

**ORDINANCE NO. BH-2024-74**

**AN ORDINANCE AMENDING THE BOARD OF HEALTH CODE OF THE TOWNSHIP OF BRANCHBURG, COUNTY OF SOMERSET, STATE OF NEW JERSEY, TO ADD A NEW CHAPTER BH10 “LEAD PAINT IN RENTAL HOUSING”**

**WHEREAS**, on July 22, 2021, the New Jersey Legislature adopted N.J.S.A. 52:27D-437.16 to 20 amending the Lead Hazard Control Assistance Act, N.J.S.A. 52:27D-437.1 (“Act”); and

**WHEREAS**, the Act as amended requires periodic inspections for certain rental dwellings that were constructed prior to 1978 for the purpose of identifying lead-based paint hazards; and

**WHEREAS**, in accordance with the Act as amended, a municipality shall be responsible for either performing the inspections or appointing a certified lead evaluation contractor to perform periodic lead-based paint inspections and establishing certain fees.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Health of the Township of Branchburg, County of Somerset, State of New Jersey, that the Board of Health Code of the Township be amended as follows:

**Section 1.** A new Chapter BH10 “Lead Paint in Rental Housing” is hereby added to the Board of Health Code of the Township of Branchburg as follows:

**CHAPTER BH10 LEAD PAINT IN RENTAL HOUSING**

**BH10-1. DEFINITIONS**

The words, terms, or phrases listed below for the purpose of this Chapter shall be defined and interpreted as follows:

**DEPARTMENT**

Shall mean the Branchburg Township Department of Health.

**DESIGNATED OFFICIAL**

Shall mean an employee of the Branchburg Township Department of Health who holds a valid Registered Environmental Health Specialist or Health Officer’s license as issued by the New Jersey Department of Health.

**DUST WIPE SAMPLING**

Shall mean 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 and conducted pursuant to N.J.A.C. 5:28A-2.3.

**DWELLING UNIT**

Shall mean a unit within a building that is rented or occupied or intended to be rented and occupied for sleeping and dwelling purposes by one or more persons.

#### INTERIM CONTROLS

Shall mean a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

#### LEAD ABATEMENT

Shall mean a set of measures designed to permanently eliminate lead-based paint hazards, in accordance with the standards of N.J.A.C. 5:17.

#### LEAD-BASED PAINT

Shall mean paint or other surface coating material that contains lead in excess of 1.0 milligrams per square centimeter or in excess of 0.5 percent by weight, or such other level established by federal law.

#### LEAD-BASED PAINT HAZARD

Shall mean any condition that causes exposure to lead from lead-contaminated dust or lead-contaminated paint that is deteriorated or present on surfaces that would result in adverse human health effects.

#### LEAD EVALUATION CONTRACTOR

Shall mean a firm certified by the Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:17. This includes the ability to perform dust wipe sampling.

#### LEAD-FREE CERTIFICATION

Shall mean the certificate issued, in accordance with N.J.A.C. 5:17, which states that there is no lead-based paint or that the dwelling has undergone lead abatement.

#### LEAD-SAFE CERTIFICATION

Shall mean a certification issued pursuant to N.J.A.C. 5:28A-1.1 et seq., which confirms that a periodic lead-based paint inspection was performed, and no lead-based paint hazards were found. This certification shall be valid for two years from the date of issuance.

#### LEAD FREE

Shall mean that a dwelling has been certified to have no lead-based paint or has undergone lead abatement, in accordance with N.J.A.C. 5:17.

#### LEAD SAFE

Shall mean that a dwelling has been found to have no outstanding lead-based hazards, however it does not mean that the dwelling is certified to be lead free.

## MULTIPLE DWELLING

Shall mean 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 10 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).

## PERIODIC LEAD-BASED PAINT INSPECTION

Shall mean the initial inspection of all applicable dwelling units at the earlier of two years from the effective date of the Act as amended, being July 22, 2022, or tenant turnover, and thereafter the earlier of three years or upon tenant turnover.

## REMEDIATION

Shall mean interim controls or lead abatement work undertaken in conformance with this Chapter to address lead-based paint hazards.

## TENANT TURNOVER

Shall mean 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.

## VISUAL ASSESSMENT

Shall mean a visual examination for deteriorated paint or visible surface dust, debris, or residue and as conducted pursuant to N.J.A.C. 5:28A-2.3

## **BH10-2. APPLICABILITY AND EXEMPTIONS**

- a. This Chapter applies to single family homes, two family homes, and multiple dwelling units with the exception of those exempt according to (b) below.
- b. The following rental dwelling units shall be exempt from the requirements of this Chapter and thus shall not be subject to the periodic lead-based paint inspection and evaluation for the presence of lead-based paint hazards:
  1. Dwelling units constructed during or after 1978;
  2. Dwelling units that have been certified to be lead free;
  3. Is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the dwelling under the "Hotel and Multiple Dwelling Law", N.J.S.A. 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 tenant that do not have consecutive lease renewals;  
or

5. Dwelling units that have a valid lead safe certification issued pursuant to this Chapter.

### **BH10-3. LEAD-BASED PAINT INSPECTION**

- a. The Department or its designee shall conduct the inspection of every applicable property in BH10-2 above for lead-based paint hazards in accordance with the Act, or hire a Lead Evaluation Contractor to conduct such inspection on its behalf. The property owner or landlord, in lieu of having the dwelling inspected by the Department or its designee, may directly select and hire a Lead Evaluation Contractor to perform the lead-based paint inspection.
- b. The initial inspection for lead-based paint hazards shall occur before July 22, 2024, or at tenant turnover, whichever is earlier. Thereafter, all such dwelling units shall be inspected at tenant turnover, or every three years, whichever is earlier, except that an inspection shall not be required at tenant turnover if the dwelling unit owner has a valid lead-safe certification for the dwelling unit.
- c. Whenever any rental unit subject to this Chapter is scheduled for tenant turnover, the then-current property or landlord or their agent shall provide written notice to the Township that an inspection is needed at least 30 days prior to the scheduled date of tenant turnover. Any applicable fees shall be paid at least 14 days prior to the scheduled inspection. Any inspection where the landlord, tenant, property owner, or agent fails to provide access for the inspection shall be deemed to have failed the inspection and be subject to re-inspection fee.
- d. The property owner, landlord, or their agent has the right to select their own Lead Evaluation Contractor to perform any of these inspections. The contractor selected must be on the current list of approved contractors provided by the New Jersey Department of Community Affairs. This contractor shall then provide written results of the inspections to the Department.
- e. If lead-based paint hazards are identified upon visual or dust wipe inspection, the property owner of the dwelling unit, at their own expense, shall remediate the hazards through abatement or interim controls, approved in accordance with the provisions of the Act and state regulations. Upon the completion of the abatement or interim controls, the Designated Official, or the Lead Evaluation Contractor hired by the Department or the property owner, landlord, or their agent shall conduct an additional inspection of the dwelling to certify that the lead-based paint hazard no longer exists.
- f. If no lead-based paint hazards are identified upon inspection, the Department or their designee, upon receipt of the written inspection results, shall certify the dwelling as lead safe on a form prescribed by the Department of Community Affairs, which shall be valid for two years from the date of issuance.

#### **BH10-4. FEES**

The fees for lead based paint inspections shall be as follows:

- a. The fee for visual assessments performed by the Township shall be \$250.00.
- b. The fee for visual assessments with dust wipe sampling performed by the Township shall be \$300.00.
- c. The fee for any re-inspections performed by the Township shall be \$150.00.
- d. The fee for visual assessments, dust wipe sampling or re-inspections performed by a Lead Evaluation Contractor hired by the Township shall be equal to the cost charged by such Contractor.
- e. If the property owner, landlord, or their agent selects their own Lead Evaluation Contractor to perform the inspection, a fee of \$50.00 shall be paid to the Township for issuance of the Lead Free or Lead Safe Certification.
- f. All fees set forth herein are inclusive of the \$20.00 to be paid to the Department of Community Affairs in accordance with N.J.S.A. 52:27D-437.16h.

#### **BH10-5. ENFORCEMENT AND PENALTIES**

- a. The Department shall conduct investigations and issue penalties in order to enforce a property owner's failure to comply with this Chapter.
- b. If a property owner or its agent fails to notify the Township of tenant turnover, fails to allow access or conduct the required inspections, or fails to correct any lead paint-based hazards, the Department shall issue a notice to cure any violation by conducting the required inspections or initiate any required remediation efforts within 30 days.
- c. If the Department or its designee is required to perform the inspections and any reevaluations or inspections because of a lack of required action by the property owner, then the Township reserves its right to recoup all expenses incurred by placing a lien on the property for all costs associated with the work.
- d. If the property owner has failed to cure the violation within the 30-day timeframe, then the property owner shall be subject to a penalty not to exceed \$1,000 per week or portion thereof, until the required inspection is conducted, or remediation efforts have been initiated.

**Section 2.** This Ordinance shall be construed so as not to conflict with any provision of New Jersey or Federal law. In the event of any inconsistencies or conflicts between this Ordinance and existing ordinances of the Township, the provisions of this Ordinance shall apply.

**Section 3.** If any provisions of this Ordinance shall be adjudged invalid, such adjudication shall

not affect the validity of the remaining provisions, which shall be deemed severable therefrom.

**Section 4.** This Ordinance shall take effect immediately upon its adoption, passage and publication according to law.

INTRODUCED/PASSED ON FIRST READING: *June 10, 2024*

ROLL CALL VOTE				
COMMITTEE MEMBER	YES	NO	ABSTAIN	ABSENT
SCHWORN	✓			
BEATRICE	✓			
OWENS	✓			
YOUNG	✓			
COLUMBUS	✓			

PUBLISHED: *June 14, 2024*

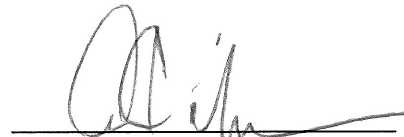
ADOPTED: *June 24, 2024*

ROLL CALL VOTE				
COMMITTEE MEMBER	YES	NO	ABSTAIN	ABSENT
SCHWORN	✓			
BEATRICE	✓			
OWENS	✓			
YOUNG	✓			
COLUMBUS	✓			

ATTEST:



Maggie Schmitt, RMC  
Township Clerk



Anna Columbus  
Mayor