

**BOROUGH OF BERGENFIELD
COUNTY OF BERGEN, STATE OF NEW JERSEY**

ORDINANCE #24-2624

AN ORDINANCE OF THE BOROUGH OF BERGENFIELD, COUNTY OF BERGEN, STATE OF NEW JERSEY, TO ESTABLISH CHAPTER 313 TO REQUIRE LEAD PAINT TESTING AS MANDATED BY P.L. 2021, C.182

WHEREAS, N.J.S.A. 52:27D-437.1 established the Lead Hazard Control Assistance Act lead-based testing program for residential rental properties; and

WHEREAS, N.J.S.A. 52:27D-437.16 now requires all municipalities to inspect every single-family, two-family, and multiple rental dwelling located within the municipality at tenant turnover for lead-based paint hazards; and

WHEREAS, the governing body of the Borough of Bergenfield has determined that it is in the best interest of the Borough to amend the Borough Code to require such inspections to conform with State law.

NOW, THEREFORE, BE IT ORDAINED, by the governing body of the Borough of Bergenfield, County of Bergen, State of New Jersey, as follows:

SECTION 1. Part II, General Legislation, of the Borough of Bergenfield Code is hereby amended to establish Chapter 313, Inspections, Lead-Based Paint, to read as follows:

§ 313-1 Purpose.

The purpose of this chapter is to comply with the State mandate requiring municipalities to ensure that residential rent dwellings are inspected for lead-based paint hazards that can cause harmful effects to the health and well-being of residents.

§ 313-2 Definitions.

The following terms shall have the meanings indicated below pursuant to N.J.S.A. 52:27D-437.16 as may be amended and which is incorporated by reference.

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.

CERTIFIED 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. 5:17-1.1 et seq.

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 in surfaces that would result in adverse human health effects.

TENANT TURNOVER

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

VISUAL ASSESSMENT

A visual examination for deteriorated paint or visible surface dust, debris, or residue.

§ 313-3 Inspections.

- A. Inspections by Borough. A certified lead evaluation contractor hired by the Borough shall inspect every single-family, two-family, and multiple rental dwelling located within the Borough at tenant turnover for lead-based paint hazards or by July 22, 2024, whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification. The owner of any such rental dwelling shall not permit any tenant turnover without first complying with this subsection. The Borough shall charge the dwelling owner or landlord, and the dwelling owner or landlord shall pay the Borough in advance of any inspection, a fee set forth in § 313-7.
- B. Inspection of Two- or Three-Dwelling Units. If a lead-based paint hazard is identified in an inspection of one of the dwelling units in a building consisting of two- or three-dwelling units, then a Borough certified lead evaluation contractor shall inspect the remainder of the building's dwelling units for lead-based paint hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. The Borough may charge an additional fee sufficient to cover the cost to the Borough of the inspection as set forth in § 313-7.
- C. Option for Owner/Landlord to Hire Independent Lead Evaluation Contractor. The dwelling owner or landlord may directly hire an independent certified lead evaluation contractor to satisfy the requirements of § 313-3(A) instead of the Borough conducting the inspection.
- D. Consultation with Local Health Board. The certified lead evaluation contractor responsible for inspecting single-family, two-family, and multiple rental dwellings pursuant to this subsection may consult with the local health board, the State of New Jersey Department of Health, and/or the State of New Jersey Department of Community Affairs concerning the criteria for the inspection and identification of areas and conditions involving a high risk of lead poisoning in dwellings, methods of detection of lead in dwellings, and standards for the repair of dwellings containing lead paint.
- E. Exceptions for Inspections.

Notwithstanding any language in § 313-3(A)-(D) to the contrary, and in accordance with N.J.S.A. 52:27D-437.16(c), a dwelling unit in a single-family, two-family, or multiple-rental dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint hazards if the unit:

- (1) has been certified to be free of lead-based paint;
- (2) was constructed during or after 1978;
- (3) is in a multiple dwelling that has been registered with the State of New Jersey Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A-1, et seq.);
- (4) has a valid lead-safe certification issued in accordance with this Chapter.

§ 313-4 Remediation.

If a certified lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to § 313-3, then the owner of the dwelling unit shall be responsible for remediating the lead-based paint hazard by using abatement or lead-based paint hazard control methods approved in accordance with the provisions of the Lead Hazard Control Assistance Act (N.J.S.A. 52:27D-437.1 et al.) and shall be responsible for the costs associated with remediation. Upon the remediation of the lead-based paint hazard, a certified lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists. The Borough shall charge an additional fee sufficient to cover the cost to the Borough for such additional inspection as set forth in § 313-7.

§ 313-5 Lead-Safe Certification.

- A. Issuance of Lead-Safe Certification. If a certified lead evaluation contractor finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to § 313-3 or following remediation of a lead-based paint hazard pursuant to § 313-4, then the certified lead evaluation contractor shall certify the dwelling unit as lead-safe on a form prescribed by the New Jersey Department of Community Affairs as provided for in regulations or guidance promulgated pursuant to N.J.S.A. 52:27D-437.20. The lead-safe certification provided to the property owner by the certified lead evaluation contractor shall be valid for two years.
- B. Production of Lead-Safe Certification. Pursuant to N.J.S.A. 52:27D-437.16(e) and beginning on July 22, 2024, property owners shall:
 - (1) Provide evidence of a valid lead-safe certification obtained pursuant to this Chapter as well as evidence of the most recent tenant turnover at the time of the cyclical

inspection carried out under the Hotel and Multiple Dwelling Law (N.J.S.A. 55:13A-1, et seq.), unless not required to have had an inspection by a certified lead evaluation contractor pursuant to paragraph (1), (2), or (3) of § 313-3(E);

- (2) Provide evidence of a valid lead-safe certification obtained pursuant to this Chapter to new tenants of the property at the time of tenant turnover unless not required to have had an inspection by a certified lead evaluation contractor pursuant to paragraphs (1), (2), (3), and (4) of § 313-3(E), and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease; and
- (3) Maintain a record of the lead-safe certification which shall include the name or names of the unit's tenant or tenants, if the inspection was conducted during a period of tenancy, unless not required to have had an inspection by a certified lead evaluation contractor pursuant to paragraphs (1), (2), and (3) of § 313-3(E).

§ 313-6 Notification to Commissioner of Community Affairs.

If a certified lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this Chapter, then the certified lead evaluation contractor shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with the Lead Hazard Control Assistance Act (N.J.S.A. 52:27D- 437.8).

§ 313-7 Fees.

A. The inspection fees are as follows:

- (1) Borough certified lead evaluation contractor inspection fee per dwelling:
 - a. Fee for dwelling with single unit: \$500.
 - b. Fee for any additional unit in a dwelling: \$50
- (2) New Jersey Division of Community Affairs inspection fee: \$20.
- (3) Borough certified lead evaluation contractor reinspection fee: \$100.
- (4) Lead wipe sample analysis fee (where required): \$35 per sample analysis.

B. In accordance with N.J.S.A. 52:27D-437.16(h), in addition to the fees charged for inspection of rental housing as set forth in § 313-7(A), the Borough shall assess an additional fee of \$20.00 per unit inspected for the purposes of the Lead Hazard Control Assistance Act (N.J.S.A.52:27D-437.1, et seq.) concerning lead hazard control work, unless the unit owner demonstrates that the Department of Community Affairs already has assessed an additional inspection fee of \$20.00 pursuant to the provisions of N.J.S.A. 52:27D-437.10. In a common interest community, any inspection fee charged pursuant to this subsection shall be the responsibility of the unit owner and not the homeowners'

association, unless the association is the owner of the unit. The fees collected pursuant to this subsection shall be deposited into the “Lead Hazard Control Assistance Fund” established pursuant to N.J.S.A. 52:27D-437.4.

§ 313-8 Inspections as a Result of Testing of Children of Six Years of Age or Younger.

- A. If less than three percent (3%) of children tested in the Borough, six years of age or younger, have a blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the State of New Jersey Department of Health pursuant to N.J.S.A. 26:2-137.6, or according to other data deemed appropriate by the commissioner (as such term is used in and for the purposes of N.J.S.A. 52:27D-437.16), then a certified lead evaluation contractor may inspect a dwelling located therein for lead-based paint hazards through visual assessment.
- B. If at least three percent (3%) of children tested, six years of age or younger, have a blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the State of new Jersey Department of Health pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6), or according to other data deemed appropriate by the commissioner, then a certified lead evaluation contractor shall inspect a dwelling located therein through dust wipe sampling.
- C. If a lead-based paint hazard is identified in an inspection of one of the dwelling units in a building consisting of two- or three- dwelling units, then a certified lead evaluation contractor shall inspect the remainder of the building’s dwelling units for lead-based paint hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. A Borough certified lead evaluation contractor may charge fees for such additional inspections as set forth in § 313-7.

§ 313-9 Penalties.

- A. A Borough certified lead evaluation contractor shall be authorized to conduct investigations and issue penalties to enforce a property owner’s failure to comply with N.J.S.A. 52:27D-437.16 or this Chapter.
- B. If a property owner fails to comply with the inspection requirements mandated by N.J.S.A. 52:27-D-437.16 et seq. or this Chapter, the owner shall have thirty (30) days to cure the violation.
- C. If a property owner fails to cure the violation after thirty (30) days, the property owner shall be subject to a penalty not to exceed \$1,000.00 per week until the violation has been cured or remediation efforts have been initiated.

SECTION 2. This ordinance may be renumbered for the purposes of codification.

SECTION 3. Ordinances, resolutions, regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Introduced: May 7, 2024
Adopted: May 21, 2024

Attest

Approved