

**CITY OF BORDENTOWN  
ORDINANCE 2024-06**

**AN ORDINANCE OF THE CITY OF BORDENTOWN ESTABLISHING CHAPTER 131  
OF THE CODE OF THE CITY OF BORDENTOWN ENTITLED “LEAD-BASED PAINT  
INSPECTIONS”, AND SUPPLEMENTING CHAPTER 37, ENTITLED, “FEES”**

**WHEREAS**, in July of 2021, Governor Murphy signed into law P.L. 2021, c. 182, which legislation amended the Lead Hazard Assistance Act, N.J.S.A. 52:27D-437.1 *et seq.*, as same pertains to lead-based paint hazards in residential properties; and

**WHEREAS**, on May 1, 2023, pursuant to the aforesaid legislation, the New Jersey Department of Community Affairs promulgated Chapter 28A of Chapter 5 of the New Jersey Administrative Code, entitled “regulations for lead-based paint inspections in rental dwellings,” to effectuate the provisions of P.L. 2021, c. 182; and

**WHEREAS**, the aforesaid legislation and regulations require municipalities to either perform inspections of certain single-family, two-family, and multiple rental dwellings located within the municipality for lead-based paint hazards, hire a certified lead evaluation contractor to perform the required inspections, or to permit the dwelling owner or landlord to directly hire a certified lead evaluation contractor to perform the required inspections; and

**WHEREAS**, the purpose of P.L. 2021, c. 182 is to protect the health and safety of New Jerseyans from the hazards of lead poisoning caused by the deterioration of lead-based paint; and

**WHEREAS**, the Board of Commissioners of the City of Bordentown desires through this Ordinance to establish Chapter 131 of the Code of the City of Bordentown, entitled “Lead-Based Paint Inspections,” in order to promote the well-being of its residents, tenants, and landowners, and to comply with State law.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** by the Board of Commissioners of the City of Bordentown, County of Burlington, State of New Jersey, that the Code of the City of Bordentown shall be supplemented with the establishment of Chapter 131, entitled “Lead-Based Paint Inspections”, and amended and supplemented at Chapter 37, entitled “Fees”, which shall read, in relevant part, as follows:

**ARTICLE I: ESTABLISHMENT OF CHAPTER 131, LEAD-BASED PAINT INSPECTIONS.**

**Chapter 131 Lead-Based Paint Inspections**

**§ 131-1 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated, in accordance with P.L. 2021, c. 182 (N.J.S.A. 52:27D-437.16 *et seq.*) and N.J.A.C. 5:28A-1.1 *et seq.*:

**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 and as conducted pursuant to N.J.A.C. 5:28A-2.3.

**DWELLING**

A building containing a room or rooms, or suite, apartment, unit, or space, that is rented and occupied, or is intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

**DWELLING UNIT**

A unit within a building that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

**INTERIM CONTROLS**

A set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs, or the term as it is defined pursuant thereto.

**LEAD ABATEMENT**

A set of measures designed to permanently eliminate lead-based paint hazards, in accordance with the standards established by the Commissioner at N.J.A.C. 5:17.

**LEAD-BASED HAZARD CONTROL METHODS**

Interim controls as defined herein.

**LEAD-BASED PAINT**

Paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5 percent 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 lead-contaminated paint that is deteriorated or present on surfaces, that would result in adverse human health effects.

**LEAD EVALUATION CONTRACTOR**

A firm 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. This includes the ability to perform dust wipe sampling.

**LEAD-FREE CERTIFICATION**

A 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**

A 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.

**LEAD FREE**

A dwelling that has been certified to have no lead-based paint or has undergone lead abatement in accordance with N.J.A.C. 5:17.

**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.

**MUNICIPAL INSPECTOR**

The City's Housing Inspection and Code Enforcement Official or designee. A designee shall include, but not be limited to, a Lead Evaluation Contractor hired by the City to conduct inspections pursuant to this Chapter.

**MULTIPLE DWELLING**

Any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by three or more persons living independently of each other. "Multiple dwelling" also means any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied, or intended to be occupied, by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. "Multiple dwelling" does not include those buildings and structures that are excluded pursuant to N.J.S.A. 55:13A-3(k).

**OWNER**

Any person who owns, purports to own or is properly authorized to exercise powers of or for an owner of property used as a dwelling unit, which shall include the owner landlord, and/ or agent of every single-family, two-family, and/or multiple dwelling unit for rental.

**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, 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 chapter.

**REMEDIATION**

Interim controls or lead abatement work undertaken in conformance with N.J.A.C. 5:28A 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**

An examination performed by viewing surfaces for deteriorated paint or visible surface dust, debris, or residue, as conducted pursuant to N.J.A.C. 5:28A-2.3.

**§131-2 Applicability.**

- A. All single-family, two-family, and multiple rental dwellings must be inspected for lead-based paint hazards in accordance with this Chapter except for the following:
- (1) Dwellings constructed during or after 1978;
  - (2) Single-family and two-family dwellings that are rented out less than six months per year;
  - (3) Dwellings that have been certified to be free of lead-based paint pursuant to N.J.A.C. 5:17-3.16(b) either after an abatement is completed or an evaluation has confirmed that there is no lead-based paint in the dwelling;
  - (4) Multiple rental dwellings that have been registered with the Department of Community Affairs for at least ten years and have 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); and
  - (5) Dwellings with a valid lead-safe certificate issued pursuant to the RLPIL (lead-safe certificates are valid for two years from the date of issuance).

**§ 131-3 Lead-Based Paint Inspections.**

- A. Initial Inspection. The owner shall have every dwelling unit, as defined under this Chapter, 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.
- B. 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, whichever is earlier, except that an inspection shall not be required at tenant turnover, if the dwelling unit owner has a valid lead-safe certification for the dwelling unit.
- C. Coordination with the Municipal Inspector. Every owner of dwelling unit subject to this Chapter shall be responsible for obtaining the required inspection and paying the applicable inspection fees, as provided in Sections 131-8 and 37-38 of the City Code. The owner must give the Municipal Inspector at least thirty calendars days-notice of the scheduled tenant turnover to schedule the required inspection.
  - (1) Option for Inspection Performed by a Licensed Lead Inspector/ Risk Assessor or Contractor. If an owner so chooses, a dwelling unit owner may directly hire a lead evaluation contractor to conduct the periodic lead-based paint inspections for lead- based paint. Inspections shall be performed consistent with this Chapter.
  - (2) The municipality shall have the authority to conduct inspections or investigations of owners that directly hire lead evaluation contractors to ensure that periodic lead-based paint inspections are being performed, in accordance with this Chapter.
  - (3) The municipality shall have the authority to prohibit an owner from directly hiring a lead evaluation contractor to conduct a periodic lead-based paint inspection in the following situations:
    - (a) An owner, who previously opted to hire a lead evaluation contractor to perform the periodic lead- based paint inspection, failed to have the inspection completed; or
    - (b) The municipality determines there is a conflict of interest between the owner and their lead-evaluation contractor of choice.
- D. Inspections shall be conducted pursuant to N.J.A.C. 5:28A-2.3.

**§ 131-4 Lead Safe Certificate.**

If no lead-based paint hazards are identified upon inspection, the Municipal Inspector or hired a 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 lead-safe certificate shall be valid for two years from the date of issuance. A copy of the lead-safe certificate shall be filed with the City's Office of Housing Inspection and Code Enforcement. If the inspection is performed by a hired Licensed Lead Inspector/ Risk Assessor or Contractor, said inspector shall inform the City of the results.

**§ 131-5 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 a 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 or Municipal Inspector 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.

**§ 131-6 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 re-inspections 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 Municipal Inspector.

**§ 131-7 Owner Responsibility.**

- A. The owner of a dwelling that is subject to this Chapter shall provide the tenant and City evidence of a valid lead-safe certification obtained pursuant to this Chapter 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 of a multiple dwelling that is subject to this Chapter shall 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 any cyclical inspection performed pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq.
- C. The owner of a dwelling that is subject to this Chapter 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.
- D. The owner of any dwelling subject to this Chapter shall inform the City of all tenant turnover activity to ensure any required inspection may be scheduled. The owner must provide thirty-day notice to the Municipal Inspector to coordinate the necessary inspection.

- E. The owner of a dwelling shall provide a copy of this Chapter, 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.

**§ 131-8. Fees.**

- A. The owner is responsible for the required fees, as outlined in Section 37-38 of the City Code.
- B. In a common interest community, any inspection fee charged pursuant to this Chapter shall be the responsibility of the unit owner and not the homeowners’ association, unless the association is the owner of the unit.

**§ 131-9 Violations and Penalties.**

- A. Pursuant to N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-4.1, the Municipal Inspector is authorized to conduct investigations and issue penalties in order to enforce an owner’s failure to comply with this Chapter.
- B. The owner shall be given a period of 30 days to cure any violation by conducting the required inspection or initiating any required remediation efforts.
- C. If the owner has not cured the violation after 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 the remediation efforts have been initiated.
  - (1) Remediation efforts shall be considered to be initiated when the owner has hired a lead abatement contractor or other qualified party to perform lead-hazard control methods.

**ARTICLE II: AMENDING CHAPTER 37, ENTITLED “FEES”.**

**§ 37-38 Fees under Chapter 131, Lead-Based Paint Inspections.**

[Added 6-10-2024 by Ord. No. 2023-18]

The following fees shall apply to the lead-based paint inspections conducted pursuant to Chapter 131 of the City Code, which shall be used for implementation and enforcement of said Chapter:

- A. Prior to a visual inspection or visual re-inspection conducted by the City’s Municipal Inspector or designee, the owner must submit to the City the following fees:

<u>Number of Bedrooms in Unit</u>	<u>Visual Inspection</u>
1 Bedroom	\$125.00
2 Bedroom	\$150.00
3 Bedroom	\$175.00
4 Bedroom	\$200.00
> 4 Bedrooms	\$250.00 + \$25.00 for each additional bedroom

- B. Prior to a dust wipe inspection or dust wipe re-inspection conducted by the City’s Municipal Inspector or designee, the owner must submit to the City the following fees:

<u>Number of Bedrooms in Unit</u>	<u>Dust Wipe Inspection</u>
1 Bedroom	\$300
2 Bedroom	\$325
3 Bedroom	\$350
4 Bedroom	\$375
> 4 Bedrooms	\$375 + \$25 for each additional bedroom

- C. Prior to any inspection conducted by the City’s Municipal Inspector or designee, the owner must submit to the City a fee of \$20 per unit for purposes of the Lead Hazard Control Assistance Act, P.L. 2002, c. 311. The fee collected pursuant to this subsection shall be deposited into the “Lead Hazard Control Assistance Fund” established pursuant to P.L. 2003, c. 311, N.J.S.A. 52:27D-437.4.
- D. The filing fee of a lead-safe certification or lead-free certification for an inspection or re-inspection *not conducted* by the Municipal Inspector or designee shall be \$25.

- E. In a common interest community, any inspection fee charged pursuant to this Chapter shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

**ARTICLE III: REPEALER, SEVERABILITY, AND EFFECTIVE DATE**

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the City Board of Commissioners hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the City to meet the goals of the Ordinance.
- C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law. All owners subject to Chapter 131 must comply with this Ordinance in accordance to the deadlines provided in P.L. 2021, c. 182.

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**First Reading:            May 13, 2024**  
**Adopted:                 June 10, 2024**

**ACTING CITY CLERK**

**COMMISSISONERS**