

CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE NO. 532-2024

**AN ORDINANCE PROVIDING FOR THE IMPLEMENTATION OF
STATE REQUIREMENTS FOR LEAD BASED PAINT INSPECTIONS
FOR CERTAIN RESIDENTIAL RENTAL DWELLING UNITS**

WHEREAS, pursuant to P.L. 2021, c.182, the State of New Jersey requires all municipalities to conduct periodic inspections of certain single-family, two-family, and multiple rental dwellings for lead-based paint hazards, where the unit or building was constructed prior to 1978 and there is no valid lead-safe certification; and

WHEREAS, the City Administration has reviewed these requirements and determined that the most efficient and cost-effective method of meeting the City's compliance obligations of the State mandate is to incorporate lead-based paint inspections as part of the periodic fire inspections presently conducted for all rental properties through the City of Cape May Fire Prevention Bureau; and

WHEREAS, the City Council has determined it is in the best interests of the public health, safety, and general welfare to adopt an ordinance amending Chapter 295 of the City Code to set forth the process for implementing these requirements.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Cape May as follows:

Section 1. Section 295 of the City of Cape May Code is amended to include the following **NEW SECTION** (Article III Lead Based Paint Inspection):

Article III Lead Based Paint Inspection

295-19 Lead Based Paint Inspection

- A. **Purpose.** The purpose of this chapter is to implement the State requirements pursuant to P.L. 2021, c. 182 (the Act) for the periodic inspection of lead-based paint hazards in certain residential rental dwelling units, as may be amended or supplemented from time to time.
- B. **Applicability.** This section shall apply to all residential rental dwelling units, subject to the exemptions below.
- C. **Exemptions.** 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. Is an Owner-occupied dwelling unit; or

2. Was constructed during or after 1978; or
3. Single- and two-family seasonal rental dwelling units that are rented for less than six months duration each year by tenants that do not have consecutive lease renewals; or
4. Has been certified to be free of lead-based paint; or
5. 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," P.L.1967, c.76 (C.55:13A-1 et seq.); or
6. Has a valid lead-safe certification. Any premises for which a valid lead-free certificate is in force and has been issued pursuant to the statutes and regulations administered and applied by the New Jersey Department of Community Affairs, provided the owner of such premises can demonstrate proof of the existence of an original lead-free certificate and eligibility for registration of the premises on the Lead Safe Housing Registry; or
7. Is a motel or hotel.

D. Definitions. The following definitions shall apply to this article:

COMMON INTEREST COMMUNITY - A real estate development or neighborhood in which the property is burdened by servitudes requiring property owners to contribute to maintenance of commonly held property or to pay dues or assessments to an owners' association that provides services or facilities to the community.

LEAD INSPECTOR - 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 lead-contaminated paint that is deteriorated or present in surfaces that would result in adverse human health effects.

LEAD-FREE CERTIFICATION - A certification which confirms that a lead-based paint inspection was performed and that no lead-based paint exists in the dwelling unit or that all lead-based paint hazards have been fully abated.

LEAD-SAFE CERTIFICATION - A certification which confirms that a lead-based paint inspection was performed, and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance.

MULTIPLE DWELLING – shall mean any building or structure of one or more stories in which three or more units of dwelling space are occupied, or intended to be occupied by three or more persons who live independently of each other.

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

E. Lead-based paint inspection procedure.

1. The owner and/or landlord of every single-family, two-family, and multiple dwelling rental unit located within the City of Cape May shall cause their rental property to be inspected for lead-based paint hazards in accordance with the Act and this Article. The owner and/or landlord, in lieu of having the dwelling inspected by the City's Lead Inspector, may directly hire a private lead inspector to perform the lead-based paint inspection. All inspections will otherwise be performed by the City's Lead Inspector.
2. The manner of inspection will be in accordance with the methodology promulgated by the State. (Note: As of the date of enactment of this ordinance, the City is a "visual inspection" municipality pursuant to 2022-23 Lead-Based Paint Inspection Methodology Pursuant to P.L.2021, c.182).
3. To the extent this section applies, an initial inspection for lead-based paint hazards shall occur as soon as practicable following the adoption of this ordinance in connection with the next occurring periodic fire inspections. Thereafter, all such dwelling units shall be inspected every two years in connection with the periodic fire inspection.
4. If a lead-based paint hazard is identified upon inspection, the owner and/or landlord of the dwelling unit, at his or her own cost, shall remediate the hazards through abatement or lead-based paint hazard control mechanisms which have been approved in accordance with the Act. Upon the remediation of the lead-based paint hazard, the City's Lead Inspector or the owner and/or landlord's private lead inspector shall conduct an additional inspection of the dwelling unit to certify that the hazard no longer exists.
5. If no lead-based paint hazard is identified, then the City's Lead Inspector or the owner and/or landlord's private lead inspector shall provide a lead-safe certification on a form prescribed by the New Jersey Department of Community Affairs; the certification shall be valid for two years from the date of issuance.

F. Fees. The fees to be paid by the owner and/or landlord for a lead-based paint inspection performed by the City's Lead Inspector shall be as follows:

1. In accordance with N.J.S.A. 52:27D-437.16h, the City is required to charge a \$20.00 surcharge fee per dwelling unit inspected (the State Surcharge). This fee is

remitted to the State and to be deposited in the Lead Hazard Control Assistance Fund. If an owner and/or landlord demonstrates that the New Jersey Department of Community Affairs has already assessed an additional inspection fee of \$20.00, the surcharge may be waived.

2. In accordance with the Act, the City may charge an additional fee sufficient to cover the cost of the inspection. Any such fee shall be established by Resolution of City Council.

G. Violations and penalties; Enforcement. In accordance with the Act, the penalties for a violation of this article shall be as follows:

1. If a property owner has failed to comply with this Article with respect to 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 \$1,000 per week until the required inspection has been conducted or remediation efforts have been initiated.
2. The foregoing penalties shall be in addition to any other penalties provided by law.
3. Any of the violations referred to herein may be enforced, as applicable, by the Fire Prevention Bureau, Code Enforcement Official, or other such person designated by the City Manager.

Section 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. Should any portion of this Ordinance be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this Ordinance.

Section 3. This ordinance shall take effect 20 days after passage and publication, according to law.

ATTEST:



Erin C. Burke, City Clerk

CITY OF CAPE MAY, a municipal corporation of the State of New Jersey

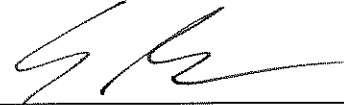
BY:



Zachary M. Mullock, Mayor

NOTICE

Ordinance 532-2024 was introduced at a Regular meeting of the City Council of the City of Cape May, held on May 21, 2024 and was further considered for final passage during a Regular Meeting of the City Council, held at the Cape May City Hall Auditorium, 643 Washington Street, Cape May, New Jersey, on June 18, 2024 at 3:00 P.M. at which time a Public Hearing was held.



Erin C. Burke, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain	Motion	Second
Yeager	X					
Meier	X					
McDade	X				X	
Baldwin	X					X
Mullock	X					

Introduced: May 21, 2024
1st Publication: May 29, 2024
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