

**BOROUGH OF PALMYRA  
ORDINANCE 2023-11**

**AN ORDINANCE TO AMEND THE BOROUGH OF PALMYRA CODE TO ADD  
CHAPTER 209, TITLED “LEAD-BASED PAINT INSPECTIONS”**

**WHEREAS**, the State of New Jersey enacted N.J.S.A. 52:27D-437, et. seq. establishing lead-based paint testing program 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 Borough of Palmyra desires to comply with N.J.S.A. 52:27D-437, et. seq. and N.J.A.C. 5:28A-1.1 et seq. by adopting this ordinance;

**NOW THEREFORE BE IT ORDAINED** by the Council of the Borough of Palmyra, the County of Burlington and State of New Jersey as follows:

**ADD: Chapter 209 - Lead-Based Paint Inspections.**

The Regulations titled “Lead-Based Paint Inspections in Rental Dwellings” as set forth N.J.A.C. 28A-1.1 et seq. are incorporated herein except as set forth below.

**§209-1 Definitions.**

See the provisions of N.J.A.C. 5:28A-1.2. which is incorporated herein.

**§209-2 Applicability and exemptions**

See the provisions of N.J.A.C. 5:28A-1.2(a), (c) and (d). which are incorporated herein.

**§209-3 Periodic lead-based paint inspection: performance**

See the provisions of N.J.A.C. 5:28A-2.1.(a), (c), and (d) which are incorporated herein.

The provisions of N.J.A.C. 5:28A-2.1(b) is not incorporated herein.

**§209-4. Fees for Inspection**

See the provisions of N.J.A.C. 5:28A-2.2.(a), (b) and (c), are incorporated herein except the fee set forth in subsection N.J.A.C. 5:28A-2.2.(a) shall be as listed in the fee Ordinance.

**§209-5. Periodic lead-based inspection: procedure**

See the provisions of N.J.A.C. 5:28A-2.3 (a) and (b) which are incorporated herein. As of the date of the enactment of this Chapter, the conditions set forth in N.J.A.C. 5:28A-2.3(b) apply so that the testing procedures in that subsection apply.

**§209-6 Inspection results and lead-safe certification.**

See the provisions of N.J.A.C. 5:28A-2.4.(a), (b) and (c), are incorporated herein.

**§209-7 Remediation**

See the provisions of N.J.A.C. 5:28A-2.5 (a), (b), (c), (d) and (e) which are incorporated herein.

**§209-8 Consultation with agencies**

See the provisions of N.J.A.C. 5:28A-2.6(which are incorporated herein.

**§209-9. Owner responsibility**

See the provisions of N.J.A.C. 5:28A-3.1which are incorporated herein.

**§209-10. Municipal and lead evaluation contractor responsibility**

See the provisions of N.J.A.C. 5:28A-3.2 .(a), (b) and (c), are incorporated herein.

**§209-11. Municipal Enforcement**

See the provisions of N.J.A.C. 5:28A-4.1.(a), (b) and (c), are incorporated herein.

**§209-12**

If any section, paragraph, subsection, clause, or provision of this Amendment 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.

**§209-13**

If any ordinances or parts thereof are in conflict with the provisions of this Ordinance those provisions shall be repealed to the extent of such conflict.

A. A lead evaluation contractor retained by the Borough shall inspect every single-family, two-family, or multiple rental dwelling located in the Borough of Palmyra for lead-based paint hazards through visual assessment and dust wipe sampling in accordance with N.J.S.A. 52:27D-437.1 et seq.

B. In lieu of having the dwelling inspected by the Borough's lead evaluator, a dwelling owner or landlord may directly hire a private lead evaluation contractor 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-437.1 et seq.

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 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," P.L.1967, c.76 (C.55:13A-1 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; or
- (5) Has a valid lead-safe certification issued in accordance with this Chapter.

D. The owner, landlord, and/or agent of every single-family, two-family, or multiple rental dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three (3) years, or at tenant turnover, whichever is earlier.

E. If the lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to Section 209-2, then the owner, landlord, and/or agent of the dwelling shall remediate the lead-based paint hazard using lead abatement or lead-based control methods in accordance with N.J.S.A. 52:27D-437.1, et. al. Upon the remediation of the lead-based paint hazard, the Borough's lead evaluation contractor shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

F. If no lead-based paint hazards are identified, then the Borough's lead evaluator shall certify the dwelling as lead-safe on a form prescribed by the Department of Community Affairs, which shall be valid for two (2) years.

G. Pursuant to N.J.S.A. 52:27D-437.16(e), property owners shall:

(1) Provide evidence of valid lead-safe certification and the most recent tenant turnover at the time of the cyclical inspection

(2) Provide evidence of a valid lead-safe certification obtained pursuant to this Section 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 permanent local agency pursuant to §83-2(C) of this Chapter.

(3) Maintain a record of the lead-safe certification, which shall include name(s) of the unit tenant(s), if inspection was conducted during a period of tenancy.

§209-3 Notification to Commissioner of Community Affairs.

If the lead evaluation contractor finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this chapter, then the lead evaluation 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.

§209-4 Consultation with Local Health Board.

The lead evaluation contractor with the duty to inspect single-family, two-family, and multiple rental dwellings pursuant to this Chapter, may consult with the local health board, the State of New Jersey Department of Health, or the State of 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.

§209-5 Fees.

(1) As listed in the fee ordinance

(2) 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 evaluation contractor or the owner's private lead evaluation contractor shall be addressed for the purpose of the Lead Hazard Control Assistance Act, "N.J.S.A. 52:27D437.1 et. Seq., unless the owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20.00 pursuant to the provisions of 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.

(3) 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 section shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to N.J.S.A. 52:27D-437.4

(4) The fee for the filing of a lead-safe certification or lead-free certification shall be \$20.00.

§209-6 Penalties:

A. If a property owner has failed to conduct the required inspection or initiate any remediation as required by N.J.S.A. 52:27D-437.1 et seq. the owner shall have 30 days to cure the violation.

B. If a property owner fails to cure the violation 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.

§209-7

If any section, paragraph, subsection, clause, or provision of this Amendment 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;

§209-8

If any ordinances or parts thereof are in conflict with the provisions of this Ordinance those provisions shall be repealed to the extent of such conflict.

Approved for introduction at the regular meeting of the Borough of Palmyra Mayor and Council on **August 21, 2023** Public Notice of the second reading and public hearing was published in the Burlington County Times on **August 25, 2023**. Public Notice and second reading held **September 18, 2023**. Ordinance adopted

DATE OF FINAL PUBLICATION: **September 24, 2023**