

ORDINANCE NO. 17-2024 OF THE COMMON COUNCIL OF THE CITY OF BURLINGTON AMENDING, SUPPLEMENTING, AND REVISING THE CODE OF THE CITY OF BURLINGTON TO ESTABLISH CHAPTER 210 ENTITLED, “LEAD-BASED PAINT INSPECTIONS”

WHEREAS, the City of Burlington (the “City”) is a Faulkner Act municipality with a Mayor-Council form of government pursuant to N.J.S.A. 40:69A-31, *et seq.*, with its organization, positions, powers and duties outlined within the Code of the City of Burlington as set forth pursuant to the Faulkner Act; and

WHEREAS, pursuant to New Jersey Public Law 2021, Chapter.182, (hereafter referred to as “P.L.2021, c.182”), all Cities are required to inspect every single-family, two-family, and multiple rental dwelling located within a City at tenant turnover for lead-based paint hazards;

WHEREAS, it is in the best interest of the residents of the City of Burlington to amend the City Code to require inspections for lead-based paint in residential rental dwellings to conform with New Jersey State law; and

WHEREAS, the City wishes through this Ordinance to establish Chapter 210 entitled “Lead-Based Paint Inspections” in the City Code in order to serve the best interests of the City of Burlington and its residents; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Common Council is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the City by law.

NOW, THEREFORE BE IT ORDAINED by the Common Council for the City of Burlington, in the County of Burlington, State of New Jersey that the Code of the City of Burlington is hereby amended, revised and/or supplemented as follows:

SECTION 1: The Code of the City of Burlington is hereby amended, supplemented, and revised to establish Chapter 210, entitled “Lead-Based Paint Inspections” as follows:

CHAPTER 210 – Lead-Based Paint Inspections

§ 210-1 **Definitions.**

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

CITY INSPECTOR

A state-certified inspector.

DEPARTMENT

The New Jersey Department of Community Affairs.

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.

DWELLING

A building containing a room or rooms, or suite, apartment, unit, or space, that is rented and occupied or 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.

LEAD ABATMENT

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 ABATMENT CONTRACTOR

A firm certified by the Department to perform lead abatement work pursuant to N.J.A.C. 5:17.

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-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.

LEAD FREE

That a dwelling or dwelling unit has been confirmed to have fully abated all lead-based paint hazards or that no lead-based paint exists in the dwelling or dwelling unit.

LEAD SAFE

That a dwelling has no outstanding lead-based paint hazards, but the dwelling is not necessarily lead free.

LEAD-SAFE CERTIFICATION

The certification issued pursuant to the regulations promulgated pursuant to P.L.2021, c.182, which confirms that a periodic inspection, as defined below, was performed, and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance.

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 by statute (See N.J.S.A. 55:13A-3(k)).

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.

§ 210-2 Inspections.

- A. The owner, landlord, and/or agent of every single-family, two-family, or multiple rental dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three (3) years, or at tenant turnover, whichever is earlier.
- B. All owners of a residential rental unit within the City every three (3) years, or upon change in occupancy of a residential rental unit, shall present to the City Chief Code Enforcement Officer notice of the last tenant turnover date, as well as a valid lead-based paint evaluation report prepared by a certified lead evaluation contractor as defined in P.L. 2021, c. 182. Should the owner fail to provide such a report within thirty (30) days of the aforementioned dates, the City shall have said inspection performed with the City's cost for same to be assessed against the landlord's rental property as a municipal lien.
- C. Should the evaluation report identify lead-based hazards, then the owner shall remediate the hazards through abatement or lead-based hazard control mechanisms. The remediation shall be confirmed through a subsequent lead-based hazard inspection. The identification of a lead-based hazard will result in the City's Lead Evaluation Contractor, or the inspector retained to conduct such inspections pursuant to § 210-5, providing notification of same to the Commissioner of Community Affairs.
- D. If no lead-based paint hazards are identified, then the City's Lead Evaluation Contractor, or the inspector retained to conduct such inspections pursuant to § 210-5, shall certify the dwelling as lead-safe on a form prescribed by the Department of Community Affairs (hereafter referred to as "DCA"), which shall be valid for two (2) years.
- E. If required, a Lead Evaluation Contractor retained by the City shall inspect every single-family, two-family, or multiple rental dwelling located in the City, as-needed, for lead-based paint hazards through visual assessment and dust wipe sampling in accordance with N.J.S.A. 52:27D-437.1 et seq.

- a. All City inspections and re-inspections shall take place within fifteen (15) calendar days of the requested inspection. Inspection fees shall be paid by the property owner prior to the inspection. No inspections or re-inspections shall take place unless all fees are paid. Scheduled inspections or re-inspections may be canceled by the City Inspector, unless the completed application and required fees have been received by the City at least twenty-four (24) hours prior to the scheduled inspection, or on the last working day prior to the scheduled inspection. Every inspection for which the landlord, tenant, owner or agent has failed to provide access for inspection shall be deemed a failed inspection.

§ 210-3 Notice of Inspection to be Given.

Whenever any multiple dwelling unit is scheduled for a tenant turnover, and the then-current landlord, owner and/or agent has not privately retained the services of a Lead-Based Paint Inspector pursuant to § 210-5, the then-current landlord, owner and/or agent shall provide written notice to the City Inspector that an inspection is needed at least twenty calendar days prior to the scheduled date of the tenant turnover.

§ 210-4 Fees.

- A. The fees associated with lead-based paint inspections by the City's Lead Evaluation Contractor shall be the cost of the inspection to the City, including a \$25.00 administrative fee to cover the City's administrative costs associated with the inspection, as well as an additional \$20.00 State administrative fee, unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20 pursuant to the provisions of section 10 of P.L. 2003, c. 311 (C.52:27D-437.10). The City will charge a penalty to any owner, landlord, and/or agent who does not appear within fifteen (15) minutes of the scheduled inspection time equal to the cost expended by the City in scheduling the inspection.
- B. If a lead-paint hazard is present, the City will charge the owner, landlord, and/or agent a fee equivalent to the cost expended by the City per wipe sample for up to three samplings, if required, to ensure that any restoration work that may have caused an unsafe condition was abated.

§ 210-5 Private Lead Evaluation Contractor.

In lieu of having the dwelling inspected by the City's Lead Evaluation Contractor, a dwelling owner or landlord may directly hire a private Lead Evaluation Contractor who is certified to provide lead paint inspection services by the Department to perform the lead-based paint inspection in accordance with N.J.S.A. 52:27D-437.1 et seq.

§ 210-6 Exempt Properties.

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:

- A. has been certified to be free of lead-based paint;
- B. was constructed during or after 1978;
- C. is located in a multiple dwelling that has been registered with the 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,” P.L.1967,c.76 (C.55:13A-1 et seq.);
- D. is a single-family or two-family seasonal rental dwelling which is rented for less than six months duration each year by tenants that do not have consecutive lease renewals; or
- E. has a valid lead-safe certification issued in accordance with P.L. 2021, c. 182.

§ 210-7 **Occupation.**

No residential rental unit shall be occupied until a valid lead-based paint evaluation report prepared by a certified lead evaluation contractor as defined in P.L. 2021, c. 182 is provided or obtained by the City pursuant to Section 210-2 above. Further, if the evaluation report identifies lead-based hazards, such residential rental unit shall not be occupied until remediation is deemed complete by the City pursuant to Section 210-2 above.

§ 210-8 **Violations.**

Penalties for violation of this Chapter shall be as follows:

- A. If a property owner has failed to conduct the required inspection or initiate any remediation as required by N.J.S.A. 52:27D-437.1 et seq. the owner shall have 30 days to cure the violation.
- B. If a property owner fails to cure the violation after 30 days, the property owner shall be subject to a penalty not to exceed \$1,000.00 per week until the required inspection has been conducted or remediation efforts have been initiated.

SECTION 2: Except as set forth in Section 1, the balance of the Code of the City of Burlington shall not be affected by this Ordinance.

SECTION 3: All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent they are inconsistent herewith.

SECTION 4: If the provisions of any section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph or subdivision, or clause of this Ordinance.

SECTION 5: This Ordinance shall take effect thirty (30) days after final passage by Council or twenty (20) days after approval by the Mayor, whichever comes first.

ORDINANCE NO. 17-2024

Passed Common Council,

George Chachis, President
Common Council

Approved,

Barry W. Conaway, Mayor

ATTEST:

Cindy A. Crivaro, RMC
Municipal Clerk

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