**The Role of the New York City Council in the Development of PlaNYC and the Institutionalization of Climate and Environmental Law and Policy in New York City**

Overview

The legislative process in New York City involves collaboration between the Legislature (New York City Council) and the Executive or Administration (Mayor's Office). With respect to enacting legislation, this working relationship can include coordination during bill drafting, negotiations and hearings post-bill introduction, and discussions after enactment to ensure effective implementation.

For more than two decades, the City Council and the Mayor's Office have worked closely together to develop climate and environmental policies, under the umbrella of sustainability. In this paper, the term "sustainability" is used broadly to cover topics related to climate change and the environment, focusing on whole systems' health and encompassing key principles like emissions mitigation, resiliency and adaptation, protection of the natural world, responsible production and consumption, and equity. These principles are reflected in the United Nations Sustainability Development Goals (SDGs),[1] which have been incorporated into New York City's long-term sustainability planning.[2]

The collaboration between the City Council and Mayor's Office has yielded a significant amount of legislation that institutionalized these policies in the structure and functioning of City government, including long-term sustainability planning first iterated as PlaNYC. Today, considerations regarding sustainability, equity, climate change, environmental protection, and resiliency are embedded in core government functions, and New York City is considered a global leader in sustainability policy development.

There are myriad reasons for the successful partnership between the City Council and Mayor's Office. New York City is a one-party city, dominated by Democratic and Progressive politics that have embraced climate change as an imperative that must be addressed.[3] Strong leadership from elected officials prioritized a comprehensive sustainability agenda and empowered staff to create and implement climate and

[1] United Nations General Assembly, *Transforming our World: The 2030 Agenda for Sustainable Development*, A/RES/70/1. September 25, 2015. un.org.

[2] In 2018, New York City became the first municipality to submit a Voluntary Local Review (VLR) to the United Nations, measuring its local sustainability policy against the SDGs. New York City Mayor's Office for International Affairs, *Voluntary Local Review: New York City's Implementation of the 2030 Agenda for Sustainable Development* (New York City: City of New York, July, 2018), https://www.nyc.gov/assets/international/downloads/pdf/NYC_VLR_2018_FINAL.pdf.

[3] This is true despite the fact that Mayor Bloomberg was elected as a Republican (2001, 2005, 2009), becoming an Independent in 2007. It is clear that Bloomberg was a lifelong Democrat who changed party affiliations to run for mayor and avoid a crowded Democratic primary. See Associated Press, "Bloomberg Leaves Republican Party," NBC News, June 19, 2007, https://www.nbcnews.com/news/amp/wbna19317522.



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environmental policies. Robust stakeholder participation engaged advocates, communities, labor, business, and industry in the process, ensuring that there was collective support and that diverse perspectives and expertise were appropriately considered. Ultimately, all of these reasons coalesced to make the institutionalization of climate and environmental law and policy in New York City one of the most successful collaborations between the City Council and the Mayor's Office in the past two+ decades.

New York City Council Background

The New York City Council is the City's legislative body, consisting of 51 Council Members elected from districts established by the New York City Districting Commission.[4] A Speaker, voted on by Council Members, leads the body and has significant influence on the development of Council priorities.[5] The Speaker's Office decides on which legislation gets hearings and votes, and oversees Central Staff who work for the City Council body as a whole and have expertise in legislative, budgetary, and land use functions.

The work of the Council is done through a committee system, whereby standing committees and subcommittees are created to oversee and legislate on particular subject areas.[6] Council Members are appointed as Chairs of committees and convene public hearings on oversight topics or legislation.[7] Over the past twenty+ years, there were several committees that held hearings and passed a significant amount of environmental legislation at the City Council. Chief among these are currently known as the Committee on Environmental Protection and Waterfronts,[8] the Committee on Sanitation and Solid Waste Management, and the Committee on Housing and Buildings. In particular, the Chairs of the Committee on Environmental Protection and Waterfronts were dedicated to fighting climate change and pursuing a robust sustainability agenda. These included Council Member James Gennaro (2002-2013; 2021-current), Council Member Donovan Richards (2014-2015), and Council Member Costa Constantinides (2015-2021).

As Chair, these Council Members led the Committee and worked with the Speaker's Office and Central Staff to develop priorities. Each Committee is assigned a Legislative Attorney, Policy Analyst, and Finance Analyst from Central Staff to support the work. While Councilmanic Staff work directly for individual Council

[4] N.Y.C. Charter § 22(a); see also N.Y.C. Charter §§ 50–52 (Districting Commission).
[5] According to the City Council's website, the Speaker "leads us in setting priorities, passing laws, and directing public monies for the benefit of New Yorkers." New York City Council, "About," https://council.nyc.gov/about/.
[6] New York City Council, "Committees," https://council.nyc.gov/committees/.
[7] New York City Council, "Committees."
[8] Known as the Committee on Environmental Protection from 1998 to 2022, and the Committee on Environmental Protection, Resiliency, and Waterfronts from 2022 to 2026. A separate Committee on Waterfronts was convened from 2008 to 2016. A separate Committee on Recovery and Resiliency was convened from 2014 to 2017, after Superstorm Sandy. A separate Committee on Resiliency and Waterfronts was convened from 2020 to 2023.


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Members and generally focus on district issues related to constituents, some of these positions, such as Legislative Director, often work with Central Staff to advance a Council Member's legislative priorities. Ultimately, there has been a consequential and collective effort between Council Members and staff to create, draft, and enact comprehensive sustainability legislation.[9]

New York City Council Legislative Authority

The City Council has broad authority to legislate,[10] derived from multiple sources. Pursuant to the New York State Constitution Article IX §2, every local government has the power "to adopt and amend local laws not inconsistent with the constitution or any general law relating to its property, affairs or government."[11] Similarly, under the General City Law, every city is granted the authority to "regulate, manage, and control its property and local affairs and is granted all the rights, privileges, and jurisdiction necessary and property for carrying such power into execution."[12]

The Municipal Home Rule Law (MHR) provides that New York State can only make laws uniquely affecting a locality if the locality passes a home rule request asking the State Legislature to enact a special law affecting its property, affairs or government.[13] This seemingly strong provision has arguably been severely restricted by case law; the New York Court of Appeals ruled that the State has the authority to legislate with respect to specific localities if the law in question relates to a "substantial state concern."[14] In *Greater New York Taxi Association*, the court upheld a State law regulating City licensed for-hire vehicles, finding that the efficiency of transportation is a matter of substantial state concern because the City has a high number of visitors and because of the important place the city holds as the State's largest municipality.[15] It is arguable that the City will never relinquish its important place as the State's largest municipality, and therefore difficult to imagine a case in which a home rule request will be required in the face of State legislative action.

[9] A significant number of Central and Councilmanic Staff worked on these issues over the past two-plus decades. Those who have spent many years dedicated to environmental policy development, include Donna DeCostanzo, Daniel Avery, Russell Unger, Samara Swanston, Cullen Howe, Marcel Van Ooyen, Peter Washburn, Bill Murray, and Nicholas Widzowski. I was privileged to start working on these issues on the "ground floor," ultimately directing the City Council's efforts to enact environmental protection legislation for almost fifteen years, from around 2007 to 2021.

[10] Note that in addition to enacting legislation, the City Council's main powers include conducting oversight hearings, allocating funding for district needs, negotiating and adopting the City budget, and voting on land use, zoning, and development changes. The focus of this paper will be on the City Council's enactment of environmental legislation, although each of the other powers works in concert to support a robust environmental agenda.

[11] N.Y. Const. art. IX, § 2(c).

[12] N.Y. Gen. City Law § 19. More specific powers can be found in N.Y. Gen. City Law § 20.

[13] N.Y. Const. art. IX, § 2(b)(2). Note that the State passes laws uniquely affecting New York City with reference to a city "having a population of one million or more."

[14] *Greater New York Taxi Ass'n v. State of New York*, 21 N.Y.3d 289 (2013).

[15] *Greater N.Y. Taxi Ass'n*, 21 N.Y.3d at 302–3.



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Of note, in the field of environmental protection, the State invoked the doctrine of "substantial state concern" when it enacted legislation applicable only to New York City, preempting the City's plastic bag law from taking effect.[16] The original City law, passed in 2016, sought to pursue an aggressive plastic bag reduction mandate.[17] Ultimately, the final New York State Bag Waste Reduction Act delayed implementation by three years, allowing counties or cities in the State to opt into a program whereby certain businesses could charge a 5-cent fee for paper bags and prohibit the provision of plastic carryout bags.[18]

The New York City Charter section 28 also contains a broad delegation of powers, providing that the City Council can adopt local laws it deems appropriate, as long as it doesn't conflict with other laws: for the good rule and government of the City; for the order, protection and government of persons and property; for the preservation of the public health, comfort, peace and prosperity of the City and its inhabitants; and to effectuate the purposes and provisions of the Charter or of other law relating to the City.[19]

Based on its wide grant of legislative powers, the City Council has the authority to pass laws on myriad issues related to sustainability, climate change, environmental protection, resiliency, and equity. New York City has therefore enacted a prodigious amount of legislation in these areas where it is not expressly or impliedly preempted by state or federal law.

<u>City Council Climate and Environmental Legislation Pre-PlaNYC 2002-2005</u>
Before legislation creating a long-term sustainability plan was heard in the fall of 2006, the City Council was already building a track record of advancing and institutionalizing environmental policy. While only one piece of environmental legislation was adopted in 2004,[20] 2005 saw the passage of a several bills – more than doubling what was adopted in the previous three years.[21]

This early prioritization of environmental legislation during the 2002-2005 period concentrated on:

- Setting standards for City government procurement of energy efficient products: LL37 of 2002, requiring the purchase of products that meet Energy Star standards; LL30 of 2003, requiring the purchase or lease of products that have the Energy Star label; LL118 of 2005, establishing the city's environmental purchasing program and creating the role of Director of

[16] Act of Feb. 14, 2017, ch. 7, 2017 N.Y. Laws (S. 4158/A. 4883) (establishing a moratorium on carryout bag fees in cities with a population of one million or more).
[17] N.Y.C. Local Law No. 63 (2016), as amended by N.Y.C. Local Law No. 81 (2016).
[18] N.Y. Envtl. Conserv. Law §§ 27-2801 to 27-2809.
[19] N.Y.C. Charter § 28(a).
[20] N.Y.C. Local Law No. 25 (2004) (increasing penalties for idling and requiring signage).
[21] The last year of a Council Speaker's tenure typically sees a significant amount of legislation passed, reflecting the politics of "getting things done" before Council Members are out of office and political alliances potentially shift with an incoming Speaker.


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Citywide Environmental Purchasing; LL119 of 2005, requiring the city to achieve energy savings with its power management equipment; LL120 of 2005, reducing the amount of hazardous substances in products purchased by the city; LL121 of 2005, requiring the purchase of products with recycled content; LL123 of 2005, requiring the purchase of green cleaning and other custodial products.

- Reducing emissions from city-owned or licensed vehicles and city projects: requiring ultra low sulfur diesel fuel (ULSDF) and best available retrofit technology (BART) for construction vehicles (LL77 of 2003), diesel-fuel powered motor vehicles (LL39 of 2005), sanitation trucks (LL40 of 2005), sight-seeing buses (LL41 of 2005), and school buses (LL42 of 2005); requiring the city to purchase cleaner vehicles (LL38 of 2005); requiring the Taxi and Limousine Commission (TLC) to approve hybrid electric vehicle models for use as yellow taxis (LL72 of 2005).
- Protecting water and wetlands: LL27 of 2003, increasing fines for water pollution; LL71 of 2005, creating a watershed protection plan for Jamaica Bay; LL83 of 2005, establishing a task force to study the feasibility of transferring city-owned wetlands to the Parks Department.
- Strengthening the Community Right-to-Know Act: LL76 of 2003, updating reporting requirements to track hazardous substance use; LL82 of 2003, increasing penalties for violations of the Act.
- Establishing green building standards: LL86 of 2005, requiring green building standards for city capital projects; LL107 of 2005, requiring the purchase of Energy Star products for tax incentivized housing.
- Overhauling the noise code: LL113 of 2005.
- Establish an Adopt-a-Park program: LL55 of 2003, authorizing the Parks Department to enter into supportive agreements with private individuals and entities to directly fund maintenance operations.

During this time period, the movement to institutionalize a comprehensive environmental policy agenda that addressed sustainability and climate change was bubbling up at all levels of government, and the City Council, Mayor's Office, and stakeholders were in the process of building capacity and knowledge of relevant issues. There was pullback from this trend when Mayor Bloomberg introduced legislation suspending the residential pick-up of metal, glass, and plastic in order to reduce spending and address a potential budget deficit.[22] The City Council negotiated the passage of a bill that continued the recycling of metal, while halting glass and plastic.[23] Ultimately, the Mayor's Office resumed curbside collection of plastics in July of 2003,[24] and the City Council passed subsequent legislation setting timelines to restore glass and yard waste collection.[25]

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[22] Eric A. Goldstein, "Recycling Hangs Tough," *Gotham Gazette*, April 11, 2003, https://www.gothamgazette.com/environment/1135-recycling-hangs-tough.

[23] N.Y.C. Local Law No. 11 (2002). The Council also passed N.Y.C. Local Law No. 46 (2002), creating a temporary task force on recycling.

[24] Rebekah A. Hall, "Back on Track," *Waste Age*, April 1, 2004, https://waste360.com/industry-insights/back-on-track; see also Office of the Mayor, "Mayor Michael R. Bloomberg and Sanitation



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As noted above and reflected in the environmental legislative record the City Council moved forward, there were positive negotiated outcomes during the 2002-2005 period. Further, both the City Council and Mayor Bloomberg worked together to pass the landmark Smoke Free Air Act,[26] as well as to transform the High Line elevated rail viaduct for into public park space.[27] However, this time-period was not reflective of the level of cooperation that existed between the City Council and Mayor's Office in subsequent years. Speaker Gifford Miller and Mayor Bloomberg frequently clashed over local and budget matters,[28] veto overrides,[29] and political ambitions, culminating in Speaker Miller's decision to run against Mayor Bloomberg in the mayoral election of 2005.

Of note, Speaker Miller opposed Mayor Bloomberg's proposed Solid Waste Management Plan (SWMP). The SWMP sought to reduce the amount of waste handled by trucks in favor of barge and rail, building new marine waste transfer facilities in a more equitable manner, and alleviating the burden that waste handling had on certain environmental justice communities.[30] One of the proposed marine waste transfer stations was located on the Upper East Side at 91st Street in Speaker Miller's district, and he opposed the plan and worked with Council Members to reject the ULURP application.[31] In the end, he did not have the votes to override Mayor Bloomberg's veto,[32] and the fate of the SWMP was left to be worked out by the next City Council.

A Comprehensive Sustainability Action Plan

In 2006, Council Member Christine Quinn became Speaker of the City Council and Mayor Bloomberg was elected for a second term in office. Over time, Speaker Quinn

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Commissioner John J. Doherty Outline Changes to Recycling Program," press release PR-166-02, June 27, 2002, https://www.nyc.gov/html/om/html/2002a/pr166-02.html.

[25] N.Y.C. Local Law No. 50 (2003). Note that in 2005, the City Council acted to further expand recycling by establishing a recycling program for rechargeable batteries, extending producer responsibility, and limiting residential disposal. N.Y.C. Local Law No. 97 (2005).

[26] N.Y.C. Local Law No. 47 (2002) (Smoke-Free Air Act). The Act banned smoking in most public places, including restaurants and bars.

[27] Friends of the High Line, "NYC Mayor announced city acquired High Line from CSX Transportation," November 17, 2005, https://blet.org/news/nyc-mayor-announces-city-acquires-high-line-from-csx-transportation/

[28] See, e.g., Jill Gardiner, "Miller Lashes Out at Bloomberg Over Proposed Budget Cuts," *New York Sun*, June 3, 2005, https://www.nysun.com/article/new-york-miller-lashes-out-at-bloomberg-over-proposed.

[29] This included the Childhood Lead Poisoning Prevention Act, N.Y.C. Local Law No. 1 (2004).

[30] New York City Department of Sanitation. *Comprehensive Solid Waste Management Plan*. New York: City of New York, September 2006.

[31] "City Council Stated Meeting – June 8, 2005," *Gotham Gazette*, June 8, 2005, https://www.gothamgazette.com/article/searchlight/20050608/203/1437; "Sanitation's Four Marine Transfer Stations Approved," *CityLand*, July 15, 2005, https://www.citylandnyc.org/sanitation's-four-marine-transfer-stations-approved/.

[32] "Sanitation's Four Marine Transfer Stations Approved," *CityLand*, July 15, 2005, https://www.citylandnyc.org/sanitation's-four-marine-transfer-stations-approved/



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and Mayor Bloomberg built a strong relationship, reflecting alignment on many key issues[33]. For example, Speaker Quinn started her term supporting Mayor Bloomberg's proposed SWMP, which was approved on July 19, 2006, at the same Stated Meeting that saw the introduction of the legislation requiring the creation of a comprehensive environmental sustainability action (later, PlaNYC).[34] Additionally, they worked together to overturn term limits, which allowed them to run for (and achieve) a third term in office.[35] Ultimately, this partnership contributed to the advancement of significant environmental legislation and policy during the period of 2006-2013.

Environmental legislation adopted in 2006 largely built upon the City Council's previous efforts to address reducing emissions from vehicles, with a focus on licensed clean air taxis and for-hire vehicles (FHVs).[36] This included extending the retirement period before clean air taxis and FHVs had to be replaced, thereby incentivizing their purchase,[37] requiring the Taxi and Limousine Commission (TLC) to create a plan to promote the use of clean air taxis and FHVs,[38] and clearly identifying and providing information on these vehicles.[39] The City Council also enacted legislation mandating the separation, collection, and composting of yard waste[40] and, as noted above, authorized the City to submit a proposed final SWMP to the State.[41]

To further strengthen its environmental legislative record, the Council began developing a far-reaching agenda institutionalizing sustainable planning in the framework of city government. In early 2006, the City Council drafted legislation creating an office of long-term planning and sustainability and requiring the development of a long-term sustainability plan.[42] This period also saw the introduction of legislation requiring the City to undertake inventories of greenhouse

[33] Prior to becoming Speaker, Council Member Quinn worked closely with the Mayor's Office to pass the Smoke Free Air Act as Chair of the Committee on Health and Mental Health.
[34] N.Y.C. Local Law No. 33 (2006) (passed July 19, 2006, by a vote of 44–5); "New York City Council Stated Meeting – July 19, 2006," *Gotham Gazette*, July 19, 2006, https://www.gothamgazette.com/article/searchlight/20060720/203/1912.
[35] N.Y.C. Local Law No. 51 (2008) (extending term limits from two to three consecutive terms).
[36] The package of legislation also addressed accessible taxis and FHVs.
[37] N.Y.C. Local Law No. 52 (2006).
[38] N.Y.C. Local Law No. 53 (2006).
[39] N.Y.C. Local Law No. 54 (2006).
[40] N.Y.C. Local Law No. 40 (2006).
[41] N.Y.C. Local Law No. 33 (2006).
[42] As per the Council's legislative process, a legislative service request (LS request) is submitted on behalf of a Council Member or the Speaker, requesting the drafting of a local law or resolution. These LS requests are either generated by a Council Member or by the Legislative Staff from Central Staff as they work to formulate policy based on Speaker priorities. Central Staff is responsible for doing legal and policy research for LS requests, and for drafting legislation or resolutions, in consultation with the appropriate sponsor. For legislation submitted on behalf of the Speaker, Central Staff often works with the Speaker's Office to offer various Council Members the opportunity to be a prime sponsor of such legislation.


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gas emissions citywide and for government operations, and to achieve clear emissions reduction targets.[43]

For legislative staff steeped in environmental issues, it was an important moment to advance a framework establishing a formal long-term climate action plan and office, along with a greenhouse gas inventory and emissions reductions mandates. At the time, the Kyoto Protocol had recently come in effect, establishing a global framework for greenhouse gas emissions reduction targets, emissions accounting, and carbon markets.[44] Additionally, the U.S. Mayor's Climate Protection Agreement spurred signatories to commit to reducing greenhouse gas emissions in line with and beyond the Kyoto Protocol (seven percent below 1990 levels by 2012).[45] Further, a number of major cities were in various stages of planning and pursuing greenhouse gas mitigation efforts, including San Francisco,[46] Seattle,[47] and London.[48]

Int. No. 395, "A Local Law to amend the New York city charter, in relation to the creation and implementation of a comprehensive environmental sustainability action plan for the city of new york," was introduced at the Stated Meeting on July 19, 2006 and assigned to the Committee on Environmental Protection[49]. The Mayor's Office asked the City Council to postpone a hearing on the bill until Mayor

[43] Int. No. 20, introduced on February 1, 2006, would later become N.Y.C. Local Law No. 55 (2007).
[44] Kyoto Protocol to the United Nations Framework Convention on Climate Change, December 11, 1997, 2303, U.N.T.S. 162 (entered into force February 16, 2005). Pursuant to the Protocol, industrialized countries committed to reducing emissions, while developing nations participated voluntarily.
[45] U.S. Conference of Mayors, U.S, Mayor's Climate Protection Agreement, February 16, 2005 (endorsed June 13, 2005), https://www.usmayors.org/programs/mayors-climate-protection-center/. Ultimately there were 1,066 signatories to this Agreement, which has been superseded by newer coalitions aligned with the Paris Agreement.
[46] San Francisco's Climate Action Plan and Greenhouse Emissions Reduction Resolution committed the city to reduce emissions 20% below 1990 levels by 2012. San Francisco Environment Department, "*Mayor Newsome Unveils 'Climate Action Plan" to Cut Local Emissions, Combat Global Warming*," press release, September 24, 2004, https://www.sfenvironment.org/press/mayor-newsom-unveils-climate-action-plan-cut-local-emissions-combat-global-warming.
[47] The Seattle Climate Action Initiative was launched by Mayor Greg Nickels on February 16, 2005, alongside the U.S. Mayor's Climate Protection Agreement. A Green Ribbon Commission on Climate Protection drafted recommendations for a Climate Action Plan, which was adopted in September of 2006. City of Seattle, Office of Sustainability and Environment, *Seattle Climate Action Plan: Taking Action for the Climate and the Community*; 2008 Progress Report (Seattle: City of Seattle, 2008), 1, https://www.seattle.gov/documents/Departments/OSE/CPI-08-Progress-Report.pdf.
[48] London's Green Light to Clean Power: The Mayor's Energy Strategy, was launched by Mayor Ken Livingstone and established greenhouse gas emissions reductions targets, including 20% below 1990 levels by 2010, and 60% below 2000 levels by 2050. Greater London Authority, *Green Light to Clean Power: The Mayor's Energy Strategy* (London: Greater London Authority, February 2004).
[49] Chair of the Environmental Protection Committee, Council Member James Gennaro, was the prime sponsor of the legislation. When the legislation passed, there were 23 co-sponsors, including Council Members Brewer, Foster, Gonzalez, James, Koppell, Mendez, Nelson, Seabrook, Weprin, Mark-Viverito, Lappin, McMahon, Liu, White, Recchia, Vallone, Vacca, Martinez, Gioia, Garodnick, Rivera, Monserrate, and Comrie.


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Bloomberg could make an announcement related to long-term sustainability planning. [50]

Two months after Int. 395 was introduced, but a few days before it was scheduled for a hearing, Mayor Bloomberg held a September 21, 2006 press conference in California. During this time, he announced the creation of an office of long-term planning and sustainability, and charged that office with implementing a greenhouse gas inventory and developing a plan that would ensure a future-NYC could meet the needs of its residents.[51] He also announced the office would be led by Rohit Aggarwala, who had been hired in June of 2006, as well as the creation of a Sustainability Advisory Board (SAB), which met for the first time on September 27th and included representation from Speaker Quinn and Council Member Gennaro.[52] Both Speaker Quinn and Council Member Gennaro submitted quotes in support of Mayor Bloomberg's announcement [53]

At the hearing, Chair Gennaro set the tone in his opening statement when he discussed the City Council's legislative record on the environment and its commitment to "lead[ing] the efforts to promote the city's environmental sustainability into the future."[54] He also noted that he, "Speaker Quinn, and the

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[50] Eddie Bautista, Director, Mayor's Office of City Legislative Affairs, email to Haeda Mihaltses, Spencer Fisher, Stephen Ackerman, Andrea Fastenberg, Robert Kulikowski, Rohit T. Aggarwala, et al., "Update on Intro's 395,375 and 20," August 25, 2006, PST archive. Bautista reported that he told Council staff in late August "that we had invited the Council to join us at a September press conference to announce the establishment of the Long Term Plan/ Sustainability Task Force and the Sustainability Advisory Board," and that staff "agreed to postpone their hearing on Intro. 395 until the week of Sept. 18th."

[51] Office of the Mayor, "Mayor Bloomberg Announces Creation of Office of Long-Term Planning and Sustainability," press release PR-335-06, September 21, 2006, https://www.nyc.gov/html/om/html/2006b/pr335-06.html.

[52] The announcement also included the appointment of Douglas Foy, President of the Conservation Law Foundation, as Special Advisor on Sustainability, and a partnership with Columbia University's Earth Institute to support the office of long-term planning. Office of the Mayor, "Mayor Bloomberg Announces Creation."

[53] "Together with environmental and business leaders, the Council and the Mayor's office are engaging in a real long term planning process that will ensure New York City continues to lead the way in green business and development," said City Council Speaker Quinn. "Following Council Member Gennaro's leadership, we will work to make this office relevant and permanent. We are committed to taking real steps that will lead to a protected environment, a stronger economy, and a better City overall." "The New York City Council has passed a host of progressive legislation that has helped move the City towards environmental sustainability," said Council Member Gennaro. "Speaker Quinn and I are delighted to be working with the Bloomberg Administration and the Sustainability Advisory Board in this extraordinary effort to create an environmentally sustainable City for successive generations of New Yorkers. Mayor Bloomberg is to be congratulated for his deep commitment to this vital issue." Office of the Mayor, "Mayor Bloomberg Announces Creation."

[54] New York City Council, Committee on Environmental Protection, Hearing on Int. No. 395, September 26, 2006, transcript, 6. Council Member Gennaro also acknowledged the work of Central Staff at the "forefront" of the Council's environmental work at this time, including Donna DeCostanzo, Counsel to the Committee on Environmental Protection; Dan Avery, Policy Analyst for the Committee on Environmental Protection; and Peter Washburn, Chief of Staff to Council Member Gennaro (10).



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entire Council [were] absolutely delighted with the prospect of partnering with the Bloomberg Administration on this vital issue."[55]

Rohit Aggarwala, Director of the Office of Long-Term Planning and Sustainability (OLTPS), testified first. Director Aggarwala emphasized the teamwork between the City Council and the Mayor's Office, noting that "[t]he Council and this Committee in particular has been a great ally, and in many cases a clear leader, in our shared efforts for a truly sustainable New York."[56] He described the current efforts of the Mayor's Office to create an office dedicated to long-term sustainability, convene the SAB to inform the sustainability plan, and establish a greenhouse gas emissions inventory. He also asked the Council to hold off on finalizing legislation until the sustainability plan was developed.[57]

Several organizations testified[58] in support of Int. 395 at the hearing, many of which highlighted the need for institutionalizing a long-term sustainability plan and praising the cooperation between the City Council and Mayor's Office in moving a comprehensive environmental agenda. These included:

- Port Authority of New York and New Jersey, Christopher Zeppie, Director of Environmental Policy Programs and Compliance, noting that "the path toward sustainable development poses tremendous policy challenges," including mediating the tension between economic growth and environmental protection, developing a lifecycle analysis in terms of the economics of sustainable development, considering our responsibility to future generations, addressing the preservation and expansion of our natural capital, developing mechanisms that integrate scientific and technological advancements in policy development, and understanding the environmental consequences of economic activity.[59]
- Natural Resources Defense Council (NRDC), Eric Goldstein, Attorney, noting that the legislation would "keep the sustainability issue on the public agenda," and ensure sustainability becomes a permanent part of City government.[60]

[55] Committee on Environmental Protection, Hearing on Int. No. 395, 8–9.
[56] Committee on Environmental Protection, Hearing on Int. No. 395, 13.
[57] In his testimony on Int. No. 395, Rit Aggarwala noted, "[S]ince this process is underway, it makes more sense to see it unfold. Then, whatever legislation you enact, can benefit from the experience of the first efforts of the Administration and my office." Committee on Environmental Protection, Hearing on Int. No. 395, 17.
[58] Other parties who testified included Chris Garvin, Cook + Fox Architects, suggesting the bill contain a public enforcement mechanism, such as a citizen suit (59); David Weinberg, Consumers Union and New York City Zero Waste Campaign, noting the importance of having adequate waste reduction and diversion goals (96); Mark Brammer, New York Climate Rescue, noting the bill should move forward with legally binding carbon goals (109); and Carey Pulverman, Lower East Side Ecology Center, noting that the plan should include meaningful input from experts in sustainability (117–18). Committee on Environmental Protection, Hearing on Int. No. 395.
[59] Committee on Environmental Protection, Hearing on Int. No. 395, 36–42.
[60] Committee on Environmental Protection, Hearing on Int. No. 395, 47.


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- American Lung Association of the City of New York, Corri Freedman, Director of Advocacy, noting that the long-term sustainability plan and legislation should include measurable health indicators, and that "a meaningful measure of the sustainability of the City can and should be noticeable, tangible improvement in the public health, including fewer asthma attacks, incidence of lung disease, and premature death that are its result."[61]
- New York League of Conservation Voters (LCV), Craig Wilson, Director of New York City Policy and Advocacy, noting that the challenge is to "expeditiously create a comprehensive sustainability agenda appropriate for New York City, and to implement this agenda within the remainder of the Mayor's term across numerous government agencies."[62]
- New York Industrial Retention Network (NYIRN), Adam Friedman, Executive Director, noting that "sustainability is good business."[63]
- Industrial and Technology Assistance Corp. (ITAC), Leah Archibald, Communications Director, noting that the City's smaller manufacturing and technology businesses were primed to develop sustainable solutions.[64]
- NYC Apollo Alliance,[65] Zoilo Torres, Campaign Director for the New York City Alliance, noting that "[w]e are especially optimistic given the prominent role that Councilmember Gennaro and Speaker Quinn are playing and the willingness of the Administration and the City Council to work together."
- New York Lawyer's For the Public Interest (NYLPI), Gavin Kearney, Staff Attorney, noting that equity should be a goal of any long-term sustainability plan.[66]
- Sierra Club, Bob Muldoon, Associate Regional Representative, noting that the primary focus of the plan should be to address global warming and reduce greenhouse gas emissions.[67]
- We Act for Environmental Justice, Kizzy Charles-Guzman, Policy Coordinator, and Anhthu Hoang, General Counsel, noting that the action plan "must incorporate strategies to create vibrant and healthy communities by designing development that includes the health, social, and economic dimensions of sustainability."[68]
- New Yorkers for Parks, Allison Farina, Counsel and Director of Government Relations, noting there should be accountability for the public and private sectors to adhere to the plan.[69]

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[61] Committee on Environmental Protection, Hearing on Int. No. 395, 50–51.
[62] Committee on Environmental Protection, Hearing on Int. No. 395, 53.
[63] Committee on Environmental Protection, Hearing on Int. No. 395, 66.
[64] Committee on Environmental Protection, Hearing on Int. No. 395, 70.
[65] The Alliance was a project of Urban Agenda, now known as ALIGN. At the time, it represented a coalition of EJ advocates, labor, business, educators, and CBOs focused on economic growth, renewable energy, and energy efficiency. Committee on Environmental Protection, Hearing on Int. No. 395, 73.
[66] Committee on Environmental Protection, Hearing on Int. No. 395, 82.
[67] Committee on Environmental Protection, Hearing on Int. No. 395, 89–90.
[68] Committee on Environmental Protection, Hearing on Int. No. 395, 100.
[69] Committee on Environmental Protection, Hearing on Int. No. 395, 114.


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The City Council agreed to delay the enactment of Int. 395 until the Mayor's Office had a chance to create the first long-term sustainability plan and see some of those efforts implemented. From a policy perspective, it made sense to allow these outcomes to inform the final legislation. Further, the City Council was an active participant in this process through its membership on the SAB, which meant they had a seat at the table during plan development.[70]

Institutionalizing PlaNYC, OLTPS, and Greenhouse Gas Emissions Reduction Targets and Inventories

The City Council did not hear an amended version of Int. 395 until April 29, 2008, almost a year and a half after it was introduced, and a year after the first PlaNYC was released on Earth Day, April 22, 2007. In the interim, the Council passed early legislation, LL55 of 2007, requiring the City to conduct carbon dioxide equivalent emissions inventories and establishing 30% emissions reduction targets for both citywide and city government operations emissions.[71] However, certain text was missing[72] from the official slip law that was certified and filed by the City Clerk on December 5, 2007.[73] As a result, LL55 of 2007 was repealed and voted on again with a few technical changes,[74] becoming LL22 of 2008 (the "New York City Climate Protection Act").[75] The new law was made retroactive to ensure there were no disruptions with respect to obligations and deadlines.

In addition to developing greenhouse gas inventories, LL22 of 2008 established that there should be a minimum 30% reduction in city government emissions by 2017, and in citywide emissions by 2030, both relative to a baseline fiscal year of 2006. The emissions reductions were to be achieved, in part, "through the applicable policies, programs, and actions included in PlaNYC."[76] A citywide 30% reduction - first introduced by the City Council as part of Int. No. 20 and later adopted by PlaNYC and enacted into law - was one of the most ambitious emissions reduction targets being pursued by any jurisdiction at the time. This was true for both 2017 (where city government could lead by example over a more aggressive timeline)

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[70] Central Staff members Donna DeCostanzo and Dan Avery attended the meetings.

[71] N.Y.C. Local Law 55 (2007). Final Int. No. 20-A reflected the full language establishing emissions reductions targets citywide. New York City Council, Int. No. 20-A, legislation text, https://legistar.council.nyc.gov/ViewReport.ashx?M=R&N=Text&GID=61&ID=483736&GUID=4DF877EF-9F87-4759-9A04-703F3E09CED3&Title=Legislation+Text.

[72] In particular, text related to the thirty percent citywide emissions targets.

[73] It appears that text was inadvertently dropped, potentially when using double-sided copying.

[74] These include defining PlaNYC to include future amended plans beyond 2030, and establishing that the baseline emissions for city government operations should be associated with fiscal (and not calendar) year 2006.

[75] N.Y.C. Local Law No. 22 (2008). This was heard in Committee as a Preconsidered bill, meaning it was not given a number because it had not yet been introduced at a Stated Meeting. Later, it received the number Preconsidered Int. No. 756. During the vote, Chair Gennaro noted that the Preconsidered Int. would "correct a technical problem with LL55 of 2007." New York City Council, Committee on Environmental Protection, Hearing on Int. No. 395-A and Preconsidered Int. No. 756, April 29, 2008, transcript, 35.

[76] N.Y.C Admin. Code §24-803(a)(2), (b)(2) (added by Local Law No 22 (2008)).



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and 2030 (where 30x30 reflected a memorable benchmark and mid-term milestone towards 80x2050 for citywide emissions).[77]

Bill negotiations included a fair amount of discussion regarding whether the City should set goals (supported by the Mayor's Office) v. mandates (supported by the City Council). The City Council wanted to create hard targets that the City would be obligated to meet.[78] In his testimony on Int. 395, Director Agarwalla agreed, stating that "any credible sustainability plan will set out hard targets that are easily measureable," although he noted that what would be in the law and left as aspirations was something to discuss further.[79] In the end, the legislation was drafted to create what was arguably a "soft" mandate, using the word "shall," while also noting the City should use "best efforts" and report and make recommendations if the emissions reductions were not met, thus anticipating this possibility.[80]

Both Int. 395-a and Preconsidered No. 756 were voted on at the April 29, 2008 hearing of the Committee on Environmental Protection.[81] Following City Council practice for second hearings on legislation in the same session, the Committee did not hear testimony on these bills. Of note, the Fiscal Impact Statement (FIS) for Int. 395-a reflected zero cost, for which Council Member Ignizio expressed concern.[82]

The bills were approved by the full Council at the Stated Meeting on April 30, 2008, with a vote of all 51 Council Members in the affirmative. At the Stated Meeting, Speaker Quinn called the legislation "a great legacy to leave for the City of New York once we leave our term of office to make sure that environmental planning is constant and ongoing in our City."[83]

Of note, Mayor Bloomberg issued a Message of Necessity for Int. 395-a, which occurs when a bill is not aged ("laid on the desks") for 8 calendar days prior to the final vote.[84] Such an action occurs when there is a desire to vote on a piece of legislation on a specific date, and the final version of the bill was not aged within that 8-day

[77] Organizations had begun to advance the position that in order to keep temperature rise to 2 degrees Celsius, global emission had to be reduced 80x2050. See, eg, Council of the European Union, *Brussels European Council*, *22 and 23 March 2005: Presidency Conclusions*, Doc. 7619/1/05 REV 1 (Brussels, March 23, 2005).
[78] Committee on Environmental Protection, Hearing on Int. No. 395, 30–31.
[79] Committee on Environmental Protection, Hearing on Int. No. 395, 31.
[80] "If the office determines that such emissions reduction is not feasible despite the best efforts of city government, such office shall report such findings and make recommendations with respect to policies, programs, and actions that may be undertaken to achieve such reductions." N.Y.C. Local Law No. 22 (2008), § 2 (adding N.Y.C. Admin. Code § 24-803(a)(2), (b)(2)).
[81] Both bills were approved with seven affirmative votes from Council Members Gennaro, Bill de Blasio, Mathieu Eugene, Vincent Ignizio, Melissa Mark-Viverito, Domenic Recchia, and Peter Vallone.
[82] Council Member Ignizio stated: "[T]he creation of an office does cost something, so for a fiscal note to be speaking to zero . . . I think this is something that needs to be reviewed." Committee on Environmental Protection, Hearing on Int. No. 395-A, 36.
[83] Council of the City of New York, *Transcript of the State Meeting of the City Council*, April 30, 2008, p. x.
[84] N.Y.C. Charter § 37; N.Y. Mun. Home Rule Law § 20(4).


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period. Last minute text changes must have been made to the bill after it was aged, although the nature of those cannot be ascertained from the legislative record. The Mayor signed the legislation on May 6, 2008, becoming LL17 of 2008.

LL17 of 2008

LL17 of 2008[85] creates the framework for New York City to embed principles of sustainability in the structure and functioning of city government. Key provisions:[86]

- Create the Office of Long-Term Planning and Sustainability (OLTPS).
- Delineate the powers and duties of the Director of OLTPS. These include developing and coordinating the implementation of policies, programs, and actions to meet the long-term needs of the city with respect to the infrastructure, environment, and overall sustainability, and regarding city agencies, businesses, institutions, and the public. Identified categories to address must at a minimum include housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change.
- Create the obligation to identify indicators to assess and track the overall sustainability of the city, and to report on the City's progress in achieving sustainability citywide.
- Require the Department of City Planning (DCP) to undertake population projections. These must occur every four years, covering periods of at least twenty-one years, with intermediate projections at no less than ten-year intervals. Further, the projections must include geographic and demographic indicators, where feasible.
- Require OLTPS to implement a long-term sustainability plan. Minimum requirements for the plan include a focus on sustainability issues related to housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change. The plan must also incorporate goals associated with the above-noted categories and any additional categories identified by the Director of OLTPS, as well as a list of policies, programs, and actions that the City will seek to implement to achieve each goal.
- Require the plan to be updated every four years, beginning on April 22, 2011. Updated plans must take into account population projections and include implementation milestones for each policy, program, and action. If there are revisions, deletions, or additions to categories, goals, policies, programs, or actions, these must be explained.
- Require OLTPS to seek public input on amended plans and implementation.[87]

[85] N.Y.C. Local Law No. 17 (2008), "A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the office of operations, the office of environmental coordination and an office of long-term planning and sustainability."

[86] In addition to the major provisions noted infra, LL17 of 2008 required the Director of OLTPS to take actions to increase awareness and education regarding sustainability, and aligned the work of OLTPS with the Office of Environmental Coordination.

[87] Other than requiring this solicitation to occur before the amended plan is submitted, the law does not provide specifics regarding what seeking public input comprises.



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- Require OLTPS to report annually on its progress and efforts to implement the plan.
- Create a Sustainability Advisory Board (SAB) to provide advice and recommendations on the plan. Membership must include at a minimum representatives from environmental, environmental justice, planning, labor, business, and academic sectors, as well as the Speaker of the City Council and the Chair of the Committee on Environmental Protection. The SAB must meet at least twice per year.

Regarding placement within the government structure, OLTPS was set up to report to the Mayor's Office of Operations, which produces the Mayor's Management Report (MMR), an annual report of city indicators that measures the performance of city agencies. It was thought that this data driven, performance-focused office was the right place to put an entity whose priority was making city government operations more sustainable, and Mayor Bloomberg created OLTPS within that structure.[88] Further, the New York City Law Department had frequently raised curtailment issues regarding the City Council creating mayoral offices.[89] While the seminal curtailment case[90] was not yet decided at this time, final legislation ensured the Mayor's Office had ultimate control regarding where to put the office.[91] Later, OLTPS was moved from under the Office of Operations, and made a "stand-alone" mayoral office, directly answerable to a Deputy Mayor.

As indicated above, the City Council and Mayor's Office agreed to delay passage of Int. 395 until PlaNYC was developed and could inform the legislation. Notable differences between the original Council introduction and the Local Law generally reflect this development and include:

- While Int. 395 required the Mayor to designate a person within the office of the mayor to implement the provision of the action plan, LL17 of 2008 establishes an office - OLTPS, led by a Director.
- Int. 395 focused on environmental sustainability in terms of the state in which human priorities do not conflict with the protection and functioning of the natural environment, noting that the action plan should take into consideration sustainable economic and social development. LL17 of 2008 moves away from an environment-focused definition of sustainability to concentrate more on a long-term approach to addressing infrastructure, population growth, and urban planning.
- Int. 395 required the action plan to include issues related to climate protection, air quality, efficiency and conservation, water quality, waste

[88] Committee on Environmental Protection, Hearing on Int. No. 395, 15.
[89] Committee on Environmental Protection, Hearing on Int. No. 395, 16.
[90] Mayor of the City of New York v. Council of the City of New York, 9 N.Y.3d (2007) (establishing the "framework of local government" test for curtailment).
[91] "Such office may, but need not, be established in the executive office of the mayor and may be established as a separate office or within any other office of the mayor or in any department the head of which is appointed by the mayor." N.Y.C. Local Law No. 17 (2008), § 2 (adding N.Y.C. Charter § 20(a)).


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reduction and recycling, toxins and hazardous materials, transportation, and open space, land use, and natural resources. LL17 of 2008 focuses more on infrastructure-based categories, but does not include waste reduction and recycling.[92]

- Int. 395 required the action plan to include costs and costs savings associated with implementation of the action plan. LL17 of 2008 does not include this provision.
- Int. 395 conceived of draft action plans and an advisory committee that would submit formal reports to the City Council and Mayor regarding its recommendations. Further, the action draft plan would include responses to these recommendations. LL17 of 2008 does not include a draft plan, and provides for a Sustainability Advisory Board that works with OLTPS without detailing the process.
- Int. 395 required at least one public hearing in each borough of a draft action plan. LL17 of 2008 simply notes that OLTPS must seek public input on the long-term sustainability plan.

The institutionalization of the city's long-term sustainability plan is illustrative of the parallel policy development that can occur between the City Council and the Mayor's Office. This is particularly true where an issue obtains prominence and starts to take hold on a global level, as addressing climate change did during this time. Both the City Council and the Mayor's Office had been thinking about sustainable planning and growth and discussing climate change with advocates and other interested stakeholders. Governments were stepping up, and New York City intended to take a leadership position in the national and international arena on sustainability issues, from the perspective of the legislature and the executive. Ultimately, they combined forces and worked together to make this happen.

<u>Legislative Action to expand PlaNYC</u>

The City Council amended and strengthened the City's long-term sustainability plan subsequent to enactment of LL17 of 2008.

In 2012, Superstorm Sandy caused significant damage and loss of life. Pursuant to LL18 of 2014, the City Council added "the resiliency of critical infrastructure, the built environment, and coastal protection and communities" to those categories that must be included in the long-term sustainability plan.[93] The law also expanded the SAB to include representatives from architecture, engineering, coastal protection, construction, and critical infrastructure.

NYC Panel on Climate Change

The NPCC was first convened by Bloomberg in August of 2008. It was modeled on the UN Intergovernmental Panel on Climate Change (IPCC, which informed the 1.5

[92] Categories must include, at a minimum, housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change.
[93] N.Y.C Local Law No, 18 (2014).


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degrees Celsius mark for the Paris Agreement). NPCC consists of experts who advise on climate change projections and what that means for NYC.

NPCC submitted its first report in 2010 and took the position that mitigation efforts to reduce GHG emissions will help reduce climate change and its impacts. However, climate change will still impact NYC. This means adaptation is needed to address short and long-term climate change impacts.

LL 42 of 2012 established NPCC in law. Introduced in April of 2012 and enacted in August of that year.

- NPCC reviews scientific data and advises OLTPS and the Climate Change Adaptation TF.
- NPCC makes recs regarding climate change projections for NYC.
- NPCC advises on communication strategies for the public to ensure they are informed about the findings of the Panel.
- [ this was removed in 2025: Adaptation TF consists of government and private entities responsible for overseeing the city's public health, natural systems, critical infrastructure, buildings, and economy. (ie DOHMH, DEP, DOB, Con Ed; TF reviews the climate change projections made by the Panel and evaluates the public impacts to all of the above].
- Calls out vulnerable populations.

LL64 of 2017. Comprehensive EJ law for NYC.
Establishes an inter-agency working group that focuses on EJ issues. Creates the position of special coordinator for EJ to lead this group. This position is located within OLTPS.
Duties of the EJ WG are to:

- Provide guidance to agencies/the city on interpreting relevant data and addressing EJ issues.
- Develop an EJ plan that includes:
    - Citywide initiatives for promoting EJ and greater participation of affected communities in decision-making
    - Agency-specific recs for promoting EJ in their operations, policies, and programs.
    - And Identification of data, research, and analysis that will support EJ
    - Plan is to be updated periodically and there is an annual progress report (transparency, accountability).

LL64 also establishes an advisory board on EJ:

- 14 members (7 appointed by Speaker and 7 by Mayor) who must meet certain qualifications:
    - Member of an organization engaged primarily in EJ work or
    - A resident of an EJ area or
    - A community board rep from an EJ area or
    - A faculty member of an academic institution working on EJ issues
- Board consults with the inter-agency WG
- Reviews and comments on the draft EJ plan


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- Makes recs on promoting EJ in NYC

LL60 of 2017 requires the inter-agency panel to conduct a study of EJ areas and vulnerabilities. The study makes recommendations regarding legislation, policies, and budget initiatives that would mitigate or eliminate the disproportionate effects identified in the study.

The result of these two local laws in 2017 are that EJ issue identification, mapping, planning, consultation, and public review have been integrated into the city's long-term sustainability plan. EJ has been institutionalized.

Subsequently, LL22 of 2008 was amended by LL66 of 2014 to add a requirement that citywide emissions be reduced 80% by 2050.

In 2019, OneNYC 2050 (the deBlasio Adinistration's long-term sustainability planning document) established that the city's policy was achieving net zero carbon emissions by 2050. And PlaNYC Getting Sustainability Done is carrying this mark forward. So that is now the stated goal of NYC policy. Note that it isn't in law.

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