

# TOWNSHIP OF ROCHELLE PARK

## ORDINANCE NO. #1205-24

**AN ORDINANCE TO AMEND CHAPTER 150 OF THE CODE OF THE TOWNSHIP OF ROCHELLE PARK ENTITLED “PROPERTY MAINTENANCE” TO ADD SUBSECTION 150-7 “LEAD-BASED PAINT INSPECTIONS” WHICH SHALL PROVIDE A REQUIREMENT FOR INSPECTION OF LEAD-BASED PAINT IN CERTAIN RESIDENTIAL DWELLINGS.**

**WHEREAS**, Chapter 150 of the Code of the Township of Rochelle Park controls Property Maintenance within the Township of Rochelle Park; and

**WHEREAS**, pursuant to P.L. 2021, c. 182, all municipalities are required to inspect every single-family, two-family, and multi-family rental dwelling located within the municipality on a recurring basis and at tenant turnover for lead-based paint hazards, and;

**WHEREAS**, the Township Committee has determined that it is in the best interest of the Township residents to amend the Township Code to require inspections for lead-based paint in certain residential rental dwellings to conform with State law; and

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF ROCHELLE PARK, COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:**

### **SECTION ONE:**

Chapter 150 is amended to add the following new subsection:

#### **Section 150-7 Lead-Based Paint Inspections**

##### **A. Definitions:**

- (1) Dwelling – Means 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 purpose by one or more persons.
- (2) 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.
- (3) 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, or the term as it is defined pursuant to 42 U.S.C. § 4851b and the regulations adopted pursuant thereto.
- (4) Lead Abatement - Means a set of measures designed to permanently eliminate lead-based paint hazards, in accordance with the standards established by the Commissioner at N.J.A.C. 5:17.
- (5) Lead Abatement Contractor - Means a firm certified by the Department to perform remediation through lead abatement or interim control work pursuant to N.J.A.C. 5:17.
- (6) Lead Abatement Worker - Means an individual certified by the New Jersey Department of Health to perform lead abatement or interim control work pursuant to N.J.A.C. 8:62.

- (7) 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 per N.J.A.C. 5:28A-1.2.
- (8) Lead Free - Means that a dwelling has been certified to have no lead-based paint or has undergone lead abatement, in accordance with N.J.A.C. 5:17.
- (9) Lead Inspector/Risk Assessor - Means an individual certified by the New Jersey Department of Health 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.
- (10) 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 percent by weight, or such other level, as may be established by Federal law.
- (11) 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 on surfaces that would result in adverse human health effects.
- (12) Lead-Free Certification - Means the certificate issued, in accordance with N.J.A.C. 5:17, which states that there is no lead-based paint, or that the dwelling has undergone lead abatement, in accordance with N.J.A.C. 5:17. "Lead-safe certification" means the certification issued pursuant to this article, which confirms that a periodic 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, in accordance with N.J.A.C.5:28A-2.4.
- (13) Multiple (or Multi) 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 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. 55:13A3(k).
- (14) 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 June 12, 2024, 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.
- (15) Permanent Local Agency - Means a local, municipal agency maintained for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within its jurisdiction. This may include local building agencies, health agencies, and housing agencies.
- (16) Remediation - Means interim controls or lead abatement work undertaken in conformance with this chapter to address lead-based paint hazards.
- (17) 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.
- (18) Visual Assessment - Means a visual examination for deteriorated paint or visible surface dust, debris, or residue, and as conducted pursuant to N.J.A.C. 5:28A-2.3.

**B. Required initial inspection.** The owner, landlord and/or agent of every single-family, two family, and multiple dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards within two years of the effective date, June 12, 2024, or upon tenant turnover, whichever is earlier.

**C. Required recurring inspection.** After the initial inspection, the owner, landlord and/or agent of such dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three (3) years, or at tenant turnover, whichever is earlier, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification.

**D. Exceptions.** 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 or for the fees for such inspection or evaluation, 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", N.J.S.A. 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 N.J.S.A. 52:27D-437.16(d)(2).

**E. Standards.** Inspections for lead-based paint in rental dwelling units shall be done through visual assessment of 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.

**F. Inspection and lead-safe certification.** If, following inspection, a lead evaluation or permanent local agency finds that no lead-based paint hazard exists in a dwelling unit, the lead evaluation contractor or permanent local agency shall certify the dwelling unit as lead-safe on the form prescribed by the New Jersey Department of Community Affairs.

(1) The lead-safe certification shall be valid for a period of two (2) years from the date of issuance.

1. If, during the two-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, the lead-safe certification issued pursuant to this article shall be invalid. A periodic lead-based paint inspection shall be scheduled upon the conclusion of remediation, in accordance with N.J.A.C. 5:28A-2.5(e).

2. Where an independent inspection or risk assessment determines that there is a lead-based paint hazard, the inspector/risk assessor shall inform the municipality of the results of the inspection.
  3. The lead-safe certification shall not exempt the dwelling from any other law that would require a lead inspection/risk assessment.
- (2) A copy of the lead-safe certification shall be provided to the owner of the dwelling. If a lead evaluation contractor issues the lead-safe certification, a copy shall also be provided to the municipality at the time it is issued.
  - (3) If a lead evaluation contractor or permanent local agency finds that a lead-based paint hazard exists in a dwelling unit, they shall notify the New Jersey Department of Community Affairs for review of the findings, in accordance with the Lead Hazard Control Assistance Act.
  - (4) If a lead-based paint hazard is identified in an inspection of one of the dwelling units in a building consisting of two or three dwelling units, then the lead contractor or permanent local agency 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
  - (5) The owner of the dwelling unit shall be responsible for remediation of the lead-based paint hazard. Remediation must be conducted consistent with the requirements at N.J.A.C. 5:28A-2.5

**G. Remediation.** If a lead-based paint hazard exists in a dwelling, the owner shall remediate the hazard by using either abatement or interim controls. The owner shall choose the appropriate remediation mechanism.

- (1) Interim controls shall be performed, in accordance with the requirements of the United States Department of Housing and Urban Development at 42 U.S.C. § 4851b and detailed within the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.
- (2) Abatement work shall be performed in accordance with the requirements in the Lead Hazard Evaluation and Abatement Regulations, N.J.A.C. 5:17.
- (3) Any relocation of tenants required pursuant to a remediation shall be undertaken, in accordance with applicable law.
- (4) Upon conclusion of the remediation, the following procedure shall be followed:
  1. If the owner utilized interim controls for remediation, the lead evaluation contractor or permanent local agency shall conduct an additional inspection within 60 days of the initial inspection by using dust wipe sampling. If the inspections shows that the hazard no longer exists, the lead evaluation contractor or permanent local agency shall certify the unit as lead-safe. The certification shall be valid for a period of two years from the date of issuance; and

2. If the owner utilized abatement for remediation, and a lead abatement clearance certificate has been issued by the local enforcing agency in accordance with N.J.A.C. 5:17, then the lead-free certificate issued at the final clearance inspection shall exempt the dwelling from future periodical lead-based paint inspections.

**H. Owner responsibility.** The owner of a dwelling that is subject to this section shall provide to the tenant and to the Township evidence of a valid lead-safe certification obtained pursuant to this article at the time of tenant turnover.

- (1) The owner shall also affix a copy of any such certification as an exhibit to the tenant's lease.
- (2) 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.
- (3) The owner of a dwelling that is subject to this subsection 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.
- (4) The owner of any dwelling subject to this article shall inform the municipality of all tenant turnover activity to ensure any required inspection may be scheduled.
- (5) The owner of a dwelling shall provide a copy of any lead-safe certifications issued pursuant hereto to any prospective owners of the dwelling during a real estate transaction, settlement, or closing.

**I. Fees.** Notwithstanding any other fees due pursuant to this article, the following fees shall be paid:

- (1) 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.
- (2) 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.

- (3) The administrative fee for the lead-safe certification or lead-free certification shall be \$25.
- (4) 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.
- (5) In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20 per dwelling unit inspected by the Township'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.

**J. 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:

- (1) The owner of the dwelling shall first be given a period of thirty (30) 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. 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.
- (3) In addition to the enforcing agencies set forth in Chapter 150 of the Township Code and other ordinances of the Township, the provisions of this ordinance may also be enforced by Township Code Enforcement, Bureau of Fire Code Enforcement, and all inspectors appointed within those departments.

**SECTION TWO.**                    **Repealer:**

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

**SECTION THREE:**                    **Severability:**

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effects to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

**SECTION FOUR:**

**Effective Date:**

This Ordinance shall take effect immediately upon final adoption and publication and in the manner provided by law.

ATTEST:

\_\_\_\_\_  
ANNEMARIE WELLS  
Acting Municipal Clerk

\_\_\_\_\_









DRAFT