

**TOWNSHIP OF WARREN
ORDINANCE NO. 22-24**

**AN ORDINANCE OF THE TOWNSHIP OF WARREN, SOMERSET COUNTY, NEW JERSEY,
AMENDING CHAPTER 8 TITLED, "BUILDING AND HOUSING", TO ADD A NEW SECTION
8-12 TITLED, "RESIDENTIAL RENTAL LEAD PAINT TESTING", OF THE CODE OF THE
TOWNSHIP OF WARREN**

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 programs for residential rental properties; and

WHEREAS, the Township of Warren desires to comply with N.J.S.A. 52:27D-437, et seq. by adopting this Ordinance.

BE IT ORDAINED by the Township Committee of the Township of Warren, County of Somerset, State of New Jersey, as follows:

Section 1. Chapter 8 of the Code of the Township of Warren be and hereby is amended to add a new Section 8-12, titled "Residential Rental Lead Paint Testing", and to add the following Sections:

§8-12.1 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.

"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.

§8-12.2. Subject to Section 8-12, the Division of Construction and the Construction Official, as defined in Section 8-1.1, or a certified lead evaluation contractor as may be retained and designated by the Township Committee shall inspect every single-family, two-family, and multiple rental dwelling located within the Township at tenant turnover for lead-based paint hazards or within two (2) years of the July 22, 2022, the effective date of N.J.S.A. 52:27D-437.16, et seq., whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three (3) 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. The owner of any such rental dwelling shall not permit any tenant turnover without first complying with Section 8-12. The Township shall charge the dwelling owner or landlord and the dwelling owner or landlord shall pay the Township in advance of any inspection, a fee of \$150.00 for each unit inspected to cover the cost of the inspection, which shall be dedicated to meeting the costs of implementing and enforcing Section 8-12 and shall not be used for any other purpose.

§8-12.3. The dwelling owner or landlord 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 Section 8-12.2 instead of the municipal inspection contemplated by Section 8-12.2. If a dwelling owner or landlord directly hires such a lead evaluation contractor, the term

“Construction Official” shall also mean and include such lead evaluation contractor for purposes of this Section 8-12 (except for the purposes of Section 8-12.13).

§8-12.4. The Construction Official or such lead evaluation contractor with the duty to inspect single-family, two-family, and multiple rental dwellings pursuant to Section 8-12, may consult with the local health board, the New Jersey Department of Health, or the New Jersey 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 for the repair of dwellings containing lead paint.

§8-12.5. Notwithstanding anything in Section 8-12.2 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 New Jersey Department of Community Affairs as a multiple dwelling for at least ten (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.;
- (4) is a single-family or two-family seasonal rental dwelling which is rented for less than six (6) 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 Section 8-12.

§8-12.6. If the Construction Official or such lead evaluator contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to Section 8-12.2, 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. Upon the remediation of the lead-based paint hazard, the Construction Official or lead evaluator contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists. The Construction Official shall charge an additional fee in the amount \$75.00 for such additional inspection.

§8-12.7. If the Construction Official or lead evaluator contractor finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to Section 8-12.2 or following remediation of a lead-based paint hazard pursuant to Section 8-12.6, then the Construction Official or lead evaluator contractor shall certify the dwelling unit as 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 Official or lead evaluator contractor pursuant to this Section 8-12.7 shall be valid for two (2) years.

§8-12.8. Beginning on July 22, 2022, the effective date of N.J.S.A. 52:27D-437.16 et seq., property owners shall:

- (1) provide evidence of a valid lead-safe certification obtained pursuant to Section 8-12 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. 55:13A-1, et seq., unless not required to have had an inspection by the Construction Official pursuant to paragraphs (1), (2), or (3) of Section 8-12.5;

(2) provide evidence of a valid lead-safe certification obtained pursuant to Section 8-12 to new tenants of the property at the time of tenant turnover unless not required to have had an inspection by the Construction Official or lead evaluator contractor pursuant to paragraphs (1), (2), (3), and (4) of Section 8-12.5, and shall affix a copy of such certification as an exhibit to the tenant's or tenants' lease; and

(3) 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 by the Construction Official or lead evaluator contractor pursuant to paragraphs (1), (2), (3), and (4) of §8-12.5.

§8-12.9. If the Construction Official or lead evaluator contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to Section 8-12, then the Construction Official or lead evaluator contractor shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with the "Lead Hazard Control Assistance Act," N.J.S.A. 52:27D-437.8.

§8-12.10. 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 Construction Official or lead evaluator contractor shall inspect the remainder of the building's dwelling units for lead hazards, except for dwelling units that have been certified to be free of lead-based paint. The Construction Code Official may charge an additional fee in the amount of \$75.00.

§8-12.11. In addition to the fees charged for inspection of rental housing, the Township shall assess an additional fee of \$20.00 per unit inspected by the Construction Official for the purposes of the "Lead Hazard Control Assistance Act," N.J.S.A. 52:27D437.1, et seq., concerning lead hazard control work, unless the unit owner demonstrates that the New Jersey 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. In a common interest community, any inspection fee charged pursuant to Section 8-12 shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit. The fees collected pursuant to this Section 8-12.11 shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to N.J.S.A. 52:27D-437.4.

§8-12.12.

A. If less than three (3) percent of children tested in the Township, six (6) years of age or younger, have a blood lead level greater than or equal to five (5) ug/dL, according to the central lead screening database maintained by the 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 and for the purposes of N.J.S.A. 52:27D-437.16), then the Construction Official or lead evaluator contractor may inspect a dwelling located therein for lead-based paint hazards through visual assessment.

B. If at least three (3) percent of children tested, six (6) years of age or younger, have a blood lead level greater than or equal to five (5) ug/dL, according to the central lead screening database maintained by the 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, then the Construction Official or lead evaluator contractor shall

inspect a dwelling located therein through dust wipe sampling.

C. If a lead hazard is identified in an inspection of one (1) of the dwelling units in a building consisting of two- or three- dwelling units, then the Construction Official or lead evaluator contractor shall inspect the remainder of the building's dwelling units for lead hazards, except for dwelling units that have been certified to be free of lead-based paint. The Construction Code Official may charge a fee of \$75.00 for such additional inspections.

§8-12.13. The Township and the Construction 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 Section 8-12. If the Township or the Construction Official determines that a property owner has failed to comply with a provision of N.J.S.A. 52:27D-437.16, et seq. or Section 8-12 regarding a rental dwelling unit owned by the property owner, the property owner shall first be given thirty (30) days to cure any violation by conducting the required inspection or initiate any required remediation efforts. If the property owner has not cured the violation after thirty (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 or remediation efforts have been initiated.

Section 2. If any section, paragraph, subdivision, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause, or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

Section 3. This Ordinance shall take effect according to law.

ATTEST:

TOWNSHIP OF WARREN

Cathy Reese, RMC
Township Clerk

Victor J. Sordillo, Mayor

INTRODUCED: November 17, 2022

ADOPTED: December 15, 2022

EFFECTIVE: December 22, 2022