

# Locke Lord QuickStudy: New York City’s Proposed “City of Yes for Carbon Neutrality” Zoning Initiative Offers Potential Renewable Energy Boom to Developers

## WRITTEN BY

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New York City Mayor Eric Adams recently officially unveiled a wide-ranging zoning initiative proposal that, if passed by the City Council this October, will not only provide broad-ranging new economic opportunities for renewable energy development in New York City, but also give both real estate developers and renewable energy companies alike an opportunity to reap tax credits found within the Inflation Reduction Act. The proposed City of Yes for Carbon Neutrality (“CYCN”) zoning amendment seeks to remove a number of existing zoning-related barriers which have historically deterred both real estate and renewable energy developers from deploying renewable energy throughout NYC and will, if fully adopted, have the potential to greatly change the City’s renewable energy landscape. Renewable energy developers from distributed generation to commercial and industrial to community solar, and real estate developers should pay close attention to these proposed zoning code changes as a windfall of potential opportunities could unfold in a major, pro-renewable energy metropolitan market that has previously been largely untapped.

## *Pro-Renewable Energy Zoning Code Changes*

### • Rooftop Renewable Energy Generation

Although the City’s current zoning regime allows building owners to construct rooftop energy systems above their zoned height limit, such rooftop energy systems must comply with strict limitations. For example, currently, rooftop solar systems may not cover more than 25% of a building’s roof; a building owner must ensure that any rooftop solar system enjoy a clear setback of six feet from any street wall which only further limits the area and capacity of a rooftop solar system; and any installed rooftop solar panel is subject to onerous height restrictions which require such solar panels to strictly match the orientation of the roof regardless of solar energy generation potential or efficiency. Rooftop wind installations are currently similarly subject to onerous requirements, with no administrative mechanism to consider applications for non-conforming rooftop wind energy systems. Due to these and other existing zoning restrictions, many building owners and renewable energy developers simply have found it completely infeasible, both schematically and economically, to install rooftop renewable energy systems unto a building, much less deploy large scale renewable energy infrastructure and development throughout the City.

When implemented, the proposed CYCN zoning amendments would eliminate many of these zoning-based barriers to implementing rooftop renewable energy systems and development. The proposed CYCN amendments

would not only abolish coverage and setback restrictions for rooftop solar systems, but would also increase the maximum height limit for rooftop solar panels to 15' for all zoning districts and allow solar panels to be installed on slanted rooftops to have a height restriction of 60" which would allow for more optimal panel orientation – all of which not only increases the efficiency, but also the magnitude and volume of solar systems and infrastructure that can be installed throughout the City as a matter of right. The proposed CYCN amendments would also create a new administrative review process to allow the City Planning Commission to consider applications for non-conforming rooftop wind energy systems, further streamlining the renewable project approval process compared to how it exists in present day and create opportunities for rooftop co-generation facilities.

- **Commercial Solar Energy Generation**

Under the city's current zoning requirements, large swaths of NYC are considered off-limits to non-accessory solar energy development. Residence districts, which account for approximately 75% of the city's total land area, are currently off-limits to non-accessory solar energy generation. Accordingly, commercial-scale solar arrays quintessential in both community solar and distributed generation systems are prohibited in these residence districts. Additionally, existing zoning restrictions prohibit awnings and canopies, including those with mounted solar panels, from being installed over many current open-air parking lots, even in commercial areas. Current restrictions on parking lot canopies further reduce the area that larger solar arrays and systems may be installed.

The proposed CYCN amendments would open thousands of acres within New York City to potentially new commercial solar energy development. Renewable energy and real estate developers would be permitted to construct solar and storage installations of up to 10,000 square-feet in residence districts as-of-right. The CYCN amendments would also look to classify solar awnings and canopies as "permitted obstructions", allowing for the development by both renewal energy and real estate developers of solar facilities over both existing and future commercial parking lots and garages throughout the City, which are currently non-existent but are essential to any successful distributed generation renewable, commercial & industrial renewable or community solar portfolio.

### ***Untapped Pro-Renewable Energy Market***

Due to NYC Local Law 97, which was enacted in 2019 and has mandated that not only nearly all existing large commercial and multi-family residential buildings but also single family residences in the City deeply cut their property's carbon emission to meet certain statutory limits and meet certain energy efficiency standards by 2030 through either retrofitting or electrification of their property, the proposed CYCN zoning amendments could potentially open to distributed generation renewable, commercial & industrial renewable, community solar and real estate developers alike an opportunity to enter and reap the economic benefits of a previously untapped and under-exploited, pro-renewable, metropolitan energy market.

By relaxing a number of the regulations that currently make both rooftop renewable energy generation as well as commercial solar energy generation logistically if not economically untenable in the City, the proposed CYCN amendments could potentially provide to both renewable energy and real estate developers alike opportunities to develop a New York City renewable energy portfolio of distributed generation, commercial & industrial and/or community solar assets by swooping in and filling the current gap in the existing market of available resources to building owners and developers who are looking to meet their Local Law 97 carbon emission obligations.

Moreover, because NYC building owners who are unable to meet their Local Law 97 obligations through retrofitting or electrification may also offset their carbon emissions by purchasing renewable energy credits (“RECs”), a potential renewable energy credit market providing an additional source of revenue to both renewable energy and real estate developers could present itself to those who take advantage of CYCN’s proposed relaxed zoning restrictions in the City since Local Law 97 requires NYC building owners looking to avail themselves of such offsets to obtain such RECs from renewable energy sources that are either located in or directly deliverable to the NYC area – sources which are not largely prevalent in the City, currently.

### ***Federal Investment Tax and Production Tax Credits***

Notwithstanding the potential renewable energy market that the proposed CYCN zoning amendments could create in the City as building owners and developers look to meet their carbon emission obligations under Local Law 97, but the CYCN, if passed, could also potentially provide an opportunity to both real estate and renewable energy developers an opportunity to obtain and reap tax credits and benefits available under the Inflation Reduction Act (the “IRA”).

If the CYCN is fully passed and implemented, building owners and renewable energy developers could find it easier when implementing newly-compliant rooftop and commercial-level renewable energy systems to potentially benefit from the significant tax credit support available under the IRA. For example, real estate developers and renewable energy developers who choose to construct and operate newly-compliant commercial solar arrays and generators in residence districts that would otherwise not be permissible in the City if not for the proposed CYCN amendments would not only benefit from tax credits available under the IRA, but could also potentially monetize and sell those tax credits to third-parties. If an aggregated distributed generation rooftop installation or commercial standalone project is sited in an energy community in close proximity to one of the City’s existing carbon emitting facilities, as well, then that property owner or renewable energy developer could potentially be eligible for even more desirable credits. For a greater analysis of some of the key energy provisions under the IRA we have provided previously, see [here](#).

### ***Conclusion***

Mayor Adams’s proposed CYCN zoning amendments currently undergoing the statutorily required 60-day public review process has the potential, if passed by the New York City Council in October, to open up one of the largest and least tapped renewable energy development markets in the country to both renewable energy and real estate developers, alike. Inasmuch as the ongoing development of offshore wind resources in the New York Bight region will contribute to and feed the region’s growing energy needs in the future, the City’s current and statutorily mandated requirement that large commercial and multi-family residential buildings as well as individual residences reduce and cap their carbon emissions by 2030 by retrofitting and electrifying their properties will require the development and deployment of large scale, rooftop renewable energy and commercial solar resources, which is largely untenable and unfeasible economically and logistically and has been largely unattractive to most renewable energy developers due to the City’s existing zoning and building codes. The proposed CYCN zoning amendments looks to help address this issue and open the renewable energy doors, finally, to the City.

Locke Lord’s [Renewable Energy](#) and [Real Estate](#) attorneys will continue to follow and analyze the proposed CYCN zoning amendments, passage through City Council and related developments closely. Keep an eye out for

future updates. Please contact the authors with any questions or to discuss how provisions of the CYCN proposal could potentially affect your company's interests.

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