

**New Orleans, Louisiana, Code of Ordinances**  
**Part II - Code**  
**Chapter 82 – Health and Sanitation**  
**Article VIII. – Lead Paint Poisoning**

**Definitions.**

Disturb or remove paint – any action that creates friction, pressure, heat, or a chemical reaction upon any lead-based paint on an exterior surface so as to abrade, loosen, penetrate, cut through, or eliminate paint from that surface; includes all surface preparation activities that are performed upon a surface containing lead-based paint.

Lead-based substances – plaster, putty, paint, varnish, shellac, or other coating on surfaces with lead in excess of 1.0 milligrams per square centimeter as measured by x-ray fluorescence (XRF) detector or laboratory analysis or in excess of 0.5 percent by weight as measured by laboratory analysis or as currently defined by state or federal standards.

Readily accessible – in the judgment of the director of the department of health or agent, a lead-based substance is in a flaking, peeling, or chipping condition on a surface from which it may be chewed or ingested by children who inhabit or frequent the premises.

Director – for the purposes of the regulation of the interior of buildings, the director of the Department of Health. For purposes of the regulation of the exterior of buildings and the regulation of metal structures, “director” means the director of the Department of Safety and Permits.

**Preventive Measures.**

Citizen awareness and observation is a primary preventative measure. Upon receiving a citizen complaint, the director shall:

1. Review the complaint;
2. Determine whether a valid notification form has been filed, if required; and
3. Conduct an inspection at the job site to determine the validity of the complaint, if deemed necessary by the director.

The City of New Orleans prohibits retaliatory actions by the landlord or his/her agent against a tenant who has complained in good faith to a governmental agency or to the landlord of a suspected lead hazard.

In determining the validity of the complaint, if the director is not able to observe the actual performance of any work practices constituting violations, the director shall investigate and consider the following:

1. The containment measures and work tools being used;
2. The color(s) of paint being disturbed or removed;
3. The color(s), quantities, nature, and locations of alleged visible lead paint contaminants;
4. The colors, location, and conditions of paint on adjacent properties to determine if such paint could be a source of the alleged visible lead paint contaminants;

5. Any work being performed on adjacent properties which could be a source of the alleged visible paint contaminants; and
6. Any other relevant evidence that the director determines in the exercise of his or her discretion would help to determine whether a violation of this article has occurred.

New Orleans requires all practicing physicians to submit to the department of health within one week, reports of all cases (adult and children) of lead poisoning as defined by the Centers for Disease Control to the Department of Health. The department of health is to maintain a register of all persons whose blood contains 10µg/dL of lead or the current CDC standard – information includes name, date of birth, sex, address, mother's maiden name, case number, and blood-level of the person.

### **Rebuttable Presumption of Lead.**

All paint on the interior and exterior of either a building originally completed prior to December 31, 1978 or any metal structure is presumed to be a lead-based substance. This is a rebuttable presumption – through lead-based paint testing or other means satisfactory to the director, it is possible to prove that the paint in question is not lead-based.

### **Notification Requirements.**

A property owner or contractor requesting bids for work must notify all bidders of any paint inspection reports verifying the presence of any lead-based paint in the regulated area of the proposed project. The contractor shall at least three business days prior to commencing work, notify the property owner of potential lead hazards of the project by delivering the *Protect Your Family from Lead in Your Home* EPA pamphlet. This three-day notification requirement may be waived under two exceptions:

1. If the property owner determines an emergency condition exists and any delays would pose an immediate threat to occupants' health and safety.
2. Upon written request of the tenant.

There is great focus on construction guidelines by the City of New Orleans, mainly in the area of power-sanding. Prior to commencement of work that involves power-sanding affecting lead paint on the exterior of a building or metal structure, the contractor or the owner must provide written notice to the director of the department of safety and permits. Additionally, the owner or contractor must post signs:

1. In a location or locations clearly visible to adjacent properties giving notice that lead-based work involving power-sanding is in progress;
2. The sign has to be at least 24 inches square and in large boldface capital letters no less than one-half inch in size; and
3. The sign must remain in place until the work has been completed.

In the event where it is not possible to post signs in a conspicuous location, the owner or contractor shall provide written notice in the form of a letter or memorandum to the occupants of adjacent properties.

### **Enforcement and Penalties.**

Both the health and housing agencies have the authority inspect buildings and metal structures, collect paint, dust, and soil samples and use an x-ray fluorescent analyzer to inspect paint at the property where the work is being performed (and adjacent properties) in order to determine the validity of the complaint. If

it is determined that a violation occurred, the director shall issue a notice of violation to either the owner or contractor or both, and may require a special inspection by a certified risk assessor as a condition of resuming work. The notice of violation can be in the form of either a stop work order or an order for specific performance:

1. Stop work orders – the director has the power to stop any work that is disturbing or removing lead paint or otherwise generating lead paint contaminants or the construction, alteration, or repairs of any metal structure or building are being performed in violation of this article. The order has to be issued in writing and served upon persons engaged in doing the work.
2. Specific Performance – the director has the power to order the owner or occupants to eliminate the hazard within a reasonable and specified period; to remove any workers, except those needed to abate the hazard, from the project work area; and to evacuate appropriate areas of the site and the surrounding until the condition is corrected.

For each day that the owner, contractor, or responsible person remains in violation, it constitutes a separate violation. However, there is a provision for an alternative penalty – the civil adjudication bureau may suspend the penalty if the responsible party attends and completes a lead-related construction supervision and project monitoring training course approved by the state. The course must be completed within 30 days of the hearing and proof of attendance and completion via certification must be submitted. Failure to meet these guidelines will result in the penalty and any fees becoming immediately due and payable. This alternative penalty is only available to persons who have not previously completed such a training course and who have not been previously found by the director to be in violation of this article.

**Prohibition on the Manufacture and Sale of Articles with Lead-Based Substances.**

The City of New Orleans, like many jurisdictions, prohibits the manufacture and sale of lead-based fixtures intended for use/installation on the interior and exterior of a building, and lead-based substances in toys, play equipment, or furniture. Additionally, the city explicitly prohibits lead-based substances in food containers, utensils, and tableware with extractable lead resulting in an excess of .226 parts per million of lead in a leachable solution for plates, saucers, and other flatware, and .100 parts per million of lead for cups, mugs, pitchers, and other hollowware. However, the resale of architectural millwork from a building constructed prior to 1978 containing a lead-based substance is allowed if the reseller provides the EPA pamphlet *Protect Your Family from Lead in Your Home* to all purchasers of such millwork at the time of purchase.

Additional information, including flyer and required postings, can be found on the city’s website at <http://www.nola.gov/RESIDENTS/Health-Department/Childhood-Lead-Poisoning-Prevention-Program/>