

May 23, 2023

Regular meeting of the mayor and Council of the Borough of Victory Gardens, held on May 23, 2023.

Mayor Holeman called the meeting to order and declared a quorum present.

Pledge of Allegiance to the Flag of Our Country.  
Please remain standing for a moment of silence for our military.

This meeting has been advertised in one newspaper, The Daily Record, in compliance with the New Jersey Open Public Meeting Act.

ATTENDANCE: Councilwoman Hedgepath, Councilman Hale, Councilman Lorenzo, Councilwoman Garcia Montes.

ABSENT: Councilman Glass

Motion to accept the minutes of May 9, 2023 as received by Councilwoman Montes, seconded by Councilman Hale and approved on verbal vote. None opposed.

CORRESPONDENCE: None

VOUCHERS:

The Mayor asked if there were any questions or comments on the vouchers? Hearing none, he asked for a motion to pay the bills.

Motion to approve the vouchers for payment by Councilwoman Hedgepath, seconded by Councilwoman Montes and approved on roll call:

Councilwoman Hedgepath	Yes
Councilman Hale	Yes
Councilman Lorenzo	Yes
Councilwoman Garcia Montes	Yes

VOUCHER REPORTS  
COUNCIL MEETING  
MAY 23, 2023

Voucher #	Payable to:	Type of Service	Amount	Check #
05-17	Anderson and Denzler	Engineer OE	\$ 3,904.80	
05-18	Eric M Bernstein	Legal OE	\$ 498.59	
05-19	Gannett Newspaper	Clerk OE	\$ 130.06	
05-20	Gannett Newspaper	Clerk OE	\$ 622.44	
05-21	Henry O Baker	Other Insurance	\$ 9,978.00	
05-22	Home Depot	Streets and Roads	\$ 130.43	
05-23	Interstate Waste	Trash Removal	\$ 12,267.58	
05-24	JCPL	Utilities	\$ 273.08	
05-25	JCPL	Utilities	\$ 93.32	
05-26	JLM Computers	Clerk OE	\$ 97.00	
05-27	Master Service	Streets and Roads	\$ 800.00	
05-28	Morris County MUA	Road OE	\$ 380.25	
05-29	New Jersey natural gas	Utilities	\$ 1,405.00	
05-30	Optimum Borough Hall	Clerk OE	\$ 11.47	
05-31	Robert A Young	Streets and Roads	\$ 700.00	
05-32	Sunnyside florist	Clerk OE	\$ 180.00	
05-33	Verizon #1	Utilities	\$ 151.78	
05-34	Verizon #2	Streets and Roads SW	\$ 157.74	
05-35	Hector Lorenzo	Streets and Roads SW	\$ 2,797.44	
05-36	Leticia Diaz	Clerk SW	\$ 1,760.00	
	Manny Venereo	Streets and Roads SW	\$ 2,400.00	

Total \$ 34,205.53



NEW BUSINESS CONTINUED:

ORDINANCE LEAD BASED PAINT -

**ORDINANCE AMENDING CHAPTER 12 OF MUNICIPAL CODE**  
**PROPERTY MAINTENANCE: LEAD PAINT INSPECTIONS**

NEW: CHAPTER 12, SECTION 12-7

WHEREAS, pursuant to P.L. 2021, c. 182 all municipalities are now required 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, the governing body has determined it is in the best interests of the Borough of Victory Gardens to enact enabling its Code to comport with the requirements of this legislation so as to conform with State law; and

WHEREAS, the governing body desires, through this Ordinance, to amend Chapter 12 of its Borough Code to be identified as Chapter 12, Section 7 entitled as LEAD PAINT INSPECTIONS.

NOW THEREFORE IT IS ORDAINED, by the governing body of Victory Gardens, Morris County, New Jersey as follows:

12-7 Lead Paint Inspections

- A. **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.
- B. **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.
- C. **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.
- D. **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.

RESOLUTION

WHEREAS, N.J.S.A. 40A:5-21 authorizes the establishment of a Petty Cash Fund; and

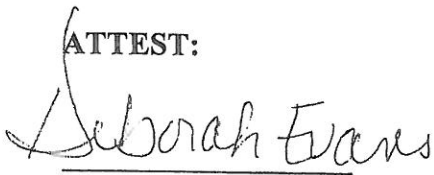
WHEREAS, it is the desire of the Borough of Victory Gardens that the petty cash funds for the below listed Departments and Division be increased as indicated below:

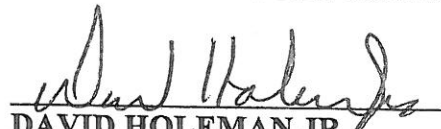
Description	From Amount	To Amount
Borough Clerk	\$100	<del>500</del> #200.00

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Victory Gardens that the following increase in petty cash is approved.

Adopted: May 9, 2023

BOROUGH OF VICTORY GARDENS

ATTEST:  
  
 Deborah Evans,  
 Borough Clerk

  
 DAVID HOLEMAN JR.  
 MAYOR

*Adopted: May 23, 2023*

ORDINANCE FOR LEAD PAINT -

ORDINANCE AMENDING CHAPTER 12 OF THE MUNICIPAL CODE  
PROPERTY MAINTENANCE LEAD PAINT INSPECTIONS

The Clerk said everyone has a copy of the Ordinance. If anyone has any questions the attorney will answer them. This is for rental properties. The owners will have to pay for the inspections to be done.

Motion on the introduction for the ordinance on lead paint inspections was made by Councilwoman Hedgepath, seconded by Councilwoman Montes and approved on roll call:

Councilwoman Hedgepath	Yes
Councilman Hale	Yes
Councilman Lorenzo	Yes
Councilwoman Garcia Montes	Yes

(See Ordinance Next Pages)

NEW BUSINESS CONTINUED:

LEAD BASED PAINT -

- E. **Visual Assessment:** A visual examination for deteriorated paint or visible surface dust, debris, or residue.
- F. **Tenant Turnover:** The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

Inspections.

- A. The Borough of Victory Gardens has made arrangements with a minimum of 3 lead evaluation contractors to inspect single-family, two-family, or multiple dwelling rental unit(s) located in the Borough of Victory Gardens 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. This list will be provided to owners of rental units at the time of change in tenancy or every three years as required pursuant to P.L. 2021, c.182. The property owners shall make arrangements with the lead evaluation contractor for all required inspections.
- B. In lieu of having the dwelling inspected by the Borough's recommended lead evaluator, a dwelling owner or landlord may directly hire a private lead evaluation contractor of his or her choice 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.
- C. 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:
  - (1) Had been certified to be free of lead-based paint;
  - (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 (C.55:13A-1 et seq);
  - (4) 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

- (5) Has a valid lead-safe certification
- D. 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.
- E. 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 of 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 lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
- F. If no lead-based paint hazards are identified, then the lead evaluation contractor 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.
- G. Pursuant to N.J.S.A. 52:27D-437.16 (e), property owners shall:
- (1) Provide evidence of valid lead-safe certification and the most recent tenant turnover at the time of the cyclical inspection.
  - (2) 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 the language of this Chapter.
  - (3) 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.
- H. Fees.
- (1) The fee for a visual inspection and dust wipe sampling inspections performed by a recommended Borough lead evaluation contractor shall be in accordance with the contractor's fee schedule. All re-inspection fee, cancellation fees and any other miscellaneous fees shall be set by the individual lead evaluation contractor. All fees shall be paid directly to the lead evaluation contractor.
  - (2) In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20.00 per dwelling unit inspected by the Borough's recommended lead evaluation contractor or the owner's private lead evaluation contractor shall be assessed 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 made to the Borough of Victory Gardens and deposited into the Lead Hazard Control Assistance Fund. This fee shall be paid to the Borough of Victory Gardens when the Lead Safe Certificate is provided to the town.

- (3) 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.

Violations.

Penalties for violation of this chapter.

A. 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.

B. 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 2. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective;

SECTION 3. If any ordinances or parts thereof are in conflict with the provisions of this Ordinance those provisions shall be repealed to the extent of such conflict.

SECTION 4. This Ordinance shall take effect upon passage and publication in accordance with applicable law.

ATTEST:

Deborah Evans, Municipal Clerk

David Holeman, Mayor

ADOPTED: \_\_\_\_\_

**THE LEAD-BASED PAINT INSPECTION CYCLE**

**A. Lead Inspection Required:** Beginning \_\_\_\_\_, as per P.L 2021, c. 182 all residential rental properties built before 1978 in certain single-family, two-family, and multiple rental dwellings are required to be tested for lead-based paint hazards, at times specified in the law. All rental units must be inspected for lead-based paint within 2 years of the effective date of the law, \_\_\_\_\_, or upon tenant turnover, whichever is earlier. This means that the first inspection must take place no later than \_\_\_\_\_ whether there is a change in tenancy or not.

**Requirements:** All rental properties that fall under the Lead-Based Paint Law as required by the State of New Jersey are required to be inspected upon change of tenancy or prior to July 22, 2024 whether there is a change in tenancy or not.

**Example #1**

1. Property owner rents a unit in his or her building and has it inspected for lead. The inspection results in a Lead-Safe Certificate being issued on \_\_\_\_\_. The Certificate is good for two (2) years until \_\_\_\_\_.
2. If the same tenant is there after \_\_\_\_\_ the property owner must have another lead-based paint test done within one year of the expiration date of the Lead Safe Certificate being issued. The new Certificate is now good for another 2 years from the date of issuance.

**Example #2**

1. Property owner rents a unit in his or her building and has it inspected for lead. The inspection results in a Lead Safe Certificate being issued on \_\_\_\_\_. The Certificate is good for 2 years until \_\_\_\_\_.
2. The tenant moves out after a year and the dwelling unit is rented to another tenant on \_\_\_\_\_. Lead-Based Paint Certificate is not required as there is a current Certificate good until \_\_\_\_\_.
3. Tenant moves out after \_\_\_\_\_ but before \_\_\_\_\_, a new inspection is required and results in a new Lead-Safe Certificate being issued. That Certificate is good for another 2 years from date of issuance.



NEW BUSINESS CONTINUED:

LIQUOR LICENSE RENEWAL - The Clerk said tonight we have just one Resolution to do. This is for Randolph Liquors. I am still waiting on Alonsos Steak to bring in their money to pay for the license.

RESOLUTION FOR APPROVAL OF LIQUOR  
LICENSE FOR RANDOLPH LIQUORS

WHEREAS, the herein below names have duly filed an application for renewal of their liquor license for their respective premises as shown for the year 2023, and

WHEREAS, no objections have been received from the public; and

WHEREAS, the required fees have been paid and all premises have been inspected and approved except as otherwise stated, by the Board of health and the Bureau of Fire Prevention; and

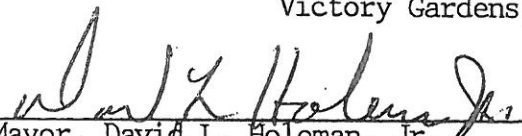
NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Victory Gardens that the said application be approved, and that the respective license be granted; and

BE IT FURTHER RESOLVED that in those cases where the inspectors of the different agencies of the Borough of Victory Gardens have found violations, the licensee shall comply and correct said violations within the time specified in the report by the various agencies.

BE IT FURTHER RESOLVED that the Borough Clerk be and is hereby authorized to issue license/certificate accordingly.

PLENARY RETAIL DISTRIBUTION LICENSE

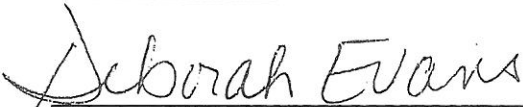
1437-44-001-004 Randolph Liquor Inc.  
301 South Salem Street  
Victory Gardens, N.J. 07801

  
Mayor, David L. Holeman, Jr.

May 23, 2023  
Date Adopted

ATTEST:   
Deborah Evans, Borough Clerk

I, Deborah Evans, hereby certify that this is a true and exact copy of the Resolution adopted by the Mayor and Council of the Borough of Victory Gardens, at a meeting held on 5-23-2023.

  
Deborah Evans, Borough Clerk

Motion to approve the Resolution for Randolph Liquors by Councilwoman Montes, seconded by Councilwoman Hedgepath and approved on roll call:

Councilwoman Hedgepath	Yes
Councilman Hale	Yes
Councilman Lorenzo	Yes
Councilwoman Garcia Montes	Yes

OLD BUSINESS:

ADOPTION/PUBLIC HEARING ON CANNABIS ORDINANCE -

AN ORDINANCE SUPERCEDING AN ORDINANCE KNOWN AS ORDINANCE  
ESTABLISHING AND REGULATING THE SALE AND DISTRIBUTION  
OF CANNABIS IN THE BOROUGH OF VICTORY GARDENS

Motion was made to open the meeting to the public on the Ordinance only.  
Motion made by Councilwoman Montes, seconded by Councilwoman Hedgepath and  
approved on verbal vote. None opposed.

Jim Janone - I read the ordinance which was very well written but I have two  
issues. There is a section in the ordinance about hearings. It says that the  
Mayor is allowed to vote. Correct. How can he vote if that is in violation of  
the Borough form of government. The Attorney said the Mayor would be on a hearing  
board. He is not acting as the Mayor. He is acting as a hearing officer.  
He will run the meeting correct? Yes, but it is not a council meeting. It is  
a meeting by itself. I think there is a disservice to Victory Gardens by just  
having one retail establishment.

Councilwoman Montes said she wanted two but it was turned down by the  
Council.

The Attorney said this could be changed later on. If we decided that we  
want to we can change it.

You have 2 applicants before the Planning Board. They can bring revenue.  
They went thru 5 hours of testimony. We have 2 businesses coming here and  
we need to reconsider. We are the only town with one license.

The Mayor said we are new to this. We can change this. The Attorney said  
if we offer one it would be unfair to amend it for two because the person  
getting the one knows that he is getting one. If we had one now it would do harm  
to the first one we gave a license to. It would be competition. If they both  
come in at the same time they understand that they will be competing with each  
other. There is no reason to believe that we will pick both.

Ann Marie - I represent Tangerine Tree, LLC. Mayor you said earlier that  
the Planning Board attorney and the Borough attorney will get together to adopt  
a resolution in regards to cannabis. Is that correct? Yes. Our Planning  
Board attorney said he wanted to speak with the Borough attorney to make sure  
everything is covered. Who would adopt the ordinance? The Council. What would  
be the next steps after the adoption of the resolution? We filed our application  
without the payment and we are trying to figure out when the best time is to do  
the application with payment? We don't know right now. Once the ordinance  
is adopted and published in the paper then that is about 10 days. The  
effective date of the ordinance would be at that time and then when do the  
applications come in with payment? Once we get the resolution done.  
You can not change the ordinance in between introduction and final adoption.  
You can not change this ordinance in mid stream. You can table this ordinance  
and at the next meeting to a first reading on a new ordinance. Then after  
publication on introduction you can finalize it at the following meeting.

Councilwoman Montes asked if this is true then what happens? Attorney  
Feintuch said he would have to rewrite the ordinance and then we would have to  
have an introduction, it gets published in the paper and then we have another  
public hearing and final vote on the ordinance.

Motion to close the meeting to the public by Councilwoman Montes, seconded by  
Councilwoman Hedgepath and approved on verbal vote. None opposed.

Motion was made by Councilwoman Montes to rewrite the ordinance changing the  
number of retail establishments from 1 to 2. Seconded by Councilwoman Hedgepath  
and approved on roll call:

Councilwoman Hedgepath	Yes
Councilman Hale	Yes
Councilman Lorenzo	Yes
Councilwoman Garcia Montes	Yes

\*\*\* This ordinance does not pass. it will be rewritten with the change from the  
Borough Attorney and it will get introduced at the next meeting and then followed  
through.

Motion to open the meeting to the public by Councilwoman Montes, seconded by Councilwoman Hedgepath and approved on verbal vote. None opposed.

Jim Janone - Why are there two attorneys working on the Resolution? The Resolution is supposed to be what happened at the planning board. The Mayor said at the planning board meeting the planning board attorney said he wanted to go over it with the Borough attorney. It was his suggestion not ours. Who does the accounting of petty cash? The CFO and the Auditors when they go over the paperwork. The lead paint inspection you are putting this in with property maintenance, correct? Yes. who is going to oversee it? Anyone that rents a property has to have that property inspected at their own expense.

Ann Marie - tangerine tree LLC - When will the new ordinance be done? I should have it for the next meeting.

Alex from Day Pitney - I am the owner operator. Will there be a new application since you are redoing the ordinance? No, the application will stay the same.

Motion to close the meeting to the public by Councilwoman Montes, seconded by Councilwoman Hedgepath and approved on verbal vote. None opposed.

\*\*\* Attorney Feintuch said that the Clerk has given him a few things to go over. I spoke to the Attorney for the Dover school board. He will or should have a full breakdown as to what we have to pay them from the money we are holding. What monies we will be keeping. And he will be giving me the new charges for the new years budget.

Motion to adjourn the meeting by Councilwoman Montes, seconded by Councilwoman Hedgepath and approved on verbal vote. None opposed.

Submitted By:



Deborah Evans  
Borough Clerk