



Oct 11, 2024

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Expanded NYC Lead-Based Paint Laws Now in Effect

Labor Day weekend is in the rear view mirror, which means that several recently enacted lead-based paint (LBP) laws for residential properties in New York City have taken effect. In total, these NYC Local Laws significantly expand the requirements imposed by the city on landlords of residential properties constructed before 1980. Landlords of residential properties in NYC should pay close attention to these changes, which are discussed in detail below.

XRF Testing Requirement Expanded to Building Common Areas (Local Law 111 of 2023)

Under [Local Law 31 of 2020](#), owners are required to hire an independent Environmental Protection Agency-certified inspector or risk assessor to conduct an x-ray fluorescence (XRF) test for the presence of LBP in a dwelling unit of a building built prior to 1960, as well as those constructed before 1978 where the owner has actual knowledge of the presence of LBP. [Local Law 111 of 2023](#) expands this requirement to painted areas within the common areas of a residential rental building. Under NYC law, “common area” is defined as “a portion of a multiple dwelling that is not within a dwelling unit and is regularly used by occupants for access to and egress from any dwelling unit within such multiple dwelling.” This definition includes stairwells and hallways.

The existence of LBP in any common area of a multiple dwelling where a child under age 6 resides will constitute a class C immediately hazardous violation if the paint is peeling or on a deteriorated subsurface. A child under age 6 “resides” in a unit if the child routinely spends 10 or more hours per week within the unit. The law also instructs inspectors from NYC Housing Preservation & Development (HPD) to conduct visual inspections of common areas that are along the inspector’s paths to the unit to be inspected, and, if practical, areas in a different line of travel to an exit used by the residents of the unit. Local Law 111 of 2023 became effective in June 2024.

Expedited Lead Abatement Requirements (Local Law 123 of 2023)

Currently, under [Local Law 1 of 2004](#), upon the turnover of a dwelling unit erected prior to 1960, owners are required to: (1) remediate all LBP hazards and any underlying defects, when such underlying defects exist; (2) make all bare floors, window sills, and window wells in the dwelling unit smooth and cleanable; (3) provide for the removal or permanent covering of all LBP on all friction surfaces on all doors and door frames; and (4) provide for the removal or permanent covering of all LBP on all friction surfaces on all windows, or provide for the installation of replacement window channels or slides on all LBP friction surfaces on all windows.

[Local Law 123 of 2023](#) significantly expands these requirements by applying these same corrective measures to all units with children under age 6 by July 1, 2027, or within three years after a child under age 6 begins to reside in the unit. This work must be completed even if it means the abatement work is performed while the tenants are still occupying the unit.

If the occupant of the dwelling unit must temporarily relocate for the owner to safely perform the remedial work but refuses to relocate, the owner may be exempt from compliance by submitting documentation to HPD showing its good faith effort to perform the work. The exemption would remain in effect until the unit is turned over. Owners are advised to maintain records to show their good faith efforts to relocate the tenants. Local Law 123 was effective on September 1, 2024.

New Record-Keeping Requirements (Local Law 122 of 2023)

Owners must maintain records related to activities conducted under Local Law 1 for at least 10 years. Under [Local Law 122 of 2023](#), as of September 1, 2024, whenever HPD issues an immediately hazardous LBP violation, owners must now submit records of the annual notice and, where appropriate, records of investigations conducted by the owner for the immediately previous year. And, starting on August 1, 2025, owners also will be required to submit records of XRF-test analyses in dwelling units and common areas. Lastly, the new requirements provide a reprieve for owners to

resolve record-keeping violations even if they cannot produce all historical documents pursuant to an HPD audit request. Record-keeping violations issued by HPD may now be dismissed if owners submit records for a period of at least three consecutive years, including the records in which the owner is submitting the dismissal request, along with a \$1,000 payment for each year of the 10 years that the owner does not submit documentation.

Gibbons will continue to monitor and report developments in this area.

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