



Individual Resolutions
Meeting of the Municipal Council
Wednesday, May 8, 2024
RESOLUTION SUMMARY

2024-13

This Ordinance amends Chapter 13 of the code to now include the definitions and standards for lead-based paint inspections for rental dwellings in Asbury Park. Per the State of New Jersey's Department of Community Affairs (DCA), single family and multiple unit dwellings built prior to 1978 need to be assessed for lead-based paint inspections.



RESOLUTION NO. 2024-13

**City of Asbury Park
County of Monmouth
State of New Jersey**

**ORDINANCE OF THE CITY OF ASBURY PARK CREATING ARTICLE 13-1400,
ENTITLED “LEAD-BASED PAINT INSPECTIONS FOR RESIDENTIAL RENTAL
DWELLINGS,” OF PART 2, “RENTAL PROPERTY,” OF CHAPTER 13, “PROPERTY
IMPROVEMENT AND NEIGHBORHOOD PRESERVATION - PROPERTY
MAINTENANCE CODE,” OF “THE CODE OF THE CITY OF ASBURY PARK”**

WHEREAS, the City of Asbury Park (the “City”) is establishing Article 13-1400, entitled “Lead-Based Paint Inspections for Residential Rental Dwellings,” of Part 2 “Rental Property,” of Chapter 13 “Property Improvement and Neighborhood Preservation - Property Maintenance Code,” of “The Code of the City of Asbury Park” (also referenced as the “City Code”); and

WHEREAS, the Mayor and Council wish to establish new rental property standards in Article 13-1400 of the City Code in accordance with the provisions set forth herein.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, that Article 13-400, entitled “Lead-Based Paint Inspections for Residential Rental Dwellings,” of Part 2 “Rental Property,” of Chapter 13, “Property Improvement and Neighborhood Preservation - Property Maintenance Code,” of “The Code of the City of Asbury Park” is hereby supplemented as follows:

Chapter 13. Property Improvement and Neighborhood Preservation - Property Maintenance Code

Article 13-1400. Lead-Based Paint Inspections For Residential Rental Dwellings.

§13-1400.1 Definitions.

As used in this Section, the following terms shall have the meanings indicated below:

CITY CODE ENFORCEMENT OFFICER

The City Code Enforcement Housing Officer or designee.

DUST WIPE SAMPLING

A sample collected by wiping a representative surface and tested in accordance with a method approved by the United States Department of Housing and Urban Development (HUD) and as conducted pursuant to N.J.A.C. 5:28A-2.3.

LEAD ABATEMENT

Measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner of Community Affairs in compliance with standards promulgated by the appropriate federal agencies.

LEAD ABATEMENT CONTRACTOR

A firm certified by the New Jersey Department of Health to perform lead abatement or interim control work pursuant to N.J.A.C. 5:17.

LEAD ABATEMENT WORKER

An individual certified by the New Jersey Department of Health to perform lead abatement work pursuant to N.J.A.C. 8:62.

LEAD EVALUATION CONTRACTOR

A person certified by the New Jersey Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:171.1 et seq.

LEAD FREE

A dwelling that has been found to have no outstanding lead-based paint hazards. It does not mean that the dwelling is certified to be lead free.

LEAD INSPECTOR/RISK ASSESSOR

An individual certified by the New Jersey Department of Health to perform lead inspection and risk assessment work pursuant to N.J.A.C. 8:62. This includes the ability to perform dust wipe sampling.

LEAD SAFE

A dwelling that has been found to have no outstanding lead-based paint hazards. It does not mean that the dwelling is certified to be lead free.

LEAD-BASED PAINT

Paint or other surface coating material that contains lead in excess of 1.0 milligram per centimeter squared or in excess of 0.5% by weight, or such other level as may be established by federal law.

LEAD-BASED PAINT HAZARD

Any condition that causes exposure to lead from lead-contaminated dust or soil or lead-contaminated paint that is deteriorated or present on surfaces would result in adverse human health effects.

LEAD-FREE CERTIFICATION

The certificate issued in accordance with N.J.A.C. 5:17, which states that there is no lead-based paint or that the dwelling has undergone lead abatement, in accordance with N.J.A.C. 5:17.

LEAD-SAFE CERTIFICATION

The certification issued pursuant to N.J.A.C. 5:28A, which confirms that a periodic lead-based paint inspection was performed, and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance, in accordance with N.J.A.C. 5:28A-2.4.

MUNICIPAL LEAD INSPECTOR

A lead evaluation contractor retained by the City.

PERIODIC LEAD-BASED PAINT INSPECTION

The initial inspection of all applicable dwelling units at the earlier of two years from the effective date of P.L. 2021, c. 182 (July 22, 2022) (N.J.S.A. 52:27D-437.6), or tenant turnover and, thereafter, the earlier of three years or upon tenant turnover, consistent with N.J.A.C. 5:28A-2.1, for the purposes of identifying lead-based paint hazards in dwellings subject to this section.

REMEDIATION

Interim controls or lead abatement work undertaken in conformance with this section to address lead-based paint hazards.

TENANT TURNOVER

The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit or the time at which a new tenant enters a vacant dwelling unit.

VISUAL ASSESSMENT

A visual examination for deteriorated paint or visible surface dust, debris, or residue, and as conducted pursuant to N.J.A.C. 5:28A-2.3.

§13-1400.2. Applicability.

All rental single-family, two-family, and multiple dwelling units must be inspected for lead-based paint hazards in accordance with this section except for the following:

- a. Dwellings constructed during or after 1978.
- b. Single-family and two-family seasonal rental dwelling units that are rented for less than six months' duration each year by tenants that do not have consecutive lease renewals.
- c. Dwelling units that have been certified to be free of lead-based paint pursuant to N.J.A.C. 5:17.

- d. Multiple rental dwelling units constructed prior to 1978 that have been registered with the Department of Community Affairs for at least 10 years and have no outstanding paint violations from the most recent cyclical inspection.

§13-1400.3. Lead-based paint inspections.

- a. All applicable inspections shall apply to interior spaces within dwellings. This is interpreted to include any common areas that tenants of a rental dwelling have access to, including hallways and basements, in two-family and multiple dwelling rentals. Dust wipe samplings are required for all lead-based paint inspections.
- b. Initial inspection. The owner shall have every dwelling unit, as defined under this section, inspected for lead-based paint hazards upon tenant turnover or within two years of the effective date of P.L. 2021, c. 182, July 22, 2022, whichever is sooner. The first inspection must take place no later than July 22, 2024.
- c. Subsequent inspection. After initial inspection, the owner shall have all such dwelling units inspected for lead-based paint hazards every three years or upon tenant turnover after two years. An inspection shall not be required at tenant turnover if it occurs within the two years of a valid lead-safe certification for the dwelling unit.
- d. Every owner of a dwelling unit subject to this section shall be responsible for obtaining the required inspection. The owner is to directly hire and pay for the lead evaluation contractor to conduct the periodic lead-based paint inspections for lead-based paint. Inspections shall be conducted pursuant to N.J.A.C. 5:28A-2.3.
- e. The Code Enforcement Office will provide a list of lead evaluation contractors certified by the New Jersey Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:171.1 et seq. to owners who request it.

§13-1400.4. City-facilitated inspection.

A Municipal Lead Inspector or vendor designated by the City shall be authorized and empowered to conduct periodic lead-based paint inspections for all applicable rental dwelling units in accordance with N.J.S.A. 52:27D-437.16 and N.J.A.C. 5:28A-1.1 et seq.

- a. Notice of inspection.
 - 1. Request for an initial lead inspection by a City-facilitated inspector or vendor must be submitted in writing by the property owner a minimum of 10 business days' prior to the scheduled date of tenant turnover. It is the responsibility of the property owner to schedule inspections.
 - 2. Request for a City-facilitated or vendor inspection must be submitted in writing by the property owner a minimum of 10 business days prior to the scheduled date of tenant turnover or expiration of the required three-year inspection period.

- b. Inspection fees.
 - 1. Inspection fees shall not exceed five hundred dollars (\$500.00) per rental unit.
 - 2. Inspection fees shall not apply if the property owner hires a private lead evaluation contractor who meets the qualifications of the New Jersey Department of Community Affairs.
- c. Every inspection for which the landlord, tenant, owner or agent has failed to provide access for inspection shall be deemed a failed inspection and the inspection fees shall be forfeited. If an owner desires to cancel an inspection, a written notice of cancellation must be provided to the City a minimum of 24 business hours in advance of the scheduled inspection. Business hours are Monday through Friday, 9:00 a.m. through 5:00 p.m., excluding holidays.

§13-1400.5. Owner option to designate a private lead evaluation contractor.

- a. A dwelling owner or landlord may hire a private lead evaluation contractor certified to provide lead paint inspection services in accordance with N.J.S.A. 52:27D-437.1 et seq., to conduct lead paint inspections and provide lead-safe or lead-free certificates in lieu of obtaining a City-facilitated inspection. Dust wipe samplings are required for all lead-based paint inspections.
- b. The City retains the authority to prohibit an owner from directly hiring a private lead evaluation contractor to conduct a periodic lead-based paint inspection where:
 - 1. The owner previously opted to hire a lead evaluation contractor to perform the periodic lead-based paint inspection and failed to have the inspection completed.
 - 2. The City determines there is a conflict of interest between the owner and their lead evaluation contractor of choice.
- c. If the City restricts the owner from directly hiring a private lead evaluation contractor, the City shall provide written notice to the owner that a City-facilitated inspection or inspection through a preferred City vendor is required with applicable fees.

§13-1400.6. Lead-safe certificate.

If no lead-based paint hazards are identified upon inspection, the licensed lead inspector/risk assessor or contractor shall certify the dwelling as lead-safe on the form prescribed from the Department of Community Affairs.

- a. A lead-safe certificate shall be valid for two years from the date of issuance.
 - 1. If, during the two-year certification period, a lead evaluation contractor, lead inspector/risk assessor, or a local health department conducts an independent

inspection or risk assessment and determines that there is a lead-based paint hazard, the lead-safe certification issued pursuant to this section in accordance with N.J.A.C. 5:28A shall be invalid.

2. The lead-safe certification shall not exempt the dwelling from any other law that would require a lead inspection/risk assessment.
- b. Filing fee for certifications issued following inspections.
1. Lead-safe or lead-free certification: \$50 per dwelling unit. This fee shall include a \$20 per unit assessment in accordance with N.J.S.A. 52:27D-437.16(h).
 2. Lead-safe or lead-free certifications dated prior to the effective date of Article 13-1400 shall be assessed a fee of \$20 per unit in accordance with N.J.S.A. 52:27D-437.16(h).
- c. A copy of the lead-safe certificate shall be filed with the City Code Enforcement Officer.

§13-1400.7. Identification of a lead-based paint hazard.

- a. If lead-based paint hazards are identified upon inspection, the inspector shall notify the Department of Community Affairs for review of the findings, in accordance with the Lead Hazard Control Assistance Act.
- b. If the lead-based paint hazard is identified in an inspection of one of the dwelling units in a building consisting of two or more dwelling units, then the lead contractor shall inspect the remainder of the building's dwelling units, with the exception of those dwelling units that have been certified to be free of lead-based paint or which have a valid lead-safe certification.

§13-1400.8. Responsibility for remediation of lead-based paint hazards.

The owner of the dwelling unit shall be responsible for remediation of the lead-based paint hazard. Remediation and any reinspections required following remediation must be conducted consistent with N.J.A.C. 5:28A-2.5. Documentation of such remediation shall be provided to the City Code Enforcement Officer.

§13-1400.9. Owner responsibility.

- a. The owner of the dwelling that is subject to this section shall provide the tenant and City evidence of a valid lead-safe certification obtained pursuant to this section at the time of tenant turnover. The owner shall also affix a copy of any such certification as an exhibit to the tenant's lease.
- b. The owner shall notify the City in writing to schedule the lead paint hazard inspection.

- c. The owner of a multiple dwelling that is subject to this section shall provide evidence of the most recent tenant turnover, at the time of any cyclical inspection performed pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq.
- d. The owner of a dwelling that is subject to this section shall maintain a record of the lead-safe certification, which shall include the name or names of a unit's tenants, if the inspection was conducted during a period of tenancy.
- e. The owner of any dwelling subject to this section shall inform the City Code Enforcement Officer of all tenant turnover activity to ensure any required inspection may be scheduled.
- f. The owner of a dwelling shall provide a copy of this section, and any lead-safe certifications issued pursuant thereto, along with the accompanying guidance document, "Lead-Based Paint in Rental Dwellings," to any prospective owners of the dwelling during a real estate transaction, settlement, or closing.

§13-1400.10. Violations and penalties.

- a. Pursuant to N.J.S.A. 52:27D-437.6 and N.J.A.C. 5-28A-4.1, the City Code Enforcement Officer is authorized to conduct investigations and issue penalties in order to enforce an owner's failure to comply with this section.
- b. A property owner/landlord shall comply with the requirements of P.L. 2021, c. 182, and this section. If a City Code Enforcement Officer determines that a property owner has failed to comply with the inspection requirements of this section, the property owner shall be given a thirty-day notice to cure any violation by ordering the necessary inspection or by initiating any required remediation. If the dwelling owner has not cured the violation within 30 days, the owner shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or remediation efforts initiated. Remediation efforts shall be considered to be initiated when the dwelling owner has hired a lead abatement contractor or other qualified party to perform lead hazard control methods.
- c. Any other violation of the provisions of this section shall be subject to a fine of not less than \$50 nor more than \$500 for each offense.

BE IT FURTHER ORDAINED, that all other provisions of Chapter 13 of the City Code which are not referenced in this Ordinance shall remain unaffected/unchanged and remain in full force and effect.

BE IT FURTHER ORDAINED, that all parts and provisions of any Ordinance which are inconsistent with the provisions of this Ordinance shall be repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED, that the provisions of this Ordinance shall be

severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon final passage and publication in accordance with the law, following the required twenty (20) day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2024-13 which was finally adopted by the City Council at a meeting held on the 8th day of May, 2024

CERTIFIED BY ME THIS 24th DAY OF April, 2024.



LISA ESPOSITO
CITY CLERK

✓ Vote Record - Ordinance 2024-13						
			Yes/Aye	No/Nay	Abstain	Absent
<input checked="" type="checkbox"/> Adopted						
<input type="checkbox"/> Adopted as Amended						
<input type="checkbox"/> Defeated						
<input type="checkbox"/> Tabled						
<input type="checkbox"/> Withdrawn						
<input type="checkbox"/> Introduced						
	Angela Ahbez-Anderson	Mover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Eileen Chapman	Seconder	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yvonne Clayton	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Amy Quinn	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	John Moor	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>