

**TOWNSHIP OF HARDING**  
**ORDINANCE 24-2024**  
**ORDINANCE CREATING CHAPTER 225, SECTION XXX, "LEAD INSPECTION,"**  
**ESTABLISHING GUIDELINES FOR INSPECTION OF CERTAIN RENTAL UNITS**  
**FOR LEAD PAINT**

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**WHEREAS**, in July of 2021, Governor Murphy signed into law P.L. 2021, c. 182, which amended the Lead Hazard Assistance Act (N.J.S.A. 52:27D-437.1, *et seq.*) as it pertains to lead-paint hazards in residential properties; and

**WHEREAS**, the legislation requires municipalities to either perform inspections of certain single-family, two-family and multiple rental dwellings for lead-based hazards, or to permit the dwelling owner or landlord to directly hire a certified lead evaluation contractor; and

**WHEREAS**, the Township wishes to establish this section to ensure it is in compliance with P.L. 2021, c. 182; and

**BE IT ORDAINED**, by the Township Committee of the Township of Harding, County of Morris, State of New Jersey, as follows:

**Purpose:** An ordinance to establish Section 225, Section XXX, to ensure the Township is in compliance with its obligations under the Lead Hazard Assistance Act (N.J.S.A. 52:27D-437.1, *et seq.*)

**SECTION I.** The Municipal Code, Section 225, Section XXX, "Lead Inspection," is hereby created and shall read as follows:

**I. Definitions**

- A. "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) and as conducted pursuant to N.J.A.C. 5:28A-2.3, as may be amended.
- B. "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.
- C. "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.
- D. "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, or the term as it is defined pursuant to 42 U.S.C. § 4851b and the regulations adopted pursuant thereto, as may be amended.
- E. "Lead abatement" means a set of measures designed to permanently eliminate lead-based paint hazards, in accordance with the standards established by the Commissioner of the Department of Community Affairs at N.J.A.C. 5:17, as may be amended.

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- F. "Lead abatement contractor" means a firm certified by the Department of Community Affairs to perform remediation through lead abatement or interim control work pursuant to N.J.A.C. 5:17, as may be amended.
- G. "Lead abatement worker" means an individual certified by the New Jersey Department of Health to perform lead abatement or interim control work pursuant to N.J.A.C. 8:62, as may be amended.
- H. "Lead-based hazard control methods" means interim controls, as defined above.
- I. "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 or consistent with N.J.A.C. 5:17, as may be amended.
- J. "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.
- K. "Lead evaluation contractor" means a firm certified by the Department of Community Affairs to perform lead inspection and risk assessment work pursuant to N.J.A.C. 5:17, as may be amended. This includes the ability to perform dust wipe sampling.
- L. "Lead inspector/risk assessor" means an individual certified by the New Jersey Department of Health to perform lead inspection and risk assessment work pursuant to N.J.A.C. 8:62, as may be amended. This includes the ability to perform dust wipe sampling.
- M. "Lead-free certification" means the certificate issued in accordance with N.J.A.C. 5:17, as may be amended, 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, as may be amended.
- N. "Lead-safe certification" means the certification issued pursuant to this Section, which confirms that a periodic lead-based paint inspection was performed, and no lead-based paint hazards were found. This certification is valid for two years from the date of issuance, in accordance with N.J.A.C. 5:28A-2.4, as may be amended.
- O. "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, as may be amended.
- P. "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.
- Q. "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. "Multiple dwelling" also means any group of 10 or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two dwelling units are occupied, or intended to be occupied, by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. "Multiple

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dwelling" does not include those buildings and structures that are excluded pursuant to N.J.S.A. 55:13A-3(k).

- R. "Periodic lead-based paint inspection" means the earlier of three years or upon tenant turnover, consistent with N.J.A.C. 5:28A-2.1, as may be amended, for the purposes of identifying lead-based paint hazards in dwellings subject to this Section.
- S. "Remediation" means interim controls or lead abatement work undertaken in conformance with this Section to address lead-based paint hazards.
- T. "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.
- U. "Visual assessment" means a visual examination for deteriorated paint or visible surface dust, debris, or residue, and as conducted pursuant to N.J.A.C. 5:28A-2.3, as may be amended.

**II. Dwelling Unit Requirements**

- A. The inspection requirements pursuant to this Section apply to all rental single-family, two-family, and multiple dwelling units with the exception of those exempt pursuant to subsection B.
- B. The following rental dwelling units shall be exempt from the inspection requirements of this Section 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;
  - 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, as may be amended;
  - 4. Multiple rental dwelling units constructed prior to 1978 that have been registered with the Department of Community Affairs 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 of Community Affairs 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 Section;
    - b) All multiple dwelling units constructed prior to 1978 that have been registered with the Department of Community Affairs for at least 10



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---

years with open inspections that have no violations for paint shall also  
be exempt from this Section; and

5. Dwellings with a valid lead-safe certification issued pursuant to this Section.  
Lead-safe certifications are valid for two years from the date of issuance pursuant  
to N.J.A.C. 5:28A-2.4.

**III. Inspection Requirements**

- A. The inspection for all single-family, two-family, and multiple dwellings subject to the inspection requirements of this Section shall be inspected for lead-based paint hazards every three years or upon tenant turnover, whichever is earlier, except that an inspection shall not be required at tenant turnover, if the dwelling unit owner has a valid lead-safe certification for the dwelling unit.
  1. In all scenarios, the next periodic lead-based paint inspection shall be counted from the most recent periodic lead-based paint inspection that resulted in a valid lead-safe certification.
- B. A dwelling unit owner or landlord shall directly hire a lead evaluation contractor from the Township's approved contractor list to conduct the periodic lead-based paint inspections for lead-based paint. Inspections shall be performed on the timetable set forth in subsection A above.
- C. The Township shall have the authority to conduct inspections or investigations of landlords or owners to ensure that periodic lead-based paint inspections are being performed in accordance with this Section.

**IV. Fees**

- A. The dwelling owner or landlord shall be responsible for the payment of all fees associated with the inspection of the unit by the lead evaluation contractor.
- B. The Township shall assess an additional fee of \$ 20.00 per unit pursuant to the Lead Hazard Control Assistance Act, P.L. 2003, c. 311 (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 has already assessed an additional inspection fee of \$20.00 pursuant to the provisions of Section 10 at P.L. 2003, c. 311 (N.J.S.A. 52:27D-437.10). The fees collected pursuant to this subsection shall be deposited into the Lead Hazard Control Assistance Fund established pursuant to Section 4 at P.L. 2003, c. 311 (N.J.S.A. 52:27D-437.4).
- C. In a common interest community, any inspection fee charged pursuant to this Section shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit or expressly agreed upon by the homeowners' association.

**TOWNSHIP OF HARDING**  
**ORDINANCE 24-2024**  
**ORDINANCE CREATING CHAPTER 225, SECTION XXX, "LEAD INSPECTION,"**  
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**FOR LEAD PAINT**

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**V. Lead Safe Certifications**

- A. If, following inspection, a lead evaluation contractor finds that no lead-based paint hazard exists in a dwelling unit, the lead evaluation contractor shall certify the dwelling unit as lead-safe on the form prescribed by the Department of Community Affairs.
1. The lead-safe certification shall be valid for a period of two years from the date of issuance.
    - a) If, during the two-year certification period, a lead evaluation contractor, lead inspector/risk assessor, a local health department, or a public agency conducts an independent inspection or risk assessment and determines that there is a lead-based paint hazard, the lead-safe certification issued shall be invalid. A periodic lead-based paint inspection shall be scheduled upon the conclusion of remediation, in accordance with N.J.A.C. 5:28A-2.5(e).
    - b) Where an independent inspection or risk assessment determines that there is a lead-based paint hazard, the inspector/risk assessor shall inform the Township of the results of the inspection.
    - c) The lead-safe certification shall not exempt the dwelling from any other law that would require a lead inspection/risk assessment.
  2. A copy of the lead-safe certification shall be provided to the owner of the dwelling. If a lead evaluation contractor issues the lead-safe certification, a copy shall also be provided to the Township at the time it is issued.
- B. If a lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit, they shall notify the Department of Community Affairs for review of the findings, with a copy to the Township, in accordance with the Lead Hazard Control Assistance Act.
1. 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 shall inspect the remainder of the building's dwelling units, 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.
- C. The owner of the dwelling unit shall be responsible for remediation of the lead-based paint hazard. Remediation must be conducted consistent with the requirements at N.J.A.C. 5:28A-2.5.

**VI. Remediation Requirements**

- A. 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.
- B. Interim controls shall be performed, in accordance with the requirements of the United States Department of Housing and Urban Development at 42 U.S.C. § 4851b and detailed

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**FOR LEAD PAINT**

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within the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, as may be amended.

- C. Abatement work shall be performed in accordance with the requirements in the Lead Hazard Evaluation and Abatement Regulations, N.J.A.C. 5:17, as may be amended.
- D. Any relocation of tenants required pursuant to a remediation shall be undertaken in accordance with applicable law.
- E. Upon conclusion of the remediation, the following procedure shall be followed:
  - 1. If the owner utilized interim controls for remediation, the lead evaluation contractor shall conduct an additional inspection within 60 days of the initial inspection by using dust wipe sampling. If the inspections shows that the hazard no longer exists, the lead evaluation contractor certify the unit as lead-safe on the form prescribed by the Department of Community Affairs. The certification shall be valid for a period of two years from the date of issuance; and
  - 2. If the owner utilized abatement for remediation, and a lead abatement clearance certificate has been issued by the local enforcing agency in accordance with N.J.A.C. 5:17, as may be amended, then the lead-free certificate issued at the final clearance inspection shall exempt the dwelling from future periodical lead-based paint inspections.

**VII. Owner Responsibilities**

- A. The owner of a dwelling that is subject to this Section shall provide to the tenant and to the Township evidence of a valid lead-safe certification obtained pursuant to this Section 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.
- B. The owner of a multiple dwelling that is subject to this Section shall provide evidence of a valid lead-safe certification obtained pursuant to this Section, 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.
- C. The owner of a dwelling that is subject to this Section 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.
- D. The owner of any dwelling subject to this Section shall inform the Township of all tenant turnover activity to ensure any required inspection may be scheduled.
- E. The owner of a dwelling shall provide a copy of this Section, and any lead-safe certifications issued pursuant thereto, along with the accompanying guidance document, Lead-Based Paint in Rental Dwellings, to any prospective owners of the dwelling during a real estate transaction, settlement, or closing.

**VIII. Enforcement**

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**ORDINANCE 24-2024**  
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**FOR LEAD PAINT**

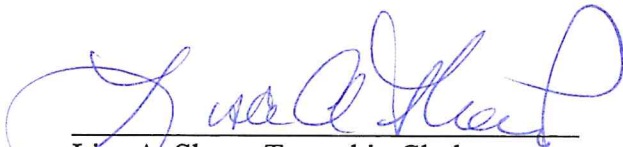
- A. The Township, through the Health Official, is authorized to conduct investigations and issue penalties to enforce a property owner's failure to comply with this Section.
- B. The owner of the dwelling shall first be given a period of 30 days to cure any violation, including but not limited to conducting the required inspection or initiating any required remediation efforts.
- C. If the owner of the dwelling has not cured the violation within the time period outlined in section B of this subsection, 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 initiated when the dwelling owner has hired a lead abatement contractor or other qualified party to perform lead-hazard control methods.

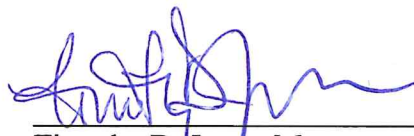
**SECTION 2.** This ordinance may be renumbered for the purposes of codification.

**SECTION 3.** This ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

**ATTEST:**

**TOWNSHIP OF HARDING**

  
 Lisa A. Sharp, Township Clerk

  
 Timothy D. Jones, Mayor

**INTRODUCED:** October 7, 2024

**ADVERTISED:** October 10, 2024

**PUBLIC HEARING:** November 18, 2024

**ADOPTED:** November 18, 2024

**ADVERTISED:** November 21, 2024

**Vote on Adoption:**

	<b>MOTION</b>	<b>FOR APPROVAL</b>	<b>AGAINST APPROVAL</b>	<b>ABSTAIN</b>
Ms. Chipperson	<i>Absent 1st and</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dr. Lacz		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Platt		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Yates		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Jones		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>