

**BOROUGH OF EMERSON
COUNTY OF BERGEN**

NOTICE OF ADOPTION

Introduced: November 1, 2022

Adopted: November 22, 2022

NOTICE IS HEREBY GIVEN that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 22nd day of November, 2022. Copies of Ordinance 1660-22 are available by contacting the Borough clerk or visiting our website at www.emersonnj.org.

ORDINANCE NO. 1660-22

**AN ORDINANCE TO AMEND CHAPTER 290 ZONING;
SECTION 44-1 CERTIFICATES OF CONTINUED OCCUPANCY
TO ADD A SECTION TITLED LEAD BASED PAINT INSPECTIONS**

**§ 290-44.1 Certificates of continued occupancy.
[Added 9-17-1991 by Ord. No. 991]**

Certificates of continued occupancy shall be required prior to the use or occupancy of any residential building or dwelling or part thereof subsequent to the sale, lease, rental or transfer of the real property on which said building or structure is located until such time as a certificate of continued occupancy has been issued by the Construction Code Official or other designated municipal official pursuant to the requirements of this section.

- A. Application. An application for certificate of continued occupancy as required by this section shall be made on forms provided by the Construction Code Official. Said Construction Code Official shall, within 10 days from the receipt of fully completed forms and fees as required by this section, inspect said property and issue a certificate of continued occupancy or advise the owner of any specific reasons for his refusal to issue a certificate of continued occupancy.
- B. Inspection of premises. The inspection of the premises by the Construction Code Official or the designated municipal official shall be solely for the following purposes:
 - (1) To ensure that smoke detectors as required by Subsection C of this section have been installed.
 - (2) To ensure that sump pumps or other rainwater and groundwater control systems are not causing or allowing rainwater or groundwater to enter into the municipal sewer system.
 - (3) To ensure that carbon monoxide detectors as required by § 290-44.2 of this chapter have been installed.
[Added 5-20-2003 by Ord. No. 1228]

C. Smoke detectors.

- (1) Smoke detectors shall be installed in each dwelling unit as defined in N.J.S.A. 55:13A-3 prior to the issuance of the initial certificate of occupancy or upon the sale, rental, transfer or lease of any residential dwelling unit in the Borough of Emerson.
- (2) Each residential dwelling unit sold, rented, leased or transferred shall have a minimum of one smoke detector on each level. A floor area separated by three or more risers from another floor area shall be considered a separate level. Where a basement exists, a smoke detector shall be installed on the basement ceiling.
- (3) Smoke detectors shall not be required in an unoccupied attic. In order to achieve compliance with this section, smoke detectors are required to be approved by the Underwriter's Laboratories or Factory Mutual Research Corp.
- (4) Alarm signals from the smoke detectors shall be clearly audible in all rooms on the level on which the smoke detector is installed when all intervening doors are closed.
- (5) Smoke detectors shall be powered by either battery or electricity. The installation of smoke detectors shall be governed by the applicable sections of the National Fire Protection Association (NFPA) 72 (National Fire Alarm and Signaling Code). **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- (6) Owners of all dwelling units subject to this section shall be responsible for the correct installation and maintenance of smoke detectors.
- (7) The owner of a rental unit shall, at the time of installation of the smoke detector and thereafter at the commencement of each tenancy, provide to the tenant at least one copy of written instructions on the operation, maintenance and testing of the smoke detector, including the replacement of batteries in the battery-operated unit.
- (8) The owner of each rental unit shall be responsible for the proper maintenance of the smoke detectors, including the replacing of batteries and repair or replacement of the unit in accord with the standards hereinabove set forth.

D. Lead Based Paint Inspections

§ Inspections for lead based paint in rental dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq., and N.J.S.A. 55:13A- 1 et seq. 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:

§ (i) has been certified to be free of lead-based paint;

§ (ii) was constructed after 1978

§ (iii) 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 or a previous owner, and has no outstanding lead violation from the most recent cyclical inspection performed on the multiple dwelling under the "Hotel and Multiple Dwelling Law", P.L.1967,c76(C55:13A- 1 et seq.)

§ (iv) 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;

§ (v) has a valid lead-safe certification

(1) Required Inspections:

(a) General Inspection: The owner, landlord and/or agent of every rental dwelling unit offered for rental shall be required to have an inspection of the facility done by the rental inspection officer prior to the rental thereof. The rental inspection officer shall inspect every rental dwelling unit prior to any occupancy or reoccupancy of the dwelling.

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

(2) Notice: Whenever any rental dwelling unit is scheduled for a change in occupancy, the then current owner shall provide written notice to the rental inspection officer that an inspection is needed at least 20 days prior to the scheduled change.

(3) Time for inspections: All inspections and reinspections shall take place within ten working days of the requested inspection. Inspection fees shall be paid prior to the inspection. No inspections or reinspections shall take place unless all fees are paid. Scheduled inspections or reinspections may be canceled by the township unless the completed application and required fees have been received by the township at least 24 hours prior to the scheduled inspection or on the last working day prior to the scheduled inspection. Every inspection where the landlord, tenant, owner or agent has failed to provide access for inspection shall be deemed a failed inspection.

(4) Fees for inspections: Lead-based Paint inspection: In addition to the General Inspection fees due pursuant to this section, an additional fee in the amount of \$200.00 shall be paid for each lead- based paint inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this subsection; \$20.00 of said fee shall be sent to the Lead Hazard Control Assistance Fund and shall not be used for any other purpose. Alternatively, 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 satisfy the requirements of Sec.

22-346(c)(1)(b), in which case no additional Lead-Based Paint inspection fee shall be paid.

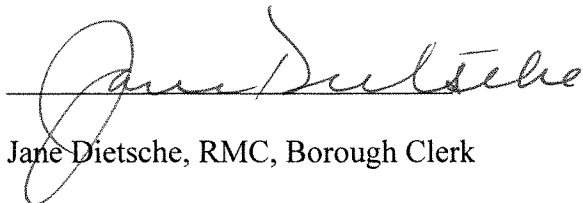
In this case an administrative fee of \$40 shall be collected along with a fee of \$20 to be collected and sent to the Lead Hazard Control Assistance fund.

- E. Certificates on file. A record of all certificates shall be kept on file at the office of the Construction Code Official and copies shall be furnished upon request to any person having an interest in the building upon payment of a fee of \$50. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- F. Fees. At the time an application for a certificate of continued occupancy is submitted, the applicant shall pay to the Construction Code Official or other designated municipal official a fee as provided in § 150-7 for inspection of smoke detectors and carbon monoxide detectors. **[Amended 5-20-2003 by Ord. No. 1228; 3-2-2004 by Ord. No. 1256; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**
- G. Notice. The Tax Collector is hereby directed to indicate on every search and in every tax bill the following: "Ordinance No. 991 requires a certificate of continued occupancy upon the sale, lease, rental or other transfer of said property."

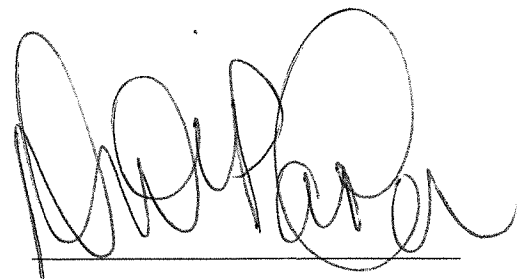
§ 229-X **When effective.**

This article shall take effect upon passage and publication as provided by law.

ATTEST:



Jane Dietsche, RMC, Borough Clerk



Danielle DiPaola, Mayor