

“Get Ahead of Lead” July 2021 Briefing

Dear Property Owners,

Furthering our commitment to providing property owners information on their obligations under the law, the Department of Housing Preservation and Development (HPD) will be publishing a series of quarterly bulletins online and via email. Each bulletin will highlight one aspect of the law and is not meant to comprehensively cover all laws and rules that apply. Visit the [HPD website](#) to read this bulletin and past bulletins in other languages.

This publication is intended for informational purposes only and is not intended as legal advice. This information is not a complete or final statement of all the duties of owners and tenants regarding laws and rules relating to housing in New York City.

Owner’s Responsibility at Apartment Turnover

Complete the work required in units at vacancy

When a dwelling unit changes tenants, owners of buildings built before 1960 are required under Local Law 1 to complete lead-based paint activities focused on making the unit safe for a new tenant before the new tenant takes occupancy (regardless of whether the new tenant has a child). These activities must also be performed in units built 1960-1978 if the owner has knowledge of lead-based paint. This is referred to as “**turnover**.” The requirements are:

- Remediate all lead-based paint hazards and any underlying defects when such underlying defects exist. At a minimum this would mean wet scrape and paint.
- Provide for the removal of lead-based paint on chewable surfaces with evidence of teeth marks or encapsulate the surface with a hard, puncture resistant encapsulant.
- Provide for the removal of all lead-based paint on friction surfaces on all doors and door frames.
- Provide for the removal of all lead-based paint on friction surfaces on all windows or provide for the installation of replacement window channels or sliders on the friction surfaces.
- Make all bare floors, window sills and window wells in the dwelling unit smooth and cleanable.

All the work must be done using [safe work practices](#) and by an appropriately certified contractor. Following any of the work above, a dust wipe must also be performed by a third party who is not related to the owner or the contractor who performed the remediation or paint removal. If done correctly and documented, the removal of the paint from the door and window friction surfaces would be a one-time occurrence.

Violations

HPD is enforcing the turnover requirement during all inspections where a child under six resides if the household moved into the apartment after August 2004 and during audits of records the owner is required to retain for at least 10 years where the tenant confirms turnover occurred within 10 years of the audit date. There are three violations that can be issued:

Order #621: This is a Class C violation issued during any inspection where a child under six resides when HPD is also issuing a presumed lead-based paint violation (Order #616) for a deteriorated door or window friction surface and the tenant confirms turnover occurred after August 2, 2004, the effective date of Local Law 1. The owner can contest this violation by providing XRF test results of **ALL** (peeling and intact) door or window friction surfaces if the results demonstrate there is no lead-based paint on those surfaces.

This #621 violation is more expansive than the 616 violation that will accompany it because the 616 is only documenting the peeling paint on the window and/or door friction surface(s), but the 621 violation requires the owner to address **ALL** window and door friction surfaces, whether they are peeling or not, because this activity would have been required as a part of the turnover.

If any of the peeling or intact window or door friction surfaces are positive or untested for lead-based paint, the owner must abate those surfaces to certify the 621 violation. The owner must use certified abatement contractors, hire a third-party certified contractor to perform the dust wipes, and provide all required documents for the certification.

Order #622: This is a Class C violation issued during any inspection where a child under six resides when HPD is issuing a violation for lead-based paint (Order #617) for a deteriorated door or window friction surface after HPD has tested at least one deteriorated door or window friction surface and found it to be positive and the tenant confirms turnover occurred after August 2, 2004, the effective date of Local Law 1. The owner cannot contest this violation by providing XRF test results of all door or window friction surfaces because at least one window or door friction surface has been tested positive for lead-based paint by HPD.

This #622 violation is more expansive than the 617 violation that will accompany it because the 617 is only documenting the peeling paint on the window and/or door friction surface(s), but the 622 violation requires the owner to address **ALL** window and door friction surfaces, whether they are peeling or not, because this activity would have been required as a part of the turnover.

The deteriorated window and/or door friction surface(s) tested by HPD must be abated to certify this violation. If any intact window or door friction surfaces are positive or untested for lead-based paint, the owner must also abate those surfaces to certify this violation. The owner must use certified abatement contractors, hire a third-party certified contractor to perform the dust wipes, and provide all required documents for the certification.

Order #623: This is a Class B violation issued when an owner fails to provide turnover documentation when requested by the Department and an inspection identifies a unit where the tenant has moved in within 10 years of the document request. This violation is issued per applicable unit. The owner can contest this violation by providing the required turnover documents or providing negative XRF tests for **ALL** (peeling and intact) door or window friction surfaces in the unit.

To certify the 623 violation, the owner must abate any positive or untested door or window friction surfaces. The owner must use certified abatement contractors, hire a third-party certified contractor to perform the dust wipes, and provide all required documents for the certification.

Postponement and Penalties: The owner has an opportunity to request a postponement of the correction date for all violations by carefully following the instructions provided with the Notice of Violation. The penalty for failure to comply with the 621 and 622 violations is \$250 per day per violation, up to a maximum of \$10,000. The penalty for failure to comply with the 623 violation is \$1,500 per violation.

More information on the requirements for an owner to conduct turnover or to maintain records related to turnover can be found at [Lead-Based Paint - HPD \(nyc.gov\)](https://www1.nyc.gov/site/doh/business/health-academy/healthy-homes-class-reg.page).

Pending Lead-based Paint Violations

Owners should make every effort to have pending lead-based paint violations closed so that their HPD building record accurately reflects whether lead-based paint hazards have been addressed. Multiple city and state agencies review this information regularly to determine whether further enforcement action is needed. HPD provides information through the Find Building Information tab on its home page, which links to a database called HPDONLINE. Using the tab labelled “Overdue Lead Paint Violation Correction” on the left-hand tool bar, an owner can see what violations are open and whether documents are required to close the violation, whether an inspection is still required or whether both conditions still need to be met. HPD provides very detailed information about how to clear violations through our Webinar, entitled [Lead Based Paint Violations - Understanding Work and Documentation Dates - YouTube](#).

NYC Department of Health & Mental Hygiene (DOHMH) Training Classes

Lead Safe Work Practices Classes

Become EPA Certified Renovators

Renovation, Repair and Painting (RRP) training classes are sponsored by the New York City Department of Health and Mental Hygiene's Lead Poisoning Prevention Program (LPPP) for free. The RRP training classes provide information on how to work safely in areas with lead paint and are taught by a knowledgeable, certified trainer. In addition to the RRP curriculum, the requirements for lead-safe work practices under NYC's Local Law 1 are taught. If you successfully complete this class, you will be eligible to become an EPA Certified Renovator!

Who Should Take This Training?

Anyone working for compensation in target housing or in a child occupied facility built before 1978, must be trained and certified in the EPA's RRP rule. This renovation certification is required by the EPA if you supervise renovation and repair work. This includes: Contractors, Superintendents, Landlords, Handymen, Do-It-Yourselfers, and Day Care Maintenance Workers.

For information on how to register visit DOHMH webpage at:

<https://www1.nyc.gov/site/doh/business/health-academy/healthy-homes-class-reg.page>.

HPD's Moderate-Rehab Loan Programs for Older Buildings Now Include Financing for Lead Paint Repairs

Recently, HPD worked with a family that lives in a historic 2 family home, built in 1901. The homeowner is retired, and a routine doctor's visit revealed that a child living in the household had elevated blood lead levels, which they quickly connected back to lead paint in the home. The owners contacted some lead abatement companies, and they were quoting prices of over \$15,000. HPD's [Lead Hazard Reduction & Healthy Homes Program](#) approved the owner for a lead grant of \$13,000. With this, the owner was able to abate lead-based paint hazards by removing and replacing components such as doors, crown moldings and baseboard moldings; installing sheetrock and painting walls, closets, and ceilings; and encapsulating fireplace moldings and staircase stringers.

For owners of existing buildings with 3 or more units in need of major building systems repair/replacement, there are also two other HPD loan programs that offer affordable financing for rehabilitation work:

- **The Multifamily Housing Rehabilitation Loan Program (HRP)** For details, visit the [HRP webpage](#).
- **The Green Housing Preservation Program (GHPP)** For details, visit the [GHPP webpage](#).

REMINDER: Lower lead-contaminated dust levels as of **June 1, 2021**

Areas where every lead-contaminated dust sample result is below the following levels may be cleared for re-occupancy. The clearance levels were reduced in June 2019 and were again reduced on **June 1, 2021** as per Local Law 1. See below for the levels previously acceptable and the new levels that are required as of June 1, 2021.

Samples taken prior to June 1, 2019:

- Floors: 40 micrograms of lead per square foot
- Window Sills: 250 micrograms of lead/square foot
- Window Wells: 400 micrograms of lead/square foot

Samples taken between June 1, 2019 – June 1, 2021:

- Floors: 10 micrograms of lead per square foot
- Window Sills: 50 micrograms of lead/ square foot
- Window Wells: 100 micrograms of lead/ square foot

Samples taken on/after to June 1, 2021:

- Floors: 5 micrograms of lead per square foot
- Window Sills: 40 micrograms of lead/square foot
- Window Wells: 100 micrograms of lead/square foot

UPDATED 2021: ABC's of Housing

[The ABCs of Housing](#) is HPD's guide to housing rules and regulations for owners and tenants.

Owners and tenants have legal responsibilities to each other. HPD is one of many city and state agencies that enforce those responsibilities. This booklet is designed to help owners and tenants gain an understanding of the rules and regulations affecting housing, and to provide information about how to receive assistance.

Inside the guide you will find information about owners' and tenants' rights and responsibilities, staying in your apartment safely, resources for new affordable housing or rental assistance, and useful contact information for other housing related issues.

Owners are required to post a [Housing Information Guide notice](#) in their buildings to advise tenants that the Guide is an available resource and how tenants can obtain a copy. Failure to post this notice may result in the issuance of a violation.

Visit the [HPD webpage](#) to view the updated ABC's of Housing. This guide is also available in additional languages.

Smoke Detectors and Carbon Monoxide Detectors

New York City law requires the installation and maintenance of smoke detectors and carbon monoxide detectors. Both property owners and tenants have responsibilities to ensure that all New Yorkers remain safe in their homes from the dangers of fire and carbon monoxide poisoning (carbon monoxide is an odorless and highly toxic gas).

Residential owners are required to ensure that tenants are provided with both carbon monoxide and smoke detectors.

Visit the [HPD webpage](#) for more information.