

ORDINANCE NO. 2019-04

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 361:
“FIRE PREVENTION AND PROTECTION” AND CHAPTER 505 “PROPERTY
MAINTENANCE” TO REPLACE CERTIFICATE OF OCCUPANCY REQUIREMENT
WITH CERTIFICATE OF SMOKE DETECTOR AND CARBON MONOXIDE ALARM
COMPLIANCE REQUIREMENT FOR SALE OF OWNER-OCCUPIED SINGLE-FAMILY
DWELLINGS AND TO ADJUST FEES FOR CERTIFICATE OF CSDCMAC**

Councilman Yassin offered the following ordinance and moved its adoption:

WHEREAS, the Mayor and Council of the Borough of Red Bank have determined that, for purposes of economy and efficiency in the Borough’s Code Enforcement Department, and in the best interests of residents and prospective residents of the Borough, it is advisable to eliminate the requirement that owner-occupied single-family dwellings must obtain a certificate of occupancy and to require only a Certificate of Smoke Detector and Carbon Monoxide Alarm Compliance; and

BE IT ORDAINED by the Governing Body of the Borough of Red Bank that the following sections of Chapter 361: “Fire Prevention and Protection” and Chapter 505: “Property Maintenance” of the Revised General Ordinances of the Borough of Red Bank, Monmouth County, are hereby amended and supplemented as follows:

SECTION ONE: Chapter 361: “Fire Prevention and Protection”, Subsection 361-8(K) is hereby amended and supplemented as follows (~~stricken~~ text denotes deletions, underlined text denotes additions):

§ 361-8(K).

Certificate of smoke detector and carbon monoxide alarm compliance (CSDCMAC). The application fee for a certificate of smoke detector and carbon monoxide alarm compliance (CSDCMAC), as required by N.J.A.C. 5:70-2.3, shall be based upon the amount of time remaining before the change of occupant is expected, as follows:

- (1) Requests for CSDCMAC received more than 10 business days prior to the change of occupant: ~~\$45~~ \$100;
- (2) Requests for a CSDCMAC received four to 10 business days prior to the change of occupant: ~~\$90~~ \$125; and
- (3) Requests for a CSDCMAC received fewer than four business days prior to change of occupant: ~~\$164~~ \$150.

SECTION TWO: Chapter 361, Fire Prevention and Protection, Subsection 505-3, "Amendments" is hereby amended and supplemented as follows (~~stricken~~ text denotes deletions, underlined text denotes additions):

§ 505-3 Amendments.

A. Article I, Section 102.1 is hereby amended by adding the following sections:

- (1) Article I, Section 102.1A.
 - (a) It shall be unlawful for the owner, real estate agent or broker firm, company, partnership, corporation or person or persons to sell, rent, transfer, grant, lease, assign, sublease, let, release or relet or otherwise dispose the ownership or occupancy thereof, whether or not for a consideration and whether such disposal or transfer of ownership or occupancy thereof be temporary or permanent, any commercial, industrial premises, dwelling, multifamily dwelling, dwelling unit, hotel, motel, boardinghouse, rooming unit, rooming house, or premises on which a building is located and is used

or intended to be used for human occupancy, until a certificate of occupancy is obtained from the Code Enforcement Officer, stating that the building and premises comply with the requirements of this code. Any person occupying such premises or any person contracting with the owner for occupancy of the premises by another shall be bound by the provisions of this paragraph and the penalties imposed for the violation of the same.

- (b) In addition to and exclusive of any certificate of occupancy issued pursuant to the provisions of Subsection A(1)(a) above, no dwelling unit shall be continued to be occupied unless the same, together with all common areas as regulated hereunder, shall have been inspected and issued a certificate of occupancy at least once every 60 months whether the inspection shall be conducted by the State of New Jersey under applicable state statutes or the Borough of Red Bank pursuant to this chapter.
- (c) Notice by owner required. The owner of any dwelling or dwelling unit or part thereof subject to the provisions of this paragraph, Section 102.1A, (1), (2), shall be required to give a minimum notice of 14 calendar days to the Department of Code Enforcement for the purpose of a compliance inspection prior to the issuance of a certificate of occupancy.
- (d) This Section 102.1A shall not apply to the sale or transfer of single-family dwellings that are owner-occupied or to be owner-occupied upon sale or transfer. For the sale or transfer of owner-occupied single-family dwellings, only a Certificate of CSDCMAC under Borough Code Section 361-8(K) shall be required.

(2) Article I, Section 102.1B, Certificate of Occupancy Required.

- (a) It shall be unlawful for any premises, subject to the provisions of Section 102.1A, to be occupied until such time as a certificate of occupancy has been issued by the Department of Code Enforcement. The certificate of occupancy so issued shall state that the occupancy complies with the provisions of this code. This section does not apply to any occupancy in existence at the time of the adoption of this code.
- (b) Rental Inspection Fee Schedule for a certificate of occupancy required by Section 103.6A shall be the following:
 - [1] Fifty dollars per rental dwelling or rental dwelling unit.
 - [2] Twenty-five dollars per rental unit for a hotel, motel, boarding house, rooming unit, rooming house.
 - [3] One hundred dollars per rental unit, building or premise for a commercial and/or industrial building or premises.
 - [4] Reinspection. Upon second reinspection and failure, the fee shall be \$50 for residential (R-1, R-2, R-3), \$75 for all other use groups.
- (c) Inspection Fee Schedule for a certificate of occupancy required by Section 102.1A upon the sale, transfer, mortgage, lease or otherwise disposed of shall be the following:
 - [1] One- or two-family dwellings: \$100 a dwelling unit. Multifamily dwellings (three or more), the fee shall be \$25 a unit, provided the minimum fee shall be \$200 a building. In such case, a single unit is sold under the condominium form of ownership, the fee shall be \$50 a unit.
 - [2] Commercial and industrial buildings and premises: \$150 from 0 to 10,000 square feet, \$250 from 10,001 square feet to 25,000 square feet, \$250 from 25,001 square feet to 150,000 square feet, \$300 from 150,001 square feet to 500,000 square feet, \$500 flat for over 50,000 square feet.
 - [3] Reinspection. Upon second reinspection and failure, the fee shall be \$50 for residential (R-1, R-2, R-3), \$100 for all other use groups.

- (d) In the case of sale ~~or of~~ owner-occupied structures containing ~~one~~ two to three dwelling units, the Code Enforcement Officer may issue a conditional certificate of occupancy. The conditional certificate of occupancy may only be issued if disclosure of all defects is made to a prospective purchaser prior to the entering into a binding commitment to sell, and if:
- [1] Satisfactory proof is given that financial difficulties make it impossible to effect immediate compliance, in which case, outstanding violations shall be checked at periodic intervals;
 - [2] Weather conditions prevent compliance, in which case, violations shall be corrected as soon as the weather permits;
 - [3] The violations are not classified by the Public Officer as creating an immediate danger to life and health, or as violations that may have a blighting influence on the immediate neighborhood; or
 - [4] The transfer is between members of an immediate family, through the distribution of an estate, or by judicial sale;
 - [5] If a certificate of compliance has been issued within the six months period immediately prior to a request for such certificate, a copy of the prior certificate will suffice to meet the requirements of this section.

(3) Article I, Section 102.1C. A conditional certificate of occupancy may be granted on the following conditions:

- (a) That there are no defects causing the hazard of fire, accident or other calamities: lack of adequate ventilation; lack of adequate heat, light or sanitary facilities; dilapidation, disrepair, structural defects or uncleanness, so as to tend to cause or spread disease or harbor insects, rodents or vermin.
- (b) That there are no defects in any vital facility such as broken toilets, lack of hot or cold running water, lack of heat or light, or broken windows.
- (c) That there are no defects which would constitute a threat to health, safety or welfare or whose repair would be a major inconvenience to the tenant after occupancy. An illustrative, but not exhaustive, list of the foregoing includes:
 - [1] Broken or loose glass or handrails.
 - [2] Falling plaster or wall board; rotten, saturated, cracked, or damaged walls or ceilings where the possibility exists that there may be collapse of any part thereof or injury from falling objects.
 - [3] Sharp protrusion of woodwork, metalwork, lathing, screws or nails, warped floors, doors, windows or frames.
 - [4] Exposed electrical wiring or switches, steam and hot water pipes, gas or water leaks or inoperable drains.
 - [5] Unsecured lighting fixtures, shelves or cabinets.
 - [6] Flooring, stairs, or landings which are loose, not level, rotten, or damaged.
 - [7] Presence of garbage, sewage, accumulated foreign matter or vermin.
 - [8] A dirty oven or any condition interfering with proper gas distribution or use, or which might promote a fire.
 - [9] Heat or heat fixtures which do not work properly, fail to open or close, or have inoperable valves, switches, or other devices.

[10] Any lock to which a prior tenant or other person has been issued a key (excluding the landlord and his authorized management) or which does not adequately secure the premises.

(4) Article 1, Section 102.1D. Post-Inspection Notification. Upon completion of any inspection, the landlord, agent or broker shall be informed in writing by the Department of Code Enforcement as to the result of the inspection. In the event that an apartment receives either a conditional certificate of occupancy or fails the inspection, the Department of Code Enforcement shall provide the owner, agent or broker with written information from which they will know the nature of the necessary repairs. A copy of this information shall be posted prominently in the rental unit.

(5) Article 1, Section 102.1E. Responsibilities.

- (a) The owner of the inspected property shall be responsible for the correction of violations of this code and applicable ordinances, laws and codes as indicated in the written notice of violation by the Department of Code Enforcement to the owner. Upon correction of the violations, the owner of the inspected property shall notify the Department of Code Enforcement in order that a reinspection may be made. This procedure shall be followed and repeated until violations have been corrected.
- (b) This section shall not be construed so as to relieve any person, firm or corporation from any penalty heretofore incurred by the violation of any other applicable laws or ordinances nor bar prosecution for any such violation.
- (c) The Borough of Red Bank makes no guarantee or warranty as to the conditions of buildings, dwellings or common areas inspected, nor does the Borough assume any liability in the inspection and in certification of compliance.

(6) Article I, Section 111.10, is hereby deleted in its entirety.

SECTION THREE: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

SECTION FOUR: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FIVE: This Ordinance shall take effect immediately upon its passage and adoption according to law.

Seconded by Councilwoman Horgan and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Yassin	(X)	()	()	()
Councilwoman Triggiano	(X)	()	()	()
Councilman Ballard	(X)	()	()	()
Councilman Yngstrom	(X)	()	()	()
Councilman Zipprich	(X)	()	()	()
Councilwoman Horgan	(X)	()	()	()

First Reading/Introduction: January 23, 2019
Second Reading/Public Hearing: February 13, 2019
Adoption: February 13, 2019