

**CHELTENHAM TOWNSHIP  
MONTGOMERY COUNTY, PENNSYLVANIA**

**ORDINANCE NO. - \_\_\_\_\_**

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**AN ORDINANCE OF THE TOWNSHIP OF CHELTENHAM AMENDING THE CODE OF THE TOWNSHIP OF CHELTENHAM, CHAPTER 295 THEREOF, ENTITLED "ZONING," ARTICLE XXI ENTITLED "FLOODPLAIN OVERLAY CONSERVATION DISTRICT" FOR THE PURPOSE OF COMPLYING WITH THE NATIONAL FLOOD INSURANCE ACT OF 1968, AS AMENDED, AND ASSOCIATED REGULATIONS BY, AMONG OTHER THINGS, ADOPTING THE UPDATED FLOODPLAIN INSURANCE RATE MAP OF THE TOWNSHIP.**

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**NOW THEREFORE**, the Board of Commissioners of Cheltenham Township does hereby **ENACT** and **ORDAIN** the following:

**SECTION I – Amendment to the Code**

Chapter 295 of the Codified Ordinances of the Township entitled "Zoning", Article XXI entitled "Floodplain Overlay Conservation District," is amended as follows, additions marked in bold, underline and deletions crossed out:

- A. §295-154.C. – "Promote the general health, welfare, and safety of the ~~Community~~ **Township** by preventing development in areas prone to flooding."
- B. §295-155.C. – "The Floodplain Conservation District shall be delineated according to FEMA's ~~Flood Insurance Rate Map~~ FIRM for Cheltenham Township **effective as of March 2, 2016** which is hereby made a part of this article, and additional area based on soils as described in § 295-155A(2). The FIRM is available for inspection at the ~~municipal~~ **Township Planning and Zoning** office."
- C. §295-159 – "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by ~~the a-community~~ **Township**."

- D. §295-159 – “NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a ~~community~~ **the Township.**”
- E. §295-159 – “POST-FIRM STRUCTURE: A structure for which construction or substantial improvement occurred after ~~December 31, 1974, or on or after the community’s~~ **Township’s** initial FIRM dated May 20, 1976, ~~whichever is later,~~ and, as such, would be required to be compliant with the regulations of the NFIP.”
- F. §295-159 – “PRE-FIRM STRUCTURE: A structure for which construction or substantial improvement occurred on or before ~~December 31, 1974, or before~~ **the Township’s** initial FIRM dated May 20, 1976, and, as such, would not be required to be compliant with the regulations of the NFIP.”
- G. §295-160.B. – “The Floodplain Conservation District shall also include areas with soils listed in § 295-155C, along with any Community-**Township**-identified flood hazard areas.”
- H. §295-161.C. – revise paragraph to include the bolded and underlined words: “No new construction or development **in the Floodway** shall be allowed unless a permit is obtained from the Department of Environmental Protection regional office.”
- I. §295-162 – revise paragraph to include the bolded and underlined words: “The Floodplain Conservation District may be revised or modified by **the** Township Board of Commissioners where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from ~~the~~ FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a ~~community~~ **the Township** shall notify FEMA of the changes by submitting technical or scientific data.”
- J. §295-162.1 – revise paragraph to read as follows (delete stricken words and add bolded and underlined words): “Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Cheltenham ~~Planning Commission~~ **Township Zoning Officer,** and any party aggrieved by this decision or determination may appeal to the Township **Zoning Hearing Board of Commissioners.** The burden of proof shall be on the appellant.”
- K. §295-162.2 – revise paragraph to read as follows (delete stricken words and add bolded and underlined words): “Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the ~~community~~ **Township** shall review flood hazard data affecting the lands

subject to boundary changes. The ~~community~~ **Township** shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.”

- L. §295-162.6.**H.** (add bolded and underlined words): **H. Any modification, alteration, reconstruction or improvement of any kind which removes an existing tree(s) of 4 caliper inches or greater in diameter on the site shall require replacement trees which shall be planted equal in number to the total diameter in caliper inches of trees proposed to be removed from the site plus additional trees (from a list selected by the Shade Tree Advisory Commission (“STAC”) or the equivalent agency if STAC does not exist) so that a minimum of one new tree (4 caliper inch diameter minimum) for every 900 square feet of impermeable structure modified, altered, reconstructed or improved shall be planted on the site in addition to all other landscaping and buffer required by other applicable Township Codes. Proper care and maintenance of the said replacement trees shall be deemed to be part of the term “planted”.**
- M. §295-162.7.C (added bolded and underlined words): C. **(2) All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is less, shall comply with the requirements of 295-162.13.C.(9).**
- N. §295-162.13.C (added bolded and underlined words): C. **(9) A plotted census of all existing trees of 4 caliper inches or greater in diameter on the site and identifying those trees which would be removed by the construction, enlargement or expansion proposed. The Applicant shall also demonstrate on the plan the location of replacement trees which shall be planted equal to the total diameter in caliper inches of trees proposed to be removed from the site plus additional trees (from a list selected by STAC or the equivalent agency if STAC does not exist) so that a minimum of ten (10) trees per acre within the Floodplain District on the site shall be planted in addition to all other landscaping and buffer required by other applicable Township Codes. Proper care and maintenance of the said replacement trees shall be deemed to be part of the term “planted” as used in this provision.**
- O. §295-162.16 – revise paragraph to read as follows (delete stricken words and add bolded and underlined words): “Permits Required. A permit **issued by the Floodplain Administrator under §295-162.16** shall be required before any construction or development is undertaken within the Floodplain Conservation District. In the case of a proposed hospital, nursing home, jail, prison, or manufactured home park, the permit referenced here**in** would be the Special Permit of §295-162.~~12~~**.17**.”
- P. §295-162.22 – revise paragraph to read as follows (delete stricken words and add bolded and underlined words): “~~Work on the proposed construction~~ **The start of construction under the permit issued by the Floodplain Administrator under**

§295-162.16, shall begin within 180 days after the date of issuance and shall be completed within 12 months after the date of issuance of said permit otherwise said ~~or the~~ permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The term “start of construction” shall be understood as defined in §295-159 of this article.”

- Q. §295-162.23.A.(4) – revise paragraph to read as follows (delete stricken words and add bolded and underlined words): “Be served upon the property owner or his agent, as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served ~~with such notice~~ by any ~~other~~ method authorized or required by the laws of this state; and”
- R. §295-162.23.B. – revise paragraph to read as follows (delete stricken words and add bolded and underlined words): “Penalties. Any person who fails to comply with any or all of the requirements or provisions of this article or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the Township ~~municipality~~ ~~shall pay a fine~~ **may have a civil judgment payable** to Cheltenham Township of not less than \$300 nor more than \$1,000 per violation, plus costs of prosecution **entered against them**. In addition to the above penalties, all other actions are hereby reserved, including an action in equity for the ~~proper~~ enforcement of this article. The imposition of a ~~fine or penalty~~ **judgment** for any violation of, or noncompliance with, this article shall not excuse the violation or noncompliance or permit it to continue, and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated, or any structure or building constructed, reconstructed, enlarged, ~~altered~~, **substantially improved** or relocated, in ~~noncompliance with~~ **violation of** this article may be declared by the Township ~~Board of Commissioners~~ to be a public nuisance and **may be** abatable as such.”
- S. §295-162.24.C. – revise paragraph to read as follows (delete stricken words and add bolded and underlined words): “Any person aggrieved by any decision of the Township Board of Commissioners may seek relief therefrom by appeal to court, as provided by the laws of this ~~State~~ **Commonwealth** including the Pennsylvania Flood Plain Management Act.”

## **SECTION II– Severability**

The provisions of this Ordinance are intended to be severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the 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 Board that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

**SECTION III – 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 IV - Repealer**

All other ordinances and resolutions or parts thereof insofar as they are inconsistent with this Ordinance are hereby repealed.

**SECTION V - Effective Date**

This Ordinance shall take effect and be in force from and after its approval as permitted by law.

**ORDAINED AND ENACTED** into an Ordinance this 17<sup>th</sup> day of February, 2016.

**CHELTENHAM TOWNSHIP**

By: \_\_\_\_\_  
Morton J. Simon, Jr., President,  
Board of Commissioners

Attest: \_\_\_\_\_  
Bryan Havir, Township Manager/Secretary