BOROUGH OF METUCHEN

NOTICE OF INTRODUCTION OF ORDINANCE

Notice is hereby given that at a regular meeting of the Borough Council of the Borough of Metuchen held on October 19, 2026, the following ordinance was introduced and passed on First Reading:

Ord. 2026-17 ORDINANCE OF THE BOROUGH OF METUCHEN AMENDING THE CODE OF THE BOROUGH OF METUCHEN RELATING TO LEAD-BASED PAINT INSPECTION REQUIREMENTS

The ordinance is attached to this notice. Copies of said ordinance may also be obtained from the Borough Clerk. The ordinance will be considered for final adoption by said Borough Council at the regular meeting to be held at Borough Hall, 500 Main Street, Metuchen, NJ on Monday, November 9, 2026 at 7:30 p.m. at which time and place all interested persons will be given an opportunity to be heard concerning the same.

Deborah Zupan, RMC, Borough Clerk

October 20, 2026

ORDINANCE 2026-17

Borough of Metuchen
County of Middlesex
State of New Jersey

ORDINANCE OF THE BOROUGH OF METUCHEN AMENDING THE CODE OF THE BOROUGH OF METUCHEN RELATING TO LEAD-BASED PAINT INSPECTION REQUIREMENTS

WHEREAS, the State of New Jersey enacted N.J.S.A. 52:27D-437, et seq., establishing lead-based paint testing programs for residential rental properties.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Metuchen that the Code of the Borough of Metuchen is hereby amended by adding thereto a new article entitled "Lead-Based Paint Inspections," which shall read as follows:

LEAD-BASED PAINT INSPECTIONS

Section 1. Inspections for lead-based paint.

A. Definitions. The following shall have the meaning as used in and in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-1.1 et seq.

COMMON AREA - the interior portions of a building used for residential rental purposes that are generally accessible to residential tenants, but not including the interior of individual dwelling units. Common areas shall include, but not be limited to hallways, stairs, foyers, basements, laundry rooms, and the interior of attached or detached garages, if the areas are generally accessible to residential tenants, and the areas are not located within the interior of an individual dwelling unit.

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.

DWELLING -A building containing a room or rooms, or suite, apartment, unit, or space that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

DWELLING UNIT- means a single-family living space, including a single family home, or an apartment, room, or rooms within a two-family or multiple-family building, that is occupied or intended to be occupied for sleeping or dwelling purposes by one or more persons living independently of persons in similar dwelling units.

MULTIPLE DWELLING - Any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by three or more persons living independently of each other. "Multiple dwelling" also means any group of 10 or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied, or intended to be occupied, by two persons or households living independently

of each other, and any land appurtenant thereto, and any portion thereof. "Multiple dwelling" does not include those buildings and structures that are excluded pursuant to N.J.S.A. 55:13A-3(k).

PERIODIC LEAD-BASED PAINT INSPECTION - The initial inspection of all applicable dwelling units at the earlier **of three years** from the effective date of P.L. 2021, c. 182 (July 22,2022) (N.J.S.A. 52:27D-437.6), or tenant turnover and, thereafter, the earlier of three years or upon tenant turnover, consistent with N.J.A.C. 5:28A-2.1, for the purposes of identifying lead-based paint hazards in dwellings subject to this article.

BOROUGH CODE OFFICIAL - The Borough of Metuchen Construction Official, the Borough of Metuchen Department of Code Enforcement, or any enforcement officer appointed by the Borough of Metuchen, pursuant to N.J.S.A. 40:48-2.3 et seq., or any other statutory authorization, to perform inspections of any building or other code, or any enforcement officer authorized to enforce the Borough of Metuchen Property Maintenance Code or Health Code, or their designee.

REMEDIATION- Interim controls or lead abatement work undertaken in conformance with this article to address lead-based paint hazards.

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.

XRF INSPECTION – An add-on to the Visual Inspection performed by a NJ Licensed Lead Inspector-Risk Assessor. An XRF Inspection will allow a dwelling unit to be certified lead-based paint free and become exempt for the regulation forever.

B. Inspections authorized. The Borough authorized representative shall be authorized and empowered to conduct periodic lead-based paint inspections for all applicable multiple dwelling units offered for rent to determine the presence of lead-based paint, in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-1.1 et seq.

C. Certain multiple dwelling units exempted from lead-based paint inspection. Inspections for lead-based paint in multiple 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. 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) Was constructed during or after 1978;

(2) Is a single-family or two-family seasonal rental dwelling unit that is rented for less than six months' duration each year by tenants that do not have consecutive lease renewals;

(3) Has been certified to be free of lead-based paint, pursuant to N.J.A.C. 5:17;

(4) Is in a multiple family building that has been registered with the Department of Community Affairs as a multiple Family building for at least 10 years, either under the current or a previous owner, and has

(a) No outstanding lead-based paint violations from the two most recent cyclical inspections performed under the Hotel and Multiple Dwelling Law, P.L. 1967, c. 76 (N.J.S.A. 55:13A-1 et seq.);

(5) Has a valid lead-safe certification issued pursuant to N.J.A.C. 5:28A. Lead-safe certifications are valid for three years from the date of issuance pursuant to N.J.A.C. 5:28A-2.4.

Section 2. Owner required to obtain inspection

A. Inspection performed by the Borough authorized representative: The owner, landlord, and/or agent of every single family, two-family and/or multiple dwelling unit offered for rental shall be required to obtain an inspection of each rental dwelling unit, and in a building consisting of two or three dwelling units, the common area within each building that contains a rental dwelling unit for lead-based paint hazards as required in this article, or at tenant turnover, whichever is earlier. To obtain the required inspection, the landlord, owner and/or agent shall arrange it with the Borough authorized representative and pay all applicable and required fees associated with the Borough's inspection as specified in **Sections 4 and 5**, below.

B. Option for inspection performed by an independent licensed lead evaluation contractor.

(1) A dwelling unit owner or landlord may opt, instead, to directly hire an independent licensed lead evaluation contractor to conduct the periodic lead-based paint inspections for lead-based paint as required in this article. Notwithstanding this option, the Borough retains the authority to authorize inspections or investigations of landlords or owners that directly hire independent lead evaluation contractors to ensure that periodic lead-based paint inspections are being performed, in accordance with this article.

(2) The Borough also retains the authority to prohibit an owner from directly hiring an independent lead evaluation contractor to conduct a periodic lead-based paint inspection where:

(a) The owner previously opted to hire an independent lead evaluation contractor to perform the periodic lead-based paint inspection and failed to have the inspection completed; or

(b) The Borough determines there is a conflict of interest between the owner and their independent lead-evaluation contractor of choice.

Section 3. When lead-based paint inspections are required.

A. The initial inspection for all single-family, two-family and multiple dwellings subject to this article shall be upon tenant turnover or within three years of the effective date of P.L. 2021, c. 182 (July 22, 2022), whichever is sooner.

B. Thereafter, all such dwelling units shall be inspected for lead-based paint hazards every three years or upon tenant turnover, whichever is earlier, except that an inspection shall not be required at tenant turnover if the dwelling unit owner has a valid lead-safe certification for the dwelling unit.

C. The next periodic lead-based paint inspection shall be counted from the most recent periodic lead-based paint inspection which resulted in a valid lead-safe certification.

Section 4. Notice of inspection to be given.

Whenever any multiple dwelling unit is scheduled for a tenant turnover, the then-current landlord, owner and/or agent shall provide written notice to the Borough Code Official that an inspection is needed at least 20 calendar days prior to the scheduled date of the tenant turnover.

Section 5. Fees for Application, filing and inspections.

A. Application and Filing fee. The fee for the application for a lead-based paint inspection and/or for the filing of a lead-safe certification or lead-free certification with the Borough shall be $30.00.

B. Inspection fee. There shall be a fee of $200 for each initial visual lead-based paint inspection. If a dust-wipe sampling is deemed necessary based on visual examination, there shall be an additional fee of $295 for that sample. Minimum number of dust wipes for reinspection is nine (9) dust wipes to satisfy the requirements of P.L. 2021 Chapter 182.

C. There shall be a fee of $295 for each visual lead-based paint reinspection which is required and/or requested pursuant to this article. If a dust-wipe sampling is deemed necessary based on visual examination, there shall be a fee of $295 for that sample.

D. An additional fee of $20 shall be assessed to the Application and Inspection fees, in accordance with N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-2.2, to be deposited into the Lead Hazard Control Assistance Act Fund under the administration of the New Jersey State Department of Community Affairs.

E. There shall be a $200 additional fee added per unit to the visual inspection for a lead-based paid XRF inspection. This inspection is performed by a NJ Licensed Lead Inspector-Risk Assessor. An XRF inspection is available to the requesting party as an add-on to the Visual Inspection. An XRF inspection will allow a dwelling unit to be certified lead-based paint free and become exempt for the regulation forever. A Lead-Free Certificate will only be issued if no lead-based paint is found.

F. All fees are nonrefundable upon the applicant's failure to cancel the requested inspection at least 48 hours prior to a scheduled inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this article for lead-based paint inspections and shall not be used for any other purpose.

G. A dwelling landlord, owner and/or agent may directly hire a lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of this article and the requirements of N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-l.1 et seq., in which case the fee of $20 shall be assessed in accordance with N.J.S.A. 52:27D-437.16 and N.J.A.C. 5:28A-2.2, payable

to the Borough, to be deposited into the Lead Hazard Control Assistance Act Fund under the administration of the New Jersey State Department of Community Affairs, but no additional lead-based paint inspection fee shall be charged by the Borough.

Section 7. Time for inspections.

All inspections and reinspections shall take place within twenty (20) calendar days of the requested inspection. Inspection fees shall be paid prior to the inspection. No inspections or reinspections shall take place unless all fees are paid. Scheduled inspections or reinspections may be canceled by the Borough authorized representative, unless the completed application and required fees have been received by the Borough at least 24 hours prior to the scheduled inspection, or on the last working day prior to the scheduled inspection. Every inspection for which the landlord, tenant, owner or agent has failed to provide access for inspection shall be deemed a failed inspection.

Section 8. Lead-based paint inspections by visual assessment or dust wiping method.

A. At the time of the enactment of P.L. 2021, c.182 (N.J.S.A. 52:27D-437.6), the Department of Community Affairs identified the Borough as a municipality in which less than 3% of children tested, six years of age or younger, have a blood lead reference value greater than or equal to five ug/dL, or any other blood lead level adopted by the Department of Health, according to the central lead screening database maintained by the New Jersey Department of Health. Accordingly, the Borough Code Official or licensed lead evaluation contractor shall perform the periodic lead-based paint inspection through a visual assessment, in which the Official or contractor is to examine dwellings, in accordance with HUD guidelines and regulations at 42
U.S.C. § 4851b for deteriorated paint or visible surface dust, debris, or residue on all painted building components, especially any walls, window, trim, and surfaces that experience friction or impact. The Borough Code Official or licensed lead evaluation contractor may also elect to, but is not required to, collect samples by dust wiping surfaces, including floors, interior windowsills, and other similar surfaces, and tested, in accordance with methods approved by the State of New Jersey and/ or the United States Department of Housing and Urban Development.

B. If, in the future, the Department of Community Affairs designates the Borough as a municipality in which at least 3% of children tested, six years of age or younger, have a blood lead reference value greater than or equal to five ug/dL, or any other blood lead level adopted by the Department of Health, according to the central lead screening database maintained by the New Jersey Department of Health, then the inspections required by this article shall be performed through dust wipe sampling instead of visual assessment alone.

Section 9. Inspection certification to be supplied.

A. If, following inspection, Borough authorized representative or lead evaluation contractor finds that no lead-based paint hazard exists in a dwelling unit, they

shall certify the dwelling unit as lead-safe on the form prescribed by the Department of Community Affairs and supply a copy of the lead-safe certification to the landlord, owner, and/or agent of the dwelling. If an independent licensed lead evaluation contractor issues the lead-safe certification, a copy shall also be provided to the Borough Code Official and the Borough Clerk at the time it is, issued, along with the aforementioned application and filing fee.

B. The lead-safe certification shall be valid for a period of three years from the date of issuance, unless during the three-year certification period a lead evaluation contractor, lead inspector/ risk assessor, a local health department, or a public agency conducts an independent inspection or risk assessment and determines that there is a lead-based paint hazard, in which case the certification shall be invalid.

Section 10. Identification of lead-based paint hazard.

A. If the Borough authorized representative or licensed lead evaluation contractor finds that a lead- based paint hazard exists in a dwelling unit, they shall notify the New Jersey State Department of Community Affairs, Division of Local Government Services for review of the findings, m accordance with the Lead Hazard Control Assistance Act.

B. If a lead-based paint hazard is identified in an inspection of one of the dwelling units in a building consisting of two or more dwelling units, then the Borough authorized representative or independent lead contractor shall inspect the remainder of the building's dwelling units, with the exception of those dwelling units that have been certified to be free of lead-based paint or which have a valid lead-safe certification.

Section 11. Responsibility for remediation of lead-based paint.

The owner of the dwelling unit shall be responsible for remediation of the lead-based paint hazard. Remediation and any reinspections required following remediation must be conducted consistent with N.J.A.C. 5:28A-2.5. Documentation of such remediation shall be provided to the Property Maintenance Code Official

Section 12. Owner responsibility for recordkeeping.

A. The landlord, owner and/or agent of a dwelling that is subject to this article shall provide to the tenant and to the Borough evidence of a valid lead-safe certification obtained pursuant to this article at the time of tenant turnover. The owner shall also affix a copy of any such certification as an exhibit to the tenant's lease.

B. The owner of a multiple dwelling that is subject to this article shall provide evidence of a valid lead-safe certification obtained pursuant to this article, as well as evidence of the most recent tenant turnover, at the time of any cyclical inspection performed pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq.

C. The owner of a dwelling that is subject to this article shall maintain a record of the lead-safe certification, which shall include the name or names of a unit's tenants, if the inspection was conducted during a period of tenancy.

D. The owner of any dwelling subject to this article shall inform the Borough of all tenant turnover activity to ensure any required inspection may be scheduled.

E. The owner of a dwelling shall provide a copy of this article, and any lead-safe certifications issued pursuant thereto, along with the accompanying guidance document, "Lead- Based Paint in Rental Dwellings," to any prospective owners of the dwelling during a real estate transaction, settlement, or closing.

Section 13. Municipal responsibilities and enforcement powers.

A. Pursuant to N.J.A.C. 5:28A-2.l(d), the Borough Code Official shall exercise appropriate oversight of a landlord or owner who chooses to hire an independent lead evaluation contractor to perform the periodic lead-based paint inspection.

B. Pursuant to N.J.A.C. 5:28A-3.2, the Borough Code Official and the Borough authorized representative shall maintain a record of all dwellings subject to this article, which includes up-to-date information on inspection schedules, inspection results, and tenant turnover; all lead-safe certifications issued; and all lead- free certifications issued.

C. Pursuant to N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-4.1, the /Borough Code Official is authorized to conduct investigations and issue penalties in order to enforce a multiple dwelling landlord's, owner's and/or agent's failure to comply with this article.

(1) The owner of the dwelling shall first be given a period of 30 calendar days to cure any violation by conducting the required inspection or initiating any required remediation efforts.

(2) If the owner of the dwelling has not cured the violation within that time period, they 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.

(3) 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.

BE IT FURTHER ORDAINED by the Mayor and Council that if any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall continue in full force and effect, and to this end, the provisions of this Ordinance are hereby declared to be severable; and

BE IT FURTHER ORDAINED by the Mayor and Council that all prior ordinances, or sections of ordinances, inconsistent with the within ordinance are hereby repealed; and.

BE IT FURTHER ORDAINED this Ordinance shall take effect upon final passage and publication according to law.