

PAGE COUNTY ORDINANCE NO. 2003-1 **AMENDED**  
AN ORDINANCE ESTABLISHING **THE PAGE COUNTY LEAD ORDINANCE**  
**(Replaces Original Page County Ordinance No. 2003-1)**

An ordinance controlling lead hazards in dwelling, including establishing minimum standards for inspection and providing penalties for violation of the provisions hereof.

**Section 1: Definitions**

The following words shall have the following meanings for the purpose of this regulation:

1. Board of Health: The Page County Board of Health pursuant to Chapter 137 of the Code of Iowa.
2. Health Department: The Page County Public Health Department
3. Health Officer: An authorized representative with certified training (approved by the Iowa Department of Public Health) in assessment of lead-based paint and radioisotope X-ray fluorescence analyzer (XRF) designated by the Page County Board of Health.
4. Accessible, Impact, or Friction surfaces: Shall include but not limited to such surfaces as windowsills, doors, door frames, protruding corners, stair treads and lips, floors, and any other areas offering Accessible, Impact or Friction Surfaces.
  - a. Accessible: Any surface at a level or height that is easily accessible for children to bite, chew, or mouth. (e.g. window sill)
  - b. Impact: any surface where hard objects often hit or run into the surface and cause paint to be knocked off. (e.g. protruding corner)
  - c. Friction: any surface where there is a rubbing movement that creates dust. (e.g. floor)
5. Lead-Based Paint: any paint or other surface coating already applied which contains a quantity of lead in excess of 1.0 milligrams of lead per square centimeter (1.0 mg/cm<sup>2</sup>) when tested by a radioisotope X-ray fluorescence analyzer (XRF) or more than 0.5% lead by weight when tested by a certified laboratory.
6. Deteriorated lead-based paint: any lead-based paint that is loose, chipping, peeling, cracking, flaking, chalking, or otherwise coming off a surface.
7. Lead Hazard: any lead based paint shall be considered a lead hazard if:
  - a. The paint exists in or about a dwelling or other child occupied facility in which children under age 6 commonly reside.
  - b. The paint is determined to be on any accessible, impact, or friction surface or any other surface where the paint is determined to be deteriorating in any manner. This shall include areas of bare soil that contain lead-based paint chips. In addition, this shall also include surfaces that contain lead dust that exceeds the EPA/HUD guidelines. (Bare floors: 40 milligrams per square foot. Interior window sills: 250 milligrams per square foot. Window wells: 400 milligrams per square foot).

8. Dwelling: 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.
9. Premise: a lot, plot, or parcel of land including all soil, facilities and improvements thereon, in accordance with IAC Chapter 68, Iowa Code section 135.102.
10. Dwelling unit: 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 in, or having any actual possession of a dwelling or a dwelling unit.
11. Occupant: any person living, sleeping, cooking, and/or eating in, or having any actual possession of a dwelling or a dwelling unit.
12. Owner: any person who, alone or jointly with others: (a) shall have legal title to any dwelling, with or without accompanying actual possession thereof, or (b) shall have charge, care or control of any dwelling by acting as the agent of the owner or as the executor, administrator, trustee, or guardian of the estate of the owner.
13. EBL (Elevated Blood Lead) Child: Any child who has had one venous blood lead level of greater than or equal to 20 micrograms per deciliter or at least two venous blood levels of 15 to 19 micrograms per deciliter.
14. Child-occupied facility: building or portion of a building visited by the same child, six years of age or under, for a period that exceeds six hours within any week (Sunday through Saturday time frame). Child occupied facilities may include but are not limited to: day-care centers, preschools, and kindergarten classrooms.

## **Section 2: Scope and Applicability**

1. This ordinance shall affect only those dwelling or dwelling units in which an EBL child resides or commonly visits. All owners shall comply with the provisions of this ordinance and of the rules, resolutions, and order adopted pursuant to this ordinance.

## **Section 3: Use or Sale of Lead-Based Paint**

1. 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.

## **Section 4: Disposal of Lead-Based Paint and Lead-Based Paint Hazards**

1. Lead based paint shall be disposed of in accordance with local, state, and federal regulations for disposing of hazardous waste.
2. All repairs, renovation, or remodeling waste that contains lead based paint must be disposed of according to local waste disposal regulations. No person shall re-use or recycle said waste for residential purposes.

## **Section 5: Inspections**

1. When the Health Officer learns of an EBL child, he/she may cause to have inspected the dwelling or child-occupied facility 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 XRF analyzer or laboratory chemical analysis. Methods such as swabs shall not be considered an acceptable means of testing for 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 years of age, such other children he/she may find advisable to examine, 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, their parent or 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/maintenance actions, within 7 days to the owner. The Health Officer shall inform such other persons or agencies as he/she deems possible.

## **Section 6: Refusal of Admittance**

1. In the event the Health Officer, in proceeding to enter any premises of the purpose of making an inspection to carry out the provisions of this ordinance, shall be 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 him between the hours of sunrise and sunset to accompany the Health Officer, when entering said premise to make such inspection, and to obtain such samples as may be required to carry out the provisions of this ordinance.

## **Section 7: Hazard Reduction**

1. When the Health Officer determines that a lead hazard is present in a dwelling or a dwelling unit where an EBL child lives, frequently visits, or has recently resided, he/she shall issue a written notice within 7 days to the owner to eliminate the hazard with suggested remedial/maintenance actions to be completed in a time period not to exceed thirty 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.
  - a. 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 appropriate legal action against the owner for noncompliance, pursuant to section 13.

3. Lead hazards on surfaces other than accessible, impact, or friction surfaces shall be corrected through on of the three 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 surfaces 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 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, pieced, 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 on of the three 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 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 lead-free 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 approve 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 proper maintenance must occur to ensure the property remains "lead-safe".

### **Section 8: Retaliatory Actions**

1. It shall be 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 shall be 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 shall include harassment, termination of the tenancy, discontinuation of utilities or other services, and any other action taken against the lessee.
4. Occupants shall include 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 occupants' participation in the lead poisoning screening program.

#### **Section 9: Hearings**

1. In the event any person is aggrieved by any order of the Health Officer, he/she may within ten days of the date of such order appeal to the Board of Health and in writing, state his/her reasons for requesting such order to 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 10 days to the District Court.

#### **Section 10: Jurisdiction**

1. The provision of this ordinance shall apply throughout Page County Including cities and towns therein, unless the cities and towns have adopted a lead ordinance.

#### **Section 11: Enforcement**

1. The Health Officer shall have the duty and responsibility of notifying the Page County Board of Health of non-compliance with this ordinance. The Page County Board of Health shall have the duty and responsibility of enforcing this ordinance.

#### **Section 12: Injunction**

1. Nothing in this ordinance shall be construed to prohibit the Page County Board of Health from injunctive relief or other relief as allowed by law.

#### **Section 13: Penalty**

1. Any person violating this ordinance or any provision thereof, shall be guilty of a simple misdemeanor and upon conviction thereof, shall be fined not more than one-hundred dollars or imprisoned in jail for a period not to exceed thirty days. Each day that a violation occurs constitutes a separate offense.
2. Upon failure of any person to correct a lead hazard found on his/her property, the Page County 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 Page County Board of Health, or the Page County 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.

#### **Section 14: Separability of Provisions**

1. If any section, paragraph, clause, or provision of the ordinance shall be held invalid, the invalidity of such section, paragraph, clause, or provisions shall not affect any of the remaining provisions of this ordinance.

**Section 15: 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 the surface is 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 the Health Officer.
2. Any surface with deteriorating lead-based paint will not, under any circumstances, be allowed to be identified as lead-safe.

**Section 16: Effective Date**

1. This ordinance shall be in effect after its final passage, approval, and publication as provided by law.

By a unanimous vote of the Board of Supervisors on April 26, 2005, the first and second readings of the Amended Ordinance No. 2003-1 are waived and the third and final reading was unanimously approved on May 12, 2005.

\_\_\_\_\_ AYE

James D. Richardson

\_\_\_\_\_ AYE

Jon W. Herzberg

ATTEST:

\_\_\_\_\_ AYE

Elaine Armstrong  
Page County Board of Supervisors

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Page County Auditor

This amended portion of this ordinance will be published on May 18, 2005 and becomes effective on that date. The full and complete ordinance may be viewed in the Page County Auditor's Office.