ORDINANCE NO. 02-2020

AN ORDINANCE OF THE TOWNSHIP OF SALEM, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA AMENDING ORDINANCE NO. 62 RELATING TO SANITARY SEWER CONNECTIONS, ESTABLISHING REQUIREMENTS FOR THE TESTING OF PRIVATE SANITARY SEWER SERVICE LATERAL LINES WITHIN THE TOWNSHIP AND PROVIDING FOR THE ENFORCEMENT OF SAME

WHEREAS, pursuant to a Consent Order and Agreement entered into with the Pennsylvania Department of Environmental Protection ("DEP"), the Franklin Township Municipal Sanitary Authority ("FTMSA"), the Borough of Delmont ("Delmont"), the Municipality of Murrysville ("Murrysville"), Township of Penn ("Penn"), the Penn Township Municipal Authority ("PTMA"), the Borough of Export ("Export") and the Municipality of Monroeville ("Monroeville") in August 2019 (the "FTMSA COA") the Board of Supervisors of Salem Township (the "Township") is required to take steps to eliminate improper water infiltration into the sanitary sewer system in Salem Township by implementing a sanitary sewer lateral testing/inspection program in those sanitary sewer facilities referred to in the COA as the "Salem System"; and

WHEREAS, pursuant to a separate and subsequent Consent Order and Agreement entered with Delmont and the DEP (the "Delmont COA") in June, 2020, the Board of Supervisors of Salem Township is also required to take steps to eliminate improper water infiltration into the sanitary sewer system in Salem Township by implementing a sanitary sewer lateral testing/inspection program in those sanitary sewer facilities referred to in the Delmont COA as the "Salem System" and to enter into an Intergovernmental Cooperation Agreement with Delmont to permit them access to certain portions of the Delmont System (as defined in both the FTMSA COA and Delmont COA) located within the geopolitical boundaries of Salem Township to eliminate Sanitary Sewer Overflows (SSO's) within the Delmont System onto properties within the Township; and

WHEREAS, consistent with both the FTMSA COA and the Delmont COA, the Board of Supervisors desires to eliminate the infiltration and inflow (I&I) of surface

water/storm water into the public sanitary sewer system within its geopolitical boundaries, and authorize the entry of an Intergovernmental Cooperation Agreement with Delmont, consistent with the terms of the Delmont COA, to enable Delmont to eliminate those SSO's within the Delmont System by the implementation of plans, means and methods developed by the Borough and approved by the DEP; and

WHEREAS, the Board of Supervisors has determined that, for the health, safety and welfare of the residents of the Township of Salem, and required by both the FTMSA COA and Delmont COA, it is necessary to implement procedures to prevent ground water from entering private lateral sewer lines prior to the sale, transfer, assignment, mortgage and/or hypothecation of any structure, property or improvement situated upon real property within the Salem System as defined in the aforesaid COA's; and

WHEREAS, Salem Township Ordinance No. 62 regulates the construction, operation, maintenance and repair of the Salem System, and authorizes the Township to enter into agreements with third parties for same; and

WHEREAS, the Board of Supervisors of Salem Township are empowered to take action to limit discharges into the public sanitary sewage system within the Township; and

WHEREAS, the Board of Supervisors believes it is necessary to update, amend and clarify the procedures, fees and penalties set forth therein with regard to sanitary sewer lateral line testing and inspection in order to comply with the aforesaid COA's and achieve the purposes of this Ordinance; and

WHEREAS, the Board of Supervisors desire to administer and enforce the provisions set forth hereafter and to enable the Board of Supervisors of Salem Township to adopt Resolutions implementing Rules and Regulations to further effectuate and facilitate the implementation and enforcement of same.

NOW, THEREFORE, WITH THE FOREGOING RECITALS BEING INCORPORATED HEREIN BY REFERENCE THERETO, THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF SALEM, COUNTY OF WESTMORELAND AND COMMONWEALTH OF PENNSYLVANIA, HEREBY ORDAIN AND ENACT AS FOLLOWS:

1. Section VII of Ordinance No. 62 is hereby REPEALED and VACATED in its entirety and shall be replaced with the following:

"SECTION VII: SANITARY SEWER CONNECTIONS:

GENERAL. The construction and number and size of all building sewer lines or house service sewers shall be done in accordance with the specifications, plans and procedures established by the Township in the Sewer System Rules and Regulations, which shall be duly enacted by Resolution of the Township of Salem, as the same may be from time to time published and amended, copies of which, upon adoption, shall be maintained on file with the Township Secretary.

A. INSPECTION, TESTING, MAINTENANCE AND REPAIR OF SEWER LATERALS UPON THE SALE, TRANSFER, ASSIGNMENT, PLEDGE OR HYPOTHECATION OF PROPERTY

1. STATEMENT OF PURPOSE. Storm water, surface water, roof runoff, roof drains, sump pumps, subsurface drainage, including but not limited to private lateral line infiltration and inflow, cooling water or unpolluted industrial process waters or waste from any source, may cause or contribute to Sanitary Sewer Overflows within the Salem Township Sanitary Sewer System. The Township is required under Consent Orders and Agreements with the Borough of Delmont and other surrounding municipalities to remove storm water from the Township sanitary sewer system. As part of those Consent Orders and Agreement, the Township has agreed to enact this "Lateral Resale Ordinance" to require inspections and testing of private laterals upon the sale, transfer, assignment (as in the event of a mortgage), pledge or hypothecation of any interest in real property on which those private laterals are located to prevent entry of storm water into the Salem Township Sanitary Sewer System, subject to the terms set forth hereafter.

2. REQUIRED INSPECTIONS AND TESTING. Each property owner shall conduct an inspection of the integrity of each private sewer lateral on their property tributary to any sanitary sewer line in the Township's Sanitary Sewer System upon the sale, transfer, assignment (as in the event of a mortgage), pledge or hypothecation of any interest in real property on which those private laterals are located, provided, however, that no such inspection shall be required for:

A. transfers between husband and wife incidental to a divorce;

B. transfers through a Decree of Distribution incidental to the administration of an Estate; and

C. a refinancing of an existing mortgage by a mortgagor who has had a visual inspection of the lateral and had action taken to correct any failure within 5 years of the refinancing.

3. INSPECTION AND TESTING PROCEDURES. Any inspection or testing required hereunder shall be accomplished according to procedures adopted by the Township designed to detect a "structurally defective" lateral as defined hereafter. The inspection, testing and reporting procedure developed by the Township is attached hereto, made a part hereof and marked Exhibit "A". Such procedure may be amended or changed by Resolution of Board of Supervisors adopted at a public meeting hereafter.

4. STRUCTURALLY DEFECTIVE LATERAL. For purposes of this Ordinance, a "structurally defective" lateral is defined as a sewer lateral that exhibits root intrusion, separated joint(s), broken pipe(s), cracks, inflow and/or infiltration of storm, spring and/or ground water, or any other condition which lends itself to inflow and/or infiltration of water into the sewer lateral other than sanitary and/or gray water.

5. FAILURE OR FAILED TEST. An inspection that results in a determination that a lateral is "structurally defective," shall constitute a "Failure" or "Failed Test". In the event of a "Failure" or "Failed Test" any structurally defective lateral shall be repaired or replaced by, and at the sole cost and expense of, the owner of the property. No "occupancy permit", "lien letter" or "no lien letter" shall be issued prior to receipt of certification that the condition resulting in the lateral's Failure or Failed Test has been corrected and is no longer "structurally defective".

6. DESIGNATION OF AUTHORITY. The Board of Supervisors of Salem Township, their agents, workmen, designees and assigns are hereby granted all rights, duties, powers necessary to administer and enforce the terms of this Section on behalf of the Township of Salem, including, but not limited to, the promulgation of reasonable rules and regulations for same. Any Rules and Regulations promulgated by the Township for the administration and/or enforcement of this Section, including any amendments thereto, shall be and are incorporated herein by reference thereto as if they were specifically set forth herein.

7. REQUEST FOR CERTIFICATION. At least twenty (20) days prior to the date of sale, transfer, assignment, mortgage and/or hypothecation of any property referenced in Paragraph "C" above, a formal Application must be made to the Township, on a form provided by the Township, seeking a Certificate that all laterals serving the affected property are in compliance with this Ordinance and any Resolutions, Rules and/or Regulations affecting same.

8. INSPECTION, TESTING AND ADMINISTRATION. The Township, or a contracted agent(s) of the Township, will perform all inspections and tests necessary to carry out the purpose of this Section consistent with those testing and inspection procedures attached hereto as Exhibit "A" and any amendment to same hereafter.

9. TIMING OF REPAIR AND/OR REPLACEMENT. The identified source of infiltration and inflow into the Salem Sewer System prohibited by this Section, must be repaired or replaced consistent with those Inspection, Testing and Reporting Procedures attached hereto as Exhibit "A".

10. FEES, COSTS AND EXPENSES. All fees and costs for inspection, testing, reporting, and administration of this Section shall be established by the Board of Supervisors by Resolution, and such Resolution may be amended from time to time hereafter.

11. REMEDY AND ENFORCEMENT. Failure of any property owner, assignee, transferee or purchaser to comply with this Section and/or any resolution, rule, procedure and/or regulation promulgated hereunder, shall be a violation of this Section, constitute and be punishable as a summary offense and, upon conviction thereof by a court of competent jurisdiction, subject to a fine of not less than THREE HUNDRED AND 00/100 ($300.00) DOLLARS nor more than SIX HUNDRED AND 00/100 ($600.00) DOLLARS . In addition to any fine imposed, the Township may initiate any other cause of action, at law or in equity, against the owner or other person in control of the property, to compel compliance with the terms of this Ordinance and/or to correct any structural defect on the property. In the event an Owner of property fails or refuses to correct any identified defect within the time frame required to do so, the Township may, at its sole discretion, enter upon the property to correct same. In such event, the Township shall charge back all costs and expenses incurred in correcting any identified defect against the property, and the Owner thereof, and collect same in any manner permitted by law, including, but not limited to, the filing and prosecution of a municipal lien against the property or a complaint in assumpsit against the Owner. All remedies of the Township provided herein are intended to be cumulative.

2. This ordinance repeals and replaces all or portions of any prior ordinance relating to the subject matter of same and shall be given priority over any prior ordinance. To the extent any term or provision of any prior ordinance is in conflict with the terms or provisions of this ordinance, the terms and provisions of this ordinance shall take precedence and prevail.

3. Any term or provision in any prior ordinance not otherwise affected by the terms and provisions of this ordinance, shall continue and remain in full force and effect.

THIS ORDINANCE IS ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF SALEM TOWNSHIP AT A DULY ADVERTISED PUBLIC MEETING HELD THE 19 DAY OF AUGUST, 2020 AND SHALL TAKE EFFECT IN FIVE (5) DAYS.

ATTEST:

Lynn Cain
Lynn Cain, Secretary

THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF SALEM

Robert H. Zundel
Robert H. Zundel, Chairman