

II LEAD LAWS OF THE CITY OF CHICAGO

SUMMARY:

MUNICIPAL CODE OF THE CITY OF CHICAGO, CHAPTER 7-4 and RULES AND REGULATIONS PROMULGATED BY THE CHICAGO COMMISSIONER OF PUBLIC HEALTH

I. Purpose

- A.** The purpose of Chapter 7-4 of the Municipal Code of the City of Chicago is to reduce and prevent the occurrence of lead poisoning in the children of Chicago by:
- 1.** Prohibiting the use or application of leaded substances in any structure frequented or used by children, such as child care facilities, homes, schools, and toys. (CHICAGO, ILL., MUNICIPAL CODE §7-4-020)
 - 2.** Authorizing the City or its representative to carry out inspections for lead hazards, to order the mitigation of any lead hazards, and to have a remedy against those who do not comply with the requirements of the Code. (CHICAGO, ILL., MUNICIPAL CODE §7-4-100; CHICAGO, ILL., MUNICIPAL CODE §7-4-150)
 - 3.** Authorizing the Commissioner of Public Health to establish regulations for carrying out the provisions of the Code. (CHICAGO, ILL., MUNICIPAL CODE §7-4-130)
- B.** The purpose of the Commissioner of Public Health's regulations is to ensure that all lead abatement, mitigation, or removal work is performed in a manner that will not endanger the health or well-being of any person. (CHICAGO, ILL., MUNICIPAL CODE §7-4-130)

II. Requirements

A. Residential Buildings, Schools, Child Care Facilities, and Health Care Providers

1. Maintenance of Housing

It is the duty of owners to maintain residential buildings, child care facilities, and schools in a manner that prevents the existence of lead hazards. (CHICAGO, ILL., MUNICIPAL CODE §7-4-030). All buildings regularly frequented by children six years of age and younger must be maintained so they are free of lead hazards. (CHICAGO DEP'T OF PUBLIC HEALTH RULES & REGULATIONS, CONTROL & MITIGATION OF LEAD BEARING SUBSTANCES §2).

2. Notice

Owners who have received a notice of a lead hazard are required to post the notices sent to them by the Department of Public Health in common areas of the building. (CHICAGO, ILL., MUNICIPAL CODE §7-4-105)

3. Reporting

Every health care provider involved in performing a test to determine the level of lead in a Chicago resident's blood is required to report the results to the Department of Public Health. The required timeframe for reporting depends on the level of lead found in the blood. (CHICAGO, ILL., MUNICIPAL CODE §7-4-115; CHICAGO DEP'T OF PUBLIC HEALTH RULES & REGULATIONS, CONTROL & MITIGATION OF LEAD BEARING SUBSTANCES §15)

4. Information

Child care facilities are required annually to send an informational pamphlet on lead poisoning to parents or guardians of children six years and under. (CHICAGO, ILL., MUNICIPAL CODE §7-4-075).

5. Screening

Children between the ages of six months through six years of age are required to present certification of lead screening before being admitted into a day care, kindergarten, or nursery school. (CHICAGO, ILL., MUNICIPAL CODE §7-4-070)

B. Commercial Establishments

1. Sales of Lead Bearing Substances

No person shall have, transfer, manufacture, offer for sale, or place in the stream of commerce any item or food product containing a lead-bearing substance that in its ordinary course of use is accessible or chewable by children. (CHICAGO, ILL., MUNICIPAL CODE §7-4-040; CHICAGO DEP'T OF PUBLIC HEALTH RULES & REGULATIONS, CONTROL & MITIGATION OF LEAD BEARING SUBSTANCES §6).

Any lead bearing substances that may be used by the general public must bear a warning statement pursuant to the Illinois Lead Poisoning Prevention Act before being offered for sale or given away. (CHICAGO, ILL., MUNICIPAL CODE §7-4-060; CHICAGO DEP'T OF PUBLIC HEALTH RULES & REGULATIONS, CONTROL & MITIGATION OF LEAD BEARING SUBSTANCES §7)

2. Information in Commercial Establishments Offering Paint or Other Supplies

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, describing the dangers of paint removal and remodeling and where to find more information of protecting against lead hazards. (CHICAGO, ILL., MUNICIPAL CODE §7-4-065)

III. Enforcement

A. Inspection.

A representative of the city is authorized to inspect any residential building, child care facility, school, or other locale frequented by a child age six and under, including commercial establishments, to determine if there are lead hazards. The city representative may apply for a warrant for inspection if entry is denied. (See Appendix C for a sample inspection report). An authorized representative of the city may also inspect soil surrounding said facilities. (CHICAGO, ILL., MUNICIPAL CODE §7-4-090)

B. Procedure

1. Residential Buildings, Schools, and Child Care Facilities

If the inspection reveals a potential lead hazard to children six years old and under, the city is required to give the owner notice of the lead hazard. The city also may take any of the following actions it deems appropriate (CHICAGO, ILL., MUNICIPAL CODE §7-4-100):

- Provide recommendations for eliminating the problem areas.
- Notify any other persons responsible for the premises where the lead-bearing substance exists.
- Set a time period and manner in which the lead hazard must be abated.

2. Commercial Establishments

The Commissioner of Public Health has the power to issue subpoenas to owners of commercial establishments suspected of violations or determined to be in violation. (CHICAGO, ILL., MUNICIPAL CODE §7-4-095) If an inspection reveals that the establishment is handling items containing a lead-bearing substance, the city may take any of the following actions to enforce provisions of the code (CHICAGO, ILL., MUNICIPAL CODE §7-4-100):

- Notify the owner of the existence of the lead-bearing substance.
- Order the owner to cease and desist handling the lead-bearing substance or to remove it from distribution.

C. Methods of Lead Mitigation.

The City of Chicago Commissioner of Public Health promulgated rules and regulations dictating safe methods of lead hazard removal or abatement and removal of debris. (CHICAGO, ILL., MUNICIPAL CODE §7-4-130)

1. Requirements

Only licensed lead risk assessors that are employed by the Chicago Department of Public Health may determine whether a structure is free from lead hazards. (CHICAGO DEP'T OF PUBLIC HEALTH RULES & REGULATIONS, CONTROL & MITIGATION OF LEAD BEARING SUBSTANCES §4)

Any person who participates in any way in the abatement and/or mitigation of a lead hazard is required to submit a Mitigation Plan, which must be approved by the Chicago Department of Public Health. The work must be carried out in accordance with the approved plan by state licensed lead workers pursuant to section 11.1 of the Lead Poisoning Prevention Act. (CHICAGO DEP'T OF PUBLIC HEALTH RULES & REGULATIONS, CONTROL & MITIGATION OF LEAD BEARING SUBSTANCES §9)

2. Covering Costs

A fee structure has been established to cover the cost of providing inspections and reviewing and approving the Mitigation Plan. It can be waived under several circumstances, including (CHICAGO DEP'T OF PUBLIC HEALTH RULES & REGULATIONS, CONTROL & MITIGATION OF LEAD BEARING SUBSTANCES §16-17):

- If the inspection was initiated by CDPH and no lead hazards were identified
- If the family income is less than 80% of the median Family Adjusted Income for Chicago
- If the inspection or mitigation was financed by a grant or loan program administered by CDPH
- If waiving the fees will improve the public health, or when waiver or reduction was requested by a non-profit or governmental program whose purpose is represented to reduce lead hazards

IV. Violations/Remedies

A. Violations of the Municipal Code of the City of Chicago

The corporation counsel may seek relief from violations of Chapter 7-4 in the Circuit Court of Cook County by seeking equitable relief and/or penalties. (CHICAGO, ILL., MUNICIPAL CODE §7-4-150)

- Relief may include a fine between \$100 and \$500 for each offense. Each day a violation or noncompliance exists is a separate offense. (CHICAGO, ILL., MUNICIPAL CODE §7-4-120a)
- Any person found guilty of a third or subsequent violation or failure to comply within a two year period is punishable by a fine between \$500 and \$1,000 and/or incarceration not in excess of 6 months. (CHICAGO, ILL., MUNICIPAL CODE §7-4-120; CHICAGO, ILL., MUNICIPAL CODE §7-4-120b).

The Commissioner of Health may cause a person who fails to comply with any order issued pursuant to Chapter 7-4 to appear before a hearing officer at the Department of Administrative Hearings. Failure to comply with such an order is subject to the same penalties as violations of Chapter 7-4. (CHICAGO, ILL., MUNICIPAL CODE §7-4-150b)

B. Violations of City of Chicago Department of Public Health Regulations

Any violation of the rules of the City of Chicago Department of Public Health is subject to the same fine as violations of the chapter. Also, if any person working under contract with the city violates any of the rules of the CDPH, the city may terminate the contract.

(CHICAGO DEP'T OF PUBLIC HEALTH RULES & REGULATIONS, CONTROL & MITIGATION OF LEAD BEARING SUBSTANCES §18)

C. Emergency Measures

If violation of this chapter creates a condition that requires immediate action to protect the health of any person, the Commissioner of Public Health may issue an order requiring the necessary actions be taken and specifying a completion time. (CHICAGO, ILL., MUNICIPAL CODE §7-4-140)

**MUNICIPAL CODE OF
THE CITY OF CHICAGO,**

CHAPTER 7-4:

LEAD-BEARING SUBSTANCES

(updated August 2008)

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 7-4-060 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 leadbearing 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.

**CHICAGO DEPARTMENT OF
PUBLIC HEALTH**

RULES AND REGULATIONS

PROMULGATED PURSUANT TO:

**THE MUNICIPAL CODE OF
THE CITY OF CHICAGO,**

CHAPTER 7-4

(updated August 2008)

City of Chicago
Department of Public Health
Control and Mitigation of Lead-Bearing Substances

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

- 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.

1. Lead Poisoning: A confirmed level of lead in human blood of greater than 5 mg/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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.