

**TOWNSHIP OF MORRIS  
MORRIS COUNTY – NEW JERSEY  
ORDINANCE NO. 29-23**

**AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MORRIS  
AMENDING CHAPTER 216 OF THE TOWNSHIP CODE.**

**WHEREAS**, pursuant to N.J.S.A. 52:27D-437.1, et al., a municipality that maintains a permanent local agency for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within the municipality shall 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 of Morris (the “Township”) maintains such permanent local agency entitled the Township of Morris Uniform Construction Code enforcing agency pursuant to Chapter 216 of the Township Code; and

**WHEREAS**, the toxicity of lead has been known for several decades causing its inclusion in products, including but not limited to residential paint to be banned by the federal government; and

**WHEREAS**, lead can negatively health effect, particularly in children; and

**WHEREAS**, for the health and welfare of the Township’s residents, the Township Committee has determined it is in the best interest of Township residents to amend the Township Code at this time to require inspections for lead-based paint in certain residential rental dwellings; and

**NOW THEREFORE**, be it ordained by the Township Committee of the Township of Morris, County of Morris as follows:

**Section 1.**

Chapter 216 of the Code of the Township of Morris is hereby amended and added to as follows:

**§216-7. LEAD-BASED PAINT INSPECTIONS.**

**A - DEFINITIONS.**

The following definitions shall apply to this Chapter.

**ACT.**

The Lead Hazard Control Assistance Act, P.1.2003, c311 (N.J.S.A. 52:27D-437.1, et seq.), as may be amended from time to time;

**INTERIM CONTROLS.**

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 under 42 U.S.C. § 4851b;

## **LEAD ABATEMENT.**

A set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the commissioner, provided that such standards shall be consistent with applicable federal standards. The term includes: (a) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and (b) all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures;

## **LEAD-BASED PAINT.**

Paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5% by weight, or such other level as may be established by federal law;

## **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;

## **LEAD-BASED PAINT HAZARD INSPECTION**

An inspection of a housing unit and the structure's interior common areas and exterior surface for the presence of lead-based paint hazards;

## **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;

## **LEAD INSPECTOR.**

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;

## **LEAD-SAFE CERTIFICATION**

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 (2) years from the date of issuance;

## **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.

## **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.

## **MULTIFAMILY HOUSING**

A dwelling unit in a multiple dwelling as defined in section 3 of P.L.1967, c. 76 (C.55:13A-3).

### **B - Required Initial Inspection.**

Upon enactment of this Ordinance, all single-family, two family, and multiple rental dwelling units located within the Township shall be initially inspected for lead-based paint upon tenant turnover, but no later than July 22, 2024 in the event there has been no tenant turnover before that date;

### **C – Subsequent Inspections.**

Following the Initial Inspection, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon 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 pursuant to the Act. 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. The Township Code Enforcement Officer 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.

### **D - Standards.**

Inspections 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. However, the Township Inspector or lead evaluation contractor with the duty to inspect these dwellings may consult with the local health board, the Department of Health, or the 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 of repair of dwellings containing lead paint.

If the dwelling is located in a municipality in which less than three percent of children tested, six years of age or younger, have blood lead level greater than or equal to five ug/dL, according to the central lead screening database maintained by the 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 a lead evaluation contractor or Township's Inspector may inspect for lead-based paint hazards through visual assessment.

If a dwelling is located in a municipality in which at least three percent 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 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 a lead evaluation contractor or Township's Inspector shall inspect for lead-based paint hazards through dust wipe sampling.

#### **E - Lead Evaluation Contractor in Lieu of Township Inspector.**

The property owner or landlord may, in lieu of having the dwelling inspected by the Township's lead inspector, directly hire a private lead evaluation inspector who is certified to provide lead paint inspection service by the Department of Community Affairs to perform the lead-based paint inspection in accordance with N.J.S.A. 52:27D-437.16(b)(3) as may be amended from time to time;

#### **F - Exceptions.**

Notwithstanding anything herein, 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, or holds a lead-free certification pursuant to N.J.A.C. 5:17-3.1(b);
- 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 of 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 season rental dwelling which is rented for less than six-month 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-437.16(d)(2);

#### **G - Identification of Lead-Based Paint Hazards.**

If upon inspection lead-based paint hazards are identified as existing in the dwelling, then the owner of the dwelling shall remediate the hazards through abatement or lead-based paint hazard control methods, approved in accordance with the provisions of the Act. Upon the remediation of the lead-based paint hazard, the Township's Inspector or the owner's private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

If upon inspection or following remediation, no lead-based paint hazards exist in a dwelling unit, then the Township's Inspector or lead evaluation contractor shall certify the dwelling unit as lead-safe on a form prescribed by the Department of Community Affairs as provided for in regulation or guidance promulgated pursuant to N.J.S.A. 52:27D-437.20. Such Certification shall be valid for two years.

#### **H - Reporting Requirements for Owners/Landlords and Contractors.**

Owners/Landlords of all dwellings subject to the inspection requirements under this Chapter shall register their unit(s) with the Township and provide the Township with up-to-date information on inspection schedules, inspection results, and tenant turnover. A copy of all lead-safe certifications issued for property located in the Township, other than those issued by the Township, shall be provided to the Township by the evaluating contractor. An Owner/Landowner shall provide the Township with a copy of any lead-free certification issued pursuant to N.J.A.C. 5:17 for their unit(s).

1. In accordance with N.J.S.A. 52:27D437.16(e) property owners shall:
  - a. Provide evidence of a valid lead-safe certification and 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. 55:13A-1, et seq., unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to the Act.
  - b. Provide evidence of a valid lead-safe certification to new tenants of the property at the time of the tenant turn over unless not required pursuant to the Act and shall affix a copy of such certification as an exhibit to the tenant’s or tenants’ lease.
  - 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 pursuant to the Act.
2. If a lead evaluation contractor or Township’s Inspector finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection, then the lead evaluation contractor or Township’s Inspector shall notify the Commissioner of Community Affairs, who shall review the finding in accordance with section 8 of the Act.

#### **I - Fees.**

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

- a. The fee for a visual assessment performed by the Township’s lead inspector shall be \$150 per dwelling unit;
- b. The fee for filing of a lead-safe certification or lead-free certification shall be \$25;
- c. In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20 per dwelling unit inspected by the Township inspector or the owner’s private lead evaluation contractor shall be assessed for the purpose of the “Lead Hazard Control Assistance Act” unless the 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 by the Township of Morris into the Lead Hazard Control Assistance Fund;
- 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;

#### **J- Violations and Penalties.**

In accordance with N.J.S.A. 52:27D-437.19, the penalties of a violation of P.L.2021, c.182 shall be as follows:

- a. If the Township Official determines a property owner/landlord has failed to comply with the inspection requirements of this Chapter, the property owner/landlord shall be given 30 days to cure the violation by ordering the necessary inspection or by initiating remediation;
- b. 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.

#### **Section 2. Severability.**

If any portion of this ordinance shall be deemed invalid by any court of competent jurisdiction, the remainder shall survive in full force and effect.

**Section 3. Repealer.**

All ordinances and parts of ordinances or resolutions inconsistent herewith are hereby repealed.

**Section 4. When Effective.**

This ordinance shall be effective immediately upon adoption and publication in accordance with law.

The foregoing is a true copy of an ordinance introduced and adopted on first reading by the governing body of the Township of Morris on November 8, 2023.

**TOWNSHIP OF MORRIS**

---

Mark J. Gyorfy, Mayor

ATTEST:

---

Suzanne Walsh, Township Clerk

INTRODUCTION: November 8, 2023

ADOPTION: December 20, 2023