NEW YORK CITY LOFT BOARD

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed rule changes to: 1) § 2-01 of the Loft Board rules relating to code compliance work and the narrative statement process; 2) § 2-03 of the Loft Board rules relating to hardship applications and 3) § 2-08 of the Loft Board rules relating to Article 7-C coverage.

Date/Time: May 16, 2013 1:00 PM

Location: 22 Reade Street, 1st Floor
Spector Hall
New York, New York

Contact: New York City Loft Board
280 Broadway, 3rd Floor
New York, New York 10007

Proposed Rule Amendment

Pursuant to the authority vested in the New York City Loft Board by Article 7-C of the Multiple Dwelling Law ("MDL") and Mayor's Executive Order No. 129, dated May 22, 2009, and pursuant to and in accordance with the requirements of Section 1043 of the New York City Charter, the New York City Loft Board intends to amend §§ 2-01, 2-03 and 2-08 of Title 29 of the Rules of the City of New York, to be consistent with the 2010 and 2013 amendments to Article 7-C of the Multiple Dwelling Law.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to New York City Loft Board, 280 Broadway, 3rd Floor, New York, New York 10007 or electronically through NYCRULES at www.nyc.gov/nycrules by May 16, 2014.

- If you wish to testify at the hearing, please notify the Loft Board at (212) 566-5663, or at 280 Broadway, 3rd Floor, New York, New York 10007.

- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact New York City Loft Board by May 13, 2013.

- Written comments and an audiotape of oral comments received at the hearing will be available for public inspection by May 23, 2013, within a reasonable time after receipt of a request at the New York City Loft Board, 280 Broadway, 3rd Floor, New York, New York between the hours of 10:00 a.m. to 4:00 p.m.

STATEMENT OF BASIS AND PURPOSE

Pursuant to § 282 of Article 7-C of the MDL ("Loft Law"), the Loft Board may promulgate rules to ensure compliance with the Loft Law. In 2010 and 2013, the Legislature amended the Loft Law by enacting Chapters 135 and 147 of the Laws of 2010 and Chapter 4 of the Laws of 2013. The 2010 amendments to the Loft Law established a new category of interim multiple dwellings (IMDs) covered by the Loft Law by adding a new MDL § 281(5). In 2013, the Legislature further amended the definition of an IMD in MDL § 281(5).

As described more fully below, the proposed rule amendments would amend provisions of sections 2-01, 2-03 and 2-08 of Title 29 of the Rules of the City of New York to conform these rules to the 2010 and 2013 amendments to the Loft Law and provide further clarification of existing rule requirements. The proposed rule amendments in Section 1 of this rulemaking would amend subdivisions (a) through (h) of 29 RCNY § 2-01. The proposed amendments in Sections 2 and 3 of this rulemaking would amend subdivisions (i) and (m) of § 2-01. The proposed amendments in Sections 4 through 8 of this rulemaking would amend subdivisions (a) and (b) of 29 RCNY § 2-03. The proposed amendments in Sections 9 through 13 of this rulemaking would amend subdivisions (a), (b), (d), (e), (j), (k), (m), (n), (q), (r), and (s) of 29 RCNY § 2-08.

Amendments to § 2-01

The proposed amendments to § 2-01 in Sections 1 through 3 would:

- Add code compliance deadlines for IMDs subject to the Loft Board's jurisdiction under § 281(5) pursuant to the 2010 and 2013 amendments to the Loft Law;

- Update code compliance deadlines for IMDs subject to the Loft Board's jurisdiction pursuant to §§ 281(1) and 281(4);

- Extend the time to apply for an extension of the final code compliance deadline (certificate of occupancy) for IMD owners subject to the Loft Law pursuant to the 2010 amendments to the Loft Law;

- Clarify the procedures for applying for rent adjustments based on code compliance costs and Rent Guidelines Board increases and explain how such procedures apply to IMDs subject to the Loft Board's jurisdiction pursuant to MDL § 281(5);

- Clarify the Loft Board's procedures for setting the initial legal regulated rent;

- Provide that an owner is subject to civil penalties in accordance with § 2-11.1 for violations of § 2-01; and

- Extend other existing requirements in § 2-01 to the IMDs subject to the Loft Board's jurisdiction pursuant to MDL § 281(5).

Amendments to § 2-03

In Sections 4 through 8, the Loft Board proposes amendments to § 2-03 governing hardship exemption applications to the Loft Board. Pursuant to MDL § 285(2), owners may apply to the Loft Board for an exemption from Article 7-C coverage on the basis that the compliance with Article 7-C would cause an unjustifiable hardship as defined in § 285(2).

The proposed amendments to § 2-03 would:

- Provide the filing deadlines for hardship applications as added in the 2010 and 2013 amendments to the Loft Law;

- Require that an applicant for a hardship exemption attach all supporting documentation to the hardship application form at the time of the initial filing; and

- Generally extend existing provisions in § 2-03 to IMD owners subject to the Loft Board's jurisdiction pursuant to MDL § 281(5).

Amendments to § 2-08

In Sections 9 through 13, the Loft Board proposes amendments to 29 RCNY § 2-08, which governs Article 7-C coverage for IMDs.

The proposed amendments to § 2-08 would:

- Update the requirements for Article 7-C coverage with respect to IMDs covered under MDL § 281(5) in accordance with the 2013 amendments to the Loft Law; and

- Extend existing provisions of § 2-08 to IMDs subject to the Loft Board's jurisdiction pursuant to the 2013 amendments to the Loft Law.

In 2010, the New York State Legislature added restrictions for Article 7-C coverage pursuant to § 281(5) based on, among other things, the size of the IMD and the other uses in the building existing on June 21, 2010. The 2010 amendments excluded from Article 7-C coverage buildings that contained uses that: 1) are listed in Use Groups 15 through 18 of the Zoning Resolution; 2) were currently and actively pursued in the building on June 21, 2010; and 3) the Loft Board determined to be inherently incompatible with residential use

in the building. In May 2011, the Loft Board amended § 2-08 to reflect the 2010 amendments to the Loft Law by including the criteria for an IMD pursuant to MDL § 281(5) and by clarifying what uses in Use Groups 15 through 18 are "inherently incompatible" with residential use.

In 2013, the Legislature modified the criteria for Article 7-C coverage pursuant to § 281(5). It reduced the minimum size of an IMD unit from 550 to 400 square feet. It also provided that an activity described in Use Groups 15 through 18 would only bar Article 7-C coverage if the activity existed on June 21, 2010 and continued until the date of the application for Article 7-C coverage. The proposed amendments to § 2-08 reflect these 2013 changes to the Loft Law.

Matter <u>underlined</u> is new; matter [in brackets] is deleted.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in these rules, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subdivisions (a) through (h) of section 2-01 of Title 29 of the Rules of the City of New York are amended to read as follows:

§2-01 **Code Compliance Deadlines, the Narrative Statement Process, Code Compliance Work and Removal from the Loft Board's Jurisdiction.**

(a) ***Code compliance timetable for Interim Multiple Dwellings (IMD's).***

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

[In these code compliance regulations, the term]

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 § 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" shall mean thirty days and] "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 § 2-01(d)(2)(v).

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

Code Compliance Deadlines. The failure of an owner to meet any of the code compliance deadlines [set forth] provided below does not relieve the owner of its obligations to comply with these requirements nor does it relieve the owner 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 that applied pursuant to §284(1)(i) of Article 7-C before the enactment of later amendments, and paragraphs (5) through (8) reflect those amendments, as set forth in §284(1)(ii) through (v). The deadlines set forth in paragraphs (1) through (8) of this subdivision do not apply to a building or a portion of a building subject to Article 7-C pursuant to MDL § 281(5).

Paragraphs (9) and (10) of this subdivision implement the current code compliance deadlines set forth in MDL § 284(1)(vi) for buildings or portions of buildings subject to Article 7-C pursuant to MDL § 281(5). Paragraph (9) implements the current code compliance deadlines for a building or portion of a building covered by Article 7-C pursuant to chapters 135 or 147 of the laws of 2010. Paragraph (10) implements the current code compliance deadlines for a building or portion of a building covered by Article 7-C pursuant chapter 4 of the laws of 2013.

(1) *Deadlines for filing alteration applications.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) *Deadlines for obtaining permits.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) *Deadlines for Article 7-B compliance.*

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

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

(4) *Deadlines for obtaining a final certificate of occupancy.*

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

(5) Notwithstanding the provisions of subdivisions (a)(1) through (4) of this section, the owner of an IMD who has not been issued a final certificate of occupancy as a class A multiple dwelling for all covered residential units on or before June 21, 1992 shall:

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

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

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

(iv) Take all reasonable and necessary actions to obtain a final certificate of occupancy as a class A multiple dwelling for all covered residential units by October 1, 1995, or within 6 months after achieving compliance with the fire and

safety standards of Article 7-B, alternative building codes, or provisions of the M.D.L., whichever is later.

(6) Notwithstanding the provisions of subdivisions (a)(1) through (a)(5) of this section, the owner of an IMD who has not complied with the requirements of M.D.L §284(1)(i) or (ii) by June 30, 1996 shall:

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

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

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

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

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

(7) Notwithstanding the provisions of subdivisions (a)(1) through (a)(6) of this section, the owner of an IMD who has not complied with the requirements of M.D.L. §284(1)(i), (ii), or (iii) by June 30, 1999 shall:

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

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

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

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

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

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

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

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

(iii) Achieve compliance with the fire and safety standards of Article 7-B of the M.D.L. for all covered residential units by May 1, 2008, or within 12 months after obtaining an approved alteration permit, whichever is later; and

(iv) Take all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for all covered residential units by May 31, 2008, or within 1 month after achieving compliance with the fire and safety standards of Article 7-B of the M.D.L., whichever is later.

(v) As an alternative to complying with the requirements of subparagraph (iii) of this subdivision, an owner may, pursuant to M.D.L. §287, elect to comply with other local building codes or provisions of the M.D.L. that provide alternative means of meeting the fire and safety standards of Article 7-B by May 1, 2008 or within 12 months after obtaining an approved alteration permit, whichever is later.] <u>June 21, 2010 must:</u>

<u>(i) File an alteration application by September 1, 1999; and</u>

<u>(ii) Take all reasonable and necessary action to obtain an approved alteration permit by March 1, 2000; and</u>

<u>(iii) Achieve compliance with the fire and safety standards of Article 7-B of the MDL for all covered residential units by June 1, 2012, or within 12 months after obtaining an approved alteration permit, whichever is later; and</u>

<u>(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 by July 2, 2012, or within 1 month after achieving compliance with the fire and safety standards of Article 7-B of the MDL, whichever is later.</u>

(v) As an alternative to complying with the requirements of subparagraph (iii) of this paragraph (1), an owner 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 7-B by June 1, 2012 or within 12 months after obtaining an approved alteration permit, whichever is later.

(9) *2013 amended code compliance timetable for buildings subject to Article 7-C pursuant to MDL § 281(5) as a result of the 2010 amendments to the Loft Law.*

The owner of a building, structure or portion of a building or structure that is covered by MDL § 281(5) and became subject to Article 7-C pursuant to Chapter 135 or 147 of the Laws of 2010 must:

(i) File an alteration application by March 21, 2011; and

(ii) Take all reasonable and necessary actions to obtain an approved alteration permit by June 21, 2011; and

(iii) Achieve compliance with the fire and safety standards of Article 7-B of the MDL for all covered residential units within 18 months after obtaining an approved 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 (2), an owner 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 7-B by no later than 18 months from the issuance of the alteration permit.

(10) *2013 code compliance timetable for buildings subject to Article 7-C pursuant to MDL § 281(5) as a result of the 2013 amendments to the Loft Law.*

The owner of a building, structure or portion of a building or structure that is covered by MDL § 281(5) and became subject to Article 7-C pursuant to Chapter 4 of the Laws of 2013 must:

(i) File an alteration application on or before April 30, 2014; and

(ii) Take all reasonable and necessary actions to obtain an approved alteration permit on or before July 30, 2014; and

(iii) Achieve compliance with the fire and safety standards of Article 7-B of the MDL for all covered residential units on or before January 30, 2015 obtaining an approved alteration permit; and

(iv) Take all reasonable and necessary action to obtain a final residential certificate of occupancy on or before January 30, 2016.

(v) As an alternative to complying with the requirements of subparagraph (iii) of this paragraph (2), an owner 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 7-B by no later than 18 months after the obtaining an alteration permit.

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

(1) *Extensions of current deadlines.*

Pursuant to [M.D.L.] MDL § 284(1), an owner of an IMD building may apply to the Loft Board for an extension of time to comply with the code compliance deadlines [set forth] provided in MDL § 284 [of the Multiple Dwelling Law, as] in effect on the date of the filing of the extension application.

[An application for an extension shall not be filed after the deadline for which an extension is sought has passed, except that where title to the IMD was conveyed to a new owner, within 90 days after acquisition of title, such new owner may file an application for an extension of time of up to one (1) year to comply with the most recently passed deadline. "New Owner" shall be 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 code compliance deadlines of the Multiple Dwelling Law. The Executive Director shall make a determination of whether an applicant qualifies as a "new owner." The Executive Director may request documentation or other appropriate information to substantiate that an applicant is a "new owner."]

An 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” after the code compliance deadline has passed, the new owner may file an extension application for the passed deadline within 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

including, but not limited to, information regarding the applicant's claim to be a new owner as defined in this paragraph.

(ii) Where the IMD is found to be covered under Article 7-C or registered as an IMD after the code compliance deadline has passed, the owner may file an extension application for the passed code compliance deadline within 90 calendar days after either a finding of Article 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 appeals a finding of Article 7-C coverage, the owner may file an extension application 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 § 2-01(a)(9)(iv) of these Rules 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.

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

(2) *Statutory standard.*

(i) The [Loft Board] Executive Director will grant an extension of the code compliance deadlines in MDL § 284(1)(ii), (iii), (iv), (v) or (vi) [pursuant to this subdivision] only where an 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 control, and that the owner has made good faith efforts to meet the code compliance timetable requirements. Examples of such conditions or circumstances beyond the owner's control include, but are not limited to, a requirement for a certificate of appropriateness for modification of a landmarked 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 described in § 2-01(b)(1)(i) and § 2-01(b)(1)(ii) above, the Executive Director may consider any action the owner has taken from the date that the title transferred to the new owner, or from the date of the determination of Article 7-C coverage, up to the date the owner filed the extension application when making a determination of whether the owner has exercised good faith efforts to satisfy the requirements.

The existence of conditions or circumstances beyond the owner's control and good faith efforts must be demonstrated in the application by the submission of corroborating evidence.[,for] 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 to show the existence of conditions or circumstances beyond the owner's control and good faith efforts. Proof of the date that the title was transferred to the owner or proof of when the building was deemed covered under Article 7-C should be submitted with the application. Failure to include [such] corroborating evidence in the application [shall] may be grounds for denial of the application without further consideration.

(ii) Pursuant to MDL §§ 284(1)(i) and 284(1)(vi), upon proof of compliance with Article 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 twelve months each, upon proper showing of good cause.

(3) *Administrative Determination on the Extension Application*

The 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 for an extension. Where the Loft Board's Executive Director determines that the owner has met the statutory standards for an extension, the Executive Director shall grant the minimum extension required by the IMD owner. Applications for extensions of code compliance deadlines will be limited to one extension per deadline in the amended code compliance timetable.

The Executive Director's administrative determination [shall] will be mailed to the owner and to the affected parties identified in the application submitted pursuant to paragraph (4) of this subdivision below, and [shall] may be [subject to review by] appealed to the Loft Board upon application by such owner or affected party.

[An application for review of such determination shall be timely if filed within 20 days after the date of mailing.] Applications for extensions pursuant to this subparagraph shall be limited to one per deadline in the amended code compliance timetable. An appeal of the administrative determination must be filed in accordance with § 1-07.1 of these rules.

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

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

[Applications filed pursuant to paragraph (3) of this subdivision must be filed with the Loft Board along with two copies.] (ii) The original extension application and 2 copies must be filed with the Loft Board. Prior to filing an extension application [pursuant to paragraph (3)] with the Loft Board, an owner shall serve a copy of [such] the extension

application upon [each] the occupant of [an] each IMD unit in the building in the manner described in [Title 29 of the Rules of the City of New York] § 1-06(b) of these rules. Any occupant of an IMD unit [in the building] may file an answer to such application with the Loft Board within 20 calendar days from [completion of service] the date service of the application is deemed complete, as determined below in subparagraph (iv) [by owner].

(iii) The occupant(s) of an IMD unit [shall] must serve a copy of [such] the answer upon the owner prior to filing the answer with the Loft Board. [Service pursuant to this subdivision may be by first class mail, or by any method permitted by Article 3 of the New York Civil Practice Law and Rules.] Each [application and] answer filed with the Loft Board [shall] must include, at the time of filing, proof of [such] service in the manner described in § 1-06(d) and (e) of the Loft Board rules.

(iv) Service of the application by mail [shall be] is deemed completed five calendar days following mailing. [If service of the application is performed in any manner other than mailing, service shall be deemed completed on the date the application is served.] While an application filed under this subdivision is pending, an owner may amend [such] the application one time to request a longer extension period than was originally sought in the application.

(c) ***Violations of the code compliance timetable.***

(1) The Loft Board, on its own initiative or in response to complaints, may commence a proceeding to determine whether an owner has violated the provisions of § 284(1) of the MDL or these code compliance rules. In addition, a residential occupant of an IMD building may [make] file with the Loft Board an application seeking a Loft Board determination on whether the owner of the occupant's building is in violation of the provisions of § 284(1) of the MDL or these code compliance rules.

(2) An owner who is found by the Loft Board to have violated the code compliance [timetable] timetables set forth in MDL § 284(1) or any provision of § 2-01(a) of these rules: (i) may be subject to a civil penalty [not to exceed $1,000 for each violation as prescribed by the Loft Board] in accordance with § 2-11.1 of the Loft Board rules for each missed deadline; (ii) may be subject to all penalties [set forth] provided in Article 8 of the [M.D.L.] MDL; [(iii) may be subject to the penalties set forth in Chapter 1 of Title 26 and Chapter 1 of Title 27 of the Administrative Code; and (iv)] and (iii) may be subject to a specific performance proceeding as [set forth] as provided in [subparagraph] paragraph (4) below.

(3) Upon demonstration by an owner of insufficient funds to proceed with code compliance, the Loft Board [shall] may consider the lack of sufficient funds in mitigation of any fine to be imposed against the owner upon a finding of noncompliance. To obtain the benefit of the defense of insufficient funds, an owner [shall] must supply the Loft Board with an income and expense statement for the building verified by an independent certified public accountant, a written estimate of the cost of compliance with the cited deadline or requirement from a registered architect. [, and if the building does not provide sufficient funds for purposes of compliance] If the funds generated by the building are not

sufficient to cover the costs of the necessary compliance work, [then] the owner [shall] must also supply a letter from two separate banks or mortgage brokers refusing to offer sufficient funds to comply, accompanied by copies of the owner's applications for such funds, or if the lenders refuse to provide a written rejection, then the owner shall file an affidavit setting forth the basis for the owner's belief that the applications have been rejected.

(4) If the Loft Board finds an owner in violation of the code compliance timetable set forth in MDL § 284(1) and § 2-01(a) of these rules, the Loft Board or any three occupants of separate, covered residential units in the building may apply to a court of competent jurisdiction for an order of specific performance directing the owner to satisfy all code compliance requirements set forth in this section.

(5) The owner of an IMD who is found by the Loft Board to have [wilfully] willfully violated the code compliance timetable of these regulations or to have violated the code compliance timetable more than once may be found [guilty of harassment] to have harassed occupants with respect to such IMD in a harassment proceeding before the Loft Board.

(6) If any residential occupant of an IMD building is required to vacate its unit as a result of a municipal vacate order that has been issued for hazardous conditions as a consequence of an owner's unlawful failure to comply with the code compliance timetable:

> (i) The occupant, at its option, [shall] will be entitled to recover from the owner the fair market value of any improvements made or purchased by the occupant and [shall] will be entitled to reasonable moving costs incurred in vacating the unit. All such transactions shall be fully in accordance with § 2-07 of the Loft Board rules [and regulations] regarding Sales of Improvements. These rights are in addition to any other remedies the occupant may have.
>
> (ii) Any municipal vacate order shall be deemed an order to the owner to correct the noncompliant conditions, subject to the provisions of Article 7-C. The issuance of such an order as a result of the owner's unlawful failure to comply with the code compliance timetable shall result in a rebuttable presumption of harassment in a harassment proceeding brought by an occupant or occupants before the Loft Board.
>
> (iii) When the owner has corrected the noncompliant conditions, the occupants [shall] will have the right to reoccupy the unit and [shall] will be entitled to all applicable [tenant] occupant protections of Article 7-C, including the right to reoccupy the unit at the same rent paid prior to the vacancy period plus any rental adjustments authorized by Article 7-C or the Loft Board [pursuant to its] rules [and regulations]. Furthermore, the occupant [shall] will be entitled to recover from the owner reasonable moving costs incurred in reoccupying the unit in accordance

with § 2-07 of the Loft Board rules [and regulations] regarding Sales of Improvements.

(iv) At no time [shall] may rent for the unit be due or collectible for such period of vacancy.

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

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

(i) All notices, requests, responses and stipulations served by owners and occupants directly upon each other shall 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 be effected either:

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

Proof of service [shall] must be in the form of: a) a verified statement [of] 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 [regulations] rules will be sent by regular mail.

Service [shall be] is deemed effective [upon] on the date of personal delivery or five 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 [shall be] is effective upon personal delivery or five calendar days following service by mail.

(2) *Procedure for occupant review of the* [*plans*] *narrative statement and legalization plan and resolutions of 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 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 who thereafter requests reinstatement of the underlying alteration application [pursuant to Department of Buildings ("D.O.B.") Directive No. 17 of 1971] shall be required to 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 is required to amend an alteration application to reflect grandfathering approval of additional units pursuant to §§ 2-01(a)(1)(ii)(B), (iii)(B), (v)(B), or (vi)(B), or where an owner 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) of such unit(s).

This paragraph (2) shall not apply to IMD's for which a building permit for achieving compliance with Article 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 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 use of its unit in accordance with the provisions of § 2-01(h) of these regulations.

This paragraph (2) also shall not apply to those units in IMD's for which a temporary or final [/permanent] 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 covered under MDL § 281(5) as a result of the 2010 amendments to the Loft Law.* The requirements of § 2-01(d)(2) ("paragraph (2)") apply to an IMD covered by MDL § 281(5) that became subject to Article 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 7-B, alternative building codes, or provisions of the MDL that provide alternative means of meeting the fire and safety standards of Article 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 until the final certificate of occupancy is obtained.

(B) If a building permit has been issued prior to June 21, 2010 and the owner 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 will be required to comply with all provisions of 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 21, 2010, the building was already registered as an IMD because other units in the building are covered by Article 7-C pursuant to MDL §§ 281(1) or (4); the building had an 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) 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 until the final certificate of occupancy is obtained.

(iii) *For buildings covered under MDL § 281(5) as a result of the 2013 amendments to the Loft Law.* The requirements of § 2-01(d)(2) ("paragraph (2)") apply to an IMD covered by MDL § 281(5) that became subject to Article 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 7-B, alternative building codes, or provisions of the MDL that provide alternative means of meeting the fire and safety standards of Article 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 until the final certificate of occupancy is obtained.

(B) If a building permit has been issued prior to June 1, 2012 and the owner 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 will be required to 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 1, 2012, the building was already registered as an IMD because other units in the building are covered by Article 7-C pursuant to MDL §§ 281(1) 281(4) or 281(5); the building had an 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) 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 until the final certificate of occupancy is obtained.

(iv) An occupant of an IMD covered by Article 7-C pursuant to MDL § 281(5), who did not participate in the narrative statement process because § 2-01(d)(2) did not apply to the unit as described in § 2-01(d)(2)(ii)(A) or § 2-01(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 use of its unit in accordance with the provisions of § 2-01(h) of these rules.

[(i)] (v) *Narrative Statement*

[Within] Except as otherwise provided in this paragraph (2), within 15 calendar days of the filing of its alteration application with DOB, [or within 30 days after the effective date of this regulation, whichever is later,] the owner of an IMD [shall] must provide all occupants with a narrative [,] statement, upon [such] the approved Loft Board form [as is prescribed by the Loft Board], describing separately for each unit, both residential and nonresidential, all the work to be performed in such unit and all of the work to be performed in common areas. 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.

[This] The description [shall] of work to be performed must include a listing of all noncompliant conditions, citation to the specific provisions of law or regulation that require their correction, and the work to be performed to correct them; an estimated time schedule for performance of the work; and a certification that the narrative statement is a complete and accurate statement reflecting all of the work proposed in the filed alteration application and the corresponding legalization plan, as defined in subdivision (a) of this section.

In accordance with the procedures set forth in § 2-01(d)(1), following service of [such] the narrative statement, the owner [shall] must file with the Loft Board the original narrative statement with proof of service, as required by § 2-01(d)(1)(i), two copies of its filed alteration application along with the [D.O.B's] DOB's acknowledgment of filing, [and] two copies of the [submitted plans] 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 [plans] legalization plan by appointment at the Loft Board [or at the D.O.B in accordance with the department's procedures]. An occupant may request from the owner a reproducible copy of the alteration application and [plans] legalization plan, construction specifications, if any, and the tenant [safety] protection plan described in subparagraph [(ii)] (vi) below, and the owner [shall] 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 § 101-03 of Title 1 of the Rules of the City of New York. [Cost to the occupant shall be $5.00 per page for plans required by § 27-162 of the Administrative Code and $0.25 per page for all other documents.]

[(ii)] (vi) The owner [shall] must certify to the DOB [D.O.B., upon such] on the approved Loft Board form [as is prescribed by the Loft Board for this purpose,] that it has complied with the provisions of [the preceding] subparagraph [(i)] (v); that it [shall] will comply with all other requirements of this paragraph (2) [of the Loft Board's regulations] and with the requirement for a tenant protection plan pursuant to New York City Administrative Code § 28-104.8.4 [safety plan pursuant to D.O.B. Directive No. 2 of 1984]; and that prior to obtaining the building permit, the owner [shall] will submit to the [department] DOB a letter from the Loft Board, certifying compliance with all requirements of § 2-01(d)(2).

[This] The owner's certification [shall] must be filed with the [D.O.B.] DOB within 5 calendar days after the owner's filing with the Loft Board pursuant to the procedures described in the preceding subparagraph [(i)] (v).

[(iii)] (vii) *Narrative Statement Conference*

Within 30 calendar days after the owner has filed [the] a complete narrative statement, as required by [§2-01(d)(2)(i)] § 2-01(d)(2)(v) the Loft Board will notify the owner and all occupants that a conference has been scheduled. [This notification shall be] The notice from the Loft Board will be sent by regular mail. This conference is for informational and conciliatory purposes. The Loft Board representative assigned to conduct the conference [shall outline the requirements of Article 7-B of the M.D.L., shall] may review the provisions of these code compliance [regulations] rules, including [the section] § 2-01(f), dealing with occupant participation [§2-01(f) and shall] and may address the participants' questions.

The owner or its representative will present its [proposed work plan] alteration application, narrative statement, legalization plan and the estimated time schedule for performance of the work. The occupants may raise any questions, comments or suggestions regarding the [proposed work plan] alteration application, narrative statement and legalization plan and the estimated schedule. The Loft Board representative [shall] will encourage the owner and occupants to discuss fully the [prepared plan] alteration application, narrative statement, legalization plan, and the schedule, and to reach an agreement as to the performance of code compliance work.

The Loft Board representative may authorize an additional period of time, not to exceed 21 calendar 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 day period, must be in writing, signed by the parties, and filed with the Loft Board as provided in § 2-01(f).

With the exception of material contained in any written agreement(s) among the parties, the conference [shall] 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 [shall] are not [be] 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 [shall] may schedule a conference for any IMD unit for which § 2-01(d)(2) does not apply.

[(iv) (A) Within 45 days after the conference or, if authorized, the additional period of time described in §2-01(d)(2)(iii), any occupant may file (a) with the D.O.B. an alternate plan for work affecting the occupant's use of its unit* when the owner's proposed plan may unreasonably interfere with the occupant's use of the unit or (b) with the Loft Board an application in support of any claim that the owner's proposed plan will diminish services to which an occupant is legally entitled. In addition, if authorized by the Loft Board representative, an alternate plan may be proposed by an occupant which is not required to be filed with the D.O.B. when the occupant's claim does not require a D.O.B. review of code issues in order for the Loft Board to resolve the dispute.

* As pursuant to§ 27-142 of the Administrative Code the Department of Buildings has agreed to accept such applications for filing without requiring the owner's authorization, which is an exception to its normal procedures.]

(viii) (A) Within 45 calendar days after due notice issued by the Loft Board or, if authorized, the additional period of time described in § 2-01(d)(2)(vii), any occupant:

(a) May file with the DOB an alternate plan application, including a legalization plan, for work affecting the occupant's use of its unit if the proposed work in the owner's alteration application, and legalization plan unreasonably interferes with the occupant's use of the unit and the occupant's alternate plan requires a review by DOB;

(b) May file with the DOB an alternate plan application in support of a claim that the owner's alteration application and legalization plan will diminish services to which the occupant is legally entitled; and

(c) If authorized by the Loft Board staff, may file comments with the Loft Board opposing the owner's alteration application and legalization plan on the ground that such plans unreasonably interfere with the occupant's use of the unit or diminish services to which an occupant is legally entitled, provided that the occupant's claim does not require DOB review in order for the Loft Board to resolve the dispute.

(B) If the occupant's alternate plan proposed pursuant to this subparagraph (viii) is required to be filed with the [D.O.B.] DOB because it requires DOB review, it shall be filed by a registered architect or professional engineer retained by the occupant, who [shall be] will be responsible for any required fees. [An application concerning] If the alternate plan application includes an alteration application describing plumbing work, [shall] the alteration application must be filed with the [D.O.B.] DOB by a licensed plumber retained by the occupant, who [shall be] is responsible for any required fees. Two or more occupants may file a joint alternate plan application [setting forth] describing their alternate plan.

[Failure] The failure of an occupant to file an alternate [plans] 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's right to challenge the owner's submitted [work plan] legalization plan on the ground that it would unreasonably interfere with [such] the occupant's use of [its] the unit or constitute a diminution of services; however, late filing of an alternate [plans] plan application [shall be] is permitted if, upon application, the Loft Board or its staff by order or administrative [decision] determination [determines] finds that good cause existed for [such] the occupant's failure to file in a timely manner and if a building permit has not yet been issued.

Within 5 calendar days after filing an alternate [plans] plan application with the DOB, the [occupant(s)] occupant shall provide the owner and all other occupants with a dated narrative statement [setting forth] describing the [occupant's(s')] occupant's objections to, comments on, or criticisms of the owner's plan and any projected [increase(s)] increase in code compliance costs resulting from the [occupant's(s')] occupant's alternate plan. In accordance with the procedures [set forth] provided in § 2-01(d)(1), the [occupant(s) shall] occupant must file with the Loft Board: the original copy of [such] the occupant's narrative statement with proof of service on the owner and all other occupants, two copies of [its] the filed alternate [plans] plan application, including: [with the D.O.B.'s] the DOB's acknowledgment of filing, and two copies of the [submitted plans, if it is an alteration application] occupant's alternate plan application and legalization plan.

The owner and other occupants may review the alternate [plans] plan application, [and plans] including the legalization plan, by appointment at the [Loft Board or at the D.O.B. in accordance with the department's procedures] Loft Board's office. An owner or another occupant may request from the filing [occupant(s)] occupant a reproducible copy of the alternate plan application and [plans] legalization plan and shall be supplied with such copy within 7 calendar days after service of the request. [Cost to the requesting party shall be $5.00 per page for plans required by §27-162 of the Administrative Code and $0.25 per page for all other documents.] The cost to the requesting party is the fee listed in Title 1 of the Rules of the City of New York § 101-03.

[(v) The D.O.B. shall review the owner's alteration application and plan and any alternate application(s) and plan(s) submitted by occupant(s) of the building. The D.O.B. may issue objections pursuant to its usual procedures. The occupant(s)

through its (their) architect(s) or engineer(s), shall] (ix) If the DOB issues objections to an alternate plan application submitted by any occupant of the building, the occupant, through his or her architect or engineer, must take all necessary and reasonable actions to cure such objections within 45 calendar days of notice of objections from the [D.O.B.] DOB.

The owner, through its architect or engineer, [shall] must take all necessary and reasonable actions to cure [such] the DOB objections within 60 calendar days of notice of objections from the [D.O.B] DOB for its alteration application and legalization plan. [An applicant's] The failure to take all necessary and reasonable actions to cure [such] the objections within the prescribed time period may subject the [applicant] the owner to [civil penalties of up to $1,000] fines in accordance with §§ 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 [regulations] rules.

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

[(vi)] (x) *Amendments to Legalization Plan Prior to Loft Board's Certification.*

If [amendments to the plans] the owner amends the legalization plan initially submitted to the Loft Board, [are made, the applicant shall] the owner 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 of the building and copies [shall] must be supplied upon request in accordance with the procedures described in [paragraphs (2) and (4)] subparagraphs (i) and (v) above.

Within 40 calendar days of [service by the Loft Board of] the Loft Board's notice of the revised [plans] plan, any [occupant(s)] occupant who has [(have)] not previously done so, may file with the [D.O.B.] DOB an alternate plan application for work affecting the [occupant's(s')] occupant's use of [its (their) unit(s)] the unit, if DOB review is required or may file comments opposing the owner's revised plan with the Loft Board. [Such occupant(s) shall] The occupant must comply with all the requirements of subparagraph [(iv)] (viii) above. The [occupant(s) is (are) limited in its (their) objections] occupant may only object to only those items that represent a change from the owner's submissions previously received. The procedures for DOB review [set forth] provided in subparagraph [(v)] (ix) above shall apply.

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

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

(b) If an occupant's alternate plan application has been filed and the 45 calendar day period provided in subparagraph (ix) above for addressing objections to the occupant's alternate plan application has expired without all necessary and reasonable actions having been taken by the occupant to cure the objections, the Loft Board shall issue a letter certifying the owner's compliance with all requirements of § 2-01(d)(2). [Upon submission of such letter, the D.O.B may approve the owner's application and plan and issue a building permit.]

(B) *(a)* Where the [occupant(s) have] occupant has submitted an alternate [application(s) and plan(s)] plan application and [are] is unable to agree with the owner upon the work to be performed, and the [D.O.B.] DOB has no objections to such alternate [applications and plans] plan, or if the occupant has cured such objections, the [applicant shall] occupant must advise the Loft Board [and the owner of the DOB approval of the plans] and refer [them] the alternate plan application to the Loft Board for review and resolution of the dispute [as to which application(s) and plan(s) should be approved and the work for which a building permit should be issued].

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

In addition, [when authorized by the Loft Board representative,] the Loft Board staff may authorize such referral [may be made] 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 and the [occupant(s)] occupant come to an agreement, they [shall] must immediately inform the [D.O.B.] DOB and the Loft Board [and void the abandoned application(s) and plan(s)] of the written agreement. In such case, the owner must amend the legalization plan for the IMD building to include the changes agreed upon by the parties, if any.

(b) Loft Board-Initiated Alternate Plan Dispute. If an occupant's alternate [approvable applications and plan are] plan application is referred to the Loft Board, pursuant to § 2-01(d)(2)(xi)(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 alteration application and legalization plan would result in an unreasonable interference of the [occupant's(s')] occupant's use of [its (their) unit(s)] the unit or a diminution of service. The proceeding will be governed by the Loft Board's [regulations on Internal Board Procedures] rules.

[Parties shall] The owner and the occupants of the building will have an opportunity to submit [a written statement setting forth the basis for seeking disapproval of the alternate plan(s)] an answer. In the case of an occupant challenging the owner's legalization plan, [such] the answer [a statement shall] must include an explanation of how the owner's proposed legalization plan would result in an unreasonable interference with the occupant's use of [its] 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 would result in [such] an unreasonable interference, it shall order the owner to amend its alteration application, legalization plan and corresponding narrative statement within 60 calendar days or [to authorize the final approval of plan(s)] may certify the alternate plan submitted by the [occupant(s)] occupant for the [space(s)] space involved.

A failure or refusal to comply with such an order may constitute a violation of [§§284(1)-(i)(B)] the owner's obligation to take all reasonable and necessary action to obtain an alteration permit under § 284 of Article 7-C and these [regulations] rules, and the owner may be subject to civil penalties in accordance with § 2-11.1 of these rules. [and actions initiated by the Loft Board to compel specific performance, and such other penalties as are outlined in § 2-01(c) of these regulations.] 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 7-C.

[If] If the owner has cleared all DOB objections and if the Loft Board or its Executive Director finds that the owner's [approvable] alteration application and legalization plan would not unreasonably interfere with the [occupant's(s')] occupant's use of [its (their) unit(s)] the unit, the Loft Board or its Executive Director shall issue an order or an administrative determination certifying compliance with all requirements of § 2-01(d)(2). [stating that the owner's plan may be approved by the D.O.B. and a building permit issued, and that the alternate application(s) and plan(s) be voided. Also such an order shall certify compliance with all requirements of § 2-01(d)(2).]

[(viii)] (xii) Within 10 calendar days after the issuance of a building permit by the [D.O.B., or within 30 days after the effective date of these regulations, whichever is later,] DOB, the owner shall file a copy of the building permit with the Loft Board. In the case of an IMD subject to Article 7-C pursuant to MDL § 281(5) which has an alteration permit on July 30, 2013, the effective date of this rule, the owner must file a copy of the building permit with the Loft Board by August 29, 2013, 30 calendar days after the effective date of this rule.

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

[Furthermore, the owner shall file two copies of any subsequent amendments, including plans, to the alteration application upon which the building permit is based, within 10 days after the filing of such amendment(s) with the D.O.B.] (A) If the owner intends to amend the legalization plan certified by the Loft Board, the owner must file with the Loft Board two copies of the amended narrative statement listing the changes and the amended legalization plan within 10 days after the filing of the amendment with the DOB in accordance with (B) below.

(B) The owner must follow the procedures for notice to the residential and nonresidential occupants set forth in § 2-01(d)(1) above. If an owner amends the legalization plan and the proposed work is located within IMD space, or within the common areas of the building, the owner must serve an amended narrative statement on the occupants in accordance with the notice provisions provided in § 2-01(d)(1) above. The owner must file proof of service and the amended narrative statement and legalization plan with the Loft Board. In accordance with the requirements of § 2-01(d)(2)(viii) and within 40 calendar days from the Loft Board's notice of the owner's revised legalization plan, any occupant: 1) may file with the DOB an alternate plan application or 2) may file with the Loft Board comments opposing the work proposed in the amendment. The occupant may only object to those items that represent a change from the legalization plan certified by the Loft Board. The owner must obtain a Loft Board certification described in § 2-01(d)(2)(xi) for any amended legalization plan.

If the occupant and the owner are unable to agree to the proposed work in the amended narrative statement and legalization plan, the Loft Board must follow the procedures in § 2-01(d)(2)(xi)(B) regarding the Loft Board-initiated alternate plan dispute.

[ix] (xiv) Approval of [plans] an owner's legalization plan by the [D.O.B.] DOB pursuant to this subsection shall not be construed as approval of the construction costs [incident to construction in accordance with] for the work proposed in the [such plans] plan as necessary and reasonable costs of code compliance work for purposes of rent adjustment proceedings under [§§2-01(i) through 2-01(l) of these regulations] these rules.

(3) *Procedures for certification of estimated further rent adjustments.*

Following the DOB's approval of an owner's alteration application and legalization plan or an occupant's alternate [plans by the D.O.B.] plan application, an owner may apply to the Loft Board for certification of estimated future rent adjustments, based on the [owner's work 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 [such] an application for estimated future rent adjustments is [, however, shall be totally] at the discretion of the owner and shall not be a basis for staying

commencement or continuation of work under a valid building permit issued by the [D.O.B.] DOB.

All applications for certification of estimated future rent adjustments [shall] will be processed in accordance with § 1-06 of the Loft Board's [regulations governing Internal Board Procedures,] rules, except as provided herein. The owner [shall] must file with the Loft Board an application on a Loft Board approved form [prescribed by the Board]. The application [shall] must describe separately: [for each residential unit all of] i) the work to be performed in each residential unit; [and] ii) the work to be performed in common areas; and iii) the work to be performed in the nonresidential units[; and]. The 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 [pursuant to §2-01(j) of these regulations] the Loft Board's rules. If the owner anticipates the use of financing, the application [shall] must also include any statements, letters of intent or commitment, or other materials from institutional or noninstitutional lenders regarding the terms or conditions of such financing. In addition, the owner [shall] must file with the Loft Board two copies of the approved alteration application and [two copies of the approved plans] legalization plan.

The owner's application [shall] must be served on all of the building's occupants by the [Loft Board] owner in accordance with the service requirements for applications set forth in [its regulations] § 1-06 of the Loft Board rules. [on Internal Board Procedures.] Occupants may review the alteration application and [plans] legalization plan at the [D.O.B.] DOB in accordance with the [Department's] DOB's procedures or by appointment at the Loft [Board] Board's office. An occupant may request from the owner a reproducible copy of the alteration application and legalization [plans] plan, and the owner [shall] must supply such a copy within 7 calendar days after service of the request at a cost to the occupant of up to the amounts listed in § 101-03 of Title 1 of the Rules of the City of New York. [$5.00 per page for plans required by §27-162 of the Administrative Code and $0.25 per page for all other documents.] Occupants may submit an answer to the owner's application within 20 calendar days after the date on which service of the application was completed. [(§ 1-06(c) of these regulations) in response to the owner's application, setting forth] 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 and responses by the owner. Following such a conference, the application will be processed, and the Loft Board will [certify] issue findings on the necessary and reasonable code compliance work and [concomitant]associated costs, and the estimated future rent adjustments. [The certification] Such findings [is] will be a reasonable estimate based on available information. However, actual rent adjustments [shall] will be determined by the Loft Board in accordance with §§ 2-01(i) through 2-01(l) of these [regulations] rules.

(4) *Requirement of a Letter of No Objection for Work Permits in IMD Buildings*

[(A)] (i) *Proposed Work in Non-IMD Spaces*: An owner of an IMD building who is applying to the [New York City Department of Buildings "DOB")] DOB for [a] an alteration permit to perform work in the non-IMD spaces of such building,

[(]including any commercial space or residential space not covered by Article 7-C of the MDL[)], must [first] provide DOB with a letter of no objection ("**LONO**") from the Loft Board prior to issuance of an alteration permit.

[(B)] (ii) *Proposed Work in the IMD Spaces*: Any request for a LONO by or on behalf of the owner for work to be performed in the IMD units [spaces] will be processed by the Loft Board as an amendment to the [building's] owner's narrative statement and the [Loft Board certified] legalization [plans] plan certified pursuant to [paragraph (2) of this subdivision] § 2-01(d)(2). The Loft Board will issue an amended certification for the revised narrative statement and legalization plan.

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

[1.] (A) [In order to be granted a LONO,] Before a LONO may be granted, a building owner must demonstrate compliance with the annual registration requirements set forth in § 2-11, and all outstanding fees and fines payable to the Loft Board for the [subject] building must be paid or an arrangement for payment must be made.

[2.] (B) The LONO request [shall consist of] must include:

a. a formal request, which must be submitted on [such form as may be prescribed by] the Loft Board approved form, if any, at the time of the request;

b. a copy of the current [month's] monthly report relating to the legalization projects in the building, in accordance with [the terms set forth in § 2-01.1(a)(ii)] the requirements of § 2-01.1(a)(1)(ii) of the Loft Board rules [herein];

c. a copy of the alteration application [(PW-1 form)] filed with the DOB;

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. a [stamped] copy of the corresponding drawings[/] or plans with DOB bar code numbers filed with the DOB, on paper no larger than [11] 14 inches wide by 17 inches long.

[3.] (C) The Loft Board's staff will not consider an incomplete request for a LONO.

[4.] (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 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.

[5.] (E) The Loft Board's staff may deny a LONO request for the proposed work where:

a. the owner does not have an [open] alteration application filed with the DOB to perform the legalization work [of] in the IMD spaces;

b. the Loft Board issued a certification of the legalization work in the IMD spaces pursuant to [subparagraph (vii)] § 2-01(d)(2)(xi) [of paragraph (2) of this subdivision], and the owner does not have a current permit to perform the legalization work in such IMD [spaces] units;

c. the DOB had issued a temporary certificate of occupancy for the residential portion of the subject building before the owner applied for a LONO, and the temporary certificate of occupancy expired and has not been renewed;

d. the owner's monthly reports as [set forth in § 2-01.1(a)(ii)] required in § 2-01.1(a)(1)(ii) show no advancement of legalization projects in the building. The Loft Board's staff may supplement its review of the owner's monthly reports to consider any relevant information contained in the Loft Board's files;

e. the [subject] IMD building already has a final certificate of occupancy, but the owner has not applied to the Loft Board for removal;

f. the owner applied to the Loft Board for removal of the subject building prior to filing the LONO request, but the owner has not exercised all diligent efforts to submit additional information that was requested by the Loft Board's staff for processing the removal application; or

g. any other circumstance exists that indicates to the Loft Board's staff that the owner 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 or to remove the building from the Loft Board's jurisdiction.

[6.] (F) Granting of a LONO is not a finding by the Loft Board that the owner is exercising all reasonable and necessary action toward obtaining a

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

[(D)] (iv) *Nature of the Proposed Work.* In granting a LONO request, the Loft Board staff may consider the effect the proposed work may have on the IMD [spaces] units and the protected occupants of the building. If the proposed work would (1) result in a change in the use, egress, buildings' systems, or occupancy of IMD space in the building, or (2) affect an IMD unit in which there is an active dispute or finding of harassment by the Loft Board, or (3) adversely affect any protected occupants of the IMD [spaces] units in the building, the Loft Board's staff may [decide to] conduct an informal conference with the protected occupants and the owner upon at least [fifteen (15)] 15 calendar days' notice. [to discuss the proposed work's effect on the occupants.] Service of the conference notice by the Loft Board [shall] will be sent by regular mail.

[(E)] (v) *Appeal of Decision.*

[1.] (A) If the Loft Board's staff denies a LONO request, the owner may appeal to the Executive Director for an administrative determination.

[2.] (B) To be considered timely, the appeal to the Executive Director must be received by the Loft Board within [fifteen (15)] 15 calendar 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 [state] include:

a. the basis for the appeal;

b. a statement that requirements for the LONO set forth in [subsection (C)] subparagraph (iii) above are true, correct and complete as of the date of the appeal;

c. a detailed report of the current status of the legalization projects; and

d. a detailed schedule of the work to be performed in connection with achieving compliance with Article 7-B of the MDL, and a projected compliance date, to the extent the building is not yet in compliance therewith.

[3.] (C) The Executive Director [shall] will issue a written determination within [thirty (30)] 30 calendar days of [its] receipt of the request.

[4.] (D) The Executive Director will not consider any incomplete appeals. Failure to file a complete appeal [shall] may result in rejection of the appeal without consideration of the issues raised.

[5.] (E) Appeals from the written determination of the Executive Director shall be governed in accordance with § 1-07.1 [herein] of these rules.

(e) ***Code compliance for nonconforming units.***

If the [D.O.B.] DOB has issued an objection to the owner's alteration application because [a covered residential] an IMD unit cannot be brought into compliance under appropriate building codes, provisions of the [M.D.L.] MDL or the Zoning Resolution because of its size, design, or location within the building, the owner and affected occupant(s) should make every effort to reach accommodations that would permit every covered residential unit to be made code compliant.

If the owner and affected [occupant(s)] occupant are unable to reach a resolution about how to legalize the unit, either the owner or the residential occupant may apply to the Loft Board for a determination as to whether the unit can be made code compliant. In processing such an application the Loft Board may, following a hearing, or if a fact-finding hearing is not necessary, the Executive Director may:

(1) Order the owner to apply for a non-use related variance, special permit, minor modification, or administrative certification, where the granting of such an application would make compliance possible; or

(2) Order the owner to alter the unit, or to redesign residential units and common area space into a configuration that [can be legally converted] would allow the legal conversion of the unit to residential use; or

(3) [If these remedies are unavailing, remove a unit from Article 7-C Coverage if it cannot be legally converted to residential use.] Revoke the unit's Article 7-C coverage, if these remedies are unavailing.

[Such orders also shall require compliance within a specified period of time and shall require occupant cooperation in achieving compliance.] If the Executive Director or the Loft Board orders (1) or (2) above, a specific date for compliance shall be provided and the occupants will be required to cooperate to achieve code compliance in accordance with the requirements of this section.

(f) ***Occupant participation in the code compliance process.***

(1) The Loft Board encourages the owners and occupants of [interim multiple dwellings] IMD buildings to work together to achieve code compliance. Such cooperation may include, but is not limited to, occupants' performance of code compliance work. Owners, occupants and their representatives should make good faith efforts to communicate and cooperate with each other throughout the process so as to reduce or eliminate potential

disputes during the course of code compliance. Cooperation may result in benefits to all the parties insofar as:

(i) [costs] Costs incurred by the owner may be minimized, reducing the capital the owner would have to raise and reducing the rent adjustment increases that would have to be passed along to residential occupants;

(ii) [access] Access difficulties may be minimized;

(iii) [incidents] Incidents of harassment may be eliminated or reduced;

(iv) [losses] Losses incurred by nonresidential [tenants] occupants may be eliminated or minimized; and

(v) [code] Code compliance may be achieved in a timely fashion.

(2) While occupants have no right as a matter of law to perform code compliance work, the owner and the [occupants(s)] occupant may agree voluntarily to allow such [occupant(s)] occupant to perform code compliance work or any portion thereof, within the building, to the extent permitted by applicable laws and regulations.

The owner is required to obtain the appropriate [Department of Buildings] DOB approval for all work to be performed, but where the owner and [occupant(s)] the occupant have agreed that work will be performed by the [occupant(s)] the occupant, they may also agree that the [occupant(s)] occupant [is (are) required to] will obtain [all consents and approvals prior to filing with the D.O.B. pursuant to Administrative Code §§27-142, 27-151 and 27-220] the required DOB approvals, permits, and consents in accordance with all applicable laws, codes and rules on any work so permitted.

Should the owner and the [occupant(s)] occupant agree upon performance of the code compliance work or any portion thereof by such [occupant(s)] occupant, the owner and the [occupant(s) shall] occupant must file a written [Agreement] agreement with the Loft Board [pursuant to] in accordance with the procedures set forth in § 2-01(d)(1) of these [regulations] rules. Such [Agreement shall] agreement must include:

(i) an outline specification of all work to be performed and [by whom it is to be performed] who will perform it;

(ii) a time schedule for work to be performed as well as the identification of who is to supervise all construction work;

(iii) a certification that the parties [shall] will provide all information required in the processing of applications for rent [adjustment(s)] adjustments, if any, by the Loft Board;

(iv) a certification by the owner and [occupant(s)] occupant that all work [shall] will be performed in accordance with the code compliance timetable [set forth] provided in §2-01(a) of these [regulations] rules.

Such [Agreement] agreement by the owner and the [occupant(s) shall] occupant will be consistent with the [Alteration Application and any Building Notice(s) or Plumbing Repair Slip(s)] alteration application, corresponding legalization plan certified by the Loft Board, and any other job type alteration applications, limited alteration applications (LAA), electrical work applications, elevator application (EA) or Elevator Building Notice applications (EBN) filed with the [D.O.B.] DOB and the Loft Board.

(3) If at any time after execution of the [Agreement] agreement but prior to the completion of the code compliance work, the [occupant(s)] occupant or the owner [abrogate(s) the Agreement]rescinds the agreement, the [abrogation shall] rescission must be in writing, served upon all other parties to the [Agreement] agreement and filed with the Loft Board in accordance with the procedures provided in § 2-01(d)(1). Neither the agreement nor its [Such] abrogation will [shall not] relieve the owner of the obligation to comply with Article 7-C and these [regulations] rules. The owner and the [occupant(s)] occupant may also agree in writing, with a copy served on the Loft Board, to:

(i) [waive] Waive the procedure for occupant review of plans and resolution of occupant objections set forth in § 2-01(d)(2) of these [regulations] rules; or

(ii) [modify] Modify the procedure for notice to occupants of proposed work set forth in §§2-01(d)(2) and 2-01(g)(3) of these [regulations] rules.

Any agreement to waive the procedure for occupant review of plans must be completed on the Loft Board's approved form and must identify the relevant plan and narrative statement by date. Any other [Agreement] agreement for waiver or modification of other provisions of these [regulations shall] rules must be submitted to the Loft Board for its approval. [No Agreement shall be approved that] The Loft Board will not give any effect to an agreement which proposes that code compliance will not be achieved or that it will be achieved after the deadlines prescribed in [§§2-01(a) and 2-01(b) of these regulations] § 2-01(a) and MDL § 284(1).

(4) If an owner who has agreed to allow an occupant to perform code compliance work applies to the Loft Board for an extension of time to obtain a final residential certificate of occupancy pursuant to § 2-01(b) of these rules [regulations], the owner must exercise due diligence in monitoring the timely completion of such code compliance work in order to have grounds of good cause for its inability to meet the code compliance timetable.

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

(1) Unless otherwise agreed by the parties, the owner [shall] must provide all 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.

[Such] The access notice [shall] must be served by personal service, first class mail, registered mail [(]return receipt requested[)], or certified mail [(]return receipt requested[)], such that service is [effective] deemed completed at least [3] 5 calendar 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 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 [scheduled] day [of work] in the range of work days listed on the access notice referenced in paragraph (g)(1) above, the owner [shall] 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 § 2-01(g)(1) above.

[Notice under this provision shall be accomplished] The owner must deliver the second access notice personally [by personal delivery of the written notice] to the occupant or, in the occupant's absence, to a person of suitable age and discretion within the unit. If the owner or agent cannot achieve delivery to a person [as prescribed herein cannot be achieved,] as described, the owner or agent [shall] must deposit the [written statement] notice under the main entrance of the unit or, if that is not possible, [shall] must affix such notice to the main entrance of the unit.

An occupant may designate in writing another occupant within the building to receive an access notice pursuant to this § 2-01(g) provided that [such] the designee is authorized to provide reasonable access to the occupant's unit as required in such notice. Such designation [shall] must be served on the owner 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 occupants [shall] must provide the owner with reasonable access to their units so that all requisite code compliance or repair work, [or] inspections and surveys as may be required for the purpose of code compliance, may be performed.

(4) Upon the failure of an occupant to provide such access, the owner may apply to the Loft Board for an order affording the owner 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 for access under the following expedited procedures:

(i) The owner [shall] must serve the occupant with a copy of the owner's verified or affirmed application for access on [such] the Loft Board's form. [as prescribed by the Loft Board, and shall file twelve copies of the application at the offices of the Loft Board, along with proof that a copy of the application has been served upon the occupant.] Service on the occupant [shall] 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.

Within 5 calendar days after delivery or service by mail on the occupant, the owner must file 5 copies of the application at the offices of the Loft Board, along with proof of service of the application upon the occupant. Proof of service is required at the time of filing the access application with the Loft Board.

(ii) The occupant [shall] must file with the Loft Board [twelve] 5 copies, including the original, of a written answer in response to the application within [ten business] 15 calendar days [of] after service of the application is deemed complete. Service is deemed complete on the date of personal service or 5 calendar days after the owner mailed the application.

(iii) (A) [If] Before the occupant [answers,] files an answer with the Loft Board, the occupant [shall] must serve a copy of the answer on the owner by regular mail at the address designated on the application. [and shall notify both] Both owner and occupant will be notified of a hearing date, which [shall be scheduled for a date no] will not be fewer than 8 calendar days [nor] or more than 15 calendar days from the mailing of the notice. There [shall] will be no more than one adjournment per party, limited to 7 calendar days, for good cause shown. Except as provided herein, the provisions of § 1-06 [shall] apply to an application for access under this subdivision.

(B) [If] Even if the 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 to comply with any of the notice provisions of [this section] § 2-01(g) or a finding by the Loft Board that an occupant has unreasonably withheld access [shall] may be the basis for a civil penalty [not to exceed $1,000 for each such a finding of violation.] in accordance with § 2-11.1 of the Loft Board rules 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 has unreasonably withheld access, [as well as] including the labor or other costs incurred by the owner because access was unreasonably denied, may be included in the owner's application for code compliance rent adjustment as an allowable

cost to be allocated to such occupant's residential unit, as provided for in §2-01(l)(1) of these rules.

(v) The failure of an occupant to comply with a Loft Board order regarding access [shall] may be grounds for eviction of that occupant in a proceeding brought before a court of competent jurisdiction.

(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 from their units and with minimal disruption to the occupants' use of their units. The owner [shall] 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 [shall] must be performed within the building during the construction period, except when construction renders regular maintenance impossible.

(2) After the filing of an alteration application by the owner, but before the issuance of a building permit, occupants who object to the proposed work because it will unreasonably interfere with [their] the use of their units must [bring their objections to the D.O.B.] oppose the proposed plan as provided in § 2-01(d)(2)(viii)(A). After a permit has been issued through the process described in § 2-01(d)(2), in which the occupants have had an opportunity to participate, the 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 [their] the use of their units.

(3)(i) In the case of an IMD for which a building permit for achieving code compliance with Article 7-B, alternative building codes or provisions of the M.D.L. has been issued and is in effect as of the date of adoption of these regulations, such that § 2-01(d)(2) is not applicable, an occupant of such an IMD may file an 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 use of its unit. This paragraph (3)(i) is not applicable to IMD units subject to Article 7-C pursuant to MDL § 281(5).

(ii) *IMD Units Subject to Article 7-C pursuant to MDL § 281(5) as a result of the 2010 amendments to the Loft Law.* An occupant of an IMD unit subject to Article 7-C pursuant to MDL § 281(5) that became subject to Article 7-C pursuant to chapter 135 or 147 of the laws of 2010 may file an unreasonable interference application under this subdivision (h) if: (1) an alteration permit is in effect on June 21, 2010; (2) the occupant was not able to participate in the narrative statement process because § 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.

(iii) *IMD Units Subject to Article 7-C pursuant to MDL § 281(5) as a result of the 2013 amendments to the Loft Law.* An occupant of an IMD unit subject to Article 7-C pursuant to MDL § 281(5) that became subject to Article 7-C pursuant to Chapter 4 of the Laws of 2013 may file an unreasonable interference application under this subdivision (h) if: (1) an alteration permit is in effect on June 1, 2012; (2) the occupant was not able to participate in the narrative statement process because § 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.

(4) In [granting such] considering an application pursuant to this subdivision, the Loft Board shall process the application in accordance with Loft Board [regulations on Internal Board Procedures and] rules. The Loft Board may order the owner to amend its alteration application or may recommend that the DOB revoke the permit if it finds that the proposed work unreasonably interferes with the occupant's use of the unit. If the permit is revoked by the [D.O.B.] DOB on these grounds, the occupants [shall] will have the opportunity to participate in the review of plans through the process described in § 2-01(d)(2).

(5) *Unreasonable interference during the legalization process* [If, in the course of performing the work, the owner or its agents] An aggrieved occupant may file an application with the Loft Board claiming an unreasonable interference with use of the unit, if, in the course of performing the code-compliance work, the owner or its agent:

> (i) [engage] Engages in work [beyond that] that is outside of the scope authorized by the permit[,];
>
> (ii) [depart] Departs significantly from the work described in the owner's narrative statement and legalization plan [or];
>
> (iii) Departs significantly from the estimated time schedule for performance of the work as amended according to the requirements of § 2-01(d)(2) of these rules[,];
>
> (iv) [engage] Engages in repeated or substantial violations of the notice provisions [of] provided in § 2-0l(g)[,]; or
>
> (v) [violate] Violates the provisions of the tenant [safety] protection plan[,] provided in § 2-01(d)(2)(vi).

[an occupant aggrieved by such action(s) may file an application with the Loft Board setting forth] Such application must provide the factual basis for [its] a claim that such unauthorized work, departure from the schedule, or violation of the tenant [safety] protection plan unreasonably interferes with the occupant's use of its unit.

A finding by the Loft Board [of] that the owner or its agents engaged in unreasonable interference with an occupant's use [by the owner or its agents] may result in civil penalties [of up to $1,000] in accordance with § 2-11.1 of the Loft Board rules for each violation. A finding by the Loft Board [of] that the owner or its agents engaged in unreasonable and willful interference with an occupant's use of its IMD unit [by the owner or its agents] may result in civil penalties [of up to $1,000] in accordance with § 2-11.1 for each violation, [and] may constitute harassment of [tenants] occupants, and may subject the owner to penalties resulting from a finding of harassment. [The] As further provided in § 2-02 of these rules, the penalties may include, but are not limited to the denial of exemptions from rent [regulations] regulation provided to an owner pursuant to § 286(6) of the [M.D.L.] MDL and Loft Board [Regulations] rules. [on Sales of Improvements may not be available in a building when an owner has been found guilty of harassment of tenants subject to regulations adopted by the Loft Board.]

§ 2. Paragraph (1) and subparagraphs (i) and (ii) of paragraph (2) of subdivision (i) of section 2-01 of Title 29 of the Rules of the City of New York are amended to read as follows:

(i) ***Applications for [rent guidelines board] Rent Guidelines Board ("RGB") increases and for rent adjustments based on costs of compliance.***

(1) [*Rent guidelines board*] *RGB increases.*

(i) Upon issuance of a final certificate of occupancy, an owner shall be eligible for a rent adjustment based upon the percentage rent increases established by the [New York City Rent Guidelines Board (RGB)] RGB (hereinafter "**RGB Increases**"). The first [such rent increase] RGB Increase shall commence [as of] on the first day of the first month following the day an owner submits to the Loft Board a Notice of RGB [Increase[s] in the form prescribed by] Increase Filing form on the Loft Board approved form. [and each such] Each subsequent rent increase shall be effective on each one[-] or two-year anniversary of such commencement date, as applicable. [(] This one or two-year period during which a particular RGB Increase is effective is referred to herein as the "**RGB Increase Period**." [)] The last RGB Increase prior to issuance of a final rent order by the Loft Board [of the final rent owner] setting the initial legal regulated rent, pursuant to § 2-01(m) of these rules, shall remain effective until expiration of the applicable RGB Increase Period.

The amount of each RGB increase shall be equal to the percentage increase applicable to one or two-year leases as established by the RGB on the date the Notice of RGB Increase Filing form is submitted to the Loft Board and on each one[-] or two-year anniversary thereafter [thereof], as applicable, and shall be applied to the maximum rent permissible under Loft Board rules as of the date the Notice of RGB Increase filing is submitted to the Loft Board.

The RGB Increase shall apply to all covered residential units, except for those units that are exempt from rent regulation under Article-7-C. [as a result of the owner's purchase of improvements or rights pursuant to M.D.L. §286(6) or §286(12), and Loft Board rules promulgated pursuant thereto.]

(ii) To obtain the [rent] RGB Increase, the owner shall submit to the Loft Board:

(A) [two] Two copies of [a] the Notice of RGB Rent Increase Filing form [on a form prescribed by the Loft Board.] and the required attachments. The [notice] Notice of RGB Increase Filing form shall contain the rent in effect, including escalations and increases [provided under M.D.L] permitted in accordance with MDL § 286(2) or the Loft Board's rules, for each covered residential unit subject to rent regulation, [and shall be submitted with]
(B) [a] A copy of the final residential certificate of occupancy,
(C) [a] A copy of the individual notices as described in subparagraph (iii) of this paragraph,
(D) The "Tenant Response Form" sent by the owner to the affected occupants, and
(E) [an] An affidavit that such notices were sent by first class mail and certified or registered mail to each affected occupant.

(iii) The owner shall [send] mail to each affected occupant a [notice in the form prescribed by the Loft Board] an individual notice of RGB Increase form setting forth the maximum permissible rent under Loft Board rules for the unit [occupied by such occupant]. The [notice] mailing of the individual notice of RGB Increase shall also [request the occupant] include the "Tenant Response Form" with instructions for the tenant to elect RGB increases applicable to one-year or two-year leases. Such election shall be binding upon the occupant for the entire period prior to expiration of the last RGB Increase before issuance by the Loft Board of the final rent order setting the initial legal regulated rent. The failure of an occupant to make an election between RGB increases applicable to one-year or two-year leases [and return a copy of same to the Loft Board] within 45 calendar days of the mailing [thereof by the applicant] of the Notice of RGB Increase Filing shall be deemed to be an election to be governed by increases applicable to one year leases.

(iv) [If an] The occupant [disputes] may dispute the maximum permissible rent [under Loft Board rules as set forth in the aforementioned notice, such occupant shall, within the 45-day period described in subparagraph (iii) of this paragraph, notify the Loft Board and the owner, on the form provided pursuant to subparagraph (v) of this paragraph, of the amount in dispute.] set forth in the owner's Notice of RGB Increase Filing, by detailing the amount in dispute on the Tenant Response Form. The occupant must file the dispute with the Loft Board within 45 calendar days of the mailing date of the individual notice of RGB Increase, as indicated on the affidavit of service. Failure of such occupant to notify the Loft Board of a dispute within such 45-day period shall be deemed to be

an acceptance by the occupant of the amount of rent claimed by the owner. The Notice of RGB Rent Increase Filing form, the individual notices and the Tenant Response Form may not be altered or re-typed. During the period prior to the resolution of the dispute, the occupant shall pay rent in [an] a sum equal to the amount [no less than the amount not] of the monthly base rent that is not in dispute plus the amount of RGB Increase based on the undisputed amount. [authorized by these rules (for] For example, if the owner claims the rent in effect is $450 and the occupant claims it is $400, the rent paid to the owner prior to resolution of the dispute shall be [no less than] equal to $400 plus the applicable RGB Increase[).] based on the undisputed amount of $400. The occupant shall pay any deficiency in one lump sum [at the time that the first rent payment is due following resolution of the dispute.] together with the first rent payment due following resolution of the dispute.

(v) [Responses from affected occupants to the Loft Board notifying the Loft Board of a dispute in the rent or of an election of the period of the RGB rent increase shall be in the form prescribed by the Loft Board, a copy of which form shall be included in the aforementioned notice from the owner to each affected occupant pursuant to subparagraph (iii) of this paragraph.]

RGB increases may also take effect in accordance with § 2-01(i)(2)(i)(B) where the Loft Board sets the initial legal regulated rent.

(2) *Rent Adjustments Based on the Cost of Code Compliance* [*Cost of compliance increases*].

(i) (A) An owner may apply for rent adjustments based on the necessary and reasonable costs of [obtaining a residential certificate of occupancy] compliance:

(a) once upon certification of compliance with Article 7-B of the [M.D.L.] MDL, alternative local building codes or provisions of the [M.D.L.] 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 owners or tenants under this section, in accordance with MDL § 286(3), if an owner applies for a rent adjustment based on the code compliance costs for compliance with Article 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 qualified for protection

pursuant to Article 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 7-C are inconsistent with such act. If the initial legal regulated rent has been set based upon Article 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 based on code compliance costs filed with the Loft Board for IMD units covered under Article 7-C pursuant to MDL § 281(1), [The application] may include those necessary and reasonable code compliance costs incurred prior to June 21, 1982 for which the residential occupants have not either reimbursed or [are not in the process of reimbursing] begun to reimburse the owner. [In the course of the processing of the application, the] A residential [occupant(s)] occupant who [claim(s)] claims that reimbursement has been or is being made for such costs shall be required to present satisfactory proof of such reimbursement to the Loft Board.

[Rent] (D) Except as provided in this subparagraph, rent adjustments shall be allowed [both] for necessary and reasonable code compliance costs incurred by an owner 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) *Limitations of Rent Adjustments Based on Costs of Compliance.*

1. An owner who has failed to register its building as an IMD:

(i) on or before December 1, 1985, in the case of a building covered by Article 7-C pursuant to MDL § 281(1) or,

(ii) [in the case of a building which is an IMD solely pursuant to M.D.L. §281(4), an owner who has failed to register its building as an IMD] on or before February 11, 1993, in the case of a building which is covered by Article 7-C solely pursuant to M.D.L. § 281(4) or,

(iii) on or before July 30, 2013, the effective date of the rule, in the case of a building covered by Article 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 who fails to register its building as an IMD:

(i) on or before March 1, 1986, in the case of a building covered by Article 7-C pursuant to MDL § 281(1) or,

(ii) [in the case of a building which is an IMD solely pursuant to M.D.L. §281(4), an owner who fails to register its building as an IMD] on or before May 11, 1993, in the case of a building which is covered by Article 7-C solely pursuant to M.D.L. § 281(4) or,

(iii) on or before October 30, 2013, three months after the effective of the rule, in the case of a building covered by Article 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 [in effect on the effective date of these regulations,] of costs referenced in subdivision (p) below, without indexing, regardless of when such costs were incurred.

(ii) An application filed pursuant to this paragraph (2) of §2-01(i) shall be filed no later than [within] nine months after the owner has obtained a certificate of occupancy or February 1, 2000, whichever date is later. An owner that fails to file an 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 submitted pursuant to this paragraph shall be submitted on a form prescribed by the Loft Board and shall meet the requirements of this paragraph and §§1-06 and 2-11 of these rules, except that for applications filed pursuant to clause (A) of subparagraph (iii) of this paragraph, only two copies must be filed plus one for each affected party, and for precertified applications filed pursuant to clause (B) of subparagraph (iii) of this paragraph, only two copies of the application must be filed. As part of the 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 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 §2-01(k) of these rules. In accordance with the provision of §1-06(j)(1), 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.

§ 3. Paragraph (1) of subdivision (m) of section 2-01 of Title 29 of the Rules of the City of New York is amended to read as follows:

(1) Following the calculation of code compliance rent adjustments [pursuant to §2-01(i)(2)(ii)] or the waiver of an owner's right to such rent adjustments pursuant to §2-01(i)(2)(ii), the Loft Board shall set the initial legal regulated rent for all covered residential units remaining subject to rent regulation under M.D.L. Article 7-C.

§ 4. Paragraph (2) of subdivision (a) of section 2-03 of the rules of the city of New York is amended by adding two subparagraphs (iv) and (v), respectively, to read as follows:

(iv) Notwithstanding any provisions of subparagraphs (i), (ii) and (iii) of this paragraph (2), applications for a hardship exemption regarding interim multiple dwellings covered by MDL § 281(5) that became subject to Article 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 for a hardship exemption regarding interim multiple dwellings covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapter 4 of the Laws of 2013 must be filed on or before April 30, 2014, in accordance with MDL § 285(2).

§ 5. Subparagraph (ii) of paragraph (3) of subdivision (a) of section 2-03 of the rules of the city of New York are amended to read as follows:

(ii) (A) The application shall be in a form acceptable to the Loft Board and shall be consistent with the requirements of these regulations, the Board's regulations relating to applications to the Board, [(regulations for Internal Procedures—]§§1-06(a) to (j), and fees, §2-11. The applicant must: (a) indicate the basis for the application, (b) identify the residential units for which exemption is sought, and (c) state the specific claims for exemption for the building or portion of the building.

(B) *Deadlines for Interim Multiple Dwellings Subject to Article 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 to be considered. An additional time period of no more than sixty days for the submission of all required documentation in support of the completed application may be requested and will be granted if good cause is shown. [The applicant must indicate the basis for the application, the residential units for which exemption is being applied for, and the specific claims for exemption being made. In addition, supporting data must be provided with the application whenever necessary or appropriate to fully set forth to explain the basis for the application.] 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 days of the effective date or legalization regulations adopted by the Loft Board.

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

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

§ 6. Subparagraph (i) of paragraph (1) of subdivision (b) of section 2-03 of the rules of the city of New York is amended to read as follows:

(i) *Adverse impact.* Compliance would cause an unreasonably adverse impact on a non-residential conforming use occupant existing on:

(A) June 21, 1982 [within the] for a building subject to coverage under Article 7-C pursuant to MDL § 281(1), [or]

(B) [compliance would cause an unreasonable adverse impact on a non-residential conforming use occupant existing on] July 27, 1987 for a building which is subject to coverage under Article 7-C pursuant to MDL §281(4)[.],

(C) June 21, 2010 for an IMD covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapters 135 or 147 of the Laws of 2010, or

(D) June 1, 2012 for an IMD covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapter 4 of the Laws of 2013.

§ 7. The introductory language in subparagraph (i) of paragraph (2) of subdivision (b) section 2-03 of the rules of the City of New York is amended to read as follows:

(i) *Adverse impact.* The test for unreasonably adverse impact on a non-residential conforming use occupant existing on the applicable date referenced in § 2-03(b)(1)(i) [June 21, 1982 or on July 27, 1987 for a building subject to coverage under Article 7-C pursuant to MDL §281(4),] shall be whether legal residential conversion would necessitate displacement of such occupant. An owner making a claim on this basis will be required to produce as part of the application, evidence to substantiate the claim. Displacement of non-residential conforming use occupants may include instances where:

§ 8. Clause (D) of subparagraph (ii) of paragraph (2) of subdivision (b) section 2-03 of the rules of the City of New York is amended to read as follows:

(D) (a) No application shall be approved unless the owner's equity in such building exceeds five percent of:

(1) the arms length purchase price of the property;

(2) the cost of any capital improvements for which the owner has not collected or will not collect a surcharge;

(3) any repayment of principal of any mortgage or loan used to finance the purchase of the property or, any capital improvements for which the owner has not collected or will not collect a surcharge; and

(4) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner.

(b) For the purposes of this paragraph, owner's equity shall mean the sum of: (1) the purchase price of the property less the principal of any mortgage or loan used to finance the purchase of the property,

(2) the cost of any capital improvement for which the owner has not collected or will not collect a surcharge less the principal of any mortgage or loan used to finance said improvement,

(3) any repayment of the principal of any mortgage or loan used to finance the purchase of the property or any capital improvement for which the owner has not collected or will not collect a surcharge, and

(4) any increase in the equalized assessed value of the property which occurred subsequent to the first valuation of the property after purchase by the owner.

(E) An owner of a building subject to Article 7-C pursuant to MDL § 281(1) making a hardship exemption claim based on infeasibility [claim on this basis] will be required to produce, as part of the application, evidence, subject to audit, based on a representative consecutive 12 month period beginning no earlier than January 1, 1982, or, for a building subject to coverage under Article 7-C pursuant to MDL §281(4), no earlier than January 1, 1987, of the current net annual return for the building and the projected net annual return following legalization including, but not limited to, current and projected earned income, operating expenses and equity information.

(F) In order to bring a hardship exemption claim based on infeasibility, the owner of an interim multiple dwelling covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapters 135 or 147 of the Laws of 2010 must include in the application evidence, subject to audit, of the current net annual return for the building and the projected net annual return following legalization including, but not limited to, current and projected earned income, operating expenses and equity information. Such evidence must be based on a consecutive 12 month period beginning no earlier than January 1, 2010.

(G) In order to bring a hardship exemption claim based on infeasibility, the owner of an interim multiple dwelling covered by MDL § 281(5) that became subject to Article 7-C pursuant to Chapter 4 of the Laws of 2013 must include in the application evidence,

subject to audit, of the current net annual return for the building and the projected net annual return following legalization including, but not limited to, current and projected earned income, operating expenses and equity information. Such evidence must be based on a consecutive 12 month period beginning no earlier than January 1, 2012.

(H) Inability to make a reasonable return on investment may include situations where the necessary and reasonable costs of compliance will cause residential units to rent at above prevailing market levels.

§ 9. Clauses (D) and (F) of subparagraph (iii) of paragraph (4) of subdivision (a) of section 2-08 of title 29 of the rules of the city of New York are amended to read as follows:

(D) contain at least [550] 400 square feet in area;
(F) not be located in the same building that contained, as of June 21, 2010, and continuing at the time of the submission of an application for coverage by any party, a use actively and currently pursued that is determined by the Loft Board to be inherently incompatible with residential use, as defined in § 2-08(k) of these rules.

§ 10. Paragraph (1) and subparagraphs (i) and (ii) of paragraph (2) of subdivision (b) of section 2-08 of title 29 of the rules of the city of New York is amended to read as follows:

(b) Certificate of occupancy.

(1) Registration as an IMD shall not be required of any 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, structures, or portions thereof seeking coverage under Article 7-C solely pursuant to MDL § 281(1); (ii) July 27, 1987, for buildings, structures or portions thereof seeking coverage under Article 7-C solely pursuant to MDL § 281(4); [or] (iii) June 21, 2010, for buildings, structures or portions thereof seeking coverage under Article 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, structures, or portions of buildings seeking coverage under Article 7-C pursuant to § 281(5) as amended in Chapter 4 of the Laws of 2013. Such units shall be exempt from Article 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, 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, [or] (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. Issuance of a certificate of occupancy pursuant to MDL § 301 for such units on or after June 21, 1982, July 27, 1987, [or] June 21, 2010, or June 1, 2012, as applicable, will not be the basis for exemption from Article 7-C coverage;

(ii) Any 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), [and] (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. Issuance of a temporary residential certificate of occupancy for such units prior to these dates will not be the basis for exemption from Article 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[.];

§ 11. Paragraph (2) of subdivision (d) of section 2-08 of title 29 of the rules of the city of New York is amended to read as follows:

(2) For purposes of counting to determine whether a building qualifies as an IMD, and is covered under Article 7-C, 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) [prior to] July 27, 1987 for a unit seeking coverage under MDL § 281(4); (C) [or prior to] 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.

(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) [prior to] July 27, 1987 for unit seeking coverage under MDL § 281(4); [or prior to] (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; 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) [prior to] July 27, 1987 for a unit seeking coverage under MDL § 281(4); [or prior to] (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.

§ 12. Subparagraph (vi) of paragraph (4) of subdivision (e) of section 2-08 of title 29 of the rules of the city of New York is amended to read as follows:

(vi) For any 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 §§ 2-01(a)(9) and (10) [is triggered by the effective date of Chapter 135 of the Laws of 2010, which is June 21, 2010].

§ 13. Subdivisions (j), (k), (m), (n), (q), (r), and (s) of section 2-08 of title 29 of the rules of the city of New York are amended to read as follows:

(j) The term "Interim Multiple Dwelling" ("IMD") as used in Multiple Dwelling Law § 281(5) shall not include any building in which an inherently incompatible use as described in subsection (k) of this section is being actively and currently pursued in any unit other than a residential unit of the building. The term "actively and currently pursued" shall refer to commercial, manufacturing or industrial use being conducted in the building on June 21, 2010[.] 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), which is located in a building registered as an IMD under MDL §§ 281(1) or (4), shall not be excluded from Article 7-C coverage on the basis that any prohibited activity in use groups 15 through 18 existed in the building. [on June 21, 2010.]

(k) Uses in Use Groups Inherently Incompatible With Residential Use. Pursuant to MDL § 281(5), a use that falls within Use Groups 15-18, 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 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 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.

(m) Owner's registration application. For all applications for registration filed pursuant to § 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 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).

(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.

(q) Tenant applications for coverage. For all applications for coverage filed pursuant to § 1-06, 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 applicant seeking coverage under Article 7-C of the MDL must establish by a preponderance of the evidence that there are no commercial, manufacturing or industrial uses in the non-residential units that are inherently incompatible with residential use as defined in subdivision (k) in the building as of June 21, 2010 and continuing at the time of the submission of an 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 for which coverage under Article 7-C of the [MD L] MDL is being sought. The building owner shall 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 registration application. The Executive Director may request additional information from the owner, building tenants or government agencies about the non-residential uses in the building on June 21, 2010 and continuing at the time of the submission of an 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 subdivisions (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 § 1-07.1.

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CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Amendment of Code Compliance Deadline Rule (§§ 2-01, 2-03, 2-08)

REFERENCE NUMBER: 2011 RG 056

RULEMAKING AGENCY: Loft Board

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

(i) is drafted so as to accomplish the purpose of the authorizing provisions of law;

(ii) is not in conflict with other applicable rules;

(iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and

(iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN Date: April 10, 2013
Acting Corporation Counsel

NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
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212-788-1400

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Code Compliance Deadline Rule (§§ 2-01, 2-03, 2-08)

REFERENCE NUMBER: DOB-13, 15, 39, 40

RULEMAKING AGENCY: Department of Buildings

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

(i) Is understandable and written in plain language for the discrete regulated community or communities;

(ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and

(iii) Provides a cure period for some violations, but does not provide a cure period for other violations because a) code compliance violations pose a risk to public health and safety, b) certain violations arise from completed events, the consequences of which are immediate, which makes a cure period impracticable under the circumstances, or c) cure period would run counter to the proposed rule's goal of encouraging timely filing of documentation.

/s/ Ruby B. Choi *4/10/2013*
Mayor's Office of Operations Date