

**CITY OF ESTELL MANOR, NJ**

**ORDINANCE #03-2023**

**ORDINANCE ADDING CHAPTER 381 TO THE CODE OF THE CITY OF ESTELL MANOR CONCERNING LEAD-BASED PAINT INSPECTIONS; AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT HERewith**

**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**, it is in the best interests of the residents of the City of Estell Manor to amend the City Code at this time to require inspections for lead-based paint in residential rental dwellings to conform with New Jersey State law; and

**WHEREAS** the City wishes through this Ordinance to establish Chapter 381 entitled “Lead-Based Paint Inspections” of the City Code in order to serve the best interests of the City and its residents.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council of the City of Estell Manor, County of Atlantic and State of New Jersey, that:

**SECTION 1.** Chapter 381 to be known as “Lead-Based Paint Inspections” is hereby added to the Code of the City of Estell Manor and shall read as follows:

**Chapter 381 Lead-Based Paint Inspections**

**ARTICLE I DEFINITIONS**

**§ 381-1 Definitions**

**Lead Abatement** – Measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner 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. 5:171.1* 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.

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

**Tenant turnover** – The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

## **ARTICLE II INSPECTIONS**

### **§ 381-2 Inspections**

A. A lead evaluation contractor retained or designated by the City shall inspect every single-family, two-family, or multiple rental dwelling located in the City of Estell Manor 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.

B. In lieu of having the dwelling inspected by the City's lead evaluator, a dwelling owner or landlord may directly hire a private lead evaluation contractor who is certified to provide lead-based 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.

C. In accordance with *N.J.S.A. 52:27D-437.16(c)*, 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,” P.L.1967, c.76 (C.55:13A-1 et seq.);

(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. The owner, landlord, and/or agent of 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.

E. If lead-based paint hazards are identified, then the owner, landlord, and/or agent of the 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 City’s lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

F. If no lead-based paint hazards are identified, then the City’s lead evaluator 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.

G. Pursuant to *N.J.S.A. 52:27D-437.16(e)*, property owners shall:

(1) Provide evidence of a 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 obtained pursuant to this Section 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 §381-2(C) of this Chapter.

(3) Maintain records of a lead-safe certification, which shall include name(s) of the unit tenant(s), if inspection was conducted during a period of tenancy.

### **ARTICLE III Fees**

#### **§ 381-3 Fees**

The fees to be charged pursuant to this Chapter are as follows:

- A. As listed in the fee ordinance or as set forth within any agreement or shared services agreement which the City enters into pursuant to this Chapter.
- B. In accordance with *N.J.S.A. 52:27D-437.16(h)*, an additional fee of \$20.00 per dwelling unit inspected by the City's lead evaluation contractor 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.
- C. In a common interest community, any inspection fee charged pursuant to this subsection shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

### **ARTICLE IV Violations**

#### **§ 381-4 Violations.**

Penalties for violation of Chapter 381 shall be as follows:

- A. If a property owner has failed to conduct the required inspection or initiate any remediation as required by *N.J.S.A. 52:27D-437.1*, et seq. the owner shall have 30 days to cure the violation.
- B. If a property owner fails to cure the violation after 30 days, the property owner shall be subject to a penalty not to exceed \$1,000.00 per week until the required inspection has been conducted or remediation efforts have been initiated.

**SECTION 2.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies, and should any section, clause, sentence or provision of any item in this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 3.** This Ordinance shall take effect upon its final passage and publication as provided by law.

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Mayor Elizabeth Owen

I, Lisa Marcolongo, City Clerk of the City of Estell Manor, do hereby certify that the foregoing Ordinance was duly adopted on first reading at a regular meeting of the governing body, held on May 2, 2023 and that this ordinance will be advertised and set for a second reading and adoption on **June 13, 2023 7:00pm** at the regularly scheduled Council meeting. Ordinance 03-2023 will be considered for final passage and adoption by City Council at this meeting.

*Lisa Marcolongo*  
Lisa Marcolongo, RMC, CMR  
City Clerk

FIRST READING: May 2, 2023  
PUBLICATION: May 9, 2023  
FINAL PASSAGE: Public Hearing to be held June 13, 2023  
PUBLICATION: