

ORDINANCE No. 2023-10

AN ORDINANCE ADOPTING CHAPTER 13 OF THE CODE OF THE TOWNSHIP OF SOUTHAMPTON ENTITLED “RENTAL UNIT INSPECTIONS” TO ESTABLISH REQUIREMENTS FOR LEAD BASED PAINT HAZARDS

WHEREAS, P.L. 2021, c. 182 (N.J.S.A. 52:27D-437.16 *et seq.*) (the “Law”) requires a municipality to be responsible for inspecting every single-family, two-family, and multiple rental dwelling within that municipality for lead-based paint hazards; and

WHEREAS, the Law requires a municipality to designate a permanent local agency or lead evaluation contractor to perform the inspections mandated thereby; and

WHEREAS, a municipality must assess a fee against the owner of a rental dwelling at the time of inspection that is sufficient to cover the cost of the inspecting the rental dwelling for lead-based paint hazards; and

WHEREAS, the Law requires a municipality to assess an additional twenty dollar fee per unit against the owner of a rental dwelling at the time of inspection for purposes of the Lead Hazard Control Assistance Act, P.L. 2002, c. 311; and

WHEREAS, the Township Committee of the Township of Southampton seeks to be compliant with the Law.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Committee of the Township of Southampton, County of Burlington, State of New Jersey that Chapter 13 of the Township of Southampton Code shall be and is hereby enacted to add such a new Chapter read as follows:

Chapter 13. Lead-Based Paint Inspections and Certificates.

13-1. Definitions.

As used in this Chapter only, the following terms shall have the meanings indicated, in accordance with P.L. 2021, c. 182 (N.J.S.A. 52:27D-437.16 *et seq.*) and N.J.A.C. 5:28A-1.1 *et seq.*:

DWELLING - A building containing a room or rooms, or suite, apartment, unit, or space that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

DWELLING UNIT - A unit within a building that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

MUNICIPAL INSPECTOR - The Township Construction Code Official or the Code Official’s designee.

MULTIPLE DWELLING - Any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by

three or more persons living independently of each other. "Multiple dwelling" also means any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied, or intended to be occupied, by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. "Multiple dwelling" does not include those buildings and structures that are excluded pursuant to N.J.S.A. 55:13A-3(k).

OWNER - Any person who owns, purports to own or is properly authorized to exercise powers of or for an owner of property used as a dwelling unit, which shall include the owner, landlord, and/ or agent of every single-family, two-family, and/or multiple dwelling unit for rental.

PERIODIC LEAD-BASED PAINT INSPECTION - The initial inspection of all applicable dwelling units at the earlier of two years from the effective date of P.L. 2021, c. 182, (July 22, 2022) (N.J.S.A. 52:27D-437.6), or tenant turnover and, thereafter, the earlier of three years or upon tenant turnover, consistent with N.J.A.C. 5:28A-2.1, for the purposes of identifying lead-based paint hazards in dwellings subject to this Chapter.

REMEDIATION - Interim controls or lead abatement work undertaken in conformance with this Chapter to address lead-based paint hazards.

TENANT TURNOVER - The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit or the time at which a new tenant enters a vacant dwelling unit.

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

13-2. Applicability.

All single-family, two-family, and multiple rental dwellings must be inspected for lead-based paint hazards in accordance with this Chapter except for the following:

- a. Dwellings constructed during or after 1978;
- b. Single-family and two-family dwellings that are rented out less than six months per year;
- c. Dwellings that have been certified to be free of lead-based paint pursuant to N.J.A.C. 5:17-3.16(b) either after an abatement is completed or an evaluation has confirmed that there is no lead-based paint in the dwelling;
- d. Multiple rental dwellings that have been registered with the Department of Community Affairs for at least ten years and have 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); and
- e. Dwellings with a valid lead-safe certificate issued pursuant to the RLPIL (lead-safe certificates are valid for two years from the date of issuance).

13-3. Lead-Based Paint Inspections.

Initial Inspection. The owner shall have every dwelling unit, as defined under this Chapter, inspected for lead-based paint hazards upon tenant turnover or within two years of the effective date of P.L. 2021, c. 182, July 22, 2022, whichever is sooner.

Subsequent Inspection. After initial inspection, the owner shall have all such dwelling units inspected for lead-based paint hazards every three years or upon tenant turnover, whichever is earlier, except that an inspection shall not be required at tenant turnover, if the dwelling unit owner has a valid lead-safe certification for the dwelling unit.

Coordination with the Municipal Inspector. Every owner of dwelling unit subject to this Chapter shall be responsible for obtaining the required inspection and paying the applicable inspection fees, as provided in Section 13-8. The owner must give the Municipal Inspector at least thirty calendar days-notice of the scheduled tenant turnover to schedule the required inspection.

Option for Inspection Performed by a Licensed Lead Inspector/ Risk Assessor or Contractor. If an owner so chooses, a dwelling unit owner may directly hire a lead evaluation contractor to conduct the periodic lead-based paint inspections for lead-based paint. Inspections shall be performed consistent with this Chapter.

The municipality shall have the authority to conduct inspections or investigations of owners that directly hire lead evaluation contractors to ensure that periodic lead-based paint inspections are being performed, in accordance with this Chapter.

The municipality shall have the authority to prohibit an owner from directly hiring a lead evaluation contractor to conduct a periodic lead-based paint inspection in the following situations:

- a. An owner, who previously opted to hire a lead evaluation contractor to perform the periodic lead-based paint inspection, failed to have the inspection completed; or
- b. The municipality determines there is a conflict of interest between the owner and their lead-evaluation contractor of choice.

Inspections shall be conducted pursuant to N.J.A.C. 5:28A-2.3.

13-4. Lead Safe Certificate.

If no lead-based paint hazards are identified upon inspection, the Municipal Inspector or a hired Licensed Lead Inspector/ Risk Assessor or Contractor shall certify the dwelling as lead-safe on the form prescribed from the Department of Community Affairs. A lead-safe certificate shall be valid for two years from the date of issuance. A copy of the lead-safe certificate shall be filed with the Township Construction Office. If the inspection is performed by a hired Licensed Lead Inspector/ Risk Assessor or Contractor, said inspector shall inform the Township of the results.

13-5. Identification of a Lead-Based Paint Hazard.

If lead-based paint hazards are identified upon inspection, the inspector shall notify the Department of Community Affairs for review of the findings, in accordance with the Lead Hazard Control Assistance Act.

If a lead-based paint hazard is identified in an inspection of one of the dwelling units in a building consisting of two or more dwelling units, then the lead contractor or Municipal Inspector shall inspect the remainder of the building's dwelling units, with the exception of those dwelling units that have been certified to be free of lead-based paint or which have a valid lead-safe certification.

13-6. Responsibility for Remediation of Lead-Based Paint Hazards.

The owner of the dwelling unit shall be responsible for remediation of the lead-based paint hazard. Remediation and any re-inspections required following remediation must be conducted consistent with N.J.A.C. 5:28A-2.5. Documentation of such remediation shall be provided to the Municipal Inspector.

13-7. Owner Responsibility.

The owner of a dwelling that is subject to this Chapter shall provide the tenant and Township evidence of a valid lead-safe certification obtained pursuant to this Chapter at the time of tenant turnover. The owner shall also affix a copy of any such certification as an exhibit to the tenant's lease.

The owner of a multiple dwelling that is subject to this Chapter shall provide evidence of a valid lead-safe certification obtained pursuant to this Chapter, as well as evidence of the most recent tenant turnover, at the time of any cyclical inspection performed pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq.

The owner of a dwelling that is subject to this Chapter shall maintain a record of the lead-safe certification, which shall include the name or names of a unit's tenants, if the inspection was conducted during a period of tenancy.

The owner of any dwelling subject to this Chapter shall inform the Township of all tenant turnover activity to ensure any required inspection may be scheduled. The owner must provide thirty-day notice to the Municipal Inspector to coordinate the necessary inspection.

The owner of a dwelling shall provide a copy of this Chapter, and any lead-safe certifications issued pursuant thereto, along with the accompanying guidance document, "Lead-Based Paint in Rental Dwellings," to any prospective owners of the dwelling during a real estate transaction, settlement, or closing.

13-8. Fees.

Prior to inspection, the owner must pay two fees to the Township:

\$150.00 or the cost for inspection and testing whichever is greater and a \$20.00 Township administrative fee shall be used for implementation and enforcement of this Chapter;

\$20 per unit for purposes of the Lead Hazard Control Assistance Act, P.L. 2002, c. 311.

In a common interest community, any inspection fee charged pursuant to this section shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

13-9. Violations and Penalties.

Pursuant to N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-4.1, the Municipal Inspector is authorized to conduct investigations and issue penalties in order to enforce an owner's failure to comply with this Chapter.

The owner shall be given a period of 30 days to cure any violation by conducting the required inspection or initiating any required remediation efforts.

If the owner has not cured the violation after 30 days, the owner shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or the remediation efforts have been initiated.

Remediation efforts shall be considered to be initiated when the owner has hired a lead abatement contractor or other qualified party to perform lead-hazard control methods.

Repealer, Severability, and Effective Date.

Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

This Ordinance shall become effective immediately upon adoption and publication in the manner prescribed by law.

ACTION ON INTRODUCTION:

Motion made by:

Heston

Motion seconded by:

Rossell

VOTE:

Committeeman Heston:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Deputy Mayor Raftery:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Committeewoman Rossell:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Committeeman Young, Sr.:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present
Mayor Mikulski:	<input checked="" type="radio"/> Yes	No	Abstain	Not Present

ACTION ON ADOPTION (after public hearing)

Motion made by:

Heston

Motion seconded by:

Raftery

VOTE:

Committeeman Heston:	<input checked="" type="radio"/> Yes	<input type="radio"/> No	<input type="radio"/> Abstain	<input type="radio"/> Not Present
Deputy Mayor Raftery:	<input checked="" type="radio"/> Yes	<input type="radio"/> No	<input type="radio"/> Abstain	<input type="radio"/> Not Present
Committeewoman Rossell:	<input type="radio"/> Yes	<input type="radio"/> No	<input type="radio"/> Abstain	<input checked="" type="radio"/> Not Present
Committeeman Young, Sr.:	<input checked="" type="radio"/> Yes	<input type="radio"/> No	<input type="radio"/> Abstain	<input type="radio"/> Not Present
Mayor Mikulski:	<input checked="" type="radio"/> Yes	<input type="radio"/> No	<input type="radio"/> Abstain	<input type="radio"/> Not Present

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true copy of the ordinance that was introduced after first reading at a meeting of the Southampton Township Committee held on October 17th, 2023 and adopted after a public hearing at a meeting of the Southampton Township Committee held on November 21st, 2023.



Kathleen D. Hoffman, RMC
Township Clerk/Administrator

