

Local Law 1 of 2004

A Summary

Department of Housing Preservation and
Development

Shaun Donovan, Commissioner

Local Law 1 of 2004

- Comprehensive law on lead paint in New York City housing
- Replaces Local Law 38 of 1999 and Local Law 1 of 1982
- Effective Date – August 2, 2004
 - ❖ Passed by Council December 15, 2003
 - ❖ Vetoed by the Mayor
 - ❖ Council Override of Mayor's Veto on February 4, 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

■ 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 7 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 7 will live there
 - ❖ Lease must contain notice of owner's responsibilities
 - ❖ Must provide pamphlet on lead paint hazards

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 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

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

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 7, 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