



# **320.7 ADJUSTMENT FOR EXTERNAL OR FINANCIAL CONSTRAINTS**

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A Guide  
for Article 320  
Building Owners

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## Section 1: Background

**Local Law 97 (LL97)** requires thousands of the city’s largest buildings to reduce emissions over incremental compliance periods, with the goal of achieving carbon neutrality by 2050. The law provides for several compliance pathways, including through implementing energy efficiency and decarbonization retrofits, purchasing offsets and renewable energy credits (RECs), and supporting actions that advance renewable energy and early electrification. To help building owners comply with LL97, the city funds NYC Accelerator, a free program providing personalized guidance, technical assistance, and financing resources.

LL97 also provides pathways for owners to receive temporary adjustments to their emissions limits if they face external or financial constraints. Rule 103-12 [established the process](#) to apply for an emissions limit adjustment pursuant to section 28-320.7 of the NYC Administrative Code, in the event a building is subject to external or financial constraints inhibiting compliance with the law.

The **external constraint adjustment** applies to buildings subject to another provision of law or affected by a physical condition that prevents compliance with emissions limits, such as requirements related to historic preservation or the need to operate specialized, fixed equipment for industrial and manufacturing (I&M) buildings’ process loads (as defined by ASHRAE).

The **financial constraint adjustment** applies to buildings subject to financial circumstances that prevent compliance, based on established financial metrics that reflect industry best practices for different ownership and regulatory building classifications.

Under the program, building owners can receive adjustments to their emissions limit of up to three years for external constraints and one year for financial constraints, provided they meet requirements.

**To apply for an adjustment, a building owner must take certain action, including working with NYC Accelerator, in advance of submitting the 320.7 Adjustment Application as part of the LL97 compliance report.**

## Section 2: General Steps Demonstrating Eligibility for the 320.7 Adjustment

A building owner must engage in the following steps—alongside NYC Accelerator Account Managers and Financial Specialists, Registered Design Professionals (RDPs), and Certified Public Accountants (CPAs)—to demonstrate eligibility for the 320.7 Adjustment for External or Financial Constraints. Note that some steps require different actions in the first compliance year (reporting in 2025) than in subsequent years (discussed in more detail in Sections 3 and 4, below):

### Step 1: Engage with NYC Accelerator.

1. Building owner **contacts/connects with NYC Accelerator and is assigned an Account Manager** who guides them through the 320.7 Adjustment Application process.
2. Owner and Account Manager work together to do a **Building Needs Assessment**, including:
  - a. Completing a Building Information Form, reviewing estimated LL97 compliance status, reviewing any available LL87 audit or decarbonization plan, recommending potential energy efficiency/decarbonization projects to aid in achieving compliance;
  - b. Identifying all available incentives and financing opportunities and pursuing those incentives and opportunities; and
  - c. Identifying service providers.

### Step 2: Verify qualifying circumstance for the 320.7 Adjustment.

1. If applying for an adjustment due to **external constraints**, owner **works with an RDP** to complete the appropriate documentation pursuant to Section 3. Once complete, the Account Manager will verify that they have identified and discussed the appropriate energy conservation measures, incentives, financing programs, and contractors with the owner.
2. If applying for an adjustment due to **financial constraints**, owner **works with a CPA** to complete the appropriate documentation pursuant to Section 4. Once complete, the Account Manager will verify that they have identified and discussed the appropriate energy conservation measures, incentives, financing programs, and contractors with the owner.

### Step 3: Obtain an Adjustment Process Attestation (APA) Form from NYC Accelerator, reflecting a building owner's engagement in Steps 1 and 2.

1. If applying for an adjustment due to **external constraints**, a complete APA Form requires the following:
  - a. Owner engages in Steps 1 and 2 and works with their Account Manager to populate the APA Form;
  - b. Owner signs the APA Form verifying they engaged in Steps 1 and 2 and sends the form via email to the Account Manager; and
  - c. Account Manager verifies that the owner engaged in Steps 1 and 2 and that **relevant incentives** have been identified and pursued and returns the APA Form to owner via email confirming that the information is accurate or informing the owner of any issues.

2. If applying for an adjustment due to **financial constraints**, a complete APA Form requires the following:
  - a. Owner engages in Steps 1 and 2 and works with their Account Manager to populate the APA Form;
  - b. Owner signs the APA Form verifying they engaged in Steps 1 and 2 and sends the Form via email to the Account Manager; and
  - c. Account Manager verifies that the owner engaged in Steps 1 and 2 and that **relevant incentives and relevant financing opportunities** have been identified and pursued and returns the APA Form to owner via email confirming that the information is accurate or informs the owner of any issues.

**Step 4: Building Representative submits 320.7 Adjustment Application, including the APA Form, to NYC Department of Buildings (DOB) in the LL97 Reporting Platform by the reporting deadline.**

### **Section 3: External Constraints Filing Requirements for Article 320 Buildings**

This section describes the required elements of an application for an adjustment of the annual greenhouse gas (GHG) emissions limit pursuant to Section 28-320.7(1) for buildings subject to a provision of law or affected by a physical condition (collectively, “external constraints”).

Acceptable external constraints include the following legal provisions and physical conditions:

- i. I&M buildings where standard emissions compliance is impractical because the specialized, fixed equipment and processes required cannot feasibly be decarbonized using currently available technology. Such buildings or building portions are generally all three of the following: Building Code occupancy groups F or H; NAICS Sectors 31, 32, or 33; and ENERGY STAR Portfolio Manager property type “Manufacturing/Industrial Plant.”
- ii. Hospitals (Group I-2) subject to specific health and safety regulations requiring them to use certain equipment and operate in certain manners that make it not feasible to decarbonize.
- iii. In limited instances, landmark buildings that cannot be retrofitted because of regulations related to historic preservation, as substantiated by a Landmarks Preservation Commission denial. Such buildings must show that they have exhausted all permissible alternatives to reduce emissions.

**Building owners applying for this adjustment should demonstrate they have implemented all appropriate energy efficiency and carbon reduction measures to achieve emissions limits, but for the external constraint.**

Such adjustment applications:

- Must be filed with the annual building emissions report and [Professional Attestation Form](#) by an RDP;
- Must include the materials listed in paragraphs one through six below; and
- May be effective for a maximum of three calendar years.

**Required Application Documentation** is listed below. (Note that owners may be required to provide additional documentation, as requested by the Department.)

1. **Building Eligibility:** Confirmation (in the application) that the building was in existence, or that a permit for construction of such building was issued, prior to Nov. 15, 2019;
2. **Annual Emissions Report:** The annual building emissions report for the applicable calendar year, submitted in accordance with Article 320 of Title 28 of the Administrative Code and 1 RCNY §103-14;
3. **APA Form:** The APA Form from NYC Accelerator stating that the building owner has been working with NYC Accelerator to identify and pursue relevant city, state, federal, private, and utility incentive programs related to energy production or renewable energy for which they could reasonably apply. For the first compliance year (reporting in 2025), the APA Form should at a minimum reflect that appropriate incentives are identified and the building owner is in the process of pursuing such incentives;
4. **GHG Offsets Purchase:** Evidence that the building owner has purchased the maximum amount of GHG offsets authorized for LL97 compliance pursuant to 1 RCNY §103-14. Such evidence shall be offset certificates indicating proof of purchase. The maximum amount of offsets purchased is based on the building's emissions limit without any adjustment;
5. **Proposed Adjusted Emissions Limit:** RDP proposes increasing the existing emissions limit based on emissions directly attributed to the external constraint, as supported by the documentation provided in sections 6a-c; and
6. **External Constraint Description, Technical Explanation, and Plan for Decarbonization:**
  - a. Detailed description of the provision of law or physical condition of the building or building site preventing compliance with the annual building emissions limit; and
  - b. Technical explanation of how such provision or condition makes it not reasonably possible for the building to achieve strict compliance with the annual building emissions limit;
  - c. Plan for decarbonization, which shall include a technical explanation of the building's efforts to achieve compliance with the annual building emissions limit to the maximum extent possible.

The supporting documentation for (a, b, c) is shown in the charts on the next pages.

Provision of Law/Condition Description & Technical Explanation (a, b)	Document Required in 2025	Documentation Required After 2025
<p>Brief written statement outlining the legal or physical constraints preventing compliance and an explanation why such constraints prevent compliance.</p>	<p>For legal constraints, relevant provisions of law/code and a detailed explanation of why such provisions prevent strict compliance.</p> <p>For physical constraints, a description of the physical constraints and a technical explanation of why such constraints prevent strict compliance.</p>	<p>Same as 2025</p>

Decarbonization Plan (c)	Document Required in 2025	Documentation Required after 2025
<p>Document carbon reduction alterations and energy efficiency measures implemented since 2019, and actual emissions reductions and efficiency increases achieved.</p>	<p>Identify carbon reduction retrofits and energy efficiency measures implemented since 2019, including actual emissions reductions and energy efficiency increases achieved; and</p> <p>Calculated percentage decrease in building emissions from 2019 to 2024.</p>	<p>Same as 2025</p>
<p>Document the emissions limit, along with the prior year's annual emissions and energy consumption both with and without the constraint.</p>	<p>Identify emissions limit for the building for 2024-2029 and 2030-2034; and</p> <p>Identify annual emissions, energy consumption and associated fuel use, both with and without the constraint, using submetering, estimation, or the "engineering survey or other formula" used to substantiate the NYS <a href="#">sales tax exemption for utilities used in production</a>.</p>	<p>Same as 2025</p>

Decarbonization Plan (c)	Document Required in 2025	Documentation Required after 2025
<p>Document current operational status, including building systems.</p> <p>Document measures owner will implement to achieve decarbonization to the maximum extent possible.</p>	<p>Identify major base building equipment and description of tenant/dwelling unit equipment, with associated fuel type; or</p> <p>Prior LL87 report (created within the last four years); or</p> <p>Other incentive program audit/decarbonization plan (i.e., NYSERDA Flex Tech); or</p> <p>A building’s 320.8 adjustment application.</p> <p>Identify measures owner can implement, including measures that address the constraint, to reduce emissions and comply with the law (i.e., electrification of base building systems, envelope enhancements, improvements to tenant space, fuel switching, energy conservation, new technology, etc.); or</p> <p>2030 emissions reduction plan from 320.8 adjustment application, including implementation status.</p>	<p>Same as 2025, and including the following:</p> <p>An inventory of HVAC, domestic hot water, electrical, lighting, and conveyance equipment serving the building, including the date of installation of such equipment and, where applicable, whether such equipment serves multiple buildings; and</p> <p>Building energy and carbon end-use breakdown, including lighting, heating, cooling, ventilation, pumps, plug/process loads, and domestic hot water.</p> <p>Same as 2025, and include the following:</p> <p>For each decarbonization and energy efficiency measure identified, the estimated energy and carbon savings, cost, and installation date.</p>
<p>Document alternative methods considered to reduce emissions, involving the external constraint.</p>	<p>Identify alternative methods to reduce emissions (involving the external constraint) and reasons why they were not deemed reasonably possible to implement.</p>	<p>Same as 2025</p>

## Section 4: Financial Constraints Filing Requirements for Article 320 Buildings

This section describes the required elements of an application for an adjustment of the annual GHG emissions limit pursuant to Section 28-320.7(2) for buildings constrained by finances. If requirements are met to support a financial constraint, the adjusted limit will be equal to a building’s actual emissions for that year. Such adjustment applications:

- Must be filed with the annual building emissions report by an RDP;
- Must include the materials listed in paragraphs one and two for buildings listed on the NYC Tax Lien Sale List, or the materials listed in paragraphs one through five for all other 320 buildings; and
- May be effective for a maximum of one calendar year.

Required Application Documentation: (Note that owners may be required to provide additional documentation, as requested by the Department.)

- 1. Building Eligibility:** Confirmation (in the application) that the building was in existence, or that a permit for construction of such building was issued, prior to Nov. 15, 2019;
- 2. Annual Emissions Report:** The annual building emissions report for the applicable calendar year, submitted in accordance with Article 320 of Title 28 of the Administrative Code and 1 RCNY §103-14; and
- 3. APA Form:** For the most recent calendar year(s) prior to the application for an adjustment, an APA Form from NYC Accelerator stating that the building owner has been working with NYC Accelerator to:
  - a. Comply with the annual building emissions limit prior to the application;
  - b. Identify and pursue relevant city, state, federal, private, and utility incentive programs related to energy production or renewable energy for which they could reasonably apply. For the first compliance year (reporting in 2025), the APA Form should at a minimum reflect that appropriate incentives are identified and the building owner is in the process of pursuing such incentives;
  - c. Identify and pursue programs funded by the city or enabled by local law that provide financing for the purpose of energy reduction or sustainability measures, in which they could reasonably participate. For the first compliance year (reporting in 2025), the APA Form should at a minimum reflect that appropriate financing programs are identified and the building owner is in the process of pursuing such programs; and
- 4. Offsets and Renewable Energy Credit (REC) Purchase:** Evidence that the owner purchased the maximum amount of GHG offsets or RECs authorized under 1 RCNY §103-14. Such evidence shall be offset or REC certificates indicating proof of purchase. The maximum amount of offsets and RECs purchased is based on the building’s emissions limit without any adjustment; and
- 5. Certified Public Accountant Attestation and Documentation:** Documentation prepared by a CPA demonstrating one of the following:



Building Type	Qualifying Metric
For buildings held in a <a href="#">condominium or cooperative</a> form of ownership:	A 3-year average increase in annual carrying charges per dwelling unit of 5% above the average rate of inflation for the same 3-year period, and confirmation of the condominium or cooperative form of ownership. The applicable rate of inflation reflects the Northeast Consumer Price Index standard and is indicated in the template for this application available on the <a href="#">LL97 reporting portal (BEAM)</a>
For buildings <a href="#">exempt from real property taxes pursuant to sections 420-a, 420-b, 446, or 462</a> of the real property tax law and applicable local law:	The building owner had negative revenue after subtraction of expenses for the combined two years prior to the application, and confirmation of the applicable real property tax law
For buildings that are party to an <a href="#">affordable housing regulatory agreement and/or buildings with no existing debt</a> :	The building's income-expense ratio, as calculated pursuant to the template provided by the Department, is less than 1.05, and confirmation of the affordable housing regulatory agreement or no debt status;
For <a href="#">all other building types</a> :	The building's debt service coverage ratio, as calculated pursuant to guidance issued by the Department, is less than 1.15

## Section 5: Filing Fees

Adjustment Type	Filing Fee
External constraints <i>(pursuant to RCNY § 103-12(b))</i>	\$3,540
Financial constraints <i>(pursuant to RCNY § 103-12(c)(3))</i>	\$690
Financial constraints <i>(pursuant to RCNY § 103-12(c)(4)—buildings on the NYC Tax Lien Sale List)</i>	\$690

Contact NYC Accelerator today to get started.

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