

ARTICLE IV. PAINT AND OTHER SUBSTANCES CONTAINING LEAD

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Sec. 54-121. Purpose.

The purpose of this article is to adopt measures designed to eradicate lead exposure. Such measures are intended to prevent childhood lead poisoning resulting from the assimilation of lead-bearing substances into the bodies of young children by means of ingestion, inhalation, and absorption. This assimilation constitutes a serious hazard to the health, safety, and welfare of the children of the city.

(Code 1993, § 14-60; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 54-122. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the Virginia Board for Asbestos, Lead, and Home Inspectors.

Child and *children* mean a person six years of age or under.

Child-occupied facility means a building, or portion of a building, constructed prior to 1978, visited regularly by the same child, six years of age or under, on at least two different days, within any week (Sunday through Saturday period), provided that each day's visit lasts at least three hours and the combined weekly visit lasts six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day care centers, preschools and kindergarten classrooms.

Dwelling unit means a room, group of rooms, or other interior area of a building, all or part of which room, group of rooms or other interior area is either designed or used for human habitation or human occupancy.

Elevated blood-lead level means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of ten g/dl (micrograms of lead per deciliter of whole blood) or greater for a single venous test.

Interim controls means a set of measures designed to temporarily reduce human exposure or likely human exposure to lead-based paint hazards that include specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential lead-based paint hazards and the establishment and operation of management and resident education programs.

Lead abatement means any measure or set of measures designed to permanently eliminate lead-based paint hazards, including lead-contaminated dust or soil.

Lead-based paint means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

Lead-based paint activity means lead inspection, lead risk assessment, lead project design and abatement of lead-based paint and lead-based paint hazards, including lead-contaminated dust and lead-contaminated soil.

Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the Environmental Protection Agency, pursuant to the Toxic Substances Control Act, section 403.

Lead contractor means a person who has met the requirements of the Virginia Board for Asbestos, Lead, and Home Inspectors and has been issued a license by the board to enter into contracts to perform lead abatements.

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

Lead inspector means an individual who has been licensed by the board to conduct lead inspections and abatement clearance testing.

Lead risk assessment means (i) an on-site investigation to determine the existence, nature, severity and location of lead-based paint hazards; and (ii) the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

Lead risk assessor means an individual who has been licensed by the Virginia Board for Asbestos, Lead and Home Inspectors to conduct lead inspections, lead risk assessments and abatement clearance testing.

Owner means (i) the owner or owners of the freehold of the premises or lesser estate therein; (ii) a mortgagee or vendee in possession; or (iii) an assignee of rents, a receiver, an executor, a trustee, or a lessee in control of a building or structure.

Residential dwelling means (i) target housing that is a detached single-family dwelling, including attached structures such as porches and stoops; or (ii) target housing that is a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of one or more individuals.

Target housing means any housing constructed prior to 1978, except for housing for the elderly, or persons with disabilities unless any one or more children six years of age or under resides or is expected to reside in such housing for the elderly or persons with disabilities or any zero-bedroom dwelling.

(Code 1993, § 14-61; Ord. No. 2005-157-151, § 1, 7-25-2005)

Cross References: Definitions generally, § 1-2.

Sec. 54-123. Testing of children for elevated blood-lead levels-Generally.

A health care provider shall test any child for elevated blood-lead level, or have such a child tested, if the provider determines, in the exercise of medical discretion, that such testing is warranted and that the child meets one or more of the criteria established by regulations promulgated pursuant to the Code of Virginia.

(Code 1993, § 14-62; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 54-124. Same-Application to health care providers.

(a) Each physician in the city shall test or screen eligible patients for lead exposure at the interval and methods as required by law.

(b) Each licensed, registered, or approved health care facility serving children, including but not limited to hospitals and clinics, shall provide testing or screening as described in subsection (a) of this section.

(Code 1993, § 14-63; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 54-125. Same-Followup testing and treatment.

All facilities providing follow-up testing and treatment shall use methods outlined by the centers for disease control and prevention, the Virginia Department of Health, and the department of public health.

(Code 1993, § 14-64; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 54-126. Same-Responsibility of parents, guardians or other persons acting in loco parentis.

Parents, guardians, or other persons acting in loco parentis of children having a lead-to-blood ratio of at least ten g/dl (micrograms per deciliter of whole blood) shall take all reasonable precautions to prevent such children from being further exposed to paint and other substances containing lead in excess of the percentage stated in the applicable lead-based paint provisions of the Virginia Uniform Statewide Building Code.

(Code 1993, § 14-65; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 54-127. Reserved.

Editors Note: Ord. No. 2005-157-151, § 2, adopted July 25, 2005, repealed § 54-127, which pertained to reporting of cases of childhood lead poisoning and derived from Code 1993, § 14-66.

Sec. 54-128. Powers and responsibilities of the city.

(a) The department of public health shall ensure that any dwelling unit or child-occupied facility constructed before 1978 where a child or pregnant woman with a reported elevated blood-lead level resides receives a lead risk assessment by a licensed lead risk assessor.

(b) If the building was built prior to 1978 and a city employee finds there is reasonable suspicion that lead hazards exist in the building, the department of public health may perform a lead risk assessment or clearance testing or both for the fees set forth in appendix A of this Code.

(Code 1993, § 14-67; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 54-129. Lead risk assessment; notice of violation; reinspection.

(a) *Request for lead risk assessment.* Any resident or owner of any dwelling unit in the city constructed before 1978 may request that the city provide a lead risk assessment or clearance testing or both for that dwelling unit for lead-based paint hazards for the fees set forth in appendix A of this Code.

(b) *Notice of violation.* If a lead risk assessment for lead-based paint hazards reveals lead-based paint hazards, the city shall issue to the owner of the property a notice of violation that shall state the following:

- (1) The owner is required to use interim controls to temporarily reduce human exposure or likely exposure to lead-based paint hazards within 30 days of receipt of the notice of violation. Alternatively, the owner may cause lead abatement to be performed within 30 days of receipt of the notice of violation. The property owner may employ interim control measures if (i) the residence is owner-occupied, (ii) the owner obtains training in lead safe work practices prior to the beginning of interim control work and (iii) the owner provides documentation of said training to the lead risk assessor. If lead abatement is elected, such lead abatement must be performed by a licensed lead abatement contractor in compliance with the laws and regulations of the city, the state, and the federal government, including the centers for disease control and prevention; or
- (2) The owner is required to eliminate the lead-based paint hazard using a licensed lead abatement contractor in compliance with the laws and regulations of the city, the state, and the federal government, including the centers for disease control and prevention.

(c) *Additional time.* At its sole discretion, the city may grant additional time to remove, abate or remedy such lead-based paint hazard or the city may allow the use of acceptable interim controls. However, in no event shall the total time period allowed to reduce exposure to lead-based paint hazards be more than 90 days after the owner's receipt of the notice of violation.

(d) *Reinspection.* The city shall reinspect a dwelling unit within ten working days of the end of the 90-day period to determine if adequate interim controls have been used or if the lead-based paint hazards identified in the original notice of violation have been abated as required. If all of the lead-based paint hazards have been remedied, the city shall issue a lead-based paint compliance letter to the owner. If any of the lead-based paint hazards have not been remedied, the city shall issue a criminal summons to the owner.

(Code 1993, § 14-68; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 54-130. Abating and reducing hazardous levels of lead-Duty of owner.

(a) *Dwelling unit.* The owner of a dwelling unit where the interior or exterior painted surfaces of the dwelling unit, including fences and outbuildings, contain hazardous lead levels or constitute a lead-based paint hazard shall maintain that property in a condition free from peeling, chipping, cracking and flaking paint or shall remove or cover all leaded areas in a manner approved by the city.

(b) *Child-occupied facility.* Any owner of a child-occupied facility shall have that child-occupied facility inspected annually at the owner's sole expense if a child frequenting the child-occupied facility tests positive for childhood lead poisoning. If the interior or exterior painted surfaces of the child-occupied facility, including fences and outbuildings, contain hazardous lead levels or constitute a lead-based paint hazard, then the owner shall maintain that property in a condition free from peeling, chipping, cracking and flaking paint or by removing or shall remove or cover all leaded areas in a manner approved by the city. These annual inspections shall continue as long as the property remains a child-occupied facility.

(Code 1993, § 14-69; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 54-131. Same-Notices.

(a) The city shall notify the owner when it finds that a property contains hazardous lead levels or constitutes a lead-based paint hazard as the result of a lead inspection within five days. Such notice shall be provided in accordance with the Virginia Uniform Statewide Building Code notice provisions.

(b) The department of public health shall notify any occupant of a dwelling unit if a child residing in that unit tests positive for childhood lead exposure within five days of the department's receipt of the test results.

(Code 1993, § 14-70; Ord. No. 2005-157-151, § 1, 7-25-2005)

Sec. 54-132. Reserved.

Editors Note: Ord. No. 2005-157-151, § 2, adopted July 25, 2005, repealed § 54-132, which pertained to abating and reducing hazardous levels of lead-evictions and derived from Code 1993, § 14-71.

Sec. 54-133. Penalty.

Any owner or any other person violating any provision of this article relating to the removal or the covering of lead-based paint which poses a hazard to the health of pregnant women and children who occupy the dwelling unit or child-occupied facility shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not more than \$2,500.00. If the court convicts pursuant to this section and sets a time by which such hazard must be abated, each day the hazard remains unabated after the time set for the abatement has expired shall constitute a separate violation. Upon a reasonable showing to the court by a landlord as defined in Code of Virginia, § 55-248.4 that such landlord is financially unable to abate the lead-based paint hazard, the court shall order any rental agreement related to the affected premises terminated effective 30 days from the entry of the court order.

(Code 1993, § 14-72)

Sec. 54-134. Responsibilities of director of public health.

Whenever it is brought to the attention of the director of public health that a child residing within the city has been found to have a lead-to-blood ratio of at least ten micrograms of lead per 100 milliliters of whole blood and that such child's dwelling or a child-occupied facility, including fences and outbuildings, is alleged to be in noncompliance with the applicable lead based paint provisions of the Virginia Uniform Statewide Building Code, the director or his designee shall notify the local office of the United States Department of Housing and Urban Development of the findings as to the lead level and, in connection therewith, shall also provide the address of any property alleged to be in noncompliance with such provisions of the Virginia Uniform Statewide Building Code.

(Ord. No. 2005-157-151, § 3, 7-25-2005)

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