

BOROUGH OF FOLSOM

ORDINANCE# 07- 2023

AN ORDINANCE AMENDING CHAPTER 151 OF THE GENERAL CODE OF THE BOROUGH OF FOLSOM ADDING ARTICLE 12 REQUIRING LEAD- BASED PAINT HAZARD INSPECTIONS FOR RENTAL DWELLINGS

WHEREAS, the Council of the Borough of Folsom wishes to establish regulations for lead based testing in accordance with N.J.S.A. 52:27D-437.16; and

WHEREAS, pursuant to N.J.S.A. 40: 48-2, a municipality may repeal or amend an ordinance as it deems necessary and proper for good government, order and protection of persons and property and for the presentation of the public health, safety and welfare of its inhabitants.

WHEREAS, lead based testing is necessary to maintain safety in housing.

NOW THEREFORE BE IT ORDAINED by the Council of the Borough of Folsom that Chapter 151 of the General Code is amended as follows:

SECTION 1. CHAPTER §151- 12 shall state LEAD BASED PAINT TESTING

§151-12-A 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 which 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 which 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.

§151-12B Lead-based paint inspection.

1. The property owner or landlord will 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.

2. In accordance with N.J.S.A. 52:27D-437.16 (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:

- a. Has been certified to be free of lead-based paint;
- b. Was constructed during or after 1978;
- 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.
- d. 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
- e. Has a valid lead-safe certification issued in accordance with this section.

3. 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). Upon the remediation of the lead-based paint hazard, the owner's private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

4. If no lead-paint hazards are identified, 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.

5. 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 Folsom 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 unless not required to have had an inspection by a lead evaluation contractor pursuant to this section 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 names of the unit's tenant or tenants if the inspection was

conducted during a period of tenancy, unless not required to have had an inspection by a lead evaluation contractor pursuant to this section.

- f. The fees for a lead-based paint inspection shall be as follows:
 - a. The fee for a visual assessment and dust wipe sampling is as follow if performed by the Borough’s lead inspector:

Visual Inspection

- Half Day Inspection (3 Units)
 - \$437.00/Unit
- Full Day Inspection (4 To 8 Units)
 - 4 Units: \$470.00/Unit
 - 5 Units: \$400.00/Unit
 - 6 Units: \$354.00/Unit
 - 7 Units: \$320.00/Unit
 - 8 Units: \$295.00/Unit

There may be times when a municipality is designated by the DCA or other government agencies as high-risk community for lead-based paint hazards in rental dwelling units requiring an elevated test, termed “Dust Wipe Sampling”. A Dust Wipe Sampling means a sample collected by wiping a representative surface and tested in accordance with a method approved by HUD. If the Dust Wipe Sampling Inspection is required the following fees apply:

Dust Wipe Sampling Inspection - (Assumes 8 Samples Plus 1 Blank)

- Half Day Inspection (3 Units)
 - \$599.00/Unit
- Full Day Inspection (4 To 8 Units)
 - 4 Units: \$632.00/Unit
 - 5 Units: \$562.00/Unit
 - 6 Units: \$516.00/Unit
 - 7 Units: \$482.00/Unit
 - 8 Units: \$457.00/Unit

- b. The fee for the filing of a lead-safe certification provided to the Borough or lead-free certification shall be \$25.00.
- c. In accordance with N.J.S.A. 52:27D-437.16 (h), an additional fee of \$20.00 per dwelling unit inspected by the Borough's lead inspector or the owner's private lead inspector shall be assessed for the purposes of the lead Hazard Control Assistance Act unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20.00. The fees collected pursuant to this subsection shall be deposited into the Lead Hazard Control Assistance Fund.

§151-12C Violations and penalties.

In accordance with N.J.S.A. 52:27D-437.19 the penalties for a violation of §151-12 B 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 has been conducted or remediation efforts have been initiated.

SECTION 2. REPEAL OF PRIOR ORDINANCES. All ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION 3. SEVERABILITY. To the extent that any part of parts of this Ordinance are repealed or otherwise modified or voided by State Statute or case law, the remaining portions or sections of this Ordinance shall remain in full force and effect. If any section, sentence or any part of this Ordinance is adjudged, unconstitutional or invalid by a Court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of the Ordinance, but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy in which judgment shall have been rendered.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect after final passage and publication as provided by law.

PUBLIC NOTICE is hereby given that the foregoing proposed Ordinance was introduced and read by title at a meeting dated:

ATTEST:

BOROUGH OF FOLSOM

Patricia Gatto, Borough Clerk

Greg Schenker , Mayor