

S U M M A R Y

This proposed ordinance amends Chapter 9, Article I, of the 1984 Detroit City Code, *the Detroit Property Maintenance Code*, by amending Division 1, 'In General' and Division 3, 'Requirements for Rental Property,' by amending Sections 9-1-3, 9-1-20, 9-1-81, 9-1-82, 9-1-83, and 9-1-84 and by adding Division 3, Part 3, *Lead Clearance*, Sections 9-1-91, 9-1-92, 9-1-93, 9-1-94, 9-1-95, 9-1-96, 9-1-97, and 9-1-98 to revise the definition of 'rental property'; to define 'abatement or abated,' 'certified abatement worker,' 'certified clearance technician,' 'certified lead inspector,' 'certified renovator,' 'certified risk assessor,' 'chewable surface,' 'clearance examination,' 'community residential home,' 'containment,' 'deteriorated paint,' 'dust lead hazard,' 'encapsulant,' 'encapsulation,' 'enclosure,' 'evaluation,' 'friction surface,' 'hazard reduction,' 'impact surface,' 'interim controls,' 'lead-based paint,' 'lead-based paint hazard,' 'lead clearance,' 'lead clearance report,' 'lead hazard information pamphlet,' 'permanent,' 'post remedy clearance report,' 'reduction or reduce,' 'risk assessment,' 'secured by other than normal means,' and 'vacant building,' to revise the civil fine schedule to decrease or increase certain fines for violations of this article, to provide for civil fines for an owner to fail to obtain a lead clearance for rental property, and to provide that the City may, pursuant to the Michigan Home Rule Cities Act, waive a fine for a blight violation at an owner-occupied dwelling for a first time offender of a section of this article where the offender has corrected the circumstances for the violation; to make it unlawful for residential property required to be registered under this chapter where the original construction was completed prior to January 1, 1978 to be occupied without a lead clearance obtained pursuant to Part II of Division 3; to provide that residential dwellings that are rental property must be inspected for the presence of lead paint and lead-based paint hazards, and if such hazards exist, the owner of the property must abate or perform interim controls and receive clearance from a certified clearance technician or certified lead inspector/ risk assessor in order to receive a certificate of compliance from the City; and to make this chapter commensurate with state law concerning lead abatement and lead clearance for residential property.

1 **BY COUNCIL MEMBER SHEILA M. COCKREL:**

2 **AN ORDINANCE** to amend Chapter 9, Article I, of the 1984 Detroit City Code, *the Detroit*
3 *Property Maintenance Code*, by amending Division 1, ‘*In General*’ and Division 3, ‘*Requirements*
4 *for Rental Property*,’ by amending Sections 9-1-3, 9-1-20, 9-1-81, 9-1-82, 9-1-83, and 9-1-84 and
5 by adding Division 3, Part 3, *Lead Clearance*, Sections 9-1-91, 9-1-92, 9-1-93, 9-1-94, 9-1-95,
6 9-1-96, 9-1-97, and 9-1-98 to revise the definition of ‘rental property’; to define ‘abatement or
7 abated,’ ‘certified abatement worker,’ ‘certified clearance technician,’ ‘certified lead
8 inspector,’ ‘certified renovator,’ certified risk assessor,’ ‘chewable surface,’ ‘clearance examination,’
9 ‘community residential home,’ ‘containment,’ deteriorated paint,’ ‘dust lead hazard,’ ‘encapsulant,’
10 ‘encapsulation,’ ‘enclosure,’ ‘evaluation,’ ‘friction surface,’ ‘hazard reduction,’ ‘impact surface,’
11 ‘interim controls,’ ‘lead-based paint,’ ‘lead-based paint hazard,’ ‘lead clearance,’ ‘lead clearance
12 report,’ ‘lead hazard information pamphlet,’ ‘permanent,’ ‘post remedy clearance report,’ ‘reduction
13 or reduce,’ ‘risk assessment,’ ‘secured by other than normal means,’ and ‘vacant building,’ to revise
14 the civil fine schedule to decrease or increase certain fines for violations of this article, to provide
15 for civil fines for an owner to fail to obtain a lead clearance for rental property, and to provide that
16 the City may, pursuant to the Michigan Home Rule Cities Act, waive a fine for a blight violation at
17 an owner-occupied dwelling for a first time offender of a section of this article where the offender
18 has corrected the circumstances for the violation; to make it unlawful for residential property
19 required to be registered under this chapter where the original construction was completed prior to
20 January 1, 1978 to be occupied without a lead clearance obtained pursuant to Part II of Division 3;
21 to provide that residential dwellings that are rental property must be inspected for the presence of
22 lead paint and lead-based paint hazards, and if such hazards exist, the owner of the property must
23 abate or perform interim controls and receive clearance from a certified clearance technician or
24 certified lead inspector/ risk assessor in order to receive a certificate of compliance from the City;
25 and to make this chapter commensurate with state law concerning lead abatement and lead clearance
26 for residential property.

1 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:**

2 **Section 1.** Chapter 9, Article I, of the 1984 Detroit City Code, *the Detroit Property*
3 *Maintenance Code*, by amending Division 1, ‘*In General*’ and Division 3, ‘*Requirements for Rental*
4 *Property*,’ by amending Sections 9-1-3, 9-1-20, 9-1-81, 9-1-82, 9-1-83, and 9-1-84 and by adding
5 Division 3, Part 3, *Lead Clearance*, Sections 9-1-91, 9-1-92, 9-1-93, 9-1-94, 9-1-95, 9-1-96, 9-1-97,
6 and 9-1-98, to read as follows:

7 **CHAPTER 9. BUILDINGS AND BUILDINGS REGULATIONS**

8 **ARTICLE I. DETROIT PROPERTY MAINTENANCE CODE**

9 **DIVISION 1. IN GENERAL**

10 **Sec. 9-1-3. Definitions.**

11 For purposes of this article, the following words and phrases shall have the meanings
12 respectively ascribed to them by this section:

13 *Abatement or abated* means, except as otherwise provided in subsection (2) of this definition,
14 a measure or set of measures designed to permanently eliminate lead-based paint hazards.

15 (1) Abatement includes all of the following:

16 (a) The removal of lead-based paint hazards and dust lead hazards, the permanent
17 enclosure or encapsulation of lead-based paint, the replacement of lead-painted
18 surfaces or fixtures, and all preparation, cleanup, disposal, and post-abatement
19 clearance testing activities associated with such measures. All abatement work must
20 be performed by a state certified lead abatement firm.

21 (b) A project resulting in the permanent elimination of lead-based paint hazards,
22 conducted by a person certified pursuant to the Michigan Lead Abatement Act, being
23 MCL 333.5451 *et seq.*, except a project that is otherwise exempt from this act.

24 (2) Abatement does not include interim controls, as defined herein.

25 *Adult foster care facility* means a governmental or nongovernmental establishment which
26 principally receives adults for foster care including a foster care family home for adults who i) are

1 aged, emotionally disturbed, developmentally disabled or physically handicapped, ii) require
2 supervision on an ongoing basis, and iii) do not require continuous nursing care, but excludes a
3 nursing home, a home for the aged, a hospital, a hospital for the mentally ill, a county infirmary, and
4 a facility operated for the developmentally disabled by the Michigan Department of Mental Health.

5 *Apartment* means a one (1) family living space having one (1) or more rooms located within
6 a building, and containing a kitchen equipped with a sink and a bathroom equipped with a bathtub
7 or shower, a lavatory, and a toilet or water closet.

8 *Approved* means approved by the Director of the Buildings and Safety Engineering
9 Department or the Public Health Director, or a device, material or practice that meets acceptable
10 industry standards or an apparatus or a method which, by demonstration or test, has proven workable
11 for its intended use.

12 *Approved containers* means receptacles designated for use in specific areas, or for specific
13 uses by the Director of the Department of Public Works, which are limited to Courville containers,
14 large movable or stationary containers, and portable containers, as defined in this section.

15 *Article* means the Detroit Property Maintenance Code.

16 *Authorized local official* means a Detroit police officer, or other City of Detroit employee
17 or agent, who is authorized to issue blight violations in accordance with this article and the
18 provisions of ~~this~~ the 1984 Detroit City Code that are designated as blight violations.

19 *Basement* means that portion of a building or structure which is partly or completely below
20 grade.

21 *Bathroom* means a room containing plumbing fixtures including a bathtub or shower.

22 *Bedroom* means any room or space used, or intended to be used, for sleeping purposes.

23 *Blight violation* means any unlawful act, or any omission or failure to act, which is
24 designated by ~~this~~ the 1984 Detroit City Code as a blight violation pursuant to Section 4l(2) of the
25 Michigan Home Rule Cities Act, being MCL 117.4l(2).

26 *Blight violation determination* means a determination that i) an alleged violator is responsible
27 for one (1) or more blight violations as a result of the admission of responsibility for the

1 allegation(s) in a blight violation notice, or ii) after an administrative hearing that a person is or is
2 not responsible for one (1) or more blight violations, or iii) as a result of a decision and order of
3 default for failing to appear as directed by the blight violation notice, or other notice regarding one
4 (1) or more blight violations, at a scheduled appearance at the Department of Administrative
5 Hearings in accordance with Section 4q(8)(c) of the Michigan Home Rule Cities Act, being MCL
6 117.4q(8)(c).

7 *Blight violation notice* means a written violation notice prepared by an authorized local
8 official which directs an alleged violator i) to pay the civil fine(s) specified in the notice, including
9 any required fees or costs, for one (1) or more blight violations in accordance with the fines, fees,
10 or costs specified in this article and ii) to appear at the Department of Administrative Hearings
11 regarding the occurrence or existence of one (1) or more blight violations pursuant to Section 4q(8)
12 of the Michigan Home Rule Cities Act, being MCL 117.4q(8).

13 *Blight violation proceeding* means an administrative process that results in a blight violation
14 determination.

15 *Buildings* means a permanent structure that is constructed or used for a residential or
16 nonresidential purpose, or any permanent accessory structure or facility used in conjunction with
17 such use.

18 *Buildings, premises, and structures* means all properties, equipment, and facilities which are
19 part of, or used in conjunction with, any existing residential and nonresidential building, premises,
20 or structure, including vacant buildings.

21 ~~*Bureau* means the City of Detroit Department of Administrative Hearings.~~

22 *Certificate of compliance* means a certificate issued by the Buildings and Safety Engineering
23 Department which states that a building, premises or structure, or a portion thereof, complies with
24 the requirements of this article.

25 *Certificate of registration* means a certificate issued by the Buildings and Safety Engineering
26 Department which states that a rental property complies with the requirements of this article.

27 *Certified abatement worker* means an individual who has been trained to perform lead

1 abatement by an accredited training program and who is certified by the Michigan Department of
2 Community Health to perform abatement.

3 *Certified clearance technician* means an individual who has completed an approved training
4 course and certified by the Michigan Department of Community Health to perform lead clearance
5 testing on non-abatement/renovation projects (interim controls) to ensure that lead dust has been
6 removed.

7 *Certified lead inspector* means an individual who has been trained by an accredited training
8 program and certified by the Michigan Department of Community Health to conduct lead-based
9 paint inspections for the purpose of identifying lead-based paint and take samples for the purpose
10 of abatement clearance testing.

11 *Certified renovator* means an individual who has successfully completed a lead hazard
12 renovator course provided by an accredited training program for which the Michigan Department
13 of Community Health has issued a certificate to perform lead hazard renovations, or who directs or
14 subcontracts to others under their supervision to perform lead hazard renovations.

15 *Certified risk assessor* means an individual who has been trained by an accredited training
16 program and certified by the Michigan Department of Community Health to conduct lead-based
17 paint inspections and risk assessments for lead based paint hazards, and to take samples for the
18 presence of lead in paint and dust for the purposes of post remedy inspection and certification.

19 *City* means the City of Detroit.

20 *Chewable surface* means an interior or exterior surface painted with lead-based paint that
21 a young child can mouth or chew, provided, that hard metal substrates and other materials that
22 cannot be dented by the bite of a young child are not considered chewable.

23 *Clearance examination* means an activity conducted following lead-based paint hazard
24 reduction activities to determine that the hazard reduction activities are complete and that no
25 lead-based paint hazards, as defined in this Part II, exist in the dwelling unit or work site.

26 *Commercial establishments* means all businesses, nonprofit organizations, churches,
27 governmental agencies, and other such institutions which cannot be classified as residential

1 structures, as well as residential structures containing five (5) or more household units.

2 *Commercial solid waste* means i) the solid waste resulting from the operation of commercial
3 establishments and ii) construction solid waste, but does not include domestic solid waste.

4 Community residential home means a location which provides shelter to prisoners placed
5 pursuant to Section 65a of the Michigan Department of Corrections Act, being MCL 791.265.

6 *Construction solid waste* means waste from buildings construction, alteration, demolition
7 or repair, and dirt from excavations.

8 Containment means a process to protect workers and the environment by controlling
9 exposure to a dust lead hazard and debris created during abatement.

10 *Courville containers* means receptacles which are one hundred (100), three hundred (300)
11 or four hundred (400) gallons in capacity, are the property of the City, are provided by the
12 Department of Public Works for use at residential structures and commercial establishments, and
13 are mechanically emptied.

14 *Condemnation* means to determine a structure unfit for occupancy.

15 *Condominium* means that portion of a condominium conversion or project designed and
16 intended for separate ownership and use, as described in the master deed, regardless of whether it
17 is intended for residential, office, industrial, business or recreational use, or use as a time share unit,
18 or any other type of use.

19 *Debris* means the remains of an item broken down or destroyed.

20 *Designated transitional housing* means housing which is defined by the United States
21 Department of Housing and Urban Development, in 24 C.F.R. 577.5 as "transitional housing" or in
22 24 C.F.R. 583.5 as "supportive housing."

23 Deteriorated paint means paint or other surface coating that is cracking, flaking, chipping,
24 peeling, or otherwise damaged or separating from the substrate of a building component, unless the
25 deteriorated paint surfaces total no more than:

26 (1) Twenty (20) square feet on exterior surfaces;

27 (2) Two (2) square feet in any one interior room or space; or

1 (3) Ten (10) percent of the total surface area on an interior or exterior type of component
2 with a small surface area.

3 *Domestic solid waste* means the solid waste resulting from the usual routine of housekeeping
4 but does not include commercial solid waste.

5 *Dust lead hazard* means surface dust in a residential dwelling that contains a concentration
6 of lead at or in excess of levels identified by the EPA pursuant to section 403 of Title IV of the
7 Toxic Substances Control Act, being 15 U.S.C. 2683, or as otherwise defined by rule.

8 *Dwelling or dwelling unit* means a single unit providing complete, independent living
9 facilities occupied, or intended to be occupied, in whole or in part by one (1) or more persons,
10 including permanent space and provisions for living, cooking, eating, sanitation, and sleeping.

11 *Emergency* means any condition in a building, premises, or structure that reasonably
12 constitutes a threat to the public interest, safety, or welfare.

13 *Emergency shelter* means a facility which provides congregate-style temporary lodging
14 either with or without meals and ancillary services on the premises to primarily the homeless for
15 more than four (4) weeks in any calendar year but does not provide such lodging to any individual
16 i) who is required because of age, mental disability or other reason to reside either in a public or in
17 a private institution, or ii) who is imprisoned or otherwise detained pursuant to either federal or state
18 law, and excludes an adult foster care facility, designated transitional housing, a nursing home, a
19 temporary emergency shelter, and a ~~warning~~ warming center.

20 *Encapsulant* means a substance that forms a barrier between lead-based paint and the
21 environment using a liquid-applied coating, with or without reinforcement materials, or an
22 adhesively bonded covering material.

23 *Encapsulation* means the application of an encapsulant.

24 *Enclosure* means the use of rigid, durable construction materials that are mechanically
25 fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

26 *Evaluation* means a risk assessment, a lead hazard screen, a lead-based paint inspection,
27 paint testing, or a combination of these to determine the presence of lead-based paint hazards or

1 lead-based paint.

2 *Exterior property* means the open space on the premises and on adjoining premises or
3 property under the control of owners or operators of such premises and property.

4 *Extermination* means the control and elimination of insects, ~~rates~~ rats or other pests by
5 eliminating their harborage places, or by removing or making inaccessible materials that serve as
6 their food, or by fumigating, poisoning, spraying, trapping or any other approved pest elimination
7 method, or by a combination thereof.

8 *Final decision and order* means a final decision by an administrative hearings officer that
9 a blight violation does or does not exist and constitutes a judgment for purposes of judicial review
10 which may be enforced in the same manner as a judgment entered by a court of competent
11 jurisdiction.

12 *Friction surface* means an interior or exterior surface that is subject to abrasion or friction,
13 including, but not limited to, certain window, floor, and stair surfaces.

14 *Garbage* means, as defined by Section 11503 of the Michigan Natural Resources and
15 Environmental Act, being MCL 324.11503, rejected food wastes including waste accumulation of
16 animal, fruit, or vegetable matter used or intended for food or that attends the preparation, use,
17 cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetable matter.

18 *Good repair* means to be properly installed, safe, stable, and maintained sufficiently free of
19 defects or deterioration so as to be functional for current use.

20 *Graffiti* means unauthorized drawings, lettering, illustrations, or other graphic markings on
21 the exterior of a building, premises, or structure which are intended to deface or mar the appearance
22 of the building, premises, or structure.

23 *Guard* means a building component, or a system of building components, located at or near
24 the open sides of elevated walking surfaces that minimize the possibility of a ~~fall~~ fall from the
25 walking surface to a lower level.

26 *Habitable space* means space in a structure for living, eating, cooking or sleeping, but does
27 not mean bathrooms, closets, halls, storage or utility spaces, toilet rooms, or similar areas.

1 Hazard reduction means measures designed to reduce or eliminate human exposure to
2 lead-based paint hazards through methods including interim controls or abatement or a combination
3 of the two.

4 *Hazardous condition* means a condition which may result in the death, injury, or illness of
5 a person or in severe damage to a building, premises, or structure.

6 *Homeless* means an individual who, or family which, lacks a fixed, regular and adequate
7 nighttime residence, or whose primary nighttime residence is i) a supervised publicly or privately
8 operated shelter designed to provide temporary living accommodations, or ii) a public or private
9 place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

10 *Hotel* means any building containing guest rooms which are intended or designed to be used,
11 rented, or hired out by transient persons or by a transient family.

12 *Household units* means the individual residences of the residents of the City.

13 *Imminent danger* means a condition which could cause serious or life-threatening injury, or
14 death, to persons at any time due to the maintenance, or lack of maintenance, of a building, premises,
15 or structure.

16 Impact surface means an interior or exterior surface that is subject to damage by repeated
17 sudden force, such as certain parts of door frames.

18 *Infestation* means the presence, within or contiguous to, a building, premises or structure of
19 insects, rats, vermin or other pests.

20 Interim controls means a set of measures designed to temporarily reduce human exposure
21 or likely exposure to lead-based paint hazards including, but not limited to, specialized cleaning,
22 repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint
23 hazards or potential hazards, and the establishment and operation of management and resident
24 education programs.

25 *Labeled* means appliances, devices, equipment, or materials to which has been affixed a
26 label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection
27 agency or other organization that is concerned with product evaluation and maintains periodic

1 inspection of the production of the above-labeled items and by whose label the manufacturer attests
2 to compliance with applicable nationally recognized standards.

3 Large movable or stationary containers means receptacles which are two (2) cubic yards,
4 three (3) cubic yards, six (6) cubic yards or larger in capacity and are mechanically emptied.

5 Lead-based paint means paint or other surface coatings that contain lead equal to or in excess
6 of 1.0 milligrams per square centimeter or more than 0.5% by weight.

7 Lead-based paint hazard means any of the following conditions:

8 (1) Any lead-based paint on friction or impact surfaces such as windows or doors are
9 considered lead hazards unless they are replacement items that were manufactured
10 after 1978 or unless a lead-based paint inspection is performed by a certified Lead
11 Inspector to verify that they do not contain lead-based paint;

12 (2) Any lead-based paint on friction or impact surfaces, such as windows or doors, where
13 the lead dust levels on the nearest horizontal surface are equal to or greater than the
14 dust lead hazard levels identified in rules promulgated under the Michigan Lead
15 Abatement Act, being MCL 333.5451 et seq, are considered lead hazards;

16 (3) Any damaged or otherwise deteriorated lead-based paint on an impact surface that
17 is caused by impact from a related building component;

18 (4) Any chewable lead-based painted surface on which there is evidence of teeth marks;

19 (5) Any other deteriorated lead-based paint in or on any residential building or child
20 occupied facility; or

21 (6) Surface dust in a residential dwelling or child occupied facility that contains lead in
22 a mass-per-area concentration equal to or exceeding the levels established by rules
23 promulgated under the Michigan Lead Abatement Act, being MCL 333.5451, et seq.

24 (7) With respect to porches, if a porch is found to contain more than 40 Ug./sq. ft. of
25 leaded dust, this shall constitute a lead hazard.

26 Lead clearance means:

27 (1) A residential dwelling has undergone abatement or interim controls to reduce or

1 control lead-based paint hazards and that the owner has received a post-remedy
2 clearance report from a certified clearance technician (for interim controls only) or
3 a certified inspector or risk assessor;

4 (2) The owner of a residential rental property has received report from a certified lead
5 inspector or risk assessor that lead paint exists on the rental property, but there are
6 no lead-based paint hazards on the rental property; or

7 (3) The owner of a residential rental property has received a report from a certified lead
8 inspector or risk assessor that lead-based paint does not exist on the rental property.

9 Lead Hazard Information Pamphlet means the most recent publication of the pamphlet
10 developed by the federal Environmental Protection Agency, the United States Department of
11 Housing and Urban Development, and the Consumer Product Safety Commission pursuant to
12 Section 403 of the Toxic Substances Control Act, being 15 U.S.C. 2686, entitled ‘Protect Your
13 Family From Lead in Your Home.’

14 Lead inspection means a surface-by-surface investigation to determine the presence of lead
15 paint and the provision of a report explaining the results of the investigation.

16 Let means to permit, provide or ~~other~~ offer possession or occupancy of a dwelling, dwelling
17 unit, rooming unit, building, premises, or structure by a person who is or is not the legal owner of
18 record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a
19 recorded or unrecorded agreement of a contract for the sale of land.

20 Litter means, as defined by Section 8901 of the Michigan Natural Resources and
21 Environmental Act, being MCL 324.8901, all rubbish, refuse, waste material, garbage, offal, paper,
22 glass, cans, bottles, trash, debris, or other foreign substances.

23 Loft means a dwelling unit in a building originally constructed for other than residential use
24 containing one (1) or more rooms or enclosed floor spaces arranged for living, eating, sleeping,
25 and/or a home occupation, which contains bathroom and kitchen facilities, subject to the conditions
26 specified in the Detroit Zoning Ordinance, being Chapter 61 of the 1984 Detroit City Code.

27 Motel means a building, or a group of buildings, on a single zoning lot, that contains rooming

1 or dwelling units which may or may not be independently accessible from the outside, designed for
2 or primarily occupied by transients and may include any such building or building group that is
3 designated as a hotel, motor lodge, motor inn, or any other name intended for identification as
4 providing lodging for compensation, and that is with or without a general kitchen and public dining
5 room for use by the occupants.

6 *Motor vehicle means* any vehicle that is self-propelled and used for transportation of persons
7 or goods.

8 *Multiple dwelling means* any building containing three (3) or more rooming or dwelling
9 units.

10 *Multiple use building means* any building containing two (2) or more areas or spaces of
11 different occupancies.

12 *Noxious weeds means* plants such as Canada thistle (*Cirsium arvense*), dodders (any species
13 of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*),
14 wild carrot (*Daucus carota*), bindweed (*Convolvulus arvensis*), perennial sow thistle (*Sonchus*
15 *arvensis*), hoary alyssum (*Berteroa incana*), ragweed (*Ambrosia elatior* L.) and poison ivy (*Rhus*
16 *toxicodendron*), poison sumac (*Toxicodendron vernix*), or other plant which in the opinion of the
17 Public Health Director is regarded as a public nuisance.

18 *Nursing home means* a facility which provides organized nursing care and medical treatment
19 to seven (7) or more unrelated individuals suffering or recovering from illness, injury or infirmity,
20 and which is not a unit in a correctional facility that is operated by the Michigan Department of
21 Public Community Health.

22 *Occupancy means* the purpose for which a building or structure is utilized or occupied.

23 *Occupant means* any individual living or sleeping in a building or structure, or having
24 possession of a space within a building or structure.

25 *Openable area means* that part of a window, skylight, or door which is available for
26 unobstructed ventilation and which opens directly to the outdoors.

27 *Operator means* any person who is in charge, or has the care or control of a building,

1 premises or structure, which is let, offered or rented for occupancy.

2 *Owner* means any person, agent, operator, firm or corporation having a legal or equitable
3 interest in the building, premises or structure, or is recorded in the official records of the State of
4 Michigan, County of Wayne, or the City as holding title to the building, premises or structure, or
5 otherwise has the legal responsibility for the control and maintenance of the building, premises or
6 structure, including the conservator or guardian of the estate of any such person, the executor or
7 administrator of the estate of such person where ordered to take possession of a building, premises,
8 or structure by a court, or is the taxpayer of record.

9 *Permanent* means an expected design life of at least twenty (20) years.

10 *Person* means an individual, partnership, firm, company, corporation, association, sole
11 proprietorship, joint venture, owner, operator, or any other legal entity.

12 *Portable containers* means receptacles which are not more than thirty (30) gallons in
13 capacity and are manually emptied.

14 *Post-remedy clearance report* means a report from a certified clearance technician (for
15 interim controls only) or certified lead inspector or risk assessor that:

16 (1) Identifies the lead-based paint hazards in the rental property; and

17 (2) Certifies the lead-based paint hazards have been abated or reduced by interim
18 controls pursuant to standards under the Michigan Lead Abatement Act, being MCL
19 333.5451 et seq.

20 *Premises* means a lot, plot or parcel of land including any buildings or structures thereon.

21 ~~*Pre-release adjustment center* means an establishment which provides shelter, supervisory~~
22 ~~and social services to convicts in a pre-release parole preparation program as authorized either by~~
23 ~~the Michigan Corrections Commission under the authority of Public Act 323 of 1953, as amended,~~
24 ~~or by the Federal Bureau of Prisons under the authority of Public Law 91-492, as amended.~~

25 *Property* means real property, including attachments and fixtures.

26 *Public Health Director* means the Director and Health Officer of the City of Detroit
27 Department of Health and Wellness Promotion Department.

1 *Rat control* means the distribution of rat poison or the setting of rat traps ~~of~~ or fumigation
2 or such other methods of rat eradication as may be approved by the Public Health Director.

3 *Rat harborage* means any condition under which rats may find shelter or protection.

4 *Ratproof and ratproofing* mean a form of construction which will prevent the ingress or
5 egress of rats to or from a given space or buildings, or will prevent rats from gaining access to food,
6 water or harborage and consists of closing and keeping closed by the use of material impervious to
7 rat gnawing of every opening in foundations, basements, cellars, exterior and interior walls, ground
8 or first floors, roofs, sidewalk gratings, sidewalk openings and other places that may be reached and
9 entered by rats by climbing, burrowing or other methods.

10 *Reduction or reduce* means measures designed to reduce or eliminate human exposure to
11 lead-based paint hazards through methods including, but not limited to, interim controls and
12 abatement.

13 *Rental property* means a non owner occupied dwelling unit or dwelling units ~~which (i) that:~~

14 (1) Is or are let or occupied by persons, including a family member ~~or members~~ of the
15 owner, pursuant to an oral or written rental contract, or lease for , or other oral or
16 written agreement or understanding for occupation, with or without, monetary
17 compensation ; ~~(ii) ; or~~

18 (2) Will be offered for occupancy under an oral or written rental contract or lease for ,
19 or other oral or written agreement or understanding for occupation, with or without,
20 monetary compensation to any person ; ~~(iii) ; or~~

21 (3) Is or are contained within a building ~~containing~~ with two (2) or more
22 dwelling units that are not occupied by the owner ; or ~~iv)~~

23 (4) Has or have been advertised to the public or previously registered with the City as
24 rental property.

25 *Repeat offense* means a second, or any subsequent, blight violation determination regarding
26 a blight violation ~~twice~~ notice that is made within one (1) ~~calendar~~ year for the same blight
27 violation, except for a determination by an administrative ~~code~~ hearings officer that a person is not

1 responsible for a blight violation for the first or subsequent violation.

2 *Residential structures* means the household units of the residents of the City.

3 *Risk assessment* means both of the following:

4 (1) An on-site investigation conducted by a certified risk assessor to determine the
5 existence, nature, severity, and location of a lead-based paint hazard.

6 (2) The provision of a report by the person conducting the risk assessment explaining
7 the results of the investigation and options for reducing the lead-based paint hazard.

8 *Room and board home* means a rooming unit within a dwelling ~~arrange~~ arranged to provide
9 lodging and meals for monetary compensation.

10 *Rooming house* means a building arranged or occupied for lodging, with or without meals,
11 for compensation and not occupied as a one- or two-family dwelling.

12 *Rooming unit* means any room, or group of rooms, that form a single habitable unit occupied,
13 or intended to be occupied, for sleeping or living, but not for cooking purposes.

14 *Rubbish* means, as defined by Section 11505 of the Michigan Natural Resources and
15 Environmental Act, being MCL 324.11505, non putrescible solid waste, excluding ashes, consisting
16 of both combustible and noncombustible waste, including paper, cardboard, metal containers, yard
17 clippings, wood, glass, bedding, crockery, demolished building materials, or litter of any kind that
18 may be a detriment to the public health and safety.

19 *Sanitary condition* means a clean condition which guards against disease, illness or infection,
20 or the growth of harmful bacteria.

21 *Secured by other than normal means* means a building secured in a manner other than one
22 used in the construction, design, or approved plans for the building, or other than as required by
23 Section 9-1-13(c) and (d) of this article.

24 *Shelter* means either an emergency shelter or a shelter for victims of domestic violence.

25 *Shelter for victims of domestic violence* means a residential facility which provides
26 temporary accommodation and support to victims of domestic violence either with or without their

1 minor children, and which is operated by a nonprofit, charitable, or a religious agency that meets
2 the pre-contract standards of the State of Michigan Domestic Violence Prevention and Treatment
3 Board, but does not include an adult foster care facility, a ~~pre-release adjustment center~~ community
4 residential home, ~~and~~ or a substance abuse service facility.

5 *Solid waste* means any material defined as solid waste within the meaning of Section 11506
6 of the Natural Resources and Environmental Protection Act, being MCL ~~324.11606~~ 324.11506, and
7 includes debris, garbage, litter, and rubbish, as defined by this section.

8 *Structure* means that which is built or constructed.

9 *Substance abuse service facility* means an establishment which is used on an outpatient basis
10 for the dispensing of compounds or prescription medicines directly to persons that have drug or
11 alcohol abuse problems, but excludes a generally recognized pharmacy or licensed hospital that
12 dispenses prescription medicines.

13 *Temporary certificate of compliance* means a certificate issued by the Buildings and Safety
14 Engineering Department stating that a building, premises, or structure, or a portion thereof, has been
15 found to be safe for its intended purpose and use, is in substantial compliance with this article, and
16 provides for an expiration date of less than six (6) months from the date of issuance that is
17 conditionally extendable in writing by the Director of the Building and Safety Engineering
18 Department, or his or her designee.

19 *Temporary emergency shelter* means a building which is opened on an urgent basis to
20 provide shelter for the homeless from the elements for not more than four (4) weeks in any calendar
21 year, including those operated in concert by churches and other religious organizations that permit
22 the homeless to utilize their facilities as a place of lodging on a weekly rotating basis.

23 *Tenant* means a person, corporation, partnership or group, whether or not the legal owner
24 of record, who or which occupies a building or structure.

25 *Toilet room* means a room containing a water closet or urinal, but not a bathtub or shower.

26 *Townhouse* means a single-family dwelling unit constructed in a group of three (3) or more
27 attached units in which each unit extends from foundation to roof and with no side yards except end

1 units which have one (1) side yard.

2 Vacant building means a building or structure that is unoccupied for more than thirty (30)
3 days, is unsecured, is secured by other means, as defined in this section, is illegally occupied, or
4 poses an imminent danger to the health and safety to surrounding residents and properties or to the
5 general public by being unsafe as determined by an authorized local official, including, but not
6 limited to, the existence of a fire hazard, a collapsed or dilapidated portion, loss of a utility, or an
7 unsanitary condition.

8 *Ventilation* means the natural or mechanical process of supplying conditioned or
9 unconditioned air to, or removing such air from, any space.

10 *Violation* means any act ~~which~~ that is prohibited or made or declared to be a blight violation
11 by any section of this article, and any omission or failure to act where the act is required by any
12 section of this article.

13 *Violator* means a person who is responsible for a blight violation.

14 *Warming center* means a facility which is not designed for lodging and is operated for the
15 purpose of sheltering the transient homeless from the elements for brief intervals during any
16 twenty-four (24) hour period.

17 *Workmanlike* means constructed or repaired in a skilled professional manner, for example,
18 work that is generally plumb, level, square, in line, undamaged and without marring adjacent work
19 and generally in compliance with any applicable requirements of the Michigan Construction Codes
20 enacted pursuant to Section 4 of the Stille-Derossett-Hale Single State Construction Code Act, being
21 MCL 125.1504.

22 *Yard* means an unobstructed open space on the same lot with a building or structure.

23 **Sec. 9-1-20. Civil fines for violations of article.**

24 ~~(a) The following schedule of civil fines shall be assessed and paid at the department of~~
25 ~~administrative hearings for the specified violations of this article:~~

26 (a) The following schedule of civil fines shall be assessed and paid at the Department of
27 Administrative Hearings for the specified violations of this article:

		<i>First Offense</i>	<i>Second Repeat Offense</i>	<i>Third and Subsequent Repeat Offense</i>
1				
2				
3				
4	I.			
5	Failure to meet a requirement of this article, except as otherwise specified.			
6	One- or two-family dwelling	\$ 25.00 <u>\$50.00</u>	100.00	\$200.00
7	All other structures, except			
8	buildings with five (5) or			
9	more stories	100.00	200.00	500.00
10	Buildings with five (5)			
11	<u>or more</u> stories	200.00	500.00	1,000.00
12	II.			
13	Failure of the owner of one- or two-	300.00	600.00	1,200.00
14	family dwelling to comply with an			
15	emergency or imminent danger order			
16	concerning an unsafe or unsanitary			
	structure or unlawful occupancy.			
17	<u>One- or two-family dwelling</u>	<u>500.00</u>	<u>1,000.00</u>	<u>1,500.00</u>
18	<u>All other structures, except</u>			
19	<u>buildings with five (5)</u>			
20	<u>or more stories</u>	<u>1,000.00</u>	<u>1,500.00</u>	<u>2,000.00</u>
21	<u>Buildings with five (5) or more</u>			
22	<u>stories</u>	<u>1,500.00</u>	<u>3,000.00</u>	<u>5,000.00</u>
23	III.			
24	Failure of the owner of any other struc-	500.00	1,200.00	5,000.00
25	ture, except buildings with five (5) or			
26	more stories to comply with an emer-			
27	gency or imminent danger order con-			
28	cerning an unsafe or unsanitary struc-			
	ture or unlawful occupancy.			
29	IV.			
30	Failure of the owner of a building with	1,500.00	3,000.00	5,000.00
31	five (5) or more stories to comply with			
32	an emergency or imminent danger order			
33	concerning an unsafe or unsanitary			
	structure or unlawful occupancy.			
34	V III.			
35	Failure of the owner to obtain a certifi-	250.00	500.00	1,000.00
36	cate of compliance in violation of			
37	Section 9-1-36 of the 1984 Detroit			
	City Code.			
38	VI IV.			
39	Failure of owner to obtain certificate of	250.00	350.00	500.00
	registration of <u>existing</u> for rental property			

1 in violation of Section 9-1-81 of the 1984
2 Detroit City Code.

3 V. Failure to obtain a lead clearance for rental
4 property in violation of Section 9-1- 83 of
5 the 1984 Detroit City Code.

6 One- or two-family dwelling 500.00 1,000.00 2,000.00

7 All other structures, except
8 buildings with five (5)
9 or more stories 1,000.00 2,000.00 4,000.00

10 Buildings with five (5) or more
11 stories 2,000.00 4,000.00 8,000.00

12 ~~VH~~ VI. Failure to remove snow or ice in violation
13 of Section 9-1-103 of the 1984 Detroit
14 City Code.

14 50.00 125.00 250.00

15 One- or two-family dwelling 50.00 125.00 250.00

16 All other buildings, premises,
17 or structures. 100.00 250.00 500.00

18 ~~VH~~ VII. Weeds or plant growth in violation
19 of Section 9-1-104 of the 1984
20 Detroit City Code.

20 50.00 125.00 250.00

21 ~~IX~~ VIII. Rodent harborage in violation of Section
22 9-1-105 of the 1984 Detroit City Code.

21 100.00 250.00 500.00

23 ~~X~~ IX. Failure to remove inoperable or unli-
24 icensed motor vehicle from premises
25 in violation of Section 9-1-110 of the
26 1984 Detroit City Code.

23 50.00 100.00 ~~600.00~~ 500.00

27 (b) In the case of a firm, or a partnership, the civil fine may be imposed upon the partnership
28 or members thereof, and in the case of a corporation, the civil fine may be imposed upon the officers
29 thereof.

30 (c) The imposition of a civil fine, or the payment of same, under this section shall not be
31 construed as excusing or permitting the continuance of any violation of this article.

32 (d) A civil fine that is paid before the administrative hearing date shall be reduced by ten
33 (10) percent.

34 (e) A civil fine that is paid after the administrative hearing date shall be increased by ten
35 (10) percent.

1 (f) A civil fine that is paid on the administrative hearing date neither shall be reduced nor
2 shall be increased.

3 (g) Pursuant to Section 4q(13) of the Michigan Home Rule Cities Act, being MCL
4 117.4q(13), and Section 8.5-3.5(a) of the 1984 Detroit City Code, Department of Administrative
5 Hearings hearing officers shall impose a justice system assessment fee for each blight violation
6 determination.

7 (h) Pursuant to Section 8.5-3.5(b) of the 1984 Detroit City Code, each blight violation notice
8 shall be subject to an administrative processing and adjudication fee, established by the Director of
9 the Department of Administrative Hearings and approved by the City Council.

10 (i) Pursuant to Section 117.4q(3) of the Michigan Home Rule Cities Act, being MCL
11 117.4q(4), the City may waive a fine for a blight violation at an owner-occupied dwelling for a first
12 time offender of a section of this article where the offender has corrected the circumstances for the
13 violation.

14 **DIVISION 3. REQUIREMENTS FOR RENTAL PROPERTY**

15 **PART I. IN GENERAL**

16 **Sec. 9-1-81. Registration of rental property.**

17 (a) The owners or agents of rental property shall register all such dwellings with the
18 Buildings and Safety Engineering Department and obtain a certificate of registration as provided for
19 in this section. Application for the certificate of registration of a rental property shall be made on
20 forms provided by the department and shall contain:

- 21 (1) The location and use of the rental property;
- 22 (2) The name, address, telephone number, and driver license number or state
23 identification number, of the rental property owner applicant, if an individual, and
24 the name and address of the resident agent, if a corporation;
- 25 (3) Information listed in subsection (a)(2) of this section for each partner, corporate
26 officer, or any other person having any interest in the rental property; and
- 27 (4) The names address and telephone numbers of any persons or firms other than the

1 owner(s) who are responsible for property maintenance, or a person who is a
2 caretaker of the rental property pursuant to Section 9-1-85 of ~~the 1984 Detroit City~~
3 ~~Code~~ this article.

4 (b) It shall be unlawful for any person to provide false information on an application
5 for a certificate of registration of a rental property required by this section.

6 (c) Certificates of registration of a rental property shall be renewed annually on the date
7 established by the Buildings and Safety Engineering Department. The department shall maintain a
8 registry of owners and rental property governed by this section.

9 (d) Where rental property required to be registered under this section is sold or otherwise
10 transferred to a new owner, the certificate of registration issued the previous owner shall expire on
11 the date of the sale or transfer and, within ninety (90) days after the sale or transfer of the rental
12 property, the new owner shall apply for a certificate of registration in the prescribed manner in this
13 section.

14 ~~(e) It shall be unlawful to occupy a rental property that is required to have a certificate of~~
15 ~~registration under this article, or cause the rental property to be occupied, without the required~~
16 ~~certificate of compliance issued by the buildings and safety engineering department.~~

17 **Sec. 9-1-82. Inspection of registered rental property; certificate of compliance required.**

18 (a) The Director of the Buildings and Safety Engineering Department shall cause an
19 inspection, as closely as possible to once a year, to be made of all rental property required to have
20 a certificate of registration under Section 9-1-81 of the 1984 Detroit City Code this article.

21 (b) It shall be unlawful for a rental property required to be registered pursuant to Section
22 9-1-81 of this article to be occupied without a certificate of compliance issued by the Buildings and
23 Safety Engineering Department in accordance with Section 9-1-36 of this article.

24 (c) The Buildings and Safety Engineering Department shall issue a certificate of compliance
25 for a rental property where the department determines that the rental property, its units, accessory
26 structures and the premises, including exterior areas, comply with the standards and requirements

1 of this article.

2 **Sec. 9-1-83. Certificate of compliance for multiple rental properties; violations Inspection and**
3 **lead clearance risk assessment for lead-based paint hazards, where required.**
4

5 (a) ~~It shall be unlawful for a rental property, as defined by Section 9-1-3, required to be~~
6 ~~registered pursuant to section 9-1-81 of the 1984 Detroit City Code, to be occupied without a~~
7 ~~certificate of compliance issued by the Buildings and Safety Engineering Department in accordance~~
8 ~~with section 9-1-36 of the 1984 Detroit City Code.~~

9 (a) It shall be unlawful for a rental property, as defined by Section 9-1-3, on which the
10 original construction was completed prior to January 1, 1978 and required to be registered pursuant
11 to Section 9-1-81 of the 1984 Detroit City Code, to be occupied without a lead clearance report
12 issued in accordance with Section 9-1-91 of the 1984 Detroit City Code being provided to the
13 Buildings and Safety Engineering Department in accordance with Part II of this division, provided
14 that the owner shall not be required to obtain a lead clearance until the next prescribed annual
15 inspection date for the owner for the rental property occurring after the effective date of this section
16 of this Code.

17 (b) ~~The Buildings and Safety Engineering Department shall issue a certificate of compliance~~
18 ~~for a rental property where the department determines that the rental property, its units, accessory~~
19 ~~structures and the premises, including exterior areas, comply with the standards and requirements~~
20 ~~of this article.~~

21 (b) Where interim controls were used to reduce lead-based paint hazards in a rental
22 property, as prescribed in Part II of this division or where a lead inspection reveals the presence of
23 lead paint on the rental property, the owner shall have an annual certified lead inspection/risk
24 assessment performed on the rental property, and obtain an annual lead clearance report in
25 accordance with this section of the Code.

26 (c) Where abatement was used to remove all identified lead hazards, as prescribed in Part
27 II of this division, the owner shall have a certified lead inspection/risk assessment performed on the
28 rental property every three years, and the lead clearance report shall be valid for three (3) years.

29 (d) Where all lead-based paint was fully abated in a rental property in accordance with the

1 Michigan Lead Abatement Act, being MCL 333.5451 et seq, and as certified by a certified lead
2 inspector or risk assessor, or if a certified lead inspector certifies no lead paint exists on the rental
3 property, no further risk assessments or lead clearance shall be required in order to obtain a
4 certificate of compliance for rental property.

5 ~~**Sec. 9-1-84. Posting of tenants' statement of rights and of house rules and tenant**~~
6 ~~**responsibilities.**~~

7 ~~—— (a) The buildings and safety engineering department shall develop and utilize a tenants'~~
8 ~~statement of rights based on the rights guaranteed by the United States Constitution, the 1963~~
9 ~~Michigan Constitution, and the 1997 Detroit City Charter. Each owner of a rental property shall~~
10 ~~post, within the rental property, a copy of the tenants' statement of rights. The buildings and safety~~
11 ~~engineering department shall provide rental property owners and operators of room and board homes~~
12 ~~with copies of the tenants' statement of rights.~~

13 ~~(b) Where house rules and tenant responsibilities are in writing, they shall be posted along~~
14 ~~with the tenants' statement of rights in a conspicuous place within the rental property. All house~~
15 ~~rules and tenant responsibilities shall be consistent with existing law.~~

16 ~~**Secs. 9-1-86 - - 9-1-100. Reserved.**~~

17 ~~**Secs. 9-1-84 - - 9-1-90. Reserved.**~~

18 **PART II. LEAD CLEARANCE**

19 **Sec. 9-1-91 Purpose and intent; requirements.**

20 (a) For purposes of this part, all paint on the interior or exterior of any residential rental
21 property on which the original construction was completed prior to January 1, 1978, is presumed
22 to be lead-based and that all windows and doors on homes constructed prior to January 1, 1978, are
23 lead-based paint hazards unless they are replacement items that were manufactured after 1978 or
24 unless a lead-based paint inspection is performed by a certified lead inspector who verifies they do
25 not contain lead-based paint. The purpose and intent of this part is to protect the health and welfare
26 of children who occupy rental property that contains lead-based paint hazards since exposure to lead
27 can cause serious problems for children, including learning problems, behavioral problems, and
28 speech and language problems and statistics show that the highest percentage of young children with

1 elevated blood levels in the City reside in rental property.

2 (b) This part sets forth the requirements for obtaining a lead clearance, which is required by
3 this article prior to the occupancy of rental property. Owners of rental property shall have a lead
4 inspection/risk assessment performed by a certified lead inspector/risk assessor to inspect for the
5 presence of lead-based paint hazards and, if hazards are present, the owner must correctly reduce
6 and control hazards prior to families occupying the rental property.

7 (c) The interior and exterior of any residential rental property on which the original
8 construction was completed prior to January 1, 1978 , shall be maintained in a condition such that
9 the paint does not become deteriorated paint, as defined under this part.

10 **Sec. 9-1-92. Lead inspection and risk assessment, reports required.**

11 The owner of rental property shall obtain a lead inspection and risk assessment, as defined
12 herein, from a certified lead inspector and/or risk assessor in order to obtain a lead clearance as
13 required by Section 9-1-83 of this article.

14 (a) The lead inspection report shall contain the following information:

15 (1) Date of the lead inspection;

16 (2) Address of the rental property, including apartment or dwelling unit number, if
17 applicable;

18 (3) Date the rental property was built;

19 (4) Name, address and telephone number of the owner(s);

20 (5) Name, signature and certification number of each individual conducting
21 testing on the rental property;

22 (6) Name, address and telephone number of the company employing the
23 individual(s) conducting the testing, if applicable;

24 (7) Each testing method, device and sampling procedure used for paint analysis,
25 and if used, the serial number of any x-ray fluorescence lead testing device;

26 (8) Specific locations of each painted component tested for the presence of lead-
27 based paint; and

1 (9) The result of the inspection in units of measure that match the type of
2 sampling method used.

3 (b) The risk assessment report shall contain the following information:

4 (1) Date of the risk assessment;

5 (2) Address of the rental property, including apartment or dwelling unit number, if
6 applicable;

7 (3) Date the rental property was built;

8 (4) Name, address and telephone number of the owner(s);

9 (5) Name, signature and certification number of risk assessor conducting the assessment;

10 (6) Name, address and telephone number of the company employing the risk assessor
11 conducting the assessment, if applicable;

12 (7) Name, address, and telephone number of each laboratory conducting analyses of
13 collected samples;

14 (8) Results of the visual inspection;

15 (9) Testing method and sampling procedure used for paint analysis;

16 (10) Specific locations of each painted component tested for lead;

17 (11) Results from on-site testing, and, if used, the serial number of any x-ray fluorescence
18 lead testing device;

19 (12) All results from the laboratory analysis of collected paint and dust samples;

20 (13) Any other sampling results;

21 (14) Any background information regarding the physical characteristics of the property
22 and use patterns of the residents that may cause lead paint exposure to young
23 children;

24 (15) To the extent that they are used as part of the risk assessment, the results of any
25 previous inspections or analyses for lead paint or hazards;

26 (16) A description of the location, type, and severity of identified lead paint hazards and
27 any other potential lead hazards; and

1 (17) A description of temporary and/or permanent options to fix each lead paint hazard
2 found, and a priority for fixing each hazard from the most serious to the least. Where
3 the use of an encapsulant paint or physical barrier (siding or paneling) is
4 recommended, then the report should recommend a maintenance and monitoring
5 schedule for these solutions.

6 (c) An individual who is certified as both a lead inspector and a risk assessor may combine
7 the information required in reports under subparagraph (a) and (b) above into one report.

8 **Sec. 9-1-93. Remedy for lead-based paint hazards.**

9 Where the risk assessment indicates a lead based paint hazard or hazards exists at the rental
10 property, the condition(s) may be corrected only by one of the following methods:

11 (1) Abatement by a certified abatement worker, pursuant to the rules promulgated under
12 the Michigan Lead Abatement Act, being MCL 333.5451 *et seq.*; or

13 (2) Interim controls performed only by a person who has received a certificate that the
14 person has undergone Lead Safety for Renovation, Repair and Painting training
15 pursuant to 40 CFR 745(e) and who has become a certified renovator.

16 **Sec. 9-1-94. Post-remedy clearance report.**

17 After abatement or interim controls are performed, the owner of rental property shall obtain
18 a clearance examination and post-remedy clearance report, as defined herein, and provide the lead
19 clearance report to the Buildings and Safety Engineering Department. The report shall indicate that:

20 (1) All lead-based paint and hazards in the rental property have been identified; and

21 (2) All lead-based paint hazards have been abated or reduced by interim controls
22 pursuant to standards under the Michigan Lead Abatement Act, being MCL 333.5451
23 *et seq.*

24 **Sec. 9-1-95. Requirement to avoid conflict of interest regarding lead clearance inspection.**

25 All lead inspections, risk assessments and lead clearances shall be performed by persons or
26 entities independent of persons performing abatement or interim controls.

1 **Sec. 9-1-96. Occupant protection during abatement or interim controls.**

2 In order to minimize the harm to persons occupying rental property where there is lead
3 abatement or interim controls, which may disturb lead paint and potentially cause further harm or
4 hazards to persons occupying the premises, the following shall be required:

5 (1) Occupants of rental property shall not be permitted to enter the dwelling until after
6 abatement or interim controls have been completed and clearance has been achieved.

7 (2) Occupants of rental property shall be temporarily relocated by the owner for the safety
8 of occupants during abatement or interim controls until certification by a certified clearance
9 technician (for interim controls only), or certified lead inspector/risk assessor (for abatement or
10 interim controls) is received; and occupants who relocate to a dwelling unit not owned by the
11 landlord shall not be liable to the landlord for rent accruing during this time period. Provided, that
12 relocation of occupants shall not be necessary where:

13 (i) Abatement or interim controls will not disturb lead-based paint;

14 (ii) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation
15 intakes and other openings in or near the area being treated are sealed during
16 abatement or interim controls and cleaned afterward, and an entry free of lead-based
17 paint hazards and debris is provided.

18 (iii) Abatement or interim controls of the interior will be completed within one period
19 of eight (8) daytime hours, the area treated is contained so as to prevent the release
20 of leaded dust and debris into other areas, and treatment does not create other safety,
21 health or environmental hazards.

22 (3) The dwelling unit and the area treated shall be secured against unauthorized entry, and
23 occupants belongings protected from contamination by lead dust and debris during abatement or
24 interim controls. Occupants' belongings in the containment area shall be relocated to a safe and
25 secure area outside the containment area, or covered with an impermeable covering with all seams
26 and edges taped or otherwise sealed.

27 (4) The area treated shall be prepared, including the placement of containment barriers, to

1 prevent the release of leaded dust, and shall contain lead-based paint chips and other debris from
2 hazard reduction activities within the area treated until they can be safely removed. Practices that
3 minimize the spread of leaded dust, paint chips, and debris shall be used.

4 (5) A warning sign shall be posted at each entry to a room where abatement or interim
5 controls are conducted when occupants are present; or at each main and secondary entryway to a
6 building from which occupants have been relocated. Each warning sign shall be provided in the
7 occupants primary language.

8 **Sec. 9-1-97. Exterior abatement or interim controls, weather conditions.**

9 Performance of abatement or interim controls on an exterior painted surface as required
10 under this Part II may be delayed for a reasonable period of time during a period when weather
11 conditions render the completion of activities impossible.

12 **Sec. 9-1-98. Prohibition of retaliatory action.**

13 (a) It shall be unlawful for an owner, or any person acting on his or her behalf, to take any
14 retaliatory action toward a tenant who reports a suspected lead-based paint hazard to the owner or
15 to the City. Retaliatory actions include, but are not limited to, any action that materially alters the
16 terms of the tenancy of the premises such as an increase in rent, the termination of a lease or
17 tenancy, or to interfere with the tenants ' occupancy or use of the premises.

18 (b) There shall be a rebuttable presumption that any attempt by the owner to raise rent,
19 curtail services, refuse to renew or attempt to evict a tenant within 90 days after any report to the
20 City or the owner or any enforcement action in connection with a suspected lead hazard is a
21 retaliatory action in violation of this section, provided, that the presumption shall not apply in
22 instances of nonpayment of rent by the tenant. After 90 days from the date of the reporting of
23 suspected lead hazards, the defense of retaliatory eviction shall remain available to the tenant, but
24 without the benefit of the presumption created by this section.

25 (c) The provisions of this section shall not be given effect in any case in which it is
26 established that the condition from which the complaint or action arose was caused or created by the
27 tenant, a member of the tenant' s household, or a guest of the tenant, or a person acting at the request

1 of the tenant.

2 **Secs. 9-1-99-- 9-1-100. Reserved.**

3 **Section 2.** This ordinance is declared necessary for the preservation of life, health, property
4 or the public peace.

5 **Section 3.** All ordinances, or parts of ordinances, which conflict with this ordinance are
6 repealed.

7 **Section 4.** This ordinance shall become effective January 1, 2010.

8 Approved as to form:

9 _____
10 Krystal A. Crittendon
11 Corporation Counsel