

BOROUGH OF ROSELLE



ORDINANCE NUMBER 2732-24

AN ORDINANCE CREATING CHAPTER 266 “LEAD-BASED PAINT HAZARD INSPECTIONS” WITHIN THE CODE OF THE BOROUGH OF ROSELLE

WHEREAS, lead-based paint is especially dangerous to children as it can impact the growth and development of a child’s brain and central nervous system; and

WHEREAS, disclosure of the presence of lead-based paint will allow affected occupants to make informed judgments to protect vulnerable occupants against the hazards of lead paint; and

WHEREAS, the Mayor and Council of the Borough of Roselle, in the County of Union, New Jersey (the “Borough”), a public body corporate and politic of the State of New Jersey (the “State”), wish to conform with New Jersey Public Law 2021, Chapter 182 (N.J.S.A. 52:27D-437.16), as amended from time to time, and protect the health of the residents of Roselle by establishing requirements to disclose the presence of any potentially dangerous lead paint found at the time of inspection to any proposed occupants of the premises.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Roselle that Part IV, “General Ordinances” of the Code of the Borough of Roselle is hereby supplemented as follows:

SECTION I. The aforementioned recitals are incorporated herein as though fully set forth at length.

SECTION II. The Code of the Borough of Roselle, Part IV, General Ordinances, Chapter 266, Lead-Based Paint Hazard Inspections is hereby created as follows:

266-1 Legislative determination.

The Borough Council, in accordance with the State of New Jersey, hereby determines that the health risks associated with lead-based paint pose a danger to the general welfare and health of the community. Dwellings that were constructed prior to 1978 are one of the biggest sources of lead exposure for children.

266-2 Purpose.

The purpose of this chapter is to conform with New Jersey Public Law 2021, Chapter 182 [N.J.S.A. 52:27D-437.16], as amended from time to time, and protect the health of the

residents of Roselle by establishing requirements to disclose the presence of any potentially dangerous lead paint found at the time of inspection to any proposed occupants of the premises. Disclosure will allow those occupants to make informed judgments to protect vulnerable occupants against the hazards of lead paint. Lead paint is especially dangerous to children as it can impact the growth and development of a child's brain and central nervous system.

266-3 Applicability.

This chapter shall apply to all one-family, two-family, and multi-family buildings and each individual dwelling unit unless exempted by **266-7**.

266-4 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

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 on surfaces that would result in adverse human health effects.

LEAD-FREE CERTIFICATION

A certification which 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 which 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.

266-5 Inspections.

- A. A lead inspector for the Borough of Roselle shall inspect every single-family, two-family, and multi-family dwelling located in the Borough of Roselle for lead-based paint hazards through visual assessment and dust swipe sampling in accordance with N.J.S.A. 52:27D-437.16 et seq., as amended from time to time.
- B. The owner or occupant of every dwelling or dwelling unit or the person in charge thereof shall give such officers free access to such dwelling, dwelling unit, and its premises at all reasonable times for the purpose of such inspection, examination, and survey.
- C. 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 State of New Jersey Department of Community Affairs to perform the lead-based paint inspection in accordance with N.J.S.A. 52:27D-437.16 et seq.

266-6 Identification and abatement of lead-paint based hazards.

- A. 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-437.16d. 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.
- B. If no lead-based paint hazards are identified, 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 State of New Jersey Department of Community Affairs, which shall be valid for two years.

266-7 Exemptions.

In accordance with N.J.S.A. 52:27D-437.16c, 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 meets one of the following exemptions:

- A. Dwellings that were constructed during or after 1978.
- B. Single-family and two-family seasonal rental dwellings which are rented for less than six-months' duration each year by tenants that do not have consecutive lease renewals. This exemption for seasonal rental dwellings does not extend to seasonal multiple dwellings.
- C. Dwellings that have been certified to be free of lead-based paint pursuant to N.J.A.C. 5:17-3.16b either after an abatement is completed or an evaluation has confirmed that there is no lead-based paint in the dwelling.
- D. Multiple rental dwellings that have been registered with the Department of Community Affairs for at least ten years and have no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the "Hotel and Multiple Dwelling Law" (N.J.S.A. 55:13A-1).

266-8 Inspection and filing fees.

- A. In accordance with N.J.S.A. 52:27D-437.16e, property owners shall:
 - (1) Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Borough of Roselle at the time of the 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.
- B. The fees for a lead-based paint inspection shall be as follows:
 - (1) The fee for visual assessments performed by the Borough of Roselle shall be \$105 for a dwelling unit.
 - (2) The fee for the filing of a lead-safe certification or lead-free certification shall be \$25.
 - (3) In accordance with N.J.S.A. 52:27D-437.16h, an additional 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 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 deposited into the Lead Hazard Control Assistance Fund.

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

266-9 Violation and Penalties.

All identified lead-based paint hazards will result in a violation issued to the owner or person/persons having control of the property. The violation shall be served in writing and issued by regular and certified mail. The violation shall provide an abatement period of thirty (30) days. If the dwelling owner has not cured the violation within thirty (30) days, the owner shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or remediation efforts have been initiated.

SECTION III. If any section, subsection, provision, clause, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such adjudication shall not affect the remaining sections, subsections, provisions, clauses, or portions, which shall be deemed severable therefrom.

SECTION IV. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby replaced and/or repealed to the extent of such inconsistency.

SECTION V. This Ordinance shall take effect at the time and in the manner provided by law.

Recorded Vote on Introduction Ordinance No. 2732-24 – February 13, 2024

	Motion	Second	Ayes	Nays	Abstain	Absent
Councilwoman Sousa			X			
Councilman Bernier		X	X			
Councilwoman Johnson			X			
Councilman Fortuna						X
Councilwoman Wilkerson	X		X			
Council President Thomas			X			
X Adopted <input type="checkbox"/> Amended <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Withdrawn						

Recorded Vote on Final Passage Ordinance No. 2732-24 – February 28, 2024

	Motion	Second	Ayes	Nays	Abstain	Absent
Councilwoman Sousa			X			
Councilman Bernier	X		X			
Councilwoman Johnson			X			
Councilman Fortuna			X			
Councilwoman Wilkerson		X	X			
Council President Thomas			X			
<input type="checkbox"/> Adopted <input type="checkbox"/> Amended <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Withdrawn						

___Approved

___Vetoed and returned to the Municipal Clerk with the following statement and objections:

Donald Shaw, Mayor DATE:

NOTICE is hereby given that Ordinance Number 2732-24 was passed and adopted on second and final reading at a Regular meeting of the Mayor and Council on February 28, 2024 after 6:30 P.M., 210 Chestnut St., Roselle, NJ.

Lisette Sanchez, Municipal Clerk