

## NOTICE OF PUBLIC HEARING

**Subject:** Opportunity to comment on proposed rule changes to Section 2-11 of the Loft Board rules which relate to filing fees.

**Date / Time:** August 2, 2012 at 2:00 P.M.

**Location:** 22 Reade Street  
1<sup>st</sup> Floor Spector Hall  
New York, NY 10007

**Contact:** New York City Loft Board  
280 Broadway 3<sup>rd</sup> Floor  
New York, NY 10007  
(212) 566-5663

### Proposed Rule Amendment

Pursuant to the authority vested in the New York City Loft Board by Article 7-C of the Multiple Dwelling Law and Mayor's Executive Order No. 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 section 2-11 of Title 29 of the Rules of the City of New York.

### Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment by mail to the New York City Loft Board at the address shown above or electronically through NYCRULES at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules) by August 2, 2012.
- To request a sign language interpreter or other form of reasonable accommodation for a disability at the hearing, please contact the New York City Loft Board at the phone number shown above by July 30, 2012.
- Copies of the written and summarized oral comments received at the hearing will be available August 9, 2012 between the hours of 10:00 A.M. and 4:00 P.M. at the offices of the New York City Loft Board.

## STATEMENT OF BASIS AND PURPOSE

Pursuant to § 282 of Article 7-C of the Multiple Dwelling Law (“Loft Law”), the Loft Board may promulgate rules to ensure compliance with the Loft Law. Section 282 of the Multiple Dwelling Law (“MDL”) also states that the Loft Board may charge and collect reasonable fees in the execution of its responsibilities.

Effective as of June 21, 2010, the Legislature amended the Loft Law. To improve clarity and organization, the Loft Board intends to amend § 2-11 of the Rules of City of New York. The proposed amendments are the following:

- Update the fee for filing a challenge to a proposed sale of improvements to conform to the existing fee provided in §2-07;
- Amend the deadline for the application filing fee and the deadline for the request for a waiver of the filing fee. Both the application filing fee and the request for a waiver are now due upon filing the application;
- Provide that the Loft Board may request additional or supporting documentation related to an applicant’s request for a waiver of the application fee; and
- Add headings to subsections.

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

New matter in the following rule is underlined, and deleted material is in brackets.

**Section 2-11 of Title 29 of the Rules of the City of New York is amended to read as follows:**

### §\_2-11 Fees.

(a) *Collection of fees.* The Loft Board [shall] may charge and collect reasonable fees in the execution of its responsibilities. The Loft Board may, by amending these [regulations] rules, add to, delete from or modify the types of applications for which fees are charged and/or revise the amount of the fee imposed.

(b) *Schedule of reasonable fees.*

(1) *Registration and [C]code [C]compliance [M]monitoring fee.*

(i) Fee amount. The filing fee for registration and code compliance monitoring [shall be] is \$500.00 per residential[ly occupied] unit.

(A) Annual registration. Registration of a building or portion of the building [a part thereof] as an interim multiple dwelling (“IMD”) by the owner, lessee of a whole building, and the agent is required annually. The annual registration period [shall] begin on July 1<sup>st</sup> of each year and ends on June 30<sup>th</sup> of the following year. If more than [one] 1 registration application is filed for a building, the filing fee for the residential[ly occupied] IMD units in the building [therein shall] will be charged only once during any annual period.

(B) Fee required. Landlords filing annual renewal registration forms [applications, which become effective on July 1, 1983 and annually thereafter, shall be] are required to pay the registration and code compliance monitoring [filing] fee prior to the processing of the registration form [application].

(C) Limitation on registration renewal. [Registration as an IMD shall not be issued to or renewed for an owner of a building against whom a fine has been imposed for any violation of these rules or against whom any late-filing fee has been imposed pursuant to §2-11(b)(1)(i)(D), unless or until such fine and late-filing fee has been paid,] Registration as an IMD may be renewed only when all prior registration fees, all outstanding fines and all late filing fees pursuant to § 2-11(b)(1)(i)(D) have been paid, or such owner has entered into, and is in compliance with, an installment agreement, payment plan or other similar arrangement for the payment of all outstanding monies due to the Loft Board. [of such fine. Registration as an IMD shall not be issued to or renewed for an owner of a building unless and until all prior unpaid registration fees and late-filing fees (if any) have been paid.]

(D) Late filing fees. If the annual renewal registration [application] form and fee are not submitted by July 31<sup>st</sup> of each year in which they are required to be submitted, the [Loft Board shall assess the] owner must pay a late filing fee of \$25.00 for the month of July for each residential[ly occupied] IMD unit. Thereafter, the [Loft Board shall assess the] owner must pay an additional late filing fee of \$5.00 per residential[ly occupied] IMD unit for each month or portion of a month until the date when the completed registration form [application] is submitted and the registration fee is paid.

(2) *Code compliance applications.*

(i) The filing fee for an application for rent adjustments based upon the costs of compliance with Article 7-B of the MDL [Multiple Dwelling Law], or of obtaining a final residential certificate of occupancy, or both [shall be] is \$100.00 for each residential[ly occupied] unit [listed in] that is the subject of the application.

(ii) The filing fee for an application for certification of estimated future rent adjustments [shall be] is \$75.00 for each residential[ly occupied] unit [listed in] that is the subject of the application.

(3) *Article 7-C coverage applications.*

(i) The filing fee for an application, filed by either the landlord or by the tenant, for coverage of any building or [part thereof] portion of the building, pursuant to Article 7-C of the [Multiple Dwelling Law shall be] MDL is \$25.00 for each unit [listed in] that is the subject of the application.

(4) *Rent dispute applications.*

(i) The filing fee for an application, filed by either the landlord or tenant, disputing base rent or rent increases, not including rent adjustments based on costs of code compliance, [which are governed by § 2-11(b)(3) of these regulations, shall be] is \$50.00.

(5) *Challenge to proposed [S]sale[s] of improvements applications.*

(i) *Filing fees [for landlords].*

(A) The filing fee for a challenge to a [sales] sale of improvements [application] to a prospective incoming tenant filed with the Loft Board [before the effective date of these rules by a landlord or tenant shall be \$300.00] is \$800.

[(B) The filing fee for any such application filed by the landlord with the Loft Board on or after the effective date of these rules shall be \$500.00.]

(ii) There is no fee for filing a Disclosure Form or Sales Record.

(6) *[Housing maintenance] Diminution of service applications.*

(i) The filing fee for an application filed by a tenant for [violation of the minimum housing maintenance standards] diminution of a service or by a landlord disputing its responsibility for providing any such service is \$50.00.

(7) *Article 7-C compliance applications.*

(i) The filing fee for an application filed by a tenant or landlord concerning the landlord's compliance with Article 7-C is \$50.00.

(8) *Tenant harassment applications*

(i) Harassment applications. The filing fee for an application filed by a tenant complaining of harassment is \$100.00.

(9) Application for late filing of tenant's alternate legalization plan [Tenant code compliance work plan].

(i) The filing fee for [an alternate code compliance work plan or for] a waiver to allow late filing of an alternate legalization [code compliance work] plan by a tenant is \$50.00.

(ii) There is no filing fee for [code compliance work] legalization plans filed by the landlord.

(10) *Unreasonable [I]interference with use applications.*

(i) The filing fee for an application filed by a tenant for unreasonable interference with use of the IMD unit by the landlord [in] during code compliance work is \$50.00.

(11) *Landlord access applications.*

(i) The filing fee for an application filed by the landlord for an [access] order by the Board to permit access to tenants' units to perform code compliance work following tenants' refusal of such access is \$50.00.

(12) *Landlord hardship applications.*

(i) The filing fee for an application filed by the landlord for a hardship exemption from Article 7-C is \$1,000.00.

(13) *Decoverage applications.*

(i) The filing fee for an application filed by the landlord for decoverage of a unit or building because of an exemption from legalizing nonconforming units [(decoverage)] is \$200.00.

(14) *Appeals to the Loft Board of [A]administrative [Decisions] determinations.*

(i) The filing fee for an application to appeal the Loft Board staff's administrative [decisions] determination, such as a request for an extension of a code compliance deadline [denied by the staff,] is \$100.00.

(15) *Reconsideration applications.*

(i) The filing fee for an application for reconsideration of a Loft Board order is \$100.00.

(16) *Abandonment applications.*

(i) The filing fee for an application for a determination that the occupant of an IMD unit has abandoned the unit is \$100.00.

(17) *Subless[ee]or—prime lessee compensation applications.*

(i) The filing fee for an application to determine the [value] cost of improvements [installed in a unit for which] made or purchased by the prime lessee or a sublessor who is not the residential occupant qualified for protection pursuant to § 2-09 is \$500.00.

(18) *Extension applications.*

(i) The filing fee for an extension of a code compliance deadline application is \$50.00.

(19) *Other applications.*

(i) The filing fee for all other types of applications filed with the Loft Board is \$50.00.

(c) [*Procedures for collection*] Payment of application fees. [The procedure for collection is as follows:]

(1) The application fee is due and payable upon the [filing] applicant's submission of the application to the Loft Board. If an application fee is not paid at the time the application is submitted, the application will be deemed incomplete, and will not be considered filed or processed until such payment is made, unless a request for a waiver of the application fee is submitted at the time the application is filed, pursuant to subdivision (e) below. Payment may be made in person or by mail, by certified check, teller check or money order made payable to the City Collector, at the offices of the Loft Board. [Upon receipt of payment, the Loft Board will send proof of payment to the applicant.]

[(2) The application will not be processed until the fee is received. Applications received without the fee will not be considered final until payment is received. Applications will be administratively dismissed if proper payment is not received on due notice within one month.]

(d) *Applicability.* [This] The fee schedule listed in subdivision (b) above [will apply] applies to all applications received in person or postmarked on or after January 1, 1991.

(e) *Waiver of application fees [for indigent persons] for financial hardship.*

(1) [A party may apply to the Loft Board for a full waiver of fees for applications required by these rules] An applicant may request a waiver of the fees provided in this section on the basis of [indigency] financial hardship. [There shall be no] No waiver of fees will be permitted [required] for registration applications set forth in § 2-11(b)(1)(i) of these rules.

(2) *Procedure for [applying] requesting a [for] waiver of application fees.*

(i) [The application for waiver of fees shall be on a form prescribed by the Loft Board. In the absence of such form, application shall] The request for a waiver of fees pursuant to this section must be received by the Loft Board at the time the application is filed. The request must be made by letter setting forth all pertinent information, including the applicant's [(name, address, building address, IMD registration number, if applicable, [kind] and type of application for which waiver is requested. ] and shall] The request must be accompanied by the affidavit required by § 2-11(e)(2)(ii) below [of these regulations].

(ii) The [application] request for a waiver of application fees [shall] must be [accompanied by] filed with an affidavit setting forth: (1) the amount and all sources of applicant's income, (2) any property owned and the value thereof, (3) a statement stating why a waiver of fees is requested, and (4) any other facts that will be helpful to the Loft Board in [determining whether such application should be granted.] making a determination. The Loft Board may demand additional information prior to making the determination on the waiver request. The applicant must file the additional information with the Loft Board within 25 calendar days following the mailing date of the Loft Board's demand for additional information.

[(iii) The application for waiver of fees shall also be accompanied by a proof of service of said application for waiver of fees and accompanying affidavit all affected parties.]

(3) [The application for waiver of fees must be received by the Loft Board no later than thirty days after the filing of an application.]

The Loft Board will notify the applicant in writing of its determination regarding the waiver request. If the Loft Board denies the waiver request, it will provide a new deadline for the application fee. Failure to file the application fee by the new deadline may result in rejection of the application.

NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-788-1087

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Establishment of Filing Fees (§ 2-11)

**REFERENCE NUMBER:** 2011 RG 078

**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  
Acting Corporation Counsel

Date: June 19, 2012

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

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

**RULE TITLE: Establishment of Filing Fees (§ 2-11)**

**REFERENCE NUMBER: DOB-20**

**RULEMAKING AGENCY: Department of Buildings**

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

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

/s/ Ruby B. Choi  
Mayor's Office of Operations

6/19/2012  
Date