

**BOROUGH OF WALLINGTON
COUNTY OF BERGEN
STATE OF NEW JERSEY**

ORDINANCE 2024-016

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE BOROUGH CODE TO ADD
A NEW CHAPTER 246 TITLED “LEAD PAINT TESTING”**

WHEREAS, the State of New Jersey enacted N.J.S.A. 52:27D-437, et seq. establishing lead based paint testing programs for residential rental properties; and

WHEREAS, N.J.S.A. 52:27D-437, et seq. requires that municipalities enact ordinances to implement lead-based paint testing programs for residential rental properties; and

WHEREAS, the Borough of Wallington intends to comply with N.J.S.A. 52:27D-437, et seq. by adopting this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Wallington, as follows:

1. The Code of the Borough of Wallington is amended and supplemented by adding thereto the following:

246-1 Definitions:

“Dust wipe sampling” means 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 mean such person or entity dispatched by the Borough and certified by law to conduct the required lead inspection.

“Tenant Turnover” means the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.

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

246-2 No Tenancy Without Compliance.

The owner of any such rental dwelling shall not permit any tenant turnover without first complying with this Chapter

246-3 Inspections

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A. Subject to this Chapter, the Lead Inspector shall inspect every single-family, two-family, and multiple rental dwelling located within the Borough at tenant turnover for lead-based paint hazards or within two years of the effective date of N.J.S.A. 52:27D-437.16, et seq., whichever is earlier.

B. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification.

S 246-3 Inspection Fee

The dwelling owner or landlord shall pay the Borough, in advance of any inspection, a fee of \$125.00 for each unit inspected to cover the cost of the inspection, which shall be dedicated to meeting the costs of implementing and enforcing this Chapter.

246-4 Option to Hire Lead Evaluation Contractor.

In lieu of inspection by the Borough, the dwelling owner 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 this Chapter the municipal inspection contemplated by Section 246-3. In the event that a dwelling owner directly hires such a lead evaluation contractor, the term "Construction Code Official" shall also mean and include such lead evaluation contractor for purposes of this Chapter (except for purposes of S 166-13).

246-5 Exceptions

Notwithstanding anything to the contrary, 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:

- (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 State of New Jersey 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 cyclical inspection performed on the multiple dwelling under the "Hotel and Multiple Dwelling Law," N.J.S.A. 55:13A-1, et seq.;

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(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 this Chapter

S 246-6 Remediation.

A. If the lead Inspector finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this Chapter, then the owner of the dwelling unit shall remediate the lead-based paint hazard by using abatement or lead-based paint hazard control methods, approved in accordance with the provisions of the "Lead Hazard Control Assistance Act," N.J.S.A. 52:27D-437.1, et al.

B. Upon the remediation of the lead-based paint hazard, the Construction Code Official shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

C. The owner shall pay an additional fee in the amount \$75.00 for such additional inspection.

246-7 Lead-Safe Certification.

If the lead Inspector finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to this Chapter or following remediation of a lead-based paint hazard pursuant to S 166-6, then the Lead Inspector shall certify the dwelling unit as a lead-safe on a form prescribed by the New Jersey Department of Community Affairs as provided for in regulations or guidance promulgated pursuant to N.J.S.A. 52:27D-437.20. The lead-safe certification provided to the property owner by Construction Code Official pursuant to this section shall be valid for two years.

246-8 Production of Lead-Safe Certification.

Beginning on the effective date of N.J.S.A. 52:27D-437.16 et seq., property owners shall:

A. Provide evidence of a valid lead-safe certification obtained pursuant to this Chapter as well as evidence of the most recent tenant turnover at the time of the cyclical inspection carried out under the "Hotel and Multiple Dwelling Law: N.J.S.A. 55:13A1, et seq., unless expected from an inspection pursuant to paragraph (1), (2), or (3) of 245-5;

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B. Provide evidence of a valid lead-safe certification obtained pursuant to this Chapter to new tenants of the property at the time of tenant turnover unless except him inspect pursuant to paragraphs (1), (2), (3), and (4) of 246-5, and shall affix a copy of such certificate on 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 exempt from inspection pursuant to paragraphs (1), (2), (3), and (4) of 246-5.

246-9 Notification to Commissioner of Community Affairs.

If the Lead Inspector reveals that a lead-based paint hazard exists in a dwelling unit, then Lead Inspector shall forthwith notify the Construction Code Official who shall notify the Commissioner of Community Affairs, for further action in accordance with the "Lead Hazard Control Assistance Act," N.J.S.A. 52:27D-437.8.

246-10 Inspection of Two or Three Dwelling Units.

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 lead Inspector shall inspect the remainder of the building's dwelling units for a lead hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. The owner shall pay an additional fee in the amount of \$75.00.

246-11 Additional Fees.

In addition to the other fees required by this Chapter:

A. The Borough shall assess an additional fee of \$20.00 per unit inspected for the purpose of the "Lead Hazard Control Assistance Act" N.J.S.A. 52:27D-437.1, et seq., concerning lead hazard control work, unless the unit owner demonstrates that the Department of Community Affairs already has assessed an additional inspection fee of \$20.00 pursuant to the provisions of N.J.S.A. 52:27D-437.10.

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

C. The fees collected pursuant to this section shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to N.J.S.A. 52:27D-437.4.

246-12 Inspection Methodology.

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A. If less than three percent of children tested in the Borough, six years of age or younger, have a blood lead level greater 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 an for the purposes of N.J.S.A. 52:27D-437.16), then the Lead Inspector may inspect a dwelling located therein for lead-based paint hazards through visual assessment.

B. If at least three percent of children test, six years of age or younger, have a blood lead level greater 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 (C.26:2-137.6), or according to other data deemed appropriate by the commissioner, then the Lead Inspector 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 Lead Inspector 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 owner shall pay the fees required by this Chapter for such additional inspections.

166-13 Enforcement and Penalties.

A. The Health Officer and the Construction Code Official shall be authorized to conduct investigations and issue penalties to enforce a property owner's failure to comply with N.J.S.A. 52:27D-437.16 or this Chapter. Each is called an Enforcement Officer.

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B. If an Enforcement Officer determines that a property owner has failed to comply with a provision of N.J.S.A. 52:27D-437.16. et seq. or this Chapter regarding a rental dwelling unit owned by the property owner, the property owner shall be first given 30 days to cure any violation by conducting the required inspection or initiate any required remediations efforts. If the property owner has not cured 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 ore remediation efforts have been initiated.

Introduced: July 18, 2024

SECOND READING / ADOPTION :

MEMBER	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
RACHELSKI		X	X			
GRAHAM			X			
BALIK			X			
PREINFALK			X			
IVANICKI			X			
ANDROWIS	X		X			

CERTIFIED AS A TRUE COPY OF AN
ORDINANCE ADOPTED BY THE
BOROUGH WALLINGTON AT A MEETING
DATE BELOW

Frank Belli

FRANK BELLI
MUNICIPAL CLERK, ACTING

ADOPTED THIS 15TH DAY OF AUGUST, 2024

Melissa Dabal

 MELISSA DABAL, MAYOR
 BOROUGH OF WALLINGTON

