

Local Law 1 of 2004

A Summary

Department of Housing Preservation and
Development

Local Law 1 of 2004

- Comprehensive law on lead paint in New York City housing
- Effective Date - August 2, 2004



Issues Addressed

- Owner's responsibility to maintain
- HPD Enforcement
- J51
- Day Care Centers
- Other

Owner Responsibilities

- Remediate Lead Hazards
- Notify Tenants and Investigate
- Correct Lead Hazards Using Safe Work Practices
- Make Apartments Lead Safe on Turnover
- Do All Repairs and Renovations Using Safe Work Practices

Owner Responsibilities

Remediate Lead Hazards

- Owners must prevent the reasonably foreseeable occurrence of lead hazards and remediate them, and the underlying defects that may cause lead hazards, using safe work practices
 - ❖ In apartments
 - ❖ In common areas
- In pre-1960 building, paint is presumed to be lead paint



Owner Responsibilities

Remediate Lead Hazards

- A Lead Hazard is any condition that causes exposure to lead contaminated dust from:
 - ❖ Peeling lead based paint
 - ❖ Deteriorated sub-surfaces
 - ❖ Friction surfaces
 - ❖ Impact surfaces
 - ❖ Chewable surfaces



Owner Responsibilities

Remediate Lead Hazards

■ Friction Surface

- ❖ Lead painted surfaces that abrade, scrape or bind

■ Chewable Surface

- ❖ Any window sill reachable by a child whether intact or deteriorated
- ❖ Any other edge or protrusion that:
 - Shows evidence of being chewed, or
 - Tenant has notified owner that it has been chewed



Owner Responsibilities

Notify Tenants and Investigate

- Obligation applies to
 - ❖ Pre-1960 multiple dwellings
 - ❖ Post-1960 to pre-1978 buildings where the owner knows that there is lead based paint
- Must investigate dwelling units where children under 6 reside, and common areas, to find peeling paint, chewable surfaces, deteriorated subsurfaces, friction and impact surfaces
- The investigation must be conducted annually, and more often if the owner knows of a condition that may cause a lead hazard, or the occupant complains about such a condition



Owner Responsibilities

Notify Tenants and Investigate

- At Lease up and Renewal
 - ❖ Must inquire if child under 6 will live there
 - ❖ Lease must contain notice of owner's responsibilities
 - ❖ Must provide pamphlet on lead paint hazards

Owner Responsibilities

Notify Tenants and Investigate

- Annual Notice

- ❖ Must send notice between January 1 and January 16 each year inquiring as to presence of child
- ❖ Tenant must respond by February 1
- ❖ If no response, owner must inspect between February 16 and March 1 to determine presence of child
- ❖ If no access must notify DOHMH
- ❖ If there is a child, then must inspect to determine lead hazards
- ❖ Must inform tenant of results of investigation

Owner Responsibilities

Correct Lead Hazards

- Owner must correct lead hazards that are found
 - ❖ Must use workers trained in lead safe practices
 - ❖ Must use third party for clearance dust test
 - ❖ Must provide clearance dust test results to tenants
- Within 21 days, owner must correct any HPD violation issued
 - ❖ Must use EPA trained workers
 - ❖ Must use third party for clearance dust test
 - ❖ Must provide clearance dust test results to HPD



Owner Responsibilities

Lead Safe on Turnover

- In all pre-1960 multiple dwelling units and pre-1960 private dwelling units that are not owner-occupied:
 - ❖ Remediate lead hazards
 - ❖ Make floors, sills and wells cleanable
 - ❖ Remove or permanently cover all lead on friction surfaces of doors, door frames and windows
 - ❖ Use safe work practices

Owner Responsibilities

Repair and Renovation

- For any work of more than 2 sq ft in a pre-1960 multiple dwelling or 1960-78 multiple dwelling where the owner has actual knowledge of lead paint:
 - ❖ In a unit with a child or
 - ❖ In the common areas of a building with a child
 - Must use workers trained in lead safe practices
 - Must use third party for clearance dust test
 - Must provide clearance dust test results to tenants
 - Must relocate if necessary

Owner Responsibilities

Repair and Renovation

- For any work of more than 100 sq ft or the removal of two or more windows in a pre-1960 multiple dwelling or 1960-78 multiple dwelling where the owner has actual knowledge of lead paint:
 - ❖ In a unit with a child or
 - ❖ In common areas where there is a child in the building
 - Must use EPA certified firm
 - Clearance dust test must be done by third party
 - Must provide clearance dust test to tenants
 - Must relocate if necessary
 - Must file with DOHMH 10 days prior to commencement

Owner Responsibilities

Repair and Renovation

- Emergencies

- ❖ The law specifically exempts from coverage work immediately necessary to safeguard against danger to life, health or safety

HPD Enforcement Inspections

- Complaints from tenants
 - ❖ Must ask if there is child
 - ❖ Must inspect within 10 days



HPD Enforcement Inspections

- When doing inspection, HPD
 - ❖ Must ask tenant for acknowledgment of child
 - ❖ Must perform room by room inspection
 - ❖ Must record for each room whether surfaces are intact
 - ❖ Where peeling paint is found, must record condition of underlying surface
 - ❖ Must record any underlying defect
 - ❖ Need not move furniture
 - ❖ Must send Notice of Violation within 10 days
 - ❖ Must leave lead pamphlet

THE CITY OF NEW YORK
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
DIVISION OF CODE ENFORCEMENT

100 WEST 108 STREET
NEW YORK, NY 10027

LOCATION: 100 WEST 108 STREET
REPORT AREA (BUILDING TYPE): 1110
DATE REPORTED: 11/10/10
CYCLE # 1
PAGE 1 OF 1

NOTICE OF VIOLATION
USE THIS COPY TO NOTIFY THE CORRECTION OF VIOLATIONS

CERTIFIED MAIL RETURN
REMOVED: JUAN CARLOS
BY DELIVERY BY
DATE: 11/10/10

At violation listed below as E, A, B, C, D
or violation listed below as E, A, B, C, D
CORRECTED BY 1000000 and
CERTIFIED as corrected by 1000000
WITH EXCLUSIVE INTERIM CONTROLS (173.14) OR
CORRECTED BY 1000000 and
CERTIFIED as corrected by 1000000
WITH HEALTH CODE § 173.14 (173.14)

ROOM	ORDER	COMPLETED DATE	INITIALS	VIOLATION DESCRIPTION
4000001	001			§ 27-209.6 (a)(2)(ii) "CORRECT" THE PEELING PAINT THROUGH APPLICABLE PROCEDURES THAT IS PEELING OR IS ALSO FOUND TO BE UNACCEPTABLE LEAD EXCLUSIVE INTERIM CONTROLS (E-ITC) CELEBRATED IN THE ATTACHED LOCATED AT 100 WEST 108 STREET FOR APARTMENT FROM NORTH AT EAST

BOX A EXCLUSIVE INTERIM CONTROLS - FIRST CORRECTION DATE
NYC § 27-209.6 (a)(2)(ii) mandates specific work practices that must be used in order to control lead-based paint hazard violations safely. NYC's "Lead Painting Prevention and Control" pamphlet describes the mandated practices in detail. You may not certify a lead-based paint hazard as corrected unless these procedures have been followed.

BOX B HEALTH CODE § 173.14 - SECOND CORRECTION DATE
If you certify correction by the second date set for completion rather than the first, the work must be performed in accordance with NYC Health Code § 173.14. The provisions of that section are available from the NYC Department of Health. A detailed description of the practices is included in NYC's pamphlet, "Lead Painting Prevention and Control." Dual test samples are required for all work done pursuant to Health Code § 173.14. You must provide NYC with a copy of the State certified laboratory's analysis of the painted surfaces and test reports for your verification. It is considered complete.

IMPORTANT: Violation correction includes adjusting all doors, including cabinet doors, and all windows in the unit to ensure that they are properly hung, so that no painted surfaces bend.

AGENCY COPY

HPD Enforcement Inspections

- Complaint-driven Inspections
 - ❖ Must XRF test conditions simultaneously with inspection
- Line of Sight Inspections
 - ❖ Must XRF test within 10 days of noting peeling paint



HPD Enforcement Inspections

■ Timeframes

- ❖ Owner has 21 days to correct
- ❖ Owner may seek two postponements of 14 days each
 - May grant longer postponement if pending capital work
- ❖ Certifications must be submitted within 5 days of correction
- ❖ HPD must re-inspect all violations within 14 days
- ❖ ERP must correct within 45 days

HPD Enforcement Inspections

- HPD may not remove any violations from its records unless it has conducted a final inspection verifying remediation, and has copies of relevant dust tests.
- HPD must mail a copy of the final inspection report and status to the occupant and owner

HPD Enforcement

DOHMH Comm. Order to Abate

- ❖ If DOHMH issues a COTA for a lead poisoned child in a multiple dwelling, within 15 days HPD must require the owner to submit to HPD all records of notification and investigation within 45 days.
- ❖ If records show there may be lead hazards in other units with children under age 6, HPD will inspect all such units within 10 days
- ❖ If the owner does not provide the records, HPD must inspect child occupied units in 45 days to determine if there are any lead violations.
- ❖ The actions required of HPD are not applicable if HPD has inspected the building within the twelve months preceding the issuance of the COTA

J-51

Expanded benefit

- J-51 is available for abatement of lead hazards
 - ❖ in units occupied by children
- Including the costs of
 - ❖ Permanent abatement
 - ❖ Inspection and risk assessment needed to do the abatement
- Except that work performed to comply with a Notice of Violation under the new lead law is not eligible for benefits

Day Care

DOHMH Program for Day Care

- Peeling lead paint is prohibited.
- Lead hazards must be remediated.
- Equipment must have lead free paint.
- If a non-complying condition is found, DOHMH must serve the operator with an order to remediate.
- If the order is not complied within 45 days, DOHMH must request an “agency of the City” to execute the order. That agency must execute the order in 45 days.
- Lead hazards must be remediated in compliance with DOHMH safe work practices

Other

Coop-Condo Exception

- Coop - Condo Exception
 - ❖ Local Law 1/2004 does not apply to multiple dwelling units where title is held by a coop or condo and the unit is occupied by the shareholder of record or his or her family
 - Tenants and subtenants retain protection of law
 - ❖ Validates agreements made between coop tenant shareholders and condo owners and coop and condo boards regarding allocation of responsibility for compliance with the lead law

Other

Record Keeping

- Owners who perform work pursuant to Local Law 1/2004 must
 - ❖ Retain all records relating to such work for ten years from the completion of the work
 - ❖ Make records available to HPD upon demand
 - ❖ Transfer records to the owner's successor in title