

**BOROUGH OF CALIFON
COUNTY OF HUNTERDON
STATE OF NEW JERSEY
ORDINANCE 2024-04**

AN ORDINANCE AMENDING THE REVISED BOROUGH CODE OF THE BOROUGH OF CALIFON BY AMENDING TITLE 8 ENTITLED "HEALTH" OF THE CODE OF THE BOROUGH OF CALIFON TO ADD A NEW ARTICLE ENTITLED "LEAD-BASED PAINT INSPECTIONS"WHEREAS, the Borough Council of the Borough of Califon desires to amend and supplement the provisions of the Borough Code relating to Health to provide for inspection of rental single-family homes, two-family homes, and multiple dwellings at tenant turnover for lead-based paint hazards;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Califon that the Borough Code adopted August 24, 2000 and heretofore amended be further amended as follows:

Title 8 of the Borough Code, which is entitled "HEALTH", is hereby amended by the addition of the following Chapter 8.32:

Chapter 8.32 - LEAD-BASED PAINT INSPECTIONS

Section:

8.32.010 Findings:

- A. Lead poisoning poses a serious public health threat to children and adults.
- B. Younger children are particularly susceptible to the hazards of lead-based paint since their bodies are still developing. Fetuses are also vulnerable to the effects of lead-based paint because pregnant women can transfer lead to their fetuses, which can result in adverse developmental effects.
- C. Even a small amount of lead can cause elevated blood lead levels resulting in serious and irreversible developmental damage, particularly in children under the age of six years.
- D. Exposure to lead hazards from deteriorated lead-based paint is a primary cause of elevated blood lead levels in humans.
- E. Structures built before 1978 are the most likely to contain lead-based paint hazards.

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Title 8 of the Borough Code, which is entitled "HEALTH", is hereby amended by the addition of the following Chapter 8.32:

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8.32.010 Findings:

- A. Lead poisoning poses a serious public health threat to children and adults.
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- C. Even a small amount of lead can cause elevated blood lead levels resulting in serious and irreversible developmental damage, particularly in children under the age of six years.
- D. Exposure to lead hazards from deteriorated lead-based paint is a primary cause of elevated blood lead levels in humans.
- E. Structures built before 1978 are the most likely to contain lead-based paint hazards.

F. Residential properties are more likely than are nonresidential properties to be a source of exposure to lead-based paint hazards by children.

G. Children living in older, poorly maintained homes are disproportionately at risk for lead-based paint hazards.

H. The exposure to lead-based paint hazards is most common, and presents the most serious risk, to young children residing in rental housing built before 1978. More specifically, about 80 percent of lead poisoning cases in New Jersey are caused by lead-based paint in homes built before 1978, affecting our low-income families the most.

I. It is essential to the overall public health, and particularly for children younger than six years of age, that they be protected from exposure to lead-based paint hazards.

J. Although unquestionably positive, the potential health benefits of lead-based paint poisoning prevention legislation are difficult to quantify since the number of people at risk is undetermined, the transient nature of tenants makes targeting difficult, the mere presence of lead in a structure does not necessarily lead to human exposure to lead-based paint hazards, and the generally agreed-upon group at greatest risk, children from zero to six years of age, are significantly transient.

8.32.020 Definitions.

As used in this Chapter:

"DCA" means the New Jersey Department of Community Affairs.

"DoH" means the New Jersey Department of Health.

"Dust wipe sampling" means a sample collected by wiping a representative surface and tested, in accordance with a method approved by HUD and as conducted pursuant to N.J.A.C. 5:28A-2.3.

" Dwelling " means a building containing a room or rooms, or suite, apartment, unit, or space that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

" Dwelling unit " means a unit within a building that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

" HUD " means the United States Department of Housing and Urban Development.

" Licensed contractor " means a licensed lead evaluation contractor.

" Multiple dwelling " means any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by three or more persons living independently of each other.

" Multiple dwelling " also means any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied, or intended to be occupied, by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. " Multiple dwelling " does not include those buildings and structures that are excluded pursuant to N.J.S.A. 55:13A-3(k).

" Owner " means an owner, landlord, or the owner's or landlord's agent.

" Periodic Lead-Based Paint Inspection " means the initial inspection of all applicable dwelling units at the earlier of two years from July 22, 2022 or tenant turnover and, thereafter, the earlier of three years or upon tenant turnover, consistent with N.J.A.C. 5:28A-2.1, for the purposes of identifying lead-based paint hazards in dwellings subject to this Chapter.

" Inspector " means [to be determined. In sample ordinances, the Housing Official or designee, the

Health officer or designee, the Construction Official or designee, "any enforcement officer appointed pursuant to N.J.S.A. 40:48-2.3 et seq.", and "any enforcement officer authorized to enforce the Municipal Housing Code, Property Maintenance Code, or Health Code, or their designee" were designated].

"Remediation" means interim controls or lead abatement work undertaken in conformance with this Chapter to address lead-based paint hazards.

"Tenant turnover" means the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit or the time at which a new tenant enters a vacant dwelling unit.

8.32.030 Inspections for Lead-Based Paint.

A. Inspections Authorized. The Inspector shall conduct periodic lead-based paint inspections for all applicable multiple dwelling units offered for rent to determine the presence of lead-based paint, in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-1.1 et seq.

B. Certain Multiple Dwelling Units Exempted from Lead-Based Paint Inspection. Inspections for lead-based paint in multiple 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. 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. Was constructed during or after 1978;
2. Is a single-family or two-family seasonal rental dwelling unit that is rented for less than six months duration each year by tenants that do not have consecutive lease renewals;
3. Has been certified to be free of lead-based paint, pursuant to N.J.A.C. 5:17;
4. Is in a multiple dwelling that was constructed prior to 1978 and has been registered with DCA as

a multiple dwelling for at least ten years, either under the current or a previous owner, and has either

a. No outstanding paint 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

b. A current certificate of inspection issued by the DCA, Bureau of Housing Inspection; or

c. An open inspection with no violations for lead paint.

5. Has a valid lead-safe certification issued pursuant to N.J.A.C. 5:28A. Lead-safe certifications are valid for two years from the date of issuance pursuant to N.J.A.C. 5:28A-2.4.

8.32.040 Dwelling Owner is Responsible for Obtaining Inspection.

A. Inspection Performed by Inspector. The owner 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 as required in this Article, or at tenant turnover, whichever is earlier. To obtain the required inspection, the landlord, owner shall arrange it with the Inspector and pay all applicable and required fees associated with the Borough's inspection as specified in this Chapter.

B. Option for Inspection Performed by Licensed Contractor. A dwelling unit owner may opt to directly hire a licensed contractor to conduct the periodic lead-based paint inspections for lead-based paint as required in this Article. Notwithstanding this option, the Borough retains the authority to conduct inspections or investigations of owners that directly hire licensed contractors to ensure that periodic lead-based paint inspections are being performed, in accordance with this chapter. The Borough also retains the authority to prohibit an

owner from directly hiring a licensed contractor to conduct a periodic lead-based paint inspection where:

1. The owner previously opted to hire a licensed contractor to perform the periodic lead-based paint inspection and failed to have the inspection completed; or
2. The Borough determines there is a conflict of interest between the owner and its licensed contractor of choice.

8.32.050 Dwelling Owner is Responsible for Obtaining Inspection.

A. Timing for Required Lead-Based Paint Inspections.

1. The initial inspection for all single-family, two-family and multiple dwellings subject to this Article shall take place upon tenant turnover, or within two years of July 22, 2022, whichever occurs sooner.

2. After initial inspection, all such dwelling units shall be inspected for lead-based paint hazards each time there is tenant turnover, or at least once every three years, whichever occurs earlier. However, if the dwelling unit owner has obtained a valid lead-safe certification for the dwelling unit (as described in this Chapter), then inspection of that dwelling unit shall not be required at each tenant turnover during the two-year period the certificate is valid.

0. Each subsequent periodic lead-based paint inspection shall be counted from the most recent inspection which resulted in a valid lead-safe certification.

8.32.060 Notice of Inspection to be Given.

Whenever any multiple dwelling unit is scheduled for a tenant turnover, the then-current landlord, owner shall provide written notice to the Inspector that an

inspection is needed at least twenty calendar days prior to the scheduled date of the tenant turnover.

8.32.070 Fees for Inspections.

A. Fees associated with lead-paint inspections by the Inspector shall be as follows:

Type of Property/Inspection Cost of Visual Lead Inspection

2 bedrooms or fewer \$125.00
3 bedrooms \$150.00
4 bedrooms \$175.00
5 or more bedrooms \$200.00
Re-inspection of any size/type of property \$100.00

B. Dwelling units under the direct control of the Borough shall be exempt from the fees set forth above.

C. An additional fee of \$20.00 shall be assessed in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-2.2, to be deposited into the Lead Hazard Control Assistance Act Fund under the administration of DCA.

D. All fees are nonrefundable, unless the applicant cancels the requested inspection at least forty-eight hours prior to the time of the scheduled inspection. The fees set forth above shall be dedicated to meeting the costs of implementing and enforcing this Article for lead-based paint inspections and shall not be used for any other purpose.

E. An owner may directly hire a licensed contractor who is certified to provide lead paint inspection services by the DCA to satisfy the requirements of this Chapter and the requirements of N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-1.1 et seq., in which case, a \$20.00 fee shall be assessed in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-2.2, payable to the Borough, to be deposited into the Lead Hazard Control Assistance Act Fund under the administration of

DCA, but no additional lead-based paint inspection fee shall be charged by the Borough.

8.32.080 Completion of Inspections Following Request.

All inspections and re-inspections shall take place within fifteen calendar days of the requested inspection. Inspection fees shall be paid prior to the inspection. No inspections or re-inspections shall take place unless all fees are paid. Scheduled inspections or re-inspections may be canceled by the Inspector, unless the completed application and required fees have been received by the Borough at least twenty-four hours prior to the scheduled inspection, or on the last working day prior to the scheduled inspection. Every inspection for which the tenant or owner has failed to provide access for inspection shall be deemed a failed inspection.

8.32.090 Lead-Based Paint Inspections by Visual Assessment or Dust Wiping Method.

A. If less than three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five micrograms per deciliter (5 µg/dL), according to the central lead screening database maintained by DoH to N.J.S.A. 26:2-137.6, or according to other data deemed appropriate by the commissioner (as such term is used in and for the purposes of N.J.S.A. 52:27D-437.16), then the licensed contractor may inspect a dwelling unit therein for lead-based paint hazards through visual assessment.

B. If at least three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five micrograms per deciliter (5 µg/dL), according to the central lead screening database maintained by DoH pursuant to N.J.S.A. 26:2-137.6), or according to other data deemed appropriate by the commissioner, then the licensed contractor shall inspect a dwelling located therein through dust wipe sampling.

8.32.100 "Lead Safe Certification" Supplied Following Inspection.

A. If, following inspection, the inspector or licensed contractor finds that no lead-based paint hazard exists in a dwelling unit, the inspector or licensed contractor shall certify the dwelling unit as lead-safe on the form prescribed by DCA and supply a copy of the lead-safe certification to the owner of the dwelling. If a licensed lead evaluation contractor issues the lead-safe certification, a copy shall also be provided to the inspector and the Borough Clerk at the time it is issued.

B. A lead-safe certification shall be valid for a period of two years from the date of issuance, unless during the two-year certification period, a licensed contractor, lead inspector/risk assessor, a local health department, or a public agency conducts an independent inspection or risk assessment and determines that there is a lead-based paint hazard, in which case, the certification shall become invalid.

8.32.110 Identification of Lead-Based Paint Hazard.

A. If the Inspector or licensed contractor finds that a lead-based paint hazard exists in a dwelling unit, they shall notify DCA, Division of Local Government Services, for review of the findings, in accordance with the Lead Hazard Control Assistance Act.

B. If a lead-based paint hazard is identified in an inspection of one of the dwelling units in a building consisting of two or more dwelling units, then the licensed contractor or inspector shall inspect the remainder of the building's dwelling units, with the exception of those dwelling units that have been certified to be free of lead-based paint or which have a valid lead-safe certification.

8.32.120 Responsibility for Remediation of Lead-Based Paint.

The owner of the dwelling unit shall be responsible for remediation of the lead-based paint hazard.

Remediation and any re-inspections required following remediation must be conducted consistent with N.J.A.C. 5:28A-2.5. Documentation of such remediation shall be provided to the Municipal Inspector.

8.32.130 Owner Responsibility for Record-Keeping.

A. The owner of a dwelling that is subject to this Chapter shall provide to the tenant and to the Borough evidence of a valid lead-safe certification obtained pursuant to this Article at the time of tenant turnover. The owner shall also affix a copy of any such certification as an exhibit to the tenant's lease.

B. The owner of a multiple dwelling that is subject to this Article shall provide evidence of a valid lead-safe certification obtained pursuant to this Chapter, as well as evidence of the most recent tenant turnover, at the time of any cyclical inspection performed pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A1 *et seq.*

C. The owner of a dwelling that is subject to this Article shall maintain a record of the lead-safe certification, which shall include the name or names of a unit's tenants, if the inspection was conducted during a period of tenancy.

D. The owner of any dwelling subject to this Chapter shall inform the Borough of all tenant turnover activity to ensure any required inspection may be scheduled.

E. The owner of a dwelling shall provide a copy of this Article, and any lead-safe certifications issued pursuant thereto, along with the accompanying guidance document, "Lead-Based Paint in Rental Dwellings", to any prospective owners of the dwelling during a real estate transaction, settlement, or closing.

8.32.140 Borough Responsibilities and Enforcement Powers.

A. Pursuant to N.J.A.C. 5:28A-2.1(d), the inspector shall exercise appropriate oversight of an owner who chooses to hire a licensed contractor to perform the periodic lead-based paint inspection.

B. Pursuant to N.J.A.C. 5:28A-3.2, the inspector shall maintain a record of all dwellings subject to this chapter, which includes up-to-date information on inspection schedules, inspection results, and tenant turnover; all lead-safe certifications issued; and all lead-free certifications issued.

C. Pursuant to N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-4.1, the Inspector is authorized to conduct investigations and issue penalties in order to enforce a multiple dwelling owner's failure to comply with this Article.

D. Pursuant to N.J.A.C. 5:28A-3.2, the Inspector shall maintain a record of all dwellings subject to this chapter, which includes up-to-date information on inspection schedules, inspection results, and tenant turnover; all lead-safe certifications issued; and all lead-free certifications issued.

E. If the owner of the dwelling has not cured the violation within that time period, the owner shall be subject to a penalty, not to exceed \$1,000 per week, until the required inspection has been conducted or the remediation efforts have been initiated.

F. Remediation efforts shall be considered to be initiated when the dwelling owner has hired a licensed contractor or other qualified party to perform lead-hazard control methods.

SECTION TWO:

Effective Date. This Ordinance shall take effect immediately upon publication of Notice of Final Passage in the manner provided by law.

ATTEST:

Karen Mastro

Karen Mastro, RMC, CMR
Borough Clerk/Administrator

Charles J. D'Amico

Charles Daniel
Mayor

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Prepared by Mark S.
Anderson, Borough Attorney