

## “Get Ahead of Lead” November 2020 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.*

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### Start 2021 in Compliance with Local Law 1 of 2004

Local Law 1 of 2004 (Local Law 1) requires that owners conduct activities related to lead-based paint. Owners must also retain the records of these activities for at least 10 years and, starting in May 2020, certify compliance with these activities as a part of the annual property registration. **Penalties may be significant for failure to conduct these activities and maintain these records.** To assist you with compliance, HPD has detailed below the steps that you need to take and created sample forms owners can use to document compliance. Those sample forms are available on the [HPD website](#) and linked below in the description.

#### **1. Send out the Annual Notice to determine if there is a child under six living or routinely spending 10 or more hours a week in a dwelling unit. Conduct investigations if the tenant does not respond.**

- Between **January 1 and January 16**, owners of multiple dwelling built before 1960 (or between 1960 and 1978 if the owner has knowledge there is lead-based paint) are required to deliver an [Annual Notice](#) (in English and in [Spanish](#)) to each tenant and to collect that completed notice from the tenant by February 15th. Keep evidence that this notice was delivered and retain the completed notice received back from the tenant. This notice is important because it determines where the owner must do other required activities required under Local Law 1, such as the annual investigation and following safe work practices.
  - The Annual Notice asks the tenant to disclose if a child under the age of six resides in the dwelling unit.
  - **” Resides” means that a child under six “routinely spend 10 or more hours per week in a dwelling unit”, which includes both a child who lives in the apartment and a child who just visits for this period of time.**

- **Important:** Owners must use the Annual Notice that was updated January 2020 because it contains this new definition of “resides.”.
- All of these dwelling units where a child is determined to reside as defined above are required to be inspected for lead-based paint hazards as described in #2 below.
- Make sure your tenants know where to return this notice. If the tenant does not return the completed notice by February 15th, the owner must conduct follow-up inspections between **February 16 and March 1** to attempt to determine if a child under six lives or routinely spends more than 10 hours per week in the dwelling unit. An owner must keep records of the attempts made to contact the tenant to perform the investigation.
- If the owner does NOT receive the completed notice from the tenant and cannot determine based on these follow-up investigations whether there is a child under six, the owner must also notify the [Department of Health and Mental Hygiene](#) (DOHMH) in writing that no notice has been received back from the tenant. The owner’s notification to DOHMH should be mailed to:

Department of Health and Mental Hygiene — Healthy Homes  
125 Worth Street, Sixth Floor, CN58  
New York, NY 10013

- A copy of the notification to DOHMH should also maintained by the owner.
- HPD has created forms to assist an owner with documenting that the annual notice was sent, received back, or any follow-up inspections done if the notice was not returned by the tenant: [Sample Forms for Delivery of Annual Notice Compliance](#)

## 2. Do the annual investigation and fix deteriorated paint.

- Once the owner knows which units have a child living in the unit or routinely spending 10 or more hours per week in a unit, the owner must perform a visual investigation to look for potential lead-based paint hazards.
- **You do not need to hire a professional to conduct your annual visual investigation.** However, HPD highly recommends that whoever conducts this investigation take the [online training](#) offered by the federal Department of Housing and Urban Development to help the person know what to look for. This investigation is a visual inspection looking for peeling paint, chewable surfaces (such as window sills), deteriorated subsurfaces, friction surfaces (painted doors or windows) and impact surfaces. It must include every surface in every room in the dwelling unit, including the interiors of closets and cabinets. The person conducting the investigation should keep records about what they saw and HPD has created sample forms to assist with this: [Sample Forms for Annual Investigation Compliance](#) (Note: Please see # 4 of this Bulletin for additional inspection and testing requirements under recent changes to Local Law 1.)
- After the visual inspection is completed, the owner is required to give a copy of the inspection results to the tenant.
- The owner must also do this visual inspection in any building common areas (such as a lobby, hallway, or stairwell) of the building where a child resides.
- **Next, the owner must repair any deteriorated paint promptly.** If there is peeling paint found on a surface, the owner must presume that there is lead paint, and hire the

appropriately certified contractor to complete the repairs safely and quickly. For more information about safe work practices and the certification requirements for contractors, see the Safe Work Practices tab on the HPD [website](#) and the September 2019 FAQ [bulletin](#). All documents regarding any work done by the appropriate contractors must be maintained.

- If an owner believes there is no lead in the paint because the wall is a new wall, for example, the owner may hire an appropriately certified contractor to test the peeling paint and keep documented evidence that the painted surface does not have lead. See #4 below for more information about testing for lead-based paint.

### 3. Complete the work required in units at vacancy

When a dwelling unit changes tenants, owners are required under Local Law 1 to complete certain lead-based paint activities focused on making the unit safe for a new tenant and before the new tenant takes occupancy (regardless of whether the new tenant has a child at the time of initial occupancy). This is referred to as “**turnover.**”

Owners must:

- 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 frictions 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.

More information about the turnover requirements is available in the March 2020 [bulletin](#).

All the work must be done following [safe work practices](#) and by an appropriately certified contractor. Owners must then certify compliance with the turnover requirements on the [Lease/Commencement of Occupancy Notice](#) (this version is effective January 1<sup>st</sup>, 2020) provided to the new tenant with the lease and provide documentation to the new tenant upon request, along with a copy of the DOHMH [pamphlet](#). Find out more about the **Lease/Commencement of Occupancy Notice** requirement below. HPD has created sample forms for an owner to document the turnover inspection was completed: [Sample Forms for Turnover Vacancy Compliance](#).

**Lease/Commencement of Occupancy:** Property Owners are required to provide the [Lease/Commencement of Occupancy Notice for Prevention of Lead-Based Paint Hazards](#) (this version is effective January 1<sup>st</sup>, 2020 and also available in [Spanish](#)) to new occupants as a form of inquiry if a child under age six will reside (to routinely spend 10 or more hours per week) in the unit along with a copy of the DOHMH [pamphlet](#). Owners must also certify on this notice that they have performed the required turnover work prior to occupancy of the unit by the new occupants. This notice is also required at lease renewal.

#### 4. Test all tenant-occupied units for lead-based paint

Local Law 31 of 2020, in effect August 2020 sets a new requirement for owners to test all tenant-occupied rental units in buildings built before 1960 for the presence of lead-based paint using an independent Environmental Protection Agency (EPA) certified inspector or risk assessor, by August 2025. If a child under 6 comes to reside in a unit, the testing must be done within 1 year or by the August 9, 2025 deadline, whichever is sooner. An owner must provide the tenant with the results of the testing. This requirement must also be met if the rental building was built between 1960 and 1978 and the owner has actual knowledge of lead-based paint.

#### Apply for Exemption from Local Law 1 of 2004

If a property owner believes their building or an individual unit is free of lead-based paint or would like to have the abatement work performed to make sure it is, the owner can hire an EPA-certified inspector or risk assessor to conduct testing to determine whether there is lead-based paint in their buildings and work proactively to reduce the liability associated with lead-based paint. See #4 above about the requirement to test rental units that must be performed by the year 2025.

If the testing does find lead-based paint, the owner can hire an EPA-certified abatement firm to remove, contain, or encapsulate the lead-based paint. Local Law 1 provides for an exemption from certain provisions of the law based on submission of the required testing and documentation. HPD's updated [Exemption Application](#) now includes detailed instructions and required affidavits. HPD has issued an [FAQ](#) that provides more detailed information about the exemption application process.

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

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

- **The Multifamily Housing Rehabilitation Loan Program (HRP)** provides low-interest (up to 3%) rehabilitation loans for the replacement of major building systems, including, but not limited to, roof and window replacement, building envelope work (Local Law 11 and pointing), and upgrades to the heating, electrical, and/or plumbing systems. For details, visit the [HRP webpage](#).
- **The Green Housing Preservation Program (GHPP)** provides no-interest, forgivable loans to finance energy efficiency and water conservation improvements, in combination with low-interest (up to 3%), repayable loans to finance needed systems upgrades, including, but not limited to, roof, window and boiler replacement. Project scopes of work must include energy efficiency measures that are projected to save at least 20% in annual energy (heating and electric) usage, as determined by a third-party energy audit. For details, visit the [GHPP webpage](#).

Now, through part of the City's Lead-Free NYC initiative, both programs also offer 0% interest, forgivable financing of up to \$10,000 per residential unit for abatement of lead-based paint, for eligible rental

buildings constructed prior to 1960. Through this initiative, owners receive assistance in making their buildings safer and healthier for current and future tenants and comply with local NYC Lead Law requirements.

Financing for lead abatement through these programs is available **only** in combination with a larger moderate-rehabilitation scope of work.

To find out more, email [hpdpres@hpd.nyc.gov](mailto:hpdpres@hpd.nyc.gov).

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#### REMINDERS:

**PROPERTY REGISTRATION:** The annual registration deadline has passed but you still can register your property at HPD's [Property Registration Online System \(PROS\)](#). If you did not receive confirmation of your 2020-2021 Annual Property Registration, you can check [HPDONLINE](#) or your [PROS](#) account to verify whether you validly registered. For questions go to [HPD's webpage](#) or reach out to the Registration Assistance Unit via email ([Register@hpd.nyc.gov](mailto:Register@hpd.nyc.gov)) or telephone **(212-863-7000)**. Please note that our offices are not currently open for walk-in registration assistance due to COVID-19.

**ANNUAL BEDBUG FILING:** Property owners of multiple dwelling(s) are required to file the [Annual Bed Bug Report](#) with the New York City Department of Housing Preservation and Development (HPD). The filing period starts December 1<sup>st</sup> and ends December 31<sup>st</sup>. More information about Bedbug filing is available in the October 2020 [bulletin](#) or visit [HPD's website](#).

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### Prevent the Spread of COVID-19

COVID-19 continues to pose a serious threat to our City, and we need your help reminding New Yorkers to stay vigilant about following proper precautions. We've made great strides over the past several months, but the latest uptick in infection rates show that we can't let up now.

Please review the infographics below and share with tenants and superintendents. They provide helpful tips on how to stay safe and prevent the spread in different parts of a residential building: lobby, laundry room, garden, living room, kitchen, and bathroom. We encourage you to post the poster or pamphlet in your buildings where residents will be able to view it.

[\[Download the Poster\]](#) [\[Download the Pamphlet\]](#)

Now more than ever, we need to work together to stop the spread of the COVID-19. For more information, please visit [nyc.gov/prevent-the-spread](https://nyc.gov/prevent-the-spread). To request a print copy of the poster, please email [hpdcomm@hpd.nyc.gov](mailto:hpdcomm@hpd.nyc.gov)