

TOWNSHIP OF WASHINGTON
BERGEN COUNTY, NEW JERSEY

ORDINANCE 24-03

**AN ORDINANCE ESTABLISHING REQUIRED INSPECTIONS FOR
LEAD-BASED PAINT IN RENTAL UNITS WITHIN THE TOWNSHIP OF WASHINGTON**

BE IT ORDAINED, by the Township Council of the Township of Washington that the Code of the Township of Washington is hereby amended by establishing Chapter 280 entitled “Lead-Based Paint Inspections” with the following provisions:

1. “§ 280-1 Lead-Based Paint Inspections For Rentals.

A. In accordance with New Jersey's Lead-Based Paint Inspection Law (*N.J.S.A. 52:27D-437.16 et al.*) (the “Law”), the Township’s State Uniform Construction Code Enforcing Agency (the “permanent local agency”) shall inspect every single-family, two-family, and multiple rental dwelling located within the Township at tenant turnover for lead-based paint hazards or within two years of the effective date of said law, and thereafter all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification pursuant to this section. The Township shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection.

B. A dwelling owner or landlord 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 Section 280-1. The permanent local agency or lead evaluation contractor with the duty to inspect single-family, two-family, and multiple rental dwellings pursuant to this section may consult with the local health board, the Department of Health, or the Department of Community Affairs concerning the criteria for the inspection and identification of areas and conditions involving a high risk of lead poisoning in dwellings, methods of detection of lead in dwellings, and standards for the repair of dwellings containing lead paint. Fees established hereunder shall be dedicated to meeting the costs of implementing and enforcing this Chapter and shall not be used for any other purpose.

§ 280-2 Lead-Based Paint Inspection Exemptions. 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 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 issued in accordance with this section.

§ 280-3 Remediation.

(1) If a lead evaluation contractor or the permanent local agency finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this Chapter, then the owner of the dwelling unit shall remediate the lead-based paint hazard by using abatement or lead-based paint hazard control methods, approved in accordance with the provisions of the “Lead Hazard Control Assistance Act,” P.L.2003, c.311 (C.52:27D-437.1 et al.). Upon the remediation of the lead-based paint hazard, the lead evaluation contractor or the permanent local agency shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

(2) If a lead evaluation contractor or the permanent local agency finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to this section or following remediation of a lead-based paint hazard pursuant to paragraph (1) of this section, then the lead evaluation contractor or the permanent local agency shall certify the dwelling unit as lead-safe on a form prescribed by the Department of Community Affairs as provided for in regulations or guidance promulgated pursuant to section 8 of P.L.2021, c.182 (C.52:27D-437.20). The lead-safe certification provided to the property owner by the lead evaluation contractor or the permanent local agency pursuant to this paragraph shall be valid for two years.

(3) If a lead evaluation contractor or permanent local agency finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this Chapter, then the lead evaluation contractor or permanent local agency shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with section 8 of the “Lead Hazard Control Assistance Act,” P.L.2003, c.311 (C.52:27D-437.8).

§ 280-4 Rental Owner Responsibility.

The owner of a rental dwelling that is subject to this Chapter shall:

(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 carried out under the “Hotel and Multiple Dwelling Law,” P.L.1967, c.76 (C.55:13A-1 et seq.), unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to the Law;

(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 the Law, 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, unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to the Law.

§ 280-5 Fees.

Notwithstanding any other fees due pursuant to this Chapter, the following fees shall be paid:

A. The fee for a visual assessment and dust wipe sampling inspection performed by the Township's lead inspector shall be as follows:

- (1) Application review fee: \$50.
- (2) Initial Lead inspection; 1 bedroom: \$400.

Each additional bedroom: \$50.

- (3) Re-inspection fee: \$250.
- (4) DCA fee: \$20.
- (5) Per dust wipe sample: \$50.

B. Regular inspection shall be within 15 business days of closing of title.

Expedited Fees:

- (1) 6-9 business days: +\$100.
- (2) 2-5 business days: +\$250.
- (3) 1 business day: +\$750.

C. The administrative fee for the lead-safe certification or lead-free certification shall be \$25.

D. In addition to the fees permitted to be charged for inspection of rental housing pursuant to this Chapter, the municipality shall assess an additional fee of \$20 per unit inspected by a certified lead evaluation contractor or permanent local agency for the purposes of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.) 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 (C.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 (C.52:27D-437.4).

§ 280-6 Violations and penalties.

The Township shall conduct investigations and may issue penalties in order to enforce a property owner's failure to comply with this subsection:

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

- B. 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. 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.

§ 280-7 Miscellaneous.

- A. In the event a lead hazard is discovered during inspection, no certificate of occupancy shall be issued until such condition has been abated and confirmed following reinspection. If a lead hazard is discovered in a structure with two or three housing units, all of the units shall be promptly inspected (and Township fee and lead hazard control fee paid) as set forth in N.J.A.C. 5:28A-1.1 et seq. The reinspection fee shall be \$250 plus the actual cost of laboratory testing and shall be conducted through dust wipe sampling as required by the New Jersey Administrative Code. Alternatively, the owner of the dwelling can hire a qualified lead evaluation contractor to confirm or refute the presence of lead-based paint.
- B. The Building Department shall maintain a record of all dwellings in the Township subject to the Law, which shall include up-to-date information on inspection schedules, inspection results and tenant turnover. The Building Department shall also maintain a record of all lead-safe certifications issued pursuant to N.J.A.C. 5:17.
- C. Any lead evaluation contractor who performs an inspection within the Township shall provide to the Building Department a copy of any lead-safe certifications issued or report of lead hazard.
- D. The definitions set forth in the Law and relevant New Jersey Administrative Code provisions shall apply to this Chapter.”


2. If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid such decision shall not affect the remaining portions of this Ordinance.


3. All Ordinances or any provisions of any ordinance inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies and not otherwise.

4. This Ordinance shall take effect upon final passage and publication and in accordance with the Charter, and subject to such emergency resolution as may be adopted pursuant to Section 17-32 thereof. [R.S. 40:69A-181 (b)].

ATTEST:

APPROVED:
TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WASHINGTON


Susan Witkowski,
Township Clerk


By: 
Michael DeSena,
Council President


Introduction Date: February 20, 2024

COUNCIL	MOTION	SECOND	AYES	NAYES	ABSTAIN	ABSENT	RECUSE
Cascio	X		X				
DeSena			X				
Sears			X				
Ullman			X				
Velez		X	X				

ATTEST:

APPROVED:
TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WASHINGTON


Susan Witkowski,
Township Clerk

By: 
Michael DeSena,
Council President

Adoption Date: March 18, 2024

COUNCIL	MOTION	SECOND	AYES	NAYES	ABSTAIN	ABSENT	RECUSE
Cascio			X				
DeSena			X				
Sears	X		X				
Ullman			X				
Velez		X	X				