

TOWNSHIP OF SHREWSBURY
ORDINANCE #2023- 01
County of Monmouth

ORDINANCE CONCERNING LEAD BASED PAINT HAZARDS AND RENTAL PROPERTIES

WHEREAS, Shrewsbury Township has recognized the need to address lead-based paint hazards concerning buildings and structures within the municipality; and

WHEREAS, the New Jersey State Legislature passed an Act concerning lead-based paint hazards and residential rental properties under N.J.S.A. 52:27D-437.1 in 2021; which went into effect July 22, 2022; requiring local ordinance implementation soon thereafter.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Shrewsbury in the County of Monmouth in the State of New Jersey that the Shrewsbury Township Ordinances shall be amended to add and Ordinance entitled, “Lead-based Paint Hazards and Rental Properties” as follows:

SECTION 1 Lead-based Paint Hazards and Rental Properties.

Section 1.1 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.
- b. “Tenant Turnover” means the time at which all existing occupants vacate a dwelling unit and all new tenants move into the dwelling unit.
- c. “Visual Assessment” means a visual examination for deteriorated paint or visible surface, dust, debris, or residue.
- d. “Municipality” means Shrewsbury Township.
- e. “Permanent Local Agency” means the Shrewsbury Township Code Department (hereinafter referred to as “Shrewsbury Township Code”).

Section 1.2 Scope and Purpose.

- a. Shrewsbury Township Code shall serve as the Department to conduct inspections and enforce laws and Ordinances and Regulations under this Ordinance. Shrewsbury Township Code shall inspect or contract out to a qualified contractor to inspect.
- b. Shrewsbury Township Code shall inspect every single family, two-family and multiple rental dwellings located within Shrewsbury Township at the time of tenant turnover for lead-based paint hazards or within two years of the effective date of this Ordinance. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification pursuant to this Section. Shrewsbury Township shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection.

Section 1.3 Administration.

- a. Subject to Section 1.4, Shrewsbury Township Code where it is unable to carry out inspections due to the lack of expertise or certification and enforcing Laws, Ordinances and Regulations concerning buildings and structures within Shrewsbury Township, for purposes of this Ordinance, Shrewsbury Township Code shall, through Shrewsbury Township, hire a lead evaluation contractor; certified to provide lead-paint inspection services by the Department of Community Affairs, to inspect every single-family, two-family and multi-rental dwellings located within Shrewsbury Township at tenant turnover for lead-based paint hazards or within two years of the effective date of this Ordinance. Thereafter, all such units shall be inspected for lead-based paint hazards the

earlier of every three 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 pursuant to this Section. Shrewsbury shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection, including the cost of hiring the lead evaluation contractor; subject to Section 1.4; Section 1.5 and Section 1.6.

Section 1.4 Lead Evaluation Contractor – Owner or Landlord.

- a. Shrewsbury Township shall permit the dwelling owner or landlord to directly hire a lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of Section 1.3 and 1.2.

Section 1.5 Consultation.

- a. Shrewsbury Township Code or lead evaluation contractor with the duty to inspect single-family, two-family and multi-rental dwellings pursuant to this Section 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 the high risk of lead poisoning at dwellings; methods of detection of lead in dwellings and the standards for the repair of dwellings containing lead paint.

Section 1.6 Fees.

- a. Fees established pursuant to this Section shall be dedicated to meeting the cost of implementing and enforcing this Section and shall not be used for any other purpose. The following fees shall be assessed:

<u>Type of Fee</u>	<u>Amount of Fee</u>
1. Initial Inspection Fee	\$280.00 per unit
2. Lead Hazard Control Asst. Act	\$20.00 per unit
3. Reinspection Fee	\$100.00 per unit

Section 1.7 Exceptions.

- a. Notwithstanding Section 1.3 – Section 1.6 of this Ordinance to the contrary, a dwelling unit in a single-family, two-family, or multi-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 paints;
 - 2. Was constructed during or after 1978;
 - 3. Is in a multi-dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years and either under the current or previous owner has no outstanding lead violations from the most recent cyclical inspection performed 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 less than 6 months duration each year by tenants that do not have consecutive lease renewals;
 - 5. Has a valid, lead safe certification issued in accordance with this Section.

Section 1.8 Inspections.

- a. If a lead evaluation contractor or Shrewsbury Township Code finds that a lead-based paint lead hazard exists in a dwelling unit upon conducting an inspection pursuant to this Section, 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 als. Upon the remediation of the lead-based paint hazard, the lead evaluation contractor of Shrewsbury Township Code shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

- b. If a lead evaluation contractor or Shrewsbury Township Code finds that no lead-based paint hazards exist in a dwelling unit upon conducting an inspection pursuant to this Section, or following remediation of the lead-based paint hazard pursuant to Paragraph (a.) of this subsection, then the lead evaluation contractor or Shrewsbury Township Code shall certify the dwelling unit as lead safe on a form prescribed by the Department of Community Affairs provided for in regulations or guidance promulgated by the State of New Jersey. The lead safe certification provided to the property owner by the lead evaluation contractor of Shrewsbury Township Code pursuant to this Section shall be valid for 2 years.

Section 1.9 Compliance.

- a. Property owners shall provide the following:
 - 1. Evidence of the valid lead safe certification obtained pursuant to this Section as well as evidence on the most recent tenant turnover at the time of the cyclical inspection carried out under the “Hotel and Motel 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 Shrewsbury Township Code pursuant to Section 1.7, (a.) (1-5);
 - 2. Provide evidence of a valid lead safe certification to new tenants of the property at the time of tenant turnover; unless not required to have had an inspection by a lead evaluation contractor or Shrewsbury Township Code pursuant to Section 1.7, (a.) (1-5); and shall affix a copy of such certification as an exhibit to the tenant’s or tenants’ lease;
 - 3. Maintain record of 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 inspection by a lead evaluation contractor or Shrewsbury Township Code pursuant to Section 1.7, (a.) (1-5);
 - 4. If a lead evaluation contractor or Shrewsbury Township Code finds that a lead-based paint hazard exists in the dwelling unit upon conducting an inspection pursuant to this Section, then the lead evaluation contractor or Shrewsbury Township Code shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with Section 8 of the “Lead Hazard Control Assistance Act,” N.J.S.A. 52:27D-437.8;
 - 5. If a dwelling located in Shrewsbury Township, in which less than 3 percent of children tested, 6 years of age or younger, have a blood lead level greater than or equal to 5 ug/dL, according to the central lead screening database maintained by the Department of Health pursuant to Section 5 of N.J.S.A. 26:2-137.6 or according to other data deemed appropriate by the Commissioner, then a lead evaluation contractor or Shrewsbury Township Code may inspect for lead-based paint hazards through visual assessment;
 - 6. If a dwelling located in Shrewsbury Township, in which at least 3 percent of children tested, 6 years of age or younger, have a blood lead level greater than or equal to 5 ug/dL, according to the central lead screening database maintained by the Department of Health pursuant to Section 5 of N.J.S.A. 26:2-137.6 or according to other data deemed appropriate by the Commissioner, then the lead evaluation contractor or Shrewsbury Township Code shall inspect for lead-based paint hazards through dust wipe sampling;
 - 7. If a lead hazard is identified in an inspection of one of the dwelling units in a building consisting of 2 or 3 dwelling units, then the lead evaluation contractor or Shrewsbury Township Code shall inspect the remainder of the building’s dwelling units for lead hazards, with the exception of dwelling units that have been certified to be free of lead-based paint. The lead evaluation contractor or Shrewsbury Township Code may charge fees in accordance with this Section for such additional inspections.

8. In addition to the fees permitted to be charged for inspection of rental housing pursuant to this Section, Shrewsbury shall assess an additional fee of \$20.00 per unit inspected by a certified lead evaluation contractor or Shrewsbury Township Code for purposes of the “Lead Hazard Control Assistance Act,” N.J.S.A. 52:27D-437.1 et al., 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 of N.J.S.A. 52:27D-437.10. 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. The fees collected pursuant to this subsection shall be deposited into the “Lead Hazard Control Assistance Fund” established pursuant to Section 4 of N.J.S.A. 52:27D-437.4.

Section 1.10 Sources of Education.

The Department of Community Affairs, in consultation with the Department of Health, shall establish a Statewide, multifaceted, ongoing educational program designed to meet the needs of tenants, property owners, realtors and real estate agents, insurers and insurance agents, and local building officials about the nature of lead-based paint hazards, the importance of lead-based paint hazard control and mitigation and the responsibilities. In developing and coordinating such educational program the Department shall seek the participation and involvement of private industry organizations, including those involved in real estate, insurance, mortgage, banking, and pediatrics. Shrewsbury Township, pursuant to this Ordinance, will do all to accommodate the State of New Jersey in pursuing these educational needs.

Section 1.11 Limitations.

In association with an application for lead remediation funding provided pursuant to the “Lead Hazard Control Assistance Fund,” established pursuant to Section 4 of N.J.S.A. 52:27D-437.4, or any other program administered for lead remediation purposes by the Department of Community Affairs, the Township shall not request or require that a property owner disclose the social security number of any person renting the property or otherwise associated with the inspected property other than the property owner. This disclosure requirement prohibition shall apply to an application for assistance, funded and administered by the State for lead remediation purposes.

Section 1.12 Investigations and Penalties.

Shrewsbury Township Code shall be authorized to conduct investigations and issue penalties not inconsistent with this Section to enforce a property owner’s failure to comply with this Ordinance. If Shrewsbury or Shrewsbury Township Code determines that a property owner has failed to comply with this Ordinance with respect to a rental dwelling unit owned by the property owner, the property owner shall first be given 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 violations after 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 1.13 Rule and Regulations

Shrewsbury Township shall comply with adopted Rules and Regulations of the Department of Community Affairs affecting actions of Shrewsbury and Shrewsbury Township Code under this Ordinance.

Section 1.14 Violations and Penalties

Any person, firm or corporation violating any of the provisions of this Ordinance shall be subject to a fine not exceeding \$1,000.00 per week; a term of imprisonment not exceeding 90 days or a period of community service not exceeding 90 days or any combination thereof; unless penalties are specified elsewhere in this Ordinance or with regard to a specific violation, in which case such provision shall supersede this Section. If a violation is of a continuing nature, each day or portion of each day during which it occurs shall constitute an additional, separate, and distinct offense.

All Ordinances or parts of Ordinances that are inconsistent herewith are repealed, but only to the extent of such inconsistency.

This Ordinance shall become effective immediately upon its passage and the publication as required by law.

DATE:

Vote on Adoption:

Name	Motion	Second	Ayes	Nays	Abstain	Absent
Puhak						
Lettice						
Jennings						

APPROVED ON FIRST READING: February 14, 2022

APPROVED, PASSED AND ADOPTED: _____

Katrina Thornton, CMR
Acting Municipal Clerk

Lester J. Jennings
Mayor