



Legislation Text

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File #: O-223-18, Version: 1

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Councilman Ludeman

**Amending the Toledo Municipal Code by repealing the existing Chapter 1760, Registration of Lead Safe Residential Rental Units, and enacting a new Chapter 1760 under Part 17, Title 3 entitled Lead Safe Residential Rental Units and Day Care Centers; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

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.

City Council desires to amend the Toledo Municipal Code by repealing the existing lead laws, Ch. 1760, and enacting a new Ch. 1760 for Lead Safe Residential Rental Units and Day Care Centers.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTOON 1. That the existing Toledo Municipal Code Chapter 1760, Registration of Lead Safe Residential Rental Units, is hereby repealed in its entirety.

SECTION 2. That a new Part 17, Title 3, Chapter 1760 of the Toledo Municipal Code is enacted to read as follows:

**Lead Safe Residential Rental Units and Day Care Centers**

**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 Lead Based Paint.**

A licensed lead paint inspector, approved and certified by the Toledo-Lucas County Health Department, will inspect all residential rental units and day care centers in Toledo for lead based paint. The inspection is visual. Failure to pass this inspection requires a further inspection and dust wipe test by an independent lead

inspector at the expense of the property owner. The lead must be remediated before rental can occur or usage of a day care center. A lead safe certificate must be presented to the Toledo-Lucas County Health Department along with a filing fee of forty-five dollars (\$45.00) before rental can occur or usage of a day care center.

### **1760.03 Lead Poisoning Prevention Information for Tenants.**

The Toledo-Lucas County Health Department along with community partners 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.

Educational materials and the “Disclosure of Information on Lead Paint and/or Lead-Based Paint Hazards” must be given to each tenant at the time of leasing/occupancy. The “Disclosure of Information on Lead Based Paint and/or Lead Paint Hazards” must be signed and filed with the Toledo-Lucas County Health Department.

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.

### **1760.04 Right of Inspection and Enforcement.**

A certified lead paint inspector 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 certified lead paint inspector 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.

### **1760.05 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.

### **1760.06 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) 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.

**1760.07 Exemption.**

This Chapter shall not apply to Residential Rental Properties owned and operated by the Lucas Metropolitan Housing Authority's (LMHA) public housing program and subject to the required inspections, performed by a certified employee of the Lucas Metropolitan Housing Authority.

**1760.08 Owner-occupied homes.**

Owners of residential owner-occupied homes are encouraged to take note of this Chapter and address potential lead based paint in pre-1978 residential structures.

SECTION 3. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and property of the City and for the further reason that this Ordinance is required to be effective immediately in order to repeal the existing lead laws and enact new lead laws; wherefore, this Ordinance shall be in full force and effect from and immediately after its passage, or at the earliest time allowed by law.

Vote on emergency clause: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Passed: \_\_\_\_\_, as an emergency measure: 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