

2006 amendments to § 2-01(a)
Published in City Record on: August 29, 2006
Effective on: September 28, 2006

NEW YORK CITY LOFT BOARD

NOTICE OF ADOPTION OF FINAL RULES

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY LOFT BOARD by Article 7-C of the Multiple Dwelling Law and Mayor's Executive Order No. 66, dated September 30, 1982, and pursuant to and in accordance with the requirements of Section 1043 of the New York City Charter, that the New York City Loft Board has amended section 2-01(a) of Title 29 of the Rules of the City of New York, relating to code compliance legalization deadlines and the expiration of the Loft Law. The text added to the rules is underlined, and deleted text is bracketed.

A duly noticed public hearing was held on June 15, 2006, affording the public opportunity to comment on the proposed amendments, as required by section 1043 of the New York City Charter. Written comments were accepted through June 9, 2006.

These rules were not published in the regulatory agenda because they were not anticipated.

Section 1. Section 2-01(a) of Title 29 of the Rules of the City of New York is amended to read as follows:

§ 2-01 Code Compliance Work.

(a) *Code compliance timetable for IMD's.* The owner of any building, structure or portion thereof that meets the criteria for an IMD set forth in §281 of Article 7-C and Loft Board coverage regulations, shall comply with the code compliance deadlines set forth below. Any building or unit that is not covered by Article 7-C because of the denial of a grandfathering application or expiration of study area status is not required to be legalized pursuant to these regulations, unless either the area in which the building is

located is rezoned to permit residential use or a unit or units at the building qualify for coverage pursuant to M.D.L. §281(4). However, the building must still comply with all other applicable laws and regulations.

In these code[s] compliance regulations, the term “month” shall mean thirty days and the term “occupant,” unless otherwise provided, shall mean a residential occupant qualified for the protections of Article 7-C, any other residential tenant, and any nonresidential tenant.

The failure of an owner to meet any of the code compliance deadlines set forth below does not relieve the owner of its obligations to comply with these requirements.

Paragraphs (1) through (4) of this subdivision implement the initial code compliance deadlines that applied pursuant to section 284(1)(i) of Article 7-C before the enactment of later amendments, and paragraphs (5) through (8) reflect those amendments, as set forth in section 284(1)(ii) through (v).

(1) *Deadlines for filing alteration applications.* (i) Code compliance timetable for buildings in which all residential units are as of right.

The owner of an IMD that contains only residential units in which residential use is permitted as of right under the Zoning Resolution shall have filed an alteration application by March 21, 1983.

(ii) Buildings with 3 or more as of right units and additional units eligible for grandfathering.

The owner of an IMD that, on December 1, 1981, contained 3 or more residential units as of right and 1 or more units eligible for coverage by use of one of the

grandfathering procedures set forth in subsection 281(2)(i) or (iv) of Article 7-C, as defined in §2-08(a) “Grandfathering” (i) and (ii) of these Loft Board regulations:

(A) Shall have filed an alteration application for all covered as of right residential units by March 21, 1983, and

(B) Following the grandfathering approval of any additional residential units, the owner shall amend the existing alteration application to reflect approval of the grandfathering application for the additional unit or units within a month from such approval or within a month of the effective date of these regulations, whichever is later.

(iii) Buildings with fewer than 3 as of right units and additional units eligible for grandfathering.

The owner of an IMD that, on December 1, 1981, contained fewer than three residential units as of right and 1 or more units eligible for coverage by use of the grandfathering procedures set forth in §281(2)(i) or (iv) of Article 7-C, as defined in §2-08(a) “Grandfathering” (i) and (ii) of these Loft Board regulations:

(A) Shall file an alteration application for all covered residential units within 9 months after approval of the grandfathering application of the unit that becomes the third covered residential unit, and

(B) Following the grandfathering approval of the unit that becomes the third eligible residential unit, the owner of a building with additional units eligible for grandfathering shall amend the existing alteration application to reflect approval of the grandfathering application for the additional unit or units within a month after such approval or within a month after the initial timely filing of the alteration application referred to in §2-01(a)(1)(iii)(A) above, whichever is later.

(iv) Buildings in study areas rezoned to permit as of right residential use.

The owner of an IMD located in an area designated by the Zoning Resolution as a study area that is rezoned to permit residential use as of right shall file an alteration application within 9 months after the effective date of such rezoning.

(v) Buildings in study areas rezoned to permit residential use with 3 or more as of right units and additional units eligible for grandfathering.

The owner of an IMD that is located in an area designated by the Zoning Resolution as a study area and that, as a result of rezoning, contains 3 or more residential units as of right and 1 or more units eligible for coverage by use of one of the grandfathering procedures set forth in §§281(2)(i) or (iv) of Article 7-C, as defined in §§2-08 “Grandfathering” (i) and (ii) of these Loft Board regulations:

(A) Shall file an alteration application for all covered as of right residential units within 9 months after the effective date of such rezoning, and

(B) Following the grandfathering approval of any additional residential units, the owner shall amend the existing alteration application to reflect approval of the grandfathering application for the additional unit or units within a month after such approval.

(vi) Buildings in study areas rezoned to permit residential use with fewer than 3 as of right units and additional units eligible for grandfathering.

The owner of an IMD that is located in an area designated by the Zoning Resolution as a study area and that, as a result of rezoning, contains fewer than 3 residential units as of right and 1 or more units eligible for coverage by use of one of the

grandfathering procedures set forth in §281(2)(i) or (iv) of Article 7-C, as defined in §2-08(a) “Grandfathering” (i) and (ii) of these Loft Board regulations:

(A) Shall file an alteration application for all covered residential units within 9 months after approval of the grandfathering application of the unit that becomes the third covered residential unit, and

(B) Following the grandfathering approval of the unit that becomes the third eligible residential unit, the owner of a building with additional units eligible for grandfathering shall amend the existing alteration application to reflect approval of the grandfathering application for the additional unit or units within a month after such approval or within a month after the initial timely filing of the alteration application referred to in §2-01(a)(1)(vi)(A) above, whichever is later.

(2) Deadlines for obtaining permits.

(i) Code compliance timetable for buildings in which all residential units are as of right.

The owner of an IMD that contains only residential units in which residential use is permitted as of right under the Zoning Resolution shall take all necessary and reasonable actions to obtain a building permit within 6 months after the effective date of these regulations.

(ii) Buildings with 3 or more as of right units and additional units eligible for grandfathering.

The owner of an IMD that, on December 1, 1981, contained 3 or more residential units as of right and 1 or more units eligible for coverage by use of one of the

grandfathering procedures set forth in §§281(2)(i) or (iv) of Article 7-C, as defined in §§2-08(a) “Grandfathering” (i) and (ii) of these Loft Board regulations:

(A) Shall take all necessary and reasonable actions to obtain a building permit for all covered residential units within 6 months after the effective date of these regulations, and

(B) Following the grandfathering approval of any additional residential units, the owner shall take all necessary and reasonable actions to obtain approval of the amended alteration application for the additional units within 6 months after such grandfathering approval or within 6 months after the effective date of these regulations, whichever is later.

(iii) Buildings with fewer than 3 as of right units and additional units eligible for grandfathering.

The owner of an IMD that, on December 1, 1981, contained fewer than 3 residential units as of right and 1 or more units eligible for coverage by use of one of the grandfathering procedures set forth in §§281(2)(i) or (iv) of Article 7-C, as defined in §§2-08(a) “Grandfathering” (i) and (ii) of these Loft Board regulations:

(A) Shall take all necessary and reasonable actions to obtain a building permit for all covered residential units within 6 months after the effective date of these regulations or within 6 months after the timely filing of an alteration application, whichever is later, and

(B) Following the grandfathering approval of the unit that becomes the third eligible residential units, the owner of a building with additional units eligible for grandfathering shall take all necessary and reasonable actions to obtain approval of the

amended alteration application for the additional units within 6 months after such grandfathering approval or within 6 months after the effective date of these regulations, whichever is later.

(iv) Buildings in study areas rezoned to permit as of right residential use.

The owner of an IMD located in an area designated by the Zoning Resolution as a study area[s] that is rezoned to permit residential use as of right shall take all necessary and reasonable actions to obtain a building permit for all covered residential units within 6 months after the effective date of these regulations or within 6 months after the timely filing of the alteration application, whichever is later.

(v) Buildings in study areas rezoned to permit residential use with 3 or more as of right units and additional units eligible for grandfathering.

The owner of an IMD that is located in an area designated by the Zoning Resolution as a study area and that, as a result of rezoning, contains 3 or more residential units as of right and 1 or more units eligible for coverage by use of one of the grandfathering procedures set forth in §§281(2)(i) or (iv) of Article 7-C, as defined in §§2-08(a) "Grandfathering" (i) and (ii) of these Loft Board regulations:

(A) Shall take all necessary and reasonable actions to obtain a building permit for all covered residential units within 6 months after the effective date of these regulations or within 6 months after the timely filing of the alteration application whichever is later, and

(B) Following the grandfathering approval of any additional residential units, the owner shall take all necessary and reasonable actions to obtain approval of the amended

alteration application for the additional units within 6 months after such grandfathering approval.

(vi) Buildings in study areas rezoned to permit residential use with fewer than 3 as of right units and additional units eligible for grandfathering.

The owner of an IMD that is located in an area designated by the Zoning Resolution as a study area and that, as result of rezoning, contains fewer than three residential units as of right and one or more units eligible for coverage by use of one of the grandfathering procedures set forth in §§281(2)(i) or (iv) of Article 7-C, as defined in §2-08(a) “Grandfathering” (i) and (ii) of these Loft Board regulations:

(A) Shall take all necessary and reasonable actions to obtain a building permit for all covered residential units within 6 months after the effective date of these regulations or within 6 months after the timely filing of the alteration application, whichever is later, and

(B) Following the grandfathering approval of the unit that becomes the third eligible residential unit, the owner of a building with additional units eligible for grandfathering shall take all necessary and reasonable actions to obtain approval of the amended alteration application for the additional units within 6 months after such grandfathering approval.

(3) *Deadlines for Article 7-B compliance.* The owner of an IMD shall achieve compliance with the fire and safety standards of Article 7-B of the M.D.L. for all covered residential units within 18 months after a building permit has been obtained or within 18 months after the effective date of these regulations, whichever is later. Or the owner may elect to comply with other local building codes or provisions of the M.D.L. that provide

alternative means of meeting the fire and safety standards of Article 7-B (pursuant to §287 or Article 7-C) within 18 months after a building permit has been obtained or within 18 months after the effective date of these regulations, whichever is later. Where an owner is required to amend the existing alteration application to reflect approval of grandfathering applications for additional units pursuant to §§2-01(a)(1)(ii)(B), (iii)(B), (v)(B) or (vi)(B) above, the owner shall achieve compliance with the fire and safety standards of Article 7-B, or with alternative building codes or provisions of the M.D.L. for the additional grandfathered unit or units within 18 months after the timely approval of the amended alteration application or within 18 months after the effective date of these regulations, whichever is later. Issuance of a temporary certificate of occupancy shall be considered the equivalent of Article 7-B compliance or compliance with alternative building codes or provisions of the M.D.L.

(4) *Deadlines for obtaining a final certificate of occupancy.* The owner of an IMD shall take all necessary and reasonable actions to obtain a final certificate of occupancy as a class A multiple dwelling for all covered residential units within 6 months after compliance with the fire and safety standards of Article 7-B, alternative building codes or provisions of the M.D.L. has been achieved, or within 6 months after a temporary certificate of occupancy has been obtained. The owner of an IMD that contains additional units subject to §§2-01(a)(1)(ii)(B), (iii)(B), (v)(B), or (vi)(B) above, shall take all necessary and reasonable actions to obtain a final certificate of occupancy as a class A multiple dwelling for the additional unit or units within 6 months after the date such unit or units come into compliance with the fire and safety standards of Article 7-B,

alternative building codes, or provisions of the M.D.L., or within 6 months after the date such unit or units are covered by a temporary certificate of occupancy.

(5) [1992 Amended Code Compliance Timetable.] Notwithstanding the provisions of

subdivisions (a)(1) through (4) of this section, [The] the owner of an IMD [that]

who has not been issued a final certificate of occupancy as a class A multiple

dwelling for all covered residential units on or before June 21, 1992 shall:

(i) File an alteration application by October 1, 1992; and

(ii) Take all reasonable and necessary action to obtain a building permit by October 1, 1993; and

(iii) Achieve compliance with the fire and safety standards of Article 7-B of the M.D.L. for all covered residential units by April 1, 1995, or within 18 months after an approved alteration permit has been obtained, whichever is later. The owner may, alternatively, elect to comply with other building codes or provisions of the M.D.L. that provide alternative means of meeting the fire and safety standards of Article 7-B (pursuant to M.D.L. §287) by April 1, 1995 or within 18 months after an approved alteration permit has been obtained, whichever is later; and

(iv) Take all reasonable and necessary actions to obtain a final certificate of occupancy as a class A multiple dwelling for all covered residential units by October 1, 1995, or within 6 months after achieving compliance with the fire and safety standards of Article 7-B, alternative building codes, or provisions of the M.D.L. [has been achieved], whichever is later.

(6) [1996 Amended Code Compliance Timetable.] Notwithstanding the provisions of subdivisions (a)(1) [and] through (a)(5) of this section, the owner of an

Deleted:

Deleted: T]

IMD who has not complied with the requirements of M.D.L. §§284(1)(i) or (ii) by June 30, 1996 shall:

(i) File an alteration application by October 1, 1996; and

(ii) Take all reasonable and necessary action to obtain an approved alteration permit by October 1, 1997; and

(iii) Achieve compliance with the fire and safety standards of Article 7-B of the M.D.L. for all covered residential units by April 1, 1999 or within 18 months after obtaining an approved alteration permit, whichever is later; and

(iv) Take all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for all covered residential units by June [20] 30, 1999, or within 3 months after achieving compliance with the fire and safety standards of Article 7-B of the M.D.L., whichever is later.

(v) As an alternative to complying with the requirements of subparagraph (iii) of this subdivision, an owner may, pursuant to M.D.L. §287, elect to comply with other local building codes or provisions of the M.D.L. that provide alternative means of meeting the fire and safety standards of Article 7-B by April 1, 1999 or within 18 months after obtaining an approved alteration permit, whichever is later.

(7) [2005 Amended Code Compliance Timetable.] Notwithstanding the provisions of subdivisions (a)(1), (a)(5), and (a)(6) of this section, the owner of an IMD who has not complied with the requirements of M.D.L. §§284(1)(i), (ii), or (iii) by June 30, 1999 shall:

(i) File an alteration application by September 1, 1999; and

(ii) Take all reasonable and necessary actions to obtain an approved alteration permit by March 1, 2000; and

(iii) Achieve compliance with the fire and safety standards of Article 7-B of the M.D.L. for all covered residential units by May 1, [2006] 2002, or within 12 months after obtaining an approved alteration permit, whichever is later; and

(iv) Take all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for all covered residential units by May 31, [2006] 2002, or within [12] 1 month[s] after [obtaining an approved alteration permit] achieving compliance with the fire and safety standards of Article 7-B of the M.D.L., whichever is later.

(v) As an alternative to complying with the requirements of subparagraph (iii) of this subdivision, an owner may, pursuant to M.D.L. §287, elect to comply with other local building codes or provisions of the M.D.L. that provide alternative means of meeting the fire and safety standards of Article 7-B by May 1, [2006] 2002 or within 12 months after obtaining an approved alteration permit, whichever is later.

(8) [2005 Amended Code Compliance Timetable.] Notwithstanding the provisions of subdivisions (a)(1)[, (a)(5), (a)(6) and] through (a)(7) of this section, the owner of an IMD who has not complied with the requirements of M.D.L. §§284(1)(i), (ii), (iii) or (iv) by May 31, [2005] 2002 shall:

(i) File an alteration application by September 1, 1999; and

(ii) Take all reasonable and necessary actions to obtain an approved alteration permit by March 1, 2000; and

(iii) Achieve compliance with the fire and safety standards of Article 7-B of the M.D.L. for all covered residential units by May 1, [2006] 2007, or within 12 months after obtaining an approved alteration permit, whichever is later; and

(iv) Take all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for all covered residential units by May 31, [2006] 2007, or within one month after achieving compliance with the fire and safety standards of Article 7-B of the M.D.L., whichever is later.

(v) As an alternative to complying with the requirements of subparagraph (iii) of this subdivision, an owner may, pursuant to M.D.L. §287, elect to comply with other local building codes or provisions of the M.D.L. that provide alternative means of meeting the fire and safety standards of Article 7-B by May 1, [2006] 2007 or within 12 months after obtaining an approved alteration permit, whichever is later.

Statement of Basis and Purpose:

The Legislature recently amended Article 7-C of the Multiple Dwelling Law (the “Loft Law”) to extend the code compliance deadlines that IMD owners are required to meet in legalizing their buildings and to extend the deadline for the Loft Law itself. The compliance extensions are set forth in section 284 of the Multiple Dwelling Law. As a result, it is necessary to amend the Loft Board rules to conform to the legislative changes.

After consultation with counsel and further deliberation, these amendments were drafted to parallel more closely the language in the statute and to conform to the terms of the amended Loft Law, including the recent amendment by Part Q of Chapter 62 of the Laws of 2006. Sections 2-01(a)(1)(iv) through 2-01(2)(iii) have been restored because these sections were inadvertently omitted by the present publisher, although they were duly promulgated prior to the time they became effective.

Dated: August 29, 2006

Marc Rauch
Chairperson