

ORDINANCE #2023/8

AN ORDINANCE AMENDING TITLE 8 “HEALTH AND SAFETY” OF THE CODE OF THE BOROUGH OF FREEHOLD ESTABLISHING THE LEAD PAINT INSPECTION PROGRAM

WHEREAS, the Borough of Freehold (the “Borough”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, in July of 2021, Governor Murphy signed into law P.L. 2021, c. 182, which legislation amended the Lead Hazard Assistance Act, N.J.S.A. 52:27D-437.1, et seq., as same pertains to lead-paint hazards in residential properties; and

WHEREAS, the aforesaid legislation requires municipalities to either perform inspections of certain single family, two-family and multiple rental dwellings for lead-based hazards, or to permit the dwelling owner or landlord to directly hire a certified lead evaluation contractor; and

WHEREAS, Title 8 of the Borough’s Code currently contains ordinances which provide oversight and control of the residential rental units in the Borough; and

WHEREAS, the Borough Council is desirous of amending and supplementing these ordinances so as to enact a program requiring inspections on certain rental units to alleviate lead-based paint hazards in certain rentals.

BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Freehold, County of Monmouth, State of New Jersey, as follows:

Section 1

Title 8 “Health and Safety” of the Code of the Borough of Freehold shall be amended as follows; additions to the current ordinance are noted in underline.

8.42 Lead Abatement Program

8.42.010 Purpose. The purpose of this Section is to prevent and protect children from lead-based hazards during their occupancy of residential rental properties and to create and preserve safe and healthy rental housing in the Borough.

8.42.020 Scope. This section shall apply to any Dwelling Unit as defined by this section and which was built before 1978. Dwelling Units shall be exempt from these requirements if exempted pursuant to N.J.S.A. 52:27D-437.16 et seq.

8.42.030 Definitions.

- A. “Commissioner” means the Commissioner of the Department of Community Affairs.

- B. “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.
- C. “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.
- D. “Lead inspector or risk assessor” means an individual certified by DOH to perform lead inspection and risk assessment work pursuant to N.J.A.C. 8:62. This includes the ability to perform dust wipe sampling.
- E. “Lead-based paint hazard” means 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.
- F. “Lead-based paint” means paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5% by weight, or such other level as may be established by federal law.
- G. “Lead abatement” means a set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner in N.J.A.C. 5:17.
- H. “Lead safe” means that a dwelling has no outstanding lead-based paint hazards, but the dwelling is not necessarily lead free.
- I. “Lead-safe certification” means the certification issued pursuant to the regulations promulgated pursuant to P.L.2021, c.182, which confirms that a periodic inspection, as defined below, was performed, and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance.
- J. “Owner” means a person, association, corporation, partnership, and/or other legal entity having a legal or equitable title in real property.
- K. “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.

8.42.40 Lead-Safe Housing Assessment and Reporting

- A. Responsibility. The Owner of a Dwelling Unit shall, along with all other requirements of this Chapter, ensure that an initial inspection is completed upon their property as established in this section. No Owner shall rent, offer to rent, or allow occupancy of a Dwelling Unit without complying with the terms of this Chapter.

- B. Inspections. All Dwelling Units must be inspected for lead-based paint within two years of the effective date of the Lead Hazard Assistance Act, N.J.S.A. 52:27D-437.16 et seq. (July 2, 2022), or upon tenant turnover, whichever is earlier. All inspections and certifications shall be completed by a certified Lead inspector or risk assessor. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification pursuant to this section.
- C. At the time of any Application for Certificate of Occupancy, or in accordance with the requirements of N.J.S.A. 52:27D-437.16, every owner shall present to the Housing Inspector, Code Enforcement Official or the Borough Manager's other designated agents, a Lead-safe certification prepared by a Lead inspector or risk assessor. Should the Owner fail to provide such a certification, the Borough shall have said inspection performed with the Borough's cost for same to be assessed against the Owner's property as a municipal lien.

8.42.050 Lead-Hazard Remediation

Upon the finding of a Lead-Based Hazard following any inspection including those conducted pursuant to this Section, the Owner shall remediate the lead-paint hazard in accordance with State Law. 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

8.42.60 Enforcement and Administration.

- A. Unless otherwise specified, the Division of Housing, Code Enforcement and Clean Communities shall have the authority to administer and enforce this Section.
- B. The Owner of a Rental Housing Unit that fails to obtain an initial lead-hazard assessment and/or comply with this Section within the timeframes set forth within shall first receive a Notice of Non-Compliance. If the dwelling owner has not cured the violation within 30 days, the 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. Remediation efforts are considered initiated when the owner has hired a lead abatement contractor or other qualified party to perform lead-hazard control methods.
- C. Penalty. Any violation of this Section shall be classified as a civil offense and shall be enforced by the Borough municipal court.

8.42.070 Fees. There shall be a fee of twenty-five (\$25) dollars collected by the Borough to be used to offset the Borough's administrative costs. In addition, the State fee of \$20 per unit inspected shall be charged, which is to be forwarded to the State to be deposited into the State Lead Hazard Control Assistance Fund.

Section 2

If any part of this Ordinance shall be deemed invalid such part shall be deemed severable and the invalidity thereof shall not affect the remaining part of this Ordinance.

Section 3

Any Ordinance or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed and superseded.

Section 4

This Ordinance shall take effect upon final passage and publication in accordance with Law.

Introduced: February 13, 2023

Public Hearing/Adoption: February 27, 2023