

***City of Rochester  
Year One Implementation Plan  
Lead-Based Paint Poisoning Prevention***

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**Dear Rochester resident:**

Rochester City Council passed a lead law this past December that will increase lead testing and remediation work in our city's housing stock. Public safety is one of my major priorities and eliminating lead poisoning will contribute to the safety and prosperity of our children.

We are fortunate that more people than ever are aware of the hazards of lead poisoning and they are better protecting their children. Because of this, we are seeing less cases of lead poisoning. Parents and guardians, City and County, non-profits, neighborhood organizations and property owners are to be commended for providing lead poisoning prevention education and outreach efforts.

However, even one lead poisoned child in our community is too many. We have a plan in place to target those areas of our city with the most severe lead poisoning during the first year. At the end of year one, we will document our progress and get input from the community. We will involve those who perform lead abatement work and those providing education and outreach. The information we gather will help us measure our progress and make adjustments as we proceed toward our goal of eliminating lead poisoning in Rochester.

Success in making Rochester lead safe will take the commitment of parents, residents, property owners and government. We must work together to ensure healthy homes for our children and preserve our neighborhoods. I ask for your continued support as we embark on this unprecedented effort.

Sincerely,

A handwritten signature in black ink, reading "Robert J. Puff". The signature is written in a cursive style with a large, stylized initial "R".

## The Lead Ordinance

In December 2005, the City of Rochester adopted a local Lead Based Paint Poisoning Prevention Law. The Lead-Based Paint Poisoning Prevention legislation is an amendment to Chapter 90 of the Municipal Code, Property Conservation Code. The new law requires inspections for lead paint hazards as part of the city's existing Certificate of Occupancy process, which applies to rental units within the City limits. This law goes into effect on July 1, 2006.

The *Year One Implementation Plan* is part of a multi-year effort mandated by City Council to pro-actively eradicate lead poisoning by concentrating additional inspections and resources in the areas of highest need.

Neighborhood Empowerment Team (NET) inspection staff, known as Neighborhood Conservation Officers (NCO's), will visually inspect for deteriorated paint in both the interior and exterior of a unit and bare soil city-wide. All deteriorated paint in pre-1978 housing will be assumed to be lead-based. Deteriorated paint must be repaired using Lead Safe Work Practices, which will be monitored by NCO's.

In the Year One Implementation area, properties that pass the visual inspection and have no interior deteriorated paint violation will also have to pass a dust wipe test administered by NCO's. The dust wipe test is designed to find lead paint hazards that the naked eye cannot see. If a deteriorated paint or dust violation is cited by an NCO, clearance must be obtained from a risk assessor or a lead-based paint inspector upon completion of any necessary work in the unit.

Additional legislation amending Article III was made in March 2006 to provide consistency with Federal regulatory standards and to reduce an unintended burden of lead hazard identification on property owners:

- The City determined that the requirement in Section 90-56B of identification of lead-based paint by a lead-based paint inspector or risk assessor places an unnecessary and potentially costly burden on property owners.
- The City also identified that the clearance standards for porches contained in Section 90-57D were not consistent with Federal regulations. Deteriorated paint on open porches are now classified as an exterior violation, and open porches are defined in accordance with the definition found in the Zoning Code.
- Additional technical amendments were made to provide consistency throughout the Code, such as a re-numbering of Sections. Additional wording was added to confirm that the dust-lead hazard cited pursuant to Section 90-55 of the Code is classified as a violation in Section 90-54.

## Definition of Need

Childhood lead poisoning is one of the most common and preventable pediatric health problems in the United States today. Although numerous cities across America have implemented lead poisoning prevention programs, many programs have not developed primary prevention approaches. They instead place the majority of their resources on providing services to children and their families after the child is exposed.

In 2001, 5,258 children, or 2.7% of all children under six years of age in New York State (excluding New York City) had elevated blood lead levels of 10 µg/dL or higher. This is the standard by which lead causes developmental and possibly physical harm to children.

In 2002, the Center for Governmental Research reported that nearly 25% of all children in the City of Rochester had blood lead levels above 10 µg/dL, more than ten times the state average at that time. This data is collected and shared annually by the Monroe County Health Department. Existing methods of lead poisoning prevention were not effective in our community.

In determining which housing in the City of Rochester is most likely to contain lead-paint hazards, City officials and community agencies identified the top indicators as the proportion of rental housing, the age of the housing stock, and the poverty of the neighborhood. Several Rochester neighborhoods fall under extreme risk in all three measures.

Nearly 60% of the City of Rochester's occupied housing is rental housing, and over 70% of those rental units were built before 1960 with a very high probability of containing lead paint. Additionally, the oldest neighborhoods with the largest proportion of rental units are also the poorest sections of our City. The percentage of children under 18 living in poverty in the City, at 38%, is already among the highest of municipalities in the state.

Based upon the factors determined as the most reliable risk indicators by the Department of Housing and Urban Development, Rochester ranks third of all 1,007 municipalities in New York State with respect to the number of units likely to contain lead-paint hazards. Thus, a majority of children in Rochester are living in what is by definition high lead risk housing.

In 2005, 13,628 children under the age of six in our area were screened for traces of lead in their blood. Monroe County Department of Public Health officials identified 675 children with elevated blood lead levels. The Year One Implementation Plan is designed to target policy, resources and enforcement in the highest concentration areas for these cases.

## Proposed Year One Plan

Residential rental units built before 1978 requiring Certificates of Occupancy, in all areas of the City, will be covered by the general provisions outlined in the ordinance. This means that deteriorated paint, both on the interior and exterior of the unit, will be required to have protective covering. Property owners now have certain obligations to their tenants and neighboring residents when work is conducted in that unit as defined in Section §90-58, lead-safe hazard reduction and control.

The ordinance outlines in both Section §90-55 and in Section 3 of a Resolution the requirements of a designated high risk area, reflecting properties recorded with historic elevated blood lead level data and the recommendations of the Monroe County Department of Public Health. This area would be subject to additional inspection requirements and a separate citation, violation and clearance process. In Year One, this will occur in sections of NET areas B and F.

Units in the high risk area as defined by Monroe County data within NET B and F that pass a visual inspection for deteriorated paint violation will require a dust wipe test as required by Section §90-55. The City will afford property owners an opportunity to clean their units and retest them only when less than 50% of the initial wipe samples are positive and no one sample is greater than twice the EPA accepted standard.

If a unit fails the initial dust wipe test by a greater margin or fail after the second test, a Notice and Order citing a dust lead hazard will be issued. The violation may only be removed after private clearance has been secured.

In addition, private clearance testing upon completion of interior related work (as outlined by Sections §90-56 and §90-57 of the ordinance) would apply city wide. All exterior related work other within the City would require a visual clearance to receive a Certificate of Occupancy or to remove a violation.

There are exceptions for units that are already required to be safe from lead paint hazards under federal law. Additionally, the City will waive the Lead Safe Work Practice and private clearance requirement if a property owner has obtained a private risk assessment or lead-based paint inspection certifying the area cited contains no lead-based paint.

Protections are afforded to occupants of property within the City before, during and after work is conducted in any unit. Section §90-59 gives property owners the conditions by which a work site must be prepared, and provides occupants recourse to end a lease agreement if those conditions are not met.

Section §90-60 defines the mandated lead-safe work practices to be conducted by the property owner or contractor. Lastly, Section §90-63 provides tenant protection against various retaliatory measures as a result of reporting conditions with potential lead hazards, provided the tenant did not cause the condition.

### High Risk Area

City Officials reviewed this data provided by Monroe County, which identified 573 positive lead inspections and 2,350 City properties where children with elevated blood lead levels were likely exposed to lead hazards for the years 2001 -2005.

As outlined through the City's Geographic Information Systems (GIS), the census block group maps included on Appendix A include 75% of the City's residential areas. The City of Rochester projected additional staffing needs costing upwards of one million dollars to support this expansive target area, without state or federal support.

City Council has mandated that at the end of the second year of enforcement, the vast majority of the units in this area will have been inspected through one of the City's inspection processes. This program must be implemented given existing NET staff.

The Year One Implementation Plan area, defined by Neighborhood Empowerment Team (NET) areas B and F, encompasses 31 of the 39 census tracts identified as having children with elevated blood lead levels. All but one of the census tracts having the highest frequency of Monroe County Department of Public Health investigations is included in Year One.

The number of units in a Year One Implementation area that will need renewal Certificates of Occupancy is 2,043. When this is added to the estimated 5,738 units inspected through the Quality Housing Inspection (QHI) program and the projected 952 complaint cases, the total units estimated to be inspected in Year One is 8,733. This number does not include the referrals and surveys that result in an inspection.

NET staff inspect over 26,000 units a year city-wide, far exceeding the 10,000 units the City's Generic Environmental Impact Statement recommended be reviewed annually. Outside of the Year One Implementation area, inspectors will include follow-up on all notice and orders related to deteriorated paint violations.

NET staff will also respond to all complaints of contractors or property owners not applying lead safe work practices. Failure to comply with such practices will result in enforcement as outlined by the procedural chart in Appendix B.

Appendix B includes the documented processes for unit inspections city-wide and within the Year One Implementation Area. For additional information, please call 428-LEAD or visit <http://lead.cityofrochester.gov>.

## Year One Plan Rationale

Any program effort of this scale has the potential to overwhelm both the citizens involved and City's capacity to effectively implement it. It is essential that all parties have the perspective to place these social, economic and health issues in context. The City of Rochester is continually working to gather, organize and communicate this information given strict time lines and limited access to resources.

**Scope.** It is the intention of City Council that the units in areas that are the source of a substantial number of the cases of lead poisoning be completed at the earliest possible time within the financial and programmatic constraints that exist. The highest frequencies of lead poisoning clearly are bounded by NET F, followed by NET B. The Year One Implementation Plan is the best approach to achieve these ends.

**Scale.** We are confronted with an important public health issue that has attracted significant public interest and a strong statutory mandate for enforcement, but which faces significant practical limitations. Internally, those limitations include the capacity to inspect and force compliance city-wide. Externally, they include but are not limited to the financial constraints of lead hazard control, enforcement, and the possible negative consequences to available housing.

**Unintended effects.** The neighborhoods that will be most affected by the lead paint program are often in marginal condition. They have been in decline for a considerable time and this continues today. It is vitally important that implementation of this law not cause further disinvestment, vacancy, and housing shortages, but rather lead paint poisoning prevention be one of many catalysts in the process of reversing this decline.

**Costs.** Extraordinary costs will be borne by property owners, community agencies, and government entities. It is essential that an analysis of the costs of this program relative to the reduction in elevated blood lead levels be made in Year One, with appropriate recommendations. The City of Rochester will take the opportunity to evaluate the Year One Plan before resources are deployed to the next area of highest need.

**Resources.** Current funding will be prioritized in the Year One Implementation Area as part of the program evaluation period. This will allow the City to further quantify the additional need as the target area expands. City Administration will continue to explore the best options for existing resources, and will work with agencies to ensure that all available federal and state funds are applied for.

## Year One Plan Evaluation

The primary goal of this lead law is to ensure the health and safety of our children. Our secondary goal as a City is to rebuild our neighborhoods by addressing problems that include lead paint. The following measurements will be tracked on an ongoing basis during the course of Year One to determine the overall success of the program.

Ultimately, the City will look for achievement of these goals commensurate with the resource commitment. The City will administer a survey of impacted residents and property owners at the conclusion of Year One to qualitatively assess these goals. Any policy that may deteriorate the quality of life for the residents of the neighborhood or prevent the reduction of blood lead levels in children will be shared with City Council.

**Effectiveness:** Number of EBL cases, number of County Health investigations

**Efficiency:** Cost per EBL/investigation case reduction (federal, local, private dollars)

**Socioeconomics and equity:** Frequency of tenant displacement or dislocation, variation in non-Section 8 rent costs, net new neighborhood job creation, average household income

**Neighborhood integrity and cohesion:** Vacant or abandoned properties, average multi-unit dwelling sale price, average number of days on market

**Affordability:** Average cost per unit for control work, average cost to obtain private clearance certificate, average days for unit to achieve compliance

**Feasibility:** Case load per Neighborhood Conservation Officer, number of complaints

**Other Factors:** Compatibility with local, state or federal health laws and policies

The evaluation measures were selected to reflect and measure the extent to which the policies and procedures contribute to the achievement of the above goals. These measures should allow for efficient use of available data and provide comparable levels of detail among different screening and evaluation categories. They will be evaluated with multi-year historic data for comparison purposes.

The above evaluation measures, while not comprehensive, are reasonable and allow for thorough coverage of key goals and issues. The data analysis in part will determine whether Rochester's Year One Plan can be associated with significant declines in the number of blood-lead levels among resident children.

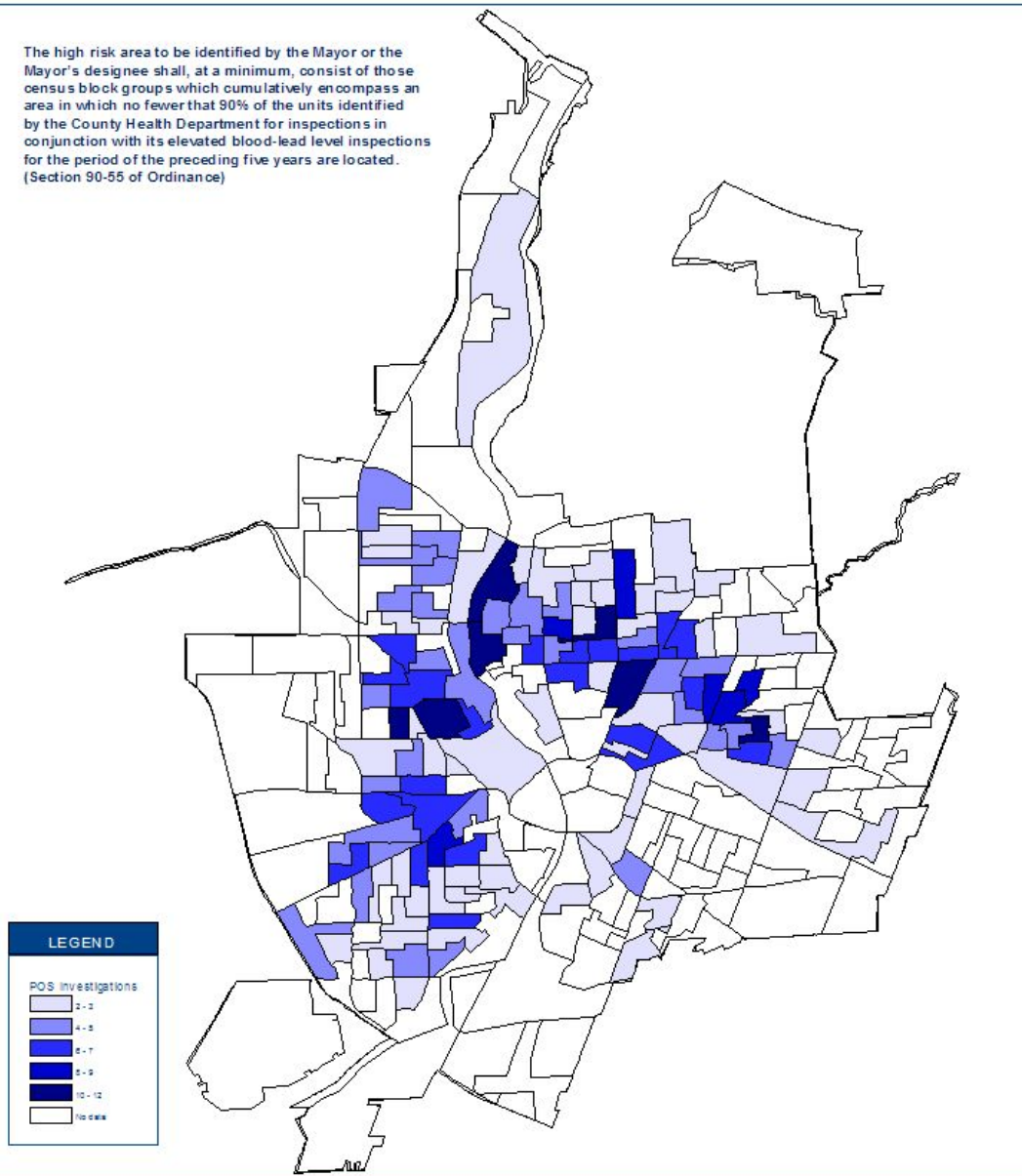
As the City monitors dust lead loadings and paint deterioration in NET area B and F housing units, blood-lead concentrations of resident children under the age of six will be supplied by the Monroe County Department of Public Health. A comparison population will use similarly aged cases where blood lead was screened one year earlier within this area and who were living in untreated housing units.



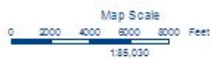
CITY OF ROCHESTER  
FIN - INFORMATION SYSTEMS

# POS Investigations

The high risk area to be identified by the Mayor or the Mayor's designee shall, at a minimum, consist of those census block groups which cumulatively encompass an area in which no fewer than 90% of the units identified by the County Health Department for inspections in conjunction with its elevated blood-lead level inspections for the period of the preceding five years are located.  
(Section 90-55 of Ordinance)



LEGEND	
POS Investigations	
2-3	[Lightest Blue Box]
4-5	[Light Blue Box]
6-7	[Medium Blue Box]
8-9	[Dark Blue Box]
10-12	[Darkest Blue Box]
No data	[White Box]



Created: April 11, 2006

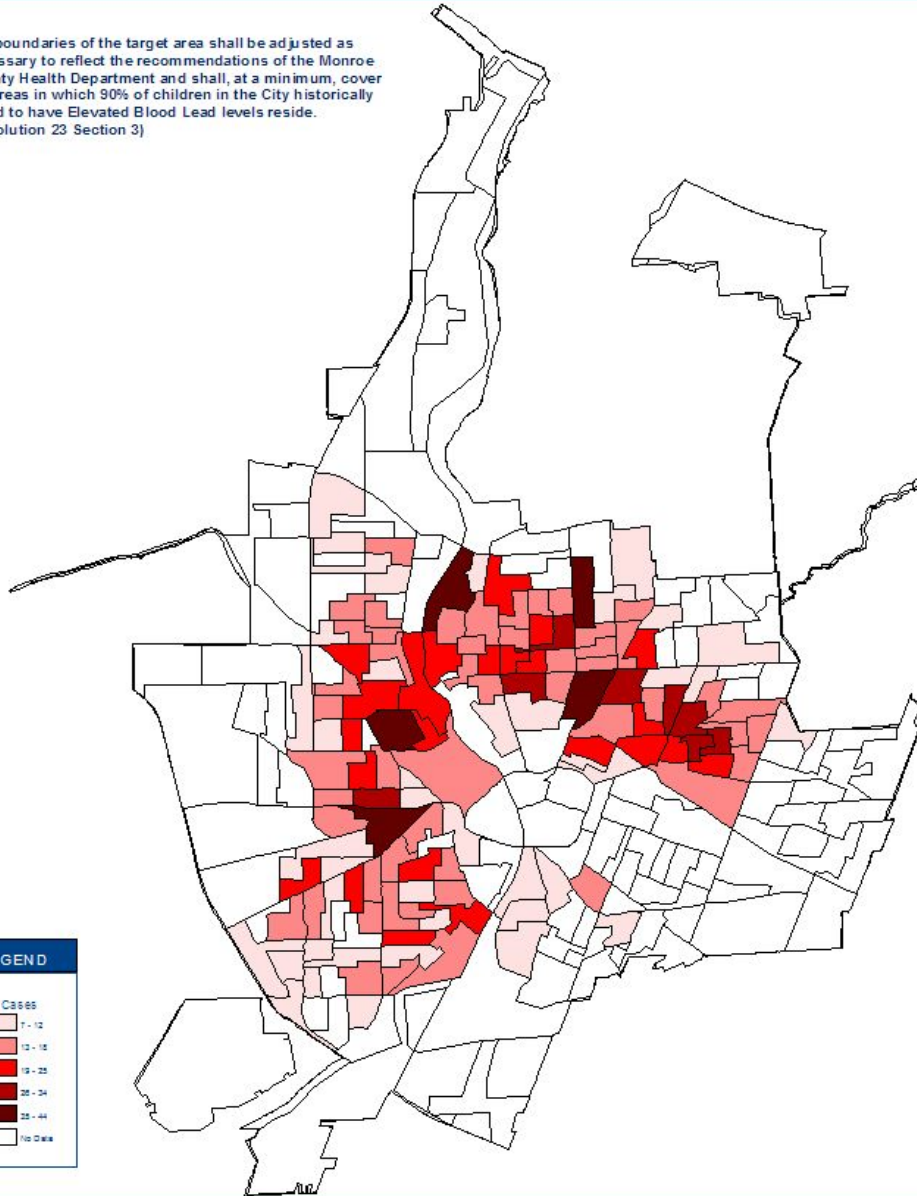
NOTE: This map is intended for informational use only. It is not intended for use in legal proceedings. The accuracy of the information on this map is not guaranteed. The City of Rochester does not warrant, represent, or assume any liability for the accuracy or completeness of the information on this map. The City of Rochester is not responsible for any errors or omissions on this map.



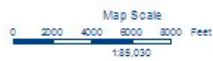
CITY OF ROCHESTER  
FIN - INFORMATION SYSTEMS

# EBL Cases

The boundaries of the target area shall be adjusted as necessary to reflect the recommendations of the Monroe County Health Department and shall, at a minimum, cover the areas in which 90% of children in the City historically found to have Elevated Blood Lead levels reside.  
(Resolution 23 Section 3)



LEGEND	
EBL Cases	
[Light Pink]	1 - 12
[Pink]	13 - 18
[Red]	19 - 25
[Dark Red]	26 - 34
[Darkest Red]	35 - 44
[White]	No Data

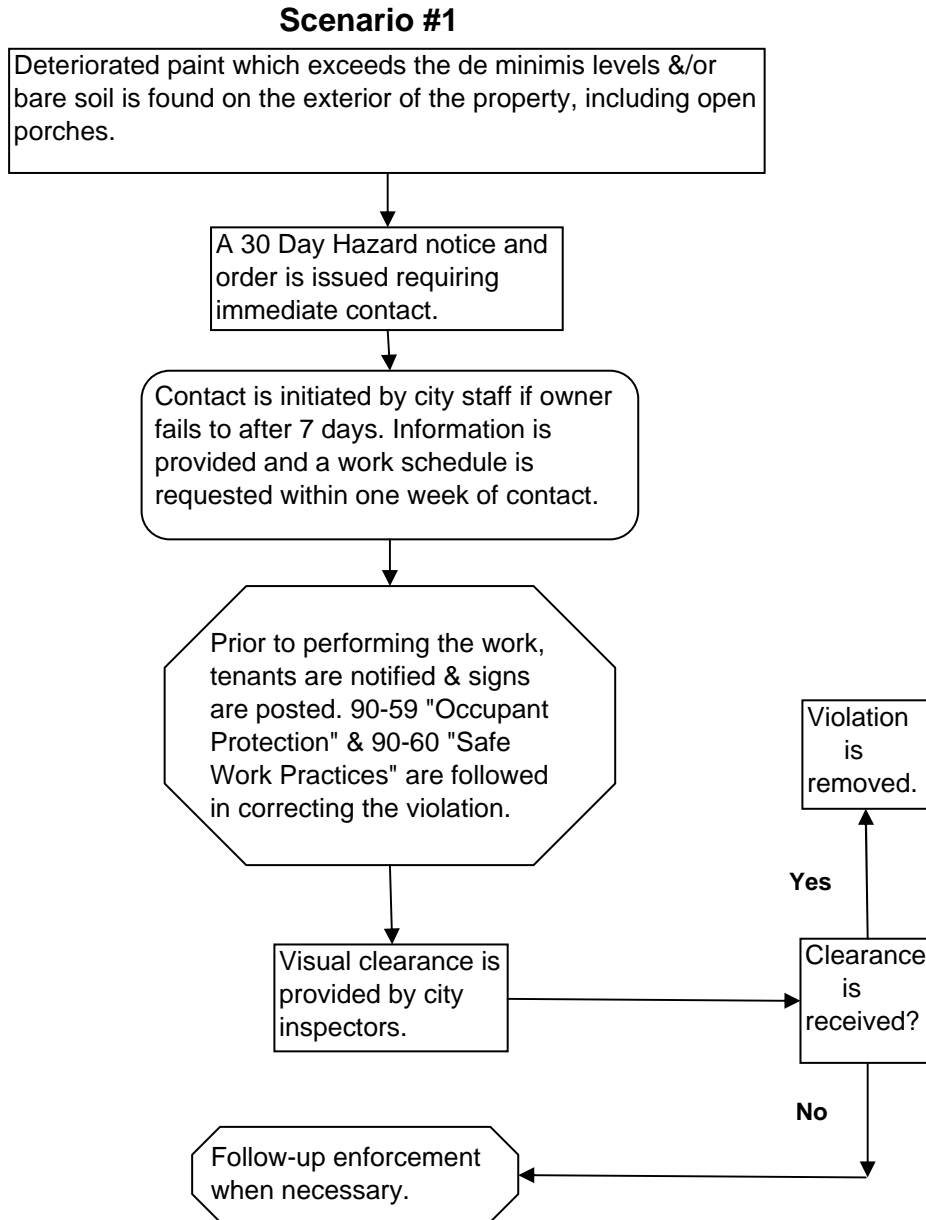


Created: April 11, 2006

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# Lead Ordinance Case Example Flow Charts

During the course of performing any of the types of inspection conducted by NET such as; C of O, Complaint, Survey, Referral, or QHI, a visual observation for deteriorated paint and bare soil will be included. The following scenario's depict the possible outcomes of these inspections and the procedures under which city staff will process the relative cases. All scenario's assume the structure was built prior to 1978.



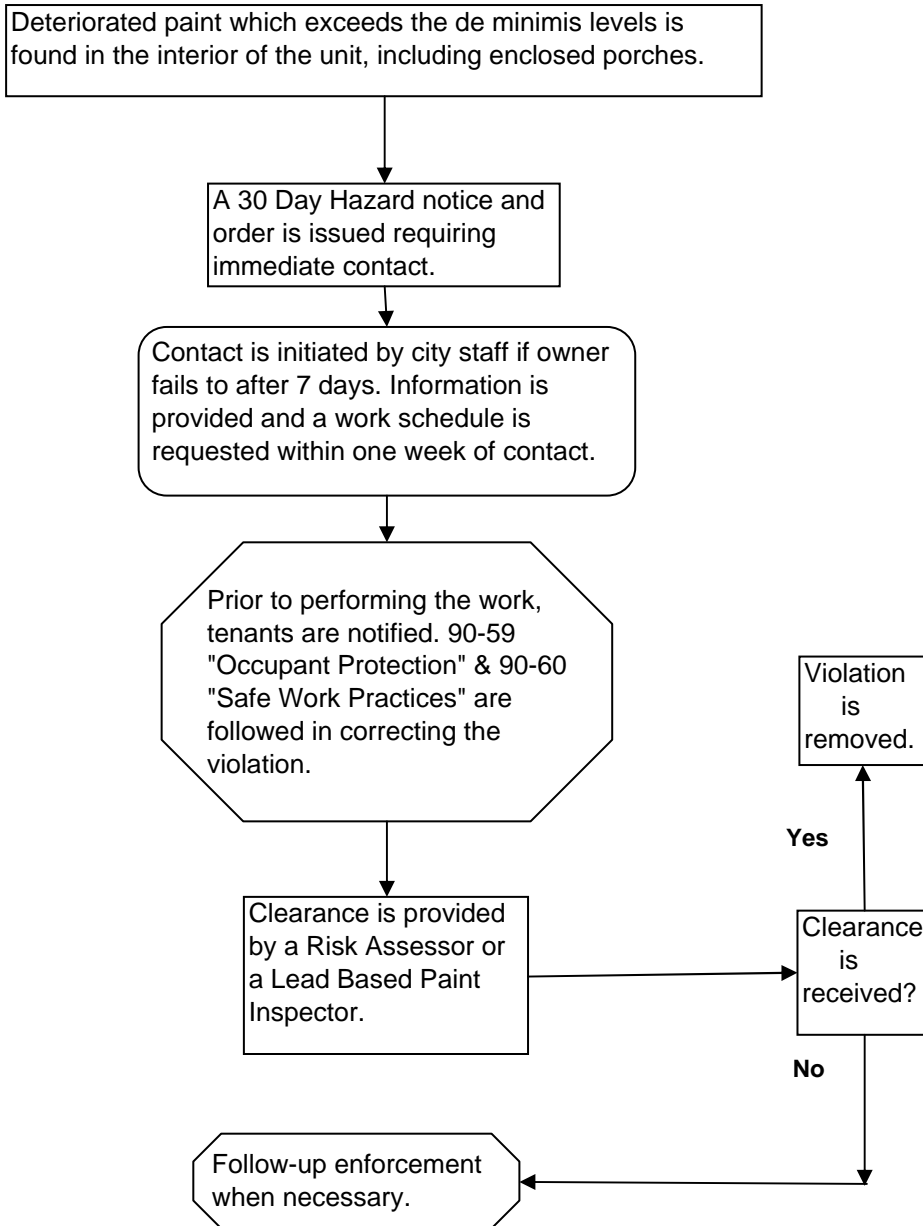
De minimis levels for the exterior of the structure are as follows:

- 1) No more than 20 square feet of all exterior surfaces, including accessory structures, or
- 2) More than 10% of the total surface area of a building component with a small surface area.

**Examples of small surface areas: Window frame, soffits and trim.**

# Lead Ordinance Case Example Flow Charts

## Scenario #2

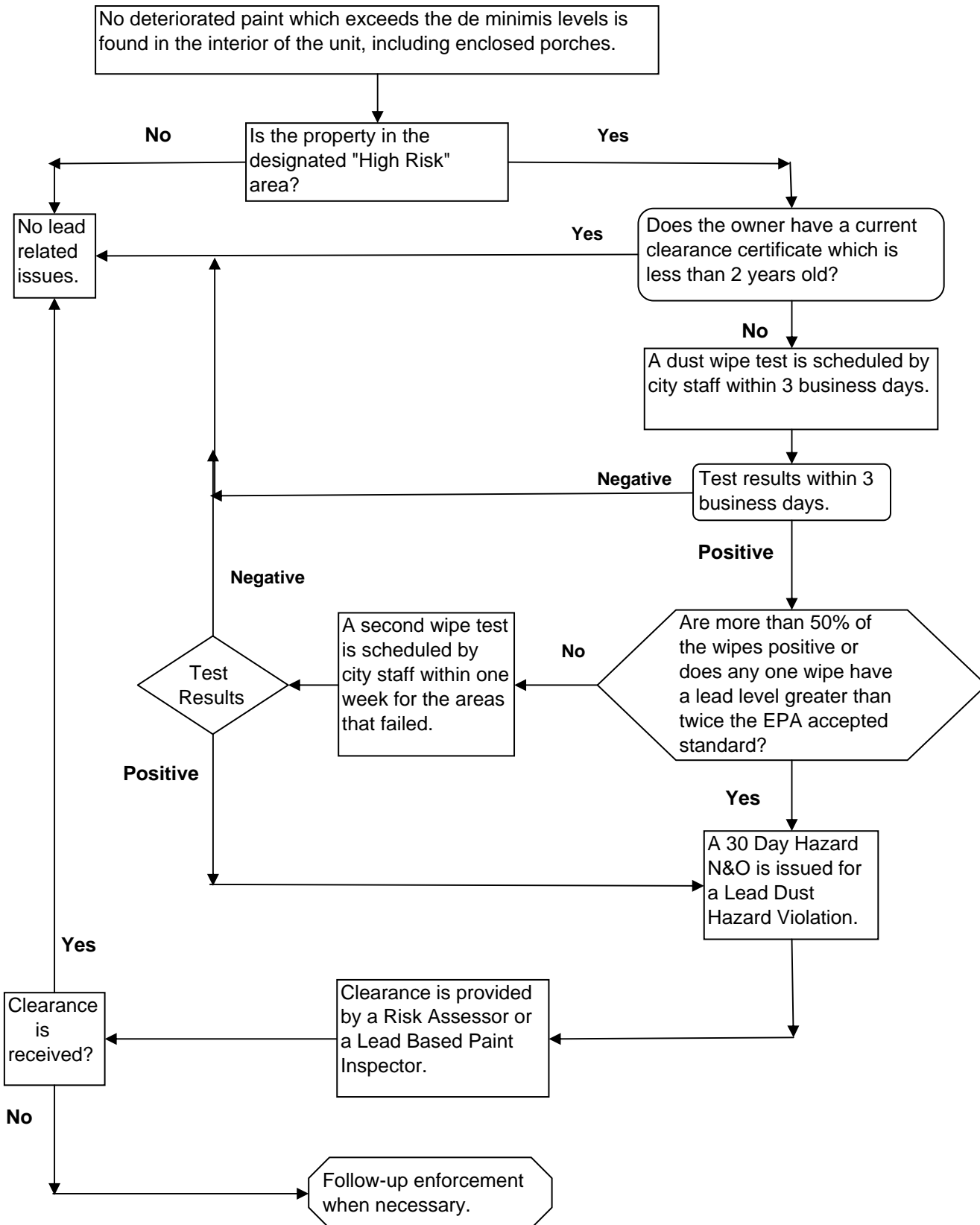


De minimis levels for the interior of the structure are as follows:

- 1) No more than 2 square feet in any one room or space, or
- 2) More than 10% of the total surface area of a building component with a small surface area.

**Examples of small surface areas: Window sills, baseboards, and trim.**

## Scenario #3



NET F Boundaries: (The city line to the north, N Goodman St. to the east, Main St - Inner-Loop to the south, & the river to the west)

NET F "High Risk" area: (Every street in the NET F area south of Rt. 104)

NET B Boundaries: (Driving Park Av. To the north, the river to the east, Main St. - West Av. To the south, & the city line to the west)

NET B "High Risk" area:(The railroad tracks that run from (Lexington to West Av. along side Curlew, Rogers & Hague), to the river)

**A complete list of all streets in both high risk areas can be found on the city's lead web site at <http://lead.cityofrochester.gov>**