

**TOWNSHIP OF MONTGOMERY  
SOMERSET COUNTY, NEW JERSEY**

**ORDINANCE #24-1724**

**AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, COUNTY OF SOMERSET, STATE OF NEW JERSEY, ADDING CHAPTER 8-9 LEAD-BASED PAINT INSPECTIONS, TO THE CODE OF THE TOWNSHIP OF MONTGOMERY, 1984**

**WHEREAS**, P.L. 2021, c. 182, was enacted by the Senate and General Assembly of the State of New Jersey, regarding certain lead-based paint hazards, residential rental property, and establishing lead-based paint hazard programs, supplementing P.L.2003, c.311 (C.52:27D437.1 et al.), and amending various parts of the statutory law; and

**WHEREAS**, N.J.S.A. 52:27D-437.1 established the Lead Hazard Control Assistance Act lead-based testing program for residential rental properties; and

**WHEREAS**, N.J.S.A. 52:27D-437.16 now requires all municipalities to inspect every single-family rental, two-family rental and multiple rental dwelling located within the municipality at tenant turnover for lead-based paint hazards; and

**WHEREAS**, it is in the best interests of the residents of the Township of Montgomery to amend the Revised Municipal Code of the Township of Montgomery, 1984 at this time to require inspections for lead-based paint in residential rental dwellings to conform to New Jersey State law; and

**WHEREAS**, the Township wishes through this Ordinance to establish Chapter 8-9 entitled “Lead-Based Paint Inspections” of the Revised Municipal Code of the Township of Montgomery, 1984 in order to serve the best interests of the Township and its residents.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Township of Montgomery, in the County of Somerset and State of New Jersey, that:

**SECTION 1.** Chapter 8-9 to be known as “Lead-Based Paint Inspections” is hereby added to the Revised Municipal Code of the Township of Montgomery, 1984 and shall read as follows:

**Chapter 8-9 Lead-Based Paint Inspections**

**§ 8-9.1 Definitions.**

**LEAD ABATEMENT**

Shall mean 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**

Shall mean 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.

**DWELLING UNIT**

For the purposes of this section, a single-family rental, two-family rental, or multiple rental dwelling, located within the Township of Montgomery.

## **LEAD EVALUATION CONTRACTOR**

Shall mean 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. 5:17-1.1 et seq.

## **LEAD-BASED PAINT HAZARD**

Shall mean 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.

## **TENANT TURNOVER**

Shall mean the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

## **VISUAL ASSESSMENT**

Shall mean a visual examination for deteriorated paint or visible surface dust, debris, or residue.

### **§ 8-9.2 Inspections.**

- a.** A lead evaluation contractor retained by the Township shall inspect every single-family, two-family, or multiple rental dwelling located in the Township of Montgomery 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 Township'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.** The owner, landlord, and/or agent of every single-family, two-family, or multiple rental dwelling unit offered for rental (without in any way intending to infringe upon the requirements of N.J.S.A. 46:8-28) 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. The first inspection for all rental dwelling units must take place no later than July 22, 2024.
- d.** The Township shall charge the dwelling owner or landlord, and the dwelling owner or landlord shall pay the Township in advance of any inspection, a fee as set forth in §8-9.11, for each unit inspected to cover the cost of the inspection, which shall be dedicated to meeting the costs of implementing and enforcing this section.

### **§ 8-9.3 Inspection of Two- or Three-Dwelling Units.**

If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of two- or three-dwelling units, then the Township's lead evaluation contractor or the private lead evaluation contractor shall inspect the remainder of the building's dwelling units for lead hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. The Township's lead evaluation contractor or the private lead evaluation contractor may charge an additional fee as set forth in §8-9.11.

#### **§ 8-9.4 Exceptions for Inspections.**

Notwithstanding any language in §8-9.2 to the contrary, 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 (N.J.S.A. 55:13A-1, et seq.);
4. is a single-family or two-family seasonal rental dwelling that 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 this section.

#### **§ 8-9.5 Remediation.**

- a. If the Township's lead evaluation contractor or the private lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to §8-9.2, then the owner of the dwelling unit 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 (N.J.S.A. 52:27D-437.1 et al.).
- b. Upon the remediation of the lead-based paint hazard, the Township's lead evaluation contractor or the private lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists. The Township's lead evaluation contractor or the private lead evaluation contractor shall charge an additional fee as set forth in §8-9.11.

#### **§ 8-9.6 Lead-Safe Certification.**

If the Township's lead evaluation contractor or the private lead evaluation contractor finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to §8-9.2, or following remediation of a lead-based paint hazard pursuant to §8-9.5, then the Township's lead evaluation contractor or the private lead evaluation contractor shall certify the dwelling unit as lead-safe on a form prescribed by the Department of Community Affairs as provided for in regulations or guidance promulgated pursuant to N.J.S.A. 52:27D-437.20. The lead-safe certification provided to the property owner by the Township's lead evaluation contractor or the private lead evaluation contractor pursuant to this section shall be valid for two years.

#### **§ 8-9.7 Production of Lead-Safe Certification.**

Beginning on July 22, 2024, and henceforth, dwelling unit owners shall:

1. Provide evidence of a valid lead-safe certification obtained pursuant to this section 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. 55:13A1, et seq.), unless not required to have had an inspection by the Township's lead evaluation contractor or the private lead evaluation contractor pursuant to paragraph (1), (2), or (3) of §8-9.4; and

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 the Township's lead evaluation contractor or the private lead evaluation contractor pursuant to paragraphs (1), (2), (3), and (4) of §8-9.4, and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease; and
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, unless not required to have had an inspection by the Township's lead evaluation contractor or the private lead evaluation contractor pursuant to paragraphs (1), (2), (3), and (4) of §8-9.4.

**§ 8-9.8 Notification to Commissioner of Department of Community Affairs.**

If the Township's lead evaluation contractor or the private lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this section, then the Township's lead evaluation contractor or the private lead evaluation contractor shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with the Lead Hazard Control Assistance Act (N.J.S.A. 52:27D- 437.8).

**§ 8-9.9 Consultation with Local Health Board.**

The Township's lead evaluation contractor or the private lead evaluation contractor with the duty to inspect single-family, two-family, and multiple rental dwellings pursuant to this section may consult with the local health board, the New Jersey Department of Health, or the Department of Community Affairs concerning the criteria for the inspection and identification of areas and conditions involving a high risk of lead poisoning in dwellings, methods of detection of lead in dwellings, and standards for the repair of dwellings containing lead paint.

**§ 8-9.10 Inspections as a Result of Testing Children of Six Years of Age or Younger.**

- a. If less than three percent (3%) of children tested in the Township, six years of age or younger, have a blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the New Jersey Department of Health pursuant to N.J.S.A. 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 Township's lead evaluation contractor or the private lead evaluation contractor may inspect a dwelling located therein for lead-based paint hazards through visual assessment.
- b. If at least three percent (3%) of children tested, six years of age or younger, have a blood lead level greater than or equal to five ug/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 Township's lead evaluation contractor or the private lead evaluation contractor shall inspect a dwelling located therein through dust wipe sampling.

**§ 8-9.11 Fees.**

- a. The fee for a visual inspection and dust wipe sampling inspection performed by the Township's lead evaluation contractor shall be designated by Resolution annually plus \$50 administrative fee, all of which will be paid to the Township of Montgomery. If a dust wipe fails, it shall cost an additional fee plus an additional fee per wipe for a subsequent test, identified by Resolution and an additional administrative fee of \$25.00.

- b. In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20.00 per dwelling unit inspected by the Township’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.
- c. 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.

**§ 8-9.12 Penalties.**

Penalties for violation of Chapter 8-9 shall be as follows:

1. 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.
2. 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 until the required inspection has been conducted or remediation efforts have been initiated.
3. The foregoing penalties shall be in addition to any other penalty provided in this chapter and shall be in addition to those penalties set forth in N.J.S.A. 46:8-35.

**SECTION 2.** Each section of this Ordinance and every subsection hereof shall be deemed independent, separate and distinct from all other sections, and the holding of any section or a part hereof to be unconstitutional, void, or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part hereof, and to this end, the provisions of this Ordinance are hereby declared severable.

**SECTION 3.** All other ordinances, codes or parts thereof that are in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior Township ordinances, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Township’s ordinances are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**SECTION 4.** This Ordinance shall take effect upon passage and publication as required by law.

DATE ADOPTED: April 18, 2024

**ATTEST:**

**TOWNSHIP OF MONTGOMERY  
COUNTY OF SOMERSET**

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Lisa Fania, RMC  
Township Clerk

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Neena Singh  
Mayor