

BOROUGH OF MILFORD
ORDINANCE NUMBER 955-2023

**ORDINANCE TO CREATE CHAPTER 68 OF THE
CODE OF THE BOROUGH OF MILFORD,
ENTITLED “LEAD-BASED PAINT INSPECTIONS”
PURSUANT TO THE REQUIREMENTS OF P.L. 2021, c.182.**

WHEREAS, pursuant to P.L. 2021, c.182, all municipalities are required to inspect every single-family, two-family, and multiple rental dwelling located within the municipality at tenant turnover for lead-based paint hazards; and

WHEREAS, the State of New Jersey has determined that it is in the best interests of the residents of the Borough of Milford to amend the Borough Code at this time to require inspections for lead-based paint in residential rental dwellings to conform with New Jersey State law;

WHEREAS, the Borough wishes, through this Ordinance to establish Chapter 68 entitled “Lead-Based Paint Inspections” of the Borough Code to comply with the laws of the State of New Jersey with the desire to serve the best interests of the Borough’s residents.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Milford, in the County of Hunterdon and State of New Jersey, that Chapter 68 of the Code of the Borough of Milford, entitled “Lead-Based Paint Inspections”, is hereby added to the Code and shall read as follows:

CHAPTER 68

SECTION 1.

Definitions Lead-Based Paint Inspections.

§68-1 Definitions.

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.

SECTION 2.

Lead-Based Paint Inspections.

§68-2 Inspections.

A. A lead evaluation contractor retained by the Borough shall inspect every single-family, two-family, or multiple rental dwelling located in the Borough of Milford 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.

B. In lieu of having the dwelling inspected by the Borough'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 (3) 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 Borough'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 Borough'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 (2) years.

G. Pursuant to N.J.S.A. 52:27D-437.16(e), property owners shall:

- (1) Provide evidence of valid lead-safe certification and the most recent tenant turnover at the time of the cyclical inspection.
- (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 §68-2(C) 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.

SECTION 3. Lead-Based Paint Inspection Fees.

§68-3 Fees.

A. In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20.00 per dwelling unit inspected by the Borough's lead evaluation contractor or the owner's private lead evaluation contractor shall be addressed for the purpose of the Lead Hazard Control Assistance Act, unless the owner demonstrates that the Department of Community Affairs has already assessed an additional

inspection fee of \$20.00. The fees collected pursuant to this subsection shall be deposited into the Lead Hazard Control Assistance Fund.

B. 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.

C. As listed in the fee ordinance.

SECTION 4. Lead-Based Paint Inspection Fees.

§68-4 Violations, Penalties, and Enforcement.

Penalties for violation of Chapter 68 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 \$1,000.00 per week plus the Borough's reasonable court costs until the required inspection has been conducted or remediation efforts have been initiated.

C. This Chapter shall be enforced by the Borough Clerk or other Borough personnel as may be assigned by resolution of the Milford Borough Common Council.

SECTION 5. REPEALER

All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION 6. SEVERABILITY

If any section, paragraph, subsection, clause, or provision of this Chapter 68 shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect after passage and publication in the manner provided by law.

PLEASE TAKE NOTICE that the foregoing Ordinance was introduced and passed on first reading on the February 6, 2023, at a meeting of the Borough Council of the Borough of Milford and will be taken up for final consideration and passage at a regularly scheduled meeting of the Mayor and Borough Council of the Borough of Milford to be held on the 6th of March, 2023, at 7:00PM, or as soon thereafter as the matter may be reached, to be held at the Milford Borough Fire Company, located at 21 Water Street, Milford, New Jersey 08848.

Copies of said Ordinance are at the office of the Milford Borough Municipal Clerk, 30 Water Street, Milford, New Jersey 08848, and posted on the Borough website.

HENRI SCHEPENS, MAYOR

ATTEST:

KAREN DYSART, RMC
MUNICIPAL CLERK

Introduction: February 6, 2023
 Public Hearing: March 6, 2023
 Adoption: March 6, 2023
 Publication: none

FIRST READING - ROLL CALL VOTE

Council Member	Motion	Adopt	Second	Ayes	Nays	Abstain	Absent
James Gallos				x			
Russel Heller				x			
Noralie LaFevre			x	x			
Ron Rehl				x			
Robert White	x			x			
Elisa Yager		x		x			

SECOND READING & FINAL ADOPTION - ROLL CALL VOTE

Council Member	Motion	Adopt	Second	Ayes	Nays	Abstain	Absent
James Gallos							
Noralie LaFevre							
Ronald Rehl							
Robert White							
Elisa Yager							