

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2023**

No. 123

Introduced by Council Members Ayala, Louis, Hanif, Won, Marte, Joseph, Riley, Restler, Krishnan, Dinowitz, Cabán, Richardson Jordan, Avilés, Farías, Velázquez, Schulman, Gennaro, Rivera, De La Rosa, Brewer, Sanchez, Abreu, Brannan, Brooks-Powers, Bottcher, Nurse, Gutiérrez, Hudson, Menin, Powers, Ung, Narcisse, Williams, Salamanca, Hanks, Moya, Lee, Barron, Ossé, Stevens and Feliz.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the remediation of lead-based paint in dwelling units in multiple dwellings

Be it enacted by the Council as follows:

Section 1. Section 27-2056.8 of the administrative code of the city of New York, as added by local law number 1 for the year 2004 and subdivision c of such section as amended by local law number 28 for the year 2020, is amended to read as follows:

§ 27-2056.8 Violation in a Dwelling Unit Upon *or Prior to* Turnover. a. Upon *the earlier of* (i) turnover of any dwelling unit in a multiple dwelling erected prior to January 1, 1960 [or a dwelling unit in a private dwelling erected prior to January 1, 1960 where each dwelling unit is to be occupied by persons other than the owner or the owner's family], (ii) *by July 1, 2027 for any dwelling unit in a multiple dwelling erected prior to January 1, 1960 where a child of applicable age resides as of January 1, 2025, or* (iii) *within 3 years after the date a child of applicable age begins to reside in any occupied dwelling unit in a multiple dwelling erected prior to January 1, 1960 prior to turnover*, the owner shall within such dwelling unit have the responsibility to:

(1) remediate all lead-based paint hazards and any underlying defects, when such underlying defects exist, *for each turnover of a dwelling unit*;

(2) make all bare floors, window sills, and window wells in the dwelling unit smooth and cleanable *for each turnover of a dwelling unit*;

(3) provide for the removal or permanent covering of all lead-based paint on all friction surfaces on all doors and door frames; and

(4) provide for the removal or permanent covering of all lead-based paint on all friction surfaces on all windows, or provide for the installation of replacement window channels or slides on all lead-based painted friction surfaces on all windows.

b. (1) All work performed pursuant to this section *upon turnover* shall be performed pursuant to the safe work practices promulgated pursuant to [section 27-2056.11(a)(3) of this article] *paragraph 3 of subdivision a of section 27-2056.11*.

(2) *All work performed pursuant to this section prior to turnover shall be performed pursuant to the safe work practices promulgated pursuant to paragraph 1 or 2 of subdivision a of section 27-2056.11 as applicable.*

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 [paragraph] *paragraphs 1, 2, or 3 of subdivision a of section 27-2056.11, as applicable*, 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] *\$1,500*.

d. When the department issues a class C violation pursuant to subdivision c of this section for a dwelling unit, the department shall notify the owner that the owner shall, within 45 days of the department's notice, provide to the department records regarding the annual notice and, where appropriate, records of investigations conducted by such owner, for the immediately previous year. On and after August 1, 2025, the department shall also require such records to include any x-ray fluorescence analysis conducted pursuant to subdivision a-1 of section 27-2056.4.

e. Where compliance with this section would necessitate that an occupant of a dwelling unit temporarily relocate from the dwelling unit in accordance with the safe work practice rules promulgated pursuant to paragraph 1 or 2 of subdivision a of section 27-2056.11, as applicable, and such occupant refuses to so relocate, the owner shall be exempt from such compliance upon approval by the department of documentation demonstrating the owner's good faith effort to perform the required work and the occupant's refusal to relocate. The department shall promulgate rules describing documentation sufficient for an owner to show good faith effort to perform such work and to show the occupant's refusal to relocate. Such exemption shall remain in effect until the dwelling unit is turned over to a new occupant. For any dwelling unit where such an exemption is granted, the department shall dismiss any violation of this section (i) which was the basis for the owner's request for the exemption, or (ii) which was issued after the exemption was granted and prior to the dwelling being turned over to a new occupant.

§ 2. Subdivision d-1 of section 27-2056.9 of the administrative code of the city of New York, as added by local law number 28 for the year 2020, is amended 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 a child of applicable age in 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, *based upon a positive or inconclusive lead-based paint x-ray fluorescence test result*, 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 *a child of applicable age 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] *x-ray fluorescence* 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.

§ 3. This local law takes effect September 1, 2024.

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 August 3, 2023 and returned unsigned by the Mayor on September 5, 2023.

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. 123 of 2023, Council Int. No. 6-A of 2022) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEPHEN LOUIS, Acting Corporation Counsel.