

Article 4: Public Hazards and Public Nuisances

Division 10: Lead Hazard Prevention and Control Ordinance

*(“Abatement of Lead Hazards” added 5-14-2002 by O-19063 N.S.)
(Amended and retitled to “Lead Hazard Prevention and Control Ordinance”
and Added Sections 54.1007 to Sections 54.1015 on 4-8-2008 by O-19732 N.S.)*

§54.1001 Findings

The Council of the City of San Diego finds and declares that:

- (a) Problem: In the City of San Diego, between 1992 and 2003, there were 781 reported cases of childhood *lead* poisoning (greater than 15 µg/dL) and almost 300 children in 2003 with blood *lead* levels greater than 10 µg/dL in San Diego County. These figures are not considered a true representation of the problem, as only a small percentage of children are tested (state average is 20%). The Centers for Disease Control and Prevention has declared that the most effective approach to *lead* poisoning is prevention by eliminating *lead hazards* from children’s environment.
- (b) Health Effects: *Lead* is most harmful to young children because it interferes with the development of the brain, as well as other organs and systems such as the kidneys and nervous system. *Lead* poisoning has been linked to reduced IQ, attention deficit disorder, hearing loss, impaired growth, and reading and learning disabilities. Recent research has revealed that even low levels of *lead* exposure can cause a permanent decrease in a *child’s* IQ. In adults, high *lead* levels can cause high blood pressure, headaches, digestive problems, memory and concentration problems, kidney damage, mood changes, nerve disorders, sleep disturbances, and muscle or joint pain.
- (c) Housing Stock: *Lead-based paint*, and associated *lead-contaminated dust* and *lead-contaminated soil*, is the number one source of *lead* poisoning. According to the 2000 United States census, approximately sixty-six percent (310,000) of the housing units in the City of San Diego were built before 1979, and approximately twenty-eight percent (135,000) of the City of San Diego’s housing stock was constructed before 1960.
- (d) Prevention is Key: Childhood *lead* poisoning is preventable. There is no medical treatment to reverse the effects of *lead* poisoning. Household *lead hazards* can be permanently eliminated by abatement or controlled through proper maintenance and *lead-safe* work practices.

- (e) Lead Paint Ban: The Consumer Product Safety Commission banned the use of *lead* in concentrations greater than 600 parts per million in residential paint after February 27, 1978. For this reason, *paint* applied to a *dwelling unit* or *structure* prior to January 1, 1978, is presumed to contain *lead* unless *lead-based paint testing* proves it is not *lead-based paint*. All *paint* applied to a *steel structure* is presumed to contain *lead* unless *lead-based paint testing* proves it is not *lead-based paint*.
- (f) Lead Hazard: A *lead hazard* found on any *property, premises, dwelling unit, structure, or steel structure* within the City of San Diego is a *public nuisance*.
- (g) Lead Safe Work Practices: Dust generated in disturbance of *lead paint* during renovation and repair is a principal source of *lead* dust exposure to our children and community. Unless the dust is contained, it permeates the carpet, ductwork, and soil, so that children and adults may breathe or ingest the dust for months and years to come.
- (h) Authority: The implementation of Division 10 and the associated enforcement will assist in reducing the presence of *lead hazards* and, thereby, help the City of San Diego in achieving its goal of eliminating childhood *lead* poisoning. Under Senate Bill 460, which modified California Civil Code section 1941.1 and California Health and Safety Code sections 17920.10, 17980, 105255, and 105256, the existence of *lead hazards* in housing can constitute a violation of State Housing Law and maintenance or construction activities which generate *lead hazards* are prohibited. Amended Health and Safety Code sections 17961, 17980, 105255, and 105256 provide local jurisdictions with specific authority to correct and prevent *lead hazards*. Division 10 establishes the City of San Diego's enforcement mechanism for *lead-related* provisions of the California Civil Code and Health and Safety Code, and provides additional regulation and enforcement tools which will help reduce the exposure of children and others to *lead hazards*.
- (i) Tenant Protection: The Council acknowledges that California Civil Code section 1942.5 prohibits certain acts of retaliation by a landlord against a tenant because of the tenant's complaint to an appropriate agency regarding a residential unit which contains *lead hazards*.

- (j) Necessary Service: The performance of a *lead risk assessment* in the interior and on the *exterior* of a *dwelling unit* constructed prior to January 1, 1978, as well as the common areas of the *dwelling unit*, is a necessary service and/or repair to protect the health, safety, and welfare of the occupants of the *dwelling unit* and the public.

(Amended 4-8-2008 by O-19732 N.S; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1002 Purpose

The purpose of Division 10 is:

- (a) to prevent, identify, and remedy *lead hazards* in housing before children are poisoned;
- (b) to protect occupants and the public from exposures to *lead hazards*;
- (c) to provide standards to implement *lead hazard* control requirements;
- (d) to strengthen the authority of local agencies responding to *lead paint* poisoning cases; and
- (e) to establish and promote *lead*-safe work practice standards for *owners*, maintenance workers, and all *persons* involved in *lead hazard* control and activities such as remodeling, *renovation*, rehabilitation, and repair that disturb *lead paint*, in order to protect occupants and the public from exposure to *lead hazards*.

(Amended 4-8-2008 by O-19732 N.S; effective 5-8-2008.)

§54.1003 Definitions

All defined terms in Division 10 appear in *italics*, except for the terms Building Permit and Demolition/Removal Permit which refer to those terms respectively as used in the Land Development Code and which, consistent with the Land Development Code, are not italicized in this Division. For purposes of Division 10, the following terms have the following meanings:

Accredited laboratory means a laboratory which is accredited through the United States Environmental Protection Agency National Lead Laboratory Accreditation Program.

Adjacent properties means *properties* that abut the *property* at which activities which *disturb or remove paint* have been, are being, or will be performed, or where a *lead hazard* has been identified.

Blood lead reference value means the current blood *lead* concentration level set by the Centers for Disease Control and Prevention which identifies children with higher levels of *lead* in their blood as compared with the blood lead level in most children.

CDPH means the California Department of Public Health.

Certified Lead Abatement Contractor means a Certified Lead Supervisor as defined in title 17, section 35008 of the California Code of Regulations, as may be amended, and any Certified Lead Worker as defined in Title 17, section 35009 of the California Code of Regulations, as may be amended, who works under the direction of a Certified Lead Supervisor, as may be amended.

Certified Lead Inspector/Assessor has the meaning given in title 17, section 35005 of the California Code of Regulations, as may be amended.

Certified Lead Project Monitor has the same meaning given in title 17, section 35006 of the California Code of Regulations, as may be amended.

Certified Lead Sampling Technician has the same meaning given in title 17, section 35089 of the California Code of Regulations, as may be amended.

Certified Renovator has the same meaning given in 40 C.F.R. § 745.90, as may be amended.

Child means any person less than six years of age.

Child-care facility means a facility that provides nonmedical care for children less than 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. This includes day care centers and employer-sponsored child care centers.

Clearance inspection has the same meaning given in title 17, section 35013 of the California Code of Regulations, as may be amended.

Clearance Inspection Report means a report that documents the abatement activity and includes the information outlined in 24 C.F.R. 35.1340(c).

Containment barriers has the same meaning given in title 17, section 35016 of the California Code of Regulations, as may be amended.

De minimis levels means an area representing less than ten percent of any building component with a small surface area such as a window sill, baseboard, or trim; or a portion of large surface such as a wall, ceiling, or floor with an area less than: (1) two square feet in any one interior room or space of a *dwelling unit* or *structure*; or (2) twenty square feet on an *exterior* surface.

Department means the City Environmental Services Department.

Deteriorated lead-based paint has the same meaning given in title 17, section 35022 of the California Code of Regulations, as may be amended.

Director has the same meaning as set forth in section 11.0210 of this Code.

Disturb or remove paint means any action that creates friction, pressure, heat, or a chemical reaction upon any *paint* on an interior or *exterior* surface so as to abrade, loosen, penetrate, chip, cut through, remove, or eliminate *paint* from that surface. This term shall include all *lead hazard* correction activities, all demolition activities, and all surface preparation activities performed upon an interior or *exterior painted* surface.

Dwelling unit has the same meaning as set forth in section 113.0103 of this Code and for purposes of this Division 10, also includes *multiple dwelling unit*, *single dwelling unit*, *Accessory Dwelling Unit*, and *Junior Accessory Dwelling Unit* as those terms are defined in section 113.0103 of this Code.

Enforcement official has the same meaning as set forth in section 11.0210 of this Code.

Exterior means the outside of a *dwelling unit*, *structure*, or *steel structure* and the areas around it within the boundaries of the *property*, including the *exterior* of any detached *structure*, and including, but not limited to, freestanding and common walls, stairways, fences, light wells, breezeways, sheds, garages, patio covers, decks, and any similar *structures*.

HEPA means a High Efficiency Particulate Air Filter.

Home improvement store means all retail stores which sell any home improvement products including, *paint* and *paint* removal products, construction and building materials, tools, and hardware.

HUD Guidelines means the most recent version of the United States Department of Housing and Urban Development “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing,” and when referenced in this Division, includes the practices and standards in those *HUD Guidelines* without regard to whether a structure is target housing under 15 U.S.C. § 2681.

Imminent lead hazard means a *lead hazard* which creates a present and immediate danger to life, *property*, health, or public safety.

Landlord means an *owner*, lessor, or sublessor who receives or is entitled to receive rent for the use or occupancy of any commercial or residential rental *property* in the City of San Diego, and the agent, representative, or successor of any of the foregoing.

Lead means metallic lead and all inorganic and organic compounds of lead.

Lead-based paint or *lead paint* has the meaning given in title 17, section 35033 of the California Code of Regulations, as may be amended.

Lead-based paint testing means: (1) testing of surfaces to determine the presence of *lead-based paint* performed by an independent *Certified Lead Inspector/Assessor*, or *Certified Lead Sample Technician* under the supervision of a *Certified Lead Inspector/Assessor*, in accordance with the *HUD Guidelines*, and which testing includes bulk *paint* samples analyzed by an *accredited laboratory*; or (2) testing by an *XRF*.

Lead-containing paint means paint or other surface coatings which contain an amount of *lead* equal or greater than 1,000 parts per million (ppm) or 0.5 milligrams per square centimeter (mg/cm²), but an amount less than *lead-based paint*.

Lead-contaminated dust has the same meaning given in title 17, section 35036 of the California Code of Regulations, as may be amended.

Lead-contaminated soil has the same meaning given in title 17, section 35036 of the California Code of Regulations, as may be amended.

Lead hazard means: (1) the existence of *deteriorated lead-based paint* over a surface area larger than *de minimis levels* in the interior or exterior of a *dwelling unit* or *structure* constructed prior to January 1, 1978; or (2) the existence of *deteriorated lead-based paint*, in the interior or exterior of a *dwelling unit* or *structure* constructed prior to January 1, 1978, over a surface area smaller than *de minimis levels* but which, as determined by an *enforcement official*, is likely to endanger the health of the public or the occupants of the *dwelling unit* or *structure*; or (3) the disturbance of *lead-based paint* or *presumed lead-based paint* without required worksite preparation measures set forth in section 54.1006(b) of this Code; or (4) the creation or maintenance of any other condition which may result in persistent and quantifiable *lead* exposure; or (5) the presence of *lead-contaminated dust* or *lead-contaminated soil*.

Lead hazard evaluation has the same meaning given in title 17, section 35038 of the California Code of Regulations, as may be amended, and for purposes of this Division, includes a record of the cause of *paint* deterioration written on HUD Form 5.2 per *HUD Guidelines* (1995 edition, or any subsequent edition adopted by *CDPH*), or equivalent form for each *lead paint hazard* identified by those identified in title 17 section 36000(a)(1). The cause of *paint* deterioration is to be included in the *lead hazard evaluation report* summary.

Lead hazard evaluation report means a report that documents a *lead hazard evaluation* and includes the requirements listed in title 17, Division 1, Chapter 8, Article 16, Section 36000(a)(4)(A-D).

Lead paint contaminants means substances containing *lead paint* or *presumed lead-based paint* which are potentially hazardous to human health or the environment including, but not limited to, *paint* chips and *paint*-containing soil, debris, dust, abrasives, fumes, or water.

Lead risk assessment has the same meaning as in title 17, section 35047 of the California Code of Regulations, as may be amended.

Minor repair and maintenance activities has the same meaning given in 40 C.F.R. § 745.83 , as may be amended.

Occupants means tenants or other *persons* legally authorized to occupy or partially occupy the *property*.

Owner means the *person* or *persons* owning *property* or any improvements thereon in the City of San Diego and includes such *person* 's legally authorized agent or representative and any successors in interest.

Paint means any paint, varnish, shellac, or other similar coating.

Person means any natural person, municipal, county, or state agency to the extent allowable by law, or any firm, joint venture, joint stock company, business concern, trust, organization, club, association, partnership, company, or corporation, or the officers, agents, employees, managers, representatives, heirs, executors, administrators, successors, or assigns of any of them or any other entity which is recognized by law as the subject of rights and duties.

Premises has the same meaning as set forth in section 54.0202 of this Code.

Presumed lead-based paint has the same meaning given in title 17, section 35043 of the California Code of Regulations, as may be amended, and for purposes of this Division, includes *paint* applied to *steel structures* unless tested in accordance with that section 35043 and determined to be below the *lead* concentration limits established by that section 35043.

Prohibited practices means work practices prohibited under section 54.1006 of this Code.

Property means real property, together with any and all improvements thereon.

Public nuisance has the same meaning as that set forth in section 11.0210 of this Code.

Reasonable relocation costs means costs incurred during temporary relocation which are in excess of the costs that otherwise would be incurred while the *occupant* is residing at the *dwelling unit*, and may include the excess costs of lodging, food if cooking facilities are unavailable during relocation, and transportation when displaced residents need to travel further for necessary activities than they otherwise would from their *dwelling unit*. *Reasonable relocation costs* are not the total of such expenses but only those costs which are above the costs that would be incurred in the absence of required relocation.

Regulated area means an area in which work is being performed that *disturbs or removes paint* and to which access is restricted in order to prevent migration of *paint* contaminants. *Regulated area* shall also include any area contaminated with *lead paint* as a result of a violation of the containment requirements set forth in section 54.1006 of this Code, until such area has been decontaminated and cleared in accordance with section 54.1006 of this Code.

Renovation means any modification of all or part of an existing *dwelling unit*, *structure*, or *steel structure* which modification *disturbs or removes paint*.

Renovator means any *person* who performs for compensation a *renovation*.

Responsible person has the same meaning as set forth in section 11.0210 of this Code, and for purposes of this Division, a contractor determined by the *Director* to be responsible for causing or maintaining a public nuisance or a violation of this Division.

Steel structure means any *structure* that is not a building and that has *exterior* surfaces made of steel or other metal including, but not limited to, bridges, billboards, walkways, water towers, steel tanks, and roadway or railway overpasses.

Structure has the same meaning as that set forth in section 113.0103 of this Code.

Underlying defect means any condition or circumstance which generates, creates, or sustains a *lead hazard*.

Window treatment means any activity which involves the removal of window sashes when *lead-based paint* or *presumed lead-based paint* is present on the window sash or adjacent window trim components (such as jambs, sills, or stops).

XRF means a portable X-Ray Fluorescence Spectrometer.

(Amended 4-8-2008 by O-19732 N.S; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1004 Lead Hazard Unlawful

(a) It is unlawful to create and/or maintain a *lead hazard* or allow a *lead hazard* to remain upon any *property*, *premises*, surfaces, *dwelling unit*, *structure*, *steel structure*, or appurtenances.

(b) It is unlawful for a *responsible person* to fail to reduce or eliminate a *lead hazard*.

(Amended 4-8-2008 by O-19732 N.S; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1005 Lead-Safe Work Practice Standards Required

- (a) Any person who *disturbs or removes lead paint, presumed lead-based paint, or lead-containing paint* from any surface in the interior or on the exterior of a *dwelling unit or structure* shall use *lead-safe work practice standards* as set forth in section 54.1006.
- (b) Any person who *disturbs or removes paint* in any amount in the interior or on the exterior of a *dwelling unit* to correct a *lead hazard* where a *child* with a blood lead level greater than or equal to the *Blood Lead Level Reference Value* resides or receives services from a *child care facility* shall use *lead-safe work practice standards* as set forth in section 54.1006.
- (c) The failure to use *lead-safe work practice standards* as set forth in section 54.1006 shall constitute a violation of this Division. The *lead-safe work practice standards* set forth in this Division are in addition to, and are not a substitute for, any requirements under state or federal law. Compliance with the *lead-safe work practice standards* set forth in section 54.1006 does not negate responsibility for a violation of section 54.1004.

(Amended 4-8-2008 by O-19732 N.S; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1006 Lead Safe Work Practice Standards

The *lead-safe work practice standards* in section 54.1006 apply to all activities which *disturb or remove paint* which is *lead-based paint, presumed lead-based paint, or lead-containing paint*.

- (a) Temporary Relocation Required Unless Occupant Protection Conditions Satisfied
 - (1) Occupants of a *dwelling unit* shall be temporarily relocated, before and during the course of activities which *disturb or remove paint*, to a suitable, decent, safe, comparable, and similarly accessible *dwelling unit* that does not have a *lead hazard*, unless:
 - (A) the activities will not disturb *presumed lead-based paint, lead-based paint, lead-contaminated dust or lead-contaminated soil*; or

- (B) the activities affect only the *exterior* of the *dwelling unit*, and windows, doors, ventilation intakes, and other openings in or near the *regulated area* are sealed during the course of the activities and cleaned afterward, and at least one entrance is maintained free of *lead-contaminated dust*, *lead-contaminated soil*, and *lead paint contaminants*.
 - (C) the activities in the interior of the *dwelling unit* will be started and completed during the daytime within eight consecutive hours, the *regulated area* is contained so as to prevent the release of *lead-contaminated dust* and *lead paint contaminants* into other areas, and the activities do not create other safety, health, or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste); or
 - (D) the activities in the interior of the *dwelling unit* will be completed within five consecutive days, the *regulated area* is secure so as to prevent the release of *lead-contaminated dust* and *lead paint contaminants* into other areas, the activities do not create other safety, health, or environmental hazards, and, at the end of work on each day, the *regulated area* and the area within at least ten feet of the *regulated area* is cleaned to remove any visible dust or debris, and occupants have safe access to sleeping areas and bathroom and kitchen facilities.
 - (2) The *owner* of a *dwelling unit* and any *responsible person* who has failed to implement *lead-safe work practice standards* set forth in section 54.1006, such that relocation is required, are jointly liable for the *reasonable relocation costs* associated with the temporary relocation of *occupants* when required under section 54.1006.
- (b) Worksite Preparation
- (1) The *regulated area* shall be prepared to prevent the release of dust, and contain any *lead containing paint chips*, *presumed lead-based paint chips*, *lead-based paint chips*, *lead-contaminated dust*, *lead-contaminated soil*, and *lead paint contaminants* from activities which *disturb or remove paint* in a manner at least as protective as the procedures contained in *HUD Guidelines Chapter 8* (“Resident Protection and Worksite Preparation”), as may be amended.

- (2) Practices that minimize the spread of *lead-contaminated dust*, *lead containing paint*, *presumed lead-based paint chips*, *lead-based paint chips*, *lead-contaminated soil*, and *lead paint contaminants* shall be used during preparation of the *regulated area* for work which *disturbs or removes paint*.
- (3) Only those *persons* employed or otherwise engaged in the conduct of activities which *disturb or remove paint* which is *lead-based paint*, *presumed lead-based paint*, or *lead-containing paint* or perform *clearance inspection* activities are permitted to enter a *regulated area* until after activities which *disturb or remove paint* which is *lead-based paint*, *presumed lead-based paint*, or *lead-containing paint* have been completed and a *clearance inspection* as provided in section 54.1006(g) has been completed and demonstrates that the *regulated area* is not contaminated.

(c) Specialized Cleaning

After activities which *disturb or remove paint* or abate a *lead hazard* have been completed, the *regulated area* shall be cleaned by using:

- (1) wet misting and *HEPA* vacuuming as provided in *HUD Guidelines* Chapter 14.
- (2) wet cleaning with all purpose general detergents or *lead-specific* detergents and rinsing as provided in *HUD Guidelines* Chapter 14 (“Cleaning”), as may be amended.

(d) Visible Lead Paint Contaminants

All visible *lead paint contaminants* shall be cleaned up daily and removed from the *regulated areas* prior to completion of the activities which *disturb or remove paint*.

(e) High Risk Paint Disturbance

Any *person* who *disturbs or removes paint* which is *lead-based paint* or *presumed lead-based paint* in an area greater than defined as a *minor repair and maintenance activity*, or in any area in the interior or exterior of a *dwelling unit* to correct a *lead hazard* shall utilize the lead-safe work practice standards established in 40 C.F.R. § 745.85 and the following:

- (1) The cleaning verification process described in 40 C.F.R. §745.85(b)(1)(ii) is optional.
- (2) The clearance testing as provided in 40 C.F.R. § 745.85(c) and section 54.1006 is required.
- (3) Warning signs shall remain posted until the *regulated area* has passed a *clearance inspection* as provided in section 54.1006(g).

(f) Disposal

All waste generated from activities which *disturb or remove paint*, which contains *lead containing paint*, *lead-based paint* or *presumed lead-based paint*, is deemed hazardous waste under Title 22 of the California Code of Regulations, as may be amended, and must be disposed of lawfully.

(g) Lead-Safe Work Practice Clearance Inspection Standards

- (1) Visual Inspection. A visual inspection to verify the absence of visible dust or debris must be performed by the person who *disturbs or removes paint* upon the completion of all activities which *disturb or remove paint* in excess of two square feet in an interior room or space, or on an exterior surface area in excess of ten square feet, or any window replacement or *window treatment* under the following circumstances:
 - (A) where the *paint* is *presumed lead-based paint*; or
 - (B) where *lead-based paint testing* performed on the *paint* revealed *lead-containing paint*.

Where the *paint* is *lead-containing paint* but not *presumed lead-based paint* or *lead-based paint*, the person who *disturbed or removed paint* as described in (g)(1) shall record the results of the visual inspection on the form provided by the City (Form ES-127), and shall maintain that form for a minimum of three years and shall make all such forms available to the City of San Diego upon request.

- (2) Clearance Inspection. A *clearance inspection* must be performed upon the completion of all activities which *disturb or remove paint* in excess of two square feet in an interior room or space, or on an *exterior* surface area in excess of ten square feet, window replacement or *window treatment* under the following circumstances and after visual inspection:
- (A) where the *paint* is *presumed lead-based paint*; or
- (B) where *lead-based paint testing* performed on the *paint* revealed *lead-based paint*.

A copy of the *CDPH* Form 8552 for each *clearance inspection* shall be submitted to the City of San Diego at

Lead-Safe@sanidiego.gov or by mail to:

Environmental Services Department
Lead Safety and Healthy Homes Program
9601 Ridgehaven Court, Ste 310
San Diego, CA 92123

Submittal of the 8552 form to the City of San Diego does not satisfy the requirement of Title 17 of the California Code of Regulations, as may be amended, for submittal of the 8552 form to the *CDPH*.

- (3) The *lead-safe* work practice *clearance inspection* shall be performed only by a *Certified Lead Inspector/Assessor* or *Certified Lead Project Monitor*.
- (4) All *clearance inspection* procedures shall be in compliance with 40 Code of Federal Regulations part 745.227, as it may be amended from time to time, and shall meet title 17 of the California Code of Regulations clearance guidelines, as it may be amended from time to time.
- (5) A *clearance inspection* shall either:
- (a) Meet the “Recommended Minimum Number and Location of Single-Surface Dust Samples” for the appropriate clearance category in Table 15.1 of Chapter 15 of the 1995 *HUD Guidelines* (“Clearance”), as may be amended; or

- (b) Be conducted in accordance with the procedures described in the most recent revision of Chapter 15 of the *HUD Guidelines*, as may be amended.

(h) Prohibited Practices

It is unlawful to use *prohibited practices* while conducting activities which *disturb or remove paint* including, but not limited to:

- (1) acetylene or propane burning and torching;
- (2) scraping, sanding, or grinding without *containment barriers* or a *HEPA* local vacuum exhaust tool;
- (3) hydro-blasting or high-pressure wash without *containment barriers*;
- (4) abrasive blasting or sandblasting without *containment barriers* or a *HEPA* local vacuum exhaust tool; or
- (5) heat guns operating above 1,100 degrees fahrenheit.

(Amended 4-8-2008 by O-19730 N.S.; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1007 Lead Hazards in Housing

(a) Presumption

For all *dwelling units* constructed prior to January 1, 1978, it is presumed that the *paint* in the interior or on the *exterior* of the *dwelling unit* is *lead-based paint*.

(b) Owner's Opportunity to Rebut Presumption

The *owner* of a *dwelling unit* constructed prior to January 1, 1978, may apply to the *Department* to have such *dwelling unit* exempted from the presumption contained in section 54.1007(a) when either:

- (1) *lead-based paint testing* results demonstrate that no *lead paint* is present in the interior or on the *exterior* of such *dwelling unit*; or

- (2) documentation from a *Certified Lead Inspector/Assessor* demonstrates that alterations have been made to the *dwelling unit* and such alterations have resulted in the removal of all *lead-based paint* in that *dwelling unit*.

(c) Owner's Duty to Correct; Work Plan Required

- (1) Lead hazards unlawful. The existence of a *lead hazard* in any *dwelling unit* is hereby declared to constitute a condition dangerous to life and health. It is unlawful for a *responsible person* to allow a *lead hazard* to exist. The *owner* of a *dwelling unit* shall take action to prevent the occurrence of a *lead hazard* and shall expeditiously correct a *lead hazard*, upon receiving notice from the *Director*, or notice by any other means, of its existence, in accordance with section 54.1006. If the *lead hazard* is caused in whole or in part by an *underlying defect* the *owner* of the *dwelling unit* shall correct the *underlying defect* to prevent a further *lead hazard*.
 - (A) Within 30 days of receiving notice from the *Director* of the existence of a *lead hazard*, the *owner* of a *dwelling unit* shall submit to the *Director* or designee a statement of intent and a work plan to correct the *lead hazard*, a proposed work schedule, and the methods by which the *owner* will accomplish compliance with this Division, including compliance with the temporary relocation requirements of section 54.1006, if applicable.
 - (B) Upon receipt of the work plan, the *Director* may require any additional information or plan adjustments to ensure such conformance with the requirements of this Division. All work plans shall require written approval of the *Director*. Written approval may be by electronic mail or other writing.
- (2) The *owner* of a *dwelling unit* shall correct all identified *lead hazards* according to the approved work plan and schedule, including any revisions required by the *Director*, and complete the *clearance inspection* within thirty (30) calendar days of the approval date of the work plan, unless:

- (A) the *Director* determines that a *lead hazard* is present, which *lead hazard* constitutes an immediate threat to the health and safety of occupants of the *dwelling unit*, in which case the *owner* of the *dwelling unit* shall comply with the *Director's* directives; or
 - (B) the *owner* of the *dwelling unit* files a request for a time extension summarizing (i) the *owner's* efforts to date to comply with the approved work plan and schedule; (ii) demonstrating the need for additional time to correct the *lead hazard*; (iii) a proposed adjusted work schedule; (iv) the methods by which the *owner* will accomplish compliance with this Division including compliance with the temporary relocation requirements of section 54.1006(a); and the *Director* approves an extended time for compliance with this Division. The *Director* shall have sole discretion to approve or disapprove time extension requests.
- (3) Within seven days after obtaining the *clearance inspection report*, the *owner* of a *dwelling unit* shall provide proof of compliance with section 54.1007 by submitting a copy of the *clearance inspection report* to the City of San Diego at: by email to Lead-Safe@sandiego.gov, or by mail to the assigned inspector for the case at:

Environmental Services Department
Lead Safety and Healthy Homes Program
9601 Ridgehaven Court, Ste 310
San Diego, CA 92123

Submittal of the *clearance inspection report* to the City of San Diego does not satisfy the requirement of Title 17 of the California Code of Regulations, as may be amended, for submittal of the 8552 form to the *CDPH*.

- (4) The *owner* of a rental *dwelling unit* determined to be in violation of section 54.1007 may be required by the *Director* to implement maintenance and monitoring schedules as provided in a Lead Risk Assessment Report prepared by the City under title 17, section 36000 of the California Code of Regulations, as may be amended, and Chapters 5 and 6 of the *HUD Guidelines*.

- (d) Administrative abatement of a *lead hazard* shall be in accordance with the procedures provided in San Diego Municipal Code Chapter 1, Article 2, Division 6.
- (e) Summary abatement of an *imminent lead hazard* shall be in accordance with the procedures provided in San Diego Municipal Code Chapter 1, Article 2, Division 7.
- (f) Judicial abatement of a *lead hazard* shall be in accordance with the procedures provided in San Diego Municipal Code Chapter 1, Article 2, Division 2.

(Added 4-8-2008 by O-19732 N.S.; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1008 Procedures for Onsite Occupant Protection and Offsite Temporary Relocation

- (a) Where *occupant* relocation is not required under section 54.1006, a *responsible person* who has created or maintained a *lead hazard* is responsible for implementing *occupant* protection measures to reduce or eliminate *occupant* or public exposure to *lead hazards* as required by the City. A *responsible person* shall complete the *occupant* protection measures no later than 10 calendar days from the date of notice from the *Director*.
- (b) Where *occupant* relocation is required under section 54.1006, the *responsible persons* are responsible for the *reasonable relocation costs* of any *occupants* displaced as a result of a judicial, administrative, or summary abatement action under this Division and must follow applicable requirements of state law.
- (c) If *reasonable relocation costs* are paid by the City, the costs shall be assessed against the *responsible person* as an administrative or summary abatement cost or as part of a judicial action and may be recovered under the procedures Chapter 1, Article 3, Division 3 (Recovery of Abatement Costs) of this Code.

(Added 4-8-2008 by O-19732 N.S.; effective 5-8-2008.)

(Retitled from “Procedures for Occupant Relocation” to “Procedures for Onsite Occupant Protection and Offsite Temporary Relocation” and amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1009 Visual Lead Inspection and Correction Prior to Re-Occupancy of Rental Housing

For all rental *dwelling units* constructed prior to January 1, 1978, the *responsible person* shall conduct a visual inspection for *deteriorated paint* each time a tenant vacates the *dwelling unit* and prior to re-occupancy of the *dwelling unit*. The *responsible person* shall document the results of the visual inspection in writing on a form made available by the *Director*. *Deteriorated paint* shall be corrected prior to re-occupancy under this Division, unless *lead-based paint testing* proves the *deteriorated paint* is not *lead-based paint*. Inspection, testing, and correction documents shall be maintained for three years after the tenant vacates the *dwelling unit*. The visual inspection required by section 54.1009 is separate from the visual inspection required under section 54.1006.

(Added 4-8-2008 by O-19732 N.S.; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1010 Duty to Notify

- (a) All *home improvement stores* and stores which sell or rent high pressure water equipment shall maintain a supply of the *lead-safe work practices* pamphlets prepared and supplied by the *Director*. The pamphlets shall be prominently displayed where painting supplies are sold and high pressure water equipment is sold or rented and shall be provided upon request to customers or other invitees.
- (b) *Home improvement stores* and stores which sell or rent high pressure water equipment shall conspicuously post the *Lead-Safe Work Practices* sign prepared by the *Director* or a sign of substantially the same size, typeface, and language. The sign shall make the following statement, or a substantially equivalent statement, in large or boldface capital letters no less than one-half inch in size:

PAINTING AND REMODELING CAN EXPOSE
YOUR FAMILY TO LEAD. IT IS UNLAWFUL TO
CREATE A LEAD HAZARD. YOU ARE REQUIRED
TO USE LEAD-SAFE WORK PRACTICES IF YOU
LIVE IN A PRE 1978 DWELLING AND WILL BE
DISTURBING PAINT. ASK FOR A FREE
PAMPHLET ON LEAD-BASED PAINT HAZARDS.

- (c) For all *dwelling units* constructed prior to January 1, 1978, the *responsible person* shall be in compliance with 24 Code of Federal Regulations parts 35.80 – 98 inclusive.
- (d) All *CDPH*-certified lead personnel conducting *lead hazard evaluations* (e.g., risk assessment, *clearance inspection*, *paint* testing, dust sampling, etc.) shall deliver a completed copy of the *CDPH Lead Hazard Evaluation Report* (Form 8552) to the City of San Diego, if the *property* evaluated is located within the city limits of the City of San Diego, within thirty days of conducting the evaluation. The copy shall be submitted by email to Lead-Safe@sanidiego.gov, or by mail to:

Environmental Services Department
Lead Safety and Healthy Homes Program
9601 Ridgehaven Court, Ste 310
San Diego, CA 92123

Submittal of the 8552 form to the City of San Diego does not satisfy the requirement of Title 17 of the California Code of Regulations, as may be amended, for submittal of the 8552 form to the *CDPH*. Complete copies of *lead hazard evaluation reports* shall be made available by the *certified lead inspector / assessor, project monitor*, or the *owner* to the City of San Diego upon request.

(Added 4-8-2008 by O-19732 N.S.; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1011 Child-Care Facility

Each *child-care facility* licensed or approved by the State of California, except for a *child-care facility* located on public school property, shall require a parent or legal guardian of each *child* older than six months and less than seven years of age inclusive to provide a statement from a physician or health care provider that the *child* older than six months has been screened for *lead* poisoning. This statement must indicate that the screening of the *child* older than six months has been performed in accordance with applicable criteria mandated by Title 17, division 1, chapter 9, article 1 of the California Code of Regulations titled “Screening for Childhood Lead Poisoning.” For purposes of section 54.1011, “screening” means testing an asymptomatic *child* older than six months for *lead* poisoning by analyzing the *child’s* blood for concentrations of *lead*. This statement shall be provided prior to admission, but in no event later than thirty days after admission. The *child-care facility* shall maintain the statement for three years after receipt and shall make such statements available to the City for review during normal operating hours upon request.

(Added 4-8-2008 by O-19732 N.S.; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1012 Enforcement Authority

- (a) The *Director* is authorized to administer and enforce the provisions of Chapter 5, Article 4, Division 10 of this Code. The *Director* or anyone designated by the *Director* to be an *enforcement official* may exercise any enforcement powers as provided in Chapter 1 of this Code.
- (b) In addition to the general enforcement powers provided in Chapter 1 of this Code, the *Director* or designee may exercise any of the following supplemental enforcement powers as the *Director* or designee determines may be necessary under the circumstances.

- (1) Inspection Authority

The *Director* or designee is authorized to inspect the interior and exterior of any *dwelling unit, structure, steel structure, adjacent properties, or premises* where conditions may exist which could amount to a *lead hazard* or where activities which may *disturb or remove paint*, which is *lead-based paint* or *presumed lead-based paint*, have been, are being, or will be conducted, for the purpose of determining the validity of a complaint or compliance with Division 10. All inspections shall be conducted in a reasonable manner. If an *owner, occupant*, or agent refuses permission to enter or inspect, the *Director* or designee may seek an administrative inspection warrant pursuant to the procedures provided for in California Code of Civil Procedure sections 1822.50 through 1822.60.

(2) Sampling Authority

The *Director* or designee may collect *paint, dust, and soil samples* from the interior or exterior of a *dwelling unit, structure, steel structure, adjacent properties, or premises* where conditions may exist which amount to a *lead hazard* or where activities which *disturb or remove paint*, which is *lead-based paint* or *presumed lead-based paint*, have been, are being, or will be conducted, for the purpose of determining the validity of a complaint or compliance with Division 10.

(3) Training

The *Director* or designee may require a *responsible person*, and any employee, agent, or representative of a *responsible person* in violation of Division 10 to attend an approved *lead-safe work practice training course*. The *Director* or designee shall require proof of attendance and satisfactory completion of the course, including certification from the instructor or provider of the course. Upon receipt of said proof, the *Director* or designee, in his or her sole discretion, may reduce or eliminate an administrative penalty, if any, imposed for a violation of Division 10.

(4) Demonstrate Compliance with Records Requirements.

A *person* or firm responsible for the keeping and maintenance of records under this Division must make all such records available to the City of San Diego upon request.

(5) State Certification Required for *Certified Lead Abatement Contractors*.

In addition to permanent abatement measures, any *window treatment* or *hazard* that involves the stripping of *lead-based paint* to the substrate is to be conducted by a *Certified Lead Abatement Contractor*.

(Added 4-8-2008 by O-19732 N.S.; effective 5-8-2008.)

(Amended 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)

§54.1013 Enforcement Remedies

- (a) It is unlawful to violate any provision or requirement of Division 10. The failure to comply with any requirement of Division 10 constitutes a violation of Division 10. Violations of the provisions or requirements of Division 10 may be prosecuted as misdemeanors subject to the penalties provided in section 12.0201 of this Code. The *Director* or designee alternatively may seek injunctive relief or civil penalties in the Superior Court pursuant to section 12.0202 of this Code or may pursue any administrative remedy provided in Chapter 1, Article 2, Divisions 3 through 10 inclusive, of this Code.
- (b) Remedies under section 54.1013 are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(Added 4-8-2008 by O-19732 N.S.; effective 5-8-2008.)

§54.1014 Cost Recovery

- (a) Reinspection Fee

Whenever the *Director* or designee reinspects a *dwelling unit, structure, steel structure, adjacent properties, or premises* to determine compliance with Division 10, this Code, or applicable state law, the *Director* may assess and collect fees, as set forth in Chapter 1, Article 3, Division 1 of this Code, against the *responsible person* to recover the fully ascertainable costs to the City for the following:

- (1) *dwelling unit, structure, or steel structure* reinspections;
- (2) *lead-safe work practice* reinspections;

- (3) laboratory analysis; and
 - (4) sample collection fees.
- (b) Fees, including but not limited to Reinspection Fees and increases to Building Permit fees and Demolition/Removal Permit fees, which are imposed for purposes of regulation, education, and enforcement under Division 10 shall be segregated and deposited into a separate account within a fund. All such fees and accrued interest thereon shall be used solely and exclusively for the purposes for which the fee was imposed.
- (c) The assessment and collection of these fees shall not preclude the imposition of any administrative or judicial penalty or fine for violations of this Code or applicable state laws.
- (d) Civil penalties collected pursuant to Division 10 and investigative costs associated with the enforcement action shall be deposited in the Code Enforcement Civil Penalty Fund established pursuant to section 13.0402 of this Code.
- (e) A fee schedule shall be established and revised as necessary by the City Manager in accordance with Council Policy and City Administrative Regulations to reflect current costs. The fee schedule shall be filed in the Rate Book of City Fees and Charges in the City Clerk's Office.

(Added 4-8-2008 by O-19732 N.S; effective 5-8-2008.)

§54.1015 Strict Liability Offenses

Violations of Division 10 shall be treated as strict liability offenses regardless of intent.

(Added 4-8-2008 by O-19732 N.S; effective 5-8-2008.)

§54.1016 Incorporation of Federal and California Regulations by Reference

Any violation of the following regulations, as they may be amended, shall also constitute a violation of this Division:

- (a) Title 17, sections 36000 to 36100 of the California Code of Regulations, relating to Work Practice Standards for *lead* substances,
- (b) 40 C.F.R. Part 745, Subpart E,
- (c) 24 C.F.R. Part 35, Subpart A.

(“Incorporation of Federal and California Regulations by Reference” added 1-23-2025 by O-21912 N.S.; effective 2-22-2025.)