

Introduction: June 5, 2024
Public Hearing: June 18, 2024

**TOWNSHIP OF CHESTER
ORDINANCE 2024-12**

AN ORDINANCE OF THE TOWNSHIP OF CHESTER CREATING CHAPTER 26, "LEAD-BASED PAINT HAZARD INSPECTION REQUIREMENTS FOR RENTAL DWELLINGS" OF THE TOWNSHIP CODE

WHEREAS, the Township of Chester is required to maintain a lead-based paint hazard inspection program under N.J.S.A. 52:27D-437.16; and

NOW THEREFORE BE IT ORDAINED by the Township Council of the Township of Chester, County of Morris, New Jersey, as follows:

Section 1.

Chapter 26, "Lead-Based Paint Hazard Inspection Requirements for Rental Dwellings" is hereby created as follows:

Section 2.

**ARTICLE 26
LEAD-BASED PAINT HAZARD INSPECTION REQUIREMENTS FOR RENTAL DWELLINGS**

§ 26-1 Definitions

The following definitions shall apply to this article:

DUST WIPE SAMPLING: 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.

LEAD INSPECTOR: A person certified by the Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:17-1.1 et seq. This includes the ability to perform dust wipe sampling.

LEAD-BASED PAINT HAZARD: 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.

LEAD-FREE CERTIFICATION: A certification that confirms that a lead-based paint inspection was

performed and that no lead-based paint exists in the dwelling unit or that all lead-based paint hazards have been fully abated.

LEAD-SAFE CERTIFICATION: A certification that confirms that a lead-based paint inspection was performed and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance.

TENANT TURNOVER: The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

VISUAL ASSESSMENT: A visual examination for deteriorated paint or visible surface dust, debris, or residue.

VISUAL ASSESSOR: A person that is certified to perform a visual assessment.

§ 26-2 Lead-based paint Inspection.

- A. A lead inspector for the Township of Chester shall inspect every single-family, two-family, and multiple rental dwelling located within the Township for lead-based paint hazards through visual assessment and dust wipe sampling in accordance with N.J.S.A. 52:27D-437, 16 et seq., as may be amended from time to time.
- B. The property owner or landlord may, in lieu of having the dwellings inspected by the Township's lead inspector, directly hire a private lead inspector who is certified to provide lead paint inspection services by the Department of Community Affairs to perform the lead-based paint inspection in accordance with N.J.S.A. 52:27D-437.16 et seq., as may be amended from time to time.
- C. In accordance with N.J.S.A. 52:27D-437.16, 16(c), 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) Has been certified to be free of lead-based paint;
 - (2) Was constructed on or after 1978;
 - (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 a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on multiple use 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 tenants that do not have consecutive lease renewals; or

- (5) Has a valid lead-safe certification.
- D. If lead-based paint hazards are identified, then the owner of the dwelling shall remediate the hazards through abatement of lead-based paint hazard control mechanisms in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the Township's lead inspector or visual assessor, as may be applicable, or the owner's private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
- E. If no lead-based paint hazards are identified, then the Township's lead inspector or the owner's private lead inspector shall certify the dwelling as lead safe on a form prescribed by the Department of Community Affairs, which shall be valid for two years.
- F. In accordance with N.J.S.A. 52:27D-437.16(e), property owners shall:
- (1) Provide evidence of a valid lead-safe certification, and the most recent tenant turnover to the Township of Chester at the time of the cyclical inspection.
 - (2) 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.
 - (3) Maintain a record of the lead-safe certification which shall include the name or names of the unit's tenant or tenants if the inspection was conducted during a period of tenancy.
- G. The fees for a lead-based paint inspections shall be as follows:
- (1) The fee for a visual assessment \$250 per unit performed by the Township's third party lead inspector.
 - (2) The fee for the filing of a lead-safe certification or lead-free certification shall be \$50.
 - (3) In accordance with N.J.S.A. 52:27D-437.16(h), an additional state fee of \$20 per dwelling unit inspected by the Township's lead inspector or the owner's private lead inspector shall be assessed for the purposes of the Lead Hazard Control Assistance Act (N.J.S.A. 52:27D-437.1 et, seq.) unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20. The fees collected pursuant to this subsection shall be paid directly to the Township and shall be deposited into the Lead Hazard Control Assistance Fund.
 - (4) Re-inspection/clearance by the Township's third party lead inspector, \$320 per unit.

Fees charged by the Township's third party lead inspector shall be billed directly by such vendor to the party requesting the inspection.

§ 26-3 Violations and Penalties.

In accordance with N.J.S.A. 52:27D-437.19, the penalties for a violation of § 26-2.D and F shall be as follows:

- A. 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.
- B. 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 is conducted or remediation efforts have been initiated.

§ 26-4 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.

Section 3.

If any section, sub-section, paragraph, sentence, or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section 4.

All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 5.

This ordinance shall take effect immediately after final passage and publication as prescribed by law.

ATTEST:

TOWNSHIP COUNCIL OF THE
TOWNSHIP OF CHESTER

Robin Collins

Robin Collins
Municipal Clerk/Administrator

Timothy Drag

Timothy Drag
Mayor