

**ORDINANCE NO. 2023-06**

**AN ORDINANCE BY THE TOWNSHIP OF LITTLE EGG HARBOR,  
COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND  
SUPPLEMENTING THE TOWNSHIP CODE SO AS TO AMEND  
CHAPTER 279, RENTAL PROPERTY, SO AS TO CREATE A NEW  
ARTICLE III, LEAD-BASED PAINT INSPECTIONS**

**WHEREAS**, pursuant to P.L. 2021, c.182, all municipalities are now required to inspect every single-family, two-family, and multiple rental dwelling located within the municipality at tenant turnover for lead-based paint hazards; and

**WHEREAS**, the Township desires to amend the Township Code to require inspections for lead-based paint in residential rental dwellings in accordance with P.L. 2021, c. 182.

**NOW, THEREFORE, BE IT ORDAINED**, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Little Egg Harbor, as follows:

**SECTION 1.** That the governing body hereby amends Chapter 279, Rental Property, so as to create a new Article III, entitled “Lead-based Paint Inspections” as follows:

**ARTICLE III Lead-Based Paint Inspections**

**§ 279-19 Definitions.**

**Lead Abatement** – Measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner, State, Department 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 Evaluation Contractor** – 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** – 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** – The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

**Township Inspector** - The Township Code Enforcement Officer or other employee or agent of the Township that is licensed as an individual lead inspector and risk assessor by the New Jersey Department of Health.

**Visual Assessment** – A visual examination for deteriorated paint or visible surface dust, debris, or residue

**§ 279-20 Inspections; Remediation; Certification**

A. Initial inspection. Every single-family, two-family, or multiple rental dwelling unit offered for rental must be inspected for lead-based paint by July 24, 2024 or upon tenant turnover, whichever is earlier.

1. Either a Township Inspector or, a lead evaluation contractor retained by the Township, shall inspect every single-family, two-family, or multiple rental dwelling located in the Township of Little Egg Harbor 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.



Rothstein, Mandell, Strohm,  
Halm & Cipriani, P.A.  
ATTORNEYS AT LAW

98 East Water Street  
Toms River, NJ 08753

o: 732.363.0777

f: 732.905.6555

2. 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.

B. Periodic Inspection Procedure. Every single-family, two-family, or multiple rental dwelling unit offered for rental 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, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification, which are valid for two years.

1. If the lead-safe certification has expired, and there is tenant turnover, a re-inspection will be required prior to the expiration of the three (3) year period from the last inspection.

C. Exceptions. 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 ten (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.;



98 East Water Street  
Toms River, NJ 08753

o: 732.363.0777  
f: 732.905.6555

(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. Lead-safe Certification. If no lead-based paint hazards are identified, then the Township's lead evaluator or Township Inspector shall certify the dwelling as lead-safe on a form prescribed by the Department of Community Affairs, which shall be valid for two (2) years.

E. Remediation of hazard. If lead-based paint hazards are identified, then the owner, landlord, and/or agent of the non-exempt dwelling shall remediate the lead-based paint hazard using lead abatement or lead-based control methods in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the Township Inspector or Township's lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

**§ 279-21 Requirements of Property owner**

A. Pursuant to N.J.S.A. 52:27D-437.16(e), property owners on non-exempt dwelling units shall:

(1) Provide evidence of valid lead-safe certification and the most recent tenant turnover at the time of the cyclical inspection;

(2) Provide evidence of a valid lead-safe certification 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 this Article.

**r|m|s|h|c**

Rothstein, Mandell, Strohm,  
Halm & Cipriani, P.A.  
ATTORNEYS AT LAW

98 East Water Street  
Toms River, NJ 08753

o: 732.363.0777

f: 732.905.6555

(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.

§ 279-22     **Fees**

- A. Notwithstanding any other fees due pursuant to this Chapter, a fee in the amount of \$200.00 shall be paid for each lead-based paint inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this Article and shall not be used for any other purpose. Alternatively, 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 satisfy the requirements of this Article, in which case no additional Lead-Based Paint inspection fee shall be paid.
- B. The fee for the filing of a lead-safe certification or lead-free certification shall be \$50.
- C. In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.
- D. 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, Township Inspector 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.

**r|m|s|h|c**

Rothstein, Mandell, Strohm,  
Halm & Cipriani, P.A.  
ATTORNEYS AT LAW

98 East Water Street  
Toms River, NJ 08753

o: 732.363.0777

f: 732.905.6555

**§ 279-22      Record keeping**

The Township shall:

- A. Retain a copy of any lead-safe certifications for a property in the Township.
- B. Maintain an inspection schedule of properties, any lead-based paint hazards in a non-exempt dwelling, and any remediation initiated.

**§ 279-23      Violations and Penalties**

In accordance with N.J.S.A. 52:27D-437.19, the penalties for a violation of this Article shall be as follows:

- a. If a property owner has failed to conduct the required inspection or initiate any remediation efforts, the owner shall be given 30 days to cure the violation.
- b. If the property owner has not cured 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.

**SECTION 3.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 4.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 5.** This ordinance shall take effect after second reading and publication as required by law.

**r|m|s|h|c**

Rothstein, Mandell, Strohm,  
Halm & Cipriani, P.A.  
ATTORNEYS AT LAW

98 East Water Street  
Toms River, NJ 08753

o: 732.363.0777

f: 732.905.6555

**NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Little Egg Harbor held on the **9<sup>th</sup>** day of **February, 2023**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **9<sup>th</sup>** day of **March, 2023**, at 7:00 p.m. at the Municipal Building located at 665 Radio Road, Little Egg Harbor, at such time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

---

**KELLY LETTERA, RMC**  
Township Clerk  
Little Egg Harbor Township

---

**BLAISE SCIBETTA, MAYOR**

**r|m|s|h|c**

Rothstein, Mandell, Strohm,  
Halm & Cipriani, P.A.  
ATTORNEYS AT LAW

98 East Water Street  
Toms River, NJ 08753

o: 732.363.0777

f: 732.905.6555