

## CHAPTER 158

# LEAD HAZARDS IN DWELLINGS

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**158.01 DEFINITIONS.** The following words have the following meanings for the purpose of this chapter:

1. “Accessible,” “impact” or “friction surfaces” include, but are not limited to, such surfaces as windowsills, doors and door frames, protruding corners, stair treads and lips, floors, and any other areas offering accessible, impact or friction surfaces.
  - A. “Accessible” means any surface at a level or height which is easily accessible for children to bite, chew, or mouth (e.g., windowsills).
  - B. “Impact” means any surface where hard objects often hit or run into the surface and cause the paint to be knocked off (e.g., protruding corners).
  - C. “Friction” means any surface where there is any rubbing movement that creates dust (e.g., floors).
2. “Board of Health” means the (City or County) Board of Health pursuant to Chapter 137 of the Code of Iowa.
3. “Child-occupied facility” means a building, or portion of a building, visited by the same child, six years of age or under, for a period that exceeds six (6) hours within any week (Sunday through Saturday period). Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms.
4. “Deteriorated lead-based paint” means any lead-based paint that is loose, chipping, peeling, cracking, flaking, chalking, or otherwise coming off a surface.
5. “Dwelling” means a building or structure occupied or designed or intended to be occupied as a place for human habitation and use, including any accessory building, structure, or yard area belonging thereto.

6. “Dwelling unit” means any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities which are used or intended to be used for any of the following: living, sleeping, cooking, and/or eating.
7. “EBL (Elevated Blood Lead) child” means any child who has had one venous blood lead level of  $\geq 20$  micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.
8. “Health Department” means the (City or County) Health Department.
9. “Health Officer” means the Environmental Officer or authorized representative of the (City or County) Board of Health.
10. “Lead-based paint” means any paint or other surface coating already applied which contains a quantity of lead equal to or in excess of 1.0 milligrams of lead per square centimeter (1.0 mg/cm) when tested by a radioisotope X-ray fluorescence analyzer (XRF) *or* more than five-tenths of one percent (0.5%) lead by weight.
11. “Lead hazard” means any lead-based paint if:
  - A. The paint exists in or about a dwelling or other child-occupied facility in which children under age six (6) commonly reside or visit, and
  - B. The paint is determined to be on any accessible, impact or friction surface or on any other surface where the paint is determined to be deteriorating in any manner. This also includes areas of bare soil which contain lead-based paint chips. In addition, this includes surfaces which contain lead dust that exceeds the EPA/HUD guidelines (bare floors – 100 milligrams per square foot; interior window sills – 500 milligrams per square foot; window wells – 800 milligrams per square foot).
12. “Occupant” means any person living, sleeping, cooking, eating in or having any actual possession of a dwelling or dwelling unit.
13. “Owner” means any person who, alone or jointly with others: (1) has legal title to any dwelling, with or without accompanying actual possession thereof, or (2) has charge, care or control of any dwelling, by acting as the executor, administrator, trustee or guardian of the estate of the owner.
14. “Premises” means a lot, plot or parcel of land including all facilities and improvements thereon.

**158.02 SCOPE AND APPLICABILITY.** This chapter shall affect only those dwellings or dwelling units in which an EBL child resides or commonly visits. All owners shall comply with the provisions of this chapter and of the rules, resolutions and orders adopted pursuant to this chapter.

**158.03 USE OR SALE OF LEAD-BASED PAINT.** No person shall possess, sell, expose for sale, deliver, or give away any lead-based paint intended for painting or covering any surface on the interior or exterior of a residential dwelling.

**158.04 DISPOSAL OF LEAD-BASED PAINT.**

1. Lead-based paint shall be disposed of in accordance with local, State and Federal regulations for disposing of hazardous waste.
2. All repair, renovation or remodeling waste which contains lead-based paint shall be disposed of according to local waste disposal regulations. No person shall re-use or recycle such waste for residential purposes.

**158.05 INSPECTIONS.**

1. The Health Officer and/or Building Official may cause to have inspected the dwelling or child-occupied facility of an EBL child for lead hazards. The inspection shall consist of a visual assessment of the condition of all interior and exterior surfaces and a determination of the lead content of the paint on these surfaces. The lead content of the paint shall be determined only through the use of an X-ray fluorescence (XRF) analyzer or laboratory chemical analysis. Methods such as swabs shall not be considered an acceptable means of testing of lead-based paint. Tests which show the presence of lead-based paint on a surface may be extrapolated to similar surfaces in the same room that would be expected to be finished with the same type of paint. A determination of the lead hazards will be made from lead content of the paint and the conditions observed. The findings of such inspection will be recorded and documented by the Health Officer.
2. When a lead hazard is found in a dwelling or dwelling unit inspected pursuant to this section or otherwise, the Health Officer shall recommend to have examined all children under six (6) years of age, such other children said officer may find advisable to recommend to be examined, or other persons residing or who have recently resided or frequently visit in said dwelling or dwelling unit, for undue lead exposure. The results of such examination shall be reported to the Health Officer, the affected individual, and when applicable, said individual's parent or legal guardian.

3. The results of an investigation for lead hazards, including the presence or absence of lead-based paint which are not considered to be lead hazards, shall be reported in a written notice, with suggested remedial or maintenance actions, within one (1) week, to the owner. The Health Officer shall inform such other persons or agencies as the Health Officer deems advisable.

**158.06 REFUSAL OF ADMITTANCE.** In the event the Health Officer, in proceeding to enter any premises for the purpose of making an inspection to carry out the provisions of this chapter, is refused entry, a complaint may be made under oath to any magistrate of the County, who shall issue a warrant to a peace officer of the County, directing such officer, between the hours of sunrise and sunset, to accompany the Health Officer, when entering said premises to make such inspection, and to obtain such samples as may be required to carry out the provisions of this chapter.

**158.07 HAZARD REDUCTION.**

1. When the Health Officer determines that a lead hazard is present in a dwelling or dwelling unit where an EBL child lives, frequently visits or has recently resided, he/she shall, in accordance with Section 158.05(3), issue a written notice within one (1) week to the owner to eliminate the hazard with suggested remedial/maintenance actions to be completed in a time period not to exceed thirty (30) days. However, at the discretion of the Health Officer, additional time may be granted to eliminate said hazard. Methods for compliance shall be in accordance with this section. In the event the dwelling is vacated by the occupant who occupied same at the time of the issuance of corrective notice referred to in this section, such dwelling shall not be let or occupied by any other person until such corrective notice is complied with.

2. The owner of any dwelling or dwelling unit which has been determined to contain lead hazards shall correct these lead hazards by methods approved by the Health Officer within the time period allowed by the Health Officer in a written notice. Failure to correct the lead hazard(s) within the allotted time period shall result in the appropriate legal action against the owner for noncompliance, pursuant to Section 158.13.

3. Lead hazards on surfaces other than accessible, impact, or friction surfaces, shall be corrected through one of the three (3) following methods:

A. All areas of deteriorating lead-based paint on both interior and exterior surfaces and any other appurtenances shall be entirely removed and the surface(s) shall be properly prepared

before repainting with lead-free paint or refinishing so that the surface does not begin to deteriorate again. Repainting with lead-free paint without prior removal of all deteriorating lead-based paint shall not be considered an approved method of correcting lead hazards.

B. The interior or exterior surface or appurtenance which has areas of deteriorating lead-based paint shall be removed from the dwelling and replaced with a surface free of a lead-based paint.

C. The interior or exterior surface or appurtenance which has areas of deteriorating lead-based paint shall be covered with a permanently affixed lead-free covering. The permanently affixed covering shall be incapable of being readily chewed through, torn from the surface, pierced or otherwise removed so as to expose the hazardous surface.

4. Lead hazards on surfaces which are accessible, impact or friction surfaces shall be corrected through one of the three (3) following methods:

A. All lead-based paint on both interior and exterior surfaces and appurtenances which are on accessible, impact or friction surfaces shall be entirely removed to the substrate. The surface(s) must be properly prepared and repainted with lead-free paint or refinished. Repainting with lead-free paint without prior removal of all lead-based paint down to the substrate shall not be considered an approved method of correcting lead hazards on accessible, impact or friction surfaces.

B. The interior or exterior surface or appurtenance, which is or contains an accessible, impact or friction surface shall be removed from the dwelling and replaced with a surface or appurtenance that is finished with a lead-free coating.

C. The interior or exterior surface or appurtenance which is an accessible, impact or friction surface shall be covered with a permanently affixed lead-free covering. The permanently affixed covering shall be incapable of being readily chewed through, torn from the surface, pierced or otherwise removed so as to expose the hazardous surface.

5. The Health Officer shall inspect all areas cited as lead hazards after remediation is complete and approved them as "lead-safe." A written notice shall be issued to all affected parties and retained by the Health Officer, stating that the property is "lead-safe" and that proper maintenance must occur to ensure the property remains "lead-safe."

**158.08 RETALIATORY ACTIONS.**

1. It is unlawful for the lessor of a dwelling, or his/her employees, agents or persons acting in his/her behalf, to retaliate against lessees of dwellings whose occupants have been tested for lead poisoning.
2. It is unlawful for the lessor of a dwelling, or his/her employees, agents or persons acting in his/her behalf, to prohibit or discourage the occupants of the dwelling from participating in the lead poisoning screening program.
3. "Retaliation" includes harassment, termination of the tenancy, discontinuation of utilities or other services, and any other action taken against the lessee.
4. "Occupants" includes visitors in the dwelling.
5. An action taken against the tenant shall not be considered retaliation if:
  - A. It is supported by reasonable cause unrelated to the occupant's participation in the lead poisoning screening program, OR
  - B. It is shown to have occurred as a result of accident or mistake and not the intentional act of the lessor or his/her employees, agents or persons acting in his/her behalf.

**158.09 HEARINGS.** In the event any person is aggrieved by any order of the Health Officer, he/she may, within ten (10) days of the date of such order, appeal to the Board of Health and in writing state his/her reasons for requesting such order be rescinded or modified. The Board of Health shall review the action of the Health Officer and shall modify, withdraw or order compliance with said order. Appeal from any order of the Board of Health may be taken within ten (10) days to the District Court.

**158.10 JURISDICTION.** The provisions of this chapter shall apply throughout the City.

**158.11 ENFORCEMENT.** The Health Officer shall have the duty and responsibility of enforcing this chapter with the assistance of the Building Official for the City.

**158.12 INJUNCTION.** Nothing in this chapter shall be construed to prohibit the (City or County) Board of Health from injunctive relief or other relief as allowed by law.

**158.13 PENALTY.** Any person violating this chapter shall be in violation of this Code of Ordinances. Each day that a violation of this chapter occurs constitutes a separate offense. Upon failure of any person to correct a lead hazard found on his/her property, the Board of Health may direct or cause the correction of said lead hazards. All expenses incurred thereby may be recovered by suit in the name of the Board of Health, or the Board of Health may certify the amount of said expenses, together with a description of the property, to the County Treasurer who shall enter the same upon the tax books as costs for removing a lead hazard, and said amounts shall be collected as other taxes.

**158.14 VARIANCES.**

1. The Health Officer shall have the authority to determine a surface, that may otherwise be identified as a lead hazard, lead safe. If the Health Officer is able to determine a surface (that fits the description of a lead hazard) is not causing or does not have reasonable potential to cause lead exposure, the Health Officer may, with written notice, deem that surface as lead safe. This may be done only after a thorough investigation of the entire premises is complete, and careful evaluation of the source(s) identified as the cause or potential cause of lead poisoning are identified. Detailed documentation of such surfaces shall be included in the final report of the premises and be provided to the owner, tenant, and Health Officer.
2. Any surface with deteriorating lead-based paint will not, under any circumstances, be allowed to be identified as lead safe.