

# Local Law 1 of 2004

---

## A Summary

Department of Housing Preservation and  
Development

*Shaun Donovan, Commissioner*

# Local Law 1 of 2004

---

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

# Issues Addressed

---

- Owner's responsibility to maintain
- HPD Enforcement
- J51
- Day Care Centers
- Other

# Owner Responsibilities

---

- Remediate Lead Hazards
- Notify Tenants and Investigate
- Correct Lead Hazards Using Safe Work Practices
- Make Apartments Lead Safe on Turnover
- Do All Repairs and Renovations Using Safe work Practices

## Owner Responsibilities

# Remediate Lead Hazards

---

- Owners must prevent the reasonably foreseeable occurrence of lead hazards and remediate them, and the underlying defects that may cause lead hazards, using safe work practices
  - ❖ In apartments
  - ❖ In common areas
- In pre-1960 building, paint is presumed to be lead paint

# Remediate Lead Hazards

---

- A Lead Hazard is any condition that causes exposure to lead contaminated dust from:
  - ❖ Peeling lead based paint
  - ❖ Deteriorated sub-surfaces
  - ❖ Friction surfaces
  - ❖ Impact surfaces
  - ❖ Chewable surfaces

## Owner Responsibilities

# Remediate Lead Hazards

---

### ■ Friction Surface

- ❖ Lead painted surfaces that abrade, scrape or bind

### ■ Chewable Surface

- ❖ Any window sill reachable by a child whether intact or deteriorated
- ❖ Any other edge or protrusion that:
  - Shows evidence of being chewed, or
  - Tenant has notified owner that it has been chewed

## Owner Responsibilities

# Notify Tenants and Investigate

---

- Obligation applies to
  - ❖ Pre-1960 multiple dwellings
  - ❖ Post-1960 to pre-1978 buildings where the owner knows that there is lead based paint
- Must investigate dwelling units where children under 7 reside, and common areas, to find peeling paint, chewable surfaces, deteriorated subsurfaces, friction and impact surfaces
- The investigation must be conducted annually, and more often if the owner knows of a condition that may cause a lead hazard, or the occupant complains about such a condition



## Owner Responsibilities

# Notify Tenants and Investigate

---

- At Lease up and Renewal
  - ❖ Must inquire if child under 7 will live there
  - ❖ Lease must contain notice of owner's responsibilities
  - ❖ Must provide pamphlet on lead paint hazards

## Owner Responsibilities

# Notify Tenants and Investigate

---

### ■ Annual Notice

- ❖ Must send notice between January 1 and January 16 each year inquiring as to presence of child
- ❖ Tenant must respond by February 15
- ❖ If no response, owner must inspect between February 16 and March 1 to determine presence of child
- ❖ If no access must notify DOHMH
- ❖ If there is a child, then must inspect to determine lead hazards
- ❖ Must inform tenant of results of investigation

## Owner Responsibilities

# Correct Lead Hazards

---

- Owner must correct lead hazards that are found
  - ❖ Must use workers trained in lead safe practices
  - ❖ Must use third party for clearance dust test
  - ❖ Must provide clearance dust test results to tenants
- Within 21 days, owner must correct any HPD violation issued
  - ❖ Must use EPA trained workers
  - ❖ Must use third party for clearance dust test
  - ❖ Must provide clearance dust test results to HPD

## Owner Responsibilities

# Lead Safe on Turnover

---

- In all pre-1960 multiple dwelling units and pre-1960 private dwelling units that are not owner-occupied:
  - ❖ Remediate lead hazards
  - ❖ Make floors, sills and wells cleanable
  - ❖ Remove or permanently cover all lead on friction surfaces of doors, door frames and windows
  - ❖ Use safe work practices

## Owner Responsibilities

# Repair and Renovation

---

- For any work of more than 2 sq ft in a pre-1960 multiple dwelling or 1960-78 multiple dwelling where the owner has actual knowledge of lead paint:
  - ❖ In a unit with a child or
  - ❖ In the common areas of building with a child
    - Must use workers trained in lead safe practices
    - Must use third party for clearance dust test
    - Must provide clearance dust test results to tenants
    - Must relocate if necessary

## Owner Responsibilities

# Repair and Renovation

---

- For any work of more than 100 sq ft or the removal of two or more windows in a pre-1960 multiple dwelling or 1960-78 multiple dwelling where the owner has actual knowledge of lead paint:
  - ❖ In a unit with a child or
  - ❖ In common areas where there is a child in the building
    - Must use EPA certified firm
    - Clearance dust test must be done by third party
    - Must provide clearance dust test to tenants
    - Must relocate if necessary
    - Must file with DOHMH 10 days prior to commencement

## Owner Responsibilities

# Repair and Renovation

---

### ■ Emergencies

- ❖ The law specifically exempts from coverage work immediately necessary to safeguard against danger to life, health or safety

# HPD Enforcement Inspections

---

- Complaints from tenants
  - ❖ Must ask if there is child
  - ❖ Must inspect within 10 days



# HPD Enforcement Inspections

---

- When doing inspection, HPD
  - ❖ Must ask tenant for acknowledgment of child
  - ❖ Must perform room by room inspection
  - ❖ Must record for each room whether surfaces are intact
  - ❖ Where peeling paint is found must record condition of underlying surface
  - ❖ Must record any underlying defect
  - ❖ Need not move furniture
  - ❖ Must send Notice of Violation within 10 days
  - ❖ Must leave lead pamphlet

# HPD Enforcement Inspections

---

- Complaint-driven Inspections
  - ❖ Must XRF test conditions simultaneously with inspection
- Line of Sight Inspections
  - ❖ Must XRF test within 10 days of noting peeling paint

# HPD Enforcement

# Inspections

---

## ■ Timeframes

- ❖ Owner has 21 days to correct
- ❖ Owner may seek two postponements of 14 days each
  - May grant longer postponement if pending capital work
- ❖ Certifications must be submitted within 5 days of correction
- ❖ HPD must re-inspect all violations within 14 days
- ❖ ERP must correct within 45 days

## HPD Enforcement

# Inspections

---

- HPD may not remove any violations from its records unless it has conducted a final inspection verifying remediation, and has copies of relevant dust tests.
- HPD must mail a copy of the final inspection report and status to the occupant and owner

## HPD Enforcement

# DOHMH Comm. Order to Abate

---

- If DOHMH issues a COTA for a lead poisoned child in a multiple dwelling, within 15 days HPD must require the owner to submit to HPD all records of notification and investigation within 45 days.
- If records show there may be lead hazards in other units with children under age 7, HPD will inspect all such units within 10 days
- If the owner does not provide the records, HPD must inspect child occupied units in 45 days to determine if there are any lead violations.
- The actions required of HPD are not applicable if HPD has inspected the building within the twelve months preceding the issuance of the COTA

J-51

# Expanded benefit

---

- J-51 is available for abatement of lead hazards
  - ❖ In units occupied by children
- Including the costs of
  - ❖ Permanent abatement
  - ❖ Inspection and risk assessment needed to do the abatement
- Except that work performed to comply with a Notice of Violation under the new lead law is not eligible for benefits

## Day Care

# DOHMH Program for Day Care

---

- Peeling lead paint is prohibited.
- Lead hazards must be remediated.
- Equipment must have lead free paint.
- If a non-complying condition is found, DOHMH must serve the operator with an order to remediate.
- If the order is not complied within 45 days, DOHMH must request an “agency of the City” to execute the order. That agency must execute the order in 45 days.
- Lead hazards must be remediated in compliance with DOHMH safe work practices

Other

# Coop-Condo Exception

---

## ■ Coop – Condo Exception

- ❖ Local Law 1/2004 does not apply to multiple dwelling units where title is held by a coop or condo and the unit is occupied by the shareholder of record or his or her family
  - Tenants and subtenants retain protection of law
- ❖ Validates agreements made between coop tenant shareholders and condo owners and coop and condo boards regarding allocation of responsibility for compliance with the lead law



Other

# Record Keeping

---

- Owners who perform work pursuant to Local Law 1/2004 must
  - ❖ Retain all records relating to such work for ten years from the completion of the work
  - ❖ Make records available to HPD upon demand
  - ❖ Transfer records to the owner's successor in title