

**TOWNSHIP OF WEST CALDWELL, NEW JERSEY**

**ORDINANCE NO. 1879**

**Councilman Hladik**

**AN ORDINANCE OF THE TOWNSHIP OF WEST CALDWELL, ESSEX COUNTY, NEW JERSEY, AMENDING CHAPTER 13 TITLED, “BUILDING AND HOUSING”, TO ADD A NEW SECTION 6, CHAPTER 13 TITLED, “RESIDENTIAL RENTAL LEAD PAINT TESTING”, OF THE CODE OF THE TOWNSHIP OF WEST CALDWELL**

**WHEREAS**, the State of New Jersey enacted N.J.S.A. 52:27D-437, et seq. establishing lead-based paint testing programs for residential rental properties; and

**WHEREAS**, N.J.S.A. 52:27D-437, et seq. requires that municipalities enact ordinances to implement lead-based paint programs for residential rental properties; and

**WHEREAS**, the Township of West Caldwell desires to comply with N.J.S.A. 52:27D-437, et seq. by adopting this Ordinance.

**BE IT ORDAINED** by the Township Council of the Township of West Caldwell, County of Essex, State of New Jersey, as follows: Section 7: Chapter 13 of the Code of the Township of West Caldwell be and hereby is amended to add a new Section 13 entitled “Residential Rental Lead Paint Testing”.

**§ 13-6.1. Purpose.**

The purpose of this chapter to comply with the state mandate requiring municipalities to ensure that residential rental dwellings are inspected for lead-based paint hazards that can cause harmful effects to the health and well-being of residents.

**§ 13-6.2. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**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 INSPECTOR/RISK ASSESSOR** – An individual certified by the New Jersey Department of Health to perform lead inspection and risk assessment work pursuant to *N.J.A.C. 8:62*. This includes the ability to perform dust wipe sampling.

**LEAD EVALUATION CONTRACTOR** — A firm certified by the Department to perform lead inspection and risk assessment work pursuant to *N.J.A.C. 5:17*. This includes the ability to perform dust wipe sampling.

**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.

**§ 13-6.3. Inspections.**

- A. A lead inspector/risk assessor appointed by the Township shall inspect every single-family, two-family, or multiple rental dwelling located in the Township of West Caldwell 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. All said units in the Township shall initially be inspected for lead-based paint upon tenant turnover, but the first inspection must take place no later than July 22, 2024 in the event that there has been no tenant turnover. Thereafter, all said units shall be inspected every three years, or at tenant turnover, whichever is earlier.
- B. In lieu of having the dwelling inspected by the Township's lead inspector/risk assessor, 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 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 (N.J.S.A. 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. 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 the "Lead Hazard Control Assistance Act," N.J.S.A. 52:27D-437.1 et seq. In addition, the lead evaluation contractor or the Township's lead evaluator shall notify the Commissioner of Community Affairs and report the findings of the inspection for review in accordance with the "Lead Hazard Control Assistance Act," N.J.S.A. 52:27D-437.1 et seq. Upon the remediation of the lead-based paint hazard, the lead evaluation contractor or the Township's lead evaluator shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
- E. If no lead-based paint hazards are identified, then the Township'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 years.
- F. 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 unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to § 13-6.3C of this chapter.
- (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 § 13-6.3C 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, unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to § 13-6.3C of this chapter.

G. Fees.

- (1) The fee for a visual assessment and dust wipe sampling inspection performed by the Township's lead inspector shall be \$300 for a dwelling unit that has one bedroom. There shall be an additional fee of \$30 for each additional bedroom in the dwelling unit.
- (2) The fee for a visual assessment inspection performed by the Township's Lead Inspector/Risk Assessor shall be \$200 per dwelling unit.
- (3) The fee for a reinspection by the Township's Lead Inspector/Risk Assessor shall be \$100.
- (4) If a dwelling owner or landlord chooses to hire a private lead evaluation contractor, a \$50 administrative fee shall be paid. Said fee shall be dedicated to the costs of monitoring compliance with this section.
- (5) In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20 per dwelling unit inspected by the Township Lead Inspector/Risk Assessor or the owner's private lead evaluation contractor shall be assessed 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. The fees collected pursuant to this subsection shall be deposited by the Township into the Lead Hazard Control Assistance Fund established under N.J.S.A. 52:27D-437.4.
- (6) 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.

**§ 13-.6.4 Reporting requirements for owners/landlords and contractors.**

- A. Owners/Landlords of all dwellings subject to the inspection requirements under this chapter shall register their unit(s) with the Township and provide the Township clerk with up-to-date information on inspection schedules, inspection results, and tenant turnover.
- B. A copy of all lead-safe certifications issued for property located in the Township of West Caldwell shall be provided to the Township clerk by the Township's Lead Inspector/Risk Assessor or by the Lead Evaluation Contractor.

- C. An owner/landlord shall provide the Township clerk with a copy of any lead-free certification issued pursuant to N.J.A.C. 5:17 for their unit(s).

**§ 13-6.5. Violations and penalties.**

Penalties for violation of this chapter shall be as follows:

- A. If a property owner fails to comply with the inspection requirements mandated by N.J.S.A. 52:27D-437.16 et seq. or initiate any required remediation efforts, the owner shall have thirty (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 per week until the required inspection has been conducted or remediation efforts have been initiated.