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Title: ORDER OF THE NEW HAVEN BOARD OF ALDERS APPROVING THE LEAD PAINT ORDINANCE AMENDMENT AS IT SETS FORTH THE FRAMEWORK FOR THE HEALTH DEPARTMENT TO CONDUCT PREVENTIVE INSPECTIONS OF HOUSING UNITS WHERE YOUNG CHILDREN RESIDE FOR GREATER COHESION WITH THE STATE OF CONNECTICUT DEPARTMENT OF PUBLIC HEALTH LEAD STATUTES AND REGULATIONS.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Checklist.pdf, 2. FISCAL IMPACT STATEMENT - Lead Paint Ordinance.pdf, 3. FISCAL IMPACT STATEMENT - Walmart FY '17.pdf, 4. Lead Ordinance Revisions ltr - revised signed.pdf, 5. Preamble.pdf, 6. PRIOR NOTIFICATION FORM.pdf, 7. Proposed Revisions to New Haven Lead Paint Ordinance - Submission Draft, 8. 1560-14 Lead Paint Ordinance, 9. 20190912 LEG Alders Winter and Roth Testimony, 10. 20190912 LEG Amy Marx' email to John Rose regarding GHHI Proposal, 11. 20190912 LEG Amy Marx' Letter to Mayor Harp 20190103, 12. 20190912 LEG CT Public Health Lead, Radon, and Health Homes Program 2017 Program Highlights, 13. 20190912 LEG Director Hamilton's Testimony, 14. 20190912 LEG Dr. Muley's Testimony, 15. 20190912 LEG Ian Skoggard Testimony, 16. 20190912 LEG Lead Testimony, 17. 20190912 LEG Map_Number of Lead Poisoned Children Under 6 Years Old by Town, Connecticut 2017, 18. 20190912 LEG NHI_Lead Panel's Advice Rejected 20190725, 19. 20190912 LEG Prevention of Childhood Lead Toxicity Policy Statement, 20. 20190912 LEG Room for All Coalition Demands, 21. 20190912 LEG Yale_Careers with Lead Exposure, 22. 20190912 LEG Yale_Lead in the Home, 23. 00193762, 24. Board of Public Health Commissioners, 25. Lead Cases by Neighborhood Layout, 26. Lead Cases by Ward Layout, 27. Process Map No. 1 - NHHD Report through Investigation (Sans Snark), 28. Process Map No. 2 - NHHD Investigation through Abatement (Sans Snark), 29. 20191202 LEG Lead Ordinance Final, 30. OR-2019-0032

Date	Ver.	Action By	Action	Result
12/2/2019	5	Board of Alders	Adopted As Amended	
11/12/2019	3	Legislation Committee	Favorable Report	
9/12/2019	1	Legislation Committee	Tabled	
8/5/2019	1	Board of Alders	Referred	

ORDER OF THE NEW HAVEN BOARD OF ALDERS APPROVING THE LEAD PAINT ORDINANCE AMENDMENT AS IT SETS FORTH THE FRAMEWORK FOR THE HEALTH DEPARTMENT TO CONDUCT PREVENTIVE INSPECTIONS OF HOUSING UNITS WHERE YOUNG CHILDREN RESIDE FOR GREATER COHESION WITH THE STATE OF CONNECTICUT DEPARTMENT OF PUBLIC HEALTH LEAD STATUTES AND REGULATIONS.

Whereas, the City of New Haven wishes to protect the interests of young children living in the city.

Whereas, the City will engage city landlords as partners in the prevention of child exposure to lead toxins and improving the safety of housing units for children.

Whereas, the Health Department will inspect the homes of children who have a blood lead level equal to or greater than five micrograms per deciliter, which is a lower threshold than required by State law.

Whereas, the City of New Haven will increase the number of lead inspectors in anticipation of an increase in the number of inspections of homes where children reside and will charge a fee for performing each inspection.

Whereas, the Health Department will actively engage landlords to educate them and assist them in improving and maintaining lead-safe properties.

Whereas, the City, upon approval, will explore development of a revolving loan fund to assist low- and moderate-income homeowners to afford the cost of lead abatement.

NOW, THEREFORE, BE IT ORDAINED that the City of New Haven finds that, in the interest of protecting young children, it shall lower the threshold for inspection of homes of children with blood lead levels equal to or greater than five micrograms per deciliter.

BE IT FURTHER ORDAINED that the amended new lead ordinance shall read as follows:

ARTICLE III. - LEAD PAINT

Sec. 16-61. - Definitions.

As used in this article, the following terms shall have the meanings ascribed herein:

- (a) *Actionable blood lead level* means a confirmed venous blood lead level equal to or greater than five (5) micrograms per deciliter of whole blood.
- (b) *Child* means a natural person under the age of six years.
- (c) *Chewable surface* means any projection one half inch or greater from an interior or exterior surface up to five feet in height that can be mouthed by a *child*.
- (d) *Defective surface* means peeling, flaking, chalking, cracking, blistering, loose, scaling or chipping paint; defective or deteriorating substrate; or falling plaster, or plaster with holes in it; paint over a defective or deteriorating substrate; or paint that is damaged in any manner such that a *child* can be exposed to paint from the damaged area.
- (e) *Department* shall mean the New Haven Health Department.
- (f) *Director of public health* shall mean the legally designated health authority of the city, or his/her designee.
- (g) *Dwelling* shall mean every building or shelter used or intended for human habitation, including exterior surfaces and all common areas thereof, and the exterior of any other structure located within the same lot, even if not used for human habitation.
- (f) *Dwelling unit* shall mean a room or group of rooms within a *dwelling* arranged for use as a single household by one (1) or more individuals living together who share living and sleeping facilities.
- (g) *Epidemiological investigation* means an examination and evaluation to determine the cause of *actionable blood lead level*. An *epidemiological investigation* will include an inspection conducted by a lead inspector to detect *lead-based paint* and a report of findings. This investigation must also include evaluation of other sources such as soil, water, dust, pottery, occupational exposures, or imported food, confections, cosmetics, home remedies, herbal treatments, jewelry, cookware or toys, to determine the cause of *actionable blood lead levels*. The investigation may also include isotopic analysis of lead containing items.
- (h) *Intact surface* means a defect-free surface with no loose, peeling, chipping or flaking paint. Painted surfaces must be free from crumbling, cracking or falling plaster and must not have holes. *Intact surfaces*

must not be damaged in any way such that paint is accessible to a *child*.

- (i) *Lead abatement plan* shall mean a written plan that identifies the location of *lead-based paint* and describes how all *lead-based painted* surfaces will be abated and how the environment, health, and safety will be protected. The plan also identifies the location of soil containing lead and describes sampling protocol used and abatement options.
- (j) *Lead-based paint* shall mean:
- (1) Any paint offered for sale for use on or in a residential *dwelling* which contains more than 0.06 percent lead by weight as measured by atomic absorption spectrophotometry, graphite furnace atomic absorption spectrophotometry, or inductively coupled plasma atomic emission spectrophotometry, by a laboratory approved by the State of Connecticut Department of Public Health for lead analysis.
 - (2) Any dried film of paint containing an amount equal to or greater than 0.50 percent lead by dry weight as measured by atomic absorption spectrophotometry, graphite furnace atomic absorption spectrophotometry, or inductively coupled plasma atomic emission spectrophotometry, by a laboratory approved by the State of Connecticut Department of Public Health for lead analysis, or a level equal to or greater than 1.0 milligrams lead per square centimeter of surface as measured on site by a X-ray fluorescence analyzer or other equipment deemed sufficiently accurate and reliable by the State of Connecticut Commissioner of Public Health.
- (k) *Lead management plan* shall mean a written plan describing how *intact surfaces* with *lead-based paint* will be monitored to ensure *defective surfaces* will be identified and abated over time. Lead contaminated soil must be regularly monitored such that coverings, barriers and access restrictions are maintained in accordance with state protocol.
- (l) *Occupant* shall mean any adult person having actual possession of, a *dwelling unit* or rooming unit.
- (m) *Operator* shall mean any person who has charge, care, control, or leasing of a building, or part thereof, in which *dwelling units* or rooming units are let.
- (n) *Owner* shall mean any person who, alone or jointly or severally with others:
- (1) Has legal title to any *dwelling unit* with or without accompanying actual possession thereof; or
 - (2) Has charge, care or control of any *dwelling* or *dwelling unit*, as *owner* or agent of the *owner*, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the *owner*. Any such person representing the *owner* shall be bound to comply with this article, and all rules and regulations adopted pursuant thereto, to the same extent as if he/she was the *owner*.
- (o) *Person* shall mean and include any individual, firm, corporation, association, partnership or any other business concern.
- (p) *Premises* shall mean a platted or unplatted lot or parcel of land, or part thereof, either occupied or unoccupied by any structure, including any building or structure on it.
- (q) *Risk assessment* means an on *premises* evaluation of potential lead hazards by a lead inspector, including provision of educational materials and recommended methods of eliminating *child* access to lead hazards.

(Ord. of 6-3-74, § A-1, App. A; Code of 1985, § 16-49; Ord. of 8-6-90, § 1-3; Ord. of 5-20-98, §§ 1, 2; Ord. No. 1404, 1-3-06; Ord. No. 1434, 1-2-07)

Sec. 16-62. - Prohibited use of *lead-based paint*.

Lead-based paint, as defined in this article, shall not be used on any exterior surface or any wall, ceiling, floor, interior woodwork, nor on or around the interior or exterior surface of any door, window, fixture, stairs, railing or porch on any *dwelling*, or *dwelling unit*, or any building intended or used, in whole or part, for human habitation or occupancy.

(Ord. of 6-3-74, § A-2; Code of 1985, § 16-50; Ord. No. 1404, 1-3-06)

Sec. 16-63. - Maintenance.

Interior and exterior surfaces of walls, ceilings, floors, interior woodwork, doors, windows, fixtures, stairs, railings and porches of all structures shall be kept free of *defective surfaces*.

(Ord. of 6-3-74, § A-3; Code of 1985, § 16-51; Ord. No. 1404, 1-3-06)

Sec. 16-64. - Preventive measures. notice, inspection, cost, and reporting.

- (a) The *director of public health* shall provide, or cause to be provided, to the parent or guardian of a *child* who is known to have an *actionable blood lead level* with information describing the dangers of lead poisoning, precautions to reduce the risk of lead poisoning, information about potential eligibility for services for children, information on recommended follow up blood lead testing, and laws and regulations concerning lead abatement.
- (b) The *director of public health* shall provide, or cause to be provided, to the *owner* or *operator* of the *dwelling* of a *child* who is known to have an *actionable blood lead level* with information describing the dangers of lead poisoning, precautions to reduce the risk of lead poisoning, and laws and regulations concerning *defective surfaces* and lead abatement.
- (c) The *department* shall provide the general public with information about the sources of lead exposure for children and methods of reducing or eliminating exposure to lead hazards.
- (d) Upon receipt of each report of a *child* with an *actionable blood lead level*, the *director of public health* is authorized, not inconsistent with section 19a-111-3 of regulations of Connecticut state agencies, as amended from time to time, to inspect any *premises* frequented by such and shall take the necessary action to determine whether lead hazards exist at the *dwelling* of the *child* and conduct a *risk assessment* at any other *premises* that is frequented by a *child* and may be the source of exposure to lead toxins. Such inspection may include, without limitation, an *epidemiological investigation* of sources of lead causing the increased blood lead level. If lead sources are identified, the *director of public health* shall order such action to be taken by the appropriate *person* or *persons* responsible for the condition that brought about the *actionable blood lead level* as may be necessary to prevent further exposure of the *child* to lead sources. In the case of a residential unit containing *lead-based paint* on *defective surfaces* where the *director of public health* determines that such action will not result in removal of the *lead-based paint* on *defective surfaces* within a reasonable time, the *director of public health* may require relocation of any family occupying such unit at the expense of the *owner* of the property.
- (e) The *owner* of the *premises* where an *epidemiological investigation* is conducted under this article, shall pay the city a fee for this service. The *director of public health* shall establish a fee structure to cover the cost of providing *epidemiological investigations*. Such cost shall not exceed the actual cost to the city. Fees for *epidemiological investigations* may be waived by the *director of public health* in the event lead hazards are not identified or where *epidemiological investigations* are required by state law. The *owner* of a federally subsidized *dwelling* shall be exempt from the fee for an *epidemiological investigation*. The city is not responsible for the cost of *epidemiological investigation* of federally subsidized dwellings. *Epidemiological investigations* required for subsidized *dwellings* shall be subject to a fee for this service.
- (f) The *director of public health* shall provide such reports as are required by state statute. The *department* shall provide the status of lead poisoning prevention activities no less than annually.
- (g) The *director of public health* shall present to the Board of Alders the policies and procedures detailed in Section 16-70, and approved by the Board of Health, no later than May 1, 2020.

(Ord. of 6-3-74, § A-4; Code of 1985, § 16-52; Ord. of 8-6-90, § 4; Ord. No. 1404, 1-3-06; Ord. No. 1434, 1-2-07)

Sec. 16-65. - Removal of *lead-based paint*.

- (a) Where the *director of public health* makes a determination that the presence of *lead-based paint* or lead -contaminated soil upon any interior or exterior *premises* creates a health hazard to a *child*, he/she shall issue an order to the *owner* to eliminate the hazard. *Lead-based paint* shall be adequately abated from any *chewable surface*. The *lead-based paint* ordered to be removed to the base surface shall be removed

under such safety conditions as may be approved by the *department* or otherwise repaired as the *department* requires. In lieu of removal of *lead-based paint*, the accessible surface shall be covered with an approved durable material. Repainting a surface with a nonleaded paint without the complete removal of the existing *lead-based paint* shall not be deemed to be satisfactory compliance with this section.

- (b) The methods used for the adequate abatement of *lead-based paint* shall not present a health hazard from fumes, dust or vapors by inhalation or absorption through the skin and mucous membranes, and shall be in accordance with federal, state and local rules and regulations, and safety standards and practices. The *director of public health* has the authority to prescribe and determine such methods. Additional alternate safety methods authorized by state law shall be enforced. Tenants are to be informed of the increased danger to a *child* that may occur during the removal of *lead-based paint* and are to be advised to exclude the *child* from the site for the duration of the work and until dust and debris have been cleaned completely from all surfaces.
- (c) The *owner* of *premises* ordered to remove *lead-based paint* in accordance with section 16-65(c) shall submit a written *lead abatement plan* to the *director of public health* according to the time period for compliance listed in section 19a-111-5 of regulations of Connecticut state agencies, as amended from time to time.
- (d) *Intact surfaces* containing *lead-based paint* except as noted in section 16-65(c) are not required to be abated. However, when a *child* resides in the *dwelling*, the *owner* shall submit a written *lead management plan* to the *director of public health* in compliance section 19a-111-2(e) of regulations of Connecticut state agencies, as amended from time to time.

(Ord. of 6-3-74, § A-5; Code of 1985, § 16-53; Ord. of 8-6-90, § 5; Ord. No. 1404, 1-3-06; Ord. No. 1434, 1-2-07)

Sec. 16-66. - Notice of violation and duties of the *director of public health*.

- (a) Notices of this article's violations shall:
 - (1) Be sent by certified mail or other provable method of service of notice as soon as practicable after detection of the violation;
 - (2) Include a statement of the detected violations;
 - (3) Require that repairs commence as set forth in the abatement plan and shall be completed within a reasonable time as determined by the *director of public health*;
 - (4) Be served upon the *owner*, *operator*, or the *occupant* as the case may require; provided that such notice shall be deemed to be properly served upon such *owner*, *operator*, or *occupant* if a copy of the notice is served upon him/her personally, or if a copy of it is sent by registered or certified mail to his/her last known address; or if he/she is served with such notice by any other method authorized or required under this state's laws;
 - (5) Contain an outline of remedial action, which if taken, will have an effect upon compliance with this article's provisions, and with rules and regulations adopted pursuant thereto; and
 - (6) Be filed with the city clerk in the city's land records within five (5) days of the issuance of such notice. Upon compliance with the remedial action prescribed in said notice, the *director of public health* shall file a notice with the city clerk stating that the required remedial action has been taken, and that the *premises* are no longer in violation of this article. Such compliance shall be recorded in the city's land records.
- (b) The residents of a *premises* shall be notified that *lead-based paint* as defined above has been detected within the *premises* and shall be informed that each *child* resident at the *premises* should have their blood tested for lead levels.
- (c) No *dwelling unit*, which is in violation of this article, shall be rented to a new tenant until the *director of public health* finds that acceptable repairs have been made in compliance with this article.
- (d) All city-owned and leased *dwelling units* shall be inspected for the presence of *lead-based paint*, as defined in this article, in any interior or exterior area. All federally and state-owned and leased *dwelling units* shall be subject to this article. Any violations shall be eliminated in accordance with it.
- (e) When any *premises* have not been repaired in accordance with this article, the *director of public health* is authorized to enter upon the *premises* to make repairs or order the *person* or *persons* responsible for

the condition to remove *lead-based paint* in accordance with this article. The *owner* shall be financially liable for all costs in connection with such repairs, including any costs of relocation, and such costs shall be a lien upon the property. The *director of public health* is authorized to apply for federal and other funds to reimburse the city for costs in cases where such reimbursement is authorized by law.

- (f) The *director of public health* shall have the authority to apply for, accept, receive and administer funds, grants or gifts from public or private agencies, including the federal government, to carry out any of the functions found in this article. Upon receiving the funds, the *director of public health* shall deposit them with the city's controller. The funds are to be held in a special account established for the *department's lead-based paint* control activities.

(Ord. of 6-3-74, § A-6; Code of 1985, § 16-54; Ord. of 8-6-90, § 7; Ord. No. 1404, 1-3-06)

Sec. 16-67. Lead Poisoning Advisory Committee.

The Mayor shall appoint a Lead Poisoning Advisory Committee with the Board of Alders' approval and subject to the provisions of the New Haven Charter, Article VII, Section 1(A). The committee shall recommend the development and adoption of policies, programs, and procedures that will result in this article's effective enforcement. The committee shall serve as a vehicle to promote and coordinate lead poisoning prevention and abatement efforts involving health care providers, the health department, the housing department, the building division of the Livable City Initiative, and the judicial system. The committee shall consist of not fewer than eleven (11) members including a Board of Alders representative and member-at-large appointed by the Board of Alders' president, New Haven Legal Aid Assistance representative, health care providers, health department officials, representatives of the city's Livable City Initiative and its building division, an *owner* or *operator*, representative of the state department of public health, representative of the local housing prosecutor, and a representative of Corporation Counsel. The advisory committee shall elect a chair, who will preside at its meetings.

(Ord. of 6-3-74, § A-7; Code of 1985, § 16-55; Ord. of 8-6-90, § 8; Ord. No. 1404, 1-3-06)

Sec. 16-68. - Enforcement and Penalty.

Any *person* convicted of violating this article shall be punished by a fine or civil penalty up to the maximum amount authorized by state statutes or this code. Each day's failure to comply with this article shall constitute a separate violation.

The *director of public health* is authorized to seek an administrative search warrant requiring any non-compliant *owner*, *operator* or *occupant* to provide access to the *dwelling* of a *child* with an *actionable blood lead level*.

(Ord. of 6-3-74, § A-8; Code of 1985, § 16-56; Ord. No. 1404, 1-3-06)

Sec. 16-69. - Appeal.

- (a) Pursuant to Connecticut General Statutes, Section 19a-229 as amended from time to time, any *person* aggrieved by an order issued by the *director of public health* may appeal to the commissioner of public health not later than three (3) business days after the date of such *person's* receipt of such order. The commissioner shall thereupon immediately notify the *director of public health* and review the merits of such case. The commissioner may vacate, modify, or affirm such challenged order.

- (b) Notwithstanding the requirements of subsection (a) above, any *person* aggrieved by an order regarding *lead-based paint* abatement under Connecticut General Statutes, Section 19a-111c as amended from time to time, may appeal to the commissioner not later than three (3) business days after the receipt of

such order.

(Ord. No. 1404, 1-3-06)

Sec. 16-70. - Implementation.

The *director of public health* shall promulgate and establish such policies and procedures, not inconsistent with state statute, as are necessary to implement the requirements of this Article III. Policies and procedures shall include, without limitation, (a) priority consistent with recommendations from the Centers for Disease Control and Prevention; (b) parent/guardian outreach, education and referral, (c) *owner* outreach, education and referral; (d) abatement plan criteria; and (e) coordination with primary care physicians, regional lead prevention resources, city departments, local housing authority and other critical stakeholders. The Lead Advisory Committee shall recommend policies and procedures, and the Board of Health shall review and approve such policies and procedures. The *director of public health* shall establish, in coordination with appropriate city departments, a policy for emergency relocation, not inconsistent with state statute. The Board of Health shall review and approve the emergency relocation policy.

The *director of public health* is authorized to establish, in coordination with appropriate city departments, a revolving loan program for the purpose of abating lead paint from *premises* of low- and moderate-income *owners*.

The *director of public health* is required to report on the implementation of the requirements of this Article III no less than annually to the New Haven Board of Alders.

The *director of public health* is authorized to apply for lead abatement assistance grants.

Secs. 16-71-16-90. - Reserved.