

**BOROUGH OF MOUNT POCONO
MONROE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 6 of 2023

AN ORDINANCE ESTABLISHING CHAPTER 191, USE AND OCCUPANCY OF REAL PROPERTY

§191-010 — Purpose

The purpose of this Chapter 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.

§191-020 — Definitions

Where the following words are used in this chapter, they shall be defined as follows:

BUILDING INSPECTOR – Any of the following person or persons, either singly or in combination, who shall serve at the pleasure of the Borough Council to make the inspections, and issue certificates, under this Ordinance:

- A. The Building Inspector of Mount Pocono Borough,
- B. The Building Code Official,
- C. Zoning Officer, or
- D. Any other person that the Borough Council, by resolution, may designate from time to time.

BUSINESS – Occupancy of a building, in whole or in part, for any for-profit or non-profit business activity, commerce, industry, professional services or other services for hire.

RESIDENTIAL – Occupancy of a building for non-business dwelling purposes such as personal living, sleeping, cooking and eating purposes.

BUILDING – Any building, building structure, temporary building or temporary building structure, intended for human occupation, either for residential or business purposes located in Mount Pocono Borough.

OWNER – Any person, who alone, or jointly with others, holds legal or equitable title to any building.

PERSON – Any individual, firm, corporation, association, partnership or other legal entity, including without limitation any executor, administrator, guardian, or representative of a deceased or incompetent individual.

SUBSTANTIAL VIOLATION – A violation of an adopted building, housing, property maintenance code, fire code, or maintenance, health or safety nuisance ordinance that makes a building, structure or any part thereof unfit for human habitation and is discovered during the course of a municipal inspection of a property.

TEMPORARY ACCESS CERTIFICATE – A certificate issued as a result of the municipal inspection of a property that identifies at least one substantial violation, and the purpose of the certificate is to authorize access to the property for the purpose of correcting substantial violations pursuant to the maintenance and repair provisions of this Ordinance. No person may occupy a property during the term of a temporary access certificate, but the owner shall be permitted to store personal item 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 as a result of the municipal inspection of a property that reveals a violation but no substantial violation, and the purpose of the certificate is to authorize the purchaser or tenant to fully utilize or reside in the property while correcting violations pursuant to the maintenance and repair provisions of this Chapter.

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 one-half of the agreed-upon purchase price of the property.

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

VIOLATION – A violation of a properly adopted building, housing, property maintenance code, fire code, or maintenance, health or safety nuisance ordinance that does not rise to the level of a substantial violation and is discovered during the course of a municipal inspection of a property.

§191-030 — Use and Occupancy certificate required prior to lease or sale

- A. If the Owner of a Business or Residential Building desires to lease or sell the Building, or portion thereof, the Owner shall apply for and obtain, no later than fifteen (15) days prior to leasing or sale, a Use and Occupancy Certificate from the Building Inspector of the Mount Pocono Borough. The application for a Use and Occupancy Certificate may be made by an agent of the person or persons whose responsibility it is to obtain the Use and Occupancy Certificate.
- B. The application shall be on the Borough’s form, and the applicant shall pay any required fee at the time of application, which fee may be set by the Borough Council, from time to time, by resolution. If more than one inspection is required because the property does not pass occupancy requirements, the applicant shall be responsible for the costs of all subsequent inspections, unless the application is withdrawn, and may be required to pay a fee or reasonable deposit in advance.
- C. Any issued Use and Occupancy Certificate for a Building, or portion thereof being sold or leased, shall only be valid for a leasing or sale occurring within thirty (30) days after the date of issuance of the Certificate.

- D. An applicant for a Use and Occupancy Certificate shall inform the renter, lessee, or buyer of said property of the result of the inspection, prior to the lease, rental, or sale.
- E. A Use and Occupancy Certificate shall be issued in the following manner:
 - 1. If the municipal inspection reveals no Violations.
 - 2. If the municipal inspection reveals at least one Violation, but no Substantial Violations, a Temporary Use and Occupancy Certificate shall be issued. Once corrections have been made and subsequent inspections show the property to be in compliance, a Use and Occupancy Certificate shall be issued.
 - 3. If the municipal inspection reveals at least one Substantial Violation, a Temporary Access Certificate shall be issued to allow access to the property for the purpose of correcting Substantial Violations that are specifically noted on the inspection report. Once corrections have been made and subsequent inspections show the property to be in compliance, a Use and Occupancy Certificate shall be issued.
- F. Use and occupancy of a Building without a required Use and Occupancy Certificate is illegal, and shall constitute a violation of this Chapter, unless permitted pursuant to a validly issued Temporary Use and Occupancy Certificate or Temporary Access Certificate.

§191-040 — Temporary Certificates

- A. Where a Temporary Use and Occupancy Certificate or Temporary Access Certificate has been issued, the Owner, at its option, shall either:
 - a. Correct any Violations and/or Substantial Violations that are specifically noted on the inspection report within the following time frames:
 - i. where the municipal inspection occurred prior to a purchase, within twelve (12) months of the date of purchase; or
 - ii. where the municipal inspection occurred prior to lease of the property, within ninety (90) days of the date the Certificate was issued.
 - b. Demolish the Building in accordance with law.
- B. All necessary permits required to complete any type of corrections to bring the property into compliance must be applied for and obtained in compliance with building, property maintenance, fire codes or other health or safety codes.
- C. Failure to comply with the requirements of Subsection A. shall result in:
 - i. Revocation of the temporary certificate;

- ii. The Owner being subject to any existing Borough ordinances or codes relating to the occupation of a property without a use and occupancy certificate.
- iii. Violation of this Chapter

§191-050 — Inspections

- A. Prior to issuing a Use and Occupancy Certificate, the Building Inspector shall inspect the Business or Residential Building, or portion thereof to be sold or leased, to determine whether or not it complies with the requirements as set forth in this Ordinance.
- B. Any Person or Persons authorized to make occupancy inspection, as defined in §191-020 as the Building Inspector, shall enjoy all privileges, rights and immunities which would inure to the Building Inspector of Mount Pocono Borough.

§191-060 — Violations and penalties

Any person who shall violate any provision of this Chapter shall, upon conviction thereof in any action brought in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not less than three hundred dollars (\$300.00) and not more than one thousand dollars (\$1,000.00) plus costs of prosecution, including without limitation the Borough's reasonable attorney's fees in the enforcement proceeding. Each day that a violation of this Chapter continues, and each section of this Chapter which shall be found to have been violated, shall constitute a separate offense.

§191-70 – 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. Sec. 1081, et seq, and as it amended from time to time. In the event conflict between this Chapter and Municipal Code and Ordinance Compliance Act, or any other applicable State statute, such State statute shall govern.

§191-80 — Applicability

- A. Except as set forth in subsection (b), this act shall not apply to, and a municipality may 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. § 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:
 - (1) Bank.
 - (2) Savings association.
 - (3) Credit union.
 - (4) Mortgage lender.

- (5) Financial institution similar to an institution listed in paragraphs (1) through (4).
 - (6) Subsidiary of a financial institution listed in paragraphs (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.
- C. This Chapter shall not apply to residential rentals less than thirty (30) days in length, provided that the Owner of the Building has applied for and received a Use and Occupancy Certificate within one year of the rental.

Adopted and ordained this 1st day of August, 2023.

MOUNT POCONO BOROUGH COUNCIL

By: _____
Donald Struckle, Council President

ATTEST:

Marissa Duffy, Borough Manager

Date