

ORD.

Amending the Toledo Municipal Code by enacting a new Chapter 1760 under Part 17, Title 3 entitled Registration of Lead Safe Residential Rental Units.

SUMMARY & BACKGROUND:

Whereas Toledo City Council finds that lead poisoning poses a serious health threat to adults and especially children in the City of Toledo. Children are particularly susceptible to the hazards of lead since their bodies are still developing and since they are more likely to ingest lead through hand-to-mouth contact. Fetuses are also vulnerable to the effects of lead paint because women of child bearing age can, when they become pregnant, transfer lead to their fetuses, which can result in adverse developmental effects.

Even low levels of lead in a fetus or young child can produce a variety of impairments and health related problems, including reduced intelligence and attention span, learning disabilities, hearing impairments, and behavior problems. Further, evidence of irreversible damage to a child's developing brain resulting in both psychological and cognitive deficits can occur at lead levels much lower than previously believed. No amount of lead is safe. Eliminating all lead exposure in our environment is our best course of action. Children, especially African American children, living in older, poorly maintained homes are disproportionately at risk for exposure to lead-hazards. Lead hazards, including paint, soil, and dust hazards both from deteriorated lead-based paint and from lead-based paint on friction, impact, and chewable surfaces, as well as from soil, are the primary cause of elevated blood lead levels.

Properties built before 1978 are the most likely to contain lead hazards. Residential properties are more likely than are non-residential properties to be a cause of elevated lead blood levels in young children. Deteriorating Paint in a residential unit constructed prior to 1978 is a potential source of lead poisoning in children.

It is in the public interest that occupants or potential occupants know whether lead-based paint hazards in a property have been identified and controlled in order to make informed housing decisions about the health hazards to which they and their families and guests may be exposed. The protection of persons in the City of Toledo, and particularly children six years of age and younger, from lead-based paint hazards is in the public interest. Based on an analysis of public health and socio-economic data, at any given time there are an estimated 3400 children, under the age of six, living in Toledo who have been lead poisoned and have a blood lead level of 5 ug/dL, or greater.

Furthermore, the Ohio Department of Health found that lead poisoning rates in children is higher in Lucas County than the state average and the rate of lead poisoning in the City of Toledo is even higher than the Lucas County average.

City Council desires to amend the Toledo Municipal Code for the Registration of Lead Safe Residential Rental Units. NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. That a new Part 17, Title 3, Chapter 1760 of the Toledo Municipal Code is enacted to read as follows:

1760.01 Policy and Intent

It is the policy of the City of Toledo to help prevent the poisoning of its residents by requiring that the presence of deteriorated paint, which may contain lead, on the interior and exterior of pre-1978 residential structures and on bare soil be identified and correctly addressed by reducing and controlling the deteriorated paint hazards which may be present and covering the bare soil, in order to prevent potential human exposure to lead hazards. All fees and fines generated under this Chapter shall be transferred to the Toledo Lucas County Health Department to be used for the administration, implementation, and enforcement of this Chapter.

1760.02 Obligations for Residential Rental Properties

(a) It is a violation of this Chapter to allow the following conditions to exist in a “Residential Rental Property”: (1) “Deteriorated Paint Hazard,” (2) a “Dust-lead Hazard,” or a (3) “Soil Hazard,” as defined in section 1760.04. Every Owner of Residential Rental Property shall maintain such property free from these Hazards. Once a presumed lead hazard has been identified, that condition is to be remedied in accordance with 40 CFR 745 and ORC 3742 and the requirements of this Chapter. Termination of occupancy of any such Residential Rental Property shall not constitute compliance with the requirements of this Section.

(b) No Owner, Agent, real estate agent or broker, company, or any person or persons shall rent lease, sublease, let, mortgage with right of occupancy, or otherwise allow the occupancy of any Residential Rental Property constructed prior to 1978 and which is subject to this Chapter, whether such occupancy is temporary or permanent, unless a “Lead-Safe Certificate” has been issued for such Property.

(c) If a Residential Rental Property has been issued a “Residential Rental Property Maintenance Hazards Report,” a “Residential Rental Property Owner’s Verification of Annual Residential Rental Property Inspection” shall be filed with the Toledo Lucas County Health Department annually, commencing one year from the date of issuance of “Lead-Safe Certificate” for the next four (4) years.

1760.03 Obtaining a Lead-Safe Certificate

(a) The Director of the Toledo Lucas County Health Department shall issue a “Lead-Safe Certificate” upon the filing of all of the following with the Toledo Lucas County Health Department:

- (1) A completed application for a “Lead-Safe Certificate,” to include the name, address, and telephone number of the Owner or the Owner’s Agent of the Residential Rental Property and the number of rental units at the address.
- (2) A “Lead-Safe Report” issued by a “Local Lead Inspector,” as defined in 1760.04, who has completed a “Local Lead Inspection” in compliance with the

requirements of this Chapter, which “Lead-Safe Report” shall have been made and issued within six months of the Owner’s application in lieu of a “Lead-Safe Reort” an application may contain the certification described in section 1760.05(b); and

(3) A filing fee of forty-five dollars (\$45.00).

(b) The “Lead-Safe Certificate” shall expire from the date of issuance by the Director as follows:

(1) four (4) years from the date of issuance by the Director; or

(2) if either the Residential Rental Property has undergone Lead Abatement, designed for the single purpose of permanently eliminating lead hazards, consistent with the provisions of Ohio law or has been determined not to contain lead-based paint pursuant to section 1760.05(b), 20 years from the date of issuance by the Director.

(c) Upon the sale, purchase, or transfer of ownership of Residential Rental Property constructed prior to 1978 and which is subject to this Chapter, the Director of the Toledo Lucas County Health Department shall issue an updated “Lead-Safe Certificate” in name of the new Owner, upon application. The updated “Lead-Safe Certificate” shall expire on the same date as indicated in the original Certificate.

(d) A new application for a “Lead-Safe Certificate” shall be made at least thirty (30) days prior to the expiration date of the current Certificate. The application shall include the filing of a new “Lead-Safe Report” and filing fee.

1760.04 Definitions

(a) As used in this Chapter the following definitions apply:

(1) “Agent” means the individual designated by the owner as the person authorized by the owner to perform any duty imposed upon the owner by the terms of this chapter.

(2) “Director” means the Director of the Toledo-Lucas County Health Department.

(3) “Deteriorated Paint” means any interior or exterior paint or other coating that, through a visual assessment, is found to be peeling, chipping, crazing, flaking, abrading, chalking, or cracking, or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate, or a chewable surface that contains visual signs of chewing.

(4) “Dripline” means the area within 3 feet surrounding the perimeter of a building.

(5) “Dust-Lead Hazard” means surface dust (visible or invisible) in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 40 $\mu\text{g}/\text{ft}^2$ on floors or 250 $\mu\text{g}/\text{ft}^2$ on interior window sills based on wipe samples.

(6) "Dwelling Unit", as defined in this Chapter, means (1) any residential unit constructed as a single family home and built prior to 1978, and (2) any residential unit constructed as a duplex and built prior to 1978, including all of the following:

- (a) The interior surfaces and all common areas of the dwelling unit;
- (b) Every attached or unattached structure located within the same lot line as the dwelling unit, that the owner or manager considers to be associated with the operation of the dwelling unit, including garages, play equipment, and fences; and
- (c) The lot or land that the dwelling unit occupies.

(7) "Encapsulation" means the coating and sealing of surfaces with durable surface coating specifically formulated to be elastic, able to withstand sharp and blunt impacts, long-lasting, and resilient, while also resistant to cracking, peeling, algae, fungus, and ultraviolet light, so as to prevent any part of lead-containing paint from becoming part of house dust or otherwise accessible to children.

(8) "Interim Controls," for purposes of this Chapter, means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards. Interim Controls include the following:

(a) Paint Stabilization

- (1) Interim control treatments of intact, factory applied prime coatings on metal surfaces are not required. Finish coatings on such surfaces shall be treated by interim controls if those coatings contain lead-based paint.
- (2) Any physical defect in the substrate of a painted surface or component that is causing deterioration of the surface or component shall be repaired before treating the surface or component. Examples of defective substrate conditions include dry-rot, rust, moisture-related defects, crumbling plaster, and missing siding or other components that are not securely fastened.
- (3) Before applying new paint, all loose paint and other loose material shall be removed from the surface to be treated. Acceptable methods for preparing the surface to be treated include wet scraping, wet sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to the manufacturer's instructions.
- (4) Dry sanding or dry scraping is permitted only in accordance with 24 CFR 35.140(e) (i.e., for electrical safety reasons or for specified minor amounts of work).
- (5) Paint stabilization shall include the application of a new protective coating or paint. The surface substrate shall be dry and protected from future moisture damage before applying a new protective coating or paint. All protective coatings and paints shall be applied in accordance with the manufacturer's recommendations.

(6) Paint stabilization shall incorporate the use of Quality Maintenance Practices.

(b) Friction and impact surfaces.

(1) Friction surfaces are required to be treated only if:

- (i) Lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, window trough, or floor) are equal to or greater than the standards specified in 24 CFR 35.1320(b);
- (ii) There is evidence that the paint surface is subject to abrasion; and
- (iii) Lead-based paint is known or presumed to be present on the friction surface.

(2) Impact surfaces are required to be treated only if:

- (i) Paint on an impact surface is damaged or otherwise deteriorated;
- (ii) The damaged paint is caused by impact from a related building component (such as a door knob that knocks into a wall, or a door that knocks against its door frame); and
- (iii) Lead-based paint is known or presumed to be present on the impact surface.

(3) Examples of building components that may contain friction or impact surfaces include the following:

- (i) Window systems;
- (ii) Doors;
- (iii) Stair treads and risers;
- (iv) Baseboards;
- (v) Drawers and cabinets; and
- (vi) Porches, decks, interior floors, and any other painted surfaces that are abraded, rubbed, or impacted.

(4) Interim control treatments for friction surfaces shall eliminate friction points or treat the friction surface so that paint is not subject to abrasion. Examples of acceptable treatments include rehangng and/or planing doors so that the door does not rub against the door frame, and installing window channel guides that reduce or eliminate abrasion of painted surfaces. Paint on stair treads and floors shall be protected with a durable cover or coating that will prevent abrasion of the painted surfaces. Examples of acceptable materials include carpeting, tile, and sheet flooring.

(5) Interim control treatments for impact surfaces shall protect the paint from impact. Examples of acceptable treatments include treatments that eliminate impact with the paint surface, such as a door stop to prevent a door from striking a wall or baseboard.

(6) Interim control for impact or friction surfaces does not include covering such a surface with a coating or other treatment, such as painting over the surface, that does not protect lead-based paint from impact or abrasion.

(c) Chewable surfaces.

(1) Chewable surfaces are required to be treated only if there is evidence that a child of less than 6 years of age has chewed on the painted surface, and lead-based paint is known or presumed to be present on the surface.

(2) Interim control treatments for chewable surfaces shall make the lead-based paint inaccessible for chewing by children of less than 6 years of age.

Examples include enclosures or coatings that cannot be penetrated by the teeth of such children.

(d) Dust-lead hazard control.

(1) Dust control shall involve a thorough cleaning of all horizontal surfaces, such as interior window sills, window troughs, floors, and stairs, but excluding ceilings. All horizontal surfaces, such as floors, stairs, window sills and window troughs, that are rough, pitted, or porous shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.

(2) Surfaces covered by a rug or carpeting shall be cleaned as follows:

(i) The floor surface under a rug or carpeting shall be cleaned where feasible, including upon removal of the rug or carpeting, with a HEPA vacuum or other method of equivalent efficacy.

(ii) An unattached rug or an attached carpet that is to be removed, and padding associated with such rug or carpet, located in an area of the dwelling unit with dust-lead hazards on the floor, shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy. Protective measures shall be used to prevent the spread of dust during removal of a rug, carpet or padding from the dwelling. For example, it shall be misted to reduce dust generation during removal. The item(s) being removed shall be wrapped or otherwise sealed before removal from the worksite.

(iii) An attached carpet located in an area of the dwelling unit with dust-lead hazards on the floor shall be thoroughly vacuumed with a HEPA vacuum or other method of equivalent efficacy if it is not to be removed.

(e) Soil-Lead Hazards

(1) Acceptable interim control methods for soil lead are impermanent surface coverings and land use controls.

(i) Impermanent surface coverings may be used to treat lead-contaminated soil if applied in accordance with the following requirements. Examples of acceptable impermanent coverings include gravel, bark, sod, and artificial turf.

(a) Impermanent surface coverings selected shall be designed to withstand the reasonably-expected traffic. For example, if the area to be treated is heavily traveled, neither grass or sod shall be used.

(b) When loose impermanent surface coverings such as bark or gravel are used, they shall be applied in a thickness not less than six inches deep.

(c) The impermanent surface covering material shall not contain more than 200 µg/g of lead.

(d) Adequate controls to prevent erosion shall be used in conjunction with impermanent surface coverings.

(ii) Land use controls may be used to reduce exposure to soil-lead hazards only if they effectively control access to areas with soil-lead hazards. Examples of land use controls include: fencing, warning signs, and landscaping.

(a) Land use controls shall be implemented only if residents have reasonable alternatives to using the area to be controlled.

(b) If land use controls are used for a soil area that is subject to erosion, measures shall be taken to contain the soil and control dispersion of lead.

(9) "Lead Abatement," for purposes of this Chapter, means a measure or set of measures designed for the single purpose of permanently eliminating lead hazards, in a manner consistent with federal law and regulations, and state law and regulations. "Lead abatement" includes all of the following:

(a) Removal of lead-based paint and lead-contaminated dust;

(b) Permanent enclosure or "encapsulation", as defined in this Chapter, of lead-based paint;

(c) Replacement of surfaces or fixtures painted with lead-based paint;

(d) Removal or permanent covering of lead-contaminated soil;

(e) Preparation, cleanup, and disposal activities associated with lead abatement.

(10) "Lead-Contaminated Dust" means the following:

(a) On interior floors or exterior living area floors containing a lead loading of forty micrograms per square foot or more;

(b) On interior window sills or exterior living area window sills containing a lead loading of two hundred fifty micrograms per square foot or more;

(c) On window troughs containing four hundred micrograms per square foot or more lead;

(d) On any horizontal surface if that surface is not an interior window sill, exterior living area window sill, or window trough containing a lead loading of forty micrograms per square foot or more;

(11) “Lead-Safe Certificate” is a certificate issued by the Toledo Lucas County Health Department that indicates that a Residential Rental Property has been certified as lead-safe pursuant to this Chapter.

(12) “Lead-Safe Report” means a written report from a “Local Lead Inspector,” as defined by this Chapter, verifying that the owner of the “Residential Rental Property” has sufficiently controlled presumed lead hazards and that there are no “Rental Property Maintenance Hazards.” The “Lead-Safe Report” shall be written and shall contain the following:

- (a) The address of the “Residential Rental Property”;
- (b) Name, address, and telephone number of the owner and manager of the “Residential Rental Property”;
- (c) A statement verifying that the owner of the “Residential Rental Property” has sufficiently controlled presumed lead hazards and that there are no “Rental Property Maintenance Hazards”; and
- (d) If the Lead-Safe Report has been created after a Local Lead Re-Inspection, it shall contain information on “Quality Maintenance Practices” activities for which the “Residential Rental Property Maintenance Hazards Report” was issued, including:
 - i. Start and completion dates of the “Quality Maintenance Practices” activities for which the “Residential Rental Property Maintenance Hazards Inspection” was performed;
 - ii. Name, address, and telephone number of the individual(s) or company performing the “Quality Maintenance Practices” activities and the Toledo Lucas County Health Department registration number of the individual(s) or company performing the “Quality Maintenance Practices” activities; and
 - iii. A detailed written description of all “Quality Maintenance Practices” activities, locations where each activity was performed, and the materials used.

(13) “Local Lead Inspection” means an inspection that includes a visual assessment of a “Residential Rental Property,” followed by the collection of environmental samples to determine the presences of presumed lead hazards. When performing a “Local Lead Inspection” in residential units, the “Local Lead Inspector,” shall do all of the following:

- (a) Perform a visual assessment in the “Residential Rental Property” to identify all “Deteriorated Paint,” visible dust, paint chips, debris, or residue. For exterior areas, visually inspect that bare soil within 3 feet surrounding the perimeter of

a building on the property has been covered, enclosures have been installed properly, and painted surfaces have been properly sealed.

- (b) Following a visual assessment, a dust sample shall be collected from a floor, and if present, window sill and window trough in no fewer than four separate rooms. A minimum of twelve samples shall be collected unless the Residential Rental Property contains less than four rooms, in which case a dust sample shall be collected from a floor, and if present, window sill and window trough, from each room.
- (c) Issue either a “Lead-Safe Report” or a “Residential Rental Property Maintenance Hazards Report.”
- (d) Perform a Clearance Examination of the Residential Rental Property in which a “Residential Rental Property Maintenance Hazards Report ” was issued.

(14) “Local Lead Inspector” means (1) an individual, licensed by the Ohio Department of Health as a lead risk assessor, lead inspector, clearance technician; (2) an EPA certified lead dust sampling technician; or (3) an individual who meets the licensing standards established by the Toledo Lucas County Health Department, subject to approval by the Ohio Department of Health.

(15) “Local Lead Re-Inspection” means a re-inspection of a “Residential Rental Property” that was determined to have presumed lead hazards and that the presumed lead hazards have been eliminated in a manner consistent with the requirements of this Ordinance. The re-inspection shall include a visual assessment of a “Residential Rental Property,” followed by the collection of environmental samples to determine whether the “Interim Controls” in a “Residential Rental Property” have sufficiently controlled presumed lead hazards, using “Quality Maintenance Practices.” When performing a “Local Lead Re-Inspection” in residential units, the “Local Lead Inspector” shall follow the same procedure of a “Local Lead Inspection.”

(16) “Occupant” means a person who inhabits a dwelling unit.

(17) “Owner” has the same meaning as specified in Toledo Municipal Code Section 1726.01.

(18) “Quality Maintenance Practices” means that persons performing quality maintenance practices shall:

- (a) Only allow persons performing the quality maintenance practices access to the area while work is underway until a “Local Lead Inspection” is completed;
- (b) Cover the floor underneath the area receiving quality maintenance practices with six mil polyethylene plastic or its equivalent until final cleaning is completed;

(c) Assure that all persons involved in the quality maintenance practices follow the worker protection standards established pursuant to 29 C.F.R. 1926.62 by the United States occupational safety and health administration;

(d) Post signs clearly defining the work area and warning occupants and other persons not involved in quality maintenance practices to remain outside the work area;

(e) Before beginning the quality maintenance practices, isolate the work area so that no dust or debris leaves the work area while the work is being performed. In addition, maintain the integrity of the containment by ensuring that any plastic or other impermeable materials are not torn or displaced, and taking any steps necessary to ensure that no dust or debris leaves the work area while the work is being performed. Containment shall be established in such a manner that it does not interfere with occupant and worker egress in an emergency;

(f) In the case of interior work practices:

(i) Remove all objects from the work area, including furniture, rugs, and window coverings, or cover them with plastic sheeting or other impermeable material with all seams and edges taped or otherwise sealed;

(ii) Close and cover all duct openings in the work area with taped-down plastic sheeting or other impermeable material;

(iii) Close windows and doors in the work area. Doors used as an entrance to the work area must be covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while confining dust and debris to the work area;

(iv) Cover all rough, pitted, or porous horizontal surfaces of the inhabited or occupied areas within the residential unit, child care facility, or school with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, carpet, or linoleum;

(v) Cover the floor surface, including installed carpet with taped-down six mil plastic sheeting or other impermeable material in the work area six feet beyond the perimeter of surfaces undergoing essential maintenance practices or a sufficient distance to contain the dust, whichever is greater; and

(vi) Ensure that all personnel, tools, and other items, including the exteriors of containers of waste, are free of dust and debris before leaving the work area.

(g) In the case of exterior work practices:

(i) Close all doors and windows within twenty feet of the renovation. On multi-story buildings, close all doors and windows within twenty feet of the renovation on the same floor as the renovation. On floors below the renovation, close all doors and windows directly beneath the work area;

(ii) Ensure that doorways within the work area that will be used while the job is being performed are covered with plastic sheeting or other impermeable material in a manner that allows workers to pass through while containing dust and debris to the work area; and

(iii) Cover the ground with plastic sheeting or other impermeable material extending ten feet beyond the perimeter of surfaces undergoing essential maintenance practices or a sufficient distance to collect falling paint debris, whichever is greater, unless the property line prevents ten feet of such ground covering.

(h) Collect, wrap or bag, and seal all waste generated from the quality maintenance practices to prevent release of dust and debris before the waste is removed from the work area for storage or disposal. If a chute is used to remove waste from the work areas, it must be covered. In addition, the renovator shall comply with the following:

(i) At the conclusion of each work day and at the conclusion of the quality maintenance practices, store waste under containment or behind a barrier that prevents access to the waste and any dust, debris or both; and

(ii) During transport, waste shall be contained to prevent the release of dust and debris.

(i) For interior and exterior quality maintenance practices, clean the work area until no dust, debris, or residue remains and employ the following cleaning procedures:

(i) Collect all paint chips and debris and, without dispersing any of it, seal this material in a heavy-duty plastic bag; and

(ii) Remove the protective sheeting. Mist the sheeting before folding it, fold the dirty side inward, and either tape shut to seal or seal in heavy-duty plastic bags. Sheeting used to isolate contaminated rooms from non-contaminated rooms must remain in place until after the cleaning and removal of other sheeting. Dispose of the sheeting as waste.

(j) In the case of interior work practices, individuals shall implement the following steps:

(i) Clean walls starting at the ceiling and working down to the floor by either vacuuming with a HEPA vacuum or wiping with a damp cloth;

(ii) Thoroughly vacuum all remaining surfaces and objects in the work area, including furniture and fixtures, with a HEPA vacuum. The HEPA vacuum must be equipped with a beater bar when vacuuming carpets and rugs; and

(iii) Wipe all remaining surfaces and objects in the work area, except for carpeted or upholstered surfaces, with a damp cloth. Mop uncarpeted floors thoroughly, using a mopping method that keeps the wash water separate from the rinse water, such as the two-bucket mopping method, or using a wet mopping system.

(k) Perform visual examinations for deteriorated paint, underlying damage, and other conditions that may cause exposure to lead;

(l) Promptly and safely repair deteriorated paint or other building components that may cause exposure to lead and eliminate the cause of the deterioration;

(m) Provide tenants in a “Residential Rental Property” with information approved by the Toledo-Lucas County Health Department on cleaning homes and lead in the home.

(n) Cover any bare soil within 3 feet surrounding the perimeter of a building on the property; and

(o) Not perform the following prohibited methods:

(i) Open-flame burning, torching, or charring of paint;

(ii) Machine sanding or grinding or abrasive blasting or sandblasting paint unless the machine used is equipped with a HEPA exhaust control;

(iii) Dry scraping or dry sanding paint, unless the scraping is done in conjunction with heat guns or within one foot of electrical outlets or when treating defective paint spots totaling no more than two square feet in any one room, hallway, or stairwell, or totaling no more than twenty square feet on exterior surfaces;

(iv) Use of a heat gun on paint above one thousand one hundred degrees Fahrenheit;

(v) Uncontained hydro-blasting or high pressure washing of lead-based paint; or

(vi) Paint stripping in a poorly ventilated space using a volatile stripper that is considered a hazardous substance pursuant to 16 C.F.R. 1500.3 or a hazardous chemical pursuant to 29 C.F.R. 1910.1200 or 29 C.F.R. 1926.59.

(p) If Dust Wipe Samples show the presences of lead dust, ensure that specialized cleaning associated with quality maintenance practices is performed on affected areas of the Residential Rental Property in accordance with current and accepted methodologies, including, but not limited to, the procedures in Chapter 14 of the HUD guidelines and ensure that bare soil of the residential unit, child care facility or school is covered according in accordance with current and accepted methodologies,

including, but not limited to, Chapter 11, or Chapter 12, or both, of the HUD guidelines.

(19) “Quality Maintenance Standards” means that a “Residential Rental Property” has received a “Local Lead Inspection” and that the inspection determined that “Residential Rental Property” had no “Residential Rental Property Maintenance Hazards” as defined by this Chapter.

(20) “Residential Rental Property” means a “Dwelling Unit,” as defined by this Chapter, or any part of a “Dwelling Unit” being used or occupied, or intended to be used or occupied as a private residence, including attached structures such as porches or stoops, occupied by any person or persons other than the owner and/or members of the Owner’s immediate family regardless of whether or not the owner occupies another unit in the structure.

(21) “Residential Rental Property Maintenance Hazards” means “Deteriorated Paint,” visible dust, paint chips, debris or residue, bare soil within 3 feet surrounding the perimeter of a building on the property, or one or more environmental sample indicates “Lead-Contaminated Dust.”

(22) “Residential Rental Property Maintenance Hazards Report” means a written report from a “Local Lead Inspector,” as defined by this Chapter, describing the “Rental Property Maintenance Hazards” identified by the “Local Lead Inspection.” A “Rental Property Maintenance Hazards Report” shall be provided to the property owner or the property management agent and the occupant, specifically describing the nature and the location of any “Rental Property Maintenance Hazards”. The “Local Lead Inspector,” shall prepare a “Residential Rental Property Maintenance Hazards Report” for each “Local Lead Inspection” performed. The “Residential Rental Property Maintenance Hazards Report” shall be written and contain the following:

- (a) The address of the “Residential Rental Property.”
- (b) Name, address, and telephone number of the owner and manager of the “Residential Rental Property”;
- (c) Specific description of the nature and the location of any “Rental Property Maintenance Hazards” and the steps necessary to eliminate the “Rental Property Maintenance Hazards” using the “Quality Maintenance Practices”;
- (d) Name, address, license number, and signature of “Local Lead Inspector,” performing the “Local Lead Inspection” and the date that the inspection was performed; and
- (e) A diagram of the floor plan of the “Residential Rental Property”, illustrating the location of each environmental sample collected;
- (f) Sample location and result of each dust sample analysis in micrograms per square foot;

(g) Name, address, telephone number, and approval number of each lead analytical laboratory conducting the analysis of any environmental sample and a copy of the laboratory results.

(23) “Residential Rental Property Owner’s Verification of Annual Residential Rental Property Inspection” means that a Residential Rental Property Owner, whose Residential Rental Property has been issued a “Lead-Safe Certificate,” verifies to the Toledo Lucas County Health Department, on a form created by the Toledo Lucas County Health Department, that:

(a) the Residential Rental Property Owner had a visual assessment performed of the “Residential Rental Property” to identify all “Deteriorated Paint,” visible dust, paint chips, debris, or residue;

(b) for exterior areas, the Residential Rental Property was visually inspected to ensure that bare soil within 3 feet surrounding the perimeter of a building on the property has been covered, enclosures have been installed properly, and painted surfaces have been properly sealed; and

(c) the Residential Rental Property Owner eliminated any “Residential Rental Property Maintenance Hazards” using the “Quality Maintenance Practices” defined in this Chapter, and without using the unsafe practices prohibited under Ohio law including Ohio Revised Code section 3742.44, and in accordance with methods specified pursuant to Ohio laws and regulations, including Ohio Administrative Code chapter 3701-30.

(24) “Soil Hazard” means bare or exposed soil within the “Dripline.”

1760.05 Presumption of Lead-Based Paint

(a) For purposes of this Chapter, all paint on the interior or exterior of any residential building on which the original construction was completed prior to January 1, 1978, shall be presumed to be lead-based.

(b) Any person seeking to rebut this presumption may do so by obtaining a certification from a lead-based paint inspector or risk assessor that the property has been determined through a lead-based paint inspection conducted in accordance with the federal regulations at 40 CFR 745.227(b) not to contain lead-based paint.

1760.06 Local Lead Inspection

(a) The “Local Lead Inspection” shall include a full visual assessment for evidence of exterior or interior “Deteriorating Paint” and bare or exposed soil within the “Dripline”, then a dust sampling assessment will be performed with submission of samples to an Ohio licensed environmental lead analytical laboratory for analysis for lead, interpretation of sampling results, and preparation of a report. Deteriorated paint is presumed to contain lead unless proven otherwise by a lead-based paint inspection.

(b) The standards to be applied to a “Local Lead Inspection” are as follows:

(1) Visual assessments for presumed lead hazard shall apply the following standards to determine the presence of a presumed lead hazard:

A. Deteriorated paint.

The interior and exterior of any Residential Rental Unit, as defined in Section 1760.03, on which the original construction was completed prior to January 1, 1978, and the exterior of any nonresidential structure on which the original construction was completed prior to January 1, 1978, shall be maintained in a condition such that the paint thereon does not become deteriorated paint, unless the deteriorated paint surfaces total no more than:

- i. Twenty square feet on exterior surfaces;
- ii. Two square feet in any one interior room or space; or
- iii. Ten percent of the total surface area on an interior or exterior type of component with a small surface area. Examples include windowsills, baseboards, and trim.

For the purpose of determining whether or not deteriorated paint is interior or exterior as it relates to windows, in addition to that portion of the window component that faces the interior, all exterior-facing portions of the window component, with the exception of the exterior frame or trim, are considered to be interior.

B. A full visual assessment of every area of the subject dwelling unit shall be performed to determine if deteriorated paint and/or visible amounts of dust, debris, paint chips, or other residue are present. Interior painted surfaces shall be examined for the presence of deteriorated paint. If deteriorated paint and visible dust, debris, paint chips, or residue are present, they must be eliminated prior to the continuation of the lead hazard inspection, using method specified under Ohio laws and regulations.

(2) Dust wipe testing shall apply the following standards to determine the presence of a presumed lead hazard:

A. A dust-lead hazard is surface dust in a residential dwelling or child-occupied facility that contains a mass-per-area concentration of lead equal to or exceeding 40 $\mu\text{g}/\text{ft}^2$ on floors or 250 $\mu\text{g}/\text{ft}^2$ on interior window sills based on wipe samples.

B. Dust samples shall be wipe samples and shall be taken on floors, excluding open porches, and interior windowsills and window troughs that have a paint history. Dust samples shall be collected and analyzed in accordance with this section.

- i. Dust samples to be collected in all living areas where young children are most likely to come into contact with dust. Select a minimum of four rooms for dust sampling. The selection of rooms to be tested,

where applicable, shall include no less than one bedroom and the living room. At least one wipe sample shall be taken from a windowsill with a paint history, if present, and one from a floor in each room. Where there are less than four rooms, then all rooms shall be sampled.

- ii. Dust samples shall be collected by persons authorized and licensed by the State of Ohio Department of Health. Method of collection shall comply with Ohio regulatory requirements.
- iii. Dust samples shall be analyzed by a State of Ohio licensed environmental lead analytical laboratory.

(3) Bare Soil Hazard.

A. Bare soil shall not be present within the dripline of any Residential Rental Property on which the original construction was completed prior to January 1, 1978.

(c) If no Residential Rental Property Maintenance Hazards are identified by the visual assessment, or dust wipe sampling, or bare soil assessment, then a “Lead-Safe Report” indicating that the Residential Rental Property has met the Quality Maintenance Standards shall be issued by the “Local Lead Inspector.”

(d) Residential Rental Property Maintenance Hazards Report. If a Residential Rental Property Maintenance Hazard is identified by the visual assessment or dust wipes sampling, a Residential Rental Property Maintenance Hazard Report shall be provided to the property owner, or the property management agent, the occupant, and the Toledo Lucas County Health Department, specifically identifying the location of the Residential Rental Property Maintenance Hazards.

(1) The report shall include the following information:

- (a) The address of the residential property and, if only part of a multifamily property is affected, the specific dwelling units and common areas affected;
- (b) The date(s) of the examination;
- (c) The name, address, and signature of each person performing the examination, and State of Ohio license number;
- (d) The results of the visual assessment for the presence of deteriorated paint and visible dust, debris, residue or paint chips;
- (e) The results of the analysis of dust samples, in ug per square foot, by location of sample; and
- (f) The name and address of each laboratory that conducted the analysis of the dust samples.

(e) Response to Identified Residential Rental Property Maintenance Hazards. Once a Residential Rental Property Maintenance Hazard has been identified, if an Owner decides not to perform a full Lead Abatement, as defined in this Chapter, that condition is to be remedied using Interim Controls and the Quality Maintenance Practices defined in this Chapter, and without using the unsafe practices prohibited under Ohio law including Ohio Revised Code section 3742.44, and in accordance with methods specified pursuant to Ohio laws and regulations, including Ohio Administrative Code chapter 3701-30. The Residential Rental Property Owner shall certify compliance with the provisions of this section. If the Residential Rental Property Maintenance Hazard Clearance was performed by the owner or an employee of the owner, the owner is required to sign and submit a Certification of Compliance with Quality Maintenance Practices and Lead Safe Work Practices (Certification Form available from the Toledo Lucas County Health Department). If the work was performed by an individual licensed for lead hazard clearance and repair activities, as defined in section 1759.07 of this Chapter, then the Certification of Compliance with Quality Maintenance Practices and Lead Safe Work Practices shall be signed by the licensed individual performing the Residential Rental Property Maintenance Hazards clearance. All Certifications of Compliance with Quality Maintenance Practices and Lead Safe Work Practices shall be provided to the Local Lead Inspector and attached to the Lead-Safe Report prepared by the Local Lead Inspector.

(f) Post Residential Rental Property Maintenance Hazard Clearance Examination

- (1) After the property owner determines that the repair work has been completed, a Clearance Examination shall be performed to determine that the property is Residential Rental Property Maintenance Hazard free. A Clearance Examination shall comply with the standards defined in section 1760.06 (b) of this Article.
- (2) If no paint hazard or lead dust hazard is identified by the Clearance Examination and a Lead-Safe Report indicating that the Residential Rental Property is free of Maintenance Hazards is filed in accordance with this Chapter, a Certificate of Registration of Residential Rental Property Meeting the Quality Maintenance Practices shall be issued.
- (3) Clearance Examination of the Residential Rental Property in which a “Residential Rental Property Maintenance Hazards Report ” was issued shall be performed by the “Local Lead Inspector” who issued the “Residential Rental Property Maintenance Hazards Report.”

1760.07 Local Lead Inspections, Assessments, and Residential Rental Property Maintenance Hazard Clearance to be Conducted by Licensed Individuals

(a) All Local Lead Inspectors must register with the Toledo Lucas County Health Department before performing any Local Lead Inspections.

(b) Anyone performing work related to Residential Rental Property Maintenance Hazard clearance and repair activities undertaken in the City must meet the requirements of this Chapter and Ohio law and register with the Toledo Lucas County Health Department before performing any work.

(c) All work related to Residential Rental Property Maintenance Hazard clearance and repair activities undertaken in the City shall be conducted in accordance with this Chapter and Ohio law. Residential Rental Property Owners, and their employees, may obtain licenses to complete work related to lead hazard clearance and repair activities by successful completion of training in Quality

Maintenance Practices and Lead Safe Work Practices training provided by the Toledo Lucas County Health Department, or other organizations or agencies approved by the Toledo Lucas County Health Department. This license would allow Residential Rental Property Owners, and their employees, who obtain a license to perform all work related to Residential Rental Property Maintenance Hazard clearance and repair activities.

(d) As part of the City's efforts to ensure consistency and compliance with this Chapter and to protect the public health of its citizens, the Toledo Lucas County Health Department may perform inspections of Residential Rental Property on a random basis, or based on a reasonable suspicion that a Local Lead Inspector or other contractor or service provider is not conducting inspections, tests, or Residential Rental Property Maintenance Hazard clearances in compliance with this Chapter and Ohio laws and regulations.

(e) Failure to comply with the provisions of this Section shall subject the individual(s) to administrative penalties for each violation as defined in this Chapter.

(f) Rejection of Residential Rental Property Maintenance Hazard Reports, or a Lead-Safe Report; nonresponsibility of issuer.

(1) The Director of the Toledo Lucas County Health Department or the Director's designee, is authorized to reject a Residential Rental Property Maintenance Hazard Report, or a Lead-Safe Report that does not meet the requirements of this Chapter, or that is found after an inspection to not substantially represent the conditions present at the Residential Rental Property for which the report was prepared. The reasons for the rejection shall be set forth in writing to the issuer of the report and to the Owner of the property to which the report pertains.

(2) No Residential Rental Property Maintenance Hazard Report, or Lead-Safe Report shall be accepted from an issuer who is not licensed by the State of Ohio and registered with the Toledo Lucas County Health Department, or who has been found by the Director to be nonresponsible.

(3) The Director shall inform an issuer in writing of a nonresponsibility determination and the reasons therefor.

(4) Upon making a nonresponsibility determination, the Director may bar the issuer and affiliated organizations, as further set forth herein, from submitting lead hazard inspection reports to the City for a period not to exceed three years. If a corporation is found to be a nonresponsible issuer, that finding may be applied to a parent, affiliate or subsidiary corporation, if the Director finds that an officer, director or person directly or indirectly controlling 10% or more of the stock of the corporation found to be nonresponsible is an officer, director or person directly or indirectly controlling 10% or more of the stock of the parent, affiliate or subsidiary corporation. If an unincorporated association is found to be nonresponsible, that finding may be extended to other related associations upon a finding by the Director that the related associations have substantially the same ownership, management or operating personnel.

(5) In determining the nonresponsibility of an issuer, the Director shall consider:

- A. The record of performance of the issuer., including but not limited to suspension or debarment by the state or federal government; or a history of lead hazard inspections that do not meet federal, state or City requirements.
- B. Criminal conduct in connection with Local Lead Inspections, government contracts or business activities.
- C. Violations of labor or employment laws.
- D. Violations of federal or state environmental statutes or regulations.
- E. Any other cause of so serious or compelling a nature that it raises questions about the responsibility of an issuer, including, but not limited to, submission to the City of a false or misleading statement in connection with a lead hazard inspection.
- F. In addition to the factors specified above, the Director may also give due consideration to any other factors considered to bear upon issuer responsibility, including, but not limited to, any mitigating factors brought to the City's attention by the issuer.

(6) The Director may develop rules and regulations to implement these guidelines and may request a sworn statement of issuer qualifications to gather the necessary information set forth herein. The Director may use the information contained in the response to the sworn statement in making a determination of issuer nonresponsibility.

(7) Any issuer or Owner who is adversely affected by any fine, order or ruling issued pursuant to this Chapter may appeal such fine, order or ruling by requesting a hearing before the Nuisance Abatement Housing Appeals Board pursuant to Section 1726.04(b) and (c).

1760.08 Right of Inspection and Enforcement

(a) The Director of the Toledo Lucas County Health Department and/or his/her designee is authorized to enter on and into and inspect all premises, dwellings, dwelling units and accessory buildings, subject to the provisions of this Chapter and in accordance with the right of entry defined in Toledo Municipal Code Section 1303.0900 for the purpose of determining compliance with the provisions of this Chapter. The owner or other person in charge of the premises shall permit entry by any authorized officer or employee of the City for the limited and exclusive purpose of conducting such inspection, provided that the inspection is carried out at a reasonable time, that sufficient advance notice has been given to the occupants, and that permission to enter was requested and denied by the occupants.

1760.09 Residential Rental Property Registration Ordinance Implementation and Compliance

(a) Implementation and Compliance Plan

The Toledo Lucas County Health Department shall develop an implementation and compliance plan so that within three years of enactment of this Ordinance, all Residential Rental

Units, as defined by and subject to the provisions of this Chapter, shall be register and determined to be in compliance with Residential Rental Property Quality Maintenance Standards.

(b) Toledo Lead Poisoning Prevention Coalition

The Toledo Lead Poisoning Prevention Coalition shall discuss and advise the Toledo Lucas County Health Department on issues relating to the Toledo's Residential Rental Property Registration Ordinance, its implementation, and compliance with the provisions of the Ordinance by those Residential Rental Property Owners subject to the provisions of the Ordinance.

(c) Annual Report to Mayor and City Council

The Toledo Lucas County Health Department shall provide the Mayor and City Council with an Annual Report summarizing the progress of implementation of this Chapter, including, but not limited to the number of Residential Rental Property applications for a Lead-Safe Certificate and the number of compliance actions taken against Owners of Residential Rental Properties that fail to comply with provisions of this Chapter.

1760.10 Prohibition of Retaliatory Action.

It is unlawful for an Owner, or any person acting on his or her behalf, to take any retaliatory action toward an occupant, lessee, or tenant who reports a failure of the Owner to obtain a Lead-Safe Certificate, or who reports suspected lead-based paint hazard to the Owner or to the City, or reports other issues suggesting non-compliance with this Chapter or the City Building or Housing Code. Retaliatory actions include, but are not limited to any actions that materially alter the terms of the tenancy (including rent increases and non-renewals) or interfere with the occupants' use of the property.

1760.11 Lead Poisoning Prevention Information for Tenants.

The Toledo Lucas County Health Department shall create educational materials for distribution to tenants of residential rental property, informing them of the steps that can be taken by families to prevent Lead Poisoning.

1760.12 Lead Poisoning Prevention Resources and Technical Support for Property Owners

The Toledo Lucas County Health Department shall create, and make available to residential rental property owners, Lead Poisoning Prevention Materials, technical materials relating to Lead Hazard Assessment and clearance of Lead Hazards using Interim controls. In addition, The Toledo Lucas County Health Department shall create a grant process by which residential rental property owners, who are determined to be eligible, may apply for a grant to offset the cost of clearing the Lead Hazards from their property.

1760.13 Lead Safe Residential Rental Property Registry

(a) The Toledo Lucas County Health Department shall create an electronic Lead Safe Residential Rental Property Registry, which will provide information regarding the residential rental properties that have complied with the Ordinance and have been determined to be Lead Safe. This information shall be made available to the public, especially potential tenants of residential rental property.

(b) The Toledo Lucas County Health Department shall create an electronic Residential Rental Property Registry for residential rental properties that have failed a Lead Hazard Assessment. Once a residential rental property has been determined to be Lead Safe, the property will be removed from this registry. This information shall be made available to the public, especially potential tenants of residential rental property.

1760.14 Residential Rental Property Lead Safe Requirement

No Certificate of Property Code Compliance may be issued in accordance with this Chapter unless a Lead-Safe Certificate has been issued if required pursuant to Section 1760.02.

1760.15 Fines for Non-Compliance

(a) After 365 days have passed from the effective date of this Chapter, anyone in violation of Section 1760.02 shall be subject to a fifty dollar (\$50.00) per day administrative fine per dwelling unit with a maximum penalty of ten thousand dollars (\$10,000) per year per dwelling unit.

(b) Anyone assessed an administrative fine under the proceeding section shall have the right to appeal the imposition of the administrative fine to the Board of Nuisance Abatement/Housing Appeals by filing an application in writing with the Board of Nuisance Abatement/Housing Appeals the applicable one hundred dollar (\$100.00) non-refundable filing fee no later than thirty (30) calendar days from the date notice of the fine was received.

(c) Anyone in violation of Section 1760.07 shall be subject to a five hundred dollar (\$500.00) fine per violation as an administrative penalty.

(d) Anyone assessed an administrative fine under the proceeding section shall have the right to appeal the imposition of the administrative fine to the Board of Nuisance Abatement/Housing Appeals by filing an application in writing with the Board of Nuisance Abatement/Housing Appeals the applicable one hundred dollar (\$100.00) non-refundable filing fee no later than thirty (30) calendar days from the date notice of the fine was received.

(e) All fines imposed and collected pursuant to this Section shall be transferred to and used by the Toledo Lucas County Health Department for the administration, implementation and compliance activities related to this Chapter.

1760.16 Deferments

The Director shall grant an Owner a single 12-month deferral from the requirements of this Chapter under the following conditions:

- (1) the Owner possesses more than 10 properties that would require Certificates of Registration of Residential Rental Property Meeting the Quality Maintenance Standards under this Chapter;
- (2) the Owner successfully complies with this Chapter in obtaining Certificates of Registration of Residential Rental Property Meeting the Quality Maintenance Standards for 10 properties in the Owner's name;
- (3) the Owner requests in writing to the Director that a deferral be granted and lists the address of each property for which the deferral is requested;
- (4) each property request for a deferral may not have previously been granted a deferral.
- (5) the Deferment will immediately terminate and the Rental Property Owner shall be required to bring all the Owner's rental properties into compliance with this Chapter within 45 days of the discovery that a child has been lead poisoned, at a level of 5 ug/dL or greater, in one of the Owner's rental properties

1760.17 Exemptions

This Chapter shall not apply to properties taken by a governmental entity in a foreclosure proceeding which are vacant and secured and:

- (1) scheduled for demolition; or
- (2) scheduled for sale within 12 months.

SECTION 2. That this Resolution shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____: yeas _____, nays _____.

Attest: _____
 Clerk of Council President of Council

Approved: _____
 Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

_____.

Attest: _____
 Clerk of Council

DRAFT