

# NYS HOUSING TRUST FUND CORPORATION

## **NEW YORK MAIN STREET PROGRAM Environmental Compliance Checklist**

### **Environmental Compliance Process: Step by Step**

Awards made under the New York State Main Street Program are subject to requirements of the State Environmental Quality Review Act (SEQR) at 6 NYCRR Part 617. Compliance applies to all participants in the development process, including public or private nonprofit or for-profit entities, or any of their contractors.

The primary objective of the Main Street Program's environmental review process is to identify program specific environmental factors that may be encountered at individual project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors.

When this process is complete, the Local Program Administrator (LPA) will receive a letter stating that the Program has environmental clearance from the Housing Trust Fund Corporation (HTFC). The LPA is then responsible for carrying out the program-specific environmental review procedures for projects it undertakes. HTFC will review compliance with these procedures as part of annual monitoring.

The following is a step-by-step process to obtain environmental clearance and to develop an appropriate set of program-specific environmental review procedures

#### **STEP 1: OBTAIN ENVIRONMENTAL COMPLIANCE CHECKLIST FORM**

The **ENVIRONMENTAL COMPLIANCE CHECKLIST FORM** must be completed by all LPAs of awarded Main Street programs. This form documents all of the measures that the Program will implement in order to comply with environmental regulations at all project sites as a requirement of HTFC environmental clearance.

#### **STEP 2: COMPLETE THE PROGRAM DESCRIPTION SHEET**

Main Street program activities may have specific properties already selected, or may plan to select sites as the program is implemented.

Describe the program activities using the **Program Description Form** with enough detail to allow the Environmental Analyst to review and classify the program under SEQR.

The **Program Description Form** and additional forms can be found at:  
<http://www.nysdhcr.gov/Forms/NYMainStreet/>

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This information may be taken from the exhibits submitted with the Application for funding. Sites within the Program must conform to the relevant local land use plans and must receive all necessary zoning and site plan approvals and permits.

*Provide a detailed description of the program activities, including the need for a zone change and/or if the site use is going to be converted from residential to commercial or vice versa. Also describe if the program will include moderate or substantial rehabilitation.*

**STEP 3: COMPLETE THE ENVIRONMENTAL COMPLIANCE CHECKLIST and  
SUBMIT TO THE ENVIRONMENTAL ANALYSIS UNIT (EAU)**

Send a completed copy of the Environmental Compliance Checklist to:

The **Environmental Compliance Checklist** and additional forms can be found at:  
<http://www.nysdhcr.gov/Forms/NYMainStreet/>

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**STEP 4: HTFC ISSUES CLEARANCE LETTER TO PROGRAM ADMINISTRATOR**

*The HTFC clearance letter should be kept on file with the ENVIRONMENTAL COMPLIANCE CHECKLIST, as well as all other documentation related to the environmental review for subsequent HTFC monitoring.*

**STEP 5: CONDUCT PROGRAM ACTIVITIES IN ACCORDANCE WITH POLICIES  
DESCRIBED IN THE ENVIRONMENTAL COMPLIANCE CHECKLIST**

The purpose of the environmental review process leading to the HTFC Environmental Clearance Letter is to document:

1) Measures to comply with environmental regulations or mitigate adverse impacts at selected project sites and;

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2) A roadmap for subsequent environmental review of individual project sites at the time they are selected. The Main Street LPA is responsible for following the procedures established in the Environmental Compliance Checklist. Except for unusual circumstances (e.g., substantial improvement in a flood zone, existing zoning modifications, SEQR Unlisted actions), **documentation** of individual sites do not need to be submitted to the EAU **but must be maintained on file for annual monitoring by HTFC.**

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### COMPLETING THE ENVIRONMENTAL COMPLIANCE CHECKLIST

For programmatic review, the Environmental Compliance Checklist is intended to cover the program as a whole, to determine which regulations may apply to one or more individual project sites once identified, and those which will not be applicable under any circumstances. For each regulation that the Program Administrator (PA) finds applicable, a written compliance procedure must be described in the right hand column. This would include the procedure to review individual project sites when they are identified. Suggested statements appear in bold italics after a discussion of each environmental issue below:

#### HISTORIC RESOURCES

For all projects that involve rehabilitation of buildings **50 years old or older**, State Historic Preservation Office (SHPO) online forms must be completed and submitted for an effect determination. SHPO must be consulted for a determination before any rehabilitation, demolition or new construction is started on any program sites. **DHCR's "SHPO Transmittal Letter" with a check box for the Main Street Program must be submitted to SHPO as the cover page of the packet.**

The Project Review Cover Form, and additional forms with contact information, can be found at:

<http://nysdhcr.gov/Forms/NYMainStreet/>

OR

<http://nysparks.state.ny.us/shpo/environmental-review/>

- If all structures proposed for rehabilitation have been identified and are less than 50 years old, check column "A". A statement in the right column might be:

***"No project structure in this program is older than 50 years."***

- If any proposed project involves rehabilitation of buildings 50 years or older, check column "B". A description of "Compliance Procedures" might be:

***"If any building included in the program is older than 50 years, a Building Structure and Inventory Report and SHPO Transmittal Letter will be completed and submitted to SHPO along with photographs for an impact determination which will ensure compliance with the New York State Parks, Recreation and Historic Preservation Law. No site activity will occur until SHPO responds with a determination."***

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### FLOODPLAIN MANAGEMENT:

The Local Program Administrator must consider **6 NYCRR Part 502, Floodplain Management Criteria for State Projects** if any projects are located in a **Special Flood Hazard Area (SFHA)**. All sites in the Program must be reviewed for their location with regards to floodplains. Source documentation for these determinations can include a copy of a FIRM map, with the Panel Number and Effective Date, or communication from the local Code Enforcement Officer responsible for a community's participation in the National Flood Insurance Program.

FIRM maps are available from local or county environmental or planning agencies, the New York State Department of Environmental Conservation (DEC), or the Federal Emergency Management Agency (FEMA), at the FEMA Map Service Center (800-358-9616), or on-line at <http://www.fema.gov>. (D-FIRM Database)

- If the program will not involve any buildings within an SFHA, check column "A". A statement in the right column might be:

*"No buildings are within a SFHA. A copy of the FIRM map, with the Panel Number and Effective Date will be kept in the program file."*

**6 NYCRR Part 502, Floodplain Management Criteria for State Projects** is available on-line at <http://www.dec.ny.gov/regs/4471.html>

- If the program will involve any buildings within an SFHA, it must be determined if the proposed scope of work for that building can be classified as "substantial improvement". Substantial Improvement is defined as *"any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the replacement value of the structure,"* per **6 NYCRR Part 502.2(bb)(1), Floodplain Management Criteria for State Projects**. Check column "B". A statement in the right column might be:

*"Upon determination that a specific building is within the 100 year floodplain, and will involve "substantial improvement" the LPA will comply with 6 NYCRR Part 502, Floodplain Management Criteria for State Projects."*

### ZONING CHANGES/SPECIAL USE PERMIT:

All sites in the Program must be reviewed for their location with regard to their zoning classification. Project sites must conform to the relevant local land use plans and must receive all necessary zoning and site plan approvals and permits. If a zoning change is required, the project may be classified as an Unlisted action under the State Environmental Quality Review act. Submit documentation of these determinations to EAU with a letter, affidavit, or written statement from the local municipality stating the existing zoning classification of the project site and if a variance request or special permits will be required for issuance of a building permit.

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- If the program will involve only sites that comply with existing zoning classification, check column “A”. A statement in the right column might be:

*“No projects in the Program will require zoning modifications.”*

- If the program will involve any sites that will require existing zoning modifications, check column “B”. A statement in the right column might be:

*“Documentation for any program activities that will require local approvals, variances, special permits or any other modifications to the existing zoning classification of each project will be submitted to the Environmental Analysis Unit.”*

### COASTAL ZONE MANAGEMENT:

19 NYCRR Part 600, Coastal Zone Management establishes requirements for review of state-funded projects in the Coastal Zone if their SEQR classification is Type 1 or Unlisted. In New York State, the Coastal Zone includes land areas adjacent to Lakes Erie and Ontario, the St. Lawrence, East, Harlem and Niagara Rivers, the Hudson River south of the Federal Dam in Troy, the Kill van Kull and Arthur Kill, Long Island Sound, the Atlantic Ocean, and their connecting water bodies, bays, harbors, shallows and marshes.

A Coastal Zone boundary can be determined by calling the local planning office or online mapping is available at: [http://www.nyswaterfronts.com/maps\\_regions.asp](http://www.nyswaterfronts.com/maps_regions.asp)

**NOTE:** In some cases, a New York Main Street Program could be within a Local Waterfront Revitalization Program (LWRP) area. Administrators must contact their municipal or county planning departments to determine if their program is within a LWRP boundary.

- If the program target area or buildings are not located in the coastal zone, check column “A”. A statement in the right column might be:

*“The target area is not located within the coastal zone.”*

- If the program target area is located within the designated coastal zone, check column “B”. A statement in the right column might be:

*“Portions of the target area are located within the coastal zone.”*

### SITE CONTAMINATION (HAZARDOUS MATERIALS):

Projects funded under the Main Street Program must be free of hazardous materials which could affect the health and safety of the occupants or conflict with the intended utilization of the property. Current or prior uses of a project site and neighboring properties will be assessed as necessary to determine if the site requires remediation according to federal or state regulations.

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- If the program does not involve building rehabilitation or an anchor grant, check column “A”. A statement in the right column might be:

*“All projects in the program are façade activities without streetscape initiatives.”*

- If the program involves rehabilitation or is an anchor grant, check column “B”. A statement in the right column might be:

*“Any building renovation, including Streetscape activities, within this program’s target area, in the general proximity of dumps, landfills, industrial sites or areas that may contain hazardous wastes will be evaluated by a professional (Phase I report).”*

### LEAD BASED PAINT:

All Main Street activities in dwelling units that were constructed prior to 1978 and where children under the age of 7 reside or may reside must be evaluated for hazards posed by lead-based paint. In all units, the extent of disturbance must be considered by conducting a visual evaluation and a calculation of the total amount of surrounding square footage that will be affected by the activity. HTFC uses HUD *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* as reference standards for conducting activities that will disturb areas with lead based paint.

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<http://www.hud.gov/offices/lead/lbp/hudguidelines/index.cfm>

In cases where the Main Street activities will impact a very small area of lead based painted surfaces, refer to Section 35.1350 of 24 CFR Part 35 permit for “de minimis” levels:

#### *Sec. 35.1350 Safe work practices.*

*(d) De minimis levels. Safe work practices are not required when maintenance or hazard reduction activities do not disturb painted surfaces that total more than:*

- (1) 20 square feet (2 square meters) on exterior surfaces;*
- (2) 2 square feet (0.2 square meters) in any one interior room or space; or*
- (3) 10 percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include windowsills, baseboards, and trim.*

- If the program will not involve any buildings where lead based paint is present or in excess of the *De minimis* levels, check column “A”. A statement in the right column might be:

*“The Program will not involve any buildings where lead-based paint is present or exceeds De minimus levels.”*

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or

***“All buildings in the Program were constructed after 1978.”***

- If the program will involve any buildings constructed prior to 1978 where children reside or in buildings where disturbance of areas painted with lead based paint will exceed “De minimis” levels, check column “B”. A statement in the right column might be:

***“Any projects that will involve the disturbance of lead based paint surfaces that exceed “de minimis” levels will be conducted in accordance with “HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.”***

### ASBESTOS CONTAINING MATERIALS:

If asbestos-containing materials (ACM) will be disturbed as part of program activities, they must be handled and disposed of according to NYS Department of Labor requirements at 12 NYCRR Part 56, Check column “B”. A statement in the right column might be:

***“Asbestos Containing Materials (ACM) that will be disturbed as part of program activities will be handled and disposed of according to NYS Department of Labor requirements at 12 NYCRR Part 56 and local regulations.”***

### RADON:

Buildings or target areas located in Zones 1 and 2 (moderate to high) of the EPA Map of Radon Zones, where rehabilitation of residential units or common areas will occur, must be tested for radon. If elevated levels are encountered, a radon mitigation system must be installed in accordance with EPA Radon Mitigation Standards.

If the Program target area or buildings are located in areas with a low radon level, check column “A”. A statement in the right column might be:

- ***“The target area is located in a zone with low potential for radon according to the EPA Map of Radon Zones. No radon testing is required.”***

**OR**

- ***“The Program does not include rehabilitation of residential units or common areas.”***

If the Program target area or buildings are located in areas of moderate to high radon level, check column “B”. A statement in the right column might be:

- ***“Because the target area is located in a zone with potential for moderate or high radon levels, rehabilitation of residential units and common areas will include testing and if elevated levels are found, a radon mitigation system will be installed in accordance with EPA Radon Mitigation Standards.”***