

## NEW YORK CITY LOFT BOARD

### Notice of Public Hearing and Opportunity to Comment on Proposed Rules

**What are we proposing?** The New York City Loft Board (Loft Board) is proposing to amend its rules. The proposed amendments would codify the Loft Board's comprehensive review and consideration of the evidence presented in protected occupancy determinations.

**When and where is the hearing?** The Loft Board will hold a public hearing on the proposed rules at 22 Reade Street, 1<sup>st</sup> Floor, New York, New York at 2:00 pm on March 19, 2026. Live streaming of the hearing will be provided.

#### **Join through Internet:**

- To join the hearing via your browser, either click on the following URL link or copy and paste it into your browser's address bar. Then follow the prompts.

#### **Microsoft Teams meeting**

<https://teams.microsoft.com/meet/24015249243665?p=nsep4buBYumofYxmEj>

Meeting ID: 240 152 492 436 65

When prompted, enter the following meeting password: TN6Mv6GU

#### **Join on a video conferencing device**

Tenant key: [cityofnewyork@m.webex.com](mailto:cityofnewyork@m.webex.com)

Video ID: 115 479 934 5

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

#### **Join via phone only:**

- To join the meeting by phone only, use the following information to connect:
  - Phone: 1-646-893-7101
  - Access code: 518 396 286#
  - Password (if requested): -----

**Who can comment on the proposed rules?** Anyone can comment on the proposed rules.

**How do I comment on the proposed rules?** To comment on the proposed rules, you can:

- **Speak at the hearing.** Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up by emailing [nycloftboard@buildings.nyc.gov](mailto:nycloftboard@buildings.nyc.gov) by March 5, 2026. You must include your name and affiliation in the email. You can also sign up at the hearing location before the hearing starts. 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.
- **Website.** You can submit comments to the Loft Board through the NYC Rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can submit comments to [nycloftboard@buildings.nyc.gov](mailto:nycloftboard@buildings.nyc.gov)
- **Mail.** You can mail comments to New York City Loft Board, 280 Broadway, 5<sup>th</sup> floor, New York, New York 10007.
- **Fax.** You can fax comments to New York City Loft Board at 646-500-6169.

**Is there a deadline to submit comments?** Yes, you must submit comments by March 23, 2026

**What if I need assistance to participate in the hearing?** You must tell the Loft Board if you need a reasonable accommodation for the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-393-2616. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by March 12, 2026. The hearing location is wheelchair accessible.

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

**What authorizes the Loft Board to make the proposed rules?** Section 282 of the Multiple Dwelling Law and § 1043(a) of the City Charter authorize the Loft Board to make these proposed rules. This rule was not part of the Loft Board’s rulemaking agenda because it was not contemplated at the time the agenda was prepared.

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

**What laws govern the rulemaking process?** The Loft Board must meet the requirements of § 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of § 1043(b) of the City Charter.

## **Statement of Basis and Purpose of Proposed Rules**

### **Background**

In 1982, the New York State Legislature enacted Article 7-C of the Multiple Dwelling Law (MDL), also known as the Loft Law. The Loft Law created a new class of buildings in New York City called interim multiple dwellings (IMD). Initially, the Loft Law allowed the conversion to residential space of former commercial and manufacturing spaces that were used as residences by at least three or more families living independently from April 1, 1980, through December 1, 1981, in zoning districts that permitted residential use. The Legislature subsequently amended the Loft Law to allow for the conversion of commercial or manufacturing space in additional districts and additional time periods. In the most recent amendment, in June 2019, the Legislature adjusted the eligibility criteria for coverage under MDL § 281(5) and expanded the scope of the law to include spaces used as residences for twelve consecutive months between 2015 and 2016.

Legislative findings in MDL § 280 indicate that the Legislature intended Article 7-C to be remedial in nature. The Legislature declared a serious public emergency created by the illegal conversion of former commercial and manufacturing spaces to residential use, without compliance with the applicable laws. The Loft Law legitimized the residential tenancy and designated such converted units as IMDs, directed owners to complete a legalization process, and provided for the possibility of an adjustment in rent to help pay for the costs of compliance. Because the residential tenancy was given legal status, the tenants were not required to relocate. Pursuant to Article 7-C, residential tenants are protected from eviction (also known as “protected occupancy” status), provided that the unit is used as their primary residence.

Recognizing that the issues related to loft units and Loft Law-protected tenants are novel and therefore require a different regulatory approach compared to other types of buildings or structures, the Legislature established the Loft Board, which is charged with overseeing the legalization of IMD spaces. The Loft Board has three primary functions: legislative, quasi-judicial and enforcement. As part of its legislative function, the Loft Board promulgates rules to implement the Loft Law. As part of its quasi-judicial functions, the Loft Board resolves disputes regarding coverage and protected occupancy determinations under Article 7-C, among other disputes, and as part of its enforcement function, the Loft Board may initiate proceedings and impose penalties for violations of Article 7-C or a rule in Title 29 of the Rules of the City of New York.

MDL § 284 explicitly provides that IMD owners must comply with the fire and safety standards of Article 7-B for legalization of IMD units. Prior to Article 7-C, the legalization provisions of Article 7-B only applied to Joint Living-Work Quarters for Artists (“JLWQA”). Article 7-C expanded these provisions to legalization of IMDs under Article 7-C. The Article 7-B provisions were designed to simplify the conversion process of non-residential buildings to residential use. Like the JLWQA units, loft units often have a portion of space that is used for business purposes.

Acknowledging the unique circumstances of loft living, including the historical live/work use in IMDs, and the remedial purpose of the Loft Law, the Loft Board developed a comprehensive multi-factor review of the evidence presented to decide primary residence issues in protected occupancy cases.

The proposed rule amendments would clarify the criteria in protected occupancy determinations in § 2-08(s) of Title 29 of the Rules of the City of New York. The proposed amendments would make clear that representations and deductions on tax returns prior to filing for protected occupancy alone are not determinative. These representations and deductions are only one factor to be considered by the Loft Board as part of the Board's review of all relevant evidence submitted. The proposed rule would also add employment records, school records, and bank records as additional factors the Loft Board may consider in making a determination on protected occupancy status.

On July 17, 2025, the Loft Board voted to initiate the rulemaking process under the Citywide Administrative Procedure Act for this proposed rule amendment.

New material is underlined.

[Deleted material is in brackets.]

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

**Section 1.** Paragraph 5 of subdivision (s) of section 2-08 of Title 29 of the Rules of the City of New York is amended, and new subparagraphs (iii) and (iv) are added, to read as follows:

(5)(i) In addition to the requirements contained in paragraphs (1), (2), (3) and (4) of this subsection, the Loft Board may find an individual is a protected Occupant only if the individual uses the IMD unit as a primary residence on the filing date of the Application for protected occupancy.

(ii) In determining whether an individual uses the IMD unit as a primary residence, the Loft Board may refer to precedent from the Housing Part of the Civil Court for guidance as to the type of evidence commonly used to prove primary residence. [Although no single factor is determinative, factors for the Loft Board to consider]

(iii) The Loft Board shall consider all relevant evidence presented in determining whether the individual uses the IMD unit as a primary residence [include] including, but [are] not limited to:

- (A) Whether the individual resides in the IMD unit;
- (B) Whether the individual keeps furniture, clothing and other personal effects in the IMD unit;
- (C) Whether the individual listed the IMD unit as a residential address on official documents. [filed with government agencies.] Such documents may include, but are not

limited to, a tax return, employment records, school records, bank records, a motor vehicle registration, a driver license, or a voter registration;

(D) Whether the individual subleased the unit to another in violation of law or the Loft Board's rules; and

(E) Any other factor the Board deems relevant.

(iv) No single category of relevant evidence described in clauses (A) through (E) of subparagraph (iii) of this paragraph, including a tax return, shall, by itself, be determinative of the Board's decision whether an individual uses the IMD unit as a primary residence.

**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:** Amendment of Rules Relating to Protected Occupancy

**REFERENCE NUMBER:** 2025 RG 089

**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  
Senior Counsel

Date: November 7, 2025

**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:** Amendment of Rules Relating to Protected Occupancy

**REFERENCE NUMBER:** LOFT-4

**RULEMAKING AGENCY:** Loft Board

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

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

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

November 7, 2025  
Date