

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Buildings (DOB) is proposing to add a new section 105-07 to Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York regarding a temporary residence program for eligible basement or cellar residences in an existing single- or two-family residence.

When and where is the hearing? DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11am on 12/11/25.

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

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

<https://events.gcc.teams.microsoft.com/event/392cf694-14b0-4b0e-afc1-a69af54c31bd@32f56fc7-5f81-4e22-a95b-15da66513bef>

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

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

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

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

<https://events.gcc.teams.microsoft.com/event/392cf694-14b0-4b0e-afc1-a69af54c31bd@32f56fc7-5f81-4e22-a95b-15da66513bef>

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

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

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

Meeting ID: 275 267 049 971 75

Passcode: QS6mc7XA (Code is case sensitive)

- Join via phone only:

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

Phone: 646-893-7101

Phone Conference ID: 803 448 501#

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

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

- **Website.** You can submit comments to the DOB through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up by emailing dobrules@buildings.nyc.gov by 12/4/25 and including your name and affiliation. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? Yes, you must submit comments 12/11/25.

What if I need assistance to participate in the hearing? You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing. You can tell us by email at dobrules@buildings.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by 11/28/25.

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

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

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter, Article 507 of Title 28 of the New York City Administrative Code and Local Law 126 of 2024 authorize DOB to make this proposed rule. The rule was not included in the regulatory agenda for this Fiscal Year because it was not contemplated when DOB published the agenda.

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

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

Statement of Basis and Purpose of Proposed Rule

The Department of Buildings (the Department) is proposing to add a new section 105-07 to Title 1 of the Rules of the City of New York to implement Article 507 of Chapter 5 of Title 28 of the New York City Administrative Code, as enacted by Local Law No. 126 of 2024. Article 507 establishes a pilot program to allow for the safe, temporary occupancy of certain existing basement or cellar apartments while those units are brought into compliance with applicable legal standards. This program is authorized by Article 7-D of the New York State Multiple Dwelling Law.

In recognition of the widespread existence of unpermitted basement and cellar units in New York City, Local Law 126 established a “temporary residence program”, referred to herein as the Authorization for Temporary Residence (ATR) program, which provides homeowners a way to bring the units into compliance with applicable standards that protects their tenants from displacement while promoting long-term safety and other upgrades.

Local Law 126 requires owners to follow a series of steps for up to ten years to bring the units into full compliance in accordance with the New York City Building Code, Housing Maintenance Code, Fire Code, and Zoning Resolution. Eligible basements and cellars must generally meet the definition of an ancillary dwelling unit, as defined in section 12-10 of the Zoning Resolution, except that the primary residence requirement in (f) that applies “at the time of initial occupancy” does not apply to these existing units. See Zoning Resolution 12-10 (f).

The proposed rule would generally allow tenants to live in eligible basement or cellar apartments while they are brought up to standard, with a clear deadline for meeting each of the requirements, as shown in the table below. If tenants must vacate due to the extent of work necessary, a right of first return policy is being established by rule by the New York City Department of Housing Preservation and Development. The proposed rule addresses the standards for basement and cellar apartments in one- or two-family homes. The Department plans to promulgate rules at a later date that address the pilot program for temporary occupancy of such apartments in multiple dwellings.

The proposed rule is needed to start the pilot program authorized by Local Law 126 and to provide clear standards for participation, compliance, and enforcement. It advances the City's goals of increasing safe, affordable housing options while addressing long-standing issues related to existing unpermitted basement and cellar dwellings.

The new rule sets forth the procedures with deadlines for owners to apply for and obtain an ATR, which would allow tenants to reside in eligible basement or cellar units before DOB issues a final certificate of occupancy (CO) or temporary certificate of occupancy (TCO). In accordance with Local Law 126, the rule lists eligibility criteria, including location limits, physical conditions of the unit, and required documentation, places restrictions on short-term rentals and outlines conditions for inspection, enforcement and revocation. It also provides rules for inspection and enforcement mechanisms to ensure public safety.

Specially, the proposed rule:

- Limits eligible basement or cellar apartments to no more than one in any one- or two-family home,
- Prohibits basement and cellar apartments in areas with potential flooding problems,
- Requires, among other things:
 - smoke and gas alarms,
 - central heating,
 - at least one means of egress,
 - separation of the boiler or furnace from the basement or cellar apartment,
 - occupancy by no more than one family, and
- Prohibits rentals for less than 30 days.

To be eligible, the basement or cellar apartment must have existed before April 20, 2024. The owners have until April 20, 2029 to apply for the pilot.

Summary of Deadlines and Requirements (see rule for details)	
Deadlines (after ATR is issued)	Requirements
3 months	Submit initial required documentation
1 year	Submit additional documentation showing compliance
1 year and 6 months	Obtain a sprinkler permit
2 years	Install and have sprinkler system inspected
3 years	Submit application to install emergency escape and rescue openings, windows and window wells

3 years and 6 months	Obtain construction permit to install emergency escape and rescue openings, windows and window wells
4 years	Sign off the permit to install emergency escape and rescue openings, windows and window wells
7 years	Submit application to construct the second cellar egress
7 years and 6 months	Obtain permit to construct the second cellar egress
8 years	Sign off the permit to install the second cellar egress
9 years	Submit application for a Certificate of Occupancy

DOB's authority for these rules is found in sections 643 and 1043(a) of the City Charter, Article 507 of Title 28 of the New York City Administrative Code, and Local Law 126 of 2024.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

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

Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York is amended to add a new section 105-07 to read as follows:

§105-07 Temporary residence program for eligible basement or cellar residences located within an existing one- or two-family residence.

(a) Scope. This rule establishes requirements for the occupancy and use of eligible basement and cellar residences located within an existing one- or two- family residence where the owners have applied for and have been issued an authorization for temporary residence ("ATR") by the Department that allows occupancy of the eligible basement or cellar residence prior to the issuance of a certificate of occupancy ("CO") or temporary certificate of occupancy ("TCO") in accordance with the provisions of Article 507 of Chapter 5 of Title 28 of the New York City Administrative Code ("Administrative Code").

(b) Definitions. Terms not specifically defined in this section have the same meaning as in the New York City Construction Codes. For the purposes of this section, the following terms have the following meanings:

ADU. An “ancillary dwelling unit” as defined in section 12-10 of the New York City Zoning Resolution (“Zoning Resolution”), except that paragraph (f) of such definition does not apply for the purpose of this section.

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

ATR. An “authorization for temporary residence” issued pursuant to Article 507 of Chapter 5 of Title 28 of the Administrative Code and this rule.

Building Code. The New York City Building Code.

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

Eligible basement or cellar residence. As defined in Section 28-507.1 of the Administrative Code.

Temporary Certificate of Occupancy. A temporary certificate of occupancy issued pursuant to Article 118 of Title 28 of the Administrative Code.

(c) References. Article 507 of Chapter 5 of Title 28 of the Administrative Code, Appendix U of the Building Code, Chapter 10 of the Building Code and the Zoning Resolution.

(d) Eligibility.

(1) This rule applies to eligible basement or cellar residences in the Program Area as defined in section 28-507.1 of the Administrative Code in one- or two- family residences.

(2) No more than one apartment in the basement or cellar is permitted for each such one- or two- family residence.

(3) Such basement or cellar must meet the eligibility requirements set forth in section 28-507.2 of the Administrative Code.

(4) No such basement or cellar residence may be located on a tax lot where a portion of such tax lot is located within the special flood hazard area in accordance with Appendix G of the Building Code, the 10-year rainfall flood risk area or the coastal flood risk area in accordance with section U202.3 of the Building Code and the map

established by the New York City Department of Environmental Protection in accordance with section 24-809 of the Administrative Code and Chapter 66 of Title 15 of the Rules of the City of New York.

(e) ATR Application and initial certification. To participate in the ATR program, an owner of an eligible basement or cellar residence must apply for an ATR on or before April 20, 2029. An application must be submitted by a registered design professional (“RDP”) in a form and manner determined by the Department. Nothing in this subdivision (e) is intended to prevent the issuance of a violation for an unsafe condition; if an imminent risk to the life or safety of occupants, such as illegal gas work, is found, it constitutes a basis for a vacate order. The Department may issue an ATR if it determines the application complies with section 28-507.4.1 of the Administrative Code and includes all of the following:

(1) Certification from the RDP in a form and manner determined by the Department, including but not limited to, that the eligible basement or cellar residence:

- (i) Is eligible in accordance with section 28-507.2 of the Administrative Code and subdivision (d) of this section;
- (ii) Has entrance identification in accordance with paragraph (1) of subdivision (g) of this section;
- (iii) Has acceptable cooking facilities in accordance with paragraph (2) of subdivision (g) of this section;
- (iv) Has acceptable sanitary facilities in accordance with paragraph (3) of subdivision (g) of this section;
- (v) Has acceptable window openings in accordance with paragraph (4) of subdivision (g) of this section;
- (vi) Has either battery-operated or hardwired smoke and carbon monoxide detectors installed, in accordance with item 3.2 of section 28-507.4.1 of the Administrative Code.
- (vii) Has hot water in accordance with section 27-2031 of the Housing Maintenance Code;
- (viii) Provides permanently installed central heating system in accordance with sections 27-2028 and, where applicable, section 27-2029 of the Housing Maintenance Code; and

(ix) Where gas service is present, any related gas piping was lawfully installed in accordance with the New York City fuel gas code or other applicable code in effect at the time such gas piping was installed, or is the subject of a filed legalization application for all items requiring a gas connection, such as a boiler, furnace and cooking equipment. Any required sign-off for such legalization must be obtained prior to ATR issuance.

(2) Certification from the owner in a form and manner determined by the Department, including but not limited to:

(i) The eligible basement or cellar residence was in existence prior to April 20, 2024 in accordance with section 28-507.1 of the Administrative Code.

(ii) Whether the eligible basement or cellar residence was rented to a tenant on April 20, 2024, in accordance with section 28-507.13.1 of the Administrative Code.

(3) Plan of the existing residence submitted by the RDP demonstrating:

(i) At least one means of egress directly to the outdoors that meets the requirements of section U202.8.2 and U202.8.4 of the Building Code.

(ii) Ceiling height in compliance with section U202.5 of the Building Code and, where applicable, item 4 of section U101.2.

(iii) Cooking and sanitation facilities are provided in accordance with paragraphs (2) and (3) of subdivision (g) of this section.

(iv) Window openings are provided in accordance with paragraph (4) of subdivision (g) of this section

(v) Boiler or furnace is located in a dedicated room separated from any dwelling unit.

(vi) Fire Department access path is approved in accordance with section 504.1.2 of New York City Fire Code.

(4) Proposed plan submitted by the RDP demonstrating the basement or cellar residence can be brought into full compliance with Appendix U of the Building Code and the Zoning Resolution, including, but not limited to:

(i) Entrance in accordance with Section U103.4 of the Building Code.

(ii) Fire Department access in accordance with Section U103.8 of the Building Code.

(iii) Window requirement in accordance with Section U202.6 of the Building Code.

- (iv) Fire separation in accordance with Section U202.7 of the Building Code.
- (v) Means of egress in accordance with Section U202.8 of the Building Code.
- (vi) Floor area not exceeding 800 square feet, in accordance with the definition of “ancillary dwelling unit” in section 12-10 of the Zoning Resolution.
- (5) Such eligible basement or cellar residence has been inspected in accordance with item 3 of section 28-507.4.1 of the Administrative Code by the Department and New York City Fire Department.**

(f) Occupancy requirements. In accordance with section 28-507.3 of the Administrative Code, an eligible basement or cellar residence that has received an ATR may be occupied and rented. In addition, pursuant to section 28-507.4.2 of the Administrative Code, occupancy of such basement or cellar residence must comply with the following requirements:

- (1) occupancy of such eligible basement or cellar residence by more than one family maintaining a common household is not permitted;
- (2) the renting of or offering to rent such eligible basement or cellar residence for fewer than 30 consecutive days is not permitted; and
- (3) registration of such residence for short-term rental pursuant to Chapter 31 of Title 26 of the Administrative Code is prohibited.

Where the ATR is revoked or not maintained, such eligible basement or cellar residences may not be occupied or rented.

(g) Technical requirements. An eligible basement or cellar residence must comply with the following requirements within the timeframe described below.

(1) ADU Entrance Identification prior to issuance of ATR. Where the eligible basement or cellar residence entrance is not apparent from the street, a permanent sign with red letters at minimum 5 inches tall on a white background must be mounted on the primary dwelling, stating in sentence form: “Basement (or Cellar) ADU entrance is located on Exposure [#], as viewed from street-facing side (Exposure 1).” For purposes of this section, building sides must be numbered as follows: Exposure 1 is the side facing the street on which the building’s official address is assigned; Exposure 2 is the side to the left when standing in the street facing Exposure 1; Exposure 3 is the side opposite Exposure 1; and Exposure 4 is the side to the right when standing in the street facing Exposure 1.

(2) Acceptable cooking facilities prior to issuance of ATR. At a minimum, the eligible basement or cellar residence must be provided with a kitchen or kitchenette which complies with the following:

- (i) all combustible material immediately underneath or within one foot of any permanent apparatus used for cooking or warming food must be fire-retardant and there must always be at least two feet of clear space above any exposed cooking surfaces of such apparatus;
- (ii) all ceilings and walls, exclusive of doors, must be fire-retardant;
- (iii) each kitchen and kitchenette must be provided with gas or electricity, or both, for cooking, and that all gas service must be provided in compliance with the New York City Fuel Gas Code and all electricity must be provided in compliance with the New York City Electrical Code;
- (iv) each kitchen and kitchenette must have a sink with running water, equipped with a waste pipe and trap at least two inches in diameter and the sink must be installed in compliance with the New York City Plumbing Code;
- (v) each kitchen must have a window that complies with paragraph (4) of this subdivision; and
- (vi) each kitchenette must have either a window that must be at least one foot wide and have a total area of at least three square feet or must have mechanical ventilation to provide at least six changes per hour of the air volume for such kitchenette.

(3) Acceptable sanitary facilities prior to issuance of ATR. At a minimum, the eligible basement or cellar residence must be provided with a toilet, a lavatory and a bathtub or shower installed in accordance with the Plumbing Code inside such basement or cellar residence. The toilet and the lavatory must be located in the same room. The bathtub or shower may be located in a separate room.

(4) Acceptable window openings prior to issuance of ATR. Each habitable room in an eligible basement or cellar residence must have an operable window providing a minimum of 4 square feet of net clear opening. Any vertical dimension of such clear opening must be a minimum of 22 inches. There must be no fixed security bars, storm windows, or similar obstructions to block such clear window opening. The windowsill must be located above the finished floor of such habitable room by a maximum of 4 feet.

(5) Water sensors and alarms within three month after issuance of ATR. Water sensors and alarms must comply with the requirements of paragraph (2) of subdivision (f) of section 105-08 of the Department's rules.

(6) Applicability of accessibility requirements. The legalization of such basement or cellar residence is not a change to the main use or dominant occupancy of the building, subject to item 1 of section 1101.3.1 of the Building Code, nor a change to occupancy classification of the space, subject to item 2 of section 1101.3.1 of the Building Code.

(7) Applicability of Housing Maintenance Code. For the entire duration of the validity of an ATR, such basement or cellar residence must comply with all provisions of the Housing Maintenance Code applicable to two-family dwellings except for section 27-2062, 27-2073, 27-2076 and 27-2087.

(h) Requirements to maintain the ATR. To maintain the ATR, the owner and the RDP must submit the following documentation in accordance with the schedule below:

(1) Requirements within 3 months. Not later than 3 months following the date the ATR is issued, the owner and the RDP must submit documentation showing compliance with the requirements of section 28-507.4.5.1 of the Administrative Code and all of the following:

(i) Certification from the RDP in a form and manner determined by the Department, that the hardwired smoke and carbon monoxide detectors have been installed in accordance with item 1 of section 28-507.4.5.1 of the Administrative Code. This certification is not required if the compliance was demonstrated at the time of application of the ATR in accordance with subparagraph (vi) of paragraph (1) of subdivision (e) of this section.

(ii) Certification from the owner in a form and manner determined by the Department, that:

(A) Water sensors and alarms have been installed in accordance with paragraph (5) of subdivision (g) of this section.

(B) Emergency signage is posted in the format and location required by the Department of Housing Preservation and Development (“HPD”), pursuant to item 3 of section 28-507.4.5.1 of the Administrative Code.

(C) The owner has notified the tenants of the emergency alarm system operated by the New York City Office of Emergency Management.

(2) Requirements within 1 year. Not later than 1 year following the date the ATR is issued, the RDP must submit documentation showing compliance with the requirements of section 28-507.4.5.2 of the Administrative Code and all of the following:

(i) Certification that one-hour fire separations have been constructed in accordance with section U202.7 of the Building Code, where required.

(ii) Certification that radon and vapor levels are not above the thresholds established by the New York City Department of Health and Mental Hygiene as required by section 28-507.4.5.2 of the Administrative Code.

(iii) An application for the automatic sprinkler system in accordance with U103.6.1 of the Building Code.

(iv) Where gas service is provided in the eligible basement or cellar residence, certification that at least one natural gas alarm powered by plug-in alternating current (AC) with battery backup is installed in each habitable room in accordance with manufacturer’s instructions, or in the alternative, one battery-operated natural gas alarm and one plug-in AC powered natural gas alarm is installed. Such alarms must be listed and labeled with either UL 1484 or UL 2075 and have been inspected by the RDP.

(3) Requirements within 1 year and 6 months. Not later than 1 year and 6 months following the date the ATR is issued, a licensed master plumber retained by the owner must obtain a sprinkler permit pertaining to the application filed as required by subparagraph (iii) of paragraph (2) of this subdivision.

(4) Requirements within 2 years. Not later than 2 years following the date the ATR is issued, the RDP must show that the sprinkler system pertaining to the application filed as required by subparagraph (iii) of paragraph (2) of this subdivision has been installed by the owner, inspected by the Department and by the New York City Fire Department, at its discretion upon reasonable notice, and such application is signed off by the

Department. After such sprinkler application is signed off, such sprinkler system must be inspected, tested and maintained in accordance with New York City Fire Code and the rules of New York City Fire Department.

(5) Requirements within 3 years. Not later than 3 years following the date the ATR is issued, the RDP must submit an application to install the emergency escape and rescue opening required by section U202.8.1 of the Building Code and windows and window wells required by section U202.6 of the Building Code.

(6) Requirements within 3 years and 6 months. Not later than 3 years and 6 months following the date the ATR is issued, a general contractor retained by the owner must obtain a construction permit pertaining to the application filed as required by paragraph (5) of this subdivision.

(7) Requirements within 4 years. Not later than 4 years following the date the ATR is issued, the RDP must show that emergency escape and rescue openings, windows and window wells pertaining to the application filed as required by paragraph (5) of this subdivision have been installed and signed off by the Department.

(8) Requirements within 7 years. Not later than 7 years following the date the ATR is issued, where the residence is in the cellar, the RDP must submit an application to construct the second cellar egress required by section U202.8.3 of the Building Code.

(9) Requirements within 7 years and 6 months. Not later than 7 years and 6 months following the date the ATR is issued, where the residence is in the cellar, a construction permit must be obtained to construct the second cellar egress in accordance with paragraph (8) of this subdivision.

(10) Requirements within 8 years. Not later than 8 years following the date the ATR is issued, the RDP must show that the second cellar egress pertaining to the application filed as required by paragraph (8) of this subdivision has been constructed and signed off by the Department.

(11) Requirements within 9 years. Not later than 9 years following the date the ATR is issued, the owner or an RDP on behalf of the owner must submit an alteration application to obtain a certificate of occupancy (Alt-CO) for the basement or cellar residence as required by section U101.4 of the Building Code.

(i) Inspections. The New York City Fire Department and the Department may perform inspections during the course of the ATR in accordance with section 28-507.11.2 of the Administrative Code.

(j) Expiration of ATR. An ATR expires 10 years after the date of its issuance. Prior to such expiration date, the owner or an RDP on behalf of the owner must submit an application to obtain a certificate of occupancy or temporary certificate of occupancy for such residence in accordance with section 28-507.6 of the Administrative Code. Failure to obtain such certificate or temporary certificate prior to the expiration of the ATR will constitute illegal occupancy.

(k) Violations. Nothing in this section is intended to prevent the issuance of a violation for an unsafe condition; however, if an imminent risk to the life or safety of occupants, such as illegal gas work, is found, it constitutes a basis for a vacate order. Violations of Article 507 of the Administrative Code or this rule are subject to enforcement and penalties in accordance with Chapter 2 of Title 28 of the Administrative Code. A violation may be issued by the Department or by the New York City Fire Department. A Notice of Violation issued by the Department to the basement or cellar residence with an active ATR may include a request for corrective action with a 60-day correction period. Failure to correct the violation within the correction period may result in the revocation of the ATR or the issuance of a Vacate Order of the basement or cellar residence. The owner must either:

(1) Correct the violating condition, schedule and pass the reinspection within the correction period and continue with the temporary residence program; or

(2) Discontinue the residential use in the basement or cellar, schedule and pass the reinspection within the correction period and formally withdraw the ATR application.

(l) Revocation. The Department may, after notice and opportunity to be heard, revoke an ATR where three or more violations of Article 507 of Chapter 5 of Title 28 of the Administrative

Code or this rule have been committed within a one-year period, or where any violation of section 28-507.4 of the Administrative Code has been committed.

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

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

RULE TITLE: Establishment of Temporary Residence Program for Eligible Basement or Cellar Residences

REFERENCE NUMBER: 25 RG 075

RULEMAKING AGENCY: Department of Buildings

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

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

/s/ STEVEN GOULDEN

Date: October 31, 2025

Senior Counsel

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

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

RULE TITLE: Establishment of Temporary Residence Program for Eligible Basement or Cellar Residences

REFERENCE NUMBER: DOB-205

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) The rule allows 60 days to correct a violation.

/s/ Francisco X. Navarro

Mayor's Office of Operations

October 31, 2025

Date