

ORDINANCE NO. 626  
(As Codified in Chapter 224)

**AN ORDINANCE OF THE BOROUGH OF FLEETWOOD, BERKS COUNTY, PENNSYLVANIA, KNOWN AS THE "COMMERCIAL REGISTRATION AND INSPECTION" ORDINANCE ADOPTING REGULATIONS REGARDING COMMERCIAL PROPERTIES, TO ESTABLISH: PURPOSE; DEFINITIONS; CERTIFIED REGISTRATION REQUIREMENTS INCLUDING BIENNIAL REPORTING AND NEW REGISTRATION; LICENSING AND INSPECTION REQUIREMENTS INCLUDING COMMERCIAL BUSINESS LICENSE REQUIRED, VIOLATION, PENALTIES, APPLICATION FOR LICENSE, AGREEMENT TO COMPLY AND LICENSE FEE; INSPECTIONS INCLUDING SCHEDULING, INITIAL INSPECTION, FULL INSPECTION, ARCHITECT'S OR ENGINEER'S CERTIFICATION, CORRECTION OF REPAIRS AND RE-INSPECTION, TERM OF LICENSE, REFUSAL TO PERMIT INSPECTION, APPOINTMENT OF AGENT, APPEALS, AND RETROACTIVITY.**

**BE IT ENACTED AND ORDAINED** by the Borough of Fleetwood, Berks County, Pennsylvania, and it is hereby enacted and ordained by authority of the same:

**ARTICLE I  
PURPOSE**

§ 224-1. Purpose. It is the purpose of this article and the policy of the Borough of Fleetwood, in order to protect and promote the public health, safety and welfare of the residents and citizens of the Borough of Fleetwood, as well as the work force, regardless of residency, to establish rights and obligations of commercial building owners and tenants relating to the maintenance and upkeep of the commercial buildings and structures throughout the Borough of Fleetwood. It is the purpose and intent of this article to enforce applicable building and fire codes as well as any other applicable law of the Borough of Fleetwood and the Commonwealth which may affect the health, safety and welfare of those who may occupy or traverse through the same building or structure. Given the age, condition and ever changing standards of building, fire and construction codes, it is the responsibility of the Borough of Fleetwood to ensure that any pending or future violations of such laws and ordinances of the Borough of Fleetwood and Commonwealth are effectively eliminated through the annual inspection of the commercial buildings and structures within the Borough limits.

The purpose of this article is also to establish fees for inspection which will be used to supplement the general fund resources used to provide the enhanced level of inspection service and to authorize the fire and building inspectors to implement a program of safety reviews in order to affect the intent and purpose of this article.

It is also the purpose and intent of the Borough to verify that Business Owners maintain an available contact person within Berks County, Pennsylvania. Nothing within this Ordinance shall be construed to assure total compliance with Codes and Ordinances. The within license shall be limited to grant of a license for permission to conduct business in a building or a portion of a building. Nothing in the grant of such a license shall override any other requirements for Code or Maintenance as provided in other locations within these Ordinances. A grant of a license to conduct business does not assure the building to be safe or at the most updated Code or Maintenance requirements.

## ARTICLE II DEFINITIONS

§ 224-2. Definitions. In the construction of this Ordinance, the following definitions shall apply unless their application frustrates the purpose of the Ordinance.

1. **Agent.** Any person, partnership or legal entity authorized to accept notices, service of process and violations of this Ordinance.
2. **Borough.** The Borough of Fleetwood.
3. **Building Inspector.** The Building Inspector authorized by the Borough of Fleetwood. For purposes of this Ordinance, the Building Inspector shall include the Code Enforcement Officer and the Chair of the Borough Council Codes & Enforcement Committee, and any and all individuals who shall be an assistant or designee thereof.
4. **Commercial Business Unit.** A location primarily used for business purposes, a Commercial Business Unit shall include all business units that are separate stand-alone business entities occupying a separate space. Commercial Business Units shall not include Home Based Business Units.
5. **Home Based Business Unit.** A location primarily used as a residence. Home Based Business Units are residences where business is conducted specifically by the individuals who are residents of the unit and the business purpose is ancillary to the residential purpose. A Home Based Business Unit shall not include a building where a business is conducted and there are separate apartments which are offered for rent.

6. **Work at Home Business.** A commercial venture where the only individuals performing commercial efforts are residents of the real estate or apartment. Work at Home Business ventures shall include efforts that would never have a business invitee at the location and where the main effort of the business is conducted elsewhere, the only connection to the real estate is that a resident of the real estate or apartment is physically located in that venue when they are working remotely.

Other terms are defined throughout the text of this Ordinance and shall have the meanings respectively ascribed to them.

### **ARTICLE III REGISTRATION**

#### § 224-3. Certified Registration

A. Biennial Reporting. Every Commercial Business Unit and every Home Based Business Unit shall furnish to the Borough of Fleetwood, a certified registration of the business including name of the business, local contact, address of the business, main business purpose, and any fictitious names registered or used by the business. Such information shall be submitted to the Borough on or before the 30th day of June of each required year on the following basis: each Commercial Business Unit and Home Based Business Unit with an even-numbered street address shall register in even years, and each Commercial Business Unit and Home Based Business Unit with an odd-numbered street address shall register in odd years. Work at Home Businesses are excluded from registration requirements.

B. New Registration. Every owner, manager or agent of a new business must file a new registration of the business within thirty (30) days of the beginning or change in any element of the information on the business registry.

C. As this Ordinance makes changes to both the requirements for and the form of the Business Registry, all Commercial Business Units in the Borough of Fleetwood shall complete a registry form by July 30, 2017.

D. There shall be no cost to register a Commercial Business Unit or Home Based Business Unit. In the event the need arises for a registration fee, such cost may be established and/or modified by resolution.

**ARTICLE IV  
LICENSING AND INSPECTION**

§ 224-4.

A. Commercial Business License Required. No business shall be conducted within the Borough unless the Commercial Business Unit holds a current, unrevoked Commercial Business Operating License issued by the Borough Secretary in the name of the Commercial Business for the specific location where business is being conducted.

B. No Commercial Business License shall be required for a Home Based Business Unit or for a Work at Home Business.

C. Violation. Either of the following shall constitute a violation of this Article:

1. Conducting Commercial Business in a location or part thereof for a period in excess of thirty (30) days without a valid Commercial Business Operating License; or

2. Representing to the public that a Commercial Business is being conducted at a location or a part thereof without a valid Commercial Business Unit Operating License.

D. Penalties. Any Commercial Business who has been found to be in Violation of this Article shall, upon summary conviction thereof, be sentenced to pay a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00).

E. Application for License, Agreement to Comply, and License Fee. Every Commercial Business Unit who conducts business in the Borough for a period in excess of thirty (30) days shall apply for a Commercial Business Operating License prior to conducting business and shall comply with all provisions of the then applicable Commercial Business Inspection Checklist, as may be amended by resolution of Borough Council from time to time, a copy of which is attached hereto as Exhibit A, and made a part of this Ordinance as though more fully set forth at length herein. The application shall be accompanied by a check or money order payable to the "Borough of Fleetwood" in the amount of Seventy-Five Dollars (\$75.00) for each individual Commercial Business Unit under three thousand (3,000) square feet, or such other amount that the Borough Council may establish by resolution. For any Commercial Business Unit containing three thousand (3,000) square feet or more, the Commercial Business Operating License Fee and Initial Inspection Fee shall be Fifty Dollars (\$50.00) per hour with a maximum fee of Four

Hundred Dollars (\$400.00).

F. Inspections.

1. Scheduling. After filing an application for a Commercial Business Operating License, the applicant shall schedule an inspection of the Commercial Business Unit to be conducted by the Building Inspector no sooner than forty-eight (48) hours from the scheduling of such inspection. Each Commercial Business Unit with an even numbered street address shall be inspected in even years, and each Commercial Business Unit with odd numbered addresses shall be inspected in odd years. There shall be no inspection required for Home Based Business Units or Work at Home Businesses.

2. Initial Inspection. The Building Inspector or his or her designee shall inspect any Commercial Business Unit to ensure compliance with the law as outlined in this Ordinance. The Commercial Business Unit shall be inspected for any obvious structural or safety issues, as well as for compliance with the specific itemized Commercial Business Property Inspection Checklist. In the event that the Commercial Business Unit passes all items of the inspection, a Commercial Business License shall be issued. In the event any element of the Commercial Business Unit requires federal or state inspection and approval, the Borough will not inspect; however, the Borough shall be supplied with all reports related to such inspection.

3. Full Inspection. If after initial inspection of the Commercial Business Unit, the Building Inspector determines that further inspection is required, the Building Inspector shall conduct a full inspection based upon the Pennsylvania Uniform Construction Code, any and all building, construction, and property maintenance codes adopted by the Borough, and any other law or regulation of the Commonwealth of Pennsylvania. In the event that the Building Inspector must conduct a full inspection of the Commercial Business Unit, the applicant for the Commercial Business Operating License must pay an additional fee of Seventy-Five Dollars (\$75.00) to cover the cost of the full inspection for a Commercial Business Unit under three thousand (3,000) square feet. For any Commercial Business Unit in excess of three thousand (3,000) square feet or more, the costs of the inspection shall be Fifty Dollars (\$50.00) per hour with a maximum fee of Four Hundred Dollars (\$400.00). In the event that the Commercial Business Unit passes all items of the full inspection, a Commercial Business License shall be issued.

In the event that the Commercial Business Unit does not pass such full inspection, a Notice of Repairs shall be issued by the Building Inspector.

4. Architect's or Engineer's Certification. In lieu of an inspection conducted by the Building Inspector, the applicant may submit a written certification

from a Pennsylvania licensed architect or licensed engineer that states that the Commercial Business Unit complies with all of the provisions of applicable law and all the items contained in the Commercial Business Inspection Checklist.

G. Correction of Repairs and Re-Inspection. Repairs must be corrected within thirty (30) days of the Notice of Repairs. A re-inspection shall occur to verify compliance with the inspection criteria. In the event that the Commercial Business Unit fails to pass an inspection, the Owner shall have an additional thirty (30) days to correct the repairs. Each re-inspection will require an additional fee of Seventy-Five Dollars (\$75.00) to cover the cost of the re-inspection for a Commercial Business Unit under three thousand (3,000) square feet. For a Commercial Business Unit of three thousand (3,000) square feet or more, the costs of the re-inspection shall be Fifty Dollars (\$50.00) per hour with a maximum fee of Four Hundred Dollars (\$400.00). Once the Commercial Business Unit passes the re-inspection, a Commercial Business License shall be issued.

H. Term of License. The Commercial Business License shall be issued for a period of two (2) years, unless sooner revoked.

I. Refusal to Permit Inspection. In the event that an applicant for a Commercial Business License refuses to admit the Building Inspector or his or her designee into the Commercial Business Unit at the time scheduled for the inspection, then the application for a Commercial Business License shall be deemed denied and the Owner shall be required to submit a new application and inspection fee to the Borough and obtain a Commercial Business License prior to conducting business. Nothing in this Subsection shall be construed to limit the power and authority of the Borough to obtain an administrative search warrant to inspect and/ or make repairs to the Commercial Business Unit.

J. Appointment of Agent. No Commercial Business License shall be issued or renewed for a nonresident applicant unless such applicant shall designate in writing on the Application for Commercial Business License an Agent located in the Commonwealth of Pennsylvania within a fifty (50) mile radius of the property for receipt of service of any notice of violation and for service of process.

K. Appeals. Any person aggrieved by the action of the Building Inspector pursuant to this Article shall have the right to appeal said action within ten (10) days to the Borough Council by written request in its capacity as the Appeals Board, which shall hear and determine such appeal at its next scheduled regular meeting.

L. Retroactivity. Any Commercial Business License issued prior to the effective date of this Ordinance shall be valid for the period up to the time the business is

required to re-register their Commercial Business Unit for a new license as provided under the this Ordinance.

## **SECTION 2. Additional Provisions.**

A. Additional Relief. No provision in this Ordinance shall prevent the Borough and its representatives from taking action with respect to a code violation outside of this Ordinance.

B. Amendments. The registration and inspection fees outlined in this Ordinance may be modified by a Resolution duly passed and adopted by Borough Council. The penalty fees prescribed by this Ordinance and the items of the Commercial Business Inspection Checklist adopted hereunder may be codified by a subsequent Ordinance duly passed and adopted by Borough Council.

C. Severability. If any provision of this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions of this Ordinance which may be given effect without the invalid or unconstitutional provision or application, and, to this end, the provisions of this Ordinance are hereby declared to be severable.

D. Repealer. All Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

E. Gender, Singular, Plural. Every word in this Ordinance imparting any particular gender may extent and be applied to any and all other genders, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.

F. Effective Date. This Ordinance shall take effect on the earliest day and date after enactment permitted by law.

**ENACTED** and **ORDAINED** as an Ordinance of the Borough of Fleetwood, Berks County, Pennsylvania, on this 8<sup>th</sup> day of May 2017.

BOROUGH OF FLEETWOOD  
Berks County, Pennsylvania

By: \_\_\_\_\_  
Suzanne P. Touch, Council President

Attest:

\_\_\_\_\_  
(Assistant) Secretary

APPROVED as an Ordinance of the Borough of Fleetwood, Berks County, Pennsylvania this \_\_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Tammy Gore, Mayor



MUNICIPAL CERTIFICATION

I, Doreen O'Neil, Secretary of the Borough of Fleetwood, Berks County, Pennsylvania, do hereby certify that the foregoing Ordinance No. 626 was advertised in the *Reading Eagle*, a daily newspaper of general circulation in the Borough of Fleetwood, on April 28, 2017, and was duly enacted and approved as set forth at a regular meeting of the Borough Council held on May 8, 2017.

[SEAL]

\_\_\_\_\_  
(Assistant) Secretary

Fleetwood Borough  
Commercial Property Checklist

Date of inspection \_\_\_\_\_  
Inspector \_\_\_\_\_

Business name \_\_\_\_\_ Business phone number \_\_\_\_\_  
Address \_\_\_\_\_ Email \_\_\_\_\_  
Building owner \_\_\_\_\_ Other contact 1. \_\_\_\_\_  
Emergency contact \_\_\_\_\_ Other Contact 2. \_\_\_\_\_

ADDRESS

- |  |                               |                               |                              |                              |   |
|--|-------------------------------|-------------------------------|------------------------------|------------------------------|---|
| 1 Address numbers clearly visible on address side of street? | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk | Notes<br>_____<br>_____<br>_____<br>_____<br>_____<br>_____ |
| 2 Fire alarm system in proper working condition?             | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 3 If fire alarm present does building have a Knox Box?       | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 4 Are private fire hydrants and FDC's clear of obstructions? | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 5 FDC is properly identified (18"x12" w 6" letters)          | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 6 Exterior free from weeds and garbage                       | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 7 Buildings are maintained and in good condition             | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |

EXITS

- |   |                               |                               |                              |                              |   |
|---|-------------------------------|-------------------------------|------------------------------|------------------------------|---|
| 8 Are all exitways clear of obstructions?                 | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk | Notes<br>_____<br>_____<br>_____<br>_____ |
| 9 Are exit doors in working order?                        | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 10 Are fire doors maintained and not propped open?        | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 11 Exit signs present and in working order (6" letters)   | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 12 Interior stairs / hallways / floors egress acceptable? | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |

FIRE PROTECTION SYSTEMS

- |  |                               |                               |                              |                              |  |
|--|-------------------------------|-------------------------------|------------------------------|------------------------------|--|
| 13 Portable fire extinguishers compliant and inspected annually? | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk | Notes<br>_____<br>_____<br>_____<br>_____<br>_____ |
| 14 Fire pump maintained and inspected                            | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 15 Sprinkler system maintained and inspected                     | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 16 Proper clearance for sprinkler heads (18")                    | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 17 Fire extinguishment systems inspected (6 mo)                  | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 18 Hood systems cleaned and inspected (6 mo)                     | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |

FIRE PREVENTION

- |   |                               |                               |                              |                              |   |
|---|-------------------------------|-------------------------------|------------------------------|------------------------------|---|
| 19 No smoking signs at flammables                           | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk | Notes<br>_____<br>_____<br>_____<br>_____ |
| 20 Combustable waste accumulation                           | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 21 Maintain storage ceiling heights (2' in non sprinklered) | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 22 Outside storage of Combustibles                          | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |
| 23 Areas are free of dirt and debris                        | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |   |

FIRE SAFETY

- |   |                               |                               |                              |                              |  |
|---|-------------------------------|-------------------------------|------------------------------|------------------------------|--|
| 24 Utilities clear of obstructions        | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk | Notes<br>_____<br>_____<br>_____<br>_____<br>_____ |
| 25 Fire safety plan readily available     | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 26 Evacuation and egress routes displayed | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 27 Safety Data Sheets readily available   | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 28 Hazardous material Inventory Statement | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 29 Hazardous material management plan     | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |

ELECTRICAL

- |   |                               |                               |                              |                              |  |
|---|-------------------------------|-------------------------------|------------------------------|------------------------------|--|
| 30 Circuit breakers and fuses labeled clearly               | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk | Notes<br>_____<br>_____<br>_____<br>_____<br>_____ |
| 31 Proper clearance in and around electrical cabinets (36") | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 32 Use of extension cords as permanent wiring               | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 33 Electrical boxes, outlets, and switches properly covered | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 34 Wiring for devices and appliances in good condition      | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |
| 35 Elevators are inspected (6 mo)                           | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk |  |

OTHER

- |  |                               |                               |                              |                              |   |
|--|-------------------------------|-------------------------------|------------------------------|------------------------------|---|
| 36 Other noted fire hazard or life safety hazard | <input type="checkbox"/> Pass | <input type="checkbox"/> Fail | <input type="checkbox"/> N/A | <input type="checkbox"/> Unk | Notes<br>_____<br>_____<br>_____<br>_____ |
|--|-------------------------------|-------------------------------|------------------------------|------------------------------|---|