

**TOWNSHIP OF CHESTERFIELD
ORDINANCE 2023-18**

**AN ORDINANCE OF THE TOWNSHIP OF CHESTERFIELD
ESTABLISHING CHAPTER 131 OF THE CODE OF THE TOWNSHIP OF
CHESTERFIELD ENTITLED “LEAD-BASED PAINT INSPECTIONS”**

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-based paint hazards in residential properties; and

WHEREAS, on May 1, 2023, pursuant to the aforesaid legislation, the New Jersey Department of Community Affairs promulgated Chapter 28A of Chapter 5 of the New Jersey Administrative Code, entitled “regulations for lead-based paint inspections in rental dwellings,” to effectuate the provisions of P.L. 2021, c. 182; and

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

WHEREAS, the purpose of P.L. 2021, c. 182 is to protect the health and safety of New Jerseyans from the hazards of lead poisoning caused by the deterioration of lead-based paint; and

WHEREAS, the Township of CHESTERFIELD desires through this Ordinance to establish Chapter 131 of the Code of the Township of CHESTERFIELD, entitled “Lead-Based Paint Inspections,” in order to promote the well-being of its residents, tenants, and landowners, and to comply with State law;

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of CHESTERFIELD, County of Burlington, State of New Jersey that a new chapter, entitled “Lead-Based Paint Inspections” shall be added as Chapter 131 of the Code of the Township of CHESTERFIELD as follows:

SECTION 1.

Chapter 131 – Lead-Based Paint Inspections

§ 131-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

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 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 is 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 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-BASED HAZARD CONTROL METHODS

Interim controls as defined herein.

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 New Jersey Department of Community Affairs 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.

LEAD-FREE CERTIFICATION

A 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

A certification issued pursuant to N.J.A.C. 5:28A, 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 that 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 that 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 ten 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. 55:13A-3(k).

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 chapter.

REMEDIATION

Interim controls or lead abatement work undertaken in conformance with N.J.A.C. 5:28A 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.

VISUAL ASSESSMENT

An examination performed by viewing surfaces for deteriorated paint or visible surface dust, debris, or residue, as conducted pursuant to N.J.A.C. 5:28A-2.3.

§131-2. Requirements for inspections.

- A. Conducting an Inspection. All single-family, two-family, and multiple rental dwellings located within the Township and not exempted are to be inspected by a lead evaluation contractor. The lead evaluation contractor shall be a qualified staff member employed by the Township, a contractor hired by the Township to perform the required inspections, or a contractor hired directly by the owner or landlord of said rental dwelling to perform the required inspections. The Township shall exercise appropriate oversight of a landlord or owner who chooses to hire a lead evaluation contractor to perform the periodic lead-based paint inspection.

- B. Initial Inspection. All single-family, two-family, and multiple rental dwellings located within the Township and not exempted are required to initially be inspected for lead-based paint by July 22, 2024, or upon the first tenant turnover, whichever is earlier.
- C. Recurring Inspections. After initial inspection, all single-family, two-family, and multiple rental dwellings located in the Township and not exempted shall be inspected for lead-based paint hazards every three years or upon tenant turnover, whichever is earlier, except that an inspection at tenant turnover shall not be required if the owner or landlord has a valid lead-safe certification pursuant to § 148-2E.
- D. Inspection Standards.
- (1) If less than three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five micrograms per deciliter (5 µg/dL), according to the central lead screening database maintained by the New Jersey Department of Health pursuant to section 5 of P.L. 1995, c. 328 (C.26:2-137.6), or according to other data deemed appropriate by the commissioner (as such term is used in and for the purposes of N.J.S.A. 52:27D-437.16), then the lead evaluation contractor may inspect a dwelling unit therein for lead-based paint hazards through visual assessment.
 - (2) If at least three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five micrograms per deciliter (5 µg/dL), according to the central lead screening database maintained by the New Jersey Department of Health pursuant to section 5 of P.L. 1995, c. 328 (C.26:2-137.6), or according to other data deemed appropriate by the commissioner, then the lead evaluation contractor shall inspect a dwelling located therein through dust wipe sampling.
 - (3) If an inspection is conducted by a qualified staff member employed by the Township, or a contractor hired by the Township to perform the required inspections, such inspection shall be conducted through dust wipe sampling. If an inspection is conducted by a contractor hired directly by the owner or landlord of said rental dwelling to perform the required inspection, such inspection may be conducted through visual inspection if permitted in accordance with the requirements of (1) above.
- E. Successful Inspection and Certification. In the instance that an inspection or re-inspection does not find lead-based paint hazards to exist in a dwelling unit, the lead evaluation contractor shall certify said dwelling unit as lead-safe on a form prescribed by the New Jersey Department of Community Affairs as provided for in regulations or guidance promulgated pursuant to P.L. 2021, c. 182 (C.52:27D-437.20), which shall be retained by the Township, and a copy of which will be retained by the property owner and/or landlord. This certification shall remain valid for two years.
- F. Failing Inspection and Remediation. In the instance that an inspection or re-inspection finds lead-based paint hazards to exist in a dwelling unit, the lead evaluation contractor shall report same to the Township and to the Commissioner of Community Affairs, who shall review the findings in accordance with section 8 of the “Lead Hazard Control Assistance Act,” P.L. 2003, c. 311 (C.52:27D-437.8). The property owner and/or landlord

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,” P.L. 2003, c. 311 (C.52:27D-437.1 et seq.). Upon the remediation of the lead-based paint hazard, a lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists. During the period of remediation, no new tenants shall be entered into any agreement to reside in said dwelling unit. If a lead hazard is identified in one dwelling unit that is a part of a building consisting of two or more dwelling units, then the lead evaluation contractor shall inspect the remainder of the dwelling units in said building for any lead hazards, with the exception of any such dwelling units that have already been certified to be free of lead-based paint. Each additional dwelling unit requiring inspection shall be subject to a separate inspection fee.

§ 131-3. Exemption from inspection and evaluation.

A. 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 be exempted from lead-based paint hazard inspection and evaluation if the dwelling unit:

- (1) has been certified to be free of lead-based paint pursuant to N.J.A.C. 5-17;
- (2) was constructed during or after 1978;
- (3) is in a multiple dwelling constructed prior to 1978 that has been registered with the Department of Community Affairs as a multiple dwelling for at least ten 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,” P.L. 1967, c. 76 (C.55:13A-1 et seq.) and N.J.A.C. 5:10;
- (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;
- (5) has a valid lead-safe certification issued in accordance with § 148-2E above; or
- (6) as provided in N.J.A.C. 5:28A-1.3.

§ 131-4. Registration and reporting requirements for owners and landlords.

A. Registration. For purposes of this chapter, property owners of single-family, two-family, or multiple rental dwellings, unless otherwise exempted pursuant to § 131-3 above, shall be required to initially register said dwelling(s) with the Township and every three years thereafter.

B. Lead-safe certification. Any property owner required to register pursuant to this section, or seeking exemption from registration pursuant to § 148-3A(5) above, shall provide evidence of a valid lead-safe certification obtained pursuant to this chapter as well as evidence of the most recent tenant turnover at the time of the cyclical inspection carried

out under the Hotel and 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 pursuant to § 148-3A(1), (2), or (3). Evidence of a valid lead-safe certification obtained pursuant to this chapter shall be provided 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 pursuant to § 148-3A(1), (2), (3), and (4), and a copy of such certification shall be affixed as an exhibit to the tenant's or tenants' lease.

- C. A property owner shall maintain a record of the lead-safe certification which shall include the name or names of the unit's tenant or tenants and if the inspection was conducted during the period of tenancy, unless not required to have had an inspection by a lead evaluation contractor pursuant to § 148-3A(1), (2), (3), and (4).

§ 131-5. Fees.

- A. Inspection/Re-inspection Fee. The fee for the conducting of an inspection or re-inspection in accordance with this chapter, which is dedicated solely to meeting the costs of implementing and enforcing this chapter, shall be as specified in Chapter 110-125, Fees, and paid in advance of any inspection or re-inspection.
- B. The fee for the filing of a lead-safe certification or lead-free certification shall be \$25.
- C. State Fee. There shall also be charged a fee of \$20.00 per unit inspected in accordance with this chapter, for the purposes of the "Lead Hazard Control Assistance Act," P.L. 2003, c. 311 (C.52:27D-437.1 et seq.) concerning lead hazard control work, unless the owner and/or landlord 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 P.L. 2003, c. 311 (C.52:27D-437.10). The fee collected pursuant to this subsection shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to P.L. 2003, c. 311 (C.52:27D-437.4).
- D. Common Interest Community. In a common interest community, any inspection fee charged pursuant to this chapter shall be the responsibility of the unit owner and not the homeowners association, unless the association is the owner of the unit.

§ 148-6. Violations and penalties.

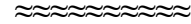
- A. Investigations. The Township shall be authorized to conduct investigations and issue penalties to enforce a property owner's failure to comply with this chapter.
- B. Thirty-Day Notice and Subsequent Penalty. All property owners are required to comply with the requirements of P.L. 2021, c. 182 and this chapter. If the Township determines that a property owner of a qualifying single-family, two-family, or multiple rental dwelling is not in compliance with said requirements, the owner shall be given a 30-day notice to cure any violation by conducting the required inspection or by initiating any required remediation efforts. If the property owner has not cured the violation after 30 days, the property owner shall be subject to a penalty not to exceed \$1,000.00 per week until the required inspection has been conducted or remediation efforts have been initiated. Remediation efforts shall be considered to be initiated when the property owner has hired

a lead abatement contractor or other qualified party to perform lead-hazard control methods.

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.
2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions of this Ordinance, except so far as the provisions or paragraphs so declared invalid shall be separable from the remainder or any portion thereof.
3. This Ordinance shall take effect upon final passage and publication in accordance with law.

CHESTERFIELD TOWNSHIP COMMITTEE



Introduced: September 28, 2023
 Adopted: October 12, 2023

RECORD OF VOTE 2023-18													
INTRODUCTION							ADOPTION						
TWP COMMITTEE	AYE	NAY	NV	AB	ORD	SEC	TWP COMMITTEE	AYE	NAY	NV	AB	ORD	SEC
Blazic	X						Blazic	X					
Liedtka	X						Liedtka				X		
Litt	X					X	Litt	X					X
Dhopte	X				X		Dhopte	X				X	
Koetas-Dale	X						Koetas-Dale	X					
X – Indicates Vote NV – Not Voting AB – Absent ORD – Motion SEC - Seconded													

I, Caryn M Hoyer, Clerk of the Township of Chesterfield in the County of Burlington and State of New Jersey do hereby certify the foregoing Ordinance to be a true and accurate copy of the Ordinance adopted by the Township Committee at a duly advertised meeting held on October 12, 2023 at which a quorum was present.

 Caryn M. Hoyer, RMC
 Township Clerk