



**DEPARTMENT OF HOUSING PRESERVATION
AND DEVELOPMENT**

Office of Preservation Services
ENFORCEMENT SERVICES
105 EAST 106 STREET, NEW YORK, N.Y. 10029

APPLICATION FOR EXEMPTION FROM ADMINISTRATIVE CODE § 27-2056.5(a)
OWNER: FILL OUT THIS APPLICATION COMPLETELY, SIGN IT AND HAVE IT NOTARIZED.
ATTACH ALL REQUIRED DOCUMENTATION.
AN INCOMPLETE APPLICATION WILL NOT BE ACCEPTED.

OWNER INFORMATION

Name:

Address:

Apt. #:

Boro:

Zip Code:

Telephone:

Email:

DWELLING INFORMATION

This exemption application is for: (check applicable box(s))

- MULTIPLE DWELLING**
- INDIVIDUAL DWELLING UNIT(S) (Dwelling Unit No.(s): _____)**
- COMMON AREAS**

Address of Multiple Dwelling:

Block:

Lot:

MDR #:

No. of units:

If exemption application is for the multiple dwelling, you must provide the following information:
No. of units tested for lead-based paint:

I _____ am (check applicable box)

- the registered owner of the above referenced multiple dwelling
- a registered officer or director of the corporate owner of the above referenced multiple dwelling
- the registered managing agent of the above referenced multiple dwelling
- a representative of a corporation or condominium board of managers for the above referenced multiple dwelling
- the shareholder of record on a proprietary lease for the above referenced cooperative dwelling unit
- the owner of record for the above referenced condominium unit

I am submitting this application for an exemption from Administrative Code § 27-2056.5(a) on the basis that I have obtained a determination from a lead-based paint inspector or risk assessor certified pursuant

to Title 40 CFR Part 745 subparts L and Q that each tested surface and component in each dwelling unit for the above-referenced multiple dwelling or individual dwelling unit, is free of lead-based paint, or, that as a result of a substantial alteration of each dwelling unit the lead-based paint on each surface and component within each dwelling unit has been contained so that each tested surface and component is negative for lead-based paint or that specific surfaces have been encapsulated in accordance with 28 RCNY §11-08. I have provided the certified individual with a copy of the instructions for this application. If my application for exemption includes common areas, the above-mentioned written determination that I am submitting will also include common areas.

I am providing the following information and documents in support of this exemption application:

1. The date(s) when substantial alterations, if any, were made to the dwelling unit(s) in the building, and a description of the work performed (attach additional pages as needed, including any plans, blueprints, permits, invoices, etc., documenting the work performed):

2. The date(s) of the inspection performed by the individual certified pursuant to Title 40 CFR Part 745 subparts L and Q:

3. A copy of the inspection report prepared in the format provided by 40 CFR §745.227(b) and Chapter 7 of the HUD Guidelines, which includes a determination for every dwelling unit.

4. A copy of the certificate of training of the certified individual who performed the inspection and prepared the inspection report in support of this application for exemption.

5. A copy of all documentation supplied to the certified individual who performed the inspection which demonstrates a similar construction, painting and maintenance history for dwelling units and the components therein, in support of the testing combinations and unit selection utilized by such certified individual to perform the inspection. In the absence of such documentation, the applicant must include a list of units visually inspected pursuant to Chapter 7 of the HUD Guidelines.

6. If applicable, the exact location of each surface that has been encapsulated (attach additional pages as needed):

7. If applicable, the name of the encapsulant used was, _____.

8. If applicable, a copy of the written statement by the certified lead abatement worker who applied the encapsulant, that such encapsulation was applied in accordance with the manufacturer's instructions.

9. If applicable, a copy of the certificate of training of the certified lead abatement worker who applied the encapsulant.

10. If applicable, I affirm that encapsulants will be periodically monitored and that records will be maintained regarding such monitoring for ten years.

State of New York)

County of _____)

(Authorized Signature)

Sworn to before me this

_____ day of _____

AFFIDAVIT BY CERTIFIED INDIVIDUAL WHO PERFORMED TESTING/SAMPLING

I _____ (print name), performed the inspection and testing and/or sampling for lead-based paint at the premises located at _____ (address) on _____ (date).

I am certified to perform such inspections and testing and/or sampling under Part 745 of Title 40 of the Code of Federal Regulations subparts L and Q. I read and followed the instructions provided for the Application for Exemption from Administrative Code § 27-2056.5(a), and I performed the inspection and testing and/or sampling in accordance with those instructions and Title 40 CFR § 745.227, Chapter 7 of the U.S. Department of Housing and Urban Development's Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing as applicable to the exemption application, and Administrative Code § 27-2056.5(b), and Title 28 NYCRR § 11-08.

The report of the inspection, and the determination made pursuant to Title 28 NYCRR § 11-08(b) is annexed to this affidavit. I understand that the determination that I am making includes _____ (every dwelling unit/common areas/individual dwelling unit) in the above referenced premises. In addition, I have attached a copy of my certificate of training to this affidavit.

State of New York)

County of _____)

(Signature)

Sworn to before me this

_____ day of _____

AFFIDAVIT BY CERTIFIED INDIVIDUAL WHO APPLIED ENCAPSULANT

I _____ (print name) applied encapsulants at the premises located at _____
_____ (address) on _____ (date).

I am certified to perform abatement pursuant to Part 745 of Title 40 of the Code of Federal Regulations. I read and followed the instructions provided for the Application for Exemption from Administrative Code § 27-2056.5(a). I have applied, in accordance with the manufacturer's instructions, _____ (name/brand) encapsulant, which is approved by the New York State Department of Health or another federal or state agency or jurisdiction which the department has designated as acceptable.

I have attached a copy of my certificate of training to this affidavit.

State of New York)

County of _____)

(Signature)

Sworn to before me this

_____ day of _____



**DEPARTMENT OF HOUSING PRESERVATION
AND DEVELOPMENT**

Office of Preservation Services
ENFORCEMENT SERVICES
105 EAST 106 STREET, NEW YORK, N.Y. 10029

Form L-09B

LEAD POISONING PREVENTION AND CONTROL:
APPLICATION AND INSTRUCTIONS FOR
EXEMPTION FROM ADMINISTRATIVE CODE § 27-2056.5(a)

Article 14 of Title 27 of the Administrative Code of the City of New York concerns lead poisoning prevention and control in multiple dwellings in the City. Under § 27-2056.5(a) of Article 14, any paint or similar surface-coating material in the interior of any dwelling unit in a multiple dwelling erected prior to January 1, 1960, in which a child under six years of age resides or in the common areas is presumed to be lead-based paint. Article 14 provides for certain responsibilities of and requires specific actions by owners of pre-1960 multiple dwellings based upon this presumption. However, Administrative Code § 27-2056.5(b), which is part of Article 14, provides that an owner of a pre-1960 multiple dwelling or dwelling unit may apply to the Department of Housing Preservation and Development (HPD) to have his or her multiple dwelling or dwelling unit exempted from the presumption contained in § 27-2056.5(a). In order to apply for the exemption, owners should complete this application and submit any required additional documentation as provided herein.

**ONLY THE FOLLOWING INDIVIDUALS MAY APPLY FOR AN EXEMPTION FROM
ADMINISTRATIVE CODE § 27-2056.5(a):**

**A REGISTERED OWNER OR REGISTERED OFFICER OR DIRECTOR OF A CORPORATE
OWNER OR REGISTERED MANAGING AGENT OF A MULTIPLE DWELLING ERECTED
PRIOR TO JANUARY 1, 1960.**

-OR-

**A REPRESENTATIVE OF A CORPORATION OR CONDOMINIUM BOARD OF MANAGERS
OR A SHAREHOLDER OF RECORD ON A PROPRIETARY LEASE OR OWNER OF RECORD
OF A CONDOMINIUM UNIT WHEN TITLE TO A MULTIPLE DWELLING ERECTED PRIOR
TO JANUARY 1, 1960 IS HELD BY A COOPERATIVE HOUSING CORPORATION OR UNITS
ARE OWNED AS CONDOMINIUM UNITS.**

SUCH QUALIFIED INDIVIDUALS ARE "OWNERS" FOR PURPOSES OF THIS APPLICATION.

Instructions—Owners:

- 1. An owner who wishes to apply for an exemption from § 27-2056.5(a) must submit an application to HPD, completed by the owner and including the required supporting documents. The application form and instructions for completion of the application and preparation of supporting documents are attached.**

The completed application should be sent to:

**Department of Housing Preservation and Development
105 East 106 Street
New York, NY 10029
Attn: Lead Exemption**

- 2. An owner must submit a written determination by a certified lead-based paint inspector or risk assessor attesting that each tested surface in each dwelling unit in the multiple dwelling or individual dwelling**

unit, if exemption application is for an individual dwelling unit, is free of lead-based paint, or that paint on each surface and component in each dwelling unit has been contained so that each surface tested is negative for lead-based paint. Where encapsulation has been used, an owner must additionally comply with paragraphs #6 and #7 of these instructions. If the exemption application includes common areas the written determination mentioned above must also include common areas. The method of testing and the documentation necessary to support this determination are described below.

3. A copy of the certified individual's inspection report, and his or her certificate of training must also be submitted with the application.
4. You must be sure that the individual that you hire to perform the inspection is properly certified and has read the instructions for testing described below. A certified inspector or risk assessor is someone who has successfully completed a training program accredited by the United States Environmental Protection Agency (EPA) and has received a certification as a risk assessor or lead-based paint inspector pursuant to Title 40 Code of Federal Regulations (CFR) Part 745, subparts L and Q. You should ask to see a copy of the individual's certification prior to contracting for this service.
5. If any surface within a dwelling unit or dwelling has been encapsulated the owner must provide the exact location of each encapsulated surface, the name of the encapsulant used and a written statement by the certified lead abatement worker who applied the encapsulant, that such encapsulant was applied in accordance with manufacturer's instructions. A copy of the certified lead abatement worker's certificate of training must also be submitted. Note that encapsulants are subject to periodic monitoring by the owner and monitoring records must be retained for ten years.
6. You must be sure that the individual you hire to apply encapsulants is certified to perform abatement pursuant to 40 CFR part 745 or successor provisions. The only encapsulants that may be used for the purpose of obtaining an exemption are those approved by the New York State Department of Health or by another federal or state agency or jurisdiction which the Department has designated as acceptable. See attached list of encapsulants approved by the New York State Department of Health.

Instructions—Certified Individuals Who Perform an Exemption Inspection:

1. An owner who wishes to apply for an exemption must submit a written determination made by a lead-based paint inspector or risk assessor certified pursuant to Title 40 CFR Part 745 subparts L and Q (certified individual) that each tested surface and component in each dwelling unit in the multiple dwelling or individual dwelling unit, if applying for an exemption of an individual dwelling unit, is free of lead-based paint, as defined in Article 14 of Title 27, and the rules promulgated thereunder (28 NYCRR §11-08), or that as a result of a substantial alteration of each dwelling unit, the lead-based paint on each surface and component in each dwelling unit has been contained, so that each surface tested is negative for lead-based paint. If encapsulants have been used additional requirements apply. See paragraphs #6 and #7 above, under "Owner's Instructions". If the exemption application includes common areas the written determination mentioned above must also include common areas. The term "contained" means that every surface containing lead-based paint has been permanently covered, enclosed and sealed with sheetrock or similar durable construction material to eliminate gaps which may allow access to or dispersion of dust or other matter from the underlying surface.
2. An owner must provide the written results of the testing and inspection by the certified individual and a certification by such lead-based paint inspector or risk assessor as provided in paragraph one. A copy of the certified individual's certificate of training must also be provided.
3. HPD's rules regarding exemption applications provide that the inspection for exemption must be performed in accordance with Title 40 CFR § 745.227(b) or Chapter 7 of the U.S. Department of Housing and Urban Development's Guidelines for Evaluation and Control of Lead Based Paint Hazards in Housing (HUD Guidelines). The application of these inspection protocols to the exemption application is explained herein.

Title 40 CFR §745.227(b) provides that in inspecting each dwelling unit, each component with a distinct painting history must be tested for lead-based paint, except when the certified individual determines that the component was replaced after 1978 or does not otherwise contain lead-based paint. For purposes of an exemption application, however, since Administrative Code § 27-2056.5(a) bases the presumption on the date of January 1, 1960, an inspector may use that date when making a determination solely for purposes of an exemption from § 27-2056.5(a). Finally, certified individuals should be aware that Title 40 CFR § 745.227(a) provides that when performing a lead-based paint activity such as an inspection under subdivision (b) of that section, the certified individual must perform the activity using documented methodologies, including, but not limited to HUD Guidelines.

There are several important points to note regarding the application of Chapter 7 methodologies with respect to an inspection conducted to support an application for exemption. First, certified individuals should be aware that Chapter 7 states that although the lead-based paint testing or sampling techniques used for paint inspections are similar to the techniques used for risk assessments, the number of lead-based paint tests or samples taken for paint inspections "is considerably greater than the number of paint samples required for risk assessment, because risk assessments measure lead only in deteriorated paint." (HUD Guidelines, Chapter 7, p. 7-2 (1997 Revision)) Since owners who are applying for an exemption from Administrative Code § 27-2056.5(a) must demonstrate the absence or containment of lead-based paint, *whether or not on a deteriorated surface*, HPD's rules require that an inspection, and not a risk assessment, be performed. Certified individuals should be aware of this distinction when contracting with an owner for an inspection—the service required to be performed in order to apply for an exemption is not a risk assessment.

It should also be noted that the inspection conducted and certification made pursuant to these instructions is solely for the purpose of complying with the application requirements to obtain an exemption from Administrative Code § 27-2056.5(a). These instructions are not intended to affect or change any provision of any other local, state or federal laws, or the requirements for compliance therewith.

4. The certified individual may choose testing combinations and select dwelling units according to the methodology set forth for multi-family housing in Chapter 7 of the HUD Guidelines only in those instances in which the owner provides the certified individual with documentation which shows common construction, painting and maintenance history for the building. The identification of testing combinations and choice of dwelling units to sample must be based upon the documentation supplied to the certified individual by the owner, or in the absence of such documentation, based upon a visual inspection of a sufficient number of units to identify the appropriate testing combinations. The number of dwelling units chosen to be tested must also comply with the Chapter 7 requirements specifically applicable to pre-1960 buildings. In the absence of such documentation by the owner, or visual inspection by the certified individual, the certified individual must test each dwelling unit in order to provide the required certification.
5. An exemption application will be rejected if the certified individual is unable to access a sufficient number of dwelling units to comply with the statistical sampling requirements of Chapter 7. As noted above, for multiple dwelling exemption applications for an entire multiple dwelling, the inspection report by the certified individual must provide a determination for each dwelling unit in the multiple dwelling.
6. Upon submission of a complete exemption application, the subject multiple dwelling, individual dwelling unit, or common area will be deemed exempt from the presumption established in Administrative Code § 27-2056.5(a). The Department will provide written notification to the owner if an exemption application is rejected or an approval is revoked.