

# The New York Housing Compact: Part III

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*This article is the final installment of a three-part series covering New York Governor Kathy Hochul’s Housing Compact. For further reading, please see [Part I](#) and [Part II](#).*

Various constituencies in New York continue to face challenges in securing affordable housing and commercial developers and owners lack meaningful economic incentives to optimize the use of existing properties. In addition to the tax incentive programs that we surveyed in Part II of our series—which now include a [potential reworking of the 421-a tax abatement program](#)—New York City officials are pursuing certain reforms to zoning regulations, a key area of focus in Governor Kathy Hochul’s Housing Compact. While tax incentive programs aim to increase available capital for owners and developers throughout the real estate market, zoning laws enable officials to advance desired policies in order to influence certain aspects of property development, an important driver in improving the availability and desirability of inventory in a variety of sectors amidst today’s uncertain economic climate.

**Increasing Availability – Residential Conversions.** New York City Mayor Eric Adams recently organized a City-led task force to assess how modifications to zoning regulations and building codes could accelerate the transition of vacant or underutilized office space into residential units, an initiative that could prove critical to alleviating housing affordability issues and revitalizing outdated office buildings.

Pursuant to the 1961 Zoning Resolution (the “Resolution”), New York City is divided into three primary zoning classifications: Residential (R), Commercial (C) and Manufacturing (M). In certain areas, these three classifications are further divided into subclassifications with various localized exceptions, such as the Special Mixed-Use District (MX) with mixed residential and commercial uses. The Resolution also includes an additional exception (separate from the MX District) for residential conversions of properties that provides increased flexibility with respect to residential light and air requirements. That exception, however, is generally limited to (i) properties already located within residential zoning districts and (ii) buildings south of 59th Street in Manhattan that were constructed before 1961 (or before 1977 for those in the Financial District). Thus, while a building may have prime characteristics for a conversion from a

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development perspective, the Resolution may limit such opportunities. Past efforts to broaden these types of exceptions to apply to conversions of buildings constructed before 1991 by Governor Hochul and Mayor Adams have not succeeded.

Still, certain players have begun to pursue residential conversions of underutilized office buildings throughout New York City—where existing zoning regulations permit them to do so. In a “first-mover” example, GFP Real Estate and Metro Loft have announced plans to convert the former New York Daily News office at 25 Water Street in Lower Manhattan into 1,300 apartment units, carving out courtyards from the center of the building in order to comply with light and air requirements. More recently, Metro Loft has announced a project with Silverstein Properties to convert another Lower Manhattan office building, 55 Broad Street, into 571 apartment units. Though zoning regulations and building code hurdles remain, including density restrictions and the requirement of windows in bedrooms, Mayor Adams has pledged to reexamine some of these restrictions. The success of 25 Water Street and 55 Broad Street will be a critical indicator for the viability of residential conversions in New York City and perhaps other urban centers in the United States.

**Improving Desirability – Climate Initiatives Through Zoning.** While traditional zoning laws typically cover building sizes, layouts and uses, some of today’s zoning proposals also seek to accomplish ambitious environmental goals. In doing so, New York City officials hope to produce more desirable, sustainable, resilient and modern communities. As many of these initiatives do not specifically target housing, it appears that cities see zoning reform as a tool to address commercial and residential buildings alike.

Mayor Adams has proposed certain zoning reforms as a means of achieving the City’s climate objectives. As part of his “City of Yes” Plan, Mayor Adams’ proposals include legalizing solar canopies on approximately 8,500 acres of parking lots, removing zoning obstacles that limit the amount of rooftop space available for solar panels and doubling the acreage available for electric vehicle charging facilities. The plan also seeks to facilitate environmentally-friendly retrofits to buildings in order to meet the standards of NYC’s Energy Conservation Code. The City Planning Commission will need to approve the “City of Yes” Plan during a vote in August 2023 before it is ultimately presented to the City Council for further approval.

Zoning has long been one of the many ways cities influence the direction of real estate development, and New York’s current initiatives are no exception. Other U.S. cities have taken on similar climate initiatives—Washington, D.C. now requires developers of new or renovated buildings to reserve 20% of available parking spaces for electric vehicle charging and Denver is developing an “instant review” process to approve solar panel installation. Washington, D.C. and Boston, among other U.S. cities, are poised to

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reexamine restrictions ranging from building height limits to parking density requirements in order to ease office-to-residential conversions and housing development more generally. In light of these new zoning initiatives, developers will need to find creative ways to design projects that both comply with zoning laws and provide sufficient returns to meet investor demand.

**Next Steps.** Governor Hochul's original Housing Compact featured an array of proposals ranging from targets for housing unit growth to state preemption of local zoning codes, and while most initiatives of the Housing Compact have stalled, New York City officials have taken it upon themselves to reform existing aspects of zoning laws and building codes to create opportunities for developers. We look forward to seeing whether Mayor Adams' office-to-residential task force and his "City of Yes" Plan are effective in increasing the availability, quality and sustainability of NYC real estate as part of a growing movement within urban real estate markets.



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