

CHELTENHAM TOWNSHIP

ORDINANCE NO. _____

LOCAL LANDMARK ORDINANCE

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF CHELTENHAM, ESTABLISHING CHAPTER 175, ENTITLED “LOCAL LANDMARKS;” PROVIDING CRITERIA FOR QUALIFICATION AS LOCAL LANDMARKS; PROVIDING FOR CERTIFICATES OF APPROPRIATENESS; AND PROVIDING FOR PENALTIES FOR VIOLATION OF THE ORDINANCE

SECTION 1. The Board of Commissioners hereby adopts the following as Chapter 175, entitled “Local Landmarks.”

§ 175-1. Purpose.

It is the purpose and intent of this ordinance to protect and enhance the special character and historic interest of the Local Landmarks in Cheltenham Township in the interest of the health, prosperity, safety, and welfare of the people. The additional purposes of this Chapter are to:

- (1) Protect and enhance designated Local Landmarks which reflect the Township’s cultural, social, economic, political, or architectural history;
- (2) Safeguard the Township’s historic and cultural heritage as embodied within the Local Landmarks;
- (3) Promote appreciation of Local Landmarks for the education and enjoyment of local residents;
- (4) Encourage beautification and private investment in the Township’s Local Landmarks to enhance the visual character of the community;
- (5) Stabilize and improve property values; and
- (6) Foster civic pride in the history and architectural integrity of the Township.

§ 175-2. Definitions.

For the purposes of this Chapter, the following terms shall have the meanings indicated:

BOARD OF COMMISSIONERS – The governing body of the Township.

CERTIFICATE OF APPROPRIATENESS (COA) - Document issued by the Board of Commissioners, following a prescribed review procedure, certifying that the proposed actions by an applicant related to Demolition or Relocation are found to be acceptable in terms of criteria relating to the individual Local Landmark, pursuant to the criteria enumerated in this Chapter.

BUILDING – A construction that is a man-made piece of work, regardless of its state or condition of disrepair, built for the purpose of occupancy or use in the past, present or future, having a fixed location on, above or below the surface of land.

DEMOLITION - Either or both of the following: (1) the razing, removal, or demolition of fifty (50) percent or more of the roof area or exterior walls of a building; or (2) the razing, removal, or demolition of any portion of any exterior wall substantially visible from a public street; or (3) the razing, removal or demolition of a structure which is not a building or of an object, if any such case in clause (2), in the determination of the Board of Commissioners, such razing, removal, or demolition will negatively and materially impair the structural, historic or architectural integrity or quality of the Local Landmark.

DEMOLITION BY NEGLECT - The absence of routine maintenance and repair to such a degree that, in the opinion of the Township Zoning Officer, there is a reasonably significant possibility that it will lead to a Local Landmark's inability to be rehabilitated and/or reused, or a Local Landmark's structural weakness, decay, and/or deterioration, whether or not by negligence and whether or not willful neglect, purpose or design, by the owner or any party in possession thereof. Demolition by neglect shall also include leaving a Local Landmark open to decay by the elements or vulnerable to vandalism which may be enforced hereunder or under all applicable property maintenance ordinances including, the International Property Maintenance Code, International Fire Code, International Building Code, Nuisances, and the Vacant Property Registration Ordinance, whichever is stricter.

DENIAL - The written rejection of an application for work that is determined to be inappropriate due to the fact that the work would adversely impact a Local Landmark.

DEPARTMENT – The Cheltenham Township Department of Planning and Zoning or the department from time-to-time fulfilling the same functions.

LOCAL LANDMARK - Any Building, Structure, Site, or Object which possesses integrity of location, design, setting, materials, and workmanship reflecting the cultural, social, economic, political or architectural history, and which has been included in the Cheltenham Township Cultural Resources Survey. The initial Cheltenham Township Cultural Resources Survey is attached hereto as Exhibit A. The survey may be updated and amended from time to time and the current form will be available at the Township Administration Building. Local Landmark also includes any Building, Structure, Site, or Object listed or eligible for listing on the National Register of Historic Places. Local Landmarks may be located within designated Historical Districts (defined in and also regulated by Chapter 295, Article XX) if they are listed or eligible for listing on the National Register of Historic Places, or they may be on Sites located outside of the designated Historical Districts.

OBJECT – Any personal property not attached to a structure but having independent standalone structural, historic or architectural quality or integrity, including, but not limited to fountains, sculpture, freestanding signs, arborways and trellises, garages and accessory buildings, as defined in the Cheltenham Township Code.

PRESERVATION - The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a Local Landmark. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction.

RECONSTRUCTION - The act or process of reproducing, by means of new construction, the form, features, and detailing of a non-surviving Site, Building, Structure, or Object for the purpose of replicating its appearance at a specific period of time and/or in its historic location. Materials and design elements should be compatible with the style of the Local Landmark.

REHABILITATION - The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Materials and design elements should be of a compatible style to the Local Landmark.

RELOCATION – Movement of a Local Landmark, or any part thereof from one Site to another location. The Local Landmark shall remain a Local Landmark, unless determined otherwise during the COA review process.

REPAIR – The act or process of restoring a decayed or damaged resource to a sound condition. Materials and design elements should be compatible with the style of the Local Landmark.

REPLACEMENT - The act of replicating any exterior architectural feature in order to substitute for an existing deteriorated or extensively damaged architectural feature. Materials and design elements should be of a compatible style to the Local Landmark.

RESTORATION - The act or process of accurately reproducing the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period that is selected. Materials and design elements should be of a compatible style to the Local Landmark.

SITE - The place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupations or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A Site may also be the location of a ruined Building, Structure, or Object, or the location itself possesses historic, cultural, architectural or archeological significance.

STRUCTURE – A construction, regardless of its state or condition of disrepair, for the purposes of occupancy, use, or ornamentation, having a fixed location on, above, or below the surface of land. Structures include, but are not limited to, Buildings, flagpoles, fences, gazebos, pergolas, canopies, permanent signs, walls, paved parking areas, and driveways.

TOWNSHIP – Cheltenham Township, Montgomery County, Pennsylvania.

§ 175-3. Designation of Local Landmarks.

For the purpose of this Chapter, any Building, Structure, Site or Object, located outside of the Historical Districts, meeting at least one of the following criteria shall be designated a Local Landmark:

- 1) it is identified in the Cheltenham Township Cultural Resources Survey (Exhibit A hereto, on file with the Township of Cheltenham), as updated and amended from time to time;
- 2) it is listed in the National Register of Historic Places;
- 3) it is determined to be eligible for listing in the National Register of Historic Places.

§ 175-4. Certificate of Appropriateness Required.

No permit for the Demolition or Relocation of any Local Landmark shall be issued without the applicant for such permit first obtaining a Certificate of Appropriateness under the review procedure required by this Chapter.

§ 175-5. Planning Commission.

The Cheltenham Township Planning Commission shall be responsible for reviewing and recommending to the Public Works Committee of the Board of Commissioners actions to take regarding applications for Demolition or Relocation of Local Landmarks.

The Board of Commissioners shall designate a member of the Historical Commission to serve as an ex officio, non-voting participant at the Planning Commission meetings at which applications for Demolition or Relocation of Local Landmarks will be discussed.

§ 175-6. Public Works Committee of the Board of Commissioners.

The Public Works Committee of the Board of Commissioners shall be responsible for reviewing and recommending to the Board of Commissioners actions to take regarding applications for Demolition or Relocation of Local Landmarks.

§ 175-7. Certificate of Appropriateness review procedure for Demolition or Relocation of Local Landmarks:

- (1) Prior to submission of a permit application for the Demolition or Relocation of a Local Landmark, the applicant shall provide to the Department the following information, plans, photographs, and other supporting materials:
 - a) Certificate of Appropriateness Application in the form from time to time in effect.
 - b) Copy of deed showing ownership of property.
 - c) 4" x 6" (or larger) labeled photographs showing:
 - (i) All sides of existing Structures and/or Objects.
 - (ii) Site surrounding existing Structures and/or Objects.
 - (iii) Adjacent Sites and Structures including adjacent properties and across streets and rights-of-way.

- d) Scaled drawings indicating all proposed changes, as applicable:
 - (i) Site plan, including adjacent Sites and buildings.
 - (ii) Floor plans.
 - (iii) All elevations (unless Demolition is applied for).
 - (iv) Details of all proposed work and new exterior elements (the latter, if applicable).
 - e) Samples or catalog cuts of any new materials to be used.
 - f) Any additional information deemed necessary by the Planning Commission, in order to make a sound decision, after an initial consultation or review.
 - g) A signed letter of authorization permitting a designated representative to present the project on behalf of the applicant, if applicable.
- (2) The Department shall notify the Board of Commissioners and Planning Commission that a complete application for a Certificate of Appropriateness for a Local Landmark has been filed. The Township shall notify the applicant of the time and place of the next Planning Commission meeting when the application will be discussed, which shall occur no less than 40 days after the Department has determined that the application is complete.
- (3) The applicant, or designated representative, must appear to explain and present the application to the Planning Commission. If the applicant, or designated representative, does not attend the scheduled meeting, the application shall be tabled and will be heard at the next regularly scheduled meeting of the Planning Commission. If the applicant, or designated representative, does not attend the second scheduled meeting, without prior consent and approval from the Director of the Department, the Planning Commission can take action on the application.
- (4) In determining whether Preservation is feasible, the Planning Commission and the Public Works Committee may recommend and the Board of Commissioners may disapprove the application upon finding Preservation of the Local Landmark is feasible. The following factors, among such others as the Planning Commission, Public Works Committee and/or Board of Commissioners deem appropriate, shall be considered:
- a) Whether the Local Landmark is representative of a specific period of significance or is of a design or is of cultural or historic significance that is integral to the Township's history.
 - b) Whether the Structure(s) can be Preserved by protecting its location from disturbance.

- c) Whether measures, such as Rehabilitation, Reuse, or Restoration, can result in Preservation of the Structure or Structures.
 - d) Whether the steps necessary for Preservation of the Structure or Structures will create an economic hardship.
 - e) Whether the measures taken to Preserve the Structure(s) are long-term in nature.
- (5) In determining whether Preservation of the Structure(s) at another location is feasible, the following factors, among such others as the Planning Commission, Public Works Committee and/or Board of Commissioners deem appropriate, shall be considered:
- a) Whether the Structure or Structures can be moved and still retain its historic significance.
 - b) Whether the Structure(s) are stable enough to permit Relocation.
 - c) Whether it is feasible and practical to relocate the Structure(s) without creating an economic hardship.
 - d) Whether Relocation would result in the long-term preservation of the Structure or Structures.
- (6) The Planning Commission will review the application and evaluate the probable impact of the Demolition or Relocation of a Local Landmark. The Demolition or Relocation will be considered based on the factors in subparagraph (5) above and the integrity of the Structure(s), the impact on the Sites immediately adjacent to the proposed Demolition or Relocation Site(s) and the impacts throughout the immediate neighborhood or area. The Planning Commission shall first consider whether Preservation of the Structure(s) in place is feasible, or failing that option, whether Preservation is feasible at another location.
- (7) Only in the case of Demolition which is not the razing, removal or demolition of the entire Local Landmark, this subparagraph shall apply. The Planning Commission, on the basis of the information received at the meeting and from its general background and knowledge, shall indicate to the applicant the changes in plans and specifications, if any, which, in the opinion of the Planning Commission, would protect the distinctive character of the Local Landmark. The applicant shall be granted the opportunity to work with the Planning Commission to find an appropriate use for the property, to help find a buyer for the property, or to obtain grant or loan funding to complete rehabilitation work.
- (8) Upon recommendation for approval or disapproval of the application by the Planning Commission, the application will be forwarded to the Publics Work Committee of the Board of Commissioners for review at its next regularly scheduled meeting. The Public Works Committee shall then submit to the Board of Commissioners, in writing, its recommendation concerning the issuance of a Certificate of Appropriateness authorizing a permit for the Demolition or Relocation.

- (9) If the Board of Commissioners disapproves the application for Certificate of Appropriateness, it shall do so in writing, and copies shall be given to the applicant and to the Pennsylvania Historical and Museum Commission. Only in the case of demolition of less than the entire Local Landmark, the disapproval shall indicate what changes in the plans and specifications would meet the conditions for protecting the distinctive historical character of the Local Landmark. Upon receipt of the written disapproval of the Board of Commissioners, the Director of the Department shall disapprove the application for a building permit and so advise the applicant. The applicant may appeal the disapproval as provided by law.
- (10) The above required procedures pursuant to the granting of a permit for Demolition or Relocation of a Local Landmark may be suspended in cases where the property has been determined to be imminently dangerous, as determined by the Department and the Fire Marshal. In the case of an imminently dangerous Local Landmark, the Department and the Fire Marshal shall first consider the use of barriers, bracing and/or other alternatives to razing the Structure. If time permits, the Department and the Fire Marshal shall consult with the Township Manager and, if feasible, the Board of Commissioners, in an emergency meeting. The Township shall be responsible for notifying all property owners on the same street within 500 feet of the designated site of the Demolition/Relocation application and all property owners not on the same street but within 150 feet of the designated site.
- (11) The Township will be responsible for notifying the Township Historical Commission at least 30 days prior to public review of the application by the Planning Commission, so that the Commission may provide advisory comments regarding the application.

§ 175-8. Time limitations.

The Township shall have 120 calendar days to act on a complete application for a Certificate of Appropriateness, from the date the application is deemed complete by the Township including notification in writing of the pendency of the application to both the Board of Commissioners and the Planning Commission. If no action has been taken after 120 days, such application shall be deemed to have been approved; and the issuance of any permit dependent upon the Certification of Appropriateness shall be so authorized by the Township. This time limit may be waived or extended at any time by mutual consent of the applicant and the Board of Commissioners.

§ 175-9. Expiration.

Any Certificate of Appropriateness issued pursuant to the provisions of this Chapter shall expire one (1) year from the date of issuance, except that under the following circumstances the Certificate of Appropriateness shall continue to be in effect:

- (1) the authorized work is commenced within said one year time period and is continuing with reasonable diligence, and
- (2) an active building permit for the authorized work is on file with the Township.

§ 175-10. Exceptions to Certificate of Appropriateness Procedure.

A Certificate of Appropriateness is not required for the routine repair, maintenance or replacement in kind of any exterior elements or features of any Building or Structure of any Local Landmark. If the Director of the Department determines that the proposed work is routine repair or maintenance or replacement in kind, the applicant may then make application for a building permit where applicable.

§ 175-11. Documentation of Local Landmark Prior to Demolition or Relocation.

If the Township issues a permit for the Demolition or Relocation, the Board of Commissioners shall require the applicant to provide documentation of the Local Landmark proposed for Demolition or Relocation. Such documentation may include photographs, floor plans, copies of deeds, scaled site plans, archeological survey, summary descriptions, maps, and any other comparable form of documentation stipulated by the Board of Commissioners, in order to provide a record of the property for future generations. Copies of documentation shall be provided to the Department, the Cheltenham Township Historical Commission, and to any other research institution or document repository deemed appropriate by the Board of Commissioners, prior to the approved Demolition or Relocation.

§ 175-12. Demolition by Neglect.

Demolition by neglect shall be a violation of the provisions of this Chapter and shall not be grounds for issuance of a Certificate of Appropriateness and/or permit for Demolition or Relocation, and shall be subject to the violation provisions and penalties provided for in this Chapter. In addition, unoccupied Buildings constructed for the purposes of occupancy or storage regardless of their state or condition shall be tightly sealed, weatherproofed, fenced or otherwise protected, and their utilities shall be shut off for safety, violation of which shall be subject to the violation provisions and penalties provided for in this Chapter. Local Landmarks are also subject to all applicable property maintenance ordinances including, the International Property Maintenance Code, International Fire Code, International Building Code, Nuisances, and the Vacant Property Registration Ordinance.

§ 295-13. Violations and Penalties.

Any person, partnership, corporation, unincorporated association or other entity who or which shall violate any of the provisions of this Chapter shall upon adjudication thereof in a civil enforcement proceeding commenced by the Township be subject to a civil penalty not to exceed \$1,000 per violation, plus costs of prosecution. Each day that such violation shall occur shall constitute a separate violation.

SECTION 2. Disclaimer. Nothing in this Ordinance or in the Code of the Township of Cheltenham shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued or any cause or causes of action existing under the said Code prior to the adoption of this amendment.

SECTION 3. Ratification. In all other respects, the Code of the Township of Cheltenham, Chapter 295, entitled "Zoning," is hereby ratified and reaffirmed except where the same is inconsistent with the provisions contained in this Ordinance.

SECTION 4. Severability. The provisions of this Ordinance are severable, and if any section, sentence, clause, part or provision thereof shall be held illegal, invalid or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Cheltenham Township Board of Commissioners that this Ordinance would have been adopted if such legal, invalid or unconstitutional section, sentence, clause, part or provisions had not been included herein.

SECTION 5. Failure to Enforce Not a Waiver. The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

SECTION 6. Repealer. Except as otherwise expressly provided herein, any Ordinance or any part of any Ordinance conflicting with the provisions of this Ordinance shall be deemed and the same are hereby repealed to the extent of such conflict.

SECTION 7. Effective Date. This Ordinance shall take effect and be in force from and after it is approved as required by law.

ENACTED into an **ORDINANCE** this _____ day of _____, 2016.

**TOWNSHIP OF CHELTENHAM
BOARD OF COMMISSIONERS**

ATTEST: _____ BY: _____
Bryan T. Havir, , President
Township Manager & Secretary