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# CITY OF CHICAGO

## RULES

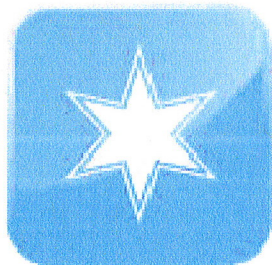
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### **CONTROL AND MITIGATION OF LEAD BEARING SUBSTANCES**

**UNDER 7-4-130**

**LAST UPDATED: May 1, 2008**



**HEALTHY  
CHICAGO**

**CHICAGO DEPARTMENT OF PUBLIC HEALTH**

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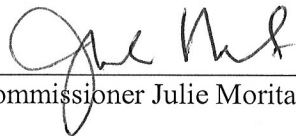
**Mayor Rahm Emanuel**

**Commissioner Julie Morita, M.D.**

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BY AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF PUBLIC HEALTH PURSUANT TO 7-4-130 THE FOLLOWING RULES REGARDING **CONTROL AND MITIGATION OF LEAD BEARING SUBSTANCES** ARE ADOPTED HEREIN.

By Order of the Commissioner:

Signed:   
Commissioner Julie Morita, M.D.

Date: November 10, 2015

Published:  
Effective: May 1, 2008

# City of Chicago

## Department of Public Health

### Control and Mitigation of Lead-Bearing Substances

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The Commissioner of the Chicago Department of Public Health hereby promulgates the following rules and regulations pursuant to the Municipal Code of the City of Chicago, Chapter 7-4-130 and all other chapters, sections, or subsections which provide that the Commissioner of the Chicago Department of Public Health (the Department) may promulgate rules and regulations concerning lead hazards and/or lead-bearing substances.

1. Definitions
2. Maintenance of Regulated Facilities
3. Lead Hazards in Regulated Facilities
4. Determination as to a Regulated Facility Being Free from Lead Hazards or Substances
5. Prohibited Methods Resulting in Presumption of Hazards
6. Sale, Transfer or Distribution of Items Containing Lead-Bearing Substances
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14. Notice in Regulated Facilities of Lead Hazards
15. Blood Lead Level Reporting Requirements
16. Fee Structure
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18. Termination of City Contract
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## 1. **Definitions**

- a. **Antique:** An item having special value because of its age, artistry, beauty, or period of origin which is intended as a collectable and in the ordinary course of

- use is not accessible to Children.
- b. Child Care Facility: Any structure used by a child care provider, school, or other facility frequented by Children.
  - c. Children: Any person six years of age and younger.
  - d. Clearance Test: An inspection performed by an Illinois licensed lead risk assessor or Illinois licensed lead inspector following the completion of Lead Mitigation or Lead Abatement activities. A Clearance Test will be considered passed when mitigation or abatement work identified in the mitigation plan has been determined by the risk assessor or inspector to be satisfactorily completed, quantitative dust samples taken from the work area by the risk assessor or inspector are found to have a lead load below the levels defined as a Lead Hazard, and no additional Lead Hazards are identified by the risk assessor or inspector.
  - e. Department: Chicago Department of Public Health
  - f. Dwelling: Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.
  - g. Lead Abatement: The removal of a Lead Hazard by component replacement, complete paint removal, enclosure system, or encapsulation, as defined in the Illinois Administrative Code at 77 Ill. Admin. Code 845.30 Mitigation or Abatement of Lead Hazards now or as amended, such that all Lead Paint and resulting hazards are removed or completely inaccessible for a period expected to be at least twenty (20) years.
  - h. lead-bearing Substance: Lead Paint, or any object or substance that could create a Lead Hazard.
  - i. Lead Hazard: The presence of any condition as defined in Section 3 of these regulations, or any item containing or coated with lead such that in the ordinary course of use it is accessible to or chewable by Children pursuant to Section 6 of these regulations.
  - j. Lead Mitigation: Actions taken to address Lead Hazards which do not meet the definition of Lead Abatement, including paint stabilization.
  - k. Lead Paint: Any paint or other surface coating that contains greater than one (1) milligram of lead per square centimeter in the dried film of paint or other surface coating or one-half of one percent (0.5%) lead by weight in the total nonvolatile content of liquid paint or surface coating.
  - l. Lead Poisoning: A confirmed level of lead in human blood of greater than 5 µg/dL (five micrograms per deciliter).
  - m. Owner: Any person, who alone, jointly or severally with others:
    - 1. Has legal title to or a beneficial interest in a land trust or other entity having legal title to a Regulated Facility or commercial establishment with or without accompanying actual possession of the Regulated Facility or commercial establishment, including any executor, administrator, trustee or guardian of the estate or the Owner;
    - 2. Has charge, care, or control of or responsibility for a Regulated Facility or

- commercial establishment; or
- 3. Has an interest as a purchaser under a real estate installment contract in a Regulated Facility or commercial establishment
- n. Regulated Facility: Any Dwelling, dwelling unit, residential building, Child Care Facility, school, playground, park, recreational area, or area regularly frequented by Children, including the premises and any associated structures of such facilities.
- o. Regulated Product:
  - 1. Any objects or products that in the ordinary course of use are accessible to or chewable by Children, including but not limited to:
    - A. Jewelry Items
    - B. Toys
    - C. Furniture
    - D. Fixture or other object intended to be used, installed, or located in or upon any surface of a Regulated Facility
    - E. Other non-edible items
  - 2. For purposes of this definition, Antique items shall not be considered a regulated product.
- p. Regulated Food Product: Any food or edible items, or package or container for food or edible items.

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## 2. Maintenance of Regulated Facilities

All Regulated Facilities in the City of Chicago shall be maintained so that they are free of Lead Hazards as defined by these rules.

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## 3. Lead Hazards in Regulated Facilities

The following conditions, when in a Regulated Facility, are considered Lead Hazards:

- A. Lead Paint is a hazard when any one, or any combination thereof, of the following conditions exists:
  - 1. It is present on any surface or fixture mouthable or chewable by a child (such as a window stool or door casing) including any surface with evidence of teeth marks, or;

2. It is chipping, peeling, chalking, flaking, loose, or delaminating, i.e., any paint condition that could result in lead containing material being released to the air, surrounding surfaces, or upon touch;
  3. It is on a surface subject to abrasion, friction, or impacts during normal use, regardless of paint condition when such condition is likely to become hazardous, including, but not limited to, window and door components and stair treads or;
  4. Any visible dust, chips, or debris associated with the damage of Lead Paint or a surface coated with Lead Paint are present, including such debris or dust produced in the course of repair, renovation, or remodeling unless properly contained and removed in a manner to prevent contamination of the surrounding area or;
  5. Uncorrected water damage or evidence of uncorrected water damage to a surface coated with Lead Paint regardless of paint condition.
- B. Lead-contaminated dust is hazardous when lead is present in an amount equal to or in excess of the following levels:
1. Forty micrograms per square foot ( $40 \mu\text{g}/\text{ft}^2$ ) on interior and exterior floor surfaces, or,
  2. Two hundred micrograms per square foot ( $200 \mu\text{g}/\text{ft}^2$ ) on all other horizontal surfaces.
- C. Lead-contaminated soil is hazardous when present in, around, or on a Regulated Facility in which the accessible soil, i.e., not completely and consistently covered by grass, mulch, or an impervious barrier, contains more than 400 micrograms per gram of lead.
- D. Drinking water is hazardous when it contains more than fifteen micrograms of lead per liter ( $15 \mu\text{g}/\text{L}$ ) after having been flushed for at least one minute.

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#### 4. **Determination as to a Regulated Facility Being Free from Lead Hazards or Substances**

Only licensed lead risk assessors who are employees or agents of the Department, are authorized to determine whether any Regulated Facility is classifiable as free from Lead Hazards or lead-bearing Substances in accordance with these rules.

## 5. Prohibited methods resulting in presumption of hazards

Use of any of the following methods in disturbing Lead Paint will create the presumption of a Lead Hazard and is therefore prohibited:

- a. Open flame burning or use of a heat gun;
- b. Dry-sanding;
- c. Dry-scraping;
- d. Mechanical paint removal equipment including mechanical sanders, unless such devices have complete dust containment and utilize a HEPA filtering system;
- e. Uncontained abrasive or hydro blasting (Abrasive and hydro blasting may only be performed when completely contained such that all dust and debris cannot escape containment and the containment area is exhausted through a HEPA filtering system)
- f. Chemical paint stripping with any substance that includes methylene chloride (dichloromethane) or n-hexane.

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## 6. Sale, Transfer or Distribution of Items Containing Lead-Bearing Substances

- A. No person shall have, offer for sale, transfer, distribute to the public, place in the stream of commerce, or manufacture any Regulated Product containing or coated with lead such that the lead content is more than six hundredths of one percent (0.06%) lead by total weight.
- B. No person shall have, offer for sale, transfer, distribute to the public, place in the stream of commerce, or manufacture any Regulated Food Product that contains lead equal to or in excess of the allowable standards set by the State of Illinois, the United States Government, as amended, or the following, whichever is lowest:
  - i. One tenth of one part per million (0.1 PPM) by weight if the Regulated Food Product is a candy likely to be consumed frequently by Children, including "Mexican Style" candies as defined in the US FDA's November 2006 document "Lead in Candy Likely To Be Consumed Frequently by Small Children: Recommended Maximum Level and Enforcement Policy."
  - ii. Six hundred parts per million (600 PPM) by weight if the Regulated Food Product is a wrapper or container
  - iii. Five parts per million (5 PPM) by weight if the Regulated Food Product is a

- vitamin or supplement
- iv. The level published in *The Codex Alimentarius*, or its successor publication, as amended, for all other Regulated Food Products.
- C. Whenever the Department finds, or has probable cause to believe, that any item is or would be in violation of this article, it shall affix to such item a tag or other appropriate marking, and shall give notice to one or more Owner(s) that the item or substance is suspected of being in violation of this article, that the item has been embargoed, and that no person shall remove the item from the premises until written permission for removal or disposal is given by the Department.
- D. No person shall knowingly remove, sell, or dispose of a detained or embargoed item without written permission of the Department.
- E. When the Department finds, or has reasonable cause to believe, that an embargo will be violated, it may remove the embargoed item to a place of safekeeping.
- i. When any items are removed to a place of safekeeping, the Department make a public report consisting of the elements in section H below.
- F. This Section also applies to any item that contains a lead-bearing component that is removable. In this instance, the commissioner may, at his discretion, allow the lead-bearing component to be removed and the remaining product to be sold. Owners are required to dispose of the lead-bearing component in accordance with directives set forth by the Department, and all other applicable laws, for that particular instance. If a lead-bearing component is removed and the remaining product allowed to be sold then:
- i. The component must be replaced with an equivalent component which is not a Lead-Bearing Substance or the fact that the product does not contain the missing component is indicated on the package, and
- ii. The exterior of the package must be modified or altered in such a way so as to clearly differentiate it from the packaging of the item containing the lead-bearing Substance such that a visual inspection would readily identify if the product being sold had been corrected or was uncorrected.
- G. When the Department has probable cause to believe, that any item is or would be in violation of these rules it is authorized to remove from a commercial establishment a sample of such items which are suspected to contain a lead-bearing substance for the purpose of testing for compliance with these standards.
- H. When any items are taken for testing, or otherwise removed or disposed of under subsection 7-4-110(b) the Department shall make public a report that details the following:
1. The description and quantity of all such items removed by the Department
  2. The retail value of all items removed
  3. The date and location of the removal of such items
  4. The results of all lead tests performed by the Department on such items.

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## 7. Warning Labels

No person, firm, or corporation shall have, offer for sale, sell, or give away any lead-bearing Substance that may be used by the general public unless it bears a warning statement as prescribed by federal regulation or as proscribed by the State of Illinois pursuant to 410 ILCS 45/6, as amended.

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## 8. Notice in Commercial Establishments

- A. Any commercial establishment, as defined in subsection 7-4-010(3), that offers paint or supplies intended for the removal of paint shall display, in a prominent and easily visible location, a poster or provide a brochure, containing at a minimum, the following:
  - 1. A statement that dry sanding and dry scraping of paint in dwellings built before 1978 is dangerous;
  - 2. A statement that the improper removal of old paint is a significant source of lead dust, the primary cause of lead poisoning; and
  - 3. Contact information where consumers can obtain more information.
- B. The poster shall be permanently affixed or the brochures made available in a location of the commercial establishment where a consumer purchasing such materials would be likely to see the information.
- C. A commercial establishment may utilize a poster or brochure from the Department or from the Illinois Department of Public Health or from another source so long as the poster or brochure meets the minimum criteria in these regulations.

The purpose of requiring a poster or brochure in a commercial establishment that offers paint or supplies intended for the removal of paint is to increase the awareness that improper removal of old paint is dangerous and is the primary cause of lead poisoning.

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## 9. Mitigation Procedure

Any person who directly supervises, participates in, and/or authorizes abatement

and/or mitigation of a Lead Hazard and/or temporary, permanent, partial, or complete removal of a lead-bearing Substance, including the Owner, shall comply or cause compliance with all of the following:

- a. Submit to the Department a mitigation plan in accordance with section 10 of these rules and receive official approval from the Department prior to beginning abatement or mitigation activities and,
- b. Conduct the abatement or mitigation work in accordance with the approved mitigation plan, and,
- c. Ensure that individuals conducting the work are lead workers, lead contractors/supervisors, and/or lead abatement contractors who are licensed by the State of Illinois pursuant to section 11.1 of the Lead Poisoning Prevention Act (410 ILCS 45/11.1) unless a waiver of this requirement has been granted by the Chicago Department of Public Health and the individuals conducting the work have received training in lead safe work practices from a Chicago Department of Public Health approved training provider prior to beginning any abatement, mitigation, or removal activity.

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## 10. Mitigation Plans

Mitigation plans must be submitted to the Department and will be approved only if all of the following requirements are met:

- a. The plan, following example formats available from the Department upon request, must adequately and completely detail where the mitigation is to occur (including street address, unit number, and Owner's name, address, and phone number), the work to be performed, how the work is to be performed, the containment and clean-up measures to be utilized, if occupant relocation is required, the clearance testing to be performed, and the names, qualifications, and contact information of the persons who will perform the work.
- b. The plan must include the ongoing or continual maintenance required to maintain the Dwelling unit free from Lead Hazards after completion of the work.
- c. A copy of the lead inspection or risk assessment conducted for that unit must be included if the inspection or assessment was not performed by the Department.

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## **11. Modification of Mitigation Plan**

The Department may require modifications to the Mitigation plan, including, but not limited to, changes in the methods utilized, prior to approval when such requirements are necessary in the Department's opinion to protect current or future occupants and/or workers from exposure to lead or the creation of additional Lead Hazards, or when such changes are necessary to comply with these rules or other applicable State of Illinois or Federal laws and regulations.

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## **12. Ongoing Maintenance in Accordance with Mitigation Plan**

When Mitigation plans specify ongoing or continual maintenance to be performed in order to maintain the dwelling unit or any part thereof free of Lead Hazards, it shall be the responsibility of the Owner to comply with all of the following:

- a. Perform or have performed all such maintenance as necessary to prevent the occurrence of Lead Hazards; and
- b. Perform or have performed all such maintenance as is specified in the Mitigation plan; and,
- c. Within one year from the date of the passing Clearance Test, and on an annual basis thereafter, submit to the Department a revised Mitigation plan, including a statement regarding compliance with on-going or continual maintenance activities.

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## **13. Failure to Comply with Mitigation Plan**

Failure of an Owner to comply with any provision of section 12 will constitute failure to comply with the Mitigation plan and constitute the presumption that a Lead Hazard exists in the Dwelling.

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## 14. Notice in Regulated Facilities of Lead Hazards

The Owner of a Regulated Facility who has received a notice of a Lead Hazard shall post notices in common areas of the building that Lead Hazards have been identified.

The purpose of this Section is to notify individuals on the premises of a Regulated Facility that has received notice of a Lead Hazard:

- A. That a Lead Hazard has been found at that location
- B. The dangers of lead poisoning
- C. How to reduce the risk of further exposure
- D. Contact information where individuals can obtain more information.

The notice will be provided to the Regulated Facility by the Department and must be posted at all entrance ways of the Regulated Facility so that an individual entering or exiting the premises would be likely to see such notice.

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## 15. Blood Lead Level Reporting Requirements

- A. A. Every physician or other health care provider who has ordered, authorized, or performed a test to determine the level of lead in a Chicago Resident's blood is required to report the results of such test to the Department in the manner and timeframe as defined in these rules.
- B. Physicians or other health care providers are exempted from the requirement of Section A if the analysis was performed at a Illinois Department of Public Health Laboratory, or if the provider has confirmation from the Department that the clinical laboratory where specimens are processed electronically reports all blood lead level results to the Department in accordance with Section C this rule.
- C. Directors of clinical laboratories who have performed an analysis or test to determine the level of lead in a Chicago Resident's blood are required to report the results of such test to the Department in a manner and timeframe as defined in these rules.
- D. All test results greater than or equal to forty-five (45) micrograms of lead per deciliter of whole blood shall be reported immediately (no more than three hours after receipt) by telephone or facsimile to the Department.
- E. All test results greater than or equal to ten (10) but less than forty five (45) micrograms of lead per deciliter of whole blood shall be reported to the

Department within forty-eight (48) hours after receipt of verification of said results.

- F. All test results less than ten (10) micrograms of lead per deciliter of whole blood shall be reported to the Department within thirty (30) days after receipt of verification of said results.
- G. With the exception of urgent results reported under part D of this Section, Directors of clinical laboratories shall report test results in an electronic format readable by the Department. Results rejected by the Department as incomplete or unreadable shall not be considered as having been reported.
- H. With the exception of urgent results reported under part D of this Section, Physicians or other health care providers may report test results in an electronic format readable by the Department, or by written report delivered by facsimile or by mail. Results rejected by the Department as incomplete or unreadable shall not be considered as having been reported.
- I. The information included in the report shall include:
  - 1. The blood lead level result, the sample type, the date the sample was obtained from the patient, the date the analysis was performed, and the date the result was reported to the Department;
  - 2. The patient's full name, date of birth, sex, race, and ethnicity;
  - 3. The patient's complete address, including apartment or unit number, and phone number if available;
  - 4. If the patient is less than 18 years old, the name of his parent or legal guardian;
  - 5. The name and address of the laboratory which performed the analysis;
  - 6. The name, address, and license number of the physician or other health care provider who ordered the lead test.

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## 16. Fee Structure

In accordance with Chicago Municipal Code Section 7-4-080, the following fee structure has been established by the Department to cover the cost of providing inspections and plan review and will be collected from persons subject to this regulation:

- a. The cost of a lead risk assessment shall be four hundred and fifty dollars (\$450) per dwelling unit
- b. The cost of a Clearance Test shall be one hundred and fifty dollars (\$150) per dwelling unit, but shall be waived on the first clearance inspection

needed for a unit if the risk assessment was performed by the Department (if the first clearance fails, the fee shall be charged for subsequent re-inspections)

- c. The cost of reviewing and approving mitigation plans shall be twenty five dollars (\$25), but shall be waived a single time if the risk assessment was performed by the Department.

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## 17. **Modification of Fee Structure**

The fee structure established by section 16 may be modified under one or more of the following circumstances:

- a. All fees will be waived if the inspection was initiated by the Department (i. e., the inspection was not performed at the Owner's request) AND no Lead Hazards were identified;
- b. All fees will be waived for all units in an owner-occupied building if said Owner provides sufficient evidence that his or her family income is less than 80% of the median Family Adjusted Income for Chicago as published by the United States Department of Housing and Urban Development;
- c. All fees will be waived when incurred in the process of conducting a Lead Mitigation or Lead Abatement project financed or assisted by a grant or loan program administered in whole or in part by the Department;
- d. A fee waiver or reduction in fees was authorized by the Department Commissioner or his or her designee when such waiver or reduction will either improve the public health or when requested by a non-profit or governmental program whose purpose is to abate or mitigate Lead Hazards.

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## 18. **Termination of City Contract**

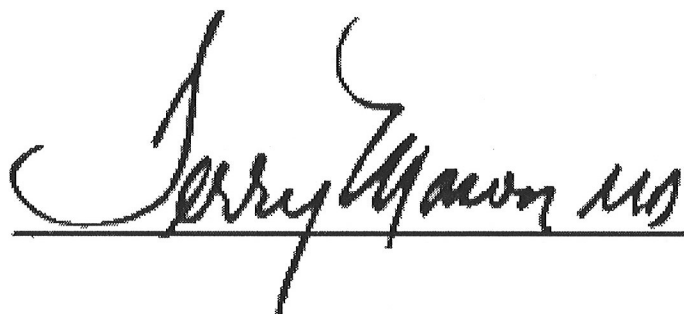
In addition to any other penalty or remedy imposed under Chapter 7-4 of the Chicago Municipal Code or these rules and regulations, if any person performing work under any contract with the City of Chicago is found liable for violating any provision of these rules and regulations or their authorizing ordinance, the City may terminate said contract by giving written notice of termination to said person. The contract shall be null and void upon delivery of such notice.

## 19. Enforcement

Any department of the City of Chicago may take appropriate action to enforce any of the provisions of these rules when a violation of any of the provisions comes to its attention.

By my signature, the above rules and regulations are hereby formally promulgated, adopted and established under the authority granted the commissioner of the Chicago Department of Public Health.

Signed:

A handwritten signature in black ink, reading "Terry Mason M.D.", written over a horizontal line.

Terry Mason, M.D., FACS

Dated: May 1, 2008

Commissioner  
Chicago Department of Public Health

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