

WEST POTTS GROVE TOWNSHIP, MONTGOMERY COUNTY, PA

ORDINANCE NUMBER 2021-1

AN ORDINANCE OF THE TOWNSHIP OF WEST POTTS GROVE, MONTGOMERY COUNTY, PENNSYLVANIA, MONITORING AND REGULATING LEASED PROPERTY AND PROPERTY IN WHICH TITLE OF OWNERSHIP IS TRANSFERRED AND REQUIRING AN INSPECTION OF SUCH PROPERTY TO ENSURE COMPLIANCE WITH THE TOWNSHIP PROPERTY MAINTENANCE, USE AND ZONING CODES AND REQUIRING THE ISSUANCE OF A CERTIFICATE OF USE AND OCCUPANCY PRIOR TO THE TRANSFER OF PROPERTY IN THE TOWNSHIP.

WHEREAS, the Board of Commissioners of the Township of West Pottsgrove, Montgomery County, Pennsylvania, under the powers vested in them by the First Class Township Code of Pennsylvania and the authority and procedures of the Pennsylvania Municipalities Planning Code, as amended, as well as other laws of the Commonwealth of Pennsylvania, including the Pennsylvania Municipal Code and Ordinance Compliance Act, does hereby enact and ordain the following to monitor and regulate the use and occupancy of property in West Pottsgrove Township;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of Commissioners of West Pottsgrove Township, Montgomery County, Pennsylvania, and, IT IS HEREBY ENACTED AND ORDAINED by the authority of the same, as follows:

SECTION 1. Short Title. This Ordinance shall be known and may be cited as the “West Pottsgrove Township Resale Use and Occupancy Ordinance.”

SECTION 2. Purpose and Intent. The purpose of this Ordinance is to regulate the use and occupancy of leased properties and properties in which title of ownership is transferred, in order to prevent use and occupancy of said properties from adversely affecting the public health, safety or welfare of any individual or the community as a whole.

SECTION 3. Authorization. This Ordinance is authorized by the general powers vested in the Township by the First Class Township Code of Pennsylvania and the authority and procedures of the Pennsylvania Municipalities Planning Code, as amended, as well as other laws of the Commonwealth of Pennsylvania, including the Pennsylvania Municipal Code and Ordinance Compliance Act.

SECTION 4. Definitions. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meaning indicated:

BUILDING INSPECTOR - The Building Inspector of West Pottsgrove Township, the Code Official of West Pottsgrove Township, the Zoning Officer of West Pottsgrove Township, or any other person that the Board of Commissioners may designate by resolution.

BUSINESS - Any building or structure in which any portion of the building is wholly or partly used for any enterprise, occupation or activity entered into for profit.

CERTIFICATE OF OCCUPANCY - A certificate issued by the Township Building Code Official upon compliance with the standards set forth in the Township Property Maintenance Code and the allowable use designation according to the Township Zoning Ordinance following inspection of Property as required by this section.

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 act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Law, the first day following the right of redemption period authorized under the Municipal Claim and Tax Lien Law.

EXEMPT TRANSFER - A transfer that does not require a resale certificate of use and occupancy and includes any transfer between any of the following persons or in any of the following circumstances:

1. Transfers of real estate between relatives, if such a transfer would be exempt from realty transfer tax under the State Realty Transfer Tax Statute and Regulations codified at 72 P.S. §8102-C.3(6). Transfers of real estate between parent and subsidiary corporations or between other entities having common ownership shall also be exempt from this chapter.
2. Vacant land.
3. For new construction or dwelling units that receive a certificate of occupancy, pursuant to the UCC, and within one (1) year of the issuance of such UCC certificate of use and occupancy.

PROPERTY - Any structure or building which is used or intended to be used for living or sleeping by human occupants, including single room units and multi room units, or any building or structure in which any portion of the building is wholly or partly used for any enterprise, occupation or activity entered into for profit.

PERSON - Any individual or group of individuals, firm, association, organization, partnership, trust, company, public or private corporation for profit or not-for-profit, political subdivision, agency or instrumentality of the Commonwealth, bureau or agency of the United States, or any other similar entity.

SUBSTANTIAL VIOLATION - A violation of a Township ordinance related to building, housing, property maintenance or Fire Code or maintenance, health, safety, or nuisances, that makes a building, structure, or any part thereof, unfit for human habitation, and is discovered during the course of a Township inspection of a property, and disclosed to the record owner, or prospective purchaser of the property, through issuance of report from the Township.

TEMPORARY USE AND OCCUPANCY CERTIFICATE - A certificate issued by the Township, as a result of an inspection of a property, incident to the resale of the property, that identifies at least one (1) substantial violation. The purpose of the certificate is to authorize the purchaser to access the property for the purpose of correcting substantial violations, pursuant to the maintenance and repair provisions of this chapter. No person may occupy a property during the term of a temporary access certificate, but the owner shall be permitted to store personally that is related to the proposed use or occupancy of the property, or is needed to repair the substantial violations during the time of the temporary access certificate.

TEMPORARY USE AND OCCUPANCY CERTIFICATE - A certificate, issued by the Township as a result of an inspection of a property incident to the resale of the property, that reveals a violation, but no substantial violation. The purpose of the certificate 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 chapter.

TOWNSHIP – West Pottsgrove Township, Montgomery County, Pennsylvania.

TRANSFER OF OWNERSHIP - The conveyance, in whole or in part of property.

UCC – the Pennsylvania Uniform Construction Code.

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 substantial violations of a property that show evidence of: a significant increase to the hazards of fire or 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 1/2 of the agreed-upon purchase price of the property.

UNIT - Each separate area of a building designed or intended to be used for one (1) family dwelling, one (1) commercial user, including business and professional users or one (1) industrial user.

USE AND OCCUPANCY CERTIFICATE - A certificate issued by the Township, stipulating that the property meets all ordinances and codes and may be used or occupied as intended.

VIOLATION - A violation of a Township ordinance related to building, housing, property maintenance or Fire Code or maintenance, health, safety, or nuisances, that does not rise to the level of a substantial violation, and is discovered during the course of a Township inspection of a property and disclosed to the record owner or prospective purchaser of the property through issuance of a report.

SECTION 5: Use and Occupancy Certificate Required.

A. Resale Use and Occupancy Certificates.

i. Except for Exempt Transfers, Certificates of use and occupancy shall be required for all properties prior to sale. The owner (seller) of the property subject to the sale shall notify the Township at least thirty (30) days prior to the proposed transfer and shall make all areas to be inspected available to the Township, upon the Township's request. Buyers of properties with known substantial violations must comply with the requirements of Chapter 8 herein.

ii. An Applicant for a Resale Certificate of Occupancy shall inform the buyer of the property of the result of the inspection prior to sale.

iii. The use and occupancy certificate shall state the proposed use for the structure, building or dwelling unit. No transfer of and no change in the use or ownership of any structure, building or dwelling unit shall be made until a use and occupancy certificate has been issued in accordance with this chapter. It shall be the duty of any person who shall sell or otherwise transfer ownership of any structure, building or dwelling unit to another person to apply for and obtain such use and occupancy certificate required by this chapter, prior to such

transfer of ownership and/or any change in the use or occupancy of such property.

iv. The failure on the part of any seller or transferor to obtain such certificate shall not excuse the buyer or transferee of such property from the requirements of this chapter. Buyers of properties with violations must comply with the requirements of Chapter 8 herein.

B. Rental Use and Occupancy Certificates.

- i. Certificates of use and occupancy shall be required for all properties upon their advertisement or offering for rent, with the exception of properties rented to relatives, if such a transfer would be exempt from realty transfer tax under the State Realty Transfer Tax Statute and Regulations codified at 72 P.S. §8102-C.3(6).
- ii. Such Certificate shall be required upon leasing property to each new tenant or every two (2) years, if rented continuously to the same tenant.
- iii. The owner of the rental property shall notify the Township at least ten (10) days prior to the proposed rental and shall make all areas to be inspected available to the Township, upon the Township's request.

SECTION 6. Violations and Penalties. Any person who or which shall occupy or use any structure, building or dwelling unit without obtaining a use and occupancy certificate shall be in violation of this chapter and shall, upon conviction thereof in a summary proceeding, be guilty of a summary offense, and subject to the payment of a fine of not less than Three Hundred Dollars (\$300.00) and not more than One Thousand Dollars (\$1,000), and the costs of prosecution, including the attorneys' fees of the Township. Each day that this Ordinance is violated after notice to cease and desist such occupancy or use shall constitute a separate offense.

SECTION 7. Issuance of Use and Occupancy Certificates. The Township shall issue a use and occupancy certificate in the following manner:

A. If the inspection reveals no violations, the Township shall issue a use and occupancy permit.

B. If the inspection reveals at least one (1) violation, but no substantial violations, the Township shall issue a temporary use and occupancy certificate subject to the requirements of Chapter 8 herein.

C. If the inspection reveals at least one (1) substantial violation, the Township shall specifically note the substantial violation(s) and issue a temporary access certificate subject to the requirements of Chapter 8 herein.

D. Any person or persons authorized to make occupancy inspections, as defined herein, shall enjoy all privileges, rights and immunities which would inure to the Building Inspector of the Township.

SECTION 8. Compliance requirements for buyers of properties with violations.

A. Within twelve (12) months of the date of purchase, the buyer of a property in violation of a Township Code or Ordinance shall, at their option, either:

i. Bring the building, structure or dwelling unit into compliance with all municipal codes and ordinances; or

ii. Demolish the building, structure of dwelling unit in accordance with all local, state and federal laws.

B. Negotiation. At the request of the property owner, the Township may, at its sole discretion, allow the property owner a longer time period to maintain and repair the structure under a Temporary Access Certificate. The time periods set forth in Chapter 8, Section A shall not be shortened.

C. Revocation. Any use and occupancy certificate issued hereunder may be revoked

in the event that the structure, building or dwelling unit is subsequently determined to be unsafe or uninhabitable, or that a condition exists that is in violation of any applicable ordinance of the Township. In the event that a Temporary Access Certificate or Temporary Use and Occupancy Certificate is issued, such certificates may be revoked if the necessary repairs are not made within the time limit provided for at the time of issuance of such certificate.

SECTION 9. Re-inspection of property under a Temporary Certificate.

A. At the expiration of the time period in which the property owner is permitted to bring the building, structure or dwelling unit into compliance or at the request of the property owner, whichever occurs first, the Township shall re-inspect the property for the purposes of determining compliance with the cited violations as noted on the Temporary Certificate.

i. If the re-inspection under either a Temporary Use and Occupancy Certificate or a Temporary Access Certificate indicates that all noted violations have been corrected, the Township shall issue a Use and Occupancy Certificate.

ii. If re-inspection under a Temporary Access Permit indicates that all substantial violations have been corrected, but other non-substantial violations have not been corrected, the Township shall issue a Temporary Use and Occupancy Certificate to be valid for the time remaining on the original Temporary Access Certificate.

iii. If re-inspection under a Temporary Use and Occupancy Permit reveals that all non-substantial violations have not been corrected, the property owner shall have the time remaining, if any, on the original Temporary Use and Occupancy permit to correct the violations.

B. **Penalties/Revocation.** Failure to comply with the requirements of this chapter shall result in:

i. Revocation of the Temporary Certificate;

ii. The buyer being subject to the penalties set forth in Section 6 herein;

and

iii. The buyer being personally liable for the costs of maintenance, repairs or demolition, sufficient to correct the cited violations, and a fine of not less than \$1,000 and not more than \$10,000. As required by statute and if applicable, not less than 1/3 of the fine imposed specifically for code violations shall be used by the Township for low-income housing, in a manner determined by the Township.

SECTION 10. Applicability to Financial Institutions.

A. Except as set forth in Subsection 10B, this chapter shall not apply to, and the Township will not require, a certificate of occupancy, a temporary use and occupancy certificate or a temporary access certificate for a real estate transfer, including a residential or nonresidential transfer, as provided under 68 Pa.C.S.A. § 7103(b)(2) (relating to application of part), to any of the following which take title to property for the purpose of holding the property for sale to offset losses incurred on a loan or other obligation in default secured by a mortgage, deed of trust or other lien on the property:

i. Bank.

ii. Savings association.

iii. Credit union.

iv. Mortgage lender.

v. Financial institution similar to an institution listed in Subsection A(1) through (4).

vi. Subsidiary of a financial institution listed in Subsection A(1) through (5).

B. A financial institution not subject to this chapter under Subsection A may be

required by the Township to correct a substantial violation.

SECTION 11. Inspections/Fees.

A. The Township shall inspect all properties for compliance with the items set forth on the Township's use and occupancy Inspection Form (NOTE: The Township's Use and Occupancy Inspection Form is on file at the Township office and may be examined there during regular business hours) created in accordance with the International Property Maintenance Code, as amended, and all local, state, and federal laws, before issuing use and occupancy certificates. These items may be amended from time to time, in accordance with the aforementioned laws.

B. The applicant for a certificate of use and occupancy shall pay, at the time of application, a fee to the Township in an amount established by the Board of Commissioners by a fee schedule adopted by resolution from time to time. Such fee shall be nonrefundable in the event that the Building Inspector shall refuse to issue a certificate of occupancy after inspection.

SECTION 12. Severability. If a court of competent jurisdiction declares any provisions of this Ordinance to be invalid, in whole or in part, the effect of such decision shall be limited to those provisions expressly stated in the decision to be invalid, and all other provisions of the Zoning Ordinance shall continue to be separately and fully effective.

SECTION 13. Repealer/Interpretation. This Ordinance is intended to be consistent with, shall be interpreted, and construed, in accordance with the Municipal Code and Ordinance Compliance Act, 68 P.S. § 1081 et seq., and as amended from time to time. In the event conflict between this chapter and the Municipal Code and Ordinance Compliance Act, or any other applicable state statute, such state statute shall govern. All prior Ordinances, Resolutions or parts thereof in conflict or inconsistent with any of the provisions of this Ordinance are hereby repealed to the extent of the inconsistency.

SECTION 14. Effective Date. This Ordinance, and all of its terms and provisions, shall become effective as provided by law.

ENACTED AND ORDAINED into law this 16th day of June, 2021, by the Board of Commissioners of the Township of West Pottsgrove Township, Montgomery County, Pennsylvania.



Stephen Miller, President, Board of Commissioners

ATTEST: 

Joanne T. Herb, Secretary to the Board