

ORDINANCE NO \_\_\_\_\_

AN ORDINANCE OF THE TOWNSHIP OF SPRING, BERKS COUNTY, PENNSYLVANIA, AMENDING THE ORDINANCES OF THE TOWNSHIP OF SPRING AND SPECIFICALLY AMENDING CHAPTER XI, ENTITLED "HEALTH AND SANITATION", OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF SPRING BY ESTABLISHING A NEW PART 3, ENTITLED "PRE-SETTLEMENT INSPECTION"; ESTABLISHING THE REQUIREMENT OF A PROPERTY TRANSFER CERTIFICATE PRIOR TO THE TRANSFER OF PROPERTY; PROVIDING FOR THE BACKGROUND; ESTABLISHING DEFINITIONS; ESTABLISHING THE ADOPTION OF RULES AND REGULATIONS; ESTABLISHING THE NEED FOR A PERMIT, THE APPLICATION PROCESS AND FEES THEREFORE; ESTABLISHING THE REQUIREMENT OF INSPECTIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR THE VALIDITY OF PERMITS; PROVIDING FOR ENFORCEMENT, SERVICE OF NOTICES AND ORDERS, AND HEARINGS; ESTABLISHING PENALTIES FOR VIOLATION; AND PROVIDING FOR APPLICABILITY, INTENT AND SEVERABILITY

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Spring, Berks County, Pennsylvania, and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

SECTION 1. Chapter XI, entitled "Health and Sanitation", of the Code of Ordinances of the Township of Spring, is hereby amended and supplemented by adding thereto the following new Part 3:

"PART 3

**Pre-Settlement Inspection**

Section 301. Background. The Township of Spring wants to ensure that all single family dwellings and multiple family dwellings meet certain zoning and certain property maintenance requirements prior to property transfer. In order to effectively and efficiently ensure that the dwelling units are in compliance, the Township Code Enforcement Officer or his/her agent must inspect such dwelling units before the transfer of title.

Section 302. Definitions.

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

Board of Supervisors - The Board of Supervisors of the Township of Spring, Berks County, Pennsylvania.

Code Enforcement Officer. Any person specifically designated as such by the Board of Supervisors to enforce this Part, and shall include the duly authorized representatives of said Code Enforcement Officer.

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

Lineal Descendant - A person who is in the direct line of decent from the ancestor who is the legal owner of the dwelling unit. The term includes husband and wife, parent and child, brother and sister, and grandparent and grandchild. It does not include a collateral line of decent such as cousins, aunts, uncles, nephews, or nieces.

Multiple Family Dwelling - A building arranged, designed, and intended to provide two (2) or more dwelling units. Individual dwelling unites 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.

Notice of Violation - A written notice issued by the Code Enforcement Officer directing any repair or remediation, corrective or other action relating to any deficiencies as set forth in a report which may include a time frame within which any such action must be taken.

Owner - Any person who alone, jointly or severally with others shall have:

- (1) Legal or equitable title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Charge, care or control of any dwelling or dwelling unit as owner or agent of owner, or as executor, administrator, trustee or guardian of the estate of the owner.

Person - Any individual, firm, corporation, association, partnership or other entity.

Single Family Dwelling - A building arranged, intended, or designed to be occupied exclusively as a residence for one (1) family and having no common wall with an adjacent building. Types of such buildings shall include mobile homes and modular units.

Township - The Township of Spring, Berks County, Pennsylvania.

Section 303. Adoption of Rules, Regulations and Inspection Fees. The Code Enforcement Officer shall administer and enforce the provisions of this Part and may make rules and regulations necessary for its administration. Such rules and regulations shall not be in conflict with this Part and shall be submitted to the Board of Supervisors for approval. If the rules and regulations so submitted to Board of Supervisors are approved by the Board of Supervisors, the same shall be filed in the office of the Code Enforcement Officer and in the office of the Secretary of the Township as an addendum to this Part. Such rules and regulations as may be adopted shall then be deemed to be a part of this Part and to have the same effect as this Part.

Section 304. Property Transfer Certificate.

(a) No existing multiple family dwelling or single family dwelling shall be transferred by conveyance, lease or other means,, occupied by a tenant or new owner after the transfer of title by deed or other means, until an inspection has been completed by the Code Enforcement Officer and a Property Transfer Certificate issued.

(b) Application. Applications for issuance of a Property Transfer Certificate shall be filed with the Code Enforcement Officer by the seller, buyer, or agent for the seller or buyer of the property, no later than thirty (30) business days prior to settlement and/or transfer of ownership. Applications shall contain such information as the Code Enforcement Officer may require. Any application filed within thirty (30) days before settlement will be processed in due course and may cause the issuance of a Property Transfer Certificate to be delayed beyond scheduled settlement date.

(c) Fees. An inspection fee shall be charged for each property inspected and said fee must accompany the application form when it is submitted in accordance with the Township Fee Schedule, as revised from time to time by Resolution.

Section 305. Inspections.

(a) Upon receipt of a completed application, the Code Enforcement Officer shall, within ten (10) business days, relying upon the application or in the Codes Officer's discretion, by inspection as follows:

(1) Utility and Storm Drainage Easements and road rights-of-way must be clear of all obstructions, including those resulting from landscaping;

(2) Fences are located according to setbacks and yard requirements, properly permitted, in good repair, and of proper height (with self-closing and latching gate if used as a barrier for a pool);

(3) Pools and Spas are properly permitted, located according to setbacks and yard requirements, in good repair, contain no stagnant water, and are properly fenced;

(4) Sheds are properly permitted, placed according to proper setback and yard requirements from the lot lines and in proper location in rear yard behind house;

(5) Decks are properly permitted, placed according to proper setback and yard requirements and comply with attachment, baluster spacing and railing height requirements;

(6) Curb, sidewalk and driveway entrance ramps are in a safe and adequately maintained condition;

(7) Sanitary sewer connections are in such condition as to prevent and/or control inflow and infiltration of waters into the sanitary sewer collection system and sump pumps and/or rain leaders are not connected to the sanitary sewer system;

(8) Dwelling units reconcile with the maximum number of units permitted according to Township records;

(9) Proper sump pump discharge locations are adequate and properly placed;

(10) The type, location and number of smoke detectors have been verified;

(11) All non-residential uses conform with Township records; and,

(12) Number of bedrooms have been verified.

(b) Re-inspections. Upon correction of all violations, the applicant shall notify the Township in writing for a follow-up inspection, which shall be conducted within ten (10) business days from notification. If, following the re-inspection, the property is determined to be in compliance with the standards, a Property Transfer Certificate shall 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 shall be charged an additional fee in accordance with the Township Fee Schedule, as amended from time to time by Resolution.

(c) Documentation. The Seller and Buyer's signatures are required to acknowledge to have read and understood the inspection report and to make corrections to any deficiencies as listed on the inspection report.

(d) Exceptions. The Code Enforcement Officer may not require changes which are technically infeasible due to the age or construction of an existing building.

Section 306. Exempt Persons. No fee shall be required of an owner who is one (1) of the following:

(a) Legal owner of a dwelling unit that is leased or rented to a lineal decedent of the legal owner.

(b) The United States Government, the Commonwealth of Pennsylvania, the Township of Spring or any agency thereof.

Section 307. Validity. The validity of the Property Transfer Certificate is contingent upon compliance with all applicable Township Ordinances and it is revocable upon violations of those Ordinances. The Property Transfer Certificate does not warrant or guarantee on the part of the Township or any officer, agent or employee of the Township, the soundness, fitness, safety or adequacy of the facilities inspected. The Property Transfer

Certificate shall not be deemed to give rise to any liability on the part of the Township or any officer, agent, employee, or designee thereof. All such liability, and any remedy therefore, shall remain that of the seller or transferor of any structure covered hereby.

Section 308. Enforcement; Service of Notices and Orders; Hearings.

(a) Whenever the Code Enforcement Officer believes, or has cause to believe, that there is a violation of the provisions of this Part or any rules, regulations or codes (including but not limited to the Uniform Construction Codes and International Property Maintenance Code) adopted by the Township and related hereto, the Code Enforcement Officer shall give notice of the violation to the person responsible therefore, and such notice shall:

(1) Be in writing and shall clearly state the nature or condition of the violation.

(2) State the name of the person who the Code Enforcement Officer deems responsible therefore, together with the name of the owner of the premises involved.

(3) State the date of the notice and the number of days allowed for compliance with said notice.

(4) Be served upon the owner of the premises involved and all other persons, if any, named in the notice personally or by certified or registered mail, return receipt requested, postage prepaid, sent to the last known address of such owner and such other person or persons.

(5) The notice may, in addition, contain any other pertinent data, information or statements which the Code Enforcement Officer deems appropriate.

(b) Any person affected by a notice of violation, determination or order issued by the Code Enforcement Officer or pursuant to this Part may appeal said notice, determination or order to the Board of Supervisors. Any such appeal must be filed in writing with the Secretary of the Township of Spring within ten (10) days after the receipt of such notice, determination or order. At the time of filing such appeal, the appellant shall pay to the Secretary of the Township of Spring a fee, the amount of which shall from time to time be established by Resolution of the Board of Supervisors, to cover the costs of such appeal. The Board of Supervisors shall hold a public hearing on the appeal within thirty (30) days after the date the appeal

is filed. Notice of the hearing shall be given not less than fifteen (15) days prior to the date of the hearing to the appellant, to the Code Enforcement Officer and to any other person who may request such notice. At the hearing, the Board of Supervisors shall review the notice, determination or order of the Code Enforcement Officer or the rule or regulation which is the subject of the appeal, take such testimony, hear such witnesses and, by a vote of the majority of its members, shall reverse or affirm, wholly or partly, or modify the determination appealed from and shall make such order or decision as in its opinion should be made. Within twenty (20) days after said hearing, the Board of Supervisors shall advise the appellant, in writing, of its decision, and a copy of said decision shall be filed with the Secretary of the Township and with the Secretary of the Township of Spring. Decisions of the Board of Supervisors may be further appealed to the Court of Common Pleas of Berks County, Pennsylvania by the appellant within thirty (30) days after date of mailing of the decision of the Board of Supervisors, or as otherwise provided by law.

(c) Whenever the Code Enforcement Officer determines that an emergency condition exists which requires immediate action to protect public health and/or safety, the Code Enforcement Officer may issue an order declaring the existence of such emergency and requiring action to be taken to remedy such emergency. Such emergency order shall be effective immediately upon issuance. Any person to whom such order is directed shall comply therewith immediately.

Section 309. Penalties.

(a) Any person who violates or fails to comply with the provisions of this Part or any order, notice, rule or regulation made in connection herewith shall pay a civil penalty not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), together with costs, including reasonable attorneys fees payable to the Township of Spring.

(b) Each instance of non-compliance with this Part shall constitute a separate violation, and each day such violation persists shall constitute a separate violation.

(c) The Township shall be entitled to any and all remedies as may be otherwise available at law or equity.

Section 310. Applicability. This Part shall not apply to any valid Agreements of Sale entered into and dated prior to the effective date of this Part.

Section 311. Intent. It is declared that enactment of this Part is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Township.

Section 312. Severability. If any sentence, clause, section or part of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Part. It is hereby declared as the intent of the Board of Supervisors that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.”

**SECTION 2.** All ordinances or parts of ordinances of this Township which are inconsistent herewith are hereby repealed.

**SECTION 3.** This Ordinance shall become effective in accordance with the law.

**SECTION 4.** The Code of Ordinances, as amended, of the Township of Spring, Berks County, Pennsylvania, shall be and remain unchanged and in full force and effect except as amended, supplemented or modified by this Ordinance. This Ordinance shall become a part of the Code of Ordinances, as amended, of the Township of Spring, Berks County, Pennsylvania, upon adoption.

DULY ENACTED AND ORDAINED into law this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by the Board of Supervisors of the Township of Spring, Berks County, Pennsylvania.

TOWNSHIP OF SPRING  
BOARD OF SUPERVISORS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attest: \_\_\_\_\_  
Secretary