



**BOROUGH OF CALDWELL  
NEW JERSEY**

ORDINANCE NO. 1457-24

**AN ORDINANCE OF THE BOROUGH OF CALDWELL IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 175 OF THE BOROUGH CODE REGARDING REQUIREMENT FOR INSPECTION OF LEAD-BASED PAINT IN CERTAIN RESIDENTIAL DWELLINGS**

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**WHEREAS**, the Borough of Caldwell (the "Borough") maintains Chapter 175 entitled "Property Maintenance" of the Borough Code, specifically the Property Maintenance Code; and,

**WHEREAS**, pursuant to P.L. 2021, c. 182, all municipalities are required to inspect every single-family, two-family, and multiple rental dwelling units located within the municipality on a recurring basis and at tenant turnover for lead-based paint hazards; and,

**WHEREAS**, the Borough Mayor and Council determined it is in the best interests of Borough residents to amend the Borough Code at this time to require inspections for lead-based paint in certain residential rental dwellings to conform with the State law.

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Council of the Borough of Caldwell, County of Essex, State of New Jersey, that:

**Section 1.** The aforementioned recitals are incorporated in their entirety, as if restated herein.

**Section 2.** Chapter 175 of the Borough Code, entitled "Property Maintenance" shall hereby be amended and supplemented, as follows:

**Lead-Based Paint Inspections.**

**§ 175-4. Required Initial Inspection.** The owner, landlord and/or agent 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 within two years of the effective date of the law, July 22, 2022, or upon tenant turnover, whichever is earlier.

**§ 175-5. Required Recurring Inspection.** After the initial inspection required by Section 175-4, the owner, landlord and/or agent of such dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three years, or at tenant turnover, whichever is earlier, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification. The owner, landlord and/or agent shall inform the Borough of all tenant turnover activity so the Borough can ensure that required inspections are occurring.

**§ 175-6. Retention of Contractor.** A dwelling owner or landlord shall directly hire a private lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the inspection requirements of Section 175-4. The dwelling owner or landlord shall be required to inform the Borough of the private lead evaluation contractor retained and all essential details for the scheduled inspection. The Borough shall exercise appropriate oversight over the private lead evaluation contractor retained by the owner or landlord.

**§ 175-7. Standards.** Inspections for lead-based paint in rental 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., as may be amended from time to time.

**§ 175-8. Exceptions.** A dwelling unit in a single-family, two-family, or multiple rental dwelling units shall not be subject to inspection and evaluation for the presence of lead-based paint hazards, or for the fees for such inspection or evaluation, if the unit:

- a. has been certified to be free of lead-based paint; or
- b. was constructed during or after 1978; or
- c. 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 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", N.J.S.A. 55:13A-1, et seq.; or
- d. is a single-family or two-family seasonal rental dwelling unit which is rented for less than six months duration each year by tenants that do not have consecutive lease renewals; or
- e. has a valid lead-safe certification issued in accordance with N.J.S.A. 52:27D-437.16(d)(2).

Lead-safe certifications are valid for two years from the date of issuance.

**§ 175-9.** If lead-based paint hazards are identified, then the owner of the dwelling shall remediate the hazards through abatement or lead-based paint hazard control mechanisms in accordance with N.J.S.A. 52:27D-437.16(d). Remediation of a lead-based paint hazard shall solely be the responsibility of the owner. Upon the remediation of the lead-based paint hazard, the owner's private lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

**§ 175-10.** If no lead-based paint hazards are identified, then the owner's private 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 years and shall be filed with the Borough. The Borough shall maintain up-to-date information on inspection schedules, inspection results, tenant turnover, and a record of all lead-free and lead-safe certifications issued.

**§ 175-11. In accordance with N.J.S.A. 52:27D-437.16(e), property owners shall:**

- a. Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Borough of Caldwell at the time of the cyclical inspection.
- b. Provide evidence of a valid lead-safe certification to new tenants of the property at the time of tenant turnover and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease.
- c. Maintain a record of the lead-safe certification which shall include the name or name of the unit's tenant or tenants if the inspection was conducted during a period of tenancy.

**§ 175-12. Fees.**

- a. The fee for the filing of a lead-safe certification or lead-free certification shall be \$50.
- b. In addition to the filing fee, 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 the New Jersey State Department of Community Affairs, unless the owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20.00.
- c. In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

**§ 175-13. Violations and Penalties. In accordance with N.J.S.A. 52:27D-437.19, the penalties for a violation of Article shall be as follows:**

- a. The Borough shall have the authority to conduct inspections or investigations of landlords or owners to ensure that periodic lead-based paint inspections are being performed.

- b If a property owner has failed to conduct the required inspection or initiate any remediation efforts, the owner shall be given 30 days to cure the violation.
- c If the property owner has not cured the violation after 30 days, the property 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.

**Section 3.** Severability. If any section, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

**Section 4.** Repeal of Prior Ordinances. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

**Section 5.** Effective Date. This ordinance shall take effect after final passage and publication as provided by law.

DATE OF INTRODUCTION: **April 16, 2024**

DATE OF ADOPTION: **May 7, 2024**

FIRST: Councilman Alonso

FIRST:

SECOND: Councilwoman Buechner

SECOND:

**RECORD OF COUNCIL VOTE**

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\_\_\_\_\_ presented the following Ordinance- Seconded by: \_\_\_\_\_

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

Buechner						Daniolowicz				
Alonso						Jurgensen				
Brown						Rodeffer				

\_\_\_\_\_  
Brittany Heun, Deputy Clerk

\_\_\_\_\_  
Garrett Jones, Mayor

This ordinance, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.