

**BOROUGH OF WOODBINE
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE No. 613-2023

**ORDINANCE AMENDING ORDINANCE 459-2004, AS AMENDED, CHAPTER 10,
SECTION 10 OF THE CODE OF THE BOROUGH OF WOODBINE ENTITLED
BUILDINGS AND HOUSING**

WHEREAS, lead is a naturally occurring element and heavy metal in our environment and used in commercial products including paint; and

WHEREAS, lead is toxic to humans and is found to be harmful on human physiological and behavioral health and lead exposure occurs when lead is introduced into the bloodstream by ingestion or inhalation of lead dust and can cause nervous system and kidney damage, as well as learning disabilities, attention deficit disorder, and decreased intelligence, among other serious health issues; and

WHEREAS, children and pregnant women are considered to be at the highest risk of exposure and deteriorating lead-based paint such as peeling, chipping, chalking, cracking or damaged paint is a hazard and requires immediate attention; and

WHEREAS, the New Jersey State legislature adopted N.J.S.A. 52:27D-437.17b(2) and N.J.S.A. 52:27D-437.20b requiring municipalities to inspect certain rental dwelling units to assure they do not pose a lead hazard to tenants; and

WHEREAS, the Mayor and Council of the Borough of Woodbine find it to be in the best interest of the residents of the Borough to require lead-based paint inspections to assure no lead hazard exists in said units.

NOW THEREFORE BE IT ORDAINED by the Council of the Borough of Woodbine that Ordinance 459-2004, as amended, Chapter 10 of the Code of the Borough of Woodbine be amended by the addition of the following Section 10-10

10-10 Lead-Based Paint Hazard Inspection Requirements for Rental Dwellings

§ 10-10 A. Definitions.

The following definitions shall apply to this article:

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 Health 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-based contaminated paint that is deteriorated or present in 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.

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.

§ 10-10 B. Lead-based paint inspection.

1. A lead inspector for the Borough of Woodbine shall inspect every single-family, two-family, and multiple rental dwelling located within the Borough of Woodbine for lead-based paint hazards through visual assessment in accordance with N.J.S.A. 52:27D-437.16 et seq., as may be amended from time to time.
2. The property owner or landlord may, in lieu of having the dwelling inspected by the Borough's lead inspector, directly hire a private lead evaluation contractor who is

certified to provide lead-based paint inspection services by the Department of Community Affairs to perform the lead-based paint inspection in accordance with N.J.S.A. 52:27D-437.16 et seq., as may be amended from time to time.

3. In accordance with N.J.S.A. 52:27D-437.16(c), 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:
 - 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 after abatement in accordance with N.J.A.C. 5:17.
4. 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 the Lead-Hazard Control Assistance Act N.J.S.A. 52:27D-437.1 et seq.. Upon the remediation of the lead-based paint hazard, the Borough's lead evaluation contractor or visual assessor, as may be applicable, or the owner's private lead evaluation contractor, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
5. If no lead-based paint hazards are identified, or following remediation pursuant to this subsection then the Borough's lead evaluation contractor or the owner's private lead inspector shall certify the dwelling as lead safe on a form prescribed by the Department of Community Affairs, which shall be valid for two years.
6. In accordance with N.J.S.A. 52:27D-437.16(e), property owners shall:
 - a. Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Borough of Woodbine at the time of the cyclical inspection unless not required to have had an inspection pursuant to paragraph 3 herein.
 - b. 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. This subsection shall not apply should the unit not be required to have an inspection pursuant to paragraph 3 herein.
 - 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 pursuant to paragraph 3 herein.
7. If a lead evaluation contractor or the Borough's lead evaluation contractor finds a lead-

based paint hazard exists, then the lead evaluation contractor shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with Section 8 of the Lead hazard Control Assistance Act, N.J.S.A. 52:27D-437.8.

8. Should a lead hazard be identified in an inspection of one of the dwelling units in a building consisting of two or three dwelling units, then the lead evaluation contractor 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

§ 10-10 C. Fees for Inspections

The fees for a lead-based paint inspection shall be as follows:

1. The fee for a visual assessment performed by the Borough's lead inspector shall be \$600 for a dwelling unit that has one bedroom. The fee for a dust-wipe inspections performed by the Borough's lead inspector shall be \$725 for a dwelling unit that has one bedroom. There shall be an additional fee of \$30 for each additional bedroom in the dwelling unit.
2. The fee for the filing of a lead-safe certification or lead-free certification shall be \$25.
3. 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.
4. 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 evaluation contractor or the owner's private lead inspector shall be assessed for the purposes of the Lead Hazard Control Assistance Act, N.J.S.A. 52:27D-437-1 et seq. 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.
5. Should the Borough's lead inspector be required to re-inspect due to required remediation, an additional fee of \$600.00 shall be charged for each additional inspection. Should the Borough's lead inspector be required to perform a dust wipe as well as a visual inspection, the fee shall be \$725.00.
6. Should the Borough's lead inspector be denied access, the fee shall remain payable to cover the cost of the Borough's inspector.

§ 10-10 D. Violations and penalties.

In accordance with N.J.S.A. 52:27D-437.19, the penalties for a violation of § 10-10 B. 4 and 6 herein shall be as follows:

1. If a property owner has failed to conduct the required inspection within the time set forth herein, or initiate any remediation efforts, the owner shall be given 30 days to cure the violation.
2. 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 per week until the required inspection has been conducted or remediation efforts have been initiated.

BE IT FURTHER ORDAINED that should any Ordinance or portion thereof be inconsistent with this Ordinance, such Ordinance or portion thereof shall be void to the extent of such inconsistency.

BE IT FURTHER ORDAINED that should any portion of this Ordinance be deemed unenforceable by any court of competent jurisdiction, the balance thereof not deemed unenforceable shall remain in full force and effect.