

**TOWNSHIP OF NEPTUNE
ORDINANCE 22-52**

**ORDINANCE AMENDING NEPTUNE TOWNSHIP CODE, CHAPTER XI, ENTITLED
“BUILDINGS AND HOUSING”**

WHEREAS, Neptune Township has recognized the need to address lead-based paint hazards concerning buildings and structures within the municipality; and

WHEREAS, the New Jersey State Legislature passed an Act concerning lead-based paint hazards and residential rental properties under N.J.S.A. 52:27D-437.1 in 2021; which went into effect July 22, 2022; requiring local ordinance implementation soon thereafter.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Neptune in the County of Monmouth in the State of New Jersey that the Neptune Township Code, Chapter XI, entitled “Buildings and Housing” shall be amended to add §11-9, entitled, “Lead-based Paint Hazards and Rental Properties” as follows:

Section 1.

§11-9 Lead-based Paint Hazards and Rental Properties.

§11-9.1 Definitions.

- a. “Dust Wipe Sampling” means 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.
- b. “Tenant Turnover” means the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.
- c. “Visual Assessment” means a visual examination for deteriorated paint or visible surface, dust, debris or residue.
- d. “Municipality” means Neptune Township.
- e. “Permanent Local Agency” means the Neptune Township Code Enforcement and Construction Department (hereinafter referred to as “Neptune Code Enforcement.”)

§11-9.2 Scope and Purpose.

- a. Neptune Code Enforcement shall serve as the Department to conduct inspections and enforce laws and Ordinances and Regulations under this Ordinance. Neptune Code Enforcement shall inspect or contract out to a qualified contractor to inspect.
- b. Neptune Code Enforcement shall inspect every single family and two-family located within Neptune Township at the time of tenant turnover for lead-based paint hazards or within two years of the effective date of this Ordinance.
 - i. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that inspection upon tenant turnover shall not be required if the owner has a valid lead- safe certification pursuant to this Section.

- c. Neptune Code Enforcement shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection.

§11-9.3 Administration.

- a. Subject to §11-9.4, Neptune Code Enforcement where it is unable to carry out inspections due to the lack of expertise or certification and enforcing Laws, Ordinances and Regulations concerning buildings and structures within Neptune Township, for purposes of this Ordinance, Neptune Code Enforcement shall, through Neptune Township, hire a lead evaluation contractor; certified to provide lead-paint inspection services by the Department of Community Affairs, to inspect every single-family, two-family located within Neptune Township at tenant turnover for lead-based paint hazards or within two years of the effective date of this Ordinance. Thereafter, all such 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. Neptune shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection, including the cost of hiring the lead evaluation contractor; subject to §11-9.4; §11-9.5 and §11-9.6.
- b. Neptune shall permit the dwelling owner or landlord to directly hire a lead evaluation contractor who is certified to provide lead pain inspection services by the Department of Community Affairs to satisfy the requirements of §11-9.2 and §11-9.3.

§11-9.4 Consultation.

- a. Neptune Code Enforcement or lead evaluation contractor with the duty to inspect single-family and two-family pursuant to this Section may consult with the local Health Board, the Department of Health or the Department of Community Affairs concerning the criteria for the inspection and identification of areas and conditions involving the high risk of lead poisoning at dwellings; methods of detection of lead in dwellings and the standards for the repair of dwellings containing lead paint.

§11-9.5 Fees.

- a. Fees established pursuant to this Section shall be dedicated to meeting the cost of implementing and enforcing this Section and shall not be used for any other purpose. The following fees shall be assessed:

<u>Type of Fee</u>	<u>Amount of Fee</u>
Initial Inspection Fee	\$280 per unit
Lead Hazard Control Assistance Act	\$20.00 per unit
Re-Inspection Fee	\$100.00 per unit

§11-9.6 Exceptions.

- a. Notwithstanding §11-9.3 - §11-9.6 of this Ordinance to the contrary, a dwelling unit in a single-family, two-family or multi-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 paints;
 2. Was constructed during or after 1978;
 3. Is in a multi-dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years and either under the current or previous owner has no outstanding lead violations from the most recent cyclical inspection performed 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 less than 6 months duration each year by tenants that do not have consecutive lease renewals;
5. Has a valid, lead safe certification issued in accordance with this Section.

§11-9.7 Inspections.

- a. If a lead evaluation contractor or Neptune Code Enforcement finds that a lead-based paint lead hazard exists in a dwelling unit upon conducting an inspection pursuant to this Section, then the owner of the dwelling unit shall remediate the lead-based paint hazard by using abatement or lead-based paint hazard control methods, approved in accordance with the provisions of the “Lead Hazard Control Assistance Act,” N.J.S.A. 52:27D-437.1, et als.
 - i. If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of two-dwelling units, then the lead evaluation contractor or permanent local agency shall inspect the remainder of the building’s dwelling units for lead hazards with the exception of dwelling units that have been certified that have been certified to be free of lead-based paint.
 - ii. Upon the remediation of the lead- based paint hazard, the lead evaluation contractor of Neptune Code Enforcement shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
- b. If a lead evaluation contractor or Neptune Code Enforcement finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to this Section, or following remediation of the lead-based paint hazard pursuant to Paragraph (a.) of this subsection, then the lead evaluation contractor or Neptune Code Enforcement shall certify the dwelling unit as lead safe on a form prescribed by the Department of Community Affairs provided for in regulations or guidance promulgated by the State of New Jersey. The lead safe certification provided to the property owner by the lead evaluation contractor of Neptune Code Enforcement pursuant to this Section shall be valid for 2 years.

§11-9.8 Compliance.

- a.. Property owners shall provide the following:
 1. Evidence of the valid lead safe certification obtained pursuant to this Section as well as evidence on the most recent tenant turnover at the time of the cyclical inspection carried out under the “Hotel and Motel Multiple Dwelling Law,” N.J.S.A. 55:13A-1 et seq., unless not required to have had an inspection by a lead evaluation contractor or Neptune Code Enforcement pursuant to §11-9.7, (a.) (1-5);
 2. 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 or Neptune Code Enforcement pursuant to §11-9.7 (a.) (1-5) and shall affix a copy of such certification as an exhibit to the tenant’s or tenants’ lease;
 3. Maintain record of 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 inspection by a lead evaluation contractor or Neptune Code Enforcement pursuant to §11-9.7, (a) (1-5);

4. If a lead evaluation contractor or Neptune Code Enforcement finds that a lead-based paint hazard exists in the dwelling unit upon conducting an inspection pursuant to this Section, then the lead evaluation contractor or Neptune Code Enforcement shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with §8 of the “Lead Hazard Control Assistance Act,” N.J.S.A. 52:27D-437.8;
5. If a dwelling located in Neptune, in which less than 3 percent of children tested, 6 years of age or younger, have a blood lead level greater than or equal to 5 ug/dL, according to the central lead screening database maintained by the Department of Health pursuant to Section 5 of N.J.S.A. 26:2-137.6 or according to other data deemed appropriate by the Commissioner, then a lead evaluation contractor or Neptune Code Enforcement may inspect for lead-based paint hazards through visual assessment;
6. If a dwelling located in Neptune, in which at least 3 percent of children tested, 6 years of age or younger, have a blood lead level greater than or equal to 5 ug/dL, according to the central lead screening database maintained by the Department of Health pursuant to Section 5 of N.J.S.A. 26:2-137.6 or according to other data deemed appropriate by the Commissioner, then the lead evaluation contractor or Neptune Code Enforcement shall inspect for lead-based paint hazards through dust wipe sampling;
7. If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of 2 or 3 dwelling units, then the lead evaluation contractor or Neptune Code Enforcement shall inspect the remainder of the building’s dwelling units for lead hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. The lead evaluation contractor or Neptune Code Enforcement may charge fees in accordance with this Section for such additional inspections.
8. In addition to the fees permitted to be charged for inspection of rental housing pursuant to this Section, Neptune shall assess an additional fee of \$20.00 per unit inspected by a certified lead evaluation contractor or Neptune Code Enforcement for purposes of the “Lead Hazard Control Assistance Act,” N.J.S.A. 52:27D-437.1 et al., concerning lead hazard control work, unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20.00 pursuant to the provisions of Section 10 of N.J.S.A. 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 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 N.J.S.A. 52:27D-437.4.

§11-9.9 Limitations.

In association with an application for lead remediation funding provided pursuant to the “Lead Hazard Control Assistance Fund,” established pursuant to Section 4 of N.J.S.A. 52:27D-437.4, or any other program administered for lead remediation purposes by the

Department of Community Affairs, the Township shall not request or require that a property owner disclose the social security number of any person renting the property or otherwise associated with the inspected property other than the property owner. This disclosure requirement prohibition shall apply to an application for assistance, funded and administered by the State for lead remediation purposes.

§11-9.10 Rule and Regulations

Neptune shall comply with adopted Rules and Regulations of the Department of Community Affairs affecting actions of Neptune and Neptune Code Enforcement under this Ordinance.

§11-9.11 Violations and Penalties

Neptune Code Enforcement shall be authorized to conduct investigations and issue penalties not inconsistent with this Section to enforce a property owner's failure to comply with this Ordinance. If Neptune or Neptune Code Enforcement determines that a property owner has failed to comply with this Ordinance with respect to a rental dwelling unit owned by the property owner, the property owner shall first be given 30 days to cure any violation by conducting the required inspection or initiate any required remediation efforts. If the property owner has not cured the violations after 30 days, they shall be subject to a penalty not exceeding \$1,000.00 per week until the necessary action has been taken; unless penalties are specified elsewhere in this Ordinance or with regard to a specific violation, in which case such provision shall supersede this Section. If a violation is of a continuing nature, each day or portion of each day during which it occurs shall constitute an additional, separate and distinct offense.

Section 2. All Ordinances or parts of Ordinances that are inconsistent herewith are repealed, but only to the extent of such inconsistency.

Section 3. The amended Ordinance shall become effective immediately upon its passage and the publication as required by law.

Motion/ Second	Roll Call To Adopt On First Reading					Adopted on First Reading Dated: November 28, 2022
		YAY	NAY	ABSTAIN	ABSENT	
Second	Dr. Michael Brantley	X				
	Keith Cafferty	X				
	Robert Lane, Jr.	X				
Motion	Tassie D. York	X				_____ Gabriella Siboni, RMC Township Clerk
	Nicholas Williams	X				

Motion/ Second	Roll Call To Adopt On Second and Final Reading					Adopted on Second Reading Dated: December 12, 2022
		YAY	NAY	ABSTAIN	ABSENT	
	Dr. Michael Brantley	X				
	Keith Cafferty	X				
Second	Robert Lane, Jr.	X				
Motion	Tassie D. York	X				_____ Gabriella Siboni, RMC Township Clerk
	Nicholas Williams	X				

Gabriella Siboni
Township Clerk

Nicholas Williams
Mayor