

**DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT
NOTICE OF ADOPTION OF FINAL RULE
PERTAINING TO LEAD-BASED PAINT**

Notice is hereby given pursuant to the authority vested in the Commissioner of the Department of Housing Preservation and Development by Chapter 61 of the New York City Charter and Article 14 of subchapter 2 of chapter 2 of Title 27 of the Administrative Code of the City of New York and in accordance with the requirements of §1043 of the New York City Charter that the Department is adopting amendments to Chapter 11 of Title 28 of the Official Compilation of Rules of the City of New York, which repeal such Chapter 11 and adopt a new Chapter 11 concerning lead-based paint.

Dated: October 13, 1999

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Section 1. Chapter 11 of Title 28 of the Rules of the City of New York concerning the use of lead-based paint in multiple dwellings is repealed, and a new Chapter 11 is added to read as follows:

§ 11-01 Definitions.

Whenever used in this chapter:

(a) Bind, for purposes of this chapter and subchapter two of chapter two of title 27 of the administrative code, with reference to painted surfaces of windows and doors, shall mean to stick in such manner that movement causes abrasion or friction of the surfaces.

(b) Deteriorated subsurface shall mean an unstable or unsound subsurface, an indication of which can be readily observed by visual inspection, including but not limited to wood or plaster that has been subjected to moisture or disturbance, and which is covered by lead-based paint or paint that is presumed to be lead-based paint.

(c) Door shall mean every door in a dwelling unit including, but not limited to, the entrance door to the unit, closet doors, and cabinet doors where such cabinets are affixed to the walls of the dwelling unit.

(d) Department shall mean the New York City Department of Housing Preservation and Development or its successor agency.

(e) Housing Maintenance Code shall mean chapter two of title 27 of the administrative code of the city of New York.

(f) Lead-based paint hazard shall mean: (1) paint that is lead-based paint that is peeling on any surface in a dwelling unit in a multiple dwelling, in which dwelling unit a child under six years of age resides, or (2) paint that is presumed to be lead-based paint pursuant to §27-2056.4 of Article 14 of the Housing Maintenance Code and §11-06 of these rules that is peeling on any surface in a dwelling unit in a multiple dwelling, in which dwelling unit a child under six years of age resides, or (3) paint that is either lead-based paint or presumed to be lead-based paint pursuant to §27-2056.4 of such Article 14 and §11-06 of these rules and is on a deteriorated subsurface in a dwelling unit in a multiple dwelling in which dwelling unit a child under six years of age resides.

(g) Lead-based paint shall mean paint or other similar surface coating material containing 1.0 milligrams of lead per square centimeter (mg/cm-2) or greater, as determined by laboratory analysis, or by an x-ray fluorescence (XRF) analyzer. If an XRF analyzer is used, readings shall be corrected for substrate bias when necessary as specified by the performance characteristics sheet (PCS) published by the United States Environmental Protection Agency (EPA) for the specific XRF instrument used. XRF readings shall be classified as positive, negative or inconclusive in accordance with the United States Department of Housing and Urban Development (HUD) "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing" (June 1995), or successor HUD guidelines, and the PCS published by the EPA and HUD for the specific XRF instrument used. XRF readings that fall within the inconclusive zone, as determined by the PCS, shall be confirmed by laboratory analysis of paint chips, results shall be reported in mg/cm-2 and the measure of such laboratory analysis shall be definitive. If laboratory analysis is used to determine lead content, results shall be reported in mg/cm-2. Where the surface area of a paint chip sample cannot be accurately measured or if an accurately measured paint chip sample cannot be removed, laboratory analysis may be reported in percent by weight. In such case, lead-based paint shall mean any paint or other similar surface-coating material containing more than 0.5% of metallic lead, based on the non-volatile content of the paint or other similar surface-coating material. In the absence of a PCS for a specific XRF instrument or a particular function of such instrument, substrate correction, classification of XRF readings, and determinations of inconclusive readings shall be performed in accordance with the manufacturer's instructions for the specific XRF instrument used.

(h) Peeling shall mean that the paint or other surface-coating material is curling, cracking, scaling, flaking, blistering, chipping, chalking or loose in any manner, such that a space or pocket of air is behind a portion thereof or such that the paint is not completely adhered to the underlying surface.

(i) Rule or rules shall mean these rules.

(j) Surface dust test shall mean a test for lead content of dust in a dwelling unit.

§ 11-02 Lead based paint hazard. (a) An owner shall correct all lead-based paint hazards.

(b)(1) Where no violation has been issued pursuant to §27-2056.5 of Article 14 of the housing maintenance code, an owner shall correct the lead-based paint hazard using the exclusive interim controls provided in §27-2056.2 of such Article 14 and in conjunction with the procedures in paragraph 2 of this subdivision, provided, however, that such owner may elect to correct such hazard by using the measures specified in §173.14 of the health code of the city of New York. In the event that such owner elects to correct a lead hazard using the measures specified in §173.14, all of the provisions of such section shall apply.

(2) An owner shall perform the exclusive interim controls provided in §27-2056.2 of such Article 14 in the following manner:

- (i) Where the work area is sealed, caution tape shall be placed across the entrance to the work area. Where the work area is not sealed, a sign shall be placed at the entrance to the work area cautioning occupants not to enter the work area until the work has been completed in such work area;
- (ii) To minimize the dispersion of peeling paint, paint chips, dust and other work related debris from the work area, a protective flap of polyethylene, plastic or

equivalent sheeting shall be placed over the doorway or doorways to the room where work is being performed;

(iii) All polyethylene, plastic or equivalent sheeting used during the performance of the work shall be of sufficient thickness and durability to prevent tearing during the performance of the work. Such sheeting shall be of sufficient length and width to prevent dust and other debris generated by the work from spreading to areas unprotected by such sheeting. Such sheeting must be adequately secured to prevent movement of the sheeting during the performance of the work.

(iv) The following methods of paint removal are prohibited:

(A) Grinding or sanding without HEPA exhaust;

(B) Operating a heat gun in excess of 1100 degrees Fahrenheit;

(C) Using an open flame gas fired torch;

(D) Dry scraping or dry sanding as defined in section 17-181 of the administrative code of the city of New York;

(E) Using uncontained hydroblasting or dry abrasive blasting;

(F) Using chemical strippers containing methylene chloride or any other substances which are known or suspected human carcinogens, as specified in the United States Environmental Protection Agency Guidelines for Carcinogen Risk Assessment, 51 Fed.Reg. 33992 et seq. (September 24, 1986), or its successor guideline or codification.

(v) Where an owner washes all surfaces in the work area with detergent prior to repainting; wet-mops the work area at the end of each work day; or detergent washes the work area at the completion of work, such activities shall be performed using the following procedures:

(A) follow the manufacturer's instructions for the proper use of the cleaning product, especially the recommended dilution ratio;

(B) use appropriate skin and eye protection;

(C) use proper cleaning equipment on each surface to be cleaned;

(D) select a detergent that does not damage existing surface finishes;

(E) proceed with washing from ceilings to floors and avoid passing through room or work areas that have already been cleaned;

(F) follow manufacturer-specified surface-area limits for the cleaning product; provided, however, that the cleaning product solution should be changed after its use for each room;

(G) cleaning product solution should be segregated from clean rinse water in separate buckets during the cleaning activity;

(H) dispose of all used cleaning product solution and rinse water in accordance with all applicable laws, rules and regulations.

(3) An owner shall keep a record of the work performed to correct the lead-based paint hazard which shall include the name, address, and telephone number of the person or entity who performed the work; the start date and completion date for the work; the location of the work performed in each room; a detailed description of such work; and invoices for payment for such work. Where an owner has performed such work in accordance with §173.14 of the health code of the city of New York, such owner shall also keep a record of the results of laboratory tests performed by an independent laboratory certified by the state of New York for surface dust testing pursuant to §173.14 of such health code; and a copy of the certificate of training obtained from the Department of Health, or from a training provider approved by the

Department of Health or by the United States Environmental Protection Agency or the United States Department of Housing and Urban Development qualifying the person who performed the surface dust testing. Such records shall be maintained by such owner for a period of three years from the date of completion of such work or transferred to a subsequent owner and maintained by such subsequent owner during such time period, and made available to the department upon request.

(c) (1) Where a violation has been issued pursuant to subdivision a of §27-2056.5 of Article 14 of the housing maintenance code, an owner shall correct such violation using the exclusive interim controls provided in §27-2056.5(b) of such Article 14 where the correction of such violation is completed on or before the first date set for correction in the notice of violation and in the manner described in paragraph 2 of subdivision b of this section, provided, however, that such owner may elect to correct such violation by using measures specified in §173.14 of the health code of the city of New York. In the event that such owner elects to correct a lead-based paint hazard violation using the measures specified in such §173.14, all of the provisions of such section shall apply. An owner shall also correct any violation issued by the department pursuant to subdivision e of §27-2056.5 for a condition or conditions that causes or cause paint to peel.

(2) An owner shall keep a record of the work performed to correct the lead-based paint hazard violation which shall include the name, address, and telephone number of the person or entity who performed the work; the start date and completion date for the work; the location of the work performed in each room; a detailed description of such work; invoices for payment for such work; the certification of correction of such violation, including the affidavit provided to the department by the person who performed the work; and, where surface dust testing is performed pursuant to §27-2056.5(b)(12) of Article 14 or §173.14 of the health code of the city of New York, the results of laboratory tests performed by an independent laboratory certified by the state of New York, and a copy of the certificate of training obtained from the Department of Health or from a training provider approved by the Department of Health or by the United States Environmental Protection Agency or the United States Department of Housing and Urban Development qualifying the person who performed the surface dust testing. Such records shall be maintained by such owner for a period of three years from the date of completion of such work or transferred to a subsequent owner and maintained by such subsequent owner during such time period, and made available to the department upon request.

(d)(1) Where a violation has been issued pursuant to subdivision a of §27-2056.5 of Article 14 of the housing maintenance code, and an owner fails to correct such violation on or before the first date set for correction in the notice of violation and has not been granted a postponement pursuant to §11-09 of these rules, such owner shall correct such violation in accordance with §173.14 of the health code of the city of New York, and all of the provisions of such section shall apply. The correction of such violation shall be completed within the fifteen days immediately following the first date set for correction in the notice of violation.

(2) An owner shall keep a record of the work performed to correct the lead-based paint hazard violation which shall include the name, address, and telephone number of the person or entity who performed the work; the start date and completion date for the work; the location of the work performed in each room; a detailed description of such work; invoices for payment for such work; the certification of correction of such violation, including the affidavit provided to the Department; the results of laboratory tests performed by an independent laboratory certified by the state of New York for surface dust testing pursuant to §173.14 of such health code; and a copy of the certificate of training obtained from the Department of Health or

from a training provider approved by the Department of Health or by the United States Environmental Protection Agency or the United States Department of Housing and Urban Development qualifying the person who performed the surface dust testing. Such records shall be maintained by such owner for a period of three years from the date of completion of such work or transferred to a subsequent owner and maintained by such subsequent owner during such time period, and made available to the department upon request.

§ 11-03 Owner's Duty upon Vacancy. (a) When any dwelling unit becomes vacant in a multiple dwelling erected prior to January first, nineteen hundred sixty, the owner of such multiple dwelling shall perform the work specified in §27-2056.6 of Article 14 of the housing maintenance code in accordance with such section. Such work shall be performed in the time period commencing with the vacancy of the unit and shall be completed prior to reoccupancy of such unit.

(b) An owner shall keep a record of the work performed to comply with §27-2056.6 which shall include the name, address, and telephone number of the person or entity who performed the work; the start date and completion date for the work; the location of the work performed in each room; a detailed description of such work; and invoices for payment for such work. Such records shall be maintained by such owner for a period of three years from the date of completion of such work or transferred to a subsequent owner and maintained by such subsequent owner during such time period, and made available to the department upon request.

(c) An owner shall certify that he or she has complied with §27-2056.6 of Article 14 of the housing maintenance code and this section in the notice provided to an occupant upon signing of lease, if any, or upon any agreement to lease, or at the commencement of occupancy if there is no lease pursuant to subdivision a of §11-04 of these rules.

(d) Failure by an owner to comply with this section and the provisions of §27-2056.6 of Article 14 of the housing maintenance code shall constitute a class C immediately hazardous violation.

§ 11-04 Notice of Inquiry Regarding the Presence of a Child

(a) Notice upon signing of a lease, including a renewal lease, if any, or upon any agreement to lease or at the commencement of occupancy. (1) The owner of a multiple dwelling erected prior to January first, nineteen hundred sixty shall provide to an occupant of a dwelling unit at the signing of a lease, including a renewal lease, if any, or upon any agreement to lease, or at the commencement of occupancy if there is no lease, a notice in English and Spanish inquiring whether a child under six years of age resides or will reside therein. If there is a lease, such notice will be attached as a rider to the lease. In addition, such owner shall deliver to the occupant at the time the occupant signs a lease, including a renewal lease, if any, or upon any agreement to lease, or, at the commencement of occupancy if there is no lease, the pamphlet developed by the Department of Health pursuant to §17-179 of the administrative code of the city of New York. Such notice will be printed on a single form, the content of which shall be as specified in Appendix A hereto, and shall be printed in not less than ten point type, and shall bear the title "Prevention of Lead Based Paint Hazards—Inquiry Regarding Child". In addition, such notice shall contain a statement, signed by such owner, stating that he or she has complied with the provisions concerning vacant apartments pursuant to §27-2056.6 of Article 14 of the housing maintenance code and § 11-03 of these rules, and that he or she has delivered such pamphlet developed by the Department of Health to the occupant. Such notice shall be in duplicate, one

copy of which will be for the occupant's records, and one copy of which will be returned to the owner. Such notice shall be kept for a period of three years from the date of receipt by the owner or transferred to a subsequent owner and maintained by such subsequent owner during such time period, and made available to the department upon request.

(2) Such notice shall be completed by the occupant at the time of such signing of a lease, including a renewal lease, if any, or such agreement to lease or at such commencement of occupancy.

(b) Annual Notice. (1) Each year an owner of a multiple dwelling erected prior to January first, nineteen hundred sixty shall cause to be delivered to each residential unit a notice in English and Spanish inquiring as to whether a child under six years of age resides therein and advising the occupant of his or her duty to report the presence of such child in writing.

(2) Such notice shall be delivered as provided in §27-2056.3(b) of Article 14 of the housing maintenance code, no earlier than January first and no later than January sixteenth, provided, however, that if such notice is enclosed with the January rent bill, such notice may be delivered no sooner than December fifteenth and no later than January sixteenth.

(3) Such notice shall be printed on a single form, the content of which shall be as specified in Appendix B hereto, and shall be printed in not less than ten point type, and shall bear the title "Prevention of Lead Based Paint Hazards—Inquiry Regarding Child". Such notice shall be in duplicate, one copy of which will be for the occupant's records, and one copy of which will be returned to the owner. Such notice shall be kept for a period of three years from the date of receipt by the owner or transferred to a subsequent owner and maintained by such subsequent owner during such time period, and made available to the department upon request.

(4) Upon receipt of such notice, the occupant shall have the duty to deliver a written response to the owner indicating whether a child under six years of age resides in the dwelling unit, by March first of the year in which the notice is sent. If a child under the age of six subsequently comes to reside in such dwelling unit at any time prior to delivery of the next annual notice, the occupant shall have the duty to inform the owner in writing that such child has come to reside therein.

(c) The wording of the notices specified in this section shall not be altered or varied in any manner, provided, however, that such owner may provide such notice in any languages in addition to English and Spanish as such owner believes will be of assistance in ensuring communication of the content of such notice to the occupants of the multiple dwelling.

§ 11-05 Owner's Duty to Inspect. (a) An owner who has received written notice of the presence of a child under six years of age residing in a dwelling unit in a multiple dwelling erected prior to January first, nineteen hundred sixty, or who otherwise has actual notice that such child resides therein, shall have the duty to perform or cause to be performed an annual visual inspection for lead-based paint hazards. In addition, if an occupant informs the owner regarding the presence of a lead-based paint hazard at any time, an owner shall perform or cause to be performed a visual inspection for such lead-based paint hazards.

(b) A visual inspection for lead-based paint hazards shall include every surface in every room in the dwelling unit, including the interiors of closets and cabinets, and shall include checking to ensure that all windows and all doors in the dwelling unit are properly hung so that painted surfaces do not bind.

(c) An owner shall maintain or transfer to a subsequent owner records of all visual inspections of dwelling units performed pursuant to this section. Such records shall include the location of such inspection and the results of such inspection for each surface in each room and for each window and door, as specified in subdivision b of this section, and the actions taken as a result of such inspection pursuant to §11-02 of these rules. If an owner claims an inability to gain access to the unit for such inspection, such records shall contain a statement describing the attempt made to gain access, including, but not limited to providing a written notice to the tenant, delivered by certified or registered mail, informing the tenant of the necessity of access to the dwelling unit to perform the inspection, and the reason why access could not be gained. Such records shall be kept for a period of three years from either the date of completion of the inspection, or from the date of the last attempt to gain access by the owner, or transferred to a subsequent owner and maintained by such subsequent owner during such time period, and made available to the department upon request. In addition, the owner shall make such records available to the occupant of such dwelling unit upon request.

(d) An owner shall correct every lead based paint hazard identified during any visual inspection in accordance with §27-2056.2 of Article 14 of the housing maintenance code and §11-02 of these rules.

(e) Nothing in this section shall be deemed to preclude an owner from conducting any additional types of inspections for lead based paint hazards, provided, however, that such owner shall correct any lead based paint hazards identified pursuant to such inspection in accordance with subdivision d of this section.

§ 11-06 Presumption. (a) In any dwelling unit in a multiple dwelling erected prior to January first, nineteen hundred sixty in which a child under six years of age resides, it shall be presumed that the paint or other similar surface-coating material in the interior of the dwelling unit is lead-based paint solely for purposes of Article 14 of the housing maintenance code and these rules.

(b) The presumption established in this section may be rebutted by the registered owner, registered officer or director of a corporate owner or by a registered managing agent of such multiple dwelling by submitting to the department a sworn written statement, supported by lead-based paint testing or sampling results, including a description of the testing methodology and manufacturer and model of instrument used to perform such testing or sampling; a sworn written statement by the person who performed the testing if performed by an employee or agent of the owner which shall include a copy of the certificate of training as an inspector or risk assessor as provided in subdivision d of this section; a copy of the inspection report provided by the person who performed the testing or sampling which shall include a description of the surfaces in each room where such testing or sampling was performed; and a copy of the results of such testing and/or such laboratory tests of paint chip samples performed by an independent laboratory certified by the state of New York where such testing has been performed. Such written statement and all supporting documentation shall be submitted to the department not later than eleven days before the first date set for correction in the notice of violation. Receipt by the department of a complete application in accordance with this paragraph including such written statement and such supporting documentation shall toll the time period to correct the violation. Receipt of an incomplete application shall not toll the time period for correction of the violation. The department shall notify the registered owner, registered officer or director of a corporate owner or registered managing agent of such multiple dwelling of its determination in

writing, and, if the department determines that such presumption has not been rebutted, such notice shall set a date for correction of the violation.

(c) Where testing or sampling is performed to rebut the presumption established in this section, the performance of such testing shall be in accordance with the definition for lead-based paint established in §11-01 of these rules and §27-2056.1(a)(3) of Article 14 of the housing maintenance code. Laboratory analysis for paint chip samples shall be permitted only where XRF tests fall within the inconclusive zone for the particular XRF machine or where the configuration of the surface or component to be tested is such that an XRF machine cannot accurately measure the lead content of such surface or component. Laboratory tests of paint chip samples, where performed, shall be reported in mg/cm-2, unless the surface area of a paint chip sample cannot be accurately measured, or if an accurately measured paint chip sample cannot be removed, in which circumstance the laboratory test may be reported in percent by weight. Where paint chip sampling has been performed, the sworn written statement by the person who performed the testing shall include a statement that such sampling was done in accordance with the methods described in Chapter 7 of the United States Department of Housing and Urban Renewal's "Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing".

(d) Testing performed to rebut the presumption may only be performed by a person who has been certified as an inspector or risk assessor in accordance with subparts L and Q of part 745 of Title 40 of the Code of Federal Regulations.

§ 11-07 Exemption from Presumption. (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 first, nineteen hundred sixty may apply to the department, in writing, for an exemption of the application of the presumption established under Article 14 of the housing maintenance code and §11-06 of these rules.

(b) Such exemption shall be granted only where such owner submits a written determination made by an inspector or risk assessor certified pursuant to subparts L and Q of part 745 of Title 40 of the Code of Federal Regulations or successor provisions, and in accordance with § 745.227(b) of such Title that each surface and component in each dwelling unit in such multiple dwelling is free of paint or similar surface-coating materials that contain lead equal to or in excess of 1.0 mg/cm-2 or 0.5 percent by weight, as defined in these rules, 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 in the dwelling unit tests negative for paint or similar surface-coating materials that contain lead equal to or in excess of 1.0 mg/cm-2 or 0.5 percent by weight, as defined in these rules. Results of such testing for each dwelling unit shall be provided. However, where surfaces or components within a dwelling unit can be demonstrated by the owner, to the satisfaction of the department, to have a common construction and painting history, the inspector or risk assessor performing such testing may test a sample of the surfaces and components having such common construction and painting history within the dwelling unit to make such determination. For purposes of this section, the term "contained" shall mean that every surface containing lead-based paint has been 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. The term "contained" shall not include encapsulation of such surfaces, unless the use of such encapsulant has been specifically approved by the department. The certification of the absence of lead-based paint and/or the containment of lead-based paint shall

include all surfaces and components, including, but not limited to walls, ceilings, doors, windows, window sills, window wells, radiators, standpipes, and trim in each dwelling unit.

(c) An application for exemption shall include: the address of the multiple dwelling; the number of units; the dates, if known, when substantial alterations were made to the dwelling units and a description of the work performed; the date of the inspection resulting in the determination; and a copy of the inspection report. Such inspection report shall contain a detailed description of the surfaces tested in each dwelling unit and the results of such testing. Such application shall also include a copy of the certificate of training of the person who performed such testing. The department shall accept or deny the application in writing, and provide the reasons therefor.

(d) The department may revoke an exemption granted pursuant to this section where the department determines, after inspection, that a surface in any dwelling unit for which lead-based paint was contained is no longer intact or sealed or that such exemption was determined to be based upon fraud or misrepresentation. The department shall provide written notification to the owner upon making such determination. An owner may reapply for the exemption by showing that the surface for which the lead-based paint was no longer contained has been repaired and resealed,

§ 11-08 Certification of Correction of Lead-Based Paint Hazard Violation. (a) A registered owner or registered officer or director of a corporate owner or registered managing agent shall submit a certification of correction of a lead-based paint hazard violation issued pursuant to Article 14 of the housing maintenance code and these rules within five days of the date set for correction in the notice of violation. Such certification shall be made in writing, under oath by the registered owner, a registered officer or director of a corporate owner or by the registered managing agent. Such certification shall include the date that the violation was corrected, and a statement that the violation was corrected in compliance with §27-2056.5 of Article 14 of the housing maintenance code. Where the owner has complied with §173.14 of the health code of the city of New York, such certification shall include a statement of compliance with such section of the health code. Such certification shall also include the results of laboratory tests performed by an independent laboratory certified by the state of New York for surface dust testing pursuant to such §27-2056.5 or under such §173.14 or, if the analysis of such laboratory test results has not yet been completed, a sworn statement by the owner that such surface dust testing has been performed and that surface dust testing samples have been submitted to such laboratory on or prior to the first date set for correction in the notice of violation, provided, further, however, that such laboratory test results shall be received by the department within two days after the date of submission of such certification, and failure to make such submission within such time period shall be deemed a failure to file such certification, and, provided further, that where such dust test results are submitted after the certification, such results shall be submitted with a copy of the notice of violation attached, provided further, however, that where a certification is being submitted for correction of a violation pursuant to subdivision d of § 27-2056.5 of the housing maintenance code, or where such certification is being submitted for correction of a violation for which a postponement has been granted, the laboratory test results for any dust testing required to be performed must be submitted with the certification; and a copy of the certificate of training obtained from the Department of Health or from a training provider approved by the Department of Health or the Environmental Protection Agency or the United States Department of Housing and Urban Development qualifying the person who performed the surface dust testing. Such certification shall also include a sworn statement by the person who performed the work

necessary to correct the violation, if performed by an employee or agent of the owner. Failure to file such certification shall establish a prima facie case that such violation has not been corrected. A copy of the certification shall be mailed to the complainant by the department not more than twelve full calendar days from the date of receipt of such certification by the department.

(b)(1) Certification of a lead-based paint hazard violation where surface dust tests are required pursuant to §27-2056.5 shall be rejected by the department unless the results of the laboratory tests are submitted with the certification, or within the time period provided in subdivision a of this section, and such laboratory test results comply with the standards specified in this subdivision as also set forth in §173.14 of the health code of the city of New York, provided, however, that if such §173.14 is amended to provide for more stringent dust level standards than those set forth herein, those more stringent standards shall apply.

(2) Dust levels in excess of the following constitute contamination and require repetition of the clean-up and the testing process in all areas where such levels are found:

(i) for testing performed on floors—100 micrograms of lead per square foot;

(ii) for testing performed on window sills—500 micrograms of lead per square foot;

(iii) for testing performed on window wells—800 micrograms of lead per square foot.

§ 11-09 Postponements. (a) An owner may apply to the department in writing for postponement of the time to correct a lead-based paint hazard violation issued pursuant to §27-2056.5(a) of Article 14 of the housing maintenance code prior to the expiration of the first date set for correction of such violation pursuant to §27-2115(l)(1). No such application shall be accepted by the department after such date.

(b) Grant of a postponement shall be in the sole discretion of the department, and will be limited to circumstances where a showing has been made by the owner, to the satisfaction of the department, that such owner has taken steps to correct the violation promptly but that full correction could not be completed expeditiously because of the existence of a serious technical difficulty, inability to obtain necessary materials, funds or labor, or inability to gain access to the dwelling unit or other area of the building necessary to make the required repair. An application for postponement shall contain a detailed statement by the registered owner or agent, or registered managing agent, explaining the steps taken to correct the violation promptly and the specific circumstances surrounding the inability to fully correct the violation within the time set for correction of the violation. Where an owner claims inability to gain access, such application shall include a description of the steps taken to gain access, including but not limited to providing a written notice to the tenant, delivered by certified or registered mail, informing the tenant of the necessity of access to the dwelling unit to correct the violation and the reason why access could not be gained.

(c) The department shall make a determination in writing whether the postponement shall be granted or denied, and the reasons therefor. The department may include such other conditions as are deemed necessary to insure correction of the violation within the time set by the postponement. If the postponement is granted, a new date for correction shall be set, which shall not exceed forty-five days from the date set for correction in the notice of violation. A copy of the written determination by the department shall be provided to the owner and the complainant/occupant.

STATEMENT OF BASIS AND PURPOSE

The purpose of these rules is to implement Article 14 of the Housing Maintenance Code relating to the prevention of lead-based paint hazards which may cause childhood lead poisoning. The rules provide a detailed description of the responsibilities of owners of multiple dwellings and occupants of dwelling units in which children under the age of six reside with reference to the prevention of lead-based paint hazards, maintenance of painted surfaces in such dwelling units, notification of the presence of children and of lead-based paint hazards and the correction of lead-based paint hazards and lead-based paint hazard violations.

APPENDIX A

LEASE/COMMENCEMENT OF OCCUPANCY NOTICE FOR PREVENTION OF LEAD
BASED PAINT HAZARDS—INQUIRY REGARDING CHILD

You are required by law to inform the owner if a child under six years of age resides or will reside in the dwelling unit (apartment) for which you are signing this lease/commencing occupancy. If such a child resides or will reside in the unit, the owner of the building is required to perform an annual visual inspection of the unit to determine the presence of lead-based paint hazards. **IT IS IMPORTANT THAT YOU RETURN THIS FORM TO THE OWNER OR MANAGING AGENT OF YOUR BUILDING TO PROTECT THE HEALTH OF YOUR CHILD.**

If a child under six years of age does not reside in the unit now, but does come to live in it at any time during the year, you must inform the owner in writing immediately. If a child under six years of age resides in the unit, you should also inform the owner immediately at the address below if you notice any peeling paint or deteriorated subsurfaces in the unit during the year.

Please complete this form and return one copy to the owner or his or her agent or representative when you sign the lease/commence occupancy of the unit. Keep one copy of this form for your records. You should also receive a copy of a pamphlet developed by the New York City Department of Health explaining about lead based paint hazards when you sign your lease/commence occupancy.

- CHECK ONE:
- A child under six years of age resides in the unit
 - A child under six years of age does not reside in the unit.

_____ (Occupant signature)

Print occupant's name, address and apartment number: _____

Certification by owner: I certify that I have complied with the provisions of §27-2056.6 of Article 14 of the Housing Maintenance Code and the rules promulgated thereunder relating to duties to be performed in vacant units, and that I have provided a copy of the New York City Department of Health pamphlet concerning lead based paint hazards to the occupant.

_____ (Owner signature)

RETURN THIS FORM TO: _____

OCCUPANT: KEEP ONE COPY FOR YOUR RECORDS
OWNER COPY/OCCUPANT COPY

APENDICE A
CONTRATO/COMIENZO DE OCUPACIÓN Y MEDIDAS DE PRECAUCION CON LOS
PELIGROS DE PLOMO EN LA PINTURA-ENCUESTA RESPECTO AL NIÑO.

Usted esta requerido por ley informarle al dueño si un niño menor de seis años de edad esta viviendo o vivirá con usted en la unidad de vivienda (apartamento) para la cual usted va a firmar un contrato de ocupación. Si tal niño empieza a residir en la unidad, el dueño del edificio esta requerido hacer una inspección visual añualmente de la unidad para determinar la presencia peligrosa de plomo en la pintura. POR ESO ES IMPORTANTE QUE USTED LE DEVEUELVA ESTE AVISO AL DUEÑO O AGENTE AUTORIZADO DEL EDIFICIO PARA PROTEGER LA SALUD DE SU NIÑO.

Si un niño de seis años de edad no vive en la unidad ahora, pero viene a vivir en cualquier tiempo durante el año, usted debe de informarle al dueño por escrito inmediatamente a la dirección proveniente abajo. Usted tambien debe de informarle al dueño por escrito si un niño menor de seis años de edad vive en la unidad y si usted observa que durante el año la pintura se deteriora o esta por pelarse sobre la superficie de la unidad.

Por favor de llenar este formulario y devolver una copia al dueño del edificio o al agente o representante cuando usted firme el contrato o empiece a ocupar la unidad. Mantegna una copia de este formulario para sus archivos. Al firmar su contrato de ocupación usted recibirá un pamfleto hecho por el Departamento de Salud de la Ciudad de Nueva York, explicando el peligro de plomo en pintura.

MARQUE UNO: Vive un niño menor de seis años de edad en la unidad.

No vive un niño menor de seis años de edad en la unidad.

_____ (Firma del inquilino)

Nombre del inquilino, Dirección, Apartamento: _____

Certificacion de dueño: Yo certifico que he cumplido con la provision de §27-2056.6 del Artículo 14 del codigo y reglas de Vivienda y Mantenimiento (Housing Maintenance Code) relacionado con mis obligaciones sobre las unidades vacante, y yo le he dado al ocupante una copia del pamfleto del Departamento de Salud de la Ciudad de Nueva York sobre el peligro de plomo en pintura.

_____ (Firma del dueño)

DEVUELVA ESTE FORMULARIO A: _____

INQUILINO: MANTENGA UNA COPIA PARA LOS ARCHIVOS
COPIA DEL DUEÑO/COPIA DEL INQUILINO

APPENDIX B
ANNUAL NOTICE FOR PREVENTION OF LEAD BASED PAINT HAZARDS—INQUIRY
REGARDING CHILD

You are required by law to inform the owner if a child under six years of age resides or will reside in your dwelling unit (apartment). If such a child resides or will reside in the unit, the owner of the building is required to perform an annual visual inspection of the unit to determine the presence of lead based paint hazards. **IT IS IMPORTANT THAT YOU RETURN THIS FORM TO THE OWNER OR MANAGING AGENT OF YOUR BUILDING TO PROTECT THE HEALTH OF YOUR CHILD.**

If a child under six years of age does not reside in the unit now, but does come to reside in it at any time during the year, you must inform the owner in writing immediately. If a child under six years of age lives in the unit you should also inform the owner immediately if you notice any peeling paint or deteriorated surfaces in the unit during the year. You may request that the owner provide you with a copy of any records required to be kept as a result of a visual inspection of your unit.

Please complete this form and return one copy to the owner or his or her agent or representative by March 1st. Keep one copy of this form for your records.

- CHECK ONE: A child under six years of age resides in the unit
- A child under six years of age does not reside in the unit.

_____ (Occupant signature)

Print occupant's name, address and apartment number: _____

RETURN THIS FORM TO: _____

OCCUPANT: KEEP ONE COPY FOR YOUR RECORDS
OWNER COPY/OCCUPANT COPY

APENDICE B
AVISO AÑUAL PARA MEDIDAS DE PRECAUCION CON LOS PELIGROS DE PLOMO
EN LA PINTURA-ENCUESTA RESPECTO AL NIÑO

Usted esta requerido por ley informarle al dueno si un niño menor de seis años de edad esta viviendo o vivirá con usted en su unidad de vivienda (apartamento). Si tal niño vive en la unidad, el dueño del edificio esta requerido hacer una inspección visual anualmente de la unidad para determinar la presencia peligrosa de plomo en la pintura. POR ESO ES IMPORTANTE QUE USTED LE DEVUELVA ESTE AVISO AL DUEÑO O AGENTE AUTORIZADO DEL EDIFICIO PARA PROTEGER LA SALUD DE SU NIÑO.

Si un niño menor de seis años de edad no vive en la unidad ahora, pero viene a vivir en cualquier tiempo durante el año, usted debe de informarle al dueño por escrito inmediatamente. Usted tambien debe de informarle al dueño por escrito si el niño menor de seis años de edad vive en la unidad y si usted observa que durante el año la pintura se deteriora o esta por pelarse sobre la superficie de la unidad, usted tiene que informarle al dueño inmediatamente. Usted puede solicitar que el dueño le de una copia de los archivos de la inspección visual hecha en su unidad.

Por favor de llenar este formulario y devolver una copia al dueño del edificio o al agente o representante antes de Marzo 1. Mantenga una copia de este formulario para su informacion.

MARQUE UNO: Vive un niño menor de seis años de edad en la unidad.
 No vive un niño menor de seis años de edad en la unidad.

_____ (Firma del inquilino)

Nombre del inquilino, Dirección, Apartamento: _____

DEVUELVA ESTE FORMULARIO A: _____

INQUILINO: MANTENGA UNA COPIA PARA SU INFORMACION
COPIA DEL DUEÑO/COPIA DEL INQUILINO