

ORDINANCE NO. 2023- 08

**AN ORDINANCE OF THE TOWN OF HACKETTSTOWN
ESTABLISHING NEW ARTICLE 9 IN CHAPTER 7
ESTABLISHING LEAD PAINT INSPECTION PROCESS
FOR RESIDENTIAL RENTAL UNITS**

BE IT ORDAINED that the Town Council of the Town of Hackettstown hereby adds a new Article 9 ("Lead Based Paint Inspections") containing new Section 7-101 Definitions, Section 7-102 Inspections, Section 7-103 Fees, and Section 7-104 Violations and Penalties, in Chapter 7 ("Building Regulations"), to read as follows:

**Chapter 7. Building Regulations
Article 9. Lead Based Paint Inspections**

§ 7-101 Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the following meaning:

Lead Abatement – Measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner of Community Affairs in compliance with standards promulgated by the appropriate federal agencies.

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 Evaluation Contractor – A person certified by the New Jersey Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:171.1 et seq.

Lead-based Paint Hazard – Any condition that causes exposure to lead from lead-contaminated dust or soil or lead-contaminated paint that is deteriorated or present in surfaces that would result in adverse human health effects.

Visual Assessment – A visual examination for deteriorated paint or visible surface dust, debris, or residue.

Tenant turnover – The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

§ 7-102 Inspections.

A. A lead evaluation contractor retained by the Town shall inspect every single-family, two-family, or multiple rental dwelling located in the Town of Hackettstown for lead-based paint hazards through visual assessment and dust wipe sampling in accordance with N.J.S.A. 52:27D-437.1 et seq. every three years or at tenant turnover.

B. In lieu of having the dwelling inspected by the Town's lead evaluator, 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 perform the lead-based paint inspection in accordance with N.J.S.A. 52:27D-437.1 et seq.

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 ten (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," P.L.1967, c.76 (C.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.

D. The owner, landlord, and/or agent of every single-family, two-family, or multiple rental dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three years, or at tenant turnover, whichever is earlier.

E. If lead-based paint hazards are identified, then the owner, landlord, and/or agent of the dwelling shall remediate the lead-based paint hazard using lead abatement or lead-based control methods in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the Town's lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

F. If no lead-based paint hazards are identified, then the Town's lead evaluator shall certify the dwelling as lead-safe on a form prescribed by the Department of Community Affairs, which shall be valid for two years.

G. Pursuant to N.J.S.A. 52:27D-437.16(e), unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to §7-102C of this Chapter, property owners shall:

1. Provide evidence of valid lead-safe certification and 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.;

2. Provide evidence of a valid lead-safe certification obtained pursuant to this Section 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 permanent local agency pursuant to §64-2C of this chapter.

3. Maintain records of lead-safe certification, which shall include name(s) of the unit tenant(s), if inspection was conducted during a period of tenancy.

§ 7-103 Fees.

A. A fee of \$200 shall be charged to have the Town's lead based contractor perform an 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 Article 9 Section 7-102 in which case no additional Lead-Based Paint inspection fee shall be paid.

B. In addition to the fee charged in 7-103(A), there shall also be an additional \$20 fee per unit inspected with such fee being collected by the local unit and deposited in the "Lead Hazard Assistance Fund" established pursuant to NJSA 52:27D-437.4 and remitted to the Department of Community Affairs for the purposes of the Lead Hazard Control Assistance Act.

C. The fee for the filing of a lead-safe certification or lead-free certification shall be \$50.

D. 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.

§ 7-104 Violations and Penalties.

Penalties for violation of this chapter shall be as follows:

A. If a property owner has failed to conduct the required inspection or initiate any remediation as required by N.J.S.A. 52:27D-437.1 et seq. the owner shall have 30 days to cure the violation.

B. If a property owner fails to cure 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 RESOLVED that the ordinance shall take effect upon publication and adoption as required by law.

NOTICE

Notice is hereby given that the aforesaid ordinance was introduced at a regular meeting of the Common Council of the Town of Hackettstown, New Jersey, held on November 9, 2023, and that at a regular meeting of the same, to be held on December 14, 2023 at the Municipal Building, 215 Stiger Street, Hackettstown, New Jersey, at the hour of 7:00 p.m., the said Common Council will conduct a public hearing and will consider the final passage of said ordinance.

P.J. Reilly, Town Clerk/Administrator