



TOWN OF MARBLEHEAD

Board of Health

CARL D. GOODMAN, Esq. Chairman
DAVID B. BECKER, D.M.D., M.P.H.
HELAINE R. HAZLETT

781-631-0212

7 WIDGER RD.

P. O. Box 98 01945

WAYNE O. ATTRIDGE, Director

TOWN OF MARBLEHEAD BOARD OF HEALTH RULES AND REGULATIONS FOR EXTERIOR PAINT REMOVAL AND ABRASIVE BLASTING

SECTION 1 - GENERAL

- A. The Board of Health, Town of Marblehead, Massachusetts, acting under the authority of Section 31, Chapter 111 of the Massachusetts General Laws and amendments and additions thereto, and by any other power thereto enabling, has adopted the following rules and regulations in the interest of and for the preservation of the public health. The effective date shall be upon publication of regulation.

PUBLIC AWARENESS OF HEALTH

- B. The Board of Health in the Town of Marblehead recognizes that the methods commonly employed in the removal of exterior paint and abrasive blasting often result in the creation of uncontrolled particulate matter and other by-products, which, in addition to creating a nuisance, may result in the inhalation or ingestion of dust and contamination of soil, water, and air. In addition, the inhalation or ingestion of leaded paint dust may result in permanent damage to the central nervous system, reproductive system, kidneys, liver, and other vital systems in both children and adults.

The Board of Health recognizes that restrictions on exterior paint removal and abrasive blasting will enable paint removers and abrasive blasting operators to better control particulate matter and other by-products and thereby minimize the nuisance and health effects associated with these activities.

SECTION II - DEFINITIONS

For the purpose of this regulation, the following definitions shall apply:

- 2.00 Abrasive Blasting - shall include dry, wet, mist abrasive blasting, which are defined as follows:

Dry abrasive blasting - propulsion of a stream of abrasive material by means of air, steam, or other gas under pressure, for the purpose of paint removal or abrading or cleaning a surface.

Mist abrasive blasting - application, for the purpose of paint removal or abrading or cleaning a surface, of a water mist together with an abrasive material which has been propelled by means of compressed air, steam, or other gas.

Wet abrasive blasting - application, for the purpose of paint removal or abrading or cleaning a surface, of a stream of water under pressure together with an abrasive material which has been propelled by means of compressed air, steam, or gas.

- 2.01 Abrasive Material - substance which is used to abrade or clean a surface.

- 2.02 Air Contaminant - any substance in the ambient air space including, but not limited to, dust, fume, mist, odor, smoke, vapor, heat, any combination thereof, or any reaction product thereof.

- 2.03 Air Contamination Source - any source at, from, or by reason of which any air contaminant is emitted directly into the ambient air space.
- 2.04 Ambient air space - all of the air space outside of the shrouded or contained work air spreading in all direction indefinitely.
- 2.05 Atmospheric Pollution - the presence in the ambient air space of one or more air contaminants or combination thereof in such concentration and of such duration as:
- a) to be noticeable by sight or smell, or
 - b) to be injurious or tend to be injurious to human or animal life, vegetation, or to property, or
 - c) to unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business.
- 2.06 Blood Lead Level Elevation - blood lead level in an operator of 60 ug lead per 100 g whole blood or greater.
- 2.07 By-products - used abrasive material, paint chips, wood chips, dust, water or any other material resulting from the paint removal or abrasive blasting operation.
- 2.08 Contractor - a person who contracts to perform exterior paint removal or abrasive blasting work at a certain price or rate.
- 2.09 Dangerous Level of Lead - level which materially endangers the health of children or adults, by producing a substantial and serious danger of lead poisoning. When present in paint, a dangerous level shall be deemed pursuant to M.G.L. Chapter 111, ss. 194 and 196, to be the following:
- a) more than 0.5 percent lead by dry weight as measured by an atomic absorption spectrophotometry test of sample or by testing with 6 to 8 percent sodium sulfide.
 - b) more than 1.2 milligrams of lead per square centimeter of surface as measured on-site by a mobile X-ray fluorescence analyzer or comparable equipment.
- 2.10 Department - The Board of Health of the Town of Marblehead - sometimes called the Health Department
- 2.11 Director - The Director of Public Health
- 2.12 Dust - finely divided solid matter
- 2.13 Electric Sanding - will be considered the use of power tools to remove paint.
- 2.14 Emission - discharge or release to the ambient air space of any air contaminant.
- 2.15 Fume - any aerosol resulting from chemical reaction, distillation, or sublimation.
- 2.16 HEPA Filter Vacuum Cleaner - Vacuum cleaner equipped with a high efficiency particulate air (HEPA) filter capable of filtering out particles of 0.3 microns or greater diameter from a body of air at 99.97% efficiency or greater.
- 2.17 Low - Level Heating Element - Controlled heating - element which produces a temperature not exceeding 1000 degrees Fahrenheit. Does not include torch or flame burning.
- 2.18 Mist - any liquid aerosol formed by the condensation of vapor or by the atomization of liquids.
- 2.19 Odor - that property of gaseous, liquid, or solid materials that elicits a physiologic response by the human sense of smell.
- 2.20 Operator - a person who performs exterior paint removal or abrasive blasting.

- 2.21 Owner - the owner of a structure which is subject to the provisions of these Regulations. An owner may apply for a Permit or a variance through a duly authorized agent, provided that the agent files with the Board of Health a document signed by the Owner setting forth the nature and extent of the agent's authority. Whenever any Owner authorizes an agent to act in any capacity on behalf of the Owner with respect to these Regulations, both the residence and business address of the agent as well as the residence address of the Owner shall be provided to the Board of Health. Whenever any Owner authorizes an agent to act in any capacity on behalf of the Owner with respect to these Regulations, the Owner shall be deemed to have consented to the appointment of the agent as agent for service of any notices, and civil and/or criminal process, in addition to any authority expressly conferred by the Owner.
- 2.22 Paint Removal - any surface treatment which the potential for removing or dislodging any surface coating, in its entirety or in part. Methods of paint removal may include but are not limited to: wet, dry, or mist abrasive blasting; sanding; scraping; power washing; and others.
- 2.23 Particulate Matter - any material that exists in a finely divided form as a liquid or solid in the ambient air.
- 2.24 Person - an individual, partnership, association, firm, syndicate, company, trust, corporation, city department, bureau, agency or any other entity recognized by law as the subject of rights and duties.
- 2.25 Smoke - visible aerosol, which may contain fly-ash, resulting from combustion of materials
- 2.26 Vapor - the gaseous state of certain substances that can exist in equilibrium with their solid or liquid states under standard conditions.
- 2.27 Random Orbital Sander - a finishing sander that operates on an orbital rather than rotary basis and generates a minimal quantity of projected material and dust in the ambient air space, but excludes electric rotary sanders.

SECTION III - PERMITS

- 3.00 A permit, specific in location and time, must be obtained from the Department by the owner of the property, or his or her agent on which exterior paint removal, electric sanding or wet or mist abrasive blasting is to occur, except as provided in Section 3.01.
- 3.01 No permit shall be required for removal of non-lead based paint by an Owner acting on his own behalf and not employing any employees, agents or contractors, if only dry scraping, hand sanding and/or random orbital sanding is employed. All other methods of paint removal shall require a permit even if performed by an owner.
- 3.02 Application for a permit shall be made on form(s) provided by the Department.
- 3.03 There shall not be any fee for a permit for exterior paint removal where there shall be no electric sanding or abrasive blasting. The permit fee for electric sanding or abrasive blasting paint removal shall be \$25.00.
- 3.04 Permits shall be posted at the work site for the duration of the paint removal or abrasive blasting process.
- 3.05 Permits must be obtained a minimum of two business days prior to the commencement of paint removal.
- 3.06 Permits may be refused to any owner, agent or operator who or which has violated any provision of these Regulations unless in the opinion of the Director such permit can be issued under circumstances or conditions, which conditions the Director shall be authorized to impose, that will reasonably assure the applicant's compliance with these Regulations.
- 3.07 Permits issued hereunder shall expire 45 days after issuance, but may be extended in the discretion of the Director for a period not exceeding 30 days upon payment of a \$10.00 extension fee.

SECTION IV - ABRASIVE BLASTING AND ELECTRIC SANDING

- 4.00 Abrasive blasting and electric sanding on exterior surfaces of any structure within the Town of Marblehead is prohibited, except as provided in these Regulations.

SECTION V - LEAD TESTING

- 5.00 Lead testing will not be required on surfaces on which only manual methods of paint removal are to be employed. Manual methods do not include any types of electric sanding, hydraulic systems, and wet, moist or dry abrasive blasting.
- 5.01 Lead testing will be required on surfaces for which a permit for electric sanding or wet or mist abrasive blasting is sought. Such test must be conducted on-site by a Massachusetts licensed lead paint inspector and the results must be submitted to the Department prior to the issuance of a permit. Cost of the testing is to be borne by the property owner.

SECTION VI - CONDITIONS AND TERMS

- 6.00 If no lead testing of surfaces to be worked upon is performed, all work must be conducted in accordance with the requirements of 454 CMR 22.11, "Safety Procedures for Renovation and/or Rehabilitation", and in accordance with all applicable sections of 454 CMR 11.00, "Structural Painting Safety Code" and all provisions of these Regulations.
- 6.01 If the testing required in 5.1 or otherwise reveals the presence of a dangerous level of lead, a permit will be granted only if the application is accompanied by a copy of a signed contract with a Massachusetts licensed deleading contractor who must conduct all work in accordance with Deleading Regulations: 454 CMR 22.00, Lead Paint Regulations: 105 CMR 460.000, and this regulation.
- 6.02 Dry abrasive blasting may not be performed on exterior surfaces of any structures within the Town of Marblehead.
- 6.03 Mist abrasive blasting and Electric Sanding
- a) Neither mist abrasive blasting nor electric sanding may not commence unless and until a permit for that site has been granted in writing by the Board of Health
 - b) Mist abrasive blasting and electric sanding activities shall be so enclosed or curtained off to prevent the escape onto public property, rights-of-way, or the property of others, any air contaminant, particulate matter, water, or other by-products of the operation.
 - c) The exterior of all windows within the shrouded area must be sealed with 6 mil plastic and taped.
 - d) All ground area within the work area shall be covered with 6 mil plastic to prevent any escape of particulate matter.
 - e) Abrasive blasting and/or electric sanding may not commence, and must cease once started, if in the judgment of an authorized agent of the Department, conditions of wind velocity or wind gusting exist such that total containment of particulate matter within the shrouded work area would be impossible.
 - f) All enclosures are to be inspected prior to the start of each work day by the operator. Enclosures which show excessive wear at any time, i.e. large holes or tears, are to be adequately repaired or discarded. All enclosures which are joined together shall be adequately fastened to prevent any escape of particulate matter.
 - g) The following precautions shall be taken at all times during the blasting operation:
 1. Protection of gardens, vegetation, or specially planted areas on-site and adjacent properties.
 2. Protection of permanent play equipment, sandboxes, pools, and any other item that may not be readily removed from possible exposure to particulate matter on-site or adjacent properties.
 3. Adequate protection of all areas where the blasting or sanding operation is in close proximity to playgrounds, parks, or any other area where use by the general public may pose a potential health problem. Such protection shall include at a minimum the use of 6 mil plastic ground cloths to fully cover all susceptible areas.

Section VI - Continued

h) The operator shall be responsible for securing the work-site, and cease operation immediately if it is found that any member of the general public is exposed to the abrasive material, air contaminants, or any by-products of the operation.

i) Operators shall confine work time to normal daylight working hours, to permit proper and adequate clean-up. Any exception to this provision must receive special approval from the Department.

j) Operators and all employees and workers shall wear and use proper protective clothing and equipment during paint removal work.

6.04 Wet abrasive blasting

a) Plan for containment and disposal of abrasive material, water and particulate matter must be submitted to the Department when applying for a permit.

b) Ground cloths (6 mil plastic) will be required to cover all areas within the work area.

c) Operators and all employees and workers shall wear and use proper protective clothing and equipment during paint removal work.

6.05 The reuse of abrasive material is prohibited, unless such material has been cleaned and recycled.

6.06 Abrasive material shall not contain any siliceous sand.

6.07 Operators engaged in the performance of any aspect of the blasting operation shall be protected against the inhalation of particulate matter through the use of all protective devices including, but not limited to, powered-air purifying respirators (PAPR) with high efficiency filters approved by OSHA or the American National Standards Institute (ANSI), goggles, and protective clothing.

6.08 Other exterior surface treatments

Other methods of paint removal, including but not limited to dry scraping, dry scraping with the aid of chemical solvents (excluding methylene chloride solutions), dry scraping with the aid of low-level heating elements, wire brushing, power washing, random orbital sanding, and hand sanding, are permitted with the following restrictions:

a) All ground area and vegetation within the work area shall be covered with 6 mil plastic to fully contain particulate matter.

b) Any other precaution deemed necessary by the Department to prevent the contamination of the interior of the structure itself and to prevent the escape onto public property, rights-of-way, or the property of others, any air contaminant, particulate matter, or by-products of the operation, shall be employed.

SECTION VII - CLEAN-UP PROCEDURES

7.00 For abrasive blasting and electric sanding operations, a HEPA vacuum shall be used to remove all particulate matter from all surfaces, including the ground, shrubs, windows, doorways, ledges, and inside of shrouding within the shrouded work area and ten feet beyond work area when shrouding is removed. Shrouding may be left in place for the duration of the operation as long as vacuuming of the area inside the shrouding takes place at the end of each working day. Additional clean-up may be done but no other method can replace the above procedures.

7.01 For all paint removal and abrasive blasting operations, the work site is to be completely cleaned at the end of each work day.

7.02 It shall be the responsibility of the operator to prevent ground contamination as a direct result of any abrasive material, chemical, or solvent used during the paint removal or abrasive blasting operation, or failure to recover all material and by-products. Operator shall assume all clean-up costs and liability resulting from failure to comply with this and other applicable regulations or failure to adequately contain and dispose of by-products of the operation.

7.03 The cleaning shall include additional adjacent areas as deemed necessary by the Department.
Section VII - Continued

- 7.04 Disposal of all particulate matter shall be in accordance with all applicable Department of Environmental Protection (DEP) regulations and at a site approved by DEP. Lead-contaminated waste materials removed from homes by homeowners is exempt from the Massachusetts Hazardous Waste Regulations and must be disposed of in accordance with 310 CMR 19.00: Regulations for the Disposal of Solid Wastes by Sanitary Landfills, at an approved DEP sanitary landfill. Such waste material, however, removed from any structure by a contractor, in any quantity, must undergo the toxicity characteristic leaching procedure test (TCLP) at a certified laboratory. Wastes containing 5 parts of lead per million parts of leachate is subject to 310 CMR 30.000: Hazardous Waste Regulations, and must be disposed of in accordance with all applicable regulations.
- 7.05 Wastewater generated from mist or wet abrasive blasting operations must also undergo TCLP testing to determine if it is hazardous; hazardous wastes must be disposed of in accordance with 310 CMR 30.000. Non-hazardous wastewater is subject to the requirements of 314 CMR 1.00 through 12.00 and may require a permit to discharge to a sewerage treatment plant, in accordance with 314 CMR 7.00.

SECTION VIII - EVIDENCE OF VIOLATION

- 8.00 Authorized agents of the Department shall conduct on-site inspections to ensure compliance with all applicable regulations.
- 8.01 Any of the following conditions shall be prima facie evidence of violations and will result in the immediate cessation of the paint removal operation. Work can resume when the inspector is satisfied that the violations(s) has/have been corrected:
- a) Operating without an exterior paint removal or electric sanding or abrasive blasting permit.
 - b) Failure to enclose or curtain off that area of the building undergoing abrasive blasting or electric sanding.
 - c) Visible emission of particulate matter or air contaminants outside of the area enclosed in accordance with provisions 6.3(b) and 6.4(a).
 - d) Failure to ensure adequate precautions against ground surface contamination as required by provisions 6.3 (d) and 6.4 (b) and 6.8 (a)
 - e) Failure to clean property in accordance with Section VII.
 - f) Evidence of blood lead level elevation in operator.
 - g) The failure of any Operator to comply with any provision of 454CMR22:01 et seq.
- 8.02 If the work under any Permit is stopped more than once due to violations, the permit will automatically be revoked.

SECTION IX - VARIANCE

- 9.00 The Board of Health may vary the application of any provision of these regulations with respect to any particular case, when, in its opinion, the enforcement thereof would do manifest injustice; provided that the decision of the Board of Health is not in conflict with the spirit of these standards.
- 9.01 Request for a variance from any part of this regulation must be submitted in writing to the Board of Health at the time of application for a permit. Such request must be accompanied by a written statement of the reasons why the variance should be considered and the manner in which the spirit of these regulations is to be upheld, resulting in comparable degree of public protection.
- 9.02 Any variance granted by the Board of Health shall be granted in the sole discretion of the Board of Health and shall state with particularity the reasons for which the variance was granted and may be granted subject to such conditions, including, but not limited to the time within which such work may be performed, as well as other conditions deemed reasonable, necessary or convenient by the Board of Health.

Section IX - Continued

- 9.03 The application for a variance shall not exempt any applicant from compliance with any or all provisions of these Regulations unless and until such variance shall be granted.
- 9.04 The Board of Health or its authorized Agent shall evaluate all applications for variance from the requirements of this regulation and may grant said variances subject to such terms, conditions, and requirements as it may deem reasonable to achieve maximum compliance with the provisions of these regulations.

SECTION X - SEPARABILITY

- 10.00 Each part of these regulations is construed as separate to the end that if any section, item, sentence, clause, or phrase is held invalid for any reason, the remainder of these regulations shall continue in full force and effect.

SECTION XI - PENALTY

- 11.00 Operators operating in violation of this regulation shall be punished, for the first offense, by a fine of not less than One Hundred dollars, nor more than Two Hundred and Fifty dollars, and for any subsequent offense, by a fine of not less than Two Hundred dollars, nor more than Five Hundred dollars. Each day or part thereof of violations, whether such violation be continuous or intermittent, shall be construed as a separate and succeeding offense. (M.G.L. Chapter 111, Section 331 C)
- 11.01 Whenever the violation of these Regulations shall also constitute a violation of other Regulations promulgated by any other Town Board or Commission, or any department of agency of the Commonwealth of Massachusetts, including, but not limited to the Department of Labor and Industries, or any state or federal statute, the Director shall promptly cause notice of such violation to be promptly given to the appropriate department, commission, agency, district attorney or to the Attorney General, as may be appropriate.
- 11.02 Whenever the violation of these Regulations shall also constitute a violation of criminal laws of the Commonwealth of Massachusetts, the Director shall immediately notify the office of the Essex County District Attorney of such violation.

MARBLEHEAD BOARD OF HEALTH

Effective Date: 10/29/98

Carl D. Goodman, Esq, Chairman

Helaine R. Hazlett

David B. Becker, D.M.D., M.P.H

Wayne O. Attridge, Director