



320.7 ADJUSTMENT FOR FINANCIAL CONSTRAINTS



A Guide
for Article 321
Building Owners

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Section 1: Background

Local Law 97 (LL97) includes two articles pertaining to privately-owned buildings: Article 320 and Article 321 of Chapter 3 of Title 28 of the NYC Administrative Code. Two groups of covered buildings are subject to Article 321, both of which are detailed in the DOB’s [Article 321 Filing Guide](#): **certain types of affordable housing** and **houses of worship**. This guide details how Article 321 building owners can apply for LL97 penalty mitigation by demonstrating qualification for a “320.7 Adjustment,” as outlined in § 28-320.7(2) of the NYC Administrative Code and certain provisions of 1 RCNY § 103-12.

There is a separate guide, [available here](#), on how Article 320 building owners can apply for a 320.7 Adjustment. Note: The 320.7 adjustment for external constraints does NOT apply to Article 321 buildings.

LL97 section 28-320.7 provides pathways for owners to receive temporary, case-by-case adjustments to their emissions limits if they face financial constraints. The **financial constraint adjustment** is based on established financial metrics that reflect industry best practices for different ownership and regulatory building classifications.

If eligible for a financial constraint adjustment, building owners receive more time before DOB will issue penalties for noncompliance, provided such owner demonstrates that they meet the established financial metric. If an Article 321 building owner has not submitted a report demonstrating compliance by the time the adjustment expires, the building owner must either submit a new adjustment application, or separately apply for a mediated resolution, as outlined [here](#).

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.

Section 2: General Steps for Article 321 Buildings 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 Article 321 eligibility for the 320.7 Adjustment for Financial Constraints.

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 321 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 conservation measures/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. Owner works with CPA 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.

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

1. A complete Article 321 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 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 DOB in the LL97 Reporting Platform by the reporting deadline.**Section 3: Financial Constraints Filing Requirements for Article 321 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 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 include the materials listed in points one and two below (under the required application documentation) OR demonstrate that the building is on the NYC Tax Lien Sale List; 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. **Adjustment Process Attestation (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(s) 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 this 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; and
 - 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 this 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.

2. **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 condominium or cooperative 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 LL97 reporting portal (BEAM)
For buildings exempt from real property taxes pursuant to sections 420-a, 420-b, 446, or 462 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 affordable housing regulatory agreement and/or buildings with no existing debt :	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 all other building types :	The building's debt service coverage ratio, as calculated pursuant to guidance issued by the department, is less than 1.15

Section 4: Filing Fees

Adjustment Type	Filing Fee
Financial constraints <i>(pursuant to RCNY § 103-12(c)(3))</i>	\$690
NYC Tax Lien Sale List <i>(pursuant to RCNY § 103-12(c)(4))</i>	\$300

Contact NYC Accelerator today to get started.

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NYC Accelerator is a program of the NYC Mayor's Office of Climate & Environmental Justice.