

**ORDINANCE 2023-03 C**

**ORDINANCE OF THE BOROUGH OF SHIP BOTTOM, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING TITLE 8, WHICH PERTAINS TO HEALTH AND SAFETY, AND ADDING NEW CHAPTER 8.66, WHICH PERTAINS TO LEAD-BASED PAINT INSPECTIONS**

**SECTION I**

**WHEREAS**, the State recently mandated that municipalities inspect every single-family, two-family, and multiple rental properties on a recurring basis and at tenant turnover for lead-based paint hazards; and

**WHEREAS**, in accordance with the State's mandate, the Mayor and Council have adopted the regulations set forth herein.

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Ship Bottom, Ocean County, State of New Jersey, in accordance with the aforesaid Recitals, which are incorporated herein by reference, as follows.

**STATEMENT OF PURPOSE**

The purpose of the ordinance is to adopt a new Chapter 8.66, which shall require lead-based paint inspections in accordance with the State mandate.

**SECTION I**

Chapter 8.66 Lead-Based Paint Inspections

§8.66.010 Purpose.

This Chapter's purpose is to comply with the requirements imposed upon the Borough by P.L. 2021, c. 182, which requires the inspection of every single-family, two-family, and multiple rental dwellings not specifically exempted on a recurring basis and at tenant turnover for lead-based paint hazards.

§8.66.020 Inspections and Exceptions.

- A. The owner of every single-family, two-family, and/or multiple dwelling unit offered for rentals shall be required to secure an inspection by the Borough or hire a lead evaluation contractor to perform the inspection of the unit for lead-based paint hazards in accordance with the requirements of this Chapter within two years of the effective date of the law, July 2, 2022, or upon tenant turnover, whichever is earlier.
- B. After the initial inspection required in Subsection A above, the owner of such dwelling unit offered for rental shall be required to secure an inspection by the Borough or hire a lead evaluation contractor to perform the inspection of the unit for lead-based paint hazards every three years, or at tenant turnover, whichever is earlier.
- C. Should the owner of a single-family, two-family, and/or multiple dwelling unit elect to directly hire a lead evaluation contractor to comply with Subsections A and B above, the lead evaluation contractor must be certified to provide lead paint inspection services by the Department of Community Affairs and otherwise comply with the requirements of N.J.S.A. 52:27D-437.16, et seq.
- D. Notwithstanding Subsections A and B above to the contrary, 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 complies with any of the following;
  - 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 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 (N.J.S.A. 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 issued in accordance with N.J.S.A. 52:27D-437.16 and the applicable State requirements.

§8.66.040 Inspection and Remediation Standards, Requirements, and Certification.

- A. Inspection standards for the lead-based paint in rental 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., as amended.
- B. If lead-based paint hazards are identified, then the lead evaluation contractor or the Borough, depending on whom conducted the inspection, shall notify the Commissioner of Community Affairs. If the lead evaluation contractor performed the inspection, a copy of the notification to the Commissioner shall be provided to the Borough Clerk. In addition, the owner of the dwelling shall remediate the hazards through abatement or lead-based paint hazard control mechanisms in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based point hazard, the Code Enforcement Official or designee, or the owner’s own private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
- C. If no lead-based paint hazards are identified, the Code Enforcement Official or designee or the owner’s private lead inspector shall certify the dwelling as lead safe on a form prescribed by the Department of Community Affairs, which shall be valid for two years and shall be filed with the Borough Clerk. The Borough Clerk shall maintain up-to-date information on inspection schedules, inspection results, tenant turnover, and a record of all lead-free certifications issued pursuant to N.J.A.C. 5:17-1.1, et seq.

§8.66.050 Additional Owner Obligations

- A. In accordance with N.J.S.A. 52:27D-437.16(e), property owners subject to the requirements of this Chapter shall comply with the following:
  1. Provide evidence of a valid lead-safe certification obtained pursuant to this Chapter as well as evidence of 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 Chapter to new tenants of the property at the time of tenant turnover and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease; and
  3. Maintain a record of the lead-safe certification which shall include the name or names of the unit's tenant or tenants, if the inspection was conducted during a period of tenancy.
- B. The Requirements of Subsection A above shall not apply if an exception set forth in §8.66.020D applies to the subject unit.

§8.66.060 Fees

- A. The fee shall be equal to the amount incurred by the Borough for the third-party lead inspection services for each unit lead-based paint inspection, plus \$20. Said fee shall be dedicated to meeting the costs of implementing and enforcing this Chapter and pursuant to Subsection 1 below and shall not be used for any other purpose. An owner who directly hires a private lead evaluation contractor pursuant to this Chapter shall not be required to pay the foregoing fee, except that the owner shall still be required to pay the \$20 per unit assessment as set forth in Subsection 1 below.



1. The \$20 per unit fee set forth above in Subsection A above is due whether or not the inspection is performed by a private lead evaluation contractor or the Borough for each unit inspected by a certified lead evaluation contractor or permanent local agency for the purposes of the "Lead Hazard Control Assistance Act" (N.J.S.A. 52:27D-437.1, et seq.) concerning lead hazard control work, unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20 pursuant to the provisions of section 10 of P.L. 2003, c. 311 (N.J.S.A. 52:27D-437.10). 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. The fees collected pursuant to this subsection shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to section 4 of P.L.2003, c.311 (N.J.S.A. 52:27D-437.4).

§8.66.070 Violations and Penalties.

- A. If a property owner has failed to conduct the required inspection or initiate any remediation efforts, the owner shall be given 30 days to cure the violation.
- B. If a property owner has not cured the violation within the 30-day period set forth in Subsection A above, the property owner shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or the remediation efforts have been initiated and ultimately completed.

§8.66.080 Repealer.

Should P.L. 2021, c. 182,, be repealed or invalidated by competent authority, this Chapter shall have no further force or effect.

## **SECTION II**

All ordinances, or parts of ordinances, inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

## **SECTION III**

If any word, phrase, clause, section, or provision of this ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word, phrase, clause, section, or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

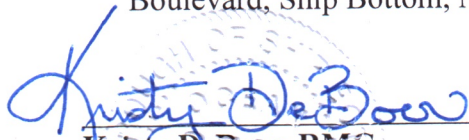
### **Effective date.**

This ordinance shall take effect after final adoption and publication as required by law.

## **NOTICE**

Public Notice is hereby given that the foregoing Ordinance was introduced and passed on the first reading at a regular meeting of the Mayor and Council of the Borough of Ship Bottom, County of Ocean, State of New Jersey, held on Tuesday, January 24, 2023, at 6:30 p.m.

Further public notice is hereby given that said ordinance shall be considered for final passage and adoption at a regular meeting of the Mayor and Council to be held on February 28, 2023, at 6:30 p.m. at the Municipal Building, 1621 Long Beach Boulevard, Ship Bottom, New Jersey 08008.

  
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Kristy DeBoer, RMC  
Municipal Clerk