

CHAPTER 18

CHILDHOOD LEAD POISONING PREVENTION REGULATION

Section 18-1 Purpose

The purpose of this Chapter is to protect and promote public health through the identification and elimination of lead exposure hazards.

Section 18-2 Definitions

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

ABATEMENT – a set of measures designed to eliminate or reduce lead based paint hazards.

The term includes but is not limited to the following:

- i. The removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures and the removal or covering of lead-contaminated soil.
- ii. The preparation, cleanup, disposal and post-abatement, clearance-testing activities associated with these measures.
- iii. Less-than-full abatement whereby the sources of lead contamination are reduced sufficiently to create a “lead-safe” environment rather than a “lead-free” environment.

The term does not include renovation and remodeling or landscaping activities by contractors whose primary intent is not to permanently eliminate or reduce lead-based paint hazards, but is instead to repair, restore or remodel a given structure or dwelling.

The term does not include renovation and remodeling activities conducted by homeowners in their homes.

CHEWABLE SURFACE – surfaces, including but not limited to, windowsills, window frames, doorframes, handrails, toys, furniture, food utensils, and other appurtenances offering a biting surface to a child or other persons.

CHILD-OCCUPIED FACILITY – a building or portion of a building, constructed prior to 1978, visited regularly by the same child, six (6) 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 (3) hours and the combined weekly visit lasts at least six (6) hours, which may include, but are not limited to, public and private day care centers, preschools and school classrooms.

DEPARTMENT – Montgomery County Health Department.

DWELLING - a building or structure occupied, designed or intended to be occupied as a place for human habitation or use, or any part thereof, including an accessory building or structure belonging thereto or usually enjoyed therewith and any institutional structure such as an orphanage, school or day care center.

DWELLING UNIT – any room or group of rooms located within a dwelling and forming a single-habitable unit, with facilities which are used or intended to be used for living, or any part hereof.

ELEVATED BLOOD LEAD LEVEL– any case where the serum blood lead level of a person is equal to or greater than the level defined as elevated by the Centers for Disease Control.

ENCAPSULATION– the application of a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded covering material.

ENCLOSURE - the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

EXPOSED SURFACE – all interior surfaces of a dwelling or dwelling unit and those exterior surfaces of a dwelling or dwelling unit, which are

readily accessible to children six (6) years of age or under, or other persons who have demonstrated an evidence of lead poisoning, such as stairs, decks, porches, railings, windows, doors and siding. Any area in the vicinity of a dwelling or dwelling unit subject to contamination from flaking or peeling lead based materials is also considered an exposed surface. HAZARD REDUCTION – action or actions to significantly reduce or eliminate exposure to lead in any dwelling, dwelling unit or on any premises, which may include, but not limited to: relocation of occupants, prepping of a painted surface, covering of lead-contaminated soil, clean-up of lead-contaminated dust, and measures to maintain paint.

LEAD-BASED PAINT– paint or other surface coatings, that contain lead equal to or greater than 1.0 milligram per square centimeter or 0.5 percent by weight (equivalent units are: 5,000 micrograms per gram, 5,000 milligrams per kilogram, or 5,000 parts per million by weight). Surface coatings include: paint, shellac, varnish, or any other coating, including wallpaper, which covers painted surfaces.

OCCUPANT – any person, living, sleeping, cooking, eating in or having actual possession of a dwelling unit or rooming unit.

OPERATOR- any person who has charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

OWNER – a holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

PREMISIS – a lot, plot or parcel of land, including all facilities and improvements thereon.

RENOVATION AND REMODELING ACTIVITIES – activities whose primary intent is not to permanently eliminate or reduce lead-based paint hazards, but is instead to repair, restore, or remodel a given structure or dwelling.

SUBSTRATE – The material underneath paint. Substrates should be classified into one of six types: brick, concrete, drywall, metal, plaster, or wood.

SURFACE – the outermost layer or superficial area of materials, of which a dwelling unit is constructed; excluding paint, plaster or putty of the interior or exterior of a dwelling unit; including but not limited to the outermost layer or superficial area of walls, ceilings, floors, stairs, windows, window sills, window frames, window sashes, doors, door frames, baseboard and woodwork of a dwelling or dwelling unit.

TEMPORARY OR INTERIM HAZARD REDUCTION– means repair and housekeeping measures that can be undertaken immediately, safeguarding occupants until permanent abatement or hazard reduction can be completed as set forth and approved by the Department. Interim measures should include the provision of smooth and cleanable surfaces.

XRF ANALYZER – a machine that utilizes X-Ray Fluorescence (XRF) to test for the presence of lead-based paint.

Section 18-3 Testing Procedures: Standards

- a. If there is found the presence of flaking, peeling, chipping or loose paint, plaster or structural material in or around any building used for housing, or regularly for other sustained activities by a person or persons determined to have an elevated blood lead level, specimens of the flaking, peeling, chipping or loose paint, plaster or structural material shall be collected as samples to determine whether or not the materials contain lead. In lieu of taking samples, the surface may be tested with an XRF analyzer and/or other instruments approved by the Department.
- b. Owner/operator will bear the cost associated with sampling, including all samples collected and submitted for analysis by the Department.
- c. The chemical determination of the lead content in surface materials may be made by the quantitative measurements of samples of those materials. Lead content of any surface material in excess of one-half of one percent (0.5%) by dry weight shall be in violation of this Ordinance.
- d. The physical determination of the lead content of surface material may be made by non-destructive measurements using radioisotope

XRF Analyzers, or other instruments approved by the Department. Lead content in surface materials in excess of 1.0 milligrams per square centimeter of surface when tested by this method shall be in violation of this Ordinance.

- e. Lead content in soil in excess of 400 ug/g must follow with lead reduction measures/abatement. An accredited lab approved by the Department must measure lead soil content. Failure to reduce a lead hazard in soil will be in violation of this Ordinance.

Section 18-4 Determination of Health Hazard

- a. Any lead source shall be considered a health hazard to children six (6) years of age or under, or other persons who have demonstrated an evidence of lead poisoning, IF:
 - i. Said lead source exists in or about, but not limited to, a dwelling, dwelling unit, school, day care facility, church, or recreational facility, in which children or other persons who have demonstrated an evidence of lead poisoning commonly reside or visit; AND
 - ii. Said lead source is a child-occupied facility; AND
 - iii. Said lead source is determined to be on any flaking or peeling surface or exposed surface and/or on any chewable surface and contain more than 0.5 percent lead by weight of non-volatile content, or in excess of 1.0 milligram per square centimeter of surface when tested by a radioisotope x-ray fluorescent analyzer or other instrument approved by the Department.

Section 18-5 Notice of Health Hazard

The Department shall report the findings of a lead source health hazard immediately to all occupants of the affected dwelling unit(s) and to the owner/operator of the building. The Department may cause to have prominently posted on all entrances to the said dwelling unit(s) a notice as follows:

**THIS PROPERTY HAS BEEN IDENTIFIED AS A LEAD
HAZARD BY THE DEPARTMENT OF HEALTH.**

Such notice shall not be removed without the approval of the Department. A report of the finding shall be given to other persons or agencies as required by law.

Section 18-6 Health Examination

When a lead source health hazard is found in a dwelling, the Department will recommend lead testing for all children six (6) years of age or under; and pregnant women who reside in the said dwelling, as determined by the Department.

Section 18-7 Hazard Reduction or Abatement

- a. When the Department determines that any lead source creates a health hazard to children six (6) years of age or under, and pregnant women, or other persons who have demonstrated an evidence of lead poisoning, the Department shall issue a written order to the owner and/or operator to significantly reduce or eliminate the hazard. This order shall be sent by certified mail, return receipt requested to the last known address of the owner/operator. In addition, the Department shall post the order on the dwelling described in the order. The Department shall have the authority to require the family to seek alternate housing.
- b. Within thirty (30) days following receipt of the written order, or posting of the property, whichever is earlier, the owner shall submit to the Department a written plan and schedule for either total abatement or effective lead hazard reduction. Said plan and schedule shall specify in detail the means, methods, materials and dates by which correction will be achieved and submitted to the department for approval prior to hazard reduction or abatement. Failure to receive the Department's approval prior to hazard reduction and/or abatement will be a violation of this ordinance.
- c. Dry sanding, dry scraping, heat guns, the use of an open flame torch, uncontained abrasive blasting, uncontained water blasting, the use of power grinders, sanders, drills, wire brushes on electric drills and rotostrippers, and/or chemical strippers containing methylene chloride are prohibited techniques for abatement or hazard reduction unless approved by the Department.

- d. Promptly upon receipt of the plan and schedule, the Department shall approve or disapprove such plan and schedule. Notice of any disapproval shall be accompanied by specific reasons therefore. Upon receipt of such notice, the owner shall, within fourteen (14) days, resubmit the plan and schedule with such revisions as are necessary to remove the objections. Upon disapproval of a second plan by the Department, the owner shall be issued a written notice indicating schedule and method of abatement or effective hazard reduction, which will be required to bring the dwelling into compliance. The owner shall complete abatement of the lead hazard within thirty (30) days after receiving notification from the Department that the schedule has been approved, unless the Department extends the time for compliance.
- e. The Department shall make a determination of those cases where, due to a lead poisoning emergency, the severity and/or extent of the identified lead hazard, and/or the projected time necessary to carry out total abatement or effective hazard reduction, protective interim hazard reduction is to be provided for occupants forthwith, prior to plan submission and implementing abatement or hazard reduction. In such cases, the department must approve the methods of protective interim hazard reduction and shall inspect the involved premises to assure they are effectively implemented.
- f. Final compliance with the Departmental written order shall be contingent upon a determination by the Department that the owner has successfully completed the approved abatement/ hazard reduction plan. This determination will be based on visual inspection by the Department and the result of other clearance testing as may be required by the Department, and, in those instances involving hazard reduction, implementation of an ongoing maintenance program approved by the Department.
- g. In the event the dwelling or dwelling unit or premises in which a lead hazard is found is vacated, the Department must be contacted and a visual inspection must be completed by the Department to ensure that the ongoing maintenance program is adhered to prior to the premises being reoccupied.
- h. Clearance sample collection shall be conducted by the Department. Samples collected are to be analyzed by a state certified laboratory with the cost of analysis to be borne by the owner/operator of the involved premises.

- i. In those instances where interim hazard reduction or hazard reduction has been required and approved by the Department, the Department shall conduct compliance follow-up inspections as necessary to assure that the involved premises continue to be a safe environment, free from lead hazards.

Section 18-8 Protection of Occupants

- a. No owner or landlord found to be in violation of the Sections of this Chapter may evict, or cause to be evicted, occupants of any dwelling, dwelling unit, apartment or building found to be in violation of such Chapter, where the occupants have children, for the purpose of avoiding corrective maintenance which may have been ordered by the Department, the Court or any other appropriate authority.
- b. In the event the dwelling or dwelling unit or premises in which a lead hazard is found is vacated by the occupant who occupied same at the time of the issuance or corrective notice referred to in Section 18-5 "Notice of Health Hazard" such dwelling, dwelling unit or premises shall not be let or occupied by any other person until such corrective notice is complied with.

Section 18-9 Other

In those instances where environmental investigation by the Department indicates lead sources other than paint, soil, household items, or other premise-specific features are contributing significantly to elevated blood lead levels, the Department shall advise governmental agencies responsible for enforcing applicable State and Federal laws and regulations of such findings.

Section 18-10 Exemptions

The Department may, on a case-by-case basis, approve an alternative procedure for abatement or effective hazard reduction of a lead hazard violation, provided that the owner or operator submits a written description of an alternative procedure to the Department and demonstrates that compliance with procedures specified in Section 18-7, Hazard Reduction are not practical or

feasible, or that the proposed alternative procedure provides the equivalent control and level of protection.