

**TOWNSHIP OF JEFFERSON
COUNTY OF MORRIS, NEW JERSEY**

ORDINANCE #24-14

**ORDINANCE CREATING CHAPTER 305 ENTITLED "LEAD-BASE PAINT INSPECTIONS IN RENTAL DWELLINGS"
OF THE TOWNSHIP OF JEFFERSON**

WHEREAS, pursuant to P.L. 2021, c. 182 (N.J.S.A. 52:27D-437.16 *et seq.*), all municipalities are required to inspect every single-family, two-family, and multiple rental dwelling located within the municipality for lead-based paint hazards at the time that every new tenant/lessee takes possession; and

WHEREAS, the purpose of these requirements is to prevent the poisoning of residents by requiring that the presence of deteriorated lead-based paint on the interior and exterior of pre-1978 structures be identified and correctly addressed by reducing and controlling lead-based paint hazards which may be present, in order to prevent human exposure to such hazards; and

WHEREAS, it is necessary and in the best interest of the residents of Jefferson Township (also "Township") to create Section 305 of the Township Code to require inspections for lead-based paint in residential rental dwellings, in order to conform to and ensure compliance with this new State law; and

WHEREAS, the Township Council desires to create section 305 in its entirety; and

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Jefferson, County of Morris, State of New Jersey, that Chapter 305, entitled Lead-Based Paint Inspections in Rental Dwellings, is created as follows:

SECTION I

Chapter 305. Lead-Based Paint Inspections in Rental Dwellings

305.1 Title.

This section and all amendments supplementary hereto and amendatory hereof shall be known as the "Lead-Based Paint Inspections in Rental Dwellings"

305.2 Definitions

The following definitions shall apply:

"DCA" means Department of Community Affairs.

"Dwelling" means a building containing a room or rooms, or suite, apartment, unit, or space, that is rented and occupied for sleeping and dwelling purposes by one or more persons.

"Dwelling Unit" means a unit within a building that is rented and occupied or intended to be rented and occupied for sleeping and dwelling purposes by one or more persons.

"Interim Controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs and as it is defined under 42 U.S.C. § 4851b and regulations implemented pursuant thereto.

"Lead Abatement" means a set of measures designed to permanently eliminate lead-based paint hazards in accordance with the standards established by the Commissioner in N.J.A.C. 5:17.

"Lead Abatement Contractor" means a firm certified by the DCA to perform lead abatement work pursuant to N.J.A.C. 5:17.

"Lead-based Paint" means paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5% by weight, or such other level as may be established by federal law.

"Lead-based Paint Hazard" means 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-based Hazard Control Methods" means interim controls, as defined above. Note that this definition is specific to lead-based paint inspections in rental dwellings and is not to be confused with the lead hazard control work as defined within the Department's regulations for Lead Hazard Evaluation and Abatement, N.J.A.C. 5:17.

"Lead Evaluation Contractor" means a firm certified by the Department to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:17. This includes the ability to perform dust wipe sampling.

“Lead Inspector or Risk Assessor” means an individual certified by DOH to perform lead inspection and risk assessment work pursuant to N.J.A.C. 8:62. This includes the ability to perform dust wipe sampling.

“Lead Free” means that a dwelling or dwelling unit has been confirmed to have fully abated all lead-based paint hazards or that no lead-based paint exists in the dwelling or dwelling unit.

“Lead Safe” means that a dwelling has no outstanding lead-based paint hazards, but the dwelling is not necessarily lead free.

“Lead-safe Certification” means the certification issued pursuant to the regulations promulgated pursuant to P.L.2021, c.182, which confirms that a periodic inspection, as defined below, was performed, and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance.

“Municipal Inspector” means the Jefferson Township Health Officer or designee, the Jefferson Township Construction Official or designee, or any enforcement officer appointed by the municipality 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 codes promulgated by the Health Department or the Building Department.

"Multiple Dwelling" means 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 ten 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 by statute (See N.J.S.A. 55:13A-3(k)).

“Periodic Lead-based Paint Inspection” means the initial inspection of all applicable dwelling units at the earlier of two years from the effective date of P.L.2021, c.182, July 22, 2022, or tenant turnover, and thereafter the earlier of three years or upon tenant turnover for the purposes of identifying lead-based paint hazards in dwellings subject to P.L.2021, c.182.

“Remediation” means interim controls or lead abatement work undertaken in conformance with this Chapter to address lead-based paint hazards. Colloquially, remediation is often used synonymously with interim controls and does not include abatement; however, in the context of P.L.2021, c.182, remediation is defined as encompassing both interim controls and abatement.

“Tenant Turnover” means 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.

“Visual Assessment” means a visual examination for deteriorated paint or visible surface dust, debris or residue.

305.3 Lead-Based Paint Inspections for Residential Rental Dwellings.

New Jersey Law (P.L. 2021, c. 182) requires that a certified lead evaluator perform inspections of certain single-family and multi-family residential rental dwellings for lead-based paint hazards. The dwelling owner(s)/landlord(s) is required by State law to have the inspection performed by directly hiring a certified lead evaluation contractor based on the list provided by New Jersey Department of Community Affairs (NJCA) for this purpose.

305.4 Required Initial Inspection.

All residential non-exempt rental dwelling units required to be inspected under State law must be initially inspected within two years of the effective date of N.J.S.A. 52:27D-437.16, July 22, 2022, or upon tenant turnover, whichever is earlier.

305.5 Required Recurring Inspection

After the initial inspection required by section 28-30.3, all units required to be inspected shall be inspected for lead-based paint hazards every three years, or upon tenant turnover, whichever is earlier. An inspection upon tenant turnover is not required if the owner(s)/landlord(s) possess a valid Lead Safe Certificate for that unit. Lead-safe certificates are valid for two years.

305.6 Exemptions

This chapter applies to all rental single-family, two-family and multiple dwelling units with the exception of those exempt pursuant to (b) below.

The following rental dwelling units shall be exempt from the requirements of this chapter and, thus, shall not be subject to period lead-based paint inspection and evaluation for the presence of lead-based paint hazards:

1. Dwelling units that were constructed during, or after, 1978;
2. Single-family and two-family seasonal rental dwelling units that re-rented for less than six month duration each year by tenants that do not have consecutive lease renewals;

3. Dwelling units that have been certified to be free of lead-based paint, pursuant to N.J.A.C. 5:17;
4. Multiple rental dwelling units constructed prior to 1978 that have been registered with the Department for at least 10 years and have no outstanding paint violations from the most recent cyclical inspection performed on the multiple dwelling pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., and N.J.A.C. 5:10.
 - i. All multiple dwelling units constructed prior to 1978 that have been registered with the Department for a least 10 years and that have a current certificate of all inspection issued by the Department of Community Affairs, Bureau of Housing Inspection, shall be exempt from this chapter;
 - ii. All multiple dwelling units constructed prior to 1978 that have been registered with the Department of Community Affairs for a least 10 years with open inspections that have no violations for paint shall also be exempt from this chapter; and
5. Dwellings with a valid lead-safe certification issued pursuant to this chapter. Lead-safe certifications are valid for two years from the date of issuance pursuant to N.J.A.C. 5:28A-2.4.

305.7 Potential Lead Hazard Identified

If lead-based paint hazards are identified, then the owner(s)/Landlord(s) of said 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). After remediation has been completed, whether through interim controls or abatement, the certified lead evaluation contractor, as applicable, shall perform an additional inspection within 60 days of the initial periodic lead-based paint inspection to ensure there are no further lead-based paint hazards.

305.8 No Potential Lead Hazard Observed.

If no lead-based paint hazards are identified, then either a certified lead evaluation contractor retained by the owner/landlord shall certify the dwelling as lead safe on a form prescribed by the Department of Community Affairs, which shall be valid for a period of two years and shall be filed with the Township's Health Department. The Township Health Department 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. 5:17-3.6.

305.9 Owners Obligations Prior to Occupancy.

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

1. Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Township at the time of cyclical inspection.
2. 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.
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.

305.10 Fees.

Jefferson Township shall charge the dwelling owner once the owner/landlord procures a lead evaluation contractor; the fee shall be:

1. NJ DCA Required Inspection Fee - \$20.00.
2. Township Administrative Fee of - \$30.00.

In a common interest community, any inspection fee charged pursuant to this chapter shall be the responsibility of the unit owner and not the homeowner's association, unless the association is the owner of the unit.

305.11 Violations and Penalties.

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

1. Pursuant to N.J.A.C. 5:28A-2.1(d), the Municipal Inspector shall exercise appropriate oversight of a landlord or owner who chooses to hire a lead evaluation contractor to perform the periodic lead-based paint inspection.
2. Pursuant to N.J.A.C. 5:28A-3.2, the Municipal Inspector shall maintain a record of all dwellings subject to this chapter, 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.
3. Pursuant to N.J.S.A. 52:27D-437.6 and N.J.A.C. 5:28A-4.1, the Municipal Inspector 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.

4. If a property owner has failed to conduct the required inspection or initiate any remediation efforts, he/she shall be given 30 days to correct the violation.
5. If the property owner has not corrected the violation after 30 days, the property owner shall be subject to a penalty not to exceed \$1,000.00 per week until the required inspection has been conducted or remediation efforts have been initiated.

SECTION II

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION III

If any article, section, subsection, paragraphs, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION IV

This Ordinance shall take effect immediately upon final publication as provided by law.

Council Member	By	2 nd	Yes	No	Abstain	Absent	By	2 nd	Yes	No	Abstain	Absent
Mr. Kalish	X		X									
Mrs. Senatore		X	X									
Mr. Smith			X									
Vice President Birmingham			X									
President Dunham			X									

ATTEST:

COUNCIL OF THE TOWNSHIP OF JEFFERSON:

MICHELE REILLY, RMC, TOWNSHIP CLERK

JAY DUNHAM, COUNCIL PRESIDENT

INTRODUCED: May 8, 2024

ADOPTED: May 22, 2024

ERIC F. WILSUSEN, MAYOR

DATE AND TIME PRESENTED TO MAYOR FOR SIGNATURE

CERTIFICATION

I, Michele Reilly, Clerk of the Township of Jefferson, do hereby certify that the foregoing **Ordinance #24-14** was duly adopted by the Township of Jefferson Council on the **22nd of May, 2024**.

MICHELE REILLY, RMC, TOWNSHIP