

## City of Detroit Lead Clearance Ordinance

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### **Sec. 9-1-3. - Definitions** (definitions not referenced to the Lead Ordinance are excluded for brevity)

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Clearance examination* means an activity conducted following lead-based paint hazard reduction activities to determine that the hazard reduction activities are complete and that no lead-based paint hazards, as defined in this section, exist in the dwelling unit or work site.

*Deteriorated paint* means paint or other surface coating that is cracking, flaking, chipping, peeling, or otherwise damaged or separating from the substrate of a building component, unless the deteriorated paint surfaces total no more than:

- (1) Twenty (20) square feet on exterior surfaces;
- (2) Two (2) square feet in any one interior room or space; or
- (3) Ten (10) percent of the total surface area on an interior or exterior type of component with a small surface area.

*Lead inspection* means a surface-by-surface investigation to determine the presence of lead paint and the provision of a report explaining the results of the investigation.

*Post-remedy clearance report* means a report from a certified clearance technician, for interim controls only, or a certified lead inspector or certified risk assessor that:

- (1) Identifies the lead-based paint hazards in the rental property; and
- (2) Certifies that the lead-based paint hazards have been abated or reduced by interim controls pursuant to standards under the Michigan Lead Abatement Act, being MCL 333.5451 et seq.

*Retaliatory action* means any action that materially alters the terms of the tenancy of the premises such as an increase in rent, termination of a lease or tenancy, or interference with the tenants' occupancy or use of the premises.

*Risk assessment* means both of the following:

- (1) An on-site investigation conducted by a certified risk assessor to determine the existence, nature, severity, and location of a lead-based paint hazard; and

(2) The provision of a report by the person conducting the risk assessment explaining the results of the investigation and options for reducing the lead-based paint hazard.

**Sec. 9-1-81. - Registration of rental property.**

(a) The owners or agents of rental property shall register all such dwellings with the buildings and safety engineering department and obtain a certificate of registration as provided for in this section. Application for the certificate of registration of a rental property shall be made on forms provided by the department and shall contain:

- (1) The location and use of the rental property;
- (2) The name, address, telephone number, and driver license number or state identification number, of the rental property owner applicant, if an individual, and the name and address of the resident agent, if a corporation;
- (3) Information listed in subsection (a)(2) of this section for each partner, corporate officer, or any other person having any interest in the rental property; and
- (4) The names address and telephone numbers of any persons or firms other than the owner(s) who are responsible for property maintenance, or a person who is a caretaker of the rental property pursuant to section 9-1-85 of the 1984 Detroit City Code.

(b) It shall be unlawful for any person to provide false information on an application for a certificate of registration of a rental property required by this section.

(c) Certificates of registration of a rental property shall be renewed annually on the date established by the buildings and safety engineering department. The department shall maintain a registry of owners and rental property governed by this section.

(d) Where rental property required to be registered under this section is sold or otherwise transferred to a new owner, the certificate of registration issued the previous owner shall expire on the date of the sale or transfer and, within ninety (90) days after the sale or transfer of the rental property, the new owner shall apply for a certificate of registration in the prescribed manner in this section.

*(Ord. No. 18-03, § 1, 7-9-03; Ord. No. 29-09, § 1, 10-20-09)*

**Sec. 9-1-82. - Inspection of registered rental property; certificate of compliance required.**

(a) The director of the buildings and safety engineering department shall cause an inspection, as closely as possible to once a year, to be made of all rental property required to have a certificate of registration under Section 9-1-81 of the 1984 Detroit City Code.

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(b) It shall be unlawful for a rental property required to be registered pursuant to section 9-1-81 of the 1984 Detroit City Code to be occupied without a certificate of compliance issued by the buildings and safety engineering department in accordance with section 9-1-36 of the 1984 Detroit City Code.

(c) The buildings and safety engineering department shall issue a certificate of compliance for a rental property where the department determines that the rental property, its units, accessory structures and the premises, including exterior areas, comply with the standards and requirements of this article.

(d) It shall be unlawful for a rental property, as defined by section 9-1-3 of the 1984 Detroit City Code, on which the original construction was completed prior to January 1, 1978 and required to be registered pursuant to Section 9-1-81 of the 1984 Detroit City Code, to be occupied without a lead-clearance report being obtained and provided to the Buildings and Safety Engineering Department in accordance with Division 3, Subdivision B, of this article, provided, that the owner shall not be required to obtain a lead clearance until the next prescribed annual inspection date for the owner for the rental property occurring after the effective date of this section.

*(Ord. No. 18-03, § 1, 7-9-03; Ord. No. 29-09, § 1, 10-20-09)*

### **Sec. 9-1-83. - Inspection and lead clearance risk assessment for lead-based paint hazards, where required.**

(a) Where interim controls were used to reduce lead-based paint hazards in a rental property, as prescribed in Subdivision B of this article, or where a lead inspection reveals the presence of lead paint on the rental property, the owner shall have an annual lead inspection/risk assessment performed on the rental property, and obtain an annual lead-clearance report in accordance with this section.

(b) Where abatement was used to remove all identified lead hazards, as prescribed in Division 2, Subdivision B, of this article, the owner shall have a lead inspection/risk assessment performed on the rental property every three (3) years, and the lead-clearance report shall be valid for three (3) years.

(c) Where all lead-based paint was fully abated in a rental property in accordance with the Michigan Lead Abatement Act, being MCL 333.5451 et seq., and as certified by a certified lead inspector or risk assessor, or where a certified lead inspector certifies that no lead paint exists on the rental property, no further risk assessment or lead clearance shall be required in order to obtain a certificate of compliance for rental property.

*(Ord. No. 18-03, § 1, 7-9-03; Ord. No. 29-09, § 1, 10-20-09)*

**Sec. 9-1-91. - Purpose and intent; requirements.**

(a) For purposes of this subdivision, all paint on the interior or exterior of any residential rental property on which the original construction was completed prior to January 1, 1978, is presumed to be lead-based and that all windows and doors on homes constructed prior to January 1, 1978, are lead-based paint hazards unless they are replacement items that were manufactured after 1978 or unless a lead-based paint inspection is performed by a certified lead inspector who verifies they do not contain lead-based paint. The purpose and intent of this subdivision is to protect the health and welfare of children who occupy rental property that contains lead-based paint hazards since exposure to lead can cause serious problems for children, including learning problems, behavioral problems, and speech and language problems and statistics show that the highest percentage of young children with elevated blood levels in the city reside in rental property.

(b) This subdivision sets forth the requirements for obtaining a lead clearance, which is required by this article prior to the occupancy of rental property. Owners of rental property shall have a lead inspection/risk assessment performed by a certified lead inspector/certified risk assessor to inspect for the presence of lead-based paint and lead-based paint hazards and where lead-based paint hazards are present, the owner must correctly **reduce and control hazards prior to families occupying the rental property.**

(c) The interior and exterior of any residential rental property, on which the original construction was completed prior to January 1, 1978, shall be maintained in a condition such that the paint does not become deteriorated paint in [section 9-1-3](#) of the 1984 Detroit City Code. (Ord. No. 29-09, § 1, 10-20-09)

**Sec. 9-1-92. - Lead inspection and risk assessment, reports required.**

(a) The owner of rental property shall obtain a lead inspection and risk assessment, as defined in [section 9-1-3](#) of the 1984 Detroit City Code, from a certified lead inspector and/or risk assessor in order to obtain a lead clearance as required by section 9-1-83 of the 1984 Detroit City Code.

(b) The lead inspection report shall contain the following information:

- (1) Date of the lead inspection;
- (2) Address of the rental property, including apartment or dwelling unit number, where applicable;
- (3) Date the rental property was built;
- (4) Name, address and telephone number of the owner(s);

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- (5) Name, signature and certification number of each individual conducting testing on the rental property;
- (6) Name, address and telephone number of the company employing the individual(s) conducting the testing, where applicable;
- (7) Each testing method, device and sampling procedure used for paint analysis, and where used, the serial number of any x-ray fluorescence lead testing device;
- (8) Specific locations of each painted component tested for the presence of lead-based paint; and
- (9) The result of the inspection in units of measure that match the type of sampling method used.

(c) The risk assessment report shall contain the following information:

- (1) Date of the risk assessment;
- (2) Address of the rental property, including apartment or dwelling unit number, where applicable;
- (3) Date the rental property was built;
- (4) Name, address and telephone number of the owner(s);
- (5) Name, signature and certification number of risk assessor conducting the assessment;
- (6) Name, address and telephone number of the company employing the risk assessor conducting the assessment, where applicable;
- (7) Name, address, and telephone number of each laboratory conducting analyses of collected samples;
- (8) Results of the visual inspection;
- (9) Testing method and sampling procedure used for paint analysis;
- (10) Specific locations of each painted component tested for lead;
- (11) Results from on-site testing and, where used, the serial number of any x-ray fluorescence lead testing device;
- (12) All results from the laboratory analysis of collected paint and dust samples;
- (13) Any other sampling results;
- (14) Any background information regarding the physical characteristics of the property and use patterns of the residents that may cause lead paint exposure to young children;
- (15) To the extent that they are used as part of the risk assessment, the results of any previous inspections or analyses for lead paint or hazards;
- (16) A description of the location, type, and severity or identified lead paint hazards and any other potential lead hazards; and
- (17) A description of temporary and/or permanent options to fix each lead paint hazard found, and a priority for fixing each hazard from the most serious to the least and, where the use of an encapsulant paint or physical barrier (siding or paneling) is

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recommended, the report should recommend a maintenance and monitoring schedule for these solutions.

(d) An individual who is certified as both a lead inspector and a risk assessor may combine the information required in reports under subsections (b) and (c) of this section.

*(Ord. No. 29-09, § 1, 10-20-09)*

### **Sec. 9-1-93. - Remedy for lead-based paint hazards.**

Where the risk assessment indicates a lead-based paint hazard or hazards exist at the rental property, the condition(s) may be corrected only by one (1) of the following methods:

(a) Abatement by a certified abatement worker, pursuant to the rules promulgated under the Michigan Lead Abatement Act, being MCL 333.5451 et seq.; or

(b) Interim controls performed only by a person who has received a certificate that the person has undergone Lead Safety for Renovation, Repair and Painting Training pursuant to 40 CFR 745(e) and who has become a certified renovator.

*(Ord. No. 29-09, § 1, 10-20-09)*

### **Sec. 9-1-94. - Post-remedy clearance report.**

(a) After lead abatement or interim controls are performed, the owner of rental property shall have a clearance examination on the property and obtain a post-remedy clearance report, as defined in [section 9-1-3](#) of the 1984 Detroit City Code.

(b) In order to obtain lead clearance for the rental property, the owner shall provide the post-remedy clearance report to the buildings and safety engineering department.

### **Sec. 9-1-95. - Requirement to avoid conflict of interest regarding lead-clearance inspection.**

Any lead inspection, risk assessment or lead clearance is required to be performed by persons or entities independent of persons performing abatement or interim controls. *(Ord. No. 29-09, § 1, 10-20-09)*

### **Sec. 9-1-96. - Occupant protection during abatement or interim controls.**

In order to minimize the harm to persons occupying rental property where there are interim controls or lead abatement, which may disturb lead paint and potentially cause further harm or hazards to persons occupying the premises, the following shall be required:

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(1) Occupants of rental property shall not be permitted to enter the dwelling until after abatement or interim controls have been completed and clearance has been achieved;

(2) Occupants of rental property shall be temporarily relocated by the owner for the safety of occupants during interim controls or abatement until certification by a certified clearance technician, for interim controls only, or certified lead inspector/risk assessor, for abatement or interim controls, is received; and occupants who relocated to a dwelling unit not owned by the landlord shall not be liable to the landlord for rent accruing during this time period, provided, that relocation of occupants shall not be necessary where:

a. Abatement or interim controls will not disturb lead-based paint;

b. Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the area being treated are sealed during abatement or interim controls and cleaned afterward, and an entry free of lead-based paint hazards and debris is provided; and

c. Abatement or interim controls of the interior will be completed within one (1) period of eight (8) daytime hours, the area treated is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards;

(3) The dwelling unit and the area treated shall be secured against unauthorized entry, and the occupants' belongings protected from contamination by lead dust and debris during or interim controls or abatement;

(4) Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed;

(5) The area treated shall be prepared, including the placement of containment barriers, to prevent the release of leaded dust, and shall contain lead-based paint chips and other debris from hazard reduction activities within the area treated until they can be safely removed;

(6) Practices that minimize the spread of leaded dust, paint chips, and debris shall be used; and

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(7) A warning sign shall be posted at each entry to a room where abatement or interim controls are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated. Each warning sign shall be provided in the occupants primary language.

### **Sec. 9-1-97. - Exterior abatement or interim controls, weather conditions.**

Performance of abatement or interim controls on an exterior painted surface as required under this subdivision may be delayed for a reasonable period of time during a period when weather conditions render the completion of activities impossible.

*(Ord. No. 29-09, § 1, 10-20-09)*

### **Sec. 9-1-98. - Termination of tenancy to avoid compliance with this division or retaliatory action prohibited.**

- (a) An owner of rental property, or any person acting on his or her behalf, shall not:
- (1) Terminate, or cause to be terminated, the tenancy of any person for the purpose of avoiding compliance with any section of this division; or
  - (2) Take any retaliatory action, as defined in [section 9-1-3](#) of the 1984 Detroit City Code, toward a tenant who reports a suspected lead-based paint hazard to the owner or to the city.
- (b) Action by the rental property owner to achieve compliance with this subdivision shall not be deemed a basis for the modification or termination of a tenancy for the property.

*(Ord. No. 29-09, § 1, 10-20-09)*