

TOWNSHIP OF WEST WINDSOR
 COUNTY OF MERCER, NEW JERSEY

2024-05

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 82 "FEES".

1st Reading February 26, 2024
 2nd Reading & Public Hearing March 26, 2024
 Date Adopted March 26, 2024
 Date Effective April 16, 2024
 DOT APPROVAL RECEIVED _____
 Planning Board Approval _____

Date to Mayor March 26, 2024
 Date Signed March 27, 2024
 Date Resubmitted to Council _____
 Approved as to Form and Legality [Signature]
 Michael W. Herberich
 Township Attorney

RECORD OF VOTE													
First Reading							Second Reading						
Council	Yes	No	NV	AB	Mov	Sec	Council	Yes	No	NV	AB	Mov	Sec
Gawas	✓					✓	Gawas	✓					
Geevers	✓						Geevers	✓					
Mandel	✓						Mandel	✓					✓
Weiss	✓				✓		Weiss	✓				✓	
Whitfield	✓						Whitefield	✓					

x-Indicates Vote AB-Absent NV-Not Voting Mov-Moved Sec-Seconded

[Signature] 3/27/2024
 Hemant Marathe, Mayor
 Acting Mayor Date

Rejected _____

Reconsidered by Council _____

Override Vote: YES _____ NO _____

[Signature]
 Gay M. Huber, Township Clerk

2024-05

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 82 "FEES".

WHEREAS, pursuant to P.L. 2021, c. 182 (N.J.S.A. 52:27D-437.16 et seq.), municipalities are required to implement a lead-safe inspection program for certain single-family, two-family and multiple rental dwellings constructed prior to 1978;

WHEREAS, Township Council established standards for inspection conducted within the Township through adoption of Chapter 100, Article II Lead Safe Residential Rental Requirements and Chapter 82-26 Lead-safe Rentals, and

WHEREAS, the Township desires to streamline the administrative processes associated with implementation of the program for property owners and the Township;

NOW, THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Windsor, in the County of Mercer and State of New Jersey, Chapter 82, "Fees" by adding thereto section 82-26F "Lead-paint Rental Requirements" as follows:

82-26 F.

In the event, the Township enters into a Professional Services Agreement with a third-party lead evaluation contractor to offer the Township-facilitated inspection option, and such agreement specifies a fixed fee structure, all fees shall be paid by the property owner directly to the contracted professional, or as specified in the professional services agreement. Filing fees required by 82-26A, collected by the contracted professional shall be remitted to the Township as specified by the terms of the executed agreement.

INTRODUCTION: February 26, 2024

PUBLIC HEARING: March 26, 2024

ADOPTION: March 26, 2024

MAYORAL APPROVAL: March 27, 2024

EFFECTIVE DATE: April 16, 2024

TOWNSHIP OF WEST WINDSOR
Division of Health

MEMORANDUM

TO: Marlena Schmid, Business Administrator

FROM: Jill M. Swanson, Health Officer JMS

SUBJECT: Proposed Ordinance Amendment to add new section 82-26F to Chapter 82-26, "Lead-safe rentals."

DATE: February 1, 2024

I am recommending an amendment to the recently adopted fee structure established by code section 82-26 which addresses fees for the lead-safe rental program. The proposed amendment 82-23F will expand the Township's options when selecting professionals to perform rental inspections. Please refer to my attached memorandum of October 31, 2023 for an overview of the law and the Township's local ordinance.

The proposed section, 82-26F, will allow the Township to contract with a qualified professional to not only perform the inspection, but also collect the associated fees directly from property owners. A copy of the certificate and the filing fee will be forwarded to the Township by the contractor under terms stipulated in a professional services agreement. This model streamlines the process for both the property owner and the Township. This option also allows the property to switch to a more extensive and more costly lead-free inspection if site conditions reveal concerns at the time of the inspection without delays of submitting additional fees to the Township.

As stipulated in the state law, property owners will retain the option of hiring a qualified inspector of their own choosing for the inspection and filing the certification with the Township.

We are currently in the process of working with a firm on a professional services agreement and hope to move forward swiftly. Please don't hesitate to reach out if there are questions or concerns.

- c. Hemant Marathe, Mayor
Michael W. Herbert, Esq.
Gay Huber, Township Clerk

TOWNSHIP OF WEST WINDSOR
Division of Health

MEMORANDUM

TO: Marlena Schmid, Business Administrator

FROM: Jill M. Swanson, Health Officer

SUBJECT: Proposed Ordinance Amendments

- 1. Amending Chapter 100, "Housing Standards" to add Article II, Lead-safe Rental Inspection Requirements**
- 2. Amending Chapter 82, "Fees" to add Section 82-26**

DATE: October 31, 2023

Effective July 22, 2022, a new state law "New Jersey's Lead-safe Certification" was enacted aimed at preventing lead-based paint exposure in certain residential rental dwellings by requiring inspections for single family, two-family and multiple family dwellings. The law mandates municipal programs of inspection in accordance with state regulations subsequently adopted May 1, 2023 under the Department of Community Affairs, entitled "regulations for lead-based paint inspections in rental dwellings." The proposed local ordinances provide for the Township's inspection processes and establishes fees to support the work associated with the program.

Under the new state law, West Windsor Township must ensure that all rental dwellings built prior to 1978 are inspected for lead paint hazards and certified to be lead-safe or lead-free, unless otherwise exempted under the law. The initial inspections must be completed by July 22, 2024, or at the time of tenant turnover, whichever is earlier. After the initial inspection is certified, units must be inspected every three years, or at tenant turnover, whichever is sooner. The type of inspection mandated is based on the jurisdiction's historic reports of elevated childhood blood lead levels (EBLLs). West Windsor's EBLLs fall under 3%, therefore a visual inspection is required as opposed to a more intensive dust wipe inspection. If hazards are identified, owners have an option of remediation or abatement, both of which must be conducted by trained professionals hired by the owner and performed in compliance with established standards.

The Township is required to comply with the law and provide for the inspection program within the required timeline regardless of adoption of Chapter 100, Article II. The local ordinance provides for administrative procedures for the program. Highlighted below is a summary of the sections of the proposed ordinances which extend beyond the requirements stipulated in the state regulations.

1. Section 110-14, A and B align with the state regulations and provide the Business Administrator latitude to adjust the program within departmental responsibilities as the Township matures and evolves in future years.
The initial responsibility for ensuring Township compliance with the new state law has been undertaken by the Health Officer. An administrative assistant for the lead-safe housing program has been hired with 7 hours per week dedicated in the position. This scenario will likely require adjustment as the program develops. It is intended that this role will remain separate and distinct from the registered environmental health positions within the Health Department.
2. Section 100-15 B#4. Although the state regulations require owners to keep the records, they do not specify the duration. We are recommending 6 years based on a 3 year cyclable inspection requirement.
3. Section 100-15 D-1(a) through D-3 falls outside the state regulations and set procedural standards for administration and scheduling. D-1(a) The proposal calls for owners opting for a township facilitated inspection for the initial inspection to notify the Township by April 1, 2024, although the inspection may not be required to be completed until July 22, 2024. This will allow the Township to adequately plan staggered inspections, meet our required mandates and avoid a rush as the initial inspection deadline approaches. (b) This proposal requires 20-days prior notice to schedule Township-facilitated inspections. This provision will help the Township with implementation of an inspection program dependent upon a third party. D-2 and D-3 are procedural and self-explanatory.
4. Section 100-15 E aligns with the state regulation, except 2 (a) is added to require the Township provide the owner with written notice if a Township-facilitate inspection is mandated.
5. Sections 100-15 F and G, 100-16 ,100-17 and 100-18 align with the state regulations.
6. Chapter 82-26 establishes fees. The state regulations stipulate that fees to support the program shall be charged. We include a filing fee as well as an inspection fee for those opting for the Township-facilitated inspections. Additionally, the Township must assess \$20 per inspection, unless this fee has already been charged by the NJ DCA. These additional assessed funds are to be forwarded to the State of N.J. Lead Hazard Control Assistance Fund. We have surveyed fees established by municipalities and those charged by private contractors. Wide variability exists and those provided in the draft are our recommendations.

The additional points are provided to further explain our local approach to this program.

7. As mentioned, the Township does not conduct certificate of occupancy inspections at the time of tenant turnover for rental units; therefore, we do not have an accurate and current database of the affected properties. The appropriate Township officials have been consulted and no such comprehensive listing is available. The Assessor has provided a listing of approximately 2500 residential properties constructed prior to 1978. It is unknown how many are rentals. We have some segmented lists but none are considered complete. The State of New Jersey has estimated the numbers within our jurisdiction to

be low. A mailing will be issued to the appropriate property owners and local realtors upon adoption of the local ordinance to outline the requirements of this new law.

8. Since the effective date of the law, the Health Department has had minimal inquiries from the public. We recognize that outreach efforts are a priority over the next few months to ensure awareness in the community.
9. Property owners can opt to hire a private, qualified lead evaluation contractor to perform the inspection and issue the appropriate certificate. The certificate can then be filed with the Township according to stipulations above. We will encourage this approach. However, the state law prohibits the Township from requiring the owner to hire a private contractor. The township must offer the option of an inspection conducted by Township's "permanent local agency" or in the absence of one, a lead evaluation contractor hired by the Township.
10. The regulations fall under the jurisdiction of the NJ Department of Community Affairs and they define "permanent local agency" as "a local, municipal agency maintained for the purpose of conducting inspections and enforcing law, ordinances, and regulations concerning buildings and structures within its jurisdiction. This may include local building agencies, health agencies, and housing agencies." There is wide variability across the state on approaches with enforcement at the municipal level falling under varied departments.
11. As the Board of Health, it is important to understand that these regulations are an upstream effort to provide safe housing and prevent childhood lead poisoning. However, this law is not part of the mandated services required of local public health agencies. Therefore, the Health Department is not responsible for enforcement within our two additional contractual communities. This responsibility falls to the construction code officials in these towns in their capacity as housing officials. However, if a childhood EBLL is reported in any of the three communities, Health Department action is mandated under separate regulations and some of these cases trigger will more intensive inspections and interventions. A valid lead-safe certification or a lead-free certification will not negate site visits and enforcement by licensed Health Department personnel in these scenarios.

c. Hemant Marathe, Mayor
Michael W. Herbert, Esq.
Gay Huber, Township Clerk