to specific materials, methods, and services will be addressed at the conclusion of this presentation.

Local Law 97: Article 320 Info Guide

This presentation covers the Info Guide associated with Article 320 of New York City's Local Law 97 ("LL97"), a law that addresses the single-largest source of greenhouse gas ("GHG") emissions in the city – buildings. Article 320 includes the majority of LL97 covered buildings (everything except certain types of affordable housing and houses of worship, which are included under Article 321) and the code language may be found in NYC Administrative Code § 28-320 and 1 RCNY §103-14. The Info Guide is intended as both a general primer and a detailed commentary on various facets of Article 320 compliance.

Learning Objectives

At the end of this course, participants will be able to:

1. Participants will learn the definitions of “covered building,” including what types of buildings that will not be covered until CY2026 and CY2035, as well as general exceptions, so that they have a clear understanding of each type of building under Article 320.
2. Participants will be able to navigate to the Article 320 Information Guide on the Sustainability page so that they can have this as a readily available resource.
3. Participants will study and be able to explain the five possible pathways for a stand-alone building on a CBL.
4. Participants will be able to determine the compliance pathway for each building on a lot that contains multiple buildings so that LL97 compliance can be achieved.

Agenda

- Covered buildings
- Article 320 compliance pathways
- Reporting and extension requests
 - a. Building-level compliance
 - b. Multiple buildings on one lot
 - c. Shared energy service
- Emissions calculations
 - a. Selecting ESPM categories
 - b. Gross floor area
- Deductions
 - a. Beneficial electrification
- Mitigated penalty
 - a. Good faith efforts
 - b. Decarbonization plan

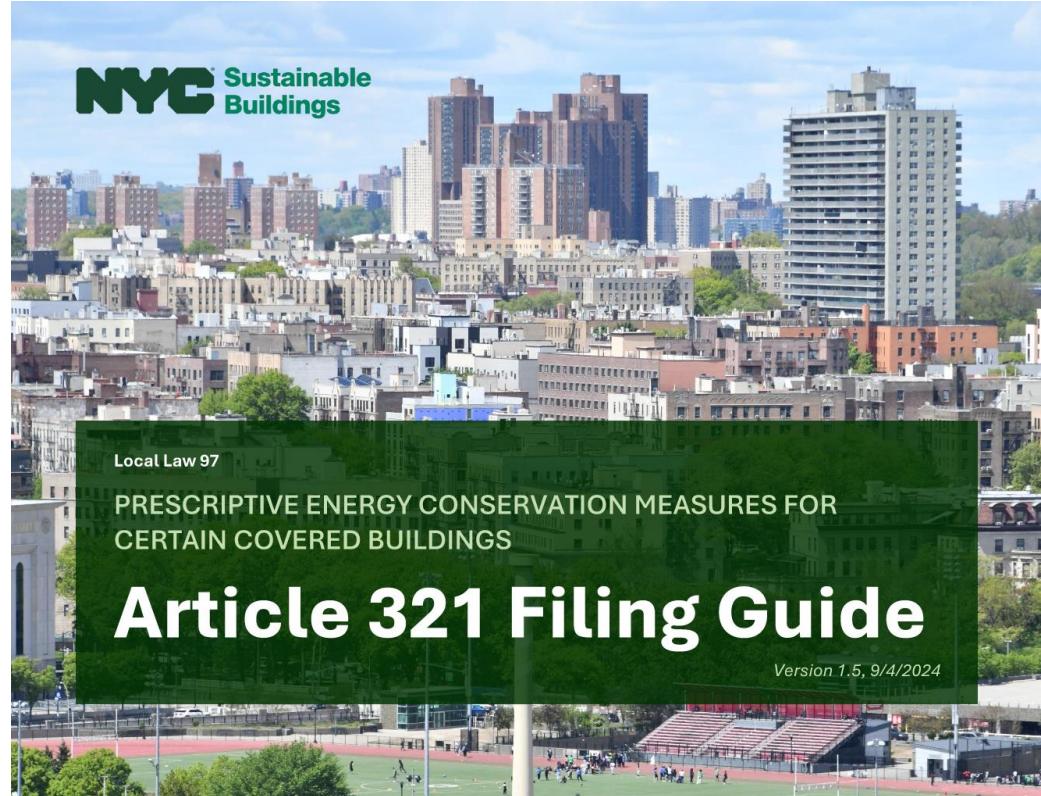
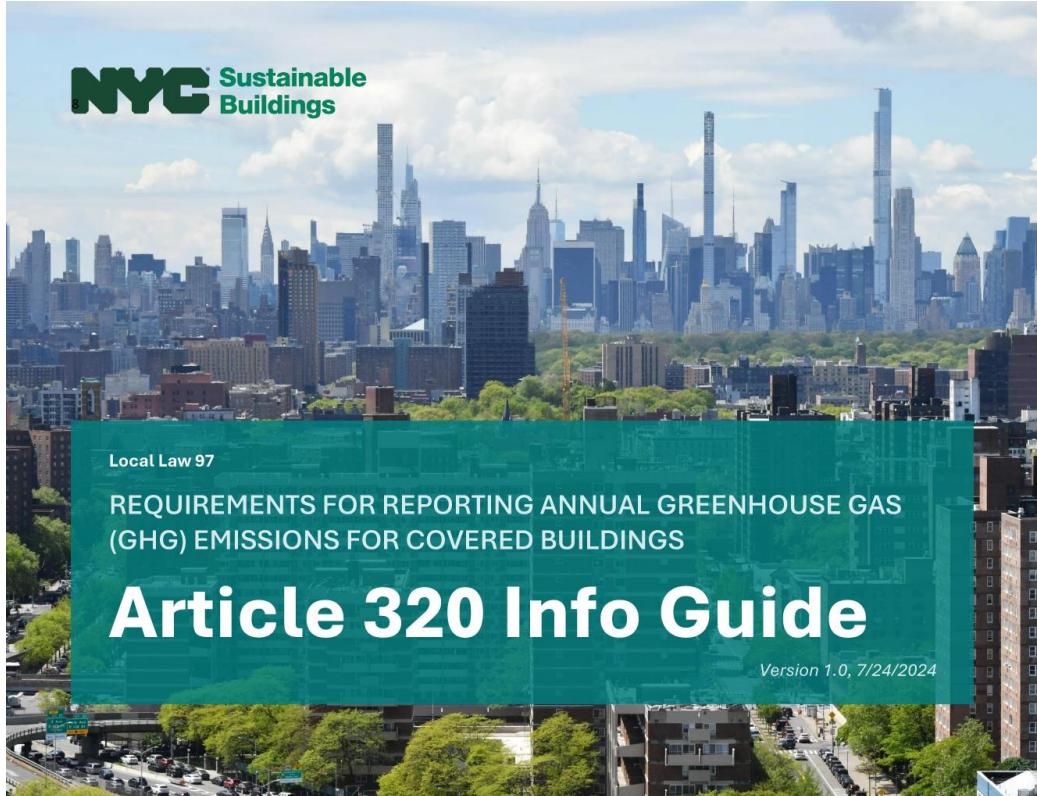
Covered Buildings- Articles 320 and 321

Definitions of "covered building"	General exceptions (for more specific exceptions, see the law)
<p>Article 320 / 1 RCNY §103-14, Building Energy and Emissions Limits (Local Law 97)</p> <p>- Single building > 25,000 GSF; - Multiple buildings, either on the same tax lot or governed by the same board of managers, which are in aggregate > 50,000 GSF (even if individual buildings are < 25,000 GSF).</p> <p><i>Not covered until CY2026:</i> - Buildings with at least one, but no more than 35%, rent-regulated dwelling units.</p> <p><i>Not covered until CY2035:</i> - Certain types of affordable housing not subject to Article 321, as per the rightmost (green) column in this flowchart.</p> <p>Annual CBLs here.</p>	<ul style="list-style-type: none">- Certain utilities;- Certain garden-style apartments;- City buildings, except for the eleven CUNY senior (4-year) colleges;- Buildings covered under Article 321.
<p>Article 321 / 1 RCNY §103-17, Energy Conservation Measure Requirements for Certain Buildings (Local Law 97)</p> <p>Buildings meeting the same size thresholds as Article 320 that:</p> <ul style="list-style-type: none">- Are certain types of affordable housing; or- Have verified more than 50% of the space is used for the purpose of worship (as explained here). <p>Annual CBL here.</p>	<ul style="list-style-type: none">- Certain utilities;- Certain garden-style apartments.

For help, visit the LL97 Covered Buildings Web page:

<https://www.nyc.gov/site/sustainablebuildings/requirements/covered-buildings.page>

Local Law 97 Guidance



Navigating to the Article 320 Guide

The screenshot shows the NYC Buildings website interface. At the top, there is a navigation bar with links for Home, DOB, Tenant, Property or Business Owner, Industry, Safety, Codes (highlighted with a yellow box labeled '1'), Search, and Text-Size. Below the navigation bar are four main buttons: Code Development, NYC Codes (highlighted with a yellow box labeled '2'), Sustainability, and Reference. On the left side, there is a sidebar with a list of sustainability-related laws and programs, each with a yellow box labeled '3' and a yellow arrow pointing to the main content area. The main content area features a section titled 'Sustainability' with a sub-section 'Sustainability Programs' containing a list of links to various programs. The sidebar includes links for NYC Benchmarking Law (LL84), Energy Grading (LL33), Energy Audits & Retro-Commissioning (LL87), Lighting Upgrades & Sub-Metering (LL88), Solar & Green Roofs (LL92 & LL94), Building Electrification (LL154), and NYC Energy Conservation Code.

Requirements

LL97 was first enacted in 2019 as part of a package known as the Climate Mobilization Act. The original LL97 text was later modified, but the composite law is still referred to as LL97. The law is made up of Articles, which are primary legislation enacted by the NYC Council, and identify different compliance pathways depending on certain characteristics of a building. The law is supported by agency rules, which are secondary legislation enacted by DOB.

LL97's [Article 320](#) covers most private buildings with corresponding rule [1 RCNY §103-14](#).

LL97's [Article 321](#) covers certain **affordable housing** and **houses of worship** with corresponding rule [1 RCNY §103-17](#).

Article 320 requires covered buildings to file a report with the Department by May 1, 2025 detailing their annual GHG emissions and then by May 1 of every year after. The report must be certified by a registered design professional.

Article 321 covered buildings are also required to submit a report of compliance with the Department by May 1, 2025.

The Sustainability Bureau has developed guidance for building owners to help them comply LL97:

[Article 320 Information Guide](#)

4

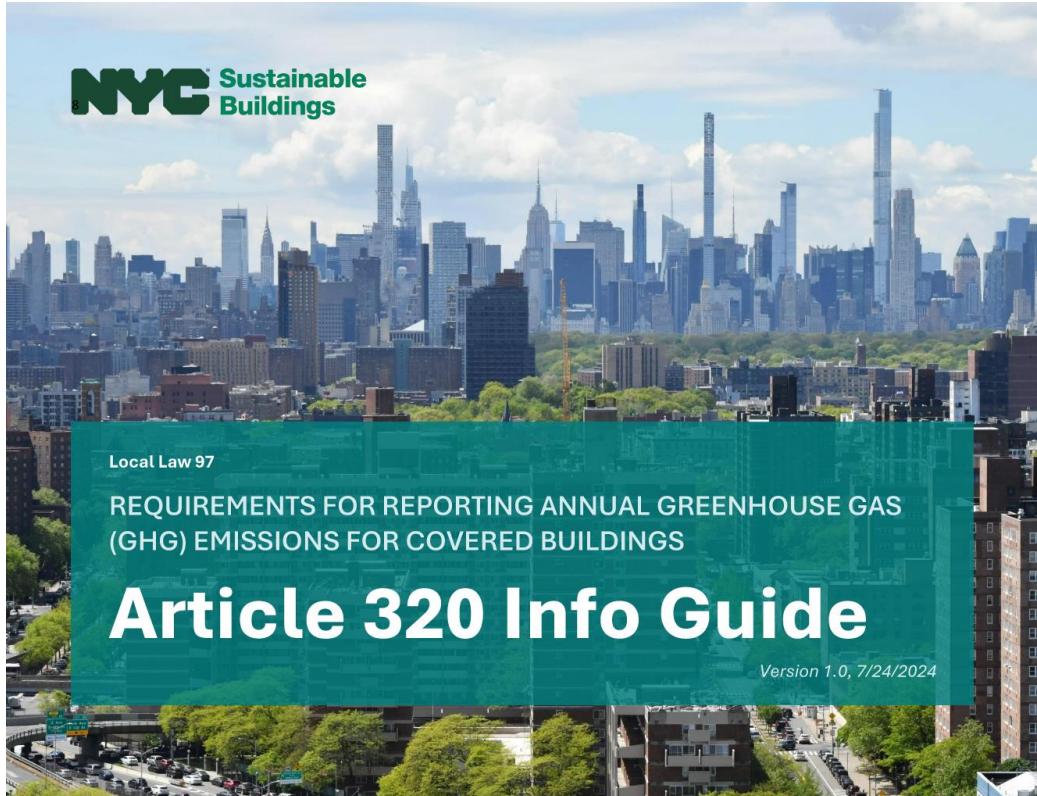
[Article 321 Filing Guide \(Templates & Template Instructions\)](#)

Sustainability Incentive and Financing Programs

The NYC Dept. of Buildings and New York City Accelerator maintain a comprehensive list of financial incentives, tax credits, and financing options that can help building owners and managers improve the energy efficiency of their buildings. Click the link to explore these options.

[Sustainability Incentive and Financing Programs](#)

Table of Contents



- I. Background**
 - A. Covered buildings
 - B. Definitions
- II. Article 320 compliance pathways**
- III. Reporting and extension requests**
 - A. Building-level compliance
 - B. Multiple buildings on one lot
 - C. Shared energy service
- IV. Emissions calculations**
 - A. Selecting ESPM categories
 - B. Gross floor area
 - C. Special cases
- V. Deductions**
 - A. Beneficial electrification
- VI. Mediated resolution**
 - A. Good faith efforts
 - B. Decarbonization plan

II. Article 320 compliance pathways

If a LL97 covered building is not one of **certain types of affordable housing** or a **house of worship** then it cannot follow Article 321 and must follow one of the Article 320 compliance pathways. The five possible pathways for a stand-alone building on a CBL are as follows:

- A. Non-covered building**
- B. Exception**
- C. 2026 Rent Regulated $\leq 35\%$ pathway**
- D. 2035 Income Restricted extension pathway**
- E. Article 320 typical pathway**

For guidance on which pathway to choose in cases where more than one pathway applies, refer to the CBL FAQ.

II. Article 320 compliance pathways

A. Non-covered building

- If an RDP's floor area analysis finds that GSF is less than or equal to 25,000 sf, a dispute can be filed with DOF regarding recorded GSF
- Buildings with a delayed report due to an open DOF dispute must request a filing extension
- Should DOF disagree, the first annual LL97 report is due within 120 days of the date of disapproval
- *If the building is enlarged above 25,000 GSF, then it will become a LL97 covered building beginning with the first full calendar year following completion of the alteration*

B. Exception

- Certain utilities, garden-style apartments, city buildings, buildings on NYCHA property
- *If a building is altered such that the exception no longer applies, then it will become a LL97 covered building beginning with the first full calendar year following completion of the alteration*

II. Article 320 compliance pathways

C. 2026 Rent Regulated ≤ 35% pathway

- Buildings with at least one dwelling unit, but not more than 35% of all units, that are rent regulated
- Initial annual report would use 2026 benchmarking data and be due by May 1, 2027
- *An Article 321 building can become a 2026 pathway building if its percentage of rent-regulated units falls from above 35% to 35% or below*

D. 2035 Income Restricted extension pathway

- Mitchell-Lama buildings that are not also subject to Article 321 or the 2026 pathway
- Buildings (not also subject to Article 321 or the 2026 pathway) with at least one income-restricted unit
- Initial annual report would use 2035 benchmarking data and be due by May 1, 2036
- *Buildings that fall out of the 2035 pathway will become subject to annual reports beginning with the first full calendar year following the status change*

II. Article 320 compliance pathways

E. Article 320 typical pathway

- No specific CBL of lots that fall under this pathway, so check the CBL of all covered buildings.
- Initial annual report uses 2024 benchmarking data and is due by May 1, 2025



The Covered Buildings Lists (CBLs)

i. All properties subject to Local Law 97

If a building appears on this list and does not appear on any of the other lists, the building is subject to Article 320 of Local Law 97 beginning January 1, 2024, with the first report due May 1, 2025.

[LL97 All Properties CBL \(pdf\)](#)

[LL97 All Properties CBL \(Excel\)](#)

ii. Properties subject to Article 320 pursuant to § 28-320.3.10.1 (2026 Rent Regulated Properties)

If an address appears on this list, there may be at least one building on the BBL subject to LL97 beginning January 1, 2026, with the first report due May 1, 2027.

[LL97 2026 Rent Regulated \(§ 28-320.3.10\) CBL \(pdf\)](#)

[LL97 2026 Rent Regulated \(§ 28-320.3.10\) CBL \(Excel\)](#)

iii. Properties subject to Article 320 pursuant to § 28-320.3.9 (2035 Income Restricted Properties)

If an address appears on this list, there may be at least one building on the BBL subject to LL97 beginning January 1, 2035, with the first report due May 1, 2036.

[LL97 2035 Income Restricted \(§ 28-320.3.9\) CBL \(pdf\)](#)

[LL97 2035 Income Restricted \(§ 28-320.3.9\) CBL \(Excel\)](#)

iv. Properties that are subject to Article 321 (Certain Categories of Affordable Housing and Houses of Worship)

If an address appears on this list, there may be at least one building on the BBL subject to the alternative compliance requirements of Article 321 of Title 28 of the NYC Administrative Code, including a one-time report due May 1, 2025.

[LL97 Article 321 CBL \(pdf\)](#)

[LL97 Article 321 CBL \(Excel\)](#)

<https://www.nyc.gov/site/buildings/codes/ll97-greenhouse-gas-emissions-reductions.page>

III. Reporting and extension requests

- Annual LL97 compliance report due by **May 1st** covering the calendar year prior.
- Grace period through **June 30th** where the report may be submitted without penalty; reports submitted after June 30th will incur a \$0.50/sf penalty for each month that has passed since May 1st.
- Non-compliant reports submitted after the end of the grace period and not pursuing penalty mitigation will incur fines for both late submission and non-compliance.

Annual deadline extension requests may be submitted until June 30th and are allowed for two reasons:

- i. The RDP submitting the report needs until **August 29th** to finish (e.g. due to delayed utility-provided energy data) and was hired on or before **February 1st**; or
- ii. There is a pending dispute at DOF challenging the building's recorded GSF and presence on a CBL, as described in Section II(A) of the Guide.

III. Reporting and extension requests

- **New buildings** (“NBs”) must report emissions beginning with the first full calendar year following the building’s initial Temporary Certificate of Occupancy (“TCO”), no matter how small the initially occupied area. The entire building, not just the area under TCO, must be accounted for in GFA, emissions limit, and energy use calculations.
- **Ownership changes** for an existing building exempt such building from LL97 reporting for the entire calendar year in which the sale/transfer was closed.
- Buildings undergoing **full demolition** potentially become exempt from LL97 immediately but must still file an annual report (by May 1st of the following year) attesting that the building’s energy-using systems ceased to be operational by the end of the calendar year in which demo work commenced. Partial demo may make a building exempt from LL97 if the partial demo results in energy-using systems being taken offline.

III(A). Building-level compliance

Submission of reports and issuance of penalties takes place at the level of an individual building (or **BIN**, Building Information Number), even though the identifying information in the CBLs is at the level of the tax lot (or **BBL**, Borough-Block-Lot).

- Eligibility for adjustments and exceptions applies to individual buildings, not to entire lots.
- **Building-level compliance**, based on building-level emissions calculation, is required even when a combined report is submitted for two or more Article 320 buildings on a single lot, or adjacent lots owned by the same owner. Aggregated emissions calculation in a combined report is allowed only when all buildings in the combined report share energy systems. All existing buildings in NYC should have a BIN – this can be verified in DCP's Geographic Online Address Translator ("GOAT") online database.
- If a BIN does not have an address range associated with it, it cannot be used for DOB filings. In these cases, a House Number application must be submitted to the borough Topographical Bureau, and the Topo approval forwarded to DCP (process can take several months).

III(B). Multiple buildings on one lot

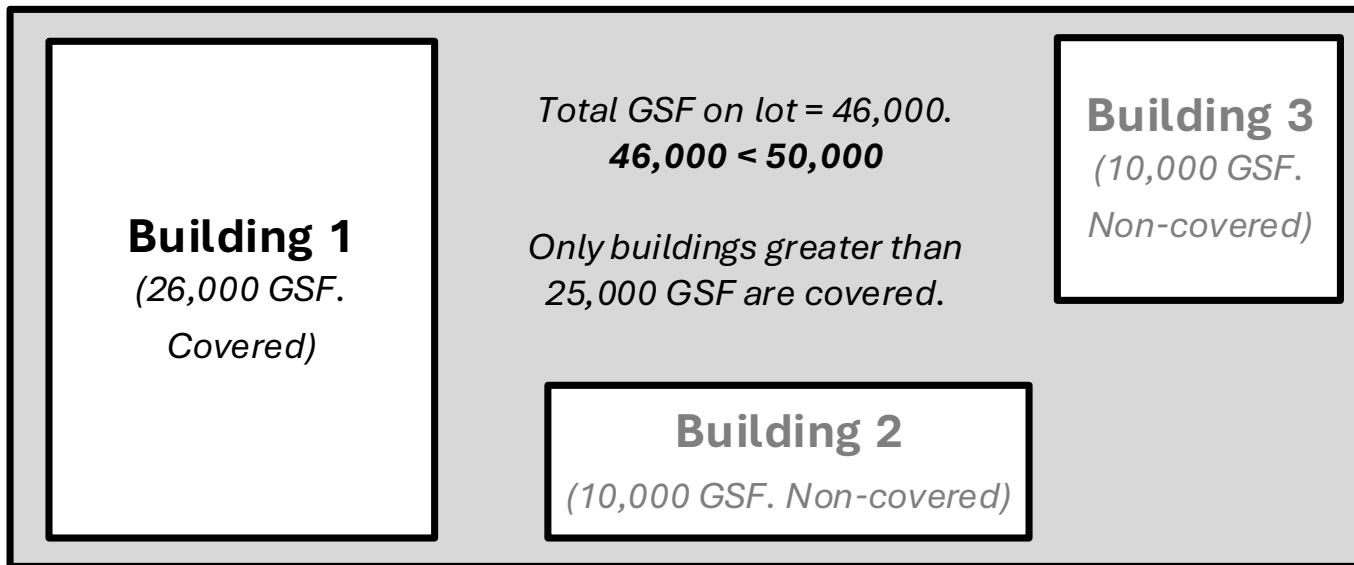
Each building on a lot follows a compliance pathway that may be different from the other buildings' pathways; Article 320 buildings may co-exist with Article 321 buildings and City buildings. LL97 compliance pathways for multiple buildings on one lot are the same as those described in Section II of the Guide, with some additional possibilities:

- 1. Non-covered**
- 2. Exception**
- 3. 2026 Rent Regulated $\leq 35\%$ pathway**
- 4. 2035 Income Restricted extension pathway**
- 5. Article 320 typical pathway**
- 6. Article 321 (Performance-based pathway, Prescriptive pathway)**
- 7. Combined reports**

III(B). Multiple buildings on one lot

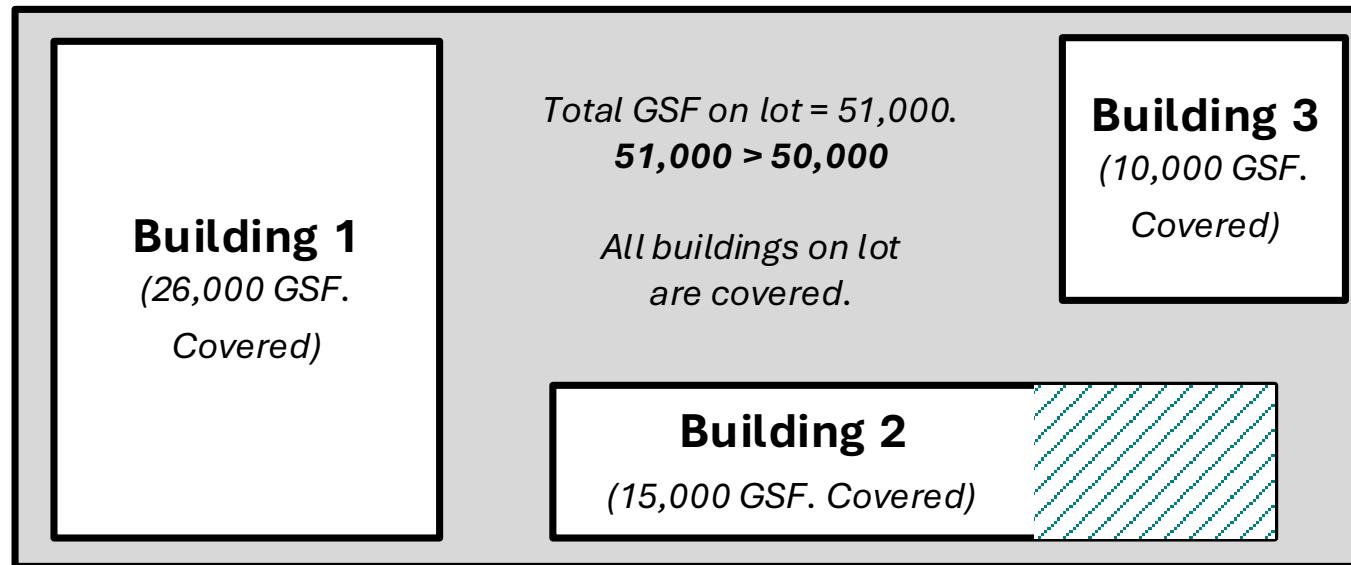
1. Non-covered

- If one building on a lot is larger than 25,000 GSF, then the entire lot will be pulled onto the CBL even when the aggregate GSF is less than or equal to 50,000 (the threshold at which every building on the lot must comply with LL97). In this case, the other buildings on the lot could be considered non-covered.



III(B). Multiple buildings on one lot

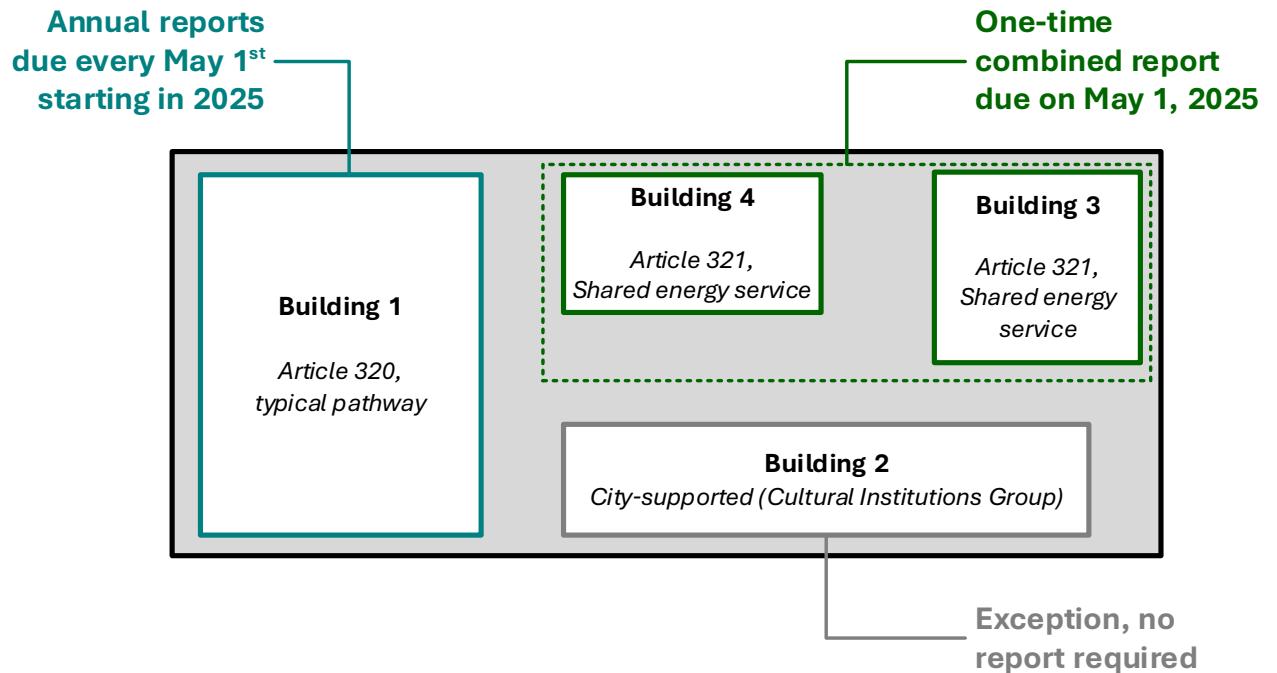
- If the aggregate GSF increases above 50,000 (due to enlargements, extensions, additional structures), all buildings on the lot would then be considered covered buildings.



III(B). Multiple buildings on one lot

7. Combined reports

- A **combined report** may be submitted for two or more buildings on a single lot, or adjacent lots **provided**
 - all buildings in the combined report are owned by the **same building owner**, and
 - follow the **same compliance pathway**.
- Each building in a combined report must demonstrate building-level compliance based on building-level emissions calculations. However, if two or more buildings in the combined report **share energy service**, they may demonstrate aggregate compliance based on **aggregate emissions calculations**.



III(C). Shared energy service

1. For buildings on **separate and nonadjacent lots**,

Individual reports, and

Individually calculated emissions (and emissions limits)

are **required** when:



All different owners
NO SHARED SERVICE
Compliance pathway doesn't matter



Same owner
NO SHARED SERVICE
Compliance pathway doesn't matter



All different owners
SHARED SERVICE
Compliance pathway doesn't matter



Same owner
SHARED SERVICE
Compliance pathway doesn't matter

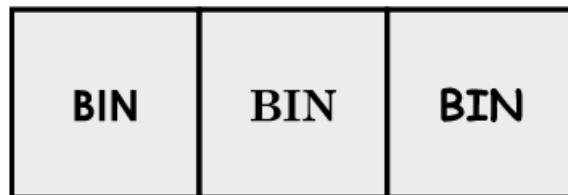
III(C). Shared energy service

2. For buildings on the **same lot or directly adjacent lots**,

Individual reports, and

Individually calculated emissions (and emissions limits)

are **required** when:



All different owners
NO SHARED SERVICE
Compliance pathway doesn't matter



Some have same owner
SHARED SERVICE
Different compliance pathways for buildings under same owner



All different owners
SHARED SERVICE
Compliance pathway doesn't matter

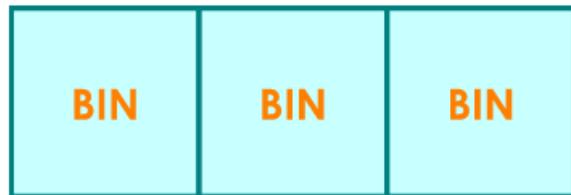
III(C). Shared energy service

3. For buildings on the **same lot or directly adjacent lots**,

Combined reports, and

Aggregated emissions (and emissions limits) calculations

are **allowed** when:



Same owner
SHARED SERVICE
All have same compliance pathway



Same owner
SHARED SERVICE
Some have same compliance pathway



Some have same owner
SHARED SERVICE
Same compliance pathways for buildings under same owner

III(C). Shared energy service

4. For buildings on the **same lot or directly adjacent lots**,

Combined reports are allowed, but

Individually calculated emissions (and emissions limits)

are **required** when:



Same owner
NO SHARED SERVICE
All have same compliance pathway



Same owner
NO SHARED SERVICE
Some have same compliance pathway

IV. Emissions calculations

- Compliance with LL97 for a property is met when
GHG Emissions Limit \geq Actual GHG Emissions

- GHG Emissions Limit** [in units of tCO₂e]
of a Property with **ESPM Property type A, B, and C** =

Gross Floor Area of **ESPM Property type A** x **Emissions Factor A** +

Gross Floor Area of **ESPM Property type B** x **Emissions Factor B** +

Gross Floor Area of **ESPM Property type C** x **Emissions Factor C**

- Actual GHG Emissions** [in units of tCO₂e]

of a Property with **Fuel type W, Y, and Z** =

Annual Use of **Fuel type W** x **Emissions Coefficient of the Fuel type W** +

Annual Use of Fuel type Y x Emissions Coefficient of the Fuel type Y +

Annual Use of Fuel type Z x Emissions Coefficient of the Fuel type Z

- Alternate paths to establish GHG Emissions Limit – e.g., Adjustments**

- External or Financial Constraint, Special Circumstance, Not-for-profit Hospital or Healthcare Facility

- Alternate paths to establish Actual GHG Emissions – e.g., Deductions**

- Beneficial Electrification

IV(A). Selecting ESPM categories

- ESPM's official guidance recommends applying a single property type to an entire building, and the online ESPM profile should do this since it is required for Benchmarking (LL84) and Energy Letter Grades (LL33).
- LL97 reporting requires a more granular approach. Under LL97, buildings should at least be subdivided between residential, non-residential (e.g., commercial), and parking property types. Within those broad categories, a primary property type may be used to subsume other property types when the primary use has the lowest emissions factor of the group.
- For example, “Multifamily Housing” can include accessory spaces that would otherwise be “Fitness Center” or “Social/Meeting Hall” because “Multifamily Housing” has the lowest emissions factor of the group.

ESPM Property Type	2024 – 2029 Emissions Factor in tCO ₂ e per sf
Adult Education	0.00758
Ambulatory Surgical Center	0.01181
Automobile Dealership	0.00675
Bank Branch	0.00987
Bowling Alley	0.00574
College/University	0.00987
Convenience Store without Gas Station	0.00675
Courthouse	0.00426
Data Center	0.02381
Distribution Center	0.00574
Enclosed Mall	0.01074
Financial Office	0.00846
Fitness Center/Health Club/Gym	0.00987
Manufacturing/Industrial Plant	0.00758
Medical Office	0.01074
Movie Theater	0.01181
Multifamily Housing	0.00675
Senior Care Community	0.01138
Social/Meeting Hall	0.00987
Strip Mall	0.01181

IV(A). Selecting ESPM categories

- An alternative to setting a blanket emissions limit using a single primary property type is to derive a higher emissions limit by giving distinct uses within a building their own property type when their energy use pattern (e.g., room conditioning, lighting) diverges from the primary property type.
- For example, a lab floor within a university building can be broken out as “Laboratory” since that property type has a higher emissions factor than “College/University”.
- ESPM property type boundaries may or may not line up with BC occupancy group divisions as listed on the TCO/CO. Multiple occupancy groups on a floor can be consolidated under one ESPM property type if their energy use pattern is similar, and conversely, one occupancy group with multiple energy use patterns can be broken out into multiple ESPM property types.

ESPM Property Type	2024 – 2029 Emissions Factor in tCO ₂ e per sf
Adult Education	0.00758
Ambulatory Surgical Center	0.01181
Automobile Dealership	0.00675
Bank Branch	0.00987
Bowling Alley	0.00574
College/University	0.00987
Convenience Store without Gas Station	0.00675
Courthouse	0.00426
Data Center	0.02381
Distribution Center	0.00574
Enclosed Mall	0.01074
Financial Office	0.00846
Fitness Center/Health Club/Gym	0.00987
Food Sales	0.01181
Food Service	0.01181
Hospital (General Medical & Surgical)	0.02381
Hotel	0.00987
K-12 School	0.00675
Laboratory	0.02381
Library	0.00675
Lifestyle Center	0.00846
Mailing Center/Post Office	0.00426

IV(B). Gross floor area

GSF = Gross Square Feet, “total square footage as provided in Department of Finance records” that is used to determine whether a building is covered under LL97.

GFA = Gross Floor Area, as measured/verified by an RDP, that is used to determine a building’s emissions limit. In general, GFA will be greater than GSF.

LL97’s definition of GFA (1 RCNY §103-14) is virtually the same as the definition of “gross floor area” in the Benchmarking Rule (1 RCNY §103-06) and “floor area, gross” in ASHRAE publications.

- It includes all above- and below-grade square footage within the enclosing walls of a building, as measured to the exterior surface of any architectural features.
- Every ESPM property type on a floor will have its own aggregate GFA, and the boundary between property types should be taken at the centerline of the demising walls between them.

IV(B). Gross floor area

When ancillary spaces (e.g., shafts, stairwells, corridors, and mechanical rooms) serve multiple property types, the GFA of the ancillary space should be assigned proportionally among the property types served.

One way to do this could be based on floor area; another way to do this could be to calculate the emissions limits for each space:

ESPM Property Type (served by ancillary space)	GFA (sf)	Emissions factor (tCO2e/sf)	Emissions limit (tCO2e)	Ancillary space allocation	
				<i>Based on floor area</i>	<i>Based on emissions</i>
Food Service	1,000	0.01181	11.81	20%	23%
Social/Meeting Hall	4,000	0.00987	39.48	80%	77%

V. Deductions

- There are times when an individual building's energy use actually has to increase so that regional-scale emissions can be lowered (e.g., EV charging stations). In such cases of public benefit, LL97 allows deductions from reported emissions.
- Some deductions (On-site energy storage, Beneficial Electrification) are taken against total emissions, and others (RECs, on-site solar) are taken against metered electricity use before it is converted into an emissions amount.
 - Deductions from on-site clean DERs ("CDERs") are described in 1 RCNY §103-14(e)(2).
 - RECs are addressed in the Rule and in the Department's RECs FAQ and RECs cost-benefit analysis, with possible future revisions as more LL97-eligible RECs become available.
 - Deductions such as RECs are taken against emissions resulting from electricity consumption *only*, and not against emissions resulting from the combustion of fossil fuels.

V(A). Beneficial electrification

- Beneficial Electrification (“BE”) refers to the replacement of combustion-based equipment and inefficient electricity-using equipment with high-efficiency electricity-using equipment.
- Equipment (for heating, cooling, and service hot water) that meets minimum efficiencies is allowed to multiply its energy use by a **negative emissions coefficient** to generate a deduction.
 - **Early action** is encouraged since the BE deduction can only be generated during the first reporting period (2024-29).
- New buildings in compliance with LL154 may not take the BE deduction since their equipment would not be replacing existing fossil fuel-based equipment.

V(A). Beneficial electrification

- Even earlier action is encouraged by making the negative emissions coefficient twice as large for equipment installed prior to 2027.
- One year's BE deduction can be reserved for future years. Only one reserved year may be used per reporting year; reserved deductions from multiple years may not be combined.

		year in which Beneficial Electrification savings can be applied								
		2024	2025	2026	2027	2028	2029	2030 to 2034	2035	2036
year in which qualifying equipment is first installed	2024 or earlier									
	2025									← any 6 years
	2026									← any 5 years
	2027									← any 4 years
	2028									← any 3 years
	2029									← any 2 years
										← any 1 year

VI. Mitigated Penalty – 2024-2029 compliance period

- **Penalty for non-compliance**
 - (Actual GHG Emissions – GHG Emissions Limit) tCO2e x **\$268/ tCO2e**
 - May be mitigated based on **mitigating factors**.
- **Unexpected or unforeseeable event** or event that precluded compliance during a year – the building owner must provide evidence, e.g., photographs documenting the disaster/damage.
- **Good Faith Efforts (“GFE”)** If a building exceeds its emissions limits but is taking concrete action towards compliance – i.e., demonstrating the good faith efforts for compliance is being made, the Department may offer a mediated resolution in lieu of levying a penalty. This is an agreement requiring robust commitments on the part of the building owner to reduce emissions; if the terms of the agreement are not followed, the building will be subject to retroactive penalties.

VI(A). Good faith efforts

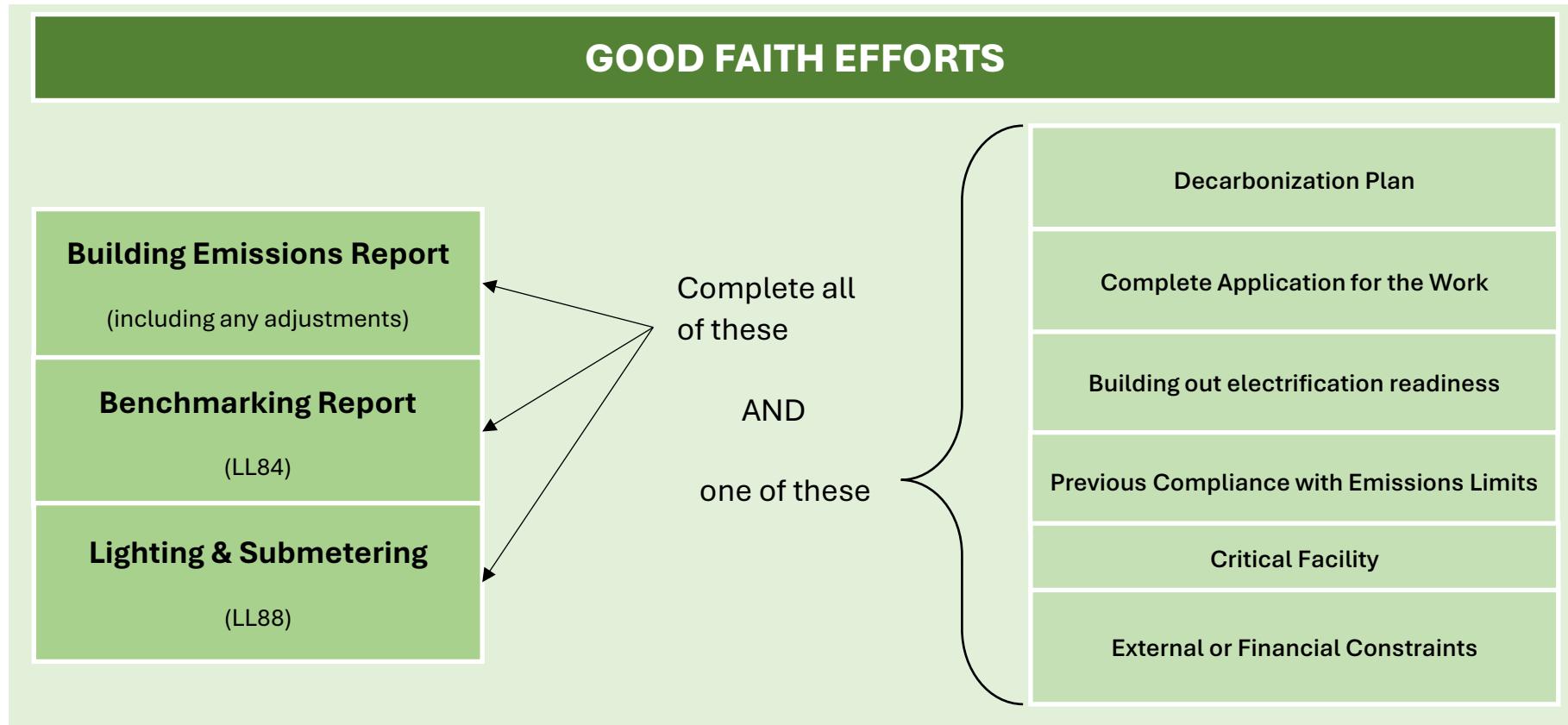
Demonstrating GFE requires submission of **three prerequisites**:

- i. The **LL97 annual building emissions report** for the reporting calendar year;
- ii. The **LL84 benchmarking report** for the reporting calendar year; and
- iii. The **LL88 lighting upgrades and submetering report**.

In addition to the three prerequisites, one of **six electives** must be submitted:

- a) A **decarbonization plan**, or
- b) Evidence of **general alteration work** underway to reduce emissions, or
- c) Evidence of specific alterations underway for **electric readiness**, or
- d) A LL97 emissions **report from an older calendar year showing compliance** for that year, or
- e) Documentation of how a penalty would negatively impact a **critical facility**'s ability to provide services, or
- f) A submitted **adjustment application** pursuant to §28-320.7

VI(A). Good faith efforts



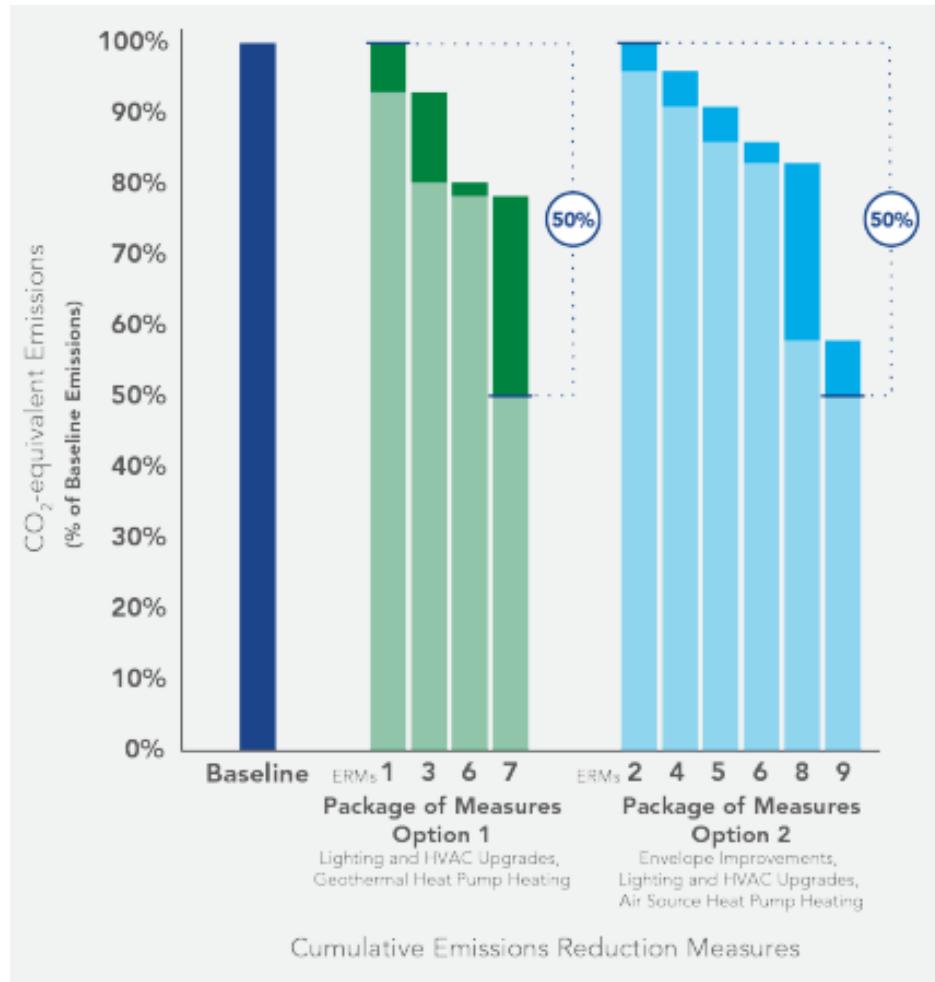
VI(B). Decarbonization plan

- Decarb plans include strategies for energy efficiency, renewable energy generation and/or storage, and electrification.
 - Certain strategies are explicitly disallowed by LL97 from being included in a decarb plan – removal of tenants, purchase of RECs.
- Decarb plans are similar to LL87 Energy Efficiency Reports ("EERs") in that they include energy audits, inventories of equipment, and recommendations for Operations and Maintenance ("O&M") and capital expenditures ("CapEx").
 - Decarb plans go beyond EERs in that they require owner input to compile realistic timelines for implementation. Details such as phasing, critical paths, fundraising strategies, and consideration of supply chain issues can all be essential components of a decarb plan.

VI(B). Decarbonization plan

LL97 Decarb Plans must include:

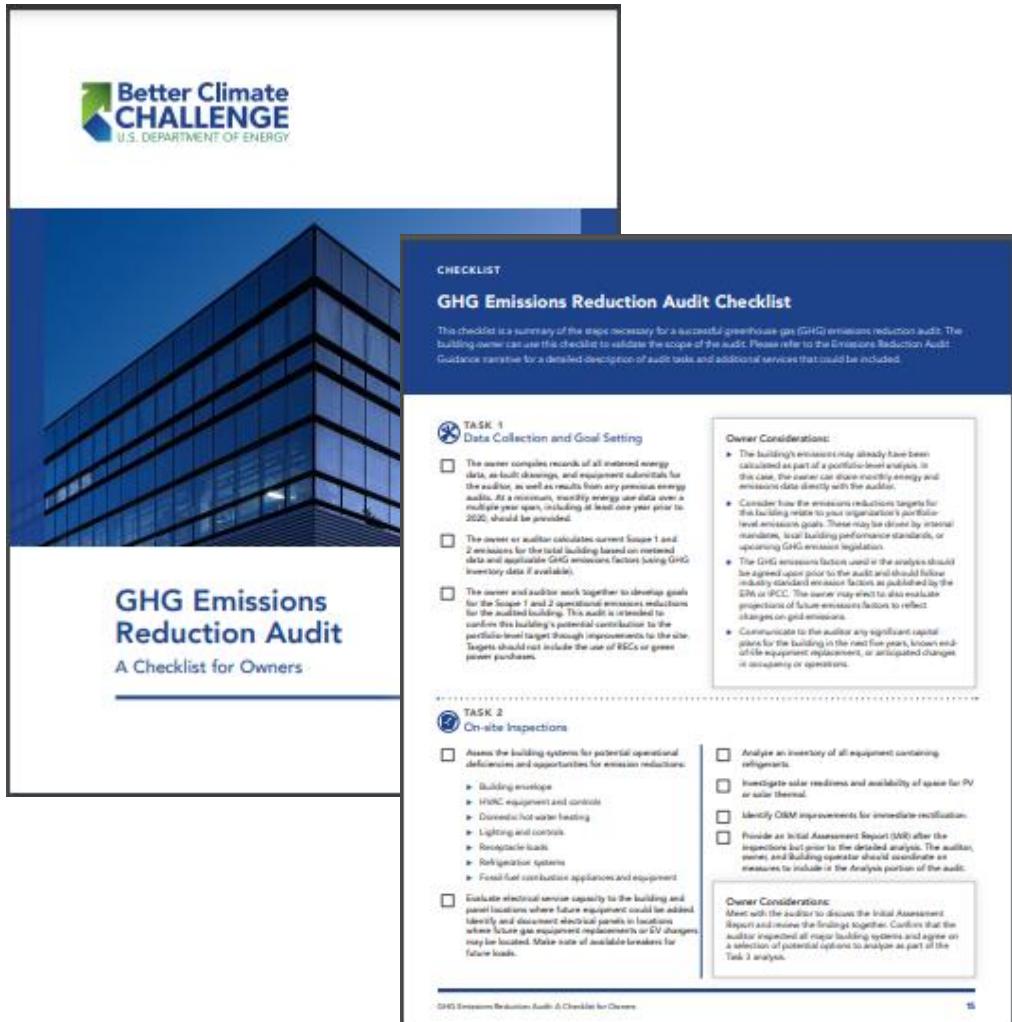
- ASHRAE Standard 211 **Energy Audit** four years old or less;
- **Inventory of all building Energy-Use Equipment** – per Section 5.1 of ASHRAE 211 with date of equipment installation;
- Evidence of Energy Efficiency Measures (“**EEMs**”) resulting min.10% reduction in building emissions, completed on or after January 1, 2013; and
- A list of **Alterations and O&M changes** to achieve LL97 compliance, with each item showing its completion timeline, projected emissions reduction, and funding details.



Source: [GHG Emissions Reduction Audit](#) by US DOE

VI(B). Decarbonization plan

- Progress checks on Decarb Plans
 - Due May 1, 2027, to substantiate that the building has completed work to meet 2024-29 emissions limit
 - Due May 1, 2028, to verify that there exist Department-approved work filings to meet 2030-34 emissions limit.
 - Unachieved Decarb Plans >> Retroactive Penalties
- Decarb Plans require
 - Level 2 energy audit for buildings \geq 50,000 sf, aligning with LL87.
 - Level 1 energy audit for buildings $<$ 50,000 sf
- GHG Emissions Reduction Audit
 - Published by DOE to expand the energy audit described in ASHRAE 211 into a Decarb Audit
 - Audit checklist and Scope of work Template available in DOE Better Buildings website



Thank You!

PDH Questions

1. What qualifies a building to be able to delay compliance until 2026?
2. What qualifies a building to be able to delay compliance until 2035?
3. If there are multiple buildings on a lot, do they all follow the same pathway?
4. How do you determine which pathway to follow for each building when there are multiple buildings on a lot?