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**The New York City Council**

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**Committee on Housing and Buildings**

Hon. Pierina Sanchez, Chair

**Committee on Health**

Hon. Lynn Schulman, Chair

**April 25, 2023**

**Oversight: Lead-Based Paint Hazards**

**Int. No. 5:** By Council Members Ayala, Louis, Hanif, Won, Joseph, Riley, Restler, Krishnan, Dinowitz, Cabán, Richardson Jordan, Avilés, Schulman, Velázquez, Gennaro, Marte, Rivera, De La Rosa, Farías, Brewer, Sanchez, Abreu, Brannan, Brooks-Powers, Bottcher, Nurse, Gutiérrez, Hudson, Narcisse, Williams and Barron

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to records of lead-based paint investigations

**Administrative Code:** Amends section 27-2056.17

**Int. No. 6:** 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, Holden, Moya, Lee, Barron, Ossé, Stevens and Feliz

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to the permanent removal of lead-based paint on friction surfaces in child-occupied dwellings

**Administrative Code:** Amends sections 27-2056.8 and 27-2056.9

**Int. No. 193:** By Council Members Rivera, Cabán, Nurse, Stevens, Hanif, Won, Barron, Restler, Krishnan, Hudson, Williams, Avilés, Riley, Gennaro, Marte, Ayala, De La Rosa, Farías, Brewer, Schulman, Sanchez, Abreu, Brannan, Brooks-Powers, Bottcher, Gutiérrez, Joseph, Menin, Velázquez, Powers, Ung, Narcisse, Dinowitz, Salamanca, Hanks, Holden, Moya, Lee, Richardson Jordan, Ossé, Louis and Feliz

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to lead-based paint hazards in common areas of dwellings

**Administrative Code:** Amends sections 27-2056.4, 27-3056.6, and 27-2056.9

**Int. No. 200:** By Council Members Salamanca, Cabán, Won, Nurse, Abreu, Bottcher, Gennaro, Riley, Marte, Ayala, Rivera, De La Rosa, Menin, Farías, Brewer, Sanchez, Brannan, Brooks-Powers, Schulman, Gutiérrez, Hudson, Avilés, Krishnan, Narcisse, Hanif, Williams, Restler and Barron

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to quarterly reporting on objections to orders for the abatement or remediation of lead conditions

**Administrative Code:** Adds a new section 17-186.2

**Int. No. 750:** By Council Members Ayala, Sanchez, Restler, Joseph, Williams, Hudson, Avilés, Gennaro, Hanif, Brewer, Abreu, Brooks-Powers, Gutiérrez, Cabán, Krishnan, Marte, Won, De La Rosa, Narcisse, Farías and Barron

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to the proactive identification and inspection of dwellings where children are at risk of lead poisoning.

**Administrative Code:** Adds a new section 27-2056.19

**Preconsidered Int. No.:** By Council Member Rivera

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to the declaration of a public nuisance by the department of housing preservation and development in connection with lead hazards

**Administrative Code:** Amends section 27-2114

**Preconsidered Int. No.:** By Council Member Schulman

**Title:** A Local Law to amend the administrative code of the city of New York, in relation to the assessment of certain children with elevated blood lead levels

**Administrative Code:** Amends section 17-179

1. **Introduction**

On April 25, 2023, the New York City Council Committee on Housing and Buildings, chaired by Council Member Pierina Sanchez, and the Committee on Health, chaired by Council Member Lynn Schulman, will hold a joint oversight hearing on Lead-Based Paint Hazards. Additionally, the Committees will hear the following legislation: Int. No. 5, sponsored by Council Member Ayala, relating to records of lead-based paint investigations; Int. No. 6, sponsored by Council Member Ayala, relating to permanent removal of lead-based paint on friction surfaces in child-occupied dwellings; Int. No. 193, sponsored by Council Member Rivera, relating to lead-based paint hazards in common areas of dwellings; Int. No. 200, sponsored by Council Member Salamanca, relating to quarter reporting on objections to orders for the abatement or remediation of lead conditions; Int. No. 750, sponsored by Council Member Ayala, relating to proactive identification and inspection of dwellings where children are at risk of lead poisoning; Preconsidered Int. No., sponsored by Council Member Rivera, relating to the declaration of a public nuisance by the department of housing preservation and development in connection with lead hazards; and Preconsidered Int. No., sponsored by Council Member Schulman, relating to the assessment of certain children with elevated blood lead levels. The Committees expect to receive testimony from the Department of Health and Mental Hygiene (“DOHMH”), the Department of Housing Preservation and Development (“HPD”), the New York City Housing Authority (“NYCHA”), the Department of Education (“DOE”), as well as other relevant agencies, health and environmental advocates, real estate industry representatives, tenant advocates, and members of the public.

1. **Background**

Lead is a naturally occurring element which can be found in air, soil, water, household products, and, most commonly, lead-based paint and dust.[[1]](#footnote-1) Lead is a human neurotoxin that is especially harmful to infants and children.[[2]](#footnote-2) Adult exposure can also cause health problems, in particular to pregnant women whose exposure can also impact the developing fetus.[[3]](#footnote-3)

For children under six years of age, lead poisoning[[4]](#footnote-4) can have serious health consequences, as their developing brains and bodies are particularly vulnerable to exposure.[[5]](#footnote-5) Even low levels of exposure can cause irreversible neurological damage, leading to developmental delays, learning disabilities, and behavioral problems.[[6]](#footnote-6) Children who are poisoned by lead may show no symptoms.[[7]](#footnote-7) Long-term exposure has also been linked to other health issues, including headaches, stomachaches, hypertension, nausea, kidney damage, and reproductive problems.[[8]](#footnote-8)

1. *Recent Developments Regarding Lead*

Over the past 50 years, public health efforts have led to enormous progress in protecting American children from lead poisoning and the irreversible neurological damage it can cause.[[9]](#footnote-9) Since the 1970s, the percentage of children with high levels of lead in their blood has decreased significantly.[[10]](#footnote-10) However, the arrival of the COVID-19 pandemic in 2020 eroded this progress, as lockdowns confined young children to their homes and increased the potential for lead exposure, delayed lead-removal efforts, and disrupted childhood lead screening protocols.[[11]](#footnote-11) Public health officials estimate that hundreds of thousands of young children across the country did not participate in lead screening processes in the first few months of the pandemic alone.[[12]](#footnote-12)

Additionally, in October 2021 the Centers for Disease Control and Prevention (“CDC”) updatedtheblood lead reference value (“BLRV”) from 5.0 micrograms per deciliter (“mcg/dL”) to 3.5 mcg/dL.[[13]](#footnote-13) The BLRV is intended to identify children with higher levels of lead in their blood compared with levels in most children.[[14]](#footnote-14) Acknowledging that even low levels of lead in blood have been shown to reduce a child’s learning capacity, ability to pay attention, and academic achievement, the CDC updated the BLRV to ensure that children with blood lead levels within the range of 3.5–5 mcg/dL, below the existing 5.0 mcg/dL threshold, receive prompt actions to mitigate health effects and remove or control exposure sources.[[15]](#footnote-15)

In New York City, lead-based paint hazards remain a significant public health concern, particularly for children. Lead-based paint was commonly used in homes and buildings prior to its ban in 1960 in New York City, and many older buildings still contain lead paint.[[16]](#footnote-16) When lead paint deteriorates or is disturbed, it can release toxic lead dust or chips, which can be ingested or inhaled, leading to lead poisoning.[[17]](#footnote-17) Due to New York City’s high population density and older housing stock, vulnerable populations, including low-income families, communities of color, and immigrants, are at an increased risk of exposure to lead-based paint hazards.[[18]](#footnote-18) As discussed below, New York City has implemented various regulations and programs to address lead-based paint hazards, including local laws requiring lead inspections and remediation in certain housing units. In 2023, HPD’s Office of Enforcement and Neighborhood Services held a lead-based paint webinar series, including a broad introduction to New York City’s lead-based paint rules for residential building owners.[[19]](#footnote-19)

Challenges still persist related to enforcement, lack of affordable housing options without lead hazards, and gaps in public awareness and education about lead paint risks.[[20]](#footnote-20) Between 2004 and 2018, there were 133,372 lead-based paint violations issued in New York City.[[21]](#footnote-21) As of March 2023, 45% of all lead-related court cases in New York City were in the Bronx.[[22]](#footnote-22) Ongoing efforts are needed to prevent and address lead exposure in New York City, including robust enforcement of existing regulations, increased public education and awareness, targeted interventions in vulnerable communities, and investment in safe and affordable housing options for all residents.

1. *Existing Lead Laws in New York City*
   1. *Local Law 1 of 2004*

While the use of lead-based paint in residential buildings was first banned in New York City in 1960[[23]](#footnote-23) and banned by the federal government in 1978,[[24]](#footnote-24) widespread lead exposure, particularly for New York City’s children, has continued over subsequent decades. To combat the ongoing crisis, the City Council enacted Local Law 1 of 2004 (“Local Law 1”), also known as the Childhood Lead Poisoning Prevention Act, with a stated goal of the “elimination of childhood lead poisoning by the year 2010.”[[25]](#footnote-25)

Local Law 1 requires, in part, that building owners investigate units and common areas in which lead-based paint may be present, with special attention paid to units where a child under six resides.[[26]](#footnote-26) Any lead-based paint hazards or violations must be remediated using safe work practices to prevent additional exposure to lead, and owners must keep detailed records of such actions.[[27]](#footnote-27) Owners must also inquire as to the presence of children under age six residing in the building and provide all tenants with information regarding the presence of lead-based paint (if applicable) and the owner’s responsibilities under Local Law 1.[[28]](#footnote-28)

HPD holds primary responsibility for implementing and enforcing Local Law 1, with DOHMH also playing a large part in the development of rules and procedures.[[29]](#footnote-29) Local Law 1 requires that the agencies provide training and create inspection and remediation standards as well as safe work practices.[[30]](#footnote-30) Local Law 1 also requires collaboration between HPD and DOHMH throughout the processes of conducting inspections and correcting violations by requiring HPD to audit or inspect dwelling units for lead paint following an order to abate from DOHMH.[[31]](#footnote-31)

* 1. *2018 Oversight Hearing and Subsequent Legislation*

While there have been significant decreases in the incidence of lead poisoning in New York City following the enactment of Local Law 1,[[32]](#footnote-32) lead exposure remains a significant health hazard in the City, particularly among children living in poverty.[[33]](#footnote-33) Concerned that enforcement of Local Law 1 was not meeting expectations, and in lieu of updated recommendations from the CDC, the City Council convened an oversight hearing in September 2018 to assess enforcement of the law and determine where efforts to prevent lead poisoning could be strengthened.[[34]](#footnote-34) Twenty-five bills related to lead poisoning prevention efforts were introduced as part of the oversight hearing.[[35]](#footnote-35)

Ten of the bills from the package were passed by the City Council and enacted in March of 2019:

* + *Local Law 64 of 2019 (Int. No. 464-B):* Requires investigation and remediation (*i.e.*, scraping, repainting, removal, encapsulation, enclosure, or other methods approved by DOHMH) of lead hazards in spaces where children routinely spend 10 hours or more per week. This change was made to provide recourse for children exposed to lead hazards in a home that is not their own.
  + *Local Law 65 of 2019 (Int. No. 709-A):* Requires the Department of Environmental Protection (“DEP”) to track all lead water supply mains and lead service lines (pipes made of lead used in potable water distribution to connect a water main to a user's premises) and provide that information to the public in the form of an online interactive map.
  + *Local Law 66 of 2019 (Int. No. 865-A):* Reduces the City’s blood lead reference level to 5 mcg/dL, reduces the City’s lead paint threshold definition, and reduces the lead dust threshold definition.
  + *Local Law 67 of 2019 (Int. No. 871-A):* Requires first-draw sampling (defined as a first draw tap sample for lead and copper) whenever water is tested for lead.
  + *Local Law 68 of 2019 (Int. No. 877-A):* Requires certain agencies to provide lead prevention educational materials to parents and guardians seeking services, including information on how to find out where to have their child tested for lead.
  + *Local Law 69 of 2019 (Int. No. 881-A):* Requires linguistically and culturally competent outreach and education campaigns to increase awareness of childhood lead poisoning prevention.
  + *Local Law 70 of 2019 (Int. No. 918-A):* Requires HPD to provide expanded reporting requirements for the department’s annual report to the Council regarding enforcement of the City’s lead laws.
  + *Local Law 71 of 2019 (Int. No. 920-A):* Extends current requirements for daycares to test for lead paint annually to other facilities with children under the age of six, including preschools and nursery schools.
  + *Local Law 72 of 2019 (Int. No. 1063-A):* Requires the Commissioner of Citywide Administrative Services, the Commissioner of Design and Construction or any other relevant agency to notify the Council, local community boards, relevant civic organizations and local school superintendents if they become aware of a triggering amount of soil contaminants in a city development project.
  + *Local Law 73 of 2019 (Int. No. 1117-A):* Requires that pamphlets provided to the public regarding potential lead poisoning include more information regarding the responsibilities of the homeowner including annual inspections for lead-based paint hazards and remediation of any discovered violations, and requires certain agencies to notify parents or guardians seeking services that they can call 311 to have peeling paint tested for lead in their apartments, and can request a free drinking water lead test kit from DEP.

Five more bills from the 2018 package were passed by the City Council and enacted in January of 2020:

* + *Local Law 27 of 2020 (Int. No. 420-B):* Requires the Department of Parks and Recreation (“DPR”) to test for lead concentration levels in areas of parks under DPR jurisdiction that contain exposed soil and are used for active play or passive recreation, whenever a capital project occurs in such area. Where the test indicates that a bare soil area has a lead level at or above the established threshold, DPR must cover, replace or otherwise remediate the lead level in the area.
  + *Local Law 28 of 2020 (Int. No. 873-A):*  Requires schools to conduct regular surveys and inspections for lead-based paint hazards, the results of which will be made publicly available and delivered to parents and guardians. Also requires HPD to, when conducting certain inspections, determine whether there has been a violation of the requirement to remediate lead hazards when a unit turns over. Also establishes a presumption that a building owner who is unable to provide a record of having completed required lead hazard remediation at turnover has violated the relevant provisions.
  + *Local Law 29 of 2020 (Int. No. 891-A):* Expands the meaning of “multiple dwelling” for the purposes of lead laws to also include private dwellings where at least one unit is not owner-occupied.
  + *Local Law 30 of 2020 (Int. No. 904-A):* Requires the DOHMH to conduct an investigation to identify potential sources when it receives a report of a pregnant person with an elevated blood lead level, and after the birth of a child, monitor such child for elevated blood lead levels and assess whether the apartment where such child resides contains any lead-based paint or unsafe lead paint. In addition, DOHMH is required to conduct outreach to new and expecting parents regarding the availability of inspections for potential lead-based paint hazards as well as information about blood lead testing for children.
  + *Local Law 31 of 2020 (Int. No. 919-A):* Requires, in addition to existing requirements of annual visual inspections for lead-based paint hazards in multiple dwellings, that within 5 years of passage of the bill an inspection be conducted (i) by a United States Environmental Protection Agency (“EPA”) certified inspector who is independent from the owner or contractor and (ii) with the use of an X-ray fluorescence (“XRF”) analyzer. Additionally requires that this annual visual inspection be performed by an independent, EPA-certified inspector where it has been five or more years since the unit was last turned over.

1. *Lead in NYCHA Housing*

In 2018, the United States Department of Housing and Urban Development (“HUD”) filed a lawsuit against NYCHA, claiming that the Authority had intentionally covered up its actions with regard to lead paint monitoring and abatement, training its staff on how to mislead federal inspectors and presenting false reports to the government and to the public about its compliance with lead-paint regulations.[[36]](#footnote-36) In 2019, HUD and NYCHA reached a settlement agreement (“Agreement”) that resulted in the appointment of a federal monitor and a commitment from the City to spend $2.2 billion over the next decade to repair the infrastructure in NYCHA facilities.[[37]](#footnote-37) As part of the Agreement, NYCHA is required to meet specific performance standards set by HUD in “key residential services” that include lead-based paint abatement.[[38]](#footnote-38) In 2021, Bart Schwartz, the appointed federal monitor, approved NYCHA’s Initial Lead Paint Action Plan,[[39]](#footnote-39) which included the creation of a compliance department to ensure that environmental health and safety laws and regulations were being met.[[40]](#footnote-40)

According to the most recent report from the federal monitor, NYCHA has focused on conducting X-ray fluorescence (“XRF”) testing to the New York City standard of 0.5 milligrams per centimeter squared (0.5 mg/cm2) in apartments where children under six reside.[[41]](#footnote-41) As of January 1, 2019, 3,028 units with children under six were XRF tested.[[42]](#footnote-42) The number of such units tested in 2021 was 16,947,[[43]](#footnote-43) and a total of 52,701 tested in 2022.[[44]](#footnote-44)

NYCHA has also established the TEMPO Program to focus on lead abatement in apartments with children under six.[[45]](#footnote-45) The TEMPO Abatement Program temporarily relocates residents in hotels during abatement activities so that the resident and their family return to a lead-free apartment.[[46]](#footnote-46)

1. *Lead in NYC DOE Facilities (Pipes)*

In 2021, then-Comptroller Scott Stringer published an audit of the NYCDOE’s monitoring and testing processes for abating lead-contaminated drinking water in the City’s school buildings. While the audit generally found that the DOE met applicable water testing standards, the Comptroller made several recommendations based on the audit findings, particularly with regard to testing timeliness as well as the timeliness of fixture remediation and repair.[[47]](#footnote-47)

Additionally, in 2021, Governor Hochul signed into law legislation that reduces the acceptable level of lead in school drinking water to 5 parts per billion (“ppb”), down from 15 ppb.[[48]](#footnote-48) The law also requires testing of drinking water fixtures every three years instead of every five years.[[49]](#footnote-49)

1. *DOHMH 2022 Report to the City Council*

Local Law 1 requires the DOHMH to annually report to the City Council on the City’s progress toward reducing elevated blood lead levels among children and increasing blood lead testing in the City.[[50]](#footnote-50) The 2022 report included the following data from 2021:

* In 2021, 2,557 New York City children under six years of age were identified with a blood lead level of 5 mcg/dL or greater, representing a 2% decline from 2020. The rate of children under six with elevated blood lead levels was 10.8 per 1,000, down from 11.2 per 1,000 in 2020.[[51]](#footnote-51)
* The burden of lead exposure is highest among children of color and children living in high poverty neighborhoods: 88% of children under six with blood lead levels of 5 mcg/dL or higher were from moderate (51%) to high (37%) poverty neighborhoods.[[52]](#footnote-52)
* Asian, Black, and Latino children represented 81% of children under age six newly identified with blood lead levels of 5 mcg/dL or greater. [[53]](#footnote-53)
* An estimated 80% of New York City children turning three years of age in 2021 were tested for lead poisoning at least once. Forty-eight percent of them were tested at or around age one and age two, as required by New York State law.[[54]](#footnote-54)

1. **Conclusion**

At this hearing, the Committees expect to receive testimony from the relevant City Agencies on the implementation and enforcement of the City’s lead laws, including the updates to the laws that were made in the legislation described above. Further, the Committees are interested to learn what plans HPD, DOHMH, and other relevant agencies have made to continue to abate lead hazards to bring the City to its target of zero children who suffer lead poisoning.

1. **Legislation**

**Int. No. 5, A Local Law to amend the administrative code of the city of New York, in relation to records of lead-based paint investigations**

This bill would require a property owner to produce records of self-inspections conducted by such owner, and records of any measures taken to abate lead-based paint hazards, whenever a violation for lead-based paint hazards has been issued by the City.

This local law would take effect 60 days after it becomes law.

**Int. No. 6, A Local Law to amend the administrative code of the city of New York, in relation to the permanent removal of lead-based paint on friction surfaces in child-occupied dwellings**

This bill would require the lead-based paint abatement activities currently required upon turnover, including the removal of lead-based paint on friction surfaces and on doors and windows, to be completed in all applicable dwelling units where a child under the age of six resides, by July 1, 2023.

This local law would take effect 120 days after it becomes law.

**Int. No. 193, A Local Law to amend the administrative code of the city of New York, in relation to lead-based paint hazards in common areas of dwellings**

This bill would make the existence of peeling lead-based paint in any common area of a multiple dwelling where a child under the age of six resides a class C hazardous violation. The legislation would also include common areas as part of the current inspections for lead-based paint hazards in dwellings required under the City’s lead laws.

This local law would take effect 180 days after it becomes law.

**Int. No. 200, A Local Law to amend the administrative code of the city of New York, in relation to quarterly reporting on objections to orders for the abatement or remediation of lead conditions**

The proposed bill would require DOHMH to submit to the Mayor and the Speaker of the Council, and make publicly available on DOHMH’s website, a quarterly report of the number of objections filed by multiple dwelling owners to DOHMH lead abatement orders. The report would be required to include the number of objections filed by NYCHA and to specify the reasons why any objections are found to have merit, including faulty testing or paint sampling, or an exemption based on the dwelling’s construction date.

This local law would take effect immediately.

**Int. No. 750, A Local Law to amend the administrative code of the city of New York, in relation to** **the proactive identification and inspection of dwellings where children are at risk of lead poisoning**

This bill would create a proactive inspection program where HPD and DOHMH would identify at least 200 residential buildings each year that may pose a risk of lead exposure to children who reside in such buildings. Inspectors would then inspect such buildings for any lead-based paint hazards and proceed to order that any such hazards be abated.

This local law would take effect 180 days after it becomes law.

**Preconsidered Int. No., A Local Law to amend the administrative code of the city of New York, in relation to the declaration of a public nuisance by the department of housing preservation and development in connection with lead hazards**

This bill would require the HPD to declare a lead hazard a public nuisance where DOHMH issues a commissioner’s order to correct or remediate a condition related to lead hazards.

This local law would take effect 120 days after it becomes law.

**Preconsidered Int. No., A Local Law to amend the administrative code of the city of New York, in relation to the assessment of certain children with elevated blood lead levels**

This bill would require DOHMH to provide a referral for any child determined to have elevated blood lead levels to the Committee on Special Education of the Department of Education for a neuropsychological or neurodevelopmental evaluation in order to determine the child’s eligibility for special education services, including the development of an individualized education program.

This local law would take effect 120 days after it becomes law.

Int. No. 5

By Council Members Ayala, Louis, Hanif, Won, Joseph, Riley, Restler, Krishnan, Dinowitz, Cabán, Richardson Jordan, Avilés, Schulman, Velázquez, Gennaro, Marte, Rivera, De La Rosa, Farías, Brewer, Sanchez, Abreu, Brannan, Brooks-Powers, Bottcher, Nurse, Gutiérrez, Hudson, Narcisse, Williams and Barron

..Title

A Local Law to amend the administrative code of the city of New York, in relation to records of lead-based paint investigations

..Body

Be it enacted by the Council as follows:

Section 1. Section 27-2056.17 of the administrative code of the city of New York is amended by adding a new subdivision b-1 to read as follows:

b-1. A property owner shall furnish to the department records of inspections and investigations conducted by such owner, including records of any x-ray fluorescence analysis conducted pursuant to subdivision a-1 of section 27-2056.4 or measures taken to remediate lead-based paint hazards, whenever a violation has been issued pursuant to section 27-2056.6. Such property owner shall be issued a violation pursuant to subdivision g of section 27-2056.4 if such property owner does not produce such records within 45 days after a violation of section 27-2056.6 has been issued.

§ 2. This local law takes effect 60 days after it becomes law.

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LS #18067

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Int. No. 6

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, Holden, Moya, Lee, Barron, Ossé, Stevens and Feliz

..Title

A Local Law to amend the administrative code of the city of New York, in relation to the permanent removal of lead-based paint on friction surfaces in child-occupied dwellings

..Body

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 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 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], or on such earlier date as established by rule of the department pursuant to subdivision e of this section, 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;

(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 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. All work performed pursuant to this section 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.

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 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] $1,500.

d. When the department issues a violation pursuant to this section for a specific dwelling unit, the department shall notify the owner of the multiple dwelling where the dwelling unit is located that the owner shall, within 45 days of the department’s notice, provide to the department all records or access to all records required to be maintained under this article.

e. The department shall by rule establish a schedule for compliance with this section prior to turnover of a dwelling unit in a multiple dwelling in which a child of applicable age resides. In establishing such schedule, the department shall consider the age of a multiple dwelling and other factors relevant to the prevalence of lead-based paint hazards including, but not limited to, outstanding violations, emergency repair charges, tax arrears and mortgage debt. Such schedule shall also require compliance in all such dwelling units by July 1, 2023.

§ 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] Prior to the effective date of the rules promulgated by the department pursuant to subdivision e of section 27-2056.8, the department, 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, or if the inspection pursuant to this section is conducted after the effective date of the rules promulgated by the department pursuant to subdivision e of section 27-2056.8 and [the] such inspection [pursuant to this section] indicates a failure by the owner to comply with the requirements of section 27-2056.8 or the rules promulgated thereunder, the department shall issue a violation pursuant to subdivision c of section 27-2056.8 and shall also conduct an audit pursuant to subdivision a of section 27-2056.17 pertaining to records of compliance with section 27-2056.8. Such inspection shall include, at a minimum, the testing of one or more painted friction surfaces on a window frame and one or more painted friction surfaces on a door frame, whether or not such surfaces are peeling. 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.

§ 3. This local law takes effect 120 days after it becomes law, except that the commissioner of housing preservation and development shall take such actions as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

Session 12

NC

LS #3865

1/11/22

Session 11

MHL

LS #13505

Int. #2467-2021

Int. No. 193

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

..Title

A Local Law to amend the administrative code of the city of New York, in relation to lead-based paint hazards in common areas of dwellings

..Body

Be it enacted by the Council as follows:

Section 1. Subdivision a-1 of section 27-2056.4 of the administrative code of the city of New York, as amended by local law number 39 for the year 2021, is amended to read as follows:

a-1. Within the earliest of five years of the effective date of this subdivision, one year after a child of applicable age comes to reside in a dwelling unit subject to the requirements of subdivision a of this section, or the issuance of an order by the department of health and mental hygiene as required by such order, one investigation for the presence of lead-based paint undertaken pursuant to subdivision a of this section shall be performed by a person who (i) is not the owner or the agent of the owner or any contractor hired to perform work related to the remediation of lead-based paint hazards, and (ii) is certified as an inspector or risk assessor pursuant to section 745.226 of title 40 of the code of federal regulations. Such inspection shall consist of the use of an x-ray fluorescence analyzer on all types of surfaces in accordance with the procedures described in chapter 7 of the United States department of housing and urban development guidelines for the evaluation and control of lead-based paint hazards in housing, including on chewable surfaces, friction surfaces, and impact surfaces, to determine whether lead-based paint is present, and where such paint is located, in such dwelling unit and in the common areas of such multiple dwelling. Provided, however, that the investigation specified by this subdivision shall not be required if an investigation that complies with the requirements of this subdivision was previously completed and the owner retains records of such investigation, or if the dwelling unit has an exemption from the presumption of lead paint, as provided in subdivision b of section 27-2056.5 of this article.

§ 2. Section 27-2056.6 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:

§ 27-2056.6 Violation in a Dwelling Unit or Common Area. a. The existence of lead-based paint in any dwelling unit in a multiple dwelling where a child of applicable age resides shall constitute a class C immediately hazardous violation if such paint is peeling or is on a deteriorated subsurface.

b. The existence of lead-based paint in any common area of a multiple dwelling where a child of applicable age resides shall constitute a class C hazardous violation if such paint is peeling or is on a deteriorated subsurface.

§ 3. Section 27-2056.9 of the administrative code of the city of New York is amended by adding a new subdivision d-2 to read as follows:

d-2. When conducting an inspection pursuant to this section, the department shall also conduct an inspection of the common areas of such multiple dwelling, in the manner provided by subdivision c of this section, for conditions that would constitute a violation of section 27-2056.6. Provided, however, that an inspection of the common areas of a multiple dwelling as specified by this subdivision shall not be required if an inspection of the common areas of such multiple dwelling complying with the requirements of this subdivision was conducted by the department within the previous year, unless the department has received a specific complaint relating to presumed peeling lead paint in a common area and such surface has not been previously tested to determine the presence of lead-based paint pursuant to subdivision a-1 of section 27-2056.4 or subdivision c of this section or exempted pursuant to subdivision b of section 27-2056.5.

§ 4. This local law takes effect 180 days after it becomes law.

Session 12

KS

LS #6260

3/30/22 11:00AM

Session 11

MHL

LS #18068

Int. No. 2474-2021

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Int. No. 200

By Council Members Salamanca, Cabán, Won, Nurse, Abreu, Bottcher, Gennaro, Riley, Marte, Ayala, Rivera, De La Rosa, Menin, Farías, Brewer, Sanchez, Brannan, Brooks-Powers, Schulman, Gutiérrez, Hudson, Avilés, Krishnan, Narcisse, Hanif, Williams, Restler and Barron

..Title

A Local Law to amend the administrative code of the city of New York, in relation to quarterly reporting on objections to orders for the abatement or remediation of lead conditions

..Body

Be it enacted by the Council as follows:

  Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is amended to add a new section 17-186.2 to read as follows:

§ 17-186.2 Quarterly report. a. No later than January 1, 2023, and no later than the first of the month for each calendar quarter thereafter, the department shall submit to the mayor and the speaker of the council, and make publicly available on the department’s website, a report for the immediately prior calendar quarter of the number of objections to orders issued by the department pursuant to section 173.13(d)(2) of the health code or successor rule applicable thereto, disaggregated by the number of objections filed by a housing development operated by the New York city housing authority.

b. The report required pursuant to subdivision a of this section shall include the number of objections found by the department to have merit disaggregated by the specific reasons why the objections had merit including, but not limited to:

1. Faulty paint sampling or testing by the department;

2. Inconclusive or contradicting test results; or

3. An exemption based upon the date the tested dwelling was erected.

§ 2. This local law takes effect immediately.

Session 12

HKA

LS #1966

4/7/22

Session 11

PLS

LS #9113

Int. #1461-2019

Int. No. 750

By Council Members Ayala, Sanchez, Restler, Joseph, Williams, Hudson, Avilés, Gennaro, Hanif, Brewer, Abreu, Brooks-Powers, Gutiérrez, Cabán, Krishnan, Marte, Won, De La Rosa, Narcisse, Farías and Barron

..Title

A Local Law to amend the administrative code of the city of New York, in relation to the proactive identification and inspection of dwellings where children are at risk of lead poisoning

..Body

Be it enacted by the Council as follows:

Section 1. Subchapter 2 of Chapter 2 of title 27 of the administrative code of the city of New York, is amended by adding a new section 27-2056.19 to read as follows:

§ 27-2056.19 Inspections to determine the presence of lead based paint hazards. a. The department, in coordination with the department of health and mental hygiene, shall establish a program to identify and inspect at least 200 multiple dwellings each fiscal year where children reside and where there is a risk of exposure to lead-based paint hazards.

b. Any inspection of a multiple dwelling unit required pursuant to this section shall be conducted notwithstanding any other lead inspection requirements pursuant to title 17 or title 27 of the code or of any rule that addresses lead-based paint hazards or unsafe lead paint in multiple dwellings, unless such dwelling unit was inspected for lead-based paint hazards within the preceding 5 years and any such hazards were abated.

c. Any inspection required pursuant to this section shall include an inspection of the dwelling unit for lead-based paint hazards or unsafe lead paint, as applicable, including analysis by an x-ray fluorescence analyzer, in accordance with subdivision (7) of section 27-2056.2, of all friction surfaces, chewable surfaces, peeling paint, deteriorated subsurfaces and impact surfaces as such terms are defined in section 27-2056.2.

d. In determining the multiple dwelling units that shall be inspected pursuant to this section the department shall consider, but not be limited to, the following factors:

1. A multiple dwelling’s history of orders of abatement issued pursuant to subsection d of section 173.13 of the health code or a successor rule that addresses the abatement of lead hazards;

2. The relative prevalence of lead poisoning within the community district where a multiple dwelling is located; and

3. The prevalence and frequency of violations of title 27 of the code, in such multiple dwelling that could cause exposure to lead-based paint or lead dust through the deterioration of lead-based painted surfaces.

e. In the event an inspection by the department, pursuant to this section, finds any lead-based paint hazards or unsafe lead paint on any surfaces, the department shall order the correction of such conditions pursuant to the requirements of the New York city health code.

§ 2. This local law takes effect 180 days after it becomes law.

KS

LS # 5932 and 9444

9/19/22 11:00AM

Preconsidered Int. No.

By Council Member Rivera

..Title

A Local Law to amend the administrative code of the city of New York, in relation to the declaration of a public nuisance by the department of housing preservation and development in connection with lead hazards

..Body

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 27-2114 of the administrative code of the city of New York, as amended by local law number 805 for the year 1984, is amended by adding a new paragraph i to read as follows:

i. Where the department of health and mental hygiene issues a commissioner’s order to correct or remediate a condition pursuant to section 27-2056.14 of the code or section 173.13 of the health code or any successor rule related to the issuance of orders requiring the correction or remediation of lead hazards, the department shall, subject to the notice and filing requirements contained in subdivision b of this section, declare such lead hazard to constitute a public nuisance. The department may also declare, in the instance of multiple violations of article 14 of subchapter 2 of this chapter, that such violations constitute a public nuisance.

§ 2. This local law takes effect 120 days after it becomes law.

MJC/SIL

LS 2290, 4096, 5922

4/19/23

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Preconsidered Int. No.

By Council Member Schulman

..Title

A Local Law to amend the administrative code of the city of New York, in relation to the assessment of certain children with elevated blood lead levels

..Body

Be it enacted by the Council as follows:

Section 1. Subdivision c of section 17-179 of the administrative code of New York, as added by local law number 39 for the year 2021, is amended to read as follows:

c. As part of the investigation required by section 17-911, the department shall provide to the parent or guardian of any child determined to have an elevated blood lead level [information regarding special education services available from the department of education], as established by department rule, a referral to the committee on special education of the department of education, or another appropriate provider as determined by the department, for a neuropsychological or neurodevelopmental evaluation in order to determine the child’s eligibility for special education services.

1. Such evaluations shall be comprehensive and age appropriate, and shall meet minimum standards as approved by the committee on special education.

2. In the event it is determined, based upon such comprehensive neuropsychological or neurodevelopmental evaluation, that a child suffers from a neurocognitive or behavioral deficit consistent with the effects of lead poisoning, the department shall make a recommendation to the committee on special education that such child is eligible for appropriate health and educational services and interventions related to lead poisoning, and shall recommend the development an individualized education program in consultation with a neuropsychologist and the appropriate disciplines, to provide the child with such appropriate services and interventions.

3. No later than January 1, 2024, and annually thereafter, the department shall submit to the mayor and the speaker of the council an anonymized report, which protects personally identifying information, containing, at a minimum:

                     (a) The number of children referred for neuropsychological or neurodevelopmental evaluations based on elevated blood levels pursuant to section 17-911;

(b) The number of children determined by comprehensive neuropsychological or neurodevelopmental evaluation to suffer from neurocognitive or behavioral deficits consistent with the effects of lead poisoning;

(c) The number of children referred to the committee on special education for the creation of an individualized education program; and

(d) The number of individualized education programs generated as a result of these requirements.

§ 2. This local law takes effect 120 days after it becomes law.

LM

LS # 2914/2915/4095/10655

4/19/23

1. Environmental Protection Agency, *Learn About Lead,* <https://www.epa.gov/lead/learn-about-lead> (last accessed Apr. 19, 2023). [↑](#footnote-ref-1)
2. *Id.* [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. “Lead poisoning” is defined by the Cleveland Clinic as occurring when an individual has been exposed to high levels of lead. <https://my.clevelandclinic.org/health/diseases/11312-lead-poisoning> (last accessed Apr. 19, 2023). Lead poisoning is typically caused by eating or drinking (ingesting) lead, but touching or breathing in the toxic metal can also cause it. *Id*. Lead poisoning is when “any detectable amount of lead is found in your [] blood.” *Id*. [↑](#footnote-ref-4)
5. U.S. Department of Housing and Urban Development, *About Lead-Based Paint*, <https://www.hud.gov/program_offices/healthy_homes/healthyhomes/lead> (last accessed Apr. 19, 2023). [↑](#footnote-ref-5)
6. *Id*. In New York State, students who meet the criteria under the Individuals with Disabilities Education Act (IDEA) for “other health impairment,” which includes lead exposure, may be considered for special education services. 34 C.F.R. Parts 300, 301; National Center for Health Housing, *Issue Brief: Childhood Lead Exposure and Educational Outcomes*,<https://www.nhlp.org/wp-content/uploads/NCHH-Childhood-Lead-Exposure-and-Educ-Outcomes.pdf> (last accessed Apr. 19, 2023). [↑](#footnote-ref-6)
7. *Id*. [↑](#footnote-ref-7)
8. *Id*. [↑](#footnote-ref-8)
9. Emily Anthes, *More Childhood Lead Poisoning is a Side Effect of COVID Lockdowns,* NY Times, Mar. 11, 2021, <https://www.nytimes.com/2021/03/11/health/virus-lead-poisoning-children.html?searchResultPosition=35>. [↑](#footnote-ref-9)
10. *Id.* [↑](#footnote-ref-10)
11. *Id.* [↑](#footnote-ref-11)
12. *Id.* [↑](#footnote-ref-12)
13. Centers for Disease Control and Prevention, *CDC Updates Blood Lead Reference Value to 3.5 mcg/dL*,

    <https://www.cdc.gov/nceh/lead/news/cdc-updates-blood-lead-reference-value.html> (last accessed Apr. 19, 2023). [↑](#footnote-ref-13)
14. *Id.* [↑](#footnote-ref-14)
15. *Id.* [↑](#footnote-ref-15)
16. NYC Housing Preservation & Development, *Lead-Based Paint*, <https://www.nyc.gov/site/hpd/services-and-information/lead-based-paint.page> (last accessed Apr. 19, 2023). [↑](#footnote-ref-16)
17. Centers for Disease Control and Prevention, *Protect Your Family from Sources of Lead* (last updated May 26, 2022), <https://www.epa.gov/lead/protect-your-family-sources-lead> (last accessed Apr. 19, 2023). [↑](#footnote-ref-17)
18. Centers for Disease Control and Prevention, *Populations at Higher Risk* (last reviewed Oct. 29, 2021), <https://www.cdc.gov/nceh/lead/prevention/populations.htm> (last accessed Apr. 19, 2023). [↑](#footnote-ref-18)
19. *Supra* note 16. [↑](#footnote-ref-19)
20. *Lead in NYC Homes*, <https://council.nyc.gov/data/lead-in-nyc-homes> (last accessed Apr. 19, 2023). [↑](#footnote-ref-20)
21. *Id*. [↑](#footnote-ref-21)
22. I*d.* [↑](#footnote-ref-22)
23. New York City Dept. of Health and Mental Hygiene, *Lead Poisoning: Information for Building Owners,* <https://www.nyc.gov/site/doh/health/health-topics/lead-poisoning-information-for-building-owners.page#:~:text=Dust%20from%20lead%20paint%20is,may%20still%20have%20lead%20paint> (last accessed Apr. 19, 2023). [↑](#footnote-ref-23)
24. Environmental Protection Agency, *Protect Your Family from Sources of Lead,* <https://www.epa.gov/lead/protect-your-family-sources-lead> (last accessed Apr. 19, 2023). [↑](#footnote-ref-24)
25. New York City Council, Local Law 1 of 2004, <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=437484&GUID=23ACF449-F6E1-4318-883B-62FF3C4FEBE0&Options=ID%7cText%7c&Search>= [↑](#footnote-ref-25)
26. *Id.* [↑](#footnote-ref-26)
27. *Id.* [↑](#footnote-ref-27)
28. *Id.* [↑](#footnote-ref-28)
29. *Id.* [↑](#footnote-ref-29)
30. *Id.* [↑](#footnote-ref-30)
31. *Id.* [↑](#footnote-ref-31)
32. Sewell Chan, *Lead Poisoning Cases Decline,* N.Y. Times, July 3, 2008, <https://www.nytimes.com/2008/07/03/nyregion/03lead.html?searchResultPosition=10>. [↑](#footnote-ref-32)
33. DOHMH, *Report to the New York City Council on Progress in Preventing Elevated Blood Lead Levels in New York City*, Sept. 2022 p. 3, <https://www.nyc.gov/assets/doh/downloads/pdf/lead/lead-rep-cc-annual-22.pdf> (last accessed Apr. 19, 2023). [↑](#footnote-ref-33)
34. Committee Report, *Oversight:* *The City’s Enforcement of Existing Lead Laws*, Sept. 27, 2018 <https://legistar.council.nyc.gov/MeetingDetail.aspx?ID=619513&GUID=10257ADC-C757-4568-9850-98712FB4DE4D&Options=ID|Text|&Search=2020%2f031> . [↑](#footnote-ref-34)
35. *Id.* [↑](#footnote-ref-35)
36. Benjamin Weiser and J. David Goodman, *New York City Housing Authority, Accused of Endangering Residents, Agrees to Oversight,* NY Times, June 11, 2018, <https://www.nytimes.com/2018/06/11/nyregion/new-york-city-housing-authority-lead-paint.html>. [↑](#footnote-ref-36)
37. Benjamin Weiser et al., *De Blasio Cedes Further Control of Nycha but Avoids Federal Takeover,* NY Times, Jan. 31, 2019, <https://www.nytimes.com/2019/01/31/nyregion/hud-nycha-deal.html> [↑](#footnote-ref-37)
38. *Id.* [↑](#footnote-ref-38)
39. NYCHA, *Initial Action Plan – Lead-Based Paint* (Jan. 19, 2021) <https://www.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Initial-Lead-Action-Plan-1.19.21-FINAL-(TC-1.26).pdf> (last accessed Apr. 19, 2023). [↑](#footnote-ref-39)
40. NYCHA Press Release, *Federal Monitor Approves NYCHA’s Initial Lead Action Plan Required by 2019 HUD Agreement, Jan, 21, 2021,*<https://www.nyc.gov/site/nycha/about/press/pr-2021/pr-20210121.page> (last accessed Apr. 19, 2023). [↑](#footnote-ref-40)
41. Bart M. Schwartz, *Monitor Report Measuring NYCHA’s Compliance with the HUD Agreement,* at 39, Nov. 22, 2022, [Monitor-Metrics-Report-11.29.22.pdf (nychamonitor.com)](https://nychamonitor.com/wp-content/uploads/2022/11/Monitor-Metrics-Report-11.29.22.pdf). [↑](#footnote-ref-41)
42. *Id.* [↑](#footnote-ref-42)
43. *Id.* [↑](#footnote-ref-43)
44. *Id.* [↑](#footnote-ref-44)
45. *Id.* at 40. [↑](#footnote-ref-45)
46. *Id.* at 40. [↑](#footnote-ref-46)
47. Office of the Comptroller, *Audit Report on the New York City Department of Education’s Controls Over Testing for Lead in School Water,* June 25, 2021, <https://comptroller.nyc.gov/wp-content/uploads/documents/MD19_117A.pdf> (last accessed Apr. 19, 2023). [↑](#footnote-ref-47)
48. Keshia Clukey, *New York Reduces Lead Level Allowed in School Drinking Water,* Bloomberg Law, Dec. 23, 2021, <https://news.bloomberglaw.com/environment-and-energy/new-york-reduces-lead-level-allowed-in-school-drinking-water>. [↑](#footnote-ref-48)
49. # *Id.*

    [↑](#footnote-ref-49)
50. *Supra* note 33 at 1. [↑](#footnote-ref-50)
51. *Id.* at 2. [↑](#footnote-ref-51)
52. *Id.* at 3. [↑](#footnote-ref-52)
53. *Id.* at 5. [↑](#footnote-ref-53)
54. The DOHMH infers that the ongoing COVID-19 pandemic played a role in decreased blood lead testing in 2021. *Id.* at 8. [↑](#footnote-ref-54)