

**BOROUGH OF SUSSEX
COUNTY OF SUSSEX
ORDINANCE NO. 2023-24**

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF SUSSEX, COUNTY OF SUSSEX, STATE OF NEW JERSEY, TO REPEAL ORDINANCE NO. 2023-06, ADD NEW SECTION 12-8, ENTITLED “LEAD BASED PAINT REQUIREMENTS; RESIDENTIAL RENTAL DWELLINGS”, ADD NEW SECTION 12-9, ENTITLED “LIABILITY INSURANCE, BUSINESS AND RENTAL UNIT OWNERS”AND TO ADD TWO FEE PROVISIONS TO SUBSECTION 24-1.1, ENTITLED “MUNICIPAL CLERK”.

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, N.J.S.A. 40A:10A-1, et seq., authorizes the governing body of every municipality to make, amend, repeal and enforce ordinances to require business owners and rental unit owners to maintain certain minimum levels of liability insurance;

WHEREAS, it in the best interests of the residents of the Borough of Sussex to amend the Code at this time to conform with New Jersey State Law; and

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Sussex in the County of Sussex, as follows:

SECTION 1. The Code of the Borough of Sussex is amended to repeal Ordinance #2023-06.

SECTION 2. The Code of the Borough of Sussex is amended to add new Section 12-8, entitled “Lead Based Paint Requirements; Residential Rental Dwellings” of Chapter 12, entitled “Buildings and Housing”, which shall read as follows:

§ 12-8 Lead Based Paint Requirements; Residential Rental Dwellings.

§ 12-8.1 Definitions.

When used in this Section, all terms shall have the same meaning as defined in N.J.A.C. 5:28A-1.2, as the same may be amended from time to time.

§ 12-8.2 Lead-Based Paint Inspections for Residential Rental Dwellings.

N.J.S.A. 52:27D-437 et seq. (P.L. 2021, c. 182) requires that a certified lead evaluation contractor perform inspections of certain single-family, two-family, and multi-family residential rental dwellings for lead-based paint hazards. The dwelling owners/landlords are required by State law to have the inspection performed by either an inspector retained by the Borough or by directly hiring a certified lead evaluation contractor for this purpose.

§ 12-8.3 Requirement for Lead-Based Paint Inspection.

- A. All residential rental dwelling units required to be inspected under State law must 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 there has been no tenant turnover before that date.
- B. After the initial inspection, all units required to be inspected shall be inspected for lead-based paint hazards every three years, or upon tenant turnover, whichever is earlier. An inspection upon tenant turnover is not required if the owner has a valid lead-safe certificate. Lead-safe certificates are valid for two years. If the lead-safe certificate has expired, and there will be a tenant turnover, an inspection will be necessary before the three-year inspection.
- C. In the event the owner of a residential dwelling unit subject to this Section fails to submit a required lead-safe certification, the Borough shall perform an inspection in conformance with the procedures set forth in N.J.A.C. 5:28A-2.3 utilizing a qualified staff member or a certified lead evaluation contractor hired by the Borough. The following shall apply.
 - 1. The Borough shall charge the dwelling unit owner a fee sufficient to cover the cost of the periodic lead-based inspection, including the cost of hiring a lead evaluation contractor, where applicable. The fee for an inspection or re-inspection shall be certified by and established in a Resolution adopted by the

Borough Council with respect to each unit that is inspected. In the event any fee so established remains unpaid, the certified fee shall be provided to the Borough Tax Collector and established as a lien on the property wherein the dwelling unit is situate.

2. If a lead-based paint hazard is identified in an inspection, the owner of the dwelling unit shall be responsible for remediation to be conducted consistent with the requirements of N.J.A.C. 5:28A-2.5. Upon the remediation of the lead-based paint hazard, the qualified staff member or a certified lead evaluation contractor hired by the Borough shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
3. If no lead-based paint hazards are identified, then the qualified staff member or a certified lead evaluation contractor hired by the Borough shall certify the unit as lead-safe on a form prescribed by the Department of Community Affairs, which shall be valid for two (2) years.

§ 12-8.4 Exemptions from the Requirement for Lead Based Paint Inspections.

All single-family, two-family, and multiple rental dwellings must be inspected except for the following dwellings which are exempt:

- A. Dwellings that were constructed during or after 1978.
- B. Single-family and two-family seasonal rental dwellings which are rented for less than six-months duration each year by tenants that do not have consecutive lease renewals.
- C. Dwellings that are certified to be free of lead-based paint pursuant to N.J.A.C. 5:17-3.16(b).
- 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).
- E. Dwellings with a valid lead-safe certificate issued pursuant to P.L.2021, c.182. Lead-safe certificates are valid for two years from the date of issuance.

§ 12-8.5 Reporting Requirements for Owners/Landlords and Contractors.

- A. Owners/Landlords of all dwellings subject to the inspection requirements under this section shall register their unit(s) with the Borough and provide the Borough with up-to-date information on inspection schedules, inspection results, and tenant turnover.
- B. An Owner/Landlord shall provide the Borough with a copy of any lead-free certification issued pursuant to N.J.A.C. 5:17 for their unit(s).
- C. The Owner/Landlord of a dwelling unit subject to this section shall provide to each tenant and to the Borough evidence of a valid lead-safe certification at the time of tenant turnover and shall affix a copy of each such certification to each tenant lease.

§ 12-8.6 Fees

The fees for lead-based paint inspections in residential rental dwellings shall be:

- A. New Jersey Certified Lead Paint Inspector/Risk Assessor Inspection or Re-Inspection – As set forth in Section 12-8.3(C)(1).
- B. NJ DCA Required Inspection Fee – See Subsection 24-1.1(g).
- C. Lead Wipe Sample Analysis (where required). The number of wipe samples will be determined by what is required by the State of New Jersey – See Subsection 24-1.1(g).
- D. The fee for filing a lead-safe certification or lead-free certification is set forth in Subsection 24-1.1(g).
- E. The fees collected pursuant to this section shall be dedicated to meeting the costs of implementing and enforcing this section and shall not be used for any other purpose.

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

§ 12-8.7 Violations and Penalties

- A. A property owner/landlord within the Borough shall comply with the requirements of N.J.S.A. 52:27D-437 et seq. (P.L.2021, c.182) and this section. If a Borough Official determines that a property owner/landlord has failed to comply with the inspection requirements of this section, the property owner/landlord shall be given a 30-day notice to cure any violation by ordering the necessary inspection or by initiating remediation. If the property owner/landlord has not cured the violation within 30 days, the property owner/landlord shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or remediation efforts initiated.
- B. Any other violation of the provisions of this section shall be subject to a fine of not less than \$50 nor more than \$500 for each offense.

SECTION 3. Subsection 24-1.1, entitled "Municipal Clerk" of Chapter 24, entitled "Fees" is amended to add Paragraph (g) which shall read as follows:

- g. Lead Based Paint Fees. (Per Section 12-8)
 - 1. New Jersey Certified Lead Paint Inspector/Risk Assessor Inspection or Re-Inspection – As set forth in Section 12-8.3(C)(1).
 - 2. NJ DCA Required Inspection Fee – \$20.00/inspection
 - 3. Lead Wipe Sample Analysis (where required). The number of wipe samples will be determined by what is required by the State of New Jersey – \$35/Wipe Sample Analysis
 - 4. The fee for filing a lead-safe certification or lead-free certification shall be \$30.

SECTION 4. The Code of the Borough of Sussex is amended to add new Section 12-9, entitled "Liability Insurance, Business and Rental Unit Owners" of Chapter 12, entitled "Buildings and Housing", which shall read as follows:

§ 12-9 Liability Insurance, Business and Rental Unit Owners

§ 12-9.1 Liability insurance, negligent acts, omission; business owners, rental unit, units owner.

- A. Except as provided in Paragraph B hereof, the owner of a business or the owner of a rental unit or units shall maintain liability insurance for negligent acts and omissions in an amount of no less than \$500,000 for combined property damage and bodily injury to or death of one or more persons in any once accident or occurrence.
- B. The owner of a multifamily home which is four or fewer units, one of which is owner-occupied, shall maintain liability insurance for negligent acts and omissions in an amount no less than \$300,000 for combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence.

§ 12-9.2 Annual registration required; administrative fee

- A. The owner of a business, owner of a rental unit or units, and the owner of a multifamily home of four or fewer units, one of which is owner occupied, shall annually register the certificate of insurance with the Borough Clerk.
- B. At the time of the filing of the certificate of insurance, an annual fee shall be paid to the Borough Clerk in an amount set forth in Section 24-1.1(h) of the Code.

§ 12-9.3 Violations and penalties.

- A. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be subject to the penalties provided for in Section 3-9.
- B. The Borough Council may collect, through a summary proceeding pursuant to NJSA 2A:58-10, et seq., a fine of not less than \$500 against an owner who fails to comply with the provisions of this chapter.

SECTION 5. Subsection 24-1.1, entitled “Municipal Clerk” of Chapter 24, entitled “Fees” is amended to add Paragraph (h) which shall read as follows:

h. Annual registration fee for businesses, rental units, and/or multifamily homes of four or fewer units per Subsection 12-9.2: \$75

SECTION 6. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 7. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any 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 thereof.

SECTION 8. This Ordinance shall take effect after publication and passage according to law.

Attest:

Antoinette Smith, Borough Clerk

Edward Meyer, Mayor

NOTICE

NOTICE IS HEREBY GIVEN that the attached Ordinance 2023-24 was introduced at a regular meeting of the Mayor and Council of the Borough of Sussex, Sussex County, New Jersey, held on September 19, 2023 and passed on first reading, and that such Ordinance was further considered for final passage and adoption at the regular meeting of the Mayor and Council held on October 03, 2023 at Borough Hall, 2 Main Street, in the Borough of Sussex at 7:00 p.m. and via the internet, and after all persons present were given the opportunity to be heard concerning the same, it was finally passed and adopted and will be in full force and effect according to law.

Antoinette Smith, RMC