

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Buildings (DOB) is proposing to add a new section 105-08 to Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York regarding ancillary dwelling units.

When and where is the hearing? DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11am on 8/18/25.

- **Join through Internet – Desktop app:**

To join the hearing via your browser either click on the following URL link or copy and paste it into your browser's address bar. Then follow the prompts to either continue using the browser or download/open the Teams desktop app.

<https://events.gcc.teams.microsoft.com/event/f8f26909-9dfe-4807-a277-0bd5844223e8@32f56fc7-5f81-4e22-a95b-15da66513bef>

Enter your name when prompted and click the **“Join now”** button. If you don't have computer audio or prefer to phone in for audio, select **“Phone audio”** under **“Other join options”** then click the **“Join now”** button. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins. If you are using phone audio then follow the dial-in instructions when prompted.

If you have low bandwidth or inconsistent Internet connection, we suggest you use the Phone audio option for the hearing. This will reduce the possibility of dropped audio and stutters.

- **Join through Internet - Smartphone app:**

To join using the Microsoft Teams app on your smartphone, click on the following URL link from your phone to automatically open the Teams app. Note that the Microsoft Teams app must already be installed on your smartphone. It is available for free both in the Apple Store and Google Play.

<https://events.gcc.teams.microsoft.com/event/f8f26909-9dfe-4807-a277-0bd5844223e8@32f56fc7-5f81-4e22-a95b-15da66513bef>

When prompted select **“Join meeting”**. Type your name and then select **“Join meeting”** again. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

PLEASE NOTE: The above links are used to register for the hearing. Once registered, you will receive a confirmation email that will include a link to join the hearing. If you should run into technical difficulties when using the above links to register or you do not receive the registration confirmation email with your link to join the hearing, please use one of the following alternative methods to join the hearing. You should receive the confirmation email within a short time of registering. Please check your junk email folder too if you do not see the email in your inbox. Best practice is to register for the hearing prior to the actual hearing date.

Alternatively, open the Teams app and select “Join a meeting”. Signing in with an account is not required. Type your name, the following Meeting ID and Passcode, then select “Join meeting”.

Meeting ID: 259 167 874 317 3
Passcode: CL2fx3qL (Code is case sensitive)

- Join via phone only:

To join the meeting only by phone, use the following information to connect:

Phone: 646-893-7101
Phone Conference ID: 244 039 527#

You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the DOB through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up by emailing dobrules@buildings.nyc.gov by 8/11/25 and including your name and affiliation. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? Yes, you must submit comments by 8/18/25.

What if I need assistance to participate in the hearing? You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing. You can tell us by email at dobrules@buildings.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by 8/4/25.

This location has the following accessibility option(s) available: Simultaneous transcription for people who are hearing impaired, and audio only access for those who are visually impaired.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. Copies of all comments submitted online, copies of all written comments and a summary of oral comments concerning the proposed rule will be available to the public at the Office of the General Counsel and may be requested by email at dobrules@buildings.nyc.gov.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter, Appendix U of the New York City Building Code and Local Law 127 of 2024 authorize DOB to make this proposed rule. The rule was included not in the regulatory agenda for this Fiscal Year because it was not contemplated when DOB published the agenda.

Where can I find DOB's rules? DOB's rules are in Title 1 of the Rules of the City of New York.

What rules govern the rulemaking process? DOB must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Ancillary Dwelling Units

The New York City Zoning Resolution (ZR) was amended to define and allow ancillary dwelling units (ADU or ADUs) as part of the City of Yes Housing Opportunity text amendment, effective 12/6/2024. The ZR defines an ADU in part as "an additional dwelling unit, permitted on the same zoning lot as a single- or two-family residence that does not exceed eight hundred square feet of floor area. Only one ancillary dwelling unit shall be permitted per every single- or two-family residence on a zoning lot." The New York City Council also adopted corresponding construction requirements for ADUs in existing buildings in Local Law 127 of 2024 (LL127), effective June 16, 2025.

LL127 identifies various types of ADUs:

- ADUs above the grade plane, adjoining or within the same building as a one-family dwelling, including in an attic or in an enlargement;
- Basement or cellar ADUs;
- ADUs separated by a fire wall from a two-family dwelling;
- Fully detached ADUs; and
- Manufactured homes.

LL127 gives authority to the Department of Buildings (DOB) to promulgate rules in consultation with the Fire Department and Office of Emergency Management for any standards protective of life. This proposed rule provides safety features and administrative requirements necessary to implement LL127 in conjunction with the ZR for single- and two-family homes. Note this rule does not address the requirements of the temporary authorization program for basement and cellar residences established by Local Law 126 of 2024 (LL126). DOB anticipates promulgating requirements for LL126 at a future date.

It should also be noted that additional safety requirements necessary to implement LL127 are being promulgated by: 1) the Department of Environmental Protection (DEP) related to establishing flood maps in the 10-year rainfall flood risk area; and 2) the Department of Health and Mental Hygiene related to testing and protection for both vapor and radon levels.

Proposed Rule 105-08

The proposed rule 105-08:

- establishes the scope of the rule to include ADUs associated with single- or two-family residences and incorporates references to both NYC Building Code Appendix U (BC Appendix U) adopted by LL127, and the definition of "ancillary dwelling unit" in ZR section 12-10,
- incorporates references to eligibility criteria from the ZR definition and BC Appendix U for constructing ADUs, including the reference to the limitations on ADUs in areas of special flood hazard as defined by the NYC Construction Codes, and the 10-year rainfall flood risk area, which will be set out in a rule promulgated separately by DEP,
- clarifies the criteria to be applied when an ADU is proposed to be included in the development of a new single- or two-family residence,
- sets administrative requirements for identifying ADU filings and includes requirements for certificates of occupancy, building identification numbers (BINs), and requirements to obtain house numbers from the requisite Borough President's office Topographical Bureau,
- establishes technical requirements for ADUs including, flood mitigation, water sensors, entrance identification, and occupancy restrictions, and
- adds requirements regarding egress, sprinklers and windows for ADUs located in cellars as part of such development.

DOB's authority for these rules is found in sections 643 and 1043(a) of the City Charter, Appendix U of the New York City Building Code, and Local Law 127 of 2024.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

§105-08 Ancillary Dwelling Units outside the Temporary Residence Program associated with a single – or two- family residence.

(a) Scope. This rule establishes requirements for the occupancy and use of all ancillary dwelling units (“ADU”) not enrolled in the Temporary Residence Program covered in Article 507 of Title 28 of the New York City Administrative Code (“Administrative Code”) and that are associated with a single- or two-family residence.

(b) Definitions. For the purposes of this section, the following terms have the following meanings:

ADU. An “ancillary dwelling unit” as defined in section 12-10 of the New York City Zoning Resolution (“Zoning Resolution”).

Alt-CO. An application for alteration permit pursuant to Article 105 of Title 28 of the Administrative Code leading to a new or amended certificate of occupancy issued pursuant to Article 118 of Title 28 of the Administrative Code.

Building Code. The New York City Building Code.

CO. A certificate of occupancy issued pursuant to Article 118 of Title 28 of the Administrative Code.

TCO. A temporary CO issued pursuant to Article 118 of Title 28 of the Administrative Code.

(c) References. Appendix U of the Building Code, Chapter 10 of the Building Code and the Zoning Resolution.

(d) Eligibility. An ADU must comply with the Zoning Resolution and paragraphs (1) through (4) of this subdivision.

(1) No more than one ADU per single- or two-family residence is permitted on the same zoning lot.

(2) The owner of the property must maintain their primary residence in any of the primary dwelling units on the zoning lot at the time of application for a TCO or final CO, whichever is earlier. The department may require submission of the same evidence of primary residence as required in section 46-03 of Title 19 of the Rules of the City of New York.

(3) In accordance with section U202.3 of the Building Code, no ADUs may be permitted in a basement or cellar where the portion of the residence containing an ADU constructed in accordance with Appendix U of the Building Code is located within the

special flood hazard area, 10-year rainfall flood risk area, or costal flood risk area.

These prohibited areas are set out as follows:

- (i) Special flood hazard area: Defined in section 202 of the Building Code.
- (ii) 10-year rainfall flood risk area: Set out in the map established by the New York City Department of Environmental Protection in accordance with section 24-809 of the Administrative Code and section 66-01 of Title 15 of the Rules of the City of New York.
- (iii) Coastal flood risk area: Set out in the map established by Department of Environmental Protection in accordance with section 24-809 of the Administrative Code and section 66-01 of Title 15 of the Rules of the City of New York.

(4) An ADU may be permitted to be constructed in the basement or cellar in conjunction with the erection of a single-family residence, if all of the following conditions are met:

- (i) Such ADU is permitted by the Zoning Resolution.
- (ii) The basement or cellar ADU is within the same building as the primary dwelling unit, in accordance with section 12-10 of the Zoning Resolution and paragraph (2) of this subdivision.
- (iii) Occupancy of such ADU in a basement or cellar, as defined by section 202 of the Building Code, must be in accordance with section 27-2087 of the Housing Maintenance Code, as applicable.
- (iv) Both the ADU and the primary dwelling unit must be classified as Group R-3 occupancy and must comply with all applicable requirements of a two-family residence and Group R-3 occupancy in the New York City Construction Codes, New York City Fire Code and Housing Maintenance Code.
- (v) Such ADU must be indicated as "ADU Apartment U" in the CO.
- (vi) The application and the comment of the CO must indicate that the "Ancillary Dwelling Unit is being constructed in accordance with section 12-10 of the Zoning Resolution and 1 RCNY 105-08(d)(4)."
- (vii) For ADUs located in the cellar, all of the following requirements apply:
 - (A) Cellar ADUs must be provided with two independent means of egress in accordance with Chapter 10 of the Building Code.
 - (B) Cellar ADUs must be provided with an automatic sprinkler system throughout the ADU in accordance with NFPA 13D as modified by Appendix Q of the Building Code. A building that consists of three

stories or more and a cellar ADU must be sprinklered in its entirety in accordance with section 903.2.8 of the Building Code.

- (C) Any yards, courts or other open spaces required by the Zoning Resolution must be no higher than 6 inches below the windowsill of any required window in any room of such cellar ADU.
- (D) Applications for the construction of an ADU in a cellar may not be submitted unless and until section 27-2087 of the Housing Maintenance Code provides for such occupancy in cellars.

Except for sections U202.9, U202.10 and U202.11, the provisions of Appendix U of the Building Code do not apply to an ADU constructed pursuant to this paragraph (4).

(e) Application. All ADU applications must be filed under the house number assigned by the Topographical Bureau of the appropriate Borough President's office.

(1) The ADU types below that share the same CO with the primary dwelling must be filed as an Alt-CO application:

- (i) Attic ADUs constructed in accordance with section U201 of the Building Code.
- (ii) Basement or cellar ADUs constructed in an existing building in accordance with section U202 of the Building Code.
- (iii) All other above grade ADUs, except for attic ADUs, such as vertical enlargements, horizontal enlargements, and subdivisions from the bulk of the existing single-family residence and constructed in accordance with section U201 of the Building Code.

(2) The ADU types below must apply for a new CO and obtain a new Building Information Number (BIN).

- (i) Detached ADUs constructed in accordance with section U204 of the Building Code.
- (ii) Manufactured homes constructed in accordance with section U205 of the Building Code.
- (iii) ADUs abutting the primary dwelling and separated from the primary dwelling with a fire wall in accordance with section U203 of the Building Code. To obtain a new house number, the address verification application to the Borough Topographical Bureau must indicate the location of the fire wall.

(3) ADUs converted from an existing detached garage:

- (i) If the detached garage is recorded on the same CO as the primary dwelling, one no-work Alt-CO application must be filed for the primary dwelling and another Alt-CO application must be filed for the ADU.
- (ii) If the detached garage is recorded on a CO separate from the primary dwelling or is not recorded on a CO, the ADU must be filed as an Alt-CO application under a different BIN than the primary dwelling. A new BIN may be required for the ADU.

(f) Technical Requirements

(1) ADU Entrance Identification. Where the ADU entrance is not apparent from the street, a permanent directional sign with red letters at minimum of 5 inches tall over white background must be mounted on the primary dwelling, stating “ADU in rear” with an arrow pointing to the ADU entrance.

(2) Water sensors and alarms.

(i) Installation. Pursuant to item 1 of section U202.11 of the Building Code, water sensors and alarms must be installed in every habitable space, as defined in section 202 of the Building Code, in an ADU located in a basement or cellar to provide warning to the occupants in the event of a flood and must be installed in accordance with the requirements of this section.

(ii) Water sensor and alarm units. In each habitable room, one water sensor and alarm with alternating current (AC) power of a type acceptable to the department must be installed in addition to one water sensor and alarm with battery power to satisfy the requirements of section U202.11 of the Building Code. One AC power water sensor and alarm that also has battery backup power will be deemed compliant with this requirement.

(iii) Locations. Water sensors and alarms must be installed in every habitable space at the following locations:

- (A) Any interior space or area immediately adjacent to flood water ingress points, such as windows, doors, and other wall openings. However, no more than two are required for each habitable room.
- (B) On the finished floor, or in accordance with the manufacturer’s instructions.

(iv) **Visual Notification.** The water sensors and alarms must have a visual notification function when requested by the tenant.

(v) **Average sound pressure.** The water sensor and alarm must provide a minimum sound pressure level of 75 dBA.

(vi) **Owner's responsibility.** The owner is responsible to inspect all of the water sensors and alarms and replace the battery as necessary, but at least once a year, prior to a tenant's occupancy, and after a flood event.

(3) **Flood mitigation for ADUs above grade.** In accordance with section U203.7 of the Building Code, ADUs that are not backyard ADUs as defined in the Zoning Resolution and are constructed in accordance with section U203, U204 or U205 of the Building Code must be elevated as determined below:

(i) Where the ADU is located within the Special Flood Hazard Area defined in section 202 of the Building Code, the lowest floor of the ADU must be elevated to the design flood elevation in accordance with Appendix G of the Building Code. The CO must include all applicable statements in accordance with Appendix G of the Building Code.

(ii) Where the premises is located within the costal flood risk area defined in section U202.2 of the Building Code, to be determined as described in paragraph (3) of subdivision (d) of this section, but not located in the Special Flood Hazard Area defined in section 202 of the Building Code, the lowest floor of the ADU must be elevated to a minimum of 3 feet above the highest adjacent grade to such ADU.

(iii) Where the premises is located is within the 10-year rainfall flood risk area defined in accordance with section U202.2 of the Building Code, to be determined as described in paragraph (3) of subdivision (d) of this section, but not located in the Special Flood Hazard Area defined in section 202 of the Building Code, the lowest floor of the ADU must be elevated to a minimum of 2 feet above the highest adjacent grade to such ADU.

NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028

CERTIFICATION PURSUANT TO
CHARTER §1043(d)

RULE TITLE: Rules relating to Ancillary Dwelling Units in -1 and 2-Family Dwellings

REFERENCE NUMBER: 25 RG 051

RULEMAKING AGENCY: Department of Buildings

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Senior Counsel

Date: July 11, 2025

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Rules relating to Ancillary Dwelling Units in -1 and 2-Family Dwellings

REFERENCE NUMBER: DOB-201

RULEMAKING AGENCY: Department of Buildings

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

July 10, 2025
Date