

**BOROUGH OF DEAL
COUNTY OF MONMOUTH**

ORDINANCE #1261

**AN ORDINANCE AMENDING CHAPTER XIII OF THE
“REVISED GENERAL ORDINANCES OF
THE BOROUGH OF DEAL, 1982”
Building and Housing**

THE BOARD OF COMMISSIONERS OF THE BOROUGH OF DEAL HEREBY ORDAIN:

Section 1. That Chapter XIII, Building and Housing, of the “Revised General Ordinances of the Borough of Deal, 1982 be and it hereby is amended in the following particulars:

Section 2. Subsection 13-5 Lead-based Paint Hazards and Rental Properties is amended to read as follows:

13-5.1 Definitions

- a. “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.
- b. “Tenant Turnover” means the time at which all existing occupants vacates a dwelling unit and all new tenants move into the dwelling unit.
- c. “Visual Assessment” means a visual examination for deteriorated paint or visible surface, dust, debris or residue.
- d. “Municipality” means Borough of Deal.
- e. “Permanent Local Agency” means the Borough of Deal Code Enforcement Department (hereinafter referred to as “Deal Code Enforcement”).

13-5.2 Administration

The Deal Code Enforcement shall serve as the Department to conduct inspections and enforce laws and Ordinances and Regulations under this Ordinance. Deal Code Enforcement shall conduct a visual inspection of all required dwellings.

If Deal Code Enforcement is unable to carry out inspections due to the lack of expertise or certification and enforcing Laws, Ordinances and

Regulations concerning buildings and structures within the Borough of Deal, for purposes of this Ordinance, Deal Code Enforcement shall, through the Borough of Deal, hire a lead evaluation contractor; certified to provide lead-paint inspection services by the Department of Community Affairs, to inspect.

An inspection by Deal Code Enforcement upon tenant turnover shall not be required if the dwelling owner or landlord directly hires a lead evaluation contractor who is certified to provide lead-based paint inspection services by the Department of Community Affairs to satisfy the requirements of 13-5.3 and 13-5.4.

13-5.3 Required Initial Inspection

The owner, landlord and/or agent of every single-family, two-family, and/or multiple dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards within two years of the effective date of the law, July 2, 2022, or upon tenant turnover, whichever is earlier.

13-5.4 Required Recurring Inspection

After the initial inspection required by Section 13-5.3, the owner, landlord and/or agent of such dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three years, or at tenant turnover, whichever is earlier, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification.

13-5.5 Standards

Inspections for lead-based paint in rental dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq., and N.J.S.A. 55:13A-1 et seq., as may be amended from time to time.

13-5.6 Exceptions

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, or for the fees for such inspection or evaluation, if the unit:

- a. has been certified to be free of lead-based paint; or
- b. was constructed during or after 1978; or

- c. is 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”, N.J.S.A. 55:13A-1, et seq. or
- 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 N.J.S.A. 52:27D-437.16(d)(2).

13-5.7 Identified Lead-base Paint Hazards

If lead-based paint hazards are identified, then the owner of the dwelling shall remediate the hazards through abatement or lead-based paint hazard control mechanisms in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the Borough’s Code Enforcement Officer or designee, as may be applicable, or the owner's private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

13-5.8 Non Lead-base Paint Hazards

If no lead-based paint hazards are identified, then the Borough’s Code Enforcement Officer or designee or the owner's private lead inspector shall certify the dwelling as lead safe on a form prescribed by the Department of Community Affairs, which shall be valid for two years and shall be filed with the Borough’s Code Enforcement Officer. The Borough Code Enforcement Officer shall maintain up-to-date information on inspection schedules, inspection results, tenant turnover and a record of all lead-free certifications issued pursuant to N.J.A.C. 5:17.

13-5.9 Property Owner Responsibilities

- a. Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Borough of Del at the time of the cyclical inspection.
- b. Provide evidence of a valid lead-safe certification to new tenants of the property at the time of tenant turnover and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease.
- c. 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.

13-5.10 Fees

- a. Notwithstanding any other fees due pursuant to this Chapter, a fee in the amount of \$200.00 shall be paid for each lead-based paint inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this subsection and shall not be used for any other purpose. Alternatively, 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 satisfy the requirements of Section 13-5.3 and 13-5.4 in which case no additional Lead-Based Paint inspection fee shall be paid.
- b. Upon the Borough's need to hire a lead evaluation contractor, any inspection fee shall be the responsibility of the dwelling owner or landlord.
- c. In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

13-5.11 Violations and Penalties

Violations and Penalties. In accordance with N.J.S.A. 52:27D-437.19, the penalties for a violation of Article shall be as follows:

- a. If a property owner has failed to conduct the required inspection or initiate any remediation efforts, the owner shall be given 30 days to cure the violation.
- b. 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 per week until the required inspection has been conducted or remediation efforts have been initiated.

Section 5. 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.

Section 6. All ordinances or parts of ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

Section 7. This Ordinance shall take effect upon passage and publication according to law.

Introduced by Commissioner Ades on October 3, 2022

Seconded by Commissioner Simhon

Roll Call: Ayes 3; Cohen, Ades, Simhon

Motion to Adopt by Commissioner Simhon on November 10, 2022

Seconded by Commissioner Ades

Roll Call: Ayes 3; Cohen, Ades & Simhon