

**BOROUGH OF GARWOOD**  
**ORDINANCE NO. 24-35**

Adopted: December 19, 2024

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| Introduced: | December 5, 2024   |
| Motion:     | Councilman Lazarow |
| Seconded:   | Councilwoman Boto  |

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| Public Hearing: | December 19, 2024  |
| Motion:         | Councilman Lazarow |
| Seconded:       | Councilman Foley   |

**AN ORDINANCE AMENDING CHAPTER 67 ENTITLED "BUILDINGS AND STRUCTURES" OF THE BOROUGH CODE OF THE BOROUGH OF GARWOOD BY CREATING NEW ARTICLE IX, ENTITLED "LEAD-BASED PAINT INSPECTION PROGRAM".**

**WHEREAS**, the Borough of Garwood (the "Borough") previously adopted Chapter 67 of the Code of the Borough of Garwood which established and governs restrictions and regulations on buildings and structures in the Borough; and

**WHEREAS**, pursuant to state law, the Borough is required to establish and maintain a lead-based paint hazard inspection program; and

**WHEREAS**, the Borough Council has determined it appropriate to create new Article IX, entitled "Lead-Based Paint Inspection Program" of said Borough Code; and

**NOW, THEREFORE, BE IT ORDAINED** by the governing body of the Borough of Garwood that Chapter 67 of the Borough Code of the Borough of Garwood entitled, "Building and Structures", is hereby amended with new Article IX "Lead-Based Paint Inspection Program", as follows (additions underscored, deletions struck-through):

Article IX Lead-Based Paint Inspection Program

**Section 67-49 Definitions.**

The following definitions shall apply to this article:

**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 (HUD).

**Dwelling-** means a building containing a room or rooms, or suite, apartment, unit, or space, that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

**Dwelling unit -**means a unit within a building that is rented and occupied, or intended to be rented and occupied, for sleeping and dwelling purposes by one or more persons.

**Interim controls-** means 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.

**Lead abatement -**means a set of measures designed to permanently eliminate lead-based paint hazards, in accordance with the standards established by the Commissioner at *N.J.A.C. 5:17*.

**Lead abatement contractor-** means a firm certified by the Department to perform remediation through lead abatement or interim control work pursuant to *N.J.A.C. 5:17*.

**Lead-based paint-**means paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5 percent by weight, or such other level, as may be established by Federal law.

**Lead-based paint hazard-** means any condition that causes exposure to lead from lead-contaminated dust or lead-contaminated paint that is deteriorated or present on surfaces, that would result in adverse human health effects.

**Lead evaluation contractor-** means a firm certified by the Department to perform lead inspection and risk assessment work pursuant to *N.J.A.C. 5:17*. This includes the ability to perform dust wipe sampling.

**Lead inspector/risk assessor-**means an individual certified by the New Jersey Department of Health to perform lead inspection and risk assessment work.

**Lead-free certification-** means the certificate issued, in accordance with *N.J.A.C. 5:17*, which states that there is no lead-based paint, or that the dwelling has undergone lead abatement, in accordance with *N.J.A.C. 5:17*.

**Lead-safe certification-** means the certification issued pursuant to this chapter, which confirms that a periodic lead-based paint inspection was performed, and no lead-based paint hazards were found. This certification is valid for three years from the date of issuance, in accordance with *N.J.A.C. 5:28A-2.4*.

**Lead free-** means that a dwelling has been certified to have no lead-based paint or has undergone lead abatement, in accordance with *N.J.A.C. 5:17*.

**Lead safe-** means that a dwelling has been found to have no outstanding lead-based paint hazards. It does not mean that the dwelling is certified to be lead free.

**Multiple dwelling-** means any building or structure and any land appurtenant thereto, and any portion thereof, in which three or more dwelling units are occupied or intended to be occupied by three or more persons living independently of each other.

**Periodic lead-based paint inspection-** means the initial inspection of all applicable dwelling units at the earlier of three years from the effective date of P.L. 2021, c. 182, July 22, 2022, or tenant turnover, and thereafter the earlier of three years or upon tenant turnover.

**Tenant turnover-** means the time at which all existing occupants vacate a dwelling unit, and all new tenants move into the dwelling unit or the time at which a new tenant enters a vacant dwelling unit.

**Visual assessment-**means 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.

#### **67-50 Lead Based Paint Inspection.**

- A) A lead inspector or lead evaluation contractor for the Borough of Garwood shall inspect every single-family, two-family, and multiple rental dwelling located within the Borough of Garwood for lead-based paint hazards through visual assessment or dust wipe sampling.
- B) The property owner or landlord, in lieu of having the dwelling inspected by the Borough's lead inspector or lead evaluation contractor may directly hire a private lead inspector who is certified to provide lead paint inspection

services by the Department of Community Affairs to perform the lead-based paint inspection in accordance with N.J.A.C. 5:17.

- C) The initial inspection for all single-family, two-family, and multiple rental dwellings subject to this chapter shall be upon tenant turnover or within three years of the effective date of P.L. 2021, c. 182, July 22, 2022, whichever is sooner. Thereafter, all such dwelling units shall be inspected for lead-based paint hazards every three years or upon tenant turnover, whichever is earlier, except that a lead-based paint inspection shall not be required at tenant turnover, if the dwelling unit owner has a valid lead-safe certification for the dwelling unit.
- D) The following rental dwelling units shall be exempt from the requirements of this chapter and, thus, shall not be subject to periodic lead-based paint inspection and evaluation for the presence of lead-based paint hazards:
1. Dwelling units that were constructed during, or after, 1978. Valid proof that the dwelling units were constructed during or after 1978 shall be provided.
  2. Single-family and two-family seasonal rental dwelling units that are rented for less than six months duration each year by tenants that do not have consecutive lease renewals;
  3. Dwelling units that have been certified to be free of lead-based paint, pursuant to N.J.A.C. 5:17;
  4. Multiple rental dwelling units constructed prior to 1978 that have been registered with the Department for at least 10 years and have no outstanding paint violations from the most recent cyclical inspection performed on the multiple dwelling pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq., and N.J.A.C. 5:10.
    - a) All multiple dwelling units constructed prior to 1978 that have been registered with the Department for at least 10 years and that have a current certificate of inspection issued by the Department of Community Affairs, Bureau of Housing Inspection, shall be exempt from this chapter;
    - b) All multiple dwelling units constructed prior to 1978 that have been registered with the Department for at least 10 years with open inspections that have no violations for paint shall also be exempt from this chapter;  
and
  5. Dwellings with a valid lead-safe certification issued pursuant to this chapter. Lead-safe certifications are valid for two years from the date of issuance pursuant to N.J.A.C. 5:28A-2.4.
- E) If, following inspection, a lead evaluation contractor or lead inspector of the Borough finds that no lead-based paint hazard exists in a dwelling unit, the lead evaluation contractor or lead inspector of the Borough shall certify the dwelling unit as lead-safe on the form prescribed by the Department.
- F) If a lead evaluation contractor or lead inspector of the Borough finds that a lead-based paint hazard exists in a dwelling unit, they shall notify the Department for review of the findings, in accordance with the Lead Hazard Control Assistance Act.
- G) If a lead-based paint 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 contractor or permanent local agency shall inspect the remainder of the building's dwelling units. An additional lead-based paint inspection fee shall be due for each additional dwelling unit inspected with the exception of those dwelling units that have been certified to be free of lead-based paint or which have a valid lead-safe certification.
- H) Where a lead-based paint hazard exists in a dwelling, the owner shall remediate the hazard by using either abatement or interim controls. The owner shall choose the appropriate remediation mechanism.

I) Interim controls shall be performed, in accordance with the requirements of the United States Department of Housing and Urban Development at and detailed within the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.

J) Abatement work shall be performed in accordance with the requirements in the Lead Hazard Evaluation and Abatement Regulations, N.J.A.C. 5:17.

K) Upon the remediation of the lead-based paint hazard, the Borough's lead inspector, lead evaluation contractor or the owner's private lead inspector, shall conduct an additional inspection of the rental dwelling unit to certify that the hazard no longer exists.

If no lead-based paint hazards are identified, the dwelling unit shall be certified as lead safe on a form prescribed by the Department of Community Affairs, which shall be valid for two years.

L) The owner of a rental dwelling that is subject to this chapter shall provide to the tenant and to the Borough evidence of a valid lead-safe certification obtained pursuant to this chapter at the time of tenant turnover. The owner shall also affix a copy of any such certification as an exhibit to the tenant's lease.

1. The owner of a multiple dwelling that is subject to this chapter shall 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 any cyclical inspection performed pursuant to the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et seq.
2. The owner of a dwelling that is subject to this chapter shall maintain a record of the lead-safe certification, which shall include the name or names of a unit's tenants, if the inspection was conducted during a period of tenancy.
3. The owner of any dwelling subject to this chapter shall inform the Borough of all tenant turnover activity to ensure any required inspection may be scheduled.
4. The Borough shall maintain a record of all dwellings subject to this chapter, which shall include up-to-date information on inspection schedules, inspection results, and tenant turnover.
5. The Borough shall maintain a record of all lead-safe certifications issued pursuant to this chapter.
  - a. Where a lead evaluation contractor performs inspections for the Borough, the lead evaluation contractor shall provide a copy of the lead-safe certification to the Borough.
  - b. Where an owner hires a private lead inspector to perform inspections for his or her dwelling, the private lead inspector shall provide a copy of the lead-safe certification to the Borough.

M) The Borough of Garwood, or its permanent local agency, shall be authorized to conduct investigations and issue penalties in order to enforce a property owner's failure to comply with this chapter.

1. The owner of the dwelling shall first be given a period of 30 days to cure any violation by conducting the required inspection or initiating any required remediation efforts.
2. If the owner of the dwelling has not cured the violation within that time period, they shall be subject to a penalty, not to exceed \$ 1,000 per week, until the required inspection has been conducted or the remediation efforts have been initiated. Remediation efforts shall be considered to be initiated when the dwelling owner has hired a lead abatement contractor or other qualified party to perform lead-hazard control methods.

**67-51 Fees**

The fee for a lead-based paint inspection performed by the Borough's lead Inspector or lead evaluation contractor shall be \$100.00 per unit for the initial inspection.

The fee for each re-inspection shall be \$100.00

The fee for filing a lead safe certificate with the Borough shall be \$25.00

The Borough shall assess an additional fee of \$20 per unit inspected by a lead evaluation contractor, the owners private lead inspector or the Boroughs lead inspector. The fee collected shall be deposited into the Lead Hazard Control Assistance Fund.

**BE IT FURTHER ORDAINED**, that if any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

**BE IT FURTHER ORDAINED**, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

**BE IT FURTHER ORDAINED**, that this Ordinance shall take effect after final passage and publication in accordance with applicable law.

**ATTEST:**

  
Nennette Perry, R.M.C.  
Municipal Clerk

**APPROVED:**

  
Jennifer Blumenstock  
Mayor

| <u>RECORDED VOTE</u>      | <u>INTRODUCTION:</u> | <u>ADOPTION:</u> |
|---------------------------|----------------------|------------------|
| COUNCILWOMAN BOTO         | AYE                  | ABSENT           |
| COUNCILMAN FOLEY          | AYE                  | AYE              |
| COUNCILMAN LAZAROW        | AYE                  | AYE              |
| COUNCILWOMAN NOLDE        | AYE                  | AYE              |
| COUNCILWOMAN SALMON       | AYE                  | AYE              |
| COUNCIL PRESIDENT KEARNEY | AYE                  | AYE              |

