

NY Governor Announces Policies to Increase Residential Density in New York City

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Would increase residential density in new buildings and allow increased conversion opportunities.

In New York Gov. Kathy Hochul's State of the State address on Jan. 5, 2022, she announced a policy to "fix outdated land use laws that hold back our housing supply." Further details of the proposed legislation are expected when the governor releases her budget proposal Jan. 18, but the [State of the State 2022 policy book](#) released in connection with the governor's address specifies that one component of this policy is a proposal to repeal the New York state law (Section 26(3) of the Multiple Dwelling Law, or MDL) that limits maximum residential density to a floor area ratio (FAR) of 12, in order to give New York City autonomy to permit greater residential density where it sees fit. One can assume that the governor's staff has consulted with City Hall on this aspect of the policy proposal.

New Buildings with More Than 12 FAR Residential

Under the current New York City Zoning Resolution, no zoning district in the city permits new developments or enlargements that exceed 12 FAR for residential use. Accordingly, even if the MDL's 12 FAR cap on residential density is repealed in accordance with Gov. Hochul's proposal, text amendments to the Zoning Resolution would have to be sought, either by private applicants or by the Department of City Planning, to allow new developments and enlargements to exceed 12 FAR. Text amendments to the Zoning Resolution are subject to a public review process similar to the Uniform Land Use Review Procedure (ULURP), so the City Planning Commission and the City Council would retain discretion to determine the areas of the city in which a residential density of greater than 12 FAR may be appropriate.

Office to Residential Conversion for Buildings Built Before 1980

Currently, the provisions of the Zoning Resolution and MDL collectively allow existing non-residential buildings to be converted in their entirety to residential use, regardless of FAR, provided they meet

the relaxed light and air standards for conversions contained in Article 7-B of the MDL, and so long as they were: built prior to Dec. 15, 1961 (the date the current ZR was enacted), and located south of 60th Street in Manhattan, in Brooklyn Community Districts 1, 2, 6 and 8, or in Queens Community Districts 1 and 2; or built prior to Jan. 1, 1977, and located south of Murray Street/Brooklyn Bridge in lower Manhattan.

The governor's policy book proposes that, until December 2027, eligibility for such conversions would be expanded to all pre-1980 office buildings located south of 60th Street in Manhattan (and potentially to other eligible buildings). For such expanded eligibility to apply in New York City, the city itself would have to make a parallel amendment to the Zoning Resolution; alternately, the governor could implement this component of her proposal by overriding the Zoning Resolution for the limited time period proposed of approximately six years. We will stay up to date and expect that additional details regarding the proposed conversion legislation will be provided in the governor's budget proposal to be released Jan. 18.

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National Law Review, Volumess XII, Number 11

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