

THE PATH TO LEAD SAFETY: BUILDING ON THE LEAD SAFE CERTIFICATE ORDINANCE

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INTRODUCTION

Cleveland's childhood lead poisoning crisis presents a generational challenge, deeply rooted in the City's aging housing stock and systemic resource limitations. The 2019 Lead Safe Cleveland Legislation and subsequent October 2024 Executive Order were critical steps toward addressing this crisis, introducing requirements for property owners to pass biennial lead clearance exams as a means to create safer environments for Cleveland's children. Low participation rates among high-risk properties, combined with continued lead poisoning incidents in homes deemed "lead safe," underscore the inadequacy of the current system.

At the heart of the issue lies an overreliance on the lead clearance exam as a singular tool to achieve two fundamental goals: certifying properties as lead safe and reducing citywide lead exposure. This approach has proven difficult to scale and insufficient to address the underlying causes of lead poisoning in Cleveland.

This proposal introduces a transformative solution: the Two Path Approach.

Combining rigorous assessment with targeted, high-impact interventions, this approach establishes clear, actionable pathways for property owners to achieve compliance while addressing the realities of Cleveland's housing stock. The Two Path Approach creates a flexible framework tailored to the specific needs and conditions of properties across the city.

This legislative amendment proposes a shift in strategy, prioritizing the health and well-being of Cleveland's children by addressing the most hazardous conditions in the city's housing stock. By introducing this scalable and adaptive framework, the City of Cleveland can build a foundation for meaningful, measurable progress in its fight against lead poisoning.

THE CURRENT APPROACH: ONE SIZE FITS ALL

The 2019 Lead Safe Cleveland Legislation relied upon a single, one-size-fits-all path for Cleveland's pre-1978 housing stock,¹ requiring landlords to obtain a clearance examination –a point-in-time assessment of current lead hazards. In its first 4 years, only 14% of rental properties across the city complied, with large commercial landlords in low-risk apartments buildings overly represented. Highest-risk properties, such as older single-family homes and duplexes, were largely noncompliant.

By October 2024, data revealed that poisoning rates remained unacceptably high, and 11 children had been poisoned in homes deemed lead-safe under the program. In response, the Administration issued an Executive Order replacing the clearance exam with a lead risk assessment. While this shift may reduce the risk of poisoning in compliant properties, it does little to address widespread non-compliance in Cleveland's aging housing stock (representing the majority of rental properties across the City) and may even lower compliance further by setting a higher bar for rental properties.

In short, the 2019 law's one-size-fits-all approach has struggled because it fails to address the City of Cleveland's two distinct objectives in its fight against residential lead hazards:

Cleveland's Dual Mandate:

- 1. To declare properties as "lead safe" when no active hazards are present, providing residents with confidence in their housing.**
- 2. To engage with properties that are not yet "lead safe" and support incremental improvements to reduce lead exposure over time.**

Historically, the lead clearance exam has attempted to serve both objectives simultaneously, but has struggled to achieve either effectively:

- **For safer properties**, the exam's lack of rigor has made it difficult to confidently declare them hazard-free, as evidenced by 11 cases of EBLLs in previously cleared homes.
- **For hazardous properties**, the exam's cost and complexity have deterred adoption, particularly among landlords of older or lower-income properties, limiting its ability to drive meaningful improvements. Additionally, the lead clearance exam merely assesses the current state of lead safety and does little to provide durable or cumulative improvements to the City's housing stock.

¹ The law also allowed a small number of exemptions for people who were not renting the property and people who could prove that the property was fully lead-free. Since most activity related to the 2019 law was for the clearance examination path, for the sake of this proposal, we discuss this as the "one-sized-fits-all" path.

A NEW WAY FORWARD: TWO PATHS TO LEAD SAFETY

The Bibb Administration's Executive Order replaces the Lead Clearance Exam with a Lead Risk Assessment, providing a more rigorous and widely recognized metric for declaring properties lead safe when known risks have been addressed. However, thousands of rental properties in Cleveland may find the Lead Risk Assessment too stringent in the near term.

To address the City's obligation to meaningfully improve the lead safety of its housing stock, we propose a Two Path Approach that separates the City's lead safety objectives into two distinct pathways:

1. **Lead Risk Assessment and Hazard Remediation Path:** For properties close to compliance, this path offers a rigorous yet achievable process to attain lead safety certification, maintaining the framework of inspections and targeted remediation.
2. **Path to Lead Safety:** For properties with greater challenges, this path focuses on incremental, measurable, and high-impact improvements to reduce lead hazards, making participation more accessible and practical by removing prohibitive cost barriers.

By bifurcating these objectives, this approach enables the City to certify truly safe properties while establishing a realistic and equitable framework to improve Cleveland's most hazardous housing stock. This strategy addresses the limitations of the clearance exam and lays the foundation for a more effective lead safety program.

OVERVIEW OF THE TWO PATH APPROACH

This proposal establishes two clear pathways for compliance with Cleveland's lead safety requirements:

Pathway 1: Lead Risk Assessment and Hazard Remediation

This pathway continues the existing framework outlined in the 2019 Lead-Safe Legislation and the 2024 Executive Order. Property owners will utilize professional lead risk assessments to identify hazards and implement targeted remediation or interim controls to achieve lead safety certification.

Best Suited For:

- Larger multi-family properties with minimal lead hazards, where compliance can be achieved efficiently.
- Newer properties built closer to modern safety standards.
- Properties with sufficient rental income or resources to support abatement costs.

Pathway 2: Path to Lead Safety

This alternative pathway focuses on incremental, high-impact interventions for properties facing significant barriers to compliance. **Biennial Safety Directives**, developed by the City of Cleveland in collaboration with the Lead Safe Advisory Board (LSAB), Lead Safe Auditor, and public-private partnerships, will guide these interventions.

Best Suited For:

- Smaller single-family and duplex properties, which have historically had lower compliance rates.
- Properties with significant lead hazards requiring extensive remediation over time.
- Properties with limited rental income or resources to fund abatement efforts.

These pathways address the diverse challenges within Cleveland's housing stock and provide a flexible yet impactful framework for improving lead safety citywide.

LEGISLATIVE FRAMEWORK FOR THE *PATH TO LEAD SAFETY*:

The legislation for the Path To Lead Safety includes two key components:

1. **Property Registration on the Path To Lead Safety in lieu of a Lead Risk Assessment**
2. **Creation of Biennial Safety Directives**

Property Registration on the Path to Lead Safety:

Registry Operation:

- The Administration, through the Department of Building and Housing, will maintain a registry of rental properties that have not passed a lead risk assessment but are compliant with the *Path To Lead Safety* requirements.
- Registration will permit property owners to continue operating these rentals in the city and may be integrated into the existing Rental Registry.

Annual Registration:

- Property owners must register annually and demonstrate compliance with the requirements of the current Biennial Safety Directive.

Purpose of Registration:

- Registration on the Path to Lead Safety does not certify a property as lead safe. Instead, it serves as evidence of the property owner's good faith effort to work toward lead safety compliance.

Biennial Safety Directives:

Issuance and Development:

- The City of Cleveland will issue two-year Biennial Safety Directives, which will serve as the requirements for registration on the Path to Lead Safety.
- These Biennial Safety Directives will be created by the mayor's administration in consultation with the Lead Safe Advisory Board, which will review and approve them.

Biennial Safety Directive Goals:

- The Biennial Safety Directives aim to maximize lead safety improvements across the city's housing stock while mitigating costs to encourage broad participation by property owners.

Data-Driven Approach:

- Biennial Safety Directives will be informed by a comprehensive analysis of Cleveland's housing stock and recent lead poisoning data. This analysis will identify high-risk property types, locations, and components (e.g., lead-painted windows, doors, soil) to prioritize interventions.

Role of the Lead Safe Auditor:

- The Lead Safe Auditor will collect and analyze data to support the development of Biennial Safety Directives and assess the impact of previous Biennial Safety Directives.

Progressive Compliance:

- Biennial Safety Directives may require compliance with prior Biennial Safety Directives as a prerequisite for registration in the current year's Path to Lead Safety.

FEATURES OF THE PATH TO LEAD SAFETY

Bringing Property Owners Out of the Shadows:

Encouraging Participation:

- Compliance standards can be adjusted to encourage broad participation, creating a structured relationship between property owners and the City. This approach helps bring non-compliant property owners out of the shadows.

Flexible Compliance Options:

- Property owners may meet compliance requirements by signing agreements to participate in city-endorsed programs targeting specific hazards. For example:
- Initial Biennial Safety Directives might prioritize replacing lead-painted windows and doors or focus on replacing a limited number of windows in high-risk areas within each unit.
- Future Biennial Safety Directives could address other critical hazards or impose requirements based on a property's age or condition.

Cumulative Compliance Requirements:

- Compliance obligations may be cumulative, ensuring ongoing progress and reducing incentives for property owners to delay participation, as has been a challenge with the Clearance Exam program.

Public-Private Partnerships for Implementation:

Building Infrastructure:

- The Lead Safe Cleveland Coalition and other stakeholders will support the necessary infrastructure to execute Biennial Safety Directives, including workforce development, supply chain management, and financial assistance programs.

Coordinated Development:

- Biennial Safety Directives should be created in collaboration with public and private stakeholders to ensure scalable adoption and effective implementation of each phase of improvements.

Iteration to Meet the Needs of a Changing Landscape:

Data-Driven Interventions:

- The City's lead safety efforts will rely on data-driven interventions, allowing for continuous review, iteration, and optimization to maximize health outcomes.

Flexibility and Adaptation:

- While the Lead Risk Assessment provides a stable compliance framework, Biennial Safety Directives offer the Administration flexibility to adapt programming as new information becomes available.

Cumulative Impact:

- Each Biennial Safety Directive will contribute to durable and cumulative improvements in the lead safety of Cleveland's housing stock, fostering long-term progress toward healthier, safer neighborhoods.

CONCLUSION AND CALL TO ACTION

The Two Path Framework represents a significant evolution in Cleveland’s approach to lead safety, moving beyond a one-size-fits-all clearance process to a flexible and iterative model. The City of Cleveland can substantially reduce childhood lead poisoning while addressing the complexities of its aging housing stock by balancing immediate harm reduction with long-term safety goals.

Reliance on Biennial Safety Directives ensures adaptability, allowing the city to focus resources on the most pressing risks and fostering collaboration between public and private stakeholders. This legislation lays the groundwork for meaningful progress, safeguarding Cleveland’s children and creating safer neighborhoods for future generations.

A Narrative Shift: From Compliance to Collective Action

The Two Path Approach reframes lead safety as a collective civic responsibility. Addressing Cleveland’s most hazardous properties and systemic challenges directly will allow the city to achieve measurable improvements that prioritize children’s health while considering the realities of its housing stock.

Messaging Goals:

- Reduce harm today while building toward durable safety tomorrow.
- Emphasize clear, tangible milestones—such as components replaced and jobs created—to build public trust and accountability.
- Highlight the partnership between the City of Cleveland, the Lead Safe Cleveland Coalition, and other stakeholders as a model for systemic change.

Recommendation

The time to act is now. This proposal offers a critical opportunity to advance Cleveland’s lead safety strategy, combining innovation and pragmatism to increase participation and effectiveness.

We urge the Lead Safe Advisory Board to endorse this proposal and recommend its inclusion in the next round of legislative amendments. In adopting this framework, Cleveland can become a leader in addressing lead safety challenges, fostering a healthier, safer future for its children and communities.