



MONMOUTH COUNTY REGIONAL HEALTH COMMISSION NO. 1
ORDINANCE NO. 2023-2

**AN ORDINANCE CREATING CHAPTER 10 OF THE ADMINISTRATIVE CODE OF
THE MONMOUTH COUNTY REGIONAL HEALTH COMMISSION NO. 1
ESTABLISHING A CODE REGULATING LEAD-BASED PAINT INSPECTIONS**

WHEREAS, the Monmouth County Regional Health Commission No. 1 has been certified by the New Jersey Department of Health as a local health agency and is delegated the authority to implement various health programs in accordance with the Local Health Services Act, N.J.S.A. 26:3-1 et. seq.; and

WHEREAS, the MCRHC serves as the Health Department for twelve (12) municipalities in Monmouth County (the Constituent Municipalities) by virtue of contractual agreements; and

WHEREAS, pursuant to P.L. 2021, c.182 and New Jersey Administrative Code 5:28A Lead-Based Paint Inspections in Rental Dwellings, all municipalities are now required to ensure that residential dwellings built before 1978, that are described as single-family, two-family, and multi-unit dwellings, which are rented by the same inhabitant(s) for a time frame equal to or greater than that of 6 months located within the given municipality, are inspected for lead-based paint hazards by the earlier of July 22, 2024, or upon tenant turnover, and thereafter the earlier of three years or upon tenant turnover; and

WHEREAS, it is in the best interests of the Municipalities of the Monmouth County Regional Health Commission No. 1 at this time to require inspections for lead-based paint in residential rental dwellings to conform with New Jersey State law; and

WHEREAS, the Monmouth County Regional Health Commission No. 1 wishes through this Ordinance to establish a pay-as-provided “Lead-Based Paint Inspections” format which would be excluded for consideration as a ratable service in the current assessment methodology to calculate each member municipality share of the Commission’s annual costs and expenses.

NOW, THEREFORE, BE IT ORDAINED by the Monmouth County Regional Health Commission No. 1, created and operating pursuant to N.J.S.A. 26:3-83 et seq., as follows:

Section 1. Chapter 10 to be known as “Lead-Based Paint Inspections” is hereby added to the Administrative Code of the Monmouth County Regional Health Commission No. 1 and shall be read as follows:

§10-1 Lead-Based Paint Inspection of Rental Dwellings Code

Editor's note: This is the first ordinance codified by Monmouth County Regional Health Commission No 1, which is intended to address lead risks and hazards that may be found within rental dwellings built on or before 1978.

§10-1.1 Definitions

- a. **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
- b. **Lead-based Paint:** Any paint, varnish, shellac, or other coating that contains lead equal to or greater than 0.7 mg/cm² (milligrams of lead per square centimeter of surface) as measured by XRF or laboratory analysis.
- c. **Lead-based Paint Hazard:** A Condition in which exposure to lead from lead-contaminated dust, lead-contaminated soil, or deteriorated lead-based paint would have an adverse effect on human health (as established by the EPA at 40 CFR 745.65, under Title IV of the Toxic Substances Control Act). Lead-based paint hazards include, for example, lead paint hazards, dust-lead hazards, and soil-lead hazards
- d. **Lead-based Paint Visual Inspection:** A surface-by-surface visual examination for deteriorated paint or visible surface dust, debris, or residue, used to determine the presence of lead-based paint hazards, which may compel a property owner to rectify through abatement
- e. **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.

§10-1.2 Adoption of standards by reference

Unless specifically outlined below, a code defining and authorizing the periodic inspection of premises by an enforcing official concerning lead-based paint, compelling residents to abate identified lead hazards, explaining the relevant procedures, and, prescribing penalties for failure to address violations in a timely matter is hereby established in accordance with Chapter P.L. 2021, c.182 and N.J.A.C. 5:28A et seq.

§10-1.3 Title

Said code established and adopted by this chapter is described and commonly known as N.J.A.C. 5:28A Lead-Based Paint Inspections in Rental Dwellings

§10-1.4 Public Record

Three copies of said N.J.A.C. 5:28A Lead-Based Paint Inspections in Rental Dwellings, have been placed on file in the Office of the Health Officer upon the introduction of this chapter and will remain on file there for use and examination by the public.

§10-2 Enforcing Officials

Upon a Municipality granting the expressed authority to act in the capacity outlined in this code, the said Regional Commission, and its agents or employees, including but not limited to, its Health Officer, shall have the right of entry, at any reasonable hour, into and upon a public or private building or premises for the purpose of enforcing the provision of such code and of this Ordinance, or determining whether such provisions of rules and regulations of this Regional Commission are being complied with and obeyed, upon. No person opposes such entry or hinders or interferes with this Regional Commission or any of its agents or employees, or Health Officer, all as aforesaid, in the performance of their duties

§10-3 Inspection Fees

The said Regional Health Commission hereby establishes and fixes the following fees for lead-based paint inspection services and may upon resolution update and adjust said fees. These fees are to be collected by the local Municipal Government from the property owner, and furnished to the Regional Commission as deemed appropriate for services rendered monthly, unless described elsewhere differently below and/or through an agreement entered between The Regional Commission and specific Municipality

§10-3.1 Minimum fees for providing Lead-Based Paint Visual Inspections

- A.** The fee for a Lead Based Paint Visual inspection and subsequential record maintenance performed by agents or employees, including but not limited to, its Health Officer, of the Regional Commission shall be \$205.00 per single-bedroom dwelling unit and an additional \$25.00 for each additional bedroom that may exist within said dwelling.
- B.** The fee for a risk inspection of lead-based paints, which includes the use of XRF Gun, dust wipe sampling, or other techniques as prescribed by 40 CFR § 745.227, which quantify the existence of lead, performed by agents or employees, including but not limited to, its Health Officer of the Regional Commission shall be \$280.00 per single-bedroom dwelling unit and an additional \$25.00 for each additional bedroom that may exist within said dwelling that exists within the borders of a Municipality where 3% and/or more of its child population is identified as having an elevated blood lead level.
- C.** Regardless of size and/or location of dwelling an additional fee of \$20.00 per dwelling unit inspected by agents or employees, including but not limited to, its Health Officer of the Regional Commission, additional appointed visual lead inspector of a given municipality, and/or the property owner's private lead evaluation contractor shall be relinquished to the given Municipal Government for the purpose of deposit into the Lead

Hazard Control Assistance Act, unless the owner demonstrates that the Department of Community Affairs has already assessed the fee of \$20.00.

- D.** Should additional sampling be requested independent of protocols outlined and satisfy requirements as stated within N.J.A.C. 5:28A, including but not limited to dust wipe sampling, an additional fee will be set on a case-by-case basis by the Regional Health Commission which mirrors the current market rates for sample testing and shall be furnished to the Regional Commission by requestor prior to the additional services being rendered.
- E.** In a common interest community, any inspection fee charged under this subsection shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

§10-4 Compliance

All property owners and/or business of rental dwellings that meet the provision of the aforesaid code of this Ordinance and regulations referenced therein must abate their rental dwelling(s) upon identification and notice of Lead Hazard(s) that were discovered as a result of observations made during a Lead-based Paint inspection. The abatement of Lead Hazards must conform to regulations found within NJAC 5:28A and NJAC 5:17, which encompasses and/or outlines protocols for lead abatement and clearance.

§10-5 Enforcement

This chapter and code established therein may be enforced by and in the name of this Regional Health Commission and/or the Municipality with the assistance of Municipal Code Enforcement Officials and/or Agents by proceedings instituted and prosecuted in a court having jurisdiction of such proceedings in the given Municipality.

§10-6 Violations and Penalties

If a dwelling owner fails to comply with any provision of this chapter or the requirements of P.L. 2021, c. 182 and N.J.A.C. 5:28A et seq., the owner shall be given a period of 30 days to cure any violation by conducting the required inspection or initiating any required remediation efforts.

If the owner of a dwelling has failed to cure the violation within that time period, the owner shall be subject to a penalty of up to \$1,000 per week (seven days) until the required inspection has been conducted or the remediation efforts have been initiated. 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.

§10-7 Filing of copies with the State

A true certified copy of this chapter shall be filed with the State Commissioner of Health and/or other State Commissioners as deemed necessary.

Section 2. The Health Officer and Commission Secretary are hereby authorized and directed to take any ministerial action consistent with the intent of this Ordinance.

Section 3. REPEALER. All prior Ordinances or parts of the same consistent and/or inconsistent with any of this Ordinance established hereunder are hereby repealed.

Section 4. SEVERABILITY. If any section, paragraph, subsection, clause, or provision of this Amendment shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective;

Section 5. EFFECTIVE. This Ordinance shall take effect thirty (30) days after the first publication thereof after final adoption as provided by law.

Introduction:

MOVED: T. Casagrande (Fair Haven)
SECONDED: B. Dempsey (Spring Lake)
IN FAVOR: 9
OPPOSED: 0
ABSTAINED: 0

Adoption:

MOVED: T. Rogers (Rumson)
SECONDED: B. Dempsey (Spring Lake)
IN FAVOR: 8
OPPOSED: 0
ABSTAINED: 0

Dr. Leonard Giles

Lenny Giles, President, MCRHC #1

Marita Kresge

Marita Kresge, Secretary to the Commission

Ordinance Introduced on: July 25, 2023
First Publication on: August 2, 2023
Public Hearing and Final Adoption: August 22, 2023
Second Publication on: September 3, 2023