

Chapter 7-4: Lead-Bearing Substances

7-4-010 Definitions.

- (1) “Child care facility” means any structure used by a child care provider, school or other facility frequented by children.
- (2) “Children” means natural persons six years of age and younger.
- (3) “Commercial establishment” means any place that provides a business service or involves the selling, leasing or renting of merchandise to the general public or the manufacture or distribution of merchandise to others who sell to the general public.
- (4) “Commissioner” means the commissioner of public health or his designee.
- (5) “Department” means the department of public health.
- (6) “Dwelling” means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.
- (7) “Exposed surface” means any interior or exterior surface of a child care facility, school, dwelling or residential building.
- (8) “Lead-bearing substance” means any of the following if they contain an amount equal to or greater than the amount of lead by weight that the commissioner determines by regulation may pose a significant health hazard to humans:
 - (a) Soil;
 - (b) Dust on any permanent or nonpermanent surface of the dwelling, residential building, child care facility or school;
 - (c) Items, substances and surfaces that are edible or chewable by or accessible to children, including toys, furniture or decorative objects;
 - (d) Food or other ingestible substances or items; and
 - (e) Paint or other surface coating material.

The regulations promulgated by the commissioner under this subparagraph (8) shall be based upon lead levels established, utilized, recommended or offered as guidance by an agency of the federal government or by a state government.

- (9) “Lead hazard” means a lead-bearing substance that poses a significant health hazard to humans.
- (10) “Lead poisoning” means the condition of having blood lead levels in excess of those considered safe under applicable regulations promulgated by the commissioner.

- (11) “Owner” means any person, who alone, jointly or severally with others:
- (a) Has legal title to or a beneficial interest in a land trust or other entity having legal title to a child care facility, school, commercial establishment, dwelling or residential building with or without accompanying actual possession of the child care facility, school, commercial establishment, dwelling or residential building, includes any agent of the owner, or any executor, administrator, trustee or guardian of the estate of the owner;
 - (b) Has charge, care or control of or responsibility for a child care facility, school, commercial establishment, dwelling or residential building.
 - (c) Has an interest as a purchaser under a real estate installment contract in a child care facility, commercial establishment, dwelling or residential building.
- (12) “Person” means “person” as defined in section 1-4-090 of the municipal code.
- (13) “Residential building” means any room, group of rooms, or other interior areas of a structure designed or used for human habitation; common areas accessible by inhabitants; and the surrounding property or structures.

7-4-020 Lead-Bearing Substance Use.

No person shall use or apply lead-bearing substances;

- (a) In or upon any exposed surface of a dwelling or dwelling unit;
- (b) In or around the exposed surfaces of a residential building, child care facility, school or other structure frequented by children;
- (c) In or upon any figures or other objects used, installed, or located in or upon any exposed surface of a dwelling or residential building, child care facility, school, or intended to be used, installed, or located and that in the ordinary course of use, are accessible to and chewable by children;
- (d) In or upon any toys, furniture, or other articles used by and chewable by children;
- (e) Within or upon a residential building or dwelling, child care facility, school, playground, park or recreational area, or other areas regularly frequented by children.

7-4-030 Maintenance of residential buildings, child care facilities and schools.

It is the duty of every owner of a dwelling, residential building, child care facility or school to maintain the dwelling, residential building, child care facility or school in such a manner so as to prevent the existence of a lead hazard.

7-4-040 Sale, transfer or distribution of items containing lead-bearing substances.

No person shall have, offer for sale, transfer, distribute to the public, place in the stream of commerce, or manufacture any item that contains a lead-bearing substance. These items include but are not limited to:

- (a) Any jewelry item, toy, or furniture, excluding antique items, that in the ordinary course of use is accessible to or chewable by children;
- (b) Any fixture or other object intended to be used, installed or located in or upon any surface of a dwelling or residential building, child care facility or school and that, in the ordinary course of use, is accessible to or chewable by children;
- (c) Any food or edible item or package or container for food or edible items which contains lead either in excess of a level set by the commissioner or in any concentration that exceeds a United States Food and Drug Administration guideline; and
- (d) Any non-edible item that, in the ordinary course of use, is accessible to or chewable or ingestible by children.

7-4-050 Reserved.

7-4-060 Warning statement.

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

7-4-065 Notice - required.

Any commercial establishment that offers paint or other 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 or 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. A commercial establishment may utilize the poster or brochure available from the Department or from the Illinois Department of Public Health or from another source so long as it meets the minimum criteria of this section.

7-4-070 Child care facilities must require blood lead level screening for admission.

Any person who owns or manages a day care center, day care home, preschool, nursery school, kindergarten or other child care facility licensed or approved by the State of Illinois or the department, including such programs operated by a public school district, shall require that each parent or legal guardian of a child between the ages of six months through six years provide a statement from physician or health care provider that the child has been screened for lead poisoning. This statement must indicate that the screening of the child has been performed in accordance with applicable criteria mandated by the Illinois Department of Public Health and the commissioner. This statement shall be provided prior to admission and subsequently in conjunction with required physical examinations.

Nothing in this section shall be construed to require any child to undergo a blood lead level screening or test whose parent or guardian objects on the grounds that the screening or test conflicts with his or her religious beliefs.

7-4-075 Child care facilities must provide informational pamphlet.

Each day care center, day care home, pre-school, nursery school, kindergarten or other child care facility licensed or approved by the State of Illinois or the department, including such programs operated by a public school district, shall annually send or deliver to the parents or guardians of children six years and younger an informational pamphlet regarding awareness of lead poisoning. A pamphlet provided by the Illinois Department of Public Health for this purpose shall be acceptable.

7-4-080 Fees.

The department may establish fees according to a reasonable fee structure to cover the cost of inspections and providing a testing service for laboratory analysis of blood lead tests and any necessary follow-up. The commissioner may promulgate rules and regulations for waiving applicable fees for low-income persons.

7-4-090 Inspection of buildings and commercial establishments.

An authorized representative of the City of Chicago charged with enforcement of this ordinance, upon presentation if requested of the appropriate credentials to the owner, occupant or his representative, may inspect child care facilities, schools, dwellings, and residential buildings at reasonable times, for the purposes of ascertaining that all surfaces accessible to children are intact and in good repair, and for the purposes of ascertaining the existence of lead-bearing substances. An authorized representative of the city may also inspect soil surrounding said facilities and may also inspect commercial establishments for the purposes of ascertaining whether any lead-bearing substances or lead hazards are present. Such representative may remove samples or objects necessary for laboratory analysis. If a person entitled to withhold consent to an inspection refuses to allow inspection, a representative of the city may apply for a warrant to permit entry.

7-4-095 Subpoena powers

The commissioner shall have the power to issue subpoenas to owners of commercial establishments suspected of violating sections 7-4-040 and 7-4060 of this chapter to ascertain what goods and services are being bought, sold, manufactured, distributed or resold as well as to whom and from whom they are being sold. Upon determination that there is a lead-bearing substance in or upon any dwelling, residential building, child care facility and school, the commissioner shall have the power to subpoena the owners of the dwelling, residential building, child care facility or school only for the purposes of ascertaining who performed work or who was contracted to perform work to remove a lead-bearing substance or hazard or any work which has disturbed a lead-bearing substance or caused a lead hazard.

7-4-100 Procedures upon determination of lead-bearing substance.

- (a) Upon determination that there is a lead-bearing substance in or upon any child care facility, school, dwelling or residential building which could reasonably be hazardous to children, the City of Chicago shall, as soon as is practicable, give appropriate notice to the owner of a child care facility, school, dwelling or residential building, of the existence and location of a lead hazard. In addition, regardless of whether there has been compliance with the preceding sentence, the city shall take action as needed to enforce this chapter, including, as the city or its authorized representative may determine is appropriate:
- (1) Providing the owner and occupants with suitable recommendations for elimination of the problem areas;
 - (2) Notifying the other persons or entities with responsibility for a child care facility, school, dwelling, or residential building of the existence and location of such substances;
 - (3) Ordering that these substances be removed, replaced, or securely covered within a specified time period and in a manner prescribed by the department;
 - (4) Pursuing the remedies provided for in Sections 7-4-140 and 7-4-150
- (b) Upon determination that a commercial establishment is handling goods, products or items containing a lead-bearing substance, the city may take action as needed to enforce this chapter, including the following, as the city or its authorized representative may determine is appropriate:
- (1) Giving notice to the owner of the commercial establishment of the existence of a lead-bearing substance or of a lead hazard contained in the goods, products or items handled by the commercial establishment;
 - (2) Ordering the owner of the commercial establishment to cease and desist selling, distributing, or manufacturing the goods, products and items containing a lead-bearing substance or lead hazard as provided by section 7-4-040 of this chapter;

- (3) Ordering the owner of the commercial establishment to remove from distribution and sale any product, goods or items containing a lead-bearing substance. If the lead-bearing component of a product is removable, the commissioner may, at his discretion, allow the lead-bearing component to be removed and the remaining product to be sold, provided that the removal of the lead-bearing substance is noted on the product's packaging. Owners are required to dispose of said product or lead-bearing component in accordance with state or federal law or regulations promulgated by the commissioner regarding the disposal of food items; and
- (4) Pursuing the remedies provided for in sections 7-4-140 and 7-4-150.

7-4-105 Owner's obligation to post notice.

The owner of a dwelling, residential building, child care facility, or school who has received a notice of a lead hazard pursuant to section 7-4-100(a) shall post notices in common areas of the building specifying the identified lead hazards. The posted notices, drafted by the department and sent to the property owner with the notification, shall indicate the following:

- (1) that unit(s) in or areas of the building have been found to have lead hazards;
- (2) that other units or areas of the building may have lead hazards;
- (3) that the department recommends that children 6 years of age or younger receive a blood lead screening; and
- (4) where to seek further information and request an inspection of additional units in the building from the department.

Once the owner has abated the hazards to the satisfaction of the department and received a Notice of Compliance from the department, the owner may remove the notices posted pursuant to this Section.

7-4-110 Manner of abatement of lead hazards.

- (a) The removal of the lead-bearing substance from the dwelling, residential building, child care facility, or school shall be accomplished in a manner consistent with all rules and regulations promulgated pursuant to this chapter concerning acceptable and safe methods of lead hazard removal or abatement, and in a manner which will not endanger the health or well-being of its occupants, and will result in the safe removal from the premises, and the safe disposition of flakes, chips, debris, dust and other potentially harmful materials. No person may conduct lead abatement and/or lead hazard removal in a manner that increases exposure of any person to lead-bearing substances or a lead hazard in or around a dwelling, residential building, child care facility or school.
- (b) The commissioner or his authorized representative is authorized to remove from a commercial establishment a sample of any products or goods which are suspected to contain a lead-bearing substance for the purpose of testing for compliance with department rules and regulations. The commissioner or his authorized representative is further authorized to order the removal or embargo of any goods or products from a commercial establishment after the goods or products have been tested or found not to be in compliance with this ordinance or state or federal law. Tests to determine if a product is a lead-bearing substance shall be conducted using standardized methodologies, as determined by the commissioner in regulation. Test results shall be made available to the owner of the commercial establishment.
- (c) The department of public health shall maintain a report of any products which were taken for testing, or otherwise removed or disposed of under subsection 7-4-110(b). Such report shall be made available for public inspection. The contents of such report shall identify the products taken, removed, or disposed of, the approximate retail value of the products, the results of any lead testing performed, and other information as determined by the commissioner by rule.

7-4-115 Reporting requirements.

Any person who orders, authorizes, analyzes or performs a test to determine the blood lead level of a Chicago resident and is required to report the results of such test pursuant to section 7 of the Illinois Lead Poisoning Prevention Act shall also report the results of such test to the department. The commissioner is authorized to promulgate regulations necessary to implement this section.

7-4-120 Violations.

- (a) Violation of any section of this chapter or any failure to comply with any order authorized pursuant to this chapter shall be punishable by a fine not less than \$100.00 nor more than \$500.00 for each offense. Each day that such violation or noncompliance exists shall be considered a separate offense.
- (b) Any person found liable or guilty of a third or subsequent violation of this chapter and/or of a third or subsequent failure to comply with any order authorized pursuant to this chapter on three different days within a two-year period shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 for each offense, and may be punished by a period of incarceration not to exceed six months, or both. Each day that such violation or noncompliance exists shall be considered a separate offense.

7-4-130 Rules and regulations.

The commissioner is authorized to promulgate reasonable rules and regulations for carrying out provisions of this chapter.

7-4-140 Emergency measures.

When the commissioner finds that because of a violation of this chapter, an emergency condition exists requiring immediate action to protect the health of any person, or when the commissioner makes any determination under section 7-4-100(b), the commissioner may issue an emergency order reciting the existence of the emergency condition and requiring that necessary actions be taken to meet the emergency. An emergency order shall be effective immediately, and any person to whom an emergency order is directed shall comply therewith within the period of time specified in the order. Any such person shall receive a reasonably prompt notice of their right to a prompt hearing conducted by an administrative law officer of the buildings hearing division of the department of administrative hearings, pursuant to the procedures established for such hearings. Pending the hearing, the commissioner may take whatever steps are necessary to execute the emergency order when necessary to protect the health of any person.

The entire cost of abatement and relocation actions taken or caused to be taken by the City of Chicago pursuant to this section shall be recoverable from each of the persons responsible for correcting the violations or giving rise to the emergency conditions by bringing an action in a court of competent jurisdiction or at the department of administrative hearings pursuant to chapter 1-20 of this municipal code or other applicable law.

7-4-150 Remedies.

- (a) The corporation counsel may seek relief with respect to any violation of this chapter by filing an appropriate action in a court of competent jurisdiction or the department of administrative hearings seeking equitable relief or the penalties contained in Section 7-4-120, or both.
- (b) Upon determining that any person has not complied with an order authorized pursuant to this chapter, the commissioner may cause such person to appear at a hearing before an administrative law officer of the buildings hearings division of the department of administrative hearings. Hearings shall be conducted pursuant to the provisions of Article III (Buildings Hearings Division) of Chapter 2-14 of this Code.

7-4-160 Enforcement.

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