

Lead Poisoning Prevention Ordinance of Cook County 2019

Chapter 38

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ARTICLE X. - LEAD POISONING PREVENTION

Sec. 38-251. – Title.

This Ordinance shall be known and may be cited as the “Lead Poisoning Prevention Ordinance of Cook County”.

38-252. - Purpose and Jurisdiction.

- (a) *Purpose.* This Article shall be liberally construed and applied to protect and improve the public health and the quality of life for individuals residing within the area of Jurisdiction described in this Section.
- (b) *Jurisdiction* The provisions of this Article apply to all areas within the boundaries of Cook County located outside of the boundaries of another Delegate Agency as defined in Sec. 38-253.
- (c) *Enforcing Authority.* The Cook County Department of Public Health (CCDPH) shall enforce this Ordinance with respect to all properties within the area of Jurisdiction described above.

Sec. 38-253. – Definitions.

- (a) *Act* means the Illinois Lead Poisoning Prevention Act (410 ILCS 45 et seq.), as amended.
- (b) *CCDPH* means the Cook County Department of Public Health.
- (c) *CCDPH COO* means the CCDPH Chief Operating Officer of the Cook County Department of Public Health.
- (d) *Child Care Facility* and *School* mean any structure used by a child care provider required to be licensed by the Illinois Department of Children and Family Services or charter, or a public or private school structure frequented by Children 6 years of age or younger and located within the Jurisdiction of this Article as defined in Sec. 38-252(b).
- (e) *Children* means a person under the age of 16.
- (f) *Clearance Evaluation* means the activity of performing a visual assessment and collecting dust wipe samples following lead abatement or lead mitigation for the purpose of determining compliance with IDPH’s standard for lead dust levels.
- (g) *Code* means the Illinois Lead Poisoning Prevention Code (77 Ill. Adm. Code Part

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845), as amended.

- (h) *Commercial Establishment* means any place that provides a business service or involves the selling, leasing or renting of merchandise to the general public or the manufacture or distribution of merchandise to others who sell to the general public, located within the Jurisdiction of this Article as defined in Sec. 38-252(b).
- (i) *Delegate Agency* means a unit of local government or a health department approved by IDPH in accordance with Sec. 77 Ill. Adm. Code 845.50 of the Code to carry out the provisions of the Act.
- (j) *Dwelling Unit* means an individual unit within a residential building used or intended to be used for as living quarters for one household.
- (k) *Elevated Blood Lead Level or EBL* means a blood lead level in excess of those considered within the permissible limits as established under Federal, State and/or CCDPH laws or rules.
- (l) *Exposed Surface* means any interior or exterior surface of a Regulated Facility, located within the Jurisdiction of this Article as defined in Sec. 38-252(b).
- (m) *IDPH* means the Illinois Department of Public Health.
- (n) *Lead Abatement* means any approved work practices that will permanently eliminate lead exposure or remove the Lead-Bearing Substances in a Regulated Facility in compliance with the Act, the Code, IDPH, this Ordinance, and any rules and regulations promulgated by CCDPH.
- (o) *Lead-Bearing Substance* means any item, or part of an item, excluding existing paint already applied to a Regulated Facility, containing or coated with lead such that the lead content is equal to or more than 90 parts per million; or any dust on surfaces or in furniture or other nonpermanent elements of the Regulated Facility with lead content in excess of the limits specified in Sec. 77 Ill. Adm. Code 845.205(c); or any accessible or bare soil containing lead in excess of the limits specified in Sec. 77 Ill. Adm. Code 845.205 (b); or any existing house paint or other surface coating material containing more than or equal to five-tenths of one percent (0.5%); or greater than or equal to one milligram per square centimeter or any lower standard for lead content in residential paint as may be established by federal law or rule; or paint or consumer product that exceeds federal Consumer Products Safety Commission or US Environmental Protection Agency or US Department of Housing and Urban Development standards; or item or dust on item containing lead in excess of the

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amount specified in the rules authorized by this Article or a lower standard for lead content as may be established by federal law or rule. *Lead-Bearing Substance* does not include firearm ammunition or components as defined by the Firearm Owners Identification Card Act (430 ILCS 65/1 et seq.).

- (p) *Lead Hazard* means a Lead-Bearing Substance that poses an immediate health hazard to humans. Lead Hazard includes a condition in which exposure to lead from lead contaminated dust, lead-contaminated soil, or deteriorating lead-based paint would have an adverse effect on human health (as established by the EPA at 40 CFR745.65 under Title IV of the Toxic Substances Control Act). Lead-based paint hazards include, for example, paint-lead hazards, dust-lead hazards, and soil-based hazards.
- (q) *Lead Mitigation* means remediation of a Lead Hazard, in the manner described in Section 9 of the Act, and Sub-Part F of the Code, so that the Lead-Bearing Substance does not pose an immediate health hazard to humans.
- (r) *Lead Poisoning* means the condition of having blood lead levels in excess of those considered safe under Illinois and Federal laws and rules and applicable rules promulgated by CCDPH.
- (s) *Lead Risk Assessment* means an on-site investigation to determine the existence, nature, severity, and location of Lead Hazards. Lead Risk Assessment includes any lead sampling and visual assessment associated with conducting a Lead Risk Assessment and Lead Hazard Screen and all lead sampling associated with clearance evaluations, in accordance with the Code.
- (t) *Lead Risk Assessor* means an individual who has been trained by an IDPH-approved training program and is licensed by IDPH to: conduct Lead Risk Assessments, lead inspections, and Lead Hazard Screens; to sample for the presence of lead in paint, dust, soil, water, and sources for Lead-Bearing Substances; and to conduct clearance evaluations.
- (u) *Owner* means any Person, who alone, jointly, or severally with others:
 - (1) Has legal title to or a beneficial interest in a land trust or other entity having legal title to: any Regulated Facility, or Commercial Establishment, with or without accompanying actual possession of the Regulated Facility or Commercial Establishment; or
 - (2) Has charge, care, or control of the Regulated Facility as Owner or agent of the o

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(3) Owner, or as executor, administrator, trustee, or guardian of the estate of the Owner; or

(4) Has an interest as a purchaser under a real estate installment contract in a Regulated Facility or Commercial Establishment.

(a) *Person* means any one or more natural person, individual, partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, governmental body, political subdivision, State agency, or any other legal entity or combination thereof, or their legal representative, agent, or assign.

(b) *Regulated Facility* means a Residential Building, Child Care Facility, or School.

(c) *Residential Building* means any room, group of rooms, or other interior areas of a structure designed or used for human habitation; common areas accessible by inhabitants; and the surrounding property or structures.

Sec. 38-254. - Use of Lead-Bearing Substances Prohibited.

No Person shall use or apply Lead-Bearing Substances:

(a) In, upon or around any Exposed Surface of a Regulated Facility or other structure frequented by Children;

(b) In or upon any fixtures or other objects used, installed, or located in or upon any Exposed Surface of a Regulated Facility, or other structure frequented by Children, or intended to be so used, installed, or located and that in the ordinary course of use, are accessible to and chewable by Children;

(c) In or upon any items, including, but not limited to, clothing, accessories, jewelry, decorative objects, edible items, candy, food, spices, cosmetics, objects used to prepare or serve food, dietary supplements, toys, furniture, or other articles used by or intended to be chewable or consumed by Children; or

(d) Within or upon a Regulated Facility, playground, park or recreational area, or other areas regularly frequented by Children.

Sec. 38-255. - Maintenance of Regulated Facility.

It is the duty of every Owner of a Regulated Facility to maintain the Regulated Facility in such a manner so as to prevent the existence of a Lead Hazard.

Sec. 38-256. - Sale, Transfer or Distribution of Items or Objects Containing Lead-

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Bearing Substances.

No Person shall have, offer for sale, transfer, distribute to the public, place in the stream of commerce, or manufacture any item that contains a Lead-Bearing Substance. These items include but are not limited to:

- (a) clothing, accessories, jewelry, decorative objects, edible items, candy, cosmetics, dietary supplements, toys, furniture, or other articles used by or intended to be chewable or consumed by Children;
- (b) any fixture or other object intended to be used, installed or located in or upon any surface of a Regulated Facility and that, in the ordinary course of use, is accessible to or chewable by Children;
- (c) any spice, food or edible item or package or container for food or edible items which contains lead either in excess of a level set by the Act or Code, or in any concentration that exceeds a United States Food and Drug Administration guideline; and
- (d) any non-edible item that, in the ordinary course of use, is accessible to or chewable or ingestible by Children.

Sec. 38-257. - Required Notice By Commercial Establishments Offering Paint or Other Supplies.

Any Commercial Establishment that offers paint or other supplies intended for the removal of paint shall display, in a prominent and easily visible location, a poster or provide a brochure, containing, at a minimum, the following:

- (a) a statement that dry sanding and dry scraping or paint in dwellings built before 1978 is dangerous;
- (b) a statement that the improper removal of old paint is a significant source of lead dust, the primary cause of Lead Poisoning; and
- (c) contact information where consumers can obtain more information.

A Commercial Establishment may utilize the poster or brochure available from IDPH or from another source so long as it meets the minimum criteria of this Section.

Sec. 38-258. - Inspections of Regulated Facilities.

- (a) Upon notification that a Child or Pregnant Person who is an occupant or frequent inhabitant of a Regulated Facility is reported to have an Elevated Blood Lead Level

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that would necessitate a Lead Risk Assessment, a representative of CCDPH is authorized to inspect any Regulated Facility for the purpose of determining the presence of a Lead Hazard. In the following cases, a Lead Risk Assessment and follow-up shall be conducted by CCDPH:

- (1) If a Child or a pregnant woman has a confirmed elevated blood lead level at or above the standards set by rules promulgated by IDPH; or
 - (2) If a Child or a pregnant woman has a confirmed blood lead level at or above the standards set by rules promulgated by CCDPH, as long as those blood lead levels are no higher than the rules set by the state; or
 - (3) If a Child's physician or a physician of a pregnant woman requests a Lead Risk Assessment.
- (b) An inspection of a Regulated Facility to determine the source of Lead Poisoning as authorized by this Section shall comply with the Act and Code.
- (c) Following a Lead Risk Assessment, CCDPH shall:
- (1) Prepare an inspection report that shall:
 - a. State the address of the Regulated Facility;
 - b. Describe the scope of the inspection, the inspection procedures used, and the method of ascertaining the existence of a Lead-Bearing Substance in the Regulated Facility;
 - c. State whether any Lead-Bearing Substances were found in the Regulated Facility;
 - d. Describe the nature, extent, and location of any Lead-Bearing Substance that is found;
 - e. State either that a Lead Hazard does exist or that a Lead Hazard does not exist. If a determination is made that a Lead Hazard does exist, the report shall describe the source, nature and location of the Lead Hazard. The existence of intact lead paint does not alone constitute a Lead Hazard for the purposes of this Section; and
 - f. Give the name of the person who conducted the Lead Risk Assessment and the person to contact for further information regarding the Lead Risk Assessment.
 - (2) Provide a copy of the inspection report to the property Owner and to the occupants of the Regulated Facility. If a Lead Bearing Substance is found, at the

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time of providing the inspection report, CCDPH shall attach an informational brochure to the copy of the inspection report provided to the property Owner and the occupants of the Regulated Facility.

Sec. 38-259. - Right of Entry.

In the discharge of the duties set out in this Article an authorized representative of CCDPH shall have the authority to enter, at a reasonable hour, a Regulated Facility to enforce the provisions of this Article. An authorized representative of CCDPH charged with enforcement of this Ordinance, upon presentation if requested of the appropriate credentials to the Owner, occupant or his or her representative, may inspect a Regulated Facility for the purposes of ascertaining that all surfaces accessible to Children are intact and in good repair, and for purposes of ascertaining the existence of Lead Hazards. An authorized representative of CCDPH may also inspect the soil surrounding said facilities and may also inspect Commercial Establishments for the purposes of ascertaining whether any Lead Hazards are present. Such representative may remove samples or objects necessary for laboratory analysis. If a Person entitled to withhold consent to an inspection refuses to allow inspection, a representative of CCDPH shall have the authority to seek a search warrant and/or order from a court of competent jurisdiction to permit entry. A court may issue a warrant upon receiving verification that a victim of Lead Poisoning resides or has recently resided in the Regulated Facility during the previous 6 months.

Sec. 38-260. - Subpoena Powers.

- (a) The authorized representative of CCDPH shall have the power to issue subpoenas to Owners of Commercial Establishments suspected of violating this Ordinance to ascertain what goods and services are being bought, sold, manufactured, distributed or resold as well as to whom and from whom they are being sold.
- (b) Upon determination that there is a Lead Hazard in or upon any Regulated Facility, the authorized representative of CCDPH shall have the power to subpoena the Owners of the Regulated Facility only for the purposes of ascertaining who performed work or who was contracted to perform work to remove a Lead- Bearing Substance or Lead Hazard or any work which has disturbed a Lead-Bearing Substance or caused a Lead Hazard.

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(c) A court of competent jurisdiction upon the application of the *CCDPH COO*, may, in its discretion, compel the attendance of witnesses, the production of books, papers, records, or memoranda, and the giving of testimony before the *CCDPH COO* conducting an investigation authorized by this Section, by an attachment for contempt or otherwise, in the same manner as production of evidence may be compelled before the court.

Sec. 38-261. - Procedures Upon Determination of a Lead Hazard in a Regulated Facility.

- (a) If the inspection report identifies a Lead Hazard, CCDPH shall serve a Mitigation Notice on the property Owner stating that the Owner is required to mitigate the Lead Hazard. Such service shall be conducted pursuant to Section 38-263 of this Article. The Mitigation Notice shall indicate the time period in which the Owner must complete the Lead Mitigation as required by this Article and shall include information describing Lead Mitigation activities that meet the requirements of the Act, the Code and any rules or regulations promulgated by CCDPH, where required by CCDPH.
- (b) CCDPH shall establish procedures whereby an Owner, after receiving a Mitigation Notice under this Section, may submit a Mitigation Plan to CCDPH for review and approval.
- (c) When a Mitigation Notice is issued for a Regulated Facility inspected as a result of an Elevated Blood Lead Level in a pregnant person or a Child, or if the Regulated Facility is occupied by a Child 6 year of age or younger or a pregnant person, the Owner shall mitigate the Lead Hazard within 30 days of receiving the Mitigation Notice. When no such Child or pregnant person occupies the Regulated Facility, the Owner shall complete the Lead Mitigation within 90 days.
- (d) An Owner may apply, in writing, to CCDPH for an extension of the deadline for Lead Mitigation. If CCDPH determines that the Owner is making substantial progress toward Lead Mitigation, or if the Owner's failure to meet the deadline is reasonable, as determined by CCPDH, CCDPH may grant an extension of the deadline.
- (e) CCDPH may, after the deadline set for completion of Lead Mitigation, conduct a follow-up inspection of any Regulated Facility for which a Mitigation Notice was issued for the purpose of determining whether the Lead Mitigation actions required have been completed and whether the activities have sufficiently mitigated the Lead

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Hazard. CCDPH may conduct a follow-up inspection upon the request of an Owner or occupant.

- (f) If, upon completing the follow-up inspection, CCDPH finds that the Lead Hazard for which the Mitigation Notice was issued is not mitigated, CCDPH shall serve the Owner with notice of the deficiency and a Mitigation Order. The Mitigation Order shall indicate the specific actions the Owner must take to comply with the Lead Mitigation requirements of the Act and the Code, which may include Lead Abatement if Lead Abatement is the sole means by which the Lead Hazard can be mitigated. The order shall also include the date by which the Lead Mitigation shall be completed. CCDPH shall notify the Owner that failure to comply with a Mitigation Order, within the time frames set out in the Mitigation Order, or any extension thereof, could result in an assessment of fines and other penalties.
- (g) If, upon completing the follow-up inspection, CCDPH finds that the Lead Mitigation requirements of the Act and Code have been satisfied, CCDPH shall provide the Owner with a Certificate of Compliance stating that the required Lead Mitigation has been accomplished.
- (h) CCDPH shall make the Owner aware of any CCDPH financial assistance programs that may be available for Lead Mitigation and/or Lead Abatement.

Section 38-262. - Procedures Upon Determination of Lead-Bearing Substances in a Commercial Establishment.

- (a) Upon determination that a Commercial Establishment is handling goods, products or items containing a Lead-Bearing Substance, CCDPH may take action as needed to enforce this Article, including the following, as CCDPH or its authorized representative may determine is appropriate:
 - (1) Giving notice to the Owner of the Commercial Establishment of the existence of a Lead-Bearing Substance or of a Lead Hazard contained in the goods, products or items handled by the Commercial Establishment;
 - (2) Ordering the Owner of the Commercial Establishment to cease and desist selling, distributing or manufacturing the goods, products and items that are Lead-Bearing Substances or contain Lead Hazards as provided by Section 38-256 of this Article;
 - (3) Ordering the Owner of the Commercial Establishment to remove from distribution

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and sale any product, goods or items containing a Lead-Bearing Substance. If the lead-bearing component of a product is removable, CCDPH may, at its discretion, allow the lead-bearing component to be removed and the remaining product to be sold, provided that the removal of the Lead-Bearing Substance is noted on the product's packaging. Owners are required to dispose of said product or lead-bearing component in accordance with state or federal laws and rules and regulations promulgated by IDPH and CCDPH regarding their disposal; and

(4) Pursuing any other measures, penalties or remedies provided for in this Article.

Sec. 38-263. - Service of Inspection Report, Mitigation Notice and Mitigation Order.

(a) Service of an inspection report, Mitigation Notice, and Mitigation Order by CCDPH may be made by:

- (1) Mail to the Owner's residence address or, if the Owner is a business entity, at any address identified for its registered agent, or at its principal place of business; or
- (2) Personal service, including but not limited to personal service upon an employee or agent of the Owner at a place of business of the Owner or otherwise if such service is reasonably calculated to reach the Owner.

(b) If service cannot be made by one of the methods described in Sec. 38-263(a) above then service may be made by posting a copy document on the front entrance of the Regulated Facility or Commercial Establishment where the Lead Hazard is found.

Sec. 38-264. - Presumption of Violation Where Owner Fails to Permit Lead Risk Assessor Access to Regulated Facility or Commercial Establishment

(a) Where, subsequent to the issuance of an inspection report and/or Mitigation Notice, the Owner fails to permit a CCDPH Lead Risk Assessor to enter a Regulated Facility or Commercial Establishment to enforce the provisions of this Article, it is presumed that the conditions described in the inspection report and/or Mitigation Notice have not been corrected and on the basis of that presumption, CCDPH may follow the procedures set forth in Section 38-261, Procedures upon determination of Lead Hazard for Regulated Facilities.

(b) Where, subsequent to the deadline for compliance set out in a Mitigation Notice/Order, the Owner fails to permit a CCDPH Lead Risk Assessor to enter a

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Regulated Facility to enforce the provisions of this Article, it is presumed that the conditions described in the Mitigation Notice/Order have not been corrected and on the basis of that presumption the Owner shall be deemed to have failed to comply with the Mitigation Notice/Order and is presumed to be in violation of this Article.

Sec. 38-265. - Mitigation or Abatement of Lead Hazards in Regulated Facilities or Commercial Establishments.

Lead Hazard removal, Lead Mitigation and/or Lead Abatement shall be accomplished in a manner prescribed by IDPH and CCDPH rules, and in accordance with the Act and the Code concerning acceptable and safe methods of Lead Hazard removal, Lead Mitigation or Lead Abatement, and in a manner that will not endanger the health or well-being of occupants, and will result in the safe removal from the premises, and the safe disposition of flakes, chips, debris, dust and other potentially harmful materials. No Person may conduct Lead Mitigation, Lead Abatement and/or Lead Hazard removal in a manner that increases exposure of any person to Lead-Bearing Substances or Lead Hazards.

Sec. 38-266. - Emergency Measures.

- (a) Whenever CCDPH finds that because of a violation of this Article a situation exists that requires immediate action to protect the public health, it may, without notice or hearing, issue an order requiring that such action be taken as it may deem necessary to protect the public health, including, but not limited to, the issuance of a stop work order, ordering the immediate suspension of any improper activities that may disturb a Lead-Bearing Surface, and requiring that any Person found to be improperly conducting such activities immediately cease work. Notwithstanding any other provision in this Article, such order shall be effective immediately. The State's Attorney and Sheriff have authority to enforce the order, after receiving notice thereof. Any Person subject to such an order is entitled, upon written request to the Cook County Department of Administrative Hearings, to a hearing to determine the continued validity of the order.
- (b) Upon service of a stop work order issued under this Section, the Person to whom the order is issued shall immediately comply with the requirements of the order. The duty to comply with such order shall arise at the moment of service of the order and

Lead Poisoning Prevention Ordinance of Cook County 2019 shall continue until the time of cancellation, if any, of such order by CCDPH or an administrative law officer.

- (c) CCDPH's written decisions shall include information about the right to appeal to the Department of Administrative Hearings, or a court of competent jurisdiction.
- (d) Such appeal shall be initiated by filing with the Department of Administrative Hearings a notice of appeal, in such form and accompanied by such information as required by the Department of Administrative Hearings.
- (e) If the appeal is before the Department of Administrative Hearings, the Department of Administrative Hearings shall assign an administrative law officer to conduct a hearing. Upon conclusion of a hearing and no later than 14 days after the filing the notice of appeal, the administrative law officer shall enter an order which includes findings of law and findings of fact. Any delays occasioned by the Owner or agreed to by the Owner shall temporarily suspend for the time of the delay of the 14 day period within which the administrative decision is to be issued. The administrative law officer may affirm the stop work order, order that the stop work order be modified or order that the stop work order be withdrawn, or order any other measures necessary to ensure compliance with this Article.

Sec. 38-267. - Regulated Facilities Not Requiring Abatement or Mitigation Due to a Stipulation Agreement.

- (a) Notwithstanding any other provision of this Article, Lead Abatement or Lead Mitigation is not required when the property Owner enters into a stipulation with CCDPH that will protect Children from exposure to Lead-Bearing Substances. The stipulation shall be by written agreement, and shall provide that any violation of the agreement shall cause the immediate issuance of a Mitigation Order. Examples of conditions that may be included in a stipulation entered into by the property Owners and CCDPH include, but are not limited to:
 - (1) The property shall be demolished; or
 - (2) The property shall be vacated; or
 - (3) Additional conditions described in rules or regulations promulgated by CCDPH.
- (b) CCDPH shall file with the Cook County Recorder of Deeds any agreement it enters into pursuant to this Section.

Sec. 38-268. - Owner's Obligation to Post Warnings.

- (a) The Owner of a Regulated Facility, who has received a Mitigation Notice pursuant to this Article, shall post warning at the entrances and in common areas of the building specifying the identified Lead Hazards. The posted warnings drafted by CCDPH, or IDPH, and sent to the property Owner, shall, at a minimum, indicate the following:
- (1) That unit(s) in the building have been found to have Lead Hazards;
 - (2) That other units of the building may have Lead Hazards;
 - (3) Whether mitigation notices have been issued for 2 or more dwelling units within a 5-year period of time;
 - (4) That CCDPH recommends that Children six years of age or younger receive blood lead testing; and
 - (5) Where to seek further information about Lead Poisoning.
- (b) Once the Owner has abated the hazards to the satisfaction of CCDPH and received a Certificate of Compliance from CCDPH, the Owner may remove the notices posted pursuant to this section.

Sec. 38-269. - Owner's Obligations with Respect to Purchasers and Prospective Lessees.

- (a) An Owner of a Regulated Facility who has received a Mitigation Notice under this Article shall, before the renewal of an existing lease agreement or before entering into a new lease agreement or sales contract for the dwelling for which the Mitigation Notice was issued provide:
- (1) The current lessee or lessees, if the lease is to be renewed, and prospective lessees or purchasers of that unit with written notice that a Lead Hazard has previously been identified in the Dwelling, unless the Owner has obtained a Certificate of Compliance for the unit. An Owner shall satisfy this notice requirement by providing the prospective lessee or purchaser with a copy of the Mitigation Notice and inspection report and obtaining from the prospective lessee or purchaser a signed statement verifying receipt of the copy of the Mitigation Notice and inspection report.
 - (2) The Illinois Department of Public Health and Cook County Department of Public Health with written notice of the sale of the Dwelling for which the Mitigation Notice was issued, including the date of the sale, and the name, address,

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telephone number, and email address of the prospective purchaser of the unit. Owner shall also provide to CCDPH a copy of the signed statement by the purchaser or lessee verifying receipt of the Mitigation Notice and inspection report. The notice required to CCDPH shall be submitted as prescribed by CCDPH. The Owner must fulfill this requirement within 30 days of sale or lease of the Regulated Facility.

- (b) An Owner of a Regulated Facility who has received a Mitigation Notice under this article or an Owner of a Regulated Facility who has purchased the facility from an Owner who has received a Mitigation Notice under this Article and who also receives notice as provided in this section shall before entering into a new lease agreement for the for which the Mitigation Notice was issued, mitigate the Lead Hazard previously identified in the Regulated Facility and obtain a Certificate of Compliance. For purposes of determining compliance with this Article, the date of the Mitigation Notice for an Owner of a Regulated Facility who has purchased the facility from an Owner subject to this section and who also receives notice as provided for in this section shall be deemed to be the date of the sale.
- (c) If an Owner of a Regulated Facility violates subsection (b) of this Section, the lessee may recover in a civil action damages equal to five times the full monthly rent and the interest on that amount calculated at the prevailing rate, together with costs and such reasonable attorney's fees as the court allows. Such action may be brought without first filing an administrative complaint. The statute of limitations for a civil action brought pursuant to this Ordinance shall be for a period of three years from the date of the last event constituting the alleged violation for which the action is brought.
- (d) Before entering into a residential lease agreement or sales contract, all Owners of Regulated Facilities containing Dwellings built before 1978 shall give prospective lessees or purchasers information on the potential health hazards posed by lead in Regulated Facilities by providing prospective lessees or purchasers with a copy of an informational brochure prepared by the Department and shall be consistent with the requirements set forth in 40 CFR Part 745, subpart F.

Sec. 38-270. – Penalties.

- (a) Violation of any section of this Article or any failure to comply with any order

Lead Poisoning Prevention Ordinance of Cook County 2019 authorized pursuant to this Article shall be punishable by a fine not less than \$100.00 or more than \$500.00 for each offense. Each day that such violation or noncompliance exists shall be considered a separate offense.

- (b) Any Person found liable or guilty of a third or subsequent violation of this Article and/or of a third or subsequent failure to comply with any order authorized pursuant to this Article on three different days within a two-year period shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 for each offense, and may be punished by a period of incarceration not to exceed six months, or both. Each day that such violation or noncompliance exists shall be considered a separate offense.
- (c) Where CCDPH has issued a Mitigation Notice and a Mitigation Order to the Owner, prior to the effective date of this Article, but has not issued a Certificate of Compliance with respect to the Lead Hazard(s) identified in the notice and order, the Department may serve on the Owner a renewed a Mitigation Order. The renewed Mitigation Order shall provide the Owner with a reasonable period of time to come into compliance. Failure of the Owner to comply with the renewed order shall be punishable pursuant to subsections (a) and (b) of this Section.

Sec. 38-271. - Rules and Regulations.

The CCDPH COO is authorized to promulgate and adopt reasonable rules and regulations for carrying out the provisions of this Article except for those provisions which relate to the responsibilities of the Department of Administrative Hearings. The Director of the Department of Administrative Hearings is authorized to promulgate and adopt reasonable rules and regulations for carrying out the provisions of this Article which relate to the responsibilities of the Department of Administrative Hearings.

Sec. 38-272. – Remedies.

- a) The State’s Attorney may seek relief with respect to any violation of this Article by filing an appropriate action in a court of competent jurisdiction seeking equitable relief or the penalties contained in Section 38-270 or both.
- b) The State’s Attorney may seek relief with respect to any violation of this Article by filing an appropriate action with the Department of Administrative Hearings seeking the penalties contained in Section 38-270, and any other appropriate order.

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- c) CCDPH may file with the Cook County Recorder of Deeds a copy of a Mitigation Order, where CCDPH has issued a Mitigation Order and a subsequent compliance inspection by CCDPH reveals that the Lead Hazards identified in the Mitigation Order have not been corrected or where pursuant to Section 38-264 there is a presumption that the conditions described in the Mitigation Order have not been corrected.

Sec. 38-273. – Severability.

If any of the provisions of this Article or the application thereof to any Person or circumstance is held invalid, the remainder of those provisions, including the application of such part or provisions to Persons or circumstances, other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Article are severable.

Sec. 38-273. - Effective Date.

This Ordinance shall take effect immediately upon passage.