

ORDINANCE NO. _____, SERIES 2025

AN ORDINANCE AMENDING CHAPTER 156 OF THE LOUISVILLE METRO CODE OF ORDINANCES (“LMCO”) REGARDING THE LEAD-BASED HAZARDS AND REPEALING LMCO CHAPTER 167 (AMENDMENT BY SUBSTITUTION).

SPONSORED BY: COUNCIL MEMBER PIAGENTINI

WHEREAS, according to the Centers for Disease Control and Prevention (“CDC”), lead is a neurotoxin that causes lasting damage to many biological systems including nervous, circulatory, endocrine, immune, renal, skeletal and muscular systems; and

WHEREAS, research on lead poisoning shows that it cannot be cured, but it can be prevented through testing, identifying and remediating lead hazards using lead-safe practices; and

WHEREAS, a robust program that includes identification of homes that could affect residents, including inspection of rental housing for environmental lead hazards and the abatement of these hazards, would improve the health and development of children in Louisville Metro; and

WHEREAS, Metro wants to modify the current program to better identify, target, and focus on those properties who have an increased risk of lead paint exposure.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: Section 156.300-.307 of LMCO are added as follows:

LEAD HAZARD SAFETY REQUIREMENTS

§ 156.300 GENERALLY.

(A) Purpose. The purpose of this section is to prevent and protect children from lead-based hazards during their occupancy of residential properties and to create and preserve safe and healthy housing in Louisville, Jefferson County, Kentucky.

(B) *Scope.* This chapter shall apply to any housing unit as defined by this section and which was built before 1978.

§ 156.301 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CERTIFIED LEAD-HAZARD RISK ASSESSOR. As defined by 902 KAR 48.020.

CHEWABLE SURFACE. An interior or exterior accessible painted surface that a child can mouth or chew. Hard metal substrates and other materials that cannot be dented by the bite of a young child are not considered chewable.

AT-RISK TENANT. An occupant of a rental housing unit that is less than 72 months of age and/or a woman who is pregnant.

THE DEPARTMENT. For the purposes of this chapter, the Louisville Metro Department of Codes and Regulations and the Louisville Metro Department of Public Health and Wellness will be referred collectively as the Department. Both Departments shall be responsible for the administration and enforcement of this chapter unless otherwise specified.

ELEVATED BLOOD LEAD LEVEL (EBLL). Means a blood lead level greater than or equal to the currently approved Blood Lead Reference Value established by the Centers for Disease Control and Prevention.

ENCAPSULANT. Means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating (with or without reinforcement materials) or an adhesively bonded covering material.

ENCAPSULATION. Means the application of an encapsulant.

FRICTION SURFACE. An interior or exterior surface that is subject to abrasion or friction, including, but not limited to, certain window, floor, and stair surfaces.

IMPACT SURFACE. An interior or exterior surface that is subject to damage by repeated sudden force, such as certain parts of door frames.

INTERIM CONTROLS. Means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

LEAD-BASED HAZARD. As defined by 40 C.F.R. § 745.65.

LEAD-HAZARD ABATEMENT. As defined by KRS § 211.9061.

LEAD-HAZARD CONTROL. Means the effectuation of interim controls and/or lead-hazard abatement so as to temporarily or permanently eliminate lead-based hazards.

LEAD-HAZARD CONTROL REPORT. Following the completion of a Lead-Hazard Assessment or, if necessary, effectuation of lead-hazard control, a Lead-Hazard Control Report shall be completed by a Certified Lead-Hazard Risk Assessor. Such Report shall be completed by utilizing a standardized lead-hazard control form created by the Department.

The report shall require the following information be included and certified by the Assessor:

- (1) That there are no lead-based hazards.
- (2) Locations where future lead-based hazards may arise.
- (3) Name of the certified risk assessor completing the report.
- (4) Address of property.
- (5) Date of evaluation.
- (6) Results of visual assessment and dust wipe sample analysis.
- (7) Name and address of laboratory used.
- (8) Lead-hazard control methods used.
- (9) Results of soil testing if identified as a lead-based hazard.

LEAD-HAZARD RISK ASSESSMENT. As defined by 902 KAR 48.040-Section 4.

MULTI-UNIT RENTAL HOUSING FACILITY. Any structure containing more than one rental housing unit.

OWNER. A person, association, corporation, partnership, and/or other legal entity having a legal or equitable title in real property.

RENTAL HOUSING UNIT. Any individual housing unit, whether a standalone unit or an individual unit within a larger multi-unit complex, that is or may be available for rent or is occupied or rented by a tenant or subtenant in exchange for consideration in any form. Housing unit means a building or portion thereof, designed for occupancy for residential purposes and having cooking and sanitary facilities. Any individual housing unit located

within a larger structure, such as, but not limited to, a duplex house or apartment building, shall be considered its own rental housing unit.

A rental housing unit shall not include any of the following:

(1) A short-term rental unit as defined in § 115.515;

(2) Hotels, motels, inns, bed and breakfasts, or similar accommodations that provide lodging for transient guests;

(3) Hospitals, hospice facilities, assisted living facilities, nursing homes, and residential care facilities meeting the definition of KRS § 100.982;

(4) Convents, monasteries, or other facilities occupied exclusively by religious order or congregation;

(5) Transitional housing, homeless shelters, rehabilitation homes, and other emergency or temporary shelters;

(6) Housing units owned, operated, or managed by a major educational or medical institution or by a third party for the institution.

SECONDARY RESIDENCE. A home other than a minor's primary residence where he or she spends at least 20% of their time, including but not limited to the residence of a non-custodial parent.

VISUAL ASSESSMENT. A visual examination for possible lead-based hazards, with specific attention paid to chewable surfaces, friction surfaces, impact surfaces, areas of deteriorated, chipping and/or peeling paint, and/or to areas likely to be frequented by children. Such assessments shall be augmented by the use of instant lead detection tools.

§ 156.302 CODE ENFORCEMENT LEAD INSPECTION.

(A) *Training.* All Louisville Metro Code Enforcement Officers shall receive Kentucky state accredited training sufficient to become either a Certified Lead-Hazard Inspector or Certified Lead-Hazard Risk Assessor pursuant to 902 KAR 48:030.

(B) *Inspections.* During all inspections performed by a Louisville Metro Code Enforcement Officer on a residential property for any purpose, such officer shall conduct a visual inspection of the property, utilize instant lead detection methods, and take all other reasonable steps for the purposes of identifying lead-based hazards. Interior inspections shall only occur upon proper notice under KRS § 383.615 and § 383.665 of the Uniform Landlord Residential Tenant Act, by administrative warrant, or upon consent of the occupant. If there is reasonable suspicion of a lead-based hazard following an inspection, the Louisville Metro Department of Code Enforcement, in addition to all other steps, shall notify the Department of Public Health and Wellness.

(C) *Inspection by Appointment.* Rental Housing Unit tenants may request inspections for Lead-Based Hazards by appointment. Priority shall be given to units which serve as an At-Risk Tenant's primary or secondary residence.

§ 156.303 EBLL RESPONSE

(A) *Notice.* Upon notification of an EBLL, the Department of Public Health shall immediately notify the owner of such At-Risk Tenant's primary and any secondary residences of a potential Lead-Based Hazard, and the requirement for obtaining a Lead-Hazard Risk Assessment.

(B) *Kentucky Department for Public Health.* If the Kentucky Department for Public Health is actively addressing an EBLL pursuant to state law, this chapter shall not apply and Louisville Metro shall assist if requested.

§ 156.304 LEAD-BASED HAZARD RESPONSE BY OWNER.

(A) *Responsibility.* When a Lead-Based Hazard has been verified by a Lead-Hazard Risk Assessment, the property owner shall be responsible for the remediation of all Lead-Based Hazards.

(B) *Notice.* Upon a finding of a probable Lead-Based Hazard or report of an EBLL, the owner shall be issued an Order of Correction and notified of all necessary requirements of this chapter by the Department. The owner of the property shall be responsible for obtaining a Lead-Hazard Risk Assessment within 14 days of the issuance of the Order of Correction unless granted an extension by the Department.

(C) *Assessment.* Based on the results of Lead-Hazard Risk Assessment, the Department shall establish a remediation plan which specifies what lead-hazard controls are necessary and the date by which completion of the plan is required. The date shall not exceed 60 days unless for good cause shown.

(D) *Citation and Public Notice.* Failure of an owner to comply with the requirements of this chapter shall result in the issuance of a citation pursuant to LMCO § 156.308. Each day that a violation continues after a citation has been issued or notice has been served shall be deemed a separate offense. The failure to obtain an assessment or complete lead-hazard controls within the time frame allotted by the Department pursuant to this section shall be publicized on the Louisville Metro Rental Registry under LMCO Chapter 119.

§ 156.305 LEAD-HAZARD CONTROL.

(A) *Control.* Upon the finding of a Lead-Based Hazard following a Lead-Hazard Risk Assessment conducted pursuant to this chapter, the owner shall ensure the completion

of Lead-Hazard Control and submit a Lead-Hazard Control Report within a time period set forth by the Department consistent with LMCO §156.304.

(B) *Lead-hazard control work.* All Lead-Hazard Control shall be performed in accordance with applicable state and federal law and must comply with the following provisions:

(1) No person shall disturb or remove lead-based paint or in any other way generate excessive dust or debris during work on the interior or exterior of any existing building or structure except in accordance with the requirements of applicable Kentucky state law and the Lead-Based Paint Renovation, Repair and Painting Rule (40 CFR 745 et seq.).

(2) Any home improvement contractor, property management firm, handyman or other person compensated for renovation work that involves window replacement or that disturbs more than six square feet of interior, and/or more than 20 square feet of exterior paint or surface coating, must possess an EPA RRP certification.

(3) The remediation of lead-based hazards shall be completed in a manner which will not endanger the health and wellbeing of current or future occupants, and shall result in the safe removal from the premises and the safe disposal of lead containing materials, debris, and other potentially harmful materials.

(C) *Lead-Hazard Control Report.* Upon the completion of a Lead Hazard Risk Assessment and, if necessary, Lead-Hazard Control, the owner shall submit a Lead-Hazard Control Report provided by a Certified Lead-Hazard Risk Assessor, providing all necessary information and detailing the status of remaining potential future lead-hazards at the property and any necessary future surveillance and remediation of such hazards, to the Louisville Metro Department of Public Health and Wellness and to any current or future tenants.

(D) *Re-Inspection.* For any property at which a lead-based hazard has been verified and interim controls implemented, the Department shall, at a minimum, re-inspect the property every three years. Re-inspection shall include reviewing and visually inspecting lead-based material identified in past inspections, reviewing previous abatement and remediation plans, and evaluating the effectiveness of repairs or remodeling that may have impacted the status of previously identified lead-based hazards.

§ 156.306 LEAD-BASED HAZARD DESIGNATION AND NOTIFICATION

(A) *Tenant notification.* Subject to applicable law, the results of the initial Lead-Hazard Assessment and Lead-Hazard Control Report shall be provided to current and subsequent tenants by the Owner in a manner that permits meaningful consideration of the information. In addition, before any work impacting lead-based hazards begins, tenants shall be notified and appropriate arrangements for their safety shall be made.

(B) *Rental Registry notice to public.* If an owner fails to obtain a Lead-Hazard Risk Assessment within the time frame specified by the Department under LMCO § 156.304, or if an owner fails to submit a Lead-Hazard Control Report within the time frame specified by the Department under LMCO § 156.305, the Department shall notify the public via the Louisville Metro Rental Registry established under LMCO Chapter 119. Notice shall include the date of all citations issued, information resulting from inspections and assessments, and all other information the Department finds relevant regarding potential hazards. Information shall be presented in a manner that allows meaningful consideration by the general public.

(C) *Removal from Public Notice.* A property listed upon the Louisville Metro Rental Registry pursuant to the requirements of LMCO § 156.305(B) shall no longer be specified as having a Lead-Based Hazard after successful completion of a property Re-Inspection pursuant to LMCO § 156.305(D).

§ 156.307 APPEALS; PROCEDURE.

(A) *Appeals.* Any person directly affected by a decision of the Department or a citation, notice of violation, or any other notice or order issued under this Chapter shall have the right to appeal to the Code Enforcement Board ("Board") in accordance with §§ 32.275 et seq.

(B) *Emergency Actions.* Pursuant to LMCO § 32.292, in the instance that an At-Risk Tenant is in immediate danger of lead exposure, nothing in this Chapter shall prevent Louisville Metro from taking immediate action to remediate the danger, as such exposure shall be considered a serious threat to health, safety, and welfare requiring immediate action if necessary.

§ 156.308 PENALTY.

Any citation issued pursuant to § 156.300-.307 shall be classified as a civil offense and shall be enforced through the Code Enforcement Board as provided in §§ 32.275 et seq. or as it may be amended. For an initial citation issued pursuant to this Chapter, the fine shall be \$500. Such civil penalty shall increase \$500 for each new citation up to \$2,000 for a fourth or greater offense. All fines shall be doubled for violations involving an EBLL. Each day that a violation continues after a citation has been issued or notice has been served shall be deemed a separate offense.

SECTION II: Chapter 167 is hereby repealed in its entirety.

SECTION III: This Ordinance shall take effect upon its passage and approval or otherwise becoming law.

Sonya Harward
Metro Council Clerk

Brent Ackerson
President of the Council

Craig Greenberg
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____

O-056-25 Lead Ordinance amendment rjh – 2-17-25