

ORDINANCE NO. 485

AN ORDINANCE OF THE BOROUGH OF LEESPORT ESTABLISHING THE REQUIREMENT OF A USE AND OCCUPANCY PERMIT PRIOR TO THE TRANSFER OF RESIDENTIAL PROPERTY, ESTABLISHING DEFINITIONS, THE ADOPTION OF RULES AND REGULATIONS, THE PERMIT APPLICATION PROCESS AND FEES THEREFOR, AND THE REQUIREMENTS FOR INSPECTIONS; PROVIDING FOR EXEMPTIONS, ENFORCEMENT, SERVICE OF NOTICES AND ORDERS, AND PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Council of the Borough of Leesport, Berks County, Pennsylvania, and IT IS HEREBY ENACTED AND ORDAINED by the authority of the same as follows:

SECTION 1. Title. This Ordinance shall be known as the Leesport Pre-Settlement Inspection Ordinance.

SECTION 2. Background. The Borough of Leesport wants to ensure that all single family dwellings and multiple family dwellings meet certain property maintenance requirements prior to property transfer. In order to effectively and efficiently ensure that the dwelling units are in compliance, the Borough Code Official or his/her agent must inspect such dwelling units before the transfer of title.

SECTION 3. Definitions. Whenever the following words and phrases appear in this Ordinance they shall have the following meanings:

Agent - Any person, partner, or corporation who for monetary or other consideration aides a seller in the sale of property. Liability shall be limited to failure to notify the seller of the obligations imposed by this Ordinance.

Code Official – Any person specifically designated as such by the Council of the Borough of Leesport to enforce this Ordinance and shall include the duly authorized representatives of said Code Official.

Date of Purchase – the date on which title and right to possess the property transfers to the purchaser or, in cases where the property is sold pursuant to the Municipal

Claim and Tax Lien Law, the first day following the right of redemption authorized under such Law.

Dwelling Unit – a building or a portion thereof, providing one (1) or more rooms arranged for the use of one (1) or more individuals living together as a single housekeeping unit, and having no cooking or sanitary facilities in common with any other unit.

Multiple-Family Dwelling – a building or group of buildings containing more than one (1) dwelling unit. Individual dwelling units may share party walls with other units and either have common outside access areas or have individual outside access areas. Types of such buildings shall include: townhouses, apartments, and/or condominiums.

Single-Family Unit – a building arranged, intended or designed to be occupied exclusively as a residence for one (1) family.

Violation – a violation of a building, property maintenance or fire code or maintenance, health or safety nuisance ordinance which results in failure to pass an inspection of each of the items included in the checklist attached hereto and made a part hereof as Exhibit A to this ordinance, during the course of an inspection of a property and disclosed to the record owner or prospective purchaser of the property through issuance of a municipal report.

Temporary Access Permit – a permit issued as a result of the inspection of a property incident to the resale of the property that identifies at least one (1) violation, and the purpose of the permit is to authorize the purchaser to access the property for the purpose of correcting violations pursuant to the maintenance and repair provisions of this Ordinance. No person may occupy a property during the term of a Temporary Access Permit, but the owner shall be permitted to store personal property that is related to the proposed use or occupancy of the property or is needed to repair any violation during the term of the Temporary Access Permit.

Temporary Use and Occupancy Permit – a permit issued as a result of the inspection of the property incident to the resale of the property that reveals a violation,

and the purpose of the permit is to authorize the purchaser to fully utilize or reside in the property while correcting violations pursuant to the maintenance and repair provisions of this Ordinance.

Unfit for Human Habitation – a condition which renders a building or structure, or any part thereof, dangerous or injurious to the health, safety, or physical welfare of an occupant or the occupants of neighboring dwellings. The condition may include one or more violations at a property that show evidence of: a significant increase in the hazards of fire and accident; inadequate sanitary facilities; vermin infestation; or a condition of disrepair, dilapidation or structural defects such that the cost of rehabilitation and repair would exceed one-half of the agreed upon purchase price of the property.

Use and Occupancy Permit – a permit issued by the Code Official stipulating that the property meets all ordinances and codes and may be used or occupied as intended.

SECTION 4. Property Transfer Use and Occupancy Permit. No existing Multiple-Family Dwelling or Single-Family Dwelling shall be occupied by a tenant or new owner after the transfer of title by deed or other legal means until an inspection has been completed by the Borough Code Official or other designated agent of the Borough and a Use and Occupancy Permit issued. The following transfers or changes of ownership shall not be subject to inspection under this Ordinance: transfers between parent and child, grandparent and grandchild, and between siblings; new homes built within the previous twelve (12) months; and transfers within twelve (12) months after inspection and approval under this Ordinance for a prior property transfer.

SECTION 5. Issuance. A Use and Occupancy Permit shall be issued in accordance with the following standards and procedures:

- A. If the inspection reveals no violations;
- B. If the inspection reveals at least one (1) violation which does not create an imminent risk to the health or safety of prospective occupants or render the building or structure unfit for human habitation, a Temporary Use and Occupancy Permit shall be issued;

C. If the inspection reveals at least one (1) violation which creates an imminent risk to the health and safety of prospective occupants or renders the building or structure unfit for human habitation, such violation(s) shall be specifically noted on the inspection report and a Temporary Access Permit shall be issued.

SECTION 6. Application. Applications for issuance of a Use and Occupancy Permit shall be filed with the Code Official by the seller, buyer, or Agent for the seller or buyer of the property no later than thirty (30) business days prior to the settlement and/or transfer of ownership between buyer and seller. Applications shall contain such information as the Code Official or other designated agent of the Borough may require.

SECTION 7. Fees. A fee will be charged for each property inspected or re-inspected, and said fee must accompany the application form when it is submitted. A fee schedule shall be established from time to time by resolution of the Borough Council.

SECTION 8. Inspection Procedure.

A. Upon receipt of a completed application, the Code Official or other designated Agent of the Borough shall, within fifteen (15) business days, conduct an inspection of the property to determine compliance with the standards and requirements set forth in the checklist attached hereto and made a part hereof as Exhibit A.

B. All violations cited at the time of inspection by the Code Official or other designated agent of the Borough shall be corrected in the time specified by the Code Official or other designated agent of the Borough.

SECTION 9. Re-inspection Procedure. Upon correction of all violations, the applicant shall notify the Borough, in writing, for a follow-up inspection, which shall be conducted within ten (10) business days from notification. If, following the follow-up inspection, the property is determined to be in compliance with the standards, a Use and Occupancy Permit will be issued to the applicant. If additional follow-up inspections are required due to the fact that the applicant did not comply with the violation report, the applicant will be charged an additional re-inspection fee for each subsequent follow-up re-inspection.

SECTION 10. Miscellaneous. The validity of the Use and Occupancy Permit is contingent upon compliance with applicable Borough ordinances, and it is revocable upon violation of those ordinances. The Use and Occupancy Permit does not warrant or guarantee on the part of the Borough or any officer, agent, or employee of the Borough, the soundness, fitness, safety, or adequacy of the facilities inspected. The Use and Occupancy Permit shall not be deemed to give rise to any liability on the part of the Borough or any officer, agent, employee or designee thereof. All such liability, and any remedy therefor shall remain that of the seller or transferor of any structure covered hereby.

SECTION 11. Compliance.

A. Within twelve (12) months of the date of purchase, the purchaser of a property known to be in violation of a Borough code or ordinance shall, at his option, either:

(i) Bring the property into compliance with Borough codes or ordinances; or

(ii) Demolish the building in accordance with law.

B. At the request of the property owner, the Borough may negotiate, at its discretion, longer time periods for maintenance and repair of the building under a Temporary Certificate, but the time period stated in subsection A. may not be shortened;

C. (i) At the expiration of the time period set forth in subsection A. or before that time, if requested by the property owner, the Borough shall re-inspect the property for the purpose of determining compliance with the cited violations;

(ii) If a Temporary Access Permit has been issued and re-inspection indicates that the noted violations under Section 5.C have been corrected, but other cited violations have not yet been corrected, the Borough may issue a Temporary Use and Occupancy Permit to be valid for the time remaining on the original Temporary Access Permit;

(iii) If the re-inspection indicates that all noted violations have been corrected, the Borough shall issue a Use and Occupancy Permit for the property

SECTION 12. Penalty. Failure to comply with the requirements of Section 11.A. shall result in:

- A. Revocation of the Temporary Permit;
- B. The purchaser being subject to any existing Borough ordinances or codes relating to the occupation of a property without a Use and Occupancy Permit; and
- C. The purchaser being personally liable for the cost of maintenance, repairs, or demolition sufficient to correct the cited violations, and a fine in a summary proceeding up to One Thousand Dollars (\$1,000.00), plus costs.

SECTION 12. Applicability. This Ordinance shall have no application to any valid Agreements of Sale for Real Estate entered into and dated prior to the effective date of this Ordinance.

SECTION 13. Exception. The Code Official may not require changes which are technically infeasible due to the age or construction of an existing building, except that requirements for smoke and carbon monoxide detectors must be met.

SECTION 14. Effective Date. This Ordinance shall take effect 6.21.23, 2023.

SIGNATURES ON FOLLOWING PAGE


ENACTED AND ORDAINED as an Ordinance by the Leesport Borough Council at a meeting held on the 21st day of June, 2023.

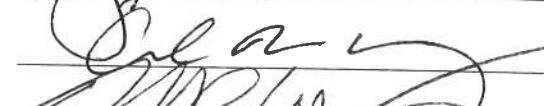
BOROUGH COUNCIL
BOROUGH OF LEESPORT
BERKS COUNTY, PENNSYLVANIA

ATTEST:

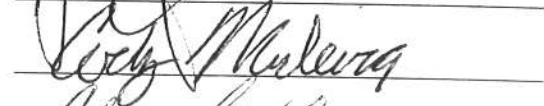

Secretary

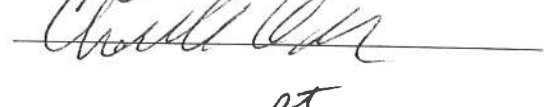

President











Approved as an Ordinance of the Borough of Leesport this 21st day of June, 2023.


Mayor

EXHIBIT A to LEESPORT PRE-SETTLEMENT INSPECTION ORDINANCE

Inspection Checklist

Mark P for pass; F for fail; or N/A for not applicable

Exterior of Property:

- _____ No accumulation of rubbish or garbage
- _____ No sump pump, cellar drain, gutter or downspout connected to public sewer
- _____ No broken windows
- _____ Guardrails for stairs and porches over 30 inches above, with 4 inch maximum spacing
- _____ No Tall grass and weeds over 6 inches
- _____ 3 inch street address numbers visible from the street
- _____ 4 foot fence around pool where required by the building code

Electrical:

- Ground fault circuit interrupter (GFCI) for any outlet within 6 feet from any water source in the following locations:
- _____ Bathroom
 - _____ Kitchen along countertops
 - _____ Unfinished basement
 - _____ Garage
 - _____ Outside receptacles
 - _____ Swimming pool receptacles
 - _____ No exposed or dangerous electrical wiring
 - _____ No missing covers on receptacles, switches and junction boxes
 - _____ Labeling of all breakers and fuses at the electrical panel
 - _____ No open slots at panel box (must be sealed or capped)
 - _____ Receptacle at range
 - _____ Gas range shut off valve

Fire Protection and Safety:

- _____ Smoke detector in unfinished basement (battery type in existing structures is acceptable)
- _____ Smoke detector on every level (battery type in existing structures is acceptable)
- _____ Smoke detector in every bedroom (battery type in existing structures is acceptable)
- _____ Carbon monoxide detector near bedrooms (where gas, heating oil, or wood burning appliance is used)
- _____ Egress from each bedroom (windows must be operational and maintain an "open" position)
- _____ Continuous railing at each and every stairwell
- _____ 2.5 pound BC dry powder fire extinguisher in the kitchen

Plumbing and Heating:

- _____ Drip let on water heater relief valve (maximum 6 inches from floor with minimum 1 inch air gap from floor)
- _____ No leaks in plumbing
- _____ Properly functioning toilets, tubs, and showers
- _____ Proper ventilation for dryers (must vent directly outside)
- _____ Certification of Heater (must provide copy of inspection report from qualified HVAC professional dated not more than 1 year prior to Borough inspection)

Other:

_____ A condition of the property not listed above which results in the property being unfit for human habitation, as follows:
