

**BOROUGH OF ROSELAND**

**ORDINANCE NO. 33-2023**

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF ROSELAND TO PROVIDE FOR THE ADMINISTRATION OF THE REQUIREMENT IMPOSED BY THE STATE OF NEW JERSEY FOR LEAD-BASED INSPECTIONS OF CERTAIN RESIDENTIAL RENTAL DWELLINGS AND TO ESTABLISH FEES FOR INSPECTIONS**

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

**WHEREAS**, the Borough Council desires to protect the public health, safety, and welfare of the citizens of the incorporated area of the Borough and maintain a high quality of life for the citizens of the Borough through inspections for lead-based paint in residential rental dwellings to conform with New Jersey State Law; and

**WHEREAS**, the Borough wishes through this Ordinance to establish Section 10-9 entitled “Lead-Based Paint Inspection for Residential Rental Dwellings” of the Borough Code in order to serve the best interests of the Borough and its residents.

**NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF ROSELAND, COUNTY OF ESSEX, STATE OF NEW JERSEY, THAT THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF ROSELAND SHALL BE AMENDED BY THE INCLUSION OF NEW SECTION 10-9 WHICH SHALL BE ENTITLED “LEAD-BASED PAINT INSPECTION FOR RESIDENTIAL RENTAL DWELLINGS” AND SHALL READ, IN ITS ENTIRETY, AS FOLLOWS:**

**Section 1.**

**Section 10-9 Lead-Based Paint Inspection for Residential Rental Dwellings.**

**§10-9.1 Definitions.**

**Common Interest Community**

shall mean 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 Swipe Sampling**

shall be 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**

shall be 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 and X-Ray Fluorescence testing.

**Lead-Based Paint Hazard**

shall be 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**

shall be 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**

shall be 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**

shall mean the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit

**Visual Assessment**

shall mean a visual examination for deteriorated paint or visible surface dust, debris, or residue.

**Visual Assessor**

shall be a person that is certified to perform a visual assessment.

**§10-9.2 Lead-Based Paint Inspection for Residential Rental Dwellings.**

New Jersey law (P.L. 2021, c. 182) requires that a certified lead evaluation contractor perform inspections of certain single-family, two-family, and multi-family residential rental dwellings for lead-based paint hazards. The dwelling owners/landlords are required by State law to have the inspection performed by either an inspector retained by the Borough or by directly hiring a certified lead evaluation contractor for this purpose.

- a. A lead assessor for the Borough shall inspect every single-family, two-family, or multiple rental dwelling located in the Borough of Roseland for lead-based paint hazards through visual assessment in accordance with N.J.S.A. 52:27D-437.1 et seq., as may be amended from time to time.

- b. In lieu of having the dwelling inspected by the Borough’s lead assessor, the owner, landlord, and/or agent of the dwelling may directly hire a private lead inspector contractor who is certified by the Department of Community Affairs to provide lead-based paint inspection services in accordance with N.J.S.A. 52:27D-437.1 et seq.

**§10-9.3 Requirement for Lead-Based Paint Inspection.**

- a. All residential dwelling units required to be inspected under State law must initially be inspected for lead-based paint upon tenant turnover, but the first inspection must take place no later than July 22, 2024 in the event there has been no tenant turnover before that date.
- b. After the initial inspection, 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 has a valid lead-safe certificate. Lead-safe certificates are valid for two years. If the lead-safe certificate has expired, and there will be a tenant turnover, an inspection will be necessary before the three-year inspection.

**§10-9.4 Remediation.**

- a. If lead-based paint hazards are identified, then the owner, landlord, and/or agent of the dwelling shall remediate the lead-based paint hazard using lead abatement or lead-based control methods in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the owner, landlord, and/or agent of the dwelling shall conduct an additional inspection of the unit to certify that the hazard no longer exists, and provide a lead-safe or lead fee certificate to the Borough.

**§ 10-9.5 Exemptions from the Requirement for Lead Based Paint Inspections.**

- 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.
- c. Dwellings that have been certified to be free of lead-based paint pursuant to N.J.A.C. 5:17-3.16(b).
- 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).
- e. Dwellings with a valid lead-safe certificate issued pursuant to P.L. 2021, c.182. Lead-safe certificates are valid for two years from the date of issuance.

**§ 10-9.6 Reporting Requirements for Owners/Landlords and Contractors.**

- a. Owners/Landlords of all dwellings subject to the inspection requirements under this Section shall register their unit(s) with the Borough and provide the Borough with up-to-date information on inspection schedules, inspection results, and tenant turnover.

- b. A copy of all lead-safe certifications issued for property located in the Borough of Roseland shall be provided to the Borough by the lead inspector contractor.
- c. An Owner/Landlord shall provide the Borough with a copy of any lead-free certification issued pursuant to N.J.A.C. 5:17 to their unit(s).

**§ 10-9.7 Violations and Penalties.**

- a. A property owner/landlord within the Borough of Roseland shall comply with the requirements of P.L.2021, c182 and this Section. If a Borough Official determines that a property owner has failed to comply with the inspection requirements of this Section, the property owner shall be given a thirty-day notice to cure any violation by ordering the necessary inspection or by initiating remediation. If the dwelling owner has not cured the violation within 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 initiated.
- b. Any other violation of the provision of this Section shall be subject to a fine of not less than \$50 nor more than \$500 for each offense.

**§ 10-9.8 Fees.**

- a. The fee for a visual assessment inspection performed by the Borough's visual assessor shall be \$50 per requested applicable dwelling unit, and shall be comprised of and include the following items:
  - 1. The fee for the filing of a lead-safe certification or lead-free certification shall be \$30.
  - 2. In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20 per dwelling unit inspected by the Borough's lead assessor 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.

**Section 2.**

If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provisions so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 3.**

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

**Section 4.**

This Ordinance may be renumbered for purposes of codification.

**Section 5.**

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

DATE OF INTRODUCTION: October 17, 2023

Motion to Introduce by: Councilman Bardi  
Motion Seconded by: Councilwoman Fishman  
Introduction Approved: 6-0 Voice Vote

DATE OF ADOPTION: November 21, 2023

COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	RECUSE	ABSENT
Councilman Bardi	X		X				
Councilwoman Fishman							X
Councilman Freda							X
Councilwoman Perrotti			X				
Councilwoman Tolli		X	X				
Council President Trillo							X
Mayor Spango (In case of tie)							
		VOTE:	3	0			

I hereby certify that the above Ordinance was duly adopted by the Mayor and Council of the Borough of Roseland at a meeting of Borough Council held on the 21<sup>st</sup> day of November, 2023.

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James R. Spango, Mayor

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Jock H. Watkins, Borough Clerk

Date of Publication: November 30, 2023, The Progress

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