

DATE ISSUED: ..... March 13, 2002..... REPORT NO. 02-057  
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ATTENTION:..... Public Safety & Neighborhood Services Committee  
..... Agenda of March 20, 2002

SUBJECT:..... Lead Safe Neighborhoods Program (LSNP)

SUMMARY

Issues

- 1) Should the City begin implementation of a citywide Lead Safe Neighborhoods Program as identified in this report and return with a comprehensive plan and associated costs for future consideration?
- 2) Should the City add Section 54.0701 *et seq.* to the Municipal Code to include lead hazards as a public nuisance when the County of San Diego, Department of Environmental Health identifies a lead hazard for a child lead poisoning case?
- 3) Should the City, in collaboration with the Lead Poisoning Prevention Citizen's Advisory Committee, develop a comprehensive ordinance dealing with lead hazards in the home?

Manager's Recommendations

- 1) Direct City staff to begin implementation of a citywide Lead Safe Neighborhoods Program as identified in this report and return with a comprehensive plan and associated costs for future consideration.
- 2) Add Section 54.0701 *et seq.* to the Municipal Code to include lead hazards as a public nuisance when the County of San Diego, Department of Environmental Health identifies a lead hazard for a child lead poisoning case.
- 3) Direct City staff, in collaboration with the Lead Poisoning Prevention Citizen's Advisory Committee, to develop a comprehensive ordinance dealing with lead hazards in the home.

Other Recommendation – None

Fiscal Impact – No additional resources are requested at this time. By accepting the Manager's recommendations, the Council will be directing staff to develop a new ordinance and identify the associated costs of a comprehensive plan for their future consideration.

## BACKGROUND

Childhood lead poisoning is a major environmental health problem that causes adverse effects on children's development and later success as adults. Lead poisoning can cause permanent damage to a child's nervous system, IQ loss, learning disabilities, behavior problems, and – at very high levels – coma, convulsions, and death. In lead poisoning cases, the poisoning source can come from multiple locations but the most common is lead-contaminated dust from chipping and peeling paint or home improvement projects that create lead dust. Children under the age of six frequently perform hand-to-mouth behavior allowing them to ingest lead-contaminated house dust.

Nationwide and throughout California, local governments have been actively working on ways to improve lead poisoning prevention. The first line of defense in protecting children from lead poisoning is primary prevention, which means controlling lead hazards before children are exposed to lead. However, the broad distribution of lead paint in U.S. housing has made achieving primary prevention for all children difficult. As a result, secondary prevention strategies continue to play a vital role in protecting children from lead poisoning. Secondary prevention entails identifying the lead-poisoned children, providing medical care and case management, identifying the source of the children's lead exposure, and ensuring that any lead hazards identified are controlled to prevent children from further exposure to lead.

According to the 1990 census, 70 percent of the housing units in San Diego were constructed before 1978, the first year in which the federal government banned the sale of residential paint containing higher than 600 parts per million of lead. Residences built before 1960 are considered to have an even higher likelihood of lead contamination. The 1990 census estimates 24% of San Diego's housing falls into this pre-1960 category.

According to the County of San Diego, Childhood Lead Poisoning Prevention Program (CLPPP), 377 child lead poisoning cases have been identified in the city of San Diego between 1992 - 2000 (see distribution by zip code in Attachment 1). This is not representative of the true problem as only a low to moderate number of children at high risk have had their blood tested for lead concentrations.

In 1996, the Environmental Health Coalition (EHC) conducted a "Get the Lead Out" campaign that identified sources of lead for homes older than 1950 in four San Diego communities: Barrio Logan, Linda Vista, Sherman Heights, and Valencia Park. The following is a summary of the results for 90 homes that volunteered to participate:

Exterior paint concentrations ranged from 0 - 141,000 parts per million (ppm) with the average concentration at 16,260 ppm. Concentrations of lead greater than 5000 ppm is considered lead based paint.

Level of lead in the house dust on interior window sills ranged from 0 - 523,528 g/ft<sup>2</sup>. Average concentration was over ten times higher than the acceptable lead clearance levels of 250 g/ft<sup>2</sup> on interior window sills.

Level of lead in soil ranged from 0 - 50,992 ppm. Average concentration of lead was 381 ppm. Acceptable lead levels in soil for children play areas is 400 ppm.

## DISCUSSION

Over the past several months, City staff have begun the process of evaluating the elements of an effective lead poisoning prevention program. The evaluation team consisted of staff from the Neighborhood Code Compliance Department (NCCD), Environmental Services Department (ESD), City Attorney's Office, Council District 6, San Diego Housing Commission (SDHC), and EHC. The evaluation process consisted of researching existing laws, reviewing other California local government lead programs, and interacting with the various local, state, and federal agencies that play a role in lead poisoning prevention.

There are a number of areas the City can take action on now to begin addressing this serious problem while continuing to develop a more comprehensive LSNP. Staff recommends the following elements of the LSNP to be implemented:

1. Create a "Lead Poisoning Prevention Citizen's Advisory Committee" and a "City Agency Lead Taskforce" - The committees will be coordinated by ESD.

a. **Lead Poisoning Prevention Citizen's Advisory Committee** will be created to ensure community and stakeholder input for an effective lead poisoning prevention program. Representatives will be from affordable housing, child care, property owners, apartment associations, tenant organizations, real estate, medical providers, community health centers, painting contractors, building trades, NCCD, ESD, City Attorney's Office, SDHC, CLPPP, County Department of Environmental Health (DEH), EHC, Metropolitan Area Advisory Community (MAAC) Project, and Campesinos Unidos Inc. (CUI). Not all organizations have been identified at this time. The purpose of this committee is to:

Recommend to the City a range of options for an effective LSNP.

Provide consultation and assistance to the City with respect to the implementation of the LSNP.

Assist in the drafting of a new municipal ordinance dealing with lead hazards.

Enhance lead education and outreach capabilities.

b. **City Agency Lead Taskforce** has been created to include various agencies in San Diego that work in the areas of lead poison prevention. Agencies that have been identified are NCCD, ESD, CLPPP, DEH, SDHC, EHC, MAAC Project, and CUI. The first meeting was held on January 17, 2002 and future meetings will be held on a regular basis. Purpose of this taskforce is:

Coordinate efforts in lead poison prevention for San Diego.

Minimize overlap of responsibilities and maximize resources.

Coordinate grant applications if determined a joint agency application will

provide for a higher chance of award and an effective program.

Share relevant information.

2. Interim Enforcement Policy and Drafting of a New Lead Ordinance - The County of San Diego is the lead agency in performing case management for child lead poisoning cases in a single or multi-family residence. But the County has no housing authority in the City of San Diego. Currently, the City of San Diego does not perform any enforcement for lead hazards found in the home. Because California state law and the San Diego Municipal Code define lead hazards indirectly as a nuisance, the City Attorney's Office recommends adopting 54.0701 *et seq.* to be used on an interim basis for child lead poisoning cases until a new comprehensive ordinance for lead hazards can be completed.

a. *Interim Enforcement Policy* - It is the Manager's recommendation to add Section 54.0701 *et seq.* to the Municipal Code (Attachment 2) to provide the City with an interim enforcement tool only to be used for child poisoning cases. During this interim period, if the County Department of Environmental Health has been unable to get a property owner to correct an environmental source of child lead poisoning, the City will begin enforcement under this new Municipal Code Section. Procedure will be:

i. DEH identifies to NCCD they have been unable to get the property owner to correct a lead hazard that is a poisoning source for a child.

ii. NCCD inspects the residence, noting all appropriate code violations.

iii. NCCD sends the responsible party(s) a Notice of Violation (NOV). The NOV will list all code violations along with the lead hazard violation and follow the requirements set forth in Chapter 1 of the Municipal Code. The NOV will address the issue of lead safe work practices and proper clearance.

iv. If the responsible person does not voluntarily comply, NCCD sends the case to the City Attorney's Office.

v. City Attorney's Office initiates a judicial action to gain compliance.

b. *Draft a New Ordinance Specific to Lead Hazards* - Code enforcement of lead hazards is one of the primary lead poisoning prevention tools the City has available to it. Other local governments nationwide and throughout California have already implemented lead specific ordinances so there are several models to evaluate. The preparation of a draft ordinance would be an inclusive process allowing input from the community and all stakeholders. Staff will return with periodic updates and estimate a comprehensive ordinance with implementation plan and associated costs can be completed within 12 months.

3. Train City Staff - A training program will be developed for all appropriate City staff for recognition of lead hazards, proper implementation of the interim enforcement policy for lead hazards, and available ways to provide the public education on lead

hazards.

4. Citywide Education and Outreach on Lead Poisoning Prevention - During the performance of their job, City staff's interaction with the public provides an opportunity to hand out educational material on lead poisoning prevention. The following are some of the circumstances that have been identified:
  - a. *NCCD Investigator Observes Possible Lead Hazard* - A standard letter and information package regarding lead will be given to property owner and/or resident.
  - b. *NCCD Receives a Citizen Complaint Related to Lead Hazards* - A standard letter and information package regarding lead will be given to property owner and/or resident. The letter will detail where the citizen can find assistance for their problem and if they have children, recommend they get tested for blood lead concentrations.
  - c. *Observation or Complaint of Inappropriate Contractor's Work Practices Impacting Suspect Lead Paint* - A standard letter with information on lead-safe work practices will be given to Contractor. Referrals will be sent to other agencies in San Diego that have related enforcement capabilities.
  - d. *Issuing of Building Permits* - Standard information will be provided to applicants of building permits that outlines how disturbing lead paint in renovation projects can cause lead poisoning.
5. Linda Vista Community Lead Outreach Pilot Program - Develop a lead hazard education and reduction pilot project in an area of Linda Vista. Linda Vista was chosen because of the high concentrations of pre-1978 buildings and the existence of a proactive NCCD code enforcement program funded by Council District 5 and 6 through Community Development Block Grant (CDBG) funds. Successful components of the pilot program can be implemented in the future on a citywide basis. Listed below is the framework for the pilot program.
  - a. **Identification of Target Area** - Identify high risk housing using key criteria such as type of structures, age of construction, poorly maintained structures, existing or previous code enforcement activities, and childhood elevated blood lead levels.
  - b. **Education** - Provide education on lead hazards in the target area to property owners, tenants, contractors, and medical providers.
  - c. **Identification of Lead Hazards for Volunteer Participants** - Provide identification of lead hazards for property owners that volunteer to participate. Testing and evaluation will be under the direction of ESD staff to ensure only certified personnel perform the work. Solicit voluntary compliance to correct lead hazards as LSNP currently has no funds available for abatement. Connect eligible property owners with SDHC funds. Volunteers must use certified contractors and follow regulatory and acceptable work practices.

6. Sherman Heights Community Lead Hazard Control Mini-Pilot Program - SDHC, EHC, MAAC Project, and CUI, have started a Lead Hazard Control Mini-Pilot in the Sherman Heights community. The mini-pilot program has received \$100,000 of CDBG funds from the Mayor's Office and Council District 8. Information generated from this pilot is intended to find cost-effective ways of making housing lead safe and provide information for future U.S. Housing and Urban Development (HUD) grant applications. It will include:
  - a. Identify homes and design a work plan for lead hazard control work.
  - b. Conduct healthy homes education workshop for 19 homes.
  - c. Implement lead hazard control work in 3 - 5 homes.
  - d. Design and implement a lead-safe housing registry.
  - e. Evaluate all program elements for effectiveness, cost efficiency, coordination and communication.
  - f. Conduct two media events to raise awareness about the need for lead hazard control.
  
7. Identify and Secure Sources of Funding for Current and Future Phases of the LSNP - Federal and State legislative bodies have recognized that childhood lead poisoning is one of the most significant environmental health threats facing families. This recognition has caused substantial grant monies to be available from a variety of sources to implement programs that perform primary and secondary lead poisoning prevention. The City of San Diego and a coalition of various agencies were unsuccessful in its application for a \$2 million HUD Lead Hazard Control Grant in 2001. The City will pursue reapplication to HUD for the 2002 grant cycle which will build on the Sherman Heights Mini-Pilot. It is anticipated that HUD this year will increase available lead grant money to a total of \$89 million. There are several other agencies that also have significant grant monies available for lead programs.

Other local governments in California have supplemented available grant monies by assessing a housing fee. One example is the four largest cities in the County of Alameda who assess a fee of \$10 to the property bill of all household structures built prior to 1978 that provides \$2 million per year for the County lead program. Another example is the Los Angeles Systematic Code Enforcement Program designed to ensure that tenants have a safe and habitable place to live by improving the condition of distressed housing and preventing marginal housing from becoming distressed. Under this program, all rental properties containing two or more units are inspected at least once every three years. To achieve this objective, the City has hired 67 new housing inspectors, funded by a \$12 per unit annual fee paid by property owners. The LSNP will review these possible additional funding sources and bring ideas to Council in the near future for consideration.

## CONCLUSION

By accepting the Manager's recommendations, San Diego will be taking an important

step forward to help eliminate lead hazards in the home. The various elements identified in this report are items the City can implement now, with minimal resources, while continuing to develop a more comprehensive and effective LSNP that will be an inclusive process with the community and various stakeholders. Nationwide and throughout California, local agencies have been active in the area of lead poisoning prevention. The City will continue to evaluate these various models and form strategic alliances with other agencies that have responsibilities in the area of childhood lead poisoning prevention.





ATTACHMENT 1

Blood lead poisoning is  $\geq 15$  g/dL

**Article 4: Public Hazards and Public Nuisances**

**Division 7: Abatement of Lead Hazards**

**54.0701 Declaration of Purpose**

The Council of the City of San Diego finds and declares that:

- (a) The Centers for Disease Control and Prevention identified childhood lead poisoning as one of the most common pediatric health problems in the United States. While adults can be affected by lead hazards, children under seven are especially at risk.
- (b) Young children exposed to lead hazards face health problems such as nervous system and kidney damage, learning disabilities, decreased muscle and bone growth, seizures, coma, or even death. Between 1992 and 2000, there were 377 reported cases of childhood lead poisoning in the City of San Diego.
- (c) Studies show that children living in older, poorly maintained housing are at higher risk for lead poisoning. According to the 1990 United States census, approximately seventy percent of the housing units in the City of San Diego were built before 1978, and approximately twenty-four percent of the City's housing stock were constructed before 1960.
- (d) Childhood lead poisoning is preventable. Common household *lead hazards* can be permanently eliminated via abatement or controlled through interim measures.
- (e) *Lead hazards* found on any property, dwelling, or structure within the City of San Diego is a public nuisance when a *child* is known to have been lead poisoned and one or more of these *lead hazards* is identified as a source of exposure.

**54.0702 Definitions**

The words and phrases used in this Division have the meanings set forth in this Section:

*Child* means any person under seven years of age.

*Lead-Based Paint* means paint or other surface coating as defined in Title 17 of the California Code of Regulations Section 35033.

*Lead-Contaminated Dust* means dust as defined in Title 17 of the California Code of Regulations Section 35035.

*Lead-Contaminated Soil* means soil as defined in Title 17 of the California Code of

Regulations Section 35036.

*Lead Hazard* means deteriorated lead-based paint, lead contaminated dust, lead contaminated soil, disturbing lead-based paint or presumed lead-based paint without containment, or any other nuisance which may result in persistent and quantifiable lead exposure.

#### **54.0703 Enforcement Authority**

The Director of the Neighborhood Code Compliance Department, or any other Director authorized by the City Manager, is authorized to administer and enforce the provisions of this Division. The Director or anyone designated by the Director to be an Enforcement Official may exercise any enforcement powers as provided in Division 1, Article 2 of Chapter 1 of this Code.

#### **54.0704 Enforcement Remedies**

Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code Section 12.0201. The Director may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code Section 12.0202 or pursue any administrative remedy provided in Chapter 1 of this Code.

#### **54.0705 Strict Liability Offenses**

Violations of this Division shall be treated as strict liability offenses regardless of intent.

#### **54.0706 Property Maintenance**

- (a) It is unlawful for any responsible person to maintain a *lead hazard* or allow a *lead hazard* to remain upon any premises, surfaces, dwelling, structure, or appurtenances that is within his or her control, ownership, or possession.
- (b) It is unlawful for any responsible person to fail to reduce or eliminate a lead hazard that is within his or her control, ownership, or possession.