

THE TOWNSHIP OF BYRAM

ORDINANCE NO 10-2023

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BYRAM AMENDING PART II ENTITLED "GENERAL LEGISLATION" OF THE CODE TO ADD A NEW CHAPTER 190 ENTITLED "LEAD-BASED PAINT HAZARD INSPECTION REQUIREMENTS"

Purpose Statement: The purpose of this Ordinance is to establish a Lead Hazard Control Program in accordance with the requirement of the Lead Hazard Assistance Act, N.J.S.A. 52:270-437.1 et seq.

WHEREAS, on July 22, 2021, New Jersey Governor Philip Murphy signed into law P.L.2021, c.182 (S1147/A1372), amending and supplementing the Lead Hazard Control Assistance Act (the "Act"), P.L.2003, c311 (N.J.S.A. 52:27D-437.1, et seq.); and

WHEREAS, the amendments will require the owner and/or landlord of every single-family, two-family, and multiple rental dwelling located within the State of New Jersey and the Township of Byram (the "Township") to cause their property to be inspected for lead-based paint hazards, through visual assessment and dust wipe sampling in accordance with the Act; and

WHEREAS, inspections shall be performed by a qualified and certified lead inspector retained and paid by the owner and/or landlord to perform the lead-based paint inspection; and

WHEREAS, The Mayor and Council of the Township of Byram recognize the necessity to establish these lead-based paint hazard inspection requirements.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Byram, County of Sussex that the Code of the Township of Byram be amended as follows:

Section 1 Part II entitled "General Legislation" of the Code of the Township of Byram is amended to add a new Chapter 190 entitled "Rental Property Lead Based Paint Hazard Inspection Requirements" as follows:

Chapter 190 – Rental Property Lead Based Paint Hazard Inspection Requirements.

§ 190-1 Definitions.

The following definitions shall apply to this article:

ACT

The Lead Hazard Control Assistance Act, P.L.2003, c311 (N.J.S.A. 52:27D-437.1, *et seq.*), as may be amended from time to time.

COMMON INTEREST COMMUNITY

A real estate development or neighborhood in which the property is burdened by servitudes requiring property owners to contribute to maintenance of commonly held property or to pay dues or assessments to an owners' association that provides services or facilities to the community.

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 INSPECTOR

A person certified by the Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:17-1.1, *et seq.* This includes the ability to perform dust wipe sampling.

LEAD-BASED PAINT HAZARD

Any condition that causes exposure to lead from lead-contaminated dust or lead-contaminated paint that is deteriorated or present in surfaces that would result in adverse human health effects.

LEAD-FREE CERTIFICATION

A certification which confirms that a lead-based paint inspection was performed and that no lead-based paint exists in the dwelling unit or that all lead-based paint hazards have been fully abated.

LEAD-SAFE CERTIFICATION

A certification which confirms that a lead-based paint inspection was performed and no lead-based paint hazards were found. This certification is valid for two (2) years from the date of issuance.

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.

VISUAL ASSESSOR

A person that is certified to perform a visual assessment.

§ 190-2 Lead-based paint inspection.

A. The owner and/or landlord of every single-family, two-family, and multiple rental dwelling located within the Township of Byram shall cause their property to be inspected for lead-based paint hazards, through visual assessment and dust wipe sampling in accordance with the Act. The owner and/or landlord shall directly retain a New Jersey Department of Community Affairs ("NJDCA") certified private lead inspector to perform the lead-based paint inspection. All inspections will otherwise be performed by a certified private lead inspector.

B. An initial inspection for lead-based paint hazards shall occur before July 22, 2024, or at tenant turnover, whichever is earlier. Thereafter, all such dwelling units shall be inspected at tenant turnover, or every three (3) years, whichever is earlier.

C. In accordance with the Act, 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 pursuant to N.J.AC. 5:17-3.16(b);
- (2) was constructed during or after 1978;
- (3) 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 (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 (6) 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 article.

D. If lead-based paint hazards are identified upon inspection, the owner and/or landlord of the dwelling unit, at his or her own cost, shall remediate the hazards through abatement or lead-based paint hazard control mechanisms, approved in accordance with the Act. Within sixty (60) days of the remediation of the lead-based paint hazard, the owner and/or landlord's private lead inspector shall conduct an additional inspection of the dwelling unit to certify that the hazard no longer exists and file that certification with Byram Township.

E. If no lead-based paint hazards are identified, then the landlord'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 (2) years.

F. In accordance with the Act, the owner and/or landlord of every single-family, two-family, and multiple rental dwelling located within the Township shall:

- (1) Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Township at the time of the cyclical inspection.
- (2) 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.
- (3) Maintain a record of the lead-safe certification which shall include the name(s) of the dwelling unit's tenant(s) if the inspection was conducted during a period of tenancy.

G. The fees for a lead-based paint inspection performed by the landlord's private lead inspector and for the filing of the certification with Byram Township shall be as follows:

- (1) Any and all fees for a visual assessment and dust wipe sampling inspection shall be paid directly by the landlord to the landlord's NJDCA certified private lead inspector as listed on the NJDCA website.

(2) The fee for the filing of a lead-safe certification or lead-free certification shall be \$25.00 and shall be paid to the Byram Township.

(3) In a common interest community, any inspection fee charged shall be the responsibility of the individual unit owner and not the homeowner’s association, unless the association is the owner of the unit.

(4) In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20 per dwelling unit inspected by the owner and/or landlord’s private lead inspector shall be assessed for the purposes of the Act and paid to Byram Township, unless the owner and/or landlord demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20. The fees collected pursuant to this subsection shall be deposited into the Lead Hazard Control Assistance Fund.

§190-3 Violations and penalties.

In accordance with the Act, the penalties for a violation of this article shall be as follows:

A. If an owner and/or landlord has failed to conduct the required inspection or initiate any remediation efforts, the owner and/or landlord shall be given thirty (30) days to cure the violation.

B. If the owner and/or landlord has not cured the violation after thirty (30) days, the owner and/or landlord 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 2 Severability. Should any section, clause, sentence, phrase or provision of this article be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

Section 3 Repealer. All prior ordinances or parts of the same inconsistent with any provisions of this article are hereby repealed to the extent of such inconsistency.

Section 4 Effective Date. This ordinance shall take effect upon final adoption and publication in accordance with law.

Introduced: May 16, 2023 Adopted: June 7, 2023


Cynthia Church, RMC
Township Clerk


Alexander Rubenstein
Mayor

BYRAM TOWNSHIP COUNCIL

	Councilman Bonker	Councilwoman Franco	Councilman Gallagher	Councilman Roseff	Mayor Rubenstein
Motion		✓			
2nd			✓		
Yes	✓	✓	✓	✓	✓
No					
Abstain					
Absent					

NOTICE OF ADOPTION

NOTICE is hereby given that Ordinance 010-2023 was introduced and passed first reading at a meeting of the Township Council of the Township of Byram, held at the Byram Township Municipal Building, Mansfield Drive, Byram Township, New Jersey, on the 16th day of May 2023. The said ordinance was further considered for final adoption at a meeting of the Township Council of The Township of Byram, held at the Byram Municipal Building, 10 Mansfield Drive, Byram Township, New Jersey, on the 7th day of June at 7:30 p.m. at which time all persons were given the opportunity to be heard. It was finally passed and adopted and will be in full force in the Township according to law.


Cynthia Church, RMC
Byram Township Clerk