

## CHAPTER 27

### LEAD PROGRAM

#### SECTIONS:

- 27-1. SCOPE AND PURPOSE
- 27-2. DEFINITIONS
- 27-3. USE AND SALE OF LEAD-BASED PAINT
- 27-4. DISPOSAL OF LEAD-BASED PAINT
- 27-5. REPORTING
- 27-6. INSPECTIONS
- 27-7. REFUSAL OF ADMITTANCE
- 27-8. LEAD-BASED PAINT HAZARD REDUCTION
- 27-9. RETALIATORY ACTIONS
- 27-10. DESIGNATION OF UNFIT FOR HUMAN OCCUPATION  
OR HABITATION
- 27-11. NOTICE
- 27-12. HEARING
- 27-13. JURISDICTION
- 27-14. ENFORCEMENT
- 27-15. MUNICIPAL INFRACTION
- 27-16. SEPARABILITY OF PROVISIONS

#### SEC. 27-1. SCOPE AND PURPOSE

To establish an ordinance controlling lead hazards in dwellings and child-occupied facilities, including establishing minimum standards for inspections and providing penalties for violation of the provisions herein.

This ordinance shall affect only those residential dwellings or child-occupied facilities in which an Elevated Blood Level (EBL) child resides or commonly visits. All owners shall comply with the provisions of this ordinance and of the rules, resolutions, and order adopted pursuant to this ordinance.

#### SEC. 27-2. DEFINITIONS

The following words shall have the following meaning for the purpose of this ordinance.

- A. Board of Health means the Scott County Board of Health pursuant to Chapter 137 of the Code of Iowa.
- B. Chewable surface means an interior or exterior surface painted with lead-based paint that a young child can mouth or chew.
- C. Child-occupied facility means a building, or portion of a building, constructed prior to 1978, visited by the same child under the age of six years on at least two

## LEAD PROGRAM

different days within any week (Sunday through Saturday period, provided that each day's visit lasts at least three hours and the combined weekly visits last at least six hours). Child-occupied facilities may include, but are not limited to, daycare centers, preschools and kindergarten classrooms.

- D. Deteriorated paint means any interior or exterior paint or other coating that is cracking, flaking, chipping, peeling, or chalking, or any paint or coating located on an interior or exterior surface that is otherwise damaged or separated from the substrate of a building component.
- E. Dust-Lead Hazard means surface dust in residential dwellings or child-occupied facilities that contains a mass-per-area concentration of lead equal to or exceeding 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present in a residential dwelling or child-occupied facility when the weighted arithmetic mean lead loading for all single-surface or composite samples of floors and interior windowsills is equal to or greater than 40 micrograms per square foot on floors, 250 micrograms per square foot on interior windowsills, and 400 micrograms per square foot on window troughs based on wipe samples. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled residential dwelling in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled residential unit on the property. A dust-lead hazard is present on floors, interior windowsills, or window troughs in an unsampled common area in a multifamily dwelling if a dust-lead hazard is present on floors, interior windowsills, or window troughs, respectively, in at least one sampled common area in the same common area group on the property.
- F. Dwelling unit means a single, unified combination of rooms designed for use as a dwelling by one family.
- G. Elevated Blood Lead (EBL) Child means any child who has had one venous blood lead level of  $\geq 20$  micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.
- H. Elevated Blood Lead Inspection means an inspection to determine the sources of lead exposure for an elevated blood lead (EBL) child and the provision within ten working days of a written report explaining the results of the investigation to the owner and occupant of the residential dwelling or child-occupied facility being

## LEAD PROGRAM

inspected and to the parents of the elevated blood lead (EBL) child.

- I. Friction surface means an interior or exterior surface that is subject to abrasion or friction including, but not limited to, certain window, floor, and stair surfaces.
- J. Hazardous Lead-Based Paint means lead-based paint that is present on a friction surface where there is evidence of abrasion or where the dust-lead level on the nearest horizontal surface underneath the friction surface (e.g. the windowsill or floor) is equal to or greater than the dust-lead hazard level, lead-based paint that is present on an impact surface that is damaged or otherwise deteriorated from impact, lead-based paint that is present on a chewable surface, or any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of a residential building or child-occupied facility.
- K. Health Department means the Scott County Health Department.
- L. Health Officer means the Environmental Officer or authorized representative of the Scott County Board of Health.
- M. Impact surface means an interior or exterior surface that is subject to damage by repeated sudden force such as certain parts of doorframes.
- N. Lead-based paint means any paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram of lead per square centimeter or more than 0.5 percent by weight. Lead-based paint is present on any surface that is tested and found to contain lead equal to or in excess of 1.0 milligram per square centimeter or more than 0.5 percent by weight and on any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.
- O. Occupant means any person living, sleeping, cooking, eating in, or having any actual possession of a dwelling or dwelling unit.
- P. Owner means any person who, alone or jointly with others:  
(1) shall have legal title to any dwelling, with or without accompanying actual possession thereof, or (2) shall have charge, care or control of any dwelling by acting as the agent of the owner or as the executor, administrator, trustee, or guardian of the estate of the owner.

## LEAD PROGRAM

- Q. Residential dwelling means (1) a detached single-family dwelling unit, including the surrounding yard, attached structures such as porches and stoops, and detached buildings and structures including, but not limited to: garages, farm buildings, and fences, or (2) a single-family dwelling unit in a structure that contains more than one separate residential dwelling unit, which is used or occupied, or intended to be used or occupied, in whole or part, as the home or residence of one or more persons.
- R. Soil-Lead Hazard means bare soil on residential real property or on the property of a child-occupied facility that contains total lead in excess of 400 parts per million for the dripline, mid-yard, and play areas. A soil-lead hazard is present in a dripline, mid-yard, or play area when the soil-lead concentration from a composite sample of bare soil is equal to or greater than 400 parts per million. If soil samples are not taken, it may be assumed that bare soil within three feet of the foundation of a garage or other structure built prior to 1978 is a soil-lead hazard.

### SEC. 27-3. USE AND SALE OF LEAD-BASED PAINT

No person shall possess, sell, expose for sale, deliver, or give away any lead-based paint intended for painting or covering any surface on the interior or exterior of a residential dwelling.

### SEC. 27-4. DISPOSAL OF LEAD-BASED PAINT

- A. Lead-based paint shall be disposed of in accordance with local, state, and federal ordinances for disposing of hazardous waste.
- B. All repair, renovation, or remodeling waste which contains lead-based paint shall be disposed of according to local waste disposal ordinances. No person shall re-use or recycle such waste for residential purposes.

### SEC. 27-5. REPORTING

Any examining private physician, hospital staff physician, public health nurse, or other diagnosing person or health agency personnel shall report to the Health Officer the existence and circumstances of each case of undue lead

## LEAD PROGRAM

absorption or poisoning known to them and not previously reported. Such reports shall be made not later than three (3) days after said person first diagnoses or is informed of such case.

### SEC. 27-6. INSPECTIONS

- A. The Health Officer may cause to have inspected the residential dwelling or child-occupied facility of an EBL child for lead hazards. The inspection shall be conducted by an elevated blood lead (EBL) inspector/risk assessor certified by the Iowa Department of Public Health under Iowa Administrative Code 641-70.5. The inspection shall be conducted according to the procedures for elevated blood lead (EBL) inspections contained in Iowa Administrative Code 641-70.6(3). The findings of such inspection will be recorded and documented by the Health Officer according to the procedures contained in Iowa Administrative Code 641-70.6(3).
- B. When hazardous lead-based paint, a soil-lead hazard, or a dust-lead hazard is found in a residential dwelling or child-occupied facility inspected pursuant to this section or otherwise, the Health Officer shall recommend that all children under six years of age who reside in or visit or have recently resided in or visited the residential dwelling unit or child-occupied facility to be test for lead poisoning.
- C. The report of an elevated blood lead (EBL) inspection shall be given in a written notice to the owner within one (1) week of the inspection and receipt of any laboratory results. The Health Officer shall inform such other persons or agencies as he/she deems advisable.

### SEC. 27-7. REFUSAL OF ADMITTANCE

- A. In the event the Health Officer, in proceeding to enter any premises for the purpose of making an inspection to carry out the provisions of this ordinance, shall be refused entry, a complaint may be made under oath to any magistrate of the county who shall issue a warrant to a peace officer of the county directing him between the hours of sunrise and sunset, to accompany the Health Officer, when entering said residential dwelling unit or child-occupied facility to make such inspection, and to obtain such samples as may be required to carry out the provisions of this ordinance.

## LEAD PROGRAM

### SEC. 27-8. LEAD-BASED PAINT HAZARD REDUCTION

- A. When the Health Officer determines that hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard is present in a residential dwelling unit or child-occupied facility where an elevated blood lead (EBL) child lives, frequently visits, or has recently resided, he/she shall, in accordance with Section 27-6.C., issue a written notice within one (1) week of the inspection and receipt of any laboratory results to the owner requiring the owner to eliminate the hazard in a time period as prescribed by the Scott County Lead procedure. At the discretion of the Health Officer, additional time may be granted to eliminate said hazard. Methods for compliance shall be in accordance with this section.
- B. In the event the residential dwelling is vacated by the occupant who occupied same at the time of the issuance of corrective notice referred to in this section, such dwelling shall not be let or occupied by any other person until such corrective notice is complied with. The owner of any residential dwelling or child-occupied facility which has been determined to contain hazardous lead-based paint, a soil-lead hazard, or a dust-lead hazard, shall correct these hazards by methods approved by the Health Officer within the time period allowed by the Health Officer in a written notice. Failure to correct the hazard(s) within the allotted time period shall result in the appropriate legal action against the owner for noncompliance, pursuant to Section 27-14.
- C. Hazardous lead-based paint on surfaces other than those that are chewable or have evidence of impact or friction shall be corrected by removing all loose and deteriorated paint from the surfaces, properly preparing the surfaces for repainting and repainting the surfaces with lead-free paint. Such activities do not require the services of a lead abatement contractor certified in accordance with Iowa Administrative Code 641-70.5. Other local, state, or federal ordinances may require the use of a contractor who has completed an 8-hour lead safe work practices course or a lead abatement contractor or lead abatement certified in accordance with Iowa Administrative Code 641-70.5.
- D. Hazardous lead-based paint on surfaces that are chewable or have evidence of impact or friction shall be corrected by treating the surfaces one (1) inch back from the edge or corner of such surfaces through one of the two (2) following methods:

## LEAD PROGRAM

1. All lead-based paint on the treatment area shall be removed to the bare substrate. The surface(s) must be properly prepared and repainted with lead-free paint or refinished.
  2. The treatment area may be covered with a permanently affixed lead-free material such as plastic, wood, or vinyl carpet may be used on floors and stair treads.
  3. Such activities do not require the services of a lead abatement contractor certified in accordance with Iowa Administrative Code 641-70.5. Other local, state, or federal ordinances may require the use of a contractor who has completed an 8-hour lead safe work practices course or a lead abatement contractor or lead abatement certified in accordance with Iowa Administrative Code 641-70.5.
- E. The Health Officer shall have the authority to determine that a surface that may otherwise be identified as a hazard by this ordinance is not required to be corrected. If the Health Officer is able to determine a surface that fits the description of a hazard under this ordinance is not causing or does not have reasonable potential to cause lead exposure, the Health Officer may, with written notice, deem that the surface is not required to be repaired. This may be done only after a thorough investigation of the entire residential dwelling or child-occupied facility is complete, and careful evaluation of the source(s) identified as the cause or potential cause of lead poisoning are identified. Detailed documentation of such surfaces shall be included in the final report of the premises and be provided to the owner, tenant, and Health Officer.
- F. When the Health Officer determines that a surface with hazardous lead-based paint is present, he or she is required to order remediation of said surface.
- G. Dust-lead hazards shall be corrected by thoroughly cleaning the affected surface(s).
- H. Soil-lead hazards shall be corrected by covering the affected area with six (6) inches of bark, gravel, or other material.
- I. The identified hazards must be corrected by using lead-safe work practices that will protect the safety of the occupants and workers. The following practices are prohibited:

## LEAD PROGRAM

1. Open flame burning or torching of lead-based paint.
  2. Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint unless used with High Efficiency Particulate Air (HEPA) exhaust control that removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.
  3. Unconfined water blasting of lead-based paint.
  4. Dry scraping or dry sanding of lead-based paint except in conjunction with the use of a heat gun or around electrical outlets.
  5. Operating a heat gun at a temperature above 1100 degrees Fahrenheit.
- J. Occupants are prohibited from entering the work area while work is underway.
- K. The Health Officer shall inspect all area cited as hazards after remediation is complete. The Health Officer may take dust samples to ensure that no dust-lead hazards exist after the completion of the work. When all work has been completed as required, a written notice shall be issued to all affected parties and retained by the Health Officer, stating that the work has been completed and that the repaired surfaces must be maintained in good condition. Said written notice shall be sent within thirty (30) days following the final inspection.

### SEC. 27-9. RETALIATORY ACTIONS

- A. It shall be unlawful for the lessor of a dwelling, or his/her employees, agents, or persons acting in his/her behalf to retaliate against lessees of dwellings whose occupants have been tested for lead poisoning.
- B. It shall be unlawful for the lessor of a dwelling, or his/her employees, agents, or persons acting in his/her behalf to prohibit or discourage the occupants of the dwelling from participating in the lead poisoning screening program.
- C. "Retaliation" shall include harassment, termination of the tenancy, discontinuation of utilities or other services, and any other action taken against the lessee.
- D. "Occupants" shall include visitors in the dwelling.
- E. An action taken against the tenant shall not be considered retaliation if:

## LEAD PROGRAM

1. It is supported by reasonable cause unrelated to the occupants' participation in the lead poisoning screening program; OR
2. It is shown to have occurred as a result of accident or mistake, and not be the intentional act of the lessor or his/her employees, agents or persons acting in his/her behalf.

### SEC. 27-10. DESIGNATION OF UNFIT FOR HUMAN OCCUPATION OR HABITATION

- A. Any building, dwelling, structure, or business may be designated as unfit for human habitation when any defect or condition which is in violation of this Ordinance has been found to exist or when in the judgment of the Health Officer such defects or conditions create a hazard to the health, safety or welfare of the occupants or of the public. The owner of any building, dwelling, structure or business which has been designated as unfit by the Health Officer shall within the time limit specified by the Health Officer, vacate or cause for the vacation of the same. No person shall deface or remove a placard from any building, dwelling, structure or business that has been designated as unfit for human habitation by the Health Officer.

### SEC. 27-11. NOTICE

- A. Whenever the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Chapter or any Chapter adopted pursuant thereto, he/she shall give notice of such alleged violation to the person or person responsible within seven (7) days, as hereinafter provided. Such notice shall:
  1. Be in writing.
  2. Include a statement of the reasons why it is being issued.
  3. Allow a reasonable time for the performance of any act it requires.
  4. Be served upon the landowner or his agent or the occupant, as the case may require; provided that such notice shall be deemed to be properly served upon such landowner or agent, or upon such occupant, if a copy thereof is sent by certified mail to his last known address; or if a copy thereof is posted in a conspicuous place in or about the premises

## LEAD PROGRAM

affected by the notice, or if he is served with such notice by any other method authorized or required under the laws of this state.

- B. Such notice may contain an outline of remedial action, which, if taken, will effect compliance with the provisions of this ordinance, and with ordinances adopted pursuant thereto.

### SEC. 27-12. HEARING

- A. In the event any person is aggrieved by any order made by the Health Officer, he/she may within twenty (20) days of the date of such order, appeal to the Board of Health and in writing, state his/her reasons for requesting such order to be rescinded or modified. The Board of Health shall review the actions of the Health Officer, and if reasonable grounds exist, shall modify, withdraw or order compliance with said order. Appeal from any order of the Board of Health may be taken within twenty (20) days to the District Court of Scott County, Iowa.

### SEC. 27-13. JURISDICTION

- A. The provisions of this Chapter shall apply throughout Scott County, Iowa, including cities and towns therein.

### SEC. 27-14. ENFORCEMENT

- A. It shall be the duty of the Health Officer to enforce the provisions of this Chapter.

### SEC. 27-15. MUNICIPAL INFRACTIONS

- A. Any person, persons, firm, partnerships or corporations, whether acting alone or in concert with any other, who violates this ordinance shall be guilty of a municipal infraction and shall be penalized as set forth in Chapter 29 of the County Code of Scott County, Iowa.

### SEC. 27-16. SEPARABILITY OF PROVISIONS

- A. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.