

**ORDINANCE 2024-3**

**ANDOVER BOROUGH  
SUSSEX COUNTY, NEW JERSEY**

**AN ORDINANCE TO ADD CHAPTER 88, TO BE ENTITLED “LEAD-BASED PAINT INSPECTIONS, RENTAL UNITS” TO THE CODE OF THE BOROUGH OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY**

**BE IT RESOLVED** by the Borough Council of the Borough of Andover in the County of Sussex, as follows:

**SECTION 1.** The Code of the Borough of Andover is amended to add new Chapter 88 which shall be entitled “Lead-Based Paint Inspections, Rental Units” and shall read, in its entirety, as follows:

**CHAPTER 88, LEAD-BASED PAINT INSPECTIONS, RENTAL UNITS**

**§ 88-1 Definitions.**

When used in this Chapter, all terms shall have the same meaning as defined in N.J.A.C. 5:28A-1.2, as the same may be amended from time to time.

**§ 88-2 Lead-Based Paint Inspections for Residential Rental Dwellings.**

N.J.S.A. 52:27D-437 et seq. (P.L. 2021, c. 182) requires inspections of certain single-family, two-family, and multi-family residential rental dwellings for lead-based paint hazards. The dwelling owners/landlords are required by State law to have the inspection performed by either an inspector retained by or through the Borough or by directly hiring a certified lead evaluation contractor for this purpose.

**§ 88-3 Requirement for Lead-Based Paint Inspection**

- A. All residential rental dwelling units required to be inspected under State law must initially be inspected for lead-based paint upon tenant turnover, but the first inspection must take place no later than July 22, 2024 in the event there has been no tenant turnover before that date.
- B. After the initial inspection, all units required to be inspected shall be inspected for lead-based paint hazards every three years, or upon tenant turnover, whichever is earlier. An inspection upon tenant turnover is not required if the owner has a valid lead-safe certificate. Lead-safe certificates are valid for two years. If the lead-safe certificate has expired, and there will be a tenant turnover, an inspection will be necessary before the three-year inspection.
- C. In the event the owner of a residential dwelling unit subject to this Chapter fails to submit a required lead-safe certification, the Borough shall – without limitation of remedies or of recourse against the owner – perform an inspection in conformance with the procedures set forth in N.J.A.C. 5:28A-2.3 utilizing a qualified staff member, a certified lead evaluation contractor hired by the Borough or an otherwise qualified person whose duty is to perform such tasks for the Borough. The following shall apply:

1. The Borough shall charge the dwelling unit owner a fee sufficient to cover the cost of the periodic lead-based inspection, including the cost of hiring a lead evaluation contractor, where applicable. The fee for an inspection or re-inspection shall be certified by and established in a Resolution adopted by the Borough Council with respect to each unit that is inspected. In the event any fee so established remains unpaid, the certified fee shall be provided to the Borough Tax Collector and established as a lien on the property wherein the dwelling unit is situate.
2. If a lead-based paint hazard is identified in an inspection, the owner of the dwelling unit shall be responsible for remediation to be conducted consistent with the requirements of N.J.A.C. 5:28A-2.5. Upon the remediation of the lead-based paint hazard, the Borough's authorized person or contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
3. If no lead-based paint hazards are identified, then the Borough's authorized person or contractor shall certify the unit as lead-safe on a form prescribed by the Department of Community Affairs, which shall be valid for two (2) years.

#### **§ 88-4 Exemptions from the Requirement for Lead-based Paint Inspections.**

All single-family, two-family, and multiple rental dwellings must be inspected except for the following dwellings which are exempt:

- A. Dwellings that were constructed during or after 1978.
- B. Single-family and two-family seasonal rental dwellings which are rented for less than six-months duration each year by tenants that do not have consecutive lease renewals.
- C. Dwellings that are certified to be free of lead-based paint pursuant to N.J.A.C. 5:17-3.16(b).
- D. Multiple rental dwellings that have been registered with the Department of Community Affairs for at least ten years and have no outstanding lead 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).
- E. Dwellings with a valid lead-safe certificate issued pursuant to P.L.2021, c.182. Lead-safe certificates are valid for two years from the date of issuance.

#### **§ 88-5 Reporting Requirements for Owners/Landlords and Contractors.**

- A. Owners/Landlords of all dwellings subject to the inspection requirements under this Chapter shall register their unit(s) with the Borough and provide the Borough with up-to-date information on inspection schedules, inspection results, and tenant turnover.
- B. An Owner/Landlord shall provide the Borough with a copy of any lead-free certification issued pursuant to N.J.A.C. 5:17 for their unit(s).
- C. The Owner/Landlord of a dwelling unit subject to this Chapter shall provide to each tenant and to the Borough evidence of a valid lead-safe certification at the time of

tenant turnover and shall affix a copy of each such certification to each tenant lease.

#### **§ 88-6 Fees**

The fees for lead-based paint inspections in residential rental dwellings shall be:

- A. New Jersey Certified Lead Paint Inspector/Risk Assessor Inspection or Re-Inspection – As set forth in Section 88-3(C)(1).
- B. NJ DCA Required Inspection Fee – See Section 66-1.
- C. Lead Wipe Sample Analysis (where required). The number of wipe samples will be determined by what is required by the State of New Jersey – See Section 66-1.
- D. The fee for filing a lead-safe certification or lead-free certification is set forth in Section 66-1.
- E. The fees collected pursuant to this section shall be dedicated to meeting the costs of implementing and enforcing this Chapter and shall not be used for any other purpose.
- F. In a common interest community, any fee charged pursuant to this section shall be the responsibility of the unit owner and not the homeowner's association, unless the association is the owner of the unit.

#### **§ 88-7 Violations and Penalties**

- A. A property owner/landlord within the Borough shall comply with the requirements of N.J.S.A. 52:27D-437 et seq. (P.L.2021, c.182) and this Chapter. If a Borough Official determines that a property owner/landlord has failed to comply with the inspection requirements of this Chapter, the property owner/landlord shall be given a 30-day notice to cure any violation by ordering the necessary inspection or by initiating remediation. If the property owner/landlord has not cured the violation within 30 days, the property owner/landlord shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or remediation efforts initiated.
- B. Any other violation of the provisions of this Chapter shall be subject to a fine of not less than \$200 nor more than \$2,000 for each offense, or such lesser amount as prescribed by law.

**SECTION 2.** All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 4.** This Ordinance shall take effect immediately upon final passage and publication according to law.

#### **NOTICE**

NOTICE IS HEREBY GIVEN that the attached Ordinance was introduced at a regular meeting of the Mayor and Council of the Borough of Andover, Sussex County, New Jersey, held on the 8<sup>th</sup> day of April 2024 and passed on first reading, and that such Ordinance was further considered for final passage and adopted at the regular meeting of the Mayor and Council held on the 13<sup>th</sup> day of May 2024 at the Borough Hall, 137 Main Street, in the Borough of Andover, at 7:00 p.m., and that at such time and place all persons interested were given an opportunity to be heard concerning said Ordinance.

Beth Brothman, RMC  
Andover Borough Clerk