

unit as are needed for the storage of garbage and rubbish until removal from the premises. In lodging houses, and in dwellings containing four or more dwelling units, it shall be the responsibility of the owner to furnish such receptacles outside the lodging units or dwelling units as are needed for the storage of garbage and rubbish until removed from the premises.

(j) Every occupant of a dwelling unit in a dwelling containing no more than three dwelling units shall be responsible, unless provided for otherwise under a lease agreement, for the periodic removal of all garbage and rubbish from the premises each week in accordance with such regulations of this Municipality for the collection of garbage and rubbish.

(k) Every occupant of a dwelling comprising a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested. Notwithstanding the foregoing provisions of this subsection, whenever infestation is caused by failure of the owner to maintain a dwelling in a ratproof or reasonable insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the common parts of any dwelling containing two or more dwelling units, extermination thereof shall be the responsibility of the owner.

(l) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(m) In dwellings containing two or more dwelling units having a common source of heat for domestic hot water, it shall be the responsibility of the owner to make provision for the proper operation of such facilities at all times.

(n) Every owner of a dwelling, who permits to be occupied any dwelling unit or lodging unit therein under any agreement, expressed or implied, to supply or furnish heat to the occupants thereof, shall supply heat adequate to maintain therein a minimum inside temperature in all habitable rooms, bathrooms, and water closet compartments of 68 degrees Fahrenheit between the hours of 6:00 A.M. and 11:00 P.M., and 65 degrees Fahrenheit between the hours of 11:00 P.M. and 6:00 A.M., from October 1 of each year to the next succeeding May 1.

(o) In the absence of a contract or agreement to the contrary, an owner shall be obligated to provide heat whenever heating facilities are under the control of the owner or whenever two or more dwelling units or lodging units are heated by a common facility.

(p) The owner shall be responsible for compliance with all provisions of this chapter not specified as the responsibility of occupants.

Amended by R.1995 d.387, effective July 17, 1995.
See: 27 N.J.R. 1850(a), 27 N.J.R. 2737(a).

5:28-1.13 Conflict of ordinances

Nothing in this chapter shall be construed to abrogate or impair the powers of any department of this municipality or any agency of the State of New Jersey to enforce any provisions of its charter or its ordinances, codes, regulations or statutory provisions or to prevent or punish violations thereof.

SUBCHAPTER 2. LEAD HAZARD PREVENTION

5:28-2.1 Lead-safe maintenance requirements

(a) Each tenant-occupied residential building constructed before 1978 shall be subject to the requirements for lead-safe maintenance contained in this section. All such buildings shall undergo a combined inspection and risk assessment, and lead hazard control work in accordance with (b) below or shall comply with the requirements for standard treatments contained in (c) below. Following the performance of lead hazard control work or standard treatments, all buildings shall be subject to the requirements for on-going evaluation and maintenance contained in (d) below.

1. The requirements of this section shall not apply to:

i. Buildings, dwelling units or common areas that have been certified to be free of lead-based paint in accordance with N.J.A.C. 5:17;

ii. A seasonal rental unit which is rented for less than six months' duration each year; or

iii. A dwelling unit that has been certified as having a lead-free interior in accordance with N.J.A.C. 5:17.

(b) Inspection, risk assessment and lead hazard control work: A combined inspection and risk assessment shall be performed in accordance with the applicable provisions of N.J.A.C. 5:17. Data collected from a previous inspection or risk assessment may be used. If a property or portions of a property were inspected for lead-based paint prior to May 16, 2005, a risk assessment shall be performed for the property or portions inspected; however, a new inspection shall not be required. For purposes of this section, "risk assessment" shall exclude testing of soil. For purposes of this section, "floors" shall include both carpeted and uncarpeted surfaces.

1. Lead hazard control work to address lead-based paint hazards identified in the risk assessment shall be conducted in accordance with the applicable provisions of N.J.A.C. 5:17 for lead-based paint abatement and in accordance with the U.S. Department of Housing and

Urban Development rules (24 CFR 35) for interim controls included here as subchapter Appendix 2-A, incorporated herein by reference.

2. Following the performance of an inspection and risk assessment and any necessary lead hazard control work, the owner shall obtain a certification that the property is free of lead-based paint hazards issued in accordance with N.J.A.C. 5:17-3.6.

(c) Standard treatments: If the owner chooses not to have an inspection and risk assessment performed, as described in (b) above, the following lead hazard control requirements shall be followed for each dwelling unit and for all common areas. For each such building, the owner shall undertake periodic standard treatments as described below.

1. Standard treatments for lead safety shall be undertaken at unit turnover, unless they were undertaken less than 12 months before. Standard treatments shall be undertaken not less than once every 12 months in dwelling units where the owner has been notified by a tenant that a pregnant woman or a child under the age of six years resides.

2. Standard treatments shall include the following:

i. Smooth and cleanable horizontal surfaces shall be provided. All horizontal surfaces, such as floors, stairs, interior window sills and window troughs, that are rough, pitted or porous, shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane or linoleum;

(1) If carpet is to remain, wipe samples shall be collected from the carpeted surfaces. For test results that indicate lead levels above the clearance levels specified in N.J.A.C. 5:17, the carpet shall be removed.

(A) If carpet is to be removed and replaced with new carpet, the padding beneath the contaminated carpet shall also be replaced and the floor below shall be tested and shall not exceed the clearance levels set forth in N.J.A.C. 5:17.

ii. Conditions of rubbing, binding, friction or crushing of painted surfaces shall be corrected;

iii. Specialized cleaning shall be performed in accordance with (c)2iii(1) through (3) below.

(1) The work area shall be vacuumed with a HEPA vacuum cleaner as follows:

(A) HEPA vacuuming shall be sequenced to avoid passing through rooms already cleaned. The entryway shall be vacuumed last; and

(B) In each room, vacuuming shall begin with the ceiling and shall proceed down the walls. Every

surface shall be vacuumed including, but not limited to, ceiling, walls, windows, window sills, exterior sills, window wells, doors, heating and air conditioning equipment, fixtures, such as light fixtures, and built-in appliances. Floors shall be the final surface vacuumed.

(2) The work area(s) shall be wet washed with a detergent solution such as trisodium phosphate, formulated to bind lead. An original, marked container showing the nature of the formula and any necessary precautions shall be available at the work site. The name of the product used and its manufacturer shall be included in the records retained by the owner.

(A) In each room, the wet wash process shall begin with the ceiling and work down to the floor following the sequence in (c)2iii(1)(A) and (B) above.

(B) String mops and mop buckets with wringers are required for wet washing floors. Sponge mops shall not be used.

(3) When dry, the abated area(s) shall be HEPA vacuumed again, following the sequence in (c)2iii(2)(A) and (B) above; and

iv. Lead screening or clearance testing in accordance with N.J.A.C. 5:17 shall be performed and the results of the screening or testing shall not exceed the levels established in N.J.A.C. 5:17.

(d) On-going evaluation and maintenance, as described below, shall be required for all buildings.

1. A visual examination for deteriorated paint shall be performed by the owner at unit turnover or every twelve months, whichever comes first.

2. Deteriorated paint and the causes of deterioration shall be promptly and safely repaired in accordance with the requirements of (i) below.

i. Painted surfaces shall be made intact by paint stabilization, enclosure, encapsulation or removal.

ii. The causes of paint deterioration shall be diagnosed and corrected.

iii. Dust wipe testing shall be performed when the work is complete to ensure that the lead dust levels do not exceed the lead hazard levels established by N.J.A.C. 5:17. If the level exceeds the lead hazard level established by N.J.A.C. 5:17, cleaning and retesting shall be performed until the results of testing demonstrate lead levels below the standard.

(e) The following concern exterior surfaces:

1. The requirements set forth in (a) through (d) above shall apply to stairwells, porches, balconies, entryways, and windows.

2. For all other exterior surfaces, lead-safe work practices, in accordance with (i) below, shall be used for any work to be undertaken, unless the paint has been tested and not found to be lead-based paint.

(f) The following concern recordkeeping:

1. A record of testing performed and any certificate issued by a certified evaluation firm indicating that the building or any portion thereof is lead free shall be maintained for the life of the structure.

2. A record of all testing, visual examinations, findings and corrective action taken, including the date(s) and location(s) of any sampling performed and of corrective actions taken, shall be maintained for not less than five years and shall be made available upon request for review by the enforcing agency having jurisdiction. This shall include a record of:

i. Inspections, risk assessments and lead hazard control work performed pursuant to (b) above;

ii. Standard treatments undertaken pursuant to (c) above;

iii. On-going evaluation and maintenance undertaken pursuant to (d) above;

iv. Any certificates issued to the building owner by a certified lead evaluation firm;

v. Tenant notification required pursuant to (h) below; and

vi. Any reports of deteriorated paint received from tenants and documentation of the owner's responses pursuant to (h) below.

3. A record of the training in safe building maintenance practices of each individual as required by (g) below shall be maintained by the owner as long as that individual is involved in the maintenance of the building and shall be made available upon request for review by the enforcing agency having jurisdiction.

(g) Training requirements are as follows:

1. All owners or employees of the owner performing visual examinations or undertaking corrective action or maintenance work shall complete a one-day training course on safe building maintenance practices and applicable New Jersey law offered by a training provider accredited by the Department of Health and Senior Services. Courses approved for this purpose shall include:

i. The Lead-Based Paint Maintenance Training Program, "Work Smart, Work Wet, and Work Clean to Work Lead Safe," prepared by the National Environmental Training Association for EPA and HUD;

ii. "The Remodeler's and Renovator's Lead-Based Paint Training Program," prepared by HUD and the National Association of the Remodeling Industry;

iii. Lead Safety for Remodeling, Repair and Painting: A Joint EPA-HUD Course; or

iv. Any other course that the Department finds to be substantially equivalent.

2. Owners or employees of the owner shall not perform dust wipe sampling unless they have completed a State-certified course in accordance with this section or a HUD-approved clearance technician course (for example, the course developed by EPA, "Lead Sampling Technician ('HUD Clearance Technician') Training Course").

(h) Tenant notification and owner response requirements are as follows:

1. Owners shall distribute a pamphlet developed by the Department prior to commencement of repair work that will disturb more than two square feet of lead-based paint, unless the tenant has received the pamphlet within the last 12 months.

2. Owners shall post a notice advising tenants to report deteriorated paint and shall respond to any reported problem within 30 days. The notice shall include the landlord's name, address, and telephone number.

i. If an owner has received notice from a tenant that there is a pregnant woman or a child under the age of six years residing in the unit or, with regard to any problem reported in a common area, in the building, the owner shall respond to any report of deteriorated paint within three days.

ii. In buildings where there is no central location for posting notices or where notices are likely to be defaced or removed without authorization, the owner shall provide each tenant with a copy of such a notice.

(i) Lead-safe work practices: All work undertaken to repair or stabilize deteriorated paint and any other work that will disturb painted surfaces shall comply with the following:

1. Occupant protection and worksite preparation shall be performed in accordance with the applicable provisions of U.S. Department of Housing and Urban Development rules 24 CFR 35 included as subchapter Appendix 2-B, incorporated herein by reference.

2. The following work practices shall be prohibited:

i. Open flame burning or the use of high temperature (in excess of 1,100 degrees Fahrenheit) heat guns;

ii. Power sanding or sandblasting, unless a special HEPA (high efficiency particulate air) filter equipped vacuum attachment is used to contain dust;

iii. Uncontained water blasting or power washing;
or

iv. Dry scraping or sanding more than two square feet of painted surface per room (interior) or more than 10 square feet per building (exterior).

3. All work shall be undertaken in a manner that prevents the spread of dust.

4. Specialized cleaning shall be performed at the end of each work day if the job will take more than one day and the area is to be occupied before work begins again and at the end of each job.

5. Occupant protection, worksite preparation and specialized cleaning ((i)1 and 4 above) are not required for maintenance activities that disturb painted surfaces that total:

i. Twenty square feet or less on the exterior of the building;

ii. Two square feet or less in any one interior room or space; or

iii. Ten percent or less of the total surface area of an interior or exterior component with a small surfaces area, including, but not limited to, window sills, baseboards or trim.

6. After the completion of any work involving the disturbance of painted surfaces of a size that exceeds the limits of (i)5 above, at least one dust wipe sample shall be taken by maintenance staff trained in accordance with (g) above in each room that is part of the work area at a location where work was performed. If the level exceeds the lead hazard level established by N.J.A.C. 5:17, the room shall be cleaned and retested until the results of testing demonstrate lead levels below the standard.

(j) (Reserved)

(k) Garages and other structures on the site: Any work on garages and other structures on the site shall be performed in accordance with the lead-safe work practices listed in (i) above. Structures to which tenants have access shall comply with the requirements set forth in (a) through (e) above.

APPENDIX 2-A

INTERIM CONTROLS

(New Jersey Requirements Added in Italics)

U.S. Department of Housing and Urban Development

24 CFR 35.1330, Interim controls

35.1330 Interim controls

Interim controls of lead-based paint hazards identified in a risk assessment shall be conducted in accordance with the provisions of this section. Interim control measures include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above the levels specified. (*See N.J.A.C. 5:17-3.5, Lead hazards.*) Interim controls may be performed in combination with, or be replaced by, abatement methods.

(a) General requirements

(1) Only those interim control methods identified as acceptable methods in a current risk assessment report shall be used to control identified hazards.

(2) Occupants of dwelling units where interim controls are being performed shall be protected during the course of the work in accordance with 35.1345. (*See N.J.A.C. 5:28-2 Appendix 2-B, Occupant protection and worksite preparation.*)

(3) *Testing shall be performed at the conclusion of interim control activities in accordance with N.J.A.C. 5:17.*

(4) *A person performing interim controls must be trained in accordance with N.J.A.C. 5:28-2.1(g) (training).*

(b) Paint stabilization

(1) Interim control treatments used to stabilize deteriorated lead-based paint shall be performed in accordance with the requirements of this section. Interim control treatments of intact, factory applied prime coatings on metal surfaces are not required. Finish coatings on such surfaces shall be treated by interim controls if those coatings contain lead-based paint.

(2) Any physical defect in the substrate of a painted surface or component that is causing deterioration of the surface or component shall be repaired before treating the surface or component. Examples of defective substrate conditions include dry rot, rust, moisture-related defects, crumbling plaster, and missing siding or other components that are not securely fastened.

(3) Before applying new paint, all loose paint and other loose material shall be removed from the surface to be treated. Acceptable methods for preparing the surface to be treated include wet scraping, wet sanding, and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to the manufacturer's instructions.

(4) *Lead-safe work practices shall be performed in accordance with N.J.A.C. 5:28-2.1(i).*

(5) Paint stabilization shall include the application of a new protective coating or paint. The surface substrate shall be dry and protected from future moisture damage before applying a new protective coating or paint. All protective coatings and paints shall be applied in accordance with the manufacturer's recommendations.