

ORDINANCE 2350-24
**AN ORDINANCE TO AMEND CHAPTER 280 OF THE CODE OF THE BOROUGH
OF HAWTHORNE, HOUSING STANDARDS, CREATING THEREUNDER
ARTICLE II, LEAD-BASED PAINT INSPECTIONS**

WHEREAS, the State of New Jersey has enacted NJSA 52:27-437, et. seq., establishing lead-based paint testing programs for residential rental property; and

WHEREAS, the said statute requires that municipalities enact ordinances to implement lead-based paint programs for residential rental properties;

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the Borough of Hawthorne, in the County of Passaic and State of New Jersey, that it does amend the Code of the Borough of Hawthorne as follows:

Section One. Chapter 280 of the Code of the Borough of Hawthorne, Housing Standards, is hereby amended and revised so as to add thereto Article II, Lead-Based Paint Inspections, to read as follows:

Chapter 280

HOUSING STANDARDS

Article I

Housing Standards

- § 280-1 Appointment of Housing Officers
- § 280-2 Housing Standards Adopted
- § 280-3 Powers and Duties of Housing Officer
- § 280-4 Enforcement
- § 280-5 Rules and Regulations
- § 280-6 Violations and Penalties

Article II

Lead-Based Paint Inspections

- § 280-7 Definitions
- § 280-8 Lead-Based Paint Inspection
- § 280-9 Fees
- § 280-10 Penalties

Article II

Lead-Based Paint Inspections

§ 280-7. 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 (HUD).

“Lead Inspector” A person certified by the Department of Community Affairs to perform lead inspection and risk assessment work pursuant to NJAC 5:17-1.1 et. seq. This includes the ability to perform dust wipe sampling.

“Lead-Based Hazard” Any condition that causes exposure to lead from lead-contaminated dust or lead-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 hazards were found. This certification is valid for two 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” Means a visual examination for deteriorated paint or visible surface dust, debris or residue.

§ 280-8 Lead-based Paint Inspection

- A. A lead inspector for the Borough of Hawthorne shall inspect every single-family, two-family, and multiple rental dwelling located with the Borough of Hawthorne for lead-paint hazards through visual assessment and dust wipe sampling in accordance with N.J.S.A. 52:27D-437.16 et seq., as may be amended from time to time.
- B. The property owner or landlord may, in lieu of having the dwelling inspected by the Borough’s lead inspector, 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.S.A. 52:27D-437.16 et seq., as may be amended from time to time.
- C. 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:
 - 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 Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current of 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; See N.J.S.A. 55:13A-I et seq.
 - 4. 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;
 - 5. Has a valid lead-safe certification issued within the past two years.
- D. 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 N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the Borough of Hawthorne’s lead inspector or visual assessor, as may be applicable, or the owner’s private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.
- E. If no lead-based paint hazards are identified, then the Borough’s lead inspector 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.
- F. In accordance with N.J.S.A. 52:27D-437.16(e), property owners shall:
 - 1. Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Borough of Hawthorne at the time of the cyclical inspection.
 - 2. Provide evidence of a valid lead-safe certification to new tenants at 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.
 - 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.

§ 280-9 Fees

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

- 1. The fee for a visual assessment by the Borough of Hawthorne shall be as established by resolution at such time as the Borough awards a contract to a chosen professional to perform

such services. The fee collected shall be dedicated to the enforcement of this Article and not used for any other purpose.

2. The fee for filing of a lead-safe certification or lead-free certification shall be as set forth in the resolution noted above
3. In accordance with N.J.S.A. 52:27D-437.16(h), an additional fee of \$20.00 per dwelling unit inspected by the Borough's lead inspector 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 \$20.00. The fees collected pursuant to this subsection shall be deposited into the Lead Hazard Control Assistance Fund.
4. The fee for reinspection or clearance shall be as set forth in the resolution set forth above awarding services.

§ 280-10. Penalties.

If a property owner has failed to conduct the required inspection or initiate remediation efforts, the owner or landlord shall be issued a notice of violation and given 30 days to cure the same. If the property owner or landlord has not cured the violation within 30 days, a fine shall be issued by the Housing Officer in an amount not to exceed \$1,000 per week until the violation is cured. Any person(s) who violates any other part of this section shall be subject to a fine, in sum not exceed \$2,000 for each dwelling unit.

Section Two. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section Three. This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

FRANK E. MATTHEWS, Council President

Attest:

Lori Fernandez, RMC, CMC
Borough Clerk

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed upon first reading at a meeting of the Municipal Council of the Borough of Hawthorne, in the County of Passaic, New Jersey, held on October 2, 2024. It will be further considered for final passage after public hearing thereon, at a meeting of said Municipal Council to be held in the Municipal Building, 445 Lafayette Avenue, in said Borough on November 6, 2024 at 7:00 p.m., at which time and place all interested members of the public who desire will be given an opportunity to be heard in connection with said Ordinance, and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Borough of Hawthorne website, www.hawthornenj.org and through the Clerk's Office in said Municipal Building at no cost to the members of the general public who shall request the same.

Lori Fernandez, RMC, CMC, Borough Clerk

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF AN ORDINANCE ADOPTED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF HAWTHORNE AT A REGULAR MEETING ON NOVEMBER 6, 2024.