

ORDINANCE NO. 2024-09

ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF WARREN, STATE OF NEW JERSEY AMENDING CHAPTER 80 ENTITLED “LEAD-BASED PAINT INSPECTIONS” TO REQUIRE LEAD-BASED PAINT INSPECTIONS IN CERTAIN RESIDENTIAL DWELLINGS AS MANDATED BY P.L. 2021, c. 182

WHEREAS, On August 16, 2023, the Township Committee adopted Ordinance 2023-16 creating Chapter 80 entitled “Lead-Based Paint Inspections”; and

WHEREAS, the State of New Jersey enacted P.L. 2021, c. 182, codified under N.J.S.A. 52:27D-437.1, et seq., establishing lead-based paint testing programs for certain residential rental properties; and

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

WHEREAS, the Township Committee determined it is in the best interest of Township residents to supplement and amend the Township Code at this time to require inspections for lead-based paint in certain residential rental dwellings to conform with State law and to authorize the administration and enforcement thereof.

NOW, THEREFORE, BE IT ORDAINED that the Township Committee of the Township of Washington, County of Warren, State of New Jersey has determined that Chapter 80, entitled “Lead-Based Paint Inspections”, should be replaced in entirety with Chapter 80 as follows:

Chapter 80

LEAD-BASED PAINT INSPECTIONS

§ 80-1.	Definitions.	§ 80-10.	Owner, landlord, and/or agent responsibility.
§ 80-2.	Required initial inspection.	§ 80-11.	Notification to the Commissioner of Community Affairs.
§ 80-3.	Required recurring inspection.	§ 80-12.	Inspections as a result of testing of children of six years of age or younger.
§ 80-4.	Option to hire lead evaluation contractor.	§ 80-13.	Fees.
§ 80-5.	Consultation with the local board of health.	§ 80-14.	Violations and penalties
§ 80-6.	Standards.	§ 80-15.	Administration and Enforcement.
§ 80-7.	Exceptions.		
§ 80-8.	Remediation.		
§ 80-9.	Lead-safe certification.		

§ 80-1. Definitions.

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

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 ABATEMENT — Measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner of Community Affairs in compliance with standards promulgated by the appropriate federal agencies.

LEAD EVALUATION CONTRACTOR — A person certified by the New Jersey Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:17-1.1 et seq.

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

TENANT TURNOVER — The time at which all existing occupants vacate a dwelling unit(s) and all new tenants move into the dwelling unit.

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

§ 80-2. Required initial inspection.

The owner, landlord, and/or agent of every single-family, two-family, and/or multiple dwelling unit(s) 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 of the law, July 2, 2022, or upon tenant turnover, whichever is earlier.

§ 80-3. Required recurring inspection.

After the initial inspection required by § 80-2, the owner, landlord, and/or agent of such dwelling unit(s) offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three years, or at tenant turnover, whichever is earlier, except that an inspection upon tenant turnover shall not be required if the owner, landlord, and/or agent has a valid lead-safe certification.

§ 80-4. Option to hire lead evaluation contractor.

The owner, landlord, and/or agent may directly hire a lead evaluation contractor who is certified to provide lead paint inspection services by the New Jersey Department of Community Affairs to satisfy the requirements of § 80-2 instead of the municipal inspection contemplated by § 80-2. In the event that a dwelling owner or landlord directly hires such a lead evaluation contractor, the term "Township Code Enforcement Officer" shall also mean and include such lead evaluation contractor for purposes of this chapter.

§ 80-5. Consultation with the local board of health.

The Township Construction Official or such lead evaluation contractor with the duty to inspect single-family, two-family, and multiple rental dwellings pursuant to this chapter, may consult with the local health board, the State of New Jersey Department of Health, or the State of New Jersey Department of Community Affairs concerning the criteria for the inspection and identification of areas and conditions involving a high risk of lead poisoning in dwellings, methods of detection of lead in dwellings, and standards for the repair of dwellings containing lead paint.

§ 80-6. Standards.

Inspection for lead-based paint in rental dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq., and N.J.S.A. 55:13A-1 et seq., as may be amended from time to time.

§ 80-7. 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:

- 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 the multiple dwelling under the "Hotel and Multiple Dwelling Law," 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 issued in accordance with N.J.S.A. 52:27D-437.16d (2).

§ 80-8. Remediation.

If lead-based paint hazards are identified, then the owner, landlord, and/or agent 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 Township Construction Official, or his/her designee, as may be applicable, or the owner's private lead inspector, shall conduct an additional inspection of the unit(s) to certify that the hazard no longer exists.

§ 80-9. Lead-safe certification.

If no lead-based paint hazards are identified, then the Township Construction Official or his/her designee, or the owner's private lead inspector, shall certify the dwelling as lead safe on a form prescribed by the Department of Community Affairs (DCA), which shall be valid for two years and shall be filed with the Township's Code Enforcement Officer. The Township Construction Official 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.

§ 80-10. Owner, landlord, and/or agent responsibility.

In accordance with N.J.S.A. 52:27D-437.16e, the owner, landlord, and/or agent shall:

- A. Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Township of Washington at the time of the cyclical inspection carried out under the "Hotel and Multiple Dwelling Law," N.J.S.A. 55:13A-1 et seq., unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to § 80-7 hereof;
- B. Provide evidence of a valid lead-safe certification to new tenants of the property at the time of tenant turnover, unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to § 80-7 hereof, and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease; and
- 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, unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to § 80-7 hereof.

§ 80-11. Notification to the Commissioner of Community Affairs.

If the Township Construction Official finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this Chapter, then the Construction Official shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with the "Lead Hazard Control Assistance Act," N.J.S.A. 52:27D-437.8.

§ 80-12. Inspections as a result of testing of children of six years of age or younger.

- A. If less than 3% of children tested in the Township, six years of age or younger, have a blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the State of New Jersey Department of Health pursuant to N.J.S.A. 26:2-137.6, or according to other data deemed appropriate by the commissioner (as such term is used in and for the purposes of N.J.S.A. 52:27D-437.16), then the Township Construction Official may inspect a dwelling located therein for lead-based paint hazards through visual assessment.
- B. If at least 3% of children tested, six years of age or younger, have a blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the State of new Jersey Department of Health pursuant to Section 5 of P.L. 1995, c. 328 (N.J.S.A. 26:2-137.6), or according to other data deemed appropriate by the Commissioner, then the Township Construction Official shall inspect a dwelling located therein through dust wipe sampling.
- C. If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of two- or three-dwelling units, then the Township Construction Official shall inspect the remainder of the building's dwelling units for lead hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. The Township Construction Official may charge fees in accordance with this chapter for such additional inspections.

§ 80-13. Fees.

- A. Notwithstanding any other fees due pursuant to this chapter, a fee in the amount of \$300 shall be paid for the initial lead-based paint inspection performed by the Township of Washington. If, after the initial inspection, a lead-based paint hazard is found, and a subsequent inspection is required to confirm that such hazard has been remediated, the fee of \$150 shall be assessed for any such subsequent inspection(s).
- B. Said fees shall be dedicated to meeting the costs of implementing and enforcing this subsection and shall not be used for any other purpose. Alternatively, a dwelling unit owner, landlord, and/or agent may directly hire a private lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of this chapter, in which case no additional lead-based paint inspection fee shall be paid.
- C. In addition to the fees permitted to be charged for inspection of rental housing pursuant to this chapter, the municipality shall assess an additional fee of \$20 per unit inspected by a certified lead evaluation contractor or permanent local agency for the purposes of the "Lead Hazard Control Assistance Act," P.L. 2003, c. 311 (N.J.S.A. 52:27D-437.1 et al.) concerning lead hazard control work, unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20 pursuant to the provisions of Section 10 of P.L. 2003, c. 311 (N.J.S.A. 52:27D-437.10).
- D. In a common interest community, any inspection fee charged pursuant to this subsection shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit. The fees collected pursuant to this subsection shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to Section 4 of P.L. 2003, c. 311 (N.J.S.A. 52:27D-437.4).

§ 80-14. Violations and penalties.

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

- A. If a property owner has failed to conduct the required inspection or initiate any remediation efforts, the owner shall be given 60 days to cure the violation.
- B. If the property owner has not cured the violation after 60 days, the property 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.

§ 80-15 Administration and Enforcement.

The provisions of this chapter shall be administered and enforced by the Construction Department Official, the Zoning Officer, or their designee.

SECTION I

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

SECTION II

If any article, section, subsection, paragraphs, phrase or sentence is, for any reason, inconsistent with the Code of the Township of Washington, or is held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

SECTION III

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

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced to pass on the first reading at a meeting of the Township Committee of the Township of Washington held on May 15, 2024, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on June 19, 2024, at 6:30 pm or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 211 State Route 31 North, Washington, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.

Ann Kilduff, RMC
Township Clerk