

ORDINANCE 2024-08

AN ORDINANCE AMENDING CHAPTER 9, BUILDING AND HOUSING OF THE CODE OF THE BOROUGH OF LAKE COMO ESTABLISHING THE LEAD PAINT INSPECTION PROGRAM

WHEREAS, the Borough of Lake Como (the “Borough”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, in July of 2021, Governor Murphy signed into law P.L. 2021, c 182, which legislation amended the Lead Hazard Assistance Act, N.J.S.A. 52:27D-437.1, et seq., as same pertains to lead-paint hazards in residential properties; and

WHEREAS, the aforesaid legislation requires municipalities to either perform inspections of certain single family, two-family and multiple rental dwellings for lead-based hazards, or to permit the dwelling owner or landlord to directly hire a certified lead evaluation contractor; and

WHEREAS, Chapter 9 of the Borough’s Code currently contains ordinances which provide oversight and control of the residential rental units in the Borough; and

WHEREAS, the Borough Council is desirous of amending and supplementing these ordinances so as to enact a program requiring inspections on certain rental units to alleviate lead-based paint hazards in certain rentals;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Lake Como, County of Monmouth, State of New Jersey, as follows:

Section 1. Chapter 9, Building and Housing of the Code of the Borough of Lake Como shall be amended to read as follows; additions to the current ordinance are noted in underline.

9-9 Lead Abatement Program

9-9.1 Purpose. The purpose of this Section is to prevent and protect children from lead-based hazards during their occupancy of residential rental properties and to create and preserve safe and healthy rental housing in the Borough.

9-9.2 Scope. This section shall apply to any Dwelling Unit as defined by this section which was built before 1978. Dwelling Units shall be exempt from these requirements if exempted pursuant to N.J.S.A. 52:27D-437.12 *et seq.*

9-9.3 Definitions.

- A. “Dwelling” means a building containing a room or rooms, or suite, apartment, unit, or space, that is rented and occupied or intended to be rented and occupied for sleeping and dwelling purposes by one or more persons.
- B. “Dwelling Unit” means a portion of a building that is rented and occupied or intended to be rented or occupied for sleeping and dwelling purposes by one or more persons.

- C. “Lead Inspector or Risk Assessor” means an individual certified by the Department of Health to perform lead inspection and risk assessment work pursuant to N.J.A.C. 8:62. This includes the ability to perform dust wipe sampling.
- D. “Lead-Based Paint Hazard” means 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.
- E. “Lead-Based Paint” means paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5% by weight, or such other level as may be established by federal law.
- F. “Lead Abatement” means a set of measures designated to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner in N.J.A.C. 5:17.
- G. “Lead Safe” means that a dwelling has no outstanding lead-based paint hazards, but the dwelling is not necessarily lead free.
- H. “Lead-Safe Certification” means the certification issued pursuant to the regulations promulgated pursuant to P.L. 2021, c. 182, which confirms that a periodic inspection, as defined below, was performed, and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance.
- I. “Owner” means a person, association, corporation, partnership, and/or other legal entity having a legal or equitable title in real property.
- J. “Tenant turnover” means the time at which all of the existing occupants vacate a dwelling unit, and new tenants move into the dwelling unit, or the time at which a new tenant enters a vacant dwelling unit.

9-9.4 Lead-Safe Housing Assessment and Reporting

- A. Responsibility. The Owner of a Dwelling or Dwelling Unit shall ensure that an inspection for Lead-Based Paint Hazards is completed on their property as established in this section. No Owner shall rent, offer to rent, or allow occupancy of a Dwelling or Dwelling Unit without complying with the terms of this Chapter.
- B. Inspections and Lead-Safe Certification. All Dwellings and Dwelling Units must be inspected for Lead-Based Paint Hazards within two years of the effective date of the Lead Hazard Assistance Act, N.J.S.A. 52:27D-437.16 et seq. (July 2, 2022), or upon tenant turnover, whichever is earlier, and provide a Lead-Safe Certification to the Borough. All inspections and certifications shall be completed by a certified Lead Inspector or Risk Assessor. Thereafter, all Dwellings and Dwelling Units shall be inspected for Lead-Based Paint Hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid Lead-Safe Certification pursuant to this section.

- C. At the time of application for Lead-Safe Certification by the Borough, or in accordance with the requirements of N.J.S.A. 52:27D-437.16, every owner shall present to the Borough's designated official a certified report prepared by a Lead Inspector or Risk Assessor showing that the Dwelling or Dwelling Unit is lead-safe. Should the Owner fail to provide such certified report, the Borough shall have an inspection for Lead-Based Paint Hazards performed, with the Borough's cost for same by assessed against the Owner's property as a municipal lien.

9-9.5 Lead-Hazard Remediation

Upon the finding of a Lead-based Paint Hazard in a Dwelling or Dwelling Unit, the Owner shall remediate the Lead-Based Paint Hazard in accordance with State Law. Upon the remediation of the Lead-Based Paint Hazard, the Lead Inspector or Risk Assessor shall conduct an additional inspection to confirm that the hazard no longer exists and provide a Lead-Safe Certification to the Borough.

9-9.6 Enforcement and Administration

- A. Unless otherwise specified, the official designated by the Borough shall have the authority to administer and enforce this Section.
- B. The Owner of a Dwelling or Dwelling Unit that fails to have it inspected for Lead-Based Paint Hazards, render the property Lead Safe and obtain a Lead-Safe Certification in accordance with this Chapter shall receive a Notice of Non-Compliance from the Borough. If the Owner does not begun remediation efforts within 30 days, the Owner shall be subject to a penalty not to exceed \$1,000.00 per week until the requirements of this Chapter have been met. Remediation efforts are considered initiated when the Owner has hired a lead abatement contractor or other qualified party to perform lead-hazard control methods.
- C. Penalty. Any violation of this Section shall be classified as a civil offense and shall be enforce by the Borough municipal court.

9-9-7 Fees.

- (a) The dwelling owner or landlord shall pay all fess associated with the cost of the required Lead-Based Paint Hazard inspection and Lead-Safe Certification, including the cost of inspection by a Lead Inspector or Risk Assessor.
- (b) In addition, the Owner shall pay the Borough an application fee of \$20.00 per unit for Dwellings or Dwelling Units required to be inspected and certified pursuant to this Chapter.

Section 2. If any part of this Ordinance shall be deemed invalid such part shall be deemed severable and the invalidity thereof shall not affect the remaining part of this Ordinance.

Section 3. Any Ordinance or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed and superseded.

Section 4. This Ordinance shall take effect upon final passage and publication in accordance with Law.

Adopted on First Reading
Dated: August 6, 2024

Amy L. Boney, RMC
Borough Clerk

Adopted on Second Reading
Dated: _____

Amy L. Boney, RMC
Borough Clerk

Approval by the Mayor on This ____ Day Of _____, 2024

Kevin G. Higgins, Mayor