

# TUNKHANNOCK TOWNSHIP

MONROE COUNTY, PENNSYLVANIA

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

## **OFFICIAL MAP**

AN ORDINANCE ESTABLISHING, REGULATING AND DETERMINING FOR LANDS IN TUNKHANNOCK TOWNSHIP: ADOPTING AN OFFICIAL MAP FOR RESERVATION OF LAND FOR FUTURE PUBLIC STREETS, PUBLIC GROUNDS AND CONSERVATION LANDS; THE RESTRICTION OF BUILDING WITHIN MAPPED AREAS; THE ACQUISITION BY THE TOWNSHIP OF IDENTIFIED LANDS AND EASEMENTS; AND PROVIDING FOR THE AMENDMENT AND ENFORCEMENT OF THIS ORDINANCE.

**WHEREAS**, Article IV of the Pennsylvania Municipalities Planning Code (Act 247), as amended, empowers Tunkhannock Township to enact an official map and to provide for its administration, enforcement, and amendment; and

**WHEREAS**, the Board of Supervisors deems it necessary, for the purpose of protecting and promoting the public health, safety, and general welfare of Tunkhannock Township to enact such an ordinance; and,

**WHEREAS**, the Board of Supervisors, pursuant to the provisions of Article II of the Pennsylvania Municipalities Planning Code has appointed a Planning Commission to plan for the future development of Tunkhannock Township, and has appointed an Environmental Advisory Council pursuant to the provisions the Environmental Advisory Council Act to advise the Board of Supervisors about the protection, conservation, management, promotion and use of natural resources within the Township; and,

**WHEREAS**, the Township Planning Commission and the Township Environmental Advisory Council have assessed present problems and future desires relating to transportation, park and open space needs, and other public facilities; and,

**WHEREAS**, the Planning Commission and the Environmental Advisory Council have prepared and recommended to the Board of Supervisors an Official Map Ordinance, consisting of a text and map, to reserve land and easements for these needs; and,

**WHEREAS**, the Township Planning Commission, pursuant to §402(a) of Article IV of the Pennsylvania Municipalities Planning Code, and the Environmental Advisory Council have reviewed the proposed Official Map and accompanying Ordinance, and reported its recommendations to the Board of Supervisors; and,

**WHEREAS**, the Board of Supervisors has given due public notice of hearings on the proposed Ordinance and has held such public hearings; and,

**WHEREAS**, all requirements of Article IV of the Pennsylvania Municipalities Planning Code, as amended, have been met with regard to the preparation of the report of recommendation on the Official Map and the Official Map Ordinance by the Planning Commission and subsequent action of the Board of Supervisors.

**NOW, THEREFORE BE IT ORDAINED**, by the Board of Supervisors of Tunkhannock Township, the County of Monroe, Commonwealth of Pennsylvania, as follows:

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## ARTICLE I – GENERAL PROVISIONS

### **101 Short Title**

This Ordinance shall be known and may be cited as the *Official Map Ordinance of Tunkhannock Township*.

### **102 Authority**

This Ordinance is enacted and ordained under the grant of powers by the General Assembly of the Commonwealth of Pennsylvania, contained in *The Pennsylvania Municipalities Planning Code*, Act of 1968, PL. 805, No. 247, as reenacted and amended.

### **103 Purpose and Method**

- A. **Purpose** - This Ordinance is enacted for the purpose of protecting and promoting the public health, safety, convenience, and general welfare; to facilitate adequate provisions of public streets and facilities; to improve traffic circulation; to provide for the recreational and open space needs of the community; and to facilitate the subdivision of land and the use of land.
- B. **Method** - This is accomplished by showing existing public streets, grounds, and easements for protection from encroachments and other unauthorized uses, and by showing streets, improvements to streets, conservation open space, and other land identified for public use, and reserving such grounds for acquisition, in fee or by easement or right-of-way, by the Township in accord with this Ordinance and Article IV of the Pennsylvania Municipalities Planning Code.

### **104 Recording of Official Map**

Following adoption of this Official Map Ordinance and the Official Map, a copy of same, verified by the Board of Supervisors, shall be submitted to the Monroe County Recorder of Deeds and shall be recorded within sixty (60) days of the effective date.

## ARTICLE II – ESTABLISHMENT OF CONTROLS

### **201 Provisions of the Official Map**

- A. **Map Elements** - The Official Map, as enacted and as subsequently amended, may show appropriate elements or portions of elements of the *Top of the Mountain Regional Comprehensive Plan*, the *Top of the Mountain Open Space and Recreation Plan*, and any other plan or study of the Township with regard to public lands and facilities, and may include, but need not be limited to:
1. Existing and proposed public streets, watercourses and public grounds, including widenings, narrowings, extensions, diminutions, openings or closing of same.
  2. Existing and proposed public parks, playgrounds, and open space reservations.
  3. Conservation easements.
  4. Pedestrian ways and easements.
  5. Railroad and transit rights-of-way and easements.
  6. Flood control basins, floodways and flood plains, storm water management areas and drainage easements.
  7. Support facilities, easements and other properties held by public bodies undertaking the elements of Township plans and studies.
- B. **Identification and Acquisition** - For the purposes of initially identifying land on the Official Map, property records, aerial photography, photogrammetric mapping or other method sufficient for the identification, description and publication of areas for reservation on the Official Map will be sufficient. For the acquisition of lands and easements, boundary descriptions by metes and bounds shall be made and sealed by a licensed surveyor, registered in the Commonwealth of Pennsylvania.
- C. **Additions or Modifications** - The Board of Supervisors, by amending this Ordinance, may make additions or modifications to the Official Map or parts thereto by following the provisions included in §201,A, and may by Ordinance also vacate any existing or proposed public street, watercourse or public ground, or part thereof, contained in the Official Map.
- D. **Street Design Requirements** - Unless otherwise specified, on the official map or within other controlling ordinance provisions, all proposed public street rights-of-way and widenings of existing public street rights-of-way shall meet the design requirements specified in the Tunkhannock Township Subdivision and Land Development Ordinance for the highway functional classification as designated by the Township Official Map, the *Top of the Mountain Regional Comprehensive Plan*, or other applicable study or plan.

### **202 Incorporation of the Official Map**

The Official Map, as signed and dated by the Board of Supervisors and including all notations, references, and other data shown thereon, is hereby incorporated by reference into this Ordinance as if it were fully described herein.

- A. **Certification of the Official Map** - The Official Map shall be identified by the signatures of the Board of Supervisors, attested by the Tunkhannock Township Secretary, under the following words: *This is to certify that this is the Official Map of Tunkhannock Township referred to in the Official Map Ordinance of Tunkhannock Township, Monroe County, Pennsylvania*, together with the date of enactment of this Ordinance. The Official Map shall be kept on file with the Tunkhannock Township Secretary.

- B. Pennsylvania Municipalities Planning Code - The Official Map and Official Map Ordinance have been adopted pursuant to the provisions provided in §402 of the Pennsylvania Municipalities Planning Code.
- C. Changes in the Official Map - If, in accord with the provisions of this Ordinance, changes are made to the location of lines designating existing or proposed public streets, watercourses, or public grounds or easements, such changes shall be entered promptly on said Map. All changes, except those resulting from subdivision and land development plans as specified in §402 shall be certified by initialing of the Map by the Chairman of the Board of Supervisors together with the amending ordinance number and date of enactment, or by the republication of the Official Map and certification in accord with §202,A.

### **203 Notice to Adjacent Municipalities**

If the Official Map shows any street or other public land intended to lead into any adjacent municipality, a certified copy of the Official Map, or amendment thereto, shall be forwarded to such adjacent municipality in accord with §408 of the Pennsylvania Municipalities Planning Code.

## **ARTICLE III – EFFECTS OF CONTROLS**

### **301 Construction Within Mapped Public Streets, Public Grounds or Identified Land**

For the purposes of preserving the integrity of the Tunkhannock Township Official Map, no permit shall be issued for any building within the lines of any public street or public ground shown on the Official Map or any land identified for acquisition/easement on the Official Map except in accord with this Ordinance. No person shall recover any damages for the taking for public use of any building or improvements constructed within the lines of any public street or public ground or land identified for acquisition/easement after the same shall have been included in the Official Map, and any such building or improvement shall be removed at the expense of the owner.

### **302 Special Encroachment Permit**

- A. Application - When the property, of which the reserved location forms a part, cannot yield a reasonable return to the owner unless a permit shall be granted, the owner may apply to the Board of Supervisors for the grant of a special encroachment permit to so build. Before granting any special encroachment permit authorized in this section, the Board of Supervisors may submit the application for a special encroachment permit to the Tunkhannock Township Planning Commission and allow the Planning Commission thirty (30) days to review and comment on the special encroachment permit and shall give public notice and hold a public hearing at which all parties in interest shall have an opportunity to be heard.
- B. Appeal - A refusal by the Board of Supervisors to grant the special encroachment permit may be appealed by the applicant before the Zoning Hearing Board in the same manner, and within the same time limitations as is provided in Article IX of the Pennsylvania Municipalities Planning Code in accordance with §505 of this Ordinance.

### **303 Time Limitations; Early Action; Formal Application**

- A. Time Limitations on Reservations - The Board of Supervisors shall fix the time for which land identified for acquisition/easement as shown on the Official Map shall be deemed reserved for future taking or acquisition/easement for public purposes. The reservation shall lapse and become void after the owner of such property has submitted a written notice to the Board of Supervisors announcing his intentions to build, subdivide or otherwise develop the land covered by the reservation, or has made formal application for a Township building permit to build a structure for private use, unless the Board of Supervisors shall have acquired the property or begun condemnation proceedings to acquire such property before the end of the following time periods as measured from the date the property owner provided notice or made formal application to the Township:

1. Accessory Uses - The reservation period for any action which requires a building/zoning permit which is for an accessory use as defined by the Township Zoning ordinance shall be sixty (60) days.
  2. Driveways; Buildings; Zoning Changes of Use; Sewage - The reservation period for any action which requires a driveway permit, building/zoning permit which is not for an accessory use, a zoning change of use permit and/or a sewage permit shall be ninety (90) days.
  3. Subdivisions, Land Developments, Conditional Uses; Special Exceptions; Others - The reservation period for any action which requires approval under the Township Subdivision and Land Development Ordinance, zoning conditional use approval, zoning special exception approval, or any permit or approval not listed in §303,A,1 or §303,A,2, shall be one hundred and eighty (180) days.
  4. Unspecified Development - The reservation period for any action which is not specifically identified by the landowner shall be one hundred and eighty (180) days.
- B. Early Action - The Board of Supervisors may, in any case, take action to acquire the land or notify the landowner that the Township will not acquire the land at any time before the expiration of the above time periods.
- C. Written Notice and Formal Application - In cases where the landowner provides a written notice to the Township, as opposed to a formal application, in accord with §303,A, the land identified for acquisition/easement shall be deemed to be again included on the Official Map unless a formal application has been submitted by the landowner and duly accepted for review by the Township within one (1) year of the date of the said written notice.

### **304 Effect of Official Map**

The adoption of any street, street lines, or other public lands or easements as part of the Official Map shall not, in and of itself, constitute or be deemed to constitute the opening or establishment of any street nor the taking or acceptance of any land, nor shall it obligate Tunkhannock Township to improve or maintain any such street or land. The adoption of land identified for acquisition/easement as part of the Official Map shall not, in and of itself, constitute or be deemed to constitute a taking or an acceptance of any land by Tunkhannock Township.

### **305 Release of Damage Claims or Compensation**

Tunkhannock Township may negotiate with the owner of land under the following circumstances:

- A. Whereon reservations are made;
- B. Whereon releases of claims for damages or compensation for such reservations are required; or,
- C. Whereon agreements indemnifying the Board of Supervisors from claims by others may be required.

Any releases or agreements when properly executed by the Board of Supervisors and the owner, and recorded, shall be binding upon successor in title.

## **ARTICLE IV – AMENDMENT**

### **401 Procedure**

The Official Map may be amended in accord with the procedure established by §402 and §408 of the Pennsylvania Municipalities Planning Code.

### **402 Effect of Approved Plans on Official Map**

After adoption of the Official Map, or part thereof, all public streets, watercourses, and public grounds and the elements listed in §201,A, shown on final, recorded plats which have been approved in accord with the Tunkhannock

Township Subdivision and Land Development Ordinance shall be deemed amendments to the Official Map. Notwithstanding any of the other terms of this Ordinance, no public hearing shall be required or public notice given if the amendment of the Official Map is the result of the addition of a plat which has been approved as provided by this Ordinance.

#### **403 Notice to Adjacent Municipalities**

If an amendment to the Official Map shows any street or other public land intended to lead into any adjacent municipality, a certified copy of the Official Map amendment, shall be forwarded to such adjacent municipality in accord with §408 of the Pennsylvania Municipalities Planning Code.

### **ARTICLE V – VIOLATIONS, PENALTIES AND APPEALS**

#### **501 Causes of Action**

Where any building or structure is erected, reconstructed, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the Enforcement Officer may in the name of Tunkhannock Township:

- A. Institute any appropriate action or proceedings to prevent such unlawful activity;
- B. Restrain or abate such violation;
- C. Prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

#### **502 Notice of Violations**

Where it appears to Tunkhannock Township that a violation of any provisions of this ordinance has occurred, the Enforcement Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

- A. Recipients - The enforcement notice shall be sent to the owner of record on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
- B. Contents - The enforcement notice shall state the following:
  1. The name of the owner of record and any other person against whom Tunkhannock Township intends to take action.
  2. The location of the property in violation.
  3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
  4. The date before which the steps for compliance must be commenced and the date before which steps must be completed.
  5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in the ordinance.
  6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

**503 Discontinuance**

Where the notice of violation is not complied with in the time period set forth in the notice, the Enforcement Officer shall order the discontinuance of such unlawful use of land, structure, or building involved in said violation.

**504 Enforcement Remedies**

Any person who shall violate the provisions of this Ordinance shall, upon conviction in a summary proceeding, be sentenced to pay a fine of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney fees incurred by Tunkhannock Township as a result thereof. If the defendant neither pays nor timely appeals the judgment, Tunkhannock Township may enforce the judgment pursuant to applicable rules of civil procedure. Each day a violation continues constitutes a separate violation, unless the magisterial district judge determining that there has been a violation further determines that there was a good faith basis for the person violating the ordinance to have believed there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth (5th) day following the date of the determination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to Tunkhannock Township.

**505 Appeals**

Any appeal from a decision or action of the Board of Supervisors or of any officer of Tunkhannock Township in matters pertaining to this Ordinance shall be made to the Zoning Hearing Board in the same manner and within the same time limitations as is provided for zoning appeals in Article IX of the Pennsylvania Municipalities Planning Code, as amended.

**ARTICLE VI – DEFINITION OF TERMS****601 Language Interpretations**

For the purposes of this Ordinance, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender, and words of feminine gender include masculine gender.
- B. The word *includes* or *including* shall not limit the term to the specific example, but is intended to extend its meaning to all other instances of the kind and character.
- C. The word *person* includes an individual, firm, association, organization, partnership, trust, company, corporation, or any other similar entity.
- D. The words *shall* and *must* are mandatory words and *may* and *should* are permissive.
- E. The words *used* or *occupied* include the words *intended*, *designed*, *maintained*, or *arranged to be used or occupied*.

**602 Definitions**

Unless a contrary intention clearly appears, the following words and phrases shall have the meaning given in this section. All words and terms not defined herein shall be used with a meaning of standard usage.

**Board of Supervisors:** The Board of Supervisors, Tunkhannock Township, County of Monroe, Commonwealth of Pennsylvania.

**Conservation Easement:** A legal right granted or sold by a property owner to the Township, some other public entity, or a private conservation organization which permanently restricts the type and amount of development that may take

place on the property, and specifies the type, if any, of public access to the property.

County: The County of Monroe, Commonwealth of Pennsylvania.

Enforcement Officer: The agent or official designated by the Township to administer and enforce the provisions of the Township Official Map Ordinance.

Highway Functional Classification: The identification of general operating conditions and operational characteristics of roads categorized according to a hierarchy. (See §201,D.)

Municipal or Municipality: Tunkhannock Township, the County of Monroe, Commonwealth of Pennsylvania.

Public Ground: Any land, right-of-way, easement or other interest in land owned, operated, or controlled by a government agency, including but not limited to buildings, streets and street rights-of-way, parks, playgrounds, and open space reservations, conservation easements, sidewalks and pedestrian ways and easements, railroad and transit rights-of-way and easements, airports, flood control facilities, storm water management facilities, and drainage easements. As used in this definition *public* does not necessarily mean the *public ground* is open for the use and access by the general public. For example a street right-of-way limits use by the property owner over whose land the right-of-way runs, and a conservation easement may only prohibit development but not allow access by the general public.

Public Notice: Notice published once each week for two (2) consecutive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Right-of-Way: The total width of any land reserved or dedicated for the purposes of a street, crosswalk, or for other public purposes.

Street: A strip of land, including the entire right-of-way, to provide access to more than one (1) lot. The word *street* includes street, avenue, boulevard, thoroughfare, road, highway, freeway, parkway, lane, alley, viaduct, and other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private.

Street, Private: A street which is not dedicated for public use and maintenance.

Street, Public: A street which is dedicated for public use and maintenance.

Tunkhannock Township: Tunkhannock Township, the County of Monroe, Commonwealth of Pennsylvania.

Zoning Hearing Board: The Tunkhannock Township Zoning Hearing Board.

## **ARTICLE VII – SEVERABILITY, REPEALER AND ENACTMENT**

### **701 Severability**

Should any section, subsection, clause, provision or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Board of Supervisors having adopted this Ordinance as if such invalid portions had not been included therein.

### **702 Repealer**

All existing ordinances or parts of ordinances, which are contrary to the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**703 Enactment**

**BE IT HEREBY ENACTED AND ORDAINED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2008** by the Board of Supervisors of Tunkhannock Township, Monroe County, Pennsylvania.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Vice-Chairman

\_\_\_\_\_  
Supervisor

ATTEST:

\_\_\_\_\_  
Secretary