

**CHELTENHAM TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____-16

AN ORDINANCE OF CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA AMENDING CHAPTER 238 OF THE CODIFIED ORDINANCES OF THE TOWNSHIP TO ADD AN ARTICLE PROVIDING DEFINITIONS FOR THE NEW ARTICLE; REQUIRING THE INSPECTION OF ALL IMPROVED PROPERTIES LOCATED IN CHELTENHAM TOWNSHIP PRIOR TO SALE OR TRANSFER OF TITLE AND FOR COMPLIANCE WITH ORDINANCE REQUIREMENTS AS WELL AS TOWNSHIP RULES AND REGULATIONS; PROHIBITING STORMWATER AND GROUNDWATER DISCHARGES INTO THE SANITARY SEWER SYSTEM AND DEFINING THE DEFECTIVENESS OF A PRIVATELY-OWNED SANITARY SEWER LATERAL; REQUIRING CORRECTIONS OF PRIVATELY-OWNED SANITARY SEWER LATERALS BY A CERTIFIED MASTER PLUMBER AND ISSUANCE OF A CERTIFIED REPORT PRIOR TO SALE OR TRANSFER OF TITLE; REQUIRING THE ISSUANCE OF A SEWER OCCUPANCY PERMIT PRIOR TO THE SALE OR TRANSFER OF AN IMPROVED PROPERTY; PROVIDING REMEDIES IF THE OWNER OF AN IMPROVED PROPERTY FAILS TO UNDERTAKE CORRECTIONS UNDER THIS ARTICLE; PROVIDING FOR A CERTAIN EXEMPTION; AUTHORIZING INSPECTIONS BY EMPLOYEES AND AGENTS; PROVIDING FOR A DUTY TO REPLACE OR REPAIR A PRIVATELY-OWNED SANITARY SEWER LATERAL IF SEWAGE APPEARS ON THE SURFACE OF A PROPERTY OR NEAR THE SURFACE OF A PROPERTY OR IF THE PRIVATELY-OWNED SANITARY SEWER LATERAL LEAKS; PROVIDING FOR VIOLATIONS AND PENALTIES FOR NONCOMPLIANCE WITH THE ARTICLE AND PROVIDING OTHER REMEDIES

WHEREAS, Cheltenham Township has constructed and operates a sanitary sewer collection and treatment system for the use and benefit of the residents, businesses and institutions of the Cheltenham Township; and

WHEREAS, the Township is under a consent decree with the Pennsylvania Department of Environmental Protection (“DEP”) concerning the Township’s sanitary sewer collection and treatment system; and

WHEREAS, the Township seeks to prohibit illegal connections to the Township’s system through roof drains, area drains, sump pumps and the like which cause overloading of the sanitary sewer system and lead to the violation of regulations and permits; and

WHEREAS, the Township also seeks to identify and eliminate defects in privately-owned sanitary sewer laterals and the sewage collection system through replacement, relining and repairs of privately-owned sanitary sewer laterals; and

WHEREAS, as part of the consent order, Cheltenham is obligated to follow a corrective action plan which includes implementing a lateral ordinance inspection program; and

WHEREAS, the Township Board of Commissioners wishes to adopt an ordinance requiring the inspection and testing of privately-owned sanitary sewer laterals on properties connected to the public sewage collection system prior to the sale or transfer of title of the property.

NOW, THEREFORE, be it enacted by the Board of Commissioners of Cheltenham Township that the Codified Ordinances of the Township are hereby amended to add the following:

SECTION I – Amendment to Chapter 238 of the Codified Ordinances of Cheltenham Township

ARTICLE V

REQUIRING THE INSPECTION OF ALL IMPROVED PROPERTIES PRIOR TO SALE OR TRANSFER OF TITLE FOR COMPLIANCE WITH TOWNSHIP ORDINANCE REQUIREMENTS AND RULES AND REGULATIONS

§238-35 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

Privately-Owned Sanitary Sewer Lateral shall mean each pipe, line or sewer which transports or the purpose of which is to transport wastewater from an individual building or structure or buildings or structures to a municipally-owned sewer main for treatment. Privately-Owned Sanitary Sewer Lateral shall include the connection between the Privately-Owned Sanitary Sewer Lateral or Service Pipe and a sewer owned by the Township.

Compliance shall mean compliance with the provisions of the Article set forth herein, and any amendment thereto as well as Chapter 238 of the Township Code of Ordinances and any and all rules and regulations promulgated by the Township pursuant to Chapter 238.

Improved Property shall mean any property within the Township upon which there is currently or hereafter erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sewage shall or may be discharged.

Owner shall mean a person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.

Person shall include any individual, legal entity, partnership, business association, corporation or company.

Sanitary Sewer System shall mean all of the facilities for collecting, pumping, treating and disposing of sanitary sewage which are owned by the Township within the sanitary sewer service area of the Township including, but not limited to, piping, lines, laterals, sewers and connections thereto.

Sewage Collection System shall mean all of the facilities for collecting and pumping sanitary sewage which is owned by the Township including piping, lines, laterals and sewers within the sanitary sewer service area of the Township.

Stormwater shall mean any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snow melt.

Sump Pump shall mean any pump which is being used to pump Stormwater or groundwater into the Sanitary Sewer System or storm sewer system.

Township shall mean the Township of Cheltenham, Montgomery County, Pennsylvania. All references to the Township shall include the Township's employees, agents and contractors.

Throughout this Ordinance, the masculine gender shall be deemed to include the feminine and/or the neuter, the singular, the plural and vice versa, wherever required by the context.

§238-36 Compliance

Each and every Owner of an Improved Property located in the Township whose property is connected to the Sewage Collection System shall, after January 1, 2017, comply with the terms and conditions of this Article.

§238-37 Prohibition of Stormwater and Groundwater Discharges into the Sanitary Sewer System and Definition of Defective Privately-Owned Sanitary Sewer Lateral

- A. It shall be unlawful for any Person to discharge any Stormwater and/or groundwater into the Sanitary Sewer System or permit the inflow of Stormwater and/or groundwater from any property owned by such Person into the Sanitary Sewer System. Any discharge or inflow of Stormwater and/or groundwater into the Sanitary Sewer System shall be deemed to have been permitted by the Owner of the property upon which or within which such Stormwater and/or groundwater enters the Sanitary Sewer System.
- B. No Person who owns any property serviced by the Sanitary Sewer System shall connect any Sump Pump, roof drain, area drain, french drain, foundation drain, or other surface water drain, or permit any such drains to remain connected, to the Sanitary Sewer System.
- C. A Privately-Owned Sanitary Sewer Lateral shall be considered defective and require immediate replacement, relining or repair if one (1) or more of the following is present in the Privately-Owned Sanitary Sewer Lateral:
 - (1) evidence of pipe or joint deterioration;
 - (2) root intrusion into a pipe which separates a pipe joint or enlarges an existing crack;
 - (3) a misaligned pipe segment, sag, or lack of positive gradient;
 - (4) a lack of necessary cleanout cap or manhole cover;
 - (5) the existence of a curb trap vent;
 - (6) a downspout, drain, line, hose or other connection which allows Stormwater, surface water, groundwater, roof runoff, subsurface drainage or other extraneous water to enter the Sanitary Sewer System; or
 - (7) a flaw which allows the discharge of sewage into the surrounding soil or onto or into any property or the introduction of extraneous water into the Sanitary Sewer System.

§238-38 Inspection Required upon Sale or Transfer of Title of Property; Sewer Occupancy Permit Required Upon Occupancy of Sold or Transferred Property

- A. A sewer occupancy permit shall be obtained prior to occupancy of any Improved Property that has been sold or transferred. To obtain a sewer occupancy permit, an Owner must bring the Improved Property into Compliance. No sewer occupancy permit shall be issued to an Owner until such Owner demonstrates Compliance.
- B. In order to receive a sewer occupancy permit, the Owner of each and every Improved Property located in the Township is required to notify the Township of the proposed sale or transfer of such property at least thirty (30) days prior to the proposed sale or transfer and to request an inspection of the Privately-Owned Sanitary Sewer Lateral by a Township inspector to ensure Compliance and pay a Privately-Owned Sanitary Sewer Lateral Inspection Fee, as established in the Township's fee schedule as may be amended from time-to-time. Said inspection shall include a video inspection and/or other test(s) of the Privately-Owned Sanitary Sewer Lateral to ensure Compliance.
- C. If an Owner wants to investigate a Privately-Owned Sanitary Sewer Lateral in advance of sale or transfer of title, the Owner may contact the Township Sewer Department and request a video inspection and/or testing of the Owner's Privately-Owned Sanitary Sewer Lateral no earlier than one (1) year prior to the contemplated sale or transfer of title of the Improved Property where the Privately-Owned Sanitary Sewer Lateral is located.
 - (1) If a defect is not found, Owner will receive a sewer occupancy permit which will exempt the Owner or future Owner(s) from any sale/transfer inspection testing of the Privately-Owned Sanitary Sewer Lateral for a period of up to three (3) years, unless the Township has cause to believe the Improved Property is the cause of significant discharges into or blockages of the Sanitary Sewer System.
 - (2) If a defect is detected, Owner has 90 days from notice of defect to replace, reline or repair the defective Privately-Owned Sanitary Sewer Lateral in Compliance with the Township's rules and regulations at the Owner's sole cost and expense (see the decision-making as to replacement, relining or repair in Section 238-39A.). Once the Township has approved the Owner's remedy of the defect, a sewer occupancy permit will be issued, which shall exempt the Owner or future Owner(s) of the Improved Property from any sale or transfer inspection/testing of the Privately-Owned Sanitary Sewer Lateral during the three year period, unless the Township has cause to believe the Improved Property is the cause of significant discharges into or blockages of the Sanitary Sewer System.

§238-39 Duty to Replace, Reline or Repair and Proof of Compliance

- A. The Owner shall obtain a sewer occupancy permit issued by the Township prior to the sale or transfer of any Improved Property located in the Township. Should a Privately-Owned Sanitary Sewer Lateral be found to be defective based upon Subsection 238-37.C., sound engineering practice and/or the Township's rules and regulations, the Owner shall replace, reline or repair the defective Privately-Owned Sanitary Sewer Lateral prior to issuance of a sewer occupancy permit at the Owner's or future Owner's cost and expense within 90 days of notice of defect. The decision to replace, reline or repair shall be solely that of the Township Engineer, or his or her designee, and may be based upon the following factors, among others: the age of the Privately-Owned Sanitary Sewer Lateral, the extent of damage and/or deterioration, prior repair(s), the composition of the pipe, the condition of the original installation and the degree of infiltration.

The Privately-Owned Sanitary Sewer Lateral replacement/relining/repair shall be performed by a registered plumber in accordance with the Code requirements of the Township and the rules and regulations of the Township. The Owner or future Owner shall pay all required fees and obtain a plumbing permit from the Township before performing the replacement, relining or repair of the defective Privately-Owned Sanitary Sewer Lateral. The seller or transferor shall submit a certified report to the Township Sewer Department from the registered that the replacement relining and/or repair required by the Township has been completed and is in Compliance, which report must be approved and accepted by the Township Engineer prior to: (1) issuance of a sewer occupancy permit for such property; (2) the sale or transfer of title of such property; and (3) satisfaction of any and all pending Township liens.

- B. Each replacement, relining and repair must be substantially commenced within sixty (60) days of the date the Township notifies the Owner of the deficiency in writing, with completion within 90 days of notice of defect. A person who replaces, relines or repairs an existing Privately-Owned Sanitary Sewer Lateral shall perform the replacement, relining or repair as prescribed by the Township Code and any applicable rules and regulations of the Township.
- C. If the Owner of the Improved Property fails to make any such replacement, relining or repair within the time specified in this Section, a sewer occupancy permit shall not be issued and the Improved Property shall be deemed unsafe for occupancy until such time as the Owner (seller or purchaser) corrects the defect. The Township may, after written notice to the Owner at their last known address, undertake such replacement, relining or repair and assess the Owner of such property for the cost thereof, plus ten (10%) percent for administrative costs. The Township may proceed to collect the costs and expenses for such work as it undertakes including, but not limited to attorneys' fees, in accordance with the Pennsylvania Municipal Claim and Tax Lien Law.
- D. In the event that a sale or transfer of title occurs without an inspection having been conducted and/or without the seller or transferor obtaining a sewer occupancy permit and/or not in Compliance, the purchaser/new Owner of the Property shall be responsible for: (1) allowing the aforementioned inspection and/or test conducted in conformance with this Article; (2) any replacement, relining or repair determined by the Township Engineer to be necessary for Compliance; and (3) obtaining a sewer occupancy permit.
- E. In the event that a sale or transfer of title of an Improved Property located in the Township occurs without a sewer occupancy permit being issued, the seller and the purchaser shall each be deemed in violation of Section 238-39A. of this Article and shall be subject to the remedies set forth pursuant to Section 238-43.
- F. This Section shall not apply to the sale or transfer of title of an Improved Property from the original builder of the principal structure on the Improved Property to the first Owner.

§238-40 Inspections and Testing

Any inspection, testing and/or work required by this Article may be conducted by a duly-authorized Township employee, or an agent duly authorized by the Township, at the Township's discretion.

§238-41 Post-Repair and Post-Replacement Inspection and Testing Requirements

- A. After the Owner has replaced, relined or repaired a defective Privately-Owned Sanitary Sewer Lateral, the Township shall inspect the Privately-Owned Sanitary Sewer Lateral to determine whether it complies with this Article.

- B. If a Privately-Owned Sanitary Sewer Lateral fails the Township's post-replacement, post-relining or post-repair inspection or test, the Owner shall perform such additional replacements, relining and/or repairs as are required by the Township to replace, reline or repair the defect, as applicable.

§238-42 Duty of Replacement or Repair Under Certain Circumstances

If sewage appears on the surface of a Property or near the surface of a Property or sewage leaks from a Privately-Owned Sanitary Sewer Lateral located on an Improved Property, the Owner of such Privately-Owned Sanitary Sewer Lateral shall:

- A. immediately stop the discharge of sewage;
- B. remediate the site not later than 24 hours after the Owner has received notice from the Township or otherwise of the appearance of sewage or the leak of sewage; and
- C. immediately complete all necessary repairs or replacement of the Privately-Owned Sanitary Sewer Lateral in compliance with the Township's rules and regulations, but in no event later than ten (10) days after the Owner has received notice from the Township or otherwise of the appearance of sewage or the leak of sewage.

§238-43 Remedies

- A. The Township may bring an action before a magisterial district judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure for a criminal fine not to exceed One Thousand Dollars (\$1,000.00) per violation and/or imprisonment to the extent allowed by law for the punishment of summary offenses for any violation of any provision of this Article, rule or regulation of the Township promulgated in support of this Article, or any order or permit issued by the Township pursuant to this Article. Each day or fraction thereof that a violation persists shall constitute a separate violation. Each separate building, separate dwelling unit and/or separate discharge in respect to which a violation occurs shall be deemed a separate violation. The Township shall notify, in writing, an Owner whose Privately-Owned Sanitary Sewer Lateral is found to be defective along with notice of the replacement, relining or repair required.
- B. In addition to the penalties provided above, the Township shall have the full authority to invoke any legal, equitable or special remedy for the enforcement of this Article, without first having to resort to any other particular remedy or penalty.

SECTION II - Disclaimer

Nothing in this Ordinance shall limit, in any manner whatsoever, the Township's right to enforce any ordinance or law of Cheltenham Township, Montgomery County or Commonwealth of Pennsylvania. Nothing in this Ordinance shall be a defense of any citation issued by any municipal corporation or the Commonwealth pursuant to any other law or ordinance.

SECTION III - Severability

The provisions of this Ordinance are severable, and if any Section, sentence, clause or phrase shall be held by a court of competent jurisdiction to be illegal, invalid, or unconstitutional, the remaining portions of this Ordinance shall not be affected or impaired thereby.

SECTION IV - Repealer

Any ordinance or 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 V – 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 VI – Effective Date

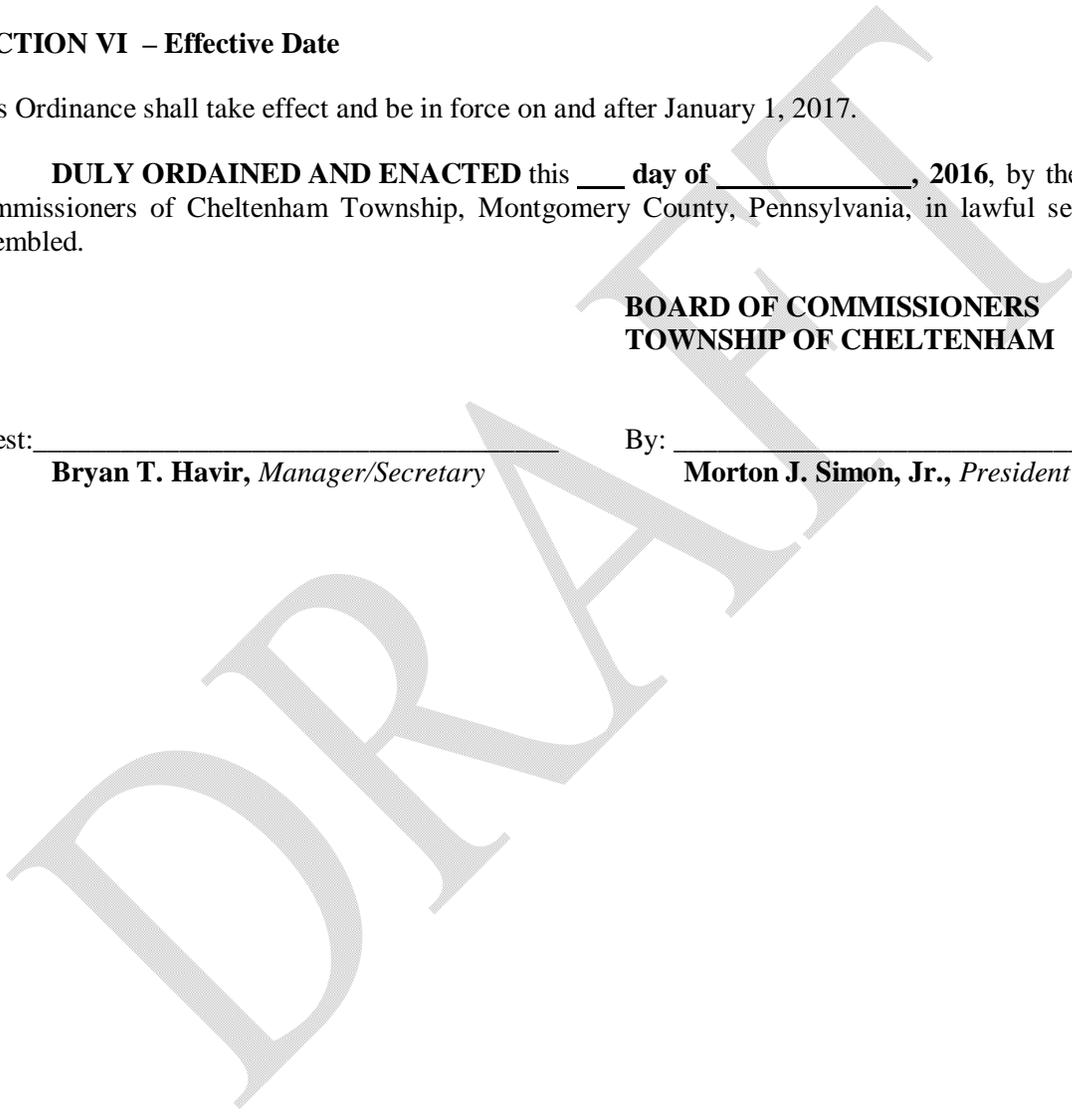
This Ordinance shall take effect and be in force on and after January 1, 2017.

DULY ORDAINED AND ENACTED this ___ day of _____, 2016, by the Board of Commissioners of Cheltenham Township, Montgomery County, Pennsylvania, in lawful session duly assembled.

**BOARD OF COMMISSIONERS
TOWNSHIP OF CHELTENHAM**

Attest: _____
Bryan T. Havir, *Manager/Secretary*

By: _____
Morton J. Simon, Jr., *President*



**CHELTENHAM TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

RESOLUTION NO. ____-16

**RESOLUTION ADDING FEES FOR THE INSPECTION OF
PRIVATELY-OWNED SANITARY SEWER LATERALS AT
SALE OR TRANSFER OF PROPERTY AND AMENDING
THE COST OF PERMITS FOR PLUMBING WORK**

WHEREAS, Cheltenham Township desires to implement a fee to cover costs incurred by the Township for the inspection of privately-owned sanitary sewer laterals in the Township; and

WHEREAS, Cheltenham Township desires to amend the fees associated with lateral work to account for additional personnel time and expenses required to inspect sewer laterals; and

WHEREAS, Cheltenham Township has the right to set fees pursuant to Chapter A300 of the Cheltenham Township Code.

NOW THEREFORE, BE IT RESOLVED, the Board of Commissioners of the Township of Cheltenham deems that it is in the best interest of the Township and its citizens to amend the Township fee schedule effective immediately upon adoption of this resolution as follows:

1. Chapter A300, entitled "Fees," Section A300-16, entitled "Sewers," is hereby amended by adding the following new §A300-16.D., which shall read as follows:

§A300-16.D. Sanitary Sewer Inspection and Occupancy Permit Fees

- (1) More than 60 days prior to sale or transfer of property: \$600
- (2) 30-60 days prior to sale or transfer of property: \$900
- (3) Less than 30 days prior to sale or transfer of property: \$1,200

2. Chapter A300, entitled "Fees," Section A300-12.A.(7), entitled "Permit fees for plumbing work:," is hereby amended to read as follows:

§A300-12.A.(6) Lateral permit fees (installation, replacement, repair, or relining):

- (1) For projects \$5,000 or less in estimated cost: 7.5% of the estimated cost
- (2) For projects above \$5,000 in estimated cost: 7.5% of the estimated cost up to \$5,000, plus 5% of the estimated cost above \$5,000
- (3) Demolition, disconnection fee: \$35

Adopted this _____ day of _____, 2016 by the Board of Commissioners of the Township of Cheltenham, County of Montgomery, Commonwealth of Pennsylvania, in session duly assembled.

I HEREBY CERTIFY that the foregoing Resolution by the Board of Commissioners of the Township of Cheltenham, County of Montgomery, Commonwealth of Pennsylvania, was adopted at its meeting held at Curtis Hall, 1250 West Church Road, Wyncote, Pennsylvania 19095 on the date set forth above, in the year of the Township of Cheltenham the one hundred and seventeenth.

ATTEST:

**BOARD OF COMMISSIONERS
TOWNSHIP OF CHELTENHAM**

Bryan T. Havir
Township Manager and Secretary

By: _____
Morton J. Simon, Jr., *President*