

Housing Preservation and Development - Frequently Asked Questions

XRF Testing Requirements – Apartments and Common Areas

As a property owner of a building built prior to 1960, there are many obligations you need to know about lead-based paint hazards and the remediation or abatement of lead-based paint in your building.

1. Why is XRF testing required for pre-1960 building already presumed to contain lead-based hazardous paint?

The purpose of requiring the XRF testing in a dwelling unit presumed to contain lead paint, per Ad. Code §27-2065.5 is to confirm the presumption and provide clarity to an owner on the extent to which there may be lead-based paint in a particular dwelling unit and utilize that confirmation to see that the dwelling unit complies with all requirements of Article 14, the City's Lead-Based Paint Law.

2. Am I required to XRF Test annually?

No, only one (1) inspection is required, but once testing is completed keep all records for audit purposes.

3. Do I need to test vacant units?

Yes, you are required to test all units even if they are vacant or they are not available for rent due to needing repairs.

4. What should I do if I can't gain access into a unit to XRF Test?

Notify Tenants in Advance: Provide written notice well in advance, typically 48-72 hours (Include the purpose of the inspection, date, time, and duration).

Provide Clear Explanation: Explain the importance of the inspection for health, safety, and compliance with lead regulations and maintenance standards. Provide tenants with information on the risks of lead exposure and the benefits of maintenance.

Use Multiple Contact Methods: E.g. Use phone calls, emails, or text messages as reminders.

Offer multiple time slots or flexible hours, including evenings or weekends, to accommodate tenant availability.

Allow tenants to reschedule within a reasonable timeframe.

Keep Records: Document all attempts to contact and notify the tenant, including dates, times, and methods used. **An affidavit stating the dates that an attempt was made to gain access, including the date the owner provided written notice of the need for access by certified or registered mail or by first class mail with proof of mailing, must be included in an owner's records to document instances where access has**

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been denied by a tenant. For such units, the owner must also provide copies of the written notice to the occupant informing the occupant of the need to access the unit or similar documentation and a record regarding access attempts and the reasons for failure of access. HPD will review these records in terms of determining compliance with regulations.

5. How do I show proof I tested my building?

You MUST keep and maintain the testing records provided by your contractor for 10 years and provide them to HPD when requested.

6. What is the penalty if I don't complete the testing in time?

Failure to comply may result in a Class "C" immediately hazardous violation, making you liable for civil penalties of \$1500 per unit or the common area.

7. Who is required to perform the lead-based paint inspection?

The inspection must be performed by an Environmental Protection Agency (EPA) certified Lead paint Inspector / Risk assessor. That inspector will test all units and common areas using a device called an XRF machine, which identifies lead in paint. Qualified contractors can be found by searching for “lead certified contractors”.at <https://www.epa.gov>

The inspection must be performed by someone who is not the property owner, their agent, or a contractor involved in lead paint remediation.

8. When must lead-based paint XRF Testing be performed?

Testing must be conducted at the 0.5 mg/cm² action level in all rental units and common areas by August 9th, 2025.

9. Are there any exceptions to this inspection requirement?

No.

10. I own a Coop/Condo, do I need to test?

- Coops and Condos not occupied by the owner or the owner’s family must be tested.
- Any units that are being rented and not occupied by the owners or the owner’s family must be tested.
- As long as the unit remains owner occupied, testing is not required.
- All public/common areas must be tested.

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11. What areas must be tested in buildings built before 1960 or built between 1960 and 1978 if the owner is aware of the presence of lead-based paint in the building?

- All residential units in buildings with 3 or more residential units, by August 9th, 2025, or within one year after a child of applicable age moves into the dwelling, or the issuance of an order by the City DOHMH requiring such inspection — whichever comes soonest.
- Rental units in 1-2 family homes.
- Common areas in buildings meeting the above criteria.

12. How long must landlords keep records related to lead-based paint inspections and remediation?

Property owners should always keep records produced from this testing, and any records related to attempts to gain access to conduct such testing.

Generally, landlords must keep all lead-based paint records for at least **ten years** and provide them to HPD when requested. This includes documentation of the provision of annual notices, tenant responses to annual notices, inspections, the names of inspectors, testing results, and any exemptions from the presumption of lead paint. Review the **Owner Recordkeeping Responsibility** section on [Lead-Based Paint - HPD](#) for all of the types of information that should be maintained.

13. What happens to these records if the property is sold?

When ownership of the property changes, the records must be transferred to the new owner.

14. What specific records must landlords keep regarding this mandated lead-based paint inspection?

Landlords must keep records of:

- Names of inspectors or contractors performing lead-based paint inspections
- Proof of qualification for the EPA certified inspector and firm conducting the inspection
- Lead-based paint testing results/reports provided by the inspector/contractor
- [Affidavit by Certified individuals Who performed Lead-Based Paint Testing](#)

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15. If testing finds that there is no lead-based paint in an apartment or a building's common area, what should a property owner do?

HPD highly recommends property owners to apply for a [Lead-Free Exemption](#). When units are granted a Lead-Free Exemption, owners no longer have to provide annual notices regarding lead-based paint to the tenants or conduct annual investigations.

16. If I already tested at the 1.0 mg/cm², do I need to retest at the 0.5 mg/cm²?

No, you are not required to retest at 0.5 mg/cm² to be compliant if you have a copy of the XRF report. However, if you want to apply for a lead exemption you will be required to retest at the new 0.5 mg/cm² level.

17. A surface tested positive for lead, what do I need to do?

There are different steps depending on whether the positive surface is peeling or not, whether a violation was issued and whether there is a child under six residing in the unit or in the building (common areas).

Scenario 1

You ARE required to take immediate action if paint is peeling and there is a child under six residing in the unit or in the building (common areas).

Hire an EPA certified Abatement firm to correct the lead-based paint hazard using legal methods (e.g. wet scraping) and using safe work practices.

For work done pursuant to an HPD or DOHMH violation, only an EPA certified Abatement company can do the work regardless of the amount of lead-based paint will be disturbed. A certified Renovation firm CANNOT be used to address a violation condition.

Hire an EPA certified firm that is independent of the firm that did the work or the building owner to conduct dust clearance samples to ensure the work areas were adequately clean of lead-based dust.

Scenario 2

You are NOT required to do anything immediately in terms of addressing the lead-based paint if the paint is peeling but there is no child under six residing in the unit or in the building (common areas). However, it is best practice to repair the peeling surface and/or repaint. If you are going to do this work the following must be done:

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Hire an EPA certified Abatement firm to correct the lead-based paint hazard using safe work practice.

Hire an EPA certified firm that is independent of the firm that did the work or the building owner to conduct dust clearance samples to ensure the work areas were adequately clean of lead-based dust.

For surfaces where this is an OPEN violation related for the surface, even though there is no child in the unit now, only an EPA certified Abatement company can do the work for the violation to be dismissed.

Scenario 3

You are NOT required to do anything immediately if the paint is not peeling. However, keep in mind that:

You are required to monitor this paint over time and address it if it starts to become separated from the surface or begins to peel. Keep documentation of this monitoring for your annual records. (see scenario 2 for next steps if the surface starts to peel).

You are required to abate positive doors and windows friction components upon the turnover of the unit (**regardless of the previous or future presence of any children in that unit**).

For more information on turnover requirements, visit [Lead-Based Paint - HPD – Requirements Upon Turnover of an Apartment](#)

Key Takeaways:

- If the goal is to eliminate the lead-based paint hazard, an abatement firm is needed.
- If doing general renovation or repair in a home where a child under six resides and lead-based paint is present, either a certified abatement or RRP firm can complete the work.
- For work done pursuant to an HPD or DOHMH violation, only an EPA certified Abatement company can do the work regardless of the amount of lead-based paint will be disturbed. A certified Renovation firm CANNOT be used to address a violation condition.

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Helpful Definitions

What is a Lead-based paint hazard?

Lead-based paint hazard is any condition in a dwelling/dwelling unit or common area that causes exposure to lead from lead-contaminated dust, from lead-based paint that is peeling, or from lead-based paint that is present on chewable surfaces, deteriorated subsurfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.

What is Monitoring?

Monitoring lead-based paint means regularly checking and maintaining surfaces to prevent hazards. This includes:

- Ongoing reevaluations to assess the condition of lead-based paint.
- Visual surveys to check for peeling, chipping, or deteriorating paint.
- Identifying and controlling potential lead hazards before they become a risk.

Monitoring is an alternative to abatement when allowed, but if a hazard develops (such as peeling paint in a unit with a child under six), corrective action is required.

What is Abatement?

Abatement means permanently eliminating lead hazards through:

- Removal of lead-based paint and dust.
- Enclosure (covering lead-based paint with a solid barrier).
- Encapsulation (coating the lead-based surface to seal it).
- Replacement of painted surfaces or fixtures.

Abatement must be performed by an EPA-certified firm. If enclosure or encapsulation is used, the area must be monitored for life to ensure safety.

What is Abatement Firm vs. a Renovation Firm?

An abatement firm can perform Interim or Abatement work. A renovation firm cannot perform Abatement work.

Abatement Firm

- Licensed and certified by the EPA to permanently eliminate lead-based paint hazards.
- Typically hired when lead abatement is legally required, such as in response to a lead-poisoned child, turnover work, or violation correction.
- Their work involves removal, enclosure, encapsulation, or replacement of lead-based to ensure safety.
- Must follow strict EPA or local health department regulations.

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Renovation Firm

- Certified under the EPA's Renovation, Repair, and Painting (RRP) to work safely with lead-based paint.
- Hired for general repairs, remodeling, or painting in pre-1960 properties that may contain lead-based paint.
- Their work is not intended to eliminate lead hazards but must follow lead-safe practices (e.g., dust containment, proper cleanup) to prevent exposure.

For additional information about compliance with the City's Lead Law, please consult HPD's website at: [Lead-Based Paint - HPD](#)