



NEW YORK CITY

APARTMENT MANAGEMENT CHECKLIST

Every chapter of the **2019 NYC APARTMENT MANAGEMENT CHECKLIST** is organized for quick and easy access to the exact information you need when you need it.

Let's Look at Chapter 13: Extermination of Insects & Pests:

Every chapter starts with

1 WHO IS AFFECTED

Followed by **2 WHAT LAW REQUIRES**

which spells out exactly what you need to do to keep the premises free from rodents and insects, and what you need to report to the Dept. of Housing Preservation & Development.

provisions concerning public education about allergen triggers and permits health care professionals to request inspections on behalf of consenting patients with asthma.

3 HOW TO COMPLY

To comply with bedbug reporting requirements, owners must do the following:

- Include **vacancy lease bedbug notice**. For new tenants, include with the lease a DHCR bedbug infestation history notice form.
- Report bedbugs annually to HPD**. Starting December 2018, an owner of a multiple dwelling is required each December to report electronically to HPD:
 - The number of dwelling units.
 - The number of dwelling units, as reported or otherwise known to the owner, that had a bedbug infestation during the previous year.
 - The number of dwelling units, as reported or otherwise known to the owner, in which eradication measures were used during the previous year for a bedbug infestation; and
 - The number of dwelling units reported that had a bedbug infestation after such eradication measures were used in the units.

Owners who report electronically must certify that either:

- a copy of the form will be distributed to each tenant of the building reported upon each lease renewal or new lease issued; or
- a copy of the form will be posted in a prominent location in the building within 60 days of the filing and that the owner will maintain a record that a copy of the form was prominently posted within 60 days of the filing with HPD.

Owners must also either post or provide to tenants with leases a notice issued or approved by the Department of Health and Mental Hygiene (DOHMH) that provides information about the prevention, detection, and removal of bedbugs.

submitted information publicly available on its website.

- Online: www1.nyc.gov/site/hpd/about/hpd-online.page

DEADLINE

An owner has a continuing obligation to provide extermination services when a building is subject to infestation. There is no set timetable for the services.

The electronic bedbug reporting application for owners will be provided through HPDONLINE in December 2018. During December 2018 and before Jan. 1, 2019 (for the previous year, from November 2017 through November 2018), and each year thereafter, owners will be required to report information for each dwelling unit to HPD. Owners who post in the building a copy of the electronic form submitted to HPD that documents bedbug infestation history must do so within 60 days of filing the form with HPD. HPD also will make the submitted information publicly available on its website.

Under Local Law 55 of 2018, owners have 21 days to correct violations for indoor allergen hazards, of which pests. HPD may take enforcement action, including remediation of the condition, if the owner does not comply.

PENALTY FOR FAILURE TO COMPLY

Failure to rid a building of rodents or insects may result in HPD violations that carry penalties of \$25 to \$100 per violation, plus \$10 for each day that the violation continues. Failure to rid a building of rodents may also result in DOHMH violations that carry minimum penalties of \$300 per violation. Owners who get a second violation at the same building within two years of the first violation may be subject to a penalty double the amount of the first violation. Also, DOHMH may recover the litigation costs it incurs in recovering the penalties.

Courts have awarded tenants rent abatements

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Extermination of Insects & Pests

1 WHO IS AFFECTED

All owners of residential buildings, regardless of size or number of apartments, are required to exterminate insects and pests.

All owners of multiple dwellings are required to obtain bedbug infestation history from tenants or unit owners and to report information to the Dept. of Housing Preservation and Development (HPD).

2 WHAT LAW REQUIRES

All owners must keep the premises free from rodents (mice, rats, etc.) and infestation by insects (ants, bedbugs, bees, beetles, cockroaches, houseflies, mosquitoes, moths, silverfish, spiders, etc.). An owner must apply "continuous eradication measures" when a building is infested by insects or rodents.

Owners do not have to provide extermination services at any set intervals (e.g., monthly) as long as a building is kept clean of insects and rodents.

Under Local Law 14 of 2009, a 10-member Bedbug Advisory Board was appointed to report recommendations to address bedbug infestation, including lists of rights and responsibilities of landlords and tenants, to the New York City Council.

Starting in June 2010, landlords must tell prospective tenants whether an offered apartment or any other apartment in the same building has had a bedbug infestation within the previous year. Disclosure forms issued or approved by the NYS

Division of Housing and Community Renewal (DHCR) must be provided with vacancy leases.

Starting Nov. 6, 2017, Local Law 69 of 2017 requires owners to attempt to obtain a building's bedbug infestation history from tenants or unit owners, including whether eradication measures were used. In addition, owners will be required to report bedbug infestation information for each dwelling unit to HPD on an electronic form, and to then either post the form in a prominent building location or provide a copy of the form to each tenant with the tenant's vacancy and renewal leases. This requirement is in addition to the existing disclosure requirement on DHCR forms to new tenants.

Effective Jan. 19, 2019, Local Law 55 of 2018 replaces Admin. Code §27-2018 concerning rodent and insect eradication and extermination with amended Admin. Code Article 4 to address control of pests and other asthma allergen triggers, including mold. The local law now defines an "indoor allergen hazard" as any indoor infestation of cockroaches, mice, or rats or conditions conducive to such infestation, in addition to any indoor mold hazard. See CHAPTER 29: MOLD, for separate discussion of mold conditions.

Among other things, Local Law 55 also requires owners to investigate for allergens in apartments at least annually and more often if necessary, provide lease notices to tenants advising them of owner and tenant obligations under the law, remove asthma triggers upon apartment turnover, and advise incoming tenants that the apartment complies with the law. Local Law 55 also added

The next section,

3 HOW TO COMPLY, shows just that — in easy-to-understand language.

2019 NYC APARTMENT MANAGEMENT CHECKLIST

More from Chapter 13: Extermination of Insects & Pests:

provisions concerning public education about allergen triggers and permits health care professionals to request inspections on behalf of consenting patients with asthma.

HOW TO COMPLY

To comply with bedbug reporting requirements, owners must do the following:

Include vacancy lease bedbug notice. For new tenants, include with the lease a DHCR bedbug infestation history notice form.

Report bedbugs annually to HPD. Starting December 2018, an owner of a multiple dwelling is required each December to report electronically to HPD:

- The number of dwelling units;
- The number of dwelling units, as reported or otherwise known to the owner, that had a bedbug infestation during the previous year;
- The number of dwelling units, as reported or otherwise known to the owner, in which eradication measures were used during the previous year for a bedbug infestation; and
- The number of dwelling units reported that had a bedbug infestation after such eradication measures were used in the units.

Owners who report electronically must certify that either:

1. a copy of the form will be distributed to each tenant of the building reported upon each lease renewal or new lease issued; or
2. a copy of the form will be posted in a prominent location in the building within 60 days of the filing and that the owner will maintain a record that a copy of the form was prominently posted within 60 days of the filing with HPD.

Owners must also either post or provide to tenants with leases a notice issued or approved by the Department of Health and Mental Hygiene (DOHMH) that provides information about the prevention, detection, and removal of bedbugs.

At Press Time, HPD reported that a link to the electronic reporting application for owners would be provided in December 2018 through HPDONLINE, so that owners could complete the filing with HPD by Jan. 1, 2019. HPD will make the

submitted information publicly available on its website.

♦ [Online: www1.nyc.gov/site/hpd/about/hpd-online.page](http://www1.nyc.gov/site/hpd/about/hpd-online.page)

DEADLINE

An owner has a continuing obligation to provide extermination services when a building is subject to infestation. There is no set timetable for the services.

The electronic bedbug reporting application for owners will be provided through HPDONLINE in December 2018. During December 2018 and before Jan. 1, 2019 (for the previous year, from November 2017 through November 2018), and each year thereafter, owners will be required to report information for each dwelling unit to HPD. Owners who post in the building a copy of the electronic form submitted to HPD that documents bedbug infestation history must do so within 60 days of filing the form with HPD. HPD also will make the submitted information publicly available on its website.

Under Local Law 55 of 2018, owners have 21 days to correct violations for indoor allergen hazards, including those caused by pests. HPD may take enforcement action, including remediation of the condition, if the owner does not comply.

PENALTY FOR FAILURE TO COMPLY

Failure to rid a building of rodents or insects may result in HPD violations that carry penalties of \$25 to \$100 per violation, plus \$10 for each day that the violation continues. Failure to rid a building of rodents may also result in DOHMH violations that carry minimum penalties of \$300 per violation. Owners who get a second violation at the same building within two years of the first violation may be subject to a penalty double the amount of the first violation. Also, DOHMH may recover the litigation costs it incurs in recovering the penalties.

Courts have awarded tenants rent abatements for bedbug infestations, even in some cases where landlord made prompt attempts to correct the condition or claimed that it was caused by tenants. See for example, Ludlow Properties, LLC v. Young, 4 Misc.3d 515, 520 (Civ. Ct. NY 2004),

4 DEADLINE section tells you when you need to take action.

5 PENALTY FOR FAILURE TO COMPLY lays out all the fines you could face for non-compliance.

FORMS REQUIRED

DHCR bedbug infestation history notice forms must be attached to vacancy leases offered to prospective tenants:

- ♦ **DBB-N:** Notice to Tenant: Disclosure of Bedbug Infestation History (10/10), see p. 228.
- ♦ [Online: www.nysdcr.org/Forms/Rent/tdbn.pdf](http://www.nysdcr.org/Forms/Rent/tdbn.pdf)

DOHMH's current informational notice about bedbugs must be attached to vacancy and renewal leases or posted in the building:

- ♦ **DOHMH:** Stop Bed Bugs Safely Fact Sheet, see pp. 222-230.
- ♦ [Online: www1.nyc.gov/site/hpd/owners/pests-owners.page](http://www1.nyc.gov/site/hpd/owners/pests-owners.page)

Click on "notice" where the form is described

FOR FURTHER INFORMATION

If you have questions about your obligation to provide extermination services, contact your local HPD borough office—Division of Code Enforcement (see APPENDIX A: TELEPHONE DIRECTORY).

See also "Recommendations for the Management of Bed Bugs in New York City: NYC Bed Bug Advisory Board Report to the Mayor and City Council (April 2010)"

- ♦ [Online: www1.nyc.gov/html/council/pdf/2010/cdm_07-28-10.pdf](http://www1.nyc.gov/html/council/pdf/2010/cdm_07-28-10.pdf)

45% abatement; *Bender v. Green*, 24 Misc.3d 174, 874 NYS2d 786, 2009 NY Slip Op 29087 (Civ. Ct. NY), 12% abatement; *Choudhury v. Ramtahal*, NYLJ, 6/3/2009, p. 28, col. 1 (Civ. Ct. Kings), 9% abatement; *Jefferson House Assocs., LLC v. Boyle*, 6 Misc.3d 1029(A) (Justice Ct. West. Co.), 50% abatement; and *Assoc. v. CW*, 24 Misc.3d 1225(A), 897 NYS2d 668 (Table), 2009 NY Slip Op. 51617(U) (Civ. Ct. NY 2009), 50% abatement; *Valoma v. G-Way Management, LLC*, 29 Misc.3d 1222(A), 918 NYS2d 401 (Civ. Ct. NY 2010), 50% abatement; *JWD & Sons, Ltd. v. Alexander*, 33 Misc.3d 1271(A) (Just. Ct. Ossining 2011), 50% abatement; *Compta v. Gawad v. Aviad*, 37 Misc.3d 126(A) (App. T. 2 Dept. 2012) (owner must get reasonable time to correct bedbug condition before abatement).

Owners who fail to give DHCR bedbug infestation notice forms to new tenants can be directed to do so by the DHCR if a tenant complains.

HPD may issue Class "A" violations for failing to file electronic reports in a timely manner, failing to properly post the bedbug infestation history notice, or failing to provide documents as required to tenants.

False certification of correction of an indoor allergen hazard can result in penalties between \$2,000 and \$10,000 for each false certification. In addition, daily penalties of \$500, up to \$10,000, may apply.

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TEXT OF LAW

The following laws apply: NYC Administrative Code, §§17-133, 17-133.1, 17-199.5 through 17-199.8, 27-2017 through 27-2019, 27-2115(c); 24 RCNY, Health Code §§151.01 through 151.05; NYC Local Law 14 of 2009.

Admin. Code, §17-133: Penalties

Every person, corporation, or body that shall violate or not conform to any provisions of the health code of the city of New York, or any rule or sanitary regulation duly made, shall be liable to pay a penalty not exceeding the maximum amount allowed by the health code of the city of New York, or any other applicable rule or regulation. The judge, justice, administrative law judge or hearing examiner who presided at a trial or hearing where such penalty is determined and assessed shall fix, in writing, the amount of the penalty to be recovered, and shall direct that such amount be included in the judgment or decision.

Admin. Code, §17-133.1: Failure to abate rodents; penalties

Every person, corporation, or body that shall violate or not conform to any provisions of the health code of the city of New York or any applicable law, rule or regulation pertaining to the eradication of rodents, and the elimination of rodent harborage or other rodent related nuisances shall be liable to pay a civil penalty of not less than three hundred dollars for the first violation. The penalty for each subsequent violation of the same provision of law, rule or regulation, at the same premises and under the same ownership or control, within a two-year period, shall be double the amount of the previous violation; provided, however, that such penalty shall not exceed the maximum allowable penalty set forth in §17-133 of this code. Such penalties may be sued for and recovered by and in the name of the department, with costs, before any judge, justice, administrative law judge or hearing examiner in the city having jurisdiction of such or similar actions. The judge, justice, administrative law judge or hearing examiner who presided at a trial or hearing where such penalty is determined and assessed shall fix, in writing, the amount of the penalty to be recovered, and shall direct that such amount be included in the judgment or decision.

Admin. Code §17-199.5: Encouragement of physician referrals for indoor allergen hazards [Effective Jan. 19, 2019]

- a. The department shall report to the council no later than 18 months from the effective date on activities it has undertaken to educate physicians and other health care providers who treat persons with asthma about the role of indoor allergens

in asthma exacerbation and the availability of inspections for asthma triggers in their patients' primary residence by the department and the department of housing preservation and development, and on any mechanism they have to refer to the department or the department of housing preservation and development, with consent, the contact information for patients who report these conditions in their primary residence. The report shall describe what was done following such referrals, and what the outcomes were of any that were made and received during this period.

Admin. Code §17-199.6: Investigations of indoor allergen hazards in dwellings of persons with medically diagnosed moderate persistent or severe persistent asthma [Effective Jan. 19, 2019]

a. The department shall establish procedures to permit doctors, nurses, or other health professionals, upon the consent of their patients, to request a department investigation of possible indoor allergen hazards in dwellings where persons reside who have been medically diagnosed with moderate persistent or severe persistent asthma. Such procedures shall provide for the referral to the department of housing preservation and development of such requests that would be subject to §27-2017.6. The procedures shall also provide for an investigation to be made when the department is notified that a person who has been medically diagnosed with moderate persistent or severe persistent asthma is residing in a dwelling with possible indoor allergen hazards not otherwise subject to enforcement by the department of housing preservation and development under §27-2017.6. Such indoor allergen hazards include, but are not limited to, mold that is not readily observable to the eye, including mold that is hidden within wall cavities, construction dust or such other conditions as the department shall from time-to-time determine by rule are indoor allergen hazards.

- b. In the event that the department determines that an indoor allergen hazard exists, the department shall order the owner to correct the condition and the underlying causes of such a condition within twenty-one days, in a manner and under such safety conditions as it may specify, including the integrated pest management practices in §27-2017.8 and the work practices established pursuant to §27-2017.9.

6 FORMS REQUIRED references what forms you're going to need, with copies reproduced at the end of the chapter.

7 FOR FURTHER INFORMATION points you to additional resources for questions about your obligation to provide extermination services.

8 TEXT OF LAW provides the specific New York City Administrative Codes, Health Codes, and NYC Local Laws that apply to this topic.