

BOROUGH OF BERGENFIELD  
PUBLIC NOTICE

**ORDINANCE #2024-2636**

**AN ORDINANCE OF THE BOROUGH OF BERGENFIELD, COUNTY OF  
BERGEN, STATE OF NEW JERSEY, TO AMEND CHAPTER 313  
INSPECTIONS, LEAD-BASED PAINT**

was introduced at a Work Session Meeting of the Mayor and Council of the Borough of Bergenfield, in the County of Bergen, New Jersey, held on Tuesday, December 3, 2024 and will be further considered for final passage after public hearing at a meeting of the Mayor and Council to be held in the Council Chambers, Bergenfield Borough Hall, 198 North Washington Avenue, Bergenfield, New Jersey on Tuesday, December 17, 2024 at 8:00 p.m. prevailing time, or as soon thereafter as the matter can be heard.

A clear and concise statement of this ordinance is to amend Chapter 313, entitled "Inspections, Lead Based Paint," to remove Section 313-2, entitled, "Definitions," through Section 313-9, entitled, "Penalties," and replace with the definitions, stipulations for visual lead assessments, certification and fee requirements, as set forth in the ordinance.

A copy of this ordinance may be obtained without cost between the hours of 8:30 a.m. and 4:30 p.m. at the office of the Borough Clerk, 198 North Washington Avenue, Bergenfield, New Jersey.

Marie Quiñones-Wilson  
Borough Clerk  
December 9, 2024

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

**ORDINANCE #2024-2636**

**AN ORDINANCE OF THE BOROUGH OF BERGENFIELD, COUNTY OF  
BERGEN, STATE OF NEW JERSEY, TO AMEND CHAPTER 313  
INSPECTIONS, LEAD-BASED PAINT**

**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**, 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 comply 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, Chapter 313, entitled "Inspections, Lead-Based Paint, Section 313-2, entitled, "Definitions," through Section 313-9, entitled, "Penalties," shall be removed and replaced with the following:

**§ 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.

**CERTIFIED LEAD EVALUATION CONTRACTOR**

A person independently hired by the owner or lessor of the residence and certified by the New Jersey Department of Community Affairs to perform lead inspections pursuant to N.J.A.C. 5:17-1.1 et seq.

**CERTIFIED VISUAL LEAD ASSESSMENT CONTRACTOR**

A person independently hired by the owner or lessor of the residence and certified by the U.S. Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Controls, or a comparable agency, to perform visual assessments for signs of lead-based paint hazards pursuant to 24 C.F.R. 35 et seq.

**CERTIFIED VISUAL LEAD ASSESSMENT OFFICIAL**

A person hired by the Borough and certified by the U.S. Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Controls, or a comparable agency, to perform visual assessments for signs of lead-based paint hazards pursuant to 24 C.F.R. 35 et seq.

**LEAD INSPECTION**

A physical and visual examination conducted by a Certified Lead Evaluation Contractor to determine whether lead-based paint hazards definitively exist on the premises.

### **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 CERTIFICATION**

A lead-free certification is a document issued by a Certified Lead Evaluation Contractor that indicates that a lead inspection has been conducted of a dwelling unit and said unit is completely free from lead-based paint.

### **LEAD-SAFE CERTIFICATION**

A lead-safe certification is a form prescribed by the New Jersey Department of Community Affairs pursuant to N.J.S.A. 52:27D-437.20 and issued by a Certified Visual Lead Assessment Official/Contractor wherein said Official/Contractor certifies that a visual lead assessment has been conducted of a dwelling unit and no signs of lead-based paint hazards have been found during the course of the assessment.

### **TENANT TURNOVER**

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

### **VISUAL LEAD ASSESSMENT**

A visual examination conducted by a Certified Visual Lead Assessment Official pursuant to N.J.A.C. 5:17-1.1 et seq. for signs of lead-based paint hazards, which include examining deteriorated paint or visible surface dust, debris, or residue.

### § 313-3 Visual Lead Assessment.

- A. Visual Lead Assessment of Single-Family, Two-Family, and Multiple Rental Dwellings by Borough. A certified visual lead assessment official hired by the Borough shall conduct a visual lead assessment of every single-family, two-family, and multiple rental dwelling located within the Borough starting January 1, 2025. Thereafter, all such units shall be visually assessed for lead-based paint hazards every three years, notwithstanding the exceptions listed in § 313-3(D). The Borough shall charge the dwelling owner or landlord, and the dwelling owner or landlord shall pay the Borough in advance of any visual lead assessment, a fee set forth in § 313-7.
- B. Option for Owner/Landlord to Hire Independent Certified Visual Lead Assessment Contractor. The dwelling owner or landlord may directly hire an independent certified visual lead assessment contractor to satisfy the requirements of § 313-3(A) instead of the Borough conducting the visual assessment. The dwelling owner or landlord must file a copy of the lead-safe certification with the Building Department within ten (10) business days after the visual assessment is completed. The Borough may charge an additional fee sufficient to cover the administrative cost to the Borough of the processing of the lead-safe certification as set forth in § 313-7.

C. Consultation with Local Health Board. The certified visual lead assessment official/contractor responsible for visually assessing 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 assessment and identification of areas and conditions involving a high risk of lead poisoning in dwellings and methods of detection of lead in dwellings.

D. Exceptions for Visual Lead Assessments.

Notwithstanding any language in § 313-3(A)-(C) 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 visual assessment and evaluation for the presence of lead-based paint hazards if the unit:

(1) has a Lead-Free Certification issued by a Certified Lead Evaluation Contractor pursuant to §313-4;

(2) was constructed during or after 1978; and

(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.);

#### § 313-4 Lead Inspection, Remediation, and Lead-Free Certification.

If a certified visual lead assessment official/contractor finds evidence of a lead-based paint hazard in a dwelling unit upon conducting a visual lead assessment pursuant to § 313-3, then the owner of the dwelling unit shall be responsible for hiring a certified lead evaluation contractor to conduct a lead inspection, and if necessary, 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.) and shall be responsible for the costs associated with the inspection and 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. Within ten (10) business days after the lead inspection and remediation is completed, the dwelling owner or landlord must file a Lead-Free Certification with the Building Department.

#### § 313-5 Lead-Safe Certification.

A. Issuance of Lead-Safe Certification. If a certified visual lead assessment official/contractor finds that no evidence of lead-based paint hazards exists in a dwelling unit upon conducting a visual assessment pursuant to § 313-3, then the certified visual lead assessment official/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 visual lead assessment official/contractor or the certified lead evaluation contractor shall be valid for three years.

B. Production of Lead-Safe Certification. Pursuant to N.J.S.A. 52:27D-437.16(e) and beginning on January 1, 2025, property owners shall:

- (1) Provide evidence of a valid lead-safe certification obtained pursuant to this Chapter to the Building Department, if so requested, unless not required to have had a visual lead assessment by a certified visual lead assessment official/contractor pursuant to § 313-3(D);
- (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 a visual lead assessment by a certified visual lead assessment official/contractor pursuant to § 313-3(D), 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 a visual lead assessment by a certified visual lead assessment official/contractor pursuant to § 313-3(D).

§ 313-6 Notification to Commissioner of Community Affairs.

If a certified visual lead assessment official/contractor or a certified lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting a visual assessment or inspection pursuant to this Chapter, then the certified visual lead assessment official/contractor 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).

§ 313-7 Fees.

A. The fees are as follows and made payable to the Borough's Building Department:

- (1) If the owner or lessor uses a Borough Certified Visual Lead Assessment Official for the Visual Assessment, the periodic visual assessment fee is as follows:
  - a. Fee for dwelling with single unit: \$100.
    - i. Fee for any additional unit in a dwelling: \$50
  - b. New Jersey Division of Community Affairs inspection fee per unit: \$20

(2) If the owner or lessor does not use a Borough Certified Visual Lead Assessment Official for the Visual Assessment, the administrative fee for processing the independent periodic visual assessment is as follows:

a. Fee for dwelling with single unit: \$50

i. Fee for any additional unit in a dwelling: \$25

b. New Jersey Division of Community Affairs inspection fee per unit: \$20

B. 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.

§ 313-8 Penalties.

A. A Borough certified visual lead assessment official shall be authorized to conduct visual assessments 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 visual assessment and/or inspection and remediation 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: December 3, 2024

Adopted:

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Attest

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Approved