

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2020**

No. 28

Introduced by Council Members Chin, Koslowitz, Kallos, Lander, Louis, Cumbo, Ayala, Holden, Barron, Rivera and Dromm.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to permanent removal of lead-based paint

Be it enacted by the Council as follows:

Section 1. The heading of subchapter 2 of chapter 9 of title 17 of the administrative code of the city of New York, as amended by local law number 64 for the year 2019, is amended to read as follows:

Subchapter 2

Remediation of Lead-Based Paint Hazards in *Schools and Facilities Providing Day Care Services*

§ 2. The definition of “covered facility” in section 17-920 of the administrative code of the city of New York, as amended by local law number 64 for the year 2019, is amended to read as follows:

Covered facility. The term "covered facility" means the [interior and exterior of a building, structure, area or premises where day care services are provided, except that for programs] *rooms, areas and other spaces* regulated by [article] *articles 43 or 47* of the New York city health code[, "covered facility" means the rooms and areas of a school facility used to provide such day care services].

§ 3. Section 17-924 of the administrative code of the city of New York, as amended by local law number 71 for the year 2019, is amended to read as follows:

§ 17-924 Annual survey for lead-based paint hazards. *a.* The operator of a covered facility shall conduct a survey of such facility annually, and more often if necessary, to determine the physical condition of surface-coating material throughout each such facility and shall provide a copy of the survey results (i) to the department, which will make the information publicly available online, and (ii) to the parent or guardian of each child that attends such facility, as required by rules of the department. *The department may require by rule that such annual survey be submitted electronically.*

b. In a covered facility located in a school operated by the department of education, the survey required by subdivision a of this section shall include rooms and areas where children of an applicable age are located, including classrooms, libraries, cafeterias, and gymnasiums designated for use by such children of an applicable age. A room or area of a school operated by the department of education may not be designated for use as a covered facility unless such room or area has, within the prior year, been included in a survey conducted in accordance with this section.

c. In addition to the requirements of this section, department of education shall conduct a survey of classrooms in a covered facility located in a school operated by the department at least three times a year to determine the physical condition of surface-coating material in classrooms and shall provide a copy of the survey results (i) to the department, which will make the information publicly available online, and (ii) to the parent or guardian of each child that attends such facility, as required by rules of the department.

§ 4. Subdivisions a and b of section 27-2056.7 of the administrative code of the city of New York, subdivision a as amended by local law number 66 for the year 2019, and subdivision b as added by local law number 1 for the year 2004, are amended, and a new subdivision b-1 is added, to read as follows:

a. When the department of health and mental hygiene issues a commissioner's order to abate pursuant to section 173.13 of the New York city health code or a successor rule that addresses lead-based paint hazards or unsafe lead paint in a specific dwelling unit in a multiple dwelling, the department, within [fifteen] *15 days of the receipt* of such order, shall notify the owner of the multiple dwelling where the dwelling unit is located that the owner shall, within [forty-five] *45* days of the department's notice, provide to the department all records required to be maintained under this article. Upon the department's receipt of those records and a determination that there may exist uncorrected lead-based paint hazards in dwelling units where a child of applicable age resides, the department within [ten] *10 days of the end of the record order production period*, shall attempt to inspect [such] units *where a child of applicable age resides* to determine whether there are any violations of [section] *sections 27-2056.6 [of this article] or 27-2056.8*.

b. If the owner does not provide to the department the records as mandated by subdivision a of this section, the department shall within [forty-five] *45* days of such failure attempt to inspect dwelling units where a child of applicable age resides to determine whether there are any violations of [section] *sections 27-2056.6 [of this article] or 27-2056.8* in such units.

b-1. 1. Inspections pursuant to this section shall be conducted in accordance with section 27-2056.9. If a tenancy began after the earliest date for which a record is required to be provided to the department pursuant to subdivision a of this section, the department shall issue a violation

pursuant to subdivision c of section 27-2056.8 to any owner who has failed, in response to a demand by the department and in accordance with rules of the department, to produce a record required to be retained by this article pertaining to compliance with the provisions of section 27-2056.8, where (i) the department obtains information from the tenant or another source regarding the date upon which the current tenancy of such dwelling unit began, and (ii) no violation is issued pursuant to subdivision d-1 of section 27-2056.9.

2. A property owner may rebut the information provided by the tenant or another source in accordance with this subdivision regarding the date upon which the current tenancy of such multiple dwelling unit began by submitting documents in accordance with rules of the department. A property owner may correct a violation of section 27-2056.8 by abating the friction surface that tested positive and either (i) providing results of XRF tests for all other window and door friction surfaces within the dwelling unit that demonstrate such surfaces do not contain lead based paint, or (ii) providing documentation satisfactory to the department to demonstrate appropriate abatement of all other window and door friction surfaces within the dwelling unit.

§ 5. Subdivision c of section 27-2056.8 of the of the administrative code of the city of New York, as added by local law number 1 for the year 2004, is amended to read as follows:

c. Any owner who fails to comply with the provisions of subdivision a of this section, or the rules of the department of health and mental hygiene or the department promulgated pursuant to [section 27-2056.11(a)(3)] *paragraph 3 of subdivision a of section 27-2056.11 as determined by subdivision d-1 of section 27-2056.9* shall be liable for a class C immediately hazardous violation. *An owner who is presumed to have failed to comply with the provisions of subdivision a of this*

section or such rules, pursuant to an audit as provided in section 27-2056.7 or section 27-2056.17, shall be liable for a class B violation and a civil penalty in an amount not to exceed \$1500.

§ 6. Section 27-2056.9 of the administrative code of the city of New York is amended by adding a new subdivision d-1, after subdivision d and before subdivision e, to read as follows:

d-1. When conducting an inspection pursuant to this section, the department shall attempt to obtain information from the tenant or another source regarding the date upon which the current tenancy of such dwelling unit began. If the tenancy began after August 2, 2004 and the inspection pursuant to this section indicates a failure by the owner to comply with the requirements of section 27-2056.8, the department shall issue a violation pursuant to subdivision c of section 27-2056.8. A property owner may rebut the information provided by the tenant or another source regarding the date upon which the current tenancy of such multiple dwelling unit began by submitting documents in accordance with rules of the department. A property owner may correct a violation of section 27-2056.8 by abating any friction surface that tested positive or is presumed to contain lead based paint pursuant to section 27-2056.5, and either (i) providing results of XRF tests for all window and door friction surfaces within the unit that demonstrate such surfaces do not contain lead based paint, or (ii) providing documentation satisfactory to the department to demonstrate appropriate abatement of all other window and door friction surfaces within the dwelling unit.

§ 7. Subdivision c of section 27-2056.17, as added by local law number 70 for the year 2019, is relettered subdivision e, and two new subdivisions c and d are added to read as follows:

c. The department shall issue a violation pursuant to subdivision c of section 27-2056.8 to any owner who fails, in response to a demand by the department and in accordance with rules of the department, to produce a record required to be retained by this article pertaining to compliance

with the provisions of section 27-2056.8 if the department obtains information from the tenant or another source regarding the date upon which the current tenancy of such dwelling unit began. Such owner may rebut such information provided by the tenant or another source by submitting documents in accordance with rules of the department.

d. The department shall issue a violation pursuant to section 27-2056.4 to any owner who fails, in response to a demand by the department and in accordance with rules of the department, to produce within 45 days of such request such records as are required to be retained by this article pertaining to compliance with the provisions of section 27-2056.4.

§ 8. Paragraph (1) of subdivision (l) of section 27-2115 of the administrative code of the city of New York, as added by local law number 1 for the year 2004, is amended to read as follows:

(l)(1) Notwithstanding any other provision of law, when the department serves a notice of violation to correct and certify a condition that constitutes a violation of article fourteen of subchapter two of this chapter, the notice of violation shall specify date by which the violation shall be corrected, which shall be twenty-one days after the service of the notice of violation *for a class C violation and thirty days after the service of the notice of violation for a class B violation*, and the procedure by which the owner, for good cause shown pursuant to this subdivision, may request a postponement. The notice of violation shall further specify that the violation shall be corrected in accordance with the work practices established in accordance with section 27-2056.11 of this code. The notice of violation shall be served by personal delivery to a person in charge of the premises or to the person last registered with the department as the owner or agent, or by registered or certified mail, return receipt requested, or by certified mail with proof of delivery, to the person in charge of the premises or to the person last registered with the department as the

owner or agent; provided that where a managing agent has registered with the department, such notice of violation shall be served on the managing agent. Service of the notice of violation shall be deemed completed three days from the date of mailing. Notification, in a form to be determined by the department, of the issuance of such violation shall be sent simultaneously by regular mail to the occupant at the dwelling unit that is the subject of such notice of violation. The department may postpone the date by which a violation shall be corrected upon a showing, made within the time set for correction in the notice, that prompt action to correct the violation has been taken but that full correction cannot be completed within the time provided because of serious technical difficulties, inability to obtain necessary materials, funds or labor, inability to gain access to the dwelling unit wherein the violation exists, or such other portion of the building as may be necessary to make the required repair. Such postponement shall not exceed fourteen days from the date of correction set forth in the notice of violation. The department may require such other conditions as are deemed necessary to insure correction of the violations within the time set for the postponement. The department may grant one additional postponement of no more than fourteen days for the reasons authorized by this section so long as the paint or other condition which is the subject of the violation has been stabilized. The department is also authorized to promulgate rules establishing criteria for a postponement of the time to correct for a longer period of time where such postponement is requested because of one or more substantial capital improvements will be made that will, when completed, significantly reduce the presence of lead-based paint in such multiple dwelling or dwelling unit including, but not limited to, a requirement that the paint which is the subject of the violation is stabilized. The department shall provide to the owner and the occupant a written statement signed and dated by the person making such decision setting forth the reasons for

each postponement of the date by which a violation shall be corrected or the reason for the denial of such application for a postponement. Said written statement shall be part of the records of the department.

§ 9. This local law takes effect 1 year after it becomes law, except that the commissioner of health and mental hygiene and the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on January 23, 2020 and approved by the Mayor on February 11, 2020.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 28 of 2020, Council Int. No. 873-A of 2018) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.