

NEW YORK CITY LOFT BOARD

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Loft Board (Loft Board) is proposing to amend its rules. The amendments will update the rules to comply with amendments to the Loft Law and will streamline and simplify procedures.

When and where is the hearing? The Loft Board will hold a public hearing on the proposed rules online. The public hearing will take place from [time] on [date].

Join through Internet:

- 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.

<https://buildings.webex.com/buildings/j.php?MTID=md93df750dd225ae0346b8e464a9362de>

When prompted, enter the following meeting password: 10007

When joining the meeting, choose either "Use computer for audio" or "Call in" for the audio portion of the public hearing. If you choose the "Call in" option, the information needed to connect (phone number, Access Code and Attendee ID) will automatically be presented to you immediately after you join the Webex meeting. If you have low bandwidth or inconsistent Internet connection, we suggest you use the "Call-in" option for the hearing. This will reduce the possibility of dropped audio and stutters.

Join via phone only:

- To join the meeting only by phone, use the following information to connect:
 - Phone: 646-992-2010
 - Access code: 477 878 099
 - Password (if requested): 1000

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

- **Website.** You can submit comments to the Loft Board through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to nycloftboard@buildings.nyc.gov.
- **Mail.** You can mail comments to New York City Loft Board, 280 Broadway, 5th floor, New York, NY 10007.
- **Fax.** You can fax comments to New York City Loft Board at 646-500-6169.

Is there a deadline to submit comments? Yes, you must submit comments by [insert hearing date].

Speaking at the hearing. Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up by emailing nycloftboard@buildings.nyc.gov by [insert date one week before hearing date] and including your name and affiliation. While you will also 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.

What if I need assistance to participate in the hearing? You must tell the Loft Board if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-393-2616. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by [insert date one week before the hearing]. Accessibility option(s) available: Simultaneous transcription and an ASL interpreter for people who are hearing impaired, and audio only access for those who are visually impaired.

Can I review comments that are made on the proposed rules? You can review comments on the proposed rules that are made online by going to the website at <http://rules.cityofnewyork.us/>.

What authorizes the Loft Board to make the proposed rules? Section 282 of the Multiple Dwelling Law and section 1043(a) of the City Charter authorize the Loft Board to make these proposed rules.

Where can I find the Loft Board's current rules? The Loft Board's current rules are in Title 29 of the Rules of the City of New York.

What laws govern the rulemaking process? The Loft Board 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

Background

In 1982, the New York State legislature passed Article 7-C of the Multiple Dwelling Law (MDL), also known as the Loft Law. The law created a new class of buildings in New York City. These buildings are known as interim multiple dwellings (IMD). Initially, the Loft Law allowed the conversion to residential space of former commercial and manufacturing spaces that were used as residences by at least three or more families living independently from April 1, 1980 through December 1, 1981 in zoning districts that permitted residential use. The Loft Law has been subsequently amended to allow for the conversion of commercial or manufacturing space in additional districts and for spaces used as a residence during additional time periods.

The Loft Law also established the Loft Board to coordinate the legal conversion of these spaces to safe, rent-stabilized residential units. The Board is charged with overseeing the conversion of IMD buildings from commercial and manufacturing spaces to safe, rent-stabilized residences that comply with the minimum standards of safety and fire protection stated in Article 7-B of the New York State Multiple Dwelling Law. The Board adjudicates and mediates disputes between owners and tenants, tracks the progress of

each building undergoing legalization and prosecutes parties who violate the Loft Law and the Loft Board's rules.

In June of 2019, the State Legislature amended the Loft Law to include units in a commercial or manufacturing building which lacks a residential certificate of occupancy, where three or more families lived independently for twelve consecutive months from January 1, 2015 through December 31, 2016.

In addition, the amended Loft Law requires that units:

- must be at least 400 square feet;
- must not be located in a cellar;
- must not be located in an Industrial Business Zone (other than the Greenpoint, Williamsburg, certain parts of North Brooklyn and certain parts of the Long Island City Industrial Business Zones);
- must not be located in a building that, on June 21, 2010 or June 25, 2019 and continuing through the time of the filing of the coverage application, contains a use in Use Group 18 that is inherently incompatible with residential use and cannot be reasonably mitigated.

Proposed Rule Amendments

The Loft Board is proposing to amend its rules to incorporate the changes to the Loft Law and to streamline its procedures. Specifically:

Section 1 of the proposed rule repeals and reenacts, with new numbering, Chapter 1 of the Loft Board's (the Board) current rules. The new Chapter 1 allows for electronic filing of documents in most cases, incorporates definitions contained throughout the Loft Board's rules into a definition section, adds a provision making it a violation for filing material false statements and clarifies these rules by using plain language. The section also adds a provision allowing the Executive Director to extend any filing deadline for a reasonable amount of time, upon demonstration of extraordinary circumstances and in order to avoid injustice.

Sections 2 through 22 of the proposed rule amend Chapter 2 of the Loft Board's rules. Many of these changes are ministerial – correcting cross-references to Chapter 1 and inconsistent formatting. However, some of the changes are substantive.

Section 2 adds code compliance deadlines based upon both the 2015 and 2019 amendments to the Loft Law.

Section 3 adds cross references to capture additions made to MDL § 284(1). Additionally, language discussing owners' opportunity to file for an extension for 60 days after the enactment of the 2013 language was removed. As the referenced window of time has fully passed and such opportunity for an extension no longer exists, this language was removed.

Section 4 of the proposed rule amends the Board's process for occupant review of an owner's legalization plans (narrative statement process). Specifically, the section adds provisions:

- requiring owners to electronically send copies of plans to the occupants who provide email addresses;
- requiring an architect or engineer to certify that the narrative statement, which accompanies the plans, is complete and accurate;
- allowing parties to electronically serve and file the narrative statement; and
- requiring owners to provide copies of Department of Building objection sheets at narrative statement conferences.

The section also includes a sliding scale for the time allowed tenants to file alternate plans or comments opposing owner's legalization plan. The time frame is based on the number of IMD units contained in a building.

Section 9 changes the reporting requirement from monthly to quarterly for owners who have received Loft Board certification of their legalization plans. However, the Loft Board reserves the right to ask for additional reports if needed.

Section 12 amends the Loft Board's minimum housing maintenance standards with respect to heat to incorporate changes made by Local Law 86 of 2017.

Section 13 amends the Loft Board's registration requirements to conform to the 2019 amendments. The section clarifies where and what type of notice owners need to post in their buildings, in order to make tenants aware that the building is covered under the Loft Law.

Section 16 adds new Interim Rent Guidelines for units covered under section 281(6) of the Loft Law. The section mirrors section 29 RCNY 2-06.2, the interim rent guidelines for units covered under section 281(5).

Section 18, which amends 29 RCNY § 2-08, contains the most significant changes, most of which are based on the 2019 amendments to the Loft Law. The section codifies the new occupancy requirement contained in section 281(6) of the Loft Law. The section also eliminates the window requirement, eliminates the basement exclusion and limits the inherently incompatible use exclusion to uses in Use Group 18. To the extent exclusions still exist, only the unit seeking coverage must meet the requirements for coverage. Other units which were residentially occupied during the applicable window period do not have to be eligible for coverage in order for the Loft Board to cover an applicant's unit. In addition, the proposed rule limits coverage for buildings in the North Brooklyn Industrial Business Zone to buildings located outside M3 districts.

Most importantly, the section now incorporates and redefines the requirements to become a residential occupant qualified for protection under the Loft Law. These provisions were formerly contained in 29 RCNY 2-09(b).

Prime lessees occupying a covered unit as a primary residence on the date they file for protection, and their spouses or domestic partners, are protected occupants to the exclusion of others while their leases are in effect. If the lease has expired or the prime lessee is not in occupancy, other occupants qualify for protection. Primary residency is required and the proposed rule contains factors for the Loft Board to consider in deciding questions of primary residency.

Section 20 amends the Loft Board's rule concerning sales of rights. The amended rule eliminates provisions that allowed owners to file sales documents without occupant signatures. It also requires owners to disclose the full consideration supporting the sale. Thus, redaction of monetary amounts would no longer be allowed. The proposed rule also clarifies that the refund of a security deposit is not acceptable consideration for a sale.

Section 21 amends the Loft Board's penalty schedule, increasing maximum penalties to \$25,000 pursuant to the 2019 amendments to the Loft Law. The section also increases penalties imposed on owners who fail to timely renew their registrations and adds penalties for violating a Loft Board order or filing a false statement.

The Loft Board's authority for these rules is found in Section 282 of the Multiple Dwelling Law and section 1043(a) of the City Charter.

New material is underlined.

[Deleted material is in brackets.]

"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.

Section 1. Chapter 1 of Title 29 of the Rules of the City of New York is REPEALED and a new Chapter 1 is added to read as follows:

Chapter 1: Practice and Procedure

Subchapter A: General

§ 1-12 Definitions. As used in this Title, unless otherwise defined, the terms below have the following meanings:

Adjudicator means an Administrative Law Judge or hearing officer of the Office of Administrative Trials and Hearings for matters before that tribunal, or a Loft Board staff member assigned to conference or hear and decide an Application.

Administrative Certification means various procedures which may be specified in the Zoning Resolution in addition to the grandfather determinations of occupancy concerning non-discretionary actions by the agency to which an application must be made. See *also, Minor Modification definition.*

Administrative Determination means a written decision made by a Loft Board staff member pursuant to these rules, from which a party has a right to appeal to the Loft Board.

Affected Party means the Owner or Responsible Party and the Occupants necessary to decide a claim asserted in an Application or proceeding as further described in § 1-21 (b) below.

Agent, as used in § 284(2) of the New York State Multiple Dwelling Law (“MDL” or “M.D.L.”) and this chapter, means the individual in control of and responsible for the maintenance and operation of the IMD building, which individual shall be twenty-one (21) years of age or older, and shall reside within New York City or customarily and regularly attend a business office located in New York City.

Alteration Application means a work application form filed with the DOB which describes work to be done in a Building that will result in obtaining a residential certificate of occupancy for an IMD unit.

Alteration Permit, also referred to as "building permit" or "work permit," means a document issued by DOB authorizing the Owner or Responsible Party to make the alterations stated in the approved alteration application which are necessary to obtain a residential certificate of occupancy for an IMD unit.

Alternate Plan Application means an Occupant's alteration application and associated Legalization Plan filed with DOB.

Application means the document used to start a proceeding before the Loft Board.

Art. 7-B means Article 7-B of the MDL.

Art. 7-C means Article 7-C of the MDL.

Building means any structure which is permanently affixed to the land, has one (1) or more floors and a roof and is bounded by either open area or the lot lines of a zoning lot. A Building may be a row of structures, and have one (1) or more structures on a single zoning lot.

Business Day means 9:00 am to 4:00 pm on Monday through Friday, except for federal, New York State or New York City holidays.

Business Hours means 9:00 am to 4:00 pm on Monday through Friday, except for federal, New York State or New York City holidays.

Chair means the Chairperson of the Loft Board or his or her designee.

Code Compliance Deadlines means the deadlines contained in the provisions of MDL § 284(1) and 29 RCNY § 2-01 of Chapter 2 of this Title.

Continuous Pattern of Behavior, includes, but is not limited to, acts, at least one of which happened within one hundred and eighty (180) days preceding the filing of a Harassment application, that show a sequence of events that are similar in nature or a sequence of events that are reasonably related.

DOB means the New York City Department of Buildings.

Escalators means additional charges agreed upon by the Occupant and Responsible Party to be paid by the Occupant provided in a lease or rental agreement, including but not limited to charges based on real estate taxes, heating fuel, labor, water and sewer, insurance, vault tax and any cost-of-living formulas.

Executive Director means the Executive Director of the Loft Board or his or her designee.

Family means: (i) a person or persons, regardless of whether such persons are related by marriage or ancestry, occupying a dwelling and maintaining a household with not more than four (4) boarders, roomers or lodgers; or (ii) two (2) or more persons, regardless of whether such persons are related by marriage or ancestry, occupying a dwelling, living together and maintaining a common household with not more than four (4) boarders, roomers or lodgers.

Garbage Escalators means additional charges related to garbage collection service that were part of the last lease or rental agreement in effect on or before June 21, 2010 for units covered pursuant to MDL § 281(5) or June 25, 2019 for units covered pursuant to MDL § 281(6). Garbage Escalators do not include services provided at no cost to the Owner or Responsible Party.

Grandfathering means the administrative process by which the Department of City Planning or a successor agency determines that a Residential Unit, which is located where residential use is not permitted by the Zoning Resolution, is a legal Residential Use as of Right and therefore may be eligible for coverage under Art. 7-C.

Harassment means any course of conduct or single act engaged in by the Owner, Landlord or any other Person acting on such Owner's behalf that interferes with or disturbs the comfort, repose, peace or quiet of an Occupant in the Occupant's use or occupancy of its unit. Such conduct must be intended to cause the Occupant to vacate the Building or unit, or to surrender or waive any rights of such Occupant under the Occupant's written lease or other rental agreement or pursuant to Art. 7-C. Harassment may also include any act or course of conduct by a Prime Lessee or any Person acting on such Prime Lessee's behalf that would constitute Harassment if engaged in by the Owner or Landlord, against any of the Prime Lessee's current or former subtenants who are residential Occupants qualified for protection under Art. 7-C.

IMD means an Interim Multiple Dwelling as defined in MDL § 281 and section 2-08 of these rules.

IBZ means an industrial business zone as defined in chapter 6-D of Title 22 of the New York City Administrative Code.

Landlord, unless otherwise stated in this subchapter, means the Owner of an IMD, a Prime Lessee of a whole Building all or part of that contains IMD units, or the Agent, executor, assignee of rents, receiver, trustee, or other Person having direct or indirect control of such Building.

Legalization Plan means the construction documents, as defined in § 28-101.5 of the New York City Administrative Code, as may be amended, including but not limited to architectural, structural, detailed drawings, construction specifications, tenant protection plan and other required plans submitted to the DOB with the alteration application as defined above.

Legalization Process means the process of procuring a Certificate of Occupancy for the residential portions of the Building or the IMD units.

Letter of No Objection (“LONO”) means a Loft Board certificate issued to a Responsible Party authorizing work in a non-IMD space.

Living Independently means having attributes of independent living by a Family in each Residential Unit, such as: (i) a separate entrance providing direct access to the Residential Unit from a street or common area, such as a hallway, elevator, or stairway within a Building; (ii) one (1) or more rooms such as a kitchen area, a bathroom, a sleeping area and a living room area arranged to be occupied exclusively by the members of a Family and their guests, which room or rooms are separated, and set apart from all other rooms within a Building; or (iii) such other indicators of independent living which demonstrate the Residential Unit's use as a residence of a Family Living Independently.

Loft Board means the body established pursuant to MDL § 282 or its staff.

MDL or M.D.L. means the New York State Multiple Dwelling Law.

Minor Modification means various procedures which may be specified in the Zoning Resolution in addition to the grandfather determinations of occupancy concerning non-discretionary actions by the agency to which an application must be made. *See also, Administrative Certification definition.*

Month means thirty (30) calendar days.

Narrative Statement means a document that describes in plain language the proposed alterations for each unit, both residential and non-residential, all of the work the Owner or an authorized representative will perform in such unit and all of the work the Owner or an authorized representative will perform in common areas.

New Owner means any unrelated Person to whom title to the property is conveyed for a legitimate business purpose and not for the purpose of evading the Code Compliance Deadlines of the MDL or any other law.

OATH means the Office of Administrative Trials and Hearings.

Occupant, unless otherwise provided, means a residential occupant eligible for or qualified for the protections of Art. 7-C, any other residential Tenant, or any non-residential tenant.

Ongoing Course of Conduct means, for the purposes of Harassment, actions or inactions by or on behalf of the Owner or Responsible Party that, when considered together, show a Continuous Pattern of Behavior.

Owner means the owner or owners of the freehold of the premises.

Person means an individual, partnership, corporation or other legal entity, and any individual or entity acting in a fiduciary or representative capacity.

Petition means a request or application for the Loft Board to adopt a rule.

Petitioner means the person who files a Petition.

Prime Lessee, unless otherwise provided, means the party with whom the Owner or Landlord entered into a lease or rental agreement for use and occupancy of a portion of an IMD, which is being used residentially, while the lease remains in effect.

Private Delivery Service means a company whose business includes delivering documents and packages for a fee.

Privity means a direct contractual relationship between two (2) parties, which may be established explicitly, implicitly or by operation of law.

Protected Occupant means an occupant qualified for protection under Art. 7-C.

Reasonable and necessary action to obtain a certificate of occupancy, as used in MDL § 284(1), means deliberate, diligent, and consistent action from the beginning of Art. 7-C coverage through the issuance of a residential certificate of occupancy for the IMD Building, or the issuance of a certificate of occupancy for the residential portions of the IMD Building.

Residential Unit means any space used for residential purposes within an IMD Building.

Residential Use as of Right means that the Zoning Resolution permits residential use in the zone in which the Building is located.

Responsible Party means the Owner or one who holds a lesser estate therein, including but not limited to a mortgagee or vendee in possession, an assignee of rents, a receiver, an executor, a trustee, a lessee, an Agent, or any other Person directly or indirectly in control of a dwelling.

RGB means the New York City Rent Guidelines Board.

Specific Interest Groups means the members of the Loft Board representing manufacturing interests, the real estate industry and loft residential Tenants.

Special Meeting means a meeting of the Loft Board, other than a regular meeting, held at the request of the Chair or by affirmative vote of at least five (5) members.

Special Permit means a Grandfathering procedure in the Zoning Resolution involving a discretionary determination and approval by the City Planning Commission and any other entity having jurisdiction to approve rezoning for residential use.

Study Area means an area defined in § 42-02 of the Zoning Resolution, which, on the effective date of Art. 7-C, was zoned as manufacturing and under study by the City Planning Commission for a determination of the appropriateness of the zoning.

Sublessee means a Person who leases all or part of an IMD from a Prime Lessee or another Sublessee.

Sublessor means a Prime Lessee who leases all or a portion of an IMD to another tenant.

Tenant refers to a residential tenant and is interchangeable with the term Occupant in Art. 7-C and this Title.

Use-Based Escalators means charges that are based on a verifiable calculation of the Occupant's usage and the cost to the Responsible Party and were part of the last lease or rental agreement in effect on or before June 21, 2010 for units covered pursuant to MDL § 281(5) or June 25, 2019 for units covered pursuant to MDL § 281(6). Use-Based Escalators may include charges related to gas, electricity and steam.

West Chelsea means that certain area of Manhattan bounded on the south by West 24th Street, on the north by West 27th Street, on the east by Tenth Avenue and on the west by Eleventh Avenue.

Zoning Resolution means the Zoning Resolution of the City of New York.

§ 1-13 Loft Board Powers

- (a) Pursuant to MDL § 282, the Loft Board has the power to:
- (1) determine IMD status and other issues of coverage;
 - (2) resolve hardship appeals;
 - (3) determine any claim for rent adjustment under this article brought by an Owner, a Responsible Party or a Tenant;
 - (4) issue, after a public hearing, and enforce rules governing:
 - (i) minimum housing maintenance standards in IMDs (subject to the provisions of Art. 7-C and the New York City Building Code);
 - (ii) rent adjustments prior to legalization;
 - (iii) compliance with Art. 7-C; and
 - (iv) the hearing of complaints and Applications made to it;
 - (5) determine controversies arising over the fair market value of a Tenant's fixtures or reasonable moving expenses;
 - (6) appoint such personnel as necessary to carry out its functions.
- (b) The violation of a Loft Board order or any rule promulgated by the Loft Board shall be punishable by a civil penalty not to exceed \$25,000.
- (c) *Action by the Loft Board on Its Own Initiative.* The Loft Board may, on its own initiative, commence proceedings or investigations pursuant to its powers or duties under Art. 7-C and the rules promulgated by the Loft Board. This

includes, but is not limited to, findings, determinations or enforcement proceedings concerning coverage, hardship claims, rent adjustments, fixture fee disputes, exemptions, minimum housing maintenance standards and compliance with requirements of Art. 7-C. Prior to making a finding or determination pursuant to Art. 7-C, the Loft Board must allow the party against whom a proceeding is directed an opportunity to be heard on not less than fifteen (15) days' notice by regular mail.

- (d) Authority of the Executive Director and the Chair. The Executive Director of the Loft Board has administrative authority, under the direction of the Chair. Official correspondence regarding administrative matters may be signed by the Executive Director or by his or her designees.
- (e) Extension of Filing Deadlines. Unless otherwise stated in these rules, the Executive Director may, upon demonstration of extraordinary circumstances and in order to avoid injustice, extend any filing deadline contained in these rules for a reasonable amount of time, taking into consideration the reason for the request.

§ 1-14 Language Assistance Services. Appropriate language assistance services will be provided to members of the public whose primary language is not English to assist such members of the public in communicating meaningfully with the Loft Board.

§ 1-15 Submissions to the Loft Board.

- (a) Correspondence to the Loft Board may be addressed to the New York City Loft Board or to the attention of the Chair or the Executive Director at the New York City Loft Board.
- (b) All documents submitted to the Loft Board must be submitted on official Loft Board forms. If a hard copy is required and if a form is not available, the Person submitting the document must use plain white, durable paper which must be eight and one-half by eleven (8.5 x 11) inches in size.
- (c) Unless otherwise stated in these rules, all submissions must be legible, signed either by hand or electronically and verified or affirmed. The Loft Board may reject any submission that does not meet these requirements. Correspondence to the Loft Board does not have to be verified or affirmed.
- (d) Any Person who files or causes to be filed a document with the Loft Board that contains a material false statement will be subject to a civil penalty. It shall be an affirmative defense that the Person neither knew nor should have known that such statement was false.

§ 1-16 Computation of Time.

- (a) In computing any period of time stated or allowed by this chapter, the day of the act or default from which the designated period of time begins to run will not be included, but the last day of the period will be included unless it is a Saturday, Sunday or legal holiday, in which case the period will be extended to the next day

which is not a Saturday, Sunday or legal holiday. Unless otherwise specified in these rules, "days" means calendar days.

- (b) Unless otherwise specified, whenever a Person has the right or is required to take an action within a prescribed period of time after the date of a Loft Board action, five (5) days will be added to such prescribed period of time if the decision is mailed to such Person.
- (c) A submission is not considered filed with the Loft Board until it is actually received in the Loft Board's office. If these rules require that a document be filed with the Loft Board within a prescribed time period, that document must be received within the prescribed time period.

§ 1-17 Public Access to Records.

- (a) A Person may file a request for inspection or for copies of records available under Article 6 of the New York State Public Officers Law (Freedom of Information Law), through the New York City Open Records Portal or by sending or delivering a request to the Loft Board's office addressed to: Public Information Officer, New York City Loft Board. Loft Board staff will make all records of the Loft Board available unless such records are exempt from disclosure by law. Loft Board staff may make records available by mail, electronically, or by inspection. Records may only be inspected by appointment upon prior written request at the offices of the New York City Loft Board on Business Days between the hours of 10 a.m. and 4 p.m. The public may obtain photocopies of non-exempt records at a charge of twenty-five (25) cents per page for pages no larger than nine by fourteen (9 x 14) inches. The public may obtain photocopies of non-exempt records which are larger than nine by fourteen (9 x 14) inches at a charge per page as listed in RCNY § 101-03. When the Public Information Officer denies access to records in whole or in part, such determination may be appealed within thirty (30) days by written application. The written application may be sent through the New York City Open Records Portal or by regular mail or hand delivery to: General Counsel, New York City Loft Board.
- (b) *Confidentiality of lease information.* The Loft Board will keep confidential all personal information in leases submitted with registration Applications. Personal information is exempt from release under the Freedom of Information Law and the Loft Board will not release personal information when responding to Freedom of Information Law requests. The Loft Board will release personal information about a unit to the current Owner of a Building and to the current Occupant of a unit if the Loft Board believes release is necessary to decide an Application filed with the Loft Board or a case filed in a court.

Subchapter B: The Loft Board

§ 1-18 Organization and Voting.

- (a) The Loft Board consists of no fewer than five (5) and no more than nine (9) members. These members include a representative from each of the Specific Interest Groups, the Commissioner of Buildings, serving ex officio as Chair, and the Fire Commissioner, serving ex officio as a member and representing the

public (collectively, the “Designated Members”). All other members of the Loft Board represent the public (“Public Members”).

- (b) A quorum consists of a majority of the entire Loft Board (defined as the five Designated Members, including any current vacancies, plus any Public Members, excluding any vacancies). Loft Board action may be taken by affirmative vote of the majority of the entire Loft Board (as defined in the preceding sentence), when a quorum is present.
- (c) Each member of the Loft Board has one (1) vote. The Commissioner of Buildings and the Fire Commissioner, serving ex officio, may each designate an employee of his or her department to serve on the Loft Board and vote in his or her absence. Representatives of the Specific Interest Groups may, in their absence, designate substitutes to participate in discussions at the Loft Board meetings, when the Loft Board, by majority vote, requests such participation. Such designated substitutes may participate only to the extent permitted by the Loft Board and shall not have the right to vote.
- (d) If the provisions of this section are inconsistent with the provisions of a mayoral executive order promulgated pursuant to section 282 of the MDL after the effective date of this subdivision, the provisions of such order shall control.

§ 1-19 Rulemaking.

- (a) The Loft Board will promulgate rules governing its procedures and the exercise of its powers under Art. 7-C and other applicable law.
- (b) At the direction of the Chair or by vote of the Loft Board, Loft Board staff will draft rules, guidelines and procedures. In addition, Loft Board members may draft rules, guidelines and procedures and present them to the Loft Board for consideration. All draft rules must be submitted to the Loft Board for review and comment before they are published for public comment. Draft rules may be modified at the direction of the Chair or by vote of the Loft Board.
- (c) As soon as practicable and in any event within a reasonable time, Loft Board staff will make readily available to the public all written comments and a summary of oral comments received from the public or any agency. Following consideration of comments received and public testimony, the Loft Board may modify or amend the proposed rules.
- (d) Any Person may petition the Loft Board to consider the adoption of rules.
 - (1) The Petition must contain the following information:
 - (i) The proposed language for the rule to be adopted;
 - (ii) A statement of the Loft Board's authority to promulgate the rule and its purpose;
 - (iii) The Petitioner's argument in support of adopting the rule;

- (iv) The period of time the rule should be in effect;
 - (v) The name, address and telephone number of the Petitioner;
 - (vi) The handwritten or electronic signature of the Petitioner.
- (2) Petitioner must mail, email or deliver the Petition to the offices of the Loft Board marked to the attention of the Executive Director.
 - (3) Loft Board staff will present all Petitions for rules submitted in proper form to the Loft Board for consideration at the next regularly scheduled meeting. The Loft Board shall either deny the Petition by written notice stating the reasons for denial, or shall order the Loft Board staff to proceed with rulemaking. The Loft Board may amend or modify the Petitioner's proposed language at the Loft Board's discretion. The Loft Board's decision to deny or grant a Petition is final and shall not be subject to judicial review.

§ 1-20 Meetings and Hearings.

- (a) Meetings. The Loft Board will schedule regular meetings. It may also conduct [special meetings] Special Meetings at the request of the Chair or by affirmative vote of at least five (5) members.
 - (1) The Chair will determine the order of business at all meetings, but the Loft Board may, by vote, change such order. The Chair will place any matter on the agenda at the request of at least three (3) members. The Chair will place such matter on the agenda within a reasonable time. The Chair may table any matter on the agenda.
 - (2) The Chair will follow Robert's Rules of Order when conducting all meetings. If these rules conflict with Robert's Rules of Order, these rules control.
 - (3) All regular meetings and Special Meetings are open to the public. Meetings at which the Loft Board exercises its quasi-judicial functions are closed to the public as provided for in section 108 of the New York State Public Officers Law.
 - (4) Loft Board staff will prepare draft minutes of every public meeting of the Loft Board and make those minutes available to the Loft Board members and the public no later than two (2) weeks from the date of a meeting.
 - (5) The Loft Board staff will record all public meetings in digital video format. The recordings will be archived and made available to the public on the Loft Board's website not more than seventy-two (72) hours after adjournment of the meeting. In addition, the Loft Board will make a back-up recording.
- (b) Hearings. At the direction of the Chair or by vote of the Loft Board, the Loft Board may conduct public hearings on any matter within its purview under Art. 7-

C, including rulemaking. At such hearings, any member of the public may speak or otherwise participate for up to three (3) minutes on the subject before the Loft Board. The time limit on any speaker may be modified or waived at the request of any Loft Board member.

Subchapter C: Applications to the Loft Board

§ 1-21 Service and Filing of Applications.

- (a) Any Person may commence a proceeding before the Loft Board by serving and filing an Application.
- (1) *Form of Application.* The applicant must use the forms provided by the Loft Board. The applicant may not alter or re-type the forms. Each Application may only contain one claim.
 - (2) The Application must contain facts and arguments relevant to the claim raised in the Application. If requested in the Application form, the applicant must attach documents in support of material facts where such documents exist.
 - (3) The applicant must list on the Application, to the best of his or her knowledge, all affected parties. Failure of an applicant to list all of the Affected Parties may result in rejection of the Application or a delay in processing the Application.
 - (4) An Application for rent overcharges must be filed within six (6) years of such overcharge. The Loft Board shall not award overcharges for the period prior to the date of filing of a coverage or registration Application. An award by the Loft Board for rent overcharges may only include overcharges within the six (6) years immediately preceding the date of the Application for rent overcharges.
 - (5) An Application for rent adjustments based on the cost of code compliance must be filed no later than nine (9) Months after the Owner or Responsible Party has obtained a residential certificate of occupancy. An Owner or Responsible Party who fails to timely file an Application for code compliance rent adjustments waives the right to seek such a rent adjustment.
 - (6) An Application for registration as an IMD or for coverage of Residential Units located within the North Brooklyn IBZ that meet the requirements under MDL § 281(5) or (6) and these rules must be filed with the Loft Board by [insert date], which is nine (9) Months from the effective date of the rules necessary to implement the provisions of Chapter 41 of the laws of 2019. However, a Building located within such North Brooklyn IBZ that is in a district zoned M3, as such district is described in the Zoning Resolution in effect at the time the Application for registration as an IMD or for coverage of Residential Units is filed, is not eligible for coverage pursuant to MDL § 281(5) or (6).

(b) Affected Parties.

(1) For coverage, Harassment and hardship Applications, Affected Parties include:

- (i) the Owner,
- (ii) any Responsible Party, if applicable,
- (iii) all Prime Lessees and Sublessees in the Building, including residential and commercial and manufacturing tenants, and
- (iv) all units of the Building, if different from the Prime Lessees and Sublessees.

Where a Harassment Application solely alleges that the Owner's or Responsible Party's challenge of a sale of improvements is frivolous, the applicant must serve only the Owner or Responsible Party as an Affected Party.

(2) For abandonment Applications, Affected Parties include:

- (i) the Owner,
- (ii) any Responsible Party, if applicable,
- (iii) all Prime Lessees and Sublessees in the Building, including residential and commercial and manufacturing tenants,
- (iv) all Occupants of the Building, if different from the Prime Lessees and Sublessees,
- (v) the current Occupant of the alleged abandoned unit,
- (vi) the previous Occupant alleged to have abandoned the unit and,
- (vi) the beneficiary of the previous Occupant's estate, if applicable.

(3) For Protected Occupancy Applications, Affected Parties include:

- (i) the Owner,
- (ii) any Responsible Party, if applicable,
- (iii) all Prime Lessees and Sublessees of the unit in which the applicant resides, and
- (iv) all Occupants of the unit in which the applicant resides, if different from the Prime Lessees and Sublessees.

(4) For reconsideration Applications, Affected Parties include:

- (i) the Owner,
- (ii) any Responsible Party, if applicable, and
- (iii) all Affected Parties in the underlying proceeding.

(5) For all other types of Applications, affected parties include:

- (i) the Owner,
- (ii) any Responsible Party, if applicable, and
- (iii) the Occupants needed to resolve the claim stated in the Application.

(c) *Service of the Application.* Prior to filing an Application with the Loft Board, the applicant must serve each Affected Party with a copy of the Application, supporting documents, if any and a blank answer form. The applicant may serve personally or by:

- (1) email, if the Affected Party consents to such service and has provided the applicant with a current and valid email address. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the Affected Party's email address; or
- (2) fax, if the Affected Party has provided the applicant with a fax number. Proof of service by fax consists of a fax machine receipt indicating the transmission was successfully delivered to the Affected Party's fax machine; or
- (3) first class mail. Proof of service by first class mail consists of a United States Post Office-stamped copy of the certificate of mailing indicating the mailing address of the Affected Party; or
- (4) private delivery by a Private Delivery Service. Proof of service by a Private Delivery Service consists of a copy of a receipt showing acceptance by the delivery service for delivery to the address of the Affected Party.

(d) *Waiver of Service Due to Financial Hardship.*

- (1) The Loft Board staff may waive the requirement to serve all Affected Parties if the applicant proves that the applicant does not have sufficient funds to complete service.
- (2) To request a waiver, the applicant must submit a hard copy of the Application containing an original signature, an electronic copy of the Application and a written request asking the Loft Board staff to serve each Affected Party. The applicant may file the hard copy of the Application and applicable fee by hand delivery during regular Business Hours, by

first class mail or by Private Delivery Service. The applicant may file the electronic copy by email to an address provided by the Loft Board or by fax.

(3) The request must include an affidavit stating the amount and sources of all of the applicant's income, a list of real property owned by the applicant and the value of the property and any facts that would be helpful in determining whether to approve the request.

(4) The Loft Board staff will notify the applicant of its decision either electronically if an email address or fax number has been provided or by first class mail. If the Loft Board staff approves the request, it will serve a copy of the Application and blank answer form on each Affected Party. If the Loft Board staff denies the request, it will return the hard copy of the Application to the applicant so that the applicant can serve each Affected Party.

(e) *Filing the Application with the Loft Board.*

(1) The Loft Board will not process any Application unless the Application package is complete.

(2) A complete Application package includes:

(i) either one bound hard copy of the Application with original signature and one unbound and unstapled hard copy of the Application or one electronic copy of the Application in a format required for electronic copies as listed on the Loft Board's website (unless the Loft Board staff has waived this requirement);

(ii) proof of service on all Affected Parties (unless the Loft Board staff has waived this requirement);

(iii) all supporting documents requested in the Application form; and

(iv) the Application fee in the amount required by the Loft Board's rules.

(3) The applicant may file the hard copies of the Application and applicable fees by hand delivery during regular Business Hours, by regular mail or by Private Delivery Service. The applicant may file an electronic copy by email to an address provided by the Loft Board or by fax.

(4) The Loft Board will not process an Owner's or Responsible Party's Application unless, as of the date of filing such Application, the registration renewal Application is current and all applicable fees and penalties have been paid in full. An Application is not deemed filed until the Loft Board receives payment of all outstanding fees, fines and penalties.

- (5) The Loft Board will not process an Application or consider an Application filed until the applicant pays the Application fee and files all required documents. The Loft Board will return incomplete Applications and the Application fee, if applicable, to the applicant without further notice.
- (6) The filing date of a completed Application package is the date on which the applicant files the last document. Where these rules contain a filing deadline for an Application, the Loft Board must receive all documents and the Application fee, unless waived, prior to the filing deadline. The Loft Board may reject an untimely or incomplete Application.

§ 1-22 Service and Filing of Answers.

- (a) Except for access and Harassment Applications, any Affected Party may serve and file an answer to an Application within thirty (30) days from when the applicant completed service of the Application. For access and Harassment Applications, any Affected Party may serve and file an answer to an Application within fifteen (15) days from when the applicant completed service of the Application.
- (1) *Form of Answer.* The Affected Party must use forms provided by the Loft Board. The Affected Party may not alter or re-type the forms.
- (2) The answer must contain facts and arguments relevant to the claim raised in the Application. The Affected Party must attach supporting documents where required by the application form.
- (b) *Service of the Answer.* Prior to filing an answer with the Loft Board, the Affected Party must serve the applicant with a copy of the answer and supporting documents, if any. The Affected Party may serve personally or by:
- (1) email, if the applicant has consented to such service and has provided a current and valid email address, to the email address for the applicant contained in the Application. Proof of service by email consists of a copy of a delivery receipt from an email server indicating that the email was delivered to the applicant's email address; or
- (2) fax, to the fax number for the applicant contained in the Application. Proof of service by fax consists of a fax machine receipt indicating the transmission was successfully delivered to the applicant's fax machine; or
- (3) first class mail to the mailing address for the applicant contained in the Application. Proof of service by first class mail consists of a United States Post Office-stamped copy of the certificate of mailing indicating the mailing address of the Affected Party; or
- (4) private delivery by a Private Delivery Service to the mailing address for the applicant contained in the Application. Proof of service by Private Delivery Service consists of a copy of a receipt showing acceptance by the delivery service for delivery to the address of the applicant.

(c) Filing the Answer with the Loft Board. The Affected Party must file either a hard copy of the answer with original signature, or an electronic copy of the answer in a format listed on the Loft Board's website, proof of service on the applicant, and all supporting documents, if any, with the Loft Board on or before close of business on the last day of the time period stated in subdivision (a) of this section. The Affected Party may file the hard copy by hand delivery during regular Business Hours, by regular mail or by delivery by a Private Delivery Service. The Affected Party may file the electronic copy by email to an address provided by the Loft Board or by fax.

(d) Extensions of Time to File an Answer.

(1) An Affected Party who requires additional time to answer must file a written request with the Loft Board before the end of the answer period. The request must explain the reason(s) the Affected Party needs the extension of time. The Affected Party must serve the request on the applicant by any manner allowed for service of an answer. After service, the Affected Party must file the request and proof of service with the Loft Board. The request and proof of service may be filed by hand delivery, email, fax, regular mail, or Private Delivery Service.

(2) An applicant who wishes to oppose the request for additional time to file an answer may file opposition papers with the Loft Board within three (3) days following service of the extension request. The opposition papers must include the reason(s) why the request should be denied and must describe how the applicant will be prejudiced if additional time is granted. No further submissions will be accepted.

(3) Once the time to oppose the extension request has passed, or after the applicant files opposition papers, the Loft Board staff will issue a written decision granting or denying the extension request. If the Loft Board staff denies the request, the Affected Party will have three (3) days to serve and file an answer. If the Loft Board staff grants the request, the written decision will specify the number of days in which the Affected Party must serve and file an answer.

§ 1-23 Defaults.

(a) An Affected Party who fails to timely file an answer or extension request is in default. The Adjudicator assigned to the case will advise the Affected Party in writing of the default and that the Adjudicator will not hear the Affected Party's defensive case. The Adjudicator will also inform the Affected Party that an inquest will be held unless the party moves to vacate the default as specified below.

(b) The defaulting party may serve and file a request to vacate the default within thirty (30) days from the mailing date of the default determination. The request must include a statement showing that good cause existed for failure to file an answer and contain supporting documents, if any. An Affected Party may establish good cause by providing a reasonable explanation for failure to file an

answer and a summary of a non-frivolous defense it would present in the case. A reasonable explanation may include:

- (1) Whether the Application was properly served;
 - (2) Whether circumstances that could not be reasonably foreseen prevented the Affected Party from filing an answer;
 - (3) Whether the Affected Party's inability to answer was due to facts that were beyond the Affected Party's control;
 - (4) Any other fact that the Adjudicator considers relevant to the motion to vacate.
- (c) The Adjudicator assigned to the case may allow the applicant to file papers opposing the motion to vacate the default determination. After all papers have been filed, the Adjudicator will issue a written decision determining whether to stay the default and allow the Affected Party to appear.
- (d) Where the Affected Party fails to file an answer or move to vacate the default, or where the Adjudicator denies the motion to vacate the default, the case will proceed without the participation of the Affected Party. An applicant must present its case demonstrating entitlement to the relief sought in the Application whether or not an answer has been filed.

§ 1-24 Loft Board Investigations.

- (a) The Loft Board may investigate claims raised in Applications or any other documents filed with the Loft Board. As part of its investigation, the Loft Board may request that the parties furnish additional evidence or memoranda relevant to the Application. The Loft Board may also request appropriate ledgers, documents or other records relevant to the issues in dispute.
- (b) The Loft Board may conduct informal conferences, upon fifteen (15) days' notice to the applicant and all Affected Parties who have filed an answer, to settle disputes or clarify issues.

§ 1-25 Amended Pleadings.

- (a) An applicant or Affected Party may amend pleadings up to and including twenty-five days (25) before the date of the first scheduled conference. If a pleading is to be amended less than twenty-five days before the first scheduled conference, the amendment may be made only on consent of the parties or if permitted by the Adjudicator assigned to the case. On or after the date of the first scheduled conference, parties may submit amended pleadings only if permitted by the Adjudicator.
- (b) If amended pleadings are permitted by the Adjudicator assigned to the case, the Adjudicator will afford the applicant or Affected Party an opportunity to respond to the amended pleadings.

- (c) The applicant must use the Loft Board's approved form for amended Applications, serve the amended Application on all Affected Parties, and file the amended Application and proof of service with the Loft Board.
- (d) An Affected Party must use the Loft Board's approved form for amended answers, serve the amended answer on the applicant, and file the amended answer and proof of service with the Loft Board.

§ 1-26 Communications on Pending Applications.

- (a) Any Loft Board staff member or Hearing Examiner assigned to conduct a conference or hearing on an Application, or make findings of fact and recommendations on an Application, must not communicate on any substantive matter involving the merits of the Application with one (1) party to a dispute without notice and opportunity for all parties to participate.
- (b) After an Application has been filed with the Loft Board, a Loft Board member must not communicate with any member of Loft Board staff concerning the Application until the matter is before the Loft Board for determination, except that the Chair, in his or her administrative capacity, may communicate with the Loft Board staff. Loft Board members must not attend hearings or conferences conducted by the Loft Board staff.
- (c) When the Loft Board staff refers an Application to the Loft Board for determination, any member of the Loft Board who has communicated with a party to the Application without notice and opportunity for all parties to participate must disclose this fact to the other members of the Loft Board prior to the Loft Board's consideration of the matter.

Subchapter D: Procedures Governing Hearings

§ 1-27 Hearings.

- (a) All parties will be afforded an opportunity for a hearing within a reasonable time. The Executive Director will determine whether an informal conference or a hearing will be conducted before a Loft Board staff member or before an Administrative Law Judge at the OATH Trials Division.
- (b) The Loft Board will provide at least fifteen (15) days' notice of a scheduled hearing to the applicant and all Affected Parties who have filed an answer. The notice of hearing must include a statement of the nature of the proceeding and time and place where it will be held, the legal authority and jurisdiction under which the hearing is to be held, a reference to the particular sections of law and rules involved, and a short and plain statement of the matters to be adjudicated.
- (c) All hearings will be conducted in accordance with procedures stated in these rules. Formal rules of evidence do not apply to such hearings, except rules of privilege recognized by law. At the hearing, the parties may be represented by counsel or by a duly authorized representative, request that a subpoena be

issued, call witnesses, cross-examine opposing witnesses and present oral and written arguments on the law and the facts.

- (d) All hearings shall be electronically recorded, and a duplication of the recording or transcript of the proceedings shall be available to any party upon request and agreement to pay the fee assessed for the duplication.
- (e) OATH Hearings. Where OATH conducts a hearing, and Loft Board rules conflict with OATH's procedural rules, OATH's procedural rules or practices will apply unless otherwise provided by state law. Where there is no OATH rule or practice regarding a procedural issue, the Loft Board's rules will apply. However, notices for scheduled hearings must be sent in accordance with 1-27(b).
- (f) Hearings conducted by Loft Board staff member. Where a hearing is conducted by a Loft Board staff member, such staff member will be assigned solely to adjudicative duties. The staff member may take testimony under oath and consider affidavits and other proofs.

§ 1-28 Burden of Proof.

- (a) Unless otherwise stated in these rules, an applicant must present enough evidence at a hearing or inquest to prove that the applicant is entitled to the relief sought in the Application. The applicant must prove his/her case by a preponderance of the evidence. If an Affected Party files an answer, the Affected Party has the burden of proving an affirmative defense, if any, by a preponderance of the evidence.
- (b) When a party fails to furnish documents requested by the Adjudicator, or fails to submit to examination or cross-examination, inferences adverse to his or her position may be drawn by the Adjudicator from such failure.

§ 1-29 Adjournments.

- (a) Requests for adjournments must be made in writing to the Adjudicator assigned to the case, with notice to all Affected Parties or applicant, at least five (5) days before the date of the scheduled conference or hearing. Parties may consent in writing to adjourn conferences or hearings with the approval of the Adjudicator assigned to the case two (2) consecutive times. Any subsequent adjournment request must contain the reason for the adjournment request. The Adjudicator assigned to the case will decide whether or not to grant the adjournment request.
- (b) Where an Adjudicator has granted two (2) consecutive adjournment requests to the same party, the Adjudicator may direct that the next scheduled hearing or conference be marked final against that party. Notice shall be sent to all parties in writing.
- (c) If an applicant fails to appear at a hearing on due notice which has not been marked final against the applicant, the Adjudicator assigned to the case may dismiss the Application with or without prejudice. In determining whether to dismiss with or without prejudice, the Adjudicator should consider, among other factors:

- (1) The merits of the Application;
 - (2) Prejudice to the opposing party;
 - (3) The expenditure of public and private resources in bringing a case to trial;
and
 - (4) Any other factor the Adjudicator deems relevant.
- (d) If an Affected Party fails to appear for a hearing on due notice which has not been marked final against the Affected Party, the Adjudicator may conduct an inquest on the Application. All such inquests shall be electronically recorded.
- (e) If an applicant does not appear for a conference or hearing which has been marked final against the applicant, the Adjudicator will mark the case off the calendar. To restore the case to the calendar, the applicant must submit a written request for reinstatement within thirty (30) calendar days from the conference or hearing date. The written request for reinstatement must be served on all Affected Parties and must provide a showing that extraordinary circumstances prevented the applicant from attending the hearing or conference. If the applicant does not submit a written request for reinstatement within thirty (30) days from the conference or hearing date, the Adjudicator must dismiss the Application with prejudice for failure to prosecute.
- (f) If an Affected Party fails to appear for a hearing or conference marked final against the Affected Party, the Affected Party's answer may be stricken and the Affected Party may be barred from presenting its case. The Affected Party may file a written request for reinstatement of its answer and the right to present its case within thirty (30) days from the conference or mailing date. The written request must be served on the applicant and must provide a showing that extraordinary circumstances prevented the affected party from attending the hearing or conference. If the Affected Party does not file a written request or the written request is denied, the applicant must still present its case to the Adjudicator.

§ 1-30 Settlements.

- (a) Where the parties resolve a dispute to their mutual satisfaction, a stipulation of settlement setting out all of terms of the agreement shall be entered into by the parties and reviewed by the Executive Director. A summary report of such matters including the type of application, the issues presented and the resolution reached must be made to the Loft Board by Loft Board staff. The Loft Board may direct its staff to re-open a matter for further investigation or where the Loft Board determines that the record in the underlying proceeding has not, in whole or in part, been fully developed, the Loft Board may refer the matter back to OATH for development of a complete record. Upon issuance of an order such summary cases shall be deemed closed.
- (b) The Loft Board must reject a proposed settlement that includes terms that violate public policy or is void and unenforceable.

§ 1-31 Decisions.

- (a) The administrative record is deemed closed at the conclusion of the hearing unless otherwise stated by the Adjudicator. For an Application seeking removal from the Loft Board's jurisdiction, the administrative record is deemed closed on the date the Loft Board issues its order in the case.
- (b) After the record is closed, the Adjudicator will submit recommended findings of fact and a recommended decision to the Loft Board. The report and recommendation must be based on the administrative record of the case and relevant authority, including but not limited to Loft Board orders, decisions of courts of competent jurisdiction, statutes and rules. The administrative record includes all pre-trial motions, testimony, documentary evidence presented at a hearing, post-trial briefs and any other evidence accepted by the Adjudicator.
- (c) The report and recommendation of the Loft Board Adjudicator must include:
- (1) a description of the Application, and the names of the parties, their counsel and other Persons affected by the Application;
 - (2) a summary of the facts disputed, the facts found during any investigation, and of testimony and other proofs taken at the hearing or inquest;
 - (3) copies of the Application and of all affidavits, memoranda, and briefs submitted by the parties;
 - (4) a recommendation to the Loft Board regarding disposition of the Application, with a summary of the factual and legal bases for such recommendation.
- (d) Unless otherwise stated in these rules, the Loft Board will make all final determinations on Applications filed with the Loft Board and brought to a hearing or inquest. The Loft Board may accept, reject, defer or modify the disposition recommended by the Adjudicator. Where the Loft Board determines that the record in the underlying proceeding has not, in whole or in part, been fully developed, the Loft Board may refer the matter back to OATH for development of a complete record. If the Loft Board refers a matter back to OATH, OATH shall issue a recommended decision at the conclusion of the additional proceedings. Pending its final determination, the Loft Board or the Chairperson may direct the Loft Board staff to provide it with additional information contained in the record regarding the application, copies of any relevant documents not included in the report, and a transcript of the hearing or inquest.
- (e) Prior to consideration by the Loft Board, the Loft Board staff must post proposed orders on the Loft Board's website and, upon request, mail or electronically transmit a copy of a proposed order to any party. The Loft Board may redact personal information such as names, apartment numbers and rents from proposed orders that are posted on its website. A proposed order is not part of the record of the case.

- (f) When the Loft Board issues a final order, a copy of the order, together with the report and recommendation, will be delivered or mailed within a reasonable time following the issuance of the order, to the applicant and each of the Affected Parties.
- (g) Hearings by the Loft Board. The Loft Board may, by a vote of a majority of the Loft Board members, conduct a new hearing or inquest on an Application. All such proceedings shall be electronically recorded.
- (h) Unless a timely Application for reconsideration is filed, a Loft Board order is considered a final agency determination pursuant to Article 78 of the Civil Practice Law and Rules.

Subchapter E: Reconsiderations and Appeals

§ 1-32 Reconsideration of Loft Board Orders.

- (a) An Affected Party who filed an answer, and who disagrees with and may be affected (aggrieved) by an order of the Loft Board, may file an Application for reconsideration of the order. The Loft Board, may, in its sole discretion, reconsider its determination. The reconsideration Application must specify the questions presented for reconsideration and the facts and points of law relied upon as a basis for seeking reconsideration. The Loft Board may consider an Application for reconsideration only if the applicant establishes one or more of the following:
- (1) a denial of due process or material fraud in the prior proceedings,
 - (2) an error of law,
 - (3) an erroneous determination based on a ground that was not argued by the parties at the time of the prior proceeding and that the parties could not have reasonably anticipated, or
 - (4) discovery of probative, relevant evidence which could not have been discovered at the time of the hearing despite the exercise of due diligence.
- (b) Service and Filing of the Reconsideration Application. A complete reconsideration Application must be received by the Loft Board within thirty (30) calendar days after the mailing date of the order sought to be reconsidered. In addition to all other requirements, the reconsideration Application must include a copy of the determination sought to be reconsidered.
- (c) Issuance of Orders. The Loft Board will deliver or mail a copy of its order deciding the reconsideration Application, within a reasonable time from the date of the order, to:
- (1) the party or parties who filed the reconsideration Application,
 - (2) the parties who filed an answer, and

(3) all Affected Parties in the underlying proceeding.

(d) Judicial Review.

(1) The date of the order granting, denying, modifying or revoking the reconsideration Application is deemed the date of the final agency determination from which a party may seek judicial review.

(2) If the Loft Board refers the matter back to the Adjudicator, a party may not seek judicial review until the Loft Board issues a final agency determination following the referral.

§ 1-33 Appeals. This section applies to any matter that was not determined by the members of the Loft Board.

(a) Appeal from a Loft Board Staff Determination. An Affected Party who disagrees with a written Loft Board staff determination may appeal such determination to the Loft Board.

(b) Appeal from a Determination of a Loft Board Staff Hearing Officer Under Section 2-04. An affected party who disagrees with a written determination of a Loft Board staff Hearing Officer with respect to housing maintenance standard violations may appeal such determination to the Loft Board. For the purposes of this section, an affected party who disagrees with a written determination of the Loft Board staff Hearing Officer, or a member of the Loft Board staff in his or her capacity as prosecutor of housing maintenance standard violations, means the Owner or Responsible Party of the Building in question.

(c) Service and Filing of Appeal Application.

(1) The appealing party must serve and file the complete appeal Application within thirty (30) days of the date of mailing of the determination sought to be appealed.

(2) The appeal Application must specify the questions presented for appeal and the facts and points of law relied upon as a basis for seeking appeal. Except where a member of the Loft Board staff is the appellant, the applicant must pay the appeal Application fee.

(d) Answers. A party supporting or opposing the appeal Application must serve and file an answer within thirty (30) days of service of the appeal Application. The answer must contain the facts and arguments on which the party is relying.

(e) Extension of Time to Appeal or Answer. The Executive Director may, upon request, extend the time for filing an appeal or an answer to an appeal. The request for the extension must be received prior to the filing deadline for the appeal or the answer to the appeal. The extension request must be supported by evidence of impossibility or other explanation of inability to file timely. A copy of the request must be served on all Affected Parties, and proof of service filed with Loft Board Staff.

- (f) Standard of Review. In reviewing an appeal, the Loft Board must consider whether the facts found are supported by substantial evidence in the record, whether the law was correctly applied, and whether the penalty imposed is appropriate. The Loft Board may only consider evidence presented to the Loft Board staff or Hearing Officer, unless good cause is shown as to why the evidence was not previously available.
- (g) Board Authority. The Loft Board may reverse, remand, or modify any determination appealed pursuant to this section and may reduce or increase the penalty imposed by the Loft Board staff or the penalty imposed by a Staff Hearing Officer for a housing maintenance violation. Upon determination of the appeal Application, the final order of the Loft Board will be mailed to:
- (1) The party or parties who filed the appeal;
 - (2) The parties who filed an answer; and
 - (3) All Affected Parties in the underlying proceeding.
- (h) Judicial Review. The Loft Board's determination of the appeal is a final agency determination from which a party may seek judicial review.
- (i) Appeal from a Determination of the OATH Hearings Division pursuant to Charter section 1049-a. An appeal from a determination of an OATH Hearings Division hearing officer issued pursuant to a Loft Board rule must be brought before the OATH Hearings Division in accordance with the applicable rules and provisions established by OATH, as set forth in Chapters 3 and 6 of Title 48 of the Rules of the City of New York.

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

- (a) Code compliance timetable for [Interim Multiple Dwellings (IMD's)] IMDs. The [owner] Owner or Responsible Party of any [building] Building, structure or portion thereof that meets the criteria for an IMD set forth in § 281 of [Article] Art. 7-C and Loft Board coverage regulations [shall] must comply with the [code compliance deadlines] Code Compliance Deadlines set forth below. Any [building] Building or unit that is not covered by [Article] Art. 7-C because of the denial of a [grandfathering] Grandfathering application or expiration of [study area] Study Area status is not required to be legalized pursuant to these regulations, unless either the area in which the [building] Building is located is rezoned to permit residential use or a unit or units at the [building] Building qualify for coverage pursuant to M.D.L. § 281(4) [or], § 281(5) or § 281(6). However, the [building] Building must still comply with all other applicable laws and regulations.

[Definitions. When used in this section, the following definitions apply, unless context clearly dictates otherwise:

"**Alteration application**" means the work application form filed with the Department of Buildings of the City of New York ("DOB") which describes the

work to be undertaken that will result in obtaining a final certificate of occupancy for an interim multiple dwelling ("IMD") unit, as defined in § 281 of the Multiple Dwelling Law and these rules, ("covered unit") for residential use or joint living-work quarters for artists usage.

"**Alteration permit**," also referred to as "building permit" or "work permit" means a document issued by DOB authorizing the owner to make the alterations set forth in the approved alteration application which are necessary to obtain a residential certificate of occupancy for a covered unit.

"**Alternate plan application**" means an occupant's alteration application and associated legalization plan filed with the DOB pursuant to 29 RCNY § 2-01(d)(2)(viii).

"**Legalization plan**" means the construction documents, as defined in § 28-101.5 of the Administrative Code, as may be amended, including but not limited to architectural, structural, detailed drawings, and other required plans submitted to the DOB with the alteration application as defined above.

"**Month**" means 30 calendar days.

"**Narrative statement**" means a document that describes in plain language the proposed alterations in the alteration application and legalization plan and meets the requirements provided in 29 RCNY § 2-01(d)(2)(v).

"**Occupant**," unless otherwise provided, means a residential occupant qualified for the protections of Article 7-C, any other residential tenant, or any nonresidential tenant.]

Code Compliance Deadlines. The failure of an [owner] Owner or Responsible Party to meet any of the [code compliance deadlines] Code Compliance Deadlines provided below does not relieve the [owner] Owner or Responsible Party of its obligations to comply with these requirements nor does it relieve the [owner] Owner or Responsible Party of its duty to exercise all reasonable and necessary action to so comply.

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

The deadlines set forth in paragraphs (1) through (8) of this subdivision do not apply to a [building] Building or a portion of a [building] Building subject to [Article] Art. 7-C pursuant to MDL § 281(5) or MDL § 281(6).

Paragraphs (9) [and] , (10), (11) and (12) of this subdivision implement the current [code compliance deadlines] Code Compliance Deadlines set forth in MDL § 284(1)(vi) for [buildings] Buildings or portions of [buildings] Buildings subject to [Article] Art. 7-C pursuant to MDL § 281(5).

Paragraph (9) implements the current [code compliance deadlines] Code Compliance Deadlines for a [building] Building or portion of a [building] Building covered by [Article] Art. 7-C pursuant to chapters 135 or 147 of the laws of 2010.

Paragraph (10) implements the current [code compliance deadlines] Code Compliance Deadlines for a [building] Building or portion of a [building] Building

covered by [Article] Art. 7-C pursuant chapter 4 of the laws of 2013.

Paragraph (11) implements the current Code Compliance Deadlines for a Building or portion of a Building covered by Art. 7-C pursuant to chapter 20 of the laws of 2015.

Paragraph (12) implements the current Code Compliance Deadlines for a Building or portion of a Building covered by Art. 7-C pursuant to chapter 41 of the laws of 2019.

Paragraph (13) implements the current Code Compliance Deadlines set forth in MDL § 284(1)(vii) for Buildings or portions of Buildings subject to Art. 7-C pursuant to MDL § 281(6).

(1) *Deadlines for filing Alteration Applications.*

- (i) Code compliance timetable for [buildings] Buildings in which all [residential units] Residential Units are as of right. The [owner] Owner or Responsible Party of an IMD that contains only [residential units] Residential Units in which residential use is permitted as of right under the Zoning Resolution [shall] must have filed an Alteration Application by March 21, 1983.
- (ii) Buildings with [3] three (3) or more as of right units and additional units eligible for [grandfathering] Grandfathering. The [owner] Owner or Responsible Party of an IMD that, on December 1, 1981, contained [3] three (3) or more [residential units] Residential Units as of right and [1] one (1) or more units eligible for coverage by use of one of the [grandfathering] Grandfathering procedures set forth in subsection 281(2)(i) or (iv) of [Article] Art. 7-C, as defined in 29 RCNY § 2-08(a) "Grandfathering" (i) and (ii):
 - (A) [Shall] Must have filed an Alteration Application for all covered as of right [residential units] Residential Units by March 21, 1983, and
 - (B) Following the [grandfathering] Grandfathering approval of any additional [residential units] Residential Units, the [owner] Owner or Responsible Party [shall] must amend the existing Alteration Application to reflect approval of the [grandfathering] Grandfathering application for the additional unit or units within a [month] Month from such approval or within a [month] Month of the effective date of these regulations, whichever is later.
- (iii) Buildings with fewer than [3] three (3) as of right units and additional units eligible for [grandfathering] Grandfathering. The [owner] Owner or Responsible Party of an IMD that, on December 1, 1981, contained fewer than three (3) [residential units] Residential Units as of right and [1] one (1) or more units eligible for coverage by use of the [grandfathering] Grandfathering

procedures set forth in § 281(2)(i) or (iv) of [Article] Art. 7-C, as defined in 29 RCNY § 2-08(a) "Grandfathering" (i) and (ii):

- (A) [Shall] Must file an Alteration Application for all covered [residential units] Residential Units within [9] nine (9) [months] Months after approval of the [grandfathering] Grandfathering application of the unit that becomes the third covered [residential unit] Residential Unit, and
- (B) Following the [grandfathering] Grandfathering approval of the unit that becomes the third eligible [residential unit] Residential Unit, the [owner] Owner or Responsible Party of a [building] Building with additional units eligible for [grandfathering] Grandfathering [shall] must amend the existing [alteration] Alteration [application] Application to reflect approval of the [grandfathering] Grandfathering application for the additional unit or units within a [month] Month after such approval or within a [month] Month after the initial timely filing of the [alteration] Alteration [application] Application referred to in 29 RCNY § 2-01(a)(1)(iii)(A) above, whichever is later.
- (iv) Buildings in [study areas] Study Areas rezoned to permit as of right residential use. The [owner] Owner or Responsible Party of an IMD located in an area designated by the Zoning Resolution as a [study area] Study Area that is rezoned to permit [residential use as of right shall] Residential Use as of Right must file an [alteration] Alteration [application] Application within [9] nine (9) [months] Months after the effective date of such rezoning.
- (v) Buildings in [study areas] Study Areas rezoned to permit residential use with [3] three (3) or more as of right units and additional units eligible for [grandfathering] Grandfathering. The [owner] Owner or Responsible Party of an IMD that is located in an area designated by the Zoning Resolution as a [study area] Study Area and that, as a result of rezoning, contains [3] three (3) or more [residential units] Residential Units as of right and [1] one (1) or more units eligible for coverage by use of one of the [grandfathering] Grandfathering procedures set forth in § 281(2)(i) or (iv) of [Article] Art. 7-C, as defined in 29 RCNY § 2-08(a) "Grandfathering" (i) and (ii):
- (A) [Shall] Must file an Alteration Application for all covered as of right [residential units] Residential Units within [9] nine (9) [months] Months after the effective date of such rezoning, and
- (B) Following the [grandfathering] Grandfathering approval of any additional [residential units] Residential Units, the [owner shall] Owner or Responsible Party must amend the existing [alteration] Alteration [application] Application to

reflect approval of the [grandfathering] Grandfathering application for the additional unit or units within a [month] Month after such approval.

- (vi) Buildings in [study areas] Study Areas rezoned to permit residential use with fewer than [3] three (3) as of right units and additional units eligible for [grandfathering] Grandfathering.

The [owner] Owner or Responsible Party of an IMD that is located in an area designated by the Zoning Resolution as a [study area] Study Area and that, as a result of rezoning, contains fewer than [3] three (3) [residential units] Residential Units as of right and [1] one (1) or more units eligible for coverage by use of one of the [grandfathering] Grandfathering procedures set forth in § 281(2)(i) or (iv) of [Article] Art. 7-C, as defined in 29 RCNY § 2-08(a) "Grandfathering" (i) and (ii):

- (A) [Shall] Must file an Alteration Application for all covered [residential units] Residential Units within [9] nine (9) [months] Months after approval of the [grandfathering] Grandfathering application of the unit that becomes the third covered [residential unit] Residential Unit, and
- (B) Following the [grandfathering] Grandfathering approval of the unit that becomes the third eligible [residential unit] Residential Unit, the [owner] Owner or Responsible Party of a [building] Building with additional units eligible for [grandfathering] Grandfathering [shall] must amend the existing Alteration Application to reflect approval of the [grandfathering] Grandfathering application for the additional unit or units within a [month] Month after such approval or within a [month] Month after the initial timely filing of the Alteration Application referred to in 29 RCNY § 2-01(a)(1)(vi)(A) above, whichever is later.

(2) *Deadlines for obtaining permits.*

- (i) Code compliance timetable for [buildings] Buildings in which all [residential units] Residential Units are as of right. The [owner] Owner or Responsible Party of an IMD that contains only [residential units] Residential Units in which residential use is permitted as of right under the Zoning Resolution [shall] must take all necessary and reasonable actions to obtain a building permit within [6] six (6) [months] Months after the effective date of these regulations.
- (ii) Buildings with [3] three (3) or more as of right units and additional units eligible for [grandfathering] Grandfathering. The [owner] Owner or Responsible Party of an IMD that, on December 1, 1981, contained [3] three (3) or more [residential units] Residential Units as of right and [1] one (1) or more units eligible

for coverage by use of one of the [grandfathering] Grandfathering procedures set forth in § 281(2)(i) or (iv) of [Article] Art. 7-C, as defined in 29 RCNY § 2-08(a) "Grandfathering" (i) and (ii):

- (A) [Shall] Must take all necessary and reasonable actions to obtain a building permit for all covered [residential units] Residential Units within [6] six (6) [months] Months after the effective date of these regulations, and
 - (B) Following the [grandfathering] Grandfathering approval of any additional [residential units] Residential Units, the [owner shall] Owner or Responsible Party must take all necessary and reasonable actions to obtain approval of the amended Alteration Application for the additional units within [6] six (6) [months] Months after such [grandfathering] Grandfathering approval or within [6] six (6) [months] Months after the effective date of these regulations, whichever is later.
- (iii) Buildings with fewer than [3] three (3) as of right units and additional units eligible for [grandfathering] Grandfathering. The [owner] Owner or Responsible Party of an IMD that, on December 1, 1981, contained fewer than [3] three (3) [residential units] Residential Units as of right and [1] one (1) or more units eligible for coverage by use of one of the [grandfathering] Grandfathering procedures set forth in § 281(2)(i) or (iv) of [Article] Art. 7-C, as defined in 29 RCNY § 2-08(a) "Grandfathering" (i) and (ii):
- (A) [Shall] Must take all necessary and reasonable actions to obtain a building permit for all covered [residential units] Residential Units within [6] six (6) [months] Months after the effective date of these regulations or within [6] six (6) [months] Months after the timely filing of [the] an [alteration] Alteration [application] Application, whichever is later, and
 - (B) Following the [grandfathering] Grandfathering approval of the unit that becomes the third eligible [residential units] Residential Unit, the [owner] Owner or Responsible Party of a [building] Building with additional units eligible for [grandfathering] Grandfathering [Shall] Must take all necessary and reasonable actions to obtain approval of the amended [alteration application] Alteration Application for the additional units within [6] six (6) [months] Months after such [grandfathering] Grandfathering approval or within [6] six (6) [months] Months after the effective date of these regulations, whichever is later.
- (iv) Buildings in [study areas] Study Areas rezoned to permit as of right residential use. The [owner] Owner or Responsible Party of an IMD located in an area designated by the Zoning Resolution as

a [study area] Study Area that is rezoned to permit [residential use as of right shall] *Residential Use as of Right must* take all necessary and reasonable actions to obtain a building permit for all covered [residential units] Residential Units within [6] six (6) [months] Months after the effective date of these regulations or within [6] six (6) [months] Months after the timely filing of the [alteration application] Alteration Application, whichever is later.

- (v) Buildings in [study areas] Study Areas rezoned to permit residential use with [3] three (3) or more as of right units and additional units eligible for [grandfathering] Grandfathering. The [owner] Owner or Responsible Party of an IMD that is located in an area designated by the Zoning Resolution as a [study area] Study Area and that, as a result of rezoning, contains [3] three (3) or more [residential units] Residential Units as of right and [1] one (1) or more units eligible for coverage by use of one of the [grandfathering] Grandfathering procedures set forth in § 281(2)(i) or (iv) of [Article] Art. 7-C, as defined in 29 RCNY § 2-08(a) "Grandfathering" (i) and (ii):
- (A) [Shall] Must take all necessary and reasonable actions to obtain a building permit for all covered [residential units] Residential Units within [6] six (6) [months] Months after the effective date of these regulations or within [6] six (6) [months] Months after the timely filing of the [alteration application] Alteration Application, whichever is later, and
- (B) Following the [grandfathering] Grandfathering approval of any additional [residential units] Residential Units, the [owner shall] Owner or Responsible Party must take all necessary and reasonable actions to obtain approval of the amended [alteration application] Alteration Application for the additional units within [6] six (6) [months] Months after such [grandfathering] Grandfathering approval.
- (vi) Buildings in [study areas] Study Areas rezoned to permit residential use with fewer than [3] three (3) as of right units and additional units eligible for [grandfathering] Grandfathering. The [owner] Owner or Responsible Party of an IMD that is located in an area designated by the Zoning Resolution as a [study area] Study Area and that, as result of rezoning, contains fewer than three (3) [residential units] Residential Units as of right and one (1) or more units eligible for coverage by use of one of the [grandfathering] Grandfathering procedures set forth in § 281(2)(i) or (iv) of [Article] Art. 7-C, as defined in 29 RCNY § 2-08(a) "Grandfathering" (i) and (ii):
- (A) [Shall] Must take all necessary and reasonable actions to obtain a building permit for all covered [residential units]

Residential Units within [6] six (6) [months] Months after the effective date of these regulations or within [6] six (6) [months] Months after the timely filing of the [alteration application] Alteration Application, whichever is later, and

- (B) Following the [grandfathering] Grandfathering approval of the unit that becomes the third eligible [residential unit] Residential Unit, the [owner] Owner or Responsible Party of a [building] Building with additional units eligible for [grandfathering] Grandfathering [Shall] Must take all necessary and reasonable actions to obtain approval of the amended Alteration Application for the additional units within [6] six (6) [months] Months after such [grandfathering] Grandfathering approval.
- (3) *Deadlines for [Article] Art. 7-B compliance.* The [owner] Owner or Responsible Party of an IMD [shall achieve compliance] must comply with the fire and safety standards of [Article] Art. 7-B of the M.D.L. for all covered [residential units] Residential Units within [18] eighteen (18) [months] Months after a building permit has been obtained or within [18] eighteen (18) [months] Months after the effective date of these regulations, whichever is later. Or the [owner] Owner or Responsible Party 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] Art. 7-B (pursuant to § 287 of [Article] Art. 7-C) within [18] eighteen (18) [months] Months after a building permit has been obtained or within [18] eighteen (18) [months] Months after the effective date of these regulations, whichever is later. Where an [owner] Owner or Responsible Party is required to amend the existing [alteration] Alteration [application] Application to reflect approval of [grandfathering] Grandfathering applications for additional units pursuant to 29 RCNY § 2-01(a)(1)(ii)(B), (iii)(B), (v)(B) or (vi)(B) above, the [owner shall achieve compliance] Owner or Responsible Party must comply with the fire and safety standards of [Article] Art. 7-B, or with alternative building codes or provisions of the M.D.L. for the additional grandfathered unit or units within [18] eighteen (18) [months] Months after the timely approval of the amended [alteration] Alteration [application] Application or within [18] eighteen (18) [months] 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] Art. 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] Owner or Responsible Party of an IMD [shall] must take all necessary and reasonable actions to obtain a final certificate of occupancy as a class A multiple dwelling for all covered [residential units] Residential Units within [6] six (6) [months] Months after compliance with the fire and safety

standards of [Article] Art. 7-B, alternative building codes or provisions of the M.D.L. has been achieved, or within [6] six (6) [months] Months after a temporary certificate of occupancy has been obtained. The [owner] Owner or Responsible Party of an IMD that contains additional units subject to 29 RCNY § 2-01(a)(1)(ii)(B), (iii)(B), (v)(B) or (vi)(B) above, [shall] must 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] six (6) [months] Months after the date such unit or units come into compliance with the fire and safety standards of [Article] Art. 7-B, alternative building codes, or provisions of the M.D.L., or within [6] six (6) [months] Months after the date such unit or units are covered by a temporary certificate of occupancy.

- (5) Notwithstanding the provisions of [subdivisions] paragraphs (a)(1) through (4) of this section, the [owner] Owner or Responsible Party of an IMD who has not been issued a final certificate of occupancy as a class A multiple dwelling for all covered [residential units] Residential Units on or before June 21, 1992 [shall] must:
- (i) File an [alteration] Alteration [application] 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] Art. 7-B of the M.D.L. for all covered [residential units] Residential Units by April 1, 1995, or within [18] eighteen (18) [months] Months after an approved [alteration permit] Alteration Permit has been obtained, whichever is later. The [owner] Owner or Responsible Party 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] Art. 7-B (pursuant to M.D.L. § 287) by April 1, 1995 or within [18] eighteen (18) [months] Months after an approved [alteration permit] 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] Residential Units by October 1, 1995, or within [6] six (6) [months] Months after achieving compliance with the fire and safety standards of [Article] Art. 7-B, alternative building codes, or provisions of the M.D.L., whichever is later.
- (6) Notwithstanding the provisions of [subdivisions] paragraphs (a)(1) through (a)(5) of this section, the [owner] Owner or Responsible Party of an IMD who has not complied with the requirements of M.D.L § 284(1)(i) or (ii) by June 30, 1996 [shall] must:

- (i) File an [alteration] Alteration [application] Application by October 1, 1996; and
 - (ii) Take all reasonable and necessary action to obtain an approved [alteration permit] Alteration Permit by October 1, 1997; and
 - (iii) [Achieve compliance] Comply with the fire and safety standards of [Article] Art. 7-B of the M.D.L. for all covered [residential units] Residential Units by April 1, 1999 or within [18] eighteen (18) [months] Months after obtaining an approved [alteration permit] 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] Residential Units by June 30, 1999, or within [3] three (3) [months] Months after achieving compliance with the fire and safety standards of [Article] Art. 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] paragraph, an [owner] Owner or Responsible Party 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] Art. 7-B by April 1, 1999 or within [18] eighteen (18) [months] Months after obtaining an approved [alteration permit] Alteration Permit, whichever is later.
- (7) Notwithstanding the provisions of [subdivisions] paragraphs (a)(1) through (a)(6) of this section, the [owner] Owner or Responsible Party 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] must:
- (i) File an [alteration] Alteration [application] Application by September 1, 1999; and
 - (ii) Take all reasonable and necessary actions to obtain an approved [alteration permit] Alteration Permit by March 1, 2000; and
 - (iii) Achieve compliance with the fire and safety standards of [Article] Art. 7-B of the M.D.L. for all covered [residential units] Residential Units by May 1, 2002, or within [12] twelve (12) [months] Months after obtaining an approved [alteration permit] 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] Residential Units by May 31, 2002, or within [1] one (1) [month] Month after achieving compliance with the fire and safety standards of [Article] Art. 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] paragraph, an [owner] Owner or Responsible Party 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] Art. 7-B by May 1, 2002 or within [12] twelve (12) [months] Months after obtaining an approved [alteration permit] Alteration Permit, whichever is later.
- (8) Notwithstanding the provisions of [subdivisions] paragraphs (a)(1) through (a)(7) of this section, the [owner] Owner or Responsible Party of an IMD who has not complied with the requirements of M.D.L. § 284(1)(i), (ii), (iii) or (iv) by June 21, 2010 must:
- (i) File an [alteration] Alteration [application] Application by September 1, 1999; and
- (ii) Take all reasonable and necessary action to obtain an approved [alteration permit] Alteration Permit by March 1, 2000; and
- (iii) [Achieve compliance] Comply with the fire and safety standards of [Article] Art. 7-B of the MDL for all covered [residential units] Residential Units by June 1, 2012, or within [12] twelve (12) [months] Months after obtaining an approved [alteration permit] Alteration Permit, whichever is later; and
- (iv) Take all reasonable and necessary action to obtain a final certificate of occupancy as a class A multiple dwelling for all covered [residential units] Residential Units by July 2, 2012, or within [1] one (1) [month] Month after achieving compliance with the fire and safety standards of [Article] Art. 7-B of the MDL, whichever is later.
- (v) As an alternative to complying with the requirements of subparagraph (iii) of this paragraph (8), an [owner] Owner or Responsible Party may, pursuant to MDL § 287, elect to comply with other local building codes or provisions of the MDL that provide alternative means of meeting the fire and safety standards of [Article] Art. 7-B by June 1, 2012 or within [12] twelve (12) [months] Months after obtaining an approved [alteration permit] Alteration Permit, whichever is later.
- (9) *2013 amended code compliance timetable for [buildings] Buildings subject to [Article] Art. 7-C pursuant to MDL § 281(5) as a result of the 2010 amendments to the Loft Law. The [owner] Owner or Responsible Party of a [building] Building, structure or portion of a [building] Building or structure that is covered by MDL § 281(5) and became subject to [Article] Art. 7-C pursuant to Chapter 135 or 147 of the Laws of 2010 must:*

- (i) File an [alteration] Alteration [application] Application by March 21, 2011; and
 - (ii) Take all reasonable and necessary actions to obtain an approved [alteration permit] Alteration Permit by June 21, 2011; and
 - (iii) [Achieve compliance] Comply with the fire and safety standards of [Article] Art. 7-B of the MDL for all covered [residential units] Residential Units within [18] eighteen (18) [months] Months after obtaining an approved [alteration permit] Alteration Permit; and
 - (iv) Take all reasonable and necessary action to obtain a final residential certificate of occupancy for all covered units by December 21, 2012.
 - (v) As an alternative to complying with the requirements of subparagraph (iii) of this paragraph (9), an [owner] Owner or Responsible Party may, pursuant to MDL § 287, elect to comply with other local building codes or provisions of the MDL that provide alternative means of meeting the fire and safety standards of [Article] Art. 7-B by no later than [18] eighteen (18) [months] Months from the issuance of the [alteration permit] Alteration Permit.
- (10) *2013 code compliance timetable for [buildings] Buildings subject to [Article] Art. 7-C pursuant to MDL § 281(5) as a result of the 2013 amendments to the Loft Law. The [owner] Owner or Responsible Party of a [building] Building, structure or portion of a [building] Building or structure that is covered by MDL § 281(5) and became subject to [Article] Art. 7-C pursuant to Chapter 4 of the Laws of 2013 must:*
- (i) File an [alteration] Alteration [application] Application on or before June 11, 2014; and
 - (ii) Take all reasonable and necessary actions to obtain an approved [alteration permit] Alteration Permit on or before September 11, 2014; and
 - (iii) [Achieve compliance] Comply with the fire and safety standards of [Article] Art. 7-B of the MDL for all covered [residential units] Residential Units within [18] eighteen (18) [months] Months after obtaining an approved [alteration permit] Alteration Permit; and
 - (iv) Take all reasonable and necessary action to obtain a final residential certificate of occupancy on or before March 11, 2016.
 - (v) As an alternative to complying with the requirements of subparagraph (iii) of this paragraph (10), an [owner] Owner or Responsible Party may, pursuant to MDL § 287, elect to comply with other local building codes or provisions of the MDL that provide alternative means of meeting the fire and safety standards

of [Article] Art. 7-B by no later than [18] eighteen (18) [months] Months after [the] obtaining an [alteration permit] Alteration Permit.

(11) Code Compliance Deadlines for Buildings subject to Art. 7-C pursuant to MDL § 281(5) as a result of the 2015 amendments to the Loft Law. The Owner or Responsible Party of a Building, structure or portion of a Building or structure that is covered by MDL § 281(5) and became subject to Art. 7-C pursuant to Chapter 20 of the Laws of 2015 must:

- (i) File an Alteration Application within nine (9) Months of either the date of the initial coverage Application, or within nine (9) Months of the date of issuance of an IMD number or within nine (9) Months of the service date of a pleading in a court action, whichever is earlier, and
- (ii) Take all reasonable and necessary action to obtain an approved Alteration Permit within twelve (12) Months of the date of the initial coverage Application or within twelve (12) Months of issuance of the date of an IMD number or within twelve (12) Months of the service date of a pleading in a court action, whichever is earlier, and
- (iii) Comply with the fire and safety standards of Art. 7-B of the MDL for all covered Residential Units within eighteen (18) Months after obtaining an approved Alteration Permit. As an alternative to complying with the fire and safety standards of Art. 7-B of the MDL, an Owner or Responsible Party may, pursuant to MDL § 287, elect to comply with other local building codes or provisions of the MDL that provide alternative means of meeting the fire and safety standards of Art. 7-B by no later than eighteen (18) Months after obtaining an Alteration Permit, and
- (iv) Take all reasonable and necessary action to obtain a final residential certificate of occupancy within thirty (30) Months of the date of the initial coverage Application or within thirty (30) Months of the date of issuance of an IMD number or within thirty (30) Months of the service date of a pleading in a court action, whichever is earlier.

(12) Code Compliance Deadlines for Buildings subject to Art. 7-C pursuant to MDL § 281(5) as a result of the 2019 amendments to the Loft Law. The Owner or Responsible Party of a Building, structure or portion of a Building or structure that is covered by MDL § 281(5) and became subject to Art. 7-C pursuant to Chapter 41 of the Laws of 2019 must:

- (i) File an Alteration Application by March 25, 2020, which is within nine (9) Months of June 25, 2019, the effective date of Chapter 41 of the laws of two thousand nineteen, and

- (ii) Take all reasonable and necessary action to obtain an approved Alteration Permit by June 25, 2020, which is twelve (12) Months from June 25, 2019, the effective date of chapter 41 of the laws of two thousand nineteen that amended MDL 284(vi), and
- (iii) Comply with the fire and safety standards of Art. 7-B of the MDL for all covered Residential Units within eighteen (18) Months of obtaining an Alteration Permit pursuant to 29 RCNY § 2-01(a)(13)(2) or December 25, 2020, which is eighteen (18) Months from June 25, 2019, the effective date of chapter 41 of the laws of two thousand nineteen that amended MDL 284(vi), whichever is later. As an alternative to complying with the fire and safety standards of Art. 7-B of the MDL, an Owner or Responsible Party may, pursuant to MDL § 287, elect to comply with other local building codes or provisions of the MDL that provide alternative means of meeting the fire and safety standards of Art. 7-B by no later than eighteen (18) Months after obtaining an Alteration Permit, and
- (iv) Take all reasonable and necessary action to obtain a final residential certificate of occupancy by June 25, 2022, which is thirty-six (36) Months from June 25, 2019, the effective date of chapter 41 of the laws of two thousand nineteen that amended MDL 284(vi).
- (13) *Code Compliance Deadlines for Buildings subject to Art. 7-C pursuant to MDL § 281(6) as a result of the 2019 amendments to the Loft Law. The Owner or Responsible Party of a Building, structure or portion of a Building or structure that is covered by MDL § 281(6) and became subject to Art. 7-C pursuant to Chapter 41 of the laws of two thousand nineteen must:*

 - (i) File an Alteration Application by March 25, 2020, which is within nine (9) Months of June 25, 2019, the effective date of Chapter 41 of the laws of two thousand nineteen, and
 - (ii) Take all reasonable and necessary action to obtain an approved Alteration Permit by June 25, 2020, which is twelve (12) Months from June 25, 2019, the effective date of chapter 41 of the laws of two thousand nineteen that amended MDL 284(vi), and
 - (iii) Comply with the fire and safety standards of Art. 7-B of the MDL for all covered Residential Units within eighteen (18) Months of obtaining an Alteration Permit pursuant to 29 RCNY § 2-01(a)(13)(2) or December 25, 2020, which is eighteen (18) Months from June 25, 2019, the effective date of chapter 41 of the laws of two thousand nineteen that amended MDL 284(vi), whichever is later. As an alternative to complying with the fire and safety standards of Art. 7-B of the MDL, an Owner or Responsible Party may, pursuant to MDL § 287, elect to comply with other local building codes or provisions of the MDL that provide alternative

means of meeting the fire and safety standards of Art. 7-B by no later than eighteen (18) Months after obtaining an Alteration Permit, and

- (iv) Take all reasonable and necessary action to obtain a final residential certificate of occupancy by June 25, 2022, which is thirty-six (36) Months from June 25, 2019, the effective date of chapter 41 of the laws of two thousand nineteen that amended MDL 284(vi).

§ 3. Subdivision (b) of Section 2-01 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

(b) *Extensions of time to comply with the amended code compliance timetable.*

(1) *Extensions of current deadlines.* Pursuant to MDL § 284(1), an [owner] Owner of an IMD [building] Building may apply to the Loft Board for an extension of time to comply with the [code compliance deadlines] Code Compliance Deadlines provided in MDL § 284 in effect on the date of the filing of the extension [application] Application. An [application] Application for an extension must be filed before the deadline for which an extension is sought, except as provided in (i) through (iv) below:

(i) Where title to the IMD was conveyed to a ["new owner"] New Owner after the [code compliance deadline] Code Compliance Deadline has passed, the [new owner] New Owner may file an extension [application] Application for the passed deadline within [90] ninety (90) calendar days from acquiring title. [For the purposes of this paragraph, "new owner" is defined as an unrelated entity or unrelated natural person(s) to whom ownership interest is conveyed for a bona fide business purpose and not for the purpose of evading the code compliance deadlines of the MDL or any other law.] Prior to making a determination, the Executive Director may request additional information relevant to the extension [application] Application including, but not limited to, information regarding the applicant's claim to be a [new owner] New Owner [as defined in this paragraph].

(ii) Where the IMD is found to be covered under [Article] Art. 7-C or registered as an IMD after the [code compliance deadline] Code Compliance Deadline has passed, the [owner] Owner may file an extension [application] Application for the passed [code compliance deadline] Code Compliance Deadline within [90] ninety (90) calendar days after either a finding of [Article] Art. 7-C coverage by the issuance of a Loft Board order, a court of competent jurisdiction or the issuance of an IMD registration number, whichever is first. If an [owner] Owner appeals a finding of [Article] Art. 7-C coverage, the [owner] Owner may file an extension [application] Application within [90] ninety (90) calendar days after the final determination of the appeal.

(iii) [Where the owner of an IMD covered under Article 7-C pursuant to MDL § 281(5) requires an extension of the code compliance deadline

provided in MDL § 284(1)(vi)(D) and 29 RCNY § 2-01(a)(9)(iv) and was not able to file an extension application prior to the deadline because such deadline was shortened from June 21, 2013 to December 21, 2012 by Chapter 4 of the Laws of 2013, the owner may file an extension application within 60 days after the effective date of this amended rule.]

RESERVED.

(iv) The IMD [owner] Owner described in (i) and (ii) above may file an [application] Application for an extension of time of up to [1] one (1) year to comply with the most recently passed deadline.

(2) *Statutory standard.*

(i) The Executive Director will grant an extension of the [code compliance deadlines] Code Compliance Deadlines in MDL § 284(1)(ii), (iii), (iv), (v), [or] (vi) or (vii) only where an [owner] Owner has demonstrated that it has met the statutory standards for such an extension, namely, that the necessity for the extension arises from conditions or circumstances beyond the [owner's] Owner's control, and that the [owner] Owner has made good faith efforts to meet the code compliance timetable requirements. Examples of such conditions or circumstances beyond the [owner's] Owner's control include, but are not limited to, a requirement for a certificate of appropriateness for modification of a landmarked [building] Building, a need to obtain a variance from the Board of Standards and Appeals or the denial of reasonable access to an IMD unit.

In the case of an IMD [owner] Owner described in 29 RCNY §§ 2-01(b)(1)(i) and (b)(1)(ii) above, the Executive Director may consider any action the [owner] Owner has taken from the date that the title transferred to the [new owner] New Owner, or from the date of the determination of [Article] Art. 7-C coverage, up to the date the [owner] Owner filed the extension [application] Application when making a determination of whether the [owner] Owner has exercised good faith efforts to satisfy the requirements.

The existence of conditions or circumstances beyond the [owner's] Owner's control and good faith efforts must be demonstrated in the extension [application] Application by the submission of corroborating evidence. For example, copies of documents from the Landmarks Commission or the Board of Standards and Appeals, or an architect's statement, may be filed with the extension [application] Application to show the existence of conditions or circumstances beyond the [owner's] Owner's control and good faith efforts. Proof of the date that the title was transferred to the [owner] Owner or proof of when the [building] Building was deemed covered under [Article] Art. 7-C should be submitted with the extension [application] Application. Failure to include corroborating evidence in the extension [application] Application may be grounds for denial of the extension [application] Application without further consideration.

(ii) Pursuant to MDL §§ 284(1)(i), [and] 284(1)(vi), and 284(1)(vii), upon proof of compliance with [Article] Art. 7-B, the Executive Director may twice extend the deadline for obtaining a final certificate of occupancy issued pursuant to MDL § 301, for a period of up to [12] twelve (12) [months] Months each, upon proper showing of good cause.

(3) *Administrative Determination on the Extension Application.* The [owner] Owner of an IMD may apply to the Loft Board's Executive Director for an extension to comply with the amended code compliance timetable. The Loft Board's Executive Director will promptly decide each [application] Application for an extension. Where the Loft Board's Executive Director determines that the [owner] Owner has met the statutory standards for an extension, the Executive Director shall grant the minimum extension required by the IMD [owner] Owner. Applications for extensions of [code compliance deadlines] Code Compliance Deadlines will be limited to one extension per deadline in the amended code compliance timetable.

The Executive Director's [administrative determination] Administrative Determination will be mailed to the [owner] Owner and to the [affected parties] Affected Parties identified in the extension [application] Application submitted pursuant to paragraph (4) of this subdivision below, and may be appealed to the Loft Board upon [application] Application by such [owner] Owner or [affected party] Affected Party.

An appeal of the [administrative determination] Administrative Determination must be filed in accordance with 29 RCNY § [1-07.1] 1-33.

(4) *Form of application, filing requirements and occupant responses.*

(i) An extension [application] Application filed pursuant to this subdivision (b) of 29 RCNY § 2-01 must be filed on the approved form and must meet the requirements of this subdivision, and 29 RCNY §§ [1-06] 1-21 and 2-11 except as provided in this paragraph. An [application] Application for an extension must include a list of all residential IMD units in the [building] Building and must specify a date to which the applicant seeks to have the deadline extended. Failure to so specify in the extension [application] Application shall be grounds for dismissal of the extension [application] Application without prejudice.

(ii) The original extension [application] Application and [2] two (2) copies must be filed with the Loft Board. Prior to filing an extension [application] Application with the Loft Board, an [owner] Owner shall serve a copy of the extension [application] Application upon the [occupant] Occupant of each IMD unit in the [building] Building in the manner described in 29 RCNY § [1-06(b)] 1-21. Any [occupant] Occupant of an IMD unit may file an answer to such [application] Application with the Loft Board within [20] twenty (20) calendar days from the date service of the extension [application] Application is deemed complete, as determined below in subparagraph (iv).

(iii) The [occupant(s)] Occupant(s) of an IMD unit must serve a copy of the answer upon the [owner] Owner prior to filing the answer with the Loft Board. Each answer filed with the Loft Board must include, at the time of filing, proof of service in the manner described in 29 RCNY § [1-06(d) and (e)] 1-22.

(iv) Service of the extension [application] Application by mail is deemed completed five (5) calendar days following mailing. While an extension [application] Application filed under this subdivision is pending, an [owner] Owner may amend the extension [application] Application one time to request a longer extension period than was originally sought in the extension [application] Application.

§ 4. Subdivision (d) of Section 2-01 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

(d) *Procedure for [occupant] Occupant review of [narrative statement] Narrative Statement and [legalization plan] Legalization Plan, resolution of [occupant] Occupant objections, and certification of estimated future rent adjustments.*

(1) *Notice: form and time requirements.*

(i) [All] Except as otherwise stated in these rules, all notices, requests, responses and stipulations served by [owners] Owner or Responsible Parties and [occupants] Occupants directly upon each other [shall] must be in writing, with a copy delivered or mailed to the Loft Board, accompanied by proof of service, within five [calendar] days of delivery, if service was made personally, or within five [calendar] days of mailing if service was performed by mail. Service of a notice, request, response or stipulation by the parties [shall] must be effected either:

(A) By personal delivery or

(B) By certified or registered mail, return receipt requested, with an additional copy sent by regular mail.

Proof of service must be in the form of: a) a verified statement by the person who effected service, setting forth the time, place and other details of service, if service was made personally, or b) by copies of the return receipt or the certified or registered mail receipt stamped by the United States Post Office, and verified statement of mailing, if service was performed by mail.

Communications by the Loft Board pursuant to these rules will be sent by regular mail.

Service is deemed effective on the date of personal delivery or five (5) [calendar] days following service by mail. Deadlines provided herein are to be calculated from the effective date of service.

- (ii) Modifications on consent, change of address. Applications, notices, requests, responses and stipulations may be withdrawn and disputes may be resolved, by written agreement of the parties, subject to Loft Board approval. Parties may change their addresses upon service of written notice to the other parties and the Loft Board, and such notice is effective upon personal delivery or five (5) [calendar] days following service by mail.
- (2) *Procedure for [occupant] Occupant review of the [narrative statement] Narrative Statement and [legalization plan] Legalization Plan and resolutions of [occupant] Occupant objections.*
- (i) Buildings not covered under MDL § 281(5). This paragraph (2) shall apply to IMD's for which a building permit for achieving compliance with the fire and safety standards of [Article] Art. 7-B, alternative building codes or provisions of the M.D.L. has not been issued as of October 23, 1985, the date of adoption of these regulations. In the case of a building permit that has been issued as of October 23, 1985 and that remains in effect or is renewed, an [owner] Owner or Responsible Party who thereafter requests reinstatement of the underlying alteration application [shall be required to] must comply with all provisions of this paragraph (2) with respect to all work yet to be performed as of the date that reinstatement is requested.

This paragraph (2) shall apply where an [owner] Owner or Responsible Party is required to amend an alteration application to reflect [grandfathering] Grandfathering approval of additional units pursuant to 29 RCNY §§ 2-01(a)(1)(ii)(B), (iii)(B), (v)(B), or (vi)(B), or where an [owner] Owner or Responsible Party is required to amend an alteration application to reflect the coverage of additional units under M.D.L. § 281(4); however, if the proposed work is to be performed solely within the additional unit(s), this paragraph (2) shall only apply to the [occupant(s)] Occupant(s) of such unit(s).

This paragraph (2) shall not apply to IMD's for which a building permit for achieving compliance with [Article] Art. 7-B, alternative building codes or provisions of the M.D.L. has already been issued and is in effect as of the date of adoption of these regulations, and which remains in effect or is renewed without reinstatement of the underlying alteration application until such compliance is achieved. However, an [occupant] Occupant of such an IMD may file an application with the Loft Board based on the grounds that the scope of the work approved under the alteration application for which the permit was issued constitutes an unreasonable interference with the [occupant's] Occupant's use of its unit in accordance with the provisions of 29 RCNY § 2-01(h).

This paragraph (2) also shall not apply to those units in IMD's for which a temporary or final certificate of occupancy as a class A multiple dwelling has been issued and is in effect as of the date of adoption of these regulations.

- (ii) For [buildings] Buildings covered under MDL § 281(5) as a result of the 2010 amendments to the Loft Law. The requirements of 29 RCNY § 2-01(d)(2) ("paragraph (2)") apply to an IMD covered by MDL § 281(5) that became subject to [Article] Art. 7-C pursuant Chapter 135 or 147 of the Laws of 2010 as follows:
- (A) Paragraph (2) does not apply to those units for which a building permit for achieving compliance with the fire and safety standards of [Article] Art. 7-B, alternative building codes, or provisions of the MDL that provide alternative means of meeting the fire and safety standards of [Article] Art. 7-B has been issued on or before June 21, 2010, and which remains in effect or is renewed without reinstatement or amendment of the underlying alteration application and [legalization plan] Legalization Plan until the final certificate of occupancy is obtained.
 - (B) If a building permit has been issued prior to June 21, 2010 and the [owner] Owner or Responsible Party thereafter files for reinstatement of the underlying alteration application and [legalization plan] Legalization Plan related to any part of the [building] Building or files for an amendment to the underlying alteration application and [legalization plan] Legalization Plan, the [owner] Owner or Responsible Party will be required to comply with all provisions of paragraph (2) with respect to all work in the alteration application and [legalization plan] Legalization Plan yet to be performed as of the date of the reinstatement or with respect to the proposed work in the amendment.
 - (C) If, prior to June 21, 2010, the [building] Building was already registered as an IMD because other units in the [building] Building are covered by [Article] Art. 7-C pursuant to MDL §§ 281(1) or (4); the [building] Building had an [alteration permit] Alteration Permit in effect on June 21, 2010; and the proposed work is solely within the additional unit(s) covered under MDL § 281(5) ("additional unit(s)"), paragraph (2) only applies to the [occupant(s)] Occupant(s) of the additional unit(s).
 - (D) Paragraph (2) does not apply to those units for which a temporary certificate of occupancy is in effect as of June 21, 2010 and which remains in effect or is renewed without reinstatement or amendment of the underlying alteration application and [legalization plan] Legalization Plan until the final certificate of occupancy is obtained.
- (iii) For [buildings] Buildings covered under MDL § 281(5) as a result of the 2013 amendments to the Loft Law. The requirements of 29

RCNY § 2-01(d)(2) ("paragraph (2)") apply to an IMD covered by MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapter 4 of the Laws of 2013 as follows:

- (A) Paragraph (2) does not apply to those units for which a building permit for achieving compliance with the fire and safety standards of [Article] Art. 7-B, alternative building codes, or provisions of the MDL that provide alternative means of meeting the fire and safety standards of [Article] Art. 7-B, has been issued on or before June 1, 2012, and which remains in effect or is renewed without reinstatement or amendment of the underlying alteration application and [legalization plan] Legalization Plan until the final certificate of occupancy is obtained.
 - (B) If a building permit has been issued prior to June 1, 2012 and the [owner] Owner or Responsible Party thereafter files for reinstatement of the underlying alteration application and [legalization plan] Legalization Plan related to any part of the [building] Building or files for an amendment to the underlying alteration application and [legalization plan] Legalization Plan, the [owner will be required to] Owner or Responsible Party must comply with all provisions of this paragraph (2) with respect to all work in the alteration application and [legalization plan] Legalization Plan yet to be performed as of the date of the reinstatement or with respect to the proposed work in the amendment.
 - (C) If, prior to June 1, 2012, the [building] Building was already registered as an IMD because other units in the [building] Building are covered by [Article] Art. 7-C pursuant to MDL §§ 281(1), 281(4) or 281(5); the [building] Building had an [alteration permit] Alteration Permit in effect on June 1, 2012; and the proposed work is solely within the additional unit(s) covered under MDL § 281(5) as a result of Chapter 4 of the Laws of 2013 ("additional unit(s)"), this paragraph (2) only applies to the [occupant(s)] Occupant(s) of the additional unit(s).
 - (D) Paragraph (2) does not apply to those units for which a temporary certificate of occupancy is in effect as of June 1, 2012 and which remains in effect or is renewed without reinstatement or amendment of the underlying alteration application and [legalization plan] Legalization Plan until the final certificate of occupancy is obtained.
- (iv) An [occupant] Occupant of an IMD covered by [Article] Art. 7-C pursuant to MDL § 281(5), who did not participate in the [narrative statement] Narrative Statement process because 29 RCNY § 2-01(d)(2) did not apply to the unit as described in 29 RCNY § 2-

01(d)(2)(ii)(A) or (d)(2)(iii)(A), may file an application with the Loft Board based on the grounds that the scope of the work approved in the underlying alteration application for which the permit was issued constitutes an unreasonable interference with the [occupant's] Occupant's use of its unit in accordance with the provisions of 29 RCNY § 2-01(h).

- (v) For Buildings covered under MDL § 281 (5) as a result of the 2019 amendments to the Loft Law and § 281(6). The requirements of 29 RCNY § 2-01(d)(2) ("paragraph (2)") apply to an IMD covered by MDL § 281(5) or 281(6) that became subject to Art. 7-C pursuant to Chapter 41 of the Laws of 2019 as follows:
- (A) Paragraph (2) does not apply to those units for which a building permit for achieving compliance with the fire and safety standards of Art. 7-B, alternative building codes, or provisions of the MDL that provide alternative means of meeting the fire and safety standards of Art. 7-B, has been issued on or before June 25, 2019, and which remains in effect or is renewed without reinstatement or amendment of the underlying alteration application and Legalization Plan until the final certificate of occupancy is obtained.
- (B) If a building permit has been issued prior to June 25, 2019 and the Owner or Responsible Party thereafter files for reinstatement of the underlying alteration application and Legalization Plan related to any part of the Building or files for an amendment to the underlying alteration application and Legalization Plan, the Owner or Responsible Party must comply with all provisions of this paragraph (2) with respect to all work in the alteration application and Legalization Plan yet to be performed as of the date of the reinstatement or with respect to the proposed work in the amendment.
- (C) If, prior to June 25, 2019, the Building was already registered as an IMD because other units in the Building are covered by Art. 7-C pursuant to MDL § 281(1), 281(4) or 281(5); the Building had an Alteration Permit in effect on June 25, 2019; and the proposed work is solely within the additional unit(s) covered under MDL § 281(5) as a result of the 2019 amendments to the Loft Law or § 281(6) ("additional unit(s)"), this paragraph (2) only applies to the Occupant(s) of the additional unit(s)
- (D) Paragraph (2) does not apply to those units for which a temporary certificate of occupancy is in effect as of June 25, 2019 and which remains in effect or is renewed without reinstatement or amendment of the underlying alteration application and Legalization Plan until the final certificate of occupancy is obtained.

[(v)] (vi) Narrative Statement. (A) Except as otherwise provided in this paragraph (2), [within 15 calendar days of the filing of its alteration application with DOB,] the [owner] Owner or Responsible Party of an IMD must provide all [occupants] Occupants with a [narrative statement] Narrative Statement, upon the approved Loft Board form, within fifteen (15) days of the filing of its alteration application with DOB. [describing separately for each unit, both residential and nonresidential,] The Narrative Statement must separately describe all the work [to be performed] the Owner or Responsible Party will perform in [such] each unit and all of the work to be performed in common areas. If the Occupant provides the Owner or Responsible Party with a current and valid email address, the Owner or Responsible Party must also supply the Occupant with an electronic copy of the plans referred to in the Narrative Statement. [The owner of an IMD covered by Article 7-C pursuant to MDL § 281(5) must provide occupants with the narrative statement within 15 calendar days of filing the alteration application with DOB or within 30 calendar days after the effective date of this amended rule, whichever is later.] The description of work to be performed must include:

(a) a listing of all noncompliant conditions[,];
(b) citation to the specific provisions of law or regulation that require their correction[,and];
(c) the work to be performed to correct them;
(d) an estimated time schedule for performance of the work; and
(e) a certification signed by an architect or engineer, licensed and registered to practice under the Education Law of the State of New York, stating that the [narrative statement] Narrative Statement is a complete and accurate statement reflecting all of the work proposed in the filed alteration application and the corresponding [legalization plan] Legalization Plan, as defined in subdivision (a) of this section.

(B) [In accordance with the procedures set forth in 29 RCNY § 2-01(d)(1), following service of the narrative statement, the owner must file with the Loft Board the original narrative statement with proof of service, as required by 29 RCNY § 2-01(d)(1)(i), two copies of its filed alteration application along with the DOB's acknowledgment of filing, and two copies of the legalization plan submitted to DOB. The plan filed with the Loft Board must be no larger than 14 inches by 17 inches.

Occupants may examine the alteration application and legalization plan by appointment at the Loft Board. An occupant may request from the owner a reproducible copy of the alteration application and legalization plan, construction specifications, if any, and the tenant protection plan described in subparagraph (vi) below, and the owner must supply such copy within 7 calendar days of service of the request. The cost of the copies of the alteration application and legalization plan are payable by the occupants up to the amount listed in 1 RCNY § 101-03.] Service of the Narrative Statement. The Owner or Responsible Party must serve a copy of the Narrative Statement and alteration application on each Occupant. The Owner or Responsible Party may serve each Occupant personally or by:

(a) email, if the Occupant consents to such service and has provided the Owner or Responsible Party with a current and valid email address . Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address; or

(b) fax, if the Occupant provides the Owner or Responsible Party with a fax number. Proof of service by fax consists of a fax machine receipt indicating the transmission was delivered to the affected party's fax machine; or

(c) first class mail. Proof of service by first class consists of a United States Post Office-stamped copy of the certificate of mailing indicating the mailing address of the affected party; or

(d) Private Delivery Service. Proof of service by a Private Delivery Service consists of a copy of a receipt showing acceptance by the delivery service for delivery to the address of the affected party.

(C) Filing with the Loft Board. Within five (5) days of service of the Narrative Statement, the Owner or Responsible Party must file one hard copy and one electronic copy of the following with the Loft Board:

(a) The original Narrative Statement with proof of service;

(b) Its filed alteration application along with proof that an acceptable set of plans have been filed with DOB; and

(c) The Legalization Plan submitted to DOB. The hard copy plan filed with the Loft Board must be no larger than fourteen by seventeen (14 x 17) inches.

(D) Occupants may examine the alteration application and Legalization Plan by appointment at the Loft Board.

(E) An Occupant may request from the Owner or Responsible Party a copy of the alteration application and Legalization Plan, including the tenant protection plan required by Administrative Code § 28-104.8.4. The Owner or Responsible Party must supply such copy within seven (7) days of service of the request. The Occupant making the request must pay all copying costs up to the amount listed in § 101-03 of Title 1 of the Rules of the City of New York. However, the Owner or Responsible Party must supply electronic copies of all requested documents free of charge.

[(vi)] (vii) The [owner] Owner or Responsible Party must certify to the DOB on the approved Loft Board form that it has complied with the provisions of subparagraph [(v)] (vi); that it will comply with all other requirements of this paragraph (2) and with the requirement for a tenant protection plan pursuant to New York City Administrative Code § 28-104.8.4; and that prior to obtaining the building permit, the [owner] Owner or Responsible Party will submit to the DOB a letter from the Loft Board, certifying compliance with all requirements of 29 RCNY § 2-01(d)(2). The [owner's] Owner's or Responsible Party's certification must be filed with the DOB within [5 calendar] five (5) days after the [owner's] Owner's or Responsible Party's filing with the Loft Board pursuant to the procedures described in the preceding subparagraph [(v)] (vi).

[(vii)] (viii) Narrative Statement Conference.

- (A) Within [30 calendar] thirty (30) days after the [owner] Owner or Responsible Party has filed a complete [narrative statement] Narrative Statement, as required by 29 RCNY § 2-01(d)(2)(v)(vi), the Loft Board will notify the [owner] Owner or Responsible Party and all [occupants] Occupants that a conference has been scheduled. The conference may be scheduled in the evening. The notice from the Loft Board will be sent by regular mail. Upon the request of the Owner, the Responsible Party or the Occupant(s), the Loft Board may schedule a conference for any IMD unit for which 29 RCNY § 2-01(d)(2) does not apply.
- (B) Purpose. [This] A narrative statement conference is for informational and conciliatory purposes. The Loft Board representative assigned to conduct the conference may review the provisions of these code compliance rules, including 29 RCNY § 2-01(f), dealing with [occupant] Occupant participation and may address the participants' questions. Information or responses to questions provided by the Loft Board representative are advisory only and should not be relied upon as a substitute for professional advice of lawyers, architects or engineers retained by the participants.
- (C) The [owner] Owner or Responsible Party or its representative will present its alteration application, [narrative statement] Narrative Statement, [legalization plan] Legalization Plan, Notice of Objections issued by plan examiners and the estimated time schedule for performance of the work. The [occupants] Occupants may raise any questions, comments or suggestions regarding the alteration application, [narrative statement] Narrative Statement and [legalization plan] Legalization Plan and the estimated schedule. The Loft Board representative will encourage the [owner] Owner or Responsible Party and [occupants] Occupants to discuss [fully] the alteration application, [narrative statement] Narrative Statement, [legalization plan] Legalization Plan, and the schedule, and to reach an agreement as to the performance of code compliance work.
- (D) The Loft Board representative may authorize an additional period of time, not to exceed [21 calendar] thirty (30) days, for the parties to negotiate an agreement. If the parties are unable to come to an agreement within the authorized time period, the remaining provisions of this paragraph (2) shall apply. Any agreement reached by the parties, including any agreement reached after the above-mentioned [21 calendar] thirty (30) day period, must be in writing, signed

by the parties, and filed with the Loft Board as provided in 29 RCNY § 2-01(f).

- (E) With the exception of material contained in any written agreement(s) among the parties, the conference will not be electronically recorded, and the specifics or nature of communications made at the conference or in the course of negotiations during the authorized time period are not admissible as evidence in any Loft Board proceedings.

[Information or responses to questions provided by the Loft Board representative will be advisory only and should not be relied upon as a substitute for professional advice of lawyers, architects or engineers retained by the participants.]

The conference may be scheduled in the evening. Upon the request of the owner and the occupant(s), the Loft Board may schedule a conference for any IMD unit for which 29 RCNY § 2-01(d)(2) does not apply.]

- [(viii)] (ix) (A) [Within 45 calendar days after due notice issued by the Loft Board or, if authorized, the additional period of time described in 29 RCNY § 2-01(d)(2)(vii),] After conclusion of the Narrative Statement process, any [occupant] Occupant within the time periods stated in section (B), below:

[(a)] (a) May file with the DOB an [alternate plan application] Alternate Plan Application, including a [legalization plan] Legalization Plan, for work affecting the [occupant's] Occupant's use of its unit if the proposed work in the [owner's] Owner's or Responsible Party's alteration application and [legalization plan] Legalization Plan unreasonably interferes with the [occupant's] Occupant's use of the unit and the [occupant's] Occupant's alternate plan requires a review by DOB;

[(b)] (b) May file with the DOB an [alternate plan application] Alternate Plan Application in support of a claim that the [owner's] Owner's or Responsible Party's alteration application and [legalization plan] Legalization Plan will diminish services to which the [occupant] Occupant is legally entitled; and

[(c)] (c) If authorized by the Loft Board staff, may file comments with the Loft Board opposing the [owner's] Owner's or Responsible Party's alteration application and [legalization plan] Legalization Plan on the ground that such plans unreasonably interfere with the [occupant's] Occupant's use of

the unit or diminish services to which an [occupant] Occupant is legally entitled, provided that the [occupant's] Occupant's claim does not require DOB review in order for the Loft Board to resolve the dispute.

- (B) (a) For Buildings containing one (1) to fifteen (15) registered IMD units, the Occupant must file an Alternate Plan Application or comments within forty-five (45) days after the Loft Board issues a notice.
- (b) For Buildings containing sixteen (16) to thirty (30) registered IMD units, the Occupant must file an Alternate Plan Application or comments within sixty (60) days after the Board issues a notice.
- (c) For Buildings containing thirty-one (31) or more registered IMD units, the Occupant must file an Alternate Plan Application or comments within seventy-five (75) days after the Board issues a notice.
- (d) Upon request filed prior to the expiration of the time period stated in section (B)(a) (b) or (c), the Executive Director may extend the deadline for an additional thirty (30) days upon application by an Occupant if the Occupant demonstrates extraordinary circumstances prevented the Occupant from filing an Alternate Plan Application or comments.
- (C) If the occupant's alternate plan proposed pursuant to this subparagraph [(viii)] (ix) is required to be filed with the DOB because it requires DOB review, [it shall be filed by] the Occupant must, at the Occupant's expense, hire a registered architect or professional engineer [retained by the occupant, who will be responsible for any required fees] who must file the alternate plan with the DOB. If the [alternate plan application] Alternate Plan Application includes an alteration application describing plumbing work, the alteration application must be filed with the DOB by a licensed plumber retained by the [occupant] Occupant, who is responsible for any required fees. Two (2) or more [occupants] Occupants may file a joint [alternate plan application describing their alternate plan] Alternate Plan Application.
- (D) If an Occupant files an Alternate Plan Application with the DOB that does not affect any other units or common areas, the Occupant must, within seven (7) days after filing an Alternate Plan Application, serve the Owner and any

Responsible Party with a Narrative Statement describing the Occupant's objections to, comments on, or criticisms of the Owner's or Responsible Party's plan.

- (E) If an Occupant files an Alternate Plan Application with the DOB that affects any other units or common areas, the Occupant must, within seven (7) days after filing an Alternate Plan Application, serve the Owner and all affected parties with a Narrative Statement describing the Occupant's objections to, comments on, or criticisms of the Owner's or Responsible Party's plan and any code compliance costs related to the Occupant's alternate plan.
- (F) The Occupant must serve a copy of the Narrative Statement and Alternate Plan Application personally or by:
- (a) email, if the Owner or Responsible Party or other affected parties have consented to such service and provided the Occupant with a current and valid email address. Proof of service by email consists of a copy of a delivery receipt from an email server indicating the email was delivered to the affected party's email address; or
 - (b) fax, if the Owner or Responsible Party or other affected parties have provided the Occupant with a fax number. Proof of service by fax consists of a fax machine receipt indicating the transmission was delivered to the affected party's fax machine; or
 - (c) first class mail. Proof of service by first class consists of a United-States Post Office-stamped copy of the certificate of mailing indicating the mailing address of the affected party; or
 - (d) Private Delivery Service. Proof of service by a nationally recognized Private Delivery Service consists of a copy of a receipt showing acceptance by the delivery service for delivery to the address of the affected party.
- (G) Filing with the Loft Board. Within seven (7) days of service of the Narrative Statement and Alternate Plan Application, the Occupant must file one hard copy and one electronic copy of the following with the Loft Board:
- (a) The original Narrative Statement with proof of service;

(b) Its filed alteration application along with proof that an acceptable set of plans have been filed with DOB; and

(c) The Legalization Plan submitted to DOB. The hard copy plan filed with the Loft Board must be no larger than fourteen by seventeen (14 x 17) inches.

(H) Owners, Responsible Parties and other Occupants may examine and copy, at their own expense, the alteration application and Legalization Plan by appointment at the Loft Board.

(I) An Owner, Responsible Party or Occupant may request from the Occupant filing the alternate plan, a reproducible copy of the alteration application and Legalization Plan, including the tenant protection plan. The Occupant filing the alternate plan must supply such copy within seven (7) days of service of the request. The Responsible Party or Occupant making the request must pay all copying costs up to the amount listed in § 101-03 of Title 1 of the Rules of the City of New York.

(J) The failure of an [occupant] Occupant to file an [alternate plan application] Alternate Plan Application with the DOB and the Loft Board or comments with the Loft Board within the prescribed time period will constitute a waiver of an [occupant] Occupant 's right to challenge the [owner's] Owner's or Responsible Party's submitted [legalization plan] Legalization Plan on the ground that it would unreasonably interfere with the [occupant's] Occupant's use of the unit or constitute a diminution of services[; [however, late filing of an alternate plan application is permitted if, upon application, the Loft Board or its staff by order or administrative determination finds that good cause existed for the occupant's failure to file in a timely manner and if a building permit has not yet been issued.] However, the Loft Board may permit the late filing of an Alternate Plan Application if, upon application, the Loft Board, by order or staff Administrative Determination, finds that good cause existed for the Occupant's failure to timely file and if a building permit has not yet been issued, or upon agreement of the Owner or Responsible Party and all affected parties.

[Within 5 calendar days after filing an alternate plan application with the DOB, the occupant shall provide the owner and all other occupants with a dated narrative statement describing the occupant's objections to, comments on, or criticisms of the owner's plan and any projected increase in code compliance costs resulting from the

occupant's alternate plan. In accordance with the procedures provided in 29 RCNY § 2-01(d)(1), the occupant must file with the Loft Board: the original copy of the occupant's narrative statement with proof of service on the owner and all other occupants, two copies of the filed alternate plan application, including the DOB's acknowledgment of filing, and two copies of the occupant's alternate plan application and legalization plan.

The owner and other occupants may review the alternate plan application, including the legalization plan, by appointment at the Loft Board's office. An owner or another occupant may request from the filing occupant a reproducible copy of the alternate plan application and legalization plan and shall be supplied with such copy within 7 calendar days after service of the request. The cost to the requesting party is the fee listed in 1 RCNY § 101-03.]

[(ix)] If the DOB issues objections to an [alternate plan application] Alternate Plan Application submitted by any [occupant] Occupant of the [building] Building, the [occupant] Occupant, through his or her architect or engineer, must take all necessary and reasonable actions to cure such objections within [45 calendar] forty-five (45) days of notice of objections from the DOB.

The [owner] Owner or Responsible Party, through its architect or engineer, must take all necessary and reasonable actions to cure the DOB objections within [60 calendar] sixty (60) days of notice of objections from the DOB for its alteration application and [legalization plan] Legalization Plan. The failure to take all necessary and reasonable actions to cure the objections within the prescribed time period may subject the [owner] Owner or Responsible Party to fines in accordance with 29 RCNY §§ 2-01.1 and 2-11.1 to be imposed by the Loft Board or the Environmental Control Board, if designated by the Loft Board, for failure to comply with these rules.

If the [occupant's] Occupant's opposition to the [owner's] Owner's or Responsible Party's plan does not require DOB review, the [occupant] Occupant must serve the [owner] Owner or Responsible Party and the other [occupants] Occupants with the comments describing how the [owner's] Owner's or Responsible Party's plan will unreasonably interfere with the [occupant's] Occupant's use of the unit or how it will result in a diminution of services to which the [occupant] Occupant is entitled. The [occupant's] Occupant's comments must be filed with the Loft Board within [45] forty-five (45) days of the Loft Board's notice, unless extended pursuant to 29 RCNY § [2-01(d)(2)(vii)] 2-01(d)(2)(viii). Proof of service to the [owner] Owner or Responsible

Party and the other [occupants] Occupants must be attached to the filing of the comments with the Loft Board.

[(x)] (xi) Amendments to Legalization Plan Prior to Loft Board's Certification. If the [owner] Owner or Responsible Party amends the [legalization plan] Legalization Plan initially submitted to the Loft Board, the [owner] Owner or Responsible Party must file two copies of any amended plans with the Loft Board, along with a detailed amendment to the narrative statement listing the changes. Proof of service of the narrative statement on all of the [occupants] Occupants of the [building] Building and copies of the plans must be filed with the Loft Board in accordance with the procedures described in subparagraph [(v)] (vi) above.

Within [40 calendar] forty (40) days of the Loft Board's notice of the revised plan, any [occupant] Occupant who has not previously done so, may file with the DOB an [alternate plan application] Alternate Plan Application for work affecting the [occupant's] Occupant's use of the unit, if DOB review is required or may file comments opposing the [owner's] Owner's or Responsible Party's revised plan with the Loft Board. The [occupant] Occupant must comply with all the requirements of subparagraph [(viii)] (ix) above. The [occupant] Occupant may object to only those items that represent a change from the [owner's] Owner's or Responsible Party's submissions previously received. The procedures for DOB review provided in subparagraph [(ix)] (x) above shall apply.

[(xi)] (xii) Loft Board's Certification of the Legalization Plan.

(A) [(a)] (a) When the DOB has no further objections to the [owner's] Owner's or Responsible Party's alteration application and [legalization plan] Legalization Plan, and if no [alternate plan application] Alternate Plan Application has been filed by any [occupant] Occupant of the [building] Building within the time period provided for filing in this rule, the Loft Board shall issue a letter certifying compliance with all requirements of 29 RCNY § 2-01(d)(2). To receive Loft Board certification, the [owner] Owner or Responsible Party must verify to the Loft Board that no revisions have been made to the [legalization plan] Legalization Plan since the narrative statement conference or if the [legalization plan] Legalization Plan has been revised, the [owner] Owner or Responsible Party must summarize any revisions which may have been made and include the date of the revised [legalization plan] Legalization Plan.

[(b)] *(b)* If an [occupant's alternate plan application] Occupant's Alternate Plan Application has been filed and the [45 calendar] forty-five (45) day period provided in subparagraph [(ix)] (x) above for addressing objections to the [occupant's alternate plan application] Occupant's Alternate Plan Application has expired without all necessary and reasonable actions having been taken by the [occupant] Occupant to cure the objections, the Loft Board shall issue a letter certifying the [owner's] Owner's or Responsible Party's compliance with all requirements of 29 RCNY § 2-01(d)(2).

(B) (a) Where the [occupant] Occupant has submitted an [alternate plan application] Alternate Plan Application and is unable to agree with the [owner] Owner or Responsible Party upon the work to be performed, and the DOB has no objections to such alternate plan, or if the [occupant] Occupant has cured such objections, the [occupant] Occupant must advise the Loft Board and refer the [alternate plan application] Alternate Plan Application to the Loft Board for review and resolution of the dispute.

Such referral to the Loft Board will occur no sooner than [30 calendar] thirty (30) days after notification of the removal of the last objection or of the lack of objection.

In addition, the Loft Board staff may authorize such referral before all objections have been removed if the remaining objections do not need to be resolved in order for the Loft Board to resolve the dispute. If the [owner] Owner or Responsible Party and the [occupant] Occupant come to an agreement, they must immediately inform the DOB and the Loft Board of the agreement in writing and must provide the Loft Board with a copy of the agreement. In such case, the [owner] Owner or Responsible Party must amend the [legalization plan] Legalization Plan for the IMD [building] Building to include the changes agreed upon by the parties, if any.

(b) Loft Board-Initiated Alternate Plan Dispute. If an [occupant's alternate plan application] Occupant's Alternate Plan Application is referred to the Loft Board, pursuant to 29 RCNY § 2-01(d)(2)(xii)(B)(a) above, the Loft Board shall review the plans and on its own initiative may commence a proceeding to

determine whether the [owner's] Owner's or Responsible Party's alteration application and [legalization plan] Legalization Plan would result in an unreasonable interference of the [occupant's] Occupant's use of the unit or a diminution of service. The proceeding will be governed by the Loft Board's rules.

The [owner] Owner or Responsible Party and the [occupants] Occupants of the [building] Building will have an opportunity to submit an answer. In the case of an [occupant] Occupant challenging the [owner's legalization plan] Owner's or Responsible Party's Legalization Plan, the answer must include an explanation of how the [owner's] Owner's or Responsible Party's proposed [legalization plan] Legalization Plan would result in an unreasonable interference with the [occupant's] Occupant's use of the unit or a diminution of service.

If the Loft Board, after a fact-finding hearing, or the Executive Director, if a fact-finding hearing is not required, finds that the [owner's legalization plan] Owner's or Responsible Party's Legalization Plan would result in an unreasonable interference, it shall order the [owner] Owner or Responsible Party to amend its alteration application, [legalization plan] Legalization Plan and corresponding narrative statement within [60 calendar] sixty (60) days or may certify the alternate plan submitted by the [occupant] Occupant for the space involved.

A failure or refusal to comply with such an order may constitute a violation of the [owner's] Owner's or Responsible Party's obligation to take all reasonable and necessary action to obtain an [alteration permit] Alteration Permit under § 284 of [Article] Art. 7-C and these rules, and the [owner] Owner or Responsible Party may be subject to civil penalties in accordance with 29 RCNY § 2-11.1. The Loft Board may also initiate an action to compel specific performance, and seek all applicable penalties authorized by the Loft Board rules or [Article] Art. 7-C.

If the [owner] Owner or Responsible Party has cleared all DOB objections and if the Loft Board or its Executive Director finds that the [owner's] Owner's or Responsible Party's alteration application and [legalization plan] Legalization Plan would not unreasonably interfere with the

[occupant's] Occupant's use of the unit, the Loft Board or its Executive Director shall issue an order or an [administrative determination] Administrative Determination certifying compliance with all requirements of 29 RCNY § 2-01(d)(2).

[(xii)] (xiii) Within [10 calendar] ten (10) days after the issuance of a building permit by the DOB, the [owner shall] Owner or Responsible Party must file a copy of the building permit with the Loft Board. In the case of an IMD subject to [Article] Art. 7-C pursuant to MDL § 281(5) which has an [alteration permit] Alteration Permit on September 11, 2013, the effective date of this rule, the [owner] Owner or Responsible Party must file a copy of the building permit with the Loft Board by October 11, 2013, 30 [calendar] days after the effective date of this rule.

[(xiii)] (xiv) *Amendments to Legalization Plan After the Loft Board's Certification of Compliance with 29 RCNY § 2-01(d)(2).*

(A) If the [owner] Owner or Responsible Party intends to amend the [legalization plan] Legalization Plan certified by the Loft Board, the [owner] Owner or Responsible Party must file with the Loft Board two copies of the amended narrative statement listing the changes and the amended [legalization plan] Legalization Plan within [10] ten (10) days after the filing of the amendment with the DOB in accordance with (B) below.

(B) The [owner] Owner or Responsible Party must follow the procedures for notice to the residential and non-residential [occupants] Occupants set forth in 29 RCNY § 2-01(d)(1) above. If an [owner] Owner or Responsible Party amends the [legalization plan] Legalization Plan and the proposed work is located within IMD space, or within the common areas of the [building] Building, the [owner] Owner or Responsible Party must serve an amended narrative statement on the [occupants] Occupants in accordance with the notice provisions provided in 29 RCNY § 2-01(d)(1) above. The [owner] Owner or Responsible Party must file proof of service and the amended narrative statement and [legalization plan] Legalization Plan with the Loft Board. In accordance with the requirements of 29 RCNY § [2-01(d)(2)(viii)] 2-01(d)(2)(ix) and within [40 calendar] forty (40) days from the Loft Board's notice of the [owner's] Owner's or Responsible Party's revised [legalization plan] Legalization Plan, any [occupant] Occupant: 1) may file with the DOB an [alternate plan application] Alternate Plan Application or 2) may file with the Loft Board comments opposing the work proposed in the amendment. The [occupant] Occupant may only object to those items that represent a change from the

[legalization plan] Legalization Plan certified by the Loft Board. The [owner] Owner or Responsible Party must obtain a Loft Board certification described in 29 RCNY § [2-01(d)(2)(xi)] 2-01(d)(2)(xii) for any amended [legalization plan] Legalization Plan.

If the [occupant] Occupant and the [owner] Owner or Responsible Party are unable to agree to the proposed work in the amended narrative statement and [legalization plan] Legalization Plan, the Loft Board must follow the procedures in 29 RCNY § [2-01(d)(2)(xi)(B)] 2-01(d)(2)(xii)(B) regarding the Loft Board-initiated alternate plan dispute.

[(xiv)] (xv) Approval of an [owner] Owner or Responsible Party's [legalization plan] Legalization Plan by the DOB pursuant to this subsection shall not be construed as approval of the construction costs for the work proposed in the plan as necessary and reasonable costs of code compliance work for purposes of rent adjustment proceedings under these rules.

- (3) *Procedures for certification of estimated further rent adjustments.* Following the DOB's approval of an [owner] Owner or Responsible Party's alteration application and [legalization plan] Legalization Plan or an [occupant's alternate plan application] Occupant's Alternate Plan Application, an [owner] Owner or Responsible Party may apply to the Loft Board for certification of estimated future rent adjustments, based on the [legalization plan] Legalization Plan and the Loft Board Schedule of Allowable Necessary and Reasonable Code Compliance Costs in the Loft Board's rules. The filing of an [application] Application for estimated future rent adjustments is at the discretion of the [owner] Owner or Responsible Party and shall not be a basis for staying commencement or continuation of work under a valid building permit issued by the DOB.

All [applications] Applications for certification of estimated future rent adjustments will be processed in accordance with 29 RCNY § [1-06] 1-21, except as provided herein. The [owner] Owner or Responsible Party must file with the Loft Board an [application] Application on a Loft Board approved form. The [application] Application must describe separately: i) the work to be performed in each residential unit; ii) the work to be performed in common areas; and iii) the work to be performed in the non[residential units] Residential Units. The [application] Application must include a calculation of the necessary and reasonable costs based on the Loft Board schedule and any other necessary and reasonable costs as permitted in the Loft Board's rules. If the [owner] Owner or Responsible Party anticipates the use of financing, the [application] Application must also include any statements, letters of intent or commitment, or other materials from institutional or non-institutional lenders regarding the terms or conditions of such financing. In addition, the [owner] Owner or Responsible Party must file with the Loft Board two copies of the approved alteration [application] Application and [legalization plan]

Legalization Plan.

The [owner's application] Owner's or Responsible Party's Application must be served on all of the [building's occupants] Building's Occupants by the [owner] Owner or Responsible Party in accordance with the service requirements for [applications] Applications set forth in 29 RCNY § [1-06] 1-21. Occupants may review the [alteration application] Alteration Application and [legalization plan] Legalization Plan at the DOB in accordance with the DOB's procedures or by appointment at the Loft Board's office. An [occupant] Occupant may request from the [owner] Owner or Responsible Party a reproducible copy of the [alteration application] Alteration Application and [legalization plan] Legalization Plan, and the [owner] Owner or Responsible Party must supply such a copy within [7 calendar] seven (7) days after service of the request at a cost to the [occupant] Occupant of up to the amounts listed in 1 RCNY § 101-03. Occupants may submit an answer to the [owner's application] Owner's or Responsible Party's Application within [20 calendar] twenty (20) days after the date on which service of the [application] Application was completed. The answer may list any objections, comments or suggestions regarding the calculation of necessary and reasonable costs of approved work.

The Loft Board may schedule a conference to discuss objections, comments or suggestions raised by the [occupants] Occupants and responses by the [owner] Owner or Responsible Party. Following such a conference, the [application] Application will be processed, and the Loft Board will issue findings on the necessary and reasonable code compliance work and associated costs, and the estimated future rent adjustments. Such findings will be a reasonable estimate based on available information. However, actual rent adjustments will be determined by the Loft Board in accordance with 29 RCNY § 2-01(i) through (l).

- (4) *Requirement of a Letter of No Objection ("LONO") for Work Permits in IMD Buildings.*
- (i) *Proposed Work in Non-IMD Spaces:* An [owner] Owner or Responsible Party of an IMD [building] Building who is applying to the DOB for an [alteration permit] Alteration Permit to perform work in the non-IMD spaces of such [building] Building, including any commercial space or residential space not covered by [Article] Art. 7-C of the MDL, must provide DOB with a [letter of no objection ("LONO")] LONO from the Loft Board prior to issuance of an [alteration permit] Alteration Permit.
 - (ii) *Proposed Work in the IMD Spaces:* Any request for a LONO by or on behalf of the [owner] Owner or Responsible Party for work to be performed in the IMD units will be processed by the Loft Board as an amendment to the [owner's] Owner's or Responsible Party's narrative statement and the [legalization plan] Legalization Plan certified pursuant to 29 RCNY § 2-01(d)(2). The Loft Board will

issue an amended certification for the revised narrative statement and [legalization plan] Legalization Plan.

(iii) *Requirements to Obtain a Letter of No Objection:*

- (A) Before a LONO may be granted, a [building owner] Building Owner or Responsible Party must demonstrate compliance with the annual registration requirements set forth in 29 RCNY § 2-11, and all outstanding fees and fines payable to the Loft Board for the [building] Building must be paid or an arrangement for payment must be made.
- (B) The LONO request must include:
- [a.] (a) a formal request, which must be submitted on the Loft Board approved form, if any, at the time of the request;
- [b.] (b) a copy of the current [monthly] quarterly report relating to the legalization projects in the [building] Building, in accordance with the requirements of 29 RCNY § 2-01.1(a)(1)(ii);
- [c.] (c) a copy of the [alteration application] Alteration Application filed with the DOB;
- [d.] (d) a copy of the DOB objection sheet listing the only remaining DOB objection to be the requirement to obtain a LONO from the Loft Board; and
- [e.] (e) a copy of the corresponding drawings or plans with DOB bar code numbers filed with the DOB, on paper no larger than [14] fourteen (14) inches wide by [17] seventeen (17) inches long.
- (C) The Loft Board's staff will not consider an incomplete request for a LONO.
- (D) The Loft Board's staff may request additional information or documentation, as it deems necessary in its review of the LONO request. If the [owner] Owner or Responsible Party does not respond to the Loft Board staff's request within ten (10) [calendar] days of the request, the request for a LONO will be deemed to be withdrawn.
- (E) The Loft Board's staff may deny a LONO request for the proposed work where:
- [a.] (a) the [owner] Owner or Responsible Party does not have an [alteration application] Alteration

Application filed with the DOB to perform the legalization work in the IMD spaces;

- [b.] (b) the Loft Board issued a certification of the legalization work in the IMD spaces pursuant to 29 RCNY § 2-01(d)(2)(xi), and the [owner] Owner or Responsible Party does not have a current permit to perform the legalization work in such IMD units;
- [c.] (c) the DOB had issued a temporary certificate of occupancy for the residential portion of the subject [building] Building before the [owner] Owner or Responsible Party applied for a LONO, and the temporary certificate of occupancy expired and has not been renewed;
- [d.] (d) the [owner's] Owner's or Responsible Party's [monthly] quarterly reports as required in 29 RCNY § 2-01.1(a)(1)(ii) show no advancement of legalization projects in the [building] Building. The Loft Board's staff may supplement its review of the [owner's] Owner's or Responsible Party's [monthly] quarterly reports to consider any relevant information contained in the Loft Board's files;
- [e.] (e) the IMD [building] Building already has a final certificate of occupancy, but the [owner] Owner or Responsible Party has not applied to the Loft Board for removal;
- [f.] (f) the [owner] Owner or Responsible Party applied to the Loft Board for removal of the subject [building] Building prior to filing the LONO request, but the [owner] Owner or Responsible Party has not exercised all diligent efforts to submit additional information that was requested by the Loft Board's staff for processing the removal [application] Application; or
- [g.] (g) any other circumstance exists that indicates to the Loft Board's staff that the [owner] Owner or Responsible Party has failed to take all reasonable and necessary action to obtain a final certificate of occupancy for the residential portions of the IMD spaces to legalize the subject [building] Building or to remove the [building] Building from the Loft Board's jurisdiction.

- (F) Granting of a LONO is not a finding by the Loft Board that the [owner] Owner or Responsible Party is exercising all reasonable and necessary action toward obtaining a final

certificate of occupancy for the residential portions of the IMD units to legalize the subject [building] Building.

- (iv) *Nature of the Proposed Work.* In granting a LONO request, the Loft Board's staff may consider the effect the proposed work may have on the IMD units and the [protected occupants] Protected Occupants of the [building] Building. If the proposed work would (1) result in a change in the use, egress, [buildings'] Buildings' systems, or occupancy of IMD space in the [building] Building, or (2) affect an IMD unit in which there is an active dispute or finding of [harassment] Harassment by the Loft Board, or (3) adversely affect any [protected occupants] Protected Occupants of the IMD units in the [building] Building, the Loft Board's staff may conduct an informal conference with the [protected occupants] Protected Occupants and the [owner] Owner or Responsible Party upon at least [15 calendar days'] fifteen (15) days' notice. Service of the conference notice by the Loft Board will be sent by regular mail.
- (v) *Appeal of Decision.*
- (A) If the Loft Board's staff denies a LONO request, the [owner] Owner or Responsible Party may appeal to the Executive Director for an [administrative determination] Administrative Determination.
- (B) To be considered timely, the appeal to the Executive Director must be received by the Loft Board within [15 calendar] fifteen (15) days from the mailing date of the LONO's denial. An untimely appeal is subject to dismissal by the Executive Director. The appeal to the Executive Director must include:
- [a.] (a) the basis for the appeal;
- [b.] (b) a statement that requirements for the LONO set forth in subparagraph (iii) above are true, correct and complete as of the date of the appeal;
- [c.] (c) a detailed report of the current status of the legalization projects; and
- [d.] (d) a detailed schedule of the work to be performed in connection with achieving compliance with [Article] Art. 7-B of the MDL, and a projected compliance date, to the extent the [building] Building is not yet in compliance therewith.
- (C) The Executive Director will issue a written determination within 30 [calendar] days of receipt of the request.

- (D) The Executive Director will not consider any incomplete appeals. Failure to file a complete appeal may result in rejection of the appeal without consideration of the issues raised.
- (E) Appeals from the written determination of the Executive Director shall be governed in accordance with 29 RCNY § [1-07.1] 1-33.

§ 5. Subdivision (g) of Section 2-01 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

(g) *Notice to [occupants] Occupants of proposed work, repairs and inspections and [occupant's] Occupant's obligation to provide access.*

- (1) Unless otherwise agreed by the parties, the [owner] Owner or Responsible Party must provide all [occupants] Occupants with written notice of the approximate commencement date, duration and scope of all work to be performed within their units and of all common area work that may interfere with access to their units or the provision of services to their units.

The notice need not provide an exact date for the work, but must provide a range of three consecutive working days during which work to be completed in one working day will take place and a range of five consecutive working days during which work expected to require more than one consecutive working day will begin.

The access notice must be served by personal service, first class mail, registered mail return receipt requested, or certified mail return receipt requested, such that service is deemed completed at least [5 calendar] five (5) days prior to the first date in the range of days for work that may reasonably be expected to be completed within one working day and at least [10 calendar] ten (10) days prior to the first date in the range of days for all other work expected to require two or more consecutive working days.

- (2) No later than the day preceding the first day in the range of work days listed on the access notice referenced in paragraph (g)(1) above, the [owner] Owner or Responsible Party must provide written notice, either confirming a specific starting date from among those specified or cancelling the scheduled work for the day or days specified. In instances where scheduled work is cancelled, it must be rescheduled in accordance with the provisions of 29 RCNY § 2-01(g)(1) above.

The [owner] Owner or Responsible Party must deliver the second access notice personally to the [occupant] Occupant or, in the [occupant's] Occupant's absence, to a person of suitable age and discretion within the unit. If the [owner] Owner or Responsible Party or [agent] Agent cannot achieve delivery to a person as described, the owner or [agent] Agent must deposit the notice under the main entrance of the unit or, if that is not possible, must affix such notice to the main entrance of the unit.

An [occupant] Occupant may designate in writing another [occupant] Occupant within the [building] Building to receive an access notice pursuant to this 29 RCNY § 2-01(g) provided that the designee is authorized to provide reasonable access to the [occupant's] Occupant's unit as required in such notice. Such designation must be served on the [owner] Owner or Responsible Party by (i) personal service or (ii) first class mail, and registered mail return receipt requested or certified mail return receipt requested.

- (3) Upon appropriate notice, the [building] Building [occupants] Occupants must provide the [owner] Owner or Responsible Party with reasonable access to their units so that all requisite code compliance or repair work, inspections and surveys as may be required for the purpose of code compliance, may be performed.
- (4) Upon the failure of an [occupant] Occupant to provide such access, the [owner] Owner or Responsible Party may apply to the Loft Board for an order affording the [owner] Owner or Responsible Party reasonable access to the unit. Recognizing the necessity of construction work proceeding without unnecessary delays caused by administrative processing, the Loft Board will process [applications] Applications for access under the following expedited procedures:

- (i) The [owner] Owner or Responsible Party must serve the [occupant] Occupant with a copy of the [owner's] Owner's or Responsible Party's verified or affirmed [application] Application for access on the Loft Board's form. Service on the [occupant] Occupant must be [effected] either by:

(A) personal service or

(B) certified or registered mail, return receipt requested, with an additional copy sent by regular mail. The Owner or Responsible Party may, in addition, send a copy to the Occupant via email, if the Occupant has consented to such service and provided Owner or Responsible Party with a current and valid email address.

Within [5 calendar] five (5) days after delivery or service by mail on the [occupant] Occupant, the [owner] Owner or Responsible Party must file [5] five (5) copies of the [application] Application at the offices of the Loft Board, along with proof of service of the [application] Application upon the [occupant] Occupant. Proof of service is required at the time of filing the access [application] Application with the Loft Board.

- (ii) The [occupant] Occupant must file with the Loft Board [5] five (5) copies, including the original, of a written answer in response to the [application] Application within [15 calendar] fifteen (15) days after service of the [application] Application is deemed complete. Service is deemed complete on the date of personal service or [5

calendar] five (5) days after the [owner] Owner or Responsible Party mailed the [application] Application.

- (iii) (A) Before the [occupant] Occupant files an answer with the Loft Board, the [occupant] Occupant must serve a copy of the answer on the [owner] Owner or Responsible Party by regular mail at the address designated on the [application] Application. Occupant may, in addition, send a copy to the Owner or Responsible Party via email, if the Owner or the Responsible Party has consented to such service and provided the Occupant with a current and valid email address. Both [owner] Owner or Responsible Party and [occupant] Occupant will be notified of a hearing date, which will not be fewer than [8 calendar] eight (8) days or more than [15 calendar] fifteen (15) days from the mailing of the notice. There will be no more than one adjournment per party, limited to [7 calendar] seven (7) days, for good cause shown. Except as provided herein, the provisions of 29 RCNY § [1-06] 1-21 apply to an [application] Application for access under this subdivision.
- (B) Even if the [occupant] Occupant fails to file an answer, the Loft Board may issue an order granting access.
- (iv) A finding by the Loft Board of failure by the [owner] Owner or Responsible Party to comply with any of the notice provisions of 29 RCNY § 2-01(g) or a finding by the Loft Board that an [occupant] Occupant has unreasonably withheld access may be the basis for a civil penalty in accordance with 29 RCNY § 2-11.1 for each violation of the notice provisions, or the unreasonable denial of access to the unit.
- The necessary and reasonable cost of bringing and pursuing a Loft Board access proceeding that results in a finding that a residential [occupant] Occupant has unreasonably withheld access, including the labor or other costs incurred by the [owner] Owner or Responsible Party because access was unreasonably denied, may be included in the owner's [application] Application for code compliance rent adjustment as an allowable cost to be allocated to such [occupant's residential unit] Occupant's Residential Unit, as provided for in 29 RCNY § 2-01(l)(1).
- (v) The failure of an [occupant] Occupant to comply with a Loft Board order regarding access may be grounds for eviction of that [occupant] Occupant in a proceeding brought before a court of competent jurisdiction.

§ 6. Subdivision (h) of Section 2-01 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

- (h) *Unreasonable interference with use.*

- (1) Whenever reasonably possible, work to achieve code compliance should be performed without any, including the temporary, dislocation of [occupants] Occupants from their units and with minimal disruption to the [occupants'] Occupants' use of their units. The [owner] Owner or Responsible Party must take all reasonable actions to ensure that code compliance work does not unreasonably interfere with the use of any occupied unit. Arrangements should be made for each day's work to be a full day's work, to the extent possible. Scheduling of work must be done, to the extent possible, in a fashion that minimizes disruptions in the provision of essential services. Regular maintenance must be performed within the [building] Building during the construction period, except when construction renders regular maintenance impossible.
- (2) After the filing of an [alteration application] Alteration Application by the [owner] Owner or Responsible Party, but before the issuance of a building permit, [occupants] Occupants who object to the proposed work because it will unreasonably interfere with the use of their units must oppose the proposed plan as provided in 29 RCNY § [2-01(d)(2)(viii)(A)] 2-01(d)(2)(ix)(A). After a permit has been issued through the process described in 29 RCNY § 2-01(d)(2), in which the [occupants] Occupants have had an opportunity to participate, the [occupants] Occupants may raise no further objections to the scope of the work approved under the permit on the grounds that it constitutes an unreasonable interference with the use of their units.
- (3)
 - (i) In the case of an IMD for which a building permit for achieving code compliance with [Article] Art. 7-B, alternative building codes or provisions of the [M.D.L.] MDL has been issued and is in effect as of the date of adoption of these regulations, such that 29 RCNY § 2-01(d)(2) is not applicable, an [occupant] Occupant of such an IMD may file an [application] Application pursuant to this subdivision (h) on the grounds that the scope of the work approved under the permit constitutes an unreasonable interference with the [occupant's] Occupant's use of its unit. This subparagraph (i) is not applicable to IMD units subject to [Article] Art. 7-C pursuant to MDL § 281(5) or 281(6).
 - (ii) *IMD Units Subject to [Article] Art. 7-C pursuant to MDL § 281(5) as a result of the 2010 amendments to the Loft Law.* An [occupant] Occupant of an IMD unit subject to [Article] Art. 7-C pursuant to MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapter 135 or 147 of the Laws of 2010 may file an unreasonable interference [application] Application under this subdivision (h) if: (1) an [alteration permit] Alteration Permit was in effect on June 21, 2010; (2) the [occupant] Occupant was not able to participate in the narrative statement process because 29 RCNY § 2-01(d)(2) was not applicable to the IMD at the time of the issuance of the [alteration permit] Alteration Permit; and (3) the scope of the work approved under the [alteration permit]

Alteration Permit constitutes an unreasonable interference with the [occupant's] Occupant's use of the unit.

- (iii) *IMD Units Subject to [Article] Art. 7-C pursuant to MDL § 281(5) as a result of the 2013 amendments to the Loft Law. An [occupant] Occupant of an IMD unit subject to [Article] Art. 7-C pursuant to MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapter 4 of the Laws of 2013 may file an unreasonable interference [application] Application under this subdivision (h) if: (1) an [alteration permit] Alteration Permit was in effect on June 1, 2012; (2) the [occupant] Occupant was not able to participate in the narrative statement process because 29 RCNY § 2-01(d)(2) was not applicable to the IMD at the time of the issuance of the [alteration permit] Alteration Permit; and (3) the scope of the work approved under the [alteration permit] Alteration Permit constitutes an unreasonable interference with the [occupant's] Occupant's use of the unit.*
- ~~(iv) *IMD Units Subject to Art. 7-C pursuant to MDL § 281(5) as a result of the 2015 amendments to the Loft Law. An Occupant of an IMD unit subject to Art. 7-C pursuant to MDL § 281(5) that became subject to Art. 7-C pursuant to Chapter 20 of the Laws of 2015 may file an unreasonable interference Application under this subdivision (h) if: (1) an Alteration Permit was in effect on June 15, 2015; (2) the Occupant was not able to participate in the narrative statement process because 29 RCNY § 2-01(d)(2) was not applicable to the IMD at the time of the issuance of the Alteration Permit; and (3) the scope of the work approved under the Alteration Permit constitutes an unreasonable interference with the Occupant's use of the unit. Upon the request of the Owner, Responsible Party or the Occupant(s), the Loft Board staff may schedule a conference for any IMD unit for which 29 RCNY § 2-01(d)(2) does not apply.*~~
- ~~(v) *IMD Units Subject to Art. 7-C pursuant to MDL §§ 281(5) and 281(6) as a result of the 2019 amendments to the Loft Law. An Occupant of an IMD unit subject to Art. 7-C pursuant to MDL § § 281(5) and 281(6) that became subject to Art. 7-C pursuant to Chapter 41 of the Laws of 2019 may file an unreasonable interference Application under this subdivision (h) if: (1) an Alteration Permit was in effect on June 25, 2019; (2) the Occupant was not able to participate in the narrative statement process because 29 RCNY § 2-01(d)(2) was not applicable to the IMD at the time of the issuance of the Alteration Permit; and (3) the scope of the work approved under the Alteration Permit constitutes an unreasonable interference with the Occupant's use of the unit. Upon the request of the Owner, Responsible Party or the Occupant(s), the Loft Board staff may schedule a conference for any IMD unit for which 29 RCNY § 2-01(d)(2) does not apply.*~~

§ 7. Paragraph (2) of Subdivision (i) of Section 2-01 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

(2) *Rent Adjustments Based on the Cost of Code Compliance.*

- (i) (A) An [owner] Owner or Responsible Party may apply for rent adjustments based on the necessary and reasonable costs of compliance:
- (a) once upon certification of compliance with [Article] Art. 7-B of the MDL, alternative local building codes or provisions of the MDL, by a registered architect or a professional engineer licensed in the State of New York or upon issuance of a temporary residential certificate of occupancy, or
 - (b) once upon issuance of a final residential certificate of occupancy, or both.
- (B) Notwithstanding any other provision of this title and in addition to any rights afforded to [owner] Owners or Responsible Parties or [tenants] Tenants under this section, in accordance with MDL § 286(3), if an [owner] Owner or Responsible Party applies for a rent adjustment based on the code compliance costs for compliance with [Article] Art. 7-B of the MDL and the Loft Board approves of such compliance, the Loft Board shall set the initial legal regulated rent, and each residential [occupant] Occupant qualified for protection pursuant to [Article] Art. 7-C shall be offered a residential lease subject to the provisions regarding evictions and regulation of rent set forth in the Emergency Tenant Protection Act of 1974, except to the extent the provisions of [Article] Art. 7-C are inconsistent with such act. If the initial legal regulated rent has been set based upon [Article] Art. 7-B compliance only, a further adjustment may be obtained upon the obtaining of a residential certificate of occupancy.
- (C) Except as set forth in this paragraph, the rent adjustment [application] Application based on code compliance costs filed with the Loft Board for IMD units covered under [Article] Art. 7-C pursuant to MDL § 281(1), may include those necessary and reasonable code compliance costs incurred prior to June 21, 1982 for which the residential [occupants] Occupants have not either reimbursed or begun to reimburse the [owner] Owner or Responsible Party. A residential [occupant] Occupant who claims that reimbursement has been or is being made for such costs [shall be required to] must present satisfactory proof of such reimbursement to the Loft Board.

- (D) Except as provided in this subparagraph, rent adjustments shall be allowed for necessary and reasonable code compliance costs incurred by an [owner] Owner or Responsible Party in obtaining the building permit under which code compliance work is performed and for necessary and reasonable costs incurred for code compliance work performed after the issuance of such a permit.

[(a)] (a) *Limitations of Rent Adjustments Based on Costs of Compliance.*

1. An [owner] Owner or Responsible Party who has failed to register its [building] Building as an IMD:
 - (i) on or before December 1, 1985, in the case of a [building] Building covered by [Article] Art. 7-C pursuant to MDL § 281(1) or,
 - (ii) on or before February 11, 1993, in the case of a [building] Building which is covered by [Article] Art. 7-C solely pursuant to MDL § 281(4) or,
 - (iii) on or before September 11, 2013, the effective date of this rule, in the case of a [building] Building covered by [Article] Art. 7-C pursuant to MDL § 281(5), shall be allowed rent adjustments only for necessary and reasonable code compliance costs incurred after registration.
2. An [owner] Owner or Responsible Party who fails to register its [building] Building as an IMD:
 - (i) on or before March 1, 1986, in the case of a [building] Building covered by [Article] Art. 7-C pursuant to MDL § 281(1) or,
 - (ii) on or before May 11, 1993, in the case of a [building] Building which is covered by [Article] Art. 7-C solely pursuant to [M.D.L.] MDL § 281(4) or,
 - (iii) on or before December 10, 2013, 90 [calendar] days after the effective of this rule, in the case of a [building] Building covered by [Article] Art. 7-C pursuant to MDL § 281(5), shall be allowed only the necessary and reasonable code compliance costs incurred after registration, and such

costs shall be based upon the schedule of costs referenced in subdivision (p) below, without indexing, regardless of when such costs were incurred.

- (ii) An [application] Application filed pursuant to this paragraph (2) of 29 RCNY § 2-01(i) [shall] must be filed no later than nine (9) [months] Months after the [owner] Owner or Responsible Party has obtained a certificate of occupancy or February 1, 2000, whichever date is later. An [owner] Owner or Responsible Party that fails to file an [application] Application for code compliance rent adjustments in a timely manner pursuant to this provision shall be deemed to have waived its right to seek such a rent adjustment. An [application] Application submitted pursuant to this paragraph [shall] must be submitted on a form prescribed by the Loft Board and [shall] must meet the requirements of this paragraph and 29 RCNY §§ [1-06] 1-21 and 2-11, except that for [applications] Applications filed pursuant to clause (A) of subparagraph (iii) of this paragraph, only two copies must be filed plus one for each [affected party] Affected Party, and for precertified [applications] Applications filed pursuant to clause (B) of subparagraph (iii) of this paragraph, only two copies of the [application] Application must be filed. As part of the [application] Application the applicant must submit an itemized statement of costs incurred, including paid bills, cancelled checks or receipts for work performed, any construction contracts, the certificate issued by the [Department of Buildings] DOB for the pertinent level of compliance, and such other information or materials as the Board requires. If the applicant seeks reimbursement for interest and service charges incurred in connection with compliance costs, the applicant must submit the information and materials required under paragraph (4) of 29 RCNY § 2-01(k). In accordance with the provision of 29 RCNY § [1-06(j)(1)] 1-24, the Board may require the applicant to furnish such reports and information as it may require concerning the code compliance work performed and may audit the books and records of the applicant with respect to such matters.
- (iii) An [application] Application filed pursuant to this paragraph (2) of 29 RCNY § 2-01(i) may be submitted to the Loft Board for an audit or may be precertified pursuant to clause (B) of this subparagraph.
- (A) If the [application] Application is not precertified, the Loft Board shall audit the [application] Application to ascertain whether the code compliance costs set forth in the [application] Application:
- (a) are substantiated by invoices and copies of cancelled checks or other similarly reliable documentary evidence submitted as part of the [application] Application; and

- (b) do not exceed the reasonable code compliance costs set forth in the schedule contained in these rules. Once the Loft Board's audit of an [application] Application is completed, the Executive Director shall, by first class mail, send the affected residential [occupants] Occupants a copy of the [owner's application] Owner's or Responsible Party's Application and send the affected residential [occupants] Occupants and the [owner] Owner or Responsible Party a copy of the auditor's report.
- (B) An [owner] Owner or Responsible Party shall have the option to file a precertified [application] Application for code compliance rent adjustments pursuant to this clause (B). Costs attributable solely to the precertification of the [application] Application shall not be included as reimbursable code compliance costs. A precertified [application shall] Application must meet the requirements of subparagraph (ii) of this paragraph as to form and content, [shall] must be served on all affected residential [occupants] Occupants, and [shall] must be filed, together with:
- (a) certification by a certified public accountant ("CPA"), certifying that said CPA has audited the code compliance cost information contained in the [application] Application and that the code compliance costs set forth in the [application] Application (i) are substantiated by invoices and copies of cancelled checks or other similarly reliable documentary evidence; and (ii) do not exceed the reasonable code compliance costs set forth in the schedule contained in these rules;
- (b) certification by a registered architect that the code compliance work described in the [application] Application for which the [owner] Owner or Responsible Party seeks reimbursement has been performed, meets the requirements of MDL [Article] Art. 7-B, and is reimbursable pursuant to these rules; and
- (c) proof of service of the precertified [application] Application upon all affected residential [occupants] Occupants.
- (C) Residential [occupants] Occupants may, no later than [45] forty-five (45) days following mailing by the Loft Board of the auditor's report pursuant to clause (A) of this

subparagraph or service of a precertified [application] Application pursuant to clause (B) of this subparagraph, as the case may be, serve comments concerning the [application] Application upon the [owner] Owner or Responsible Party, and [shall] must file such comments with the Loft Board along with proof of such service. Comments may include, but are not limited to, such matters as the scope of work performed, its necessity and reasonableness, the quality of the workmanship, and the actual costs claimed by the [owner] Owner or Responsible Party. Such comments [shall] must specify the items in contention and the reasons therefor, and [shall] must be supported by corroborating evidence, e.g., contractors' estimates, invoices, and/or architects' statements. The Executive Director may extend the [45-day] forty-five (45) day period for a period of time not to exceed [21] twenty-one (21) days, upon a written request of a registered architect, contractor or CPA stating that he or she has been retained by an affected residential [occupant] Occupant for the purpose of reviewing the [owner's application] Owner's or Responsible Party's Application and the Loft Board audit, where an audit has been performed, and stating the reason an extension of time is needed to complete such review. Within the [45-day] forty-five (45) day period, or within the period of any extension granted by the Executive Director, an affected residential [occupant] Occupant may request that the Executive Director schedule a conference at the offices of the Loft Board with the owner or the owner's representative. The conference shall be scheduled expeditiously and shall be limited to the issues presented in the [owner's application] Owner's or Responsible Party's Application and in the Loft Board audit, where an audit has been performed.

- (D) If the Executive Director determines that there are no genuine issues of material fact with regard to the [application] Application, the Executive Director shall recommend approval of the [application] Application. [In the event that] If the Executive Director finds that a genuine issue of material fact has been raised with regard to any item in the [application] Application, he or she shall proceed with respect to such item in accordance with clause (E) or (F) of this subparagraph, as appropriate, and at the same time shall recommend approval of the part of the [application] Application as to which he or she has determined there are no genuine issues of material fact. In considering the [application] Application under this clause (D), the Board shall review the [application] Application, the comments submitted, and the recommendation of the Executive Director, and shall determine whether to approve the [application] Application or any part thereof.

(E) Where the Executive Director finds that a genuine issue of material fact has been raised he or she may take appropriate action to obtain such relevant information as in his or her discretion is necessary to assist him or her in reaching a determination. Such action may include, but shall not be limited to, ordering an inspection of the premises, directing the parties to serve and file additional information or corroborating evidence in support of their positions, holding an informal conference with the parties, or directing that a hearing be scheduled pursuant to the provisions of clause (F) of this subparagraph. No later than [45] forty-five (45) days following the end of the period in which residential [occupants] Occupants may submit comments pursuant to clause (C) of this subparagraph, the Executive Director shall either make findings of fact and a recommended determination to the Board, or shall direct that a hearing be scheduled pursuant to clause (F) of this subparagraph; provided, however, that the [45-day] forty-five (45) day period shall be extended an additional [30] thirty (30) days if, prior to the expiration of the [45-day] forty-five(45) day period, the Executive Director has requested additional information or documentary evidence pursuant to item (2) of this clause (E) and the time to provide such additional information or documentary evidence, or to respond to such additional information or documentary evidence, has not yet passed. In making a recommended determination pursuant to this clause (E), the Executive Director shall consider, and shall make available to the Board, the [application] Application, any comments of the residential [occupants] Occupants, inspection results, information provided by the parties at an informal conference, additional comments, information or corroborating evidence submitted by the parties in writing, or other relevant information.

(a) If the Executive Director orders an inspection of the premises, the results of the inspection shall be mailed to the parties within three [business days] (3) Business Days of completion of such inspection, and the parties may serve and file comments concerning the inspection results within eight [business days] (8) Business Days after the date of mailing of such results.

(b) A party directed to serve and file additional information or documentary evidence [shall] must serve and file the additional information or evidence within fourteen (14) [business days] Business Days of such order. The party upon whom the additional information or evidence has been served [shall]

must serve and file its response, if any, within five [business days] (5) Business Days after service of the information or evidence.

- (c) If the Executive Director obtains any other relevant information to assist [him] in making [his] a recommended determination under this clause (E), the Executive Director shall ensure the parties are provided with such information, shall provide the parties an opportunity to comment in writing on such information within up to [15_business days] fifteen (15) Business Days after service thereof, and shall provide the parties an opportunity to respond to each other's comments within five [business days] (5) Business Days after service of such comments.
- (F) If the Executive Director determines that a genuine issue of material fact has been raised which may be resolved only by a hearing, the Executive Director may bifurcate the [application] Application into two parts:
- [(1)] (a) the part that requires no hearing, which shall proceed pursuant to clause (D) or (E) of this subparagraph, as applicable, and
- [(2)] (b) the part as to which a hearing is required, which shall proceed pursuant to this clause (F). Such hearing may be preceded by an informal conference, but in any case, shall be commenced not more than [30] thirty (30) days after the decision of the Executive Director to bifurcate the [application] Application, unless the parties stipulate in writing otherwise. Within [30] thirty (30) days after the conclusion of the hearing, the hearing officer shall make findings of fact and a recommended determination. In making the recommended determination the hearing officer shall consider, and shall make available to the Board, the [application] Application, any comments of the residential [occupants] Occupants, inspection results, information provided by the parties at an informal conference, additional comments, information or corroborating evidence submitted by the parties in writing, testimony given at any hearing, or other relevant information. The hearing officer shall submit his recommended determination with respect to the portion of the [application] Application proceeding pursuant to this clause (F) to the Board for its consideration.

- (G) Nothing in this subparagraph (iii) of 29 RCNY § 2-01(i)(2) shall be construed to preclude partial approval of an [application] Application by the Board pursuant to clause (D) or (E) of this subparagraph prior to a hearing pursuant to clause (F). If the Board issues an initial order determining the portion of the [application] Application that proceeded under clause (D) or (E) of this subparagraph and grants a rent adjustment to the [owner] Owner or Responsible Party pending the conclusion of a hearing pursuant to clause (F), the [owner] Owner or Responsible Party may continue to collect rents in the amounts stated in the initial order unless and until a supplementary order is issued.
- (iv) In evaluating all [applications] Applications for code compliance rent adjustments, the Loft Board shall review the [owner's application] Owner's or Responsible Party's Application, the comments of residential [occupants] Occupants, the Loft Board schedule of costs described in 29 RCNY § 2-01(j), or alternative schedule described below, and any other information considered by the Executive Director and the hearing officer in making a recommended determination. The Board shall determine the necessary and reasonable code compliance costs incurred by the [owner] Owner or Responsible Party, which shall be charged to all affected residential [occupants] Occupants as rent adjustments. Owners or Responsible Parties shall be allowed to pass along no more than the costs recited in the current Loft Board schedule as of the date on which the construction contract(s) is (are) entered into for items included in the contract(s), except as provided in the first paragraph of this subdivision (i) and other necessary and reasonable costs not on the schedule pursuant to 29 RCNY § 2-01(j) below. For items not included in the construction contract(s), costs will be determined based upon the schedule in effect at the time work was performed and 29 RCNY § 2-01(j) below. Owners or Responsible Parties submitting [applications] Applications on or after June 1, 1989 shall be allowed to pass along no more than the costs recited in the revised schedule of costs promulgated by the Board on October 25, 1990. In all cases, if actual compliance costs are less than the amount recited in the Loft Board schedule, rent adjustments shall reflect the lesser actual costs.
- (v) An [owner] Owner or Responsible Party may elect that the Loft Board shall deem the total cost of compliance to be the amounts certified by the Department of Housing Preservation and Development in any certificate of eligibility issued in connection with an application for tax exemption or tax abatement (such as "J-51") to the extent that such certificate reflects categories of costs approved by the Loft Board.

- (vi) An [owner] Owner or Responsible Party may expressly waive its right to a rent adjustment based on the cost of compliance. To do so, it [shall] must indicate its waiver decision on the Notice of RGB Increase form described in 29 RCNY § 2-01(i)(1) and follow the procedures therein for notification of the affected [occupants] Occupants. In addition, an [owner] Owner or Responsible Party may be deemed to have waived its right to a rent adjustment based on the cost of compliance pursuant to 29 RCNY § 2-01(i)(2)(ii).
- (vii) Whenever service upon parties is required in this 29 RCNY § 2-01(i)(2), service shall be made, and proof of service filed, in accordance with the requirements of 29 RCNY § 2-01(d)(1)(i).
- (viii) If the Loft Board finds, following notice and an opportunity to be heard, that an architect or CPA has knowingly made a misleading material statement in the context of a certification issued pursuant to 29 RCNY § 2-01(i)(2)(iii)(B), the Loft Board may refuse to accept subsequent certifications from such architect or CPA, and shall refer its findings to the appropriate licensing agency.

§ 8. Clause (C) of Subparagraph (ii) of Paragraph (4) of Subdivision (k) of Section 2-01 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

- (C) Additional documentation required for a loan from a qualified noninstitutional lender that is related to the applicant by blood, marriage or ownership of stock, partnership interests or other ownership interests. In the case of a loan from any qualified noninstitutional lender that is related to the applicant by blood, marriage or ownership of stock, partnership interests or other ownership interests, an applicant must submit, in addition to the documents enumerated in Section 2-01(k)(4)(ii)(A) and (B), [sentences (ii) and (iii) of subparagraph (b) of this paragraph], a statement from the lender's certified public accountant to the effect that the loan under consideration is a bona fide loan and that the interest payable thereunder has been included or is includable as income in the lender's federal income tax return or, alternatively, a true and correct copy (certified as such by the lender or the lender's certified public accountant) of the lender's federal income tax return(s) (or the applicable schedules thereto) showing that such interest has been included in the lender's income for federal income tax purposes for each year to date of such application that interest under the loan has been paid to an including the most recent year in which a federal income tax return has been filed; and copies (both sides) of canceled checks drawn on an account of the lender evidencing payment of the proceeds of the loan to or on behalf of the [owner] Owner or

Responsible Party. The Loft Board shall approve a noninstitutional lender in determining rent adjustments pursuant to 29 RCNY § 2-01(k)(2); provided, however, in the case of a qualified noninstitutional lender that is related to the applicant by blood, marriage or ownership of stock, partnership interests or other ownership interests, that the applicant submits reliable evidence (in the form described above) that the loan under consideration is a bona fide loan. Service charges shall be reimbursable only to the extent that they have been paid on or prior to the date of [application] Application and only when supported by reliable evidence (in the form described above). Only that portion of interest charges on a noninstitutional loan that does not exceed 2 points over the Federal National Mortgage Association's yield on multi-family, 15-year fixed-rate loans shall be included in rent adjustments. The procedures for [applications] Applications to the Loft Board set forth in 29 RCNY § [1-06] 1-21 of these rules shall not apply to Applications for Non- Institutional Lender Approval. The [owner shall be required to] Owner or Responsible Party must submit two copies of the Application for Non-Institutional-Lender Approval. Such [application] Application will be approved provided such filing contains the information required by these rules. The portions of the preceding provisions of 29 RCNY § 2-01(k) pertaining to loans from qualified noninstitutional lenders (specifically, the reference to qualified noninstitutional lenders in 29 RCNY § 2-01(k)(2)(ii), and (k)(4)(i)(B), (k)(4)(ii)(B), (k)(4)(ii)(C), and the paragraph immediately following 29 RCNY § 2-01(k)(4)(ii)(C) shall terminate on June 30, 1995 unless extended by the Loft Board.

§ 9. Subdivision (a) of Section 2-01.1 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

- (a) *Definition of Reasonable and Necessary Action.*
- (1) Reasonable and necessary action to obtain a certificate of occupancy, as used in § 284(1) of the [Multiple Dwelling Law ("MDL")] MDL, means deliberate, diligent, and consistent action from the beginning of [Article] Art. 7-C coverage through the issuance of a final residential certificate of occupancy for the IMD [building] Building, or the issuance of a final certificate of occupancy for the residential portions of the IMD [building] Building. Failure to take reasonable and necessary action to obtain a residential certificate of occupancy issued pursuant to MDL § 301 is a violation of this section.
- (i) *Factors to consider.* In deciding whether an [owner] Owner or Responsible Party has been taking all reasonable and necessary actions to obtain a certificate of occupancy pursuant to subdivision

(a) above, the Loft Board or its staff may consider but not be limited to the following factors:

- (A) Whether the [owner] Owner or Responsible Party has filed an [alteration application] Alteration Application with the [New York City Department of Buildings ("DOB")] DOB.
 - (B) Whether the [owner] Owner or Responsible Party has timely cleared all DOB objections to obtain the building permit for the alteration.
 - (C) Whether the [owner] Owner or Responsible Party timely obtained a building permit after issuance of the Loft Board certification pursuant to 29 RCNY § [2-01(d)(2)(xi)] 2-01(d)(2)(xii).
 - (D) Whether the building permit for the alteration that the Loft Board certified pursuant to 29 RCNY § [2-01(d)(2)(xi)] 2-01(d)(2)(xii) is in effect.
 - (E) Whether any other current permit to further the legalization of the residential spaces is in effect.
 - (F) Whether the [owner] Owner or Responsible Party has timely engaged a contractor to perform the work necessary to obtain a certificate of occupancy.
 - (G) Whether there has been any stoppage of work due to reasons within the [owner's] Owner's or Responsible Party's control.
 - (H) Whether the [owner] Owner or Responsible Party has timely cleared all DOB objections and violations as required for obtaining a certificate of occupancy.
 - (I) Whether the [owner] Owner or Responsible Party has timely scheduled all DOB inspections required for obtaining a certificate of occupancy.
- (ii) [*Monthly*] Quarterly Reports about Legalization Projects.
- (A) Any IMD [owner] Owner or Responsible Party who has not been issued a final residential certificate of occupancy issued pursuant to MDL § 301 for the IMD units must file with the Loft Board a [monthly] quarterly report relating to the legalization projects in the [building] Building on the approved Loft Board form, as available on the Loft Board's website or at the offices of the Loft Board. In the case of IMD [buildings] Buildings owned by a cooperative or a condominium, the cooperative or condominium board is responsible for the filing of the [monthly] quarterly report.

The report is due on the first [business day] Business Day of [every month] January, April, July and October. The Loft Board or its staff may require the Owner or Responsible Party to file additional reports.

- (B) The report must be signed by the [owner] Owner or Responsible Party of the IMD [building] Building and a registered architect or professional engineer.
 - (C) The information provided in the report may be used as evidence in connection with a Loft Board determination as to whether the [owner] Owner or Responsible Party has exercised all reasonable and necessary action to obtain a final residential certificate of occupancy.
 - (D) The Executive Director may issue a fine in accordance with 29 RCNY § 2-11.1 for failure to file the legalization report for each report not filed on the first [business day] Business Day of each [month] quarter.
 - (E) The filing of a false statement in [the monthly] a report may result in fines in accordance with 29 RCNY § 2-11.1 for each false statement in [the monthly] a report.
- (2) An [owner] Owner may not delegate its obligation to exercise reasonable and necessary action to obtain a final residential certificate of occupancy for the IMD units.

§ 10. Section 2-02 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

§ 2-02 Harassment.

- (a) *Applicability.* These [harassment] Harassment rules apply to all [harassment[applications] Harassment Applications filed with the Loft Board, after September 11, 2013[, the effective date of this amended rule]. Harassment [applications] Applications are subject to the [harassment] Harassment rule in effect on the date of the initial filing of the [application] Application.

All orders of [harassment] Harassment must be kept in the Loft Board's records and in the office of the City Register in accordance with the provisions of 29 RCNY § 2-02(d)(1)(iii).

- (b) *Definitions.*

Harassment means any course of conduct or single act engaged in by the Owner, [landlord] Landlord or any other [person] Person acting on [its] such Owner's behalf that interferes with or disturbs the comfort, repose, peace or quiet of an [occupant] Occupant in the [occupant's] Occupant's use or occupancy of its unit. [if such] Such conduct [is] must be intended to cause the [occupant] Occupant to vacate the [building] Building or unit, or to surrender or waive any rights of such [occupant]

Occupant under the [occupant's] Occupant's written lease or other rental agreement or pursuant to [Article] Art. 7-C. Harassment may also include any act or course of conduct by a [prime lessee] Prime Lessee or any [person] Person acting on [his or her] such Prime Lessee's behalf that would constitute ["harassment"] Harassment if engaged in by the [landlord] Owner or Landlord against any of the [prime lessee's] Prime Lessee's current or former subtenants who are residential [occupants] Occupants qualified for [the] protection under [Article] Art. 7-C.

Harassment includes, but is not limited to, the intentional interruption or discontinuance of or willful failure to provide or to restore services customarily provided in the [building] Building or required by written lease or other rental agreement or, for residential [occupants] Occupants qualified for the protections of [Article] Art. 7-C, by the Loft Board rules regarding minimum housing maintenance standards. Harassment does not include either the lawful termination of a tenancy or lawful refusal to renew or extend a written lease or other rental agreement, or acts performed in good faith and in a reasonable manner for the purposes of operating, maintaining or repairing any [building] Building or part thereof.

There is no requirement that the [landlord's] Landlord's actions or inactions be illegal to constitute [harassment] Harassment. The Loft Board may find that a particular act constitutes [harassment] Harassment whether it was directed toward one [tenant] Tenant or multiple [tenants] Tenants.

Landlord means the [owner] Owner of an IMD, [the lessee] a Prime Lessee of a whole [building] Building all or part of which contains IMD units, or the agent, executor, assignee of rents, receiver, trustee, or other [person] Person having direct or indirect control of such [building] Building.

Occupant, unless otherwise provided, means a residential occupant eligible for or qualified for the protections of [Article] Art. 7-C, [or] any other residential [tenant] Tenant or any non-residential tenant [of an IMD building].

Ongoing Course of Conduct, for purposes of this section, means actions or inactions by or on behalf of the [landlord] Landlord that when considered together, show a [continuous pattern of behavior] Continuous Pattern of Behavior.

Continuous Pattern of Behavior, includes, but is not limited to, acts, at least one of which happened within [180 calendar] one hundred and eighty (180) days preceding the filing of the [harassment application] Harassment Application, that show a sequence of events that are similar in nature or a sequence of events that are reasonably related.

- (c) *Procedures for considering [harassment applications] Harassment Applications.*
- (1) It is unlawful for a [landlord] Landlord or any other [person] Person acting on its behalf to engage in conduct constituting [harassment] Harassment against any [occupant] Occupant of an IMD [building] Building. A [harassment application] Harassment Application may be filed with the Loft

Board by [occupant(s)] Occupant(s) of an IMD [building] Building. The [application] Application must be filed on a form approved by the Loft Board and will be processed in accordance with 29 RCNY § [1-06] 1-21, and the specific requirements provided below.

- (2) (i) The description of the conduct complained of must contain the actual or approximate date(s) on which such conduct occurred, the manner and location of each occurrence, and if the complaint is filed on behalf of more than one [occupant] Occupant, the [occupants] Occupants against whom the occurrence was directed. The [application] Application must be filed within [180 calendar] one hundred and eighty (180) days of the conduct complained of, or where an [ongoing course of conduct] Ongoing Course of Conduct is alleged, as defined in subdivision (b), the [application] Application must be filed within [180 calendar] one hundred and eighty (180) days of the last occurrence.
- (ii) Reserved.
- (iii)) (ii) If the Loft Board finds that an applicant has filed a [harassment application] Harassment Application in bad faith or in wanton disregard of the truth, the applicant may be subject to a civil penalty as determined by the Loft Board in 29 RCNY § 2-11.1.
- (3) The applicant must serve all [affected parties] Affected Parties, as defined in 29 RCNY § [1-06(a)(2)] 1-21(b), with a copy of the [application] Application in accordance with the terms and procedures requiring service and proof of service of the [application] Application as described in 29 RCNY § [1-06(b)] 1-21.

Where a [harassment application] Harassment Application solely alleges that the [owner's] Owner's or Responsible Party's challenge of a sale of improvements is frivolous, the applicant must serve only the [owner] Owner or Responsible Party as an [affected party] Affected Party.

[Instructions for filing an answer ("Instruction Form") and an] An answer form must be enclosed with the copy of the [application] Application sent to the [affected parties.] Affected Parties Instructions for filing an answer must advise the [owner] Owner or Responsible Party that a finding of [harassment] Harassment may affect the [owner's] Owner's or Responsible Party's ability to decontrol or to obtain market rentals for covered IMD units pursuant to MDL §§ 286(6) and 286(12) and the Loft Board's rules. Inclusion of [the Loft Board's approved Instruction Form] an answer form with the [application] Application at the time of service constitutes compliance with this paragraph.

- (4) Parties have [15 calendar] fifteen (15) days after the date on which service of the [application] Application was completed, calculated from the mailing date shown on the certificate of mailing filed with the Loft Board, to file an answer with the Loft Board. [Five copies] Copies of the answer

with proof of service of the answer on the applicant(s), as described in 29 RCNY § [1-06(e)] 1-22(c), must be filed at the offices of the Loft Board.

- (5) (i) Following the expiration of the deadline for filing an answer, the Loft Board or the [Office of Administrative Trials and Hearings ("OATH")] Trials Division of OATH will send, by regular mail, a notice of conference to the [affected parties] Affected Parties. The notice of conference will schedule a date and time for an informal conference as soon as possible, but no sooner than [15 calendar] fifteen (15) days from the date of mailing the notice of conference. The notice of conference sent to the [owner] Owner or Responsible Party will advise the [owner] Owner or Responsible Party that a finding of [harassment] Harassment may affect the [owner's] Owner's or Responsible Party's ability to decontrol or to obtain market rentals for covered IMD units pursuant to MDL §§ 286(6) and 286(12) and the Loft Board's rules.
- (ii) The informal conference may be conducted by the Loft Board staff or OATH with the [affected parties] Affected Parties in an effort to resolve and alleviate the conditions and events alleged. Where resolution to the mutual satisfaction of the parties is achieved, a stipulation containing the terms of the resolution and the penalties, if any, for its breach must be executed by the parties and filed with the Loft Board for its approval on the Loft Board's summary calendar.
- (6) Where charges of [harassment] Harassment remain unresolved following the informal conference, a hearing on the allegations in the [harassment application] Harassment Application will be held in accordance with the procedures of 29 RCNY § [1-06] 1-27 and the following:
- (i) The hearing will be limited to the charges contained on the original [application] Application, as modified at the conference, and any additional charges of [harassment] Harassment arising as a result of conduct occurring after the conference.
- (ii) The acts performed by an [occupant] Occupant in good faith and in a reasonable manner for the purposes of operating a non-residential conforming use will be presumed not to constitute [harassment] Harassment. The presumption may be rebutted by a showing that the acts were performed on the [landlord's] Landlord's behalf and intended to cause another [occupant] Occupant to vacate the [building] Building, or its unit or to surrender or waive any rights of such [occupant] Occupant under the [occupant's] Occupant's written lease or other rental agreement or pursuant to [Article] Art. 7-C.
- (iii) A finding by the Loft Board that the [owner] Owner or Responsible Party has willfully violated the code compliance timetable or has violated the code compliance timetable more than once may be

considered as evidence of [harassment] Harassment. (See rules on Code Compliance – 29 RCNY § 2-01(c)(5)).

- (iv) The issuance of a municipal vacate order for hazardous conditions as a consequence of the [owner's] Owner's or Responsible Party's unlawful failure to comply with the code compliance timetable will result in a rebuttable presumption of [harassment] Harassment. (See rules on Code Compliance – 29 RCNY § 2-01(c)(6)).
 - (v) A finding by the Loft Board of unreasonable and willful interference with an [occupant's] Occupant's use of its unit by the [landlord] Landlord or its agents may be considered as evidence of [harassment] Harassment. (See rules on Code Compliance – 29 RCNY § 2-01(h)).
 - (vi) A finding by the Loft Board of a willful violation of Minimum Housing Maintenance Standards may be considered as evidence of [harassment] Harassment of residential [tenants] Tenants. (See rules on Enforcement of Minimum Housing Maintenance Standards – 29 RCNY § 2-04(e)(6)).
 - (vii) A finding by the Loft Board that the filing of an [application] Application by the [owner] Owner or Responsible Party objecting to the sale of improvements was frivolous may be considered as evidence of [harassment] Harassment of residential [tenants] Tenants. An objection to the sale may be found to be frivolous on grounds including, but not limited to, the following:
 - (A) That it was filed without a good faith intention to purchase the improvements at fair market value or
 - (B) That the [owner's] Owner's or Responsible Party's 'valuation of the improvements has no reasonable relationship to the fair market value, as determined by the Loft Board. (See rules on Sales of Improvements – 29 RCNY § 2-07(g)(1)(ii)). At the [occupant's] Occupant's request the Loft Board will issue its findings on a pending [harassment application] Harassment Application based upon the allegation that the [owner's] Owner's or Responsible Part objection to the sale of improvements is frivolous, or any other pending [harassment application] Harassment Application in the [building] Building, concurrently with its determination of the [owner's] Owner's or Responsible Party's challenge.
 - (viii) A determination by a civil or criminal court of [landlord harassment] Landlord Harassment of an [occupant(s)] Occupant(s) may be considered as evidence of [harassment] Harassment.
- (d) *Findings of [harassment] Harassment.*

- (1) (i) *Effect of [harassment] Harassment finding.* A [landlord] Landlord that is found by the Loft Board to have harassed an [occupant] Occupant will not be entitled to the decontrol of or market rental for any IMD unit after a sale of improvements pursuant to MDL § 286(6) of [Article] Art. 7-C and these rules. This restriction applies to any sale of improvements that takes place on or after the date of the order containing the finding of [harassment] Harassment until the date the order is terminated in accordance with 29 RCNY § 2-02(d)(2). This restriction may also apply to any sale of rights pursuant to MDL § 286(12) and 29 RCNY § 2-10 that takes place on or after the date of the order containing the finding of [harassment] Harassment until the date the order is terminated in accordance with 29 RCNY §§ 2-02(d)(2).
- (ii) *Civil penalty for a finding of [harassment] Harassment.* If the Loft Board finds that a [landlord] Landlord harassed an [occupant] Occupant, the [landlord] Landlord may be liable for a civil penalty as determined by the Loft Board in 29 RCNY § 2-11.1 for each occurrence that is found to constitute [harassment] Harassment. Registration as an IMD will not be issued or renewed for any [building] Building for which fines have been imposed for [landlord harassment] Landlord Harassment until all fines have been paid.
- (iii) *Notice of a [harassment] Harassment finding.* The order containing the finding of [harassment] Harassment is binding on all individuals or parties who succeed to the [landlord's] Landlord's interest in the premises until the [harassment] Harassment order is terminated in accordance with 29 RCNY § 2-02(d)(2) below. A copy of the Loft Board's order containing the finding of [harassment] Harassment will be mailed to the applicant, the [owner] Owner or Responsible Party, and the [affected parties] Affected Parties to the proceeding. Notice of such order will be filed by the Loft Board in the office of the City Register.
- (iv) *Effect on other relevant laws.* The procedure provided in this rule operates in addition to any procedures provided under other provisions of law and must not be construed to alter, affect or amend any right, remedy or procedure that may exist under any other provisions of law, including, but not limited to the following:
- (A) An [occupant] Occupant may apply to the Supreme Court of the State of New York for an order enjoining a [landlord] Landlord from [harassment] Harassment pursuant to § 235-d(4) of the Real Property Law and may pursue all other remedies in relation to [harassment] Harassment including the award of damages before a court of competent jurisdiction.
- (B) Upon the request of a residential [occupant] Occupant who either vacates, has been removed from or is otherwise

prevented from occupying its unit as a result of [harassment] Harassment, a [landlord] Landlord must take all reasonable and necessary action to restore the [occupant] Occupant to its unit, provided that such request is made within [7 calendar] seven (7) days after removal, pursuant to § 26-521(b) of the New York City Administrative Code.

- (C) Residential [occupants] Occupants of IMDs are afforded the protections available to residential [occupants] Occupants pursuant to the Real Property Law and the Real Property Actions and Proceedings Law, including § 223-b of the Real Property Law regarding retaliatory evictions, notwithstanding that such [occupants] Occupants may reside in an owner-occupied IMD having fewer than 4 [residential units] Residential Units.
- (D) Special proceedings pursuant to Article 7-A of the Real Property Actions and Proceedings Law are available to all [occupants] Occupants of IMDs, notwithstanding that such IMDs may contain less than [3] three (3) [residential units] Residential Units.
- (v) *Violation of 29 RCNY § 2-04.* If the OATH Administrative Law Judge assigned to the case finds that the acts alleged by the [occupant] Occupant do not constitute [harassment] Harassment, the Administrative Law Judge may, in the alternative and without the need for the applicant to amend his or her [application] Application or pleadings, consider whether the facts alleged in the application describe an [owner's] Owner's or Responsible Party's failure to provide a service or an [owner's] Owner's or Responsible Party's unlawful diminution of services. If so, upon notice to the [owner] Owner or Responsible Party, the [application] Application may be processed pursuant to the Loft Board's rules regarding diminution of services as described in 29 RCNY § 2-04. Upon notice that the facts alleged will be processed as a diminution of services claim, the [owner] Owner or Responsible Party may seek permission from the Administrative Law Judge to file a response to the claim of diminution of services. The Administrative Law Judge may recommend a fine, in accordance with 29 RCNY § 2-11.1 for any finding of diminution of services.
- (2) (i) *Termination of Harassment Findings.* Where the Loft Board has issued a finding of [harassment] Harassment, the [landlord] Landlord may apply to the Loft Board pursuant to 29 RCNY § [1-06] 1-21, for an order terminating the [harassment] Harassment finding following the expiration of the period of time specified in the [harassment] Harassment order. The order containing the finding of [harassment] Harassment must specify the period of time, within a range of [1 to 3] one (1) to three (3) years from the date of the order of [harassment] Harassment, during which the

[landlord] Landlord is barred from applying for an order of termination. However, where a [landlord] Landlord has been convicted of a crime for conduct found by the Loft Board to constitute [harassment] Harassment, the [landlord] Landlord may apply for an order of termination only after at least [5] five (5) years have passed since the date of the order of [harassment] Harassment. After the period during which the [landlord] Landlord is barred from applying for termination of the [harassment] Harassment finding has expired, the Loft Board may terminate the [harassment] Harassment finding if it finds that:

- (A) Since notification of the order, the [landlord] Landlord has not engaged in the prohibited conduct or any other conduct which constitutes [harassment] Harassment;
 - (B) The [landlord] Landlord has achieved compliance with the fire and safety standards of [Article] Art. 7-B, alternative building codes or provisions of the MDL, as provided in 29 RCNY § 2-01(a) governing Code Compliance Work and as may be exhibited by the issuance of a temporary certificate of occupancy, or [Article] Art. 7-B certification on the approved Loft Board form, or if [Article] Art. 7-B compliance was achieved prior to the date of the order of [harassment] Harassment, has obtained a final residential certificate of occupancy for the IMD units;
 - (C) The [landlord] Landlord has paid all civil penalties assessed in the order of [harassment] Harassment, and there are no other orders of [harassment] Harassment outstanding for the IMD [building] Building; and
 - (D) The [landlord] Landlord is in compliance with 29 RCNY § 2-05 relating to registration of the IMD [building] Building.
- (ii) *Orders Terminating Harassment Findings.* An order terminating a prior Loft Board finding of [harassment] Harassment applies prospectively only, and the [owner] Owner or Responsible Party is not entitled to the decontrol of or market rental for any [residential unit] Residential Unit for which a sale of improvements pursuant to MDL § 286(6) and these Rules has taken place in the period from the date of the order finding [harassment] Harassment to the date of the order terminating such finding.
- (iii) *Suspension or Revocation of Termination of Harassment Orders.* If the Loft Board at a regularly scheduled meeting or at a special session called in accordance with 29 RCNY § [1-03(a)] 1-20 has reasonable cause to believe that [harassment] Harassment is occurring or has occurred at the IMD after the date of an order terminating a prior finding of [harassment] Harassment, the Loft Board shall suspend such order of termination immediately. Notice of such suspension shall be mailed to the [landlord] Landlord and

to all [occupants] Occupants. Upon the [landlord's] Landlord's written request, the Loft Board shall schedule a hearing as soon as reasonably possible but not later than thirty days after the date of receipt of such request to determine whether the order of termination should be reinstated or revoked.

- (iv) *Filing at the City Register.* The order of termination or suspension, reinstatement or revocation of termination must be included among the IMD registration material on file with the Loft Board. The Loft Board will file the notice of termination or notice of suspension, reinstatement or revocation of termination in the office of the City Register.
- (e) *Harassment by prime lessees.*
- (1) "Prime lessee." For the purposes of this [harassment] Harassment rule, the term "prime lessee" means the party with whom the [landlord] Landlord entered into a lease or rental agreement for use and occupancy of a portion of an IMD [building] Building, which is being used residentially, where the prime lessee is not the residential [occupant] Occupant qualified for protection of the unit, regardless of whether the lessee is currently in occupancy of any portion of the space the prime lessee has leased from the [landlord] Landlord or whether the lease remains in effect.
 - (2) It is unlawful for a prime lessee or any other [person] Person acting on his or her behalf to engage in conduct that would constitute ["harassment"] Harassment if engaged in by the [landlord] Landlord, as defined in 29 RCNY § 2-02(b), against any of the prime lessee's current or former subtenants who are residential [occupants] Occupants qualified for the protections of [Article] Art. 7-C. A [harassment application] Harassment Application may be filed with the Loft Board by a residential [occupant] Occupant qualified for the protections of [Article] Art. 7-C against the prime lessee. The [application] Application will be processed in accordance with the procedures described in 29 RCNY § 2-02(c). The deed [owner] Owner of the [building] Building must be listed as an [affected party] Affected Party in all [applications] Applications brought under this subdivision (e).
 - (3)
 - (i) If the Loft Board finds that a prime lessee harassed an [occupant] Occupant, the prime lessee may be liable for a civil penalty as determined by the Loft Board in accordance with 29 RCNY § 2-11.1 for each occurrence that is found to constitute [harassment] Harassment.
 - (ii) A prime lessee found by the Loft Board to have harassed an [occupant] Occupant is not entitled to recover subdivided space pursuant to 29 RCNY § 2-09(c)(5)(i) and (c)(5)(v) relating to subletting and is not entitled to the rent adjustment provided for in 29 RCNY §§ 2-09(c)(6)(ii)(D)(b).

- (4) (i) After the period of time barring the [owner] Owner or Responsible Party from terminating a [harassment] Harassment finding provided in the Loft Board order, the prime lessee may apply to the Loft Board pursuant to 29 RCNY § [1-06] 1-21 for an order terminating such finding. The order containing the finding of [harassment] Harassment will specify the period of time, within a range of [1 to 3] one (1) to three (3) years from the date of the order of [harassment] Harassment, during which the prime lessee will be barred from applying for an order of termination. However, where a prime lessee has been convicted of a crime for conduct found by the Loft Board to constitute [harassment] Harassment, the prime lessee may apply for an order of termination only after at least [5] five (5) years have passed since the date of the order of [harassment] Harassment. The Loft Board may grant such relief if it finds that:
- (A) Since notification of the order the prime lessee has not engaged in the prohibited conduct and has not engaged in any other conduct which constitutes [harassment] Harassment, and
- (B) The prime lessee has paid all civil penalties assessed in the order of [harassment] Harassment, and there are no other orders of [harassment] Harassment outstanding for the prime lessee.
- (ii) An order terminating a prior Loft Board finding of [harassment] Harassment by a prime lessee applies prospectively only.

§ 11. Subdivision (a) of Section 2-03 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

- (a) *Procedures.*
- (1) *Who may file.*
- (i) The [owner] Owner or Responsible Party of an [interim multiple dwelling] IMD registered with the Loft Board may file an [application] Application for exemption of a [building] Building or portion thereof from [Article] Art. 7-C of the [Multiple Dwelling Law] MDL on the basis that compliance in obtaining a residential certificate of occupancy would cause hardship for any of the reasons set forth in 29 RCNY § 2-03(b) below.
- (ii) A lessee of a whole [building] Building, any portion of which is an [interim multiple dwelling] IMD registered with the Loft Board, may file an [application] Application for exemption from [Article] Art. 7-C, provided that no [application] Application filed by a lessee shall be considered by the Loft Board unless the [owner] Owner of the [building] Building consents in writing to the filing of such [application] Application.

- (iii) A duly authorized agent (including the attorney) of the [owner] Owner of an [interim multiple dwelling] IMD registered with the Loft Board may file an [application] Application for exemption on behalf of the [owner] Owner.
- (2) *Filing deadline.*
- (i) Notices of [application] Application for exemption due to hardship for a [building] Building or portion thereof must be submitted to the Loft Board by no later than June 30, 1983 pursuant to § 285(2) of the [Multiple Dwelling Law] MDL. Such notices [shall] must be filed by letter from the [owner] Owner, lessee of the whole [building] Building or [agent] Agent and shall only be accepted for [buildings] Buildings registered or which by June 30, 1983 had applied to register as [interim multiple dwellings] IMDs with the Loft Board.
 - (ii) The applicant must perfect his/her/its [application] Application by no later than October 31, 1983.
 - (iii) Notwithstanding any provisions of subparagraphs (i) and (ii) of this paragraph (2) to the contrary, the [owner] Owner, lessee of the whole [building] Building or [agent] Agent of a registered [interim multiple dwelling] IMD which is subject to coverage under [Article] Art. 7-C solely pursuant to MDL § 281(4) [shall] must file his [application] Application on or before April 27, 1988 pursuant to MDL § 285(2).
 - (iv) Notwithstanding any provisions of subparagraphs (i), (ii) and (iii) of this paragraph (2), [applications] Applications for a hardship exemption regarding [interim multiple dwellings] IMDs covered by MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapter 135 or 147 of the Laws of 2010 must be filed on or before March 21, 2011, in accordance with MDL § 285(2).
 - (v) Notwithstanding any provisions of subparagraphs (i), (ii), (iii) and (iv) of this paragraph (2), [applications] Applications for a hardship exemption regarding [interim multiple dwellings] IMDs covered by MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapter 4 of the Laws of 2013 must be filed before June 11, 2014, in accordance with MDL § 285(2).
- (3) *Perfecting hardship [applications] Applications.*
- (i) An [application] Application shall only be accepted for a [building] Building with a current [interim multiple dwelling] IMD registration.
 - (ii) (A) The [application shall] Application must be in a form acceptable to the Loft Board and [shall] must be consistent with the requirements of these regulations, the Board's regulations relating to [applications] Applications to the

Board, 29 RCNY §§ [1-06(a) to (j)] 1-21, and fees, 29 RCNY § 2-11. The applicant must: (a) indicate the basis for the [application] Application, (b) identify the [residential units] Residential Units for which exemption is sought, and (c) state the specific claims for exemption for the [building] Building or portion of the [building] Building.

(B) *Deadlines for [Interim Multiple Dwellings] IMDs Subject to [Article] Art. 7-C Pursuant to MDL § 281(1).* The applicant must provide all information necessary or appropriate by no later than October 31, 1983 in order for the [application] Application to be considered. An additional time period of no more than sixty (60) days for the submission of all required documentation in support of the completed [application] Application may be requested and will be granted if good cause is shown. Where an applicant is unable to file all necessary and appropriate information by October 31, 1983, due to the absence of legalization regulations, but has filed submissions and paid the filing fee such applicant may request additional time to provide all necessary and appropriate information within [30] thirty (30) days of the effective date or legalization regulations adopted by the Loft Board.

(C) *Deadlines for [Interim Multiple Dwellings] IMDs Subject to [Article] Art. 7-C Pursuant to MDL § 281(4).* Notwithstanding the foregoing, an applicant who timely filed his [application] Application on or before April 27, 1988 for a hardship exemption involving an [interim multiple dwelling] IMD subject to coverage under [Article] Art. 7-C pursuant to MDL § 281(4) must provide all additional information necessary or appropriate in support of such [application] Application on or before February 21, 1993.

(D) *Deadlines for [Interim Multiple Dwellings] IMDs Subject to [Article] Art. 7-C Pursuant to MDL § 281(5).* Notwithstanding the foregoing, an applicant who timely filed its hardship exemption [application] Application involving an [interim multiple dwelling] IMD subject to coverage under [Article] Art. 7-C pursuant to MDL § 281(5) must provide information to substantiate the hardship exemption claim at the time of filing, except as provided 29 RCNY § 2-03(a)(3)(iii).

(iii) In processing the [application] Application, the Loft Board may demand such additional information as it deems necessary or appropriate in making a determination. Failure of the applicant to provide any such information required by the Loft Board may result in the denial of the [application] Application.

- (iv) Applications for exemption shall not be considered unless the [owner] Owner or Responsible Party has also filed an [alteration application] Alteration Application with the [Department of Buildings] DOB. A copy of such [alteration application] Alteration Application must accompany each hardship [application] Application including two (2) copies of the submitted plans and such additional copies of the plans as the Board may require. The Loft Board may vote to waive the requirement that an [alteration application] Alteration Application be filed and proceed with the consideration of the [application] Application for exemption. The approval of such a waiver shall apply only to the consideration of a hardship [application] Application and shall in no way affect the [owner's] Owner's or Responsible Party's obligation to file an [alteration application] Alteration Application for all other purposes as required by § 284 of the [Multiple Dwelling Law] MDL. In deciding whether to waive the requirement that an [alteration application] Alteration Application be filed, the board will consider the following criteria:
- (A) whether the information that would be contained in the [alteration application] Alteration Application is already available in other records or could be made available in an alternate form in other records or could be made available in an alternate form acceptable to the Board; and
 - (B) whether hardship can be proved without the information contained in the [alteration application] Alteration Application.
- (v) Processing of an [owner's] Owner's or Responsible Party's [application] Application for exemption shall be in accordance with the rules regarding [application] Application s to the Board (Regulations for Internal Board Procedures – 29 RCNY § [1-06(a) to (j)] 1-21, except as set forth below. These rules provide for the service of the [application] Application on all [affected parties] Affected Parties, opportunity to answer in writing, and the conducting of informal conferences and administrative hearings. If a perfected [application] Application appears to the Loft Board staff to be well rounded, there shall be conducted an administrative hearing following notice as provided pursuant to Internal Board Procedures at least sixty (60) days in advance of the hearing date.

§ 12. Subparagraphs (i) and (ii) of Paragraph (2) of Subdivision (b) of Section 2-04 of Chapter 2 of Title 29 of the Rules of the City of New York are amended to read as follows:

- (i) Except as provided below, where there is a central heating system in an IMD [building] Building, the [landlord] Landlord must provide every residentially-occupied IMD unit with heat from that system. As illustrated in the chart below, during the period from October 1

through May 31, centrally supplied heat [shall] must be provided so as to maintain every portion of the dwelling used or occupied for living purposes, between the hours of 6:00 AM and 10:00 PM at a temperature of at least 68 degrees Fahrenheit whenever the outside temperature falls below 55 degrees, and between the hours of 10:00 PM and 6:00 AM at a temperature of at least [55] 62 degrees Fahrenheit [whenever the outside temperature falls below 40 degrees Fahrenheit].

- (ii) Where the [landlord] Landlord provides a system of gas or electric heating for a residentially-occupied IMD unit, that system may be utilized instead of a central heating system in the instances where a central heating system is lacking, or may otherwise be used to supplement a central heating system. As illustrated in the chart below, during the period from October 1 through May 31, heat from individual systems of gas or electric heat where the [landlord] Landlord pays for operation [shall] must be provided so as to maintain every portion of the residentially-occupied dwelling used or occupied for living purposes, between the hours of 6:00 AM and 10:00 PM, at a temperature of at least 68 degrees Fahrenheit whenever the outside temperature falls below 55 degrees Fahrenheit, and between the hours of 10:00 PM and 6:00 AM at a temperature of at least [55] 62 degrees Fahrenheit [whenever the outside temperature falls below 40 degrees Fahrenheit].

Between the hours	If Temperature Outside	Landlord Must Provide Central Heat
6:00 A.M. - 10:00 P.M.	Below 55°F	At least 68°F
10:00 P.M. - 6:00 A.M.	[Below 40°F] (<u>any temperature</u>)	At least [55°F] <u>62°F</u>

§ 13. Subdivisions (b) and (c) of Section 2-05 of Chapter 2 of Title 29 of the Rules of the City of New York are amended to read as follows:

- (b) *Procedure for Filing Registration Application.* The following instructions constitute the procedures for registration of [buildings] Buildings, structures or portions thereof, pursuant to MDL § 284(2). Applications for registration [shall] must be certified by the [landlord] Landlord in a form prescribed [promulgated] by the Loft Board. [Instructions – Interim Multiple Dwelling Registration Application Form.]
 - (1) Print all information in completing the registration [application] Application form and return it and the required documents listed in 29 RCNY § 2-05(b)(8) to: "IMD REGISTRATION" at the Loft Board's office, together with a check covering the registration and code-compliance monitoring fees, in accordance with [subparagraph] paragraph (3) below. The [landlord] Landlord must serve a copy of the initial registration [application] Application form on all [occupants] Occupants of the [building] Building including residential, commercial and manufacturing

[occupants] Occupants and [prime lessees] Prime Lessees, if different. Service [shall] must be made by regular mail delivered to each [occupant] Occupant at the [occupant's] Occupant's unit, or at a different address in accordance with the terms for delivery of the notice in the [occupant's] Occupant's lease. The registration [application] Application form must specify which [residential units] Residential Units are being registered as IMD units and include the unit designations and location in the [building] Building. Certification of such service to the [occupants] Occupants and [prime lessees] Prime Lessees [shall] must be attached to the registration [application] Application form filed with the Loft Board.

- (2) The information requested on the registration [application] Application form is required pursuant to MDL §§ 284(2) and 325, and these rules. Additional information may be required pursuant to rules promulgated by the Loft Board.
- (3) Pursuant to MDL § 282, the Loft Board may charge and collect reasonable fees. Registration and code compliance monitoring fees shall be payable to the Loft Board in accordance with 29 RCNY § 2-11.
- (4) Completion and submission of a registration [application] Application form does not constitute a waiver of the applicant's right to contest before the Loft Board the coverage of the premises described therein as an IMD [building] Building under [Article] Art. 7-C of the MDL, nor shall the act of filing the registration [application] Application form constitute evidence before the Loft Board that the [building] Building described therein is an IMD [building] Building. Notwithstanding the foregoing, the failure of an [owner] Owner, a [building occupant] Building Occupant or [prime lessee] Prime Lessee to contest the registration [application] Application within [45 calendar] forty-five (45) days after service of the registration [application] Application or [45 calendar] forty-five (45) days after the filing date with the Loft Board, whichever is later, shall constitute a "waiver" to contest coverage of the units registered, and shall preclude the [landlord] Landlord from contesting such coverage status. [In the event] If the Loft Board or its staff subsequently discovers that a [building] Building, structure or portion thereof registered as an IMD does not qualify as an IMD subject to coverage under [Article] Art. 7-C, in whole or in part, then the Executive Director may revoke such IMD status for the individual unit, or the [building] Building in its entirety, as applicable, effective upon notice to the [owner] Owner, the [building occupants] Building Occupants and the [prime lessees] Prime Lessees, listed on the registration [application] Application form. Any and all [applications] Applications by a [landlord] Landlord, [building occupant] Building Occupant or the [prime lessee] Prime Lessee to challenge the denial of a registration [application] Application form or the revocation of IMD status of a [building] Building or a unit by the Executive Director shall be governed by the terms and provisions of 29 RCNY § [1-07.1] 1-33.
- (5) *Procedure to Contest a Registration Application.* Any and all [applications] Applications filed by a [landlord] Landlord, [building occupant(s)] Building Occupant(s) or [prime lessee] Prime Lessee, if applicable, to contest

coverage of a [building] Building or individual unit under [Article] Art. 7-C must be received by the Loft Board within [45 calendar] forty-five (45) days after service of the registration [application] Application form on the [building occupants] Building Occupants and [prime lessee(s)] Prime Lessee(s) or within [45 calendar] forty-five (45) days after filing of the registration [application] Application form with the Loft Board, whichever is later. Such [applications] Applications must set forth the extent of coverage being contested, including the facts and rationale upon which coverage is being contested. A copy of the [application] Application must be served on ALL residential, commercial and manufacturing [occupants] Occupants of the [building] Building and the [prime lessee(s)] Prime Lessee(s) in the manner described in 29 RCNY § [1-06(b)] 1-21 for service of Loft Board [applications] Applications, and the [application] Application filed with the Loft Board must include a certification that such service has been made.

- (6) Any [occupant] Occupant in the [building] Building may apply for coverage under [Article] Art. 7-C. Such [applications shall] Applications must be filed in accordance with the procedures set forth in 29 RCNY § [1-06] 1-21, and shall be subject to the terms and provisions of the MDL and these rules[, including, without limitation, the deadline for filing coverage applications set forth in MDL § 282-a, 29 RCNY § 1-06.1, and the Loft Board's website].
- (7) An [interim multiple dwelling] IMD registration number issued by the Loft Board will be effective until such time as determined by the Loft Board or its staff.
- (8) *Required Documents For A Registration Application.* A registration must be completed in its entirety. Legible copies of the following must be attached:
- (i) the current lease for each [residential unit] Residential Unit claimed to be covered under [Article] Art. 7-C, or, where there is no current lease, the most recent lease agreement, including all executed riders, amendments, modifications and extensions[.];
 - (ii) the lease in effect during the qualifying window period set forth in MDL § 281 for each [residential unit] Residential Unit claimed to be covered under [Article] Art. 7-C, and if no lease existed during the window period, an [owner] Owner or Responsible Party must file proof of residential occupancy during the window period with the registration form;
 - (iii) for registration Applications filed pursuant to MDL § 281(5), the lease in effect on June 21, 2010, if different, and if no lease existed on June 21, 2010, the [owner] Owner or Responsible Party must attach a signed statement outlining the rental agreement in effect on June 21, 2010 - including party names, monthly rent, a description of the premises, use of the premises, and the services provided by the [landlord] Landlord, or for

registration Applications filed pursuant to MDL § 281(6), the lease in effect on June 25, 2019, if different, and if no lease existed on June 25, 2019, the Owner or Responsible Party must attach a signed statement outlining the rental agreement in effect on June 25, 2019 - including party names, monthly rent, a description of the premises, use of the premises, and the services provided by the Landlord; and

- (iv) any lease for a unit engaged in commercial, manufacturing, or industrial activity in the [building] Building on June 21, 2010 for registration Applications filed pursuant to MDL § 281(5) or June 25, 2019 for registration Applications filed pursuant to MDL § 281(6). If no lease existed for the commercial, manufacturing, or industrial unit on June 21, 2010 for registration Applications filed pursuant to MDL § 281(5) or June 25, 2019 for registration Applications filed pursuant to MDL § 281(6), the [owner] Owner or Responsible Party must attach a signed statement outlining the rental agreement in effect on June 21, 2010 for registration Applications filed pursuant to MDL § 281(5) or June 25, 2019 for registration Applications filed pursuant to MDL § 281(6). For cooperatives, legible copies of the proprietary leases for all units, including the units engaged in commercial, manufacturing, or industrial activity, must be attached. If any units were rented on June 21, 1982 for units seeking coverage pursuant to MDL § 281(1), or July 27, 1987 for units seeking coverage pursuant to MDL § 281(4), or June 21, 2010, for units seeking coverage pursuant to MDL § 281(5), or June 25, 2019 for units seeking coverage pursuant to MDL § 281(6), copies of those leases and subleases or rental agreements must be attached. For condominiums, legible copies of all leases for units that were rented on June 21, 1982 for units seeking coverage pursuant to MDL § 281(1), or July 27, 1987 for units seeking coverage pursuant to MDL § 281(4) or June 21, 2010, for units seeking coverage pursuant to MDL § 281(5), or June 25, 2019 for units seeking coverage pursuant to MDL § 281(6), must be attached.
- (v) Except for any unit eligible for coverage pursuant to MDL § 281(5) or 281(6) that is located in a Building registered as an IMD under MDL § 281(1) or (4), the Owner or Responsible Party registering under MDL § 281(5) or 281(6) must, if there are any commercial, manufacturing, or industrial uses in the non-residential units in the Building as of June 21, 2010, for Buildings in which coverage is claimed under MDL § 281(5) or June 25, 2019 for Buildings in which coverage is claimed under MDL § 281(6) the Owner or Responsible Party must submit ,along with its registration Application, a certification to the Loft Board, signed by a New York State licensed engineer or registered architect, that such commercial, manufacturing or industrial use is not an inherently incompatible use under subdivision (k). The certification must include whether the use(s):

- (A) are in Use Group 18, as defined in the zoning resolution of the City of New York on June 21, 2010, and
- (B) are in legal operation, and
- (C) create an actual risk of harm that cannot be reasonably mitigated, and
- (D) are continuing at the time of the submission of an Application for coverage by any party.
- (vi) A registration [application] Application form will not be accepted, and an IMD Registration Number will not be issued, unless all questions set forth on the registration [application] Application form are answered in full, and all required leases or signed statements are attached. If a particular question or piece of information is inapplicable, the applicant [shall] must enter "Not Applicable," or if the information is unavailable, enter "Not Available", and attach a signed statement explaining the reasons such information is inapplicable or unavailable. The content of a registration [application] Application form will be reviewed prior to issuance of an IMD Registration Number. In the space provided on the registration [application] Application form, an applicant must specify which units it seeks to register with the Loft Board for coverage under [Article] Art. 7-C. The applicant [shall] must enter the number of [residential units] Residential Units occupied for residential purposes by [families living independently] Families Living Independently from one another, the periods of such residential occupancy, and indicate the units' location in the [building] Building. "Family" shall have the meaning provided in MDL § 4(5), and may consist of a person or persons, regardless of whether they are related by marriage or ancestry.
- (9) The acceptance of the registration [application] Application form in no way legalizes the residential occupancy. If the registration [application] Application form is accepted by the Loft Board staff, a copy of the form with the assigned IMD Registration Number will be returned to the applicant. [That number] The IMD Registration Number must be included on all future correspondence with the Loft Board regarding the [building] Building. The Loft Board reserves the right to reject, revoke or amend an IMD Registration Number for a [building] Building. The Loft Board also reserves the right to revoke, at any time, the [Article] Art. 7-C coverage for a unit in a [building] Building issued an IMD Registration Number.
- (10) For each [building] Building potentially subject to [Article] Art. 7-C, the [owner] Owner, the lessee of the whole [building] Building, if applicable, and the [agent] Agent must each sign the registration [application] Application form thereby certifying to the truth, accuracy and completeness of the information contained therein. If the [building] Building is known by more than one address, the applicant [shall] must list each address on the [application] Application form.

If the [owner] Owner, lessee of the whole [building] Building or [agent] Agent is a corporation, other than a corporation listed as exempt from the provisions of MDL § 325, the names, business, and residence addresses and phone numbers of each of its officers must be listed on the form.

Other officers, including treasurer or chief fiscal officer, and stockholders who own or control at least [10] ten (10) percent of the corporation's stock, must be listed on a separate attachment.

If the [owner] Owner, lessee of the whole [building] Building or [agent] Agent is other than an individual or a corporation, the names, business and residential addresses and phone numbers for each member, general partner or participant in a partnership, joint venture or limited liability company must be listed on a separate attachment.

At least one (1) of the phone numbers filed with the registration [application] Application form must be a confidential telephone number where a [responsible party] Responsible Party can reasonably be expected to be reached [24] twenty-four (24) hours a day, [7] seven (7) days a week for emergencies. Such number(s) must be within [50 miles] a fifty (50) mile radius of New York City limits, and must be indicated on a separate signed sheet of paper filed with the registration [application] Application form. Such [responsible party] Responsible Party [shall] must be twenty-one (21) years or older, and [shall] must reside within New York City or customarily and regularly attend a business office located in New York City. The emergency number shall be confidential. Any change in the emergency number, managing agent information, [owner's] Owner's address or ownership [shall] must be sent to the Loft Board within [5] five (5) days of the change. The failure to report such change is a violation of the Loft Board rules and the [owner] Owner may be subject to civil penalties in accordance with 29 RCNY § 2-11.1. If additional space is required to respond to any of the questions set forth on the registration [application] Application form, the applicant shall attach a signed separate sheet of paper to complete the response.

- (11) All [landlords] Landlords who file a registration [application] Application form agree to provide the minimum housing maintenance standards established by 29 RCNY § 2-04, as it may be amended from time to time, to all residentially occupied units covered under [Article] Art. 7-C of the MDL.
- (12) Reserved.
- (13) [A notice] One (1) or more notices, in [the] a form [prescribed by the Loft Board, as] designated on the Loft Board's website, [shall] must be conspicuously posted inside each entrance to the IMD Building and in common areas of the IMD Building such as the resident mailbox area(s), in the lobby of every IMD [building] Building or in another public area in the Building routinely visited by Building residents. The Owner or

Responsible Party must post the notice(s) within five (5) [business days] Business Days after the issuance of the IMD Registration Number. Notices must be framed or laminated. Failure to post such notice or update the notice within [5 calendar] five (5) days of a change in the information contained in such notice may subject the [landlord] Landlord to civil penalties in accordance with 29 RCNY § 2-11.1. Such notice must contain:

- (A) The [building's] Building's address;
- (B) The IMD Registration Number assigned by the Loft Board for the purpose of identifying the [building] Building;
- (C) The contact information for the [owner] Owner and managing agent; and
- (D) The Loft Board's phone number and email address.

[(14) If additional space is required to respond to any of the questions set forth on the registration application form, the applicant shall attach a signed separate sheet of paper to complete the response.]

- (c) *Rent claims.* A [landlord] Landlord of a [building] Building for which an IMD Registration Number has been issued shall be entitled to claim rents becoming due after the date of issuance of the IMD Registration Number, in summary proceedings, pursuant to MDL § 285(1), provided that such [landlords] Landlords are in compliance with the terms and provisions of [Article] Art. 7-C and the Loft Board's rules. Finding that there are a significant number of ongoing disputes between [landlords] Landlords and residential [occupants] Occupants in loft dwellings over payment of past due rents and that [Article] Art. 7-C did not intend to authorize [landlords] Landlords to recover past due rents from residents occupying premises which may not qualify for coverage under [Article] Art. 7-C, the Loft Board believes that [landlords'] Landlords' right to recover for past due rents pursuant to MDL § 285(1) should be stayed until the question of coverage of an IMD has been resolved. Landlords who waive their right to contest coverage by executing a written waiver in a form acceptable to the Loft Board, fail to contest coverage within [45 calendar] forty-five (45) days following the filing of the registration [application] Application with the Loft Board or following the service of the registration [application] Application on the [occupants] Occupants and the [prime lessees] Prime Lessees, or whose coverage dispute has been resolved by a determination that the premises in question are covered by [Article] Art. 7-C, and who have met the requirements of subdivision (b) of this section shall be deemed in full compliance with the registration provisions of [Article] Art. 7-C. An [owner] Owner or Responsible Party must be in full compliance with all of the provisions of [Article] Art. 7-C and the Loft Board's rules, including and without limitation, the registration requirements, in order to recover rent.

§ 14. Paragraphs (f) and (g) of Section 2-05 of Chapter 2 of Title 29 of the Rules of the City of New York are amended to read as follows:

- (f) *Deadlines for Filing Initial Registration Application after June 21, 2010 in Chapters 135 and 147 of the Laws of 2010.*
- (1) Pursuant to MDL § 284(2), the initial registration for [buildings] Buildings covered pursuant to MDL § 281(5) shall have been filed by August 21, 2010, which was sixty (60) days from the effective date of Chapter 135 of the Laws of 2010. The provisions of these rules, 29 RCNY § 2-05, shall be fully applicable to IMD [buildings] Buildings or additional covered units, which are subject to coverage under [Article] Art. 7-C pursuant to MDL [§] §§ 281(5) and 281(6). [Pursuant to MDL § 282-a, the initial registration application form must be filed for all buildings, structures, or portions thereof seeking Article 7-C coverage by the certain date listed in 29 RCNY § 1-06.1(a), and on the Loft Board's website. This date is 6 months after the date the Loft Board adopted all rules necessary to implement the provisions of Chapters 135 and 147 of the Laws of 2010, which added MDL § 281(5). Any initial registration application forms filed after the certain date listed in 29 RCNY § 1-06.1(a) will not be accepted, notwithstanding that such residential units may otherwise meet the qualifying criteria for an IMD unit pursuant to MDL § 281, unless the landlord is directed to file a registration form pursuant to a Loft Board order finding coverage or if the landlord is directed to file a registration application form by a court of competent jurisdiction pursuant to the claim of Article 7-C coverage raised in a pleading before the certain date listed in 29 RCNY § 1-06.1(a), and on the Loft Board's website.]
- (2) *Registration Renewals.* Renewal of registration pursuant to 29 RCNY § 2-11(b)(1)(i)(A) shall be required annually on or before July 1st. Prior to the processing of the registration renewal [application] Application, the [landlord] Landlord or the [agent] Agent is required to pay all unpaid fines, late fees and registration and code compliance monitoring fees for prior registration periods at the rate set forth in 29 RCNY § 2-11(b)(9)(i), as may be amended from time to time. Failure to timely pay such registration and code compliance monitoring fees may result in the imposition of late fees, and other civil penalties, in accordance with the terms and provisions of these rules, including, without limitation, 29 RCNY § 2-11(b)(1)(i)(D) and 29 RCNY § 2-11.1.
- (g) [No applications] The Loft Board must not process any Applications filed by or on behalf of a [landlord] Landlord of an IMD [building] Building [shall be processed by the Loft Board] unless the registration renewal [application] Application is current and all applicable fees and penalties have been paid in full as of the date of filing such [application] Application. An [application] Application is not deemed filed until the Loft Board receives payment of all outstanding fees, fines and penalties [has been received by the Loft Board].

§ 15. Section 2-06 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

§ 2-06 Interim Rent Guidelines.

[(For time limitations on filing applications for rent overcharges, see 29 RCNY § 1-06.1).]

- (a) *Coverage.*
- (1) These rent guidelines apply to units of [interim multiple dwellings ("IMDs")] an IMD, as defined in § 281 of [Article] Art. 7-C, with residential [occupants] Occupants qualified for protection pursuant to the article, who
 - (i) do not have a lease or rental agreement in effect on the date of this order, December 21, 1982 or
 - (ii) whose leases or rental agreements are in effect on December 21, 1982, but expire prior to the IMD's compliance with the safety and fire protection standards of [Article] Art. 7-B of the [Multiple Dwelling Law] MDL. These guidelines apply only to IMD's which have registered with the Loft Board.
 - (2) "Lease or rental agreement in effect" [shall mean] means:
 - (i) a written lease or rental agreement;
 - (ii) an oral agreement for a rental period of one (1) year or less, provided that
 - (A) there has been a change from the previous rent, confirmed by rent checks tendered by the residential [occupant] Occupant and accepted by the [landlord] Landlord within the year prior to this order or
 - (B) there has been a substantial change in the level of services agreed to be provided within one year prior to this order.
 - (3) For time limitations on filing Applications for rent overcharges, see 29 RCNY § 1-21(a)(4).
- (b) *Effective date.* The effective date of these rent increases for a registered [IMD's] IMD will be the next regular rent payment date following December 21, 1982, or following the expiration of the lease or rental agreement, whichever is later. If [application] an Application for registration is received by the Loft Board on or before January 31, 1983, and written request for the increase is made of the residential [occupant] Occupant within [30] thirty (30) days of the issuance of an IMD registration number, such increase shall be retroactive to the effective date of the increase. If [application] an Application for registration is received by the Loft Board after January 31, 1983, and written request for the increase is made of the residential [occupant] Occupant within [30] thirty (30) days of the issuance of an IMD registration number, and the lease or rental agreement has expired, such increase shall be retroactive to the first regular rent payment date following submission of the registration [application] Application. At the option of the residential [occupant] Occupant, such retroactive increases may be paid over the same number of [months] Months as they accrued. Except as indicated above, the rent increases shall apply prospectively only.

- (c) *Amount of increases.* For purposes of these rent guidelines, the following percentages shall be calculated upon the total rent for the residential [occupant] Occupant, including both base rent and [escalators] Escalators. ["Escalators" are lease or rental agreement provisions which provide for a residential occupant's payment as rent or additional rent based on but not limited to: real estate taxes; heating fuel; labor; water and sewer; insurance; vault tax; and any cost-of-living increase formulas.] Such Escalator provisions [as] that relate to gas, electricity and steam charges are excluded from this definition of total rent. [and these] These utility [escalators] Escalators, when based on a fair calculation of the residential [occupant's] Occupant's usage, shall be the only [escalators] Escalators permitted following the effective date of the rent increase provided they were part of the lease or rental agreement in effect on December 21, 1982. Rent levels for units covered by this order shall reflect no more than the following maximum percentage increases, calculated as of the effective date of this order to such unit:
- (1) For units where the last increase in total rent or a utility escalator pursuant to a lease or rental agreement tendered by the [tenant] Tenant and accepted by the [landlord] Landlord was:
 - (i) Subsequent to December 31, 1979: the maximum permissible increase shall be 7 percent of the total rent as defined above.
 - (ii) Between January 1, 1977 and December 31, 1979: the maximum permissible increase shall be 22 percent of the total rent defined above.
 - (iii) Before January 1, 1977: the maximum permissible increase shall be 33 percent of the total rent as defined above.
 - (2) For units which have had no rent increases since the inception of the lease or rental agreement between the residential [occupant] Occupant and [landlord] Landlord, the maximum percentage increases contained in category (i), (ii), and (iii) above shall be based upon the date of inception of the lease or rental agreement.
 - (3) For units where the current or most recent lease or rental agreement does not contain any escalator provisions and where the last rent increase was not an escalator adjustment, a surcharge of [2] two (2) percent for category (i), [4] four (4) percent for category (ii), and [6] six (6) percent for category (iii) may be added to the percentage increases. These rent increases shall be a permanent part of the rent.
- (d) *Vacancy allowance.* The Loft Board reserves the right to address a vacancy allowance when it discusses fixture fee procedures.
- (e) *Subtenancy allowance.* The Loft Board reserves the right to address a subtenancy allowance when it discusses coverage procedures.

§ 16. Chapter 2 of Title 29 of the Rules of the City of New York is amended by adding a new section 2-06.3 to read as follows:

§ 2-06.3 Interim Rent Guidelines and Rent Adjustments pursuant to MDL § 286(2)(i) for Units Subject to Art. 7-C pursuant to MDL § 281(6).

(a) Coverage. These rent guidelines apply to IMD units, which:

- (1) are subject to Art. 7-C solely pursuant to MDL § 281(6);
- (2) are registered with the Loft Board; and
- (3) do not meet the safety and fire protection standards of Art. 7-B. of the MDL.

(b) Definitions. For the purposes of this section, the following definitions apply:

(1) **Lease or rental agreement** means:

- (i) a written lease or rental agreement; or
- (ii) an oral agreement for a rental period of one (1) year or less, provided that:

(A) There was a change in the rent for the IMD unit, confirmed by rent checks tendered by the residential Occupant and accepted by the Landlord within the year prior to June 25, 2019; or

(B) There had been a substantial change in the level of services agreed to be provided within the year prior June 25, 2019.

(2) **Escalators** are charges agreed upon by the Occupant and Landlord to be paid by the Occupant provided in a lease or rental agreement, including but not limited to charges based on: real estate taxes; heating fuel; labor; water and sewer; insurance; vault tax; or any cost-of-living increase formulas.

(3) **Use-Based Escalators** are Escalators that: 1) are based on a verifiable calculation of the Occupant's usage and the cost to the Owner or Responsible Party; and 2) were part of the last lease or rental agreement in effect on or before June 25, 2019. Use-Based Escalators may include charges related to gas, electricity and steam.

(4) **Garbage Escalators** are Escalators related to garbage collection services that were part of the last lease or rental agreement in effect on or before June 25, 2019. Garbage Escalators do not include services provided at no cost to the Owner or Responsible Party.

(5) **Total rent**

- (i) Lease in effect on June 25, 2019. Except as provided in (iii), total rent is the rent, including Escalators, specified in the lease or rental agreement in effect on June 25, 2019, paid by the Tenant pursuant to said lease or rental agreement.
 - (ii) No lease in effect on June 25, 2019. Except as provided in (iii), where no lease or rental agreement was in effect on June 25, 2019, the total rent is the rent, including Escalators, paid by the Tenant to the Landlord on or before June 25, 2019 pursuant to the last lease or rental agreement prior to June 25, 2019.
 - (iii) Total rent shall not include Use-Based Escalators or Garbage Escalators.
- (c) Rent Adjustments Pursuant to MDL § 286(2)(i). For purposes of determining rent adjustments pursuant MDL § 286(2)(i), there will be no increase permitted above the total rent as defined above for any unit subject to Art. 7-C pursuant to MDL § 281(6).
- (d) Permissible Rent Levels. An Owner or Responsible Party of a unit subject to Art. 7-C pursuant to MDL § 281(5) may not charge a residential Occupant more than:
- (1) Total rent, as defined above; plus
 - (2) Any other rent adjustments authorized pursuant to Art. 7-C and these Rules, including allowable rent adjustments authorized pursuant to 29 RCNY § 2-12; plus
 - (3) Use-Based Escalators, if any; plus
 - (4) Garbage Escalators, if any.
- (e) Overcharges and Penalties. Rent payments made prior to {insert effective date of rule}, the effective date of this rule, in excess of the permissible rent levels as described above in subdivision (d) constitute an overcharge which may be paid, at the Owner's or Responsible Party's option, either in a lump sum to the Tenant or as a twenty (20) percent reduction of the legal rent permitted under this rule as of {insert effective date of rule}, the effective date of the rule, until payment of the full overcharge is completed. No treble damages may be imposed for a violation of this section.

§ 17. Section 2-07 of Title 29 of Chapter 2 of the Rules of the City of New York is amended to read as follows:

§ 2-07 Sales of Improvements.

- (a) *Definitions.* The following terms shall have the following definitions unless context clearly indicates otherwise.
 - (1) **Fair market value**[. "Fair market value" is defined as follows] means:

- (i) A bona fide offer by a prospective incoming [tenant] Tenant to purchase improvements made or purchased by an outgoing [tenant] Tenant qualified for protection under [Article] Art. 7-C is presumed to represent the fair market value of the improvements.
 - (ii) The presumption in (i) above may be rebutted if the [owner] Owner or Responsible Party challenges the value in accordance with 29 RCNY § 2-07(g), in which case the fair market value will be determined by the Loft Board in accordance with 29 RCNY § 2-07(g).
 - (iii) If no such offer is made or available, the value shall be established by agreement of the parties or pursuant to an [application] Application to the Loft Board, which shall determine the value in accordance with the criteria and procedures set forth in this Rule.
- (2) **Improvements**. "Improvements" are] means the fixtures, alterations and development of an [interim multiple dwelling ("IMD")] IMD unit which were made or purchased by a residential [tenant] Tenant who is qualified for protection under [Article] Art. 7-C.
- (i) ["Fixtures"] Fixtures are [defined as that which is] appendages permanently fixed or attached to real property [permanently as an appendage], including, but not limited to, the following: kitchen installations, such as stoves, sinks, counters, and built-in cabinets; bathroom installations, such as sinks, toilets, bathtubs, and showers; other installations, such as partitions, ceilings, windows, and floors, including tiling; built-in shelves; plumbing and utility risers; electrical work; heating units; and hot water heaters.
 - (ii) ["Alterations and development"] Alterations and development include, but are not limited to the following: demolition work, such as debris removal; repair, other than normal recurring maintenance; renovation of ceiling, walls, windows, and floors; design, including professional fees paid to architects and designers in connection with the improvements; labor; equipment rental; and such removable personal property as is reasonable to establish residential use, such as a refrigerator and dishwasher.

Improvements do not include other removable household furnishings, such as rugs, tables, and chairs. A sale of improvements does not constitute a sale of rights pursuant to MDL § 286(12) [of the Multiple Dwelling Law ("MDL")].

- (3) **Unit**, as referred to in this Section, means:
- (i) A [residential unit] Residential Unit in an IMD [building] Building, as defined by MDL § 281 and these Rules, which is registered

with the Loft Board or granted coverage by the Loft Board or a court of competent jurisdiction; or

- (ii) For the purposes of sales of improvements governed by this section only, a unit formerly registered as an IMD unit, but which has subsequently been legalized and removed from the Loft Board's jurisdiction.
- (b) *Applicability.* This section applies to sales which occur on or after March 23, 1985, except that the definition of the term "fair market value," provided in subdivision (a) of this section, applies only to sales of improvements where a Disclosure Form has been filed with the Loft Board on or after February 16, 1996.
- (1) *Right to sell.* The residential [occupant] Occupant of an IMD unit which is qualified for protection under [Article] Art. 7-C may sell the improvements of the unit to the [owner] Owner or Responsible Party or to a prospective [tenant] Tenant, either before or after such unit has been legalized and registered with DHCR, subject to the procedures established in these Rules. This right to sell may be exercised only once for each IMD unit. The improvements must be offered to the [owner] Owner or Responsible Party for an amount equal to their fair market value, as defined in 29 RCNY § 2-07(a) above, prior to their sale to a prospective incoming [tenant] Tenant.
 - (2) *Sales not subject, or partially subject, to these rules.*
 - (i) *Registration or a finding of coverage.* This section does not apply to units which have never been registered with the Loft Board, unless the unit was granted coverage pursuant to a Loft Board order or court of competent jurisdiction. Any sale of improvements which occurred prior to registration of the unit with the Loft Board or prior to a finding of coverage by the Loft Board or a court of competent jurisdiction does not constitute a sale pursuant to MDL § 286(6), and is not covered by this section. This section does not apply to units which the Loft Board or the Executive Director have found are not covered by [Article] Art. 7-C pursuant to 29 RCNY §§ 2-05 and 2-08, or which a court of competent jurisdiction has found do not qualify for [Article] Art. 7-C coverage.
 - (ii) *Sales between co-tenants.* This section does not apply to sales of improvements between co-tenants of an IMD unit, where at least [1] one (1) of the co-tenants will remain in occupancy after the sale and is an residential [occupant] Occupant qualified for the protection of [Article] Art. 7-C.
 - (iii) *Compensation to [prime lessee] Prime Lessee or [sublessor] Sublessor.* Compensation to a [prime lessee] Prime Lessee or [sublessor] Sublessor by a residential [occupant] Occupant does not constitute a sale of improvements pursuant to MDL § 286(6), and is governed by 29 RCNY § 2-09(c) in matters regarding the [prime lessee's] Prime Lessee's or [sublessor's] Sublessor's right

to compensation for costs incurred in developing a [residential unit] Residential Unit. After compensation has been made by the residential [occupant] Occupant to the [prime lessee] Prime Lessee or [sublessor] Sublessor, the residential [occupant] Occupant has the right to sell the improvements in the unit pursuant to MDL § 286(6) and this section.

- (c) *Procedure for sales of improvements to prospective incoming [tenant] Tenant.*
- (1) An outgoing [tenant] Tenant in an IMD unit proposing to sell improvements to a prospective incoming [tenant] Tenant must send the Loft Board approved Disclosure Form to the [owner] Owner or Responsible Party and prospective incoming [tenant] Tenant in accordance with the following procedures at least [30 calendar] thirty (30) days in advance of the date of closing of the proposed sale.
- (i) The outgoing [tenant] Tenant must notify the [owner] Owner or Responsible Party of his or her intent to move and to sell the improvements, and the identity of the prospective incoming [tenant] Tenant, providing the following information to the [owner] Owner or Responsible Party:
- (a) A list and description of the improvements included in the proposed sale which were made or purchased by the outgoing [tenant] Tenant with accompanying proof of payment;
- (b) A written copy of the offer, verified by the prospective incoming [tenant] Tenant, to purchase the improvements, which includes all terms and conditions of the offer;
- (c) Identification of the prospective incoming [tenant] Tenant by name, current business and home addresses and any other address and telephone numbers elected for purposes of delivery of notices and communications;
- (d) An affidavit by the outgoing [tenant] Tenant that he or she made or purchased the improvements offered for sale; or an affidavit that he or she is authorized to sell the improvements on behalf of any other parties having ownership interest in such improvements, accompanied by appropriate evidence of such authorization;
- (e) An affidavit by the prospective incoming [tenant] Tenant that he or she has received and reviewed the Disclosure Form; and
- (f) Three (3) reasonable dates and times within [10 calendar] ten (10) days after service of the Disclosure Form upon the [owner] Owner or Responsible Party, when the [owner]

and/or the owner's designee] Owner or Responsible Party could inspect the improvements.

- (ii) The Disclosure Form must also include the following advisories to the prospective incoming [tenant] Tenant:
- (a) The improvements included in the sale are limited to those items listed and described by the outgoing [tenant] Tenant;
 - (b) The prospective incoming [tenant] Tenant is purchasing absolute title to the use and enjoyment for the duration of the prospective tenancy of all other property deemed improvements pursuant to these rules. The [owner] Owner or Responsible Party is responsible for maintenance of improvements deemed fixtures pursuant to these rules; however, the [owner] Owner or Responsible Party has the right to alter or remove the improvements pursuant to code compliance requirements, subject to the terms of this section;
 - (c) The right to sell improvements may be exercised only once for the unit and an incoming [tenant] Tenant cannot re-sell such improvements to the [owner] Owner or Responsible Party or a prospective incoming [tenant] Tenant pursuant to MDL § 286(6);
 - (d) Upon completion of the sale of improvements by the prospective incoming [tenant] Tenant pursuant to MDL § 286(6), the prospective incoming [tenant] Tenant assumes the rights and obligations of the outgoing [tenant] Tenant as an [occupant] Occupant qualified for protection under [Article] Art. 7-C;
 - (e) The amount of the rent and a statement as to the types of further increases which may be applicable to the IMD unit pursuant to the terms of the Loft Board's rules or Rent Guidelines Board's orders;
 - (f) If the [building] Building has not been issued a final residential certificate of occupancy for the IMD unit at the time of the offer to purchase, the unit remains subject to the requirements of [Article] Art. 7-C and the Loft Board's rules requiring that such units be brought into compliance;
 - (g) MDL § 286(5) provides that the costs of legalization as determined by the Loft Board are passed through to the [tenants] Tenants and may result in rent adjustments owed by the [tenant] Tenant above the base rent, amortized over a [10] ten (10) or [15] fifteen (15) year period;

- (h) The offer is subject to the [owner's] Owner's or Responsible Party's right:
1. To purchase the improvements for an amount equal to their fair market value;
 2. To challenge the offer as provided in 29 RCNY § 2-07(g) below; and
 3. To withhold consent to the prospective [tenant] Tenant, provided that consent may not be unreasonably withheld;
- (i) If an [owner] Owner or Responsible Party purchases the improvements, the [owner] Owner or Responsible Party will not be entitled to the opportunity for decontrol of rent regulation or market rentals, as provided in 29 RCNY § 2-07(d)(4)(ii) below, if the [owner] Owner or Responsible Party is found to have harassed [tenants] Tenants, pursuant to 29 RCNY § 2-02, unless the [harassment] Harassment finding has been terminated pursuant to 29 RCNY § 2-02.
- (2) The completed Disclosure Form with original signatures must be filed with the Loft Board, together with proof of service. Following receipt, the Loft Board staff will determine whether a sale for the unit in question has been previously filed with the Loft Board's office. If a sale was previously filed, the parties will be notified of the prior sale and the proposed sale will not be given any effect under MDL § 286(6).
- (d) Owner's or Responsible Party's response to offer and prospective incoming [tenant] Tenant.
- (1) Procedures for [owner's] Owner's or Responsible Party's response.
 - (i) Within [10 calendar] ten (10) days of service of the Disclosure Form, the [owner] Owner or Responsible Party may request any reasonable additional information from the outgoing and prospective incoming [tenants] Tenants that will enable the [owner] Owner or Responsible Party to decide whether to purchase the improvements, and to determine the suitability of the prospective incoming [tenant] Tenant.
 - (A) No request by the [owner] Owner or Responsible Party for additional information from the outgoing [tenant] Tenant may be unduly burdensome, and requests for additional information must be relevant to the criteria set forth in 29 RCNY § 2-07(g) below.
 - (B) If the Loft Board finds that the [owner's] Owner's or Responsible Party's request for additional information is

unduly burdensome, it may reject the [owner's] Owner's or Responsible Party's request on [application] Application by the outgoing [tenant] Tenant.

- (ii) In the [owner's] Owner's or Responsible Party's response to the Disclosure Form, the [owner] Owner or Responsible Party must affirm that the subject unit is currently registered with the Loft Board or DHCR, or any successor agency and was registered at the time of service of the Disclosure Form and that he or she either owns the premises or is authorized to act on behalf of the [owner] Owner or Responsible Party in this matter.
 - (iii) Within [20 calendar] twenty (20) days after service of the Disclosure Form, or delivery of the additional information reasonably requested by the [owner] Owner or Responsible Party, whichever is later, the [owner] Owner or Responsible Party must notify the outgoing and prospective incoming [tenants] Tenants of the [owner's] Owner's or Responsible Party's:
 - (A) Rejection of the offer based on one or more of the grounds for challenge listed in 29 RCNY § 2-07(g)(2), by following the procedures provided in 29 RCNY § 2-07(g);
 - (B) Consent to the prospective incoming [tenant] Tenant and consent to the sale of improvements to the prospective incoming [tenant] Tenant; or
 - (C) Acceptance and commitment to purchase the improvements at the offered price.
 - (iv) If the [owner's] Owner's or Responsible Party's challenge is based on the unsuitability of the prospective [tenant] Tenant, the [owner] Owner or Responsible Party may only initiate an action based on that ground in a court of competent jurisdiction. If an action is brought pursuant to this subparagraph, the [owner] Owner or Responsible Party must inform the Loft Board in writing within [20 calendar] twenty (20) days after service of the Disclosure Form or delivery of the additional information requested, if any.
- (2) *Owner's or Responsible Party's rejection of the offer.*
- (i) If the [owner] Owner or Responsible Party rejects the outgoing [tenant's] Tenant's offer to purchase the improvements, the [owner] Owner or Responsible Party must elaborate on the grounds for the rejection by filing a challenge [application] Application in accordance with the procedures provided in subdivision (g), except as provided in 29 RCNY § 2-07(d)(1)(iv). If the rejection is based on the claim that the offer exceeds the fair market value of the improvements, the rejection must include the [owner's] Owner's or Responsible Party's fair market valuation of the improvements and the [owner's] Owner's or Responsible

Party's commitment to purchase if the fair market value is determined to be no greater than such valuation. If the rejection is based on the claim that the [owner] Owner or Responsible Party made or purchased the improvements, the rejection must indicate which improvements the [owner] Owner or Responsible Party alleges to have made or purchased and include proof.

- (ii) Failure of the [owner] Owner or Responsible Party to file with the Loft Board a complete [application] Application, including payment of a fee of \$800.00 to cover the full cost of an appraiser selected by the Board, with copies to the outgoing and prospective [tenants] Tenants, within the time provided in 29 RCNY § 2-07(d)(1)(iii) above, shall be deemed an acceptance of the proposed sale. However, if the [owner's] Owner's or Responsible Party's challenge is on the ground of the unsuitability of the prospective [tenant] Tenant, the [owner] Owner or Responsible Party may only initiate an action based on that ground in a court of competent jurisdiction and must inform the Loft Board in writing within the time period in 29 RCNY § 2-07(d)(1)(iv).
- (3) *Owner's or Responsible Party's acceptance of sale and prospective [tenant] Tenant.*
- (i) The [owner] Owner or Responsible Party may send a notice of approval of the proposed sale to the prospective incoming [tenant] Tenant, and acceptance of the prospective incoming [tenant] Tenant.
 - (ii) An [owner's] Owner's or Responsible Party's failure to: 1) send a complete notice of approval, as described in (i) above or 2) file a challenge [application] Application with the Loft Board within the time period provided in 29 RCNY § 2-07(d)(1)(iii) above, or by another deadline agreed upon in writing by the [owner] Owner or Responsible Party and outgoing [tenant] Tenant, is deemed an acceptance of the proposed sale from the outgoing [tenant] Tenant to the incoming [tenant] Tenant and acceptance of the prospective incoming [tenant] Tenant, except as provided in 29 RCNY § 2-07(d)(1)(iv).
 - (iii) In the case of (i) or (ii) above, the [tenant] Tenant assumes the rights and obligations of the outgoing [tenant] Tenant as an [occupant] Occupant qualified for protection under [Article] Art. 7-C, upon the execution of the sale provisions and compliance with the other provisions of these Rules. The prospective incoming [tenant] Tenant is permitted to commence residency, despite the lack of a residential certificate of occupancy covering the unit. He or she must pay the rent previously charged to the outgoing [tenant] Tenant, including any applicable pass-throughs or increases permissible under [Article] Art. 7-C or the Loft Board's rules and orders, including but not limited to:

- (A) Any increases permissible pursuant to 29 RCNY [§§] § 2-06, 2-06.1, [or] 2-06.2, or 2-06.3 if such increases have not already been imposed; or
 - (B) Any increases pursuant to the Rent Guidelines Board's orders, if applicable.
- (4) *Owner's or Responsible Party's purchase of improvements.*
- (i) If the [owner] Owner or Responsible Party elects to purchase the improvements in an IMD unit in accordance with the terms of the prospective incoming tenant's[tenant's] Tenant's offer, the [owner] Owner or Responsible Party must notify the outgoing [tenant] Tenant and the prospective incoming [tenant] Tenant of the [owner's] Owner's or Responsible Party's acceptance in accordance with 29 RCNY § 2-07(d)(1)(iii), and must meet the terms of the offer within [30 calendar] thirty (30) days of service of [owner's] Owner's or Responsible Party's acceptance upon the outgoing [tenant] Tenant. If the [owner] Owner or Responsible Party fails to meet the terms of the offer within the [30 calendar] thirty (30) day period, the [owner] Owner or Responsible Party is deemed to have waived the right to purchase the improvements at an amount equal to their fair market value.
 - (ii) Upon completion of the purchase of improvements by the [owner] Owner or Responsible Party, an IMD unit subject to rent regulation solely by reason of [Article] Art. 7-C of the MDL, and not receiving any benefits of real estate tax exemption or tax abatement, will be exempted from the provisions of [Article] Art. 7-C requiring rent regulation,
 - (A) if such [building] Building had fewer than [6] six (6) [residential units] Residential Units: (a) on June 21, 1982 for a unit covered under MDL § 281(1); (b) on July 27, 1987 for a unit solely covered under MDL § 281(4); or (c) on June 21, 2010 for a unit covered by MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapters 135 or 147 of the Laws of 2010; or (d) on June 25, 2019 for a unit covered by MDL § 281(5) or 281(6) that became subject to Art. 7-C pursuant to Chapter 41 of the Laws of 2019; or
 - (B) if the unit was purchased by the [owner] Owner or Responsible Party pursuant to these rules before July 27, 1987 and the [building] Building had fewer than [6] six (6) [residential units] Residential Units on June 21, 1982, but [6] six (6) or more [residential units] Residential Units on July 27, 1987.
 - (iii) Upon completion of the purchase by the [owner] Owner or Responsible Party, any unit subject to rent regulation solely by

reason of [Article] Art. 7-C of the MDL, and not receiving any benefits of real estate tax exemption or tax abatement, will be subject to subsequent rent regulation after being rented at market value, if such [building] Building had [6] six (6) or more [residential units] Residential Units on: (a) June 21, 1982 for a unit covered under MDL § 281(1); (b) July 27, 1987 for a unit solely covered under MDL § 281(4); or (c) June 21, 2010 for a unit covered by MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapters 135 or 147 of the Laws of 2010; or June 25, 2019 for a unit covered by MDL § 281(5) or 281(6) that became subject to [Article] Art. 7-C pursuant to Chapter 41 of the Laws of 2019.

- (iv) The exemption from rent regulation is not available in a [building] Building when any sale of improvements takes place on or after the date of a finding of [harassment] Harassment, and before the [harassment] Harassment order is terminated by the Loft Board in accordance with 29 RCNY § 2-02(d)(2).
- (e) [Reserved.]
- (f) *Notice between parties: form and time requirements.*
 - (1) All notices, requests, responses and stipulations served by [owners] Owners or Responsible Parties and [tenants] Tenants pursuant to this section must be in writing, with a copy delivered or mailed to the Loft Board, accompanied by proof of service. Service by the parties will be [effected] either (1) by personal delivery or (2) by certified or registered mail, return receipt requested, with an additional copy sent by regular mail.
 - (2) Unless otherwise agreed in writing by the parties, with notice to the Loft Board, these communications must be sent to the outgoing [tenant] Tenant and to the prospective incoming [tenant] Tenant at the respective addresses specified on the Disclosure Form; and to the [owner] Owner or Responsible Party at the address indicated on the latest IMD registration form filed with the Loft Board immediately prior to the filing of the Disclosure Form.
 - (3) If service was made personally, a verified statement of the person who effected service, setting forth the time, place and other details of service will constitute proof of service. If service was performed by mail, copies of the United States Post Office stamped return receipt and verified statement of mailing will constitute proof of service.
 - (4) The deadlines provided in this section are triggered by the effective date of service. Service is deemed effective upon personal delivery or [5 calendar] five (5) days following service by mail.
 - (5) Communications by the Loft Board pursuant to this section will be sent by regular mail to the addresses indicated in paragraph (2) above.

(g) *Applications challenging proposed sale of improvements.*(1) *Procedures.*

- (i) An [owner] Owner or Responsible Party of an IMD unit seeking to contest the proposed sale of improvements must apply to the Loft Board for a determination within [20 calendar] twenty (20) days of service upon the [owner] Owner or Responsible Party of the Disclosure Form, or within such additional period as provided pursuant to 29 RCNY § 2-07(d) above, and must pay the mandated filing fee of \$800. Before the [owner] Owner or Responsible Party files a challenge [application] Application under this subdivision, the [owner's] Owner's or Responsible Party's registration with the Loft Board, including payment of applicable registration fees, must be current, or before filing a challenge [application] Application with respect to improvements in a unit that was formerly subject to [Article] Art. 7-C, the [owner's] Owner's or Responsible Party's registration with DHCR or any successor agency must be current. The [owner] Owner or Responsible Party must also state that he or she is the [owner] Owner or Responsible Party of the premises or is authorized to act on behalf of the [owner] Owner in this matter.
- (ii) Filing of an [application] Application challenging the sale of improvements to a prospective incoming [tenant] Tenant which is found by the Loft Board to be frivolous may constitute [harassment] Harassment, pursuant to 29 RCNY § 2-02, with the consequences provided in 29 RCNY § 2-07(d)(4). An objection to the sale may be found to be frivolous on grounds including, but not limited to, the following: that it was filed without a good faith intention to purchase the improvements at fair market value or that the [owner's] Owner's or Responsible Party's valuation of the improvements has no reasonable relationship to the fair market value, as determined by the Loft Board.
- (iii) The [owner] Owner or Responsible Party must serve the outgoing and prospective incoming [tenants] Tenants with a copy of the [owner's] Owner's or Responsible Party's challenge [application] Application, and file within [5 calendar] five (5) days of service 2 copies of the [application] Application at the Loft Board and proof of service as described in 29 RCNY § [1-06(b)] 1-21.
- (iv) The outgoing and prospective incoming [tenants] Tenants will have [7 calendar] seven (7) days from when service of the [application] Application is deemed complete to file with the Loft Board an answer to the challenge [application] Application. Two copies of the answer must be filed with the Loft Board. One copy of the answer must be served on the [owner] Owner or Responsible Party and the other [affected parties] Affected Parties, if any, prior to filing the answer with the Loft Board. Proof

of service must be filed with the Loft Board in accordance with 29 RCNY § [1-06(e)] 1-21(c).

- (v) The outgoing [tenant's] Tenant's answer must include [3] three (3) available dates and times during regular [business hours] Business Hours within [10 calendar] ten (10) days of the date of filing of the answer with the Loft Board during which the improvements will be available to be inspected by a Loft Board-appointed appraiser in accordance with subparagraph (vi).
- (vi) The appraiser shall be appointed by the Loft Board, must be suitably qualified in valuing improvements and must be a Registered Architect, a Professional Engineer or a New York State Certified General Real Estate Appraiser.
- (vii) The Board shall also notify the [owner] Owner or Responsible Party, outgoing [tenant] Tenant and prospective incoming [tenant] Tenant of an inspection date at one of the times designated by the outgoing [tenant] Tenant, or at another time fixed by the Board if none of the proposed dates is mutually convenient. Following the inspection, a copy of the appraiser's findings will be mailed to the three parties. A conference or hearing date must be scheduled no fewer than [8 calendar] eight (8) days nor more than [15 calendar] fifteen (15) days from the mailing of the notice of conference or hearing or, if applicable, the filing of the appraiser's report. There may be no more than one (1) adjournment per party, limited to [7 calendar] seven (7) days, for good cause shown. Except as provided in these rules, the requirements of the Loft Board's rules regarding [applications] Applications apply.
- (viii) If a challenge [application] Application results in an order by the Loft Board determining that the offer constitutes fair market value, the [owner] Owner or Responsible Party may exercise the right to purchase improvements at that price. If the Loft Board determines that the offer does not constitute fair market value, in accordance with 29 RCNY § 2-07(g)(2), the [owner] Owner or Responsible Party may exercise the right to purchase the improvements at the price determined to constitute fair market value. The [owner] Owner or Responsible Party must notify the outgoing [tenant] Tenant within [10 calendar] ten (10) days of service of the Loft Board's order determining fair market value of the [owner's] Owner's or Responsible Party's intent to purchase at such price less half the cost of the appraisal and must consummate the purchase within [10 calendar] ten (10) days of the [owner's] Owner's or Responsible Party's notice to the outgoing [tenant] Tenant, except that where the fair market value determination is less than the price offered by the outgoing [tenant] Tenant, the outgoing [tenant] Tenant may decline to sell the improvements. The Loft Board's order determining fair market value constitutes the price at which the outgoing [tenant] Tenant must first offer to sell the previously offered improvements to the [owner] Owner or

Responsible Party for a period of [2] two (2) years from the date of the Loft Board order.

- (ix) If the [owner] Owner or Responsible Party elects not to purchase the improvements at the Loft Board-determined fair market value, the outgoing [tenant] Tenant may sell to the prospective incoming [tenant] Tenant, without challenge by the [owner] Owner or Responsible Party to the fair market value of the offer. The [owner's] Owner's or Responsible Party's failure to consummate a purchase, following notice of intent to purchase, within the period prescribed above, is deemed an election not to purchase.
- (2) *Grounds for challenge.* An [owner] Owner or Responsible Party may challenge a proposed sale of improvements on the following grounds:
- (i) The offer is not a bona fide, arms-length offer which discloses to the [owner] Owner or Responsible Party all its terms and conditions.
- (ii) Some or all of the improvements offered for sale were made or purchased by the [owner] Owner or Responsible Party, not the outgoing [tenant] Tenant. Proof of ownership or payment is required.
- (iii) The offer exceeds fair market value as determined in accordance with the following standards:
- (A) A bona fide offer to purchase improvements made or purchased by the outgoing [tenant] Tenant is presumed to represent fair market value.
- (B) The presumption may be rebutted if the [owner] Owner or Responsible Party establishes that:
- (a) For such improvements as were purchased by the outgoing [tenant] Tenant, the offer exceeds the amount paid for the improvements minus depreciation for wear and tear and age; or
- (b) For such improvements as were made by the outgoing [tenant] Tenant, the offer exceeds the replacement cost of the improvements minus depreciation for wear and tear and age.
- (C) If any of the improvements offered for sale are out of compliance with the New York City Building Code or other applicable laws or regulations, the noncompliance may not be considered when calculating the amount paid for or the replacement costs of the improvements, for improvements made or purchased prior to (a) March 23, 1985, or (b) September 11, 2013, [the effective date of this amended

rule,] for a unit covered under [Article] Art. 7-C pursuant to MDL § 281(5).

- (iv) On any other basis authorized under [Article] Art. 7-C.
 - (v) If a basis of a challenge is the unsuitability of the prospective incoming [tenant] Tenant, the [owner] Owner or Responsible Party may only initiate an action based on that ground in a court of competent jurisdiction; such challenge will not be entertained by the Loft Board.
- (3) *Affected Parties.* [The term "'affected parties," when used] Affected Parties, in an [application] Application challenging an offer to purchase improvements, [is] are limited to the [owner] Owner or Responsible Party and the outgoing [tenant] Tenant, except that a prospective incoming [tenant] Tenant is an [affected party] Affected Party in cases involving an [owner's] Owner's or Responsible Party's challenge to the prospective incoming [tenant's] Tenant's offer to purchase improvements.
- (h) *Deadline Extensions on consent and change of address.* Deadlines set in this rule may be modified, [applications] Applications may be withdrawn, and disputes may be resolved, by written agreement of the parties, subject to Loft Board written approval. Parties may change their address upon service of written notice to the Loft Board and the other affected parties, as defined in 29 RCNY § 2-07(g)(3) above. Notice is effective upon personal delivery or [5 calendar] five (5) days following service by mail.
- (i) *Tenant's Right to Fair Market Value of Improvements in Cases of Hardship Exemptions, Vacate Orders and Owner Occupancy.*
- (1) In the event that:
 - (i) The failure of an [owner] Owner or Responsible Party to comply with the legalization deadlines mandated by MDL § 284(1) results in a municipal vacate order pursuant to MDL § 284(1)(x);
 - (ii) The Loft Board grants a hardship exemption pursuant to MDL § 285(2); or
 - (iii) The [owner] Owner or Responsible Party successfully obtains the right to occupy former IMD units under the provisions of the Rent Stabilization Law and the Rent Stabilization Code §§ 2524.4(a) and 2525.6,

an [occupant] Occupant qualified for [Article] Art. 7-C protections may apply to the Loft Board for a determination of fair market value of improvements and reasonable moving expenses.
 - (2) As further provided in MDL § 284(1)(x), any vacate order pursuant to 29 RCNY § 2-07(i)(1)(i) above, is to be deemed an order to correct the non-compliant conditions, subject to the provisions of [Article] Art. 7-C, and the

[occupant] Occupant has the right to reoccupy the unit when the condition has been corrected and is entitled to all applicable protections of [Article] Art. 7-C.

- (3) The Loft Board shall determine the fair market value in accordance with this section except that the [tenant] Tenant shall be the applicant, [affected parties] Affected Parties shall be limited to the [owner] Owner or Responsible Party and [tenant] Tenant, and the [tenant] Tenant shall offer proof of reasonable moving expenses as well as both parties offering proof as to the value of the improvements.
 - (4) Upon a finding by the Loft Board of the fair market value of the improvements and of reasonable moving expenses, the [owner] Owner or Responsible Party will be required to pay such amounts to the [tenant] Tenant plus an amount equal to the [application] Application filing fee.
- (j) *Effect of Sale: Filing the Sale Record with the Loft Board.*
- (1) Except as provided in paragraph (2) below, within [30 calendar] thirty (30) days of the sale of improvements to the [owner] Owner or Responsible Party, pursuant to MDL § 286(6), the [owner] Owner or Responsible Party must file a Loft Board-approved Sale Record, which provides the following information: address of IMD and location of unit; name and telephone number of incoming [tenant] Tenant; description of improvements conveyed; purchase price; and rent. Failure by the [owner] Owner or Responsible Party to file the required Sale Record within [30 calendar] thirty (30) days of the sale of improvements may subject the [owner] Owner or Responsible Party to a civil penalty, as determined by the Loft Board in accordance with 29 RCNY § 2-11.1.
 - (2) If a prospective incoming [tenant] Tenant purchases the improvements in the IMD unit, no further filing is required. Unless the Loft Board is otherwise informed, receipt by the Loft Board of a Disclosure Form is presumed to be notice that a sale to the prospective incoming [tenant] Tenant identified has taken place within [60 calendar] sixty (60) days following receipt of such Disclosure Form, or [60 calendar] sixty (60) days following the last deadline modification approved by the Loft Board.
- If no sale has occurred, the outgoing [tenant] Tenant must inform the Loft Board within [60 calendar] sixty (60) days following the filing of the Disclosure Form, or [60 calendar] sixty (60) days from the last deadline. If the outgoing [tenant] Tenant fails to advise the Loft Board within the prescribed [60 calendar] sixty (60) days that no sale has taken place, such [tenant] Tenant may refute the presumption by: 1) filing a letter withdrawing the previously filed Disclosure Form, or 2) filing another Disclosure Form, with a new proposed sale along with an affidavit by the outgoing [tenant] Tenant stating that the prior proposed sale did not occur, that the [tenant] Tenant has remained in occupancy of the unit and that no sale of improvements in the unit has occurred.

§ 18. Section 2-08 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

§ 2-08 Coverage, Occupants Qualified for Protection and Issues of Status.

Registration as an [interim multiple dwelling (hereinafter "IMD")] IMD [with the New York City Loft Board (hereinafter "Loft Board")] shall be required when a [building] Building, structure or portion thereof meets the criteria for an IMD set forth in [§§] § 281[, 282-a] of [Article] Art. 7-C [of the Multiple Dwelling Law (hereinafter "MDL")] and these rules.

(a) *Definitions.*

(1[.]) **Building.**

- (i) As defined in § 12-10 of the Zoning Resolution, a [building] Building is any structure which:
 - (A) is permanently affixed to the land;
 - (B) has one or more floors and a roof; and
 - (C) is bounded by either open area or the lot lines of a zoning lot.
- (ii) A [building] Building may be a row of structures, and have one (1) or more structures on a single zoning lot.
- (iii) In deciding whether a structure is a single [building] Building, as distinguished from more than one (1) [building] Building for purposes of IMD determination, the Loft Board shall employ the definition set forth above, and consider [inter alia], among other things, the following factors:
 - (A) whether the structure is under common ownership;
 - (B) whether contiguous portions of the structure within the same zoning lot are separated by individual load-bearing walls, without openings for the full length of their contiguity, as distinguished from non-loadbearing partitions;
 - (C) whether the structure has been operated as a single entity, having one (1) or more of the following:
 - (a) a common boiler;
 - (b) a common sprinkler system;
 - (c) internal passageways;
 - (d) common fire escapes; or

- (e) other indicia of operation as a single entity.
 - (D) whether the [owner] Owner or Responsible Party or a predecessor has at any time represented in [applications] Applications or other official papers that the structure was a single [building] Building;
 - (E) whether a single certificate of occupancy has been requested or issued for the structure; and
 - (F) the pattern of usage of the [building] Building during the applicable qualifying window periods: (i) from April 1, 1980, to December 1, 1981, for [buildings] Buildings seeking coverage under [Article] Art. 7-C pursuant to MDL § 281(1), (ii) from April 1, 1980 to May 1, 1987, for [buildings] Buildings seeking coverage under [Article] Art. 7-C pursuant to MDL § 281(4), or (iii) [from] for twelve consecutive Months during the period commencing January 1, 2008 [to] and ending December 31, 2009, for [buildings] Buildings seeking coverage under [Article] Art. 7-C pursuant to MDL § 281(5), or for twelve consecutive Months during the period commencing January 1, 2015 and ending December 31, 2016, for Buildings seeking coverage under Art. 7-C pursuant to MDL § 281(6).
- (2[.]) **Grandfathering** [. For purposes of these rules, "grandfathering"] means the administrative process by which The Department of City Planning or a successor agency determines that a [residential unit] Residential Unit, which is located where residential use is not [otherwise] permitted by the Zoning Resolution, is [determined by the agency designated in the Zoning Resolution, to have been residentially occupied on a specified date, and is therefore] a legal [residential use as of right,] Residential Use as of Right and therefore, may be eligible for [Article] Art. 7-C coverage.[*] Grandfathering procedures in this classification are designated in the Zoning Resolution and include, but are not limited to §§ 11-27, 11-28, 15-021(c), 15-021(d), 15-215, 41-141, 42-111D(1)(f), 111-201(a) and 111-201(b); as of April 7, 1983, as well as other sections that have been or will be adopted in the future. The term ["residential use as of right" as employed in MDL § 281(2)] Residential Use as of Right means that the New York City Zoning Resolution permits residential use in the [area] zone in which the [building] Building is located. Grandfathering may also be accomplished by a [special permit] Special Permit process defined in subdivision (ii) below, which requires a further discretionary approval in addition to determination of occupancy on a specified date.
- (i) *Minor [modification] Modification and an [administrative certification] Administrative Certification.* A ["minor modification," and an "administrative certification"] Minor Modification and an Administrative Certification as found in MDL § 281(2)(i) [are terms which] refer to various procedures which may be specified in the Zoning Resolution in addition to the [grandfathering]

Grandfathering determinations of occupancy concerning non-discretionary actions by the agency to which an application must be made.

- (ii) [*Special permit*. A "special permit" as found in MDL § 281(2)(iv) is a term referring to a grandfathering procedure specified in the Zoning Resolution which involves a discretionary determination, and approval by the City Planning Commission, to which the application must initially be made, and by the Board of Estimate or any entity which succeeds it in this function.**] **Special Permit** means a Grandfathering procedure in the Zoning Resolution involving a discretionary determination and approval by the City Planning Commission and any other entity having jurisdiction to approve rezoning for residential use. Grandfathering procedures in this classification are designated in the Zoning Resolution and include, but are not limited to § 74-782; as of April 7, 1983, as well as other sections that have been or will be adopted.

- (3[.]) **Living Independently**[. For purposes of MDL § 281 and these rules, "living independently"] means having attributes of 'independent living' by a [family] Family in each [residential unit] Residential Unit, such as:
- (i) a separate entrance providing direct access to the [residential unit] Residential Unit from a street or public area, such as a hallway, elevator, or stairway within a [building] Building;
- (ii) one (1) or more rooms such as a kitchen area, a bathroom, a sleeping area and a living room area arranged to be occupied exclusively by the members of a [family] Family and their guests, which room or rooms are separated, and set apart from all other rooms within a [building] Building; and (iii) such other indicia of independent living which demonstrate the [residential unit's] Residential Unit's use as a residence of a [family living independently] Family Living Independently.

(4[.]) **Residential unit.**

- (i) In order for a [residential unit] Residential Unit to be deemed an IMD unit qualifying for coverage under [Article] Art. 7-C, the unit must:
- (A) be the residence or home of a ["family"] Family [as defined in MDL § 4(5)**] that is [living independently] Living Independently;
- (B) be located in a [building] Building, a portion of which was occupied at any time for manufacturing, commercial or warehouse purposes;
- (C) lack a residential certificate of occupancy issued pursuant to MDL § 301, as further delineated in 29 RCNY § 2-08(b);

- (D) except as set forth below in 29 RCNY §§ 2-08(a)(4)(ii), and (iii), be located in a geographical area in which the Zoning Resolution permits [residential use as of right] Residential Use as of Right or in which the residential use may become a use as of right as a result of approval of a [grandfathering] Grandfathering application, in accordance with MDL §§ 281(2)(i), or (iv); or is located in a [study area] Study Area designated by the Zoning Resolution for possible rezoning to permit residential use, in accordance with MDL § 281(2)(iii);
- (E) be located in a [building] Building that is not municipally owned; and
- (F) except as set forth below in 29 RCNY §§ 2-08(a)(4)(ii), and (iii), be occupied by a [family living independently] Family Living Independently for residential purposes on December 1, 1981, since April 1, 1980 for coverage under § 281(1)[, and].

[(G) pursuant to MDL § 282-a, either (i) have been registered as part of an IMD building, structure or portion thereof by the landlord of such building, by that certain date which is 6 months after the date the Loft Board shall have adopted all rules necessary in order to implement the provisions of Chapters 135 and 147 of the Laws of 2010 (ii) have been included as part of a coverage application filed by a residential occupant of the building, structure or portion thereof by that certain date which is 6 months after the date the Loft Board shall have adopted all rules necessary in order to implement the provisions of Chapters 135 and 147 of the Laws of 2010 or (iii) if the landlord is directed to file a registration application form by a court of competent jurisdiction pursuant to a claim of Article 7-C coverage raised in a pleading before the certain date listed in 29 RCNY § 1-06.1(a), and on the Loft Board's website].

- (ii) In addition to the criteria set forth in subparagraph (i) of this 29 RCNY [§§] § 2-08(a)(4), in order for a [residential unit] Residential Unit to qualify for coverage under [Article] Art. 7-C pursuant to MDL § 281(4), such residence or unit must have been occupied by a [family living independently] Family Living Independently for residential purposes on May 1, 1987, since December 1, 1981, and occupied for residential purposes since April 1, 1980, regardless of whether the [building] Building is located in a geographical area in which the Zoning Resolution permits [residential use as of right] Residential Use as of Right, or through [grandfathering] Grandfathering as defined in 29 RCNY § 2-08(a)(2), or because the [building] Building is located in a [study area] Study Area as defined in 29 RCNY § 2-08(a)(5).

- (iii) [Notwithstanding the foregoing,] In addition to the criteria set forth in subparagraph (i) of this paragraph, in order for a [residential unit] Residential Unit to qualify for coverage under [Article] Art. 7-C pursuant to MDL § 281(5), [as set forth in these rules, a] such residence or [residential] unit [is not required to have been residentially occupied between April 1, 1980 through December 1, 1981, but is required to] must have been occupied by a [family living independently] Family Living Independently for residential purposes during a period of twelve consecutive [months] Months between January 1, 2008 through December 31, 2009, as further delineated in 29 RCNY §§ 2-08(c)(3) and (c)(4), regardless of whether the [building] Building is geographically located in an area in which the Zoning Resolution permits residential use. In addition to the criteria set forth in [subparagraph] clauses (A), (B), (C), and (E)[, and (G)] of 29 RCNY § 2-08(a)(4)(i), in order for a [residential unit] Residential Unit to qualify as an IMD unit for purposes of coverage under [Article] Art. 7-C pursuant to MDL § 281(5), such residence or home must:
- (A) not be located in a ["cellar" or "basement," as such terms are defined in MDL §§ 4(37), and 4(38) respectively] cellar as defined in MDL § 4(37), as an enclosed space having more than one-half of its height below the curb level; except that where every part of the Building is set back more than twenty-five feet from a street line, the height [shall] must be measured from the adjoining grade elevations calculated from final grade elevations taken at intervals of ten feet around the exterior walls of the Building. A cellar shall not be counted as a story;
 - (B) have a means of access from a street or public area, such as a hallway, elevator or stairway, and the unit must not require passage through another residence, or unit to obtain access;
 - (C) [contain at least 1 window that opens onto a street, lawful yard or court;] RESERVED;
 - (D) contain at least [400] four hundred (400) square feet in area;
 - (E) not be located in an [Industrial Business Zone] IBZ, as such term is defined in chapter 6-D of Title 22 of the New York City Administrative Code, except for [buildings] Buildings located in the:
 - (i) Williamsburg/Greenpoint [Industrial Business Zone] IBZ;

(ii) North Brooklyn [Industrial Business Zone] IBZ unless the Building is in a district zoned M3 as such district is described in the Zoning Resolution of the City of New York in effect at the time the Application for registration as an IMD or for coverage of Residential Units is filed; or

(iii) Long Island City [Industrial Business Zone] IBZ, provided that the [residential units] Residential Units meet the qualifying criteria set forth above and the [buildings] Buildings are located in the following area of the Long Island City [Industrial Business Zone] IBZ:

- (a) have frontage on either side of 47th Avenue,[*]
- (b) be located north of 47th Avenue and south of Skillman Avenue, or
- (c) be located north of 44th Drive, south of Queens Plaza north, and west of 23rd Street; and

(F) not be located in the same [building] Building that contained, as of June 21, 2010, and continuing at the time of the submission of an [application] Application for coverage by any party, a use in legal operation actively and currently pursued that is determined by the Loft Board to be inherently incompatible with residential use by creating an actual risk of harm that cannot be reasonably mitigated, as defined in 29 RCNY § 2-08(k) of these rules.

(iv) In addition to the criteria set forth in subparagraph (i) of this paragraph, in order for a Residential Unit to qualify for coverage under Art. 7-C pursuant to MDL § 281(6), such residence or unit must have been occupied by a Family Living Independently for residential purposes during a period of twelve consecutive Months between January 1, 2015 through December 31, 2016, as further delineated in 29 RCNY § 2-08(c)(5) and (c)(6), regardless of whether the Building is geographically located in an area in which the Zoning Resolution permits residential use. In addition to the criteria set forth in clauses (A), (B), (C), and (E) of this subparagraph, in order for a Residential Unit to qualify as an IMD unit for purposes of coverage under Art. 7-C pursuant to MDL § 281(6), such residence or home must:

(A) not be located in a cellar, defined in MDL § 4(37) as an enclosed space having more than one-half of its height below the curb level; except that where every part of the Building is set back more than twenty-five feet from

a street line, the height must be measured from the adjoining grade elevations calculated from final grade elevations taken at intervals of ten feet around the exterior walls of the Building. A cellar shall not be counted as a story;

;

- (B) have a means of access from a street or public area, such as a hallway, elevator or stairway, and the unit must not require passage through another residence, or unit to obtain access;
- (C) contain at least four hundred (400) square feet in area;
- (D) not be located in an IBZ, as such term is defined in chapter 6-D of Title 22 of the New York City Administrative Code, except for Buildings located in the:
 - (i) Williamsburg/Greenpoint IBZ;
 - (ii) North Brooklyn IBZ unless the Building is in a district zoned M3 as such district is described in the New York City Zoning Resolution in effect at the time the Application for registration as an IMD or for coverage of Residential Units is filed; or
 - (iii) Long Island City IBZ, provided that the [residential units] Residential Units meet the qualifying criteria set forth above and the Buildings are located in the following area of the Long Island City IBZ:
 - (a) have frontage on either side of 47th Avenue,
 - (b) be located north of 47th Avenue and south of Skillman Avenue, or
 - (c) be located north of 44th Drive, south of Queens Plaza north, and west of 23rd Street; and
- (E) not be located in the same Building that contained, as of June 25, 2019, and continuing at the time of the submission of an Application for coverage by any party, a use in legal operation actively and currently pursued that is determined by the Loft Board to be inherently incompatible with residential use by creating an actual risk of harm that cannot be reasonably mitigated, as defined in 29 RCNY § 2-08(k).

(5.) **Study area**[. A study area as found in MDL § 281(2)(iii) is a term referring to] means an area, defined in § 42-02 of the Zoning Resolution, which [is currently] on the effective date of Art. 7-C was zoned as manufacturing and under study by the City Planning Commission for a determination of the appropriateness of the zoning.

(b) *Certificate of occupancy.*

(1) Registration as an IMD shall not be required of any [building] Building, structure or portion thereof for which a final residential certificate of occupancy was issued pursuant to MDL § 301 prior to:

- (i) June 21, 1982, for [buildings] Buildings, structures, or portions thereof seeking coverage under [Article] Art. 7-C solely pursuant to MDL § 281(1);
- (ii) July 27, 1987, for [buildings] Buildings, structures or portions thereof seeking coverage under [Article] Art. 7-C solely pursuant to MDL § 281(4);
- (iii) June 21, 2010, for [buildings] Buildings, structures or portions thereof seeking coverage under [Article] Art. 7-C pursuant to MDL § 281(5) as enacted in Chapter 135 or as amended in Chapter 147 of the Laws of 2010; [or]
- (iv) June 1, 2012, for [buildings] Buildings, structures, or portions of [buildings] Buildings seeking coverage under [Article] Art. 7-C pursuant to § 281(5) as amended in Chapter 4 of the Laws of 2013, Chapter 20 of the Laws of 2015, or Chapter 41 of the Laws of 2019; or
- (v) June 25, 2019 for [buildings] Buildings, structure or portions thereof seeking coverage under Art. 7-C pursuant to MDL § 281(6) as enacted in Chapter 41 of the Laws of 2019.

[Such] Furthermore, such units shall be exempt from [Article] Art. 7-C coverage unless the residential certificate of occupancy is revoked.

(2) Registration as an IMD with the Loft Board shall be required of:

- (i) Any [building] Building, structure, or portion thereof, which otherwise meets the criteria for an IMD set forth in:
 - (A) MDL § 281(1), and these rules, for all residentially-occupied units which lacked a final residential certificate of occupancy issued pursuant to § 301 of the MDL prior to June 21, 1982,
 - (B) MDL § 281(4), and these rules, for all residentially-occupied units which lacked a final certificate of occupancy issued pursuant to § 301 of the MDL prior to July 27, 1987,

- (C) MDL § 281(5) as enacted in Chapter 135 or as amended in Chapter 147 of the Laws of 2010, and these rules, for all residentially-occupied units which lacked a final certificate of occupancy issued pursuant to MDL § 301, prior to June 21, 2010, [or]
- (D) MDL § 281(5) as amended in Chapter 4 of the Laws of 2013, and these rules, for all residentially-occupied units which lacked a final certificate of occupancy issued pursuant to MDL § 301, prior to June 1, 2012
- (E) MDL § 281(5) as amended in Chapter 41 of the Laws of 2019, and these rules, for all residentially-occupied units which lacked a final certificate of occupancy issued pursuant to MDL § 301, prior to June 25, 2019, or
- (F) MDL § 281(6) as enacted in Chapter 41 of the Laws of 2019, and these rules, for all residentially-occupied units which lacked a final certificate of occupancy issued pursuant to MDL § 301, prior to June 25, 2019.

[Issuance] Furthermore, issuance of a certificate of occupancy pursuant to MDL § 301 for such units on or after June 21, 1982, July 27, 1987, June 21, 2010, [or] June 1, 2012, or June 25, 2019 as applicable, will not be the basis for exemption from [Article] Art. 7-C coverage;

- (ii) Any [building] Building, structure, or portion thereof which meets the criteria for an IMD set forth in MDL § 281, and these rules, for all residentially occupied units which obtained a temporary residential certificate of occupancy issued pursuant to MDL § 301 prior to:
 - (A) June 21, 1982 for units covered under MDL § 281(1),
 - (B) July 27, 1987 for units covered under MDL § 281(4),
 - (C) June 21, 2010 for units covered under MDL § 281(5) as enacted in Chapter 135 or as amended in Chapter 147 of the Laws of 2010, [and]
 - (D) June 1, 2012 for units covered under MDL § 281(5) as amended in Chapter 4 of the Laws of 2013[.].
 - (E) June 15, 2015 for units covered under MDL § 281(5) as amended in Chapter 20 of the Laws of 2015, and
 - (F) June 25, 2019 for units covered under MDL § 281(5), as amended, or 281(6) as enacted in Chapter 41 of the Laws of 2019.

[Issuance] Furthermore, issuance of a temporary residential certificate of occupancy for such units prior to these dates will not be the basis for exemption from [Article] Art. 7-C coverage [if on or after these dates a period of time of any length existed for any reason during which a temporary or final certificate of occupancy issued pursuant to MDL § 301 was not in effect for such units];

- (iii) Any [building] Building, structure or portion thereof, which otherwise meets the criteria for an IMD set forth in MDL § 281, and these rules, for all residentially occupied units for which a final certificate of occupancy issued pursuant to MDL § 301 has been revoked. The prior issuance of a final certificate of occupancy which has been revoked will not be the basis for exemption from [Article] Art. 7-C coverage.
- (iv) Any [building] Building, structure, or portion thereof that otherwise meets the criteria for an IMD set forth in MDL § 281, and these rules, and contains [residential units] Residential Units which were subsequently converted to non-residential use following the applicable time period required to qualify such unit for coverage under [Article] Art. 7-C. Current commercial use or commercial use after the qualifying window period shall not be the basis for exemption from [Article] Art. 7-C coverage.

(c) *Qualifying period of occupancy.*

- (1) Registration with the Loft Board shall be required of any [building] Building, structure or portion thereof, which otherwise meets the criteria for an IMD set forth in MDL § 281(1), and these rules, and had at least three (3) units residentially occupied on December 1, 1981, since April 1, 1980. If the [building] Building, structure or portion thereof contained three (3) units so occupied on December 1, 1981, and on April 1, 1980, and if such residential use is permissible under the Zoning Resolution as of right, or through [grandfathering] Grandfathering, or the units are in a [study area] Study Area as defined in 29 RCNY § 2-08(a)(5), there shall be a presumption that the [building] Building is an IMD and that such units are covered under [Article] Art. 7-C. However, if there is a determination by the Loft Board that there was a bona fide change to exclusively non-residential use in a unit between April 1, 1980, and December 1, 1981, such unit shall not be counted for purposes of determining whether the [building] Building qualifies for coverage as an IMD pursuant to MDL § 281(1). The [occupant] Occupant of any unit which changed to a bona fide exclusively non-residential use must have been a party distinct, and independent of the [owner] Owner or Responsible Party of the [building] Building for the presumption of IMD coverage to be rebutted.
- (2) Registration with the Loft Board [shall] must also be required of any [building] Building, structure or portion thereof, which otherwise meets the criteria for an IMD set forth in MDL § 281(4), and these rules, that had one (1) or more units residentially occupied on May 1, 1987, since

December 1, 1981, that was occupied for residential purposes since April 1, 1980, regardless of whether residential use is permitted under the Zoning Resolution as of right, or through [grandfathering] Grandfathering as defined in 29 RCNY § 2-08(a)(2), or because the [building] Building is located in a [study area] Study Area as defined in 29 RCNY § 2-08(a)(5). Residential occupancy of one (1) or more units of the [building] Building, structure or portion thereof, as described in this paragraph, on May 1, 1987, on December 1, 1981, and on April 1, 1980, shall create a presumption that the [building] Building is an IMD or that such unit or units are covered under [Article] Art. 7-C. However, if there is a determination by the Loft Board that there was a bona fide change to exclusively non-residential use in a unit between April 1, 1980, and December 1, 1981, or between December 1, 1981 and May 1, 1987, such unit shall not be counted for purposes of determining whether the [building] Building qualifies for coverage as an IMD pursuant to MDL § 281(4). The [occupant] Occupant of any unit which changed to a bona fide exclusively non-residential use must have been a party distinct and independent of the [owner] Owner or Responsible Party of the [building] Building for the presumption of IMD coverage to be rebutted.

- (3) Registration with the Loft Board shall also be required of any [building] Building, structure or portion thereof which otherwise meets the criteria for an IMD set forth in MDL § 281(5) and these rules that contained at least three (3) units residentially occupied by families [living independently] Living Independently from one another for a period of twelve (12) consecutive [months] Months between January 1, 2008 through December 31, 2009, regardless of whether residential use is permitted under the Zoning Resolution. However, if there is a determination by the Loft Board that there was a bona fide change to exclusively non-residential use in a unit during such qualifying twelve consecutive [month] Month window period, such unit shall not be counted for purposes of determining whether the [building] Building qualifies for coverage as an IMD pursuant to MDL § 281(5). The [occupant] Occupant of any unit which changed to a bona fide exclusively non-residential use must have been a party distinct and independent of the [owner] Owner or Responsible Party of the [building] Building for the presumption of IMD coverage to be rebutted. It is not required that the units that seek coverage under MDL § 281(5) occupy their respective units during the same twelve (12) consecutive [month] Month period.
- (4) Registration with the Loft Board shall also be required of any [building] Building, structure or portion thereof located in that certain area of Manhattan bounded on the south by West 24th Street, on the north by West 27th Street, on the east by Tenth Avenue and on the west by Eleventh Avenue, which contain at least two (2) units residentially occupied by families [living independently] Living Independently from one another for a period of twelve (12) consecutive [months] Months between January 1, 2008 through December 31, 2009, regardless of whether residential use is permitted under the Zoning Resolution. However, if there is a determination by the Loft Board that there was a bona fide change to exclusively non-residential use in a unit during such qualifying

twelve consecutive [month] Month window period, such unit shall not be counted for purposes of determining whether the [building] Building qualifies for coverage as an IMD pursuant to MDL § 281(5). The [occupant] Occupant of any unit which changed to a bona fide exclusively non-residential use must have been a party distinct and independent of the [owner] Owner or Responsible Party of the [building] Building for the presumption of IMD coverage to be rebutted. It is not required that the units in the same [building] Building seeking coverage under MDL § 281(5) be occupied residentially during the same consecutive [twelve-month] (12) Month period.

- (5) Registration with the Loft Board shall also be required of any Building, structure or portion thereof which otherwise meets the criteria for an IMD set forth in MDL § 281(6) and these rules that contained at least three (3) units residentially occupied by Families Living Independently from one another for a period of twelve (12) consecutive Months between January 1, 2015 through December 31, 2016, regardless of whether residential use is permitted under the Zoning Resolution. However, if there is a determination by the Loft Board that there was a bona fide change to exclusively non-residential use in a unit during such qualifying twelve (12) consecutive Month period, such unit shall not be counted for purposes of determining whether the Building qualifies for coverage as an IMD pursuant to MDL § 281(6). The Occupant of any unit which changed to a bona fide exclusively non-residential use must have been a party distinct and independent of the Owner or Responsible Party of the Building for the presumption of IMD coverage to be rebutted. It is not required that the units that seek coverage under MDL § 281(6) occupy their respective units during the same twelve (12) consecutive Month period.
- (6) Registration with the Loft Board shall also be required of any Building, structure or portion thereof located in that certain area of Manhattan bounded on the south by West 24th Street, on the north by West 27th Street, on the east by Tenth Avenue and on the west by Eleventh Avenue, which contain at least two (2) units residentially occupied by Families Living Independently from one another for a period of twelve (12) consecutive Months between January 1, 2015 through December 31, 2016, regardless of whether residential use is permitted under the Zoning Resolution. However, if there is a determination by the Loft Board that there was a bona fide change to exclusively non-residential use in a unit during such qualifying twelve (12) consecutive Month period, such unit shall not be counted for purposes of determining whether the Building qualifies for coverage as an IMD pursuant to MDL § 281(6). The Occupant of any unit which changed to a bona fide exclusively non-residential use must have been a party distinct and independent of the Owner or Responsible Party of the Building for the presumption of IMD coverage to be rebutted. It is not required that the units in the same Building seeking coverage under MDL § 281(6) be occupied residentially during the same consecutive twelve[-] (12) Month period.

- (7) [Neither] None of the following vacancies of any duration [for units residentially occupied on] will be the basis for exemption from Art. 7-C coverage:
- (i) units residentially occupied on December 1, 1981, and on April 1, 1980 as set forth in 29 RCNY § 2-08(c)(1) above, or
 - (ii) units residentially occupied on May 1, 1987, December 1, 1981, and April 1, 1980 as set forth in 29 RCNY § 2-08(c)(2) above, or
 - (iii) units residentially occupied at any time prior to or following the qualifying twelve (12) consecutive [month] Month window period between January 1, 2008 through December 31, 2009, as set forth in 29 RCNY §§ 2-08(c)(3) or (c)(4) above, [nor a change or changes of residential occupants in any such units during the intervening period(s) will be the basis for exemption from Article 7-C coverage] or
 - (iv) units residentially occupied at any time prior to or following the qualifying twelve (12) consecutive Month window period between January 1, 2015 through December 31, 2016, as set forth in 29 RCNY § 2-08(c)(5) or (c)(7) above, nor does a change or changes of residential Occupants in any such units during the intervening period(s) exempt a unit from [Article] Art. 7-C coverage.
- (d) *Calculation of [residential units] Residential Units.*
- (1) For purposes of counting [residential units] Residential Units to determine whether a [building] Building qualifies for coverage as an IMD [building] Building and must be registered, [each] the unit seeking coverage must meet the criteria set forth in MDL § 281 and these rules, including 29 RCNY § 2-08(a)(4)(i)(A),(B),(C) and (E).
 - (i) The following types of units may qualify for [Article] Art. 7-C coverage, provided that each unit satisfies the applicable criteria for coverage set forth in 29 RCNY § 2-08(a)(4), pursuant to MDL § 281(1), 281(4), [or] 281(5) or 281(6):
 - (a) any [residential unit] Residential Unit designated as "Artist in Residence" (A.I.R.) pursuant to directives of the [Department of Buildings] DOB creating such status;
 - (b) any [residential unit] Residential Unit designated as "joint living work quarters for artists" [pursuant to the Zoning Resolution] except as provided below in 29 RCNY § 2-08(d)(2)(ii);
 - (c) any [residential unit] Residential Unit occupied by a subtenant or assignee of the prime [tenant] Tenant of such unit.

- (ii) For a unit to qualify as a residential IMD unit, the [building] Building in which it is located must meet the criteria of MDL §§ 281 and 281(2)(ii) in that:
- (A) a portion of the [building] Building or structure was occupied at any time for manufacturing, commercial or warehouse purposes;
 - (B) the [building] Building, structure or portion thereof lacked a residential certificate of occupancy pursuant to MDL § 301 as further delineated in 29 RCNY §§ 2-08(b)(1) and (2);
 - (C) except as otherwise set forth in MDL [§] §§ 281(5), 281(6) and these rules, it contained at least three (3) units residentially occupied on December 1, 1981, since April 1, 1980; and
 - (D) it is not municipally owned.

- (2) For purposes of counting to determine whether a [building] Building qualifies as an IMD, and is covered under [Article] Art. 7-C, [residential units] Residential Units described as follows shall not be included:

- (i) any units designated as residential on a final certification of occupancy issued pursuant to MDL § 301 prior to:
- (A) June 21, 1982 for a unit seeking coverage under MDL § 281(1);
 - (B) July 27, 1987 for a unit seeking coverage under MDL § 281(4);
 - (C) June 21, 2010 for a unit seeking coverage under MDL § 281(5) as enacted in Chapter 135 or as amended in Chapter 147 of the Laws of 2010; [or]
 - (D) June 1, 2012 for a unit seeking coverage under MDL § 281(5) as amended in Chapter 4 of the Laws of 2013;
 - (E) June 15, 2015 for units covered under MDL § 281(5) as amended in Chapter 20 of the Laws of 2015, or
 - (F) June 25, 2019 for units covered under MDL § 281(5), as amended, or 281(6) as enacted in Chapter 41 of the Laws of 2019.
- (ii) any units designated as "joint living work quarters for artists" on a final certificate of occupancy issued prior to:
- (A) June 21, 1982 for a unit seeking coverage under MDL § 281(1);

- (B) July 27, 1987 for unit seeking coverage under MDL § 281(4);
 - (C) June 21, 2010 for a unit seeking coverage under MDL § 281(5) as enacted in Chapter 135 or as amended in 147 of the Laws of 2010; [or]
 - (D) June 1, 2012 for a unit seeking coverage under MDL § 281(5) as amended in Chapter 4 of the Laws of 2013;
 - (E) June 15, 2015 for units covered under MDL § 281(5) as amended in Chapter 20 of the Laws of 2015; or
 - (F) June 25, 2019 for units covered under MDL § 281(5), as amended, or 281(6) as enacted in Chapter 41 of the Laws of 2019; and
- (iii) any units designated for a commercial use with an accessory residential use on a final certificate of occupancy issued prior to:
- (A) June 21, 1982 for a unit seeking coverage under MDL § 281(1);
 - (B) July 27, 1987 for a unit seeking coverage under MDL § 281(4);
 - (C) June 21, 2010 for a unit seeking coverage under MDL § 281(5) as enacted in Chapter 135 or as amended in 147 of the Laws of 2010; [or]
 - (D) June 1, 2012 for a unit seeking coverage under MDL § 281(5) as amended in Chapter 4 of the Laws of 2013;
 - (E) June 15, 2015 for units covered under MDL § 281(5) as amended in Chapter 20 of the Laws of 2015; or
 - (F) June 25, 2019 for units covered under MDL § 281(5), as amended, or 281(6) as enacted in Chapter 41 of the Laws of 2019.
- (e) *Zoning regulations.*
- (1) Registration as an IMD shall be required of any [building] Building, structure, or portion thereof, which meets the criteria for an IMD as set forth in MDL § 281(1), and these rules, including without limitation 29 RCNY § 2-08(a)(4). Notwithstanding the foregoing, any [building] Building located in a zoning district designated as manufacturing in the Zoning Resolution, for which district there are no ["grandfathering"] Grandfathering provisions as defined in these rules shall not qualify as an

IMD unless such [buildings] Buildings, structures or portions thereof otherwise meet the criteria of:

- (i) MDL § 281(1), if such IMD [building] Building is located in a ["Study area"] Study Area as defined in 29 RCNY § 2-08(a)(5), and the registration of such [building] Building shall be required, or
 - (ii) MDL § 281(1), if such IMD [building] Building also meets the requirements of MDL § 281(4), and the rules issued pursuant thereto, or
 - (iii) MDL § 281(5), or MDL § 281(6) and these rules. Except for a [building] Building or structure or portion thereof which qualifies for coverage under [Article] Art. 7-C solely by reason of MDL §§ § 281(4) [or], 281(5) or 281(6), the zoning regulations, and the [grandfathering] Grandfathering provisions for the district in which a [building] Building or structure is located determine whether and when the [owner] Owner or Responsible Party of such [building] Building, which otherwise meets the criteria for an IMD set forth in MDL § 281, and these rules issued pursuant thereto, is mandated to meet the compliance requirements for legalization set forth in MDL § 284(1).
- (2) Any [building] Building, structure or portion thereof, which otherwise meets the criteria for an IMD set forth in MDL § 281(1) and these rules, and which is located in an area which permits [residential use as of right] Residential Use as of Right, shall be obligated to meet the compliance requirements for legalization by the dates designated in MDL § 284(1), except as provided in 29 RCNY §§ 2-08(e)(4)(i), and (iii) infra, and as further delineated in 29 RCNY § 2-01(a).
- (3) Any IMD unit designated as "joint living work quarters for artists" in a zoning district which does not otherwise permit [residential use as of right] Residential Use as of Right and which is currently occupied by a resident or residents who cannot qualify as certified artists, as defined in § 276 of [Article] Art. 7-B of the MDL, shall qualify for [Article] Art. 7-C coverage if the [building] Building in which such unit is contained otherwise meets the criteria for an IMD set forth in MDL § 281, and these rules. The non-artist status of the current [occupant] Occupant shall not be the basis for exemption from [Article] Art. 7-C coverage. At the time of issuance of the final certificate of occupancy, the [occupant] Occupant of such a unit must be in compliance with the Zoning Resolution, or the unit must be vacant.
- (4) *Legalization compliance timetable.*
- (i) For any [building] Building, structure or portion thereof, which contains fewer than three (3) [residential units] Residential Units as of right and one (1) or more [residential units] Residential Units eligible for coverage by employing one of the [grandfathering] Grandfathering procedures set forth in MDL §§ 281(2)(i) or (iv) and defined in 29 RCNY § 2-08(a)(2)(i) and (ii), the timing of the

compliance requirements of MDL § 284(1) shall commence upon approval of the [grandfathering] Grandfathering application of the unit which becomes the third eligible [residential unit] Residential Unit for purposes of calculation of [residential units] Residential Units qualifying the [building] Building as an IMD.

- (ii) For any registered [building] Building in the category described in 29 RCNY § 2-08(e)(4)(i), for which denial of a [grandfathering] Grandfathering application reduces the number of qualifying [residential units] Residential Units below three (3), IMD status for such [building] Building expires and the other [residential units] Residential Units in such [building] Building cease to be covered by [Article] Art. 7-C, unless the [building] Building qualifies for coverage under [Article] Art. 7-C pursuant to MDL [§§] § 281(4), [or] (5) or (6) and these rules.
- (iii) Any [building] Building, structure or portion thereof which contains three (3) or more [residential units] Residential Units as of right, and one (1) or more additional units eligible for coverage by employing one of the [grandfathering] Grandfathering provisions of MDL §§ 281(2)(i) or (iv), shall be obligated to meet the compliance requirements for legalization by the dates designated in MDL § 284(1), as further delineated in 29 RCNY § 2-01(a), for such as of right [residential units] Residential Units. The timing of the compliance requirements for the other eligible units shall commence as follows:
 - (A) Where an application for [grandfathering] Grandfathering for such unit is made pursuant to one of the procedures designated as a ["minor modification" or "administrative certification"] Minor Modification or Administrative Certification in MDL § 281(2)(i), upon a determination of residential occupancy on the date designated in the particular [grandfathering] Grandfathering provision of the Zoning Resolution;
 - (B) Where an application for [grandfathering] Grandfathering for such unit is made pursuant to a ["special permit application"] Special Permit Application as designated in MDL § 281(2)(iv), upon the granting of such [special permit] Special Permit.
- (iv) For any unit eligible for coverage by employment of one of the [grandfathering] Grandfathering procedures set forth in MDL §§ 281(2)(i), or (iv) and defined in 29 RCNY §§ 2-08(a)(2)(i) and (ii), the final denial of a [grandfathering] Grandfathering application or the failure to apply for [grandfathering] Grandfathering within the time period specified in the Zoning Resolution will terminate coverage for such unit unless such unit qualifies for coverage under [Article] Art. 7-C pursuant to MDL § 281(4) [or], MDL § 281(5), or MDL § 281(6).

- (v) For any [building] Building, structure or portion thereof, which otherwise meets the criteria for an IMD set forth in MDL § 281(1) and these rules, but is located in an area designated by the Zoning Resolution as a [study area] Study Area, the timing of the compliance requirements of MDL § 284(1) shall commence upon rezoning of such [study area] Study Area to permit [residential use as of right] Residential Use as of Right. If the rezoning permits residential use only through [grandfathering] Grandfathering procedures, the timing of the compliance requirements of MDL § 284(1) and the rules issued pursuant thereto shall commence upon the approval of the [grandfathering] Grandfathering application of the unit which becomes the third eligible [residential unit] Residential Unit for purposes of calculation of units qualifying the [building] Building as an IMD. For any registered [building] Building in a [study area] Study Area as described in 29 RCNY § 2-08(a)(5), for which the City Planning Commission approved neither rezoning nor [grandfathering] Grandfathering by December 31, 1983, IMD status for such [building] Building expires and all of the units in such [building] Building cease to be covered by [Article] Art. 7-C, unless there is a recommended extension of such deadline by the City Planning Commission. If [the Board of Estimate, or its successor,] any authority having jurisdiction disapproves rezoning for residential use or [grandfathering] Grandfathering, or the extension of such deadline, IMD status for such [building] Building expires and all the units in such [building] Building cease to be covered by [Article] Art. 7-C. Notwithstanding the foregoing, any [building] Building, structure or portion thereof which ceased to be covered under [Article] Art. 7-C as a result of the failure to rezone the [study area] Study Area, permit [grandfathering] Grandfathering or to extend the deadlines as set forth in the foregoing paragraph shall be covered by [Article] Art. 7-C if it meets the criteria of MDL [§§] § 281(4) [or], MDL § 281(5), or MDL § 281(6).
- (vi) For any [building] Building, structure or portion thereof that meets the criteria for an IMD set forth in MDL § 281(5) and these rules, the timing of the code-compliance deadlines are set forth in MDL § 284(1)(vi) and 29 RCNY §§ 2-01(a)(9) [and], (10), (11) and (12).
- (vii) For any Building, structure or portion thereof that meets the criteria for an IMD set forth in MDL § 281(6) and these rules, the timing of the code-compliance deadlines are set forth in MDL § 284(1)(vi) and 29 RCNY § 2-01(a)(13).
- (viii) For any [building] Building, structure or portion thereof registered pursuant to MDL § 281(5) or MDL § 281(6) for which there is a revocation of IMD status of one (1) or more units in the [building] Building by the Executive Director as a result of a determination that such unit(s) did not meet the qualifying criteria set forth in 29 RCNY § [2-08(a)(4)] 2-08(a)(4)(i)(A),(B),(C) and (E), and such

revocation reduces the number of qualifying [residential units] Residential Units below three (3) or two (2), with respect to an IMD [building] Building located in the geographic area described in 29 RCNY § 2-08(c)(4) or (c)(6)), the IMD status for the entire such [building] Building shall expire and each of the units in the [building] Building shall be deemed to be ["non-covered units".] "non-covered units." As set forth below, [occupants] Occupants of non-covered units are not entitled to the protections of [Article] Art. 7-C. Residential occupancy of a non-covered unit shall not be permitted in the [building] Building until a final certificate of occupancy that designates the non-covered unit as residential is obtained.

(f) *Municipally owned [buildings] Buildings.*

- (1) Any [building] Building, structure or portion thereof, which otherwise meets the criteria for an IMD as set forth in MDL § 281 and these rules, but is municipally owned, shall be exempt from coverage under [Article] Art. 7-C.
- (2) Any [building] Building, structure or portion thereof, which otherwise meets the criteria for an IMD as set forth in MDL [§§] § 281(1), 281(4) [or], 281(5), or 281(6) and these rules, formerly municipally owned, but for which title passed to a private [owner] Owner, shall be required to register as an IMD and shall not be exempt from coverage under [Article] Art. 7-C. The former ownership by the municipality shall not be the basis for exemption from [Article] Art. 7-C coverage.

(g) *Accreted and additional units.*

- (1) (i) In a [building] Building, structure or portion thereof which meets the criteria of MDL §§ 281(1) and 281(2), or MDL § 281(4), and these rules, thereby qualifying as an IMD [building] Building, the [occupant] Occupant or [occupants] Occupants of any additional unit residentially occupied for the first time after April 1, 1980 but prior to April 1, 1981 in such IMD [building] Building may also be covered under [Article] Art. 7-C pursuant to MDL § 281(3). In order to qualify for coverage pursuant to MDL § 281(3), the occupancy of such unit must be permissible under the Zoning Resolution. For purposes of 29 RCNY § 2-09(3), occupancy of such additional unit(s) shall be deemed permissible if:

[(i)] (A) the unit is located in a zoning district where [residential use as of right] Residential Use as of Right is permitted under the Zoning Resolution; or

[(ii)] (B) the unit is designated as "joint living work quarters for artist" in a zoning district which does not otherwise permit [residential use as of right] Residential Use as of Right, regardless of whether the [occupant] Occupant or

[occupants] Occupants qualify as "certified artists" as defined in § 12-10 of the Zoning Resolution; or

[(iii)] (C) the unit can qualify as having a legal residential use pursuant to one of the [grandfathering] Grandfathering provisions of the Zoning Resolution, as defined in 29 RCNY § 2-08(a); or

[(iv)] (D) the unit is in a [study area] Study Area, as defined in 29 RCNY § 2-08(a), for which the City Planning Commission has approved either rezoning for residential use or [grandfathering] Grandfathering by December 31, 1983.

(ii) In a [building] Building, structure, or portion thereof that meets the criteria of MDL §§ 281(1)[,] and 281(2), or MDL § 281(4), and these rules, thereby qualifying as an IMD [building] Building, the [occupant] Occupant or [occupants] Occupants of any additional unit residentially occupied during a period of twelve consecutive [months] Months between January 1, 2008 through December 31, 2009, in the IMD [building] Building may also be covered under [Article] Art. 7-C provided that such additional unit meets the criteria set forth in MDL § 281(5) and as further delineated in these rules, including 29 RCNY § [2-08(a)(4)] 2-08(a)(4)(i)(A),(B),(C) and (E).

(iii) In a Building, structure, or portion thereof that meets the criteria of MDL §§ 281(1) and 281(2), or 281(4), or MDL § 281(5), and these rules, thereby qualifying as an IMD Building, the Occupant or Occupants of any additional unit residentially occupied during a period of twelve consecutive Months between January 1, 2015 through December 31, 2016, in the IMD Building may also be covered under Art. 7-C provided that such additional unit meets the criteria set forth in MDL § 281(6) and as further delineated in these rules, including 29 RCNY § 2-08(a)(4)(i)(A),(B),(C) and (E).

(2) Registration of such accreted and additional units as part of the IMD shall be required for all units that qualify for [Article] Art. 7-C coverage.

(3) Where a [building] Building, structure or portion thereof meets the criteria of MDL [§§ 281(1), and 281(2), 281(3), 281(4), [or] 281(5)] § 281, and these rules, it must be registered with the Loft Board. A decrease in the number of [residential units] Residential Units in a [building] Building that qualifies for coverage pursuant to MDL § 281 to fewer than three (3) or two (2), as permitted in accordance with the terms and provisions set forth in MDL § 281(5), or 281(6) and these rules, after the applicable time period required for residential occupancy pursuant to MDL § 281, will not be the basis for exemption from [Article] Art. 7-C coverage. In such instances, the [owner, landlord] Owner, Landlord, or [agent] Agent of the [building] Building, structure or portion thereof shall be required to obtain a residential certificate of occupancy, unless the units are duly converted into a non-residential use in accordance with the terms and provisions of

the MDL, these rules and all applicable law. However, the discontinuance of residential occupancy:

[1.] (i) after December 1, 1981 but prior to May 1, 1987 of a unit which qualifies for coverage under [Article] Art. 7-C solely by reason of MDL § 281(4), or

[2.] (ii) during the twelve [month] (12) Month period required for coverage pursuant to MDL § 281(5), or

(iii) during the twelve (12) Month period required for coverage pursuant to MDL § 281(6)

will result in such unit being exempt from [Article] Art. 7-C coverage. Solely with respect to such instances, the remaining residentially occupied units, limited to units in existence during the qualifying period of occupancy, set forth in MDL § 281(1)(iii), 281(4), or 281(5) or 281(6), as further delineated in § 2-08(c), and accreted units as defined in MDL § 281(3) and 29 RCNY § 2-08(g)(1), shall be entitled to the protections of [Article] Art. 7-C, including the legalization requirements of MDL § 284(1)[, provided these units also meet the statute of limitations requirements for coverage in MDL § 282-a].

(h) *Non-covered units in an IMD.*

(1) Any unit that does not meet the statutory requirements for coverage set forth in MDL § 281, as further detailed in these rules, is not covered by [Article] Art. 7-C. Any space in an IMD which was not occupied residentially during a window period set forth in MDL § 281 and is subsequently converted to residential use, is not covered by [Article] Art. 7-C, and the [owner] Owner or Responsible Party of such unit must obtain a residential certificate of occupancy before permitting the commencement of such occupancy.

(2) Notwithstanding the foregoing, if a [building] Building qualifies as an IMD, [(i)] any unit first occupied residentially on or after April 1, 1981, is not covered under [Article] Art. 7-C, unless such unit meets the criteria qualifying for an IMD pursuant to MDL § 281(5) or 281(6), as set forth in 29 RCNY § 2-08(a)(4)(iii).

[Any residential unit first occupied residentially on or after January 2, 2009 is not covered under Article 7-C pursuant to MDL § 281(5).

(ii) any building or unit that meets the criteria for coverage pursuant to MDL § 281 is not covered under Article 7-C if:

(a) the owner, lessee or agent failed to register the building or the unit as an IMD; or

- (b) a residential occupant failed to file a coverage application in accordance with the terms and provisions of these rules; or
 - (c) a tenant failed to raise the claim of Article 7-C coverage in a court of competent jurisdiction in a pleading on or before the date listed in 29 RCNY § 1-06.1(a) and on the Loft Board website, which constitutes 6 months after the Loft Board shall have adopted all rules necessary in order to implement the provisions of Chapters 135 and 147 of the laws of 2010 which added MDL § 281(5). Occupants of any non-covered unit are not entitled to the protections of Article 7-C. Residential occupancy of such unit shall not be permitted unless a final residential certificate of occupancy is obtained for the unit.]
- (i) *De facto multiple dwellings.* Registration as an IMD with the Loft Board shall be required of any [building] Building, structure or portion thereof judicially determined to be a *de facto* multiple dwelling, which otherwise meets the criteria for an IMD, as set forth in MDL § 281 and these rules. Such prior judicial determination will not be the basis for exemption from [Article] Art. 7-C coverage.
 - (j) The term ["Interim Multiple Dwelling" ("IMD")] IMD as used in [Multiple Dwelling Law] MDL § 281(5) or 281(6) shall not include any [building] Building in which an inherently incompatible use as described in subsection (k) of this section is in legal operation and being actively and currently pursued in any unit other than a [residential unit] Residential Unit of the [building] Building. [The] For Buildings in which coverage is claimed under MDL § 281(5), the term "actively and currently pursued" shall refer to commercial, manufacturing or industrial use being conducted in the [building] Building on June 21, 2010 and continuing at the time of the submission of an [application] Application for coverage by any party. For Buildings in which coverage is claimed under MDL § 281(6), the term "actively and currently pursued" shall refer to commercial, manufacturing or industrial use being conducted in the Building on June 25, 2019 and continuing at the time of the submission of an Application for coverage by any party. A unit eligible for coverage pursuant to MDL § 281(5) or 281(6), which is located in a [building] Building registered as an IMD under MDL §§ 281(1) or (4), shall not be excluded from [Article] Art. 7-C coverage on the basis that any prohibited activity in [use groups 15 through 18] Use Group eighteen (18) existed in the [building] Building.
 - (k) *Uses in Use Groups Inherently Incompatible With Residential Use.* Pursuant to MDL § 281(5) or 281(6), a use that falls within Use [Groups 15-18] Group eighteen (18), as defined in Article III Chapter 2 and Article IV Chapter 2 of the Zoning Resolution in effect on June 21, 2010 and continuing at the time of the submission of an [application] Application for coverage by any party, that is also set forth in the Appendix to these Rules, is inherently incompatible with residential use in the same [building] Building if it:
 - (i) has or should have a [New York City or] New York State environmental rating of "A", or "B" [under Section 24-153 of the New York City

Administrative Code] for any process equipment requiring a New York City Department of Environmental Protection operating certificate; or

- (ii) is or should be required under the Community Right-to-Know Law, at Chapter 7 of Title 24 of the Administrative Code of the City of New York, to file a Risk Management Plan for Extremely Hazardous Substances; or
 - (iii) is or should be classified as High-Hazard Group H occupancy as set forth in Section 307 of the New York City Building Code.
- (l) *Residential Unit*[:]. For the purposes of subsections (j) through (s), in addition to the definition of Residential Unit in 29 RCNY § 2-08(a)(4) above, a [residential unit] Residential Unit may contain a non-residential use that:
- (1) is clearly incidental to or secondary to the residential use of the [residential unit] Residential Unit;
 - (2) is carried on within the [residential unit] Residential Unit, by one or more [occupants] Occupants of such [residential unit] Residential Unit;
 - (3) does not use more than 49 percent of the total floor area of a dwelling unit for the non-residential purposes; and
 - (4) has up to three (3) non-residential employees.
- (m) [*Owner's registration application*. For all applications for registration filed pursuant to 29 RCNY § 2-05, except for any unit eligible for coverage pursuant to MDL § 281(5) that is located in a building registered as an IMD under MDL [§§] § 281(1) or (4), the owner seeking coverage under MDL § 281(5) must, if there are any commercial, manufacturing, or industrial uses in the non-residential units in the building as of June 21, 2010, and continuing at the time of the submission of an application for coverage by any party, submit § 2-05, a certification to the Loft Board, signed by a New York State licensed and registered architect or engineer, that such commercial, manufacturing or industrial use is not an inherently incompatible use under subdivision (k).] RESERVED.
- (n) [*Rejection of owner's registration application*. Where an owner files a registration application for coverage under MDL § 281(5) for a building that has or had a commercial, manufacturing or industrial tenant that was actively pursuing a use on June 21, 2010, and continuing at the time of the submission of an application for coverage by any party, that was inherently incompatible with residential use under subsection (k) above, the Executive Director shall determine that the building does not qualify for coverage and reject the registration application.] RESERVED.
- (o) *Revocation of IMD registration*. The Executive Director may, on written notice to the [owner] Owner and the units, revoke the IMD registration at any time for failure to meet the requirements set forth in the provisions of MDL § 281(5) or 281(6), and this rule, where:

- (1) previously undisclosed facts, or misrepresentations or false statements as to material facts in the registration [application] Application or submitted documents regarding the information which was the basis for the Loft Board issuance of an IMD registration number are discovered, or
- (2) the Loft Board issued an IMD registration number in error and conditions are such that the IMD registration number should not have been [registered] assigned. Such notice will inform the [owner] Owner of the reasons for the revocation and that the [owner] Owner has the right to present to the Executive Director or his or her representative within [10] ten (10) [business days] Business Days of delivery of the notice by hand or [15 calendar] fifteen (15) days of the posting of the notice by mail, information as to why the registration should not be revoked.
- (p) Use after June 21, 2010 or June 25, 2019.
- (1) A commercial, manufacturing or industrial tenant engaged in an inherently incompatible use as described in subdivision (k) after June 21, 2010 shall not disqualify a [building] Building from [Article 7-C] coverage under MDL § 281(5) that otherwise qualifies for coverage.
- (2) A commercial, manufacturing or industrial tenant engaged in an inherently incompatible use as described in subdivision (k) after June 25, 2019 shall not disqualify a Building from coverage under MDL § 281(6) that otherwise qualifies for coverage.
- (q) [*Tenant applications for coverage.*] Burden of Proof for Inherently Incompatible Use. For all [applications] Applications for coverage filed pursuant to 29 RCNY § [1-06] 1-21, except for any unit eligible for coverage pursuant to MDL § 281(5) or 281(6) that is located in a [building] Building registered as an IMD under MDL [§§] § 281(1) or (4), [the applicant seeking coverage] the party opposing coverage under [Article] Art. 7-C [of the MDL] based upon the existence of an inherently incompatible use, must establish by a preponderance of the evidence [that there are no] the following:
- (1) one (1) or more commercial, manufacturing or industrial uses;
- (2) in legal operation in the non-residential units;
- (3) that are inherently incompatible with residential use as defined in subdivision (k) of section 2-08 of the Loft Board's rules;
- (4) that create an actual risk of harm;
- (5) that cannot be reasonably mitigated;
- (6) in the [building] Building as of
- (i) June 21, 2010 for Buildings in which coverage is sought under MDL § 281(5); or

(ii) June 25, 2019 for Buildings in which coverage is sought under MDL § 281(6); and

(7) continuing at the time of the submission of an [application] Application for coverage by any party.

- (r) *Site visits.* The Executive Director may conduct, or designate a Loft Board staff member to conduct, a site visit to the [building] Building for which coverage under [Article] Art. 7-C of the MDL is being sought. The [building owner shall] Building Owner or Responsible Party must arrange for the Executive Director and/or the Loft Board's staff to have access to the non-residential spaces upon reasonable notice. The Executive Director, or his/her staff, may also conduct informal conferences regarding the [owner's] Owner's or Responsible Party's registration [application] Application. The Executive Director may request additional information from the [owner] Owner or Responsible Party, [building tenants] Building Tenants or government agencies about the non-residential uses in the [building] Building on June 21, 2010 and continuing at the time of the submission of an [application] Application for coverage by any party.
- (s) [*Appeal of Decision.* If the Executive Director rejects the registration or revokes the IMD registration number issued after the filing of the registration application because a use listed in subdivision[s] (k) of this section was actively and currently pursued in the unit on June 21, 2010, and continuing at the time of the submission of an application for coverage by any party, the applicant may appeal the Executive Director's determination to the Loft Board in accordance with, and subject to the terms of the provisions in 29 RCNY § 1-07.1]

Occupant qualified for possession of Residential Unit and protection under Art. 7-C.

- (1) A Protected Occupant(s) must be a natural person(s).
- (2) A Prime Lessee with a lease in effect on the filing date of the Application for protected occupancy and the Prime Lessee's spouse or domestic partner is(are) the Protected Occupant(s) to the exclusion of other Occupants in the unit, regardless of when the other Occupants took possession.
- (3) If the unit in which the individual resides is not an IMD unit at the time the individual files an Application for protected occupancy, the individual must file an Application for coverage of the unit prior to or simultaneously with the filing of the Application for protected occupancy.
- (4) (i) If the individual used the unit as a primary residence on the effective date of the law, lack of consent of the Owner or the holder of the Owner's interest does not affect the rights of the individual to protection.
- (ii) If the individual became a residential Occupant of a unit after the effective date of the law, the Loft Board may find the individual to

be a Protected Occupant only if the individual resided in the unit with the consent of the Owner or the holder of the Owner's interest. Although no single factor is determinative, factors for the Loft Board to consider in determining consent include, but are not limited to:

- (A) The Owner or Agent accepted rent from the occupant;
 - (B) The Owner or Agent contacted the Occupant for access to the unit;
 - (C) The Owner or Agent listed the Occupant on Loft Board filings;
 - (D) Any other factor the Board deems relevant.
- (5) (i) In addition to the requirements contained in paragraphs (1),(2), (3) and (4) of this subsection, the Loft Board may find an individual is a protected Occupant only if the individual uses the unit as a primary residence on the filing date of the Application for protected occupancy.
- (ii) In determining whether an individual uses the IMD unit as a primary residence, the Loft Board may refer to precedent from the Housing Part of the Civil Court for guidance as to the type of evidence commonly used to prove primary residence. Although no single factor is determinative, factors for the Loft Board to consider in determining whether the individual uses the IMD unit as a primary residence include, but are not limited to:
- (A) Whether the individual resides in the unit;
 - (B) Whether the individual keeps furniture, clothing and other personal effects in the IMD unit;
 - (C) Whether the individual listed the IMD unit as a residential address on official documents filed with government agencies. Such documents may include, but are not limited to, a tax return, a motor vehicle registration, a driver license, or a voter registration;
 - (D) Whether the individual subleased the unit to another in violation of law or the Loft Board's rules; and
 - (E) Any other factor the Board deems relevant.

§ 19. Section 2-09 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

§ 2-09 [Occupant Qualified for Article 7-C Protection,] Privity, Subletting and Recovery of Subdivided Unit.

[(a) *Definitions.*

Prime lessee means the party with whom the landlord entered into a lease or rental agreement for use and occupancy of a portion of an IMD, which is being used residentially, regardless of whether the lessee is currently in occupancy or whether the lease remains in effect.

Privity means a direct contractual relationship between two parties, which may be established explicitly, implicitly or by operation of law.

Tenant refers directly or implicitly to a residential tenant and is deemed interchangeable with the word "occupant" in Article 7-C and these rules.

- (b) *Occupant qualified for possession of residential unit and protection under Article 7-C.*
- (1) Except as otherwise provided herein, the occupant qualified for protection under Article 7-C is the residential occupant in possession of a residential unit, covered as part of an IMD.
 - (2) If the residential occupant in possession of a covered residential unit is not the prime lessee, the lack of consent of the landlord to a sublet, assignment or subdivision establishing such occupancy does not affect the rights of such occupant to protection under Article 7-C, provided that such occupant was in possession of such unit prior to:
 - (i) June 21, 1982, for an IMD unit subject to Article 7-C by reason of MDL § 281(1);
 - (ii) July 27, 1987, for an IMD unit subject to Article 7-C solely by reason of MDL § 281(4); or
 - (iii) June 21, 2010, for an IMD unit covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapter 135 or 147 of the Laws of 2010, and these rules.
 - (3) When a residential occupant took possession of a residential unit covered as part of an IMD, on or after:
 - (i) June 21, 1982, for an IMD unit subject to Article 7-C by reason of MDL § 281(1);
 - (ii) July 27, 1987, for an IMD unit subject to Article 7-C solely by reason of MDL § 281(4); or
 - (iii) June 21, 2010, for an IMD unit covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapter 135 or 147 of the Laws of 2010, and these rules, such occupant is qualified for the protection of Article 7-C if:
 - (i) The occupant is a prime lessee with a lease currently in effect or, if the occupant took possession of the IMD unit with the consent of the landlord, as a statutory tenant pursuant to Article 7-C, without the issuance of a new lease; or
 - (ii) The occupant is the assignee of a prime lessee and such assignment was consented to by the landlord; or
 - (iii) Prior to establishment of such occupancy, the landlord was offered the opportunity to purchase improvements in the unit pursuant to § 286(6) of the MDL and these rules.
 - (4) The prime lessee, or sublessor who is not the prime lessee, is deemed to be the residential occupant qualified for protection under Article 7-C, if

the prime lessee or sublessor can prove that the residential unit covered as part of an IMD is his or her primary residence, even if another person is in possession. If the prime lessee or sublessor fails to prove that such unit is his or her primary residence, any rights of such person to recover the unit are extinguished.

- (i) The prime lessee or sublessor must exercise, in a court of competent jurisdiction, his or her right to recover the unit upon the expiration or termination of the sublease under the terms of which the prime lessee or sublessor is the immediate overtenant, provided that the sublease was in effect on: September 25, 1983 for a unit covered under MDL § 281(1); November 22, 1992 for a unit covered under MDL § 281(4); or September 11, 2013, the effective date of this amended rule, for an IMD unit covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapter 135 or 147 of the Laws of 2010.
- (ii) Where the sublease was no longer in effect on the relevant date above, the prime lessee or sublessor must exercise, in a court of competent jurisdiction, his or her right to recover the unit on or before:
 - (A) December 24, 1983, for IMD units that are subject to Article 7-C by reason of MDL § 281(1); or
 - (B) February 21, 1993, for IMD units that are subject to Article 7-C solely by reason of MDL § 281(4).
 - (C) If the IMD unit became subject to Article 7-C pursuant to Chapter 135 or 147 of the Laws of 2010, and the sublease is no longer in effect, the prime lessee or sublessor must exercise the right to recover the unit on or before December 10, 2013, 90 days after the effective date of this amended rule, or if the unit is not subject to Article 7-C on September 11, 2013 the effective date of this amended rule, 90 days following the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction, or the issuance of an IMD registration number after filing of a registration application, whichever is earlier.
- (5) Where a prime lessee is in possession of a portion of the space which he or she leased from the landlord, such prime lessee is entitled to remain in possession, and is qualified for protection under Article 7-C, only with respect to the portion of such space which he or she occupied as a residential unit, including any portion thereof used for home occupations or as the working portion of a joint-living-working quarters for artists. The prime lessee is not entitled to claim any of the remaining portion of the leased space as primary residence against the occupant of any other residential unit within such space, except to the extent provided for in 29 RCNY § 2-09(c)(5) below, and subject to the provisions of 29 RCNY §§ 2-09(b)(3) and (b)(4) above. The current residential occupants of the remaining unit(s) created through subdivision are qualified for protection under Article 7-C with regard to their respective residential units covered by Article 7-C, except as provided in 29 RCNY §§ 2-09(b)(3) and (b)(4).]

- (a) Prime Lessee or Sublessor Not in Residence. The Loft Board may find a Prime Lessee or a Sublessor, either of whom does not residentially occupy a covered unit, to be a Protected Occupant only if the individual proves that such unit is the individual's primary residence. If the individual fails to prove that such unit is a primary residence, any rights of such individual to recover the unit are extinguished.
- (1) The Prime Lessee or Sublessor must exercise, in a court of competent jurisdiction, his or her right to recover the unit upon the expiration or termination of a sublease under the terms of which the Prime Lessee or Sublessor is the immediate overtenant, provided that the sublease was in effect on:
- (i) September 25, 1983 for a unit covered under MDL § 281(1);
 - (ii) November 22, 1992 for a unit covered under MDL § 281(4); or
 - (iii) September 11, 2013 for an IMD unit covered by MDL § 281(5) that became subject to Art. 7-C pursuant to Chapter 135 or 147 of the Laws of 2010.
 - (iv) June 25, 2019 for an IMD unit covered by MDL § 281(5) or 281(6) that became subject to Art. 7-C pursuant to Chapter 41 of the Laws of 2019.
- (2) Where the sublease was no longer in effect on the relevant date above, the Prime Lessee or Sublessor must exercise, in a court of competent jurisdiction, his or her right to recover the unit on or before:
- (i) December 24, 1983, for IMD units that are subject to Art. 7-C by reason of MDL § 281(1); or
 - (ii) February 21, 1993, for IMD units that are subject to Art. 7-C solely by reason of MDL § 281(4).
 - (iii) If the IMD unit became subject to Art. 7-C pursuant to Chapter 135 or 147 of the Laws of 2010, and the sublease is no longer in effect, the Prime Lessee or Sublessor must exercise the right to recover the unit on or before December 10, 2013, or if the unit is not subject to Art. 7-C on September 11, 2013, ninety (90) days following the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction, or the issuance of an IMD registration number after filing of a registration Application, whichever is earlier.
 - (iv) June 25, 2019 for an IMD unit covered by MDL § 281(5) or 281(6) that became subject to Art. 7-C pursuant to Chapter 41 of the Laws of 2019.
- (b) Where a Prime Lessee is in possession of a portion of the space which he or she leased from the Landlord, such Prime Lessee is entitled to remain in possession,

and is qualified for protection under Art. 7-C, only with respect to the portion of such space which he or she occupied as a Residential Unit, including any portion thereof used for home occupations or as the working portion of a joint-living-working quarters for artists. The Prime Lessee is not entitled to claim any of the remaining portion of the leased space as primary residence against the Occupant of any other Residential Unit within such space, except to the extent provided for in 29 RCNY § 2-09(c)(5) below, and subject to the provisions of 29 RCNY §§ 2-08(s)(4) and 2-09(a). The current residential Occupants of the remaining unit(s) created through subdivision are qualified for protection under Art. 7-C with regard to their respective Residential Units covered by Art. 7-C, except as provided in 29 RCNY §§ 2-08(s)(4) and 2-09(a) of these rules.

- (c) *Rights, obligations and legal relationships among the parties.*
- (1) *Legalization and cost of legalization.* The [landlord] Landlord of an IMD [building] Building is responsible for legalization of each residential IMD unit pursuant to MDL § 284, regardless of whether the [occupant] Occupant is the [prime lessee] Prime Lessee or a [person or persons] Person or Persons with whom the [prime lessee] Prime Lessee entered into an agreement permitting such [persons] Persons to occupy units in space covered by the prime lease. The costs of legalization, as reflected in rent adjustments made pursuant to MDL § 286(5), and apportioned among the covered [residential units] Residential Units, shall be borne directly by the residential [occupants] Occupants qualified for protection of such units.
- (2) *Privity.*
- (i) *Privity Between Residential Occupant and Prime Lessee.* The residential [occupant] Occupant qualified for protection under [Article] Art. 7-C, if other than the [prime lessee] Prime Lessee, is deemed to be in [privity] Privity with the [prime lessee] Prime Lessee, if either:
- (A) There is a lease or rental agreement in effect for the [residential unit] Residential Unit between the [prime lessee] Prime Lessee and the residential [occupant] Occupant; or
- (B) There is a lease or rental agreement in effect for the [residential unit] Residential Unit or the space in which it is located, between the [landlord] Landlord and the [prime lessee] Prime Lessee. No lease or rental agreement between the [prime lessee] Prime Lessee and the residential [occupant] Occupant has any force or effect beyond the term of the lease or rental agreement between the [prime lessee] Prime Lessee and the [landlord] Landlord, except as provided in 29 RCNY §§ 2-09(c)(6) or (c)(7).

- (ii) *Privity Between Landlord and Prime Lessee.* The [prime lessee] Prime Lessee and the [landlord] Landlord are deemed to be in [privity] Privity when there is a lease or rental agreement in effect between them.
- (iii) *Privity Between Residential Occupant and Landlord.* The residential [occupant] Occupant and the [landlord] Landlord are deemed to be in [privity] Privity when the residential [occupant] Occupant is the [prime lessee] Prime Lessee; or when the lease or rental agreement between the [prime lessee] Prime Lessee and the [landlord] Landlord, covering the residential [occupant's] Occupant's unit or the space in which it is located, is no longer in effect. All leases or rental agreements, except subleases entered into pursuant to § 226-b of the Real Property Law ("RPL") and 29 RCNY § 2-09(c)(4), which have not expired will be deemed to be no longer in effect upon certification by the [Department of Buildings] DOB of the [landlord's] Landlord's compliance with the fire and safety protection standards of [Article] Art. 7-B. Upon such certification, a residential lease subject to the Emergency Tenant Protection Act of nineteen seventy-four must be offered to the residential [occupant] Occupant, pursuant to § 286(3) of the MDL.

(3) *Services.*

- (i) When the [landlord] Landlord and residential [occupant] Occupant are in [privity] Privity, the [landlord] Landlord is responsible for meeting the minimum housing maintenance standards established by the Loft Board in 29 RCNY § 2-04.
 - (ii) When the [prime lessee] Prime Lessee and the residential [occupant] Occupant are in [privity] Privity, there must not be any diminution of services provided by the [prime lessee] Prime Lessee to the residential [occupant] Occupant. The [prime lessee] Prime Lessee is responsible for meeting the minimum housing maintenance standards established by the Loft Board, to the extent such standards are required pursuant to the lease or rental agreement between the [prime lessee] Prime Lessee and the residential [occupant] Occupant, and to the extent those services are within the control of the [prime lessee] Prime Lessee. Otherwise, all services must be provided by the [landlord] Landlord.
- (4) *Subletting rights of [occupants] Occupants qualified for protection under [Article] Art. 7-C.*
- (i) *Right to Sublet.* All [occupants] Occupants qualified for protection under [Article] Art. 7-C have the right to sublet their units pursuant to and in accordance with the procedures specified in § 226-b of the RPL,

notwithstanding that such [occupants] Occupants may reside in an IMD [building] Building having fewer than [4] four (4) [residential units] Residential Units, and may not have a current lease or rental agreement in effect. The residential [occupant] Occupant of a unit located in a subdivided space, who is not in [privity] Privity with the [landlord] Landlord, must obtain the consent of both the [prime lessee] Prime Lessee of such space and the [landlord] Landlord to a proposed sublet of such unit, which may not be unreasonably withheld in accordance with § 226-b of the RPL.

- (ii) *Subletting Provisions.* The right to sublet is subject to the following provisions:
- (A) The rent charged to the subtenant may not exceed the legal rent, as established pursuant to [Article] Art. 7-C and these rules, plus a ten percent (10%) surcharge payable to the residential [occupant] Occupant if the unit sublet is furnished with the residential [occupant's] Occupant's furniture;
 - (B) The residential [occupant] Occupant must be able to establish that the [residential unit] Residential Unit is his or her primary residence;
 - (C) The residential [occupant] Occupant may not sublet the unit for more than a total of two (2) years, including the term of the proposed sublease, out of the [four-year] four (4) year period preceding the termination date of the proposed sublease;
 - (D) The term of the proposed sublease may extend beyond the term of the residential [occupant's] Occupant's lease, if such a lease is in effect, or beyond the date of the [Department of Buildings] DOB certification of the [landlord's] Landlord's compliance with [Article] Art. 7-B of the MDL. In such event, the sublease is subject to the residential [occupant's] Occupant's right to continued occupancy pursuant to [Article] Art. 7-C of the MDL, including the right of the residential [occupant] Occupant to issuance of a lease in accordance with the terms and provisions of MDL § 286(3) and these rules, upon [Article] Art. 7-B compliance. It is considered unreasonable for a [landlord] Landlord to refuse to consent to a sublease solely because the residential [occupant] Occupant has no lease or rental agreement in effect or because the sublease extends beyond the residential [occupant's] Occupant's lease or beyond

the anticipated date of achieving [Article] Art. 7-B compliance.

- (E) Where a residential [occupant] Occupant violates the provisions of this subparagraph (ii) of paragraph (4), the subtenant is entitled to damages of three (3) times the overcharge and may also be awarded attorney's fees and interest from the date of the overcharge at the rate of interest payable on a judgment pursuant to § 5004 of the Civil Practice Law and Rules.
- (F) The provisions in clauses (A) through (E) of this 29 RCNY § 2-09(c)(4)(ii) apply to all subleases for IMD units which are subject to [Article] Art. 7-C by reason of MDL § 281(1), commencing on or after September 25, 1983, the original effective date of these rules. Subleases entered into on or after June 21, 1982, but prior to September 25, 1983 are not subject to clauses (A), (C) and (E) of 29 RCNY § 2-09(c)(4)(ii), but are subject to clauses (B) and (D) of § 29 RCNY § 2-09(c)(4)(ii) and the provisions of § 226-b of the RPL, in effect at the time of the commencement of the sublease.
- (G) Notwithstanding the provisions of clause (F) of this 29 RCNY § 2-09(c)(4)(ii), the provisions in clauses (A) through (E) of 29 RCNY § 2-09(c)(4)(ii) apply to all subleases for IMD units which are subject to [Article] Art. 7-C solely by reason of MDL § 281(4) commencing on or after November 23, 1992. Subleases for such units entered into on or after July 27, 1987, but before November 23, 1992, are not subject to clauses (A), (C) and (E), but are subject to clauses (B) and (D) of 29 RCNY § 2-09(c)(4)(ii) and the provisions of § 226-b of the RPL, in effect at the commencement of the sublease.
- (H) Notwithstanding the provisions of clauses (F) and (G) of 29 RCNY § 2-09(c)(4)(ii), the provisions in clauses (A) through (E) of 29 RCNY § 2-09(c)(4)(ii) apply to all subleases for IMD units that are subject to [Article] Art. 7-C by reason of MDL § 281(5) commencing on or after September 11, 2013, the effective date of this amended rule. Subleases for such units entered into on or after June 21, 2010, but before September 11, 2013 are not subject to clauses (A), (C) and (E), but are subject to clauses (B) and (D) of 29 RCNY § 2-09(c)(4)(ii) and the

provisions of § 226-b of the RPL, in effect at the commencement of the sublease.

- (iii) If any clause, sentence, paragraph, subdivision or part of this 29 RCNY § 2-09(c)(4) is adjudged by any court of competent jurisdiction to be invalid, the judgment shall not render invalid this entire section on subletting rights of residential [occupants] Occupants.

(5) *Prime Lessee's Right to Recover Subdivided Space.*

- (i) *Lease Between Prime Lessee and Landlord is in Effect and Residential Occupant Voluntarily [Vocates] Vacates the Subdivided Portion.* Where the [prime lessee] Prime Lessee is the residential [occupant] Occupant of a portion of the space leased from the [landlord] Landlord and the lease or rental agreement between the [prime lessee] Prime Lessee and the [landlord] Landlord is in effect, the [prime lessee] Prime Lessee may recover for his or her own personal use, a [residential unit] Residential Unit located within the leased space voluntarily vacated by the residential [occupant] Occupant prior to the establishment of [privity] Privity between such residential [occupant] Occupant and the [landlord] Landlord. The right to recover space pursuant to this rule is not available to a [prime lessee] Prime Lessee found by the Loft Board to have harassed any residential [occupant(s)] Occupant(s). The recovered space will be deemed part of the [prime lessee's] Prime Lessee's [residential unit] Residential Unit, and in no event may the [prime lessee] Prime Lessee relet such space for any purposes whatsoever, except that the [prime lessee] Prime Lessee retains the same rights to sublet the entire [residential unit] Residential Unit as provided in 29 RCNY § 2-09(c)(4).
- (ii) *Prime Lessee's Right to Compensation for Improvements When the Residential Occupant Voluntarily [Vocates] Vacates the Subdivided Portion.* Where a [prime lessee] Prime Lessee waives the right to recover a [residential unit] Residential Unit in space leased by a [prime lessee] Prime Lessee and vacated by the residential [occupant] Occupant, the [prime lessee] Prime Lessee may sell improvements to the unit made or purchased by the [prime lessee] Prime Lessee to an incoming [tenant] Tenant, provided that the [prime lessee] Prime Lessee first offers the improvements to the [landlord] Landlord for an amount equal to their fair market value pursuant to § 286(6) of the MDL and the Loft Board rules. If the incoming [tenant] Tenant purchases the improvements, the incoming [tenant] Tenant is deemed in [privity] Privity with the [landlord] Landlord, and the initial maximum rent is to be determined in accordance with 29 RCNY § 2-09(c)(6)(ii)(A). If the [landlord] Landlord purchases the improvements, the rent due shall be the initial market rental subject to subsequent rent regulation if the IMD has six (6) or more [residential units]

Residential Units and if the sole basis for rent regulation is [Article] Art. 7-C.

- (iii) *Lease Between Prime Lessee and Landlord is in Effect and Prime Lessee Wants to Recover the Subdivided Portion.* Where the [prime lessee] Prime Lessee is the residential [occupant] Occupant of a portion of the space the [prime lessee] Prime Lessee has leased from the [landlord] Landlord and the lease or rental agreement between the [prime lessee] Prime Lessee and the [landlord] Landlord is in effect, the [prime lessee] Prime Lessee may recover for his or her own personal use, a [residential unit] Residential Unit located within the leased space, if the residential [occupant] Occupant of the unit agrees to the purchase by the [prime lessee] Prime Lessee of the [occupant's] Occupant's rights in the unit. The recovered space will be deemed part of the [prime lessee's] Prime Lessee's residential IMD unit, and in no event may the [prime lessee] Prime Lessee relet such space for any purpose whatsoever, except that the [prime lessee] Prime Lessee retains the same rights to sublet the entire residential IMD unit as provided in 29 RCNY § 2-09(c)(4).
- (iv) *Lease Between Prime Lessee and Landlord No Longer In Effect and Prime Lessee Wants to Recover Subdivided Portion.* Where the lease or rental agreement between the [prime lessee] Prime Lessee and the [landlord] Landlord is no longer in effect, the [prime lessee's] Prime Lessee's right to recover space pursuant to this subsection expires on:
- (A) July 5, 1988, for an IMD unit subject to [Article] Art. 7-C by reason of MDL § 281(1);
- (B) January 22, 1993, for an IMD unit subject to [Article] Art. 7-C solely by reason of MDL § 281(4); or
- (C) November 12, 2013, [60 days after the effective date of this amended rule,] or if the unit is not subject to [Article] Art. 7-C on the effective date of this amended rule, [60] sixty (60) days following the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction, or issuance of an IMD registration number after the filing of a registration [application] Application by the [owner] Owner or Responsible Party, whichever is earlier, for IMD units subject to [Article] Art. 7-C by reason of MDL § 281(5)[.]; or
- (D) {insert date}, sixty (60) days after the effective date of this amended rule, or if the unit is not subject to Art. 7-C on the effective date of this amended rule, sixty (60) days following the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction, or issuance of an IMD registration number after the filing of a

registration Application by the Owner or Responsible Party, whichever is earlier, for IMD units subject to Art. 7-C by reason of MDL § 281(5) pursuant to Chapter 41 of the laws of 2019 or MDL § 281(6).

- (v) *Factors to Consider When Prime Lessee Seeks to Recover Subdivided Space.* Where the [prime lessee] Prime Lessee is the residential [occupant] Occupant of a portion of subdivided space that the [prime lessee] Prime Lessee uses as his or her primary residence, and which the [prime lessee] Prime Lessee has rented directly from the [landlord] Landlord, the [prime lessee] Prime Lessee is entitled to recover as part of his or her primary residence, a [residential unit] Residential Unit, located within the leased space, even if the space is occupied by another [person or persons] Person or Persons, if the [prime lessee] Prime Lessee can establish that:
- (A) There was an express written agreement between the [prime lessee] Prime Lessee and the [occupant] Occupant of such space, other than the mere expiration of the lease, entitling the [prime lessee] Prime Lessee to recover such space, and that the [prime lessee] Prime Lessee has not taken actions inconsistent with exercising the option entitling the [prime lessee] Prime Lessee to recover such space;
 - (B) The [prime lessee] Prime Lessee has occupied the entire demised premises as his or her own primary residence for at least one year prior to the subdivision and subletting of the unit;
 - (C) The [prime lessee] Prime Lessee has a compelling need to recover such space; and
 - (D) The [prime lessee] Prime Lessee has not been found to have harassed any residential [occupants] Occupants .

Space recovered pursuant to this [provision] paragraph (5) is deemed part of the [prime lessee's] Prime Lessee's residential IMD unit, and in no event may the [prime lessee] Prime Lessee relet any recovered space for any purpose whatsoever, except that the [prime lessee] Prime Lessee has the same rights to sublet the entire residential IMD unit as provided in 29 RCNY § 2-09(c)(4) above, provided, however, that no such sublet is permitted for the first [2] two (2) years after recovery. The [prime lessee] Prime Lessee retains the right to make a claim to recover space pursuant to this provision, before the Loft Board, where there is a lease or rental agreement in effect between the [prime lessee] Prime Lessee and the [landlord] Landlord, or, where a lease or rental agreement is no longer in effect, on or before:

- (a) July 5, 1988 for an IMD unit subject to [Article] Art. 7-C by reason of MDL § 281(1);
- (b) January 22, 1993 for an IMD unit subject to [Article] Art. 7-C solely by reason of MDL § 281(4); or
- (c) November 12, 2013, [60 days from the effective date of this amended rule,] or if the unit is not subject to [Article] Art. 7-C on the effective date of this amended rule, [60] sixty (60) days after the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction or the issuance of an IMD registration number after the filing of registration [application] Application by the [owner] Owner or Responsible Party, whichever is earlier, for IMD units subject to [Article] Art. 7-C by reason of MDL § 281(5)[.]; or
- (d) {insert date}, sixty (60) days after the effective date of this amended rule, or if the unit is not subject to Art. 7-C on the effective date of this amended rule, sixty (60) days following the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction, or issuance of an IMD registration number after the filing of a registration Application by the Owner or Responsible Party, whichever is earlier, for IMD units subject to Art. 7-C by reason of MDL § 281(5) pursuant to Chapter 41 of the laws of 2019 or MDL § 281(6).

(6) *Rent.*

- (i) *Maximum Permissible Rent When Residential Occupant is in Privity With Prime Lessee.* When the residential [occupant] Occupant is in [privity] Privity with the [prime lessee] Prime Lessee, the maximum permissible rent payable by the residential [occupant] Occupant to the [prime lessee] Prime Lessee shall be:
 - (A) The rent established in the residential [occupant's] Occupant's lease or rental agreement, subject to the limitations in the applicable Loft Board Interim Rent Guidelines; or
 - (B) If such lease or rental agreement is no longer in effect, the amount permissible in accordance with 29 RCNY § 2-06 for an IMD unit subject to [Article] Art. 7-C by reason of MDL § 281(1); or in accordance with 29 RCNY § 2-06.1 for an IMD unit subject to [Article] Art. 7-C solely by reason of MDL § 281(4); or in accordance with 29 RCNY § 2-06.2 for an IMD unit subject to [Article] Art. 7-C by reason of MDL § 281(5); or in accordance with 29 RCNY § 2-06.3 for an IMD unit subject to Art. 7-C by reason of MDL § 281(6);

and subject to any other relevant orders or rules of the Loft Board.

- (ii) *Maximum Permissible Rent When Residential Occupant is in Privity with Landlord.* When the residential [occupant] Occupant is in [privity] Privity with the [landlord] Landlord, the residential [occupant] Occupant must pay rent as follows:
- (A) If the residential [occupant] Occupant is not the [prime lessee] Prime Lessee, the maximum permissible rent is the amount last regularly paid under the terms of the lease or rental agreement with the [prime lessee] Prime Lessee, or the [sublessor] Sublessor, if other than the [prime lessee] Prime Lessee, plus any increases permissible and subject to any limitations under 29 RCNY § 2-06 for an IMD unit subject to [Article] Art. 7-C by reason of MDL § 281(1); or under 29 RCNY § 2-06.1 for an IMD unit subject to [Article] Art. 7-C solely by reason of MDL § 281(4); or under § 2-06.2 for an IMD unit subject to [Article] Art. 7-C by reason of § 281(5); or in accordance with 29 RCNY § 2-06.3 for an IMD unit subject to Art. 7-C by reason of MDL § 281(6); and subject to any other relevant orders or rules of the Loft Board.
- (B) *Maximum Permissible Rent When Prime Lessee is Residential Occupant of Entire Leased Space.* If the [prime lessee] Prime Lessee is the residential [occupant] Occupant of the entire space leased from the [landlord] Landlord, the maximum permissible rent is:
- (a) The amount specified in the lease or rental agreement, subject to any limitations in the applicable Loft Board Interim Rent Guidelines; or
- (b) If the lease or rental agreement is no longer in effect, the amount permissible pursuant to 29 RCNY § 2-06 for an IMD unit subject to [Article] Art. 7-C by reason of § 281(1); or 29 RCNY § 2-06.1 for an IMD unit subject to [Article] Art. 7-C solely by reason of MDL § 281(4); or 29 RCNY § 2-06.2 for an IMD unit subject to [Article] Art. 7-C by reason of § 281(5); or in accordance with 29 RCNY § 2-06.3 for an IMD unit subject to Art. 7-C by reason of MDL § 281(6); and subject to any other relevant orders or rules of the Loft Board.
- (C) (a) *Maximum Permissible Rent When Prime Lessee is Residential Occupant of a Portion of Leased Space and Lease is in Effect.* If the [prime lessee] Prime Lessee is the residential [occupant] Occupant of a portion of the space leased from the [landlord]

Landlord and the lease or rental agreement between the [prime lessee] Prime Lessee and the [landlord] Landlord is in effect for the entire space, the maximum permissible rent is the amount specified in the lease or rental agreement for the entire space and any permissible increases pursuant to any relevant orders or rules of the Loft Board.

- (b) *Maximum Permissible Rent When the Prime Lessee is Residential Occupant of a Portion of Leased Space and the Lease Between the Prime Lessee and the Landlord is Not in Effect.* If the [prime lessee] Prime Lessee is the residential [occupant] Occupant of a portion of the space leased from the [landlord] Landlord and the lease or rental agreement between the [prime lessee] Prime Lessee and the [landlord] Landlord is no longer in effect for a [residential unit] Residential Unit or unit located in a portion of such leased space, because [privity] Privity has been established between the residential [occupant(s)] Occupant(s) of the subdivided unit or unit(s) and the [landlord] Landlord pursuant to 29 RCNY § 2-09(c)(2)(iii), the maximum permissible rent shall be based on the rent paid by the [prime lessee] Prime Lessee to the [landlord] Landlord under the most recent rental agreement for the entire space, plus any increases permissible under 29 RCNY § 2-06 for an IMD unit subject to [Article] Art. 7-C by reason of MDL § 281(1); or, under 29 RCNY § 2-06.1 for any IMD unit(s) subject to [Article] Art. 7-C solely by reason of MDL § 281(4); or under 29 RCNY § 2-06.2 for an IMD unit subject to [Article] Art. 7-C by reason of MDL § 281(5); or in accordance with 29 RCNY § 2-06.3 for an IMD unit subject to Art. 7-C by reason of MDL § 281(6); and subject to any other relevant orders or rules of the Loft Board. The maximum permissible rent payable by the [prime lessee] Prime Lessee to the [landlord] Landlord is equal to the percentage of the rent so calculated, equivalent to a fraction:

- (1) The numerator of which is the square footage of the leased space occupied by the [prime lessee's] Prime Lessee's unit, plus the square footage of any other unit regarding which the [prime lessee] Prime Lessee remains in [privity] Privity with the residential [occupant] Occupant, and

(2) The denominator of which is the entire square footage of the space leased from the [landlord] Landlord.

(D) (a) *Maximum Permissible Rent When Prime Lessee is a Residential Occupant of a Portion of Leased Space and the Lease Between the Prime Lessee and Residential Occupant is Not in Effect.* If the [prime lessee] Prime Lessee is the residential [occupant] Occupant of a portion of the space leased from the [landlord] Landlord, but the lease or rental agreement for all other units within the space is no longer in effect because the [occupants] Occupants of such units have entered into [privity] Privity with the [landlord] Landlord, the maximum permissible rent shall be based on the rent paid by the [prime lessee] Prime Lessee to the [landlord] Landlord under the most recent lease or rental agreement for the entire space, plus any increases permissible under 29 RCNY § 2-06 for an IMD unit subject to [Article] Art. 7-C by reason of MDL § 281(1); or, under 29 RCNY § 2-06.1 for any IMD unit(s) subject to [Article] Art. 7-C solely by reason of MDL § 281(4); or under 29 RCNY § 2-06.2 for an IMD unit subject to [Article] Art. 7-C by reason of MDL § 281(5); or in accordance with 29 RCNY § 2-06.3 for an IMD unit subject to Art. 7-C by reason of MDL § 281(6); and subject to any other relevant orders or rules of the Loft Board. The maximum permissible rent payable by the [prime lessee] Prime Lessee to the [landlord] Landlord is equal to the percentage of the rent so calculated, equivalent to a fraction:

(1) The numerator of which is the square footage of the leased space which the [prime lessee's] Prime Lessee's unit occupies, and

(2) The denominator of which is the entire square footage of the space leased from the [landlord] Landlord.

(b) *Maximum Permissible Rent When the Rent Paid by the Residential Occupant and Prime Lessee is Greater than the Total Rent for the Unit.* Where the rent paid by the residential [occupant(s)] Occupant(s) of such space who were in [privity] Privity with the [prime lessee] Prime Lessee to the [prime lessee] Prime Lessee and the [prime lessee's] Prime Lessee's proportionate share of the rent as calculated under 29 RCNY § 2-

09(c)(6)(ii)(D)(a) above, without inclusion of any increases permissible under the applicable Loft Board Interim Rent Guidelines or any other increase permitted in the Loft Board rules or [Article] Art. 7-C, is greater than the rent specified in the most recent lease or rental agreement for the entire space leased between the [prime lessee] Prime Lessee and the [landlord] Landlord or, if applicable, the rent as calculated under 29 RCNY § 2-09(c)(6)(ii)(C)(b), the [landlord] Landlord has the option to treat the excess amount as follows:

- (1) Reduce the monthly legal rent payable by the [prime lessee] Prime Lessee by one-half of the excess amount as calculated on a monthly basis, provided the monthly legal rent may not be less than \$100; or
- (2) Make a single lump sum payment to the [prime lessee] Prime Lessee equal to one-half of the monthly excess amount multiplied by 36.

The [landlord] Landlord may exercise the option to make a single lump sum payment at any time. If the [landlord] Landlord chooses the option of a single lump sum payment, after the [prime lessee] Prime Lessee has commenced paying a rent calculated under item (1) above, the single lump sum payment due to the [prime lessee] Prime Lessee from the [landlord] Landlord may not be diminished by the amount of the prior reductions in rent. Upon payment of the single lump sum payment, the [landlord] Landlord may increase the [prime lessee's] Prime Lessee's monthly rent to the maximum permissible rent allowable under 29 RCNY § 2-09(c)(6)(ii)(D)(a) above. Any [prime lessee] Prime Lessee found to have harassed any residential [occupant] Occupant is not entitled to the rent reduction or single lump sum payment provided for in items (1) and (2) above, respectively.

- (c) *Effective Date of Rent Adjustments.* The rent adjustments provided in 29 RCNY § 2-09(c)(6)(ii)(A) and (c)(6)(ii)(D) apply to the next regular rent payment due on or after:
 - (i) July 5, 1988, for IMD units subject to [Article] Art. 7-C pursuant to MDL § 281(1);

- (ii) January 22, 1993, for IMD units subject to [Article] Art. 7-C solely pursuant to MDL § 281(4); or
- (iii) November 12, 2013, [60 days from the effective date of the amended rule,] for IMD units subject to [Article] Art. 7-C by reason of MDL § 281(5), if the lease or rental agreement between the [prime lessee] Prime Lessee and the [landlord] Landlord is no longer in effect[.]; or
- (iv) {insert date}, sixty (60) days after the effective date of this amended rule, or if the unit is not subject to Art. 7-C on the effective date of this amended rule, sixty (60) days following the finding of coverage by a Loft Board order, a finding of coverage by a court of competent jurisdiction, or issuance of an IMD registration number after the filing of a registration Application by the Owner or Responsible Party, whichever is earlier, for IMD units subject to Art. 7-C by reason of MDL § 281(5) pursuant to Chapter 41 of the laws of 2019 or MDL § 281(6).

Otherwise, the rent adjustments apply to the next regular rent payment due after such lease or rental agreement, or portion thereof, is no longer in effect, but in no event earlier than:

- (i) July 5, 1988, for IMD units subject to [Article] Art. 7-C pursuant to MDL § 281(1);
- (ii) January 22, 1993, for IMD units subject to [Article] Art. 7-C solely by reason of MDL § 281(4); [or]
- (iii) November 12, 2013, [60 days from the effective date of the amended rule,] for IMD units subject to [Article] Art. 7-C pursuant to MDL § 281(5)[.]; or
- (iv) {insert date}, sixty (60) days after the effective date of this amended rule, for IMD units subject to Art. 7-C by reason of MDL § 281(5) pursuant to Chapter 41 of the laws of 2019 or MDL § 281(6).

- (7) Prime [lessee's] Lessee's or [sublessor's] Sublessor's right to compensation for costs incurred in developing [residential unit(s)] Residential Units.
- (i) *Right to Compensation.* Where a [prime lessee] Prime Lessee, or a [sublessor] Sublessor who is not the [prime lessee] Prime Lessee, has incurred costs for improvements made or purchased in developing [residential unit(s)] Residential Unit(s) in any space for which the [prime lessee] Prime Lessee or [sublessor] Sublessor had or has a lease or rental agreement and for which the [prime lessee] Prime Lessee or [sublessor] Sublessor is not the residential [occupant] Occupant qualified for protection under [Article] Art. 7-C, such [prime lessee] Prime Lessee or [sublessor] Sublessor is entitled to compensation from the residential [occupant(s)] Occupant(s), for the [prime lessee's] Prime Lessee's or [sublessor's] Sublessor's actual costs incurred in developing the [residential unit] Residential Unit in question.
- (ii) *Agreements for Compensation for Improvements.* The [prime lessee] Prime Lessee or [sublessor] Sublessor and the residential [occupant] Occupant may agree to payment of such compensation upon any terms that are mutually acceptable, at any time prior to the deadline for the filing of an [application] Application as described in subparagraph (iii) below. All such agreements must be submitted to the Loft Board within [90 calendar] ninety (90) days following their execution.
- (iii) *Limitation on Right to Compensation.* If the parties are unable to agree upon the amount and terms of compensation prior to the establishment of [privity] Privity between the residential [occupant] Occupant and the [landlord] Landlord, as defined in 29 RCNY § 2-09(c)(2), the [prime lessee, sublessor] Prime Lessee, Sublessor, or residential [occupant] Occupant, may apply to the Loft Board for resolution of the dispute over compensation of the [prime lessee] Prime Lessee or [sublessor] Sublessor. Such [application] Application may be brought after the [residential unit] Residential Unit has been registered with the Loft Board without timely contest of coverage or determined to be covered under [Article] Art. 7-C by Loft Board order or a court of competent jurisdiction, but no later than [180 calendar] one hundred and eighty (180) days after the later of:
- (A) May 6, 1988, for IMD unit(s) subject to [Article] Art. 7-C by reason of § 281(1); or
- (B) November 23, 1992, for any IMD unit(s) subject to [Article] Art. 7-C solely by reason of MDL § 281(4); or
- (C) September 11, 2013 for an IMD unit covered by MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapter 135 or 147 of the Laws of 2010; or

- (D) {insert date} for an IMD unit covered by MDL § 281(5) that became subject to Art. 7-C pursuant to Chapter 41 of the Laws of 2019 or a unit covered by MDL § 281(6); or
- (E) The establishment of [privity] Privity between the residential [occupant] Occupant and the [landlord] Landlord; or
- [(E)] (F) The earlier of the date the [landlord's] Landlord's registration of the [residential unit] Residential Unit without timely contest of coverage or the date of the determination of coverage of the [residential unit] Residential Unit by the Loft Board or a court of competent jurisdiction.

The [application] Application must comply with the rules of the Loft Board governing [applications] Applications, including 29 RCNY § [1-06(a)] 1-21. The [affected parties] Affected Parties are limited to the [prime lessee] Prime Lessee or [sublessor] Sublessor, the residential [occupant] Occupant, and the [owner] Owner or Responsible Party. The [application] Application fee is due and payable at the time of filing the [application] Application.

- (iv) *Factors to Determine Whether Compensation is Due.* The Loft Board must first determine whether any compensation is due and payable to the [prime lessee] Prime Lessee or [sublessor] Sublessor, as applicable, based on consideration of the following factors:
- (A) Whether the [prime lessee] Prime Lessee or [sublessor] Sublessor incurred any costs, as defined in clause (A) of subparagraph (v) below, allocable to the particular unit in question; and
- (B) Whether the [prime lessee] Prime Lessee or [sublessor] Sublessor has already been compensated in accordance with the terms of a prior agreement. The amount of rent paid to the [prime lessee] Prime Lessee or [sublessor] Sublessor, in excess of a proportionate share of the rent paid by the [prime lessee] Prime Lessee to the [landlord] Landlord, based on the percentage of the total square footage of space occupied, will not be credited towards compensation of the [prime lessee] Prime Lessee or [sublessor] Sublessor, in the absence of a specific agreement.
- (v) *Factors to Determine the Amount Due for Improvements.* If it is determined that the [prime lessee] Prime Lessee or [sublessor] Sublessor, as applicable, did incur costs for improvements for which he or she has not yet been compensated, the Loft Board will determine the amount due and payable in accordance with the following criteria:

- (A) All improvements as defined in 29 RCNY § 2-07, are compensable;
 - (B) The Loft Board will establish the value of the improvements by determining the actual costs incurred for the improvements based on evidence presented;
 - (C) Compensation determined to be due and payable may be made in accordance with a payment schedule agreed to by the [prime lessee] Prime Lessee or [sublessor] Sublessor, as applicable, and the residential [occupant] Occupant, or, if no agreement is reached, a payment schedule not to exceed 6 [months] Months , set by the Loft Board, contained in the Loft Board's order.
- (vi) Compensation made pursuant to this paragraph (7) provides residential [occupants] Occupants with an opportunity to purchase improvements but does not constitute a sale of improvements pursuant to § 286(6) of the MDL.
- (vii) (A) *Compensation by the Owner or Responsible Party.* A residential [occupant] Occupant may offer the [landlord] Landlord an opportunity to compensate the [prime lessee] Prime Lessee or [sublessor] Sublessor for costs incurred for improvements made or purchased in developing a residential IMD unit. The compensation to be paid by the [landlord] Landlord is the amount determined by agreement of the [prime lessee] Prime Lessee or [sublessor] Sublessor, as applicable, and the residential [occupant] Occupant, pursuant to subparagraph (7)(ii) above, or as determined by the Loft Board pursuant to subparagraph (7)(v) above. If the [landlord] Landlord chooses to pay this compensation to the [prime lessee] Prime Lessee or [sublessor] Sublessor, the residential [occupant] Occupant remains the [occupant] Occupant qualified for [Article] Art. 7-C protection, except that the residential [occupant] Occupant will have no right to sell such improvements purchased by the [landlord] Landlord pursuant to § 286(6) of the MDL. Compensation of the [prime lessee] Prime Lessee or [sublessor] Sublessor by the [landlord] Landlord does not affect the rent due from the residential [occupant] Occupant;
- (B) if the [landlord] Landlord compensates the [prime lessee] Prime Lessee or [sublessor] Sublessor pursuant to (A) above, the [prime lessee] Prime Lessee or [sublessor] Sublessor will have no right to recover the unit for his or her own personal use pursuant to 29 RCNY §§ 2-09(b)(4) 2-09(a) and (c)(5). When the residential [occupant] Occupant vacates the unit, the [landlord] Landlord is

entitled to lease the unit at market rent, absent a finding by the Loft Board of [harassment] Harassment by the [landlord] Landlord of [occupants] Occupants;

- (C) if the [landlord] Landlord declines the opportunity to compensate the [prime lessee] Prime Lessee or [sublessor] Sublessor, the residential [occupant] Occupant remains responsible for the compensation payment established pursuant to subparagraphs (ii) or (v) above.
- (8) *Residential [occupant's] Occupant's right to sale of improvements pursuant to MDL § 286(6)*. In accordance with MDL § 286(6) and the Loft Board rules, a residential [occupant] Occupant is entitled to sell all improvements to the unit made or purchased by the residential [occupant] Occupant:
- (i) Upon filing an agreement with the Loft Board pursuant to 29 RCNY § 2-09(c)(7)(ii), or
 - (ii) Following a Loft Board determination of an [application] Application filed pursuant to 29 RCNY § 2-09(c)(7)(iii), or
 - (iii) Upon the expiration of the deadline for filing an [application] Application, if none has been filed.

§ 20. Subdivisions (a), (b) and (c) of Section 2-10 of Chapter 2 of Title 29 of the Rules of the City of New York are amended to read as follows:

- (a) *Right to sell and the limitations on an [occupant's] Occupant's right to sell*.
 - (1) *The Right to Sell*. The residential [occupant] Occupant of an IMD unit may sell the rights afforded such [occupant] Occupant pursuant to [Article] Art. 7-C, to the [owner] Owner or Responsible Party of the IMD or the [owner's] Owner's authorized representative, including a net lessee, in accordance with the terms of MDL § 286(12) and these rules. A sale pursuant to MDL § 286(12), after the effective date of the relevant provision of MDL § 281, as provided in 29 RCNY § 2-10(a)(2) below, constitutes a sale to the [owner] Owner or Responsible Party of all of the [tenant's] Tenant's rights in the unit.
 - (2) *Limitations*.
 - (i) No sale or agreement made prior to the following dates in which an Occupant purported to waive rights under the Art. 7-C will be given any force or effect:
 - (A) June 21, 1982 for units subject to [Article] Art. 7-C pursuant to MDL § 281(1),
 - (B) July 27, 1987 for units subject to [Article] Art. 7-C solely pursuant to MDL § 281(4), or

- (C) June 21, 2010 for units covered under MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapter 135 or 147 of the Laws of 2010 [in which an occupant purported to waive rights under the Article 7-C will be given any force or effect], or
- (D) June 25, 2019 for units covered by MDL § 281(5) or 281(6) that became subject to Art. 7-C pursuant to Chapter 41 of the Laws of 2019.
- (ii) For any sale made pursuant to MDL § 286(12), the unit subject to a sale of rights may not be the subject of another sale pursuant to MDL § 286(12); nor may such unit be the subject of a subsequent sale of improvements pursuant to MDL § 286(6).
- (b) *Filing requirement for sales which occur on or after the effective date of these Rules.*
- (1) For a sale of rights in a unit subject to [Article] Art. 7-C pursuant to
- (i) MDL § 281(1), which occurs on or after March 16, 1990,
- (ii) MDL § 281(4), which occurs on or after November 23, 1992, [or]
- (iii) MDL § 281(5), which occurs on or after September 11, 2013 [the effective date of this amended rule], or
- (iv) MDL § 281(6), which occurs on or after {insert date}, the effective date of this rule.
- the [owner] Owner or authorized representative must file with the Loft Board a sales record on the Loft Board approved form ("sales record form") within [30] thirty (30) days of the sale[, together with the sales agreement, if any, or any other documentation substantiating the sale].
- (2) The Owner or authorized representative must include documentation supporting the sale. Supporting documentation should include a fully executed sales agreement and proof of payment of the sales price (if applicable). The sales agreement must include a full description of the consideration, including the amount of monetary compensation, if any, supporting the sale. The Loft Board must reject any purported sale of rights that does not include a full statement of the consideration supporting the sale. The refund of a security deposit, or a portion thereof, is not acceptable consideration for a sale.
- (3) The Loft Board's approved form must be signed by the [owner] Owner or its authorized representative and the [occupant and his or her] Occupant or an Occupant's authorized representative[, if any,] who sold rights to the unit. [If the occupant refuses to sign the form, the owner or its authorized representative must file with the form a sworn statement identifying the

occupant, the reasons given by such occupant for refusing to execute the form and proof of the sale of rights, including supporting documentation. If the prior occupant could not be found, the owner or its representative must provide a description of the reasonable efforts used to locate the occupant and must file proof of the sale of rights including supporting documentation.] Except for sales between and Owner or its representative and a representative of a deceased Occupant's estate, the Occupant must be residing in the unit at the time of the sale. Sales occurring after an Occupant has vacated the unit are invalid.

(4) Except as provided in [paragraph] subdivision (c) below, failure by the [owner] Owner or the owner's authorized representative to file a sales record form within [30 calendar] thirty (30) days of the date of the sale may subject the [owner] Owner to a civil penalty as determined by the Loft Board in 29 RCNY § 2-11.1.

(c) *Filing requirement for sales which occurred prior to the effective date of these rules.*

(1) Filing deadlines:

(i) For a unit subject to [Article] Art. 7-C pursuant to MDL § 281(1), if the sale of rights occurred after June 21, 1982, but before March 16, 1990, the [owner] Owner or its authorized representative must file the sales record form and the sales agreement with the Loft Board on or before June 14, 1990;

(ii) For a unit subject to [Article] Art. 7-C solely pursuant to MDL § 281(4), if the sale of rights occurred after July 27, 1987, but before November 23, 1992, the current [owner] Owner or its authorized representative must file the sales record form and the sales agreement with the Loft Board on or before February 21, 1993; [or]

(iii) For a unit covered by MDL § 281(5) that became subject to [Article] Art. 7-C pursuant to Chapter 135 or 147 of the Laws of 2010, if the sale of rights occurred after June 21, 2010, but before September 11, 2013 the effective date of this section, the current [owner] Owner or its authorized representative must file the sales record form and the sales agreement with the Loft Board on or before December 10, 2013[, which is 90 calendar days following the effective date of this section.]; or

(iv) For a unit covered by MDL § 281(5) or 281(6) that became subject to Art. 7-C pursuant to Chapter 41 of the Laws of 2019 if the sale of rights occurred after June 25, 2019, the current Owner or its authorized representative must file the sales record form and the sales agreement with the Loft Board on or before {insert date}, which is ninety (90) days following the effective date of this section.

- (2) The sales record form must contain a sworn statement by the [owner] Owner or its authorized representative, on a form issued by the Loft Board, as to the current use and occupancy of the unit. If the [owner] Owner or its authorized representative intends to use the unit for non-residential purposes, the [owner] Owner or its authorized representative must: a) disclose its intention on the sales record form; and b) include a declaration of intent by the [owner] Owner or its authorized representative that the use is consistent with applicable provisions of the New York City Zoning Resolution and the New York City Administrative Code, and in conformity with any existing certificate of occupancy, and any other source of legal authorization for such use.
- (3) If the [owner] Owner or its authorized representative indicates in the sales record an intention to use the unit for non-residential purposes, the unit will be subject to inspection to determine its compliance with the requirements set forth in 29 RCNY § 2-10(d)(1)(ii).
- (4) Failure by the [owner] Owner or the owner's authorized representative to timely file a sales record form may subject the [owner] Owner to a civil penalty as determined by the Loft Board in 29 RCNY § 2-11.1. The Loft Board may inspect any unit for which a sale of rights has occurred prior to the effective date of these rules. The Loft Board may also inspect any unit for which a sales record form was not timely filed to determine the current use of space.

§ 21. Subdivision (b) of Section 2-11.1 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

(b) *Range of fines.*

- (1) *Code Compliance Fines Pursuant to 29 RCNY § 2-01 and 29 RCNY § 2-01.1:* Where the [owner] Owner or Responsible Party is found to have violated code compliances deadlines or failed to take all reasonable and necessary action to obtain a final certificate of occupancy, the [owner] Owner or Responsible Party may be subject to a Class C civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY
Failure to Meet Code Compliance Deadlines: §§ 281(1) and (4) [buildings] <u>Buildings</u>	MDL § 284 (1); 29 RCNY § 2-01(a)(1) through (a)(7), (c)(2)	No	Up to [\$1,000] <u>\$5,000</u> per missed deadline
Failure to Meet Code Compliance Deadlines: §§ 281(1) and (4) Buildings	MDL § 284(1); 29 RCNY § 2-01(a)(8), (c)(2)	No	Up to \$5,000 per missed deadline

Failure to Meet Code Compliance Deadlines: § 281(5) Buildings	MDL § 284(1); 29 RCNY §§ 2-01(a)(9), (a)(10), (c)(2)	No	Up to \$5,000 per missed deadline
Failure to Meet Code Compliance Deadlines: § 281(6) Buildings	MDL § 284(1); 29 RCNY §§ 2-01(a)(9), (a)(10), (c)(2)	No	Up to \$5,000 per missed deadline
Failure to Take Reasonable and Necessary Action to Obtain a Final Certificate of Occupancy	29 RCNY § 2-01.1(a), (b)(2), (b)(3)	No	Up to \$1,000 per day up to <u>[\$17,500]</u> <u>\$25,000</u>
Failure to Take Reasonable and Necessary Action: Failure to Timely Clear DOB objections for [Owner's] Alteration Application	29 RCNY § 2-01(d)(2)(ix)	Yes within 30 days	Up to \$1,000 per day up to <u>[\$17,500]</u> <u>\$25,000</u>

(2) *Fines in Connection with Harassment Applications Pursuant to 29 RCNY § 2-02:* A finding by the Loft Board that:

- (i) A [tenant] Tenant filed a [harassment] Harassment [application] Application in bad faith or in wanton disregard of the truth pursuant to 29 RCNY § 2-02(c)(2)(iii); or
- (ii) An [owner] Owner or Responsible Party or [prime lessee] Prime Lessee harassed an [occupant] Occupant pursuant to 29 RCNY § 2-02(d)(1)(ii) or (e)(3)(i), in a manner that impacts on the [tenant's] Tenant's safety including, but not limited to, refusing to make repairs, repeated housing maintenance violations intended to render the unit uninhabitable, assault, battery or threats of violence; or
- (iii) An [owner] Owner or Responsible Party or [prime lessee] Prime Lessee harassed an [occupant] Occupant pursuant to 29 RCNY § 2-02(d)(1)(ii) or (e)(3)(i) of these Rules in a manner that impacts on the [tenant's] Tenant's quality of life, including, but not limited, to creating excessive noise or odors, threatening eviction, refusal to consent to sublet, and/or tampering with mail, [May] may subject the [tenant] Tenant, [owner] Owner, Responsible Party or [prime lessee] Prime Lessee to a Class C civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY	AGGRAVATED PENALTY
Harassment Application Filed in Bad Faith	29 RCNY § 2-02(c)(2)(iii)	No	Up to <u>[\$4,000]</u> <u>\$5,000</u>	A [tenant] <u>Tenant</u> found to have previously filed a [harassment

				application] <u>Harassment Application</u> in bad faith may be subject to an aggravated penalty of up to [\$10,000] <u>\$25,000</u> .
Finding of Harassment: Safety Violations e.g., Hazardous Conditions; Housing Maintenance Violations; Refusal to Make Repairs	29 RCNY § 2-02(d)(1)(ii), (e)(3)(i)	No	\$3,000 to \$6,000 for each occurrence found to constitute [harassment] <u>Harassment</u>	An [owner] <u>Owner, Responsible Party</u> or [prime lessee] <u>Prime Lessee</u> previously found to have harassed a [tenant] <u>Tenant</u> may be subject to an aggravated penalty of up to [\$10,000] <u>\$25,000</u> .
Finding of Harassment: Quality of Life Violations e.g., Noise; Odors; Threat of Eviction; Refusal to Consent to Sublet	29 RCNY § 2-02(d)(1)(ii), (e)(3)(i)	No	\$2,000 to \$5,000 for each occurrence found to constitute [harassment] <u>Harassment</u>	An [owner] <u>Owner, Responsible Party</u> or [prime lessee] <u>Prime Lessee</u> previously found to have harassed a [tenant] <u>Tenant</u> may be subject to an aggravated penalty of up to [\$10,000] <u>\$25,000</u> .

- (3) *Failure to Renew IMD Registration Pursuant to 29 RCNY § 2-05: Where an [owner] Owner or Responsible Party fails to renew a [building's] Building's registration as required in 29 RCNY § 2-05(f)(2), the [owner] Owner or Responsible Party may be subject to a Class C violation civil penalty as follows:*

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY
Failure to Timely Renew Registration	29 RCNY § 2-05(f)(2)	Yes	[\$5,000] <u>\$7,500</u> for one year;

			[\$10,000] \$15,000 for two years; [\$17,500] \$25,000 for three years or more
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(4) *Fines in Connection with Unreasonable Interference Pursuant to 29 RCNY § 2-01(h):* A finding by the Loft Board that:

- (i) An [owner] Owner or Responsible Party unreasonably interfered with the [tenant's] Tenant's use of an IMD unit; or
- (ii) An [owner] Owner or Responsible Party unreasonably and willfully interfered with the [tenant's] Tenant's use of an IMD unit, May subject the [owner] Owner or Responsible Party to a Class C civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY
Finding by the Loft Board of Unreasonable Interference with the Use of an IMD Unit	29 RCNY § 2-01(h)	No	\$2,500
Finding by the Loft Board of Unreasonable and Willful Interference with the Use of an IMD Unit	29 RCNY § 2-01(h)	No	\$5,000

(5) *[Monthly] Quarterly and Requested Reports and Failure to Take Reasonable and Necessary Action to Legalize Building Pursuant to 29 RCNY §§ 2-01.1(a)(1)(ii) and (b)(6):* An [owner] Owner or Responsible Party who is found:

- (i) By the Loft Board's Executive Director to have violated the provisions of 29 RCNY § 2-01.1(b)(6) may be subject to a Class B civil penalty pursuant to 29 RCNY § 2-01.1(b)(7) as follows; or
- (ii) To have failed to file [monthly] quarterly or requested reports or to have made false statements in the [monthly] reports filed pursuant to 29 RCNY § 2-01.1(a)(1)(ii), may be subject to a Class B civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE within 30 days	PENALTY PER VIOLATION, UP TO [\$17,500] \$25,000

Failure to Take Reasonable and Necessary Action: Failure to File an Application with DOB	29 RCNY § 2-01.1(b)(6)(i), (b)(7)	Yes	Up to \$1,000 per day
Failure to Take Reasonable and Necessary Action: Failure to Obtain a Building Permit	29 RCNY § 2-01.1(b)(6)(ii), (b)(7)	Yes	Up to \$1,000 per day
Failure to Take Reasonable and Necessary Action: Failure to Maintain a Current Work Permit	29 RCNY § 2-01.1(b)(6)(iii), (b)(7)	Yes	Up to \$1,000 per day
Failure to Take Reasonable and Necessary Action: Failure to Maintain a Temporary Certificate of Occupancy for the Residential Portion of the Building	29 RCNY § 2-01.1(b)(6)(iv), (b)(7)	Yes	Up to \$1,000 per day
Failure to Take Reasonable and Necessary Action: Failure to File [Monthly] <u>Quarterly or Requested</u> Reports	29 RCNY § 2-01.1(a)(1)(ii)(D)	Yes	Up to \$1,000 per missing report
Failure to Take Reasonable and Necessary Action: Filing False Statements in [Monthly] <u>Quarterly or Requested</u> Report	29 RCNY § 2-01.1(a)(1)(ii)(E)	No	[\$4,000] <u>\$5,000</u> per false statement

(6) *Fines in Connection with:*

- (i) An [owner] Owner or Responsible Party who fails to comply with the access notice provision of 29 RCNY § 2-01(g)(4)(iv);
- (ii) An [occupant] Occupant who unreasonably withholds access pursuant to 29 RCNY § 2-01(g)(4)(iv);
- (iii) An [owner] Owner or Owner's authorized representative who fails to file a Sales Record form after a sale of improvements pursuant to 29 RCNY § 2-07(j) or a sale of rights pursuant to 29 RCNY §§ 2-10(b) or (c)(4) within [30] thirty (30) days of sale;
- (iv) An [owner] Owner who fails to report a change in the emergency number, managing agent information, [owner's] Owner's address or ownership information pursuant to 29 RCNY § 2-05(b)(10); or
- (v) An [owner] Owner or Responsible Party who fails to post the IMD notice pursuant to 29 RCNY § 2-05(b)(13)[, May] may be subject to a Class A civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE within 30 days	PENALTY
Failure to Comply with Access Notice Provisions	29 RCNY §§ 2-01(g)(1), (g)(2), (g)(4)(iv)	Yes	\$1,000
Occupant Unreasonably Withholds Access	29 RCNY § 2-01(g)(4)(iv)	Yes	\$1,000
Failure to Timely File Sale of Improvements Form	29 RCNY § 2-07(j)	No	\$4,000
Failure to Timely File Sale of Rights Form	29 RCNY § 2-10(b), (c)(4)	No	\$4,000
Failure to Report a Change in Ownership Information	29 RCNY § 2-05(b)(10)	No	\$4,000
Failure to Post IMD Notice	29 RCNY § 2-05(b)(13)	No	\$1,000

(7) Fines in connection with violating a Loft Board order pursuant to § 1-13(b) or filing a false statement with the Loft Board pursuant to § 1-15(d): Any Person who is found to have violated a Loft Board order pursuant to § 1-13(b) or to have filed a document containing a material false statement pursuant to § 1-15(d) may be subject to a civil penalty as follows:

<u>VIOLATION DESCRIPTION</u>	<u>SECTION OF LAW</u>	<u>CURE within 30 days</u>	<u>PENALTY</u>
<u>Violation of a Loft Board Order</u>	<u>29 RCNY § 1-13(b)</u>	<u>No</u>	<u>\$5000 up to \$7500 per violation</u>
<u>Filing a material false statement with the Loft Board</u>	<u>29 RCNY § 1-15(d)</u>	<u>No</u>	<u>\$5000 per false statement</u>

§ 22. Section 2-12 of Chapter 2 of Title 29 of the Rules of the City of New York is amended to read as follows:

§ 2-12 MDL § 286(2)(ii) Rent Adjustments.

(a) *Definitions.*

["Alteration application"] Alteration Application means[, for the purposes of these Rules, the] a work application form [submitted for filing to the Department of Buildings of the City of New York ("DOB") filed with the DOB, which describes the work to be [undertaken] done in a Building that will result in obtaining a [final] residential certificate of occupancy for an [interim multiple dwelling ("IMD")] IMD

unit, as defined in MDL § 281 for residential use or joint living-work quarters for artists usage and these rules.

["Alteration permit"] Alteration Permit, also referred to as a “building permit” or “work permit,” means a [building permit] document issued by the DOB authorizing the [owner] Owner or Responsible Party to make the alterations [set forth] stated in the approved [alteration application] Alteration Application which are necessary to obtain a residential certificate of occupancy for an IMD unit.

["Article 7-B compliance"] Art.7-B compliance means compliance with the fire protection and safety standards of [Article] Art. 7-B of the MDL, or alternative building codes as authorized by MDL § 287. [Article] Art. 7-B compliance must be evidenced by:

- (i) DOB's issuance of a temporary residential certificate of occupancy;
- (ii) DOB's issuance of a final residential certificate of occupancy after June 21, 1992;
- (iii) DOB records demonstrating that the alterations necessary for issuance of a residential certificate of occupancy have been completed; or
- (iv) The filing with the Loft Board of a sworn statement by a registered architect or professional engineer licensed in the State of New York stating that the IMD has achieved [Article] Art. 7-B compliance and the date of such compliance on the Loft Board approved form.

Maximum permissible rent, or maximum rent permissible, for purposes of this rule, means "total rent" plus any permissible rent adjustments, as provided in 29 RCNY § 2-06 for units subject to [Article] Art. 7-C pursuant to § 281(1), or 29 RCNY § 2-06.1 for units subject to [Article] Art. 7-C pursuant to § 281(4). For units subject to [Article] Art. 7-C pursuant to § 281(5), "maximum permissible rent" is defined in 29 RCNY § 2-06.2. For units subject to Art. 7-C pursuant to § 281(6), "maximum permissible rent" is defined in 29 RCNY § 2-06.3. If one (1) or more rent adjustments pursuant to this section have already been applied, "maximum permissible rent" includes such adjustments.

- (b) *Eligibility requirements.* The owner of an IMD is eligible for [1] one (1) or more rent adjustments pursuant to MDL § 286(2)(ii) if all the following conditions are met:
 - (1) The [residential unit] Residential Unit for which the rent adjustment is sought is covered under [Article] Art. 7-C of the MDL;
 - (2) The IMD [building] Building in which the covered [residential unit] Residential Unit is located is registered with the Loft Board;
 - (3) A final certificate of occupancy permitting residential occupancy of the covered unit was not issued on or before June 21, 1992;

- (4) The [residential unit] Residential Unit was not rented at market value between June 21, 1982 and June 21, 1992, unless the IMD unit is covered under [Article] Art. 7-C pursuant to MDL § 281(5) or MDL § 281(6); and
- (5) The owner meets or has already met [1] one (1) or more of the code compliance obligations in MDL § 284(1) which requires that the owner file an [alteration application] Alteration Application, obtain an approved [alteration permit] Alteration Permit, and achieve [Article] Art. 7-B compliance. An eligible owner is entitled to [1] one (1) or more of the applicable rent adjustments in subdivisions (c) through (e) of 29 RCNY § 2-12.
- (c) *Alteration [application] Application rent adjustment.*
- (1) *Filing prior to June 21, 1992.* An owner who otherwise meets the eligibility requirements of 29 RCNY § 2-12(b) and who filed an [alteration application] Alteration Application with the DOB prior to June 21, 1992 is entitled to a six percent (6%) increase over the maximum rent permissible under Loft Board rules for the covered [residential unit] Residential Unit on June 21, 1992.
- (2) *Filing on or after June 21, 1992.* An owner who otherwise meets the eligibility requirements of 29 RCNY § 2-12(b) and who files an [alteration application] Alteration Application with the DOB on or after June 21, 1992 is entitled to an increase over the maximum rent permissible as provided in MDL § 286(2)(ii)(A) for the covered [residential unit] Residential Unit on the date the [alteration application] Alteration Application is filed.
- (d) *Alteration [permit] Permit rent adjustment.*
- (1) *Issuance prior to June 21, 1992.* An owner who otherwise meets the eligibility requirements of 29 RCNY § 2-12(b) and who obtained an [alteration permit] Alteration Permit prior to June 21, 1992 is entitled to a fourteen percent (14%) increase over the maximum rent permissible under Loft Board rules for the covered [residential unit] Residential Unit on June 21, 1992.
- (2) *Issuance on or after June 21, 1992.* An owner who otherwise meets the eligibility requirements of 29 RCNY § 2-12(b) and who obtains an [alteration permit] Alteration Permit from the DOB on or after June 21, 1992 is entitled to an increase over the maximum rent permissible as provided in MDL § 286(2)(ii)(B) for the covered [residential unit] Residential Unit on the date the [alteration permit] Alteration Permit is issued by the DOB.
- (e) *[Article] Art. 7-B compliance rent adjustment.*
- (1) *Compliance prior to June 21, 1992.* An owner who otherwise meets the eligibility requirements of 29 RCNY § 2-12(b) and who achieved [Article] Art. 7-B compliance prior to June 21, 1992 is entitled to a twenty percent

(20%) increase over the maximum rent permissible under Loft Board rules for a covered [residential unit] Residential Unit on June 21, 1992.

- (2) *Compliance on or after June 21, 1992.* An owner who otherwise meets the eligibility requirements of 29 RCNY § 2-12(b) and who achieves [Article] Art. 7-B compliance on or after June 21, 1992 is entitled to an increase over the maximum rent permissible as provided in MDL § 286(2)(ii)(C) for the covered [residential unit] Residential Unit on the date [Article] Art. 7-B compliance is achieved.
- (f) *Payment of rent adjustments.* Payment of rent adjustments based on filing an [alteration application] Alteration Application, obtaining an [alteration permit] Alteration Permit or achieving [Article] Art. 7-B compliance shall commence:
- (i) the [month] Month immediately after the [month] Month the [alteration application] Alteration Application is filed, the [alteration permit] Alteration Permit is obtained or [Article] Art. 7-B compliance is achieved, or
- (ii) on July 1, 1992, whichever is later.
- (g) *Effect on other rent increases.*
- (1) Rent adjustments pursuant to this section will be applied in addition to any rent increases which an owner is entitled to pursuant to 29 RCNY [§§] § 2-06, 2-06.1, 2-06.2, or 2-06.3, or the Loft Board rules related to setting the initial legal regulated rent.
- (2) Any allowable rent adjustments pursuant to this section will be included in the calculation of the initial legal regulated rent.
- (3) Rent adjustments pursuant to this section shall be effective upon filing an [alteration application] Alteration Application, obtaining an [alteration permit] Alteration Permit or [Article] Art. 7-B compliance regardless of the subsequent expiration of said [alteration application] Alteration Application, [alteration permit] Alteration Permit or temporary certificate of occupancy, or the filing of a further qualifying [alteration application] Alteration Application for the building. If the Loft Board or a court of competent jurisdiction determines the sworn statement of [Article] Art. 7-B compliance was erroneous, all rent increases based on such statement shall be nullified.