

TITLE V PUBLIC ORDER, SAFETY AND HEALTH

CHAPTER 10 LEAD HAZARDS IN DWELLINGS

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5-10-1 DEFINITIONS. The following words shall have the following meaning for the purpose of this regulation.

1. Accessible, Impact or Friction surfaces shall include, but not be limited to such surfaces as window sills, doors and door frames, protruding corners, stair treads and lips, floors and any other areas offering Accessible, Impact or Friction surfaces.

a. Accessible means any surface at a level or height which is easily accessible for children to bite, chew or mouth (e.g. window sills).

b. Impact means any surface where hard objects often hit or turn into the surfaces and cause the paint to be knocked off (e.g. protruding corners.)

c. Friction means any surface where there is any rubbing movement that creates dust (e.g. floors)

2. Board of Health means Clinton County Board of Health pursuant to Chapter 137 of the Code of Iowa.

3. Child-occupied facility means a building or portion of a building visited by the same child, six years of age or under, for a period that exceeds six (6) hours within any week (Sunday through Saturday period). Child occupied facilities may include, but are not limited to day-care centers, preschools and kindergarten classrooms.

4. Deteriorated lead-base paint means any lead-based paint that is loose, chipping, peeling, cracking, flaking, chalking or otherwise coming off a surface.

5. Dwelling means a building or structure occupied or designed or intended to be occupied as a place for human habitation and use, including any accessory building, structure or yard area belonging thereto.

6. Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities which are used or intended to be used for any of the following: living, sleeping, cooking and/or eating.

7. EBL (Elevated Blood Lead) Child means any child who has had one venous blood lead level of 20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.

8. Health Department means the Clinton County Health Department.

9. Health Officer means the Environmental Officer or authorized representative of the Clinton County Board of Health.

10. Lead-Based Paint means any paint or other surface coating, already applied which contains a quantity of lead equal to or in excess of 1.0 milligrams of lead per square centimeter (1.0 mg/cm) when tested by a radioisotope X-ray fluorescence analyzer (XRF) or more than five-tenths of one percent (0.5%) lead by weight.

11. Lead Hazard means any lead-based paint shall be considered a lead hazard if:

a. The paint exists in or about a dwelling or other child-occupied facility in which children under age six (6) commonly reside or visit,

and

b. The paint is determined to be on any accessible, impact or friction surface or on any other surface where the paint is determined to be deteriorating in any manner. This shall also include areas of bare soil which contain lead-based paint chips. In addition, this shall also include surfaces which contain lead dust that exceeds the EPA/HUD guidelines (bare floors – 100 milligrams per square foot, interior windows sills – 500 milligrams per square foot, window wells – 800 milligrams per square foot).

12. Occupant means any person living, sleeping, cooking, eating in or having any actual possession of a dwelling or dwelling unit.

13. Owner means any person who, alone or jointly with others, shall:

a. have legal title to any dwelling with or without accompanying actual possession thereof,

or

b. shall have charge, care or control of any dwelling by acting as the agent of the owner or as the executor, administrator, trustee or guardian of the estate of the owner.

14. Premises means a lot, plot or parcel of land, including all facilities and improvements

thereon.

5-10-2 SCOPE AND APPLICABILITY. This ordinance shall affect only those dwellings or dwelling units in which an EBL child resides or commonly visits. All owners shall comply with the provisions of this ordinance and of the rules, resolutions and order adopted pursuant to this ordinance.

5-10-3 USE OR SALE OF LEAD-BASED PAINT. No person shall possess, sell, expose for sale, deliver or give away any lead-based paint intended for painting or covering any surface on the interior or exterior of a residential dwelling.

5-10-4 DISPOSAL OF LEAD-BASED PAINT.

1. Lead-based paint shall be disposed of in accordance with local, state and federal regulations for disposing of hazardous waste.

2. All repair, renovation or remodeling waste, which contains lead-based paint, shall be disposed of according to local waste disposal regulations. No person shall re-use or recycle such waste for residential purposes.

5-10-5 INSPECTIONS.

1. The Health Officer may cause to have inspected, the dwelling or child-occupied facility of an EBL child, for lead hazards. The inspection shall consist of a visual assessment of the condition of all interior and exterior surfaces and a determination of the lead content of the paint on these surfaces. The lead content of the paint shall be determined only through the use of an X-ray fluorescence (XRF) analyzer or laboratory chemical analysis. Methods such as swabs shall not be considered an acceptable means of testing for lead-based paint. Tests, which show the presence of lead-based paint on a surface, may be extrapolated to similar surfaces in the same room that would be expected to be finished with the same type of paint. A determination of the lead hazards will be made from lead content of the paint and the conditions served. The findings of such inspection will be recorded and documented by the Health Officer.

2. When a lead hazard is found in a dwelling or dwelling unit inspected pursuant to this section or otherwise, the Health Officer shall recommend to have examined for undue lead exposure, all children under six (6) years of age, such other children he/she may find advisable to examine or other persons residing or who have recently resided or frequently visit in said dwelling or dwelling unit. The results of such examination shall be reported to the Health Officer, the affected individual and when applicable, their parent or legal guardian.

3. The results of an investigation for lead hazards, including the presence or absence of lead-based paint which are not considered to be lead hazards, shall be reported in a written notice, with suggested remedial/maintenance actions, within one (1) week to the owner. The Health Officer shall inform such other persons or agencies as he/she deems advisable.

5-10-6 REFUSAL OF ADMITTANCE. In the event the Health Officer, in proceeding to enter

any premises for the purpose of making an inspection to carry out the provisions of this ordinance, shall be refused entry, a complaint may be made, under oath, to any Magistrate of Clinton County. The Magistrate shall then issue a warrant to a peace officer of Clinton County directing him/her, between the hours of sunrise and sunset, to accompany the Health Officer when entering said premise to make such inspection and to obtain such samples as may be required to carry out the provisions of this ordinance.

5-10-7 HAZARD REDUCTION.

1. When the Health Officer determines that a lead hazard is present in a dwelling or dwelling unit where an EBL child lives, frequently visits or has recently resided, he/she shall, in accordance with Section 5-10-5(3), issue a written notice within one (1) week to the owner, to eliminate the hazard with suggested remedial/maintenance actions, to be completed in a time period not to exceed thirty (30) days. However, at the discretion of the Health Officer, additional time may be granted to eliminate said hazard. Methods for compliance shall be in accordance with this section.

a. In the event the dwelling is vacated, by the occupant who occupied same at the time of the issuance of corrective notice referred to in this section, such dwelling shall not be let or occupied by any other person until such corrective notice is complied with.

2. The owner of any dwelling or dwelling unit which has been determined to contain lead hazards shall correct these lead hazards by methods approved by the Health Officer within the time period allowed by the Health Officer in a written notice. Failure to correct the lead hazard(s), within the allotted time period, shall result in the appropriate legal action against the owner for noncompliance, pursuant to Section 5-10-13.

3. Lead hazards on surfaces other than accessible, impact or friction surfaces shall be corrected through one of the three (3) following methods:

a. All areas of deteriorating lead-based paint, on both interior and exterior surfaces and any other appurtenances, shall be entirely removed and the surface(s) shall be properly prepared before repainting with lead-free paint or refinishing so that the surface does not begin to deteriorate again. Repainting with lead-free paint without prior removal of all deteriorating lead-based paint shall not be considered an approved method of correcting lead hazards.

b. The interior or exterior surface or appurtenance, which has areas of deteriorating lead-based paint, shall be removed from the dwelling and replaced with a surface free of a lead-based paint.

c. The interior or exterior surface or appurtenance, which has areas of deteriorating lead-based paint, shall be covered with a permanently affixed lead-free covering. The permanently affixed covering shall be incapable of being readily chewed through, torn from the surface, pierced or otherwise removed so as to expose the hazardous surface.

4. Lead hazards on surfaces which are accessible, impact or friction surfaces shall be

corrected through one of the three (3) following methods:

a. All lead-based paint on both interior and exterior surfaces and appurtenances, which are on accessible, impact or friction surfaces, shall be entirely removed to the substrate. The surface(s) must be properly repaired and repainted with lead-free paint or refinished. Repainting with lead-free paint, without prior removal of all lead-based paint down to the substrate. The surface(s) must be properly prepared and repainted with lead-free paint or refinished. Repainting with lead-free paint, without prior removal of all lead-based paint down to the substrate, shall not be considered an approved method of correcting lead hazards on accessible, impact or friction surfaces.

b. The interior or exterior surface or appurtenance, which is or contains an accessible, impact or friction surface, shall be removed from the dwelling and replaced with a surface or appurtenance that is finished with a lead-free coating.

c. The interior or exterior surface or appurtenance, which is an accessible, impact or friction surface, shall be covered with a permanently affixed lead-free covering. The permanently affixed covering shall be incapable of being readily chewed through, torn from the surface, pierced or otherwise removed so as to expose the hazardous surface.

5. The Health Officer shall inspect all areas cited as lead hazards after remediation is complete and approve them as "lead-safe". A written notice shall be issued to all affected parties and retained by the Health Officer, stating that the property is "lead-safe" and that proper maintenance must occur to ensure that the property remains "lead-safe".

5-10-8 RETALIATORY ACTIONS.

1. It shall be unlawful for the lessor of a dwelling or his/her employees, agents or persons acting in his/her behalf, to retaliate against lessees of dwellings whose occupants have been tested for lead poisoning.

2. It shall be unlawful for the lessor of a dwelling or his/her employees, agents or persons acting in his/her behalf, to prohibit or discourage the occupants of the dwelling from participating in the lead poisoning screening program.

3. "Retaliation" shall include harassment, termination of the tenancy, discontinuation of utilities or other services and any other action taken against the lessee.

4. "Occupants" shall include visitors in the dwelling.

5. An action taken against the tenant shall not be considered retaliation if:

a. It is supported by reasonable cause unrelated to the occupants' participation in the lead poisoning screening program

OR

b. It is shown to have occurred as a result of accident or mistake and not be the intentional act of the lessor or his/her employees, agents or persons acting in his/her behalf.

5-10-9 HEARINGS. In the event any person is aggrieved by any order of the Health Officer, he/she may, within ten (10) days of the date of such order, appeal to the Clinton County Board of Health and in writing state his/her reasons for requesting such order to be rescinded or modified. The Clinton County Board of Health shall review the action of the Health Officer and shall modify, withdraw or order compliance with said order. Appeal from any order of the Clinton County Board of Health may be taken, within ten (10) days, to the District Court of Clinton County, Iowa.

5-10-10 JURISDICTION. The provisions of this ordinance shall apply throughout Clinton County, including all cities and towns there, unless the cities and towns have adopted a lead ordinance.

5-10-11 ENFORCEMENT. The Health Officer shall have the duty and responsibility of enforcing this ordinance.

5-10-12 INJUNCTION. Nothing in this ordinance shall be construed to prohibit the Clinton County Board of Health from injunctive relief or other relief, as allowed by law.

5-10-13 PENALTY.

1. Any person violating this ordinance or any provision thereof, shall be guilty of a simple misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars (100.00) or imprisoned in jail for a period not to exceed thirty (30) days. Each day that a violation occurs constitutes a separate offense.

2. Upon failure of any person to correct a lead hazard found on his/her property, the Clinton County Board of Health may direct or cause the correction of said lead hazards. All expenses incurred thereby may be recovered by suit in the name of the Clinton County Board of Health or the Clinton County Board of Health may certify the amount of said expenses, together with a description of the property, to the Clinton County Treasurer who shall enter the same upon the tax books as costs for removing a lead hazard and said amounts shall be collected as other taxes.

5-10-14 VARIANCES.

1. The Health Officer shall have the authority to determine a surface that may otherwise be identified as a lead hazard, lead safe. If the Health Officer is able to determine a surface (that fits the description of a lead hazard) is not causing or does not have reasonable potential to cause lead exposure, the Health Officer may, with written notice, deem that surface as lead safe. This may be done only after a thorough investigation of the entire premises is complete and careful evaluation of the source(s), identified as the cause or potential cause of lead poisoning, are identified. Detailed documentation of such surfaces shall be included in the final report of the premises and be provided to the owner, tenant and Health Officer.

2. Any surface with deteriorating lead-based paint will not, under any circumstances, be allowed to be identified as lead-safe.

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