

**ORDINANCE NO. 09-2024**

**AN ORDINANCE OF THE TOWNSHIP OF EAST HANOVER AMENDING PART II:  
GENERAL LEGISLATION TO ADD THERETO A NEW CHAPTER 163 ENTITLED  
“LEAD-BASED PAINT INSPECTIONS.”**

**WHEREAS**, pursuant to P.L. 2021, c. 182 (N.J.S.A. 52:27D-437.16 et seq.), all municipalities are required to inspect every single-family, two-family, and multiple rental dwelling located within the Township at tenant turnover for lead-based paint hazards; and

**WHEREAS**, the purposes of these requirements is to prevent the poisoning of residents by requiring that the presence of deteriorated lead-based paint on the interior and exterior of pre-1978 structures be identified and correctly addressed by reducing and controlling lead-based paint hazards which may be present, in order to prevent human exposure to such hazards;

**WHEREAS**, it is necessary and in the best interests of the residents of East Hanover to amend East Hanover’s Municipal Code to require inspections for lead-based paint in residential rental dwellings, in order to conform to and ensure compliance with this new State law;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Township of East Hanover as follows:

**Section 1.** Part II: General Legislation of the Code of the Township of East Hanover is hereby amended by adding thereto a new Chapter 163 entitled “Lead-Based Paint Inspections,” which shall read as follows:

**CHAPTER 163**

**LEAD-BASED PAINT INSPECTIONS**

**§ 163-1 Findings**

(a) Lead poisoning poses a serious public health threat to children and adults in the Township of East Hanover.

(b) Younger children are particularly susceptible to the hazards of lead-based paint since their bodies are still developing. Fetuses are also vulnerable to the effects of lead-based paint because pregnant women can transfer lead to their fetuses, which can result in adverse developmental effects.

(c) Even a small amount of lead can cause elevated blood lead levels resulting in serious and irreversible developmental damage, particularly in children under the age of six years.

(d) Exposure to lead hazards from deteriorated lead-based paint is a primary cause of elevated blood lead levels in humans.

(e) Structures built before 1978 are the most likely to contain lead-based paint hazards.

(f) Residential properties are more likely than are nonresidential properties to be a source of exposure to lead-based paint hazards by children.

(g) Children living in older, poorly maintained homes are disproportionately at risk for lead-based paint hazards.

(h) The exposure to lead-based paint hazards in the Township of East Hanover is most common, and presents the most serious risk, to young children residing in rental housing built before 1978. More specifically, about 80 percent of lead poisoning cases in New Jersey are caused by lead-based paint in homes built before 1978, affecting our low-income families the most.

(i) It is essential to the overall public health of persons in the Township of East Hanover, and particularly for children younger than six years of age, that they be protected from exposure to lead-based paint hazards.

#### §163-2 **Definitions.**

For purposes of this Article only, the following words and terms shall have the meanings set forth below, in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-1.1 et seq.:

**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 (HUD) and as conducted pursuant to N.J.A.C. 5:28A-2.3.

**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.

**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).

**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 Article.

**MUNICIPAL INSPECTOR** - The East Hanover Construction Official or designee, or any enforcement officer appointed by the Township pursuant to N.J.S.A. 40:48-2.3 et seq., or any other statutory authorization, to perform inspections of any building or other code, or any enforcement officer authorized to enforce the Municipal Housing Code, Property Maintenance Code, or Health Code, or their designee.

**REMEDICATION** - Interim controls or lead abatement work undertaken in conformance with this Article 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.

**§ 163-3 Section Inspections for Lead-Based Paint.**

(a) **Inspections Authorized.** The Municipal Inspector shall be authorized and empowered to conduct periodic lead-based paint inspections for all applicable multiple dwelling units offered for rent to determine the presence of lead-based paint, in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-1.1 et seq.

(b) **Certain Multiple Dwelling Units Exempted from Lead-Based Paint Inspection.** Inspections for lead-based paint in multiple dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq., and N.J.S.A. 55:13A-1 et seq. 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) was constructed during or after 1978;

(2) is a single-family or two-family seasonal rental dwelling units that is rented for less than six months duration each year by tenants that do not have consecutive lease renewals;

(3) has been certified to be free of lead-based paint, pursuant to N.J.A.C. 5:17;

(4) is in a multiple dwelling that was constructed prior to 1978 and has been registered with the Department of Community Affairs as a multiple dwelling for at least ten years, either under the current or a previous owner, and has either

a. no outstanding paint 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.); or

b. a current certificate of inspection issued by the Department of Community Affairs, Bureau of Housing Inspection; or

c. an open inspection with no violations for paint;

(5) has a valid lead-safe certification issued pursuant to N.J.A.C. 5:28A. Lead-safe certifications are valid for two years from the date of issuance pursuant to N.J.A.C. 5:28A-2.4.

**§ 163-4 Dwelling Owner is Responsible for Obtaining Inspection.**

(a) **Inspection Performed by Municipal Inspector.** The owner, landlord, and/or agent of every single-family, two-family and/or multiple dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards as required in this Article, or at tenant turnover, whichever is earlier. To obtain the required inspection, the landlord, owner and/or agent shall arrange it with the Municipal Inspector and pay all applicable and required fees associated with the Township's inspection as specified in § 163-7, below.

(b) **Option for Inspection Performed by Licensed Lead Evaluation Contractor.** A dwelling unit owner or landlord may opt, instead, to directly hire a licensed lead evaluation contractor to conduct the periodic lead-based paint inspections for lead-based paint as required in this Article. Notwithstanding this option, the Township retains the authority to conduct inspections or investigations of landlords or owners that directly hire lead evaluation contractors to ensure that periodic lead-based paint inspections are being performed, in accordance with this chapter. The Township also retains the authority to prohibit an owner from directly hiring a lead evaluation contractor to conduct a periodic lead-based paint inspection where:

- (i) the owner previously opted to hire a lead evaluation contractor to perform the periodic lead-based paint inspection and failed to have the inspection completed; or
- (ii) (ii) the Township determines there is a conflict of interest between the owner and their lead-evaluation contractor of choice.

**§ 163-5 Timing for Required Lead-Based Paint Inspections.**

(a) The initial inspection for all single-family, two-family and multiple dwellings subject to this Article shall take place upon tenant turnover, or within two years of the effective date of P.L. 2021, c. 182 (July 22, 2022), whichever occurs sooner.

(b) After initial inspection, all such dwelling units shall be inspected for lead-based paint hazards each time there is tenant turnover, or at least once every three years, whichever occurs earlier. However, if the dwelling unit owner has obtained a valid lead-safe certification for the dwelling unit (as described in § 163-10 below), then inspection of that dwelling unit shall not be required at each tenant turnover during the two-year period the certificate is valid.

(c) Each subsequent periodic lead-based paint inspection shall be counted from the most recent inspection which resulted in a valid lead-safe certification.

**§ 163-6 Notice of Inspection to be Given.**

Whenever any multiple dwelling unit is scheduled for a tenant turnover, the then-current landlord, owner and/or agent shall provide written notice to the Municipal Inspector that an inspection is needed at least twenty calendar days prior to the scheduled date of the tenant turnover.

**§ 163-7 Fees for Inspections.**

(a) Fees associated with lead-paint inspections by the Municipal Inspector shall be as follows:

Type of Property/Inspection Cost of Visual Lead Inspection - 2 bedrooms or fewer \$125.00, 3 bedrooms \$150.00, 4 bedrooms \$175.00, 5 or more bedrooms \$200.00. Re-inspection of any size/type of property \$100.00. In any common interest community, any inspection fee shall be the responsibility of the unit owner and not the homeowner's association, unless the homeowner's association is the owner of the unit.

(b) Each dwelling unit under the direct control of East Hanover Affordable Housing Department (PAH), East Hanover Community Housing (PCH), and the East Hanover Housing Authority (PHA) shall be exempt from the fees set forth in § 163-7 (a), above.

(c) The following additional fees shall be assessed: (i) A fee of twenty dollars (\$20.00) shall be assessed in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-2.2, to be deposited into the Lead Hazard Control Assistance Act Fund under the administration of the New Jersey State Department of Community Affairs and (ii) an administrative fee of fifty dollars (\$50.00) shall be assessed to cover the processing of any application for inspection and shall be payable to the Township.

(d) All fees are nonrefundable unless the applicant cancels the requested inspection at least forty-eight hours prior to the time of the scheduled inspection. The fees set forth in §163-7(a) above shall be dedicated to meeting the costs of implementing and enforcing this Article for lead-based paint inspections and shall not be used for any other purpose.

(e) A dwelling landlord, owner and/or agent may directly hire a 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 and the requirements of N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A1.1 et seq., in which case, the twenty-dollar (\$20.00) fee shall be assessed in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-2.2, payable to the Township, to be deposited into the Lead Hazard Control Assistance Act Fund under the administration of the New Jersey State Department of Community Affairs and the fifty dollar (\$50.00) administrative fee shall be assessed, payable to the Township but no additional lead-based paint inspection fee shall be charged by the Township

**§ 163-8 Completion of Inspections Following Request.**

All inspections and re-inspections shall take place within fifteen calendar days of the requested inspection. Inspection fees shall be paid prior to the inspection. No inspections or re-inspections shall take place unless all fees are paid. Scheduled inspections or re-inspections may be canceled by the Municipal Inspector, unless the completed application and required fees have been received by the Township at least twenty-four hours prior to the scheduled inspection, or on the last

working day prior to the scheduled inspection. Every inspection for which the landlord, tenant, owner or agent has failed to provide access for inspection shall be deemed a failed inspection.

**§ 163-9 Lead-Based Paint Inspections by Visual Assessment or Dust Wiping Method.**

(a) At the time of the enactment of P.L. 2021, c.182 (N.J.S.A. 52:27D437.6), the Department of Community Affairs identified East Hanover as a Township in which less than three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five  $\mu\text{g}/\text{dL}$  according to the central lead screening database maintained by the New Jersey Department of Health. Accordingly, the Municipal Inspector or licensed lead evaluation contractor shall perform the periodic lead-based paint inspection through a visual assessment, in which the Municipal Inspector or contractor is to examine dwellings, in accordance with HUD guidelines and regulations at 42 U.S.C. §4851b for deteriorated paint or visible surface dust, debris, or residue on all painted building components, especially any walls, window, trim, and surfaces that experience friction or impact. The Municipal Inspector or licensed lead evaluation contractor may also elect to, but is not required to, collect samples by dust wiping surfaces, including floors, interior windowsills, and other similar surfaces, and tested, in accordance with methods approved by the State of New Jersey and/or the HUD.

(b) If, in the future, the Department of Community Affairs designates the Township as a Township in which at least three percent of children tested, six years of age or younger, have a blood lead level greater than or equal to five  $\mu\text{g}/\text{dL}$  according to the central lead screening database maintained by the New Jersey Department of Health, then the inspections required by this Article shall be performed through dust wipe sampling instead of visual assessment alone.

**§ 163-10 “Lead Safe” Certification Supplied Following Inspection.**

(a) If, following inspection, the Municipal Inspector or lead evaluation contractor finds that no lead-based paint hazard exists in a dwelling unit, they shall certify the dwelling unit as lead-safe on the form prescribed by the Department of Community Affairs and supply a copy of the lead-safe certification to the landlord, owner, and/or agent of the dwelling. If a licensed lead evaluation contractor issues the lead-safe certification, a copy shall also be provided to the Construction Official and the Municipal Clerk at the time it is issued.

(b) The lead-safe certification shall be valid for a period of two years from the date of issuance, unless during the two-year certification period, a lead evaluation contractor, lead inspector/risk assessor, a local health department, or a public agency conducts an independent inspection or risk assessment and determines that there is a lead-based paint hazard, in which case, the certification shall become invalid.

**§ 163-11 Identification of Lead-Based Paint Hazard.**

(a) If the Municipal Inspector or licensed lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit, they shall notify the New Jersey State Department of Community Affairs, Division of Local Government Services for review of the findings, in accordance with the Lead Hazard Control Assistance Act and the unit owner will hire a licensed lead remediation specialist for further evaluation at the unit owner’s expense.

(b) 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.

**§ 163-12 Responsibility for Remediation of Lead-Based Paint.**

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.

**§ 163-13 Owner Responsibility for Record-Keeping.**

(a) The landlord, owner and/or agent of a dwelling that is subject to this Article shall provide to the tenant and to the Township evidence of a valid lead-safe certification obtained pursuant to this Article 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.

(b) The owner of a multiple dwelling that is subject to this Article shall provide evidence of a valid lead-safe certification obtained pursuant to this Article, 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.

(c) The owner of a dwelling that is subject to this Article 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.

(d) The owner of any dwelling subject to this Article shall inform the Township of all tenant turnover activity to ensure any required inspection may be scheduled.

(e) The owner of a dwelling shall provide a copy of this Article, 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.

**§ 163-14 Municipal Responsibilities and Enforcement Powers.**

(a) Pursuant to N.J.A.C. 5:28A-2.1(d), the Municipal Inspector shall exercise appropriate oversight of a landlord or owner who chooses to hire a lead evaluation contractor to perform the periodic lead-based paint inspection.

(b) Pursuant to N.J.A.C. 5:28A-3.2, the Municipal Inspector shall maintain a record of all dwellings subject to this chapter, which includes up-to-date information on inspection schedules, inspection results, and tenant turnover; all lead-safe certifications issued; and all lead-free certifications issued.

(c) 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 a multiple dwelling landlord's, owner's and/or agent's failure to comply with this Article.

(d) The owner of the dwelling shall first be given a period of thirty calendar days to cure any violation by conducting the required inspection or initiating any required remediation efforts.

(e) If the owner of the dwelling has not cured the violation within that time period, they shall be subject to a penalty, not to exceed one thousand dollars (\$1,000) per week, until the required inspection has been conducted or the remediation efforts have been initiated.

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

**Section 2. Repealer.** Any article, section, paragraph, subsection, clause, or other provision of the Code of the Township of East Hanover and the Code of Township of East Hanover inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

**Section 3. Severability.** If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

**Section 4.** This ordinance shall take effect upon its passage and publication and as otherwise provided for by law.

Attest:

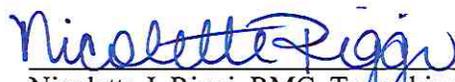
TOWNSHIP OF EAST HANOVER

  
Nicolette J. Riggi, RMC, Township Clerk

  
Joseph Pannullo, Mayor

Introduced: May 6, 2024  
Adopted: June 3, 2024

I, Nicolette J. Riggi, RMC, Township Clerk of the Township of East Hanover, County of Morris, do hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Council at a duly convened meeting held on June 3, 2024.

  
Nicolette J. Riggi, RMC, Township Clerk