

Jenn Erickson

From: Kenneth Bolinger <ken@bolingergroup.com>
Sent: Wednesday, August 31, 2022 9:12 AM
To: Cindy Foster
Cc: Nicole Sprenkle; Jenn Erickson
Subject: Variance for Sewer

Cindy,

Good morning, I am Kenneth Bolinger of 631 Lowther Street, Lemoyne PA 17043.

I am asking for a variance to ordinance no. 394 Article II Chapter 5 section 506.1 (attached) which states "All plumbing fixtures shall be properly connected to a public sewer system."
and also noting that you are requesting this waiver because there is no sanitary sewer close enough to serve the property.

We have owned this residence for more than 10 years. I have been following the Sewer authority guidelines to having the septic tank pumped and checked every three years.

Thank you for your time. Please call if you have any questions or need further clarification.

Thank you,

Ken

Kenneth Bolinger
Cell (717) 319-2763
Office (717) 212-9231



www.BolingerGroup.com

www.kenbolingerrentals.com

586 Old York Road
Etters, PA 17319

*Borough of Lemoyne, PA
Tuesday, August 30, 2022*

Chapter 394. Rental Property

Article II. Residential Rental Dwelling Units

§ 394-10. Modifications.

The following sections of the International Property Maintenance Code, 2009, are hereby revised, removed, replaced, and/or modified as follows:

101.1 Title. These regulations shall be known as the "Residential Rental Dwelling Unit Code of the Borough of Lemoyne," hereinafter referred to as "this code" or "the code."

101.2 Scope. The provisions of this code shall apply to properties within the Borough of Lemoyne to the extent delineated as follows:

1. All residential rental dwelling units, structures, or properties shall comply with any and all provisions of this code.

If a residential rental dwelling unit is located in the same structure as any other use, the whole structure shall comply with Sections 301, 302, 303, 304, 306, 307, 308, and 507 of this code, and the residential rental dwelling unit shall comply with all provisions of this code.

2. This code does not apply to owner-occupied residential units or nonresidential uses, except as provided for above in Section 101.2(1).

The provisions of this code constitute minimum requirements and standards for the properties, owners, owner's agents, and occupants regulated by this code, which requirements and standards are enacted to protect the health, safety, and welfare of the residents of the Borough of Lemoyne.

103.3 Deputies. The Council of the Borough of Lemoyne shall have the authority to appoint a Deputy Code Official(s), other related technical officers, inspectors, and other employees.

103.5 Fees. The fees for services, inspections, and activities performed by the department in carrying out its responsibilities under this code shall be as set forth and amended from time to time by resolution in the Fee Schedule of the Borough of Lemoyne. The authorized fees shall include, but not be limited to, fees for issuance of certificates of compliance, renewal of certificates of compliance, inspections, reinspections, and review of independent inspection reports.

104.1 Interpretation. The Code Official is hereby authorized and directed to enforce the provisions of this code and shall have the authority to interpret and implement the provisions of this code.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a summary offense. If the notice of violation is not complied with, the Code Official may institute the appropriate proceedings at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any corrective action taken by the authority having jurisdiction over such premises may be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

106.4 Violation penalties. Any person, firm, or corporation who or which shall violate any provision of this code shall, upon conviction thereof; be subject to a fine of not less than \$100 nor more than \$1000, plus costs of prosecution and reasonable attorney fees; in default of payment of said fine and cost, said person may be subject to imprisonment for a term not to exceed 30 days. Each day that a violation continues shall be deemed a separate offense. All fines collection for the violation of this article shall be paid to the Borough of Lemoyne.

106.6 Administrative search warrants. The Code Official may seek an administrative search warrant to ensure that any property regulated by this code is in compliance with this code.

106.7 Violations as public nuisances. Any property regulated by this code that is in violation of this code may be considered a public nuisance and be abatable as such in accordance with 8 Pa.C.S.A. § 32A03.

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification, including the street address.
3. The date of the inspection.
4. The identity of the inspector.
5. Include a statement of the violation or violations, including citations to the appropriate ordinance section, and why the notice is being issued.
6. Include a correction order allowing up to 90 days to make the repairs and improvements required to bring the residential structure into compliance with the provisions of this code or the order or direction of the Code Official.
7. Inform the property owner or owner's agent of the right to appeal.
8. Include a statement of the right to file a lien in accordance with Section 106.3.

111.2 Membership of Board. The Code Appeals Board (the "Board") shall consist of five members who shall be appointed by the Council of the Borough of Lemoyne. Each member shall have been a resident of the Borough for at least one year prior to appointment. The terms of office of the members of the Board shall be five years; provided, however, that the terms of office shall be fixed so that the term of one member shall expire each year.

(Sections 111.2.1 through 111.2.4 shall remain as provided in the International Property Maintenance Code.)

Section 111.2.5, Compensation of Board members, is deleted.

111.3 Notice of meeting. The Board shall meet at its regularly scheduled meeting or at a special meeting upon the call of the Chairman, notice of which shall be published in accordance with the requirements for publishing public notice in accordance with the Sunshine Act.^[1]

111.4.1 Procedure. The Board shall conduct the public hearing in accordance with the Local Agency Law^[2] adopted by the Commonwealth of Pennsylvania.

111.6 Board decisions. The Board shall modify or reverse the decision of the Code Official only by a concurring vote of a majority of a quorum on the Board members.

(Section 111.6.1 shall remain as provided in the International Property Maintenance Code.)

111.6.2 Administration. The Code Official shall take immediate action in accordance with the decision of the Board, unless properly appealed to a court of appropriate jurisdiction.

111.7 Court review. Any person aggrieved by an adjudication of the Board of Appeals who has a direct interest in such adjudication shall have the right to appeal therefrom to the court vested with jurisdiction of such appeals by or pursuant to Pennsylvania law.

111.9 Extension of time. The Board shall have the ability to grant extensions of time for the completion of repairs or maintenance required by this code upon a hearing held in accordance with this code; provided, however, that for correction orders issued as a result of inspections occurring

in the months of November through February, which correction orders require exterior corrections such as, but not limited to, exterior painting or the repair/replacement of sidewalks, which corrections cannot be completed due to weather conditions, the Borough Manager may grant an extension, which shall not extend the time for completion further than May 31.

202 General Definitions. The following definitions shall be added or amended. The definitions in the code not referenced below shall remain in full force and effect.

CERTIFICATE OF COMPLIANCE. The certificate issued by the code official that evidences inspection under the provisions of this article.

CODE OFFICIAL. The person or persons authorized by the Borough to determine compliance with the provisions of this article and to enforce the same. The Code Official shall include the Borough Zoning and/or Property Code Officer as appointed or employed from time to time.

CODES. Any applicable parts or chapters of this code, other codes or ordinances as adopted by the Borough from time to time, statutes and any rules and regulations promulgated thereunder.

DWELLING UNIT. One or more rooms in a structure designed primarily for occupancy by one or more persons, for living, sleeping and habitation purposes and having its own kitchen and sanitation facilities.

EXTERIOR AREA. The outside facade of a building, including but not limited to any porch, yard, lawn, landscaping, sidewalks, setbacks, curbs, and all open area contiguous to a building owned by the same owner (as defined below) or persons or part of the same real estate parcel.

NURSING HOME OR CONVALESCENT HOME. A building with sleeping rooms where persons are housed or lodged and furnished with meals, nursing care for hire and which is approved for nonprofit/profit corporations licensed by the Pennsylvania Department of Public Welfare for such use.

OWNER. Any person, agent, operator, firm, corporation, partnership, limited liability company, limited liability partnership, association, other entity, property management group, trust, or fiduciary holding or having legal, equitable or other interest in any real property or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of such person's estate. When used in this article in a clause proscribing any activity or imposing a penalty, the term as applied to corporations, partnerships, limited liability companies, limited liability partnerships, associations, other entities, or property management groups shall include each and every member, shareholder, partner (limited or general), director, officer, trustee or other person who exercises substantial control over the residential rental dwelling unit. The term "owner" shall also include owner's agent.

OWNER'S AGENT. An individual or firm designated by the owner of real property, in writing, to the Borough, who shall reside or work on the premises or within a forty-mile radius of the Borough of Lemoyne, a map of which is available for inspection in the Borough office, and who shall be legally responsible for the operation of the rental property in compliance with all of the provisions of the codes and ordinances of the Borough of Lemoyne and the Commonwealth of Pennsylvania and who shall be responsible for providing legal access to the property for the purposes of making inspections of said premises to ensure compliance with said ordinance(s) and laws.

PERSON. An individual, corporation, partnership, trust, or any other group or entity acting as a unit.

RESIDENTIAL RENTAL DWELLING UNIT. Dwelling unit not occupied by the owner thereof.

STRUCTURE. Any human-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

302.4 Weeds. All premises and exterior property shall be maintained free from weeds, grass or other uncultured vegetation not edible or planted for some useful or ornamental purpose, more than six inches in height. All premises and exterior property shall be maintained free from trees,

shrubs, hedges or other vegetation that overhangs sidewalks or other pedestrian walkways at a height of less than eight feet. All premises and exterior property shall be maintained free from trees, shrubs or other vegetation that overhangs a road right-of-way at a height of less than 12 feet, measured from the street surface at the curb. All noxious weeds shall be prohibited. This section shall be enforced in conjunction with Chapter 169 of the Code of the Borough of Lemoyne.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, he or she shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property. Noxious weeds shall be those listed on the noxious weed control list found at 7 Pa. Code § 110.1.

302.8 Motor vehicles. Except as provided for in other regulations, no inoperative, unlicensed or unregistered motor vehicle shall be parked, kept, or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designated and approved for such purposes.

304.14 Insect screens. During the period from May 15 to October 15, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screen of not less than 16 mesh per inch (16 mesh per 25 mm), and every hinged screen door used for insect control shall have a self-closing device in good working condition.

308.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage, which includes, but is not limited to, the keeping or depositing on or the scattering over the premises of any of the following:

1. Junk, trash or debris including but not limited to all waste, refuse and discarded materials having only a junk or salvage value, and garbage not contained in a safe sanitary and orderly manner in a proper container for collection.
2. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers.
3. Maintaining or causing to be maintained upon any unenclosed porch or exterior attachment, which faces a regularly traveled thoroughfare, furniture, other than furniture designed for exterior use, which is commonly intended for use inside a dwelling, including but not limited to upholstered sofas, chairs, davenports, beds, divans and the like.

Section 308.3.1, Garbage facilities, is deleted.

CHAPTER 5

SANITARY DRAINAGE SYSTEM

SECTION 506.1

GENERAL

506.1 General. All plumbing fixtures shall be properly connected to a public sewer system.

CHAPTER 6

MECHANICAL AND ELECTRICAL REQUIREMENTS

In Section **602.3**, the following dates shall be added in the areas that currently contain the word "DATE": The first "DATE" shall be changed to "October 15," and the second "DATE" shall be changed to "May 15."

In Section **602.4**, the following dates shall be added in the areas that currently contain the word "DATE": The first "DATE" shall be changed to "October 15," and the second "DATE" shall be changed to "May 15."

CHAPTER 9
CERTIFICATE OF COMPLIANCE
SECTION 901
GENERAL

901.1 Certificate of Compliance required. No person shall let for rent or occupy any residential rental dwelling unit within the Borough of Lemoyne unless such person has registered the property and received a valid certificate of compliance, issued by the Code Official in accordance with this code, for the specified residential rental dwelling unit.

Issuance of a certificate of compliance shall represent compliance with the inspection requirements of this article but shall not denote compliance with any other applicable part, chapter, other code, ordinance or statute.

901.2 Property subject to registration and license requirement. A certificate of compliance shall be obtained by the owner(s) having a legal or equitable interest in the property or the owner's agent for the following forms of residential rental dwelling units:

1. Single-family dwellings.
2. Any number of single-family dwelling units.
3. Hotels having more than six rooms; unless principally providing only overnight lodging.
4. Motels having more than six rooms; unless principally providing only overnight lodging.
5. Group housing.
6. Any and all combinations of the forms of residential rental premises listed above.

However, group homes, nursing homes shall be required to obtain a certificate of compliance and remit all applicable fees, but inspection shall not be required if the group home, nursing home, or convalescent home provides the Borough with a copy of a current approved inspection report from a regulating federal or state agency is provided at the time of registration or renewal of registration for an inspection that meets or exceeds the standards required in this code, as determined by the Code Official.

901.3 Registration of rental units. The registration of residential rental dwelling units shall be made on a form furnished by the Code Official or Borough Secretary on a form report entitled "Status of Occupancy Report" and shall be completed in accordance with any instruction(s) which may be given by the Code Official. The information provided on the form shall include, but not be limited to, the following information:

1. The name, address, and telephone number of the owner or owners of the rental unit.
2. The name, address, and telephone number of the local agent or agents.
3. The address of the residential rental property being registered.
4. The type of residential rental property being registered.
5. The number of rental units located at the residential rental property being registered.
6. If the residential rental property is a group home, nursing home or convalescent home, a copy of a current approved inspection report from the regulating federal or state agency must be furnished.
7. The name of the tenant(s) who will occupy the rental unit(s).

*If no such form is provided by the Borough, the lack of a Borough generated form shall not excuse the obligation of the owner to provide the information required herein.

901.3.1 Change in Occupancy. Any change in the occupancy of any residential rental dwelling unit or in the identity of the occupant from that shown in the report of the owner as required in Section 901.2 above, shall be reported by owner(s) to the Borough Secretary within 30 days after such change. It is intended hereby that the owner(s) shall report, to the Borough Secretary, the identity of a new occupant of a residential rental dwelling unit.

901.3.2 Timing. Within 90 days following the effective date of this code, all owners of residential rental dwelling units existing on the effective date of this code shall register the residential rental dwelling units in accordance with Section 901.3 hereof. An owner applying for a certificate of compliance for a residential rental dwelling unit not existing on the effective date of this code, may register the residential rental property at any time, in accordance with Section 901.4.1, an subject to the occupancy restrictions herein. Registration of residential rental dwelling units in accordance with this code is a condition precedent to occupancy of said units.

1. No new residential rental dwelling unit not in existence on the effective date of this code shall be let for rent or occupied until such time as the Code Official issues a certificate of compliance to the owner thereof following the required inspection to ensure compliance with this chapter.
2. All residential rental dwelling units in existence on the effective date of this code and registered in accordance with Section 901.3.2 shall be subject to the initial inspection in accordance with the following cycle (the "initial inspection"), which follows the voting precincts of the Borough of Lemoyne:
 - a. **Precinct/Inspection Cycle 1:** That area of the Borough defined on the north by the railroad tracks known as the Shippensburg Spur and on the south by Hummel Avenue;
 - b. **Precinct/Inspection Cycle 2:** That area of the Borough defined on the north by Hummel Avenue and on the south by the railroad tracks known as the Main Line;
 - c. **Precinct/Inspection Cycle 3:** That area of the Borough defined as all of the area within the Borough north of the railroad tracks known as the Shippensburg Spur; and
 - d. **Precinct/Inspection Cycle 4:** That area of the Borough defined as all of the area within the Borough south of the railroad tracks known as the Main.
3. Following the initial inspection cycle, residential rental dwelling units shall be subject to inspection every four years in accordance with the following:
 - a. Ten percent of the residential rental dwelling units located in a precinct shall be randomly selected for inspection by the Borough Secretary.
 - b. In the event that the Code Official does not note any deficiencies or necessary corrective action following the inspection of a residential rental dwelling unit randomly selected for inspection (not including any necessary reinspections), said residential rental dwelling unit shall not be included in the pool of residential rental dwelling units subject to random selection for the next two inspection cycles.

901.4 Certificate of Compliance. Upon receipt of the fully completed registration form and payment of the appropriate registration fee, the Code Official shall schedule an inspection of the premises within 30 days of receipt of a completed registration form. Prior to receiving a certificate of compliance, the residential rental property must fully comply with the provisions of this code, as determined by the Code Official. Occupancy of the residential rental property prior to receiving a certificate of compliance shall be a violation of this code.

901.4.1 Availability of Certificate of Compliance. The current certificate of compliance shall be available for inspection by the Code Official upon request. Further, a copy of the certificate of compliance shall be supplied to the current occupant.

901.5 Inspections.

1. Prior to occupancy and prior to issuance of a certificate of compliance, each residential rental dwelling unit shall be inspected by the Code Official, and for such purpose and for any reinspection required hereunder, the owner shall provide access to the Code Official. A unit where inspection access is denied shall not be issued a certificate of compliance until inspection access is provided. The inspection necessary to obtain a certificate of compliance shall be limited to the residential rental dwelling unit code sections identified on the Rental Unit Inspection Checklist attached hereto and incorporated herein as Appendix A.^[3]
2. All inspections conducted under the authority of this article shall determine compliance with this chapter and all codes incorporated therein.
3. Inspections may also occur if an occupant files a complaint in writing signed by the occupant at the Borough Office or with the Code Official. The owner or owner's agent shall be notified of the complaint and the owner or the owner's agent may be present for the inspection. If no violation(s) of this code is found to exist by the Code Official, the occupant who filed the complaint shall be responsible for the cost of the inspection. If a violation of this code is found by the Code Official in the course of the inspection, the owner or owner's agent shall be responsible for the cost of the inspection.
4. Reservation of the Right of Borough Inspection. Notwithstanding the provisions above, the Borough reserves the right at any time to inspect any premises to verify compliance with the provisions of the part of any independent or government agency inspection, the Borough inspection shall be made without charge. If, as a result of the Borough inspection, violation of the provisions of this article are determined, additional inspections necessitated by such non-compliance shall be at the expense of the owner.

901.5.1 Independent Inspectors. Any owner shall have the right to employ an independent inspector who is currently approved by the Borough as a qualified and certified inspector under the provisions of Chapter 200, Uniform Construction Codes, and as to any residential rental dwelling unit inspected and certified by said inspector as being in compliance with the provisions of this article, the Code Official shall issue a certificate of compliance dated as of said inspection.

The Borough shall maintain a list of certified inspectors from which owners may select. The issuance of a certificate of compliance shall not be deemed, nor construed as, a representation, guaranty or warranty of any kind by the Borough, or its officials, agents or employees, and shall create no liability upon the Borough, its officials, agents or employees.

SECTION 902

OWNERSHIP

902.1 Owner's Agent. Every owner who is not a full-time resident of the Borough of Lemoyne, and/or who does not live or work within 40 miles of the boundaries of the Borough of Lemoyne, shall declare an owner's agent who shall reside or work in an area that is within 40 miles from the Borough of Lemoyne. If the owner is a corporation, an owner's agent shall be required if an officer of the corporation does not reside or work within 40 mile of the Borough of Lemoyne. If the owner is a partnership, an owner's agent shall be required if a partner does not reside or work within 40 miles of the Borough of Lemoyne. The owner's agent shall perform the same function as a manager.

The owner's agent shall be the agent of the owner for service of process and receiving of notices and demands, as well as performing all obligations of the owner under this article and under rental agreements with occupants. The identity, address and telephone number(s) of the owner's agent hereunder shall be provided by the owner to the Borough and such information shall be kept current and updated as it changes.

902.2 Transfer of ownership. If the ownership of a registered residential rental dwelling unit is transferred, whether it is legal or equitable (not including any equitable interest associated with an agreement of sale for the subject property, unless such agreement is a lease purchase agreement), the registration and certificate of compliance shall be invalid on the date of transfer of ownership, unless the new owner has submitted an application for registration and a certificate of compliance within 10 days of the date of transfer, in which case the property, if currently occupied, may

continue to be occupied; however, such occupancy shall be contingent upon the new owner receiving a certificate of compliance in accordance with this code. If the new owner fails to submit an application for registration and certificate of compliance within 10 days of the date of transfer, or the new owner does not receive a certificate of compliance in accordance with this code, the property cannot be occupied as a rental property, and any rental occupancy of the property is a violation of this code.

902.3 Lease-purchase agreements. Any property that is being occupied and currently subject to a lease-purchase agreement between the occupants of the property and the owner of record, and which lease-purchase agreement is recorded in the Recorder's Office of Cumberland County, shall not be subject to the requirements of Chapter 9. The burden of proving a valid lease-purchase agreement under this section shall be on the owner or occupant claiming the exemption from the requirements of Chapter 9.

SECTION 903

VIOLATIONS OF CHAPTER 9

903.1 Occupancy without Certificate of Compliance or Registration. It shall be unlawful for any owner or owner's agent to allow a residential rental dwelling unit to be occupied without being registered and holding a valid certificate of compliance. Further, it shall be unlawful for any owner or owner's agent to offer for rent, lease, or occupancy unless the residential rental dwelling unit is currently registered and holds a valid certificate of compliance.

903.2 Penalties. A violation of Chapter 9 shall be subject to the penalties provisions of Section 106.4. Further, if an owner fails to pay any fees under this article including, but not limited to, those fees set forth under Section 901.6, then no certificate of compliance will be issued, and if a certificate of compliance had been previously issued, said certificate of compliance shall be revoked.

[1] *Editor's Note: See 65 Pa.C.S.A. § 701 et seq.*

[2] *Editor's Note: See 2 Pa.C.S.A. §§ 551 et seq. and 751 et seq.*

[3] *Editor's Note: Appendix A is on file in the Borough offices.*