

TITLE V: PUBLIC ORDER, SAFETY, AND HEALTH

CHAPTER 3 LEAD ORDINANCE

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5-3-1 PURPOSE. The purpose of this chapter is to control lead hazards in residential dwellings and child-occupied facilities, including establishing standards for inspections and providing penalties for violation of the provisions hereof.

5-3-2 DEFINITIONS. The following words shall have the following meaning for the purpose of this regulation:

1. Certified elevated blood lead (EBL) inspector/risk assessor – means a person who has met the requirements of Iowa Administrative Code 641-70.5(135) for certification or interim certification and who has been certified by the Iowa Department of Public Health.
2. Chewable Surface – means an interior or exterior surface (such as a windowsill) painted with lead-based paint that a young child can mouth or chew.
3. Child-occupied facility – means a building, or portion of a building, constructed prior to 1978, visited by the same child under the age of six years on at least two different days within any week (Sunday through Saturday period, provided that each day's visit lasts at least three hours and the combined weekly visits last at least six hours). Child occupied facilities may include, but are not limited to, day-care centers, pre-schools, and kindergarten classrooms.

4. Clearance Testing – means an activity conducted following interim controls, lead abatement, paint stabilization, standard treatments, ongoing lead-based paint maintenance, or rehabilitation to determine that the hazard reduction activities are complete. Clearance testing includes a visual assessment, the collection and analysis of environmental samples, the interpretation of sampling results, and the preparation of a report.
5. Deteriorated paint – means any interior or exterior paint or other coating that is cracking, flaking, chipping, peeling, or chalking, or any paint or coating located on an interior or exterior surface that is otherwise damaged or separated from the substrate of a building component.
6. Dripline – means the area within three feet surrounding the perimeter of a building.
7. Dust-lead hazard – means surface dust in residential dwellings or child-occupied facilities that contains a mass-per-area concentration of lead greater than or equal to 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present in a residential dwelling or child-occupied facility when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is greater than or equal to 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled residential dwelling in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled residential unit on the property. A dust-lead hazard is present on floors interior windowsills, or window troughs in an unsampled common area in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled common area in the same common area group on the property. If dust samples are not taken, it may be assumed that surfaces in rooms with hazardous lead-based paint or where renovation, remodeling, or repainting has occurred recently are dust-lead hazards.
8. Elevated blood lead (EBL) child – means any child who has had one venous blood lead level greater than or equal to 20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.
9. Elevated blood lead (EBL) inspection – means an inspection to determine the sources of lead exposure for an elevated blood lead (EBL) child and the provision within ten working days of a written report explaining the results of the investigation to the property owner and occupant of the residential dwelling or child-occupied facility being inspected and to the parents of the elevated blood lead (EBL) child. A certified elevated blood lead (EBL) inspector/risk assessor shall not determine that a

residential dwelling is free of lead-based paint as a result of an elevated blood lead (EBL) inspection.

10. Friction surface – means an interior or exterior surface that is subject to abrasion or friction including, but not limited to, certain window, floor, and stair surfaces.
11. Hazardous lead-based paint – means lead-based paint that is present on a friction surface where there is evidence of abrasion or where the dust-lead level on the nearest horizontal surface underneath the friction surface (e.g., the windowsill or floor) is equal to or greater than the dust-lead hazard level, lead-based paint that is present on a chewable surface, or any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of a residential building or child-occupied facility.
12. Impact surface – means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of doorframes.
13. Lead-based paint – means any paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram of lead per square centimeter or more than 0.5 percent by weight. Lead-based paint is present on any surface that is tested and found to contain lead equal to or in excess of 1.0 milligram per square centimeter or more than 0.5 percent by weight and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.
14. Lead-based paint hazard – means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard.
15. Local board – means the local board of health as authorized by Iowa Code chapter 137.
16. Mid-yard – means an area of a residential yard approximately midway between the dripline of a residential building and the nearest property boundary or between the driplines of a residential building and another building on the same property.
17. Occupant – means any person living, sleeping, cooking or eating in, or having any actual possession of, a dwelling or dwelling unit.
18. Owner – means any person who, alone or jointly with others: (1) has legal title to any dwelling, with or without accompanying actual possession thereof, or (2) has 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.
19. Paint-lead hazard – means the presence of hazardous lead-based paint in a residential dwelling or a child-occupied facility.

20. Play area – means an are of frequent soil contact by children of less than six years of age as indicated by, but not limited to, factors including the following: the presence of play equipment (sandboxes, swing sets, and sliding boards), toys, or other children's possessions; observations of play patterns; or information provided by parents, resident, caregivers, or property owners.
21. Residential building – means a building containing one or more residential dwellings.
22. Residential dwelling – means (1) a detached single-family dwelling unit, including the surrounding yard, attached structures such as porches and stoops, and detached buildings and structures including, but not limited to, garages, farm buildings, and fences; or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or part, as the home ore residence of one or more persons.
23. Retaliation – means harassment, termination of the tenancy, discontinuation of utilities or other services, and any other action taken against the lessee.
24. Soil-lead hazard – means bare soil on residential real property or on the property of a child-occupied facility that contains total lead greater than or equal to 400 parts per million for the dripline, mid-yard, and play areas. A soil-lead hazard is present in a dripline, mid-yard, or play area when the soil-lead concentration from a composite sample of bare soil is greater than or equal to 400 parts per million. If soil samples are not taken, it may be assumed that bare soil within three feet of the foundation of a garage or other structure built prior to 1978 is a soil-lead hazard.

5-3-3 SCOPE AND APPLICABILITY. This chapter shall affect only those dwellings or dwelling units or child-occupied facilities in which an EBL child lives, visits, or has recently lived. All owners shall comply with the provisions of this chapter and of the rules, resolutions, and order adopted pursuant to this chapter.

5-3-4 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.

5-3-5 DISPOSAL OF LEAD-BASED PAINT.

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

5-3-6 EBL INSPECTIONS.

- A. The Lee County Board of Health or Health Officer shall appoint a certified elevated blood lead (EBL) inspector/risk assessor to conduct EBL inspections in residential dwellings and child-occupied facilities where an EBL child lives, visits, or has recently lived. All owners and occupants shall allow access to the residential dwellings and child-occupied facilities that the EBL inspector/risk assessor desires to inspect.
- B. 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 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, for undue lead exposure. The results of such examination shall be reported to the Health Officer, the affected individual, and when applicable, their parent or legal guardian.
- C. 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 to the owner in accordance with Section 9. The Health Officer shall inform such other persons or agencies as he/she deems advisable.

5-3-7 REFUSAL OF ADMITTANCE. If the certified EBL inspector/risk assessor appointed by the local board or Health Officer is refused entry to a property, then the certified EBL inspector/risk assessor may make a complaint under oath to any magistrate of the county. The magistrate may issue a warrant directing the owner or occupant to allow the certified EBL inspector/risk assessor to conduct an EBL inspection and directing a peace officer to accompany the certified EBL inspector/risk assessor during the EBL inspection/risk assessment.

5-3-8 HAZARD REDUCTION.

- A. When the certified EBL inspector/risk assessor appointed by the local board or Health Officer determines that a hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard is present in a residential dwelling unit or child-occupied facility where an EBL inspector/risk assessor shall issue a written notice to the owner within two (2) weeks of the inspection and receipt of any laboratory results. The written notice shall require the owner to complete lead hazard reduction in a time period determined by the certified EBL inspector/risk assessor. If the occupant who occupies the residential dwelling at the time that this written notice is issued vacates the residential dwelling, the residential dwelling shall not be leased or occupied by any other person until the certified EBL inspector/risk assessor issues a written notice that the lead hazard reduction has been completed. However, at the discretion of the Health Officer, additional time may be granted to eliminate said hazard.
- B. The owner of any residential dwelling or child-occupied facility which has been determined to contain hazardous lead-based paint, a soil-lead hazard, or a dust-

lead hazard shall correct these lead hazards within the time period allowed by the certified EBL inspector/risk assessor in the written notice. Failure to correct the lead the lead hazard(s) within the allotted time period shall result in the appropriate legal action against the owner for noncompliance, pursuant to Section 15. The following methods shall be used for lead hazard reduction. These methods shall not require the services of a lead abatement contractor certified in accordance with Iowa Administrative Code 641-70.5(135). However, other local, state, or federal regulations may require the use of a contractor who has completed an eight hour lead-safe work practices course or a lead abatement contractor or lead abatement worker certified in accordance with Iowa Administrative Code 61-70.5(135).

1. On a surface that contains hazardous lead-based paint, but is not chewable and does not have evidence of impact or friction, the lead-based paint hazard shall be reduced by removing all loose and deteriorated paint from the surface, preparing the surface for repainting, and repainting the surface with a lead-free coating.
2. On a surface that contains hazardous lead-based paint and is chewable or has evidence of impact or friction, the lead-based paint hazard shall be reduced by treating the surface one inch back from the edge or corner through one of the following methods:
 - i. All lead-based paint on the treatment area shall be removed to the bare substrate. The surface shall be prepared for repainting and repainted with a lead-free coating.
 - ii. The treatment area shall be covered with a permanently affixed lead-free material such as plastic, wood, or vinyl. Carpet may be used on floors and stair treads.
3. Dust-lead hazards shall be reduced by thoroughly cleaning the affected surface.
4. Soil-lead hazards shall be reduced by planting grass or groundcover, applying sod, or covering the affected area with six (6) inches of bark, gravel, or other material shall reduce soil-lead hazards.
5. Lead hazard reduction shall be conducted using lead-safe work practices to protect the safety of the occupants and workers. Occupants shall not enter the work area while work is underway. The following are prohibited methods of lead hazard reduction:
 - i. Open-flame burning or torching of lead-based paint.

- ii. Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint unless used with high-efficiency particulate air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97% or greater efficiency.
 - iii. Uncontained water blasting of lead-based paint.
 - iv. Dry scraping or dry sanding of lead-based paint except in conjunction with the use of a heat gun or around electrical outlets.
 - v. Operating a heat gun at a temperature above 1100 degrees Fahrenheit.
- C. The certified EBL inspector/risk assessor shall inspect all areas identified as hazards after lead hazard reduction is complete. The certified EBL inspector/risk assessor may conduct clearance testing pursuant to Iowa Administrative Code 641-Chapter 70 to ensure that no dust-lead hazards exist after the work is complete. Within two weeks of verifying that all lead hazard reduction has been completed as required, the certified EBL inspector/risk assessor shall issue a written notice to the owner and occupant stating that the lead hazard reduction has been completed and that the lead hazard reduction has been completed and that the repaired surfaces must be maintained in good condition.

5-3-9 RETALIATORY ACTIONS.

- A. The lessor of a dwelling, the employees of the lessor, and agents or persons acting on behalf of the lessor shall not retaliate against lessees of residential dwellings and child-occupied facilities whose occupants or visitors have been tested for lead poisoning and shall not discourage the occupants or visitors from being tested for lead poisoning.
- B. An action taken against the lessee shall not be considered retaliation if:
1. It is supported by reasonable cause unrelated to the testing of an occupant for lead poisoning, or
 2. If it is shown to have occurred as a result of an accident or mistake and not to be the intentional act of the lessor of a dwelling, the employees of the lessor, or agents or persons acting on behalf of the lessor.

5-3-10 HEARINGS. In the event any person is aggrieved by any order of the certified EBL inspector/risk assessor, the person may appeal to the local board in writing within ten (10) days of the date of such order. The appeal shall state the reasons for requesting such order to be rescinded or modified. The local board shall review the action of the certified EBL inspector/risk assessor. The local board shall order compliance with said order or may, with cause, modify or

withdraw said order. Any order of the local board may be appealed within ten days to the District Court for the county in which the local board is located.

5-3-11 JURISDICTION. The provisions of this Chapter shall apply throughout Lee County, Iowa including cities and towns therein, unless the cities and towns have adopted an equivalent lead ordinance.

5-3-12 ENFORCEMENT. The certified EBL inspector/risk assessor appointed by the local board or Health Officer shall have the duty and responsibility of enforcing this Chapter.

5-3-13 INJUNCTION. Nothing in this Chapter shall be construed to prohibit the Lee County Health Department from pursuing injunctive relief or other relief as allowed by law.

5-3-14 PENALTY.

1. Violation of this Chapter shall constitute a county infraction which shall be punishable by a civil penalty in an amount not to exceed that allowed by Iowa Code Section 331.307 (1), as now or hereafter amended. Alternatively, or in addition to, constitution of a county infraction, a person found in violation of this Chapter may be guilty of a simple misdemeanor, and on conviction thereof be subject to such maximum penalty as the law allows in Iowa Code Section 903.1, as now or hereafter amended. Each day that a violation occurs or is permitted to exist by the respondent/defendant constitutes a separate offense.
2. Upon failure of any person to correct a lead hazard identified through this Chapter in the time specified by the certified EBL inspector/risk assessor appointed by the local board or Health Officer, the local board may direct or cause the correction of said hazards. All expenses incurred thereby may be recovered by suit in the name of the County Board of Health or the County Board of Health may certify the amount of said expenses, together with a description of the property, to the County Treasurer, who shall enter the same upon the tax books as costs for removing a lead hazard of said amounts shall be collected as other taxes.

5-3-15 SEPARABILITY OF PROVISIONS. If any section, paragraph, clause or provision of the Chapter shall be held invalid, the invalidity of such section, paragraph, clause or provisions shall not affect any of the remaining provisions of this ordinance.

5-3-16 VARIANCES. The certified EBL inspector/risk assessor may determine that a chewable surface that would otherwise be identified as a hazard by this Chapter is not causing or does not have reasonable potential to cause lead exposure and is not required to be corrected through lead hazard reduction. The elevated blood lead (EBL) inspector/risk assessor shall document the reason for this determination in the inspection report. However, the elevated blood lead (EBL) inspector/risk assessor shall not, under any circumstances, determine that any other surface meeting the definition of hazardous lead-based paint does not need to be corrected through lead hazard reduction.

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