

St. Louis City Ordinance 64690

FLOOR SUBSTITUTE

BOARD BILL NO. [99] 64

INTRODUCED BY ALDERMAN BENNICE JONES-KING

An ordinance pertaining to lead poisoning, repealing Ordinance 57791, approved March 20, 1979 and enacting in lieu thereof a new ordinance pertaining to lead poisoning, and containing an emergency clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Ordinance 57791, approved March 20, 1979 is hereby repealed and invalid in lieu thereof is the following:

SECTION TWO. Definitions. For the purpose of this chapter, the following words, terms and phrases shall have the following respective meanings, unless otherwise specifically provided:

- (A) **Building Commissioner** - the Building Commissioner of the City of St. Louis or his duly authorized delegate or representative;
- (B) **clearance testing** - any EPA approved environmental sampling method for measuring the presence of lead after remediation has been performed.
- (C) **dust wipe sampling** - collection method as specified by HUD to determine if lead containing dust is present in excess of acceptable levels.
- (D) **dwelling** - (1) a structure, built before 1978, all or part of which is designated or used for human habitation, (2) a day care center, or (3) a school; and their related, ancillary, or accessory structures, including without limitation garages, carports, sheds, carriage houses, fences and gates;
- (E) **dwelling unit** - any room, group of rooms or other interior area of a dwelling, all or part of which room, group of rooms or other interior area of a dwelling, all or part of which room, group of rooms or other interior area is either (1) designed or used for human habitation, or (2) commonly occupied by children in a day care center or a school;
- (F) **EPA** - the Environmental Protection Agency or the agency that succeeds it.

(G) **exposed surface** - (1) any interior surface of a dwelling or dwelling unit, or (2) any exterior surface of a dwelling or dwelling unit to which children may be commonly exposed;

(H) **Health Commissioner**- the Health Commissioner of the City of St. Louis or his duly authorized delegate or representative;

(I) **HEAP vacuuming**-a special vacuum device that is fitted with high-efficiency particulate air (HEAP) filter.

(J) **HUD**-United States Department of Housing and Urban Development or the agency that succeeds it.

(K) **lead-bearing substance** - any paint, varnish, lacquer, putty, plaster, structural material or similar substance which contains one-half of one percent (0.05%) or more by weight of metallic lead based upon total non-volatile content, or one milligram or more per square centimeter (1.0 mg/cm²).

(L) **lead hazard**-as defined by EPA

(M) **lead-safe**-the complete absence of exposed lead bearing surfaces with clearance testing meeting published EPA standards.

(N) **owner** - shall mean any person who alone, jointly or severally with others,

(a) Shall have legal title to any premises or dwelling, with or without accompanying actual possession thereof, or

(b) Shall have charge, care or control of any premises, dwelling, dwelling unit or other facility as owner or agent of owner, or an executor, administrator, trustee, or guardian of the estate of the owner.

(O) **person** - means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation or any officer thereof, business trust institution, agency, government corporation, district, or other political subdivision, or any official or director thereof, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative, acting either for himself or for any other person in any capacity. The masculine, feminine, singular, or plural is included in any circumstances.

(P) relocation - the temporary removal of residents to a location that has been determined to be lead-safe for the purposes of either protecting a child at risk or in order to remediate lead hazards. The necessity and duration of temporary relocation shall be determined by the Health Commissioner.

(Q) remediation - the repair of lead-hazardous conditions that may or may not include the complete removal of all lead paint but meets clearance test standards as specified by HUD.

SECTION THREE. Notice, Violation, Condemnation, Nuisance, and Injunctions.

(A) The Health Commissioner, immediately upon completing each inspection and/or obtaining samples or immediately upon receiving each inspection report and/or samples from the Building Commissioner, shall make a written determination as to whether lead-bearing substances are present in or upon the exposed surfaces of the dwelling or dwelling unit in question. If the Health Commissioner determines that lead-bearing substances are present, he shall immediately give notice in writing thereof to all tenants and occupants, the record owner or owners, and any known managing or rental agent of the dwelling, and shall post a copy of said notice upon said dwelling, in a conspicuous place within ten (10) days of the said written notice.

(C)(2) The Health Commissioner shall exercise the authority granted to him by the provisions of law of the City of St. Louis to declare and abate nuisances, which provisions on the date of the enactment of this Ordinance are contained in Section 14(c) of Article XIII of the Charter of the City of St. Louis, and shall declare and abate said condition as a nuisance. In addition to any ordinance provision, if the person whom the order or notice of the existence of lead paint or other lead hazards is served or mailed does not comply with the order of the Health Commissioner to correct and treat the condition creating the health hazard within the prescribed time period the Health Department may, itself or by contract, correct the condition by remediating the hazard, charge the costs thereof to the owner, and with the approval and assistance of the City Counselor, collect the costs by lien or otherwise. The lien placed on the property shall remain in effect until the property owner reimburses the City of St. Louis' Lead Fund for 60% of the costs for remediation made or until the property owner continuously maintains the unit as lead safe for a period of 10 years. The property will be periodically inspected to evaluate for compliance and lead hazard violations by the Health Commissioner.

The Health Commissioner may also refer any violation of this Ordinance to the City Counselor's Office for prosecution in the City Courts.

SECTION FOUR. Treatment of Exposed Surfaces.

The Health Commissioner shall determine whether the lead-bearing substances in or upon exposed surfaces shall be either removed or securely encapsulated . The removal or covering of lead-bearing substances shall be accomplished in a manner which will not endanger the health or life of human beings, and which will result in the safe elimination from the dwelling or dwelling unit and the safe disposal of flakes, chips, debris, dust and other material. Subject to the requirements contained in the two preceding sentences, the Health Commissioner shall determine the manner in which exposed surfaces containing lead-bearing substances shall be treated and may issue rules and regulations concerning such treatment consistent with state and federal law.

The City of St. Louis and the Department of Health and Hospitals shall cooperate with any other entity or nonprofit agency which makes housing available to tenants who must leave their primary residence due to lead-paint hazards or on a temporary basis during lead paint remediation. The Department of Health shall create, keep, and update a list of lead-safe residences and temporary housing options for tenants who must vacate their dwelling due to lead paint hazards or during lead paint remediation. The Department shall inspect and certify temporary housing as lead-safe, facilitate the relocation of families and perform environmental testing (dust wipe sampling) before and after lead-paint hazard remediation.

SECTION FIVE. Retaliatory Eviction.

(A) No property owner, landlord, or their agent shall terminate any lease, rental agreement, tenancy, or otherwise recover possession of any premise, or file a lawsuit to recover possession of a premise in whole or in part, because the tenant, or someone acting on their behalf, allowed inspectors onto the premises or dwelling to test for lead, or allowed their child, or any child under their care to be tested for lead poisoning. No violation shall exist hereunder until there has been a final judgment on any eviction. It shall not be considered a violation of this ordinance if the family is temporarily relocated during the remediation of lead hazards.

(B) No property owner, landlord or their agent shall refuse the occupancy of any said premise to the relocated tenant upon the request of the tenant to

reoccupy the premise. Upon completion of the lead remediation the landlord or property owner shall notify the Department of Health and Hospitals. The Department shall conduct a re-inspection within three (3) working days and notify the tenant that the unit is available for re-occupancy. It is the responsibility of the tenant to keep the Department up-dated as to their location. The tenant must notify the landlord and the Department in writing within 10 days of being notified by the Department that they wish to reoccupy the unit.

(C) The Court shall consider, among other factors, in determining whether a violation has occurred, whether the termination of tenancy, recovery of possession, or filing of a lawsuit for possession has occurred within 60 days after either the testing of a resident child or the premises for lead

SECTION SIX. Lead Inspection Certification.

Landlords wanting to have their units certified as lead inspected may do so for a nominal fee to be established by the Health Commissioner by contacting, in writing, the Department of Health and Hospital's Environmental Section. A lead inspector will make a comprehensive and thorough inspection and issue an inspection report to the landlord within 14 days of the inspection. Lead hazardous conditions are to be cited and the presence of intact areas of lead paint noted as potential sources of lead hazards. Units containing chewable lead-painted surfaces will be assisted in encapsulating these surfaces to eliminate them as potential lead hazards. Once compliance has been met a Passed Lead Inspection Certificate will be given specifying the date of certification and conditional on the unit being maintained as to prevent any lead containing surfaces from becoming hazardous. Landlords who maintain their units in accordance with this provision are permitted to advertise their units as having "Passed Lead Inspection." A list of units having passed the lead inspection will be kept, updated and maintained by the Department of Health and Hospitals. No owner may advertise a rental unit as Passed Lead Inspection unless said unit has passed the lead inspection.

SECTION SEVEN. Enforcement

The enforcement of this Ordinance shall be governed by the enforcement provisions of this Ordinance and by the enforcement provisions of the Building Officials and Code Administrators (BOCA) Code.

SECTION EIGHT. Penalty clause. Any person, firm or corporation convicted of violating this ordinance shall be fined not less than \$10.00 but no more than \$500.00 and/or imprisonment of not more than ninety days.

SECTION NINE. Emergency Clause.

This Ordinance being necessary for the immediate preservation of the public health, welfare and safety, it is hereby declared to be an emergency measure within the meaning of the Charter of the City of St. Louis and shall become effective immediately upon its passage and approval by the Mayor.

Legislative History				
1ST READING	REF TO COMM	COMMITTEE	COMM SUB	COMM AMEND
05/28/99	05/28/99	H&H	06/29/99	
2ND READING	FLOOR AMEND	FLOOR SUB	PERFECTN	PASSAGE
07/01/99		07/09/99	07/09/99	07/16/99
ORDINANCE	VETOED		VETO OVR	
64690				