

**AN ORDINANCE OF THE TOWNSHIP OF ABERDEEN, AMENDING AND
SUPPLEMENTING CHAPTER XII OF THE TOWNSHIP CODE REGARDING
REQUIREMENT FOR INSPECTION OF LEAD-BASED PAINT IN CERTAIN
RESIDENTIAL BUILDINGS**

WHEREAS, the Township of Aberdeen (the “Township”) maintains Chapter XII entitled “Buildings, Construction and Housing” of the Township Code, specifically Section II therein entitled “Housing Code;” and

WHEREAS, in July of 2021, Governor Murphy signed into law P.L. 2021, c. 182, which 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 XII of the Township’s Code currently provides oversight and control of the residential rental units in the Township; and

WHEREAS, the Township Council determined it is in the best interests of the Township residents to amend and supplement the Township Code to enact a program requiring inspections for lead-based paint in certain rental units to alleviate lead-based paint hazards and to conform with State law.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Township of Aberdeen that:

Section 1. The aforementioned recitals are incorporated in their entirety, as if restated herein.

Section 2. Chapter XII of the Township Code, entitled “Buildings, Construction and Housing,” be and is hereby amended and supplemented by deleting the text in **~~bold~~ ~~strikeout~~** and adding the text in **bold underlined** as follows:

12-2.4

CERTIFICATE OF OCCUPANCY

No owner, owner of rental properties, agent of owner, real estate agent or broker, firm, company, partnership, corporation or person or persons shall sell, rent, transfer, grant, lease, let, mortgage with right of occupancy or otherwise dispose of the ownership or occupancy thereof, whether or not for consideration and whether such disposal of ownership or occupancy be temporary or permanent, any dwelling unit, hotel, motel, rooming unit, boarding house or premises on which a building is located and used for human occupancy, as well as commercial properties, unless a Certificate of Occupancy, certifying the building and premises are in compliance with all other ordinances of the Township, shall first be obtained from the Housing Officer of the Township.

Such a Certificate of Occupancy shall be granted or denied within ten (10) days from the date of the application for same.

- a. The Housing Officer shall cause to be prepared appropriate application forms for such Certificate of Occupancy, which forms shall be available at the office of the Housing Officer.
- b. The Housing Officer shall also cause to be prepared appropriate forms of such Certificate of Occupancy.
- c. A charge of ~~\$150~~ \$175 for residential transfer of ownership to cover the cost for inspection in connection with such application shall be paid to the Housing Department at the time an application is filed and shall not be refundable. A charge of one hundred \$175 for commercial and other nonresidential transfer of ownership to cover the cost for inspection in connection with such application shall be paid to the Housing Department at the time that the application is filed and shall not be refundable.
- d. In the event of any violation of this section and/or any applicable law, a fine or penalty may be imposed against the owner of such property in accordance with the provisions under Chapter 1, § 1-5, of the Code.

12-2.6.1 LEAD ABATEMENT PROGRAM

- a. General. 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 Township.
- b. Scope. This section shall apply to any Dwelling Unit, as defined in Chapter 25, Section 2.1, and which was built prior to 1978. Dwelling Units shall be exempt from these requirements if exempted pursuant to N.J.S.A. 52:27D-437.16, et seq.
- c. Definitions.
 1. “Commissioner” means the Commissioner of the Department of Community Affairs.
 2. “Dwelling” means a structure or portion thereof which is used exclusively for human habitation.
 3. “Dwelling Unit” means a room or series of connected rooms designed for permanent residency containing living, cooking, sleeping and sanitary facilities for one (1) housekeeping unit. The dwelling unit shall be self-contained and shall not require passing through another dwelling unit or other indirect route(s) to get to any other portion of the dwelling unit, nor shall there be shared facilities with another housekeeping unit.
 4. “Lead inspector or risk assessor” means an individual certified by DOH 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.

5. “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, which would result in adverse human health effects.
6. “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.
7. “Lead abatement” means a set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner in N.J.A.C. 5:17.
8. “Lead safe” means that a dwelling has no outstanding lead-based paint hazards, but the dwelling is not necessarily lead free.
9. “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 that no lead-based paint hazards were found. This certification is valid for two years from the date of issuance.
10. “Owner” means any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of a building or land.
11. “Tenant turnover” means 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.

d. Lead-Safe Housing Assessment and Reporting

1. Responsibility. The Owner of a Dwelling Unit shall, along with all other requirements of this Chapter, ensure that an initial inspection is completed upon their property as established in this Section.
2. Inspections. All Dwelling Units must be inspected for lead-based paint 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.
3. Required Recurring Inspection. After the initial inspection required by Chapter 12, Section 2.6(d)(2), 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.
4. All inspections and certifications shall be completed by a certified Lead Inspector or Risk Assessor in accordance with N.J.A.C. 5:17-2.1, et seq.

5. At the time of any Application for Certificate of Occupancy, or in accordance with the requirements of N.J.S.A. 52:27D-437.16, every owner shall present to the Housing Inspector, Code Enforcement Official, or the Township Manager's other designated agents, a Lead-safe certification prepared by a Lead inspector or risk assessor. Should the Owner fail to provide such a certification, the Township shall have said inspection performed with the Township's cost for same to be assessed against the Owner's property as a municipal lien.
- e. Lead-Hazard Remediation.

Upon the finding of a Lead-Based Hazard following any inspection, including those conducted pursuant to this Section, the Owner shall remediate the Lead-Based hazard in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the Lead-Based Hazard, the Lead inspector or risk assessor shall conduct an additional inspection of the unit to certify the hazard no longer exists.
- f. Lead Safe Dwelling Units.

If a lead evaluation contractor or permanent local agency finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection or following remediation of a lead-based paint hazard, then the Township Code Enforcement Officer or designee 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 and shall be filed with the Township's Code Enforcement Officer. The Township's Code Enforcement Officer shall maintain up-to-date information on inspection schedules, inspection results, tenant turnover, and a record of all lead-free certifications issued pursuant to N.J.A.C. 5:17.
- g. Enforcement and Administration
 1. Unless otherwise specified, the Division of Housing, Code Enforcement and Clean Communities shall have the authority to administer and enforce this Section.
 2. The Owner of a Rental Housing Unit that fails to obtain an initial lead-hazard assessment and/or comply with this Section within the timeframes set forth within shall first receive a Notice of Non-Compliance.
 3. If the dwelling owner has not cured the violation within 30 days, the owner shall be subject to a penalty not to exceed \$1,000.00 per week until the required inspection has been conducted or remediation efforts have been initiated. Remediation efforts are considered initiated when the owner has hired a lead abatement contractor or other qualified party to perform lead-hazard control methods.

4. Penalty. Any violation of this Section shall be classified as a civil offense and shall be enforced in the Township municipal court.
- h. Property Owner's Obligation. 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 Township of Aberdeen 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.
- i. Fees.
 1. A fee in the amount of \$100.00 shall be paid for each lead-based paint inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this subsection and shall not be used for any other purpose. Alternatively, a dwelling owner or landlord may directly hire a private lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of Chapter 12, Section 2.6(d)(2) "Inspections" in which case no additional Lead-Based Paint inspection fee shall be paid.
 2. 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.
 3. In addition to any fees assessed pursuant to this Chapter, an additional fee of \$20.00 per unit inspected shall be charged, which is to be deposited into the Lead Hazard Control Assistance Fund.
- j. Exceptions. 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, or the fees for such inspection or evaluation, 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," N.J.S.A. 55:13A-1, et seq.;

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 issued in accordance with N.J.S.A. 52:27D-437.16(d)(2).

Section 3. Severability. If any section, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause, or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

Section 4. Repeal of Prior Ordinances. All ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

Section 5. Effective Date. This ordinance shall take effect after final passage and publication as provided by law.

Introduced: December 7, 2023

Adopted: December 21, 2023

ATTEST:

Melissa Pfeifer
Municipal Clerk

Township of Aberdeen

By:

Fred Tagliarini
Mayor