



**DEPARTMENT OF HOUSING
PRESERVATION
AND DEVELOPMENT**

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**Office of Housing Preservation
Division of Code Enforcement**

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**LEAD POISONING PREVENTION AND CONTROL
WORK PRACTICES AND PROCEDURES**

Dear Owner:

A lead based paint hazard is lead based paint, or paint that is presumed to be lead based paint, that is peeling on any surface or that is on a deteriorated subsurface in a dwelling unit in a multiple dwelling where a child under six resides. All paint in a pre-1960 multiple dwelling unit where a child under six resides is presumed to be lead paint. Owners must correct all lead based paint hazards in dwelling units where a child under the age of six resides. Lead based paint hazards must be corrected in accordance with the work practices set forth in this pamphlet. Correcting lead based paint hazards promptly using proper work practices is critical in preventing lead poisoning in young children.

Sections A, B and C of this pamphlet describe the work practices and procedures that owners must use if they have been notified that there is a lead hazard violation in a dwelling unit in a building that they own, or have discovered a lead hazard in such a unit, and are taking action to correct it.

Section D describes the actions that owners must take in units which become vacant in pre-1960 multiple dwellings, prior to reoccupancy of such units.

Section E describes the process for contesting a lead hazard violation that is based upon the presumption of lead in a pre-1960 building. Section F of this pamphlet describes the steps that must be followed in order to request a postponement of the time to correct a lead hazard violation. Forms for requesting a postponement and for contesting a violation are included with notices of violation. Owners must use these forms for these purposes.

Throughout this pamphlet, except where otherwise specified, the words, "department" and "HPD" mean the New York City Department of Housing Preservation and Development.

THIS PAMPHLET IS INTENDED TO BE USED FOR INFORMATIONAL PURPOSES ONLY, AND IS NOT TO BE CONSTRUED AS A COMPLETE OR FINAL STATEMENT OF ALL OF THE DUTIES AND RESPONSIBILITIES OF OWNERS WITH REGARD TO LEAD BASED PAINT HAZARDS AND VIOLATIONS. PLEASE CONSULT ARTICLE 14 OF THE NEW YORK CITY HOUSING MAINTENANCE CODE (ADMINISTRATIVE CODE § 27-2056.1 ET SEQ.) AND THE RULES PROMULGATED THEREUNDER IN CHAPTER 11 OF TITLE 28 OF THE RULES OF THE CITY OF NEW YORK, AND NEW YORK CITY HEALTH CODE §173.14 FOR A COMPLETE STATEMENT OF THE LAW.

NOTE: THE DRY SCRAPING OR DRY SANDING OF LEAD BASED PAINT, OR PAINT OF UNKNOWN LEAD CONTENT IN ANY DWELLING UNIT IS PROHIBITED PURSUANT TO ADMINISTRATIVE CODE § 17-181.

SECTION A. WHERE NO VIOLATION HAS BEEN ISSUED, AN OWNER MUST CORRECT LEAD BASED PAINT HAZARDS USING THE FOLLOWING EXCLUSIVE INTERIM CONTROLS:

- (1) Where practicable and not otherwise prohibited, seal off the work area to restrict access or entry to such work area by occupant until all work and clean-up are achieved;
- (2) Prepare the work area by either: (i) covering all moveable objects in and adjacent to the work area and covering the floor adjacent to the work area with polyethylene, plastic or equivalent sheeting, or (ii) removing all moveable objects in and adjacent to the work area and HEPA-vacuuming all such objects prior to removing such objects and covering the floor with polyethylene, plastic or equivalent sheeting;
- (3) Provide that any polyethylene, plastic or equivalent sheeting, drop cloths and other supplies, materials, equipment or disposable clothing used in the work area that may contain peeling paint, paint chips, dust and other work-related debris shall remain in the work area or be stored or removed from the work area in a safe manner to minimize exposure of occupants to such sheeting, cloths, and other supplies during the period that the job is being performed;
- (4) Wet scrape all peeling paint using a scraper and water misting to reduce dust and other work-related debris and repair all deteriorated subsurfaces where such subsurfaces are covered with paint;
- (5) HEPA-vacuum all affected surfaces and the floors in the work area or wash all surfaces in the work area with a detergent prior to repainting to remove any dust that may have accumulated and provide for the disposal of any peeling paint or materials that may contain

- peeling paint, paint chips, dust and other work-related debris in accordance with all applicable laws, rules and regulations;
- (6) Repaint all areas affected and provide that all paints, thinners, solvents, primers, chemical strippers or other such flammable materials in the work area shall be kept in their original containers;
 - (7) Thoroughly wet-mop or HEPA-vacuum the work area and conduct a visual examination at the end of each workday to ensure that no peeling paint, paint chips, dust or other work-related debris have been released from such area;
 - (8) arrange and supervise the work area so as to minimize the dispersion of peeling paint, paint chips, dust and other work related debris from the work area and advise occupants not to enter the work area until the work has been completed in such work area;
 - (9) Upon the completion of work, provide that any remaining polyethylene, plastic or equivalent sheeting, drop cloths or other materials shall be removed in a safe manner, and all surfaces exposed to peeling paint, paint chips, dust or other work-related debris during the course of the work shall be HEPA-vacuumed or detergent washed beginning with ceilings, then down the walls and across the floors;
 - (10) Adjust all doors, including cabinet doors, and all windows, to ensure that they are properly hung, so that no painted surfaces bind (Note: the term "bind", with reference to painted surfaces of windows and doors, means to stick in such manner that movement causes abrasion or friction of the surfaces);
 - (11) The owner shall maintain or transfer to subsequent owners records of any work performed pursuant to this section. Such records shall be maintained for three years and made available to HPD upon request. An owner shall include in such records 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 of 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, and a copy of the certificate of training qualifying the person who performed the surface dust testing.

(12) In addition, an owner must perform the exclusive interim controls specified above 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;

(F) Using uncontained hydroblasting or dry abrasive blasting;

(G) 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.

NOTE: An owner may, at the owner's discretion, correct a lead based paint hazard by using measures specified in section 173.14 of the health code of the City of New York as the exclusive alternative to using the work practices specified above. See Section C.

SECTION B. WHERE A LEAD BASED PAINT HAZARD VIOLATION HAS BEEN ISSUED, AN OWNER SHALL CORRECT

THE VIOLATION WITHIN 21 DAYS OF SERVICE OF THE NOTICE OF VIOLATION. THE OWNER MUST FOLLOW SECTION A OF THIS PAMPHLET, AND MUST ALSO USE THE INTERIM CONTROLS SET FORTH IN THIS SECTION. IF AN OWNER FAILS TO CORRECT THE VIOLATION WITHIN 21 DAYS, HE OR SHE MUST CORRECT IT WITHIN THE SUCCEEDING 15-DAY PERIOD PURSUANT TO §173.14 OF THE HEALTH CODE, AS EXPLAINED IN SECTION C, AND MAY NOT USE THIS SECTION B.

- (1) when lead based paint hazards have been corrected on any interior wood trim or door, a surface dust test shall be conducted on the floor immediately adjacent to the work area. In addition, when lead-based paint hazards have been corrected on any interior wood trim or door on, near or immediately adjacent to a window, a surface dust test shall be conducted on the window sill and window well immediately adjacent to the work area. In addition, when lead based paint hazards have been corrected on any window, a surface dust test shall be conducted on the floor, window sill and window well immediately adjacent to the work area. Any surface dust tests required pursuant to this subdivision shall be conducted after final clean-up, and after any repainting, if necessary, has been completed. All such surface dust tests shall be completed by an individual who has passed a course approved by the department of health on how to conduct a surface dust wipe test. All such surface dust test samples shall be forwarded to an independent state certified laboratory for analysis;
- (2) The owner shall maintain or transfer to a subsequent owner records of any work performed. Such records shall be maintained for three years and made available to HPD upon request. An owner shall include in such records the name, address, and telephone number of the person or entity who performed the work; the certification of correction of such violation; including the affidavit provided to HPD by the person who performed the work; and, where surface dust testing is

performed pursuant to §27-2056.5(b)(12) or 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 qualifying the person who performed the surface dust testing.

- (3) Owners must certify correction of the violation within five days of the date set for correction. Owners must use the form provided on the notice of violation to certify, and must provide all of the documentation specified thereon.
- (4) Owners must also correct any violation issued by the department pursuant to Article 14 for a condition or conditions that causes or cause paint to peel.

NOTE: An owner may, at the owner's discretion, correct a lead based paint hazard violation by using measures specified in section 173.14 of the health code of the City of New York as the exclusive alternative to using the work practices specified in this section B. (See Section C)

SECTION C. WHERE AN OWNER FAILS TO CORRECT A LEAD BASED PAINT HAZARD VIOLATION WITHIN 21 DAYS AFTER THE SERVICE OF THE NOTICE OF VIOLATION, HE OR SHE MUST CORRECT THE VIOLATION WITHIN THE FOLLOWING 15-DAY PERIOD USING THE WORK PRACTICES SPECIFIED IN SECTION 173.14 OF THE NEW YORK CITY HEALTH CODE. IN ADDITION, AN OWNER MAY ELECT TO USE THE WORK PRACTICES SPECIFIED IN SECTION 173.14 TO CORRECT A LEAD HAZARD, WHETHER OR NOT A VIOLATION HAS BEEN SERVED. WHEN AN OWNER ELECTS OR IS MANDATED TO USE SECTION 173.14, ALL OF THE PROVISIONS OF SUCH SECTION APPLY.

Note: Health Code §173.14 is being revised shortly by the Department of Health.

§173.14 Safety standards for lead based paint abatement.

(a) Purpose, scope and applicability.

(1) This section shall apply to the wet scraping and repainting, removal, encapsulation, enclosure, replacement, as such terms are defined herein, or other approved method of abatement, of paint, plaster, or other similar surface coating materials containing lead based paint as defined in subdivision (16) of subsection (b) of this section, whenever such wet scraping and repainting, removal, encapsulation, enclosure, replacement, or other approved method of abatement, is (aa) directed by order of the Commissioner; or (bb) directed or ordered by the Commissioner of Housing Preservation and Development. The provisions of this section shall not be construed to authorize any method of abatement which is otherwise prohibited by law.

(2) Whenever lead based paint abatement is undertaken pursuant to an order of the Commissioner, or by direction or order of the Commissioner of Housing Preservation and Development, only the method of abatement specified in the Order shall be utilized. This section shall apply to all conditions and surfaces directed or ordered to be abated, including but not limited to common areas, public hallways, and exterior surfaces as directed or ordered.

(3) The Departments of Housing Preservation and Development and Environmental Protection are hereby delegated authority and powers to enforce the provisions of this section, including the authority to issue orders to stop work and to issue notices of violation for the recovery of fines, penalties and forfeitures pursuant to §3.12 of this Code.

(4) The Departments of Housing Preservation and Development and Environmental Protection shall transmit to the Department of Health a list of violations placed pursuant to the authority delegated to such departments to enforce this section by address, including apartment number, and borough of premises.

(b) Definitions.

(1) "Abatement" or "lead based paint abatement" shall mean the reduction of a lead based paint condition or hazard through the wet scraping and repainting, removal, encapsulation, enclosure, or replacement of lead based paint, or other method approved

by the Commissioner, as directed by order of the Commissioner or by direction or order of the Commissioner of Housing Preservation and Development.

(2) "Abatement area" shall mean that part of a building where lead based paint abatement is being performed.

(3) "Chewable surfaces" shall mean any surface that because of its height or location, is readily accessible to children under six years of age and forms an edge or protrudes from any flat surface, including but not limited to, doors, door frames, window sills, moldings, railings, stairs, window frames, trim, baseboards, and cabinets.

(4) "Commissioner" shall mean the Commissioner of Health of the City of New York.

(5) "Deleader" or "deleader-contractor" shall mean any person engaged to perform a lead based paint abatement pursuant to an order of the Commissioner or an order or direction of the Commissioner of Housing Preservation and Development.

(6) "Deleader-supervisor" shall mean any person in charge of or in control of lead based paint abatement work or the work in an abatement area as regulated herein.

(7) "Deleader-worker" shall mean any person engaged in abatement other than a deleader-contractor or a deleader-supervisor.

(8) "Department" shall mean the Department of Health of the City of New York.

(9) "Dwelling" shall mean any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings.

(10) "Dwelling unit" shall mean any residential accommodation in a residence or home of a single family living independently from other families in other dwellings or dwelling units.

(11) "Encapsulation" shall mean a process of lead based paint abatement which makes lead based paint inaccessible by covering or sealing painted surfaces with liquid or elastic coatings, which solidify to become permanent and resistant to impact, cracking, peeling and growth of algae, fungus, or other microbes.

(12) "Enclosure" shall mean the

construction of a rigid, durable barrier that is physically affixed to building components, with all edges and seams permanently sealed so that surfaces are encased and inaccessible.

(13) "Friction surface" shall mean any surface that touches or is in contact with another surface, such that the two surfaces are capable of relative motion, thereby encountering resistance. Friction surfaces shall include but not be limited to window frames and jambs, doors, and hinges.

(14) "HEPA vacuum" shall mean a vacuum equipped with a high efficiency particulate air filter capable of filtering out monodisperse particles of 0.3 microns or greater in diameter from a body of air at 99.97 percent efficiency or greater.

(15) "Intact surface" or "intact paint" shall mean paint or other similar surface coating material that is not peeling.

(16)
(aa) "Lead based paint", for the purposes of this Code, shall mean paint or other similar surface coating material containing 1.0 milligram of lead per square centimeter (mg/cm²) 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 Characteristic Sheets (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 and the PCS published by the EPA and HUD for the specific XRF instrument used. If a PCS is not available for the instrument used for testing, readings shall be classified in accordance with Title 10, New York Codes, Rules and Regulations (N.Y.C.R.R.) Section 67-2.4 or its successor regulation. XRF results which fall within the inconclusive zone, as determined by the PCS or Title 10 N.Y.C.R.R. Section 67-2.4(a)(1) and (a)(2) shall be confirmed by laboratory analysis of paint chips, results shall be reported in mg/cm² 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/cm². 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.

(bb) For the purposes of violations of the Housing Maintenance Code, "lead based paint" shall mean paint or other similar surface coating material as specified in Section 27-2013(h) of the New York City Administrative Code or any amendments or successor thereto.

(17) "Lead dust test" shall mean a test for the lead content of dust on floors, window wells, and window sills in an apartment.

(18) "Owner" shall mean the owner, operator, managing agent or other person in control of the premises, dwelling, or dwelling unit subject to this section.

(19) "Peeling" when used to describe a condition of paint or other similar surface coating material shall mean paint or other similar surface coating material that is peeling, cracking, scaling, flaking, blistering, chipping, or loose in any manner, such that there exists any space or pocket of air behind any portion thereof or such that the paint is not completely adhered to the underlying surface.

(20) "Removal" means removal of lead based paint from a building component, including but not limited to a wall, ceiling, floor, door, window frame, or molding, without removing such component from the building.

(21) "Replacement" shall mean removing components (such as windows, doors, and trim) that have lead based paint and installing components free of lead based paint.

(c) Administrative requirements.

(1) Filing procedures.

(aa) No less than twenty-four and no more than ninety-six hours prior to the commencement of a lead based paint

abatement, the owner of the premises subject to the abatement, or the deleader-contractor retained by the Department of Housing Preservation and Development, shall file with the Department of Health, a notice of the commencement of the abatement. Such notice shall be signed by the owner or, when applicable, by the deleader-contractor retained by the Department. Where abatement is required to be completed in a lesser period of time than that specified herein for the filing of a notice of commencement of abatement, then such filing shall be made as soon as practicable but prior to the commencement of abatement.

(bb) Such notice shall be in a form satisfactory to or prescribed by the Department and shall set forth at a minimum the following information:

(i) The address of the building and the specific location of the lead based paint abatement within the building.

(ii) The name, address and telephone number of the owner of the premises in which the lead based paint abatement is to be performed.

(iii) The name, address and telephone number of the deleader-contractor who will be responsible for performing the abatement.

(iv) The date and time of commencement of the work, working or shift hours, and the expected date of completion.

(v) A complete description and identification of the surfaces and structures to be abated and the method(s) of abatement for each surface or structure.

(cc) The Department or the Department of Environmental Protection may inspect a lead based paint abatement which is subject to this section. Such inspection shall include but not be limited to the premises where abatement is being conducted and any other areas affected by the emission or release of lead dust or the disturbance of lead based paint caused by the abatement.

(dd) Any changes in the information contained in the notice required by paragraph (bb) above, shall be filed with the Department of Health, prior to commencement of work, or if work has already commenced, within twenty-four hours of any change.

(ee) The filing of a notice pursuant to this section shall be accompanied by the payment of a fee which shall be established by the Commissioner in accordance with Chapter 45 of the New York City Charter. Such fee shall not be refundable.

(2) Licensing and training. No person shall perform an abatement who has not complied with all federal, state and other applicable law requiring training, licensing, certification, or other authorization to carry on the activities specified in this section.

(3) Recordkeeping.

(aa) The owner and deleader-contractor shall make and keep a record of the following information for every lead based paint abatement performed: name and address of deleader-contractor responsible for the abatement; the location and description of the project, and location of lead based paint which was abated; starting and completion dates of the abatement; and summary of the abatement methods employed.

(bb) The owner and deleader-contractor shall maintain all records and environmental test results, including dust testing results used for the purpose of determining whether the abatement area is cleared for re-occupancy, and the results of any dust testing conducted after re-occupancy.

(cc) The owner and deleader-contractor shall retain such required records for seven years after the date of completion of the abatement, or for such other time period as may be required by law or regulation. Such records shall be available for inspection by employees of the Department and the Departments of Housing Preservation and Development and Environmental Protection upon demand.

(d) Methods of lead based paint abatement.

Whenever lead based paint abatement is ordered and an abatement method is specified in such order or authorized by the Department of Housing Preservation and Development, that specified method of abatement shall be limited to the following:

(1) Wet scraping and repainting.
(aa) Peeling paint shall be removed, using a scraper and water misting to reduce lead dust levels.

(bb) Scraped surfaces shall be re-sealed with a primer, where appropriate, and (two) 2 coats of non-lead based paint.

(2) Removal.

(aa) Paint shall be removed by planing or by chemical stripping not otherwise prohibited by this Code, or other applicable laws, rules and regulations.

(bb) The following methods of paint removal shall be prohibited: grinding or sanding without HEPA exhaust, heat gun operating above 1100 degrees Fahrenheit, open flame gas fired torch, dry scraping, uncontained hydro-blasting, dry abrasive blasting, chemical strippers containing methylene chloride or any other substances which are known or suspected human carcinogens, as specified in United States Environmental Protection Agency Guidelines for Carcinogen Risk Assessment, Federal Register, 51 Fed. Reg. 33992 et seq., September 24, 1986, or its successor document, guideline or codification.

(3) Enclosure.

(aa) All loose and hanging lead based paint shall be removed while damp, using a scraper and water misting to reduce dust levels. Enclosure of walls shall be accomplished with sheet rock, panelling or other materials deemed acceptable to the Department.

(bb) Window sills and other protruding chewable surfaces shall be enclosed using wood, metal, rigid vinyl or other material approved by the Department.

(cc) All seams shall be tightly sealed following enclosure.

(dd) Abated surfaces shall be sealed, where appropriate, with a primer and two coats of non-lead based paint, or other non-lead based surface-coating material.

(ee) Enclosure shall not be performed where lead painted structures cannot support the

weight of the enclosure or are not structurally sound. Defective structures shall be repaired prior to enclosure.

(4) Encapsulation.

(aa) Surfaces shall be prepared in accordance with manufacturers' instructions.

(bb) Encapsulation shall be performed with an encapsulant approved by the manufacturer for the intended use.

(cc) The following materials may not be used as encapsulants: wallpaper, contact paper, or a new coat of paint.

(dd) Encapsulation shall not be performed where lead based painted structures cannot support the weight of the encapsulant or are not structurally sound.

(ee) Encapsulation shall not be used unless ordered or authorized by the Department or by the Department of Housing Preservation and Development.

(5) Replacement. When, components or surfaces such as doors, trim, window sills and other surfaces are replaced or friction surfaces are removed or replaced, such replacement shall be performed in accordance with the provisions of subsection (e)(2)(bb) of this section.

(6) Any other method approved, directed or ordered by the Commissioner.

(e) Safety standards.

(1) Compliance, persons liable.

(aa) All persons specified in §17-144 of the New York City Administrative Code, including the deleader-contractor and the deleader-supervisor, shall ensure that all abatement is in compliance with this section, and shall be jointly and severally liable for violations of this section.

(bb) The owner, the deleader-contractor and the deleader-supervisor shall ensure that all areas where deleader-workers are to perform lead based paint abatement work of any kind shall be arranged, equipped, and supervised in a manner which will minimize the possibility of lead contaminants or

lead-contaminated materials escaping from the abatement area. The deleader-supervisor shall inspect the abatement area each day, during the preparation of the abatement area, during the performance of the abatement, and during clean-up and final inspection.

(cc) The owner, the deleader-contractor and the deleader-supervisor shall comply with all applicable federal, state and local law, rules and regulations regarding disposal of waste paint and other waste containing lead.

(2) Abatement area preparation.

(aa) Wet scraping and repainting, encapsulation, or enclosure of surfaces not exceeding six (6) square feet per room.

(i) No later than twenty-four hours prior to beginning abatement area preparation a warning sign of at least 8-1/2" by 11" shall be conspicuously posted adjacent to the abatement area and shall read in letters at least one inch high, as follows: WARNING: LEAD PAINT REMOVAL HAZARD - DO NOT ENTER UNLESS AUTHORIZED. The sign shall remain in place until abatement areas have been cleared for re-occupancy. No later than twenty-four hours prior to beginning abatement area preparation, the notice required by subsection (c)(1)(aa) of this section, printed in English and Spanish, and other languages as may be required by the Department, shall be posted at the entrance to the dwelling and at the entrance to the dwelling unit, if applicable, and shall include, in addition to the information required by subsection (c)(1)(bb) of this section, the telephone numbers and addresses of the agencies to which complaints relating to the abatement may be directed, and such other information as the Department may require. Where abatement is required to be completed in a lesser period of time than that specified herein for the posting of a warning sign or the posting of the notice of commencement of abatement, than such posting shall be made as soon as practicable but prior to the commencement of abatement.

(ii) All movable furniture, draperies, carpets, or other objects shall be HEPA-vacuumed or washed, then moved out of the abatement area or otherwise covered with two layers of six-mil disposable polyethylene sheeting before abatement begins. Such sheeting shall

be taped together with waterproof tape, and taped to the floors or bottom of the walls or baseboards, so as to form a continuous barrier to the penetration of dust.

(iii) Before abatement begins and continuously during abatement the floor immediately under the surface to be abated and extending six feet outward in all directions, shall be covered with two layers of disposable polyethylene sheeting of at least six-mil thickness. Such sheeting shall be taped together with waterproof tape, and taped to the floors and, on walls and baseboards that are not being abated, shall extend six (6) inches up the walls or baseboards from the floor, so as to form a continuous barrier to the penetration of dust.

(iv) Forced-air systems within the room where abatement is occurring shall be turned off and covered with two layers of six-mil polyethylene sheeting and water proof tape to prevent lead contamination and lead dispersal to other areas.

(v) Violations or conditions that cause or may cause paint to peel and which are readily observable and identifiable as to source, including but not limited to water leaks, shall be corrected as part of the abatement.

(vi) Abatement shall not commence until abatement area preparation has been completed.

(vii) Occupants shall be instructed by the owner and deleader-contractor to avoid entering the abatement area until final clearance levels have been achieved.

(bb) Wet scraping and repainting, encapsulation, or enclosure of surfaces greater than six (6) square feet per room, removal, or replacement.

(i) The procedures described under subsection (e)(2)(aa)(i), (ii), (iv), (v) and (vi) of this section, shall be followed.

(ii) The contractor shall seal off the abatement area to restrict access or entry to the abatement area by occupants until all abatement work, clean-up, and final inspections (including collection and analysis of dust wipe samples) and final clearance for re-occupancy is achieved.

(iii) After all movable objects have been removed, the abatement area shall be sealed off from non-abatement areas by taping with

waterproof tape, two layers of disposable, six-mil polyethylene sheeting over every entrance or doorway to the abatement area, as follows: One sheet shall be taped to the top and one side of each entrance or doorway. A second shall be attached at the top and the opposite side, creating an S-shaped entry-way to deter dispersal of lead dust.

(iv) The floor of the abatement area shall be covered with at least two sheets of disposable six-mil polyethylene sheeting. Such sheeting shall be taped together with waterproof tape, and taped to the bottom of the walls or baseboard, so as to form a continuous barrier to the penetration of dust to the floor. The furniture and non-movable furnishings, such as counters, cabinets, and radiators in the abatement area shall be removed or covered with such taped sheeting.

(v) All openings, including windows, except those required to be open for ventilation, not sealed off or covered in accordance with subsection (e)(2)(bb)(iii) of this section, shall be sealed with two layers of six-mil polyethylene sheeting and waterproof tape to prevent the penetration or dispersal of lead contaminants or lead-contaminated material.

(3) Health and safety protection.

(aa) Abatement work shall be carried out in such a manner as to minimize the penetration or dispersal of lead contaminants or lead-contaminated materials from the abatement area to other areas of the dwelling unit and building or adjacent outdoor areas.

(bb) All paints, thinners, solvents, chemical strippers or other flammable materials shall be delivered to the building and maintained during the course of the work in their original containers bearing the manufacturer's labels, and all material safety data sheets, as may be required by law, shall be on-site and shall be made available upon request to the occupants of the dwelling unit.

(cc) Upon finishing work for the day, all rags, cloths and other supplies used in conjunction with chemical strippers or other flammable materials, or materials contaminated with lead dust or paint shall be stored at the end of each work day in sealed containers or removed from the premises, in a lawful

manner.

(dd) In addition to the precautions specified in this subsection, any area designated as a clean changing area shall be segregated from the abatement area by a physical barrier to prevent the penetration or dispersal of lead contaminants or lead-contaminated materials from the abatement area to other areas of the dwelling unit and building and to prevent occupant exposure to materials containing lead.

(4) Clean-up procedures for all abatements of surfaces exceeding two (2) square feet per room, all abatements of radiators, door frames, window frames and sills, and all abatements ordered by the Department in relation to a child under 18 years of age with a blood-lead level of 20 micrograms per deciliter or higher shall be as follows:

(aa) Daily clean-up. At the completion of work each day, the abatement area shall be thoroughly wet-mopped or HEPA vacuumed. No polyethylene sheeting, drop cloths, or other materials that are potentially hazardous to young children or infants shall be accessible outside the abatement area. In addition, any abatement area and other adjoining area exposed to lead or lead contaminated materials shall be cleaned as follows:

(i) Large debris. Large demolition-type debris (e.g., door, windows, trim) shall be wrapped in six-mil polyethylene, sealed with waterproof tape, and moved to the area designated for trash storage on the property to be properly disposed of in a lawful manner.

(ii) Small debris. Small debris shall be HEPA-vacuumed or wet swept and collected. Before wet sweeping occurs, the affected surfaces shall be sprayed with a fine mist of water to keep surface dust from becoming airborne. Dry sweeping is prohibited. The swept debris and all disposable clothing and equipment shall be placed in double four-mil or single six-mil plastic bags which shall be sealed and stored along with other contaminated debris in the work area and shall be properly disposed of in a lawful manner.

(iii) Clean-up adjacent to the abatement area. On a daily basis, as well as during final

clean-up, the area adjacent and exterior to the abatement area shall be examined visually to ensure that no lead debris has escaped containment. Any such debris shall be wet swept and HEPA vacuumed, collected and disposed of as described above.

(bb) Final clean-up. The final cleaning process shall start no sooner than one (1) hour after abatement activities have been completed, but before repainting, if necessary. Final clean-up shall be performed in the following sequence:

(i) First, all polyethylene sheeting shall be sprayed with water mist and swept prior to removal. Polyethylene sheeting shall be removed by starting with upper-level polyethylene, such as that on windows, cabinets and counters, folding the corners, ends to the middle, and placing in double four-mil or single six-mil plastic bags. Plastic bags shall be sealed and properly disposed of in a lawful manner.

(ii) Second, all surfaces in the abatement area shall be HEPA vacuumed. Vacuuming shall begin with ceilings and proceed down the walls to the floors and include furniture and carpets.

(iii) Third, all surfaces in the abatement area shall be washed with a detergent solution. Washing shall begin with the ceiling and proceed down the walls to the floor. Wash water shall be properly disposed of in a lawful manner.

(iv) Fourth, all surfaces exposed to lead dust generated by the abatement process shall be HEPA vacuumed again. Vacuuming shall begin with ceilings and proceed down the walls to the floors and include furniture and carpets.

(v) Fifth, all surfaces shall be inspected to ensure that all surfaces have been abated and all visible dust and debris have been removed. If all visible dust and debris have not been removed, affected surfaces shall be re-cleaned.

(cc) Final inspection: After final clean-up, and re-painting if necessary, has been completed, a final inspection shall be made by a third party retained by the owner who is familiar with and experienced in lead based paint abatement and the procedures required by this Code, and who is independent of the

owner and the deleader-contractor. The final clearance evaluation shall take place at least one (1) hour after the final cleaning. Such inspection shall include:

(i) a visual inspection

(ii) surface dust testing using a protocol approved by the Department. Samples shall be tested for lead by an environmental laboratory approved by the New York State Department of Health. Three wipe samples shall be collected and tested from each room or area where an abatement has been conducted; one wipe sample each shall be taken from a window well, a window sill and the floor. In addition, wipe samples shall be collected and tested from the floor in rooms or areas immediately adjacent to the abatement area.

(dd) Clearance for re-occupancy. Dust levels in excess of the following constitute contamination and require repetition of the clean-up and testing process in all areas where such levels are found. Areas where every sample result is at or below the following may be cleared for re-occupancy.

Floors: 100 micrograms of lead per square foot.

Window Sills: 500 micrograms of lead per square foot.

Window Wells: 800 micrograms of lead per square foot.

Only upon receipt of laboratory test results showing that the above levels are not exceeded in the dwelling may the abatement area be cleared for re-occupancy. However, rooms or areas may be re-occupied pending dust test results, where occupancy is deemed to be necessary, provided that the clean-up procedures, specified in subsection (e)(4)(bb) of this section have been followed, the visual inspection and collection of dust wipe samples required by subsection (e)(4)(cc) have been completed, and provided further, that such rooms are identified in the notice required by subsection (c)(1)(aa) of this section, and are approved for re-occupancy in accordance with subsection (g) of this section. Upon request, clearance

test results shall be provided to the occupant(s) of the dwelling.

(5) Except with regard to radiators, door frames, window frames and sills, and except for abatements ordered by the Department in relation to a child under 18 years of age with a blood-lead level of 20 micrograms per deciliter or higher, clean up procedures for all abatements of surfaces not exceeding two (2) square feet per room shall consist of the procedures specified in paragraphs (aa); (bb) (i), (ii), (iii) and (v); and (cc) (i) of subdivision (4) thereof.

(6) Safety standards for other abatement methods approved by the Commissioner pursuant to subsection (d)(6) of this section shall be as directed by the Commissioner.

(7) With respect to abatements ordered by the Commissioner, the owner shall provide clearance test results to the Department upon request. Such clearance test results shall be provided in a manner and form specified by the Department.

(f) Declaration pursuant to Administrative Code §17-145. The existence of a lead based paint condition or lead based paint hazard pursuant to §173.13 of this Code, or a failure to comply with this section is hereby declared to constitute a public nuisance and a condition dangerous to life and health, pursuant to §17-145 of the New York City Administrative Code. Every person obligated to comply with the provisions of this section or §173.13 of this Code, is hereby ordered to abate such nuisance by complying with any order or direction issued by the Department or the Departments of Housing Preservation and Development and Environmental Protection. For the purpose of service, pursuant to §17-148(c), it is further declared that such public nuisance and conditions are widespread throughout the city and further that personal service or service pursuant to subdivisions (a) or (b) of §17-148 of the Administrative Code of orders requiring the abatement of such nuisance and conditions upon each of the persons who has a duty to abate such nuisance or condition, would result in imminent peril and delay prejudicial

to the public health, welfare and safety.

(1) **Modification by Commissioner.** When the strict application of any provision of this section presents practical difficulties or unusual hardships, the Commissioner, or the Commissioner of Environmental Protection when designated to receive filings of notices of commencement of abatement, pursuant to subsection (c)(1)(aa), on a case by case basis, may modify the application of such provision consistent with the general purposes of this section provided that clean-up requirements are met. When granting a modification the Commissioner, or the Commissioner of Environmental Protection, may impose such conditions as are necessary in the opinion of the Commissioner, or the Commissioner of Environmental Protection, to prevent lead contamination and to protect the health and safety of any persons likely to be exposed to lead as a consequence of the abatement..

Note: Owners must certify correction of the violation within five days of the date set for correction. Owners must use the form provided on the notice of violation to certify, and must provide all of the documentation specified thereon.

SECTION D. WHEN A PRE-1960 DWELLING UNIT IN A MULTIPLE DWELLING BECOMES VACANT, AN OWNER MUST COMPLETE THE FOLLOWING ACTIONS PRIOR TO REOCCUPANCY OF THE UNIT:

- (1) Where practicable and not otherwise prohibited, seal off the work area to restrict access or entry to such work area until all work and clean-up are achieved;
- (2) Wet scrape all peeling paint using a scraper and water misting to reduce dust and other work-related debris and repair all deteriorated subsurfaces where such subsurfaces are covered with paint;
- (3) HEPA-vacuum all affected surfaces and the floors in the work area or wash all

- surfaces in the work area with a detergent prior to repainting to remove any dust that may have accumulated and provide for the disposal of any peeling paint or materials that may contain peeling paint, paint chips, dust and other work-related debris in accordance with all applicable laws, rules and regulations;
- (4) Repaint all areas affected and provide that all paint, thinners, solvents, primers, chemical strippers or other such flammable materials in the work area shall be kept in their original containers;
 - (5) Make all bare floors in the dwelling unit smooth enough so that dust can be removed by normal cleaning without special equipment;
 - (6) Adjust all doors, including cabinet doors, to ensure that they are properly hung, so that no painted surfaces bind;
 - (7) Adjust all windows to ensure that they are properly hung, so that no painted surfaces bind;
 - (8) Provide that any supplies, materials, equipment or disposable clothing used in the work area that may contain peeling paint, paint chips, dust and other work-related debris shall be stored and disposed of in a safe and workmanlike manner to minimize exposure of occupants of the multiple dwelling to such supplies, materials, equipment or disposable clothing during the course of the work;
 - (9) The owner shall maintain or transfer to subsequent owners records of any work performed pursuant to this section. Such records shall be maintained for three years and made available to HPD upon request. Such records 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.
 - (10) An owner shall certify that he or she has complied with §27-2056.6 of Article 14 and the rules promulgated thereunder regarding work in vacant units, in the notice provided to an occupant pursuant to Article 14 upon 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.

Note: Failure to comply with the vacancy provisions constitutes a class C immediately hazardous violation of the Housing Maintenance Code.

SECTION E. TO CONTEST A LEAD BASED PAINT HAZARD VIOLATION THAT IS BASED UPON A PRESUMPTION OF LEAD BASED PAINT, AN OWNER MUST TAKE THE FOLLOWING ACTION (NOTE: USE THE FORM PROVIDED BY HPD):

(1)The registered owner or registered officer or director of a corporate owner or registered managing agent may apply to contest a lead paint hazard violation. To do so, such owner or agent must submit to the department:

- (i) 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;
- (ii) a sworn written statement by the person who performed the testing or sampling 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;
- (iii) 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;
- (iv) and a copy of the results of testing and/or of laboratory tests of paint chip samples performed by an independent laboratory certified by the state of New York where such testing has been performed.

(2) Where testing or sampling is performed to rebut the presumption established in Article 14 of the Housing Maintenance Code, the performance of such testing shall be in accordance with the definition

for lead-based paint established in §27-2056.1(a)(3) of Article 14 and the rules promulgated thereunder. 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.

- (3) 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".
- (4) Testing performed to rebut the presumption set forth in Article 14 of the Housing Maintenance Code 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.
- (5) The contestation form 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 containing all of the required information and supporting documents shall toll the time period to correct the violation. Receipt of an incomplete application shall not toll the time period for correction.
- (6) The department shall notify the registered owner, registered officer or director of a corporate owner or registered managing agent of the multiple dwelling of its determination in writing, and, if the department determines that the

presumption has not been rebutted, such notice shall set a date for correction of the violation.

SECTION F. TO REQUEST A POSTPONEMENT OF THE TIME TO CORRECT A LEAD HAZARD VIOLATION, AN OWNER MUST TAKE THE FOLLOWING ACTION (NOTE: USE THE FORM PROVIDED BY HPD):

- (1) A registered owner or registered officer or director of a corporate owner or registered managing agent 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**. No such application shall be accepted by the department after such date.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.

- (6) 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.