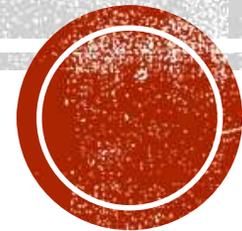


# LEAD HAZARD PREVENTION



# CURRENT ORDINANCE KEY TERMS

- **EBLL (ELEVATED BLOOD LEAD LEVEL)** — A blood lead level (BLL) confirmed by venous sample to be equal to or greater than the lead level defined as elevated by the United States Centers for Disease Control.
- **LEAD-BASED PAINT/COATINGS** — Paint, varnish, glaze or other applied liquid surface coatings that contain at least 1 milligram per centimeter square (mg/square cm) of lead( also measured as greater than 0.5% lead by weight or has 5,000 parts per million [ppm] lead by dry weight).
- **LEAD SOURCE HEALTH HAZARD** — An item or condition where exposure to that item or condition could have the potential to create a case of lead poisoning, such as exposure to lead-based paint.



# CURRENT ORDINANCE KEY TERMS

- **EXPOSED SURFACE**—All interior surfaces of a dwelling and those exterior surfaces of a dwelling which are readily accessible to children under six years of age, such as stairs, decks, porches, railings, windows, doors and siding. Any yard or other area in the vicinity of a dwelling, including, without limitation, any soil, yard or other area which may be subject to contamination from flaking or peeling lead-based coatings or any other source of lead, is also considered an exposed surface.
- **FRICITION SURFACES** — An interior or exterior surface that is subject to abrasion or friction. The term includes windows, doors, floors and stair surfaces.



# CURRENT ORDINANCE KEY TERMS

- **INTERIM CONTROLS** — A set of measures designed to reduce temporary exposure or likely exposure to lead-based paint hazards. Interim controls include, but are not limited to, repairs, painting, temporary containment, specialized cleaning, clearance, ongoing lead-based paint maintenance activities, and the establishment and operation of management and resident education programs.
- **ENCAPSULATION** — Any covering or coating that acts as a barrier between lead based paint and the environment, the durability of which relies on adhesion and the integrity of the existing bonds between multiple layers of paint and between the paint and the substrate. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent.



# CURRENT ORDINANCE KEY TERMS

- **CLEARANCE EXAMINATION** — An activity conducted and documented by a **certified and licensed Lead Risk Assessor** following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and no soil lead hazards or settled dust lead hazards as defined exist inside or on the exterior of the dwelling unit or worksite. EPA protocols are required to be followed for this examination.
- **LEAD (PAINT) SAFE** -- A building or dwelling identified through testing by a Lead Risk Assessor as having lead-based paint surfaces that are intact and free from deterioration. As noted in the Clearance Examination by the Lead Risk Assessor, ongoing lead safe maintenance is necessary to maintain the property as lead (paint) safe.



# DETERMINATION OF HEALTH HAZARD

- Any source or amount of lead, including, without limitation, lead-based paint, shall be considered a lead source health hazard to children under six years of age, to pregnant women or to other persons who have demonstrated an elevated blood lead level as defined by the Centers for Disease Control if:
  - It exists inside or on the exterior of a dwelling in which the affected person commonly resides or visits;
  - It is determined to be on any flaking, peeling, non-intact deteriorated surface or on any exposed surface, or in any soil or dust found in or about the dwelling or in any rugs, carpet or other surface coverings in or about the dwelling; and
  - It contains a quantity of lead in excess of 1.0 milligrams per square centimeter of surface when measured by a recognized method of analysis.



# IF EBBL CHILD FOUND

- Upon notification by a licensed medical doctor (physician) or a medical professional that a child under six years of age or other affected individual has an elevated blood lead level, the City Code Compliance and Inspection Office, Health Officer or other authorized personnel shall issue a written notice of violation to the property owner and/or management company ordering the abatement of the lead source hazards with approved methods using the services of a licensed lead abatement contractor.
- The owner and/or authorized agent of any dwelling unit in which the affected individual resides or visits is required to submit, within 21 days, a written risk assessment report including the results of testing and an environmental investigation stating whether there exists a health hazard



# IF EBBL CHILD FOUND

- If the owner fails to provide such risk assessment report, the City can perform or cause the performance of the testing and environmental investigation, at the expense of the owner, to determine whether there exists a health hazard.
- The owner and/or authorized agent shall complete the abatement of the lead hazard within 45 days after receiving notification that the plans and schedule have been approved.
- Once the owner or authorized agent has completed the remediation efforts, a clearance examination and report must be submitted to the City within the forty-five-day schedule.
- Failure to obtain and pass a clearance examination within 45 days of approval of the contract is a violation of the current ordinance. Each day that a violation continues is considered to be a separate offense.



# CONDEMNED PROPERTIES

- If a residential property is condemned and was built before 1978, the owner and/or authorized agent of the property is required to submit a written clearance examination report to the City Health Officer, stating whether there exists any residual lead health hazard. This clearance examination shall be in accordance with EPA regulations.
- The owner shall bear the cost of the clearance examination report prior to obtaining a certificate of habitability or a certificate of occupancy from the City.
- If the clearance examination indicates any lead hazards remaining, the owner is responsible for obtaining the services of a licensed lead abatement contractor for remediation. A copy of the contract is required to be submitted to the Health Officer for approval prior to beginning any abatement work.



# PROPERTIES FOR SALE

- If a lead violation is known to exist at a dwelling, then upon the sale of said property, the owner shall notify or disclose to the potential buyer/purchaser of the unsafe existing lead condition.



# ABATEMENT/REMEDIATION OF HAZARD

- **Paint removal:** Lead-based paint shall be completely removed from any surface that can be chewed or eaten by children. Any cracked, chipped, blistered, or peeling lead-based paint shall be completely removed to the base surface under such safety conditions as may be approved by the City.
- **Enclosure:** The capping over of such surfaces which contain lead at the recognized level, with a permanently affixed covering, which is lead free and which said permanently affixed covering is incapable of being readily chewed through, torn from the surface, pierced or otherwise removed in such manner as to expose the hazardous surface.



# ABATEMENT/REMEDIATION OF HAZARD

- Encapsulation: Repainting of such surfaces that contain lead at the recognized level with a non-lead-based paint with a manufacturer's warranty of twenty year rating. This method shall not be deemed to be satisfactory for compliance with this part where evidence has been obtained of children under six years of age chewing the surface.
- Replacement: Removing the building component that is painted with lead paint and replacing it with a new lead-free component.
- Elimination of friction surfaces
- Paint stabilization



# **ABATEMENT/REMEDICATION OF HAZARD**

- In the event the dwelling or dwelling unit or premises in which a lead hazard is found is vacated by the occupant, who occupied it at the time of the issuance of a corrective notice, such dwelling, dwelling unit or premises shall not be let or occupied by any other person until corrective measures have been taken to bring it into compliance using a licensed lead abatement contractor as approved by the City.
- When a Lead-Based Paint Risk Assessor approved by the City determines that pregnant women and children under six years old are present and cannot safely remain in the dwelling while the abatement or remediation efforts are being undertaken, the property owner shall be responsible for temporary relocation of the family to a lead paint safe unit or other facility.



# KEY RECOMMENDED CHANGES

- Lowering the micrograms per deciliter of whole blood to match the Center for Disease Control level, currently 5 micrograms.
- Condemned property owners may now complete remediation by possessing the one-day EPA Lead Safe Certification or hire a licensed lead abatement company, prior to completing a Clearance Examination.
- An Investment Property owner who has a unit/building that was built prior to 1978 is required to provide a certification by a person approved to conduct Clearance Examinations (such as a Lead-Based Paint Risk Assessor) indicating that the Dwelling Unit(s) within the Investment Property are Lead (Paint) Safe or Lead (Paint) Free. The certification must be presented to the City at the time of the City required systematic property maintenance inspection, but no less than once every four years.



# KEY RECOMMENDED CHANGES

- If a lead violation is known to exist at a Dwelling (owner occupied or investor-owned), then upon the sale of said property, the Owner shall notify or disclose to the potential buyer/purchaser of the unsafe existing lead condition, provide a copy of the Risk Assessment that was completed and indicate in the Sales Disclosure Statement that lead hazards do exist in the Dwelling. A copy of the Sales Disclosure Statement must also be provided to the City Health Officer (City would already have a copy of the Risk Assessment).
- When a Dwelling is found to have Lead Source Health Hazards, and remediation was begun by the Owner, but had not been completed by the Owner prior to the sale of a Dwelling, the current Owner must provide the new owner with the Risk Assessment, and provide a copy of the Sales Disclosure Statement to the City Health Officer.



# KEY RECOMMENDED CHANGES

- If the Dwelling is an Investment Property, and a child with an elevated blood lead level has been identified in a residential unit prior to the sale, the new Owner will be required to complete the remediation and submit to the City Health Officer a Clearance Examination and a certification by a Lead-Based Paint Risk Assessor that the Dwelling unit is Lead (Paint) Safe or Lead (Paint) Free.
- When a Dwelling, or unit within a Dwelling, has been cited two or more times by the City of Lancaster for non-compliance of Section 182-10 – Abatement of Lead Hazard, the Dwelling, or unit within the Dwelling, may be condemned by the City of Lancaster until such time that the unit or dwelling can be certified as Lead-Paint) Safe).



# CLARIFICATIONS

- The changes do not require risk assessments to be completed, even if during a systematic inspection chipped and peeling paint is found.
- Chipped and peeling paint will need to be addressed, as is required today by the City's Property Maintenance Code. A clearance test must then be completed to insure there are no residual lead source health hazards in the unit.
- The changes do not require replacement of windows or any other abatement of lead paint.
- The changes do require that the unit be properly cleaned to remove any residual lead health hazard.
- Proof of the unit being Lead (Paint) Safe must be provided at the time of each systematic inspection, or no less than once every four years (which is the same time line for systematic inspections).



# CLARIFICATIONS

- The estimated price of \$245 to \$250 for a Clearance test performed by the City staff includes:
  - \$135 for labor (assumes 3 hours needed)
  - \$7.50 for each dust wipe sample (requiring a minimum of 9 per unit – actual number will depend on size of the unit)
  - \$40.00 for Fed Ex shipments to the lab (quickest turn around time)
  - \$6.50 Certified Mail fee if needed
- The estimated price of \$130 for a second clearance test, if first test fails includes:
  - \$90.00 for labor (up to 2 hours depending on areas that need to be retested)
  - \$7.50 for each dust wipe sample (depending on number of wipes required for retesting areas that failed)
  - \$15.00 for Fed Ex shipments (expecting fewer samples need to be taken and shipped)
  - \$6.50 for Certified Mail fee if needed



# COMMENTS

- **Why does the amendment only impact rental property owners, not all property owners focusing primarily on residential – rental vs. owner-occupied**
  - Answer: The City's ability to enter and inspect owner-occupied properties is based on probable cause. So in those instances where we know a child with an elevated blood lead level resides we are able to inspect the home and address the lead hazards. Rental properties are governed by the City's Rental Housing Ordinance and Property Maintenance Code which requires inspection at least once every four years, or upon complaint.
- **Consider exempting one-bedroom and efficiency units from Clearance testing process**
  - Answer: We will consider this recommendation, particularly for Efficiency Units. One Bedroom units do not preclude having a ac child under the age of 6 as an occupant.
- **Expensive for small landlords in particular**
  - Answer: We understand the potential expense of incurring a \$250.00 inspection once every four years. But we must also examine the cost to the community of children being poisoned due to exposure to lead paint.
- **Wrap cost into the cost of the existing rental license fee by \$10 or \$20**
  - Answer: We will consider this recommendation. It would likely require more than a \$20.00 increase in the annual rental license fee to cover the City's expenses to conduct the clearance testing, particularly the materials, lab and postage expenses.
- **Charge for materials, fees and lab costs but not for staff costs**
  - Answer: We will consider this recommendation but with the understanding that the City's costs associated with housing inspections are now covered by fees, not by City General Fund resources.
- **Could we test before they rent from us**
  - Answer: Yes. The City is requiring that when the Housing Inspector inspects a property under the four year systematic inspection process that the property owner must provide copies of Clearance Examinations that are no older than four years. So you could choose to do the Clearance Examination at the time of unit turnover.



# COMMENTS

- **Can we refuse to rent to families with children**
  - Answer: No. The federal fair housing laws would prohibit you from refusing to rent to a family or single parent with children.
- **Can't we just use lead-safe practices**
  - Answer: Yes. You can do work as long as you have someone who has taken the 8-hour EPA course on how to properly deal with lead source hazards. The City's proposal does not require property owners to do Risk Assessments or to do Abatement as defined in the current Ordinance. It requires property owners to properly maintain those areas that are generally identified as creating lead hazards – windows, friction surfaces, chipped and peeling paint.
- **Education program for tenants**
  - Answer: There are programs that provide education to residents on the effects of lead paint poisoning. More can certainly be done. Landlords can help in this effort by specifically pointing out the risks to their tenants and making sure they receive the pamphlets that are available. The City can assist property owners to secure additional pamphlets.
- **Elongating the period of time if a unit tests clear for more than one period**
  - Answer: We will consider this recommendation, particularly if the property owner has taken specific remediation measures to reduce lead hazard sources in the property – such as replacing windows rather than simply painting them.
- **Short-term band aid for a long term solution**
  - Answer: We understand this is not the perfect solution to the lead hazard problem in City properties. We do believe that it is one additional step that can be taken to insure proper maintenance of lead hazard sources and proper cleaning of units to reduce exposure to lead dust. We are looking at incremental solutions that are potentially less expensive than requiring full abatement of lead hazards.



# COMMENTS

- **Requesting additional time to continue meeting with the City to propose revisions, at least 90 days**
  - **Answer:** We will consider this recommendation. Based on the dialogue this evening we will likely request City Council to delay final adoption of the amendment for at least 60 days.
- **Replacement windows installed should exempt a property**
  - **Answer:** We will consider this recommendation. However, we must consider that windows are not the only source of potential lead hazards. Doors, other friction surfaces like painted floors, railings, heating registers and baseboards are other potential sources. We may consider providing additional time for the next clearance examination depending on the abatement work that has been completed.
- **Be cautious of total cost, concern that it would be more.**
  - **Answer:** The cost would be more in those instances where a child with an elevated blood lead level has been identified. However, in terms of the Clearance Testing, the requirement would be additional cleaning, not abatement, as long as the paint surfaces are intact.
- **An ordinance with matching grant or moving to make properties lead free**
  - **Answer:** At the present time the City does not have the resources to provide matching grants. The City has obtained a \$1.3 million grant from HUD that can provide financial assistance to property owners at reduced cost to address abatement if they choose to move in that direction. But this grant will only provide assistance to approximately 130 properties over 3 years. If a property owner wishes to have a Risk Assessment done and then abate the lead hazards the City will work with them to assist them.
- **Concern of pressure on affordable housing**
  - **Answer:** We acknowledge that the amendment could put some pressure on rents if a property owner chooses to pass on the \$250.00 per unit (\$62.50 a year over 4 years) to the tenant. But some research in Rochester has shown that the additional requirements they introduced did not have a significant impact on the housing market or rents.



# COMMENTS

- **Child-Guard, permanent encapsulation/abatement option for lead paint, exempt those properties if certified that it has been done**
  - Answer: The City would exempt a property from any further Clearance Examinations if the property owner could provide a certification that the property/unit was considered lead-free because of abatement work completed. But all lead hazards within property or unit would need to be addressed.
- **Possible incentives to encourage the replacement of windows**
  - Answer: We will consider this recommendation. The City does not have dollars that it can provide as a grant to a property owner interested in doing abatement work but we may be able to consider incentives that would encourage this work.
- **Properties with no children under the age of 6 could be exempt**
  - Answer: Because property owners are not permitted by federal law to discriminate against families with children there is no assurance that a future family with children would not move into the unit. We will consider exempting those units that are available only for folks 55 and over, such as elderly units like Farnum Street Towers or the Park Avenue Apartments that are for elderly and people with disabilities.
- **Providence, RI required a once and done clearance until another violation of paint conditions was found**
  - Answer: We will consider this recommendation.
- **An inspection every two years in LA**
  - Answer: At the present time the City believes that linking the Clearance Examination to the once every four year systematic inspection process establishes a process that can be easily incorporated into the existing rental housing inspection process.
- **Rochester exempted 10 plus unit buildings, looking at targeted areas. Also exempted Senior housing**
  - Answer: We will consider a recommendation to exempt senior-only housing. Because of the age of Lancaster's housing stock we do not believe it make sense to only target certain areas of the City. Exempting buildings with 10 or more units does not address the issue. However, buildings with multiple units that were recently gutted and renovated, we may be able to establish that lead hazard sources have been abated in those properties. A one-time Risk Assessment could confirm this.



# COMMENTS

- **Lease addendum requirements for families with children**
  - Answer: Requiring a lease addendum that a family have their children tested could be done, but that would not be a requirement of the City. It is already federal law that property owners inform families of the risk of lead paint in the unit being rented. Testing a child would only serve to indicate they do not have an elevated lead blood level. It would provide no proof that the unit being rented does not have lead hazard sources.
- **Take our time**
  - Answer: We understand everyone's concern that the City is moving too fast with the amendment. We will consider asking City Council to delay the final adoption of the amendment to provide time for additional input from property owners and those representing tenants.
- **Consider impact on children visiting units if not cleared**
  - Answer: This point was raised in response to an earlier suggestion that if no children reside in a unit the City should exempt that unit from the Clearance Examination requirement.
- **Don't use term Lead Free, focus on lead-safe.**
  - Answer: This comment was made by a certified Risk Assessor who pointed out that it is difficult to ever certify a property built prior to 1978 as completely lead-free.
- **Use firefighters as possible inspectors**
  - Answer: This was raised as a recommendation for the City to provide more inspectors in the field to do Clearance Examinations. The City responded that with the 6 staff that are currently certified, it believes it has sufficient staff to implement the amendment as presented. Having on duty firefighters also impacts their ability to respond when a fire call is received.
- [rpatterson@cityoflancasterpa.com](mailto:rpatterson@cityoflancasterpa.com) – email me concerns or comments

