

Building Registration
Discrimination Harassment
Heat and Hot Water
Housing Court



NEW YORK CITY DEPARTMENT
OF HOUSING PRESERVATION
AND DEVELOPMENT

USEFUL INFORMATION ABOUT HOUSING RULES AND REGULATIONS

*For Owners
and
Tenants*

Housing Maintenance
Code Housing Rights
and Responsibilities
Illegal Cellar Conversions
Lead-Based Paint
Narcotics Control
Pets Rent Regulation

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Useful Information about Housing Rules and Regulations for Owners and Tenants

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For information about New York City government,
please call 311 – The New York City Citizen Service Center
24 hours a day, seven days a week

The Department of Housing Preservation and Development (HPD): An Overview

As the nation's largest municipal housing development agency, HPD performs many functions for the public. HPD's principal goals are improving the affordability, availability and quality of housing in New York City. As such, a major responsibility of the agency is to encourage the preservation of quality affordable housing through education, outreach, loan programs, and enforcement of housing quality standards. HPD also builds and rehabilitates housing for New Yorkers. Since 1987, the agency has completed the construction or rehabilitation of 212,000 affordable apartments and homes.

Building Registration

The Housing Maintenance Code requires owners of multiple dwellings to register their buildings with HPD annually. "Multiple dwellings" are defined as buildings that contain three or more dwelling units. One- and two-family dwellings need not be registered unless the owner lives outside the city. In such cases, the building must be managed by a New York City agent and registered with HPD. Owners of buildings with six or more units must register them by April 1 of each year, and owners of buildings with five or fewer units must register them by October 1 of each year. The maintenance of accurate building registrations is essential to emergency notifications and the enforcement of housing laws. HPD's Litigation Division may sue owners who fail to register their buildings in compliance with the law. For more information, dial 311.

State and local law also annually require owners of buildings containing rent controlled or rent stabilized apartments to register those apartments with the New York State Division of Housing and Community Renewal (DHCR). Registration with DHCR facilitates rent-regulation and code enforcement. The law provides for penalties for an owner's failure to register. For more information, dial 311.

Discrimination

By law, owners may not deny prospective tenants housing because of race, color, religion, nationality, gender, sexual preference, age, marital status, disability, immigrant status, or legal occupation. Furthermore, tenants may not be denied housing because their children are or will be residing with them.

Tenants who believe they have experienced housing discrimination may file complaints within one year of the incident by calling the New York City Commission on Human Rights at or HPD's Fair Housing Office at 311.

Harassment

Harassment by an owner to force tenants out of their apartments is illegal. Examples of harassment include consistent withholding of services and persistent physical or psychological intimidation.

In buildings with rent –controlled or rent-stabilized apartments, tenants who believe their building owners are harassing them should contact the New York State Department of Housing and Community Renewal (DHCR). DHCR enforces the housing laws regarding such rent-regulated apartments and may levy fines against owners guilty of harassment.

If the apartment is not rent-controlled or rent-stabilized, tenants may have a basis to bring legal action against the owner in Housing Court and may be able to collect damages. Tenants may want to consult with or retain an attorney before initiating any lawsuit. Tenants who cannot afford representation may be eligible for free or inexpensive legal assistance from the Legal Aid Society. For information, dial 311. HPD’s Fair Housing Counselors can also give tenants legal assistance. Dial 311 for information.

Heat and Hot Water

The law requires building owners to heat tenants’ apartments between October 1st and May 31st. During these months, between the hours of 6:00 a.m. and 10:00 p.m., if the outside temperature is below 55 degrees Fahrenheit, building owners must heat apartments to at least 68 degrees Fahrenheit. During the evening, between the hours of 10:00 p.m. and 6:00 a.m., if the outside temperature falls below 40 degrees Fahrenheit, building owners must heat apartments to at least 55 degrees Fahrenheit.

By law, building owners also must ensure that tenants have hot water 24 hours a day, 365 days a year, at a minimum constant temperature of 120 degrees Fahrenheit.

Tenants in privately owned buildings whose owners fail to provide adequate heat or hot water should first speak with the building owner or manager about the problem. If an owner does not correct the problem, tenants should then call the City’s Citizen Service Center at 311, 24 hours per day, seven days per week, to lodge a complaint. For the hearing impaired, the TTY number is (212) 504-4115.

Housing Court

Housing Court is the forum where building owners and tenants resolve many of their legal disputes. To avoid the time and expense of trial, tenants and owners may seek assistance from HPD’s Fair Housing Counselors, who can be reached at their respective borough offices, listed above in the “Harassment” section. For questions about Housing Court issues not discussed below, tenants and owners may contact the Citywide Task Force on Housing Court, Monday through Friday, 9 a.m. to 5 p.m. Dial 311 for

information. Tenants and owners may also find assistance at information tables set up in Housing Court.

Both tenants and owners may want to consult with and secure the services of an attorney before bringing disputes to court. Tenants who cannot afford legal representation may be eligible for free or inexpensive assistance from the Legal Aid Society (dial 311 for more information).

Tenant Actions: Tenants in privately owned buildings who have apartment maintenance or other housing problems should first report them to their building owner. If that fails, they may call the City's Citizen Service Center at 311, open 24 hours per day, seven days per week, to file a complaint that may result in an inspection. If the problem persists, tenants may initiate legal action in Housing Court. Copies of a complainant's correspondence with the owner can be important in Housing Court.

At court, tenants are assisted in preparing an Order to Show Cause and obtaining a court date, which is usually about ten days later. They are given instructions about how to serve the Order to Show Cause on both the owner and HPD. On the return Court date, the tenant and the owner each get an opportunity to present their positions with an HPD attorney present to assist. If the judge believes that violations exist in the building, he or she may order the owner to correct them within a specified time frame. If the owner fails to comply with the Order, the tenant may return to court to seek Civil Penalties or Contempt of Court. Judges may penalize owners who refuse to repair violations after being ordered by the court to correct the problem.

Nonpayment Eviction Proceedings: The only legal way to evict a nonpaying tenant is through a nonpayment eviction proceeding in Housing Court. Building owners must notify the tenant that rent is late, what the balance is, and that if not paid, the tenant will be evicted. Three days after notice is given or oral demand for the rent is made, the owner may file a nonpayment proceeding at Housing Court and serve papers on the tenant. The tenant must answer the petition in person at the Housing Court Clerk's office. The Clerk will then give a court date to the tenant. On the court date, the tenant has an opportunity to present defenses to a Housing Court Judge. It is advisable for a tenant to consult an attorney whenever eviction proceedings are concerned. Owners must obtain a judgment of possession and "warrant" directing a city marshal to evict the tenant.

Holdover Eviction Proceedings: An owner may commence a summary proceeding for possession of an apartment for a breach of the lease. If a tenant's lease contains a provision allowing for termination for committing a "nuisance," an owner may undertake eviction proceedings for objectionable conduct. A "nuisance" is generally considered persistent and egregious conduct that threatens the health, safety or comfort of neighboring tenants. To evict, owners must provide evidence proving that the tenant's behavior meets this standard. The landlord must serve a preliminary notice which terminates the lease prior to commencement of the proceeding. The owner may also

commence holdover proceedings for other reasons such as illegal sublet, non-primary residence, illegal use, or expiration of lease where no renewal is mandated by law.

Housing Maintenance Code

The New York City Housing Maintenance Code (HMC) establishes the minimum standards for health, safety, fire protection, light, ventilation, cleanliness, maintenance and occupancy in residential apartments in New York City.

Reporting Violations: Tenants in privately owned buildings with maintenance problems should first notify the building owner. If verbal notification does not resolve the problem tenants may wish to send written notification through certified mail, return receipt requested. If the problem persists, tenants may file a complaint with the City's Citizen Service Center at 311, which is open 24 hours per day, seven days per week. Both the owner and the complainant will receive notices that a complaint was filed. These notices can be important if a complainant decides to go to Housing Court. If HPD inspectors determine that a building has violations, the owner has a certain amount of time to correct them, depending on their severity.

Classes of Violations: The Housing Maintenance Code provides for three classes of code violations:

Class "A" Violations are deemed non-hazardous. Owners must correct "A" violations within 90 days and certify their repair within two weeks to remove the violation.

Class "B" Violations are deemed hazardous. Owners must correct "B" violations within 30 days and certify their repair within two weeks to remove the violation.

Class "C" Violations are deemed immediately hazardous. Owners must correct "C" violations other than lead-based paint violations within 24 hours and certify their repair within five days to remove the violation. HPD independently begins legal action for cases of comprehensive class "C" violations.

Housing Rights and Responsibilities

Both owners and tenants have legal responsibilities to their buildings and to each other.

Building Owners: Owners must ensure that buildings are safe, clean and well maintained, in both common areas and in individual apartments. Among other responsibilities, owners must provide and maintain security measures, heat, hot and cold water, good lighting and maintenance to keep the building in good repair.

Tenants: Tenants also have responsibilities to their building owners and their apartments. They may not damage the building, intentionally or through neglect. Tenants are also

responsible for the actions of their guests. Finally, tenants must obey the terms of their lease, pay rent on time and honor the rights of other tenants.

Owner Entry: In New York City, owners may enter a tenant's apartment for three general reasons: emergency repairs, non-emergency repairs or improvements, and apartment inspections. Emergency repair requires no advance notice to the tenant. However, access for non-emergency repairs and improvements requires a minimum of one week's advance written notice, and access for inspection requires a minimum of 24 hours advance written notice.

Illegal Basement and Cellar Conversions

Basements and cellars are very different. A basement is a story partly below curb level but having at least one-half of its height above the curb level. A cellar is an enclosed space having more than one-half of its height below curb level.

Basements and cellars of multiple dwellings may not be occupied unless the conditions meet the minimum requirements for light, air, sanitation and egress, and have received approval by the New York City Department of Buildings.

Cellars in private dwellings can **NEVER** be lawfully rented or occupied. *(A secondary kitchen for accessory cooking may be located in the cellar so long as approval from the Department of Buildings is obtained prior to the installation of such kitchen.)*

Basements in private dwellings can **NEVER** be lawfully rented or occupied unless the conditions meet the minimum requirements for light, air, sanitation and egress, and have received approval by the Department of Buildings. *(Since the rental of a basement in a two-family dwelling would result in a conversion from a private dwelling to a multiple dwelling, basements of two-family dwellings may not be rented unless the entire building is in compliance with the New York State Multiple Dwelling Law.)*

Owners with illegally converted basements and cellars may face civil and criminal penalties. Occupants of illegal basement and cellar apartments face potential dangers such as carbon monoxide poisoning, inadequate light and ventilation and inadequate egress in the event of a fire. Occupants of illegal basement and cellar apartments may be ordered by the City to vacate or leave any illegal basement or cellar apartment.

For more information and/or complaints concerning illegal basement or cellar apartments call the City's Citizen Service Center at 311. Complaints will be directed to the New York City Department of Buildings.

Lead-Based Paint

The City's lead law requires owners of multiple dwellings to repair all peeling, cracking, scaling, flaking, blistering, chipping, or loss in any manner paint. The law further requires owners of such buildings to inquire whether children under the age of seven reside in the building and to visually inspect their apartments for lead hazards once a year. Lead-based paint violations must be repaired using safe work practices, within the timeframes specified by law and HPD rules.

To report peeling paint or other potential lead violations, tenants may contact the City's Citizen Service Center, open 24 hours per day, seven days per week, at 311.

Narcotics Control

Tenants in HPD-owned buildings are encouraged to immediately report all drug activity to HPD's Narcotics Control Unit by calling 311. To secure buildings from drug dealers and vandals, tenants should ask their building manager or area office to repair broken locks or intercoms.

Tenants in privately owned buildings should notify their building owners and the police of any illegal activity in their building. Owners should alert the police to illegal activity in their building.

Pets

Unless the pet can be considered a "service animal" used by blind, deaf or disabled people, whether pets are permitted is at the discretion of the building owner and is usually stipulated in the lease. If a tenant keeps a pet in the apartment without the building owner's permission, it may be considered a serious violation of the lease and may be a basis for terminating tenancy. In addition, many animals cannot be kept legally as pets in the City of New York. For more information on pet regulations, call the Health Department's Dog License Department at 311.

Rent Regulation

Rent regulation laws limit the rate of rent increases and the methods and reasons for eviction. They also require that building owners maintain services in their apartments. New York State's Department of Housing and Community Renewal (DHCR) administers rent regulation laws.

Rent Stabilization: Generally, apartments are rent stabilized when they are in buildings that have six or more units and were built between 1947 and 1973. Some apartments in buildings built before 1947 are rent stabilized if the renter established residency after 1971.

Rent Deregulation: Rent-stabilized units that become vacant can be deregulated if the rent after vacancy reaches \$2,000 or more. Occupied units renting for \$2,000 or more can also become deregulated if the tenant's adjusted income reaches or exceeds \$175,000 for two consecutive years.

Rent Control: Generally, apartments are rent controlled when they are in buildings that have three or more units, were built before 1947 and have had a tenant living there continuously since June 1971. When a rent-controlled tenant dies and leaves no legal successors, voluntarily moves out, or is lawfully evicted, the unit automatically becomes "vacancy decontrolled", and is no longer subject to rent control laws and regulations. However, the unit may be subject to rent-stabilization if the unit is located in a building built before 1974 and the building contains six or more units.

Problems in Rent Regulated Apartments: In addition to calling HPD to report code violations, tenants in rent regulated apartments who have problems with their building owners may contact DHCR. DHCR may penalize owners through rent reductions to help tenants with problems involving rent overcharging, lease renewals, harassment, a decrease in services, and lack of heat and hot water. For more information, tenants may contact DHCR. Dial 311 for more information.

Appendix A: Useful Contact Information



311 is New York City's New Phone Number for Government Information and Services. All calls to 311 are answered by a live operator, 24 hours a day, seven days a week, and services are provided in over 170 languages. Dial 311 from within the City or (212) NEW YORK outside of the five boroughs. TTY service is also available by dialing (212) 504-4115.

311 provides New Yorkers with one easy-to-remember number to access non-emergency City government services. Remember, for emergencies dial 911.

HPD's city-wide non-profit housing partners:

- Community Preservation Corporation (CPC).....(212) 869-5300
- The Enterprise Foundation(212) 262-9575
- Local Initiatives Support Corporation (LISC).....(212) 455-9800
- New York City Housing Partnership.....(212) 493-7431

Neighborhood Housing Services (NHS):

NHS Citywide
 307 West 36th Street
 New York, NY 10018
 (212) 519-2500

NHS Homeownership Center
 1 Hanson Place
 Brooklyn, NY 11243
 (718) 230-7610

Northern Queens NHS
 60-20 Woodside Ave., 2F
 Woodside, NY 11377
 (718) 457-1017

NHS North Bronx
 1178 East Gun Hill Road
 Bronx, NY 10469
 (718) 732-8155

Jamaica NHS
 89-70 162nd Street
 Jamaica NY 11434
 (718) 291-7400

South Bronx NHS
 200 East 161st Street, Ground Floor
 Bronx, NY 10451
 (718) 992-5979

Bedford Stuyvesant NHS
 1012 Gates Avenue
 Brooklyn, NY 11221
 (718) 919-2100

East Flatbush NHS
 2806 Church Avenue
 Brooklyn, NY 11226
 (718) 469-4679

Staten Island NHS
 1205 Castleton Avenue
 Staten Island, NY 10310
 (718) 442-8080

Other government housing and housing-related agencies:

State Attorney General

(Information on rights and obligations of building owners, tenants and real estate brokers)

Information and Complaint Line:.....1-800-771-7755

State Division of Housing and Community Renewal (DHCR)

(Information on rent and services for rent controlled and rent stabilized apartments).... 311 for more info.

Housing Development Corporation (HDC).....(212) 227-5500

Residential Mortgage Insurance Corporation (REMIC)(212) 227-5500

U.S. Department of Housing and Urban Development (HUD).....(212) 264-8000

New York City Housing Authority (NYCHA)311

NYC Department of Buildings.....311

Appendix B: Common Housing Court Terms

Adjournment: When the court temporarily halts proceedings in a given case at either party's request or for the court's own reasons and sets a date for the parties to return to court to continue the proceeding.

Default: Failure to appear in court or fulfill an agreement. A default by either party can result in a judgment in their opponent's favor.

Inquest: A one-sided court proceeding that allows a party to present his or her case to the judge without the opponent present. A party may conduct an *inquest* if the opposing party fails to appear in court as instructed.

Mediation: The process through which court-appointed *mediators* assist parties in a legal dispute to make a mutually fair agreement and to understand its terms and conditions.

Order to Show Cause (OTSC): A legal document used to initiate a special proceeding, or to request the entry or the return of a case to the court calendar. Among other reasons, tenants may request an OTSC to hold owners accountable for defaulting on an agreement, request more time to pay arrears, or stop an eviction. The OTSC has the effect of staying the proceeding from going forward and keeps the parties in the same position.

Petition: A legal document that sets out the petitioner's claim for judicial relief.

Petitioner: The party who initiates the case.

Pro Se: This Latin term means "by yourself" and refers to parties in a legal dispute that represent themselves in court, without legal counsel.

Rent Abatement: A one-time reduction in rent to compensate tenants for an owner's failure to make repairs after court orders or stipulations.

Respondent: The party in a court case who must answer the special proceeding begun by the petitioner.

Stipulation: A court document that lists the terms and conditions of an agreement between a tenant and an owner.

Three-Day Notice: Refers to the amount of time tenants have to pay arrears after receiving a written or verbal request for payment from the owner. If a tenant fails to pay arrears after three days, the owner may initiate legal action against the tenant.

Traverse Hearing: A court hearing held to determine whether a party properly served court papers to another party.

Warrant of Eviction: A legal document issued by the court that empowers a marshal to remove a tenant from an apartment after the appropriate five day notice expires. Only the marshal's office may serve and execute a warrant of eviction.

With Prejudice: When the petitioner gives up the right to seek further legal action at a later date. If a case is discontinued with prejudice, it may not be brought again.

Without Prejudice: When the petitioner reserves the right to seek further legal action at a later date. If a case is discontinued without prejudice, it may be brought again.