

# BOROUGH OF FANWOOD, UNION COUNTY, NEW JERSEY

ORDINANCE: O-2024-11-R

## AN ORDINANCE OF THE BOROUGH OF FANWOOD, COUNTY OF UNION, AND STATE OF NEW JERSEY AMENDING CHAPTER 12 OF THE BOROUGH CODE FOR LEAD-BASED PAINT HAZARD INSPECTION REQUIREMENTS FOR RENTAL DWELLINGS

WHEREAS, the Borough of Fanwood maintains Chapter 12, covering the Department of Code Enforcement within the Borough Code; and

WHEREAS, the Borough of Fanwood is required to maintain a lead-based paint hazard inspection program under N.J.S.A. 52:27D-437.16; and

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Fanwood, County of Union, New Jersey, that Chapter 12, Building and Housing, Section 12.10, "Lead-Based Paint Hazard Inspection Requirements for Rental Dwellings" is created as follows:

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Fanwood, County of Union, State of New Jersey as follows:

I. Chapter 12, Section 12 is hereby amended as follows:

### §12-12 Lead-Based Paint Hazard Inspection Requirements for Rental Dwellings

#### A. Definitions

The following definitions shall apply to this article:

**COMMON INTEREST COMMUNITY:** A real estate development or neighborhood in which the property is burdened by servitudes requiring property owners to contribute to maintenance of commonly held property or to pay dues or assessments to an owners' association that provides services or facilities to the community.

**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 INSPECTOR:** A person certified by the Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:17-1.1 et seq. This includes the ability to perform dust wipe sampling.

**LEAD-BASED PAINT HAZARD:** Any condition that causes exposure to lead from lead-contaminated dust or lead-contaminated paint that is deteriorated or present in surfaces that would result in adverse human health effects.

**LEAD-FREE CERTIFICATION:** A certification that confirms that a lead-based paint inspection was performed and that no lead-based paint exists in the dwelling unit or that all lead-based paint hazards have been fully abated.

**LEAD-SAFE CERTIFICATION:** A certification that confirms that a lead-based paint inspection was performed and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance.

**TENANT TURNOVER:** The time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

**VISUAL ASSESSMENT:** A visual examination for deteriorated paint or visible surface dust, debris, or residue.

**VISUAL ASSESSOR:** A person that is certified to perform a visual assessment.

#### B. Lead-based paint inspection.

1. A lead inspector for the Borough of Fanwood shall inspect every single-family, two-family, and multiple rental dwelling located within the Borough of Fanwood for lead-based paint hazards through visual assessment and dust wipe sampling in accordance with N.J.S.A. 52:27D-437.16 et seq., as may be amended from time to time.

2. The property owner or landlord may, in lieu of having the dwelling inspected by the Borough's lead inspector, directly hire a private lead inspector 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-437.16 et seq., as may be amended from time to time.

3. 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:

(a) Has been certified to be free of lead-based paint;

(b) Was constructed during or after 1978;

(c) 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 multiple use dwelling under the Hotel and Multiple Dwelling Law; See N.J.S.A. 55:13A-1 et seq.

(d) 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

(e) Has a valid lead-safe certification.

4. If lead-based paint hazards are identified, then 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 paint hazard, the Borough's lead inspector or visual assessor, as may be applicable, or the owner's private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

5. If no lead-based paint hazards are identified, then the Borough's lead inspector 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.

6. In accordance with N.J.S.A. 52:27D-437.16(e), property owners shall:

(a) Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Borough of Fanwood at the time of the cyclical inspection.

(b) Provide evidence of a valid lead-safe certification 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.

(c) 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.

7. The fees for a lead-based paint inspections shall be as follows:

(a) The fee for a visual assessment \$250 per unit performed by the Borough's third-party lead inspector.

(b) The fee for the filing of a lead-safe certification or lead-free certification shall be \$50.

(c) In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

(d) In accordance with N.J.S.A. 52:27D-437.16(h), an additional state fee of \$20 per dwelling unit inspected by the Borough's lead inspector or the owner's private lead inspector shall be assessed for the purposes of the Lead Hazard Control Assistance Act (N.J.S.A. 52:27D-437.1 et, seq.) unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20. The fees collected pursuant to this subsection shall be paid directly to the Borough and shall be deposited into the Lead Hazard Control Assistance Fund.

(e) Re-inspection/clearance by the Borough's third-party lead inspector, \$320 per unit.

(f) Fees charged by the Borough's third-party lead inspector shall be billed directly by such vendor to the party requesting the inspection.

**C. Violations and penalties.**

In accordance with N.J.S.A. 52:27D-437.19, the penalties for a violation of this Section shall be as follows:

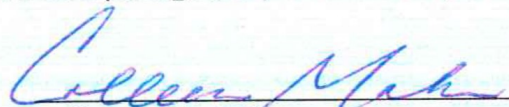
1. If a property owner has failed to conduct the required inspection or initiate any remediation efforts, the owner shall be given 30 days to cure the violation.

2.. If the property owner has not cured the violation after 30 days, the property owner shall be subject to a penalty not to exceed \$1,000 per week until the required inspection is conducted or remediation efforts have been initiated.

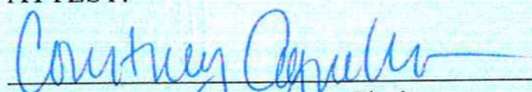
**II.** If any section, sub-section, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

**III.** All ordinances or parts of ordinances that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

**IV.** This ordinance shall take effect 20 days after final passage and publication as prescribed by law.

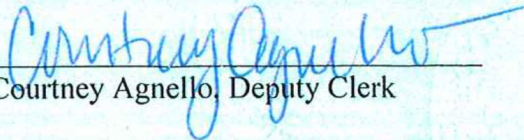
  
Colleen Mahr, Mayor

ATTEST:

  
Courtney Agnello, Deputy Clerk

NOTICE

TAKE NOTICE that the above entitled ordinance was introduced at a regular meeting of the Borough Council of the Borough of Fanwood on \_\_August 5\_\_, 2024 and will be considered for final passage after public hearing at a regular meeting of the Borough Council of the Borough of Fanwood to be held on \_\_August 22\_\_, 2024 at 7:00pm in the Municipal Building, 75 N. Martine Ave, Fanwood, New Jersey 07023.

  
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Courtney Agnello, Deputy Clerk

<b>INTRODUCTION DATE:</b>	August 5, 2024	<b>ADOPTED DATE:</b>	August 22, 2024
<b>MOTION:</b>	Erin McElroy Barker	<b>MOTION:</b>	Anthony Carter
<b>SECOND:</b>	Katherine Mitchell	<b>SECOND:</b>	Patricia Walsh
<b>YES:</b>	Mitchell, Banks, Berry, McElroy Barker, Walsh	<b>YES:</b>	Anthony Carter, Erin McElroy Barker, Patricia Walsh
<b>NO:</b>	None	<b>NO:</b>	None
<b>ABSTAIN:</b>	None	<b>ABSTAIN:</b>	None
<b>ABSENT:</b>	Anthony Carter	<b>ABSENT:</b>	Jeffrey Banks, Gina Berry, Katherine Mitchell
<b>PUBLISHED:</b>	August 8, 2024	<b>PUBLISHED:</b>	August 29, 2024