



Legislation Text

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Amendment from Senior Attorney Lavalette

Repealing and Replacing Chapter 1760 of the Toledo Municipal Code, Registration of Rental Properties and Lead Safety; and declaring an emergency.

SUMMARY & BACKGROUND:

The City of Toledo now brings forward this ordinance repealing the current chapter of Toledo Municipal Code, Ch. 1760, Registration of Residential Rental Properties and Lead Safety, and enacting a new Ch. 1760, Residential Rental Properties and Lead Safety Compliance. The change is made to remove the administrative hearing process.

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

SECTION 1. That Toledo Municipal Code Chapter 1760 Registration of Rental Properties and Lead Safety as provided on Exhibit A hereto, is hereby repealed.

SECTION 2. That Toledo Municipal Code Chapter 1760 Residential Rental Properties and Lead Safety Compliance is hereby enacted and shall read as follows:

CHAPTER 1760

Residential Rental Properties and Lead Safety Compliance

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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, bare soil, and lead dust on the interior and exterior of pre-1978 residential structures be identified and correctly addressed in accordance with federal, state, and local laws, regulations, and guidelines in order to prevent potential human exposure to lead hazards. An analysis of the risk assessments conducted in Toledo by the Health Department indicates that the majority of lead poisoning of children occurs in rental properties that are either single-family homes or four (4) units or less. All fees related to obtaining the Lead-Safe Certificate shall be deposited in the Lead Ordinance Fund of the Toledo Lucas County Health District, and all fines related to enforcement of this Chapter shall be deposited into the Nuisance Abatement Trust Fund, to be used exclusively for the administration, implementation, and enforcement of this Chapter.

1760.02 Obligations for residential rental properties and family child care homes.

(a) It is a violation of this Chapter to allow the following conditions to exist in a "Residential Rental Property or a Family Child Care Home:" (1) "Deteriorated Paint Condition," (2) "Lead Dust Condition," or a (3) "Bare Soil Condition," as defined in section 1760.04. Every Owner of a pre-1978 Residential single-family or four (4) units or less Rental Property shall maintain such property free from these conditions. Any such condition(s) must be remedied in accordance with 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, or otherwise allow the occupancy of any Residential Rental Property, or provide child care services in a Family Child Care Home, as defined in this Chapter, constructed prior to 1978 and which is subject to this Chapter, whether such use, or occupancy is temporary or permanent, unless a "Lead-Safe Certificate" has been issued for such Property.

(c) All provisions of this Chapter shall apply to Family Child Care Homes, as defined in this Chapter, excepting 1760.09(c).

1760.03 Obtaining a Lead-Safe Certificate.

(a) The Commissioner of the Health Department shall issue a "Lead-Safe Certificate" upon the filing of all of the following with the Health Department:

(1) A completed application for a "Lead-Safe Certificate," to include the name, address, telephone number, and email address of the Owner of the Residential Rental Property or Family Child Care Home and the number of rental units at the address. In the case of ownership under partnership, limited liability company, corporation, trust, estate, or other non-natural person entity, the application shall include the names, addresses, telephone numbers, and email addresses of all current partners, members, statutory agents, corporate officers, trustees, or executors that may exist under such ownership. The address for non-natural person entities shall be the principal place of business and the address for persons shall be the home address. If the Owner is located outside of Lucas County, the Owner shall designate in its application the name, address, telephone number, and email address of an Agent who is a natural person and who resides within Lucas County, as defined by this chapter. An Agent designated under this section shall be of sound mind and at least eighteen (18) years of age. It is the Owner's obligation to notify the Health Department, in writing, of any change in the name, address, telephone number, and/or email address of any Agent designated within sixty (60) days after the change occurs.

(2) A "Lead-Safe Report" issued by a "Local Lead Inspector," as defined in Section 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 Report" an application may contain the certification described in section 1760.05(b); and

(3) A filing fee of twenty-five dollars (\$25.00) per unit.

(b) The "Lead-Safe Certificate" shall expire from the date of issuance by the Commissioner as follows:

(1) five (5) years for any property that passes the visual and dust wipe inspection;

(2) twenty (20) years if the property has undergone a complete 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) and a tested composite sample of soil from within the Dripline contains less than four hundred micrograms per gram of lead and a lead clearance examination has been performed by a licensed Lead Risk Assessor.

(c) Upon the sale, purchase, or transfer of ownership of Residential Rental Property or a Family Child Care Home constructed prior to 1978 and which is subject to this Chapter, the Commissioner of the Health Department shall issue an updated "Lead-Safe Certificate" in the name of the new Owner, upon application and receipt of a re-issue fee of \$10.00. 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.

(e) Previously issued "Lead-Safe Certificates" as of December 2016 will be recognized and grandfathered-in with an adjusted certificate date to reflect compliance with this Chapter.

(f) Previously completed clearance examinations from December 2016 to October 2020 without an issued "Lead-Safe Certificate" will be recognized but must be submitted with a new application for a "Lead-Safe Certificate." The application shall include the filing of the "Lead-Safe Report" and filing fee.

(g) All fees related to the Lead-Safe Certificate shall be deposited in the Lead Ordinance Fund of the Toledo Lucas County Health District to be used exclusively for the administration, implementation, and enforcement of this Chapter.

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) "Bare Soil Condition" means bare or exposed soil within the "Dripline."

(3) "Commissioner" means the Health Commissioner of the Toledo-Lucas County Health District.

(4) "Deteriorated Paint Condition" 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.

(5) "Dripline" means the area within three (3) feet surrounding the perimeter of a building.

(6) "Dwelling Unit," for purposes of 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, (3) any residential unit, or other unit modified to be a residential unit consisting of between one and four

residential units 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) "Family Child Care Home," for purposes of this Chapter, means a type A Home or a type B Home as defined by Ohio Revised Code section 5104.01.
- (8) "Health Department" means the Toledo-Lucas County Health District.
- (9) "Immediate Family," for purposes of this Chapter, includes father, mother, brother, sister, spouse, child, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepmother, stepfather, grandmother, grandfather and grandchild.
- (10) "Interim Controls," for purposes of this Chapter, means a set of measures designed to reduce temporarily human exposure or likely exposure to the "Maintenance Conditions" identified in section 1760.02 (a). These measures include specialized cleaning, repairs, maintenance, painting, temporary containment, and ongoing monitoring of "Maintenance Conditions" or potential "Maintenance Conditions."
- (11) "Issuer" means a "Local Lead Inspector" who has issued a "Lead-Safe Report" for a "Residential Rental Property".
- (12) "Lead Abatement," for purposes of this Chapter, has the same meaning as it does in Ohio Revised Code section 3742.01: "A measure or set of measures designed for the single purpose of permanently eliminating lead hazards. "Lead Abatement" includes all of the following:
- (a) Removal of lead-based paint and lead-contaminated dust;
 - (b) Permanent enclosure or encapsulation 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.
- (13) "Lead Dust Condition" means surface dust (visible or invisible) that contains a mass-per-area concentration of lead equal to or exceeding current US EPA Hazard Standards and Clearance Levels based on wipe samples.
- (14) "Lead-Safe Certificate" is a certificate issued by the Health Department that indicates that a Residential Rental Property or a Family Child Care Home has been certified as lead-safe pursuant to this Chapter.
- (15) "Lead-Safe Report" means a written report from a "Local Lead Inspector," as defined by this Chapter, verifying that the "Owner" has sufficiently controlled "Maintenance Conditions." The "Lead-Safe Report" shall be written and shall contain the following:
- (a) The address of the "Residential Rental Property" or "Family Child Care Home;"
 - (b) Name, address, and telephone number of the "Owner" or "Agent" of the "Residential Rental Property" or "Family Child Care Home;"
 - (c) A statement verifying that the "Owner" has sufficiently controlled "Maintenance Conditions;"
 - (d) A completed Visual Clearance Form;
 - (e) A Clearance Examination Report;

- (f) A floor plan with indicated sample locations;
- (g) A Clearance Dust Sampling Form with lab results attached;
- (h) The name, address, license number, and signature of the "Local Lead Inspector," performing the "Local Lead Inspection" and the date that the inspection was performed.

(16) "Local Lead Inspection" means an inspection that includes a visual assessment of a "Residential Rental Property" or "Family Child Care Home," followed by the collection of environmental samples to determine the presences of "Maintenance Conditions," as detailed in 1760.06.

(17) "Local Lead Inspector" means (1) an individual, licensed by the Ohio Department of Health as a lead risk assessor, lead inspector, clearance technician or (2) an individual who meets the licensing standards established by the Health Department, subject to approval by the Ohio Department of Health. A "Local Lead Inspector" may not inspect a property they own, a property owned by a relative, a property in which they have a financial interest, or where they receive or have received payments for providing services to the property owner exclusive of an initial consultation related to a "Local Lead Inspection."

(18) "Maintenance Conditions" means the existence of any of the following: a "Deteriorated Paint Condition," a "Lead Dust Condition" or a "Bare Soil Condition," which are presumed lead hazards.

(19) "Occupant" means a person who inhabits a "Dwelling Unit."

(20) "Owner" means any legal entity or person who has legal title to the "Residential Rental Property" as shown on the records of the Lucas County Auditor.

(21) "Quality Maintenance Practices" for purposes of this Chapter must adhere to the US EPA Lead Renovation, Repair and Painting Program (RRP) Rules codified at 40 CFR 745, subpart E.

(22) "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 portion of the structure.

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 all of the following:

(1) A full visual assessment in the Residential Rental Property or Family Child Care Home to identify all Deteriorated Paint, visible dust, paint chips, debris, or residue on interior or exterior surfaces, and bare or exposed soil within the Dripline. Deteriorated Paint is presumed to contain lead unless proven otherwise under 1760.05.

(2) Following a passing visual assessment, a dust sample shall be collected from a floor, and if present, windowsill and window trough in no fewer than four separate rooms. A minimum of 12 samples shall be collected unless the Residential Rental Property, or Family Child Care Home 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, and submitted to a licensed environmental lead analytical laboratory for analysis for lead, interpretation of sampling results, and preparation of a report.

(3) The issuance of a "Lead-Safe Report" for units that pass a Lead Clearance Examination.

(b) The standards to be applied to a "Local Lead Inspection" shall be performed in compliance with Ohio Department of Health and US EPA Hazard Standards.

1760.07 Local lead inspectors and workers as registered individuals.

(a) All Local Lead Inspectors must register with the Health Department before performing any Local Lead Inspections. Registration will include the submission of name, address, license number, and \$45.00 registration fee.

(b) Local Lead Inspectors must have an active license (Lead Risk Assessor, Lead Inspector, or Clearance Technician) with the Ohio Department of Health Environmental Licensure and Accreditation program.

(c) All work related to the achievement of a Lead-Safe Certificate shall be conducted in accordance with this Chapter and Ohio law. Local Lead Inspectors, Owners, Agents, and their employees may attend no cost educational training sessions provided at the discretion of the Health Department or other organizations or agencies approved by the Health Department. The educational training sessions may provide information to Owners, Agents, and their employees on how to maintain properties in a lead-safe manner. Attendance at these educational training sessions is optional and is not a guarantee of compliance or lead hazard clearance.

(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 Health Department may perform inspections of Residential Rental Properties and Family Child Care Homes 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 Local Lead Re-inspections 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 or Family Child Care Home Lead-Safe Report;
nonresponsibility of Issuer:

(1) The Commissioner of the Health Department or the Commissioner's designee, is authorized to reject a Residential Rental Property or Family Child Care Home 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 or Family Child Care Home 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 or Family Child Care Home Lead-Safe Report shall be accepted from an Issuer who is not registered with the Health Department, or who has been found by the Commissioner to be nonresponsible.

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

(4) Upon making a nonresponsibility determination, the Commissioner may bar the Issuer and affiliated organizations, as further set forth herein, from submitting Local Lead Inspection Reports to the Health Department 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 an officer, director, or person directly or indirectly controlling 10% or more of the stock of the corporation is found to be nonresponsible. If an unincorporated association is found to be nonresponsible, that finding may be extended to other related

associations upon a finding by the Commissioner that the related associations have substantially the same ownership, management, or operating personnel.

(5) In determining the nonresponsibility of an Issuer, the Commissioner 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 Local Lead Inspection.

(f) In addition to the factors specified above, the Commissioner 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 Commissioner 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 Commissioner may use the information contained in the response to the sworn statement in making a determination of Issuer nonresponsibility.

(7) Any Issuer who is adversely affected by any ruling issued pursuant to this Section may appeal such ruling by requesting a license revocation hearing before the Nuisance Abatement Housing Appeals Board pursuant to Section 1726.04(d).

1760.08 Right of inspection and enforcement.

The Commissioner of the Division of Code Compliance and/or their designee and/or the Commissioner of the Health Department and/or their 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. Where permission to enter has not been obtained, is denied, or there is probable cause to believe a violation of this Chapter has occurred in a dwelling unit, the Commissioner shall have recourse to the remedies provided by law to secure entry. The Commissioner of the Health Department and the Director of the Department of Housing and Community Development may petition any court of competent jurisdiction to seek any relief necessary to enforce the provisions of this Chapter.

1760.09 Lead-Safe Residential Rental Property and Family Child Care Home Registry implementation and compliance.

(a) The City of Toledo, Department of Housing and Community Development and the Health Department shall develop an implementation and compliance plan so that by December 31, 2026, all pre-1978 Residential single-family or four (4) units or less Residential Rental Properties and Family Child Care Homes, as defined

by and subject to the provisions of this Chapter, shall be registered as lead safe and determined to be in compliance with this Chapter.

(b) The Health Department shall create an electronic Lead-Safe Residential Rental Property and Family Child Care Home Registry, which will provide information regarding the 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.

(c) Owners of Residential Rental Property shall also register with the Lucas County Auditor Residential Rental Property Registration as required by the Ohio Revised Code and TMC 1767.

(d) The City of Toledo Department of Housing and Community Development and the 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 and Family Child Care Home applications for a Lead-Safe Certificate and the number of compliance actions taken against Owners of Residential Rental Properties and Family Child Care Homes 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 hazards 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 unsupported rent increases and non-renewals) or interfere with the occupants' use of the property.

1760.11 Protections for tenants.

(a) Properties that are vacant when a Lead-Safe Certificate is required. When a Lead-Safe Certificate is required under this Chapter (subject to the phase-in schedule provided in Section 1760.14(a)), if any Residential Rental Property constructed before 1978 contains a rental unit that is or becomes vacant and not yet leased to a tenant, the Owner of that property may not lease the unit for occupancy until the Owner obtains a Lead-Safe Certificate.

(b) Leases with new tenants when a Lead-Safe Certificate is required. When a Lead-Safe Certificate is required under this Chapter, if a current tenant vacates any Residential Rental Property constructed before 1978, the Owner of that property may not lease the unit for occupancy to a new tenant until the Owner obtains a Lead-Safe Certificate.

(c) Evictions of current tenants. No Owner without good cause to evict a tenant may cause a tenant to be evicted because the Owner does not wish to comply with the requirements of this Chapter. No Owner without good cause may refuse to renew a month-to-month or other periodic tenancy because the Owner does not wish to comply with the requirements of this Chapter.

(d) Rights of tenants under the Ohio Landlord-Tenant Act. Nothing in this Chapter shall be construed to limit the rights of tenants under the Ohio Landlord-Tenant Act, including but not limited to the right to withhold rent or terminate a tenancy in response to Owner's failure to comply with the Ohio Landlord-Tenant Act.

(e) Lead-Safe Certificate provided upon lease. Upon leasing a Residential Rental Property, the Owner shall provide the tenant with either a copy of any Lead-Safe Certificate issued for the property or documentation showing that the property was constructed after 1978.

1760.12 Lead poisoning prevention materials for tenants, tenant protection for families living in rental

properties and requirements for rental property owners to provide lead poisoning information.

(a) The 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. In addition, specific information and educational materials shall be provided to each tenant that address the following topics:

(1) The importance and steps necessary to have children tested for lead poisoning.

(2) Steps that tenants need to follow in order to keep the property in Lead-Safe condition, including the steps that need to be followed to clean the property in a manner that will result in protection from Lead Dust Conditions.

(b) Owners of Residential Rental Property must give prospective tenants of buildings built before 1978:

(1) An EPA-approved information pamphlet on identifying and controlling lead-based paint hazards.

(2) Any known information concerning lead-based paint or lead-based paint hazards pertaining to the building.

(3) For multi-unit buildings this requirement includes records and reports concerning common areas and other units when such information was obtained as a result of a building-wide evaluation.

(4) A lead disclosure attachment to the lease, or language inserted in the lease, that includes a "Lead Warning Statement" as required by 40 CFR 745.113 and confirms that you have complied with all notification requirements set forth in this Section

(5) A copy of the current Lead-Safe Certificate issued for the property as required under this Chapter.

1760.13 Lead poisoning prevention resources and technical support for residential rental property owners and family child care homes.

The Health Department shall create, and make available to Owners, lead poisoning prevention Materials, technical materials relating to Local Lead Inspections, and the standards for repairs required by federal law and regulations.

1760.14 Compliance.

(a) Based on an analysis of public health data, including all the reported cases in which children have been lead poisoned over the past five years and Census as well as residential parcel information, each Census Tract in the City of Toledo has been analyzed. The following phase-in enforcement schedule requires compliance from those rental properties in the order they pose the greatest risk of lead exposure to children, through the ten (10) phases of the compliance cycle. Dwelling units shall be required to comply with Section 1760.02, and Section 1760.11(a), and shall be subject to enforcement for non-compliance as set forth below:

1. Dwelling Units in the following Census Tracts shall comply by March 31, 2023:

Census Tract 2, Census Tract 4, Census Tract 6, Census Tract 7, Census Tract 8, Census Tract 9, Census Tract 10, Census Tract 14, Census Tract 16, Census Tract 17, Census Tract 18

2. Dwelling Units in the following Census Tracts shall comply by June 30, 2023:

Census Tract 20, Census Tract 21, Census Tract 22, Census Tract 25, Census Tract 29, Census Tract 30, Census Tract 32, Census Tract 33, Census Tract 35, Census Tract 36, Census Tract 39

3. Dwelling Units in the following Census Tracts shall comply by June 30, 2023:

Census Tract 40, Census Tract 42, Census Tract 44, Census Tract 47.01, Census Tract 47.02, Census Tract 48, Census Tract 49, Census Tract 51, Census Tract 54, Census Tract 103

4. Dwelling Units in the following Census Tracts shall comply by December 31, 2023:

Census Tract 3, Census Tract 11, Census Tract 12.02, Census Tract 13.02, Census Tract 13.03, Census Tract 15, Census Tract 19, Census Tract 23, Census Tract 24.01, Census Tract 24.02

5. Dwelling Units in the following Census Tracts shall comply by June 30, 2024:

Census Tract 26, Census Tract 27, Census Tract 28, Census Tract 31, Census Tract 37, Census Tract 45.01, Census Tract 46, Census Tract 50, Census Tract 52, Census Tract 53

6. Dwelling Units in the following Census Tracts shall comply by December 31, 2024:

Census Tract 55.01, Census Tract 55.02, Census Tract 57.02, Census Tract 57.03, Census Tract 62, Census Tract 63, Census Tract 64, Census Tract 65, Census Tract 66, Census Tract 68

7. Dwelling Units in the following Census Tracts shall comply by June 30, 2025

Census Tract 73.03, Census Tract 74, Census Tract 76, Census Tract 86, Census Tract 102, Census Tract 12.01, Census Tract 13.01, Census Tract 34, Census Tract 45.03, Census Tract 45.04

8. Dwelling Units in the following Census Tracts shall comply by December 31, 2025:

Census Tract 55.03, Census Tract 56, Census Tract 57.01, Census Tract 58.01, Census Tract 58.02, Census Tract 59.01, Census Tract 59.02, Census Tract 60, Census Tract 61, Census Tract 67

9. Dwelling Units in the following Census Tracts shall comply by June 30, 2026:

Census Tract 69, Census Tract 72.02, Census Tract 72.03, Census Tract 72.04, Census Tract 72.05, Census Tract 73.01, Census Tract 73.02, Census Tract 75, Census Tract 77, Census Tract 78

10. Dwelling Units in the following Census Tracts shall comply by December 31, 2026:

Census Tract 79.01, Census Tract 79.02, Census Tract 80, Census Tract 83.01, Census Tract 83.02, Census Tract 84, Census Tract 85, Census Tract 104

After December 31, 2026, all dwelling units shall comply with this Chapter. This Chapter only applies to dwelling units located within the geographical limits of the City of Toledo.

(b) The Owner, as defined by Section 1760.04(20), of a Residential Rental Property or Family Child Care Home where a Lead-Safe Certificate has not been issued within the time schedule for compliance specified in Section (a) shall be provided written notice of the violation and an order to comply within thirty days from date of notice.

(1) The written notice shall be given to the Owner

A. In person; or

B. By U.S. mail to the owner's last known address; or

C. By posting the notice on the Residential Rental Property or Family Child Care Home.

(2) The notices of violation shall state the nature of the violation and the time period for correction and may state corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

(c) Anyone in violation of Section 1760.02 after the dates and time schedule for compliance established in subsections (a) and (b), herein, shall be subject to the penalties listed in Section 1760.99.

(d) Anyone in violation of any other portion of this Chapter shall be subject to the penalties listed in Section 1760.99.

(e) All fines related to enforcement of this Chapter shall be deposited into the Nuisance Abatement Trust Fund, to be used exclusively for the administration, implementation, and enforcement of this Chapter.

1760.15 Exemptions.

(a) This Chapter shall not apply to properties taken by a governmental entity in a foreclosure proceeding which are:

- (1) scheduled for demolition; or
- (2) scheduled for sale within twelve (12) months; or
- (3) vacant and secured.

(b) 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 Local Lead Inspector, excepting that Sections 1760.08, 1760.09(c), and 1760.12(a) and (b)(1)-(4) of this Chapter shall apply to Residential Rental Properties owned and operated by LMHA. LMHA shall provide the City of Toledo's Department of Housing and Community Development a list of addresses of Residential Rental Properties so excluded under this exemption on an annual basis.

(c) The City of Toledo reserves the right to eliminate any exemption if it is discovered that a child has been lead poisoned at the location of one of the Owner's Residential Rental Properties or Family Child Care Homes at a level of 3.5 ug/dL or greater (which value represents the blood lead reference value currently used by the Centers for Disease Control and Prevention to identify children with blood lead levels that are higher than most children's levels).

1760.99 Penalties

- (a) Whoever violates Section 1760.02 after the dates and time schedule for compliance established in Section 1760.14(a) and (b) shall be guilty of a misdemeanor of the first degree. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
- (b) Whoever violates any provision of this Chapter for which a penalty has not otherwise been provided is guilty of a misdemeanor of the first degree. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

Be and hereby is enacted, repealing and replacing the previous Chapter 1760 in its entirety.

SECTION 3. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that it is necessary for the immediate preservation of the public peace, health, safety, and property, and to ensure prompt implementation to allow time for the deadlines for lead safety compliance to be met.

Vote on emergency clause: yeas 12, nays 0.

Passed: January 24, 2023 as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

January 24, 2023
Wade Kapszukiewicz
Mayor