
Agenda No. O-13

AN ORDINANCE AMENDING AND SUPPLEMENTING THE GENERAL ORDINANCES OF THE CITY OF BAYONNE, CHAPTER 17, PROPERTY MAINTENANCE.

BE IT ORDAINED, by the Municipal Council of the City of Bayonne, as follows:

That the Revised General Ordinances of the City of Bayonne, Chapter 17, “Property Maintenance”, be and is hereby amended and supplemented by adding the following Article V, LEAD-BASED PAINT INSPECTIONS in its entirety:

WHEREAS, pursuant to P.L. 2021, c.182, all municipalities are now required, with certain exceptions, 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, it is in the best interests of the residents of the City of Bayonne to amend the Code at this time to require inspections for lead-based paint in residential rental dwellings to conform with New Jersey State law; and

WHEREAS the City of Bayonne wishes through this Ordinance to establish Article V, entitled “Lead- Based Paint Inspections,” within Chapter 17 “Property Maintenance” of the City’s Code in order to serve the best interests of the City and its residents.

NOW THEREFORE BE IT ORDAINED by the Municipal Council of the City of Bayonne as follows:

Section I

Article V, “Lead-Based Paint Inspections.” is hereby added in its entirety to Chapter 17, “Property Maintenance” the Code of the City of Bayonne, and shall read as follows:

Article V LEAD-BASED PAINT INSPECTIONS

§17-33.1 Definitions.

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.

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 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.

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

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

§17-33.2 Inspections.

- 1) A lead evaluation contractor retained by the City shall inspect every single-family, two-family, or multiple rental dwelling located in the City of Bayonne 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.
- 2) In lieu of having the dwelling inspected by the City's lead evaluator, 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 of Community Affairs to perform the lead-based paint inspection in accordance with N.J.S.A. 52:27D-437.1 et seq.
- 3) 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 in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least ten (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.
- 4) 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.
- 5) If lead-based paint hazards are identified, then the owner, landlord, and/or agent of the dwelling shall remediate the lead-based paint hazard using lead abatement or lead-based control methods in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the City’s lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists. If no lead-based paint hazards are identified, then the City’s lead evaluator shall certify the dwelling as lead-safe on a form prescribed by the Department of Community Affairs, which shall be valid for two (2) years.
- 6) Pursuant to N.J.S.A. 52:27D-437.16(e), property owners shall:
- a) Provide evidence of valid lead-safe certification and the most recent tenant turnover at the time of the cyclical inspection
 - b) Provide evidence of a valid lead-safe certification obtained pursuant to this Section to new tenants of the property at the time of tenant turnover unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to §63-2(C) of this Chapter.
 - c) Maintain records of lead-safe certification, which shall include name(s) of the unit tenant(s), if inspection was conducted during a period of tenancy.
- 7) Fees.
- a) The lead evaluation contractor shall charge the dwelling owner or landlord, and the dwelling owner or landlord shall pay the lead evaluation contractor in advance of any inspection, a fee sufficient to cover the cost of the inspection, which shall be dedicated to meeting the costs of implementing and enforcing this section, and which shall include the following:
 - 1. \$250.00 per dwelling unit for a visual assessment performed by the lead inspector.

2. If necessary, a fee of \$295.00 per dwelling unit for reinspection of a unit.

- b) The dwelling owner or landlord shall pay to the City a \$25.00 filing fee per dwelling unit.
- c) In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20.00 per dwelling unit inspected by the City's lead evaluation contractor or the owner's private lead evaluation contractor shall be addressed for the purpose of the Lead Hazard Control Assistance Act, unless the owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20.00. The fees collected pursuant to this subsection shall be deposited into the Lead Hazard Control Assistance Fund.
- d) 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.

8) Violations.

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. 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 II

All ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section III

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

Section IV

This ordinance shall take effect upon adoption and publication in the manner required by New Jersey general law but, in no event, less than 20 days after its final passage by the Municipal Council and approval by the Mayor, where such approval is required pursuant to N.J.S.A. 40:69A- 181(b).