

Ordinance 2023-002

AN ORDINANCE OF BOROUGH OF SOUTH BOUND BROOK TO AMEND CHAPTER 16 TITLED "HOUSING AND PROPERTY MAINTENANCE CODE" TO ADD A NEW SUBSECTION TITLED "LEAD PAINT TESTING"

WHEREAS, the State of New Jersey enacted N.J.S.A. 52:27D-437, et seq. establishing lead-based paint testing programs for residential rental properties; and

WHEREAS, N.J.S.A. 52:27D-437, et seq. requires that municipalities enact ordinances to implement lead-based paint programs for residential rental properties; and

WHEREAS, the Borough of South Bound Brook desires to comply with N.J.S.A. 52:27D-437, et seq. by adopting this ordinance.

BE IT ORDAINED by the Borough Council of the Borough of South Bound Brook, County of Somerset, State of New Jersey, as follows:

Section I. Chapter 16 of the Revised General Ordinances of the Borough of South Bound Brook be and hereby is amended to add a new Section titled "Lead Paint Testing", and to add the following Sections:

Definitions.

"Dust wipe sampling" means 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.

"Tenant turnover" means the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

"Visual assessment" means a visual examination for deteriorated paint or visible surface dust, debris, or residue.

The Borough's Designated Official or certified lead evaluation contractor shall inspect every single-family, two-family, and multiple rental dwelling located within the Borough at tenant turnover for lead-based paint hazards or within two years of the effective date of N.J.S.A. 52:27D-437.16, et. Se ., 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 Section. 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 of \$200.00 for each unit inspected to cover the cost of the inspection, which shall be dedicated to meeting the costs of implementing and enforcing this Section and shall not be used for any other purpose.

The dwelling owner or landlord may directly hire a lead evaluation contractor who is certified to provide lead paint inspection services by the New Jersey Department of Community Affairs to satisfy the requirements of this Section. In the event that a dwelling owner or landlord directly hires such a lead evaluation contractor, the term "Construction Code Official" shall also mean and include such lead evaluation contractor for purposes of this Section.

The Designated Official or such certified lead evaluation contractor with the duty to inspect single-family, two-family, and multiple rental dwellings pursuant to this Chapter, may consult with the local health board, the State of New Jersey Department of Health, 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.

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 0 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. 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
5. Has a valid lead-safe certification issued in accordance with this Section

If the Designated Official or certified lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection, then the owner of the dwelling unit shall remediate 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. Upon the remediation of the lead-based paint hazard, the Designated Official shall conduct an additional inspection of the unit to certify that the hazard no longer exists. The Designated Official or certified lead evaluation contractor shall charge an additional fee in the amount of \$200.00 for such additional inspection.

If the Designated Official or certified lead evaluation contractor finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection or following remediation of a lead-based paint hazard, then the Designated Official or 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 Designated Official or certified lead evaluation contractor shall be valid for two years.

Beginning on the effective date of N.J.S.A. 52:27D-437.16 et seq. property owners shall:

1. Provide evidence of a valid lead-safe certification 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. 55:13A1, et seq. unless not required to have had an inspection by the Construction Code Official;
2. Provide evidence of a valid lead-safe certification obtained to new tenants of the property at the time of tenant turnover unless not required to have had an inspection by the Construction Code

Official 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 the Designated Official certified lead evaluation contractor;

If the Designated Official or certified lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this Section, then the Designated Official or 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.

If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of two or three dwelling units, then the Designated Official or certified lead evaluation contractor shall inspect the remainder of the building's dwelling units for lead hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. The Designated Official or certified lead evaluation contractor may charge an additional fee in the amount of \$200.00.

In addition to the fees charged for inspection of rental housing, \$200.00, the Borough shall assess an additional fee of \$20.00 per unit inspected by the Designated Official or certified lead evaluation contractor 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 Section 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 Section shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to N.J.S.A. 52:27D-437.4.

If less than three percent 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 the Designated Official or certified lead evaluation contractor may inspect a dwelling located therein for lead-based paint hazards through visual assessment.

If at least three percent 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 the Designated Official or certified lead evaluation contractor shall inspect a dwelling located therein through dust wipe sampling.

If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of two or three dwelling units, then the Designated Official or certified lead evaluation contractor shall inspect the remainder of the building's dwelling units for lead hazards, with the exception of dwelling units that

have been certified to be free of lead-based paint. The Designated Official or certified lead evaluation contractor may charge fees in accordance with this Section for such additional inspections.

The Borough and the Designated Official or 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. If the Borough or Designated Official determines that a property owner has failed to comply with a provision of N.J.S.A. 52:27D-437.16, et seq. or this Section regarding a rental dwelling unit owned by the property owner, the property owner shall first be given 30 days to cure any violation by conducting the required inspection or initiate any required remediation efforts. If the property owner has not cured 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.

Severability, If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

Introduced: 2/14/2023

Adopted: 3/14/2023

Christina Fischer – Clerk

Caryl "Chris" Shoffner - Mayor

BOROUGH OF SOUTH BOUND BROOK
IN THE COUNTY OF SOMERSET, NEW JERSEY
Ordinance 2023-002
Notice of Pending Ordinance and Summary

The borough ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of South Bound Brook in the County of Somerset, State of New Jersey, held on February 14, 2023. It will be further considered for final passage, after public hearing thereon, at a meeting of the Borough Council of the Borough of South Bound Brook, to be held at Borough Hall (trailer) 12 Main Street, South Bound Brook, NJ 08880 on March 14, 2023 at 7:00 p.m. During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost and during regular business hours, at the Borough Clerk's office for the members of the general public who shall request the same. The title and summary of the terms of such ordinance follows:

Title:

"AN ORDINANCE OF THE BOROUGH OF SOUTH BOUND BROOK TO AMEND CHAPTER 16 TITLED "HOUSING AND PROPERTY MAINTENANCE CODE" TO ADD A NEW SUBSECTION TITLED "LEAD PAINT TESTING"

Christina Fischer
Borough Clerk/Administrator