

ARTICLE 1167

Lead Poison Control

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CROSS REFERENCE

1167.01 DEFINITIONS.

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

(a) The City of Bethlehem Bureau of Health or any successor department or agency, or any authorized representative thereof, shall be the "enforcement authority" hereunder.

(b) "Chewable surface" shall include, but not be limited to, such surfaces as windows, window sills, window frames, doors, door frames, handrails, toys, furniture, food utensils and other appurtenances offering a biting surface to a child or other persons who have demonstrated an evidence of lead poisoning.

(c) "Dwelling" means a building or structure occupied or 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 used for the care of or frequented by children, such as a day care center.

(d) "Dwelling unit" means one or more rooms with provision for cooking, living, sleeping, and sanitary facilities, or any part thereof, arranged for the use of one or more human occupants.

(e) "Elevated blood level," confirmed by venous sample, shall mean the level defined by the Centers for Disease Control as requiring environmental intervention.

(f) "Emergency" shall be defined as any case where a physician examining a person deems the blood lead level of the person to be high enough to require chelation of the person.

(g) "Exposed surface" means 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 under six (6) years of age, or other persons who have demonstrated an evidence of lead poisoning. Such surfaces include but are not limited to stairs, decks, porches, railings, windows, doors and siding from ground level to a vertical distance of five (5) feet. Any peeling paint or friction surface constitutes an exposed surface. Such surfaces on appurtenant structures such as garages, garden sheds, fences or other painted surfaces are also considered exposed surfaces.

(h) "Lead-based coatings requiring abatement" means any paint, varnish, glaze or other applied liquid surface coating and putty or plaster which contains a quantity of lead equal to or greater than one-half of one percent (0.5%) by weight or 1.0 mg/cm² as measured by an x-ray fluorescence analyzer (XRF).

(i) "Occupant" means any person living, sleeping, cooking, eating in or having actual possession of a dwelling unit.

(j) "Operator" means any person who has charge, care or control of a building or part thereof in which dwelling units are let.

(k) "Owner" means a holder of legal title to the premises, whether alone or jointly with others, and whether in possession or not.

(l) "Premises" means a lot, plot or parcel of land, including all facilities and improvements thereon.

(m) "Surface" means the outermost layer or superficial area of materials (excluding paint, plaster or putty) of which the interior or exterior of a dwelling or dwelling unit is constructed. This includes, but is not limited to, floors, stairs, windows, window sills, window frames, window sashes, doors, door frames, baseboard and woodwork of a dwelling or dwelling unit.

(n) "Temporary hazard abatement" means repair or housekeeping measures that can be undertaken immediately, safeguarding the occupants until permanent abatement can be completed as set forth by the City of Bethlehem Bureau of Health.

(o) A "lead source" is a lead-based coating or the presence of lead in dust, soil, water or other environmental sources exceeding acceptable standards as defined by the City of Bethlehem Board of Health.

(p) A "lead-safe environment" means an environment free from chipping and peeling lead-based paint and safe from other lead sources exceeding acceptable standards as defined by the City of Bethlehem Board of Health.

(q) "Abatement of lead-based paint" means the appropriate removal of the hazards exceeding acceptable standards as defined by the City of Bethlehem Board of Health.

(r) "Abatement of lead hazards" means appropriate removal of such hazards in dust, soil, water or other environmental sources exceeding acceptable standards as defined by the City of Bethlehem Board of Health.

1167.02 INSPECTIONS

(a) The Bureau of Health shall have the authority to enter and inspect a dwelling or dwelling unit in order to protect the health, safety and welfare of the public under the provisions of this Article whenever it has probable cause to conduct such an inspection. For the purposes of this Article, a probable cause to gain access and to inspect a dwelling or dwelling unit shall include, but not be limited to, the following:

- (1) That the Bureau of Health receives a report of elevated blood level of any person who resides or has recently resided or frequently visits the dwelling or dwelling unit to be inspected; or
- (2) That such entry is for the purpose of reinspecting a dwelling or dwelling unit previously determined to be in violation of this Article; or
- (3) That the Bureau of Health, after investigation, has knowledge, information or a reasonable belief that a violation of this Article exists in the dwelling or dwelling unit; or
- (4) That the Bureau of Health has received a complaint concerning a violation of this Article in the dwelling or dwelling unit.

(b) The Bureau of Health shall notify the owner, operator, occupant or other person in charge of the dwelling or dwelling unit of the purpose of the inspection, shall display proper identification and shall attempt to enter and inspect the dwelling or dwelling unit at reasonable times.

(c) If any owner, operator, occupant or other person in charge of the dwelling or dwelling unit refuses, restricts or obstructs entry and inspection of a dwelling or dwelling unit which is authorized by this Article, the Bureau of Health shall apply for a search and inspection warrant to a court of competent jurisdiction and shall supply all necessary and reasonable affidavits and testimony to indicate that there is reasonable or probable cause to conduct the inspection.

1167.03 DETERMINATION OF HEALTH HAZARD

Any lead source which contains an amount of lead equal to or greater than 0.5% by weight or 1.0 mg/cm², as measured by an x-ray fluorescence analyzer, shall be considered a health hazard to children under six (6) years of age, pregnant women, or other persons who have demonstrated an evidence of lead poisoning or are cared for in such surroundings, IF:

(a) Said lead source exists in or about, but not limited to, a dwelling, dwelling unit, household, school, day care facility, church, or recreational facility; AND

(b) Said lead source is determined to be on any flaking or peeling surface or exposed surface and/or on any chewable surface;
OR

(c) Said lead source is determined by inspection to be in dust, soil, water or other sources;

in which children, pregnant women, or other persons who have demonstrated an evidence of lead poisoning commonly reside or visit.

1167.04 NOTICE OF HEALTH HAZARD

The Bureau of Health shall report the findings of a lead source health hazard immediately to all occupants of the affected premises and to the owner and/or operator of said premises. The Bureau of Health shall cause to have prominently posted on all entrances to said premises a notice as follows:

THIS DWELLING UNIT CONTAINS DANGEROUS AMOUNTS OF LEAD PAINT AND IS UNFIT FOR HABITATION BY PREGNANT WOMEN AND CHILDREN UNDER SIX (6) YEARS OF AGE.

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

1167.05 EXAMINATION OF CHILDREN

When a lead source health hazard is found in a dwelling, the Bureau of Health may cause to have examined all children under six (6) years of age, and such other children as it may find advisable to examine, residing or who recently resided in said dwelling. The results of such examination shall be reported to Bureau of Health, to the parent or legal guardian of the affected child, and to the appropriate Department of Health District Office.

1167.06 ABATEMENT OF HEALTH HAZARD

(a) When the Bureau of Health determines that any lead source creates a health hazard, it shall issue a written order to the owner, and to any operator or occupant, to abate the hazard. The cost of hazard abatement shall be the responsibility of the property owner. The order to abate the hazard shall be sent by certified mail, return receipt requested, to the last known address of the owner. In addition, the Bureau of Health shall post the order on the premises described in the order. If an emergency is determined to exist, or if any person is hospitalized due to lead poisoning, temporary hazard abatement must be accomplished in three (3) days.

(b) Within seven (7) days following receipt of the written order, or posting of the property, whichever is earlier, the owner shall submit to the Bureau of Health a written plan and schedule for abatement of the lead hazard. Upon request, the Bureau of Health will provide assistance in developing the abatement plan. Said plan and schedule shall specify in detail the means, methods, materials and dates by which abatement will be achieved and shall include one or more of the following:

- (1) Replacement of building components with components not coated with lead-based paint.
- (2) The covering of such surfaces which contain lead at unacceptable levels with permanently affixed coverings, the surface of which are lead free and

which said permanently affixed coverings are incapable of being readily chewed through, torn from the surface, chipped or peeled from the surface, or otherwise removed in such manner as to expose the hazardous surface (for example, hardboard, plywood, drywall).

- (3) Stripping of the surface to the bare underlying materials which do not contain lead at unsafe levels.
- (4) Such other methods as are established by the Bureau of Health or appropriate State or Federal agencies, and are approved by the Board of Health.

(c) Promptly upon receipt of the plan and schedule, the Health Bureau shall approve or disapprove such plan and schedule. Notice of any disapproval shall be accompanied by specific reasons therefor. Upon receipt of such notice, the owner shall within four (4) days resubmit the plan and schedule with such revisions as are necessary to remove the objections. Upon disapproval of a second plan by the Health Bureau, the owner shall be issued a written notice indicating the schedule and method of abatement which will be required to bring the dwelling into compliance. The owner shall complete abatement of the lead hazard in accordance with the order to abate within fourteen (14) days after receiving notification from the Health Bureau that the schedule has been approved, unless the Health Bureau extends the time for compliance.

(d) Upon completion of the correction procedures, the Health Bureau shall conduct a preliminary inspection of any area cited as a health hazard to approve such area as "lead-safe" before painting or refinishing and to determine if the hazard has been satisfactorily abated. A final clearance inspection shall be made after painting or refinishing in accordance with standards as defined by the Board of Health.

1167.07 PROTECTION OF OCCUPANTS

(a) No owner or operator found to be in violation of this Article may evict, or cause to be evicted, occupants, including children, of any dwelling or dwelling unit found to be in violation of this Article, for the purpose of avoiding corrective measures which may have been ordered by the Health Bureau, the Court, or any other appropriate authority.

(b) In the event the dwelling or dwelling unit in which a lead hazard has been identified is vacated by the occupant who occupied same at the time of the issuance of the corrective notice

referred to in Section 1167.06(a), such dwelling or dwelling unit shall not be let to or occupied by any person until such corrective notice is complied with.

1167.08 SEVERABILITY

In the event any part or provision of this Article shall be held to be illegal or void by a court of competent jurisdiction, this shall not have the effect of making void or illegal any of the other parts or provisions thereof. Any invalid part of this Article shall be segregated from the remainder of the Article by the court holding such part invalid, and the remainder of the Article shall remain in full force and effect.

1167.09 REMEDY

The imposition of a penalty herein prescribed shall not preclude the City of Bethlehem from instituting appropriate action by injunction or any other legal remedy to prevent or correct any violation of this Article including, but not limited to, the right to make corrections, using qualified municipal personnel, or to have corrections made under agreement with an independent contractor, for any property not in compliance with this Article whose owner or operator cannot be located or who does not comply with any order to make corrections. The City of Bethlehem shall bill the property owner for any expenses incurred and place a lien against the property for any such bill which is unpaid.

1167.99 PENALTY

Any person violating any provision of this Article shall upon conviction thereof be fined not more than \$600.00 or imprisoned for not more than ninety (90) days or both. Each day that a violation is continued shall constitute a separate offense.
(Ord. 3554 - Passed 6/1/93.)