

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E**

ORDINANCE NO. 007-2025

**AN ORDINANCE AMENDING CHAPTER 10, SECTION 2
(LEAD-BASED PAINT INSPECTION IN RESIDENTIAL DWELLINGS)
OF THE MUNICIPAL CODE OF UPPER TOWNSHIP**

WHEREAS, pursuant to P.L. 2021, c.182, all municipalities are required, with certain exceptions, to inspect every single-family, two-family, and multiple rental dwelling located within the municipality for lead-based paint hazards; and

WHEREAS, pursuant to P.L. 2021, c. 182, the Township Committee of the Township of Upper desires to amend Chapter 10, Section 2, of the Revised General Ordinances of the Township of Upper, also known as the Municipal Code of Upper Township, with respect to the requirements and regulations for inspections of lead-based paint in rented residential dwellings.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

SECTION 1. Chapter 10 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Amend Section 2: LEAD-BASED PAINT INSPECTION IN RESIDENTIAL DWELLINGS as follows:

§10-2.1 Definitions.

Rental Dwelling Units

Shall mean any residential property, regardless of the number of units, which is not occupied by the owner.

Dust Wipe Sampling

Shall mean 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 Abatement

Shall mean 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.

Lead Evaluation Contractor

Shall mean 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

Shall mean 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

Shall mean a visual examination for deteriorated paint or visible surface dust, debris, or residue.

Tenant Turnover

Shall mean the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

§10-2.2 Lead-Based Paint Inspection.

- (1) The owner, landlord and/or agent of every rental dwelling unit shall be required to obtain an inspection of the rental dwelling unit for lead-based paint hazards every three years.
- (2) 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 Township of Upper's lead evaluation contractor shall conduct an additional inspection of the rental dwelling unit to certify that the hazard no longer exists. If no lead-based paint hazards are identified, then the Township of Upper's lead evaluator shall certify the rental dwelling unit as lead-safe on a form prescribed by the Department of Community Affairs, which shall be valid for two (2) years.
- (3) Pursuant to N.J.S.A. 52:27D-437.16(e), property owners shall:
 - a. Provide evidence of valid lead-safe certification and the most recent tenant turnover at the time of the cyclical inspection
 - b. 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 this Chapter.
 - c. Maintain records of lead-safe certification, which shall include name(s) of the unit tenant(s), if inspection was conducted during a period of tenancy.

§10-2.3 Rental Dwelling Units Required to be Inspected.

(1) Inspections for lead-based paint hazards through visual assessment and dust wipe sampling in rental dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq. Any rental dwelling unit in the Township of Upper shall be subject to a lead-based paint inspection as set forth in this Section, unless said rental dwelling unit meets one of the following conditions:

- (i) has been certified to be free of lead-based paint;
- (ii) was constructed during or after 1978;
- (iii) is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 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 building under the "Hotel and Multiple Dwelling Law," P.L. 1967, c.76 (C.55:13A-1 et seq.);
- (iv) 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
- (v) has a valid lead-safe certification.

§10-2.4 Fee for Inspection.

- a. The Township of Upper shall charge the rental dwelling unit owner or landlord, and the rental dwelling unit owner or landlord shall pay the Township of Upper in advance of any inspection, a fee sufficient to cover the cost to the Township of Upper of the inspection, which shall be dedicated to meeting the costs of implementing and enforcing this section, which shall include the following:

- a. \$250.00 per rental dwelling unit for a visual assessment performed by the lead inspector.
- b. \$50.00 per rental dwelling unit filing fee.
- c. If necessary, a fee of \$295.00 per rental dwelling unit for reinspection of a rental dwelling unit.

b. In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20.00 per rental dwelling unit inspected by the Township of Upper'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 rental dwelling unit owner and not the homeowners' association, unless the association is the owner of the rental dwelling unit.

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

§10-2.5 Violations.

- 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 thirty (30) days to cure the violation. If a property owner fails to cure the violation after thirty (30) days, the property owner shall be subject to a penalty not to exceed one thousand (\$1,000.00) dollars per week until the required inspection has been conducted or remediation efforts have been initiated.

SECTION 2: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

SECTION 3: EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

SECTION 4: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause, or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 5: CODIFICATION: This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

ATTEST:

JOANNE R. HERRON, Township Clerk

CURTIS T. CORSON, JR., Mayor

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 14TH DAY OF OCTOBER, 2025 AT THE TOWNSHIP HALL, AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 10TH DAY OF NOVEMBER, 2025 AT 5:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Legislative History:

Introduced: October 14, 2025

Publication: October 18, 2025

Newspaper(s): The Press of Atlantic City

Second Reading and Public Hearing: November 10, 2025

Final Adoption: November 10, 2025

Final Publication Date: November 15, 2025

I certify that the foregoing Ordinance was finally adopted by the Township Committee of the Township of Upper on November 10, 2025 and notice of adoption was thereafter published pursuant to law in the Press of Atlantic City on November 15, 2025.

JOANNE R. HERRON, Township Clerk

