

TOWNSHIP OF MOORESTOWN

ORDINANCE NO. 3-2024

**AMENDING THE TOWNSHIP CODE OF THE TOWNSHIP OF MOORESTOWN TO
CREATE CHAPTER 142 TO GOVERN
LEAD-BASED PAINT INSPECTIONS IN RESIDENTIAL RENTAL DWELLINGS**

WHEREAS, on July 22, 2021, Governor Murphy signed into law legislation, P.L. 2021, c.182 (N.J.S.A. 52:27D-437.16-20) regulating, in pertinent part (for purposes of this ordinance), municipal lead-based paint hazard inspections as they relate to certain residential rental dwellings, among other things; and

WHEREAS, pursuant to N.J.S.A. 52:27D-437.16, in pertinent part and with certain exceptions, Moorestown Township (“Township”) is required, no later than July 2024, to inspect single-family, two-family, and multiple rental dwelling units located within the municipality for lead-based paint hazards; and thereafter, every three years or upon tenant turnover, whichever is earlier (unless, upon tenant turnover, the Owner or his Responsible Designee has a valid lead-safe certification); and

WHEREAS, pursuant to N.J.S.A. 52:27D-437.16(5) and N.J.A.C. 5:28A-2.2, the Township is required to establish and charge the Responsible Party a fee sufficient to cover the cost of the inspection; and all fees collected shall be dedicated to implementing and enforcing the inspection regulations and shall not be used for any other purpose; and

WHEREAS, the Township is required to employ a Municipal Lead Inspector to perform said inspections; however, the Township shall permit the Responsible Party to directly hire a Lead Evaluation Contractor who is certified, by the Department of Community Affairs, to provide lead paint inspection services; and

WHEREAS, the Township Council finds it in the Township’s best interest to adopt an ordinance, as required by and in conformance with N.J.S.A. 52:27D-437.16-20.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Township Council of the Township of Moorestown, County of Burlington, and State of New Jersey that Chapter 142 be hereby established as follows:

Section 1. The Code of the Township of Moorestown shall be amended by adding the following:

Chapter 142

ARTICLE I

RENTAL PROPERTIES, RESIDENTIAL

LEAD-BASED PAINT INSPECTIONS

- 142-1 Purpose.
- 142-2 Definitions.
- 142-3 Owner, responsible party; responsible designee; applicability and exemptions.
- 142-4 Registration requirements.
- 142-5 Periodic lead-based paint inspection; performance; procedure.
- 142-6 Fees for inspection; monies deposited.
- 142-7 Inspection results and lead-safe certification.
- 142-8 Responsible Party responsibility.
- 142-9 Recordkeeping requirements; Municipal Lead Inspector and Lead Evaluation Contractor Responsibility.
- 142-10 Enforcement; violations; penalties.
- 142-11 (Reserved)
- 142-12 (Reserved)
- 142-13 (Reserved)

142-1. Purpose.

To establish and regulate a Periodic Lead-Based Paint Inspection program and registry, in accordance with N.J.S.A. 52:27D-437.16 and 19 and N.J.A.C. 5:28A-1 et seq. for single-family, two-family, and multiple dwelling rental units except as exempted.

142-2. Definitions.

The following words and terms, when used in this Article, shall have the following meanings unless the context clearly indicates otherwise:

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 (HUD) and as conducted pursuant to N.J.A.C. 5:28A-2.3.

DWELLING

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.

DWELLING UNIT

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

INTERIM CONTROLS

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, or the term as it is defined pursuant to 42 U.S.C. § 4851b and the regulations adopted pursuant thereto.

LEAD ABATEMENT

A set of measures designed to permanently eliminate Lead-Based Paint Hazards, in accordance with the standards established by the Commissioner at N.J.A.C. 5:17.

LEAD ABATEMENT CONTRACTOR

A firm certified by the Department to perform remediation through Lead Abatement or Interim Control work pursuant to N.J.A.C. 5:17.

LEAD ABATEMENT WORKER

An individual certified by the New Jersey Department of Health to perform Lead Abatement or Interim Control work pursuant to N.J.A.C. 8:62.

LEAD-BASED HAZARD CONTROL METHODS

Interim Controls, as defined above.

LEAD-BASED PAINT

Paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5 percent by weight, or such other level, as may be established by Federal law.

LEAD-BASED PAINT HAZARD

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

A firm certified by the Department 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. Page 4 of 14 N.J.A.C. 5:28A-1.2

LEAD INSPECTOR/RISK ASSESSOR

An individual certified by the New Jersey 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.

LEAD-FREE CERTIFICATION

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, in accordance with N.J.A.C. 5:17.

LEAD-SAFE CERTIFICATION

The certification issued pursuant to this Article, which confirms that a periodic 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, in accordance with N.J.A.C. 5:28A-2.4.

LEAD FREE

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

A dwelling has been found to have no outstanding Lead-Based Paint Hazards. It does not mean that the dwelling is certified to be lead free.

MULTIPLE DWELLING

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. 55:13A3(k).

OWNER, RESPONSIBLE PARTY; RESPONSIBLE DESIGNEE

The person or persons who own or purport to own, or exercise control of any building or project in which there is rented or offered for rent housing space for living or dwelling purposes under either a written or oral lease. While the Owner may designate responsibility of this Article onto one that exercises control over the property, the Owner is the ultimate Responsible Party.

PERIODIC LEAD-BASED PAINT INSPECTION

The initial inspection of all applicable dwelling units at the earlier of two years from the effective date of P.L. 2021, c. 182, July 22, 2022, or Tenant Turnover, and thereafter the earlier of three years or upon Tenant Turnover, consistent with N.J.A.C. 5:28A-2.1, for the purposes of identifying Lead-Based Paint Hazards in dwellings subject to this Article.

PERMANENT LOCAL AGENCY

A local, municipal agency maintained for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within its jurisdiction. This may include local building agencies, health agencies, and housing agencies. "Remediation" means Interim Controls or Lead Abatement work undertaken in conformance with this Article to address Lead-Based Paint Hazards.

TENANT TURNOVER

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.

TOWNSHIP

The Township of Moorestown

VISUAL ASSESSMENT

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.

142-3. Owner, responsible party; responsible designee; applicability and exemptions.

1. The Owner, or his Responsible Designee, shall be responsible for compliance with this Article.
2. This Article applies to all rental single-family, two-family, and multiple dwelling units with the exception of those exempt pursuant to paragraph 3. below.
3. The following rental dwelling units shall be exempt from the requirements of this Article and, thus, shall not be subject to Periodic Lead-Based Paint Inspection and evaluation for the presence of Lead-Based Paint Hazards:
 - a. Dwelling units that were constructed during, or after, 1978;
 - b. Single-family and two-family seasonal rental dwelling units that are rented for less than six months duration each year by tenants that do not have consecutive lease renewals;
 - c. Dwelling units that have been certified to be free of Lead-Based Paint, pursuant to N.J.A.C. 5:17;

- d. Multiple dwelling rental units constructed prior to 1978 that have been registered with the Department of Community Affairs for at least 10 years and have no outstanding paint violations from the most recent cyclical inspection performed on the multiple dwelling pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., and N.J.A.C. 5:10.
 - i. All multiple dwelling rental units constructed prior to 1978 that have been registered with the Department of Community Affairs for at least 10 years and that have a current certificate of inspection issued by the Department of Community Affairs, Bureau of Housing Inspection, shall be exempt from this Article;
 - ii. All multiple dwelling units constructed prior to 1978 that have been registered with the Department for at least 10 years with open inspections that have no violations for paint shall also be exempt from this Article; and
- e. Dwellings with a valid Lead-Safe Certification issued pursuant to this Article. Lead-Safe Certifications are valid for two years from the date of issuance pursuant to N.J.A.C. 5:28A-2.4.

142-4. Registration requirements.

Unless exempted, the Owner, or his Responsible Designee, shall be responsible to register the property, as described in Section 142-1, on forms prepared by the Municipal Lead Inspector. At the time of initial registration, a one-time twenty-five dollar (\$25) registration fee shall be rendered payable to the Township of Moorestown.

142-5. Periodic lead-based paint inspection; performance; procedure.

1. The initial inspection for all single-family, two-family, and multiple dwelling units subject to this N.J.A.C. 5:28A et seq. and this Article shall be upon initial written advance notice but no later than July 22, 2024, whichever is sooner. Thereafter, all such dwelling units shall be inspected for Lead-Based Paint Hazards every three years or upon Tenant Turnover, whichever is earlier, except that an inspection shall not be required at Tenant Turnover, if the Owner, or his Responsible Designee, has a valid Lead-Safe Certification for the dwelling unit.
 - a. In all scenarios, the next Periodic Lead-Based Paint Inspection shall be counted from the most recent Periodic Lead-Based Paint Inspection that resulted in a valid Lead-Safe Certification.
2. The Township shall appoint a Municipal Lead Inspector to conduct Periodic Lead-Based Paint Inspections pursuant to N.J.A.C. 5:28A et seq. and this Article. Qualifications shall be determined in accordance with applicable State laws or rules.

3. The Municipal Lead Inspector shall be responsible for inspecting every single-family, two-family, and multiple dwelling units subject to N.J.A.C. 5:28A et seq. and this Article for Lead-Based Paint Hazards, except pursuant to paragraph 4. below. Inspections shall be performed on the time table set forth at 1. above.
4. The Township shall permit, if an Owner, or his Responsible Designee, so chooses, an Owner, or his Responsible Designee, to directly hire a Lead Evaluation Contractor to conduct the Periodic Lead-Based Paint Inspections for Lead-Based Paint. Inspections shall be performed on the time table set forth at paragraph 1. above.
 - a. The Municipal Lead Inspector shall have the authority to conduct inspections or investigations of an Owner, or his Responsible Designee, that directly hire Lead Evaluation Contractors to ensure that Periodic Lead-Based Paint Inspections are being performed in accordance with N.J.A.C. 5:28A et seq. and this Article.
5. The municipality shall exercise appropriate oversight of an Owner, or his Responsible Designee, that chooses to hire a Lead Evaluation Contractor to perform the Periodic Lead-Based Paint Inspection.
 - a. The Municipal Lead Inspector shall have the authority to prohibit an Owner, or his Responsible Designee, from directly hiring a Lead Evaluation Contractor to conduct a Periodic Lead-Based Paint Inspection in the following situations:
 - i. An Owner or Landlord, who previously opted to hire a Lead Evaluation Contractor to perform the Periodic Lead-Based Paint Inspection, failed to have the inspection completed; or
 - ii. The Municipal Lead Inspector determines there is a conflict of interest between the Owner or Landlord and their Lead-Evaluation Contractor of choice.
6. Unless found otherwise to be necessary, inspections will be by way of Visual Assessment and conducted in accordance with N.J.A.C. 5:28A-2.3.
 - a. For a Visual Assessment, the Municipal Lead Inspector or Lead Evaluation Contractor shall examine dwellings, in accordance with HUD guidelines and regulations at 42 U.S.C. § 4851b for deteriorated paint or visible surface dust, debris, or residue on all painted building components, especially any walls, window, trim, and surfaces that experience friction or impact.

- b. For Dust Wipe Sampling, if found to be necessary, the Municipal Lead Inspector or Lead Evaluation Contractor shall collect samples by wiping representative surfaces, including floors, interior windowsills, and other similar surfaces and test the samples in accordance with methods approved by HUD.

142-6. Fees for inspection; monies deposited.

1. Pursuant to N.J.S.A. 52:27D-437.16(5) and N.J.A.C. 5:28A-2.2, the Municipal Lead Inspector shall charge the Owner, or his Responsible Designee, a fee sufficient to cover the cost of the inspection; and all fees shall be solely dedicated to meeting the costs of implementing and enforcing this Article and shall not be used for any other purpose. The following fees are hereby established:
 - a. \$250 per dwelling unit for the initial inspection
 - b. \$100 per dwelling unit for each reinspection (inspection(s) resulting from a failed inspection)
 - c. \$250 per dwelling unit for reinspection (upon tenant turnover or three years, whichever is earlier)
 - d. \$25 per Dust Wipe
2. Pursuant to N.J.S.A. 52:27D-437.16(g), the Municipal Lead Inspector shall collect an additional fee of \$20 per unit inspected by a Municipal Lead Inspector or Certified Lead Evaluation Contractor in accordance with the "Lead Hazard Control Assistance Act," unless the Owner, or his Responsible Designee, demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20 pursuant to the provisions of section 10 of P.L. 2003, c. 311 (C.52:27D-437.10). In a common interest community, any inspection fee charged pursuant to this subsection shall be the responsibility of the unit Owner, or his Responsible Designee, and not the homeowners' association, unless the association is the Owner of the unit. The fees collected pursuant to this subsection shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to section 4 of P.L. 2003, c. 311 (C.52:27D-437.4).

142-7. Inspection results and lead-safe certification.

1. If, following inspection, the Municipal Lead Inspector or Lead Evaluation Contractor finds that no Lead-Based Paint Hazard exists in a dwelling unit, said inspector or contractor shall certify the dwelling unit as Lead-Safe on the form prepared by the Township and in conformance with the form proscribed by New Jersey Department of Community Affairs.
 - a. The Lead-Safe Certification shall be valid for a period of two years from the date of issuance.

- i. If, during the two-year certification period, the Municipal Lead Inspector, Lead Evaluation Contractor, Lead Inspector/Risk Assessor, a local health department conducts an independent inspection or risk assessment and determines that there is a Lead-Based Paint Hazard, the Lead-Safe Certification issued pursuant to this Article shall be invalid. A Periodic Lead-Based Paint Inspection shall be scheduled upon the conclusion of remediation, in accordance with N.J.A.C. 5:28A-2.5(e).
 - ii. Where a Lead Evaluation Contractor, Lead Inspector/Risk Assessor, or local health department determines that there is a Lead-Based Paint Hazard, the inspector or agency shall inform the Municipal Lead Inspector of the results of the inspection.
 - iii. The Lead-Safe Certification shall not exempt the unit from any other law that would require a lead inspection/risk assessment.
 - b. A copy of the Lead-Safe Certification shall be provided to the Owner, or his Responsible Designee, of the dwelling. If a Lead Evaluation Contractor issues the Lead-Safe Certification, a copy shall also be provided to the Municipal Lead Inspector at the time it is issued.
- 2. If a Lead Evaluation Contractor finds that a Lead-Based Paint Hazard exists in a dwelling unit, they shall notify the Municipal Lead Inspector and New Jersey Department of Community Affairs for review of the findings, in accordance with the Lead Hazard Control Assistance Act.
 - a. If a Periodic Lead-Based Paint Hazard is identified in an inspection of one of the dwelling units in a building consisting of two or more dwelling units, then the Municipal Lead Inspector or Lead Evaluation Contractor shall inspect the remainder of the building's dwelling units, with the exception of those dwelling units that have been issued a valid Lead-Free or Lead-Safe Certification.
- 3. The Owner, or his Responsible Designee, of the dwelling unit shall be responsible for remediation of the Lead-Based Paint Hazard. Remediation must be conducted consistent with the requirements at N.J.A.C. 5:28A-2.5.

142-8. Owner responsibility.

- 1. The Owner, or his Responsible Designee, of a dwelling that is subject to this Article shall provide to the tenant and to the Municipal Lead Inspector evidence of a valid Lead-Safe Certification obtained pursuant to this Article at the time of Tenant Turnover. The Owner, or his Responsible Designee, shall also affix a copy of any such certification as an exhibit to the tenant's lease.

2. The Owner, or his Responsible Designee, of a multiple dwelling that is subject to this Article shall provide evidence of a valid Lead-Safe Certification obtained pursuant to this Article, as well as evidence of the most recent Tenant Turnover, at the time of any cyclical inspection performed pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq.
3. The Owner of a dwelling that is subject to this Article shall maintain a record of the Lead-Safe Certification, which shall include the name or names of a unit's tenants, if the inspection was conducted during a period of tenancy.
4. The Owner, or his Responsible Designee, of any dwelling subject to this Article shall inform the Municipal Lead Inspector of all Tenant Turnover activity to ensure any required inspection may be scheduled.
5. The Owner, or his Responsible Designee, of a dwelling shall provide a copy of this Article, and any Lead-Safe Certifications issued pursuant thereto, along with the accompanying guidance document, Lead-Based Paint in Rental Dwellings, to any prospective Owners of the dwelling during a real estate transaction, settlement, or closing.

142-9. Recordkeeping requirements; Municipal Lead Inspector and Lead Evaluation Contractor Responsibility.

1. The Municipal Lead Inspector shall maintain a record of all dwellings subject to this Article, which shall include up-to-date information on inspection schedules, inspection results, and Tenant Turnover.
2. The Municipal Lead Inspector shall maintain a record of all Lead-Safe Certifications issued pursuant to this Article.
 - a. Where an Owner, or his Responsible Designee, hires a Lead Evaluation Contractor to perform inspections for its dwelling, the Lead Evaluation Contractor shall provide a copy of the Lead-Safe Certification to the Municipal Lead Inspector.
3. The Municipal Lead Inspector shall maintain a record of all Lead-Free Certifications issued pursuant to N.J.A.C. 5:17.

142-10. Enforcement; violations; penalties.

1. The Municipal Lead Inspector shall be authorized to conduct investigations and issue penalties in order to enforce an Owner's failure to comply with this Article.

- a. The Owner, or his Responsible Designee, of the dwelling shall first be given a period of thirty (30) days to cure any violation by conducting the required inspection or initiating any required remediation efforts.
- b. If the Owner, or his Responsible Designee, of the dwelling has not cured the violation within that time period, they shall be subject to a penalty, not to exceed \$1,000 per week, until the required inspection has been conducted or the remediation efforts have been initiated. Remediation efforts shall be considered to be initiated when the Owner, or his Responsible Designee, has hired a Lead Abatement Contractor or other qualified party to perform Lead-Hazard Control Methods.

142-11 (Reserved)

142-12 (Reserved)

142-13 (Reserved)

Section 2. Continuation. In all other respects, the Code of the Township of Moorestown shall remain in full force and effect.

Section 3. Repealer. Any and all other ordinances inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistencies.

Section 4. Severability. In the event that any section or paragraph, clause, phrase, term, provision, or part of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section, paragraph, clause, phrase, term, provision or part thereof directly involved in the controversy in such judgment shall be rendered.

Section 5. Effective Date. This Ordinance shall take effect twenty (20) days after final passage.

Section 6. Short Title. This Ordinance shall be known as Ordinance 3-2024.

CERTIFICATION

I, Patricia L. Hunt, Township Clerk, hereby certify that the attached is a true and correct copy of Ordinance No. 3-2024 which was introduced and adopted on first reading on February 12, 2024 and heard on second reading and was duly adopted by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey at a meeting of the Township Council held on February 26, 2024.

<u>VOTE:</u>	
GILLESPIE	YES
LAW	YES
KEATING	YES
MAMMARELLA	YES
ZIPIN	ABSENT

 Patricia L. Hunt, RMC
 Township Clerk