

**BOROUGH OF PROSPECT PARK
COUNTY OF PASSAIC**

ORDINANCE NO. 2023-08

**ORDINANCE AMENDING THE CODE OF THE BOROUGH OF PROSPECT PARK
ESTABLISHING “LEAD-BASED PAINT HAZARD INSPECTION REQUIREMENTS
FOR RENTAL DWELLINGS**

WHEREAS, the State of New Jersey enacted N.J.S.A. 52:27D-437, et seq., establishing lead-based paint testing programs for residential rental properties; and

WHEREAS, N.J.S.A. 52:27D-437, et seq. requires that municipalities enact ordinances to implement lead-based paint programs for residential rental properties; and

WHEREAS, the Mayor and Council of the Borough of Prospect Park have determined that it is in the best interest of the Borough to offset its administrative costs in processing said applications to establish application fees for permits to purchase a handgun, applications for the firearms purchase identification cards and for applications for permits to carry handguns.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Prospect Park, the County of Passaic, that the Code of the Borough of Prospect Park (“Code”) is hereby amended to establish the following Chapter:

CHAPTER 312

Lead-Based Paint Hazard Inspection Requirements for Rental Dwellings

§ 312-1 Findings.

(a) Lead poisoning poses a serious public health threat to children and adults in the Borough of Prospect Park.

(b) Younger children are particularly susceptible to the hazards of leadbased paint since their bodies are still developing. Fetuses are also vulnerable to the effects of lead-based paint because pregnant women can transfer lead to their fetuses, which can result in adverse developmental effects.

(c) Even a small amount of lead can cause elevated blood lead levels resulting in serious and irreversible developmental damage, particularly in children under the age of six years.

(d) Exposure to lead hazards from deteriorated lead-based paint is a primary cause of elevated blood lead levels in humans.

(e) Structures built before 1978 are the most likely to contain lead-based paint hazards.

(f) Residential properties are more likely than are nonresidential properties to be a source of exposure to lead-based paint hazards by children.

(g) Children living in older, poorly maintained homes are disproportionately at risk for lead-based paint hazards.

(h) The exposure to lead-based paint hazards in the Borough of Prospect Park is most common, and presents the most serious risk, to young children residing in rental housing built before 1978. More specifically, about 80 percent of lead poisoning cases in New Jersey are caused by lead-based paint in homes built before 1978, affecting our low-income families the most.

(i) It is essential to the overall public health of persons in the Borough of Prospect Park, and particularly for children younger than six years of age, that they be protected from exposure to lead-based paint hazards.

(j) Although unquestionably positive, the potential health benefits of lead-based paint poisoning prevention legislation are difficult to quantify since the number of people at risk is undetermined, the transient nature of tenants makes targeting difficult, the mere presence of lead in a structure does not necessarily lead to human exposure to lead-based paint hazards, and the generally agreed-upon group at greatest risk, children from zero to six years of age, are significantly transient.

§ 312-2 Definitions.

The following definitions shall apply to this article:

COMMON INTEREST COMMUNITY

A real-estate development or neighborhood in which the property is burdened by servitudes requiring property owners to contribute to maintenance of commonly held property or to pay dues or assessments to an owners association that provides services or facilities to the community.

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-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 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-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.

§ 312-3 **Lead-Based Paint Inspection.**

A. Inspections performed by Borough. The owner, landlord, and/or agent of every single-family, two-family and/or multiple dwelling unit offered for rental shall be required to obtain an inspection of the dwelling and/or unit/s for lead-based paint hazards as required in this Article, or at tenant turnover, whichever is earlier. To obtain the required inspection, the landlord, owner and/or agent shall arrange it with the Municipal Inspector and pay all applicable and required fees associated with the Municipality's inspection as specified in § 312-3(G), below.

B. The property owner or landlord may, in lieu of having the dwelling inspected by the municipality'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. In such an event, the property owner or landlord shall fill a valid Lead-Safe Certification with the Borough and shall also be required to pay all applicable and required fees specified in § 312-3(G), below

C. 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:

- (1) has been certified to be free of lead-based paint;
- (2) was constructed during 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 the multiple dwelling under the "Hotel and Multiple Dwelling Law";
- (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 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 municipality'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 municipality'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 municipality 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 inspection shall be as follows:

(1) The fee for a visual assessment and dust wipe sampling inspection performed by the municipal lead inspector shall be \$340 for a dwelling unit that has up to three bedrooms. There shall be an additional fee of \$25 for each additional bedroom in the dwelling unit.

(2) The fee for the filing of a lead-safe certification or lead-free certification shall be \$20.00.

(3) The fee for conduction of a visual only reinspection performed by the municipal lead inspector shall be \$150 per dwelling unit.

(4) The fee for conduction of a dust wipe sampling or dust wipe sampling and visual reinspection performed by the municipal lead inspector shall be \$250 per dwelling unit.

(5) In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

(6) In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20 per dwelling unit inspected by the municipal 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. The fees collected pursuant to this paragraph shall be deposited into the “Lead Hazard Control Assistance Fund.”

§ 312-4. Timing for Required Lead-Based Paint Inspections.

(a) The initial inspection for all single-family, two-family and multiple dwellings subject to this Article shall take place upon tenant turnover, or within two years of the effective date of P.L. 2021, c. 182 (July 22, 2022), whichever occurs sooner.

(b) After initial inspection, all such dwelling units shall be inspected for lead-based paint hazards each time there is tenant turnover, or at least once every three years, whichever occurs earlier. However, if the dwelling unit owner has obtained a valid lead-safe certification for the dwelling unit, then inspection of that dwelling unit shall not be required at each tenant turnover during the two-year period the certificate is valid.

(c) Each subsequent periodic lead-based paint inspection shall be counted from the most recent inspection which resulted in a valid lead-safe certification

§312-5 Violations and Penalties.

In accordance with N.J.S.A. 52:27D-437.19, the penalties for a violation of this chapter 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.

BE IT FURTHER ORDAINED by the Mayor and Council that if any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall continue in full force and effect, and to this end, the provisions of this Ordinance are hereby declared to be severable; and

BE IT FURTHER ORDAINED by the Mayor and Council that all prior ordinances, or sections of ordinances, inconsistent with the within ordinance are hereby repealed; and.

BE IT FURTHER ORDAINED this Ordinance shall take effect upon final passage and publication according to law.

**Introduction and First Reading:
May 15, 2023**

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Absent
Hussain			✓			
Artis						✓
Matari		✓	✓			
Ortiz						✓
Perez			✓			
Shah	✓		✓			

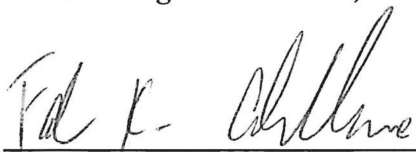
Second and Final Reading of Ordinance Adoption:

June 19, 2023

COUNCIL MEMBER	Motion	Second	Ayes	Nays	Abstain	Absent
Hussain			✓			
Artis			✓			
Matari						✓
Ortiz						✓
Perez		✓	✓			
Shah	✓		✓			


Mohamed Khairullah, Mayor

**This Ordinance was duly passed on second and final reading
by the Council of the Borough of Prospect Park
at a meeting held June 19, 2023.**



**Fahim K. Abedrabbo, MPA
Acting Municipal Clerk**