

**LAFAYETTE TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE 2024-14

**AN ORDINANCE AMENDING CHAPTER 8 ENTITLED “BUILDING
AND HOUSING”, OF THE REVISED GENERAL ORDINANCES OF
THE TOWNSHIP OF LAFAYETTE, NEW JERSEY, SPECIFICALLY 8-3
“RESIDENTIAL RENTAL LEAD PAINT TESTING”**

BE IT ORDAINED by the Township Committee of the Township of Lafayette Chapter 8 3 of the Revised General Ordinances of the Township of Lafayette, being “Building and Housing”, specifically 8-3, shall be and is hereby amended as follows:

Section 1. 8-3, Residential Lead Paint Testing, is to be replaced in its entirety with the following:

§ 8-3. RESIDENTIAL RENTAL LEAD PAINT TESTING

§ 8-3.1. Definitions.

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.

TENANT TURNOVER — The time at which all existing occupants vacate a dwelling unit, and all new tenants move into the dwelling unit.

VISUAL ASSESSMENT — A visual examination for deteriorated paint or visible surface dust, debris, or residue.

§ 8-3.2. Inspections.

The Township Zoning Officer, if 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, or a certified lead evaluation contractor as may be retained and designated by the Township Committee shall inspect every single-family, two-family, and multiple rental dwelling located within the Township at tenant turnover for lead-based paint hazards or within two years of the July 22, 2022, the effective date of N.J.S.A. 52:27D-437.16, et seq., whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification. The owner of any such rental dwelling shall not permit any tenant turnover without first complying with § 8-3. 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 of \$50 for each unit inspected to cover the cost of the inspection if performed by a qualified Zoning Officer employed by the Township or the fee charged by any certified lead evaluation contractor as may be retained and designated by the Township Committee and any laboratory fees or ancillary costs incurred, which shall be dedicated to meeting the costs of implementing and enforcing § 8-3 and shall not be used for any other purpose.

§ 8-3.3. Independent Lead Evaluation Contractor.

The dwelling owner or landlord may directly hire a lead evaluation contractor who is certified to provide lead paint inspection services by the New Jersey Department of Community Affairs to satisfy the requirements of subsection 8-3.2 instead of the municipal inspection.

§ 8-3.4. Consultation with Other Agencies to Determine Criteria for Inspections.

The Township Zoning Officer, if 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 or certified lead evaluation contractor as designated by the Township Committee in subsection 8-3.2 with the

duty to inspect single-family, two-family and multiple dwellings may consult with the local health board, the New Jersey Department of Health, or the New Jersey 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.

§ 8-3.5. Exempt Dwellings.

Notwithstanding anything in § 8-3 to the contrary, 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:

- a. Has been certified to be free of lead-based paint;
- b. Was constructed during or after 1978;
- c. Is in a multiple dwelling that has been registered with the New Jersey 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.;
- d. 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
- e. Has a valid lead-safe certification issued in accordance with subsection 8-3.3.

§ 8-3.6. Remediation; Reinspection.

If the Township Zoning Officer, is 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, or the certified lead evaluation contractor designated by the Township Committee finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to subsection 8-3.2, 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. Upon the remediation of the lead-based paint hazard, the Township Zoning Officer, if 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, or the certified lead evaluation contractor designated by the Township Committee shall conduct an additional inspection of the unit to certify that the hazard no longer exists. The Township Zoning Officer, if 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, shall charge an additional fee in the amount of \$50 and any laboratory or ancillary costs. Otherwise, the dwelling owner or landlord shall pay the Township the fee charged by the certified lead evaluation contractor designated by the Township Committee for any such reinspection along with any laboratory or other ancillary costs incurred.

§ 8-3.7. Lead-Safe Certification; Duration.

If the Township Zoning Officer, is 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, or the certified lead evaluation contractor designated by the Township Committee finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to subsection 8-3.2 or following remediation of a lead-based paint hazard pursuant to subsection 8-3.6, then the Township Zoning Officer, if 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, or the certified lead evaluation contractor designated by the Township Committee shall certify the 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 N.J.S.A. 52:27D-437.20. The lead-safe certification provided to the property owner by the Township Zoning Officer, if 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, or the certified lead evaluation contractor designated by the Township Committee pursuant to subsection 8-3.7, shall be valid for two years.

§ 8-3.8. Property Owner Responsibilities.

Beginning on July 22, 2022, the effective date of N.J.S.A. 52:27D-437.16 et seq., property owners shall:

a. Provide evidence of a valid lead-safe certification obtained pursuant to subsections 8-3.2 or 8-3.3 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 the Township Zoning Officer, if 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, or the certified lead evaluation contractor designated by the Township Committee pursuant to paragraphs a, b or c of subsection 8-3.5;

b. Provide evidence of a valid lead-safe certification obtained pursuant to subsection 8-3.2 or 8-3.3 to new tenants of the property at the time of tenant turnover unless not required to have had an inspection by the Township Zoning Officer, if 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, or lead evaluator contractor pursuant to paragraphs a, b or c of subsection 8-3.5 and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease; and

c. 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 Zoning Officer, if said officer is 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, or the certified lead evaluation contractor designated by the Township Committee pursuant to paragraphs a, b, c or d of subsection 8-3.5.

§ 8-3.9. Notification of Lead-Based Paint to the DCA.

If the Township Zoning Officer, is 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 or the lead evaluation contractor designated by the Township Committee finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to subsection 8-3.2, then the Township Zoning Officer, if 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, or the certified lead evaluation contractor designated by the Township Committee shall notify the Commissioner of the Department Community Affairs, who shall review the findings in accordance with the "Lead Hazard Control Assistance Act," N.J.S.A. 52:27D-437.8.

§ 8-3.10. Additional Inspections When Lead Hazard Identified.

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 Zoning Officer, if 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, or the lead evaluation contractor designated by the Township Committee shall inspect the remainder of the building's dwelling units for lead hazards, except for dwelling units that have been certified to be free of lead-based paint. The Township Zoning Officer, if 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, shall charge an additional fee in the amount of \$50 per dwelling unit and any laboratory or ancillary costs. Otherwise, the dwelling owner or landlord shall pay the Township the fee charged by the certified lead evaluation contractor designated by the Township Committee for any additional inspections along with any laboratory or other ancillary costs incurred.

§ 8-3.11. Lead Hazard Control Assistance Fund.

In addition to the fees charged for inspection of rental housing, the Township shall assess an additional fee of \$20 per unit inspected by the Township Zoning Officer, if 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, or the lead evaluation contractor designated by the Township Committee for the purposes of the "Lead Hazard Control Assistance Act," N.J.S.A. 52:27D437.1, et seq., concerning lead hazard control work, unless the unit owner demonstrates that the New Jersey Department of Community Affairs already has assessed an additional inspection fee of \$20 pursuant to the provisions of N.J.S.A. 52:27D-437.10. In a common interest community, any inspection fee charged pursuant to subsection 8-3.11 shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit. The fees collected pursuant to subsection 8-3.11 shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to N.J.S.A. 52:27D-437.4.

§ 8-3.12. Type of Assessments.

a. If less than 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 Zoning Officer, if 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, or lead evaluator contractor may inspect a dwelling located therein for lead-based paint hazards through visual assessment.

b. If at least 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 N.J.S.A. 26:2-137.6, or according to other data deemed appropriate by the Commissioner, then the Township Zoning Officer, if 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, or lead evaluator contractor shall inspect a dwelling located therein through dust wipe sampling.

§ 8-3.13. Failure to Comply; Penalty.

The Township and the Township Zoning Officer or the certified lead evaluation contractor designated by the Township Committee shall be authorized to conduct investigations and issue penalties to enforce a property owner's failure to comply with N.J.S.A. 52:27D-437.16 or § 8-3. If the Township or the Township Zoning Officer or the certified lead evaluation contractor designated by the Township Committee determines that a property owner has failed to comply with a provision of N.J.S.A. 52:27D-437.16, et seq., or § 8-3 regarding a rental dwelling unit owned by the property owner, the property owner shall first be given 30 days to cure any violation by conducting the required inspection or initiate 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 \$50 per week until the required inspection has been conducted or remediation efforts have been initiated.

Section 2. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provision(s) shall be deemed severable, and the remaining portions of this Ordinance shall remain in full force and effect.

Section 3. All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

Section 4. This Ordinance shall take effect after publication and passage according to law.

NOTICE

The above entitled Ordinance was introduced and passed at first reading by the Lafayette Township Committee at a meeting on July 2, 2024 and after publication and a public hearing was finally adopted by the Lafayette Township Committee at a meeting held on August 6, 2024.

Mayor:

Municipal Clerk: